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

CIVILIANS UNDER SIEGE
Restrictions on Freedom of Movement
as Collective Punishment

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Introduction

Since the beginning of the current intifada in the Occupied Territories, on 29 September 2000 (hereafter the intifada), Israel has placed a number of sweeping restrictions on movement of the Palestinian population in the West Bank and the Gaza Strip. These restrictions severely impair not only the right of freedom of movement, but also other human rights whose enjoyment depends on movement of people and goods from place to place. The principal rights involved are the right to work and make a living, the right to proper medical treatment, the right to education, and the right to maintain family life. These restrictions on freedom of movement, which impair the daily lives of some three million people, are one of the primary reasons for the increased distress and despair in the Occupied Territories and for the intolerable living conditions of the population.

In recent years, and particularly during the current intifada, the contention has often been raised that, following the Oslo Accords, Israel is no longer responsible for protecting human rights and complying with international law relating to Palestinians living in areas transferred to the Palestinian Authority. This argument is only partially correct. Palestinian freedom of movement and the various rights directly affected by it depends on Israel because it controls more than 60 percent of the Occupied Territories, including the main thoroughfares and the borders with Egypt and Jordan.

The use of sweeping and prolonged restrictions on freedom of movement of Palestinians in the Occupied Territories as a means of collective punishment is not new. In one form or another, from the start of the previous intifada (1987-1993), Israel has used this means, as it does with other means such as house demolitions and the refusal to grant permits, to collectively punish the local population.

The primary objective of this report is to examine the consequences, as they relate to freedom of movement, of Israel's policy towards the Palestinian population since the beginning of the intifada in the Occupied Territories. The report begins with a

presentation of the principal kinds of restrictions on freedom of movement. It then describes the effects of these restrictions on three main areas of life of the Palestinian population: source of income, health, and education. In the last chapter, the report reviews the various aspects of Israel's policy that clearly classify it as collective punishment.

Chapter 1: Types of Restrictions on Freedom of Movement

Since the early 1990s, Israel has systematically restricted the movement of Palestinians in the Occupied Territories. Israel's policy contains three primary kinds of restrictions: general and comprehensive closure, internal closure, and curfew.

A. General and comprehensive closure

In January 1991, during the Gulf War, Israel changed the policy it had employed since the occupation began regarding entry of Palestinians into its territory. The general exit permit into Israel, of 1972, was cancelled, and every Palestinian resident of the Occupied Territories wanting to enter Israel needed a personal exit permit. In early March 1993, in response to attacks by Palestinians in Israel, Israel imposed a general closure on the Occupied Territories "until further notice" and placed checkpoints to enforce it.¹

The general closure resulted in the Occupied Territories being divided into three areas, which were in many ways detached from each other: the West Bank, the Gaza Strip, and East Jerusalem, which Israel had annexed in contravention of international law. In October 1999, a "safe passage" was opened, linking the West Bank and the Gaza Strip and facilitating travel between the two areas. However, the need to obtain a permit from Israel to move between the West Bank and the Gaza Strip remained, and thousands of Palestinians whom Israel permanently classified as "prohibited for security reasons" from obtaining the requisite permits, are unable under any circumstances to use the "safe passage." In addition, since imposition of the general closure, residents of the Occupied Territories must obtain a permit from Israel in order to travel abroad.

¹ See, B'Tselem, *Without Limits: Human Rights Violations under Closure*, Information Sheet, April 1996.

The permits to enter Israel are primarily for work and humanitarian purposes. The authorities did not publicly state all the criteria for obtaining a permit, and many applications (in addition to those of Palestinians who are permanently “prohibited”) are rejected without explanation. However, in many instances, the IDF reversed its decision and, following intervention of an outside party, such as a Member of Knesset or a human rights organization, agreed to grant permits to people whose requests were initially denied.

The general closure has not been uniformly enforced. As a rule, it is easier to obtain a permit during periods of calm than at times of tension. Also, during periods of calm, residents of the West Bank can enter Israel for work and other purposes without a permit; Israeli authorities generally turn a blind eye to such traffic on foot or by public transportation, but not to private cars. For Palestinians in the Gaza Strip, however, it is impossible to exit without a permit from the IDF because the border with Israel is relatively impermeable.

From time to time, Israel decides on maximum enforcement of the general closure by means of what is referred to as a comprehensive, or hermetic, closure. The result is the prohibition on entry of Palestinians into Israel, no issuance of entry permits, and revocation of the permits previously issued, for whatever purpose: work, medical treatment (except for emergency cases), family visits, travel to Ben-Gurion Airport, and the like. The hermetic closure also results in almost total severance of the West Bank and the Gaza Strip, and of these two areas and East Jerusalem, because travel between all these areas entails entry into Israel.

During comprehensive closures, the authorities severely restrict movement of goods between Israel and the Occupied Territories in both directions, and between the Gaza Strip and the West Bank, and vice versa. Regarding the West Bank, the primary reason is the total prohibition on entry of Israeli trucks into Area A, which is under Palestinian Authority control. In the Gaza Strip, this prohibition is also in effect on

“normal” days, but on comprehensive closure days, Israel totally closes the commercial crossing points, and goods cannot be taken into or out of Israel.

In the beginning of the Gulf War, in 1991, for the first time Israel imposed a prolonged and continuous comprehensive closure (41 days). Between 1994-1997, numerous comprehensive closures were imposed for extremely lengthy periods as punishment for suicide attacks. In addition to the impairment of the daily activities of Palestinians during the closure period itself, the comprehensive closures in those years led to an unprecedented deterioration in the Palestinian economy and a sharp increase in unemployment and poverty.² From October 1997 to the beginning of the current intifada, no prolonged comprehensive closures were imposed. Comprehensive closures lasted only a few days, primarily during Jewish holidays.

The formal explanation Israel offers for the comprehensive closure is the attempt to prevent attacks within Israel. However, leading officials in Israel’s security establishment have admitted that, absent a physical border between the West Bank and Israel, comprehensive closure contributes very little to preventing perpetrators of attacks from infiltrating into Israel. For example, Gidon Ezra, former Deputy Director of the General Security Service, stated in 1996:

Closure does not contribute anything to security... The previous government [Rabin-Peres] erred in a big way in its closure policy when it did not distinguish among Palestinians... Rather than closure, Palestinians who do not have a criminal or security background should be allowed to work with honor in Israel – and the others should be prohibited entry.³

On 8 October 2000, in response to the increase in violent demonstrations, a comprehensive closure was imposed on the Occupied Territories. This closure

² See Sara Roy, “The Palestinian Economy after Oslo,” *Current History*, January 1998, pp. 19-25.

³ “Security Branches Recommend: Ease the Closure,” *Yediot Aharonot*, 2 July 1996.

remains in effect. Permits to enter Israel and permits to use the “safe passage” were revoked.

Karni Crossing, which is the Gaza Strip’s main commercial crossing point, was totally closed during October and November. According to the Spokesperson of the Coordinator of Government Operations in the Territories, the Palestinian Authority refused to operate the crossing after Israel demanded that Palestinian workers undergo security inspections by Israeli security personnel stationed at the crossing; once the PA accepted Israel’s demand, the crossing was opened for traffic.⁴ B’Tselem contacted the PA to obtain information on this matter, but received no response.⁵ On January 2, 2001, in response to a bomb attack on a bus in Netanya, Israel closed the Karni Crossing and only allowed passage of humanitarian shipments. Sufa Crossing, which is used to bring cement and construction materials into the Gaza Strip, has been closed since the imposition of the comprehensive closure.

Palestinians who are not permanently restricted for “security reasons” and wish to travel or return from abroad have frequently been refused permission since the closure was imposed. During October and November, Israel closed Rafah Crossing, between Gaza and Egypt, on and off for 28 days. The Palestinian airport in Dahniyeh (Gaza Strip) was closed to air traffic for 38 days. These two international crossings were open for most of December. On December 28, in response to an attack by Palestinians on a Tel Aviv bus that same day, in which 15 Israeli civilians were injured, Israel again closed these crossings, and they remain closed at this report’s publication. During October and November, Allenby Bridge, which links the West Bank and Jordan, was closed intermittently for five days. In many instances, Palestinians were also prevented from going abroad when the crossings were open, due to many difficulties in reaching them (see below on the internal closure). Palestinians wanting

⁴ Stated to B’Tselem by Shlomo Dror, Spokesperson of the Coordinator of Government Operations in the Territories, in a telephone conversation on 20 December 2000.

⁵ B’Tselem sent its request by letters on 30 November 2000 to the Minister of Economics and Trade, Maher al-Kord, and the Minister of Supply, ‘Abd al-‘Aziz ‘Ali Shahin.

to go abroad via Ben-Gurion Airport have been, except in a few cases, not been allowed since imposition of the hermetic closure.

B. Internal closure

Internal closure is a siege imposed on towns, villages and areas in the West Bank and the Gaza Strip that prevents entry and exit. As a result, Palestinians are imprisoned in their respective communities. The first time that such a siege was imposed in the West Bank was in March 1996, following the suicide attacks in Tel-Aviv and Jerusalem. Since then, internal closures have been imposed selectively as punishment for violent acts committed by one or more of the community's residents.

On 12 October 2000, in response to the lynching of two Israeli soldiers by Palestinians in Ramallah, Israel imposed an internal closure on Area A in the West Bank, which is under the complete control of the PA, and on villages located in Areas B and C, where the IDF has control over security. However, B'Tselem's investigation reveals that some villages in Area C were placed under an internal closure as early as the first three days of the intifada. This was the case in Atara, Ramallah District, Zawiyeh, Salfit District, Hewara, Nablus District, and the al-Fawwar refugee camp, Hebron District. The siege is enforced by blocking the access roads to the towns and villages in several alternative or cumulative ways: concrete blocks, dirt piles, manned checkpoints, and placement of jeeps and tanks. The physical blocking of the roads by obstacles that can be removed only by mechanical equipment differs from stationing soldiers at a checkpoint, since, in the case of the physical roadblocks, no soldier is present with whom to communicate in the event that a vehicle must pass in an emergency.

The degree of "effectiveness" of the siege differs from place to place, depending on the topography and the number of alternative routes residents manage to clear to avoid the checkpoints. Entry into and exit from relatively isolated villages, located in the hills, such as those in the districts of Hebron and Ramallah, are much more difficult than from villages located on a plain, such as most of those in the Jenin District. Also, B'Tselem's investigation

indicates that the level of IDF enforcement of the siege in the various areas is affected by another variable: the IDF is generally stricter in blocking access roads to villages near Israeli settlements than roads in areas where settlers do not live.

Pedestrians, unlike motor vehicles, are generally able to bypass the roadblocks, primarily when soldiers are not present. The only vehicles allowed to enter and leave the areas under siege, following coordination with the Israeli Civil Administration or the Israeli District Coordination and Liaison Office (DCO), are trucks carrying necessities, such as food and medicine, and in emergency medical cases. However, as will be shown below, in these special cases, too, movement is never assured.

Palestinian drivers apprehended by Israeli soldiers or police while attempting to bypass checkpoints to leave or return to the towns and villages are often treated brutally. The actions taken by security forces might include puncturing the car's tires or confiscation of the driver's keys. The vehicles of the few who leave towns and villages under siege do so along side, dirt roads, most of which are also blocked as soon as the IDF discovers them.

