

A Series of Working Papers

FORCED POPULATION TRANSFER: THE CASE OF PALESTINE

INSTALLMENT OF A PERMIT REGIME

Working Paper No. 18

Editors: Amjad Alqasis and Nidal al-Azza

Research team: Mads Melin, Amaya al-Orzza and Simon Reynolds

Field research team: Ahmad al-Lahham, Amani Asa'ad, Halimeh al-Ubeidiya, Naeem Matar, Norhan al-Madhon, Shayma'a al-Battsh, Atallah Salem, Ahmad Hammash and Sami Makhalfa

Design and Layout: Fidaa Ikhlayel and Atallah Salem

ISBN: 978-9950-339-47-7

All rights reserved

© BADIL Resource Center for Palestinian Residency & Refugee Rights

Working Paper No. 18

**Forced Population Transfer: The Case of Palestine
Installment of a Permit Regime**

December 2015

Credit and Notations

Many thanks to all who have supported BADIL Resource Center throughout this research project and in particular to all interview partners who provided the foundation for this publication.

Any quotation of up to 500 words may be used without permission provided that full attribution is given. Longer quotations, entire chapters or sections of this study may not be reproduced or transmitted in any form or by any means, electronic, mechanical, photocopying, recording or otherwise, or stored in any retrieval system of any nature, without the express written permission of BADIL Resource Center for Palestinian Residency and Refugee Rights.

BADIL Resource Center working papers research durable solutions for Palestinian refugees and internally displaced persons as well as strategies of ending impunity for human rights abuses as part of a just and permanent solution to the Palestinian/Arab-Israeli conflict.

BADIL Resource Center for Palestinian Residency and Refugee Rights

Karkafa St.

PO Box 728, Bethlehem, West Bank; Palestine

Tel.: +970-2-277-7086; Fax: +970-2-274-7346

Website: www.badil.org



BADIL Resource Center for Palestinian Residency and Refugee Rights is an independent, human rights non-profit organization committed to protect and promote the right of Palestinian Refugees and internally Displaced persons. Our vision, mission, programs and relationships are defined by our Palestinian identity and the principles of international Humanitarian and human rights law. We seek to advance the individual and collective rights of the Palestinian people on this basis.

Table of Contents

Introducing the Series	5
Introduction	9
• Permit Types and Characteristics	9
• Responsible Authorities	13
• Israel’s Security Justification of the Permit Regime	14
Civil and Political Rights	23
• Freedom of Movement within the oPt	23
• Restrictions on the Right to Freedom of Movement within the West Bank including Jerusalem	25
• Restrictions on the Freedom of Movement within the Gaza Strip	29
• Restrictions Against Palestinian Citizens of Israel	30
• Restrictions of Access from Abroad	37
• Palestinian Prisoners	40
Economic Rights	43
• Palestinians with Work Permits in Israel and Israeli Colonies	44
• Working in Israel and Israeli Colonies without Permits	47
• Restrictions on the Economy of the Gaza Strip	49
Cultural Rights	55
• Restrictions on the Right to Education	55
• Restrictions on the Right to Religious Freedom	61
Social Rights	65
• Restrictions on the Right to Health	65
• The Right to Adequate Housing	71
• Restrictions on the Right to Family Life	77
Concluding Remarks	81
Recommendations	85

Introducing the Series¹

This Series of Working Papers on forced population transfer constitutes a digestible overview of the forced displacement of Palestinians as an historic, yet ongoing, process, and one which detrimentally affects the daily life of Palestinians and threatens their national existence.

This Series is intended to encourage debate, and to stimulate discussion and critical comment. Since Israeli policies comprising forced population transfer are not static, but ever-changing in intensity, form and area of application, this Series will require periodic updates. The ultimate aim of the Series is to unpick the complex web of legislation and policies which comprise Israel's overall system of forced population transfer. It is not intended to produce a comprehensive indictment against the State of Israel, but to illustrate how each policy fulfills its goal in the overall objective of forcibly displacing the Palestinian people while implanting Jewish-Israeli settlers/colonizers throughout Mandate Palestine (referring to "historic Palestine", consisting of Israel, the 1967 occupied West Bank, including East Jerusalem, and the Gaza Strip).

Despite its urgency, the forced displacement of Palestinians rarely receives an appropriate response from the international community. While many individuals and organizations have discussed the triggers of forced population transfer, civil society lacks an overall analysis of the system of forced displacement that continues to oppress and disenfranchise Palestinians today. BADIL, therefore, spearheads targeted research on forced population transfer and produces critical advocacy and scholarly materials to help bridge this analytical gap.

BADIL seeks to present this Series of Working Papers in a concise and accessible manner to its designated audiences: from academics and policy makers, to activists and the general public. Generally, the Series contributes to improving the understanding of the human rights situation in Palestine

1 Extract from BADIL Resource Center for Palestinian Residency and Refugee Rights, "Introduction to Forced Population Transfer: The Case of Palestine", March 2014. Available at: http://www.badil.org/phocadownload/Badil_docs/publications/wp15-introduction.pdf.

among local, regional and international actors. We hope that the Series will inform stakeholders, and ultimately enable advocacy which will contribute to the dismantling of a framework that systematically violates Palestinian rights on a daily basis.

The Series of Working Papers will address nine main Israeli policies aiming at forced population transfer of Palestinians. They are:

- Denial of residency
- Installment of a permit regime
- Land confiscation and denial of use
- Discriminatory zoning and planning
- Segregation
- Denial of natural resources and access to services
- Denial of reparations including refugee and IDPs return, property restitution, compensation and non-repetition.
- Suppression of Palestinian steadfastness and resistance
- Non-state actions (with the implicit consent of the Israeli state)

Forced Population Transfer

The concept of forced population transfer – and recognition of the need to tackle its inherent injustice – is by no means a new phenomenon, nor is it unique to Palestine. Concerted efforts to colonize foreign soil have underpinned displacement for millennia, and the “unacceptability of the acquisition of territory by force and the often concomitant practice of population transfer”² was identified by the Persian Emperor Cyrus the Great, and subsequently codified in the Cyrus Cylinder in 539 B.C.; the first known human rights charter. Almost two thousand years later, during the Christian epoch, European powers employed population transfer as a means of conquest, with pertinent examples including the Anglo-Saxon displacement of indigenous Celtic peoples, and the Spanish Inquisition forcing the transfer of religious minorities from their homes in the early 16th century.

Today, forced population transfer is considered one of the gravest breaches of international law. According to the Sub-Commission on Prevention of Discrimination and Protection of Minorities of the former Commission on Human Rights:

2 Joseph Schechla, “Prohibition, Prosecution and Impunity for the Crime of Population Transfer”, BADIL Resource Center for Palestinian Residency and Refugee Rights, Spring-Summer 2012. Available at: www.badil.org/en/al-majdal/item/1764-art4.

The essence of population transfer remains a systematic coercive and deliberate [...] movement of population into or out of an area [...] with the effect or purpose of altering the demographic composition of a territory, particularly when that ideology or policy asserts the dominance of a certain group over another.³

International law sets clear rules to prohibit forced population transfer, including in the United Nations Charter, through the specific branches of international humanitarian law, international human rights law, international criminal law and international refugee law. Both internal (within an internationally recognized border) and external displacement are regulated.

Historical Context: The Case of Palestine

At the beginning of the 20th century, most Palestinians lived inside the borders of Palestine, now divided into the state of Israel, and the occupied Palestinian territory (the West Bank, including East Jerusalem, and the Gaza Strip). Five major periods or episodes of forcible displacement transformed Palestinians into the largest and longest-standing unresolved refugee case in the world today. By the end of 2014, an estimated 7.98 million (66 percent) of the global Palestinian population of 12.1 million are forcibly displaced persons.⁴

Methodology

All papers will consist of both field and desk research. Field research will consist of case studies drawn from individual and group interviews with Palestinians affected by forced population transfer, or professionals (such as lawyers or employees of organizations) working on the issue. The geographic focus of the Series will include Israel, the occupied Palestinian territory and Palestinian refugees living in forced exile. Most of the data used will be qualitative in nature, although where quantitative data is available – or can be collected – it will be included in the research.

Desk-based research will contextualize policies of forced population transfer by factoring in historical, social, political and legal conditions in order to delineate the violations of the Palestinian people's human rights. International

3 A.S. Al-Khawasneh and R. Hatano, "The Human Rights Dimensions of Population Transfer Including the Implantation of Settlers", Preliminary Report Prepared for Commission on Human Rights Sub-Commission on Prevention of Discrimination and Protection of Minorities, Forty-Fifth Session, BADIL-Resource Center for Palestinian Residency and Refugee Rights, 2 August 1993. Available at: www1.umn.edu/humanrts/demo/PopulationTransferImplantationSettlers_AIKhasawneh.pdf.

4 BADIL Resource Center for Palestinian Residency and Refugee Rights, "Survey of Palestinian Refugees and Internally Displaced Persons (VIII) 2013-2015", November 2015, page xiii. Available at: www.badil.org/phocadownloadpap/badil-new/publications/survey/Survey2013-2015-en.pdf.

human rights law and international humanitarian law will play pivotal roles, and analysis will be supplemented with secondary sources such as scholarly articles and reports.

Disclaimer

The names of the individuals who provided testimonies in the course of researching this Working Paper have been changed. This is a result of fears of the participants that their involvement in this project might draw reprisals by the Israeli authorities. We thank the participants for their courage.

Introduction

Permit Types and Characteristics

With more than 100 different types of permits in 2015, the Israeli permit regime infiltrates all aspects of Palestinians' lives.⁵ Permits can be divided into four rights categories and include, but are not limited to:

- Civil and political rights including permits for movement, residency, for "closed areas" such as Seam Zones, and travel.
- Economic rights including permits for work, farming, trade and money transfer.
- Cultural rights including permits for education, worshippers and visiting holy sites.
- Social rights including permits for construction, renovation and health.

As one can see, permits regulate and interfere with various facets of life, such as the freedom of movement within and out of Palestine; work, development and transporting goods and assets. The permit regime exceeds a mere restriction on - or regulation of - the freedom of movement. Instead, the regime commonly results in the complete denial of access to land, work, worship, health facilities and so on. Permits are used by Israel as a tool or mechanism to maintain many of its discriminatory policies, including denial of family unification or the construction of homes (planning and zoning), or access to land, etc.

On one hand, the permit regime could be seen as a mechanism of enforcing other displacement policies, such as discriminatory zoning and planning policies, denial of residency, land confiscation and access of land and to natural resources. However, it also could be seen as a standalone method of displacing Palestinians, as it works to deliberately generate a wide range of unbearable and daily constraints targeting Palestinian individuals, communities and people. Therefore, while it interrelates and facilitates the enforcement of other displacement policies, it infringes political, socio-economic and cultural rights that are not directly targeted by other displacement policies.

5 Chaim Levinson, "Israel has 101 different types of permits governing Palestinian movement", Haaretz.com, 26 June 2014. Available at: www.haaretz.com/print-edition/news/israel-has-101-different-types-of-permits-governing-palestinian-movement-1.403039.

Please see for more information on the above mentioned issues: BADIL Resource Center, Series on Forced Population Transfer: http://www.badil.org/phocadownloadpap/Badil_docs/publications/wp15-introduction.pdf

The idea of establishing a “permit regime” started with the first groups of Zionist colonists entering Palestine in the beginning of the 20th Century. Kibbutzim – or collective communities - were, effectively, "little fortresses" which allowed colonists to establish a physical foothold in this unknown and hostile environment as seen by the colonists. Each kibbutz was built by European Jews so as to acquire territory, and thus separate the land from its indigenous Palestinian inhabitants. Over time, this strategy of acquisition and expansion would serve to establish a territory for the Jewish people. Notably, Palestinians by large were not permitted to live, enter or work in a kibbutz. In this regard, kibbutzim even “rejected” the exploitation of cheap Arab labor and used instead Yemenite Jewish agricultural workers.⁶ This politics of separation and conquest is still visible today in various aspects of Israel’s ongoing occupation of Palestinian land including, as this paper will demonstrate, through the implementation of the contemporary permit regime.

The underlying concept behind this regime is the categorization and classification of the Palestinian population. Palestinians have been divided by Israel into five main categories and several subcategories.

- Palestinian citizens of Israel: Palestinians permanently residing within Israel with Israeli citizenship. Although they are citizens of the State, in practice, individuals in this subcategory enjoy fewer rights than Israeli Jewish nationals.
- Palestinian permanent residents of Jerusalem: Palestinians who are registered as being permanent residents of East Jerusalem after the 1967 occupation and illegal annexation by Israel.
- Palestinians with a West Bank identity card: Palestinians who are registered as being permanent residents of the West Bank after the 1967 occupation by Israel.
- Palestinians with Gaza Strip identity card: Palestinians who are registered in the Gaza Strip after the 1967 occupation by Israel.
- Palestinians living in forced exile without any legal affiliation to Mandate Palestine: Palestinians (along with their descendants) who have been forcibly displaced from their homeland since the establishment of Israel.

⁶ See Uri Ram, “The Changing Agenda of Israeli Sociology: Theory, Ideology, and Identity”, SUNY Press, 2012.

This practice of geopolitically dividing and sub-dividing the Palestinian population started in 1948, even within Palestinian communities that remained inside Israel. Palestinian citizens of Israel in the Galilee and the Naqab are highly divided by the Israeli authorities. For instance, Israel considers the Palestinian Bedouins as an administrative category apart from that of Palestinians,⁷ whilst Muslims, Christians and Druze are also considered distinct nationalities by Israeli law and practice.⁸

The Israeli permit regime has four characteristics:

1. **Categorization:** in order to apply a sophisticated permit regime the Palestinian population had/has to be classified and categorized;
2. **Destructiveness:** the permits infiltrate, in various ways, all aspects of the lives of affected Palestinians, and the different types of permits should not, therefore, be viewed in isolation from one another. For example, although a Palestinian obtains a “farmer permit” to work on his land located in the so-called Seam Zone area, he also needs to obtain several additional permits if he wishes to bring in equipment or if he wishes to visit family or friends, since a permit only allows for individual people to care for one specific identified “need”;⁹
3. **Informality:** not all permits are officially considered to be “permits”, and would not be considered by the Israeli authorities as falling under the permit regime. However, several rules and procedures can be considered “hidden” permits which severely interfere with Palestinians’ lives. For instance, in 2011 the Knesset (Israeli parliament) authorized “admission committees” in communities in the Naqab (Negev) and Galilee regions with fewer than 400 families, thereby creating a “hidden” permit which made it practically impossible for Palestinians with Israeli citizenship to move there;¹⁰
4. **Unpredictability:** the deliberate lack of transparency from the Israeli authorities makes it impossible to fully understand the permit regime and its different associated procedures and requirements.

7 Cedric Parizot, “Gaza, Beersheba, Dhahriyya: Another Approach to the Negev Bedouins in the Israeli-Palestinian Space” Available at: <http://bcrfj.revues.org/1742>.

8 Jonathan Cook, “Onward, Christian Soldiers”, Middle East Research and Information Project, 13 May 2014. Available at: <http://www.merip.org/mero/mero051314>; Ali Abunimah, “Palestinian Christians “not really Arabs,” says senior Israeli lawmaker”, Electronic Intifada, 13 January 2014. Available at: <https://electronicintifada.net/blogs/ali-abunimah/palestinian-christians-not-really-arabs-says-senior-israeli-lawmaker>

9 HaMoked – Center for the Defence of the Individual, “The Permit Regime: Human Rights Violations in West Bank Areas Known as the ‘Seam Zone’”, March 2013, page 30. Available at: http://www.hamoked.org/files/2013/1157660_eng.pdf.

10 Human Rights Watch, “Israel: New Laws Marginalize Palestinian Arab Citizens”, 20 March 2011. Available at: www.hrw.org/news/2011/03/30/israel-new-laws-marginalize-palestinian-arab-citizens

Criteria and rules for denial of a permit are generally not published.¹¹ The lack of transparency and the consequential lack of meaningful opportunities for appeals is not a new phenomenon, but one that has always been a defining characteristic of the permit regime. Indeed, the lack of transparency has been criticized since at least 1996.¹²

South African Pass Laws

The Israeli permit regime shares many similarities with the former South African Pass Laws. Like the Israeli regime, the Pass Laws continued to grow in number and, ultimately, came to control most aspects of the lives of black African citizens in South Africa.¹³ For example, the Pass Laws made it an offence for these citizens to be in what were considered "white areas" if they could not show the correct documentation.¹⁴ In 1986, when the Pass Laws were finally repealed, they had led to more than 17 million arrests.¹⁵

In 2011, former UN Special Rapporteur on the situation of Human Rights in the Palestinian territories, John Dugard, himself from South Africa, wrote about the similarities between the Israeli permit regime and the South African Pass Laws. Dugard stated that, although the two regimes are very different, in practice there is little difference, as "[b]oth regimes were/are characterized by discrimination, repression and territorial fragmentation".¹⁶ To Dugard, the demolition of Palestinian homes, built without the necessary permits, reminded him of the situation in South Africa, where homes located in "black areas" were demolished if the area was set aside for white occupation. However, he continued, the humiliating check points, where Palestinians have to show that they have the necessary permits, are even worse than the way Pass Laws were implemented in South Africa.¹⁷

11 Yael Berda, "The Bureaucracy of the Occupation: An Introduction to the Permit Regime", cccb.org, 2006, page 9. Available at: www.academia.edu/2123046/THE_BUREAUCRACY_OF_THE_OCCUPATION_AN_INTRODUCTION_TO_THE_PERMIT_REGIME_2006

12 Human Rights Watch, "Israel's Closure of the West Bank and Gaza Strip Vol. 8, No. 3", July 1996. Available at: <https://www.hrw.org/reports/1996/Israel1.htm>

13 Overcoming Apartheid and Michigan State University, "Pass Laws", located 4 December 2015, available at: <http://overcomingapartheid.msu.edu/multimedia.php?id=65-259-3>

14 John Dugard, "The Law and Practice of Apartheid in South Africa and Palestine", al-Majdal, issue no. 47, autumn 2011, available at: <http://www.badil.org/en/publication/periodicals/al-majdal/item/1692-art4.html>

15 Overcoming Apartheid and Michigan State University, "Pass Laws", located 4 December 2015, available at: <http://overcomingapartheid.msu.edu/multimedia.php?id=65-259-3>

16 John Dugard, "The Law and Practice of Apartheid in South Africa and Palestine", al-Majdal, issue no. 47, autumn 2011, available at: <http://www.badil.org/en/publication/periodicals/al-majdal/item/1692-art4.html>

17 Ibid.

Responsible Authorities

In the Israeli-Palestinian Interim Agreement on the West Bank and the Gaza Strip from 1993, both the Palestine Liberation Organization (PLO) and the Israeli Government agreed to establish District Coordination Liaison Offices (DCLs),¹⁸ (sometimes referred to as District Coordination Offices (DCOs)). The main task of these institutions was, and remains, the civil and security coordination and liaison of Israel vis-à-vis Palestine. Therefore, they are responsible, inter alia, for issuing permits to Palestinian residents of the occupied Palestinian territory (oPt). A senior official at the Palestinian DCLs, however, states that the issuing of permits depends solely on the discretion of Israeli authorities. He asserts that the Palestinian function is primarily administrative in nature, with little or no influence over the decision-making process.¹⁹

The Israeli DCL is subordinated to the Coordinator of Government Activities in the Territories unit (COGAT), which is responsible for implementing and coordinating the Israeli government's policies in the West Bank and the Gaza Strip and is, in turn, subordinated to the Israeli Ministry of Defense.²⁰

Israeli High Court

Throughout the years several individuals and human rights organizations have filed complaints to the Israeli High Court of Justice (HCJ) about the permit regime. However, the HCJ often upholds laws which are considered by many to be discriminatory.²¹ Further, even in those cases in which the Court has made recommendations which would improve the situation for Palestinians, these recommendations have often not been implemented in practice.²²

In this Working Paper, we will look into issues connected to civil and political rights, economic rights as well as social and cultural rights. Due to the sheer number of permit types, and their broad interference in numerous aspects of

18 "Israeli-Palestinian Interim Agreement on the West Bank and the Gaza Strip (Oslo II)", 28 September 1995, Annex III Article 1, sections 3a-3b. Available at: www.acpr.org.il/publications/books/44-Zero-isr-pal-interim-agreement.pdf

19 BADIL's interview with Rifat Muheisen, Head of the Liaison Department of the Palestinian Ministry of Health, "Procedures for obtaining permits", Ramallah, August 2015

20 Coordination of Government Activities in the Territories, "Who We Are", Located November 2015. Available at: <http://www.cogat.idf.il/896-en/IDFG.aspx>

21 Amjad Iraqi, "Contradicting Its Own Ruling, Israel's Supreme Court Legalizes Segregated Communities", +972 Magazine, 18 September 2014. Available at: <http://972mag.com/contradicting-its-own-ruling-israels-supreme-court-legalizes-segregated-communities/96817/>

22 See for example Gisha – Legal Center for Freedom of Movement, "The Impact of the Separation between the Gaza Strip and the West Bank on Higher Education", May 2010, page 4. Available at: <http://www.gisha.org/userfiles/file/safepassage/InfoSheets/English/students.pdf>

life, this paper is only able to illustrate a few examples of the wider impact of the permit regime and how it relates to the overall strategy of Israel of forced population transfer. It is also important to note that this paper adopts a broad approach as to what constitutes a “permit”. Therefore, not only are officially labeled permits discussed in this paper, but so too are Israeli regulations and practices which – in their imposition of severe restrictions – effectively act as permits.

Israel’s Security Justification of the Permit Regime

Israel, through the installment of the permit regime, is restricting different human rights of Palestinians on a daily basis. Israel often justifies such policies on security grounds. Yet, objective examination of the facts illustrates the highly questionable rationale behind this security “justification”.²³ Many Israeli politicians and other public figures have openly stated that the restrictions on Palestinians’ rights are not rooted in security considerations. For example, Justice Asher Grunis opined in a 2012 Israeli Supreme Court judgment that “human rights are not a prescription for national suicide”.²⁴ Such statements are based on the notion that ensuring respect for the rights of Palestinians would present a threat to a Jewish-majority in Israel. To this end, in 2012, Knesset member, Ze’ev Elkin, claimed that “human rights cannot jeopardize the State”.²⁵

Legal Framework

Israel is signatory to numerous international human rights treaties and, therefore, International Human Rights Law (IHRL) applies within its territory. In addition, the International Court of Justice (ICJ) concluded that IHRL and International Humanitarian Law (IHL) are not mutually exclusive and can be concurrently applicable within the same territory. IHL is indisputably applicable in situations of occupation, and the ICJ affirmed that international human rights instruments are also applicable “in respect of acts done by a State in the exercise of its jurisdiction outside its own territory, particularly in occupied territories.” Israeli policies in the oPt must, therefore, adhere fully to international human rights standards.

