



Freedom of Movement

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SUMMARY

Restrictions on movement have been a reality for Palestinians since the creation 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. This document looks at the freedom of movement in international law, the history of Israeli policy toward Palestinians' freedom of movement, and the various ways its erosion has developed.

PALESTINIAN FREEDOM OF MOVEMENT AND INTERNATIONAL LAW

Control of Palestinian movement has been a particular feature of Israel's military occupation since 1967. But notwithstanding the occupation, it has more generally been a reality for Palestinians since the establishment of the State of Israel in 1948. Over the past few decades, the policies used by Israel to control the movement of Palestinians has become increasingly institutionalised and restrictive. Israel rationalises this as a security measure to counter the supposed security threat posed by Palestinians.¹ The permit system put in place in the early 1990s – which requires that all Palestinians obtain military-issued permits to move domestically between the West Bank, Gaza Strip and East Jerusalem or to travel abroad – is now complemented by a permanent system of roadblocks, gates, checkpoints, the Separation Wall and other obstacles to Palestinian movement.²

Freedom of movement, also known as mobility rights or the right to travel, is a fundamental human right recognized 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."³ That right is also recognised in Article 12 of the International Covenant on Civil and Political Rights.

Freedom of movement is important because it is a prerequisite for the exercise of other rights, 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

In and of itself, the freedom of movement is a fundamental pillar of human rights, and its prevention a serious offence. But Israel's severe restrictions on Palestinian freedom of movement has 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 and legal and structural inequality. As with other key issues, it becomes apparent that Israel's policies on Palestinians' movement are closely bound up with its restrictions on a whole spectrum of rights and basic freedoms.

This reality suggests that Israel approaches freedom of



movement for the Palestinians not as a right, but a luxury that it may grant or deny as it sees fit. Daily activities for Palestinians often involve complex bureaucratic processes by Israel's Civil Administration, the Israeli governing body that operates in the West Bank. These frequently end in denials.⁵ Israeli restrictions on Palestinian freedom of movement create a situation of constant uncertainty for Palestinians regarding basic needs and activities, 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 is interested in retaining control, such as East Jerusalem, the Jordan Valley, enclaves east of the Separation Barrier, and settlements in the heart of Hebron. But this goes beyond a particular Palestinian territory: 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 its restrictions apply only to Palestinians. Jewish residents are permitted to move about freely in areas where Palestinian movement

is restricted, such as settlements.⁶ Israel's policy thus violates the right to equality that is prescribed in all the human rights conventions to which it is party.

HISTORY OF RESTRICTIONS ON PALESTINIANS' FREEDOM OF MOVEMENT

Control over Palestinian movement has been a reality since 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 led Israel to restrict various rights of Palestinians inside its post-1948 borders, most notably their freedom of movement, which was controlled with permits and curfews.⁷ In 1966 most of the restrictions imposed by Israel over Palestinian citizens of Israel under these regulations were lifted. After the occupation of the West Bank and Gaza in 1967, the same regulations were incorporated into the military laws used by Israel to administer the occupied Palestinian territories.⁸

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From 1967 to 1972 the occupied Palestinian territories were declared closed military areas by the Israeli military, and many freedoms, including the freedom of movement, were consequently severely limited. 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, Palestinians could also travel with relative freedom between the West Bank and Gaza.⁹

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 Gaza.¹⁰ This permit regime was formalised as part of the Oslo Accords, which enshrined temporary provisions that Palestinians had to abide by, presumably before they could declare independence. Systematically restricting Palestinian movement into and out of Israel and between the different parts of the occupied territories began from that point and continues to this day.¹¹

Crucially, the Oslo Accords resulted in new limitations on movement within the Palestinian territories. Under the Oslo Accords, the West Bank was divided into three 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, 22%

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of the West Bank, is under the full administrative control of the Palestinian Authority but under the military control of Israel. Area A makes up 17% 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.¹²

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 system remains in place today.

