



מרכז המידע הישראלי לזכויות האדם בשטחים (ע.ר.)

B'tselem – The Israeli Information Center for Human Rights in the Occupied Territories

---

## **Access Denied: Israeli measures to deny Palestinians access to land around settlements**

### **Introduction**

Before the fence was built around the settlement, the settlers used to throw stones at residents and fire into the air, sometimes close to us. This happened a few times... [After the fence was built,] I saw soldiers fire into the air to frighten residents trying to approach the fence. When my family and I tried to come near, soldiers in the lookout tower fired live ammunition into the air. Sometimes, soldiers in an army jeep pull up and force the residents to stay away.<sup>1</sup>

This report deals with the blocking of Palestinian access to areas adjacent to settlements in the West Bank by closing lands and, in effect, attaching them to the settlement. The report describes the phenomenon, its magnitude, its particular attributes and the grave human rights violations that come in its wake – all in their historical, security, political, and legal context.

Two main patterns of activity are evident: 1) violence and harassment, primarily by settlers and security forces, aimed at expelling Palestinians from areas close to settlements, and 2) building a secondary fence around settlements that is far from the houses at the edge of the settlement, and from the fence that had been built close to these houses, thus attaching a ring of land to the

---

<sup>1</sup> From the testimony of Nahid Abu 'Abadah, a resident of Sebastia. The Shavey Shomeron settlement built a fence next to his family's olive grove. The testimony was given to Salma a-Deba'i on 14 November 2007. Testimonies relevant to this report are available at [www.btselem.org/english/testimonies](http://www.btselem.org/english/testimonies).

settlement. Discussion of this pattern of activity will include a discussion and critique of the “special security area” plan of the Ministry of Defense.<sup>2</sup>

The land adjacent to settlements has two principal features that led Israeli officials to prohibit, or restrict, the entry of Palestinians. First, from the perspective of persons wanting to promote the settlement enterprise, the land is useful for settlement expansion. Second, both the army and settlers are interested in making it difficult for Palestinians to reach Israeli-populated areas in the West Bank and in making it easier to protect of settlers from terrorist attacks.

Palestinians are prohibited, or restricted, from entering other lands in the West Bank, and B'Tselem has surveyed Israel's policy in this regard.<sup>3</sup> First and foremost, there is the land on which the settlements were built. Also, there is the land on the other side of the Separation Barrier, roads on which only Israelis are allowed to travel, land that was expropriated to build army bases or was classified as army training areas, the land in and around East Jerusalem, which was annexed, and other large sections of land, such as the Jordan Valley.<sup>4</sup>

Therefore, the blocking of access surveyed in this report is not to be viewed in isolation, but as part of a body of prohibitions, restrictions, oppressive means, and theft of land imposed on Palestinians in the West Bank, who are under army occupation. Along with this, the closing of land around settlements and blocking of Palestinian access to the land are not minor phenomena,

---

<sup>2</sup> The used of the terms “blocking access” and “closing land” relates to land adjacent to which a settlement was built, unless otherwise noted. The closing is achieved by placement of physical barriers and other means.

<sup>3</sup> See, for example, B'Tselem, *Ground to a Halt: Denial of Palestinians' Freedom of Movement in the West Bank*, August 2007; B'Tselem and Bimkom, *Under the Guise of Security: Routing the Separation Barrier to Enable the Expansion of Israeli Settlements in the West Bank*, December 2005; B'Tselem, *Forbidden Road: Israel's Discriminatory Road Regime in the West Bank*, August 2004; B'Tselem: *Land Grab: Israel's Settlement Policy in the West Bank*, May 2002. All B'Tselem reports are available at [www.bstelem.org/english/publications](http://www.bstelem.org/english/publications).

<sup>4</sup> Some one-quarter of the West Bank is classified army-training area, according to the research of Dr. Zalman Shiffer and Dr. Amiram Oren of the Neeman Institute for Advanced Studies in Science and Technolog , published in *Economic National Security 2* under the title “The Economic Consequences of the Use and Control of Land Resources by the Defense Sector in Israel”. Motti Bassok, “The IDF's Real Estate Potential – about a Million Shekels a Year,” *TheMarker*, 21 February 2008.

and the resultant harm to Palestinians is great, in particular with respect to farmland, on which many families depend for their livelihood.

Throughout the report are descriptions how settlers and the defense establishment block Palestinian access to land around settlements. In many cases, the closing is piratical: the authorities know of it but turn a blind eye, or wink, and systematically fail to enforce the law. Such unauthorized closing of land – carried out by settlers, and sometimes also soldiers, in part by placing physical barriers and by violent means – has been going on for more than three decades.