23 Palestinian Centre for Human Rights, “The Israeli Policy of Closure: Legal, Political, and Humanitarian Evaluation”, 20 December 1996, chapter 2, available at: www.pchrgaza.org/files/S&r/English/study6/Chapter%20Two.html

24 Ben White, “How Israel uses its ‘security needs’ to justify discrimination”, *The National*, 21 November 2015, available at: www.thenational.ae/opinion/comment/how-israel-uses-its-security-needs-to-justify-discrimination

25 Arutz Sheva, “Elkin: High Court Used Common Sense”, 1 December 2012, available at: www.israelnationalnews.com/News/Flash.aspx/229295#.VmVpBLiGRBd

Nevertheless, Israel's sovereign right to take all appropriate steps to prevent violence against its citizens is not disputed. However, security measures must be taken in accordance with internationally recognized legal norms and principles.²⁶ For example the Siracusa Principles²⁷ establish that a state will not use “more restrictive means than are required for the achievement of the purpose of the limitation”,²⁸ and that the “laws imposing limitations on the exercise of human rights shall not be arbitrary or unreasonable”.²⁹ More specifically, the Principles provide guidelines regarding limitations applied on the basis of national security. They establish that states cannot impose limitations merely to prevent relatively isolated threats to law and order; that national security cannot be used as a pretext for imposing arbitrary limitations; and, especially, that “the systematic violation of human rights undermines true national security and may, in fact, jeopardize international peace and security. A state responsible for such violation shall not invoke national security as a justification for measures aimed at suppressing opposition to such violation or at perpetrating repressive practices against its population”.³⁰

Limitations on the Freedom of Movement

Outside the West Bank

One of the most prominent measures undertaken by Israel under the premise of “security” has been the construction of the Annexation and Segregation Wall. But if the Wall was in fact built to prevent Palestinians from entering Israel without prior clearance from the Israeli authorities, then it is very unlikely that, more than a decade after construction of the Wall began, tens of thousands of Palestinians continue to work inside Israel without proper permits (illegal according to Israeli law) but with the explicit knowledge of Israeli authorities. In the first quarter of 2015, 39,300 Palestinians were

26 Palestinian Centre for Human Rights, “The Israeli Policy of Closure: Legal, Political, and Humanitarian Evaluation”, 20 December 1996, chapter 2, available at: <http://www.pchrgaza.org/files/S&r/English/study6/Chapter%20Two.html>

27 The Siracusa Principles were adopted in May 1984 by a group of international human rights experts to consider the limitation and restriction provisions of the ICCPR. See United Nations, Economic and Social Council, “Siracusa Principles on the Limitation and Derogation Provisions in the International Covenant on Civil and Political Rights”, U.N. Doc. E/CN.4/1985/4, Annex (1985), Available at: <https://www1.umn.edu/humanrts/instrree/siracusaprinciples.html>; Lawyers’ Rights Watch Canada, “International Human Rights Law: Non-Treaty Standards”, located December 2015, available at: <http://www.lrwc.org/education/international-law/non-treaty-standards/>

28 UN Commission on Human Rights, “The Siracusa Principles on the Limitation and Derogation Provisions in the International Covenant on Civil and Political Rights”, 28 September 1984, E/CN.4/1985/4, Principle 11, available at: <http://www.refworld.org/docid/4672bc122.html>

29 Ibid. Principle 16

30 Ibid. Principle 32

employed in Israel and Israeli colonies/settlements without permits.³¹ In addition, by making the crossing without a permit illegal, this measure results in great stress and danger for those who need to travel for work, visiting family or seeking medical treatment.

Moreover, if the Annexation and Segregation Wall was constructed in order to increase Israel's security, then there would be no reason for the route not to run along the Green Line. With a total planned route of 708 km the Wall strays deep into the West Bank, effectively annexing Jewish-Israeli colonies while entrapping Palestinian towns.

Furthermore, the ICJ stated in 2004 that "the infringements resulting from that route cannot be justified by military exigencies or by the requirements of national security or public order".³² Moreover, the Court stated that it "is not convinced that the construction of the Wall along the route chosen was the only means to safeguard the interest of Israel against the peril which it has invoked as justification for that construction."³³

Due to Israeli policies intended to encourage Jewish citizens to move to colonies in the West Bank,³⁴ the growth rate in these colonies between 2009 and 2014 was more than twice that seen inside Israel.³⁵ This stands in stark contrast to Israel's security argument for building the Wall. If the Palestinians living in the West Bank constitute such a threat to Jewish Israelis that Palestinians from the West Bank need to be divided from residents of Israel by the Wall, then it seems highly unlikely that Israel would encourage and subsidize its Jewish citizens to move to the occupied West Bank at all, let alone in such great numbers.

Ironically, restrictions on Palestinian movement are eased by Israel during both Christian and Muslim religious holidays. If, during the year, tens of thousands of Palestinians are denied entry into Israel for security reasons, why, then, are they suddenly permitted entry during religious holidays? An individual who, in June, is not allowed through the checkpoint even to pray, is suddenly permitted

31 Palestinian Central Bureau of Statistics, "Press Release on the Results of the Labour Force Survey (January – March 2015) Round Main Results", 19 May 2015, available at: www.pcbs.gov.ps/site/512/default.aspx?tabID=512&lang=en&ItemID=1397&mid=3172&wverson=Staging

32 International Court of Justice, "Legal Consequences of the Construction of the Wall in the Occupied Palestinian Territory, Advisory Opinion, ICJ Reports 2004", 9 July 2004, page 61, <http://www.icj-cij.org/docket/files/131/1671.pdf>

33 Ibid., page 63.

34 B'Tselem, "Settlements Encouragement of migration to the settlements", 9 May 2010, available at: www.btselem.org/settlements/migration

35 The Associated Press, "West Bank Settlement Expansion Surged Under Netanyahu", Haaretz.com, 15 December 2014. Available at: <http://www.haaretz.com/israel-news/1.631924>

entry in July on account of Ramadan. In the summer of 2015, for instance, Israel allowed 500 Palestinians to travel out of Ben Gurion airport in Tel Aviv, which they are normally prohibited from using.³⁶ Permitting Palestinians to practice their right to worship or to travel has not only become a negotiable issue in the context of the so-called 'peace process', but has also been bestowed at the discretion of Israeli authorities as a 'privilege', rather than respected as a right. This indicates that the Israeli closure system is designed to serve a political purpose, rather than security concerns.

Inside the West Bank

While Israel continues its policies of building and expanding colonies, an ever-increasing number of Palestinians are prevented from accessing their agricultural land in the vicinities of these colonies. Israel only allows Palestinian farmers access to their privately-owned land near the colonies after 'prior coordination' with their local District Civil Liaison office, and when Palestinian farmers are able to obtain a permit to access their land, such a permit is only valid for an entirely inadequate period of time, typically lasting for no more than a few days at a time. Since 2006, the use of permits as a means to control Palestinians' access to their own land has increased, especially in areas where Israeli colonizers have previously attacked the Palestinian landowners.³⁷ Prohibiting Palestinians from accessing their private land, even if they undergo security checks, cannot objectively be said to improve the security of Israel.

Furthermore, Israel has also established 57 internal checkpoints, as well as hundreds of 'flying checkpoints'³⁸ within the West Bank.³⁹ The Palestinians who pass through these checkpoints are not entering Israel, and to contest, therefore, that such internal checkpoints are necessary to protect Israelis is an argument without logical foundation. The same is true for the internal checkpoints and road blocks set up within East Jerusalem in late 2015, which,

36 Daoud Kuttab, "What's behind Israel's easing of travel restrictions?", Al-Monitor, 26 June 2015, at: <http://www.al-monitor.com/pulse/originals/2015/06/israel-travel-relaxation-policy-palestinians-ramadan.html#>

37 OCHA oPt, West Bank Movement and Access Update, Special Focus, September 2012. Available at: http://www.ochaopt.org/documents/ocha_opt_movement_and_access_report_september_2012_english.pdf page 27

38 Flying Checkpoints are checkpoints set up without prior warning and they are also sometimes disbanded without any explanation. In December 2014 there were 456 flying checkpoints and in April 2015 there were 361. B'Tselem, "Checkpoints, Physical Obstructions, and Forbidden Roads", 16 January 2011 / 20 May 2015, available at: http://www.btselem.org/freedom_of_movement/checkpoints_and_forbidden_roads

39 B'Tselem, "Checkpoints, Physical Obstructions, and Forbidden Roads", 16 January 2011 / 20 May 2015, available at: http://www.btselem.org/freedom_of_movement/checkpoints_and_forbidden_roads

rather than serving as a security measure, instead act as a form of collective punishment, targeting all Palestinians in the area.⁴⁰

Procedures

If the aim of Israel's checkpoints and permit regime is to improve the security of Israel by controlling the movement of Palestinians and ensuring that only those who are not considered to be a security threat are able to enter Israel, then Israel would, logically, have clear and consistent criteria in place for determining who is a security threat and who is not. However, the system put in place by Israel in order to examine permit applications does not allow for a thorough examination of these applications, and those who have their application rejected are unlikely to be able to appear before a hearing committee and be informed of the reasons behind this rejection.⁴¹ "Security" is often cited as the reason for denying a permit, but it is rarely accompanied by an explanation. In addition, the rules determining who is allowed to enter Israel and who is not are often based on arbitrary criteria that change without any explanation, e.g. the arbitrary age criteria.⁴²

The quota determining how many permits can be issued in total also indicates that permits are subject to concerns other than security. Due to housing shortages in Israel, for example, in 2014 the number of permits issued for Palestinians to work in the Israeli construction sector was increased by 5,000.⁴³ It seems unlikely that these 5,000 Palestinian workers suddenly had a different security status. Instead, it is clear that the permit regime's quota is created and altered for reasons other than security. Changing the security status of Palestinians from one day to the other, without any explanation, indicates that whether or not a Palestinian is allowed to enter Israel or occupied East Jerusalem has more to do with political or economic concerns than the security threat posed by the individual Palestinian.

40 Jodi Rudoren and Sewell Chan, "Israel Bolsters Security in East Jerusalem After Violence", New York Times, 14 October 2015, available at: http://www.nytimes.com/2015/10/15/world/middleeast/israel-east-jerusalem-violence.html?_r=0; Allison Deger, "Three new checkpoints lock down an East Jerusalem neighborhood", Mondoweiss, 28 October 2015, available at: <http://mondoweiss.net/2015/10/checkpoints-jerusalem-neighborhood>

41 HaMoked – Center for the Defence of the Individual, "The Permit Regime: Human Rights Violations in West Bank Areas Known as the 'Seam Zone'", March 2013, page 43, available at: http://www.hamoked.org/files/2013/1157660_eng.pdf

42 OCHA – Occupied Palestinian Territories, "Fragmented Lives Humanitarian Overview 2014", March 2015, page 16, available at: http://www.ochaopt.org/documents/annual_humanitarian_overview_2014_english_final.pdf and Mohammed Alhaj, "Palestinians head to Al-Aqsa mosque during Ramadan", Al Jazeera, 16 July 2015, available at: <http://www.aljazeera.com/indepth/inpictures/2015/07/palestinians-head-al-aqsa-mosque-ramadan-150716093237472.html>

43 The International Labor Organization, "The Situation of Workers of the Occupied Palestinian Territories", International Labor Office, 2015, page 12, available at: www.ilo.org/wcmsp5/groups/public/@ed_norm/@relconf/documents/meetingdocument/wcms_368279.pdf

The Blockade of the Gaza Strip

The permit system connected to the blockade of the Gaza Strip is justified by Israel on the basis of security, and it includes restrictions on goods and movement of people. Restrictions on how pallets with goods from the Gaza Strip need to be stacked, or what their size must be in order to pass security screenings illustrates the arbitrary nature of Israeli restrictions which limit the export of products that have been approved for export.⁴⁴ Such regulations significantly affect the competitiveness of the Gaza Strip's economy.

The entire premise for the permit regime is that Israel is able to examine individual permit applications and only grant permits to those Palestinians 'who do not constitute a security threat'. However, by denying all Palestinian students from the Gaza Strip permits to study in the West Bank or vice versa, since 2000, Israel indirectly acknowledges that the intended goal is not to "filter out" those Palestinians who constitute a security threat, but instead to target and punish all Palestinians, with no regard to their individual circumstances. Some Israeli officials have publicly recognized that this policy is aimed to "separate" the Gaza Strip from the West Bank to put pressure on the authorities in the Gaza Strip.⁴⁵

Health

Permit applications for medical reasons are often denied on security grounds. Physicians for Human Rights (PHR) said that during 2014 Israel denied almost half of the applications for medical treatment from residents of the Gaza Strip, with the majority rejected on the basis of "security". This was despite the fact that many of those applications were to seek life-saving treatment inside Israel.⁴⁶ Moreover, in some cases, individuals were given a permit for treatment but denied their application for the follow-up. If a person is really deemed a threat by Israel, there is little logic to first giving them a permit and then to deny them the second time. Furthermore, PHR reported at least 15 cases in which residents of the Gaza Strip were blackmailed to provide

44 Corporate Watch, "Trading under siege, the dying export industry in the Gaza Strip", 3 November 2014. Available at: <https://corporatewatch.org/news/2014/nov/03/trading-under-siege-dying-export-industry-gaza-strip>

45 ACT Palestine Forum, "The "Permit Regime" and Israeli Attacks on Palestinian Freedom of Worship", 22 February 2013, available at: <http://actpalestineforum.org/files/The-%E2%80%9CPermit-Regime%E2%80%9D-and-Israeli-Attacks-on-Palestinian-Freedom-of-Worship.pdf>; Ben White, "How Israel uses its 'security needs' to justify discrimination", The National, 21 November 2015, available at: <http://www.thenational.ae/opinion/comment/how-israel-uses-its-security-needs-to-justify-discrimination>.

46 Palestine News Network, "PHR: Israel denies right to medical treatment in Gaza", 16 June 2015, available at: <http://english.pnn.ps/2015/06/16/phr-israel-denies-right-to-medical-treatment-in-gaza/>

information to Israel in exchange for a permit, which also indicates that the granting of permits is used to serve different political goals.⁴⁷

Separation of Palestinian Families and Friends

Many Palestinian families have been separated by the permit regime, and Israel refuses to grant them the necessary permits to visit their family or friends in other parts of the oPt or inside Israel. It is clear that the separation of families and friends is not an unintended byproduct of measures pertaining to Israeli security concerns, but instead a political goal in itself. BADIL's interview with Salwa Ramzi reveals how Israel deliberately uses the permit regime to separate Palestinians as a punitive tool.⁴⁸ Israel exiled Salwa's son from the West Bank to the Gaza Strip as punishment for his involvement in the Second Intifada, with Israel subsequently making it impossible for him to visit his family and friends in the West Bank. For Palestinians with relatives in the Seam Zones, it is also practically impossible to visit them in these areas.⁴⁹ The deliberate destruction of the social relations of Palestinians does not improve the security of Israel, and as such this use of the permit regime demonstrably serves an Israeli agenda divorced from that of security.

Conclusion

These few examples out of many illustrate how the permit regime does not follow a security rationale, with the restrictive measures and policies imposed appearing to have little to do with security. The permit regime does, however, apply increased pressure and hardship on the movement of hundreds of thousands of Palestinians without providing any evidence of threat posed by these individuals. Such restrictions on the rights of Palestinians are disproportionate and constitute collective punishment, as individuals, regardless of their actions, suffer from the implications of the permit regime.

According to International Human Rights Law, in order to be justified, any limitations imposed upon human rights must be proportionate to the objective(s) such limitations pursue. This means there must be a balance between the restrictions imposed by Israel and the security aim of these restrictions. Any assessment of such proportionality must include exploration of less intrusive means of achieving the same aim. Severely restricting the freedom of movement of all residents of the West Bank and

47 Ibid.

48 BADIL's interview with Salwa Ramzi, mother of a former Palestinian prisoner forced to relocate to the Gaza Strip, "Israel separates families as a punishment tool", Bethlehem, August 2015

49 HaMoked – Center for the Defence of the Individual, "The Permit Regime: Human Rights Violations in West Bank Areas Known as the 'Seam Zone'", March 2013, page 19. Available at: http://www.hamoked.org/files/2013/1157660_eng.pdf

the Gaza Strip for the sake of security, for instance, cannot be considered a proportional measure, as this curtails the rights of millions of Palestinians absent any evidence of a threat posed to Israel. As such, the legal principle of proportionality appears to have been substituted for a blanket policy of “guilty until proven innocent”.

Israel has regularly portrayed itself as the victim and has justified its acts, including its implementation of so-called security measures or restrictions, as acts of self-defense. However, the right to self-defense cannot be invoked when one’s own acts constitute the first phase of an attack, and in this case, by mere virtue of the existence of military occupation, an attack has already happened.⁵⁰ As the former UN Special Rapporteur on human rights in Palestine, Professor John Dugard, has stated, “[I]t is an occupied territory, and if Israel uses force against the occupied territory, it is not acting in self-defense. It is acting as an occupying power.”⁵¹

These restrictions are also a collective punishment applied against the Palestinian population as a whole, a scenario forbidden under IHL in all circumstances.⁵² The main element of this principle is that individuals or groups must not be punished for acts committed by others, such as family members or members of their community. As seen in the examples above and throughout this paper, however, collective punishment of Palestinians by Israel is common practice. Family members of those who have committed or are accused of committing attacks against Israel are often denied permits to enter Israel; to visit their family members in prison, or even prevented from travelling abroad. In other cases, Palestinians previously issued with permits have had these permits revoked on account of a relative being involved in an action considered a threat by Israel. Punishing a whole community is also commonplace, as in the case of the West Bank city of Tulkarem, which, at the time of writing, remains completely closed for the third day in succession.⁵³

50 James Marc Leas, “Deconstructing Israel’s “Self-Defense” Claim and Its Campaign Against the ICC”, *New Analysis*, Truthout, 14 December 2015. Available at: <http://www.truth-out.org/news/item/34030-deconstructing-israel-s-self-defense-claim-and-its-campaign-against-the-icc>; Noura Erakat, “No, Israel Does Not Have the Right to Self-Defense In International Law Against Occupied Palestinian Territory”, *Jadaliyya*, 11 July 2014. Available at: <http://www.jadaliyya.com/pages/index/8799/no-israel-does-not-have-the-right-to-self-defense->.

51 John Dugard, “Can Israel Claim Self-Defense Against the Territory It Occupies?”, *Democracy Now*, 6 August 2014. Available at: http://www.democracynow.org/2014/8/6/can_israel_claim_self_defense_against

52 Article 4(2)(b) of Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II), 8 June 1977. Available at: <https://www.icrc.org/ihl/INTRO/475?OpenDocument>; see also, ICRC, *International Humanitarian Law*, rule 103. Available at: https://www.icrc.org/customary-ihl/eng/docs/v1_rul_rule103#Fn_12_2

53 Press TV, “Israeli forces close Palestinian city for third day”, 13 December 2015. Available at: <http://www.presstv.ir/Detail/2015/12/13/441544/Israel-Tulkarem-Shaul-Nir-West-Bank>

Another example is the closure imposed on the Hebron area in June 2014, following the kidnapping of three settlers from a nearby area.⁵⁴

Accordingly, it could be derived from this analysis that these security 'justifications' are used to mask policies of discrimination, colonization and, ultimately, forced population transfer of the Palestinian people.

54 Maan News Agency, "Hebron on strike as Israel tightens closure around city", 16 June 2014. Available at: <http://www.maannews.com/Content.aspx?id=705122>

Civil and Political Rights

The International Covenant on Civil and Political Rights protects many different human rights, including the right to life, the right to freedom of movement, the right to fair trial and equality before the law.⁵⁵

Israel's violations of Palestinians' rights under the International Covenant on Civil and Political Rights are numerous and acknowledged by many external and independent bodies. For instance, the Human Rights Committee, in its concluding observations of the fourth periodic report of Israel, reiterated its previous recommendation that Israel should amend its Basic Laws to ensure that all persons within Israel are treated equally and that Israel reviews all of its laws which discriminate against Palestinian citizens.⁵⁶

In this chapter the focus will lie on the freedom of movement.

Freedom of Movement within the oPt

For Palestinians, freedom of movement within the oPt has become the exception rather than the norm.⁵⁷ This stands in stark contrast to IHRL, particularly the International Covenant on Civil and Political Rights, which states in Article 12 (1) that “[e]veryone lawfully within the territory of a State shall, within that territory, have the right to liberty of movement and freedom to choose his residence.”⁵⁸ The Human Rights Committee has commented on the possibilities of restricting the right to freedom of movement and emphasized that, although Article 12(3) does make certain restrictions possible, under no circumstances can a state impose restrictions on the

55 UN General Assembly, “International Covenant on Civil and Political Rights”, 16 December 1966. Available at: <https://treaties.un.org/doc/Publication/UNTS/Volume%20999/volume-999-I-14668-English.pdf>

56 UN Human Rights Committee, “Concluding observations on the fourth periodic report of Israel (Advance Unedited Version)”, October 2014, page 3. Available at: http://www.ccrpcentre.org/doc/2014/10/CCPR_C_ISR_CO_41.doc

57 See for example World Bank Technical Team, “Movement and Access Restrictions in the West Bank: Uncertainty and Inefficiency in the Palestinian Economy”, 9 May 2007, page 1. Available at: <http://siteresources.worldbank.org/INTWESTBANKGAZA/Resources/WestBankrestrictions9Mayfinal.pdf>

58 UN General Assembly, “International Covenant on Civil and Political Rights”, 16 December 1966. Available at: <https://treaties.un.org/doc/Publication/UNTS/Volume%20999/volume-999-I-14668-English.pdf>

freedom of movement of a person which effectively nullify the principle of liberty of movement.⁵⁹

The Oslo Accords explicitly stated that the oPt should be viewed as a single territorial entity and further emphasized the importance of preserving the unity of the West Bank and the Gaza Strip.⁶⁰

However, one can argue that, according to the Israeli government, the right to freedom of movement does not apply to Palestinians living in the oPt. This view was emphasized in a ruling of the Israeli High Court from 2008, which is based on an Israeli military order from 1967. This order declared the West Bank and the Gaza Strip to be closed areas for all persons and required military permits for Palestinians to enter and stay in the area.⁶¹

To provide the administrative foundations for such a policy, Israel conducted in June 1967, immediately after the military occupation of that territory, a census in the West Bank and the Gaza Strip, though only Palestinians who were present at the time of the census were registered in the Israeli population registry and thereby considered to be legal residents and given identification cards.⁶² Since then, Israel has retained control over the registry, meaning that any Palestinian wanting to change his or her residence must first receive approval from Israel.⁶³ As part of its policy of sealing off the Gaza Strip, Israel has, since 2000, generally refused to allow changes to the register which would allow Palestinians from the Gaza Strip to move to other parts of the oPt. On only a few occasions since 2000, as part of political gestures, has Israel agreed to change the addresses of some Palestinians.⁶⁴ This has led to a situation where approximately 35,000 Palestinians are believed to live in the West Bank, although they are registered as living in the Gaza Strip and therefore risk being forcibly displaced by Israel to the Gaza Strip.⁶⁵ In fact,

59 UN Human Rights Committee, "CCPR General Comment No. 27: Article 12 (Freedom of Movement)", 2 November 1999, page 1. Available at: <http://www.refworld.org/docid/45139c394.html>

60 "Israeli-Palestinian Interim Agreement on the West Bank and the Gaza Strip (Oslo II)", 28 September 1995, Article XI, section 1. Available at: www.acpr.org.il/publications/books/44-Zero-isr-pal-interim-agreement.pdf

61 Human Rights Watch, "'Forget About Him, He's Not Here': Israel's Control of Palestinian Residency in the West Bank and Gaza", February 2012, page 29. Available at: www.hrw.org/sites/default/files/reports/iopt0212webwcover.pdf

62 World Bank Technical Team, "Movement and Access Restrictions in the West Bank: Uncertainty and Inefficiency in the Palestinian Economy", 9 May 2007, page 3. Available at: <http://siteresources.worldbank.org/INTWESTBANKGAZA/Resources/WestBankrestrictions9Mayfinal.pdf>

63 Ibid. Page 4

64 Human Rights Watch, "'Forget About Him, He's Not Here': Israel's Control of Palestinian Residency in the West Bank and Gaza", February 2012, page 26. Available at: www.hrw.org/sites/default/files/reports/iopt0212webwcover.pdf

65 Gisha – Legal Center for Freedom of Movement, "Who Controls the Palestinian Population Registry?", 11 November 2010. Available at: gisha.org/en-blog/2010/11/11/who-controls-the-palestinian-population-registry/

since 2003, Israel has forcibly removed Palestinians living and working in the West Bank to the Gaza Strip because their registered addresses were there.⁶⁶

In addition, numerous measures are in place in the West Bank, including East Jerusalem, and the Gaza Strip that seriously hinder the right of Palestinians to use and access lands, whilst also limiting the access to other resources such as water, minerals from the Dead Sea, and fisheries off the coast of the Gaza Strip. Such limitations usually come in the form of Israeli military orders that designate various parcels of land as closed military zones, nature reserves, national parks, Seam Zones,⁶⁷ or for the route of the Annexation and Segregation Wall, for instance. In designating a closed military zone, the local Military Commander applies Military Order 1651 which allows for the allocation of certain lands for “training” and “firing” purposes on the basis of “military necessity”.⁶⁸

ID Cards

Palestinians living in the West Bank, including East Jerusalem, and the Gaza Strip are required to hold an Israeli-administered ID card, which they must show when they want to travel within the oPt or outside of the oPt to cross any of the many military checkpoints, even if they want to go to school, hospitals, to visit family or to work.⁶⁹ However, in order to obtain such an ID card, a Palestinian must be registered in the Israeli controlled population registry, as the information from that registry is used in the ID card.⁷⁰ This means, that Israel has made it impossible for Palestinians to obtain an ID card if they are not included in the Israeli controlled population registry.

