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B'TSELEM - The Israeli Information Center for Human Rights in the Occupied Territories

Information Sheet

August 2004



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Israel's Discriminatory Road Regime in the West Bank



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B'TSELEM - The Israeli Information Center for Human Rights in the Occupied Territories was founded in 1989 by a group of lawyers, authors, academics, journalists, and Members of Knesset. B'Tselem documents human rights abuses in the Occupied Territories and brings them to the attention of policymakers and the general public. Its data are based on independent fieldwork and research, official sources, the media, and data from Palestinian and Israeli human rights organizations.

Introduction

On 23 March 2004, the day after the assassination of Hamas leader Ahmad Yassin, the Israeli media reported that the IDF had imposed a total closure on the Occupied Territories and a siege on cities in the West Bank. Such reports, which regularly appear in the Israeli media, paint a misleading picture of the reality in the West Bank. According to the reports, the severe restrictions on the movement of Palestinians are a response to a particular event or threat. The reality is altogether different. The sweeping restrictions are largely permanent, and have been for some time. They are only marginally affected by the defense establishment's assessment of the level of security threats at any given time.

This report deals with one of the primary, albeit lesser known, components of Israel's policy of restricting Palestinian movement in the Occupied Territories: restrictions and prohibitions on Palestinian travel along certain roads in the West Bank. This phenomenon is referred to in the report as the "Forbidden Roads Regime." The regime, based on the principle of separation through discrimination, bears striking similarities to the racist apartheid regime that existed in South Africa until 1994. In the roads regime operated by Israel, the right of every person to travel in the West Bank is based on his or her national origin.

The roads regime that Israel operates in the West Bank differs from the policies of South African apartheid in at least one important way. While every last detail of the apartheid system was formulated in legislation, the roads regime in the West Bank has never been put on paper,

neither in military legislation nor in any official decision. Implementation of the regime by IDF soldiers and Border Police officers is based solely on verbal orders given to the security forces. Therefore, enforcement of the roads regime entails a greater degree of arbitrariness than was the case with the regime that existed in South Africa.

In an attempt to justify its policy, Israel contends that the restrictions on Palestinian travel along these roads result from imperative security considerations and not from racist motives. Indeed, since the outbreak of the intifada in September 2000, there has been an alarming increase in the number of attacks by Palestinian organizations against Israeli civilians inside Israel and in the Occupied Territories. More than 600 Israeli civilians, including over 100 minors, have been killed. Attacks aimed at civilians violate all standards of law and morality, and constitute war crimes in international humanitarian law. The attacks are unjustifiable, regardless of the circumstances. Not only is Israel entitled to take action to defend its citizens against such attacks, it is required to do so. However, its actions must comply with Israeli and international law.

The Forbidden Roads Regime is based on the premise that all Palestinians are security risks and therefore it is justifiable to restrict their movement. This is a racist premise that led to a policy that indiscriminately harms the entire Palestinian population, in violation of its human rights and of international law.

The Forbidden Roads Regime was designed in accord with the geopolitical division established

in the Oslo Agreements. Palestinians may generally travel in Areas A and B, in which certain governmental powers were transferred to the Palestinian Authority. In Area C, which remains under sole Israeli authority, Israel restricts Palestinian travel, and on some of the roads Palestinian travel is completely prohibited. Israeli civilians are allowed to travel without restriction in Area C. In Area B, restrictions are occasionally placed on travel by Israeli civilians, and Israeli civilians are completely forbidden to enter Area A (except for unusual cases). It should be noted that the prohibition on entry of Israelis to Area A and parts of Area B is incorporated in military orders. As mentioned, the prohibitions on Palestinian movement are not set forth in military orders.¹

Israeli officials contend that this arrangement is a reasonable solution, “that is intended to prevent excessive friction between Palestinians and Israelis.”² However, a careful look at the “Oslo map” exposes the discriminatory and harmful basis on which the policy is based. Areas A and B constitute dozens of islands separated by a sea defined as Area C. The redeployment of IDF forces in 2000, pursuant to the Wye Memorandum, created eleven separate blocks defined as Area A (comprising eighteen percent of the West Bank), some 120 separate blocks defined as Area B (comprising twenty-two percent of the West Bank), and one

contiguous block, which is defined as Area C and covers about sixty percent of the West Bank. Palestinians who want to go from one Palestinian block to another must cross Area C, which is subject to the Forbidden Roads Regime. Israelis, on the other hand, can move freely between the settlements and into Israel, without having to enter Areas A or B.

Chapter One of this report briefly describes the integral relationship between the paving of roads in the West Bank and the establishment of the settlements. The chapter also discusses the legal means Israel used to gain control over the land on which it built these roads.

Chapter Two presents the findings of B’Tselem’s research regarding the elements comprising the Forbidden Roads Regime. This chapter has four parts: 1) a description of the means used to enforce the regime; 2) a classification of the roads into three categories based on the severity of restrictions; 3) a discussion of the consequences of the regime on the Palestinian population, with five illustrative examples; and 4) a discussion of the IDF’s refusal to incorporate the regime in military legislation.

Chapter Three briefly describes the bureaucracy that Israel operates to issue movement permits that enable Palestinians to travel on some of the restricted roads.

Chapter Four analyzes the Forbidden Roads Regime from the perspective of international law.