On the other hand, in recent years, Israel has formalized the closing of land by means of military orders. Particularly noteworthy in this regard is the plan the defense establishment terms “special security areas” (SSA’s), in which context twelve settlements have been surrounded by a new fence, far from the settlements and the old fence, resulting in the settlement’s annexation of the land.<sup>5</sup> In these cases, the closing is explained on security grounds, the proclaimed objective being to create a “warning area” to help protect settlers from Palestinians wanting to harm them. Other settlements have been surrounded by a secondary fence without land being classified an SSA.

Israel has declared 4,558 dunams [4 dunams = 1 acre] around the twelve settlements SSAs. Approximately half of the land is under private Palestinian ownership. The enclosed rings of land increase the area of these settlements by a factor of 2.4. This figure does not include land beyond the SSA that settlers grabbed unofficially, nor does it include land onto which the army prohibits Palestinian entry for reasons unrelated to the SSA. It was recently reported that the army was considering declaring an SSA around another settlement, where entry has been

---

<sup>5</sup> The defense establishment distinguished between an “engineering SSA,” which is demarcated by a fence and other physical means blocking entry, and an “electronic SSA,” a technological system of visual and sensory devices that enables control of Palestinian entry, but does not physically block it. Around some of the settlements, there is a “combined SSA,” a system that includes physical barriers around part of the settlement and electronic warning devices around the rest. Each of the twelve settlements mentioned here have an engineering SSA or a combined SSA. This report does not discuss electronic SSAs except in a few instances.

prohibited for some time.<sup>6</sup> The total area of land to which Palestinian entry is forbidden, both as part of the SSA plan or otherwise, and which has been attached in practice to settlements, is estimated at tens of thousands of dunams.

The security threat the SSAs were intended to solve was real when the plan was formulated: in 2002-2004, Palestinians killed 31 Israeli citizens, and wounded many others, inside settlements in the West Bank. Attacks aimed at civilians are war crimes that cannot be justified, and Israel must protect its citizens against them. However, the protection must be carried out by lawful means, and as we shall see below, the SSA plan fails in this regard. Israel manipulates its duty to protect settlers to justify its forbidden control of Palestinian land.

Furthermore, the plan has created an absurd situation. While Palestinian landowners wanting to reach their land to work it are required to arrange their access through demanding and prolonged coordination with the authorities, which is sometimes refused, settlers can enter the Palestinian-owned land and do as they wish. This is the situation despite Israel's obligation to enable Palestinian landowners to access the land and to prevent settlers from entering there. Furthermore, settler presence on the land violates the logic of a "warning area."

The various ways of blocking access are carried out in a confusing manner. For example, closing the ring of land around the settlements by military orders does not result in settlers refraining from trying to expel Palestinians from land beyond the ring of land, or Palestinians who have a permit to be on their farmland that has been classified an SSA. Similarly, on land not classified an SSA, Palestinians at times must first go to the authorities to arrange their entry, and around some of the land are physical barriers placed there by the army. In some cases, the declaration of an SSA was based on the route of barriers placed by settlers years before, and only serve to retroactively formalize the blocking of access.

B'Tselem and others have over the years shown that the government's actions relating to land in the Occupied Territories have been carried out in bad faith. Not infrequently, the government

---

<sup>6</sup> The report refers to the Ofra settlement, in Ramallah District. Amos Harel, "Amona Outpost Annexed Land in Area B," *Ha'aretz*, 9 July 2008.

has sought to justify them on security grounds.<sup>7</sup> This is also apparently the case in our matter. Although protection of a settlement may occasionally be legitimately raised to support some components blocking access, it seems that the objective is, rather, to achieve the unlawful expansion of the settlements and to take control of more and more land.

In addition to surveying the taking of control of private land, the report also discusses the closing of land, including public land. The entire occupied territory of the West Bank is supposed to serve the Palestinian public: for recreation and relaxation, to provide a livelihood, to develop, and so forth. The occupier does have, by law, the right to use occupied land, including the right to seize and expropriate privately-owned land, but only to benefit the residents of the occupied territory or for military needs. Closing of the land is harmful, and illegal, also with regard to land that is not privately owned. Naturally, the closing of land results in greater harm when it is privately owned, given that most of the land is used for farming and provides a source of income.

The Israeli settlement enterprise in the West Bank breaches international humanitarian law and is the basis for most human rights violations there. The State of Israel is obligated to evacuate the settlers and resettle them in Israel. This was the point at which *Land Grab*, B'Tselem's report from 2002, ended, and is the point of departure of the present report.<sup>8</sup> The constant expansion of settlements has caused grave and ongoing infringement, directly and indirectly, of the rights of all West Bank Palestinians. As we shall see below, closing the land around settlements and preventing Palestinians access to them is the direct result, and an integral part, of the illegal settlement enterprise.