Restrictions on the Right to Freedom of Movement within the West Bank including Jerusalem

Following the 1995 Oslo II Accords, the West Bank was divided into areas A, B and C. The three administrative areas correlate to about 17 percent, 23 percent and 60 percent of West Bank territory. Areas A and B, consisting

66 Human Rights Watch, “‘Forget About Him, He’s Not Here’: Israel’s Control of Palestinian Residency in the West Bank and Gaza”, February 2012, page 28. Available at: www.hrw.org/sites/default/files/reports/iopt0212webwcover.pdf

67 Seam Zones are areas that fall between the Green Line (1949 Armistice Line) and the Israeli Annexation and Segregation Wall, in itself held by the International Court of Justice to be illegal.

68 Ma’an Development Center, “Moving Nowhere: Firing Zones and Forcible Transfer in the Jordan Valley”, 2015. Available at: <http://reliefweb.int/report/occupied-palestinian-territory/moving-nowhere-firing-zones-and-forcible-transfer-jordan>

69 Human Rights Watch, “‘Forget About Him, He’s Not Here’: Israel’s Control of Palestinian Residency in the West Bank and Gaza”, February 2012, page 3. Available at: www.hrw.org/sites/default/files/reports/iopt0212webwcover.pdf

70 Ibid.

of the most populous Palestinian cities, towns and inhabited rural regions, are divided into 227 non-contiguous areas separated by Israeli military checkpoints and barriers.⁷¹ Area C, which is under full Israeli military and administrative control and accounts for the majority of West Bank land, consists of Israeli colonies, colonizer only roads, military zones, strategic areas, water reservoirs and almost all of the Jordan Valley.⁷²

Khirbat Susiya Case

Khirbat Susiya, in the South Hebron Hills, is a village comprising around 350 people⁷³ who subsist on shepherding and olive cultivation.⁷⁴ In 1985 Israel declared the main residential area of Khirbat Susiya an “archeological site”. Consequently, the Palestinian residents were forcibly displaced to another part of the area.⁷⁵

Of particular concern is the fact that an Israeli colony, “Susiya”, was established near the original village, on Palestinian land declared “State Land” some three years prior, despite the forecasted designation of the area as an “archeological site”. The “archeological site” was subsequently declared part of that Israeli colony and the displaced villagers were refused entry to this area despite its location on their own lands.⁷⁶

In 2001, villagers petitioned the Israeli Supreme Court who granted an interim injunction prohibiting any construction. Following this, some villagers applied to the Israeli Civil Administration for building permits but all applications were rejected. In 2007 the Supreme Court rejected the villagers’ petition for building permits.⁷⁷

In August 2010, Rabbis for Human Rights petitioned the Supreme Court on behalf of the villagers to overturn orders prohibiting access to their land.⁷⁸ However, in 2011, during four separate waves of demolitions, 41 structures were targeted including 31 residential tents

71 Diakonia, DanChurchAid and others, “Trading Away Peace: How Europe helps sustain illegal Israeli settlements”, October 2012, page 11. Available at: www.fidh.org/IMG/pdf/trading_away_peace_-_embargoed_copy_of_designed_report.pdf

72 Diakonia Regional Office in Jerusalem, “Land expropriation methods & planning”, 13 November 2013. Available at: <https://www.diakonia.se/en/IHL/Occupied-Palestinian-Territory/Administration-of-Occupation/Israeli-Settlements-policy/How-is-it-done/>

73 OCHA-Occupied Palestinian Territories, “Susiya: At Imminent Risk of Forced Displacement”, March 2012, page 1. Available at: http://www.ochaopt.org/documents/ocha_opt_susiya_factsheet_march_2012_english.pdf

74 B’Tselem, “South Hebron Hills Khirbat Susiya – a village under threat of demolition”, 1 January 2013 / 9 May 2015. Available at: http://www.btselem.org/south_hebron_hills/susiya

75 OCHA-Occupied Palestinian Territories, “Susiya: At Imminent Risk of Forced Displacement”, March 2012, page 1. Available at: http://www.ochaopt.org/documents/ocha_opt_susiya_factsheet_march_2012_english.pdf

76 EmekShaveh, “Israel’s “National Heritage Sites” Project in the West Bank: Archeological importance and political significance”, 2012. Available at: <http://alt-arch.org/en/heritage/>

77 B’Tselem, “South Hebron Hills Khirbat Susiya – a village under threat of demolition”, 1 January 2013 / 9 May 2015. Available at: http://www.btselem.org/south_hebron_hills/susiya

78 Ibid.

and two water cisterns. These demolitions displaced 37 people (including 20 children) and adversely affected another 70.⁷⁹

On 12 June 2012, the Israeli Civil Administration served the residents of Susiya further demolition orders, which they claimed were renewals of orders from the 1990s and thus allowed only a limited opportunity to a number of residents to appeal to the Civil Administration Supreme Planning Council; a process which had to be undertaken within three days.⁸⁰ The residents of Susiya appealed the ruling and have since then made further petitions to the Israeli High Supreme Court in order to stop the home demolitions.⁸¹

Checkpoints

In April 2015, 96 fixed checkpoints were counted in the West Bank. In addition to these fixed checkpoints, the UN Office for the Coordination of Humanitarian Affairs (OCHA) also counted 361 so-called “flying”, or temporary, checkpoints in April 2015, though the number of the latter varies from month to month.⁸² The reasoning behind the establishing of specific checkpoints differs from case to case, and in some instances checkpoints are set up to collectively punish the citizens of an entire community. This happened in October 2015, when checkpoints were set up at the entrance to the al-Issawiya and at-Tur neighborhoods in East Jerusalem after the security cabinet of Israel permitted Israeli police to “impose a closure on, or to surround, centers of friction and incitement in Jerusalem, in accordance with security considerations.”⁸³

Besides restricting the freedom of movement of Palestinians, the checkpoints are also known as places of humiliation⁸⁴ and also potential danger, as several Palestinians have been killed or have been extrajudicially executed by Israeli soldiers at checkpoints since their establishment.⁸⁵

79 OCHA-Occupied Palestinian Territories, “Susiya: At Imminent Risk of Forced Displacement”, March 2012, page 1. Available at: http://www.ochaopt.org/documents/ocha_opt_susiya_factsheet_march_2012_english.pdf

80 B’Tselem, “South Hebron Hills Civil Administration threatens to demolish most of Susiya village”, 14 June 2012 / 19 July 2012. Available at: http://www.btselem.org/planning_and_building/20120614_susiya

81 B’Tselem, “South Hebron Hills A Chronicle of Dispossession: Facts about Susiya”, 29 July 2015. Available at: http://www.btselem.org/south_hebron_hills/201507_facts_on_susiya

82 For a detailed description of each checkpoint, see B’Tselem, “Restriction of Movement: Checkpoints, Physical Obstructions, and Forbidden Roads”, 16 January 2011 / 20 May 2015. Available at: http://www.btselem.org/freedom_of_movement/checkpoints_and_forbidden_roads

83 Maan News Agency, “Israeli forces deploy, set up checkpoints in East Jerusalem”, 14 October 2015. Available at: <https://www.maannews.com/Content.aspx?id=768239>

84 Yoav Zitun, “Humiliation and sloppy security checks at IDF checkpoints”, Ynetnews, 27 July 2015. Available at: <http://www.ynetnews.com/Articles/0,7340,L-4682202,00.html>

85 For an overview of different cases of Palestinians shot and killed at checkpoints, see al-Haq, “Death Traps: Israel’s Use of Force at Checkpoints in the West Bank”, 2002. Available at: <http://www.alhaq.org/publications/publications-index/item/death-traps-israel-s-use-of-force-at-checkpoints-in-the-west-bank>

Annexation and Segregation Wall

In 2002 the Israeli Government decided to construct “a barrier” separating the West Bank and Israel with the declared purpose of improving the security of Israel by preventing Palestinians from entering Israel without first being cleared at a checkpoint.⁸⁶ Today, the Annexation and Segregation Wall consists of a combination of eight-meter high concrete slabs; fences, ditches, razor wire, groomed sand paths, an electronic monitoring system, patrol roads and a buffer zone.⁸⁷

The International Court of Justice (ICJ) declared in its Advisory Opinion on 9 July 2004 that the Annexation and Segregation Wall and its associated permit regime is contrary to international law and that all states are under an obligation not to render aid or assistance to maintain the situation created by its construction.⁸⁸ A particular concern of the ICJ was the location of the Annexation and Segregation Wall, with the opinion noting:

[...] that the route chosen for the wall gives expression in loco to the illegal measures taken by Israel, and deplored by the Security Council, with regard to Jerusalem and the settlements, and that it entails further alterations to the demographic composition of the Occupied Palestinian Territory.⁸⁹

When completed, the Annexation and Segregation Wall will be 712 kilometers long, which is more than twice the length of the Green Line,⁹⁰ with more than 9.4 percent of the West Bank, and 30,000 Palestinians, trapped between the Wall and the Green Line in areas known as Seam Zones.⁹¹ The Human Rights Committee emphasized its concerns with the restrictions on freedom of movement imposed by the Annexation and Segregation Wall in its concluding observations in the fourth periodic report of Israel.⁹²

86 OCHA – Occupied Palestinian Territories, “Barrier Portal”, 2014. Available at: <http://www.ochaopt.org/content.aspx?id=1010271>

87 OCHA – Occupied Palestinian Territories, “10 Years since the International Court of Justice (ICJ) Advisory Opinion”, 9 July 2014, page 2. Available at: http://www.ochaopt.org/documents/ocha_opt_10_years_barrier_report_english.pdf

88 International Court of Justice, “Legal Consequences of the Construction of the Wall in the Occupied Palestinian Territory, Advisory Opinion, ICJ Reports 2004”, 9 July 2004. Available at: <http://www.icj-cij.org/docket/index.php?pr=71&code=mwp&p1=3&p2=4&p3=6&ca>.

89 Ibid.

90 Ma'an News Agency, “Israel court rules against separation wall in Beit Jala”, 2 April 2015. Available at: <https://www.maannews.com/Content.aspx?id=760247>

91 HaMoked – center for the Defence of the Individual, “The Permit Regime: Human Rights Violations in West Bank Areas Known as the ‘Seam Zone’”, March 2013, pages 5 & 9. Available at: http://www.hamoked.org/files/2013/1157660_eng.pdf

92 UN Human Rights Committee, “Concluding observations on the fourth periodic report of Israel (Advance Unedited Version)”, October 2014, page 7. Available at: http://www.ccrpcentre.org/doc/2014/10/CCPR_C_ISR_CO_41.doc

A holistic consideration of Israel's approach towards limiting or almost annulling freedom of movement reveals a clear and highly discriminatory pattern of behavior, underpinned by the motivation to reduce Palestinian presence within this territory. Indeed, review of the historical background and contemporary reality surrounding the restriction of freedom of movement paints a picture of ever-tightening restrictions on the ability of Palestinians to enjoy one of the most basic of human rights. This steady erosion of democratic principles has ultimately resulted in many thousands of Palestinians suffering great hardship and emotional distress which intrudes on all aspects of life.

It is important to note that forced population transfer is not restricted to physical force:

[...] but may include threat of force or coercion, such as that caused by fear of violence, duress, detention, psychological oppression or abuse of power against such person or persons or another person, or by taking advantage of a coercive environment.⁹³

Restrictions on the Freedom of Movement within the Gaza Strip

In the Gaza Strip Israel has, despite its official disengagement from the Strip, enforced what is known as Access Restricted Areas. These include the buffer zone along the border between Israel and the Gaza Strip as well as big parts of the Strip's maritime areas.

The Buffer Zone

The so-called "buffer zone" is a military no-go area that extends along the entire northern and eastern perimeter of the border between the Gaza Strip and Israel, inside Palestinian territory, and is also enforced at sea. The precise areas designated by Israel as "buffer zones" are unknown and subject to regular change, but are often enforced with live fire.⁹⁴ The land buffer zone extends at least "over approximately 17 percent of the territory of the Gaza Strip"⁹⁵ and "depending on the specific area, farmers are effectively prevented from accessing land located up to 1,000-1,500 meters from the Israeli created fence",⁹⁶ whilst during the Israeli military assault on the Gaza Strip in the

93 International Criminal Court, 'Rome Statute of the International Criminal Court: Elements of Crimes' (International Criminal Court, 2011), Article 6(e) <<http://www.icc-cpi.int/nr/rdonlyres/336923d8-a6ad-40ec-ad7b-45bf9de73d56/0/elementsofcrimeseng.pdf>>.

94 Palestinian Center for Human Rights (PCHR), "The Buffer Zone in the Gaza Strip", May 2010, page 1. Available at: <http://www.pchrgaza.org/facts/factsheet-bufferzone-2.pdf>

95 Al-Haq, "Shifting Paradigms: Israel's Enforcement of the Buffer Zone in the Gaza Strip", 23 June 2011, page 7. Available at: <http://www.alhaq.org/publications/publications-index/item/shifting-paradigms-israel-s-enforcement-of-the-buffer-zone-in-the-gaza-strip>

96 Ibid.

summer of 2014, Israel expanded the buffer zone to three kilometers from the border, covering 44 percent of the besieged enclave.⁹⁷

The Village of Khuza'a, District of Khan-Yunis⁹⁸

On 5 January 2013, Israeli forces entered the Buffer Zone in the southern Gaza Strip. The forces invaded up to 100 meters of land of Khuza'a, east of Khan-Yunis, where they flattened the agricultural land. The damaged land belongs to Ahmad Karani who stated:

"I own land consisting of five dunums (0.05 km²) that I planted with various trees and plants, like citrus and peach. The only income I have is from working this land, but on 5 January 2013 Israeli bulldozers flattened my land causing damage estimated at US \$ 35,000. This amount includes damages caused to the house and agricultural machines, in addition to the harvest which I was about to collect. In general, sometimes we are allowed to reach our lands and at other times we are shot at, like other farmers, in order to prevent us from reaching our lands. We are confused and do not know how to deal with the occupation, since the soldiers behave irregularly and we do not receive any guidelines. Sometimes they even allow some farmers to access their lands while they shoot at others."

Egypt, too, has enforced a buffer zone along its borders with the Gaza Strip. In January 2015, this zone was expanded from 500 meters from the border into the Gaza Strip to between 1,500 and 2,000 meters, with a reported 1,200 homes being demolished as a result.⁹⁹

Restrictions Against Palestinian Citizens of Israel

Following the Nakba in 1948 and the creation of the state of Israel, Israel imposed military rule upon Palestinians, which lasted until 1966, and was intended to control the Palestinian population which remained inside Israel, and also to prevent the return of Palestinian refugees.¹⁰⁰ In contrast, a civilian government managed the affairs of the Jewish-Israelis. The military rule also included the regulation of the Palestinian labor force according to the needs of the Israeli market (as in the present case of the Palestinians of the West Bank and Gaza Strip).¹⁰¹ Freedom of expression and freedom of movement

97 OCHA – Occupied Palestinian Territories, Gaza Emergency Situation Report (as of 22 July 2014, 1500 hrs), 23 July 2014, page 1. Available at: http://www.ochaopt.org/documents/ocha_opt_sitrep_23_07_2014.pdf

98 BADIL's interview with Ahmad Hamid, "The Village of Khuza'a, District of Khan-Yunis", February 2013

99 Avi Issacharoff, "Egypt to expand Gaza buffer zone to up to 2 kilometers", The Times of Israel, 6 January 2015. Available at: <http://www.timesofisrael.com/egypt-to-expand-gaza-buffer-zone-to-up-to-2-kilometers/>

100 For a detailed description, see SabriJiryis, "The Arabs in Israel", Monthly Review Press, New York, USA, Updated edition, 1 June 1977, ISBN-13: 978-0953454069

101 Manar Makhoul, "Seismography of Identity: Literary Reflections of Palestinian Identity Evolution in Israel between 1948 and 2010", University of Cambridge, 2013

were severely restricted, and Palestinians were confined to controlled areas. For example, Palestinians leaving their towns and villages needed written permission from the military commander.¹⁰²

Early discussions in the Knesset and Israeli political factions reveal government strategies ranging from implementation of mass expulsions of Palestinians to the carrying out of systematic harassment policies, designed to “encourage” Palestinians to “migrate”. While mass displacement was deemed impossible to implement “in times of peace”, the latter was perceived as more practical and acceptable. Moshe Sharett,¹⁰³ a signatory to Israel’s Declaration of Independence, summarized the principle as encouraging Palestinians who were willing to migrate and suggesting that “a policy based on minimal fairness should be adopted toward Arabs who were not inclined to leave”.¹⁰⁴

The “minimal fairness” framework for achieving Palestinian displacement was adopted into Israeli governmental policy through various laws, regulations and practices.¹⁰⁵ The result is that, today, more than 50 Israeli laws discriminate against Palestinian citizens of Israel.¹⁰⁶ Moreover, the notion of equality is not mentioned as a constitutional right in Israel’s Basic Law: Human Dignity and Liberty (1992),¹⁰⁷ which acts as Israel’s Bill of Rights in absence of a constitution. In the absence of a constitutional protection of equality, this right is relegated to a secondary-level right, and is only afforded if it can be derived from other rights granted by the Basic Law. Moreover, paragraph ten of the law provides that, “[t]his Basic Law shall not affect the validity of any law in force prior to the commencement of the Basic Law.” A series of discriminatory laws adopted in the 1950s and 1960s thus continue to violate the fundamental right of Palestinians to equality.

102 Ibid. page 16

103 In addition to being one of the signatories to Israel’s Declaration of Independence, Moshe Sharett was the first Foreign Minister and the second Prime Minister of Israel.

104 Nur Massalha, “A Land without a People: Israel, Transfer and the Palestinians 1949-96”, Faber and Faber Limited, 1997, ISBN-13 978-0571191000, page 3.

105 Other policies included a system of control that limited and manipulated the Palestinians inside Israel. Lustick suggests that Israel’s control over its Palestinian citizens is maintained through a three-fold system of segmentation, dependence and co-optation. The cooptation system meant that the government will adopt and encourage the ‘positive’ elements among the Palestinians, and isolating and marginalizing the ‘negative’ elements in the society, see Sabri Jiryis, “The Arabs in Israel”, Monthly Review Press, New York, USA, Updated edition, 1 June 1977, ISBN-13: 978-0953454069, pages 63-64

106 For more information see BADIL Resource Center for Palestinian Residency and Refugee Rights, “Occasional Bulletin No.26: Israel’s Discriminatory Laws”, 2012. Available at: www.badil.org/phocodownload/Badil_docs/bulletins-and-briefs/bulletinno.26.pdf; see also Adalah – The Legal Center for Arab Minority Rights in Israel, “Discriminatory Laws in Israel”, located 2015. Available at: <http://www.adalah.org/en/law/index>

107 “Basic Law: Human Dignity and Liberty”, passed on 17 March 1992 and amended on 9 March 1994. Available at: www.knesset.gov.il/laws/special/eng/basic3_eng.htm

Military Rule in Israel 1948-1966 (I)¹⁰⁸

"As any colonial project is connected to space; the Israeli one circulates on the issue on how to enlarge the Jewish part of the State of Israel and reduce as much as they can the Palestinian part through containment, by forbidding them to develop or even access some areas. During the military regime, in the 50s and 60s, Israel implemented on the Palestinian population a series of living and geographical restrictions aiming to confine them in small Arabic enclaves. Palestinians inside Israel were not allowed to live and develop their communities naturally, they were put under massive pressure in order to push them to leave; they needed permits in all aspects of their life: permits to work, permits to move and permits to study. Basically, villages were isolated from each other and confined in areas controlled by the Israeli military regime and government. This can easily be compared to the current situation in the West Bank, where Palestinians are contained in restricted areas.

Essentially, the geographical containment is the major tool that the Israeli government uses to prevent Palestinian communities from developing inside Israel, by imposing very strict planning and zoning policies on Palestinian areas which limits Palestinian villages from developing. For example, in the cities Tyrehand al-Taybeh the urban development is absurd, they have no infrastructure, no industrial zone and no planning concept at all. This is the actual situation of the entire Palestinian communities inside Israel.

In 1966 the military regime ended and with it some restrictions on Palestinian citizens of Israel, such as restrictions to the freedom of movement. But many elements of the military rule are still implemented. Today the military regime is disguised under the umbrella of "legal laws" adopted by the Israeli Knesset. There are specific Knesset laws that have the goal of pursuing the same containment policies implemented during the military regime. For instance, the Judaization of the Galilee is accomplished by containing Palestinian agricultural zones, residential and urban areas and preventing them from developing."

In order to facilitate the policy of "minimal fairness", during the first 18 years after the creation of Israel, Palestinian citizenry was restricted to "security zones" and had military rule imposed on them. During the period of military rule, Israel imposed strict means of control on Palestinian citizens, restricting their freedom of movement, assembly, work, press and speech, in addition to mass confiscation of land and property. This was made possible by the Emergency Regulations Concerning Absentee Property (1948), and the Absentees' Property Law (1950).¹⁰⁹ These laws served – and continue to

108 BADIL's interview with Michel Warschawski (Mikado). Israeli anti-Zionist political analyst, activist, and co-founder of the Alternative Information Center (AIC)., "Military Rule in Israel 1948-1966", October 2015

109 1949 Emergency Regulations Concerning Absentee Property, Laws of the State of Israel, Vol. 1, Ordinances, 5708 (1948), page 8; 1950 Absentees' Property Law, Laws of the State of Israel, Vol. 4, Ordinances, 5710 (1949/50), pages 68-82

serve – as a “legal” foundation for the expropriation of individually and communally-owned Palestinian land.¹¹⁰ Palestinian citizens of Israel and refugees have thereby been deprived of title, access and use of their land, and even of reparations.

Today, 93 percent of the land in Israel is owned either by the state or by quasi-governmental agencies (such as the Jewish National Fund) and administered by the Israel Land Authority, whose managerial council is composed of representatives from the government and the Jewish National Fund.¹¹¹ The purpose of the Jewish National Fund, according to its Memorandum of Association, is to systematically acquire land in Palestine “for the purpose of settling Jews on such lands”.¹¹² This same memorandum also stipulated that the organization could only lease land to Jews, and prohibited it from selling any land it acquired.¹¹³

Israeli Discrimination Against Palestinians Living in Israel¹¹⁴

“I was born in Wadi Ara in 1951, a few years after the Nakba. Fortunately my family was one of the few Palestinians families that were not forcibly displaced during the Nakba.

What remained of the Palestinian villages were under Israeli military surveillance for 24 hours a day along with the roads that connected the villages. We were under daily harassment and inspections by the Israeli military. They used to raid the villages and the houses and destroy the wheat, sugar and lentils stocks or any basic livelihood component. Intimidations were ongoing.

My father was a farmer, we had a big plot of land in the valley of our village and we also had a small house there, so my father used to stay there and work the land all week and then get back home in the weekend. Our land was not far away from our home, but he could not risk to go and come back every day, as he used to do before 1948.

When I finished the eighth grade, there was no secondary school in my village, so I had to go to school in al-Taybeh, which is one hour away from Wadi Ara. Because of the hardship of movement during the military regime, I used to go on Sunday morning to al-Taybeh and

110 For more information see BADIL Resource Center for Palestinian Residency and Refugee Rights, “Israeli Land Grab and Forced Population Transfer of Palestinians, A Handbook for Vulnerable Individuals and Communities”, June 2013. Available at: <http://reliefweb.int/sites/reliefweb.int/files/resources/handbook2013.pdf>

111 For more information see BADIL Resource Center for Palestinian Residency and Refugee Rights, “The Jewish National Fund: A Para-State Institution in the Service of Colonialism and Apartheid”, al-Majdal, Winter - Spring 2010. Available at: http://www.badil.org/phocadownload/Badil_docs/publications/al-majdal-43.pdf

112 Walter Lehn, “The Jewish National Fund”, Journal of Palestine Studies Vol. 3, Issue 4, Summer 1974, page 82. Available at: <http://www.caiaweb.org/old-site/files/Lehn-JNF.pdf>

113 Ibid. Page 77

114 BADIL’s interview with Akram Hilmi, “Israeli Discrimination Against Palestinians Living in Israel”, Wadi Ara , October 2015

stay for the whole week and come back home only at the weekend. I will never forget the weekly trip on that bus; it was always full of Israeli soldiers because they were heading to a military base near al-Taybeh. That hour on the bus always seemed eternal. Along with other students from my village, we did not have a permit to leave the village to go and study in al-Taybeh, so we were afraid to speak with each other, consequently we never spoke on that bus, we were even afraid of breathing. We were so afraid because we saw other students being caught without permits and they were physically and verbally assaulted by the soldiers and detained until their parents would take them out from the police station and pay high fines for them to be discharged.