A reserve soldier who served in the Judea Brigade during the internal closure, in his testimony to B'Tselem, spoke about enforcement of the closure:

The next day [after the lynching in Ramallah], it was very tense in the area. Very tense. That evening, we closed all the Palestinian towns and villages in the area. We stopped every Palestinian vehicle moving in the area... If there were women, children, or sick people inside, we let the vehicle continue on its way or ordered them to turn around and go back to where they came from. If there were only males in the car, we took the keys from the driver – which we later gave to the DCO – and sent them on their way by foot. Several times we ordered the driver to get out and then shot and punctured the tires. For no reason, not because they didn't stop or anything like that, only because of the curfew. That was the command. I was present twice when that happened, and I know there were other such cases. When we stopped a vehicle that only had males inside, we would ask them: "Why are you on the road?" No matter what they said, we had them get out and we shot and punctured two of their

tires. In one of the cases that I saw, a soldier fired eight times before hitting the two tires of the car. Can you believe it?... We caught lots of cars. That was the procedure for several days. I heard about this from my commander – a second lieutenant in regular service. I asked him who gave the command, but he did not know.⁶

On 10 December 2000, Chief of Staff Shaul Mofaz issued an additional order regarding freedom of movement. He signed the order in response to a Palestinian attack that had occurred two days earlier near Kiryat Arba, in which two Israelis were killed. The order prohibits Palestinian vehicles containing only males to travel on West Bank roads, except in public transportation. It is unclear to what extent the decree has been enforced.⁷

The situation is slightly different in the Gaza Strip, because most of the Palestinian population there is concentrated in contiguous areas under PA control. However, here too the IDF severely restricts freedom of movement. On 14 November, the IDF blocked the main road that traverses the Gaza Strip (Salah-a-Din Road) at the point near the Israeli settlement Kfar Darom, partially severing the southern part of the Strip (Khan Yunis and Rafah) from the northern and central portion (Gaza City and the other refugee camps). On 19 November 2000, movement via this point was renewed, but the next day, after an attack on a bus carrying settlers from Kfar Darom, the IDF again blocked the road.⁸

The same day, 20 November, Israel also closed a side road bypassing Kfar Darom and leading south from Salah-a-Din Road via the Kisofim checkpoint (Abu al-Ajin Road). The result of closing these two roads was to totally sever movement between the southern part and the central and northern parts of the Gaza Strip. Salah-a-Din Road remained blocked for two weeks, while Abu Ajin road was partially opened three

⁶ The testimony was given to Lior Yavneh on 16 October 2000 at B'Tselem's offices. The name of the soldier is on file at B'Tselem. See also the testimony of Wail Ibrahim Hassan Alasawi, in chapter 3 (C) below.

⁷ "Criticism in IDF on Mofaz's Order to Limit Palestinian Travel," *Ha'aretz*, 11 December 2000.

⁸ PCHR (Palestinian Centre for Human Rights), *Closure Update no. 29*, December 2000.

days later only from 10 to 12 A.M. and 4 to 6 P.M. The same day, Palestinians were not allowed to cross the Tofah checkpoint, which is located on the road between Khan Yunis and the agricultural area of Al-Mawasi, an enclave within Gush Qatif. Since then, Palestinian residents in this area have been almost totally severed from the rest of the Gaza Strip.⁹

On January 2, 2001, the day after the Palestinian attack on the Egged bus in Netanya, Israel reinstated the internal curfew on the Gaza Strip. Salah-a-Din Road was blocked not only near Kfar Darom, but also at the Netzarim intersection. In addition, the Abu al-Ajin Road (leading to the southern part of the Strip via the Kisofim intersection) and the coastal road at the point parallel to Netzarim intersection were also blocked. These acts cut the Strip into three areas severed from each other: Gaza City and the adjacent refugee camps to the north; the refugee camps in the central part (al-Nuseirat, al-Burij, Dir-el-Balah, and al-Mughazi); and Khan Yunis and Rafah in the south. Since 5 January, the IDF has allowed movement at Netzarim intersection between 9 - 11 in the morning and 3 - 5 in the afternoon. The other roads remain closed.

Israel has eased the internal closure somewhat, in various degrees, depending on the location. This was done as a “gesture” or “confidence-building measure” following political developments, such as the Sharm a-Sheikh Summit, on 17 October, and the understanding reached between Minister Shimon Peres and PA President Yasser Arafat, on 2 November, and in preparation for resumption of the discussions to reach a final agreement, in early December. Following each of these instances, the IDF removed some of the roadblocks or moved back tanks that had been stationed at the entrances to areas under PA control.

In all these cases, the restrictions that had been lifted were replaced shortly afterwards in retaliation for attacks against Israeli civilians or soldiers, especially if they resulted in deaths, or in response to increases in the severity of violent demonstrations.

⁹ *Ibid.*

Recently, the gradual lifting of the internal closure, which was accelerated in the last week of December as part of the expedited attempt to sign a final agreement, was totally halted on 1 January after the attack in which the Kahane couple was killed in the Occupied Territories, and the internal closure was reinstated in full.

C. Curfew

Curfew is the most sweeping and extreme restriction on freedom of movement imposed on Palestinians in the Occupied Territories, because it imprisons an entire population within the confines of their homes. The IDF employed curfews numerous times during the previous intifada (1987-1993) and continued to use it afterward in areas under Israel's security control as a means to punish residents of towns and villages which were home to people who attacked Israel.¹⁰ During the current intifada, the IDF imposed a curfew on several communities:

1. On 29 September, Israel imposed a curfew on area H-2 in Hebron, which is under complete IDF control and where 30,000 Palestinians live. Four hundred Jews also live there, but, as occurred several times in the past, the IDF did not impose the curfew on them, and they are able to move about freely in most parts of the city by foot and by car.¹¹

During October and November, the curfew was continuous except for short breaks of a few hours to purchase necessities. In December, the full curfew was imposed intermittently for 12 days. Even when it is lifted, Palestinians are not allowed to use their vehicles in areas that lead from area H-2 to area H-1 (Shuhadeh Street and the two streets referred to as "Shaleh"). On 1 January, the full curfew was reinstated on the H-2 area for four days.

¹⁰ See B'Tselem, *Without Limits*, p. 28.

¹¹ See B'Tselem, *Impossible Coexistence: Human Rights in Hebron since the Massacre in the Cave of the Patriarchs*, Information Sheet, September 1995.

The IDF contends that curfew is only imposed when there is firing from area H-1 at the Jewish neighborhood in H-2 or at soldiers.¹² This contention is imprecise, since shooting from area H-1 primarily occurs at night, while the curfew is imposed throughout the day (except for the breaks). On 24 December 2000, HaMoked: Center for the Defence of the Individual petitioned the High Court of Justice to order the IDF to refrain from imposing a curfew on Hebron or, alternatively, that it impose the curfew equally on Palestinians and Jews.¹³ In the hearing on the petition, HaMoked withdrew its petition after the commander of the Hebron Brigade, Noam Tivon, promised that, in the future, the curfew would be lifted 12 hours after any shooting ends, and that he would make “every effort” to enable residents to celebrate the ‘Eid al Fitr holiday without a curfew.¹⁴

2. From 6 October to 8 November, Israel imposed a curfew on Hewara, Nablus District, which has 4,000 Palestinian residents. The curfew was total and was lifted only once a week (on Saturdays) for a few hours. The IDF stated that the reason for the curfew was the necessity to safeguard movement of settlers travelling along Route 60, which passes through the village.¹⁵

3. The IDF also imposed a 24-hour curfew on Silet a-Daher, Jenin District, in which 6,000 Palestinians live, for seven different days during October and November. Throughout these two months, the curfew remained in force every day from 2:00 P.M. to 6:00 A.M. the following morning. On 28 December, the day of ‘Eid al Fitr, the curfew was reinstated throughout the day. Since 1 January, there has been an all-day

¹² Responsive affidavit in HCJ 9382/00, *HaMoked; Center for the Defence of the Individual v. IDF Commander for Judea and Samaria*, paragraph 6.

¹³ HCJ 9382/00, *HaMoked; Center for the Defence of the Individual v. IDF Commander for Judea and Samaria*.

¹⁴ See note 12.

¹⁵ IDF Legal Advisor for Judea and Samaria, in his response of 15 November to a letter from HaMoked.

curfew on the main road.¹⁶ Like the case of Hewara, the curfew is apparently imposed to protect settlers travelling along the road that passes through the municipality.

4. Since the beginning of the current intifada, the IDF imposed shorter curfews on various villages in the West Bank located in areas B and C, which are under Israeli security control. This includes Kefeen and Baka a-Sharqia in the Tulkarem District, and Sinjil in the Ramallah District. According to the IDF, the curfew was imposed in response to violent demonstrations or stone-throwing by some of the residents at Israeli cars passing through the villages.

¹⁶ The information was provided to B'Tselem by the head of the Silat a-Daher Council, Ragib Abu Diak.

Chapter 2: Violation of the Right to Work and Make a Living

The variety of restrictions imposed by Israel on movement of Palestinians since the beginning of the intifada severely hampered their ability to work and make a living and led to a sharp increase in unemployment and poverty. This chapter will first examine the harm caused to economic activity within the Occupied Territories; second, it will discuss the harm to Palestinians who worked in Israel and the settlements; at the end, the chapter presents data that reflects the social effects of the damage to the economy.

A. Economic activity in the Occupied Territories

The various restrictions on the movement of people and goods seriously damaged the Palestinian economy. One of the main reasons is the great difficulty, amounting almost to the total impossibility, of workers to get to their job site and of suppliers and dealers to move from place to place.

In addition, the Palestinian economy is heavily dependent on its foreign trade. The customary index for evaluating dependence of a particular economy on foreign trade is the segment of its GDP (Gross Domestic Product) comprised of imports and exports together. In the economy in the Occupied Territories, foreign trade comprises 80.4 percent of GDP, whereas that figure is 22.4 percent in Egypt, 60 percent in Syria, and 52.4 percent in Israel. Furthermore, the Palestinian economy is more dependent than any other economy on imports, which comprise 58.4 percent of GDP, compared to 17.2 percent in Egypt, 32.6 in Syria, and 30.6 percent in Israel. Of all imports into the Occupied Territories, an enormous segment - some two-thirds - are raw materials and industrial inputs.¹⁷

The economy in the Occupied Territories is primarily dependent on the Israeli economy. Some 80 percent of the foreign trade of the Occupied Territories is with

¹⁷ UNSCO (United Nations Special Coordinator's Office), *Report on the Palestinian Economy*, Spring, 2000, pp. 35-36. These data relate to 1998, which was the last year for which the Palestinian Central Bureau of Statistics published information on the Palestinian National Accounts.

Israel, whereas only 2.4 percent is with Jordan and one percent with Egypt. Also, its foreign trade with the rest of the world, some 17 percent, is mostly handled via the Israeli ports of Haifa and Ashdod.¹⁸

During the current intifada, the dependence on transportation of goods from Israel to the Gaza Strip and to the West Bank resulted in a substantial shortage of raw materials and industrial inputs, which paralyzed many businesses and factories throughout the Occupied Territories. These restrictions also hampered the export of goods from the Gaza Strip and the West Bank to Israel and elsewhere, resulting in heavy losses to the Palestinian economy.

In the Gaza Strip, most of the movement of goods is handled via Karni Crossing to Israel, the West Bank, and the rest of the world. As mentioned, the crossing was totally closed for two weeks in October-November. On 2 January, in retaliation for the attack on the Egged bus in Netanya, Israel closed Karni Crossing, and only allowed movement of humanitarian shipments.¹⁹ Even when it was open, goods moved very slowly, causing long delays, often for days, in the goods reaching their destination. The director of Karni Crossing, Yonatan Dotan, noted that, from the beginning of this intifada until the end of November, the average number of trucks crossing at Karni each day fell by about 50 percent.²⁰ The main reason for the sharp decline in movement of goods via Karni Crossing is the more stringent security inspections Israel conducts on every vehicle exiting the Gaza Strip into Israel and in the opposite direction.

The method for moving goods via Karni Crossing is called “back to back.” This method results from the prohibition on Palestinian trucks from entering Israel and from Israeli vehicles from entering the Gaza Strip. In this method, when goods reach the crossing, they are unloaded, checked, and transferred to a truck from the other

¹⁸ *Ibid.*, p. 37.

¹⁹ Announcement of the IDF Spokesperson, 1 January 2001.