The report's findings are based on dozens of testimonies, interviews, and local and regional investigations that were made in West Bank communities, and on tours B'Tselem's researchers made around the settlements, on information received from state authorities, on background discussions with defense establishment officials, and on a computerized analysis of the borders of

---

<sup>7</sup> See, for example: *Under the Guise of Security*, Chapter 1; *Land Grab*, Chapters 3-6; Talia Sasson, (*Interim Report on Unauthorized Outposts*, March 2005, Chapter 6; HCJ 8414/05, *Ahmad 'Issa 'Abdullah Yassin, Head of the Ni'lin Village Council v. Government of Israel et al.*, Judgment, 4 September 2007. For a recent example, see Akiva Eldar, "Senior Officials in the Civil Administration Accused of Aiding in Taking Control of Land in the West Bank," *Ha'aretz*, 18 June 2008.

<sup>8</sup> *Land Grab*, p. 134 and Chapter Two.

the closed land, as the land appears on maps attached to military orders and aerial photos. A substantial portion of the testimonies and examples presented in the report relate to land seized around the twelve settlements included in the SSA plan.

### **Structure of the report**

The first chapter provides the history of the closing-of-land policy. Chapters two to six survey the various aspects and components of the harmful patterns of activity that constitute this policy: using physical obstructions to block access; settlers enforcing the prohibition on entry and the failure of the authorities to enforce the law; turning the closing of land around settlements into an official, active Israeli policy; governmental authorities creating difficulties for Palestinian landowners wanting to enter land that has been closed; granting settlers free access to the closed land contrary to the defense establishment's "warning area" logic that supposedly underlies the SSA plan. Chapter Seven describes the harm to Palestinians resulting from Israel's policy. The final chapter presents the legal framework relating to this policy. The report ends with conclusions.

---

### **Conclusions**

The patterns of activity described in this report do not stand alone. Surrounding settlements with a ring of land that prohibits or restricts Palestinians from entering, whether by declaring the land an SSA or not, is one of many practices used for stealing land. Over the years, Israel and Israeli citizens supported by state authorities have stolen land from communities and private individuals in the West Bank by various methods, each with the intent to build, preserve, and expand the settlement enterprise. As we have seen, this enterprise is utterly illegal, and the settlements must be evacuated and the land returned to their lawful owners. In reality, and from the perspective of infringement of human rights, no real separation can be made between the practices reported above and other methods used to steal land.

More than 100 settlements are strewn, between Palestinian communities, throughout the West Bank. The jurisdictional area of Israeli local and regional councils exceeds more than 40 percent of the West Bank. The settlements are linked to Israel and to each other by a complex network of

roads earmarked almost solely for residents of the settlements. Palestinian roads, on the other hand, are blocked by hundreds of physical obstructions and checkpoints. Israel in effect expropriated extensive areas of land from the Palestinian public not only for settlers' use, but for the army and Israeli vacationers. Israel prohibits free access of West Bank Palestinians to extremely large pieces of territory: the Gaza Strip, East Jerusalem, the Jordan Valley, the closed area between the Separation Barrier and the Green Line, army training areas, nature reserves, and, of course, the area of the settlements themselves.

The cumulative effect of the prohibitions and restrictions is grave: the vast majority of Palestinian families would not consider taking a nature hike outside their town or village, and thereby subject themselves to possible settler violence, and sometimes even violence by soldiers.

Expansion of Palestinian communities and agricultural and industrial development on public land is almost impossible, inasmuch as Palestinian residential areas are detached from each other by dozens of strips of land on which Palestinian entry is prohibited and under the direct control of settlers or soldiers.

Past experience shows that the settlement enterprise constantly wants to spread. To achieve this objective, throughout the occupation of the West Bank, land has been seized, sometimes under the cloak of military needs, sometimes by declaring territory "state land," sometimes by expanding existing settlements, and sometimes by building outposts. Settlements continue to spread in the West Bank even during the period that Israel has declared a "freeze on construction," and certainly when no such declaration has been made. The land grab described in his report is the result of the settlement enterprise and an integral part of it. On this background, there is fear that the external borders of the rings of land that have, in effect, become attached to the settlement's area will be used in the future as a starting point for further expansion, piratical or institutional. As we have seen, Palestinians are already being expelled from their land located outside the fenced rings of land.

The harm resulting to Palestinians by these patterns of activity is especially grave, given that the land that is closed, whether officially or without official approval, includes much privately-owned farm land that provided a source of livelihood for many Palestinian families. Closing the land has caused extremely great damage to these families, this in addition to the extensive harm described above, in particular to the damage previously caused to these families as a result of the building of the settlements, which were often built on privately-owned Palestinian land.