Also, at the university level there was a fixed quota for Arabs. Each year only two Palestinians were allowed to attend each university in Israel. Also, in this case there were always questions about the few Palestinian students, who managed to obtain a student permit. Higher education was opened for us only after the 1980s. However, things did not really change. Today, it is true that Palestinian students inside Israel don't need permits to study, however, the barriers that they have to face in order to have access to universities are still tough and discriminatory. The education level in the Arabs schools is quite inferior from the Jewish-Israeli ones, which is the consequence of State discrimination in allocation of resources. Therefore, Palestinian students will be disadvantaged, compared to the Jewish-Israeli students, once they have to undergo the university entrance exam. This is why many Palestinian students have to go abroad in order to enroll in universities.

Another example of today's discrimination, which has its foundation in the military regime, is the fact that, until today, there are no industrial zones in Arab communities inside of Israel. It is almost impossible for Palestinians to get a permit to start an industrial activity, and this results in a lack of income for Arab municipalities, since industrial activities could increase the taxes paid to the Arab municipalities in Israel and help the municipalities to develop. All the industrial zones inside of Israel belong to Jewish-Israeli authorities, even if many of them are established on lands which belong to Arab villages. This is a clear economic discrimination policy implemented by the State of Israel, in order to ensure that there is no economic development and sufficiency within Arab villages.”

Admission Committees

Since the Kaadan case in 2000,¹¹⁵ two different frameworks for admission committees have been created to ensure that Palestinian citizens of Israel can still be denied the right to live in certain Israeli towns; these being the Israel Lands Administration's Decision No. 1015¹¹⁶ and the Admission Committees

115 In 1995 the Kaadan family was denied by the Katzir Cooperative Association the right to buy a house in an Israeli town called Katzir. The argument was that the community only wanted Jewish residents. The Kaadan family took the case to the Israeli court and in March 2000 the Supreme Court ruled that the family could not be denied the right to move to Katzir.

116 Adalah – The Legal Center for Arab Minority Rights in Israel, “Adalah Submits Amended Supreme Court Petition Demanding Cancellation of “Admission Committees” for Illegally Excluding Arab Citizens of Israel from Communities Build on State-Controlled Land”, 2010. Available at: <http://www.adalah.org/en/content/view/7112>

Law.¹¹⁷ Admission committees, together with other Israeli policies, make it impossible for Palestinian citizens of Israel to purchase or lease land in more than 700 Israeli towns,¹¹⁸ covering approximately 80 percent of the land in Israel.¹¹⁹

On 1 August 2004, four years after the Israeli Supreme Court ruled that the Kaadan family could not be denied the right to move to the town Katzir, the Israel Lands Administration made their decision No. 1015 entitled “recommendation procedures for accepting candidates to purchase leasing rights for lands in agricultural and community settlements.”¹²⁰ This decision provides a framework for creating admission committees, which in community settlements are composed of a senior official from the settlement agency (either The Jewish Agency or The World Zionist Organization), a senior official from the Israeli Ministry of Housing and Construction, as well as representatives of the cooperative association, the regional council and the settlement body. In agricultural settlements the composition of the admission committees is determined by the governing bodies of the society itself.¹²¹ “The admission committees created by decision 1015 have the right to deny people the right to move to a community if the committee, among others, does not find the candidate suited to the social life in the community.”¹²² The admission committees operate in 695 agricultural and community towns, which account for 68.5 percent of all towns in Israel and approximately 85 percent of all villages.¹²³ Following much criticism and legal challenges, admission committees were changed in 2010, but are still able to deny individuals the right to move to a community based on the arbitrary “suitability” criterion.¹²⁴

117 Adalah – The Legal Center for Arab Minority Rights in Israel, “Israeli Supreme Court upholds “Admission Committees Law” that allows Israeli Jewish communities to exclude Palestinian Arab citizens”, 17 September 2014. Available at: <http://www.adalah.org/en/content/view/8327>

118 Adalah – The Legal Center for Arab Minority Rights in Israel, “Suggested items to the UN Committee on the Elimination of Racial Discrimination (CERD) for the List of Themes for the State of Israel”, 8 December 2011, page 10. Available at: http://www2.ohchr.org/english/bodies/cerd/docs/ngos/Adalah_Israel_CERD80.pdf

119 Adalah – The Legal Center for Arab Minority Rights in Israel, “The Inequality Report: The Palestinian Arab Minority in Israel”, 2011, page 24. Available at: [http://www.adalah.org/uploads/oldfiles/upfiles/Christian%20Aid%20Report%20December%202010%20FINAL\(1\).pdf](http://www.adalah.org/uploads/oldfiles/upfiles/Christian%20Aid%20Report%20December%202010%20FINAL(1).pdf)

120 Adalah – The Legal Center for Arab Minority Rights in Israel, “Adalah to ILA: Cancel Criteria for Accepting Candidates to Agricultural and Community Towns which Discriminate against Arab Citizens of Israel”, 27 April 2005. Available at: <http://www.adalah.org/en/content/view/6415>

121 Ibid.

122 Ibid.

123 Adalah – The Legal Center for Arab Minority Rights in Israel, “The Inequality Report: The Palestinian Arab Minority in Israel”, 2011, page 24. Available at: [http://www.adalah.org/uploads/oldfiles/upfiles/Christian%20Aid%20Report%20December%202010%20FINAL\(1\).pdf](http://www.adalah.org/uploads/oldfiles/upfiles/Christian%20Aid%20Report%20December%202010%20FINAL(1).pdf)

124 Ibid. page 25

Military Rule in Israel 1948-1966 (II)¹²⁵

“The decision of the Israeli Supreme Court to uphold this law which allows housing discrimination against Palestinians is no surprise. It is part of the same containment policies as during the military regime; therefore, the court’s decision will result in the continued concentration and containment of the Palestinian population in Israel. It is a clear message from the Jewish State of Israel to its Arab citizens: stop asking or even dreaming of having Arabs in Jewish communities.

In the past there was no need for commission committees because of two things; first, there was no need for any admission law, because no Palestinian would ever want to live in a Jewish-only community and, secondly, they knew that they would never be accepted. Every Palestinian child knows since early age that these are Jewish communities, Jewish villages or cities so there is no place for them. Only one Palestinian lawyer decided that, if Israel claims to be a democratic state, then he wants to live in a high quality village and to send his children to a good school, but this was part of the small parenthesis of the illusion of Israel becoming a normal State.

The trick that Israel uses, like any other colonial state, is that it wants to maintain the homogeneity of the community; each community should be homogenous for the good of everyone. Their narrative is that it is good to have a poor neighborhood, a rich neighborhood, a Jewish one and an Arab one, and why mix them?”

The other framework allowing for admission committees to decide which citizens can live in certain cities was created by the Israeli Parliament with the Admission Committees Law in 2011. The Law legitimized existing committees in 434 communities with fewer than 400 families in the Naqab (Negev) and in the Galilee, constituting approximately 43 percent of all residential areas in Israel.¹²⁶ The Admission Committees Law makes it possible for the Jewish-Israeli majority communities to reject people who want to move to such locations, if the latter fail to meet the “social suitability” criteria described in the law.¹²⁷ A clause was added in the legislative hearings in order to forbid admission committees from discriminating on the basis of race, religion, gender, nationality or disability. However, it is still possible for the members of the committees to discriminate, as long as they claim that candidates are rejected because they are found “unsuitable” to fit in with the community’s

125 BADIL’s interview with Michel Warchawski, founder of the Alternative Information Center, “Military Rule in Israel 1948-1966”, Jerusalem, October 2015

126 Adalah – The Legal Center for Arab Minority Rights in Israel, “Israeli Supreme Court upholds “Admission Committees Law” that allows Israeli Jewish communities to exclude Palestinian Arab citizens”, 17 September 2014. Available at: <http://www.adalah.org/en/content/view/8327>; Human Rights Watch, “Israel: New Laws Marginalize Palestinian Arab Citizens”, 30 March 2011. Available at: www.hrw.org/news/2011/03/30/israel-new-laws-marginalize-palestinian-arab-citizens

127 Human Rights Watch, “Israel: New Laws Marginalize Palestinian Arab Citizens”, 30 March 2011. Available at: www.hrw.org/news/2011/03/30/israel-new-laws-marginalize-palestinian-arab-citizens

“social characteristics”.¹²⁸ The Legal Center for Arab Minority Rights in Israel (Adalah), filed a petition to have the law made illegal by the Israeli Supreme Court, however, in 2014 the petition was dismissed.¹²⁹ Despite the law being criticized by the UN Committee on the Elimination of Racial Discrimination,¹³⁰ the majority opinion of the Israeli Supreme Court stated that it is too soon to determine if the Admission Committees Law will be used to discriminate against Palestinian citizens of Israel.¹³¹

Restrictions of Access from Abroad

Israel applies a policy of denying entrance to Israel or the oPt to non-residents of Palestinian or Arab descent, even though they have never carried a citizenship of an Arab country. Here, it is important to note that Israel controls all entry points into the oPt. For example, the US consulate in Jerusalem warns US citizens that those “the Israeli authorities suspect of being of Arab, Middle Eastern, or Muslim origin (...) face additional, often time-consuming, and probing questioning by immigration and border authorities, or may even be denied entry into Israel or the West Bank.”¹³² However, not only people of Palestinian or Arab descent are frequently denied entry into Israel and or the oPt. Israel also frequently denies entry to foreigners who are suspected of being political activists or who are suspected of wanting to visit the occupied Palestinian territory.¹³³ Therefore, anyone wishing to visit the oPt must comply with Israeli visa regulations. Among those denied entry is Richard Falk, then UN Special Rapporteur on the Palestinian territories, who afterwards wrote that “it seemed that Israel wanted to teach me, and more significantly, the UN a lesson: there will be no cooperation with those who make strong criticisms of Israel’s occupation policy.”¹³⁴

128 Ibid.

129 Adalah – The Legal Center for Arab Minority Rights in Israel, “Israeli Supreme Court upholds “Admission Committees Law” that allows Israeli Jewish communities to exclude Palestinian Arab citizens”, 17 September 2014. Available at: <http://www.adalah.org/en/content/view/8327>

130 UN Committee on the Elimination of Racial Discrimination (CERD), “Consideration of reports submitted by States parties under Article 9 of the Convention – Concluding observations of the Committee on the Elimination of Racial Discrimination: Israel”, 9 March 2012, page 2-3. Available at: <http://www2.ohchr.org/english/bodies/cerd/docs/CERD.C.ISR.CO.14-16.pdf>

131 Amjad Iraqi, “Israeli Supreme Court Made Unjust Decision in Upholding ‘Segregation Law’”, The World Post, 30 September 2014. Available at: www.huffingtonpost.com/amjad-iraqi/israeli-high-court-made-u_b_5886224.html

132 Consulate General of the United States, “Entering and Exiting Jerusalem, The West Bank, and Gaza”, located 24 November 2015. Available at: jerusalem.usconsulate.gov/entering.html

133 See for example Harriet Sherwood, “Israel blocks entry to pro-Palestinian activists at airport”, The Guardian, 15 April 2012. Available here: <http://www.theguardian.com/world/2012/apr/15/israel-blocks-entry-pro-palestinian-activists>; and LinahAlsaafin, “Israel Restricts Entry of Foreigners Into Palestinian Territories”, Al-Monitor, 7 March 2013. Available at: <http://www.al-monitor.com/pulse/originals/2013/03/israel-restricts-foreign-nationals-entry.html>

134 Richard Falk, “My expulsion from Israel”, The Guardian, 19 December 2008. Available at: <http://www.theguardian.com/commentisfree/2008/dec/19/israel-palestinian-territories-united-nations>

Access to Palestine from Abroad¹³⁵

I was born in England 33 years ago to an English mother and a Palestinian father. My father moved from Palestine to England to pursue his studies in 1966. Unfortunately, as he wasn't present in the West Bank during the Israeli occupation in 1967, he wasn't counted in the census made by the Israeli occupation authority, and therefore he wasn't granted a Palestinian ID card. Although his parents were still living in Al-Khader village, next to Bethlehem, along with his brothers, sisters and nieces, he was denied from his own nationality.

I have been coming regularly to Palestine since I was two years old.

They always give me a hard time when I come through Ben Gurion airport. Just because you have Palestinian origin they make you wait for a long time and they question you several times and they keep repeating the same questions and they try to threaten you by saying that if you lie you will be denied entry. Which it's hilarious because I always tell them the truth that I am coming to visit my family in the West Bank, still they always treat me as I am a threat to their security. Many people get so intimidated from the humiliating treatment by Israel that once they leave the country they never come back again.

Denial of entry

On 23 July 2015, around 11pm, I landed at the Ben-Gurion Airport. As always, once I reached the migration counter, the official of the Israeli Ministry of Interior took my passport and told me to go and sit in the waiting room. This was not new to me - I am used to the Israeli manners to welcome people of Arab descent - therefore I always bring with me a book to keep my mind busy and calm.

Though this time, since the very beginning, I figured out that something bad was going to happen because unlike the other times, the Israeli official was rude and aggressive from the very beginning of the interrogation. He started the conversation aggressively by shouting: "Put the book down, this is not a playground, you have to tell us the truth or I am going to put you on a plane and you will never be allowed to come back".

Then they harshly called me to the interrogation room where they started asking me questions but without giving me time to answer. Rather, the Israeli official kept interrupting all my sentences during the few times that he let me talk.

I knew I did not do anything wrong or break any law, though I got scared and I started shaking. He kept threatening to deport me back to the UK, and when I asked him why, what did I do to be treated like this, he got madder and shouted: "Shut up, don't tell me how to do my job".

135 BADIL's interview with Amina Farooq, "Access to Palestine from Abroad", Amman, Jordan, August 2015

Then he told me to go out and wait in the waiting room. After a while he called me back and said: "this is your last chance to say the truth or we will send you back...". I was confused. I did not know what to tell them, hence he said: "We are denying you entry because you are lying and you know why you are being denied".

Then they took me to take my luggage and to do a body search and then they send me directly to the detention center. Once I arrived at the detention center they allowed me to use the phone, so I called my parents and they got me a lawyer who called me. Afterwards, I started the emergency procedure which costs NIS 9000 (\$ 2318) instead of NIS 2500 (\$ 644) for the normal procedure. This amount includes the court fee, the lawyer's fee and for having a court session faster because it was a weekend.

On Sunday afternoon, after four days and three nights in the detention center, an Israeli officer came and brought me to Jerusalem for the court case, where I saw my lawyer for the first time. We had a very short conversation by phone which made it difficult to discuss anything before the court hearing. They never gave me time to discuss my case with her, only two minutes in the hallway, where everybody was listening.

My lawyer asked for three things: My denial of entry to be reversed, not to be deported and to know what the charges were against me. Unfortunately, the last two requests were refused, only my denial of entry was on appeal, which costs me another NIS 4000 (\$ 1030).

The court case was very frustrating. The whole session was in Hebrew, the lawyer always spoke on my behalf because the judge did not want to give me the word. I had only one short chance to express myself, literally one minute, after that my lawyer stressed for me to be able to speak. While I was speaking, the prosecutor kept mocking me. I was explaining that it was important for me to stay because I am a medical doctor and my aunt was in the hospital; very sick, at her final stage. The prosecutor countered that my case was not about humanitarian issues, rather, it was about security and that I represented a danger to the state of Israel. Then the judge and the prosecutor left to another room to discuss my secret file for about 20 minutes and my lawyer was not allowed to attend it.

The judge came back and confirmed my deportation. The judge stated that I wasn't denied because of what I said or what I do, rather because of my connections with terrorists, which is hilarious to me because I don't have contact with terrorists, unless with terrorists they mean every Palestinian. My situation is difficult because I need to prove that I don't have contact to terrorists, so that they will be obliged to reverse my entry denial, but without knowing the secret file, it's going to be very hard, given that it is very easy for them to accuse anyone of being a terrorist."

Palestinian Prisoners

As of October 2015, there are approximately 6,700 Palestinian prisoners in Israeli prisons, of which 320 are children.¹³⁶ These prisons are usually located inside Israel,¹³⁷ in direct contravention of Article 76 of the Fourth Geneva Convention, which states that “protected persons accused of offences shall be detained in the occupied country, and if convicted they shall serve their sentences therein.”¹³⁸ Although detention centers are most often located in military bases or colonies inside the West Bank, these too are off limits to Palestinians as they also need special permits to enter such areas.¹³⁹

Israel requires that visitors obtain a special entry permit to visit prisoners, except for children under the age of 16, who are generally allowed to visit.¹⁴⁰ Only first degree relatives are allowed to visit Palestinian prisoners, and without being given any justification for the rejections, hundreds of families fail to obtain the necessary permits, meaning that the prisoner cannot receive any visitors.¹⁴¹ This violates Article 116 of the Fourth Geneva Convention, which states that “every internee shall be allowed to receive visitors, especially near relatives, at regular intervals and as frequently as possible.”¹⁴² Furthermore, those relatives who do manage to obtain a permit to visit a prisoner often have to wait three months for a permit that is only valid for one year, and the family visits themselves only take place once every other two weeks, for a duration of 45 minutes.¹⁴³

136 Addameer, “Statistics”, located 24 November 2015. Available at: <http://www.addameer.org/statistics>

137 Addameer, “Administrative Detention in the occupied Palestinian Territory, a Legal Analysis Report Third Edition”, 2013, page 29. Available at: www.addameer.org/sites/default/files/publications/legal_analysis_report_english_final_4.pdf

138 International Committee of the Red Cross (ICRC), “Geneva Convention Relative to the Protection of Civilian Persons in Time of War (Fourth Geneva Convention)”, 12 August 1949. Available at: <http://www.refworld.org/docid/3ae6b36d2.html>

139 Addameer, “Administrative Detention in the occupied Palestinian Territory, a Legal Analysis Report Third Edition”, 2013, page 29. Available at: www.addameer.org/sites/default/files/publications/legal_analysis_report_english_final_4.pdf

140 Addameer, “Family Visits”, located 24 November 2015. Available at: http://www.addameer.org/key_issues/family_visit

141 Ibid.

142 International Committee of the Red Cross (ICRC), “Geneva Convention Relative to the Protection of Civilian Persons in Time of War (Fourth Geneva Convention)”, 12 August 1949. Available at: <http://www.refworld.org/docid/3ae6b36d2.html>

143 Addameer, “Family Visits”, located 24 November 2015. Available at: http://www.addameer.org/key_issues/family_visit

Visiting Palestinian Prisoners¹⁴⁴

Fatima is a Palestinian refugee from Aida refugee camp near Bethlehem, and is the mother of Mohammed. Mohammed was arrested by Israel in 2000, and sentenced to 19 years in prison. However, his family was deprived from visiting him for nine years in a row, with the exception of his six-year-old sister, who was allowed to visit him until she became 12 years old.

Fatima explains, “In the beginning, they allowed his six-year-old sister to visit him. Then, after six years, they allowed his grandmother to visit. Afterwards, they allowed me and his father to visit him after he had spent nine years in prison. Therefore, I could not see my son for nine whole years. Israeli authorities were denying me a permit for security reasons. I never got any explanation about why. Why was I regarded as a security threat? But after nine years I was allowed to visit him once a year and after two more years, I got to visit him twice every year. Finally, after 15 years, they issued me a one-year permit to visit him every month or every 40 days depending on the visit appointments allowed by Israel.”

144 BADIL's interview with Fatima Aziz, mother of a Palestinian political prisoner, “Visiting Palestinian prisoners”, Bethlehem, October 2015

Economic Rights

Article 6 (1) of the International Covenant on Economic, Social and Cultural Rights (ICESCR) recognizes “the right to work, which includes the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts”.¹⁴⁵ Article 8 of the ICESCR further protects the right to work by protecting the right of everyone to form and join trade unions for the promotion and protection of his economic and social interests.¹⁴⁶

Furthermore, Article 43 of The Hague Regulations is generally interpreted as stating that the occupying state must refrain from taking into consideration its own national economic and social interests in as much as these do not have an effect on either the security of the occupying state or the interest of the occupied population.¹⁴⁷ This stands in stark contrast to realities on the ground in the oPt, where Israel as an occupying power has greatly altered the socio-economic conditions of Palestinians.

The restrictions on the Palestinian economy are, among others, Israel’s withholding of clearance revenues from the Palestinian Authority (PA), since the PA declared that it would accede to the Rome Statute of the International Criminal Court, or Israel’s control over natural resources in the oPt.¹⁴⁸ As a result, in 2014, Palestinian workers working in East Jerusalem, Israel or one of the many illegal Israeli colonies in the West Bank were earning 2.25 times more than the average private sector wage in the West Bank.¹⁴⁹ A total of 110,300 Palestinians were employed in Israel and illegal Israeli colonies in the

145 UN General Assembly, “International Covenant on Economic, Social and Cultural Rights”, 16 December 1966. Available at: www.refworld.org/docid/3ae6b36c0.html

146 Ibid.

147 Michael Waelbroeck and Willem Aldershoff, “Israel’s obligations as an occupying power under international law, its violations and implications for EU policy”, European Coordination of Committees and Associations for Palestine, 29 January 2014. Available at: www.eccpalestine.org/israels-obligations-as-an-occupying-power-under-international-law-its-violations-and-implications-for-eu-policy/

148 The International Labour Organization, “The Situation of Workers of the Occupied Palestinian Territories”, International Labour Office, 2015, page 5. Available at: www.ilo.org/wcmsp5/groups/public/@ed_norm/@relconf/documents/meetingdocument/wcms_368279.pdf

149 Ibid. page 14

first quarter of 2015. Of these, 58,700 had obtained a work permit, 39,300 worked without a permit and 12,300 had an Israeli identity card or a foreign passport.¹⁵⁰

Palestinians with Work Permits in Israel and Israeli Colonies

Protocols and procedures concerning Palestinian employment in Israel are so unclear and inconsistent that it is impossible for Palestinian workers to know what rules apply. When Gisha, an Israeli NGO, asked both the Israeli Population and Immigration Authority and the Coordinator of Government Activities in the Territories about the work permit quota in 2010, they not only received incomplete answers, but the answers they received also had a discrepancy of 12,000 workers.¹⁵¹ Furthermore, the responses given by these two Israeli state agencies concerning the criteria for construction workers also differed, stating different age requirements, for example.¹⁵² The result of these inconsistent and unclear requirements is that many Palestinian workers do not know – and are unable to find out – if they are able to obtain a work permit or not.

Permit Procedures¹⁵³

This formalized ambiguity is further compounded by the lack of available information from Palestinian officials. Ayman Odah, from the Palestinian Ministry of Labor informed BADIL that:

“Obtaining work permits inside Israel is done through Israeli companies or Palestinian contractors who submit the list of workers who wish to work inside Israel to the Israeli Labor Office. Then, the Labor Office issues the permits in coordination with the relevant Israeli institutions. Our role is to receive the permits from our coordinators in the Civil Liaison Office and then distribute the permits to the workers.

Workers apply for permits through the employer himself. We only ask for some needed documents such as a bank account, ID or a marriage certificate, which are all required by the Israeli Labor Office. We do not know more than that.”