²⁰ “Israel Delays Crossing of Service Vehicles to Gaza,” *Ha'aretz*, 28 November 2000.

side. Despite this prohibition, Israel had previously granted special permits to enter Israel to a few hundred Palestinian trucks, referred to as “sterile trucks.” Since the current intifada began, all these permits were cancelled. Therefore, all goods leaving the Gaza Strip require an Israeli truck in order to enter Israel. As a result, many goods that had previously crossed in “sterile trucks” now have to wait a long time at Karni until Israeli trucks are found to transport them.²¹

Unlike the Gaza Strip, Israeli trucks freely entered areas in West Bank under PA control in the past. Upon imposition of the comprehensive closure on the Occupied Territories, on 8 October, this situation changed since Israelis were completely forbidden to enter those areas. At the same time, Palestinian trucks that were previously allowed to enter Israel after obtaining the relevant permit were prohibited entry. This prohibition led to adoption of the "back to back" method also in the West Bank and severely hampered commercial traffic between it and the Gaza Strip, Israel, and the rest of the world.

Rafiq Shaker Muhsin al-Qudsi, a resident of Hebron, markets throughout the entire Hebron District foodstuffs produced in the Gaza Strip (primarily preserves). Since the closure, the goods are moved to him by three trucks: a Palestinian truck to Karni Crossing, where the goods are unloaded, checked and loaded onto an Israeli truck, which transports it to the Tarqumiyeh checkpoint, in the West Bank. There the truck is again unloaded, the goods are again inspected, and are then taken to a Palestinian truck that transports them to their destination in Hebron. According to his testimony, the goods arrive days late, part of them damaged from the unloading and loading, resulting in a loss of value of between two to five percent per shipment.²²

Another factor aggravating the shortage of industrial inputs and raw material is the hardship faced by Palestinians at the time of releasing goods, imported from abroad, at the ports in Ashdod and Haifa. The difficulty at times results from the refusal of

²¹ Coordinator of Government Operations in the Territories, see footnote 4.

²² The testimony was given to Musa Abu Hashhash on 18 November 2000.

security officials to grant entry permits into Israel, and at times there are substantial delays in obtaining the relevant documents for releasing the cargo.²³ In addition to the damage caused to Palestinian factories that do not obtain the necessary goods, importers have to pay thousands of dollars a day to store the goods at the port.²⁴

Construction, in which 22 percent of the Palestinian workforce is employed, is one of the sectors of the Palestinian economy that has been almost totally paralyzed as a result of the shortage of raw materials.²⁵ The shortage was initially felt in the Gaza Strip following Israel's decision to close the Sufa crossing, through which cement and other building materials passed into the Strip. Sufa Crossing has been closed since the comprehensive closure was imposed, and building materials enter the Gaza Strip in relatively small quantities via the Erez Crossing. In early November, the shortage of building materials worsened after Israel's Security Cabinet decided to prevent entry of what is referred to as "governmental goods" into the Occupied Territories. These goods include cement, concrete, and steel.²⁶ On 27 November, the prime minister and minister of defense, Ehud Barak decided to cancel this sweeping prohibition as part of the "confidence-building measures" prior to resumption of negotiations with the PA.²⁷

Another sector that was particularly hurt is agriculture, which employs 13 percent of the workforce in the Occupied Territories.²⁸ In addition to the general problems resulting from the internal closure and the comprehensive closure, which are common to other sectors of the economy, closure of the crossing points and delays lasting many days led to some of the agricultural produce rotting before reaching the market.

²³ "Israel Delays at Ports Equipment for Power Station in Gaza," *Ha'aretz*, 1 November 2000.

²⁴ "Trade Between the Israeli and Palestinian Economies almost Totally Stopped," *Ha'aretz*, 11 November 2000.

²⁵ PCBS (Palestinian Central Bureau of Statistics), *Labor Force Surveys*, No. 16-17.

²⁶ "Israel will Prevent Movement of Goods and Petroleum to the Palestinian Authority," *Ha'aretz*, 17 October 2000.

²⁷ Announcement by the Governmental Press Office, 7 December 2000.

²⁸ PCBS, see footnote 24.

The timing of the restrictions was especially damaging, since October is the season for picking olives, an activity of particular importance throughout the West Bank, and for harvesting guavas and strawberries, which are two major agricultural sectors in the Gaza Strip.²⁹

Furthermore, Palestinian farmers are often victims of another phenomenon that is outside the central purview of this report, and thus will only be mentioned in brief. B'Tselem gathered numerous testimonies of farm workers, primarily in the northern West Bank, who were attacked by settlers while working, and subsequently stopped going to work out of fear of further attacks. In addition, since the beginning of the current intifada, the IDF has adopted a policy of destroying and uprooting orchards and wooded areas near locations where soldiers and settlers have been fired at, on grounds that they "serve as places for terrorists to conceal themselves."³⁰ In a recent visit by Chief of Staff Shaul Mofaz in the Gaza Strip, he declared that "the D-9 [army bulldozer] is a strategic weapon here," and ordered his commanders "to shave the vegetation" alongside the road at any location where a danger of a terrorist attack exists.³¹ In these circumstances, the IDF destroyed large tracts of farm land and thousands of fruit trees, both in the Gaza Strip and in the West Bank.³²

The transportation and transport sector was also almost totally paralyzed following the internal closure and the other restrictions on movement in the West Bank and Gaza Strip. Taxis continue to transport residents only in the areas between one checkpoint and another, where the passengers get out, walk to the other side of the checkpoint, and get into another taxi.³³

²⁹ PCHR, see footnote 8.

³⁰ "The Settler was Killed by a Single Shot by a Palestinian Sniper," *Ha'aretz*, 22 November 2000.

³¹ "This Time, the Chief of Staff Keeps his Lips Sealed," *Ha'aretz*, 28 December 2000.

³² For a detailed picture of the land damaged in the Gaza Strip, see PCHR, *Uprooting Palestinian Trees and Leveling Agricultural Land*, First and Second Report, November - December 2000.

³³ "From Daheisheh to Hebron in an Hour and a Half," *Ha'aretz*, 2 November 2000.

According to estimates of the office of the UN Special Coordinator in the Occupied Territories, over the first two months of the intifada, economic activity in the Occupied Territories fell by fifty percent (not including work in Israel and the settlements). Based on an estimate of Palestinian GDP for 2000 (if the intifada had not erupted), the Palestinian economy suffered a loss of \$8 million per work day.³⁴

B. Employment in Israel and the settlements

Tens of thousands of families in the Occupied Territories depend for their subsistence on work of one of the family members in Israel or the settlements. This income comprises a major component of Palestinian GNP. In the first half of 2000, 110,000 Palestinians were employed in Israel and the settlements, more than twenty percent of the Palestinian workforce. Eighty-three thousand of them live in the West Bank (not including East Jerusalem) and 27,000 in the Gaza Strip.³⁵ Only 30 percent of West Bank Palestinians employed in Israel have work permits, while the others enter without a permit by bypassing the IDF checkpoints. Regarding the Gaza Strip, on the other hand, where the border is sealed almost completely, almost all the Palestinians working in Israel or the settlements have entry permits. Median income of Palestinian workers in Israel is NIS 110 a day, which amounts to a daily income of NIS 12 million a day for the Palestinian economy.³⁶

When the intifada began on 9 September, entry of workers without permits from the Occupied Territories into Israel fell sharply. The drop resulted from stricter control of the border between the West Bank and Israel by the IDF and the Police. When the comprehensive closure was imposed on 8 October, movement of workers from the Gaza Strip into Israel ceased completely. Entry of workers into Israel from the West Bank stopped almost totally during the first two weeks of the closure, after which a limited number of workers entered

³⁴ UNSCO, *The Impact on the Palestinian Economy of Confrontation, 28 September – 26 November 2000*, p. 3 (hereafter: UNSCO Report), p. 4.

³⁵ (PCBS), see footnote 24.

³⁶ UNSCO Report, p. 4.

without permits, the number varying from time to time.³⁷ Movement of workers from the Gaza Strip into Israel completely ceased with the imposition of the total closure.

On 15 December, more than two months after the comprehensive closure, the security establishment decided to issue some 16,000 permits to enter Israel as part of “confidence-building measures” upon resumption of the negotiations.³⁸ The permits were to be granted only to married Palestinians over age 35 with children. During the first two weeks after the decision was reached, less than half that number of permits were issued. The reason given by the Coordinator of Government Operations in the Territories was two-fold: first, the Palestinian DCO works extremely slowly in distributing permits that were authorized; second, many Israeli employers refuse to accept Palestinians back at work because of fear for their safety, and demand that the government provide them instead permits for foreign workers.³⁹ After the attack in which the Kahane couple was killed, on 31 December, all these permits were revoked and the comprehensive closure was reinstated in full.

Since the beginning of this intifada, employment of Palestinians by the Israeli settlements has almost totally ceased. There are two primary reasons. The first is the internal closure that prevents workers from leaving their homes and reaching the settlements. The second reason is that many settlements prohibited, for security reasons, Palestinians from entering their communities.⁴⁰ Also, work in the Erez and Karni industrial parks, in the Gaza Strip, dropped sharply, and ceased completely for many days, for a number of reasons, including the IDF’s closing of these areas, the closing of factories by the Israeli owners who suffered from Palestinian vandalism of

³⁷ The estimates on the number of entries fluctuates from 5,000 to 20,000, changing from period to period and depending on the source of the estimate. See UNSCO Report, p. 3; “Despite the Closure, 20,000 Palestinians Enter Israel to Work,” *Ha’aretz*, 9 November 2000.

³⁸ “Ben Ami and Arafat Meet; Thousand of Palestinians Allowed to Enter,” *Ha’aretz*, 15 December 2000.

³⁹ Spokesperson of the Coordinator of Government Operations in the Territories, see footnote 4.

⁴⁰ The information was provided to B’Tselem by Mahmud Diab ‘Amer, Chair, Palestinian Federation of Labor in Qalqilya.

their property, and the inability of workers to get to work in Erez and Karni because of the internal closure.⁴¹

The UN Special Coordinator in the Occupied Territories estimates that, over the first two months of violence in the Occupied Territories, the Palestinian economy lost potential revenues of \$117 million because Palestinian workers were not allowed to enter Israel and the settlements.⁴²

C. Consequences of the economic crisis

The immediate effect of the drastic reduction in economic activity in the Occupied Territories and in employment of Palestinians in Israel and the settlements is the sharp increase in unemployment since the intifada began. UNSCO estimates that standard unemployment⁴³ in the Occupied Territories rose from 11 percent (some 70,000 people) in the first half of 2000 to at least 40 percent (260,000) towards the end of November. Assuming that each employee supports an average of four family members, the increase in unemployment has resulted in the loss of a source of income affecting a million people, or a third of the population in the Occupied Territories.⁴⁴

Unemployment is expected to drop gradually as the Israeli restrictions are lifted. However, even now it is likely that a significant portion of the newly unemployed will remain without work after Palestinians are allowed the freedom of movement they previously had. As mentioned above, many Israeli employers refuse to employ Palestinians who had worked for them and some already replaced them, mostly by foreign workers. As for those working within the territory of the PA, the high unemployment is expected to continue for an extended period due to the time required

⁴¹ "Ministry of Industry and Trade to Assist Industrialists in Karni and Erez," *Ha'aretz*, 29 November 2000.

⁴² UNSCO Report, p. 5.

⁴³ This figure does not include adults (over 15) who want to work but, because of despair at finding employment and the lack of opportunity, do not seek work.