1. Order Regarding Defense Regulations (Judea and Samaria) (No. 378), 5730 – 1970, Declaration Regarding Closing of Area (Prohibition on Entry and Stay) (Area A). Similar orders were issued regarding parts of Area B.

2. Letter from the IDF Spokesperson’s office to B’Tselem, 21 June 2004. The statement quoted relates in general to the restrictions on movement imposed on Israelis and Palestinians on certain roads, and not specifically to Areas A, B, and C.

Chapter One

Roads, Land Expropriation, and the Establishment of Settlements

Since the occupation began in 1967, Israel has established an extensive system of roads covering hundreds of kilometers in the Occupied Territories.³ According to one estimate, the cost of these roads amounts to about ten billion shekels.⁴ In some cases, the roads were improvements and expansions of existing roads, while others were built along new routes. The roads are intended almost completely to serve the settlements. In some cases, when making statements to the High Court of Justice and to international officials and organizations, Israeli officials have denied that their objective in taking control of land to build these roads is to benefit the settlements. Rather, the state pointed to military needs and the desire to improve the infrastructure to benefit the Palestinian population. Yet it is hard to find one road that Israel built in the West Bank that was not planned to serve and perpetuate the settlements.

Israel's road construction policy in the West Bank differs drastically from the policy instituted by the British and the Jordanians during their rule of the West Bank. The geographer Elisha Efrat points out that the roads in the West Bank, "were always based on the surrounding topography."⁵ With Palestinian population centers being located alongside the central ridge, two roads running north-south

were sufficient, one along the Jenin-Jerusalem-Hebron route (Route 60) and one along the Jordan Valley (Route 90). A few roads branched out from Route 60, most of them in the northern West Bank.

In the early 1970s, the situation quickly changed as a result of the settlements. The establishment of new settlements almost immediately brought with it the construction of access roads to link them to the existing main roads. In many instances, the location of the settlements required new routes over topographically difficult terrain.⁶ Frequently, these roads served a small number of settlers, no more than a few dozen. The Israeli policy led, among other things, to extensive damage to the West Bank's landscape. Also, the road construction far exceeded the changes needed to meet the transportation needs resulting from the increase in population and economy of the area.

The idea of a bypass-roads system, which enables access to settlements and travel between settlements without having to pass through Palestinian villages, was first raised during the settlement push in the late 1970s. In the "Settlement Master Plan for 1983-1986," the chapter discussing roads states that, "The road is the factor that motivates settlement in areas where settlement is important, and its [road] advancement will lead to development

3. The entire West Bank is some 5,600 square kilometers.

4. Anat Georgy and Motti Bassok, "Roads for Ten Billion Shekels," *Ha'aretz*, Rosh Hashanah special supplement, 26 September 2003.

5. Elisha Efrat, *Geography of Occupation* (Jerusalem: Carmel Publications, 2002), p. 148 (in Hebrew).

6. *Ibid.*, p. 150.

and demand.”⁷ According to the plan, one of the primary objectives determining the routes of the roads was to “bypass the Arab population centers.”⁸ It was according to this conception that Israel built dozens of new roads in the West Bank during the 1980s.

Beginning in 1993, with the signing of the Declaration of Principles between Israel and the Palestine Liberation Organization, and in the framework of the redeployment of IDF forces in the West Bank, the bypass-road system gained momentum.

In 1995, new road construction reached a peak. Israel began the construction of more than one hundred kilometers of roads in the West Bank, which constituted more than twenty percent of all the road starts that Israel made that year.⁹ In following years, Israel continued to build bypass roads, though at a slower rate. In July 2004, four bypass roads were under construction.¹⁰

Contrary to the customary purpose of roads, which are a means to connect people with places, the routes of the roads that Israel builds in the West Bank are at times intended to achieve the opposite purpose. Some of the new roads in the West Bank were planned to place a physical barrier to stifle Palestinian urban development.¹¹ These roads prevent the natural joining of communities and creation of a contiguous Palestinian built-up area in areas in which Israel wants to maintain control, either

for military reasons or for settlement purposes.

The settlement master plan for 1983-1986, mentioned above, expressly states that one of the primary considerations in choosing the site to establish settlements is limiting construction in Palestinian villages. For example, in its discussion of the mountain ridge area, the plan states that it “holds most of the Arab population in the urban and rural communities... Jewish settlement along this route (Route 60) will create a psychological wedge regarding the mountain ridge, and also will likely reduce the uncontrolled spread of Arab settlement.”¹² This demonstrates that the desire to demarcate Palestinian construction was a guiding principle in determining the routes of the new roads.

The routes set for most of the new roads ran across privately-owned Palestinian land. To enable this, Israel used two legal means: “requisition for military needs” and “expropriation for public use.”

International humanitarian law allows the occupying state to seize temporary control of private property of residents in Occupied Territory (i.e. land, structures, personal property) provided that the seizure is a military necessity. To take advantage of this, Israel defined some of the roads it planned to build as a response to meet “military needs.” Until the end of the 1970s, Israel contended that the settlements played an important military

7. Ministry of Agriculture and Settlement Division of the World Zionist Organization, *Master Plan For Settlement of Samaria and Judea, Plan for Development of the Area for 1983-1986* (Jerusalem: Spring, 1983), p. 27 (in Hebrew). The plan also mentions the Drobless Plan, named after the chair of the WZO’s settlement division, who was among the officials who conceived the plan.