150 Palestinian Central Bureau of Statistics, “Press Release on the Results of the Labour Force Survey (January – March 2015) Round Main Results”, 19 May 2015. Available at: www.pcbs.gov.ps/site/512/default.aspx?tabID=512&lang=en&ItemID=1397&mid=3172&wversion=Staging

151 Gisha – Legal Center for Freedom of Movement, “Palestinian labor flows in Israel: Missed opportunities and possible ways forward”, May 2012, pages 1-2. Available at: gisha.org/userfiles/file/publications/PalestinianWorkers-5.12/workers_eng.pdf

152 Ibid. Page 2

153 BADIL’s interview with Ayman Odah, Head of Operating Unit, Ministry of Labour, “Permit Procedures”, Ramallah, August 2015

Palestinian workers from the West Bank who meet the criteria for working in Israel cannot apply for a work permit themselves. They can only apply for a permit to enter Israel for three days in order to find an Israeli employer who can and will apply for a work permit on their behalf.¹⁵⁴ However, finding an Israeli employer can be very difficult and because of the severe time restrictions, workers often rely on brokers, who collect monthly fees from those workers they have “assisted”.¹⁵⁵ Furthermore, by setting an arbitrary quota on the number of work permits issued to Palestinian workers, the Israeli authorities have created a system in which Palestinian workers become even more vulnerable, as it is not only a matter of finding an Israeli employer, but also of being able to get a permit before the quota has been filled.¹⁵⁶ This pressure makes it even more difficult for Palestinian workers to negotiate a fair wage or working conditions. According to Israel, the quotas are set according to economic, security and foreign policy considerations, including Israel’s image.¹⁵⁷ In reality, the connection to the security argument is highly questionable, with the quota increased by 5000 permits for the construction sector in 2014, as housing shortages in Israel led to an increased demand for Palestinian workers in this sector.¹⁵⁸ The personal circumstances or security status of these 5,000 individuals did not change in any way; rather the quota was increased for reasons other than security. Furthermore, an Israeli NGO found out that because of the quota system, many Israeli employers employ Palestinians in the construction sector, but register them as working in agriculture. This means that the Palestinian workers receive lower wages than they should, as the minimum wage differs across work sectors.¹⁵⁹

154 Kav La Oved, “Employment of Palestinians in Israel and the Settlements Restrictive Policies and Abuse of Rights”, August 2012, pages 12-13. Available at: palestinakomiteen.no/wp-content/uploads/2013/05/employment-of-palestinians-in-Israel.pdf

155 The International Labour Organization, “The Situation of Workers of the Occupied Palestinian Territories”, International Labour Office, 2015, page 4. Available at: www.ilo.org/wcmsp5/groups/public/@ed_norm/@relconf/documents/meetingdocument/wcms_368279.pdf; KavLaOved, “Employment of Palestinians in Israel and the Settlements Restrictive Policies and Abuse of Rights”, August 2012, page 13. Available at: palestinakomiteen.no/wp-content/uploads/2013/05/employment-of-palestinians-in-Israel.pdf

156 The International Labour Organization, “The Situation of Workers of the Occupied Palestinian Territories”, International Labour Office, 2015, pages 11-12. Available at: www.ilo.org/wcmsp5/groups/public/@ed_norm/@relconf/documents/meetingdocument/wcms_368279.pdf

157 Kav La Oved, “Employment of Palestinians in Israel and the Settlements Restrictive Policies and Abuse of Rights”, August 2012, pages 8-9. Available at: palestinakomiteen.no/wp-content/uploads/2013/05/employment-of-palestinians-in-Israel.pdf

158 The International Labour Organization, “The Situation of Workers of the Occupied Palestinian Territories”, International Labour Office, 2015, page 12. Available at: www.ilo.org/wcmsp5/groups/public/@ed_norm/@relconf/documents/meetingdocument/wcms_368279.pdf

159 Kav La Oved, “Employment of Palestinians in Israel and the Settlements Restrictive Policies and Abuse of Rights”, August 2012, page 11. Available at: palestinakomiteen.no/wp-content/uploads/2013/05/employment-of-palestinians-in-Israel.pdf

Many Have no Alternative to Working in Israel or in Colonies

Israeli restrictions on the Palestinian economy limit employment possibilities in the oPt drastically and aggravate the economic imbalance between Israel and the oPt. Thus, the average daily wage earned by Palestinian workers in Israel in 2014 was approximately 2.25 times higher than the average private sector wage in the West Bank,¹⁶⁰ which means that many Palestinians feel forced to work in Israel or in colonies in order to make a living and support their families, despite of the high risk of exploitation.¹⁶¹ Here, it is important to keep in mind that even in cases where Palestinians leave their homes and residential areas “voluntarily” for economic reasons, one must consider the wider context and whether or not the decision has been made in a coercive and/or discriminatory environment.¹⁶² The creation of a coercive environment constitutes a crucial element of forced population transfer.

Difficulties on Obtaining a Permit¹⁶³

“I am 41 years old from Hebron. I have five children and I am unemployed now because I am denied a permit to work in Jerusalem for security reasons. Nowadays, I only find work as a day laborer, 10 days every month at most. But the money I get is not enough to cover the expenses of my family. There is simply not enough work in the West Bank and in addition to that the wages are absurd, and can never cover the expenses of me and my family. In fact, I would get much more money if the Israelis would issue me a working permit. I would be able to secure a good life for my family. I don't know why I am denied. I was never told. I only want to work in order to support my family. This should be a basic right. I am not asking for too much.”

It is even more difficult for Palestinians from the Gaza Strip to obtain work permits. In 2014 Israel declared that it would once again allow Palestinians from Gaza to apply for permits to work in Israel. The quota was set to 5,000 permits, which is far less than the 25,000 work permits issued to workers from Gaza before 2006, and not including the 50,000 who used to work in Israel without permits, and were therefore working illegally according to Israeli law.¹⁶⁴ As of May 2015, only some 1,000 Palestinians from the Gaza Strip had been able to obtain a work permit to trade in Israel, as the permits are difficult and expensive to obtain.¹⁶⁵

160 The International Labour Organization, “The Situation of Workers of the Occupied Palestinian Territories”, International Labour Office, 2015, page 14. Available at: www.ilo.org/wcmsp5/groups/public/@ed_norm/@relconf/documents/meetingdocument/wcms_368279.pdf

161 Ibid. Pages 13-14

162 See BADIL Resource Center for Residency and Refugee Rights, “Forced Population Transfer: The Case of Palestine - Introduction” for an analysis of the concept of forcible population transfer under international law.

163 BADIL's interview with Taim Odeh, “Difficulties on Obtaining a Permit”, Hebron, October 2015.

164 Hana Salah, “Israel eases restrictions on Gaza”, Al-Monitor, 17 October 2014. Available at: www.al-monitor.com/pulse/originals/2014/10/gaza-israel-ease-restrictions-blockade.html#

165 Hana Salah, “Gazans pursue jobs in Israel despite danger”, Al-Monitor, 1 May 2015. Available at: www.al-monitor.com/pulse/originals/2015/04/gaza-workers-inside-israel-trade-permit.html#

Dependency on Israeli Employers Increases Risk of Exploitation

Palestinian workers who successfully obtain a work permit find that their permits are referred to by Israel as “permits for employment registered to an employer”, and that the ID tag of the employer is printed on the permits. This means that the workers are only allowed to work for that specific employer.¹⁶⁶ This dependency makes it very difficult for Palestinian workers to complain about their wages or their working conditions, since their employers can easily have their work permits revoked and hire new workers. Based on this system, employers mainly employ workers on a daily wage basis and only a small share of the Palestinian workers are employed through a proper contract, and thus eligible for pension allowances, sick days, vacation days or other basic entitlements.¹⁶⁷

It is well-documented that this situation has led to the rights of Palestinian workers not being protected. In 2011, a study showed that 42 percent of Palestinian workers in illegal Israeli colonies are exposed to human rights violations and that 71 percent of the workers do not receive salary slips. This means that they have no evidence of their work and therefore face extreme difficulties should they try to fight for their rights in Israeli courts.¹⁶⁸

Working in Israel and Israeli Colonies without Permits

The difficulties in obtaining a work permit combined with the dire economic situation in the occupied Palestinian territory force an estimated 33,000 Palestinians to work in Israel without permits.¹⁶⁹ According to statistics from the Bank of Israel, the daily wage of workers without permits was approximately NIS 158 (\$ 40.7) in 2013, which is significantly lower than the

166 KavLa Oved, “Employment of Palestinians in Israel and the Settlements Restrictive Policies and Abuse of Rights”, August 2012, page 12. Available at: palestinakomiteen.no/wp-content/uploads/2013/05/employment-of-palestinians-in-Israel.pdf

167 Bank of Israel, “Excerpt from the “Bank of Israel – Annual Report for 2014” to be published soon – Expansion of Palestinian employment in Israel and its characteristics”, 3 March 2015. at: <http://www.bankisrael.gov.il/en/NewsAndPublications/PressReleases/Pages/030315-PalestinianEmployment.aspx>

168 Dr. Majid Sbeih, “Executive Summary of a study on “Palestinian wage workers in Israeli settlements in the West bank – Characteristics and Work Circumstances””, Al-Quds Open University, 2011, page 5. at: [http://www.dwrc.org/files/Palestinian%20wage%20workers%20in%20Israeli%20settlements%20in%20the%20West%20Bank%20E2%80%93%20Characteristics%20and%20Work%20Circumstances%20\(-executive%20summary\).pdf](http://www.dwrc.org/files/Palestinian%20wage%20workers%20in%20Israeli%20settlements%20in%20the%20West%20Bank%20E2%80%93%20Characteristics%20and%20Work%20Circumstances%20(-executive%20summary).pdf)

169 Bank of Israel, “Excerpt from the “Bank of Israel – Annual Report for 2014” to be published soon – Expansion of Palestinian employment in Israel and its characteristics”, 3 March 2015. at: <http://www.bankisrael.gov.il/en/NewsAndPublications/PressReleases/Pages/030315-PalestinianEmployment.aspx>

average wage of workers with permits, who earn NIS 186 (\$ 48). Furthermore, workers without permits are often unable to work as many days per month as workers with permits,¹⁷⁰ further increasing the wage gap and risk of exploitation.

Working 'Illegally' in Israel¹⁷¹

"I am 26 years old from Dheisheh refugee camp, near Bethlehem. I sneak in "illegally" to reach my workplace in Jerusalem. I have so many responsibilities, particularly paying the debts of my family and covering the university fee for my sister. I take this risk of sneaking in, because there are no other options available for me. Frankly speaking, my life is not normal and it cannot be normal because I don't have a working permit. I can't get married for instance, because sometimes I stay at work 40 days in a row without going home. Sometimes I get really depressed because I leave my family, friends and the whole camp for such a long time.

In the past I have tried to get a permit but they even refused to issue me a "magnetic card", which is a precondition to apply for a permit. The Israeli authorities told me that I was rejected because of my family name. I don't even know what that means! Plus, why should this even be a factor?

Once I spoke to an Israeli Jewish lawyer. He asked me to meet him at the tunnel in Beit Jala [Area C] and asked for an advance payment of NIS 2000 (\$ 515). But people told me that such lawyers usually take the money and then disappear. So I did not meet him.

My biggest fear is to be caught, arrested and then to lose my work opportunity. I've been imprisoned many times already. Israel has all my documents and my fingerprints. After an arrest they would take me to an isolated spot up north, from where I have to try and manage to find my way back home. The worst-case scenario is to get caught while working, which happened to me once. I didn't have any money on me back then, and they dropped me off north of Jenin. It was a four-hour walk between where they left me and Jenin. I walked for four hours until I found a decent man who helped me and gave me money to get back home to Bethlehem."

170 Ibid.

171 BADIL's interview with Daoud Faheem, "Working 'Illegally' in Israel", Bethlehem, August 2015

The Situation of Women and Youth

Studies have found that the average age of Palestinians working in Israel without permits is only 20 years, compared to 37 years for Palestinians with work permits.¹⁷² Furthermore, the quotas determining how many Palestinians can obtain permits to work in different sectors are often allocated to mainly male-dominated economic sectors, which further harms women.¹⁷³ Apart from being disadvantaged in the Palestinian economy and having more difficulties obtaining work permits, Palestinian women are also disadvantaged when looking at the average daily wage. In the illegal Israeli colonies, the average daily wage for women is only NIS 84 (\$ 21.6), compared to NIS 174 (\$ 44.8) for men.¹⁷⁴

Regarding Palestinian youth, Human Rights Watch has documented several cases in which employers in illegal Israeli colonies hired children aged 13 or 14, some of whom claim to have worked alongside children only ten years old.¹⁷⁵ This happens despite both international law and Israeli labor law having a set minimum employment age of 15 years.¹⁷⁶ As these children work without any official permits or registration, they earn far less than the Israeli minimum wage, which applies to workers working in Israeli colonies, as they cannot document where they work or for how many hours.¹⁷⁷ Although it is impossible to know for certain how many Palestinian children are forced into child labor in illegal Israeli colonies, the Ma'an Development Center estimates that up to 1,000 children work in Israeli agricultural colonies during the summer.¹⁷⁸

Restrictions on the Economy of the Gaza Strip

As a result of the many restrictions put on trade and economic development in the Gaza Strip, in particular due to the Israeli blockade, the economy of the

172 KavLa Oved, "Employment of Palestinians in Israel and the Settlements Restrictive Policies and Abuse of Rights", August 2012, page 35. Available at: palestinakomiteen.no/wp-content/uploads/2013/05/employment-of-palestinians-in-Israel.pdf

173 The International Labour Organization, "The Situation of Workers of the Occupied Palestinian Territories", International Labour Office, 2015, page 24. Available at: www.ilo.org/wcmsp5/groups/public/@ed_norm/@relconf/documents/meetingdocument/wcms_368279.pdf

174 Dr. Majid Sbeih, "Executive Summary of a study on "Palestinian wage workers in Israeli settlements in the West bank – Characteristics and Work Circumstances"", Al-Quds Open University, 2011, page 3. Available at: [http://www.dwrc.org/files/Palestinian%20wage%20workers%20in%20Israeli%20settlements%20in%20the%20West%20Bank%20%E2%80%93%20Characteristics%20and%20Work%20Circumstances%20\(executive%20summary\).pdf](http://www.dwrc.org/files/Palestinian%20wage%20workers%20in%20Israeli%20settlements%20in%20the%20West%20Bank%20%E2%80%93%20Characteristics%20and%20Work%20Circumstances%20(executive%20summary).pdf)

175 Human Rights Watch, "Ripe for Abuse: Palestinian Child Labor in Israeli Agricultural Settlements in the West Bank", 13 April 2015. Available at: www.hrw.org/report/2015/04/13/ripe-abuse/palestinian-child-labor-israeli-agricultural-settlements-west-bank

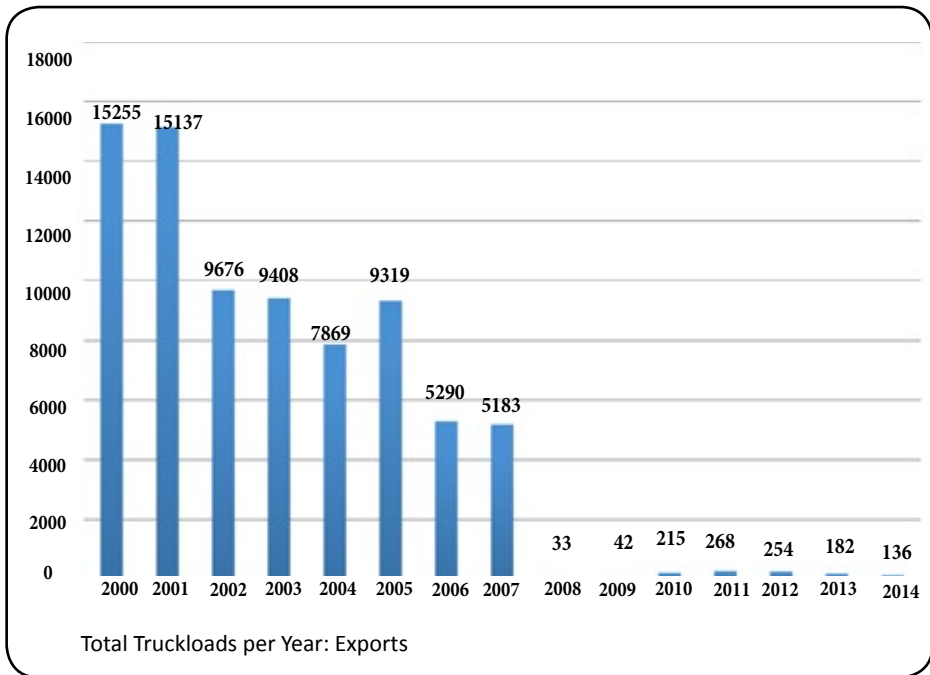
176 Ibid.

177 Ibid.

178 Ibid.

Gaza Strip has deteriorated over the past 20 years, where the Gaza Strip has experienced the fourth lowest growth rate in the world. This economic “de-development”, as it is termed by the United Nations, has been a catastrophe for Palestinians living in Gaza, who suffer from one of the world’s highest unemployment rate of 44 percent.¹⁷⁹ In September 2015, a report published by the United Nations warned that unless the economic situation changes soon, the Gaza Strip might become unlivable by 2020.¹⁸⁰

A clear way to see the impact Israel’s restrictions have on the Gaza Strip is to look at the number of truckloads of exports leaving the enclave, as these figures clearly demonstrate not only how the blockade has almost destroyed all possibility of exporting goods from the Gaza Strip, but also how various restrictions similarly limited export prior to the blockade in 2007:¹⁸¹



179 UN News Centre, “Gaza Could Become Uninhabitable In Less Than Five Years Due To Ongoing ‘De-development’ – UN Report”, 1 September 2015. Available at: <http://www.un.org/apps/news/story.asp?NewsID=51770#.VhIUkPmqBc>

180 United Nations Conference on Trade and Development (UNCTAD), “Report on UNCTAD assistance to the Palestinian people: Developments in the economy of the Occupied Palestinian Territory”, UNCTAD, 6 July 2015, page 12. Available at: http://unctad.org/en/PublicationsLibrary/tdb62d3_en.pdf

181 The chart is based on data from OCHA – Occupied Palestinian Territories, “Gaza Crossing Activities Database”, 31 August 2015. Available at: www.ochaopt.org/dbs/crossings/commodityreports.aspx?id=1010003

Although the Gaza Strip and the West Bank is meant to be thought of as one geographical entity, it was not until November 2014 that Israel, for the first time since 2007, permitted products produced in Gaza to be sold in the West Bank. Initially, only agricultural goods were permitted for export to the West Bank but, later, textile and furniture industries were also allowed to sell some products in this part of the oPt.¹⁸² However, as the above chart illustrates, export from the Gaza Strip is only a small fraction of what it once was. In the end of 2013, Corporate Watch met with Saad Ziada, a representative of the Union of Agricultural Work Committees, who said:

“[...] the Israeli occupation allows us to export a small quantity of produce, just to show the world that they are nice to the Palestinians, but they are using us. Everything we do is controlled by them.”¹⁸³

Ziada’s point is exemplified by the case of strawberries produced in Gaza. While Israel allows for export of strawberries from Gaza, it simultaneously imposes restrictions that make the strawberries less competitive than strawberries produced elsewhere. In the past, pallets of strawberries were allowed to be 180 centimeters high and hold 100 cartons, whereas today, the maximum height is one meter and 60 cartons. This makes transportation costs unnecessarily high and reduces the competitiveness of strawberries from Gaza. Restrictions on how pallets with strawberries from Gaza need to be stacked in order to pass security screenings is just one example of arbitrary Israeli restrictions limiting the export of products that have been approved for export.¹⁸⁴

No Assistance from Israeli Trade Unions

The Israeli trade union federation, Histadrut, reiterated in 2015 to the International Labour Organization’s mission to Israel and the oPt that it is committed to supporting Palestinian workers in Israel.¹⁸⁵ However, Histadrut has been heavily criticized for not supporting Palestinian workers and for having promoted racial discrimination against Palestinians in the past.¹⁸⁶ To this day, Histadrut still fails to defend Palestinian workers.¹⁸⁷ Furthermore,

182 Gisha – Legal Center for Freedom of Movement, “Exit of Goods from Gaza via Kerem Shalom Crossing”, 2015. Available at: <http://gisha.org/graph/2401>

183 Corporate Watch, “Trading under siege, the dying export industry in the Gaza Strip”, 3 November 2014. Available at: <https://corporatewatch.org/news/2014/nov/03/trading-under-siege-dying-export-industry-gaza-strip>

184 Ibid.

185 The International Labour Organization, “The Situation of Workers of the Occupied Palestinian Territories”, International Labour Office, 2015, page 25. Available at: www.ilo.org/wcmsp5/groups/public/@ed_norm/@relconf/documents/meetingdocument/wcms_368279.pdf

186 Trade Union Friends of Palestine, “The Histadrut – Its History and Role in Occupation, Colonisation and Apartheid”, 2011, page 2. Available at: www.bdsmovement.net/files/2012/10/TUFP-The-Histadrut-RI-16.6.11.pdf

187 Ibid. Page 10

Histadrut supports Israel's illegal blockade on Gaza,¹⁸⁸ which has extremely negative consequences for Palestinian workers. Because of its continued reluctance to protect Palestinian workers, the Palestinian General Federation of Trade Unions has called for a boycott of Histadrut.¹⁸⁹

As a result of the lack of protection, 93 percent of Palestinian workers in illegal Israeli colonies are employed in places with no workers' committees or other organs defending their rights.¹⁹⁰ Moreover, in cases where Palestinians workers have attempted to form their own unions, they have been accused of being security threats, and have subsequently lost their jobs.¹⁹¹

Restrictions on Fishermen in the Gaza Strip

More than 30,000 Palestinians in the Gaza Strip are dependent on the earnings of approximately 3,500 fishermen¹⁹² who, under the Oslo Agreements, should be permitted to fish up to 20 nautical miles (NM) (approximately 27 km) from the coast. "In 2002, Israel committed to allow Palestinian fishing activities up to 12 nautical miles from shore, under the "Bertini Commitment". However, this commitment was never implemented. To the contrary, additional, more severe restrictions have been imposed by Israel upon the fishing industry of the Gaza Strip subsequently.¹⁹³ During some periods, Israel limits Palestinian fishing boats to three nautical miles from the shore.¹⁹⁴

Due to restrictions imposed by Israel and confiscations of fishing boats, the number of fishermen in the Gaza Strip shrank to 3,500 by 2010 compared to 10,000 in 2000.¹⁹⁵

188 Ibid. Pages 14-15

189 Ali Abunimah, "Gaza trade unions urge boycott of Israeli labor organization", 17 July 2015. Available at: <https://electronicintifada.net/blogs/ali-abunimah/gaza-trade-unions-urge-boycott-israeli-labor-federation>

190 Dr. Majid Sbeih, "Executive Summary of a study on "Palestinian wage workers in Israeli settlements in the West bank – Characteristics and Work Circumstances"", Al-Quds Open University, 2011, page 2. Available at: [http://www.dwrc.org/files/Palestinian%20wage%20workers%20in%20Israeli%20settlements%20in%20the%20West%20Bank%20%E2%80%93%20Characteristics%20and%20Work%20Circumstances%20\(executive%20summary\).pdf](http://www.dwrc.org/files/Palestinian%20wage%20workers%20in%20Israeli%20settlements%20in%20the%20West%20Bank%20%E2%80%93%20Characteristics%20and%20Work%20Circumstances%20(executive%20summary).pdf)

191 Bethan Staton, "Palestinian Workers in the Settlements Unite", Al Jazeera, 9 April 2015. Available at: www.aljazeera.com/news/2015/03/palestinian-workers-settlements-unite-150322065924846.html

192 Mel Frykberg, "Gazan Fishermen Dying to Survive", Inter Press Service News Agency, 27 February 2015. Available at: www.ipsnews.net/2015/02/gazan-fishermen-dying-to-survive/

193 OCHA – Occupied Palestinian Territories, "Between the Fence and a Hard Place The Humanitarian Impact of Israeli-Imposed Restrictions on Access to Land and Sea in the Gaza Strip", August 2010, page 10. Available at: www.ochaopt.org/documents/ocha_opt_special_focus_2010_08_19_english.pdf

194 OCHA – Occupied Palestinian Territories, "Restricted Livelihood Gaza's Fishermen", July 2013, page 1. Available at: www.ochaopt.org/documents/ocha_opt_gaza_fishermen_case_study_2013_07_11_english.pdf

195 OXFAM, "The ADCR 2011: Human Deprivation under Occupation", UNDP, 2011, page 8. Available at: http://www.arabstates.undp.org/content/dam/rbas/doc/poverty/BG_12_Human%20Deprivation%20Under%20Occupation.pdf; Ma'an News Agency, "Israel returns 19 confiscated Gaza fishing boats", 22 June 2015. Available at: www.maannews.com/Content.aspx?id=766095

Israeli Forces Shoot at Fishermen from Gaza¹⁹⁶

On 18 February 2013, two Israeli navy boats attacked a Palestinian fishing boat with five fishermen on board at al-Sudaniya beach, off the coast north of Gaza City. The Israeli Navy soldiers opened direct fire on the boat from a distance not exceeding ten meters. Two Palestinians aboard were injured, including one child. Abdul Mo'ti Nabieh from al-Shati refugee camp told BADIL:

"In the morning of 18 February 2013, I joined a fishing boat crew. We sailed from the port and headed north from al-Sudaniya up to three nautical miles, where we began fishing. At about 10:30am, while we had our breakfast, we realized that two military boats were heading towards us at high speed. We immediately switched on the boat in an attempt to flee, but unfortunately one of the military boats reached us and encircled us. It was very fast in comparison with our boat. The soldier then shot at us while one of them asked us via a megaphone to take off our clothes and jump into the water. We declined and they intensified their shooting. Many bullets hit the boat. I was hit by shrapnel in my left foot and another sailor was also hit by shrapnel in his foot. When the soldiers were certain that they had injured us, they stopped shooting and we headed back to the port where we were transferred to al-Shifaa Hospital."