The defense establishment's SSA plan, too, plays an important role in causing this harm, in that it effectively expropriates land both from their Palestinian owners and from the Palestinian public in general and attaches it in practice to the settlement's land. Furthermore, the attachment has an element of cleansing the theft and of retroactively sanctioning acts of theft by Israeli citizens, who benefited at the crucial time from the authorities turning a blind eye, at least. We saw that, in the framework of this plan, Israel demands landowners to meet a long list of conditions to enter their land, and forces them to undergo an exhausting and humiliating bureaucratic process to enter their land. This approach testifies to the distorted conception that enabling entry to land is an act of compassion of an enlightened government, and not fulfillment of an obligation of the occupying state, which is faced with the fundamental rights granted to the Palestinians who own the land.

Recently, Deputy Minister of Defense Matan Vilnai told the Knesset plenum that, "the IDF is especially careful to provide farmers with free access to their land."<sup>9</sup> On the background of the findings of this report, this claim appears baseless, or at least exaggerated. The blocking of access leaves Palestinian farmers with few means to cope with the army, police, Civil Administration, and settlers, who act in concert to expand the area of settlements and reduce the area accessible to Palestinians.

The infringement of Palestinians' human rights described in this report could have been prevented had Israel not transferred its population into the territory of the occupied West Bank, in complete violation of its obligations under international humanitarian law. These obligations were initially included in this body of law with the purpose of preventing grave infringements of this kind. Every attempt to balance the rights of settlers with the rights of Palestinians that does not assume that Israel must first dismantle the settlements and return its population to its sovereign territory enables Israeli governments and their agents to avoid carrying out their obligations to the residents of the occupied territory.

The obligation of Israel to defend its citizens continues to apply, and applies also to civilians who were transferred to the occupied territory. However, fulfillment of this obligation must be done lawfully, that is, by returning the settlers to Israeli territory. Clearly it is forbidden to defend its

---

<sup>9</sup> The comment was made in response to a parliamentary query on 18 June 2008 regarding soldiers' expulsion of Palestinian farmers from their land.



citizens by crowding and expanding settler communities. The authorities' refusal over the years to eliminate settler violence amounts to encouraging it and even supporting it, and is especially grave on the background of the obligation to evacuate the settlers.

It may be that the source of Israel's harmful policy lies in the insensitivity that has developed over time among decision-makers regarding the severity of the infringement of fundamental human rights of Palestinians. In this aspect, as regarding other issues in the occupied territory, Israel makes excessive use of the magic word "security" and reduces, more and more, Palestinian freedoms, while the means of oppression it uses continue to multiply. This practice transmits a profound disregard by Israeli decision-makers for the rights of Palestinians, blatant and discriminatory preference for the interests of Israeli settlers, and fear of a confrontation with settlers and of enforcement of law and order on them. The authorities do not hesitate to charge Palestinians the price for protecting the settlements, and ignore their legal obligation to evacuate them.

Even given the existence of the settlements, the extensive infringement of Palestinian rights discussed in this report is not a force majeure, and the government of Israel can do much to reduce it by taking the following actions.

#### **Unauthorized actions by settlers**

- Order the enforcement bodies – the army, police, and Civil Administration – to rigidly enforce the law on settlers, both with respect to taking control of land without authorization and in violently expelling Palestinians from land adjacent to settlements. The enforcement must be carried out both in the field and in bringing the lawbreakers to justice, and the necessary resources must be allocated to achieve these objectives.
- Instruct security bodies to dismantle fences and other physical obstructions that were placed without official approval.
- Provide solutions to protect Palestinians in areas where the risk of settler violence is high.

#### **Unauthorized actions by soldiers**

- Order army commanders to make it clear to soldiers that the function of the occupying power is to ensure proper living conditions of residents of the occupied territory, which includes enabling them to gain access to their land and to work it freely.
- Instruct the relevant enforcement officials – commanders, the Military Police Investigation Unit, and the Judge Advocate General’s Office – to prosecute soldiers who harm Palestinians in an attempt to expel them from land adjacent to settlements.

#### **Formalized land closure**

- Cancel the engineering components of the SSA plan and remove secondary fences that were not built in the framework of the plan. Israel can prevent terrorist attacks inside the settlements by other means, for example, by increasing the number of forces and adding electronic-warning means.
- Order the army and the Civil Administration to ensure free access of Palestinians to their land, without no need for advance coordination.

These possible modes of action are not new. Unfortunately, Israel has systematically chosen to use means that were discussed in this report, which cause much greater infringement of human rights. In addition, even if Israel were to adopt each of the proposed actions, the ongoing and extensive infringement of Palestinians’ human rights would continue because of the very existence of the settlements. As stated, such harm is utterly forbidden, and as a result, Israel has the legal duty to evacuate the settlements. B'Tselem, therefore, repeats the demand it has made in previous reports: in light of the infringement of human rights derived from their existence, and given their illegality from the start, **the government of Israel must evacuate all the settlements and return the settlers to Israeli territory.**