⁴⁴ UNSCO Report, p. 6.

for businesses to recover and due to the general climate that leads potential investors to refrain from investing in the area.⁴⁵

The World Bank estimates that the reduction in economic activity in the Occupied Territories following the retractions on freedom of movement will reduce Palestinian GNP by \$ 630 million from the GNP that had been anticipated before the outbreak of the intifada.⁴⁶ Also, per capita median income for 2000 is expected to fall by 11 percent from what had been projected. According to the World Bank, one of most noteworthy effects of this figure is the growth in the population living in poverty. That number will rise from 21 percent in the first half of 2000 to 28.3 percent at the end of the year.⁴⁷

Families without a source of income reduce consumption to the minimum necessary for subsistence (primarily food) and live on savings, where they exist. The longer the crisis continues, the number of families without an income and without savings increases, and they must, therefore, rely on support from the extended family, charity, or the bit of assistance provided by PA agencies.⁴⁸

The longer the economic condition remains depressed, the number of people harmed as a result is greater than the number of those directly harmed by the unemployment. This phenomenon results from what is referred to as the “chain effect,” which is characteristic of economic crises: the greater the increase in poverty and uncertainty, regular consumption by the public falls, following which businesses reduce their production, dismiss employees and reduce the demand for inputs and services.

Nasri 'Omar Musa, Atara Village, Ramallah District

⁴⁵ UNSCO Report, p. 9.

⁴⁶ The World Bank, *The Impact of Prolonged Closure on Palestinian Poverty*, November 2000.

⁴⁷ Ibid.

⁴⁸ See the testimonies below. See also “Buy Only Palestinian Goods,” *Ha'aretz*, 21 November 2000.

Nasri ‘Omar Musa, 60, is a taxi driver from ‘Atara Village. The village, which has 4,000 residents, is located 16 kilometers north of Ramallah. From the first day of the intifada, the IDF blocked the only road leading to it, preventing the residents from entering or leaving the village. In his testimony to B’Tselem, Musa stated:

I drive the taxi to the Ramallah-Bir Zeit route. The fixed costs for the taxi are NIS 60 a day: for the taxi number, taxes, and insurance. Since the closure started, I get into the taxi, drive to the checkpoint and beg the soldiers to let me leave the village toward Bir Zeit so that I can work, but they refuse... I support the ten members of my family, and I don’t know what to do. My children and I have reached the starvation stage. Everything we had in the house is gone, and we don’t have anything to eat. Even the grocery stores are empty.⁴⁹

Yusuf ‘Abd al-Qader ‘Abdallah Tmeazi, ‘Idna Village, Hebron District

I am 40, married, and have four children. I have been working in agriculture in Israel since 1976 in various places, but mostly in Kiryat Gat and Kastina. I was earning NIS 1,500 - 2,000 a month, depending on how many days I worked... Since the beginning of the intifada, I have been unable to go to work. Of course, I did not earn a shekel in the past two months. Two months is a long period for a family of six. My wife and children look at me every day and hesitate to ask questions. I have the responsibility to earn money and support them... The only way to get a bit of money is by asking for help from relatives, friends, and neighbors, 100-300 shekels. It is perplexing to ask for a loan these days because most people are unemployed. Besides, how much can an amount like this help a family of six? I never experienced days like these... We eat everything. Before the *intifada*, my wife used gas to cook and bake bread. Now we do not have money to buy gas, so she uses wood.⁵⁰

Jamal Diab Yusuf Saleh, Bethlehem

I am married and have five children. Until the beginning of the [al-Aqsa] *intifada*, I worked in construction at the Kochav Ya’akov settlement. I earned around NIS 170 a day and was paid in cash. For

⁴⁹ The testimony was given to Raslan Mahagna on 22 November 2000.

⁵⁰ The testimony was given to Musa Abu Hashhash on 28 November 2000.

three months I have not worked because of the intifada and the closure... The contractor who employed me still owes me part of my wages, but I have nobody to request it from. During the month of Ramadan, I needed NIS 200 for a dinner for my four sisters, a requirement for the holiday... Since I didn't have it, I had to borrow from friends whose situation was just as bad as mine... On 20 November, the Palestinian Ministry of Labor began to provide assistance of NIS 600 to everyone employed in Israel, but when I went to register, I was informed that only those who had a permit to work in Israel received the assistance. What could I say? Since I don't have a permit, I have no right to eat?⁵¹

D. Criticism

Article 6 (1) of the Covenant on Economic, Social and Cultural Rights, which Israel ratified in 1991, provides:

The States Parties to the present Covenant recognize 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, and will take appropriate steps to safeguard this right.

The CESCR is customarily understood to define a state's duty regarding all rights in the Covenant on three different levels: the duty to take proactive measures to ensure enjoyment of the right, the duty to prevent third parties from violating the right, and the duty of the state itself to refrain from violating the right.⁵²

In the current context, Israel can argue that, since establishment of the Palestinian Authority, it is not obligated to implement the highest level of obligations regarding the right to work vis-a-vis the Palestinian population. That is, it is not obligated to develop the Palestinian economy and create jobs within the PA's territory. Even if this contention is accepted, it is clear that Israel's policy since the beginning of the current intifada in the Occupied Territories - which creates unprecedented unemployment by

⁵¹ The testimony was given to 'Abd Al-Ahmar on 19 December 2000.

⁵² For a discussion on these categories, see Matthew Craven, *The International Covenant on Economic, Social and Cultural Rights* (Oxford, Clarendon Press, 1995), pp. 109-114.

preventing people from reaching their places of work in the Occupied Territories, and by paralyzing trade and industry - is an unlawful violation of the most basic level of the right to work.

The question of the legality of the prohibition on entry of Palestinian workers into Israel requires special analysis, because the entry of residents from occupied territory into the occupying state to work is not itself a vested right under international humanitarian law. However, taking into account the historical background, in which Palestinian workers regularly entered Israel, gives the matter a different hue. This phenomenon is the result of Israeli policy implemented since the beginning of the occupation (at least until the beginning of the Oslo process) which, on the one hand, limited industrial development in the Occupied Territories and, on the other hand, encouraged Palestinians to integrate into the Israeli work force.⁵³ This policy created a profound unilateral dependence of the Palestinian economy on the Israeli economy, and therefore to a great extent requires Israel not to harm this aspect of the Palestinian economy.

However, Israel's duty in this context also rests on legal obligations, derived from its duty under Regulation 43 of the Hague Convention to ensure the welfare of the population under occupation.⁵⁴ The Supreme Court explicitly related to this issue:

Concern for the welfare of the population and responsibility for security needs require the respondent [the IDF Commander for Judea and Samaria] to take into account the economic dependence of the area [the Occupied Territories] on the Israeli economy, in general, and on the sources of income from work in Israel, in particular....

⁵³ On this subject, see Arie Arnon *et al.*, *The Palestinian Economy* (New York: Brill, 1997); George Abed, *The Palestinian Economy - Studies in Development under Prolonged Occupation* (London: Routledge, 1988); Sarah Roy, *The Gaza Strip: The Political Economy of De-Development* (Washington D.C.; Institute of Palestinian Studies, 1995).

⁵⁴ The Hague Convention on the Laws and Customs of War on Land and its accompanying regulations, of 1907 (hereafter: the Hague Convention). For a discussion on this regulation, see also chapter 5 below.

From the data reflecting the great dependence of the economy in the Territories, it is clear that any severance of the economies, as long as Israel controls the Territories, is liable to have immediate disastrous results on the economy of the Territories and the welfare of the population.⁵⁵

As noted, even if the circumstances justify restrictions on entry of Palestinian into Israel to work, it must do so in a way that reduces as much as possible the harm to the population's welfare. In the current situation, it is important to note that, since the early 1990s, Israel has developed a number of means intended to selectively restrict entry of residents of the Occupied Territories into Israel to work. Among these are issuing work permits based on age and marital status, conditioning permits on possession of a magnetic card (a security permit that contains coded information), placing checkpoints and operating patrols to check the permits of those who enter, setting quotas of workers in each sector, and the like.⁵⁶

During the current intifada, Israel did not employ any of the various means at its disposal, and instead chose the easiest and most harmful policy, revoking all work permits, without distinction, thus severely affecting the source of income of tens of thousands of families.

⁵⁵ H CJ 69, 493/81, *Abu 'Itta et al. v. IDF Commander for Judea and Samaria*, *Piskei Din* 37 (2) 197, 314-315, 320.

⁵⁶ For an extensive discussion on this issue, see B'Tselem, *Builders of Zion: Human Rights Violations of Palestinians from the Occupied Territories Working in Israel and the Settlements*, September 1999.

Chapter 3: Violation of the Right to Health

Israel's restrictions on freedom of movement led to gross violations of the right of Palestinians to proper medical treatment. The violations result primarily from the many difficulties Israel places on the sick and on medical teams wanting to reach treatment centers, on ambulances on their way to evacuate wounded and sick persons, and from obstacles to the regular supply of medicines, medical equipment, and food to hospitals, clinics, and pharmacies.

These restrictions are totally inconsistent with declarations of senior officials of the Israeli government and the IDF, according to which restrictions will not be placed on movement of the ill within the Occupied Territories or on movement of humanitarian aid to the Occupied Territories from abroad.⁵⁷ Numerous testimonies gathered by B'Tselem indicate that in most cases, the decision to prevent or delay movement of the ill and of medical equipment is arbitrarily made by soldiers stationed at the checkpoints or by their immediate commanders. Often, the inability of a resident to reach the hospital or of an ambulance to get to its destination does not depend on the judgment of soldiers, but on roadblocks that the IDF placed on roads to prevent the passage of vehicles. In other cases, movement on roads in the West Bank is prevented

⁵⁷ Foreign Minister Shlomo Ben Ami issued a directive on 14 October "to all the relevant authorities in Israel" to enable and assist in movement of humanitarian shipments to the PA (Foreign Ministry announcement, 14 October 2000). The Spokesperson of the Coordinator of Government Operations in the Territories, Shlomo Dror, told B'Tselem that the Ministry of Defense issued an unequivocal directive not to delay wounded persons at checkpoints (telephone conversation held on 23 October 2000). The official in charge of the health in the Civil Administration, Dalia Baseh, informed B'Tselem that the IDF enables free movement of humanitarian shipments and of ill persons upon prior coordination with the Civil Administration, and of movement in emergency cases without prior coordination (telephone conversation held on 5 November 2000). Similar comments were communicated to B'Tselem by the head of the IDF International Law Branch, Col. Daniel Reisner, in a meeting with B'Tselem on 26 October 2000.

by armed settlers independently “safeguarding” the traffic routes, with the IDF ignoring the settlers’ acts or at times actively cooperating with them.⁵⁸

A. Movement of the ill and by medical teams

The policy of internal closure and curfew in the West Bank and restrictions on movement in the Gaza Strip especially impair the level of health services offered to the rural population, which comprises almost one-half of the Palestinian population in the Occupied Territories (including residents of the refugee camps).⁵⁹ The primary reason is that the rural population, more than the people living in urban areas, depend on travel along roads in the Occupied Territories to obtain most medical services, most of which are provided in hospitals and clinics located in the cities. Israel’s policy creates particularly great distress for residents of villages who suffer from chronic illnesses and require ongoing medical treatment, such as cancer patients and dialysis patients.

According to B’Tselem’s investigation, ambulances summoned to one of the blockaded villages to evacuate a sick or wounded person are often unable to enter the village because entry is blocked or because the IDF soldiers at the checkpoint refuse entry. In such cases, the residents must evacuate the sick or wounded individual by themselves to the checkpoint where the ambulance is waiting, thus imperiling the person’s life. The Palestinian Red Crescent reported that, from the outbreak of the intifada until 12 December, there were 94 cases in which Red Crescent ambulances were not allowed to cross IDF checkpoints.⁶⁰ In other cases, the ambulances are allowed to pass, but only after prolonged delays.

⁵⁸ On this issue, see also “YESHA [acronym for Judea, Samaria, and Gaza] Army,” *Ma’ariv*, 15 December 2000.

⁵⁹ According to the census of 1997, 52 percent of the population of the Occupied Territories reside in cities, 31 percent in villages, and 16 percent in refugee camps. PCBS, 1997 Census.

⁶⁰ Report of the Palestinian Red Crescent (www.palestinercs.org).