8. Ibid.

9. Adva Center, *Government Funding of Israeli Settlement in Judea, Samaria, and Gaza and in the Golan in the 1990s: Local Authorities, Residential Construction, and Road Construction*, May 2002 (in Hebrew).

10. Za’tara bypass road, which links the Noqdim-Teqo’a block and Har Homa (fifteen kilometers); the Ya’bad bypass road, which links Harmesh and Mevo Dotan (eight kilometers); the bypass road linking Qedar and Ma’aleh Adumim (seven kilometers); and the bypass road linking NILI and Beit Ariyeh (four kilometers).

11. For an illustration, see B’Tselem, *Land Grab: Israel’s Settlement Policy in the West Bank*, May 2002, Chap. 8.

12. Ministry of Agriculture and the Settlement Division of the WZO, *Master Plan*, footnote 8.

role, so it was allowed to seize private land to establish them and build roads to serve them. In the High Court's judgment in a petition against establishment of the Beit El settlement on privately-owned Palestinian land, Justice Vitkon approved the action, stating:

Regarding the pure security consideration, there is no question that the presence of communities in occupied territory – even “civilian” communities – makes a significant contribution to security in that area, and facilitates the army's role.¹³

The “military needs” contention was given new meaning in the 1990s, in the wave of road construction that followed the redeployment in the West Bank. Previously, the presence of settlers, for whom the roads were intended, was considered an aid to the army; now, military necessity was defined as supplying safe roads for the civilian population.¹⁴

The second legal means that Israel employs, as stated, is “expropriation for a public purpose.” As a rule, seizure of property in occupied territory, unlike the temporary requisition for military needs, is forbidden under international law.¹⁵ The only exception is expropriation in accordance with the local law that is intended to benefit the local population.¹⁶ Thus, Israel relied on the Jordanian expropriation law applying in the West Bank.¹⁷ When defending the expropriations before the High Court, the State Attorney's Office repeatedly argued

that the planned roads would also serve the Palestinian population, and that its needs were taken into account during the planning. In a judgment given relating to a petition against the expropriation of private land to build a road linking the Qarne Shomeron settlement to Israel while bypassing Palestinian communities, Justice Shilo accepted the state's position and held:

Bypassing population centers prevents necessary delay in movement within the settlements, and thus time and energy, while the population in those centers welcome being free of the troubles due to the noise, air pollution, and blockage of roads also in residential areas... If settlement of this kind is established [the new neighborhood of Qarne Shomeron, Y.L.], it will benefit from the road, but the residents of the existing villages, Habla and others, will benefit no less.¹⁸

As time passed, Justice Shilo's vision came true, at least in part. The bypass road, like other bypass roads, also served Palestinians in the area.

Israel used both means – requisition and expropriation – in taking control of land on which to build roads. Apparently, the decision on the particular means to use was made arbitrarily. From Israel's perspective, it was advantageous to claim requisition for military needs, which reduced the legal

13. HCJ 258/79, *Ayub et al. v. Minister of Defense et al.*, *Piskei Din* 33 (2) 113, 119.

14. For a summary of Israel's understanding of the role of the bypass roads in the framework of the IDF's redeployment in the West Bank following the Oslo Agreements, see State Comptroller, “Construction of Bypass Roads in Judea and Samaria in the Framework of Operation Rainbow,” *Annual Report* 48 (1998).

15. Article 46 of the Regulations Attached to the Hague Convention Respecting the Laws and Customs of War on Land (1907).

16. See the decision of Justice Barak in HCJ 393/82, *Jama'it Askan Alm'almun Cooperative Society v. Commander of IDF Forces*, *Piskei Din* 37 (4) 785.

17. Land Law: Acquisition for Public Purpose, Law No. 2 of 1953.

18. HCJ 202/81, *Tabib et al. v. Minister of Defense*, *Piskei Din* 36 (2) 622.

obstacles that Palestinians could use. This was especially true after the High Court ruled in principle that building bypass roads to serve the settlements was indeed a military need. However, expropriation of land on the pretext of improving the road infrastructure on behalf of the local residents, Palestinians and Jews alike, would likely be more acceptable to certain groups in Israel and abroad. This may have been the reason for the recommendation made by the Attorney General regarding bypass roads that were planned following the Oslo Agreements: “A civil expropriation order is preferable over a military requisition order, whenever possible.”¹⁹

Not only did Israel almost always decide to build roads in the West Bank to meet the needs of settlers and not Palestinians (even if the latter benefited from the roads), in certain cases, settlers built new roads through the means of the local authorities, without state approval. According to the State Comptroller:

In 1994-1996, a number of roads were built in Judea and Samaria without the approval of the competent authorities in the region. The routes of these roads passed in large part over private land belonging to the Palestinians living in the region. During execution of the project, the defense establishment retroactively approved the construction of some of these roads.²⁰

According to the State Comptroller, in most cases

in which the competent IDF officials realized that the roadwork was being done without approval, the army rushed to obtain requisition orders to legalize retroactively the injury to private property. In one case (the “Wallerstein Road” linking the Beit El and Dolev settlements), part of the road built by the settlers ran through Area B, area in which, according to the Oslo Agreements, Israel was not entitled to seize private property for that purpose.²¹ Therefore, regarding this section of the road, the necessary requisition orders were not issued and no order was given to take control of the land. However, the IDF did not stop construction work on the road.²² Building new roads on the initiative of settlers, without approval of the relevant authorities, became a common element of the many illegal outposts that have been erected in the West Bank since the end of the 1990s.²³ It should be mentioned that the construction of these roads is only one expression of the state’s forgiving attitude toward settler lawbreakers, a policy that has been in effect for many years.²⁴

In sum, we see that the vast majority of the roads that Israel has built in the West Bank was intended to aid the settlement enterprise. In some instances, the roads met the settlers’ transportation requirements, and in other cases, served to limit Palestinian construction in areas adjacent to settlements. These reasons had nothing to do with the legal arguments that Israel used to justify taking control of private Palestinian land.