Restrictions in place over the Gaza Strip were also further tightened in 2005 when Israel unilaterally withdrew its settlers from the Gaza Strip. After this, 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 won the Palestinian parliamentary elections and then tightened again in 2007 when Gaza was placed under siege following the Hamas-Fatah factional split.¹³ For all intents and purposes, it was, and continues to be, a blockade. 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 space into a maze of control, both behavioural and structural, to render daily Palestinian life a constant exertion.¹⁴

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. The restrictions enable Israel to control Palestinian movement throughout the West Bank. 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 soldiers are daily occurrences.¹⁵ In 2009, Israel reduced the number of checkpoints and

obstructions in the West Bank, but in April 2015, B'Tselem still counted 96 fixed checkpoints, including 57 internal checkpoints which control movement even deep within the territory. These include:

- + 17 military posts in the area of Hebron in which Israeli settlements have been established (Area H2), which restrict Palestinian movement into and out of the area.
- + 39 positions serving as the last checkpoints before entry into Israel, although most are located a few kilometres east of the Green Line (or just outside the entrance to Jerusalem). 32 of these posts are staffed regularly.
- + Four posts restricting access for Palestinians to the Jordan Valley – Tayasir, Hamra, Ma'ale Efrayim and Yitav. The first two are staffed permanently and the army does not allow Palestinians to cross in vehicles unless their ID cards list them as residents of the Jordan Valley. The other two were staffed only intermittently during 2011, but Israel has thus far refrained from officially announcing that they are open to Palestinian movement, hence only a few Palestinian vehicles cross at these two points.¹⁶

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.¹⁷

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. West Bank Palestinians are denied the right to travel on these segregated roads.

The Israeli-imposed Separation Barrier (or the Wall) which was built well inside the West Bank impedes Palestinian movement even further. 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 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 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.¹⁸

The severe restrictions on persons wanting to cross checkpoints/gates varies from one checkpoint/gate to another, and from one time to another. Almost all the regularly staffed checkpoints/

gates of the Separation Barrier, pedestrians and passengers alike, have to show an identity card or a crossing permit and are checked in accordance with the procedures for crossing at that specific crossing.

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. West Bank Palestinians are denied the right to travel on these segregated roads. The separate road system for Palestinians is often unpaved and in some cases is little more than a trail, rather than an actual road. Palestinians are prevented from using some of the main roads and highways in the territory – including parts of Route 60 and Route 443. Settlers travel freely along these roads.¹⁹

A modern road network designed to link illegal Jewish settlements to each other and to Israel proper has been built for Jewish Israelis. Vehicles with Palestinian licenses are completely prohibited from travelling on approximately 105 km of West Bank roads. Palestinians can 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.²⁰ The Israeli road system criss-crosses the West Bank in a way that prevents comfortable and continuous travel for Palestinians.

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 settlers. Israel also prohibits Palestinians from even crossing some of these roads in a vehicle, thereby restricting their access to nearby roads that they are apparently not prohibited from using. In these cases, Palestinians 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 addition, Palestinian motor traffic is prohibited on around 6 km of internal roads in downtown Hebron. In some parts of Hebron, Palestinians are even prevented from entering certain areas on foot.²¹ Within Israel itself, Palestinians from the West Bank or Gaza are prohibited from driving on Israeli roads.²²

These roads affect the human rights of Palestinians in the West Bank both immediately and in the long term. Building the roads entails expropriation of privately owned land. The Israeli authorities have determined almost all the routes unilaterally, without giving proper weight to the interests of the Palestinians who use the roads and who will be affected by particular choices of route. For example, these roads often demarcate villages in a way that limits the potential for building and expansion to meet the needs of growing populations.

In other cases, the road forces new living arrangements on the residents. Instead of linking the communities it is supposed to serve to their natural centre of life, the road forces an artificial connection to another centre, tying the Jewish settlements to Israel while dissecting the West Bank villages. Furthermore, these roads perpetuate the movement of Palestinian traffic further away from the main roads, making the latter “Israeli roads” in

practice. This separation also makes it easier for Israel to restrict Palestinian movement without causing the slightest disturbance to settlers and other Israelis driving on West Bank roads.²³

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.²⁴

However, the Wall is not being built on, or in most cases even near, the 1967 Green Line (the agreed 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 at this moment, 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”. A significant number of Palestinians, by the time the Wall is complete, could be surrounded on three or four sides by it or isolated between it and the Green Line, leading to unbearable living conditions and severe losses of markets, land and freedom of movement.²⁵

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

Israel has created agricultural “gates” in the Wall – these do not provide any guarantee that farmers will have access to their lands but instead strengthen Israel’s strangling system of permits and checkpoints where Palestinians are detained and

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”

prevented from pursuing their livelihoods. 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 adequately and with dignity.²⁷