Death of Ala Hamdan 'Abd al-'Aziz Ahmed - 14 October 2000

Ala, a 10-year old girl, lived in a-Sawiyeh Village, Nablus District, which has been under blockade since 12 October 2000. A day after the blockade began, during the evening, she felt tremendous stomach pains. Her father wanted to take her to Rafidiyeh Hospital, in Nablus, but no taxi driver was willing to take them, out of fear of IDF soldiers and settlers. The stomach pains worsened, and she started to vomit. The father then begged his neighbor, attorney Jamal Yusuf Khader, to drive them to Nablus, and he agreed. The father stated:

We put Ala into the car and drove to the main road (the Ramallah-Nablus Road). When we began to drive, an Israeli military vehicle stopped us. A soldier asked us, "Where are you going?" I said, "We have a child who needs hospital treatment." He said, "Go back quickly without making any comments, because it is forbidden to travel." I tried with all my might [to convince him], but without success. The soldier saw the sick child in the car, but it did not help. He said, "Go home." Later, we tried to go another way, from the direction of the Israeli settlement of Rahalim, but we encountered another military vehicle. The soldiers stopped us and said that it was forbidden to enter Nablus or to travel. I asked the same thing of him, to let us pass because of the sick child with us. It didn't help.

When we returned, I called Dr. Riad al-Halu, of Qabalan Village, which is next to our village. He came and examined her and said that it was urgent that she get to a hospital. But Ala remained at home until the next morning. At about 8:30 A.M. I tried again to get Ala to Nablus. We came across another Israeli patrol, who ordered us to go back home. We tried to get her to drink herbal tea, but we were unsuccessful. When I realized that nothing was helping, and the soldiers wouldn't let us pass, I again took her to the doctor in Qabalan, but when we got to his clinic, Ala died, and he couldn't do anything. We learned that she had died from a ruptured appendix.⁶¹

Death of Na'im 'Atallah al-'Abd Ahmad Hawwas - 16 October 2000

⁶¹ The testimony was given to Hashem Abu Hassan on 12 November 2000.

Na'im 'Atallah, 27, lived in Zawiyeh Village, Salfit District. Unlike other places in the Occupied Territories, the blockade on the village was imposed two-three days after the intifada began. The IDF placed checkpoints at the only two access roads to the village: at the northern entrance which links Zawiyeh to Mashah village, and at the eastern entrance, between the villages Rafat and Dir Balut. Since February 2000, 'Atallah suffered total kidney failure and required dialysis three times a week at the main hospital in Nablus. From the time that the checkpoints were established, he failed in his attempts to reach Nablus. A few times he summoned an ambulance from the Red Crescent station in Badi, a nearby village, but the ambulance never succeeded in getting to Zawiyeh because the road leading to the village was blocked.⁶² On 16 October, he again tried to reach the hospital. He was accompanied by his neighbor, Musbah al-'Afu Musbah, who gave his testimony to B'Tselem:

We traveled by taxi from our village eastwards toward Rafat to the Israeli checkpoint located before Dir Balut. He was in very poor condition, and when we arrived at the checkpoint, we got out of the taxi and explained to the Israeli soldiers that we have a very sick man with us who needs dialysis and for nine days has been unable to exit because of the closure and the army checkpoints. The Israeli soldiers did not let us pass, and told us that it was prohibited for us to cross and that we had to go back. We left there and went to the northern checkpoint between Zawiyeh and Mashah, and realized that it was absolutely impossible to cross. The road had a number of piles of dirt on the Badi side, even before reaching the Israeli army checkpoint, and it was impossible to get to the checkpoint. We returned home in the car. He seemed to be losing consciousness, and his face began to swell. After we took him out of the car and to his house, we called Dr. 'Abd A-rahim Rabi, of Zawiyeh, to check him. When he arrived, he had nothing to do but pronounce his death.⁶³

Death of Farid Musa 'Issa Nasasrah – 17 October 2000

On 17 October, a Palestinian family from Beit Furik, Nablus District, left early in the morning to pick olives on its land five kilometers south of the village. During the morning, they were shot, apparently, by two Israeli civilians from the Itamar

⁶² 'Atallah's wife, Friel Muhammad Da'us Yusuf, provided the information to B'Tselem on 24 December 2000.

⁶³ The testimony was given to Hashem Abu Hassan on 24 December 2000.

settlement. Four members of the family were wounded by the shooting, among them Farid Musa 'Issa Nasasrah, who died of his wounds about a half hour after reaching al-Ittihad hospital in Nablus. The testimony of Muhammad Hinawi, an ambulance driver for the Red Crescent, indicates that, after receiving notice of the incident, the ambulance drove toward the location until it came to an IDF checkpoint about a kilometer after leaving Nablus:

We reached the checkpoint at 9:40 and the soldiers stopped us. We explained that there are wounded at Beit Furik and that we were on the way to assist them. They told me that entry was prohibited. I told them more than once. The soldier told me to turn the vehicle around and go back. We called our Red Crescent center in Nablus and they called the Red Cross, which promised to come to where we were. We waited around 20 minutes. About 15 minutes after we called our center, a red Opel car arrived. It was a passenger vehicle from Beit Furik. The soldiers stopped the vehicle. The driver was very worked up and got out. He spoke with the soldiers in Hebrew and said that he had a wounded person who was hemorrhaging, and asked to transfer him to the ambulance at the checkpoint. They refused and three of them aimed their weapons at him and said, "Get out of here." He told them that the patient was in a life-threatening condition and required assistance, but it did not help. It stayed like that for about five minutes, when an Israeli army patrol arrived. The driver of the Opel, who had brought the wounded individual, told the soldiers that he had a wounded person and that the soldiers at the checkpoint are not letting him cross to the ambulance and are not allowing the ambulance to enter and treat him. The soldiers in the patrol told the soldiers at the checkpoint to let the ambulance enter. They requested the people accompanying the wounded person to take him out of the auto and put him on the ground. We entered with the ambulance and parked it next to the Opel. Eight or nine minutes passed from the time that the patrol jeep arrived at the checkpoint until we were allowed to treat the wounded patient.⁶⁴

In addition, the quality of medical treatment provided to the rural population - and to some degree also to the urban population - was hampered by the inability of doctors and care providers living in the cities to reach the clinics every day. In the case of East Jerusalem, some sixty percent of the staff of the city's hospitals live in the West Bank,

⁶⁴ The testimony was given to Hashem Abu Hassan on 31 October 2000.

but only forty percent received entry permits.⁶⁵ In al-Moqassed Hospital, for example, some 369 staff live in the West Bank. However, since imposition of the total closure, Israel only granted special entry permits to 176 of them. Furthermore, according to Physicians for Human Rights (Israel), in some cases, employees of East Jerusalem hospitals were not allowed to pass through checkpoints and enter Jerusalem even though they had valid entry permits.⁶⁶

Another population that was especially harmed by Israel's restrictions on movement are Palestinians residing in area H-2 in Hebron, which has been under a total curfew almost continuously since the beginning of the intifada. Emergency arrangements exist to evacuate the ill by ambulances, which are allowed to move about despite the curfew. However, Israel does not allow residents needing to undergo examinations or treatment whose condition is not critical to receive their medical care during curfew. Lifting of the curfew while restricting movement of vehicles, as the IDF did for several days since the beginning of the intifada, does not resolve the problem of those requiring health services who must be transported to the place of treatment. These include the elderly, certain chronic patients, and pregnant women.⁶⁷

B. Movement of supplies to clinics and hospitals

Restrictions on movement within the Occupied Territories seriously hamper regular supply of medicine, medical equipment, and other items needed in clinics and hospitals, and impaired hospital and clinic operations throughout the Occupied Territories. However, it should be noted that B'Tselem did not find any indication of an actual shortage of medicine or medical equipment in hospitals and clinics in the Occupied Territories.

⁶⁵ *Ha'aretz*, 14 November 2000.

⁶⁶ Press release of 7 November 2000.

⁶⁷ HCJ 9382/00, section 20 of the petition. See footnote 12.

Halhul Checkpoint – 16 October 2000

Wail Ibrahim Hassan a-Asawi drives a van for the 'Al-Jarwish National Chicken Company, in Bethlehem. He supplies 10 government hospitals in the West Bank with fowl and milk products. On 16 November at around 2:30 P.M. he came to the Halhul checkpoint, which is five kilometers north of Hebron:

I didn't see any soldier at the checkpoint. I saw cars and vehicles pass through the checkpoint via a narrow opening alongside the heavy concrete blocks, so I decided to pass. I reached 'Alia Hospital, in Hebron, quickly delivered the goods and drove back to Bethlehem. I hastily passed through the Halhul checkpoint, but after I drove a few meters, an army jeep that saw me pass the checkpoint arrived. When I saw the jeep approach the checkpoint, I turned right onto an unpaved road leading to Bethlehem. The jeep followed me and told me stop. I stopped. The soldiers got out of the jeep, and one came to the window of the van, grabbed me by the hair and tried to pull me out. In Hebrew, he asked me why I bypassed the checkpoint during closure. I told him that the checkpoint was open and that I saw cars pass through, and so I passed through. The soldier told me to follow the jeep to the checkpoint and stop the van behind the jeep. After I did that, he took the van's keys and told me to get out and go with him. I asked him to give me back the keys so that I could close the windows, but he refused. When we were on the ground, he pulled out a knife and began to puncture the van's tires one after the other. When I asked him why he was doing that, he pointed the knife at me and told me to keep quiet. When he finished, the soldiers left, taking my keys. The tires were slit and lacerated so badly that it was impossible to repair them. I couldn't do anything. Moreover, the soldier told me he would return and if he finds that I fixed the tires, he would slit them again, and he ordered me not to try to move the car.⁶⁸

Ariel-Salfit Road - 14 October 2000

At 1:30 P.M. on 14 October 2000, a convoy of four Red Crescent ambulances left Ramallah in the direction of Salfit to take medical equipment to clinics for first aid treatment. It should be noted that this trip was coordinated with IDF officials through

⁶⁸ The testimony was given to Musa Abu Hashhash on the day of the incident.

the International Red Cross. The soldiers at the first checkpoint that the convoy reached allowed it to pass without delay. A half an hour later, close to the entrance to the Ariel settlement, the convoy came across big concrete cubes blocking the road. Ola Skuterud, chair of the red Cross delegation, testified as to what happened then:

A settler standing next to the checkpoint told us angrily and in a threatening tone of voice to leave the area immediately. He accused all Palestinians of being terrorists. He turned to the bearded driver of one of the ambulances, who was waiting in his place patiently, and told him that he would murder him and cut him into pieces. We tried to reduce the tension and make things friendlier. Then several more settlers arrived with the firm intention of removing us from “their area.” At that moment, soldiers and Israeli police arrived. Our amicable conversation with everyone present helped cut the tension a bit. I asked one of the soldiers to call his commander to obtain authorization to let us continue on our way. There is a decided advantage in being a foreigner, and I also sensed that our international symbols provide some protection. After a few minutes, the soldiers let us pass. But only fifty meters down the road we came across a pile of rocks on the road. During those few minutes, the settlers had placed them there with a bulldozer. The rocks blocked access to the Palestinian villages in the valley ahead of us, and we couldn’t get around them. Having no choice, we turned around and went back.⁶⁹

C. Criticism

Article 12 of the Covenant on Economic, Social and Cultural Rights states that:

The States Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.

The duty of states regarding the right to health, like the duty relating to the right to work, is divided into three levels: the duty to promote the right, the duty to prevent a third party from impairing exercise of the right, and the duty on the state itself to

⁶⁹ Report of the Palestinian Red Crescent (www.palestinercs.org).

refrain from impairing the right.⁷⁰ Although Israel can exempt itself from promoting and investing in health services in the Occupied Territories, the deliberate obstacles imposed on the sick wanting to reach clinics and hospitals, by preventing their passage or delaying them at checkpoints at exit points from the villages, violates the right to health at the most basic level.

