



Freedom of Movement

January 2018

info@madan.org.uk

**Makan is a
UK Registered Charity.
No. 1169254**

Photo by Mohamed Badarne
www.mbadarne.com



MAKAN
REFRAMED
ENLISTED



Over the past few decades, policies used by Israel to control the movement of Palestinians have become increasingly institutionalised and restrictive.

SUMMARY

Restrictions on movement have been a reality for Palestinians since the creation of the State of Israel in 1948. Justified by Israel as a security measure, particularly over the last few decades, the system of movement controls has become increasingly restrictive for Palestinians. This document looks at freedom of movement in international law, the history of Israeli policy towards movement of Palestinians and the various ways that this freedom has been eroded over the years.

PALESTINIAN FREEDOM OF MOVEMENT AND INTERNATIONAL LAW

Control of the movement of Palestinians has been a feature of Israel's military occupation of the West Bank, including East Jerusalem, and the Gaza Strip since the occupation began in 1967. Notwithstanding the occupation itself, restrictions on movement have more generally been a reality for Palestinians since the establishment of the State of Israel in 1948.

In the early 1990s, Israel imposed a permit system which requires that all Palestinians obtain military-issued permits to move both within the Palestinian territories or to travel abroad. This system is now complemented by a permanent system of roadblocks, gates, checkpoints, the Separation Wall or Barrier and other obstacles to Palestinian movement.¹

1. <http://www.badil.org/phocadownloadpap/badil-new/publications/research/working-papers/wp18-FPT-Israeli-permit-system.pdf>

Over the past few decades, policies used by Israel to control the movement of Palestinians have become increasingly institutionalised and restrictive. Israel claims the steps that it takes to limit Palestinian movement are necessary security measures to counter the threat posed by Palestinians. However, as this document makes clear, these measures function more as a system of control and collective punishment rather than anything resembling targeted prevention.

Freedom of movement, also known as mobility rights or the right to travel, is a fundamental human right recognised in the Universal Declaration of Human Rights, which asserts in Article 13 that "Everyone has the right to freedom of movement and residence within the borders of each State," and that "Everyone has the right to leave any country, including his own, and to return to his country." That right is also recognised in Article 12 of the International Covenant on Civil and Political Rights.²

Freedom of movement is essential because it is a prerequisite for the exercise of other rights,³ which are set forth in the International Covenant on Economic, Social and Cultural Rights: among which are the right to work (Article 6), the right to an adequate standard of living (Article 11), the right to health (Article 12), the right to education (Article 13) and the right to protection of family life (Article 10).⁴

2. <http://www.un.org/en/universal-declaration-human-rights/>

3. <http://www.righttoenter.ps/other-reports-statements/freedom-of-movement-within-the-opt/>

4. <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CESCR.aspx>



In and of itself, freedom of movement is a fundamental pillar of human rights, and its prevention a serious offence. Moreover, Israel's severe restrictions on Palestinian freedom of movement have further consequences in the form of forcibly displacing Palestinians, and limiting their access to basic resources and services including land, water, healthcare and education. This perpetuates a system of segregation as well as legal and structural inequality. Through this lens, it becomes apparent that Israeli policies on movement of Palestinians are closely bound up with its restrictions on a whole spectrum of rights and basic freedoms.

Israel approaches freedom of movement for the Palestinians not as a right, but as a luxury that it may grant or deny as it sees fit. The most mundane daily activities for Palestinians often involve complex bureaucratic processes by Israel's Civil Administration, the Israeli governing body that oversees the administration of the occupied territories, and applications by Palestinians to the Civil Administration seeking to perform these activities frequently end in denials.⁵ Israeli restrictions on Palestinian freedom of movement create a situation of constant uncertainty for Palestinians regarding basic needs and daily realities, such as going to work or school in the nearby town, marketing farm produce, obtaining medical treatment or visiting relatives.

5. http://www.btselem.org/freedom_of_movement

Israeli restrictions on Palestinian freedom of movement create a situation of constant uncertainty for Palestinians regarding basic needs and daily realities, such as going to work or school in the nearby town, marketing farm produce, obtaining medical treatment or visiting relatives.”