¹⁹⁶ BADIL's interview with Abdul Mo'ti Nabieh, a Fisherman from Gaza Fishing Society, "Israeli Forces Shoot at fishermen from Gaza", August 2015

Cultural Rights

Cultural rights cover a broad range of rights and issues, including information and communication; language; identity; art; the right to belong to multiple, diverse and changing communities; and the pursuit of specific ways of life, religious practices, education and training.¹⁹⁷ Because cultural rights cover so many different, yet interrelated, aspects of life, there exists no official definition of such rights. However, the Special Rapporteur in the field of cultural rights concludes that “culture can be understood as a product, as a process and as a way of life, and imply that culture includes references beyond ethnicity, language and religion.”¹⁹⁸

In this chapter the focus lies on the right to education and the right to freedom of religion.

Restrictions on the Right to Education

The right to education is protected by many human rights declarations,¹⁹⁹ and Article 50 of the Fourth Geneva Convention states that an occupying power “shall, with the cooperation of the national and local authorities, facilitate the proper working of all institutions devoted to the education of children.”²⁰⁰

One of the restrictions on the right to education of Palestinians has been imposed by the Annexation and Segregation Wall and its associated permit regime, which imposes severe restrictions on students, particularly on those living in or near a Seam Zone.

197 Farida Shaheed, “Report of the independent expert in the field of cultural rights, Ms. Farida Shaheed, submitted pursuant to resolution 10/23 of the Human Rights Council”, United Nations, 22 March 2010, page 5. Available at: http://www2.ohchr.org/english/bodies/hrcouncil/docs/14session/A.HRC.14.36_en.pdf

198 Ibid. page 4

199 See for example UN General Assembly, “International Covenant on Economic, Social and Cultural Rights”, 16 December 1966. Available at: www.refworld.org/docid/3ae6b36c0.html; and the UN General Assembly, “Convention on the Rights of the Child”, 20 November 1989. Available at: www.refworld.org/docid/3ae6b38f0.html

200 International Committee of the Red Cross (ICRC), “Geneva Convention Relative to the Protection of Civilian Persons in Time of War (Fourth Geneva Convention)”, 12 August 1949. Available at: <http://www.refworld.org/docid/3ae6b36d2.html>

Seam Zones

A Seam Zone is an area located between Israel's Annexation and Segregation Wall and the 1949 Armistice Line. The term "Seam Zone" has been criticized, as it is not a neutral term, but instead conceals the fact that the areas are part of the West Bank.²⁰¹ Approximately 11,000 people live in the Seam Zones and have been isolated from the rest of the West Bank and it is estimated that, once the wall is completed, around 35,000 Palestinians will be living in the Seam Zones.²⁰²

Teachers must also acquire education worker permits to enter schools located in the Seam Zones. Like all other permits to enter a Seam Zone, these permits are difficult to obtain, despite of the fact that they are necessary in order to ensure that students living in the Seam Zone can receive the education they are entitled to. The education worker permits also cannot be renewed, which means that teachers are required to apply for new permits every time their permits expire.²⁰³

Palestinian children who attend schools on the "other" side of the wall experience severe restrictions on their access to education, as they require permits.²⁰⁴ If students want to reach their schools on the other side of the Wall, they must acquire a student permit. It is therefore up to the Israeli military, and not the student or the student's family, to decide which school the student should attend.²⁰⁵

The impeded access to education often results in a high drop-out rate, especially among girls after the ninth grade,²⁰⁶ as parents of girls are more likely to stop them from attending when they are faced with harassment and violence at checkpoints on their way to and from school.²⁰⁷ In 2010 the World Bank identified that the movement and access restrictions imposed by Israel are not gender neutral, but are in fact more problematic for Palestinian women than for Palestinian men. For instance, the World Bank found that the intrusive body searches and detainment that often occurs at checkpoints

201 See for example HaMoked, "The Permit Regime: Human Rights Violations in West Bank Areas Known as the "Seam Zone"", March 2013, page 5. Available at: www.hamoked.org/files/2013/1157660_eng.pdf

202 OCHA – Occupied Palestinian Territories, "10 Years since the International Court of Justice (ICJ) Advisory Opinion", 9 July 2014, page 6. Available at: www.ochaopt.org/documents/ocha_opt_10_years_barrier_report_english.pdf

203 HaMoked, "The Permit Regime: Human Rights Violations in West Bank Areas Known as the "Seam Zone"", March 2013, pages 28-29. Available at: www.hamoked.org/files/2013/1157660_eng.pdf

204 Ibid. page 64

205 Ibid. pages 64-65

206 OCHA – Occupied Palestinian Territories, "Occupied Palestinian Territory Consolidated Appeal 2013", page 35. Available at: www.lacs.ps/documentsShow.aspx?ATT_ID=6719

207 Commission of the Churches on International Affairs (CCIA), "Education under Occupation Access to Education in the occupied Palestinian territory", February 2013, pages 2 and 6. Available at: http://www.unicef.org/oPt/UNICEF_Under_Occupation_final-SMALL.pdf

can have a much more negative impact on the reputation of a woman than on that of a man.²⁰⁸

Studying under Occupation²⁰⁹

"I live in Jerusalem and I study at Bethlehem University. I have to cross a checkpoint every time I go to classes. In particular on the way back to Jerusalem we get searched at the checkpoint and my ID number and name are registered. There, we have to wait until they search all the passengers on the bus then allow us to go. This is a waste of our time, not to mention the comments you hear that are very upsetting. Soldiers think they are big shots and hit on us. They would grab someone and take him aside and tell him or her that they didn't like the way they looked.

First, it's an issue of time. I waste up to three hours every day in transportation even though it should only take half an hour at most to go from our house to Bethlehem. Second, there is the humiliation and oppression we face every day at the checkpoints. A soldier who wants to have some fun can ruin your whole day. It's also hard for me to see the soldiers humiliating others in front of me when there is nothing I can do about it but watch. It is more than enough to ruin my whole day."

Israeli Harassment of Palestinian Students²¹⁰

"I was born and raised in the village of al-Mufaqqarah, which is seven kilometers away from Yatta, in the South Hebron Hills area. The village is surrounded by four illegal Israeli settlements. There is no infrastructure and no services in the village and the nearest elementary school is in Tuwani, which is two kilometers away; 15-20 minutes walking distance.

I attended school until the sixth grade but, unfortunately, after that, my parents obliged me to quit school because the high school was too far away, and it would take one hour walking to reach it. It was not the distance that frightened my parents; rather they were afraid of the Israeli settlers and soldiers who harass or even attack Palestinians. They cared for my education, but they believed it was too dangerous. Therefore they decided that it would be safer for me to stay at home.

208 The World Bank, "Checkpoints and Barriers: Searching for Livelihoods in the West Bank and Gaza – Gender Dimensions of Economic Collapse", Sustainable Development Department Middle East and North Africa Region, February 2010, page 14. Available at: <http://siteresources.worldbank.org/INTWESTBANKGAZA/Resources/GenderStudy-EnglishFeb2010.pdf>

209 BADIL's interview with Malik Ahmad, Palestinian student from Jerusalem, "Studying under Occupation", Jerusalem, August 2015

210 BADIL's interview with Sara Asad, Palestinian student from al-Mufaqqarah, Hebron, who felt compelled to leave school do to harassment from Israelis, "Israeli Harassment of Palestinian Students", Hebron, September 2015

Some boys and only one girl from my village attended al-Karmel high school. Not only did they have to walk for one hour to reach it, but many times on their way to school they were stopped by Israeli soldiers, they would start searching them and their bags, and sometimes they were even prohibited from continuing to school for arbitrary reasons and the soldiers would send them back home. Israeli soldiers used to erect several physical barriers such as flying checkpoints, which were set for long hours under the excuse of security reasons. In such cases, the students could not even argue with soldiers, but they would turn back and go home. I am sure that their behavior is based on their will to make us ignorant: they don't want us to be educated.

But to encounter soldiers is less dangerous and frightening than to experience violent attacks from settlers from the nearby settlements. The students attending al-Karmel high school have to face at least three to four such attacks per week in the morning while they are going to school or in the afternoon while returning home. At times the situation was so critical, that they could not attend school classes regularly. In such circumstances, students could not use the direct roads that lead them to al-Karmel, and had to go through a longer alternative route to get to school.

Unfortunately, I am not the only girl who had to stop going to school after the sixth grade, most girls from my and neighboring villages had to drop out of school.”

The Palestinian higher education system was developed as a single unified educational system and, prior to the imposition of travel restrictions, it was common for students to travel within the oPt during their studies. This was especially true for students from the Gaza Strip, who used to study at universities in the West Bank.²¹¹ Due to the permit regime and its associated travel restrictions, however, the Palestinian educational system is no longer able to function as a unified system, as it is not possible for students from the Gaza Strip to study in the West Bank or vice versa.²¹²

The arbitrary denial of students wishing to study at a specific university is not only a serious restriction of the individual right of that student, but it also has a severely negative impact on the Palestinian community as a whole. Especially in the Gaza Strip, where travel restrictions lowered the number of students studying in the West Bank from approximately 1,000 in 1998, to close to zero today.²¹³

211 Gisha – Legal Center for Freedom of Movement, “The Impact of the Separation between the Gaza Strip and the West Bank on Higher Education”, May 2010, page 1. Available at: <http://www.gisha.org/userfiles/file/safepassage/InfoSheets/English/students.pdf>

212 Ibid. page 2

213 Gisha – Legal Center for Freedom of Movement, “The Impact of the Separation between the Gaza Strip and the West Bank on Higher Education”, May 2010, pages 1-3. Available at: <http://www.gisha.org/userfiles/file/safepassage/InfoSheets/English/students.pdf>

Student from Gaza Denied Permit to Study in the West Bank²¹⁴

"I am 20 years old and live in Gaza. I received my high school diploma in 2013. I wanted to study at the Independence University in Jericho and the university accepted me along with two other students from Gaza. I applied for a permit to cross the Erez checkpoint seven times, but I was declined every time. On my eighth attempt, on November 2014, I received the permit and I was very happy to be able to start my studies in Jericho. I went to the Erez checkpoint but I was interrogated from ten in the morning until nine at night by Israeli security personnel in an intimidating and stressful manner.

The interrogator took out a map of Gaza, and started pointing to places of which he asked for information. He almost named every member of my family. He asked me for information about my neighbors and people living nearby. This was one of the most difficult experiences I endured in my life. I was afraid to get arrested. At the end, they refused to allow me to cross the checkpoint even though I had my permit. I went back to Gaza without even knowing why. Now, I have lost the opportunity to study at the Independence University because they only receive high school graduates the same year of passing or one year after, at most."

Restrictions on the Construction of Appropriate Educational Facilities

All parts of the oPt suffer from a lack of educational facilities, which directly affects not just children's access to education, but also the quality of any education received. In the Gaza Strip, OCHA estimated in 2012 that up to 250 new schools were needed.²¹⁵ The need for new educational facilities has subsequently increased further as a result of Israel's military assault on the Gaza Strip in the summer of 2014. The West Bank also suffers from a lack of educational facilities, with many schools having been demolished by Israeli forces,²¹⁶ whilst an additional 1,100 classrooms are needed in order to meet the needs of Palestinian students in East Jerusalem.²¹⁷ This lack of adequate school facilities in East Jerusalem, and the Israeli-imposed restrictions on the building of new classrooms for Palestinians in this area, has resulted in a situation in which less than half of the estimated 87,624 school-age Palestinian children are able to attend municipal schools. This, and the

214 BADIL's interview with Rami Jamal, Palestinian student from the Gaza Strip denied permit to study in the West Bank, "Student from Gaza Denied Permit to Study in the West Bank", the Gaza Strip, August 2015

215 OCHA – Occupied Palestinian Territories, "Occupied Palestinian Territory Consolidated Appeal 2013", pages 34-35. Available at: www.lacs.ps/documentsShow.aspx?ATT_ID=6719

216 Ibid. Page 35

217 The Association for Civil Rights in Israel, "Failed Grade: East Jerusalem's Failing Educational System", August 2012, page 7. Available at: www.acri.org.il/en/wp-content/uploads/2012/08/Education2012en.pdf

overcrowding faced by Palestinian residence of Jerusalem who are able to attend school, has a highly detrimental effect on the quality of education available to Palestinian students.²¹⁸ Accordingly, many are faced with the prospect of paying for private schools, or being denied access to education altogether, as is the case of 5,300 Palestinian students in East Jerusalem.²¹⁹

Acquiring permits to build new schools is not only difficult for Palestinians but also for international organizations such as UNRWA, which reports that Israeli authorities usually do not grant them building permits for schools.²²⁰ In an attempt to work its way around the permit regime, UNRWA has started using shipping containers as classrooms, hosting 30 children in just 30m².²²¹

Restrictions on the Quality of Education

The right to education implies more than educational facilities being physically accessible. As stated by the Committee on Economic, Social and Cultural Rights (CESCR), the right to education also covers the acceptability of education, meaning that the form and substance of education must be of good quality and culturally appropriate.²²²

It is not only in the oPt that the Israeli permit regime undermines the quality of education available to Palestinians. This happens in Israel as well. CESCR states in its general comment No. 21. that “education must be culturally appropriate, include human rights education, enable children to develop their personality and cultural identity and to learn and understand cultural values and practices of the communities to which they belong, as well as those of other communities and societies.”²²³ The right to education thereby clearly includes the right of Palestinian citizens of Israel to learn about the culture and history of the Palestinian community as a whole. However, the Israeli Education Ministry has refused to include important Palestinian cultural and historical narratives, such as the Nakba, in the curriculum of Israeli schools. Moreover, Israel uses this restriction to the right of education as an informal or “hidden” permit, aimed at changing the culture and shared history of

218 The Palestinian Centre for Human Rights, “Education Denied: Israel’s Systematic Violation of Palestinian Children’s Right to Education”, 2011, page 26. Available at: <http://www.pchrgaza.org/files/2011/education%20book.pdf>

219 Ibid.

220 Ibid. Pages 19-20

221 Ibid. Page 25

222 UN Economic and Social Council, “General Comment No. 13: The Right to Education (Art. 13 of the Covenant)”, 8 December 1999, page 3

223 UN Committee on Economic, Social and Cultural Rights (CESCR), “General Comment No. 21, Right of everyone to take part in cultural life (art.15, para.1 (a), of the International Covenant on Economic, Social and Cultural Rights”, 21 December 2009, page 7. Available at: <http://www.refworld.org/docid/4ed35bae2.html>

Palestinians in Israel by allowing only a Zionist narrative in the Palestinians' school books.²²⁴

This can be seen as part of Israel's overall policy of discrimination and exclusion towards the Palestinian citizens of that state which is in place since its creation. The legal and political mechanisms of systematic exclusion goes hand in hand with the public rhetoric of Israeli official and their stated desire to further exclude Palestinian citizens of Israel. Palestinian citizens of Israel became stateless citizens or 'Present-Absentees'. Although the latter was originally bureaucratically coined to refer to Palestinian internal refugees within Israel, it is an accurate representation of wider Palestinian existence in Israel whereby "the land on which they live is their homeland, but the dominant culture is not their culture and the country is not their country".²²⁵

Israel applies a policy of minimal fairness towards the Palestinians who are not inclined to leave voluntarily in parallel with privileging Jewish migration into Israel.²²⁶ In other words, a policy with the purpose of altering the demographic composition of Israel. According to the Sub-Commission on Prevention of Discrimination and Protection of Minorities of the former Commission on Human Rights, "... the effect or purpose of altering the demographic composition of a territory, particularly when that ideology or policy asserts the dominance of a certain group over another,"²²⁷ constitutes a crucial element of forced population transfer.

Restrictions on the Right to Religious Freedom

Article 18 (1) of the ICCPR states that everyone shall have the right to freedom of religion, including the freedom to manifest ones religion or belief in worship, observance, practice and teaching.²²⁸ Article 4 (2) of the same covenant stresses the importance of the freedom of religion, as it emphasizes that, not even in times of public emergencies or war, is derogation from Article

224 See Nasouh Nazzal, "Israel imposes curriculum changes: including Jewish Holocaust while ignoring Nakba", Gulf News, 13 April 2015. Available at: <http://gulfnnews.com/news/mena/palestine/israel-imposes-curriculum-changes-including-jewish-holocaust-while-ignoring-nakba-1.1491185>; and Harriet Sherwood, "Academic claims Israeli school textbooks contain bias", The Guardian, 7 August 2011. Available at: <http://www.theguardian.com/world/2011/aug/07/israeli-school-racism-claim>

225 Yasir Suleiman and Ibrahim Muhawi, eds., *Literature and Nation in the Middle East* (Edinburgh University Press, 2006), 34.

226 See BADIL Resource Center, "Denial of Residency". Available at: http://www.badil.org/phocodownloadpap/Badil_docs/publications/wp16-Residency.pdf.

227 Al-Khawasneh and Hatano, *The Human Rights Dimensions of Population Transfer Including the Implantation of Settlers*, Preliminary Report Prepared for Commission on Human Rights Sub-Commission on Prevention of Discrimination and Protection of Minorities, Forty-Fifth Session, 27–32.

228 UN General Assembly, "International Covenant on Civil and Political Rights", 16 December 1966. Available at: <https://treaties.un.org/doc/Publication/UNTS/Volume%20999/volume-999-I-14668-English.pdf>

18 permissible. Despite of this, the Israeli permit regime is consistently used to undermine Palestinians' freedom of religion and belief.

Israel's violations of Palestinians' rights became the center of a public discussion in 2012, when 80 Christian leaders in Palestine sent an open letter to the then Israeli ambassador to the United States. In this letter, they stated that the declining number of Christians in Palestine was a direct result of the Israeli occupation and its associated human rights violations, including the violation of Palestinians' basic right to worship.²²⁹

Palestinians' access to their places of worship is severely affected by the general restrictions on movement imposed by the permit regime. This was documented by the former Special Rapporteur on freedom of religion or belief, who found that restrictions on the religious freedom of Palestinians are imposed by the Israeli authorities through the system of permits, visas, checkpoints and the Annexation and Segregation Wall.²³⁰ Accordingly, since 1993, millions of Palestinians have been prevented from accessing some of their most holy places of worship, particularly those sites located in Jerusalem. Furthermore, access to important places of worship within the remainder of the West Bank is also restricted by the permit regime, including access to religious sites in Hebron and Bethlehem.²³¹

Israeli authorities have acknowledged the importance of the holy sites in Jerusalem to Palestinians. This can be seen in Israel's permitting of higher numbers of Palestinians to enter Jerusalem during religious holidays. However, receiving a permit remains difficult even during these periods, and the procedures remain complicated and arbitrary.²³² For example, on the first Friday of Ramadan 2014, only Palestinian men aged over 50 and women aged over 40, excluding residents of Hebron, were allowed to enter Jerusalem without a permit.²³³ This age criteria was different in 2013,²³⁴ as well as in 2015,²³⁵ and such changes only emphasize the arbitrariness of

229 80 Palestinian Christian Leaders, "Open Letter to Michael Oren ahead of Easter", Ma'an News Agency, 28 March 2012. Available at: <http://www.maanneews.com/Content.aspx?id=471921>

230 Asma Jahangir, "Report of the Special Rapporteur on freedom of religion or belief, Asma Jahangir. Addendum: Mission to Israel and the occupied Palestinian territory", UN Human Rights Council, 12 January 2009, page 2. Available at: <http://www.refworld.org/publisher,UNHRC,MISSION,ISR,49788a742,0.html>

231 Ibid. Page 9

232 OCHA – Occupied Palestinian Territories, "Fragmented Lives Humanitarian Overview 2014", March 2015, page 16. Available at: http://www.ochaopt.org/documents/annual_humanitarian_overview_2014_english_final.pdf

233 Ibid.

234 Ibid.

235 Mohammed Alhaj, "Palestinians head to Al-Aqsa mosque during Ramadan", Al Jazeera, 16 July 2015. at: <http://www.aljazeera.com/indepth/inpictures/2015/07/palestinians-head-al-aqsa-mosque-ramadan-150716093237472.html>

the criteria apparently applied in determining who is allowed access to their places of worship. This is in violation of international law, which states that laws imposing limitations on the freedom of religion or belief should not be either arbitrary or unreasonable, but should be necessary and based on objective considerations.²³⁶ However, even if the access restriction becomes less arbitrary, the permit regime would still be in contradiction to the right of Palestinians to religious freedom since, as stated by the Special Rapporteur, the permit regime itself is discriminatory and has a severe, negative impact on Palestinian worshippers.²³⁷

Threat to the Islamic and Christian Existence²³⁸

“The permit regime threatens the Islamic and Christian existence in Jerusalem, because it is temperamental and the occupation forces use it to blackmail Palestinians. For instance, they stop issuing permits when there is any resistance and they would only issue permits again on the condition of a truce, which actually means to stop resisting the violations of the occupation”

Denial of Access to Jerusalem²³⁹

“I hope that we can reach a point where we could have a united, national decision to boycott the Israeli permits even if the price would be not to visit Jerusalem at all. I believe that to stop visiting Jerusalem because we don't have permits is actually much better than visiting the city using these permits, because we give legitimacy to the occupation when we use these permits. Israel is an occupying force which means that it does not have the legitimate national or humanitarian right to give or withhold permits. Jerusalem is a holy city that should be open for all people.”

236 Asma Jahangir, “Report of the Special Rapporteur on freedom of religion or belief, Asma Jahangir. Addendum: Mission to Israel and the occupied Palestinian territory”, UN Human Rights Council, 12 January 2009, page 2. Available at: <http://www.refworld.org/publisher,UNHRC,MISSION,ISR,49788a742,0.html>

237 Ibid. Page 12

238 BADIL's interview with Dr. Ekrima Sabri, Grand Mufti of Jerusalem, “Threat to the Islamic and Christian Existence”, Jerusalem, August 2015

239 BADIL's interview with Archbishop Atallah Hanna, Archbishop of Sebastia. Greek Orthodox Patriarchate of Jerusalem. “Denial of Access to Jerusalem”, Jerusalem, August 2015

Social Rights

The term “social rights” was first emphasized in the Universal Declaration of Human Rights, which in Article 22 states that such rights are “indispensable for [a persons]dignity and the free development of his personality”.²⁴⁰ Article 25 (2) of the same declaration emphasizes that “ [e]veryone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security...”.²⁴¹ The moral statements made in the Universal Declaration of Human Rights were given legal force through the ICCPR and the ICESCR.²⁴²

This chapter focuses on three social rights; the right to health, the right to adequate housing and the right to family life. When analyzing violations of the right to adequate housing, particular attention is paid to the reconstruction of the Gaza Strip after the massive destruction carried out by Israel in the summer of 2014 as well as the ongoing, illegal blockade.