Regarding occupied territory, the Fourth Geneva Convention requires the occupying state to provide special respect and protection to “persons engaged in the operation and administration of civilian hospitals, including the personnel engaged in the search for, removal and transporting of and caring for wounded and sick civilians,”⁷¹ and also the “convoys of vehicles... conveying wounded and sick civilians.”⁷² In addition, the Convention imposes on the occupying state, “to the fullest extent of the means available to it... the duty of ensuring the food and medical supplies of the population.”⁷³

Even if the contention is true that Israel’s senior military and political echelon does not have a policy intended to prevent the movement of the sick, medical teams, or humanitarian delegations, the lack of intent does not exempt Israel from responsibility for the many such acts committed by soldiers at checkpoints. Furthermore, the decision to establish innumerable unmanned roadblocks, which can only be removed by heavy machinery, denies exercise of judgment in emergency cases where the sick or wounded must be transported along the roadways. Israel also has the duty to investigate the cases in which people died or were gravely injured as a result of delays or where they were prevented from crossing the checkpoints, and to prosecute those responsible.

⁷⁰ See footnote 52.

⁷¹ Fourth Geneva Convention, article 20.

⁷² *Ibid.*, article 21.

⁷³ *Ibid.*, article 55.

Chapter 4: Violation of the Right to Education

Like other areas of life described above, the restrictions on freedom of movement in the Occupied Territories severely impair the proper functioning of all levels of the educational system there. The affect is felt first and foremost in the difficulties teachers face in getting to schools located outside their home communities. As a result, many classroom hours are lost because the teachers are absent. The Palestinian Ministry of Education attempts to overcome this problem by assigning such teachers to schools closer to where they live. This arrangement prevents the cancellation of classes in some cases but makes it more difficult to maintain the normal study program.⁷⁴

Sna'a Muhammad Zabah Zahadi Al-'Amad, for example, lives in Nablus. She is director of a high school for girls in the village of Yatma, located 15 kilometers from Nablus:

The school in Yatma has 17 teachers, and 15 come from Nablus and nearby villages. The trip from Nablus to Yatma generally takes no more than 15 minutes. In the present situation, however, it lasts more than an hour and a half. I do not recall such a harsh situation ever since I became a teacher. At first they closed the main road with checkpoints and concrete blocks. When they did that, we began to use an alternate road, the side road leading from Nablus to Hewara via 'Orteh, and from there to the Za'atreh intersection and then to Yatma. Only a few days later, they also closed this alternate road with concrete blocks, and on the blocks they put piles of dirt and dug holes along the road and its adjacent area. For a long time, I couldn't get to the school. After a while, we worked our way to school via alternate roads between Tel, Borin, Hewara, Za'atreh, and from there to Yatma. Until Borin the roads are torn up, all coarse gravel, very long, and full of holes. The situation is even worse when it rains... It tires me out both physically and emotionally. In such a condition, I am unable to teach the material to the pupils in a proper and complete manner.⁷⁵

⁷⁴ The information was provided to B'Tselem on 11 December 2000 to B'Tselem by Ra'iya Muhammad Hussein Ziad Al-Kilani, director of the Office of Education and Culture of the PA for Nablus District.

⁷⁵ The testimony was given to Hashem Abu Hassan in Nablus on 11 December 2000.

Twaneh Village, Hebron District, located in Area C, has 200 Palestinians and one primary school. On 12 October, the IDF blocked, by piles of dirt and rocks, the only road leading to the village. Since then, every few days, soldiers bolster the blockage of the road. Almost the entire time since then the school has been closed because the teachers are unable to reach the village. The teachers often encounter soldiers on the road to the village and are sent back. The roadblock also resulted in the cessation of the transporting of pupils who study outside the village (primarily at the Khirbet al Karmel school), so the youngsters have to go by foot to their school three kilometers away.⁷⁶

In areas under curfew, all classes are cancelled. In the H2 area of Hebron, there are 29 schools with an enrollment of 5,450 students.⁷⁷ In Hewara, Nablus District, there are four primary and high schools with 1,900 pupils. Some of the pupils come from adjacent villages, such as ‘Awartea, a-Sawiyeh, Bita, Qabalan, Luban a-Sharqiyeh, ‘Orif, ‘Inabus, Borin, Madma, and ‘Asira al-Qabliyah, which do not have high schools or vocational schools.⁷⁸

The restrictions on freedom of movement also hampered university studies. Hundreds of students from the Gaza Strip study in universities in the West Bank. Following the closing of the “safe passage” and prohibition on entry into Israel, some students were compelled to remain at their homes in Gaza, and some were stuck in the West Bank without being able to go home.⁷⁹ For example, at Bir Zeit University, near Ramallah, of the 307 residents of the Gaza Strip registered, only 185 were present for the when

⁷⁶ From the petition in HCJ 32/01, *The Association for Civil Rights in Israel et al. v. IDF Commander for Judea and Samaria*.

⁷⁷ This information was provided to B’Tselem by the Directory of the Palestinian Ministry of Education in the Hebron District, Muhammad Qawasme.

⁷⁸ The information was provided to Hashem Abu Hassan by Muhammad ‘Abd al-Rahman Badawi, mayor of Hewara, on 1 November 2000.

⁷⁹ For a discussion on violations in this area prior to the opening of the safe passage, see B’Tselem, *Divide and Rule*. See footnote 1.

the new school year began. Those who are at the university are unable to return to their homes.⁸⁰

The dissection of the Gaza Strip into two parts by blocking the main road hampered university studies in Gaza City. For example, following the complete severance between the northern and southern sections on 20 November, some 700 students from the southern part of the Strip who attended the Islamic University in Gaza were unable to return to their homes and for several days had to sleep at the university, where classes had been cancelled.⁸¹

Palestinian schools were also harmed by other measures taken recently by Israel, unrelated to the policy of restrictions on movement. Similar to the restrictions on movement, these measures also constitute a form of collective punishment that hampers operation of educational institutions:

In addition to the restrictions on movement, Palestinian educational institutions were adversely affected by other Israeli measures imposed during this intifada, which also constitute a form of collective punishment:

On 11 October, the IDF took control of three schools in the neighborhood of Jabel Johar,⁸² which have a combined enrollment of 1,835 pupils, and established a military encampment on their premises, which is still maintained. The basis for the seizure was that the topography on which the schools are located enable “a broad and effective observation post over the city,” enabling the army to prevent firing at the Jewish

⁸⁰ The information was provided to B'Tselem by the head of public relations at the university, Yasser Darwish.

⁸¹ The information was provided on 24 November 2000 to B'Tselem by Riad Abu 'Atzer, external relations director at the Islamic University in Gaza.

⁸² The Al-Ma'aref Primary School for Boys, the Johar Primary School for Girls, the Usama Ibn Munqath Primary School for Girls.

settlement in the city.⁸³ This measure halted classes for pupils in the area under IDF control (on those days that the curfew is lifted) and for pupils living in the H-1 area of Hebron who study in these schools.

The IDF took similar measures in al-Khader, a village adjacent to Bethlehem, part of which is under complete Israel security control (Area C). On 31 October, the Etzion Brigade Commander issued an order closing four schools in the village, in which 2,323 pupils study, for 30 days.⁸⁴ This order was later extended for an additional 15 days, so the schools were closed until December 15. The authorities justified the order on the grounds that the schools are located at “the al-Khader intersection on Route 60, which is a main thoroughfare linking Hebron, Kiryat Arba, and the Gush Etzion settlements with Jerusalem.”⁸⁵

On 15 November, The Association for Civil Rights in Israel petitioned the High Court of Justice to direct the opening of these seven schools (in Hebron and al-Khader). ACRI argued that the IDF’s actions were sweeping, disproportionate, and in contravention of international humanitarian law, but the Court denied the petition.⁸⁶

Criticism

Article 13 of the Covenant on Economic, Social and Cultural Rights provides that every person has the right to education. The signatory states are obligated to implement the right at all levels of education: primary, secondary, and higher education.

As noted regarding the right to work and the right to health, the states are obligated to implement the right on three levels.⁸⁷ Israel can surely exempt itself from

⁸³ Statement by the State Attorney’s Office in response to HCJ 8286/00, *The Association for Civil Rights in Israel v. IDF Commander for Judea and Samaria*, section 14.

⁸⁴ Two high schools and two primary schools (two for boys and two for girls).

⁸⁵ Statement of the State Attorney’s Office in HCJ 8286/00, section 4. See footnote 83.

⁸⁶ HCJ 8286/00. See footnote 82. The High Court has not yet given its reasons.

⁸⁷ See footnote 52 and the relevant text.

implementing the proactive level of the right for the reason that, since the PA was established, the PA is responsible for civilian matters, including education. That is, Israel is not expected to act to develop the Palestinian education system. However, Israel certainly has the duty not to impair the system, as it has done since the intifada erupted, thus violating the most basic level of the right to education.

The closing and seizure orders issued regarding the seven schools in Hebron and al-Khader is an even grosser violation of the right to education because, unlike hampering the education system that resulted from the general decision to limit the freedom of movement, the orders were explicit and intentional.

Article 43 of the Hague Regulations requires the occupying state to enable the population to lead as normal a life as possible. As the Supreme Court stated in this context:

The existence of educational and charitable organizations... can naturally contribute to achieve this objective. Conversely, the closing of such institutions, which have existed and operated for a long time, is liable to lead to turbulence and an increase in tension, which does not assist in establishing a normal living situation.⁸⁸

Also, the Fourth Geneva Convention provides that the occupying state must facilitate, “with the co-operation of the national and local authorities, the proper working of all institutions devoted to the care and education of children.”⁸⁹

Furthermore, in cases where military considerations justify harm of one kind or another affecting educational institutions, the harm must be reasonable and proportional. The decision to seize schools in Hebron and to close the schools in al-Khader for periods defined in advance of a month and a half and one month,

⁸⁸ HCJ 660/88, *In'ash al-Usra Society et al. v. IDF Commander for Judea and Samaria*, *Piskei Din* 43 (3) 673, 677.

⁸⁹ Fourth Geneva Convention, article 50.

respectively, and later extended, do not meet this requirement. Because these decisions left more than 4,000 pupils with no educational framework, the IDF was obligated to find alternate solutions that would have resulted in less severe consequences.

Divided Families

Palestinian families in which the wife is an Israeli resident (usually a resident of East Jerusalem) and the husband a resident of the Gaza Strip live apart permanently because of Israel's policy in two main areas. On the one hand, since imposition of the general closure in 1993, residents of Israel are not allowed to enter and remain in the Gaza Strip unless they obtain a permit from the IDF, which is valid for one day only. On the other hand, in most instances, the Minister of Interior denies requests for family unification when the male is the one who requests moving to Israel.⁹⁰

Regarding those women (holding an Israeli identity card) who are married to residents of the Gaza Strip, there is a special arrangement allowing them to stay in the Strip with their spouse and children. These permits are issued for three months at a time. When they expire, the woman must go to Erez Checkpoint and exit to Israel or, in the alternative, obtain a new permit.

The current intifada made it impossible to reach Erez Checkpoint. Furthermore, during the first month after the intifada erupted, the Israeli DCO, which issues the permits, was closed, and telephone calls to the office were not answered. The number of women from Jerusalem living in Gaza on expired permits grew. Five of them contacted HaMoked: Center for the Defence of the Individual for assistance.

On 11 October, HaMoked contacted the Israeli DCO in Erez and requested that the permits be extended automatically and without the women having to endanger their lives and the lives of their children traveling along roads in the Gaza Strip, many of

⁹⁰ See B'Tselem and HaMoked: Center for the Defence of the Individual, *The Quiet Deportation Continues: Revocation of Residency and Denial Social Rights of East Jerusalem Palestinians*, September 1998, pp. 22-23.

which were blocked and under cross-fire. Following HaMoked's intervention, the DCO agreed to HaMoked's request and agreed to extend the permits automatically for a month. However, on 1 November, a week after the arrangement was reached and had been announced to the public, the DCO decided to revoke the arrangement unilaterally. It did so when many women believed that their permits had been automatically extended.