In the West Bank, the restrictions currently in place impede Palestinian access particularly to areas where Israel seeks to retain a high degree of control, such as East Jerusalem, the Jordan Valley, enclaves east of the Wall, and settlements in the heart of Hebron. Restrictions are not limited to the prevention of access to certain areas within the West Bank. Israel continues to prevent Palestinians from travelling between the West Bank and the Gaza

Strip in almost all cases, and makes it very difficult for West Bank and Gazan Palestinians to enter Israel, East Jerusalem or to travel abroad.

Israel's policy on freedom of movement is ethnically discriminatory, since in practice its restrictions apply

only to Palestinians: even though it is technically illegal for Israelis to travel within the Palestinian territories, these laws are not actively enforced and carry no liability, and in no way hinder the normal running of day-to-day life for Israelis in the territories (Israelis are technically prohibited from travelling in Area A of the West Bank and the Gaza Strip. However, many are able to do so if they so choose).



HISTORY OF RESTRICTIONS ON PALESTINIAN FREEDOM OF MOVEMENT

Control over Palestinian movement began following the 1948 war, after which Israel incorporated into its own laws the Defence (Emergency) Regulations initially introduced and imposed by the British Mandate authorities in 1945. The incorporation of these regulations legalised the restriction of various rights for

Systematically restricting Palestinian movement into and out of Israel and between the different parts of the occupied territories continues to this day.”

Palestinians who were citizens of the state, most notably their freedom of movement.⁶ In 1966 most of the restrictions imposed by Israel over its

Palestinian citizens under these regulations were lifted, but after the occupation of the West Bank, including East Jerusalem, and the Gaza Strip in 1967, the same regulations were incorporated into the military laws used by Israel to administer the occupied Palestinian territories, and thus transferred and displaced from one group of Palestinians to another.⁷

From 1967 to 1972 the occupied Palestinian territories were declared closed military areas by the Israeli military, and the freedom of movement became severely restricted. In 1972, the Israeli military issued a general exit order which allowed Palestinians to enter Israel from the West Bank and Gaza during daylight hours with few limitations. During this period,

6. http://www.btselem.org/legal_documents/emergency_regulations

7. <http://www.alhaq.org/publications/publications-index/item/perpetual-emergency-a-legal-analysis-of-israel-s-use-of-the-british-defense-emergency-regulations-1945-in-the-occupied-territories>

Palestinians could also travel with relative freedom between the West Bank and Gaza.⁸

Thereafter, some limits were imposed on the general exit permit during the First Intifada, and following the start of the first Gulf War in 1991, the general exit permit was revoked and a general closure was declared over the Palestinian territories. This was when Israel started requiring that all Palestinians acquire military-issued permits if they wanted to enter Israel or move between the West Bank, East Jerusalem and the Gaza Strip. Starting in 1991, Israel began to intermittently impose blockades on the Gaza Strip, effectively severing the coastal enclave from Israel and the rest of the territories.⁹

Israel's permit regime was formalised as part of the Oslo Accords, signed in 1993, which enshrined temporary provisions that Palestinians had to abide by, presumably for a five-year period as they prepare for independence. Systematically restricting Palestinian movement into and out of Israel and between the different parts of the occupied territories continues to this day.¹⁰

Crucially, the Oslo Accords resulted in new limitations on movement within the Palestinian territories themselves, and not only between the Palestinian territories and Israel. Under the Oslo Accords, the West Bank was divided into three

8. <http://actpalestineforum.org/files/The-%E2%80%9CPermit-Regime%E2%80%9D-and-Israeli-Attacks-on-Palestinian-Freedom-of-Worship.pdf>

9. <https://www.afsc.org/resource/restricted-movement-occupied-palestinian-territory>

10. <http://972mag.com/how-palestinians-can-prevent-a-new-permit-regime-in-jerusalem/112906/>



administrative areas (A, B and C). Area C, which comprises 61 percent of the West Bank, is under the full control of Israel through the Civil (Military) Administration in the West Bank. Area B, which comprises 22 percent of the West Bank, is under the full administrative control of the Palestinian Authority (PA) but under the military control of Israel. Area A makes up 17 percent of the West Bank and is under full Palestinian control. Even before the start of the Second Intifada in September 2000, this division resulted in the imposition of movement restrictions between communities and between administrative areas inside the West Bank which were enforced through the use of mobile checkpoints.¹¹