Restrictions on the Right to Health

The right to health is protected by Article 12 of the ICESCR, which states that everyone has the right to the highest attainable standard of physical and mental health.²⁴³ The importance of securing and protecting public health in time of war is emphasized in Article 56 of the Fourth Geneva Convention, which states that in occupied territories “...the Occupying Power has the duty of ensuring and maintaining [...] medical and hospital establishments and services...”.²⁴⁴

240 UN General Assembly, “Universal Declaration of Human Rights”, 10 December 1948. Available at: <http://www.refworld.org/docid/3ae6b3712c.html>

241 Ibid.

242 UN Office of the High Commissioner for Human Rights, “Fact Sheet No. 16 (Rev.1), The Committee on Economic, Social and Cultural Rights”, May 1996, page 2. Available at: <http://www.refworld.org/docid/4794773cd.html>

243 UN General Assembly, “International Covenant on Economic, Social and Cultural Rights”, 16 December 1966. Available at: www.refworld.org/docid/3ae6b36c0.html

244 International Committee of the Red Cross (ICRC), “Geneva Convention Relative to the Protection of Civilian Persons in Time of War (Fourth Geneva Convention)”, 12 August 1949. Available at: <http://www.refworld.org/docid/3ae6b36d2.html>

As part of the Oslo Agreement, responsibility for the healthcare system in the oPt has officially been transferred from Israel to the Palestinian Ministry of Health. However, because Israel remains in control of many variables that directly impact upon the healthcare system, such as crossing checkpoints, import of medical equipment and medicine, and water resources, Israel effectively retains control over large parts of the Palestinian health system.²⁴⁵

Restriction to Access to Health Facilities

Acquiring a medical permit to cross a checkpoint in order to leave the West Bank (not including Jerusalem) or the Gaza Strip is a long and complicated process, and even after Palestinians obtain a health permit, they still risk being denied by the Israeli military at the checkpoint.²⁴⁶ According to Rifat Muheisen, the Head of the Liaison Department of the Palestinian Ministry of Health, patients first need to obtain referral documents, financial coverage and an appointment from the hospital they want to visit. According to Muheisen, “if the patient is in a critical situation and needs immediate surgical intervention, then the coordination with the Israelis does not take more than two hours. But with the less critical cases, it takes from one week up to ten days, and sometimes even longer.”²⁴⁷

According to Muheisen, “the Israeli security checks affect many cases because it takes a long time, which makes the patients miss their appointments at hospitals. Thus, they need to get a new appointment at the hospital, getting worse at the same time. Even if all papers are presented at a checkpoint, the Israeli soldiers, who are not trained or experienced medical personal, have discretion to judge upon the medical necessity to actually allow the crossing of the checkpoint or not.”²⁴⁸

Each year, some 200,000 Palestinians apply for a medical permit to travel between Gaza, the West Bank and East Jerusalem to receive medical treatment or to accompany a close relative who is in need of medical attention. Of these people, around 40,000, representing 20 percent of all applicants, are denied.²⁴⁹

245 Physicians for Human Rights, “Divide & Conquer: Inequality in Health”, January 2015, pages 5-6. Available at: <http://www.phr.org.il/uploaded/Divide%20and%20Conquer%20ENG%20REPORT%20JAN%202015.pdf>

246 Claude de Ville de Goyet et al., “Report of a Field Assessment of Health Conditions in the Occupied Palestinian Territory (oPt)”, World Health Organization, 2015, page 9. Available at: http://applications.emro.who.int/docs/Cons_Rep_2015_EN_16311.pdf?ua=1

247 BADIL’s interview with Rifat Muheisen, Head of the Liaison Department of the Palestinian Ministry of Health, “Procedures for obtaining permits”, Ramallah, August 2015

248 Ibid.

249 Physicians for Human Rights, “Divide & Conquer: Inequality in Health”, January 2015, page 43. Available at: <http://www.phr.org.il/uploaded/Divide%20and%20Conquer%20ENG%20REPORT%20JAN%202015.pdf>

According to the procedural rules, the Israeli District Civil Liaison Offices need a medical opinion before they can refuse or grant a medical permit. In practice, the State does not provide medical opinions, whilst so-called security considerations typically outweigh medical needs of the applicants.²⁵⁰ Moreover, on those occasions when Israel provides explanations for denial or for prolonged delays in the processing of applications, such explanations are often inconsistent in their stated logic, leading to further uncertainty as to how health permits may be acquired.²⁵¹

Health Permits for Residents of the Gaza Strip²⁵²

"I live with my family in Gaza City and I have three children. My eldest son, Yahya, who is six years old, was born with a kidney disease that needs to be treated in a continuous manner. Unfortunately, we cannot always find the required medications and treatment in Gaza, so we have to leave Gaza on a regular basis. We had to travel to Egypt, to Jerusalem or to Ramallah to get the required treatment. Whilst traveling, I have to leave my two younger daughters alone with their grandmother. It is hard for me to leave them, especially since they are still very young. Sometimes I feel guilty because I don't look after my two daughters properly; because I have to spend much time with Yahya in the hospitals. This time, Israel refused to issue me a permit to go with Yahya to the hospital in the West Bank. How will he be able to go alone? In a normal situation, the trip from our home to the hospital in Jerusalem should not take more than one to one and a half hours, but unfortunately we do not live in a normal situation. Otherwise I could go to Jerusalem to be with Yahya and go back to Gaza every day to be with my daughters. This could be possible if these checkpoints, restrictions and the permit system were not here.

After they rejected my application to go with my son, we were advised by our doctor to do an urgent surgery in Gaza. After the successful surgery, we had to do an urgent kidney dialysis. We did it seven times within two months in Gaza because the lines used in the dialysis were of a very low quality. In the end, the doctors advised us to do it outside Gaza because the medical equipment there would be better.

We followed the procedures of the new medical referral from the Gaza Strip to the West Bank. It took longer than you can imagine. It was supposed to be an urgent referral because my son was doing the kidney dialysis but his body wasn't responding to the treatment. The amount of toxins in his body was too high. The permit should have been

250 Machsom Watch and Physicians for Human Rights, "The Bureaucracy of Occupation: the District Civil Liaison Offices", 2004, page 31. Available at: http://www.ochaopt.org/documents/opt_prot_machsomwatch_bureaucracy_occupation_200.pdf

251 Claude de Ville de Goyet et al., "Report of a Field Assessment of Health Conditions in the Occupied Palestinian Territory (oPt)", World Health Organization, 2015, page 9. Available at: http://applications.emro.who.int/docs/Cons_Rep_2015_EN_16311.pdf?ua=1

252 BADIL's interview with Rana al-Atrash, mother of a child suffering from a kidney disease living in the Gaza Strip, "Health Permits for Residents of the Gaza Strip", the Gaza Strip, August 2015

issued in two days, but unfortunately, it took three weeks, which affected him so much.

We suffered from the lack of medications in Gaza. Before my son was doing dialysis, he used to take a medicine that should be provided by the Palestinian Ministry of Health, but because of the siege, it was unavailable more than once.

In the end, after a long time of waiting, we got the referral and applied for the permit. They refused to issue me a permit another time because I was previously denied, and again, only our son got the permit. Right now, we simply do not know what to do. We are looking for the best possible treatment for our son but we are denied from accessing the right hospitals. My husband and I hope that the situation in Gaza will improve and that we can afford him a good medical treatment here, close to our home.”

Travel Restrictions for Medical Personnel

Travel restrictions for medical personnel are common in all parts of the oPt. In East Jerusalem, the six Palestinian hospitals constitute an important part of the Palestinian health system.²⁵³ However, it is almost impossible for medical personnel from the Gaza Strip to go to any of these hospitals, and by setting a quota for the number of medical personnel allowed to enter the hospitals in East Jerusalem at some 2,000 persons, Israel directly interferes with the functioning of those facilities.²⁵⁴ Since the permits of health workers are occasionally denied without apparent reason,²⁵⁵ these restrictions lead to a shortage of doctors working in East Jerusalem, and to uncertainty about the number of employees who will be able to go to work at a given time.

Ambulance drivers operating in the oPt also face severe restrictions as they need special permits to cross checkpoints, which endangers the patients even further. Because Palestinian registered ambulances are not allowed to travel inside Israel, patients often need to be transferred from one ambulance to another at a checkpoint, which, especially in critical conditions such as head or spinal injuries, is a dangerous and time consuming process.²⁵⁶ Moreover, not only are permits to cross checkpoints difficult for ambulance drivers to obtain, the access to the so-called “closed military zones” is also an obstacle. For instance, during the 2014 Israeli military assault on the Gaza Strip, medical personnel were frequently informed of the position of injured Palestinians,

253 Physicians for Human Rights, “Divide & Conquer: Inequality in Health”, January 2015, page 42. Available at: <http://www.phr.org.il/uploaded/Divide%20and%20Conquer%20ENG%20REPORT%20JAN%202015.pdf>

254 Ibid. Pages 42-43

255 Claude de Ville de Goyet et al., “Report of a Field Assessment of Health Conditions in the Occupied Palestinian Territory (oPt)”, World Health Organization, 2015, page 7. Available at: http://applications.emro.who.int/docs/Cons_Rep_2015_EN_16311.pdf?ua=1

256 Physicians for Human Rights, “Divide & Conquer: Inequality in Health”, January 2015, page 44. Available at: <http://www.phr.org.il/uploaded/Divide%20and%20Conquer%20ENG%20REPORT%20JAN%202015.pdf>

yet remained unable to reach them. Of the 2,217 Palestinians killed during the 2014 attacks on Gaza, 511 died without receiving medical assistance because the ambulance drivers could not obtain the necessary permission from the Israeli military to reach them.²⁵⁷

Gaza's Health System under Pressure by the Blockade

The blockade on Gaza has had serious consequences for Gaza's health system, as the blockade, combined with other restrictions imposed by Israel, limits the range and number of materials allowed into the Gaza Strip. The Palestinian Ministry of Health's central drug store in Gaza reported in 2014 that 25.7 percent of the medicines on the essential drug list, and 47 percent of medical disposables, were at or near zero stock.²⁵⁸ The low stock of essential drugs is both a direct result of the serious restrictions on goods allowed into Gaza, but is also indirectly a result of the poor economic situation, resulting from the blockade and the occupation in general, which has crippled the Palestinian economy.²⁵⁹ At the same time, this situation forces the Palestinian Authority to buy medicine at much higher prices than neighboring Arab countries.²⁶⁰ Furthermore, following Israel's attacks on the Gaza Strip in 2014, the UN Health Cluster Damage and Needs Assessment found that "nearly 50 percent of Gaza's medical equipment is outdated and the average wait for spare parts is approximately six months."²⁶¹ Because of the blockade, not only is medicine difficult to obtain for Palestinians, but so too are the basic construction materials needed to reconstruct the 17 hospitals and 45 primary healthcare centers damaged during the 2014 attacks.²⁶² However, as of June 2015, less than one percent of the construction materials needed in Gaza had been permitted to enter by Israel.²⁶³ Moreover:

257 Al Mezan Center for Human Rights, "No More Impunity: Gaza's Health Sector under Attack", 2015, page 23. Available at: <http://www.map-uk.org/downloads/no-more-impunity--gazas-health-sector-under-attack.pdf>

258 Claude de Ville de Goyet, "Report of a Field Assessment of Health Conditions in the Occupied Palestinian Territory (oPt)", World Health Organization, 2015, page 7. Available at: http://applications.emro.who.int/docs/Cons_Rep_2015_EN_16311.pdf?ua=1

259 OCHA – Occupied Palestinian Territories, "The Gaza Strip: The Humanitarian Impact of the Blockade", July 2015, page 1. Available at: www.ochaopt.org/documents/ocha_opt_gaza_blockade_factsheet_july_2015_english.pdf

260 Physicians for Human Rights, "Divide & Conquer: Inequality in Health", January 2015, page 40. Available at: <http://www.phr.org.il/uploaded/Divide%20and%20Conquer%20ENG%20REPORT%20JAN%202015.pdf>

261 Claude de Ville de Goyet et al., "Report of a Field Assessment of Health Conditions in the Occupied Palestinian Territory (oPt)", World Health Organization, 2015, page 7. Available at: http://applications.emro.who.int/docs/Cons_Rep_2015_EN_16311.pdf?ua=1

262 OCHA – Occupied Palestinian Territories, "Humanitarian Atlas 2015", 2015, page 45. Available at: <http://www.ochaopt.org/humatlas2015/files/res/downloads/humatlas2015.pdf>

263 OCHA – Occupied Palestinian Territories, "The Gaza Strip: The Humanitarian Impact of the Blockade", July 2015, page 1. Available at: www.ochaopt.org/documents/ocha_opt_gaza_blockade_factsheet_july_2015_english.pdf

"[...] the lack of clean water makes it difficult to sterilize medical equipment and the unreliable electricity supply negatively affects sensitive medical equipment. About 50 percent of the medical equipment is not functioning for various reasons, including the inability to obtain spare parts for or adequately maintain the equipment."²⁶⁴

The World Health Organization (WHO) wrote in a report about the social determinants of health that:

"[...] [w]hile medical care can prolong survival and improve prognosis after some serious diseases, more important for the health of the population as a whole are the social and economic conditions that make people ill and in need of medical care in the first place."²⁶⁵

This message is echoed in the Committee on Economic, Social and Cultural Rights' general comment No. 14 that states that the facilities of public health, goods and services should include:

"[...] the underlying determinants of health, such as safe and potable drinking water and adequate sanitation facilities, hospitals, clinics and other health-related buildings, trained medical and professional personnel receiving domestically competitive salaries, and essential drugs, as defined by the WHO Action Programme on Essential Drugs."²⁶⁶

However, because of the permit regime installed by the Israeli authorities, the Palestinian Authority itself admits that it is unable to ensure these underlying health determinants.²⁶⁷

The main concern remains the permit regime itself, as it should not be necessary to receive health permits in the first place. Because of the permit regime, Palestinians must carry an Israeli-issued identity card, a hospital appointment document, referral documents from the Palestinian Ministry of Health and the actual medical permit, just to see a doctor on the other side of

264 Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, "Report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967", United Nations, 25 September 2015, page 9. Available at: <http://www.humanrightsvoices.org/assets/attachments/documents/9.25.2015.report.special.rapp.palestinian.territories.pdf>

265 WHO Europe, "Social Determinants of Health", 2003, 2nd edition, page 7. Available at: http://www.euro.who.int/__data/assets/pdf_file/0005/98438/e81384.pdf

266 UN Economic and Social Council, "General Comment No. 14: The Right to the Highest Attainable Standard of Health (Art. 12) of the Covenant)", United Nations, 11 August 2000, page 4. Available at: <http://www.refworld.org/docid/4538838d0.html>

267 Palestinian National Authority Ministry of Health, "Palestinian National Health Strategy 2011 – 2013: Setting Direction – Getting Results", 2010, page 9. Available at: http://www.lacs.ps/documentsShow.aspx?ATT_ID=4764

a checkpoint, for example in Jerusalem.²⁶⁸ This means that, regardless of the efficiency of the bureaucratic system, a significant period of time passes until a Palestinian receives the medical care that he or she needs. This is illustrated by the increasing number of Palestinian births taking place at home, rising from just eight percent in 1999, to 33 percent in 2002.²⁶⁹ These figures illustrate how Palestinian families are increasingly considering it to be safer to stay at home rather than risk being denied crossing at a checkpoint on their way to a hospital. In fact, between the years 2000 to 2007, ten percent of pregnant Palestinian women were denied or delayed at checkpoints, resulting in 69 births at checkpoints as well as 35 infant and five maternal deaths.²⁷⁰

Restrictions on the Right to Adequate Housing

Israel's obligation as an occupying power to protect the right of Palestinians to adequate housing is clearly stated in international law, including under Article 11 (1) of the International Covenant of Economic, Social and Cultural Rights and, according to General Comment No. 4 of the UN Committee on Economic, Social and Cultural Rights,²⁷¹ Article 11 (1) does not simply protect the right to have a roof over one's head, but in fact protects the right to live somewhere "in security, peace and dignity".²⁷² During the most recent visit of the Special Rapporteur on adequate housing to Israel and the oPt, the mandate holder expressed grave concerns as to how Israel uses its permit regime to severely restrict the Palestinian right to adequate housing. She reported that Israeli authorities refuse to approve, or disproportionately delay, projects aimed at improving housing and vital services in the oPt, including the denial of authorization to import construction materials into the Gaza Strip.²⁷³ The Special Rapporteur further noted, that:

"[...] in very different legal and geographical contexts, from Galilee and the Negev to the West Bank, she received multiple similar

268 World Health Organization, "Right to Health: Barriers to health access in the occupied Palestinian territory, 2011 and 2012", WHO, 2013, page 9. Available at: http://www.emro.who.int/images/stories/palestine/documents/who_access_report-march_5_2013.pdf

269 HailaShoaibi, "Childbirth at checkpoints in the occupied Palestinian territory", *The Lancet*, 5 July 2011. Available at: <http://www.thelancet.com/pb/assets/raw/Lancet/abstracts/palestine/palestine2011-4.pdf>

270 Ibid.

271 UN Committee on Economic, Social and Cultural Rights (CESCR), "General Comment No. 4: The Right to Adequate Housing (Art 11 (1) of the Covenant)", United Nations, 13 December 1991. Available at: <http://www.refworld.org/docid/47a7079a1.html>

272 Ibid. Page 2

273 Raquel Rolnik, "Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this contest. Mission to Israel and the Occupied Palestinian Territory", United Nations, 24 December 2012, page 19. Available at: http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session22/A-HRC-22-46_Add1_en.pdf

complaints from Palestinians, notably concerning a lack of or discriminatory planning, which seriously hampers the urban and rural development of these communities. As a consequence, a disproportionate number of members of such communities live and sometimes work in structures that are “unauthorized” or “illegal”, and liable to eviction and demolition.”²⁷⁴

Restrictions on Construction in the West Bank and East Jerusalem

In Area C, which covers more than 60 percent of the West Bank, less than one percent is assigned for Palestinian development.²⁷⁵ Since the signing of the Oslo Accords, more than 15,000 homes have been demolished,²⁷⁶ and more than 500 Palestinian-owned structures have been demolished annually in recent years by Israel.²⁷⁷

Only nine percent of the 1967 occupied Jerusalem is allocated for Palestinian construction, most of which is already inhabited. The Israeli conditions for receiving a building permit are extremely difficult to meet. On average, Israel rejects more than 94 percent of Palestinian building permit applications. As a result, at least 33 percent of all Palestinian homes in Jerusalem do not have Israeli building permits.²⁷⁸ Due to the Israeli discriminatory planning and zoning policies, more than 86,500 Palestinians living in the city are believed to be at risk of having their homes demolished.²⁷⁹

In his 2013 report to the United Nations Human Rights Council, Richard Falk, former Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, says that residency revocation, paired with the demolition of residential structures and forced evictions of Palestinian families, is in violation of the basic right to adequate housing enshrined within the International Covenant on Economic, Social and Cultural Rights. Between

274 Ibid. Page 20

275 OCHA – Occupied Palestinian Territories, “Area C of the West Bank: Hey Humanitarian Concerns”, January 2013, page 1. Available at: https://www.ochaopt.org/documents/ocha_opt_area_c_factsheet_january_2013_english.pdf

276 OXFAM: “20 Facts: 20 Years since the Oslo Accords”, OXFAM, 2013, page 1. Available at: <https://www.oxfam.org/sites/www.oxfam.org/files/oxfam-oslo-20-factsheet.pdf>

277 OCHA – Occupied Palestinian Territories, “Area C of the West Bank: Hey Humanitarian Concerns”, January 2013, page 1. Available at: https://www.ochaopt.org/documents/ocha_opt_area_c_factsheet_january_2013_english.pdf; OCHA – Occupied Palestinian Territories, “Area C of the West Bank: Key Humanitarian Concerns Update August 2014”, August 2014, page 1. Available at: https://www.ochaopt.org/documents/ocha_opt_area_c_factsheet_august_2014_english.pdf

278 OCHA – Occupied Palestinian Territories, “East Jerusalem: Key Humanitarian Concerns Update December 2012”, December 2012, page 1. Available at: https://www.ochaopt.org/documents/ocha_opt_jerusalem_factsheet_december_2012_english.pdf

279 OXFAM: “20 Facts: 20 Years since the Oslo Accords”, OXFAM, 2013, page 3. Available at: <https://www.oxfam.org/sites/www.oxfam.org/files/oxfam-oslo-20-factsheet.pdf>

2004 and 2013, excluding “self-inflicted” demolitions,²⁸⁰ 492 housing units were demolished in East Jerusalem, displacing 1,943 Palestinians in 2013. The situation is desperate, and Falk refers to the case of Palestinian Jerusalemites as “a gradual and bureaucratic process of ethnic cleansing”.²⁸¹ The findings of Falk and a variety of other individuals and organizations in relation to the discriminatory practices of Israel reveal not a series of isolated incidents, but rather a comprehensive patchwork of legislation and judicial decisions which systematically targets Palestinians, driving a steady and relentless process of forced population transfer. Here it is important to note that according to the Sub-Commission on Prevention of Discrimination and Protection of Minorities of the former Commission on Human Rights, forced population transfer:

[...] remains a systematic coercive and deliberate [...] movement of population into or out of an area [...] with the effect or purpose of altering the demographic composition of a territory, particularly when that ideology or policy asserts the dominance of a certain group over another.²⁸²

As such, this represents a clear and direct contravention of Israel’s obligations as occupying power under international humanitarian law, and it is a breach which demands a swift and decisive response.

For more information please see BADIL Resource Center, Discriminatory Zoning and Planning, Forced Population Transfer: The Case of Palestine. <http://www.badil.org/phocadownloadpap/badil-new/publications/research/working-papers/wp17-zoninig-plannig-en.pdf>

Restrictions on Construction in the Gaza Strip

The key factor prohibiting the repair and rebuilding of Palestinian homes and infrastructure damaged or destroyed by Israeli military actions inside the Gaza Strip is the blockade, which prevents the importation of desperately needed building materials.

²⁸⁰ This term relates to instances where the Israeli authorities demand homeowners demolish their own property. Failure to do so will result in the property being demolished by the State, with the homeowner invoiced for this expense at an inflated rate. The homeowner is therefore coerced into demolishing their own property so as a means of mitigating the financial impact upon them and their family.

²⁸¹ Richard Falk, Report of the Special Rapporteur on the Situation of Human Rights in the Palestinian Territories Occupied since 1967 (UNHRC, January 13, 2014), <http://richardfalk.wordpress.com/2011/02/14/report-of-special-rapporteur-to-the-un-human-rights-council-on-occupied-palestinian-territories/>.

²⁸² Al-Khawasneh and Hatano, The Human Rights Dimensions of Population Transfer Including the Implantation of Settlers, Preliminary Report Prepared for Commission on Human Rights Sub-Commission on Prevention of Discrimination and Protection of Minorities, Forty-Fifth Session, 27–32.

As a result of the restrictions on even basic materials, such as cement and gravel, less than one percent of the construction materials required in the Gaza Strip to build or rebuild Palestinian homes have been allowed into the area.²⁸³ The Gaza Reconstruction Mechanism (GRM) is a UN-brokered agreement intended to facilitate inflow of goods necessary for the Gaza Strip's recovery, whilst at the same time meeting Israel's stated "security concerns".²⁸⁴ However, instead of easing the vast human impact of the blockade, the GRM has effectively given Israel veto power over which Palestinians are able to rebuild or repair their homes, and also provides Israel with detailed information on Palestinian households, including confidential information such as ID card numbers and the GPS coordinates of their properties.²⁸⁵

Under the GRM, Palestinian households are required to go through a four-stage process in order to be permitted to rebuild or repair their homes.²⁸⁶

1. Palestinian families need to undergo a needs assessment in order to qualify for having their house rebuilt after it has been damaged or destroyed.
2. The PA has to provide the families' personal information to Israeli authorities. The latter then have 48 hours to object to any name on the list, which effectively gives Israel the power to decide which individuals and families can rebuild their homes and which cannot.
3. Israeli authorities calculate exactly which materials - and what amount of said materials - approved families may collect from Israeli-approved vendors. On account of the attention paid to Israel's so-called security concerns, Israel has been given complete control over any materials considered "dual use" including basic construction materials such as cement, bricks and steel.²⁸⁷ In fact, disagreements between the PA and Israel over Israel's formula for determining the exact amount of construction materials required needed for each

283 OCHA – Occupied Palestinian Territories, "The Gaza Strip: The Humanitarian Impact of the Blockade", July 2015, page 1. Available at: www.ochaopt.org/documents/ocha_opt_gaza_blockade_factsheet_july_2015_english.pdf

284 UN Security Council, "Warning Security Council in Briefing that Gaza Could 'Implode, or Explode Again', Political Envoy for Middle East Urges 'Revised and Credible' Political Framework", United Nations, 16 December 2014. Available at: <http://www.un.org/press/en/2014/sc11563.doc.htm>

285 Ali Abunimah, "Uncer cover of reconstruction, UN and PA become enforcers of Israel's Gaza siege", The Electronic Intifada, 17 October 2014. Available at: electronicintifada.net/blogs/ali-abunimah/under-cover-reconstruction-un-and-pa-become-enforcers-israels-gaza-siege

286 Ibid.

287 Peter Beaumont, "Gaza reconstruction plan 'risks putting UN in charge of Israeli blockade'", The Guardian, 3 October 2014. Available at: <http://www.theguardian.com/world/2014/oct/03/gaza-reconstruction-plan-un-israel-blockade>

square meter of construction was a central factor in the delay of ten months before a single home could be rebuilt.²⁸⁸

4. The last stage is the monitoring of those Palestinians who have collected construction materials, so as to ensure that all of the materials are used for the designated purposes. This step includes UN monitors.