HaMoked appealed to the State Attorney's Office on November 2, warning that if the matter were not resolved, relief would be sought in the High Court of Justice. Only then was the arrangement reinstated for a reasonable interim period (until 15 November), which would also enable the population to be informed about the new procedure.

In several cases, the IDF also did not precisely honor the arrangement that was reached with the State Attorney's Office. A number of women who came to Erez Checkpoint were delayed and interrogated by the police on their "illegal stay" in the Gaza Strip during the period that the office was closed. HaMoked's intervention was repeatedly required.

It is extremely regretful that only following the intervention of a human rights organization - and then only after threat to petition the High Court - do the Israeli authorities consent to give even minimal consideration to the distress of families living apart.

Chapter 5: Collective Punishment and Discrimination

Article 12 of the Covenant on Civil and Political Rights, which Israel ratified in 1991, states that everyone shall have the right to liberty of movement, without restriction, in his or her country, and the right to enter and leave it without hindrance. Unlike other human rights such as the prohibition on torture or on extra-judicial capital punishment, freedom of movement is not an absolute right, and the Covenant allows states to limit the right in emergencies, under certain circumstances. According to article 4 (1) of the Covenant:

In time of public emergency which threatens the life of the nation and the existence of which is officially proclaimed, the States Parties to the present Covenant may take measures derogating from their obligations under the present Covenant *to the extent strictly required* to the exigencies of the situation, provided that such measures are not inconsistent with *their other obligations* under international law *and do not involve discrimination* solely on the ground of race, color, sex, language, religion or social origin. [our emphasis]

The picture portrayed in this report regarding Israel's restrictions on freedom of movement and their grave consequences supports the determination that the restrictions do not comply with the conditions mentioned in this article of the Covenant:

First, the nature and timing of the policy implemented by Israel raises doubts that it is "strictly required" as a result of the security situation:

- Israel imposes the various restrictions on freedom of movement in a sweeping manner on millions of people, rather than on selected individuals who constitute a security threat. For example, Israel prohibited all Palestinian workers from entering Israel where there were alternate means to prevent potential security risks from entering the country;⁹¹

⁹¹ See the discussion in the criticism section of Chapter 2.

- Restrictions are often imposed in “response” to Palestinian attacks against Israeli civilians or soldiers, without any substantive connection between prevention of similar attacks and the nature of the restriction imposed. For example, in response to the attack by Palestinians on the Egged bus in Netanya, Israel closed the airport and the Rafah land terminal in the Gaza Strip;
- The decision to ease restrictions on freedom of movement are generally made as a “gesture” in the context of political processes, in situations in which it is not at all clear that at the time of these developments the “security threat” that ostensibly justifies Israeli measures have lessened;

Second, as was mentioned in the preceding chapters of this report, the harsh human consequences of the restrictions imposed by Israel on the Palestinians violate other legal duties to which Israel is subject, primarily the right to work, the right to health, and the right to education, as they appear in the International Covenant on Economic, Social and Cultural Rights.

Third, the restrictions policy is based entirely on flagrant nationality-based discrimination between the two populations living in the Occupied Territories: Palestinians and Jews (see the discussion below).

International humanitarian law, too, limits the power of the occupying state to sweepingly and for a prolonged period of time impair the daily lives of the population under occupation, as Israel has done since the outbreak of the intifada. This prohibition is derived, as the Supreme Court has stated in several decisions, from Regulation 43 of the Hague Convention, which requires Israel to ensure, as far as possible, “public order and safety in all its aspects... [including] a wide variety of

civilian circumstances, such as economic, social, educational, sociological, sanitation, health, transport, and similar matters related to life in a modern society.”⁹²

As the occupying state, Israel is allowed to restrict freedom of movement and impair the routine of the local population.⁹³ However, as the Supreme Court Justice Yitzhak Zamir has noted:

In every case in which such restrictions [on freedom of movement] are imposed, the competent authority must weigh the degree of security need in exercising the power vested in the authority against the degree of harm to the local population, to refrain from imposing restrictions as punishment, and to refrain from taking harsh and harmful measures in excess of those that are proper in the circumstances of the case.⁹⁴

By contrast, it is difficult to view Israel’s restrictions of movement in the current intifada as measures taken solely according to “the degree of security need” and only after weighing the “degree of harm to the local population,” as required by the Supreme Court. In addition to the sweeping nature and the lack of proportionality of the general closure, which prevents hundreds of thousands of Palestinians from earning an income, the unique characteristics of the internal closure should be mentioned. In order to enforce it, the IDF placed concrete blocks and piles of dirt, and dug holes, which can be removed only by heavy machinery. Such enforcement is accomplished in one short operation requiring minimal resources compared to stationing soldiers at every checkpoint. However, this savings denies the residents under siege the ability to speak with the soldiers to convince them of the necessity to pass through the checkpoint in emergencies.

⁹² H CJ 393/82, *Jamaeat Askan al-Malmun v. IDF Commander in Judea and Samaria et al.*, *Piskei Din* 37 (4) 785, 789. See also H CJ 3933/92 *Barkat v. OC Central Commander*, *Piskei Din* 46 (5) 6,1; *Abu ‘Itta* (see footnote 55).

⁹³ According to the military legislation, the commander in the region is granted the power to limit the use of roads and motor vehicles, pursuant to section 88 of the Order Relating to Defense Regulations Number 378 (Judea and Samaria), 5730 –1970.

⁹⁴ H CJ 1759/94, *Sruzberg et al. v. Minister of Defense et al.*, *Takdin Elyon* 94 (2) 1247, section 3.

The sweeping nature of the restrictions imposed by Israel, the specific timing that it employs when deciding to ease or intensify them, and the destructive human consequences turn its policy into a clear form of collective punishment. Such punishment is absolutely prohibited by the Fourth Geneva Convention.⁹⁵

Another forbidden aspect of the restrictions imposed by Israel - in addition to being collective punishment - is the discrimination inherent in their implementation. The principle of equality is one of the foundations of the human rights system as well as of Israeli law. Conversely, the policy of restricting freedom of movement that Israel has employed since the beginning of the intifada is founded wholly on the basis of flagrant discrimination based on the nationality of the two populations in the Occupied Territories. Not only are the restrictions imposed only on Palestinians, in many cases the express purpose of the restrictions is to ensure the freedom of movement of Jews in the Occupied Territories, at the expense of the growing distress of the local population.

Col. Noam Tibon, who imposed the curfew on Hebron, stated that, “as military commander, it is my duty to guarantee the safety of all Hebron residents, and it is clear that in the case of combat, it is impossible to accomplish this without imposition of a curfew.”⁹⁶ This statement is inconsistent with the facts. In those “combat” conditions, the IDF has been rather successful in ensuring the safety of the settlers in Hebron without hampering their freedom of movement at all. However, even if the contention is true that when there is shooting, the only way to protect the residents’ lives is by imposing a curfew, there is no justification for imposing it only on the Palestinians.

⁹⁵ Article 33. See, also, regulation 50 of the Hague Convention.

⁹⁶ Response affidavit, section 6, in HCJ 9382/00. See footnote 12.

Therefore, and in light of past experience, it is reasonable to assume that one of the primary objectives of the curfew in Hebron is to enable Jewish residents to continue their daily routine as much as possible. This is achieved by imprisoning the Palestinians in their homes and thus preventing friction between the two populations.⁹⁷ In a similar manner, the IDF imposed a prolonged curfew on Hewara, Nablus District, to enable settlers in the area to move freely along the route passing through the village.⁹⁸

The State Attorney's Office explained the closing of the schools in al-Khader as a means to enable settlers in Hebron, Kiryat Arba, and Gush Etzion to move safely along Route 60, which links those settlements with Jerusalem. The State Attorney's Office grounded its legal justifications on the obligation of the occupying state under regulation 43 of the Hague Convention to ensure public order and security in the occupied territory.⁹⁹ The use of this regulation to legitimize harming the Palestinian population for the sole benefit of the settlers is a cynical and twisted use of the regulation in an attempt to justify what cannot be justified: a policy of invalid and illegitimate discrimination.

⁹⁷ See B'Tselem, *Impossible Coexistence* (footnote 11).

⁹⁸ See footnote 14.

⁹⁹ Section 25 of the statement by the State Attorney's Office in response to HCJ 8286/00. See footnote 83.

Conclusions

This report presented several grave consequences of Israel's strangulation of the Occupied Territories since the outbreak of the intifada at the end of September, 2000. These effects were felt in the areas of economy, health, education, and family life. One of the main reasons for these disastrous consequences is the sweeping nature of the restrictions imposed by Israel, which are not directed at specific individuals who constitute a security danger, but indiscriminately against millions of people. Time also plays a decisive role: the effects of a weeklong curfew, for example, differ from the consequences of a continuing (intermittent) curfew that lasts almost three months, as in Hebron.

The timing of Israel's relaxation and aggravation of the restrictions on movement adds an important aspect to understanding the nature of its policy. This report shows that decisions to relax the restrictions were unrelated to pure security considerations, but to extraneous considerations, such as advancing negotiations with the Palestinian Authority. Decisions to intensify the restrictions in response to attacks - primarily if they resulted in Israeli deaths - or to an increase in the severity of violent demonstrations, hint that the motives were not necessarily preventative.

The combination of the nature of the restrictions, their length and the timing of their imposition, clearly indicate that their objective is purely collective punishment for violent acts perpetrated by individual Palestinians against IDF soldiers or Israeli civilians.

Over the years, officials in Israel's security establishment have explained the collective punishment policy as "a deterrent." According to this approach, many Palestinians will refrain from committing attacks out of fear for people they care about, and, when attacks do occur, the local population will offer less support to those responsible and their organizations.

B'Tselem has warned several times that a policy based on intentional harm to innocent people in the name of deterrence (or any other objective) is immoral and a gross violation of international law. Furthermore, the logic of fear underlying this policy poses the danger of the slippery slope: the moment that the principles of individual responsibility and punishment only following due process of law are abandoned, the transition from "light" punishment of innocent people to the kinds of punishment that most people would find detestable becomes solely a question of efficiency and feasibility.

Accordingly, B'Tselem urges the Israeli government to:

- Cancel the comprehensive closure that has been imposed on the Occupied Territories and allow Palestinians with permits to work in Israel.
- Open the safe passage and enable free movement between the West Bank and the Gaza Strip to all Palestinians. Care should be given that security considerations are not invoked to prevent free movement of Palestinians except in individual cases and by providing an alternate solution.
- Lift the internal closure on the West Bank and the Gaza Strip and enable movement of people and goods by road.
- Refrain as much as possible from imposing curfews on Palestinian communities. In the alternative, if a curfew is required, it should be imposed equally on Palestinians and Jews.
- Refrain as much as possible from closing or seizing schools.
- Refrain from imposing a sweeping prohibition on bringing raw materials and other production inputs into the Occupied Territories, and enable entry of Israeli vehicles into the Occupied Territories.

- Ensure the free movement of ambulances and the sick, and investigate cases in which Palestinians died or their medical condition deteriorated because they were denied or delayed passage through IDF checkpoints, prosecuting to the full extent of the law those responsible.





State of Israel
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Pages 2
15 Tevet 5751
10 January 2001

B'Tselem organization – Yehezkel Lein

Subject: Response to B'Tselem Report

1. A careful reading of the report reveals clearly that this is a one sided and pro-Palestinian report that does not recoil from any argument to present Israel in a negative light. To my amazement, I did not find in any of the 30 pages of the report any mention of the state of hostilities in the territories – the thousands of shooting attacks, the bombs, the violence and the rampant terrorism that is employed by the Palestinian leadership. This situation in which 100% of the events are instigated by the Palestinians is what leads to the severe security measures by Israel. This context, which dictates the reality on the ground, is not mentioned in the report, and therefore all the arguments appearing in it concerning Israeli measures are presented in a negative light, while the Palestinians are presented as the innocent victims.
2. The release of dozens of Hamas and Islamic Jihad terrorists from the Palestinian Authority prisons, and thousands of shooting attacks and bombs on the roadsides in Judea, Samaria and Gaza, caused Israeli to imposed general

and internal closures, and in spite of this there are murderous attacks. Does the B'Tselem organization assume the security responsibility to determine, as indicated from your words (page 6), that “the closure does not contribute to security”? Does the organization have any idea how many attacks were prevented thus far?