19. State Comptroller, *Annual Report 48*, p. 1036.

20. *Ibid.*, p. 1038.

21. Since the beginning of the al-Aqsa intifada, Israel has not referred to the Oslo Agreements in general, and this provision in particular. The requisition of private property for military needs is carried out now, in Israel’s view, pursuant to the laws of war.

22. State Comptroller, *Annual Report 48*, p. 1039.

23. To illustrate this point, see Sarah Leibowitz-Dar, “Zambish Outposts,” *Ha’aretz* Weekend Supplement, 18 July 2002.

24. On this point, see B’Tselem, *Law Enforcement vis-a-vis Israeli Civilians in the Occupied Territories*, March 1994; B’Tselem, *Tacit Consent: Israeli Law Enforcement on Settlers in the Occupied Territories*, March 2001; B’Tselem, *Hebron Area H-2: Settlements Cause Mass Departure of Palestinians*, August 2003.

Chapter Two

The Forbidden Roads Regime – Research Findings

This chapter presents the findings of B'Tselem's investigative research conducted in May and June 2004. The research entailed testimonies given by Palestinian drivers and passengers throughout the West Bank, conversations with Israeli security forces, and information gathered from observation points staffed by B'Tselem personnel along major roads and intersections in the West Bank. In addition, the picture presented in this chapter is based on testimonies, correspondence, and general information that B'Tselem has gathered since the beginning of the al-Aqsa intifada.

The failure to incorporate the Forbidden Roads Regime in military legislation or in official documents makes it difficult to characterize the regime precisely. Thus, the categories presented below, which relate to the methods of police enforcement and the nature of the restrictions and prohibitions on each group of roads, are based on B'Tselem's analysis, and do not reflect any official legal status.

The lack of written documentation also makes it difficult to determine when the regime began, or important milestones in its development. A cross-check of the information that B'Tselem obtained during the two months of research with the extensive information that the organization has accumulated in recent years indicates that the Forbidden Roads Regime developed gradually since the beginning of the current intifada. As of May 2002, at the end of Operation Defensive Shield, most of

the principal components of the regime were in place, as described in this chapter.

A few points about the research:

- The research relates only to the travel of Palestinians in vehicles with license plates that are issued by the Palestinian Authority (hereafter: Palestinian vehicles). It does not relate to the rules applying to travel by Palestinians in vehicles bearing yellow [Israeli] license plates (hereafter: Israeli vehicles), or in vehicles bearing international plates.
- The research deals only with those roads in the West Bank that served both Palestinians and Israelis until the outbreak of the intifada, and since then, Palestinian travel on the roads has been restricted or prohibited. Therefore, the research does not include roads that Israelis do not use which are located in Areas A or B, even if the IDF prohibits or restricts Palestinian use on these roads; roads that Palestinians do not use that generally serve as access roads to settlements, even if the IDF prohibits Palestinians from using them; roads that both Israelis and Palestinians are not allowed to use.²⁵
- Roads inside East Jerusalem are not included, even though East Jerusalem is an integral part of the West Bank. We do not include these roads because of the different regime that Israel applies in this area, even

25. To the best of B'Tselem's information, only one road in the West Bank is closed by the IDF to both Palestinians and Israelis. This road is the "Wallerstein Road," which links the Beit El and Dolev settlements.

though the Israeli authorities generally prohibit Palestinians from traveling on these roads.

A. Means of enforcement

The IDF uses three primary means to enforce the Forbidden Roads Regime: staffed checkpoints, physical roadblocks, and patrols. These means complement each other and are used, as will be shown below, in one combination or another, on almost all the forbidden roads. Enforcement of the regime is also achieved by measures that deter Palestinian drivers from traveling on these roads, such as extensive delays, confiscation of vehicles, and imposition of fines.

The roads in the West Bank currently contain forty-seven permanent staffed checkpoints and eleven other checkpoints that are occasionally staffed.²⁶ Nineteen of the checkpoints are located at entry points into Israel. Most of these entry-point checkpoints are located a few kilometers from the Green Line and serve also to enforce the roads regime. Some of the checkpoints at entry points into Israel are the responsibility of the Border Police, and others are under IDF responsibility. At eight of the forty-seven checkpoints, Israel has erected a control tower. The soldiers at these checkpoints observe the traffic from above, and sometimes along the road itself where they check the passersby. In addition to the staffed checkpoints, security forces set up dozens of surprise checkpoints, usually lasting several hours, throughout the West Bank on a daily basis.