CURFEWS

Curfew is a tactic that has 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. In recent years, the Israeli army has reduced its use of curfews. However, it 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.²⁸

During Operation Defensive Shield, an expansive military operation carried out by Israel during the Second Intifada, which lasted three weeks, the army imposed a curfew on most residents of the West Bank. In some areas, this curfew continued even after the operation ended. In Operation Determined Path, which began in June 2002 and lasted several months, the army re-entered the West Bank and reinstated a curfew on all Palestinian cities except Jericho, as well as on many West Bank towns and villages. In the initial weeks of the operation, almost two million Palestinians were under curfew. About two months after the operation began, the army gradually lifted the curfew on the towns and villages, but continued the curfew on the major cities for many more months.²⁹ The routine use of curfews, which allegedly results from security considerations, violates international law and the army’s own criteria. As the occupying power, the army is required to ensure



the well-being of the civilian population. 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 balance: the Palestinians' needs are given only marginal consideration, which is reflected in the short breaks in the curfew.³⁰

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, which is prohibited by international law. Especially grave is the army's practice of enforcing curfew by means of live gunfire, at times without warning. Use of force in this manner flagrantly breaches international law. Firing at Palestinians who are seen to violate curfew is even more problematic 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.³¹ More recently, curfews have been imposed on Palestinian populations across the West Bank, and particularly in East Jerusalem.³²

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PALESTINE
REFRAMED



REFERENCES

1. http://www.btselem.org/freedom_of_movement
2. <http://www.badil.org/phocadownloadpap/badil-new/publications/research/working-papers/wp18-FPT-Israeli-permit-system.pdf>
3. <http://www.un.org/en/universal-declaration-human-rights/>
4. Freedom of movement was discussed in the Wall Opinion of the ICJ (see paragraph 133 for example).
5. http://www.btselem.org/freedom_of_movement
6. 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.
7. <http://www.israellawresourcecenter.org/emergencyregs/essays/emergencyregessay.htm>
8. <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>
9. <http://actpalestineforum.org/files/The-%E2%80%9CPermit-Regime%E2%80%9D-and-Israeli-Attacks-on-Palestinian-Freedom-of-Worship.pdf>
10. <https://www.afsc.org/resource/restricted-movement-occupied-palestinian-territory>
11. <http://972mag.com/how-palestinians-can-prevent-a-new-permit-regime-in-jerusalem/112906/>
12. <http://america.aljazeera.com/multimedia/2014/7/west-bank-security.html>
13. <http://www.bbc.co.uk/academy/journalism/article/art20130702112133696>
14. E. Weizman, Hollow Land: Israel's Architecture of Occupation (London: Verso, 2007)
15. <http://siteresources.worldbank.org/INTWESTBANKGAZA/Resources/WestBankrestrictions9Mayfinal.pdf>
16. http://www.btselem.org/freedom_of_movement/checkpoints_and_forbidden_roads
17. Ibid
18. http://www.migri.fi/download/61760_Lansiranta_kaannosversio_EN.pdf?28fe08ed21bdd388
19. <https://www.hrw.org/report/2010/12/19/separate-and-unequal/israels-discriminatory-treatment-palestinians-occupied>
20. https://www.academia.edu/28044974/Conflict_Transformation_and_Human_Rights_in_Israel-Palestine
21. http://www.migri.fi/download/61760_Lansiranta_kaannosversio_EN.pdf?28fe08ed21bdd388
22. <http://visualizingpalestine.org/visuals/segregated-roads-west-bank>
23. http://www.btselem.org/freedom_of_movement/alternative_roads_for_palestinians
24. <http://english.dohainstitute.org/file/get/847a306c-a229-44e4-9bc2-ad4ca6c4ffd6.pdf>
25. <http://america.aljazeera.com/articles/2014/3/12/visual-activism-activestillsphotographsthebarrierwall.html>
26. <http://www.stopthewall.org/downloads/pdf/Wall-fc-En.pdf>
27. <https://www.oxfam.org/en/research/five-years-illegality>
28. <http://www.merip.org/mero/mero072402>
29. <http://reliefweb.int/sites/reliefweb.int/files/resources/9732F99CB652888F85256C54004C5909-btselem-opt-16oct.pdf>
30. Ibid
31. Ibid
32. <http://www.politico.eu/article/how-israel-is-inciting-palestinian-violence-middle-east-tel-aviv-occupation/>