3. As a rule, the entrance of humanitarian equipment and all supplies pertaining to basic needs is allowed. In addition, passage in medical emergencies or humanitarian requests is allowed.
4. Concerning agricultural produce, B'Tselem's claims are erroneous, we allow entrance of varied agricultural produce, such as strawberries, flowers and other types that are liable to rot and are now in their only harvest season. However, the crossings at certain times are indeed closed or activity in them is limited. The Sufa Crossing for example, mentioned in the report, is closed because it requires passage of Israeli trucks into Palestinian territory. Does it need to be mentioned to the report's authors what happened to a number of Israelis who entered Palestinian territory? The airport was closed a number of times, primarily following shooting incidents at the entrance to it. In one of the incidents, an Israeli woman was even killed.
5. The State of Israel views the work of Palestinian laborers in Israel as one of the vital interests, however in a situation like this, in which terror is rampant and the force of the warnings about additional attacks are unprecedented, it is not possible to allow passage of laborers. To remind you, while the work of thousands of laborers was allowed during the events, the attacks in Tel Aviv and Netanya took place.
6. In conclusion - sadly B'Tselem decided to draft a one-sided report. The presentation seriously damages the credibility of the reporting, and prevents the organization from advancing the important humanitarian interests in the name of which it operates.

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January 30, 2001



E. To:
F. Yael Stein, Advocate- B'tselem

Re: IDF's Response to the B'tselem Report

1. Firstly we would like to mention that the report completely and deliberately ignores the state of combat that exists in the territories in the past few months.
2. As is known, since the end of September 2000, thousands of combat events occur in Gaza and in Judea and Samaria against Israelis and IDF soldiers, including shootings, terror attacks, violent riots and throwing of Molotov cocktails and stones.
3. As a result of these combat events, dozens of Israelis were killed and injured. The severity and high frequency of these events cause a change in the definition of the situation in the territories, thus viewing it as an armed conflict short of war, on which the customary principles of war rules of international law apply (this position falls into line with the ruling of the high court of justice in several petitions that were submitted against the security measures that were taken during the events- see for example **high court of justice 8286/00 The Association for Civil Rights vs. IDF commander of forces in Judea and Samaria T.P.**).

4. As opposed to the Intifada that occurred in the late 80's, the combat events that we witness in the past few months are not sporadic events originated in the streets, but rather an activity that is often guided by the Palestinian Authority bodies, and the Palestinian Authority defense forces even take part in it.

5. It should be mentioned that the combat events were not initiated by Israel. This is a situation that was forced on Israel by the Palestinians, who chose to try to solve the disagreements by means of violence, instead of by means of peace and negotiations.

6. In order to deal with the combat events described above, and with the security risk that derives from the new situation, IDF had to take different security measures that vary from time to time according to the circumstances in the field and the security needs. These measures include curfew, closure and internal closure, which will be referred to in greater detail later on.

7. This is the place to emphasize that all the security measures taken by the IDF are implemented as a **response** to violence of the Palestinian side, and as an inseparable part of the attempt to deal with it while trying to avoid as much as possible hurting citizens who do not participate in the combat events. Therefore, presenting the combat events in the report without any mentioning of the situation that caused the need to implement the security measures does not present a balanced picture of the situation.

8. Secondly, and before we comment on the different security measures mentioned in the report, we would like to clarify that contrary to what is said in several different places in the report, the security measures taken by the IDF are not implemented as a mean of collective punishment against the Palestinian population.

9. The security measures taken by the IDF in response to the combat events derive from security considerations to prevent the events.

10. Every time the IDF takes security measures, it is instructed to balance between the

security needs and the damage that may be caused to the civilian population as a result of these measures, while trying to minimize such possible damage.

closure

11. The closure that the state of Israel imposed on the territories due to the violent combat events is a security measure the purpose of which is to prevent Palestinian residents in the territories from entering Israel, thus decreasing the chances of terrorists and other hostile entities penetrating Israeli territory. Imposing the closure stems from security considerations of protecting the country and its citizens.

12. It is important to emphasize that Palestinians residing in the territories have no right to enter the state of Israel. Nevertheless, throughout the years the state of Israel enabled Palestinian residents to enter its territories, both for work purposes as well as for other purposes such as medical treatment, studies etc.

13. In light of the grave security situation that we witness in the past few months, the risk of allowing Palestinian residents to enter Israeli territories has dramatically increased. The risk has become even higher since the Palestinian Authority decided recently to release terrorist prisoners and detainees that were held in the Palestinian Authority prisons due to committing or suspicion of committing terror attacks against the state of Israel and its citizens.

14: Despite the aforementioned, the IDF has prepared to ensure the ability to provide solutions for humanitarian problems that may arise among the residents of the territories. For example, the IDF procedures ensure that medical emergency cases will be able to pass through the roadblocks. They also ensure the passing of the Red Cross, Red Crescent and UNRWA's medical teams and the entering of medications, medical equipment, and food products into the territories etc.

Internal closure

15. The internal closure closes certain areas within the territories, and is meant to prevent free movement in and from the closed area, thus making it more difficult for terrorists and hostile bodies to escape to the Palestinian Authority territories after they have committed terror attacks or to get out of the area in order to commit terror attacks, plan terror attacks, transfer ammunition from place to place etc.

16. As described above, the fear of terror attacks being committed in Israel has largely increased, and it is clear that taking this security measure has become of greater necessity.

17. Nevertheless, and as we said in the beginning, the IDF is instructed to balance between the existing security need and the damage caused to the civilian population as a result of imposing an internal closure.

18. For example, the IDF's policy is that when an internal closure is imposed on certain areas, at least one road to each area will remain unblocked. That way closed areas are not completely disconnected, and this is done in order to avoid damage to the humanitarian needs of the civilian population (such as the ability to evacuate emergency medical cases from the closed area to a nearby hospital) and to minimize as much as possible the damage to the civilian life routine.

Damage to the freedom of movement

19. There is no doubt that imposing closure causes damage to the freedom of movement of the Palestinian population within the territories. Nevertheless, had the shootings and combat events against Israelis and IDF soldiers not occurred, the IDF would never have needed to take this security measure in the first place.

20. Furthermore, it should be mentioned that the authority to limit the movement of

civilian population falls into line with the rules of the international law. This law applies to areas under military control, and therefore must apply as well to areas in which combat events take place, whether or not these areas are under military control.

21. In order to provide a more balanced description of the situation as it is reflected in the report, it should be mentioned that due to the combat situation the life routine and freedom of movement of the Israelis living in the territories have also been damaged. In the past few months, the Israeli citizens living in the territories have been under constant threat to their lives, while the Palestinians are shooting at cars from the sides of the roads and from within driving cars.

22. As for the humanitarian problems that rise during the period of internal closure, that derive from limiting the freedom of movement of the Palestinian residents, the IDF has prepared in advance to provide appropriate solutions. The IDF has procedures the purpose of which is to ensure that emergency medical cases will be able to pass through the roadblocks, to handle applications of residents of the areas to receive medical treatments in hospitals, to arrange for medical teams of the Red Cross, the Red Crescent and UNRWA to pass through the roadblocks and to ensure entering of medications, medical equipment and food products to the territories (subject to specific military limitations that sometimes caused these shipments to be delayed for a limited time, for example, when there are shooting events in a certain area at a certain time).

Curfew

23. A curfew is another security measure mentioned in the report. It should be mentioned that this measure too is only taken when security need demand it, as a result of the combat situation in the area.

24. For example, the curfew on area H-2 in Hebron, mentioned by the authors of the report, is imposed when combat events occur in the city. The purpose of imposing the curfew is both to enable the IDF soldiers to conduct battles in

built areas with no obstructions, and to protect the lives of the residents. The purpose of the curfew is also to prevent Palestinian residents from joining the riots.

25. As mentioned in the report, a petition was submitted to the high court of justice regarding this curfew, and this petition was denied. The state's response to the petition explained that a curfew is imposed on a town in the beginning of the shooting events and continues as long as there is reasonable possibility that these shooting events will recommence.

26. Furthermore, in any case where curfew is imposed as a means of security, the IDF has procedures that ensures stopping it from time to time to enable the civil population to get equipment and to provide solutions for humanitarian problems such as enabling movement in cases of medical urgencies.

Other security means

A. Closing and seizing places for military purposes:

27. As for the claim against closing and seizing several schools in the territories during the current combat events, it should be mentioned that the actions are conducted as a security mean based on specific security and operational needs, and fall into line with the laws of war of the customary international law.

28. Furthermore, this position was approved by the high court of justice in the framework of the petition of the Israeli association for civil rights (high court of justice 8286/00), which determines that due to hostilities in the Hebron area, the seizing of schools based on military considerations does not contradict the rules of the international law.

B. Exposure of operations:

29. The roads in Judea and Samaria and in Gaza constitute one of the main friction centers where intensive combat events take place in the last few months. The IDF is, of course, required to deal with these combat events and to provide protection to those who use the said roads, both soldiers and civilians.

30. The vegetation and the fences on the sides of the roads often serve as hiding place to commit terror attacks, and make it difficult for the IDF soldiers to protect from bombs and shootings at Israelis who drive these roads. The security mean that the IDF uses in order to provide a solution for this security need is, among others, exposing the areas on the sides of the roads, including flattening of the area, removing trees and destroying fences.

31. The authors of the report refer to the said exposing activities as acts of violence and vengeance of the IDF against the Palestinian population.

32. It should be emphasized again, as aforementioned, that the purpose of these exposing acts is not to punish the Palestinian populations, but rather to provide a solution for a specific and defined security need.

33. Furthermore, it is important to mention that the experience of the past few months in the territories proves that the number of terror attacks was reduced in places where different military actions were done, including exposing actions near roads.

The economic damage

34. The authors of the report claim that the security measures taken by the IDF prevent the Palestinians from going out to work in Israel, and as a result their right to work and provide for themselves is violated.

35. The authors of the report also point out the severe economic damage that was caused to the Palestinian market as a result of different security means that were taken

in the past few months and of the sharp increase in the number of unemployed people among the Palestinian population in the territories.

36. As already mentioned, the Palestinians residing in the territories have no right to enter the state of Israel, including for livelihood purposes. In the current situation, in which intensive combat events initiated by the Palestinians against Israeli citizens and soldiers take place, the state of Israel is entitled to limit the entering of Palestinian residents into its areas. Furthermore, if the presence of Palestinian residents in Israel may jeopardize the security of Israeli citizens and residents, the state of Israel is obliged to take the required means in order to protect their security.

37. The economic damage caused as a result of these limitations is an unfortunate byproduct which would not have occurred had the consequences not required it.

38. Further to what has been said, it should be emphasized that despite the severe circumstances in the area, the IDF does everything possible in order to minimize the damage to the civilian population, and if the situation allows it, the IDF even enable Palestinian residents to enter Israel, when the security bodies believe that this will not jeopardize the security of the state, its citizens and its residents (as can be seen in the report itself).

39. Finally, we would like to mention that the authors of the report often rely on the convention from 1966 regarding economic, social and cultural rights.

40. The purpose of this convention is to ensure the promotion of social and economic welfare in a democratic society, in a situation of peace and routine. The arrangements determined in this convention do not provide solutions for special security circumstances that justify limitations, during times of combat, of rights protected by the convention.

41. In the existing combat situation in the territories, the binding principles are the customary laws of war and the humanitarian principles determined in the fourth Geneva convention regarding the protection of civilians during conflicts, and these are the principles according to which the IDF is instructed to operate.

Sincerely,

Efrat Segev,  **Major**
Public **Relations**