After the start of the Second Intifada in 2000, Israel intensified the general closure in place over the Palestinian territories, more closely regulating travel by Palestinians and formalising a system of restrictions on Palestinian freedom of movement through permanent checkpoints, roadblocks, gates, closed roads, barriers and the Wall. This came as a response to the militarized nature of the Second Intifada which lasted until 2004. Rather than addressing the political drivers that precipitated that uprising in the early 2000s, Israel has maintained its system of control to this day.

Israel’s “architecture of occupation”...seeks to capture and transform the entire occupied Palestinian space into a maze of control, both behavioural and structural, to render daily Palestinian life a constant exertion.

Restrictions in place over the Gaza Strip were further tightened in 2005 when Israel unilaterally withdrew close to 8,000 settlers that had resided in the Gaza Strip, hindering the lives of close to two-million Palestinians in that area for decades. After Israel’s disengagement from the Gaza Strip, new and increased restrictions were placed over the movement of Palestinians and the import and export of goods into and out of Gaza. Further limitations were placed in 2006 after Hamas democratically won

the Palestinian parliamentary elections and then tightened again in 2007 when Gaza was placed under a blockade following the Hamas-Fatah factional split.¹² Israeli policies towards the Gaza

Strip since 2007 are a form of blockade that entirely restricts the movement of goods and people in and out of Gaza. The question of the Israeli occupation of Gaza, including its nature and classification, and the nature of the blockade, is addressed in detail in our factsheet on Gaza, including the crucial issue of whether the Gaza Strip can still be described as illegally occupied.

Below we describe in turn some of the key tools of what prominent Israeli scholar Eyal Weizman has described as Israel’s “architecture of occupation,” an elaborate urban management project which seeks to capture and transform the entire occupied Palestinian

11. <http://america.aljazeera.com/multimedia/2014/7/west-bank-security.html>

12. <http://www.bbc.co.uk/academy/journalism/article/art20130702112133696>



space into a maze of control, both behavioural and structural, to render daily Palestinian life a constant exertion.¹³

CHECKPOINTS AND PHYSICAL OBSTRUCTIONS

Israeli restrictions on Palestinian freedom of movement in the West Bank are enforced by a system of fixed checkpoints, surprise flying checkpoints and arbitrary, improvised physical obstructions.

Prolonged checks and searches at checkpoints and humiliating treatment by Israeli soldiers of Palestinian civilians are now daily occurrences.

The restrictions enable Israel to control Palestinian movement throughout the territories. It was during the Second Intifada that Israel began establishing dozens of checkpoints and hundreds of physical obstructions inside the West Bank, including dirt mounds, concrete blocks, and trenches. At that time these restrictions were unprecedented in the history of the Israeli occupation in terms of the scope, duration and severity of harm to the daily lives of Palestinians living in the West Bank. Prolonged checks and searches at checkpoints and humiliating treatment by Israeli soldiers of Palestinian civilians are now daily occurrences.¹⁴

In April 2015, B'Tselem still counted 96 fixed checkpoints, including 57 internal checkpoints which control movement even deep within the territory.

13. E. Weizman, *Hollow Land: Israel's Architecture of Occupation* (London: Verso, 2007)

14. <http://siteresources.worldbank.org/INTWESTBANKGAZA/Resources/WestBankrestrictions9Mayfi-nal.pdf>

In addition, the Israeli military erects hundreds of surprise flying checkpoints along West Bank roads, or checkpoints that are unexpectedly and randomly erected. In April 2015 the UN Office for the Coordination of Humanitarian Affairs (OCHA) counted 361 flying checkpoints as compared with 456 in December 2014, 256 in December 2013 and 65 from September 2008 through March 2009. Between January and May 2012, there were also 450 unmanned physical barriers – dirt embankments, concrete blocks, iron gates and trenches. For the year 2014, OCHA counted an average of 358 physical obstructions a month, compared to around 445 in 2012, 434 obstructions in May to December 2011 and an average of 519 for the year 2010. The obstructions prevent the crossing of vehicles even in emergencies, and they restrict the movement of many pedestrians who have trouble bypassing them: the elderly, sick persons, pregnant women and small children.¹⁵

The Israeli-imposed Separation Barrier (or the Wall) which was built well inside the West Bank impedes Palestinian movement even further. The Wall is 709km long and up to 6-8m high in several locations, and it dissects Palestinian villages and lands in half, severing family members and dividing plots of land.