As of July 2015, only 6.5 percent out of 22 million tons of required construction materials had been allowed into the Gaza Strip. Furthermore, only one fifth of those materials are intended for the repair of homes damaged during the summer of 2014.²⁸⁹ The GRM has thereby proven to be a further mechanism used by Israel to control and restrict construction in the Gaza Strip.

Reconstruction of the Gaza Strip²⁹⁰

"I signed a contract with the Palestinian Water Department to build a water reservoir three months ago. So far, I have only made little progress in its construction because Israel is restricting the import of building materials. I have contacted the Gaza Water Department as the supervising body, and the body responsible for coordinating with Israel to get the building materials needed for this project into Gaza. They told me that Israel is refusing to allow the materials into Gaza. I was unable to receive a clear answer why Israel is not letting the materials in. As a contractor and company owner, any delay in bringing in materials has substantial financial consequences. I have workers, technicians and offices to pay for, and we are unable to work due to the futile [Gaza Reconstruction] mechanism that was put in place. The quantity allowed to enter Gaza is very small and not enough to finish even part of the project. We need 400 cups of concrete to complete the floor of a single water tank; however, the maximum amount we are allowed to bring in monthly is 150 cups. This means that we need three months in order to collect the required amount to build the base of the tank. Taking into consideration that the base and floors cannot be built part by part, we have to wait until we can bring enough materials to build everything at once. Israel is simply hampering the passage of building materials into Gaza by fake excuses. They check the list of names of those whose houses were destroyed name by name, and they do their best to complicate the process. How can we build or rebuild without having the needed materials?"

288 Gisha – Legal Center for Freedom of Movement, "Where's the housing boom?", August 2015, pages 1-2. Available at: <http://gisha.org/UserFiles/File/publications/construction-boom/construction-boom-en.pdf>

289 Ibid. Page 3

290 BADIL's interview with Tariq Masoud, an architect with a construction company from the Gaza Strip, "Reconstruction of the Gaza Strip", the Gaza Strip, August 2015

The blockade on Gaza “has had a devastating impact on the lives and well-being of Gaza’s civilian population and on Palestinian development”,²⁹¹ while Israel’s control over exports “determines which of Gaza’s industries will function”.²⁹² Along with the cyclical escalations of conflict (in 2008/2009, 2012 and 2014, most notably), the Israeli blockade of the Gaza Strip has rendered 80% of Gaza’s residents dependent on humanitarian aid for their survival.²⁹³

Furthermore, the control over the entry of construction materials allows Israel to curb the urban development of Gaza and to influence its shape: for example, in 2010, Israel’s “Coordinator of Government Activities in the Territories” reviewed UNRWA’s list of sites for Gaza schools and, in “one or two occasions [...] [they were] asked to move the location a few hundred meters, since they were [allegedly] near Hamas installations”,²⁹⁴ as a condition for allowing the entry of the necessary construction materials.²⁹⁵

The blockade itself constitutes a form of collective punishment, expressly prohibited under international humanitarian law.²⁹⁶ Moreover, according to a secret cable sent to Washington²⁹⁷ by US officials in Tel Aviv of 3 November 2008, “Israeli officials have confirmed to Embassy officials on multiple occasions that they intend to keep the Gazan economy functioning at the lowest level possible consistent with avoiding a humanitarian crisis”. Since the Palestinian elections in 2006, Israel has designated Gaza as a “hostile entity”, which has resulted the tightened embargo on the Strip.²⁹⁸ Israel’s blockade on Gaza, as well as the Israeli-enforced land and naval buffer zones, seem to further this strategy of keeping the region “on the brink of collapse”, and its population in substandard living conditions.²⁹⁹

Palestinians in the Gaza Strip are at continuous risk of forcible displacement, due to such Israeli policies and which have undermined their physical security, lowered their standard of living, and increased their poverty levels and dependence on humanitarian aid. Here it is again important to note that the forcible dimension in the term forcible displacement:

[...] is not restricted to physical force, but may include threat of

291 Hartberg, *Beyond Ceasefire*, 1.

292 Bashi and Feldman, *Scale of Control*, 14.

293 Norwegian Refugee Council, “A Crisis Within a Crisis: Humanitarian Emergency in the Gaza Strip.”

294 Yaakov Katz, “Israel Reviewing UNRWA List of Sites for Gaza Schools.”

295 Bashi and Feldman, *Scale of Control*, 14.

296 OCHA - Occupied Palestinian Territories, *Easing the Blockade: Assessing the Humanitarian Impact on the Population of the Gaza Strip*, 22; see also International Committee of the Red Cross (ICRC), “Customary IHL - Rule 103. Collective Punishments”; and International Committee of the Red Cross (ICRC), “Fourth Geneva Convention”, Article 33.

297 Gentile, “WikiLeaks Cable Reveals New Details of Gaza Embargo | Need to Know | PBS.”

298 WikiLeaks, “CASHLESS IN GAZA? - Cable: O8TELAVIV2447_a, of 3 November 2008,” para. 1.

299 *Ibid.*, para. 2.

force or coercion, such as that caused by fear of violence, duress, detention, psychological oppression or abuse of power against such person or persons or another person, or by taking advantage of a coercive environment.³⁰⁰

And even in cases of “consent” of the victim to leave, case law of the International Criminal Tribunal for the former Yugoslavia had a clear position on this, asserting that consent may be rendered “valueless” given the actual context in which it takes place.³⁰¹ For instance, this would be the case if individuals or groups find themselves within a coercive environment and/or being subject to systematic discrimination.³⁰² In such a scenario, the displacement would still clearly be considered a forced transfer. The determination as to whether a transferred person has a genuine choice must be made in the context of all relevant circumstances.

Restrictions on the Right to Family Life

Use of the Population Registry Against Palestinians³⁰³

Wasimah is 33 years old and holds a Palestinian ID. 18 years ago, when it was easy to travel to Israel from the West Bank, she married a Palestinian man who holds an Israeli ID. She lives in Qalandia Refugee Camp in the West Bank with her four children, who also have Israeli IDs. Because of their different ID's, living a normal family life has been impossible for this family.

“I have been trying to get a permit to go to Israel or Jerusalem since 2000, when the Israelis first denied me from entering Jerusalem. I kept trying to get a permit until 2012, but they kept refusing me, because my brother was in an Israeli prison. By then I hired a lawyer to follow up the case and afterwards they started issuing me a two-day permit every three months.”

However, movement within the West Bank is also difficult for Wasime's family. Wasime explains: “For many years I had to use different roads than the roads my husband and children were using. For instance, if I wanted to come to Bethlehem, I had to come through the “container checkpoint”, while my family went through Jerusalem. That's because it was forbidden for those who had the Israeli ID to pass through the Container checkpoint and for me to go through Jerusalem. It was the same situation when we wanted to go to other places in the West Bank.

300 The Rome Statute Elements of Crimes, Article 6(e).

301 See *Kristic* case, Judgment – Part III, para. 530.

302 For an explanation of the regulations as related to ethnic or political minorities who might have suffered discrimination or persecution (not by the occupying power) on such accounts and might therefore leave the occupied territory, see Commentary to the GC IV, at 279.

303 BADIL's interview with Wasimah Wahid, a woman with a Palestinian ID married to a man with an Israeli ID, “Use of the Population Registry Against Palestinians”, Ramallah, August 2015

Israel requires all Palestinians to hold an ID card, based on the information in the population registry, which is controlled by Israel.³⁰⁴ Together with the permit regime, Israel uses the population register to control the movement of all Palestinians and to make it very difficult, and often impossible, for Palestinians to visit family or friends living in other parts of the occupied Palestinian territory. This is in direct violation of Palestinians' right to family life, protected by Article 17 of the International Covenant on Civil and Political Rights³⁰⁵ and Article 12 of the Universal Declaration of Human Rights.³⁰⁶ However, Israel continues to violate this right and deliberately uses the permit regime to keep families apart, which is often done in order to punish entire families if Israel considers just one member of the family to be a threat to its security.

Palestinian Couples from Gaza and the West Bank³⁰⁷

Aisha is 28 years old and from the Gaza Strip. She is married and lives in Bethlehem, in the West Bank, with her husband and their two children. Aisha came to the West Bank in 2004 together with her parents through Erez checkpoint after she managed to obtain a two-day marriage permit from Israel. After the wedding she stayed in Bethlehem without having a permit while her parents returned to the Gaza Strip. It took Aisha six years to get a West Bank ID instead of her old Gaza ID, which only allowed her to live in the Gaza Strip. However, although she is now able to live with her family in the West Bank, she is unable to visit her relatives in the Gaza Strip.

"I have applied to get a visiting permit to visit my family in Gaza since I got the West Bank ID after six years of marriage. I applied through a human rights organization based in Jerusalem. However, the conditions in which I can visit Gaza are; if a member of my family is in a critical health situation, if I need to attend the wedding of one of my siblings, or if one of my siblings or my parents die. Israel kept refusing to give me a permit until November 2011, when I faked a medical report that states that my mother was in a critical health situation. They issued me a 6-day permit to visit Gaza. Together with my children, I finally saw my family for the first time in 7 years. Since then, I have been trying to get another permit to visit my family, but without success. They told me that I had visited my family once, and that was enough."

304 Human Rights Watch, "'Forget About Him, He's Not Here': Israel's Control of Palestinian Residency in the West Bank and Gaza", February 2012, page 3. Available at: www.hrw.org/sites/default/files/reports/iopt0212webwcover.pdf

305 UN General Assembly, "International Covenant on Civil and Political Rights", 16 December 1966. Available at: <https://treaties.un.org/doc/Publication/UNTS/Volume%20999/volume-999-I-14668-English.pdf>

306 UN General Assembly, "Universal Declaration of Human Rights", 10 December 1948. Available at: <http://www.refworld.org/docid/3ae6b3712c.html>

307 BADIL's interview with Aisha Nimri, "Palestinian Couples from Gaza and the West Bank", Bethlehem, August 2015

For Palestinians living in the Seam Zones - the parts of the West Bank that have been isolated by Israel's Annexation and Segregation Wall - the permit regime often makes social visits from Palestinians living on the other side of the wall practically impossible. As it is so difficult to obtain a visitor permit to enter a Seam Zone, important events such as weddings and funerals often have to be held without members of the extended family, as they are prevented from accessing such areas.³⁰⁸

Life in the Seam Zones³⁰⁹

"In 2011 my uncle was very sick. While he was recovering in a hospital in Jerusalem, I tried to apply for a visitor permit to see him, but they refused to grant me a visitor permit to access Jerusalem. After a while he died and I tried again to apply for a permit, just to be able to pray at his tomb, but I was denied again, hence I decided to be smuggled to the funeral. This permit regime is trying to destroy our social relations and ties. I have relatives in Jerusalem and I am not allowed to visit them without a permit. Since they erected this illegal wall, we have been segregated and confined here.

When a friend or a relative wants to visit us in the village we need to contact the representative of the village council and inform him of the name and ID number of the person who wants to visit us. Then he will contact the Israeli DCL, but only between 9:00 am to 10:00 am or between 2:00 pm and 3:00 pm, and then he submits the name of the person who wants to visit us. Then the DCL checks that this person has a clean record and has never been arrested. Only in that case he can obtain a visit permit and come to our village. In reality, many times we applied for visitor permits for our relatives and friends, and we were told that they received permission to enter, but once they arrived at the checkpoint, which is located at the entrance of our village, they were informed that there was no clearance for them and they had to go back.

Even when people come for funerals, we apply for visitor permits for them, and they are informed that they are allowed to come, but then when they are at the checkpoint the Israeli soldiers make them wait for hours. They don't even have respect for dead people. This regime brought us to celebrate our weddings and funerals at the checkpoint, otherwise no one will come to celebrate with us. It is humiliating and it makes our lives extremely complicated."

308 HaMoked – center for the Defence of the Individual, "The Permit Regime: Human Rights Violations in West Bank Areas Known as the 'Seam Zone'", March 2013, page 19. Available at: http://www.hamoked.org/files/2013/1157660_eng.pdf

309 BADIL's interview with Asim Shawkat, resident of Nabi Samuel, "Life in the Seam Zones", Nabi Samuel, September 2015

Separating Families and Friends as a Punitive Tool

The separation of Palestinian families is also used by Israel as a condition for release of Palestinian political prisoners from the West Bank, including East Jerusalem if they “agree” to relocate to the Gaza Strip. In 2011, of the 1,027 Palestinian prisoners released in a prisoner exchange agreement, Israel deported 40 prisoners to other countries and 163 were only released on the condition that they relocate to the Gaza Strip, away from their family and friends.³¹⁰

Punishing Families³¹¹

Salwa’s son Ahmad was 21 years old when Israel invaded Bethlehem in 2002. Ahmad escaped into the Church of Nativity, along with another 500 people from the city. The Church was under siege by the Israeli military for more than 40 days. At the conclusion of the siege, Ahmad, along with another 28 people, was exiled to the Gaza Strip, unable to see his family or friends in the West Bank. His mother was trying to visit her son for many years and explains:

“After many failed attempts to get a permit from Israel to Gaza, we were told to go through Egypt. The way to Gaza should only take 45 minutes by car, but instead, I had to cross the bridge to Jordan and then to coordinate with the Egyptians to fly from Jordan to “Al-Arish” airport in Egypt. Then, the Egyptian security forces took us to the Rafah checkpoint in order to make sure that we don’t go to Sinai or somewhere else. In total I left my house in Bethlehem for 40 days, but I only spent 7 days with my son Ahmad. I spent the rest of the time traveling or waiting for the Rafah checkpoint to open.”

When I went back to my house in Bethlehem, I got sick for a month because of this trip. I swore to God that I would never go to Gaza again. But, a year later, I missed my son so much and wanted to see him again. We tried to apply to get a visit permit, but I never received one again.”

310 Jillian Kestler-D’Amours, “West Bank and Gaza divided 20 years later”, Al Jazeera, 12 September 2013. Available at: www.aljazeera.com/indepth/features/2013/09/2013911104915200109.html

311 BADIL’s interview with Salwa Ramzi, mother of a former Palestinian prisoner forced to relocate to the Gaza Strip, “Punishing Families”, Bethlehem, August 2015

Concluding Remarks

Consideration of Israel's permit regime reveals a system of remarkable reach, both in terms of numbers of individuals affected, and in its impact. For each prospective Palestinian permit-holder, there are a host of others – family members, friends, dependents – who suffer too. For this reason, available statistics constitute only the tip of the iceberg, with the great bulk of suffering inflicted by this regime remaining unseen. Moreover, each permit and its associated processes should not be considered in isolation, but as a component part in a system which demonstrably deprives Palestinians of their fundamental human rights; an expansive and suffocating web of inherently discriminatory restrictions, touching upon virtually all areas of Palestinian life. The natural result of such widespread and structural rights violations is an environment in which the oppressed face relentless coercion to leave.

Here, it is important to keep in mind that even in cases where Palestinians leave “voluntarily”, one must consider the wider context and whether or not the decision has been made in a coercive and/or discriminatory environment.³¹²

For instance, through Israel's restriction on Palestinians' civil and political rights, such as the right to freedom of movement, including the right of Palestinians with “foreign” citizenship living abroad to visit Palestine, as well as the rights of Palestinian prisoners, the impact upon Palestinians' lives is felt regardless of whether they live in the occupied Palestinian territory, in Israel or in other countries. It thus becomes impossible for Palestinians to live their lives in ways that can be considered even remotely normal, as the restrictions on their freedom of movement transform this right into a privilege. In addition, the restrictions imposed upon the civil and political rights of Palestinians have resulted in the separation of many families, such as those families in the Gaza Strip who are not permitted to visit their relatives outside of this besieged enclave.

Meanwhile, Israeli restrictions governing, for instance, import into and export from the Gaza Strip, as well as Israel's control over natural resources

312 See BADIL Resource Center for Residency and Refugee Rights, “Forced Population Transfer: The Case of Palestine - Introduction” for an analysis of the concept of forcible population transfer under international law.

in the West Bank, not only violates Palestinians' economic rights, but also forces them to seek employment with their occupiers. However, while tens of thousands of Palestinian workers feel forced to seek employment in Israel or in colonies, obtaining a work permit is by no means a ticket to a better life. It is extremely difficult to obtain such a permit, and as the permit is tied to a specific employer and because no labor organization helps Palestinian workers in Israel or in colonies, the Palestinian workers are deprived of legal protection against rights violations, including access to effective remedy.

Israel is, of course, fully aware of the harsh impact of such restrictions imposed on Palestinian society, and also of the fact that the occupation and the permit regime severely undermine economic development in Palestine. This is highlighted by a report from the UN Conference on Trade and Development, which found that the strategies needed to develop and improve the Palestinian economy, cannot be implemented in the "present situation, characterized by severe Israeli control over Palestinian territorial, regulatory and trade policy affairs."³¹³ However, for as long as Israel continues to maintain the permit regime and its wider domination of the Palestinian economy, it perpetuates an environment whereby the Palestinian economy – an essential component of any viable, sustainable state - cannot be developed to meet the needs of the resident population, leaving many Palestinian workers with the prospect of no income, or to seek work in Israel or in illegal Israeli colonies.

Israel, too, grievously undermines Palestinians' cultural rights, including the right to education and the right to religious freedom. By imposing restrictions on the former, Israel forces Palestinian parents to leave their homes and communities in order to ensure that their children can receive a proper education. In relation to the latter, Israeli practices which contravene the right to religious freedom also sends a clear signal to Palestinian worshippers that, for as long as they remain in the oPt, their rights to practice their religion will remain restricted. It is important to note that forced population transfer is not restricted to physical force:

[...] but may include threat of force or coercion, such as that caused by fear of violence, duress, detention, psychological oppression or abuse of power against such person or persons or another person, or by taking advantage of a coercive environment.³¹⁴

313 United Nations Conference on Trade and Development (UNCTAD), "The Palestinian Economy: Macroeconomic and Trade Policymaking under Occupation", UNCTAD, 2012, page v. Available at: http://unctad.org/en/PublicationsLibrary/gdsapp2011d1_en.pdf

314 International Criminal Court, "Elements of Crimes", 2011, page 6. Available at: <https://www.icc-cpi.int/nr/rdonlyres/336923d8-a6ad-40ec-ad7b-45bf9de73d56/0/elementsofcrimeseng.pdf>

As such, Israel is turning the right to education and worship into a tool for forced population transfer, and all Palestinian victims of this practice (a category comprising of individuals still present in the occupied Palestinian territory; citizens of Israel and exiled refugees) hold a legal entitlement to reparation, i.e. return; housing and property restitution, compensation, satisfaction (guarantees of non-repetition, prosecution) and rehabilitation.³¹⁵

By creating policies which have restricted Palestinian access to medical facilities, and severely undermined the right of Palestinians to adequate housing, Israel has made it almost impossible for Palestinians to live even remotely normal lives. In this light, the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories, established by the United Nations General Assembly, noted in its last report how Israeli authorities cite the lack of building permits - which the committee noted as being almost impossible for Palestinians to obtain - as justification for the demolition of Palestinian homes, and thereby forcing the inhabitants to move. Accordingly, the Committee concluded “that such removals may amount to a violation of the prohibition of the forcible transfer of individuals or communities under Article 49 of the Fourth Geneva Convention and of the rights to adequate housing and freedom from arbitrary or unlawful interference with privacy, family and home.”³¹⁶

Moreover, the coercive nature of the permit regime on the decision of Palestinians to leave their homes, communities and country must also be considered against a range of other Israeli policies (highlighted in this Series of Working Papers) which operate in the context of the almost 70-year long exile of Palestinian refugees. Together, these policies strip Palestinians of their fundamental rights and create an environment in which it becomes ever more difficult to remain. Indeed, this is tragically demonstrated by the humanitarian catastrophe inside the Gaza Strip; an environment which

315 Theo van Boven, “The United Nations Basic Principles and Guidelines on the Right to a Remedy for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law”, United Nations, 2010. Available at: http://legal.un.org/avl/pdf/ha/ga_60-147/ga_60-147_e.pdf

316 Special Committee to Investigate Israeli Practices Affecting the Human Rights of Palestinian People and Other Arabs of the Occupied Territories, “Report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of Palestinian People and Other Arabs of the Occupied Territories”, United Nations, 26 August 2014, pages 9-10. Available at: <http://reliefweb.int/sites/reliefweb.int/files/resources/N1451751.pdf>

multiple UN reports have declared will soon be unlivable.³¹⁷ As long as Israel maintains the imposition of the permit regime by which Palestinians' human dignity, prospects, and opportunities are razed on daily basis, and as long as the international community deals with Israel's regime as a legitimate right of regulating the territory under its control, Palestinians will find little choice but to leave.

317 See UNRWA "Gaza in 2020: A Liveable Place?", United Nations, 28 August 2012. Available at: <http://www.unrwa.org/newsroom/press-releases/gaza-2020-liveable-place> and UNCTAD, "Report on UNCTAD assistance to the Palestinian people: Developments in the economy of the Occupied Palestinian Territory", United Nations, 6 July 2015, page 11. Available at: http://unctad.org/meetings/en/SessionalDocuments/tdb62d3_en.pdf

Recommendations

To the Palestine Liberation Organization:

- Challenge the Israeli permit regime by rejecting all Israeli arrangements which fall under the permit regime, and by ensuring the enactment of Palestinian laws which regulate the civil and economic aspects of Palestinian life, particularly in Area C of the West Bank and East Jerusalem;
- Expand all relevant authorities, particularly in Area C of the West Bank and East Jerusalem, to ensure Palestinian sovereignty therein;
- Reject the fragmentation of Palestine and Palestinian communities by establishing a register for all Palestinians worldwide.

To the Relevant Bodies of the United Nations:

- Thoroughly review Israel's policies, including the permit regime, in Israel proper and the occupied Palestinian territory, through the appropriate lens of forced population transfer, and thus constituting a grave breach of the Fourth Geneva Convention, and both a war crime and crime against humanity under the Rome Statute;
- Condemn Israel's policies, including the permit regime, for the resulting widespread and severe deprivation of human rights suffered by Palestinians
- Develop and implement effective measures to bring Israel into compliance with its obligations to international humanitarian and human rights law, and particularly address Israel's arbitrary and discriminatory permit regime;
- Examine Israel's permit regime as one of the mechanisms of Israeli institutionalized discrimination/apartheid that distinguishes between Israeli Jews and Palestinians in a multi-tiered system of rights encompassing Israel proper and the occupied Palestinian territory;
- Reaffirm the fundamental rights of refugees and internally displaced

persons to be repatriated to their homes, lands and properties, and compensated for losses and damages suffered;

To the Member States of the United Nations:

- Challenge the Israeli permit regime by rejecting all Israeli arrangements which fall under the permit regime, in particular when designing and implementing projects in the oPt;
- Freeze the assets of all persons and legal entities responsible for grievous violations of international law, particularly those directly complicit in forced population transfer;
- Ensure that state policies and institutions do not support or recognize Israeli practices that violate international humanitarian and human rights law;
- Downgrade diplomatic relations with states committing and abetting these offenses;
- Ensure that private corporations under their jurisdiction do not involve in or are complicit with Israeli practices violating international humanitarian law and human rights law;
- Ensure that United Nations organizations and programs conform to the above remedial measures.

To the International and National Civil Society:

- Develop and expand campaigns and research relating to the abolition of Israel's discriminatory permit policies;
- Lobby governments to cease diplomatic, military and economic support of and cooperation with the State of Israel until it adheres to international law;
- Study and address the root causes of the ongoing forcible displacement of Palestinians by Israel;
- Develop mechanisms and take effective measures to bring Israel into compliance with international law.

This Series of Working Papers on forced population transfer constitutes a digestible overview of the forced displacement of Palestinians as a historic, yet ongoing process, which detrimentally affects the daily life of Palestinians and threatens their national existence. The Series will utilize an inclusive interpretation of the human rights-based approach, emphasizing that obligations under international law must supersede political considerations. Outlining the nuances and the broader implications of forced population transfer requires careful scrutiny of Israeli policies aimed at forcibly transferring Palestinians, and their role in the overall system of oppression in Palestine.