Since the outbreak of the al-Aqsa intifada, the IDF has blocked access to the forbidden roads

from nearby Palestinian villages by means of hundreds of physical roadblocks. There are four types of physical obstacles: dirt piles, concrete blocks, trenches, and iron gates. These obstacles make passage by vehicle impossible, and force drivers who want to get onto the forbidden roads to go to staffed checkpoints.²⁷

Completed sections of the separation barrier in the northwest part of the West Bank and around Jerusalem also channel traffic to checkpoints. Patrols by security forces along the forbidden roads serve as a supplemental means of enforcing the regime on Palestinians who dare to enter the roads by bypassing a staffed checkpoint or a physical roadblock. The patrols are conducted daily by soldiers, Border Police, and police officers from the Police Department's Samaria and Judea (SHAI) District.

The most common measure used to deter Palestinians from using these roads is delay at the checkpoints. Generally, the pretext for the delay is the need to check the documents of the vehicle and the travelers. The soldiers or police officers collect the identity cards of the individuals, and sometimes also take the keys to the vehicle, and pass on the relevant information to army or General Security Service [Shabak] personnel, who check if the travelers are listed as "wanted" or "needed for interrogation." The wait can last many hours, during which the soldiers keep the ID cards and keys. From time to time, B'tselem learns of physical and verbal violence by soldiers against Palestinians who are stopped and delayed for checks.²⁸

26. This figure does not include the thirteen checkpoints in Hebron.

27. In June 2004, the IDF removed about thirty dirt piles and has since opened some iron gates for part of the day.

28. For an illustration of this point, see the testimony regarding a case of abuse when Palestinians were stopped and delayed on one of the forbidden roads, Appendix 3.

The patrols operated by the SHAI District of the Police Department strictly enforce the traffic laws against Palestinian vehicles traveling on the forbidden roads. The police officers impose high fines for a variety of traffic offenses, such as failing to have compulsory insurance, not wearing a seat belt, and dropping a passenger off in a place that cars are not allowed to stop. The testimonies given by Palestinian taxi drivers during the period of B'Tselem's research indicate that all of them had been fined in recent months for such traffic offenses. Most of them also displayed the dozens of tickets they had received. B'Tselem's daily observations over the past year clearly show that the police focus their law enforcement efforts on Palestinian drivers, and rarely stop Israeli vehicles.

The delays and fines are not ostensibly intended to prevent Palestinian travel on the roads, but to enforce the law and safeguard security. In practice, they are only aimed against

Palestinians, and are employed in a tendentious and harmful manner. As such, they serve as a strong deterrent and significant consideration for Palestinians in selecting which road to use. As a result, Palestinians reduce their travel along roads they are ostensibly permitted to use.

The most severe punitive and deterrent means used by the IDF to enforce the regime is confiscation of Palestinian vehicles caught without a "special permit" on one of the forbidden roads.²⁹ Although the IDF has seized vehicles for quite some time, Israeli officials continue to deny that the seizure of Palestinian vehicles constitutes an official policy. For example, at a meeting with B'Tselem on 20 June 2004, the head of the Civil Administration, Brig. Gen. Ilan Paz, and the IDF legal advisor for Judea and Samaria, Col. Yair Lotstein, said that, "We are unaware of such a phenomenon, but the matter will be investigated."

Fuad 'Azat Fuad al-Jaiyusi, a resident of Tulkarm, drives a taxi for a living. On 15 June 2004, he picked up three residents of Tulkarm who wanted to go to the Allenby Bridge. When the taxi reached the IDF checkpoint at Jit, the soldiers refused to let him cross, contending that he did not have the proper permit. The soldiers also delayed four other Palestinian taxi drivers. Al-Jaiyusi related to B'Tselem what happened then: "At about 10:00 A.M., a Hummer jeep, license number 703823, pulled up at the checkpoint. The soldier at the checkpoint who was holding

the ID cards gave them to the soldier sitting in the jeep and ordered all of us to follow him in their cars. We followed him from the checkpoint to the army checkpoint at the entrance to the Shavey Shomeron settlement. There is a lot next to the checkpoint, where confiscated vehicles are kept. We parked our taxis in the lot and remained at the checkpoint for another hour, until the soldiers brought our documents and recorded details about us and our taxis... The confiscation of vehicle form states that my vehicle was confiscated from the 15th to the 19th of June 2004."³⁰

29. See the discussion on the special permits in Section 2 of this chapter and in Chapter 3.

30. The testimony was given to Najib Abu Rokaya by telephone on 16 June 2004.

Confiscation is a harsh means, in particular because of the serious financial loss to the owners of the confiscated vehicles, most of whom are taxi drivers. Also, the procedure is extremely arbitrary and subject to the sole discretion of low-ranking soldiers in the field, both in making the decision to confiscate and in setting the period of confiscation.

Although the IDF has been seizing vehicles systematically, particularly in the Nablus area, the IDF has not issued official, standard confiscation forms that state the details of the driver and vehicle, the soldier or unit that carried out the confiscation, the offense for which the vehicle was confiscated, and the length of time of confiscation. In some cases, the owners of the vehicles are given improvised forms, not printed on official IDF stationery, and the details that the soldiers have to fill in vary from checkpoint to checkpoint. In some cases, no written confirmation of confiscation is provided, and the owner is told orally when he can take his vehicle.³¹

The IDF seizes Palestinian vehicles throughout the West Bank. However, the practice is most common in the Nablus area, where the IDF has set up special parking lots to hold the confiscated vehicles. These lots are located near the four staffed checkpoints: Shavey Shomeron, Tapuah junction, Tell, and Beit Furik. The Shavey Shomeron lot is the busiest of the four. This lot contained an average of fifteen cars each day B'Tselem researchers observed the lot during the course of the research.