In April 2015 there were 32 checkpoints along the Separation Barrier. In addition, for the period through 2013, OCHA counted 81 agricultural gates placed along the Barrier, designed to

15. http://www.btselem.org/freedom_of_movement/checkpoints_and_forbidden_roads



enable Palestinian farmers who live on one side of the barrier and have farmland on the other to get to their land. In practice, only 9 of the gates are open to farmers on a daily basis, and 63 are opened only during the olive harvest season. Crossing these checkpoints and gates is conditioned on a special permit and by prior coordination with the Israeli Civil Administration. In recent years, Israel has cut the number of permanent permits enabling access to land and to communities situated in Israel on the western side of the barrier, and has limited the permits it issues to short, fixed periods.¹⁶

ROADS

One of the most blatant examples of the segregation imposed by Israel on Palestinians is the system of roads built in the West Bank exclusively for Israeli Jewish settlers. This system of roads is a modern network built for Jewish Israelis, designed to link illegal Jewish settlements to each other and to Israel proper.

West Bank Palestinians are denied the right to travel on these ethnically segregated roads. This means that all vehicles with Palestinian licenses are completely prohibited from travelling on approximately 105 km of West Bank roads. Palestinians can

16. http://www.migri.fi/download/61760_Lansiranta_kaannosversio_EN.pdf?28fe08ed21bdd388

travel on the remaining 180 km of Israeli-built roads in the West Bank only if they can obtain a special permit or if they travel in an ambulance.¹⁷ The Israeli road system criss-crosses the West Bank in a way that prevents comfortable and continuous travel for Palestinians. Palestinians are prevented from using some of the main roads and highways on their lands – including parts of Route 60 and Route 443. Jewish settlers travel freely along these roads.¹⁸

In March 2015, there were around 60 km of roads in the West Bank that Israel had classified for the sole, or practically sole, use of Israelis, first and foremost of Jewish settlers. Israel also prohibits Palestinians from even crossing some of these roads in

a vehicle, thereby restricting their access to nearby roads. In these cases, Palestinian travellers have to get out of the vehicle, cross the road on foot, and find an alternative mode of transportation on the other side. In Hebron, Palestinian motor traffic is prohibited

on around 6 km of internal roads. In some parts of Hebron, Palestinians are even prevented from entering certain areas on foot.¹⁹

17. <https://www.hrw.org/report/2010/12/19/separate-and-unequal/israels-discriminatory-treatment-palestinians-occupied>

18. Ibid

19. http://www.migri.fi/download/61760_Lansiranta_kaannosversio_EN.pdf?28fe08ed21bdd388



Regulations imposed on Palestinians have both immediate and longer-term adverse effects. Severe restrictions on day-to-day movement and contact between Palestinians, as well as the long-term physical impact of rights-limiting infrastructure, combine to limit the growth of Palestinian communities, fragment the population and isolate their spaces from each other, enable expropriation of Palestinian land, and stunt the socio-economic activity and development of Palestinian people.

THE WALL

In November 2000, Israeli Prime Minister Ehud Barak approved the first project to build a “barrier” for proclaimed security reasons and border reinforcement. Construction of the Wall (also known as the Separation Barrier), including land confiscation and the uprooting of trees, began in June 2002 west of Jenin, in the West Bank.²⁰

85% of the Wall is actually located in the West Bank, annexing and fragmenting large swathes of the land and separating many Palestinian communities from each other and turning them into ghettos and “military zones”

However, the Wall is not being built on, or in most cases even near, the 1967 Green Line (the border between Israel and the West Bank). Rather, the wall cuts deep into the West Bank, expanding Israel’s seizure of

Palestinian land and resources and further inhibiting Palestinian freedom of movement. In total, 85 percent of the Wall is actually located in the West Bank, annexing and fragmenting large swathes

20. <https://www.stophthewall.org/the-wall>

of the land and separating many Palestinian communities from each other and turning them into ghettos and “military zones”. A significant number of Palestinians, by the time the Wall is complete, could be surrounded on three or four sides by it or severed by it from the Green Line, leading to unbearable living conditions and severe losses of markets, land and freedom of movement.²¹ The Wall, therefore, mimics many other measures which restrict the freedom of movement, but is also exceptional in its effects and its design.