The soldiers inform the owners how long the period of confiscation will last, which

usually ranges from two to fourteen days. In many cases, however, Palestinians informed B'Tselem that soldiers granted their requests to release their vehicles earlier than scheduled.

Nabil 'Abd a-Rahim Taha drives a taxi along the route between 'Azzun 'Atma, which lies south of Qalqiliya, and the Beit Iba checkpoint, west of Nablus. In March 2004, he was given a movement permit allowing him to drive in the West Bank. The permit was valid for three months, until 11 June 2004. Abu Taha related to B'Tselem that, "On 6 April, while I was transporting passengers, an army jeep stopped me near the Jit intersection, which leads to the Beit Iba checkpoint. One of the soldiers took my ID card and two cellular phones that I had with me, and told the passengers to get out. Then he ordered me to go to the Shavey Shomeron checkpoint, where he confiscated the taxi for four days. He claimed that it was forbidden for Palestinian taxis to drive along the road I was on."³²

B. Classification of the roads

The following classification of the roads is based on the degree to which Palestinian drivers are able to travel on them in practice. As mentioned above, no official prohibition in writing exists from which we can learn the nature of the restrictions on Palestinian movement along each of the roads. B'Tselem has divided the roads into three categories: completely prohibited, partially prohibited, and restricted use.

31. See the sample "Confiscation Form," Appendix 4.

32. The testimony was given to 'Abd al-Karim S'adi on 4 June 2004.

1. Roads on which Palestinian travel is completely prohibited

This category includes roads on which Israel completely forbids Palestinian vehicles.

On some of the roads, the prohibition is explicit and obvious: Israel places a staffed checkpoint through which only Israeli vehicles are allowed to pass. An example is Route 557, which leads to the Itamar and Elon Moreh settlements. Soldiers at the Beit Furik checkpoint told B'Tselem on several occasions that the section of Route 557 between the Huwwara intersection and the villages near the checkpoint is defined as a “sterile road” on which Palestinian travel is forbidden, without exception. The prohibition exists even though the road previously served residents of the Palestinian villages Beit Furik, Beit Dajan, Sallem, and Deir al-Hatab.

On other roads where Palestinian travel is totally forbidden, the IDF enforces the prohibition by blocking the access roads to the villages. Although no official prohibition has been announced, Palestinian drivers have no access to the road. Drivers who manage to get onto the road cannot get to the villages, to which access is also blocked. This is the case, for example, with the seven villages along Route 443, which runs from Jerusalem to Modi'in.³³ Ostensibly, a Palestinian driver could enter the road at its southern end, near the Givat Ze'ev settlement, and drop passengers off near the physical obstacles placed along the roadway. In practice, Palestinians completely refrain from using this road.

A B'Tselem staff member spoke with a police officer from the SHAI District Police Department and asked him what happens if

a Palestinian is found driving on Route 443. The officer replied: “You won't see Palestinian vehicles on this road,” and added that if he encountered a Palestinian vehicle, he would “stop it, check the documents relating to the vehicle and the driver, and transmit the details by radio to check if the driver was wanted for questioning by the GSS or Police. If everything is all right, I let him go. They [the person at the other end of the radio transmission] might ask me to bring the Palestinians in for further check.”³⁴

In some instances, not only is travel forbidden, but crossing the road by car is also not allowed. This prohibition restricts Palestinians from reaching roads that are not prohibited.³⁵ In these cases, Palestinians can travel along the road until they reach a forbidden road, where they have to get out of the car, cross the forbidden road by foot, and get into another vehicle. In the area between Jenin and the villages situated to its east runs a “forbidden” road that links the settlements Ganim and Kadim to Israel. As a result, residents of Jalbun, Faquq'a, and Deir Abu Da'if cannot make the journey to or from Jenin in one vehicle. Another example is the road linking the Negohot settlement to Israel, which is defined as a “sterile road,” thus preventing movement between Ithna and Beit 'Awwa, which lie west of Hebron, and the villages to their south. In these locations, Palestinians cross the forbidden roads by foot and get into vehicles on the other side to reach their destination.

B'Tselem's research indicates that the West Bank contains seventeen roads or sections of roads in which Palestinian vehicles are completely prohibited. The total length of these roads is about 120 kilometers.

33. The villages are a-Tira, Beit 'Or al-Fuqa, Khirbet a-Masbah, Beit Or a-Tahta, Beit Liqya, Beit Sira, and Safa.

34. The details of the officer are on file at B'Tselem.

35. As stated at the beginning of this chapter, this research does not address roads that do not serve Israeli civilians, so it will suffice to mention that they exist.