The Wall has destroyed a large amount of Palestinian farmland and usurped water supplies, including the biggest aquifer in the West Bank. By the time it is completed, 78 Palestinian villages and communities with a total population of more than 266,000 will be isolated as follows:

- + Villages surrounded by the Wall, settlements and settler roads – more than 257,000 Palestinians.
- + Villages isolated between the Wall and the Green Line – around 8,500 Palestinians.
- + Villages isolated and residents threatened with expulsion – around 6,300 Palestinians.²²

Israel has created agricultural “gates” in the Wall – rather than

21. <http://america.aljazeera.com/articles/2014/3/12/visual-activism-activestillsphotographsthebarrier-wall.html>

22. <https://www.stophthewall.org/the-wall>



What curfew means in practice is that Israeli tanks, military jeeps and snipers patrol the streets of Palestinian towns, confining residents to their houses. Anyone seen outside their home can be shot dead or arrested.

providing a guaranteed route for farmers to access their lands as it suggests, they instead strengthen Israel's system of permits and checkpoints as Palestinians are further detained. The Wall has also led to a "ghettoisation" project which imprisons Palestinians and, in many places, isolates them from basic services and places severe restrictions on freedom of movement. This, along with the loss of land, markets and resources, results in the inability of communities to sustain themselves effectively.²³

CURFEWS

Curfews are a tactic that have been used on many occasions by the Israeli government, most notably during the First Intifada of 1987-1993 and the 1991 Gulf War. What curfew means in practice is that Israeli tanks, military jeeps and snipers patrol the streets of Palestinian towns, confining residents to their houses. Anyone seen outside their home can be shot dead or arrested.

In the early 2000s, curfews were severely and extensively imposed. Israel continues to impose them during operations in villages and cities in the West Bank, and at times imposes curfews as punishment. Following stone throwing from a village, for instance, the army sometimes imposes a curfew on all or part of the village for a few hours or even a few days.²⁴

The routine use of curfews, which allegedly results from security considerations, violates international law and the Israeli army's own criteria. As the occupying power, the army is required to ensure the well-being of the civilian population under its control. Therefore, any means that it employs must maintain a reasonable balance between security needs and potential harm to the civilian population. In imposing curfew, the army violates this reasonable

23. <https://www.oxfam.org/en/research/five-years-illegality>

24. <http://www.merip.org/mero/mero072402>

balance: the Palestinians' needs are given only marginal consideration, which is reflected, for instance, in the nature of the short breaks in the curfew.²⁵

Prolonged curfew affects all areas of life. The major effects are destruction to the economic infrastructure, loss of sources of income, malnutrition, stress from confinement to homes and grave harm to the education, health and welfare systems. The inability to obtain medical treatment and timely follow-up care has seriously affected the health of residents requiring medical attention.

The prolonged curfew constitutes collective punishment. Especially grave is the army's practice of enforcing curfew by means of live gunfire, at times without warning. Firing at Palestinians who are seen to violate curfew is made even more deadly because of the lack of clarity in the procedures for imposing and lifting curfews. The Israeli army does not properly notify the local population about curfew hours.²⁶

Last year, curfews were imposed on Palestinian populations across the West Bank, and particularly in East Jerusalem.²⁷

25. <https://reliefweb.int/sites/reliefweb.int/files/resources/9732F99CB652888F85256C54004C5909-bt-selem-opt-16oct.pdf>

26. Ibid

27. <http://www.politico.eu/article/how-israel-is-inciting-palestinian-violence-middle-east-tel-aviv-occupation/>