Table No. 1: Completely prohibited roads

| Number / Name | Palestinian travel without a permit is forbidden on this road | | Length (Km) |
|------------------------|--|---|-------------|
| | From | To | |
| Jalameh – Jenin | Jalameh, on the Green Line, south of Afula | Ganim settlement, east of Jenin | 12 |
| 557 | Access road to Elon Moreh settlement, east of Nablus | Huwwara checkpoint, south of Nablus | 14 |
| 557 | Kafriyat checkpoint, south of Tulkarm | Green Line | 3 |
| 55 | Checkpoint at entrance to Israel in the separation barrier, south of Qalqiliya | Green Line | 4 |
| Ariel – Salfit | Trans-Samaria Highway, access to Ariel settlement | Northern entrance to Salfit | 3 |
| 446 | Trans-Samaria Highway | Deir Balut checkpoint | 8 |
| 505 | Mashah, east of Qassem village | Route 5 (Green Line) | 6 |
| 466 | Beit El, north of Ramallah | Route 60 (Ramallah bypass road) | 6 |
| 463 | Ras Karkar intersection | Dolev settlement, northwest of Ramallah | 6 |
| Talmonim Road | Access road to Beitillu, north of Talmon | Dolev-Talmon intersection | 12 |
| 404 (Begin North) | Har Hotzvim, Jerusalem | ‘Atarot checkpoint | 6 |
| 443 | Givat Ze’ev intersection | Beit Horon Intersection, east of Modi’in | 14 |
| Qedar – Ma’aleh Adumim | Ma’aleh Adumim | “The Container” checkpoint, East Jerusalem, south of al-‘Izariyya | 6 |
| 60 | Gilo intersection (Jerusalem Municipality border) | Tunnels checkpoint | 3 |
| Negohot Road | Border of Area B, east of Negohot | Green Line | 5 |
| 60 | Shim’a checkpoint | Green Line, north of Meytar | 8 |
| Tene Road | One kilometer north of Tene | Green Line, north of Meytar | 8 |

2. Roads on which Palestinian travel is partially prohibited

The second category includes roads on which Palestinians are allowed to travel only if they have special movement permits. The permit is called a “Special Movement Permit at Internal Checkpoints in Judea and Samaria.” The Civil Administration, through the District Civil Liaison office, issues the permit.³⁶ The DCLs also issue permits for special bus lines running between the checkpoints that block off the major cities. During periods of “calm,” the IDF allows permit holders to travel along these roads in private cars. When the situation is “tense,” the IDF opens some of these roads only to buses with permits.

The fact that the policy is not set forth in written orders makes it easy for soldiers to contend that the rules applying elsewhere in the West Bank do not apply where they are operating. For example, in the Nablus area, soldiers occasionally prevent drivers holding the special permits, which are ostensibly valid throughout the West Bank, to travel on these roads in private cars. The soldiers contend that, in this area, only permits issued by the Israeli DCL for the Nablus area, referred to as the Huwwara DCL, are valid. The head of the Civil Administration, Brig. Gen. Ilan Paz, said that, “I have received complaints of this kind,” but he referred to the matter as a “malfunction.”³⁷

Mustafa ‘Abd Alqader Mustafa Yamin, a resident of ‘Azzun, is married with two children. He drives a taxi between his village and the checkpoints at the entrance to Nablus. To enable him to work, he obtained a movement permit issued by the Israeli DCL office near the Qedumim settlement. He was issued a permit for three months – from 10 March to 10 June 2004. In his testimony to B’Tselem, he stated: “The route I take from ‘Azzun to Nablus passes through the villages al-Fundug and Jit. There is an army checkpoint north of Jit at which the soldiers check the Palestinian vehicles trying to get onto the road leading

to the Huwwara checkpoint via the Yizhar settlement. Several times, I tried to get to Huwwara by this road, but the soldiers at the checkpoint did not let me. They checked my papers and told me that my permit was issued by the Qedumim DCL, which is in the Qalqiliya District, so it is not valid in Nablus District. To travel on that road, they said, I had to get a permit from the Huwwara DCL. So, I have to go around the checkpoints, drive to the Tapuah junction via the Trans-Samaria Highway, and then continue on to Huwwara. They act as if the Qedumim DCL and the Huwwara DCL do not belong to the same army.”³⁸

36. For a discussion on the hardships entailed in obtaining the movement permits, see Chapter 3 below.

37. The comments were made at a meeting that B’Tselem held with Civil Administration officials on 20 June 2004.

38. The testimony was given to Najib Abu Rokaya on 7 June 2004.

This category also includes roads on which, in addition to holders of the special permits, the army allows Palestinians whose identity cards indicate that they live in villages that can be accessed only by the forbidden roads. For example, travel is allowed along the Alon Road in the sections north of the Ma'aleh Ephraim intersection (Routes 578 and 508), and the

entire Jordan Valley Road (Route 90), only by Palestinians who are registered as living in Jericho or one of the Palestinian villages in the Jordan Valley.

B'Tselem found that the West Bank contains ten roads or sections of roads that fall within this category, totaling 245 kilometers.

Table No. 2: Partially prohibited roads

| Number / Name | Palestinian travel without a permit is forbidden on this road | | Length (Km) |
|----------------------|---|--|-------------|
| | From | To | |
| 90 | Green Line, northwest of the Jordan River | Green Line, north of Ein Gedi | 116 |
| 60 | Jit intersection, west of Nablus | Huwara intersection, south of Nablus | 12 |
| 508, 578 (Alon Road) | Mehola intersection, from Route 90, south of the Green Line | Ma'aleh Ephraim intersection | 50 |
| 557 | Access road to Einav settlement | Kafriyat checkpoint, south of Tulkarm | 7 |
| 505 | Patza'el intersection north of Jericho | Ma'aleh Ephraim intersection, north of Jericho, on Alon Road | 11 |
| 45 | 'Atarot checkpoint | Givat Ze'ev intersection | 3 |
| 436 | Givat Ze'ev intersection | Ramot, East Jerusalem | 7 |
| 417 | Route 1 | Ma'aleh Adumim | 3 |
| 367 | Gush Etzion intersection, Route 60 | Green Line, Emek Ha'ela | 10 |
| 317 | Carmel settlement, southeast of Hebron | Shim'a intersection, south of Yatta on Route 60 | 25 |

3. Roads on which Palestinian travel is restricted

This category includes roads that can be reached only via an intersection with a checkpoint, because the other access roads from Palestinian villages adjoining these roads have been blocked by the IDF. In general, Palestinians do not have to display a movement permit to cross these checkpoints. However, the IDF checks the people and vehicles wanting to pass through the checkpoint. At some checkpoints, where few soldiers are stationed as compared to the amount of traffic which passes the checkpoint, the checks take a long time. Thus, many Palestinian drivers refrain from using these roads. There is greater presence of Israeli police patrolling these roads. The police strictly enforce the traffic laws against Palestinians and readily issue tickets to Palestinian offenders. At times, the IDF places further restrictions on movement on these roads, such as permitting only public

transportation and commercial vehicles to use the roads.

Some of the main arteries in the West Bank fall into this category. These include Route 60, which runs through the West Bank from north to south, the Trans-Samaria Highway (Routes 5 and 505), which runs between the Green Line and the Jordan River, and the Trans-Judea Highway (Route 35), which runs from north of Hebron to the Green Line.

At some of the checkpoints at the entry points to these roads, especially around Nablus, the IDF also prevents Palestinians holding movement permits from crossing by car. Exceptions are made in humanitarian cases and for individuals holding VIP cards. At these checkpoints, the Palestinians have to get out of the vehicle, cross the checkpoint by foot and get into another vehicle on the other side.

B'Tselem found that there are fourteen roads or sections of roads in the West Bank within this category, totaling some 365 kilometers.

Table No. 3: Restricted use roads

| Number / Name | Palestinian travel without a permit is forbidden on this road | | Length (Km) |
|---------------------------------|---|---|-------------|
| | From | To | |
| 60 | Dotan intersection, west of Qabatya | Jit intersection, west of Nablus | 33 |
| 60 | Huwwara intersection | Qalandiya checkpoint, north of Jerusalem | 56 |
| 60 | Tunnels checkpoint | Shim'a checkpoint | 49 |
| 458 (Alon Road) | Ma'aleh Ephraim intersection | Route 1 | 38 |
| 585 | Nazlat 'Issa, near Baqa al-Gharbiya | Route 60 | 18 |
| 557 | Deir a-Sharf, west of Nablus | Access road to Einav settlement | 7 |
| 505 | Ma'aleh Ephraim intersection | Tapuah intersection | 16 |
| 505 – 5 (Trans-Samaria Highway) | Tapuah intersection, end of Trans-Samaria Highway | Green Line | 31 |
| 465 (Trans-Binyamin Highway) | Route 60, north of Ofra settlement | Green Line, north of Rantis village | 31 |
| 449 | Border of Area A north of Jericho | Rimonim intersection, east of Ramallah | 13 |
| 1 | Beit Ha'arava intersection, south of Jericho | a-Za'im intersection, East of Jerusalem | 35 |
| 375 | Route 60, al-Khadr intersection | Green Line, east of Zur Hadassah | 8 |
| 35 | Route 60, north of Hebron | Tarqumiya checkpoint, Green Line, northwest of Hebron | 18 |
| 356 | Route 60, north of Hebron | Carmel settlement, southeast of Hebron | 11 |

It is important to note that the category of completely prohibited roads is relatively fixed, as is the level of enforcement of the prohibition on travel. On the other hand, during periods of “calm,” the IDF is less stringent in enforcing the prohibitions on roads in the second and third categories. Thus, Palestinian travel on these roads increases and the difference between these two categories decreases.

C. The effect on Palestinian travel habits

The Forbidden roads regime has created a fundamental change in the travel habits of Palestinians in the West Bank. Rather than use the main roads between the cities, most of the population is forced to use long and winding alternate routes. The regime has forced most Palestinians to leave their cars at home and travel by public transportation, in part because private cars are not allowed to cross some of the checkpoints. Drivers are also worried about the many fines that Israel imposes on Palestinians traveling on these roads.

The roads regime alters the normal routine of Palestinians in the West Bank in such areas as the economy, education, and health. Since the beginning of the al-Aqsa intifada, B’Tselem has documented thirty-nine cases in which Palestinian civilians died following delays at checkpoints or soldiers’ refusal to let them cross, which kept the individual from receiving medical treatment. Fifteen minors were among those who died in such circumstances. These

cases are extreme and uncommon. However, many other Palestinians have been delayed at checkpoints on their way to receiving medical treatment, as have medical crews on their way to giving treatment. All this is in addition to the serious harm to family and social life, and the regular humiliation that the entire Palestinian population suffers as a result of the blatant discrimination.

The effects of the regime on daily life of Palestinians are felt in several ways:

- wasted time resulting from the additional time needed to reach their destinations, and from the hardship entailed in using their cars;
- arriving late, or not at all, to destinations as a result of the uncertainty of travel along alternate routes, crossing forbidden roads, and the time lost at checkpoints;
- exhaustion resulting from travel along run-down alternate roads and from having to change from one car to another after crossing checkpoints, physical roadblocks, or a forbidden road;
- increased cost of travel resulting from the longer routes drivers are forced to use;
- wear-and-tear on vehicles resulting from travel on run-down dirt roads.

Following are several examples of the forbidden roads and the alternate routes that Palestinians use.

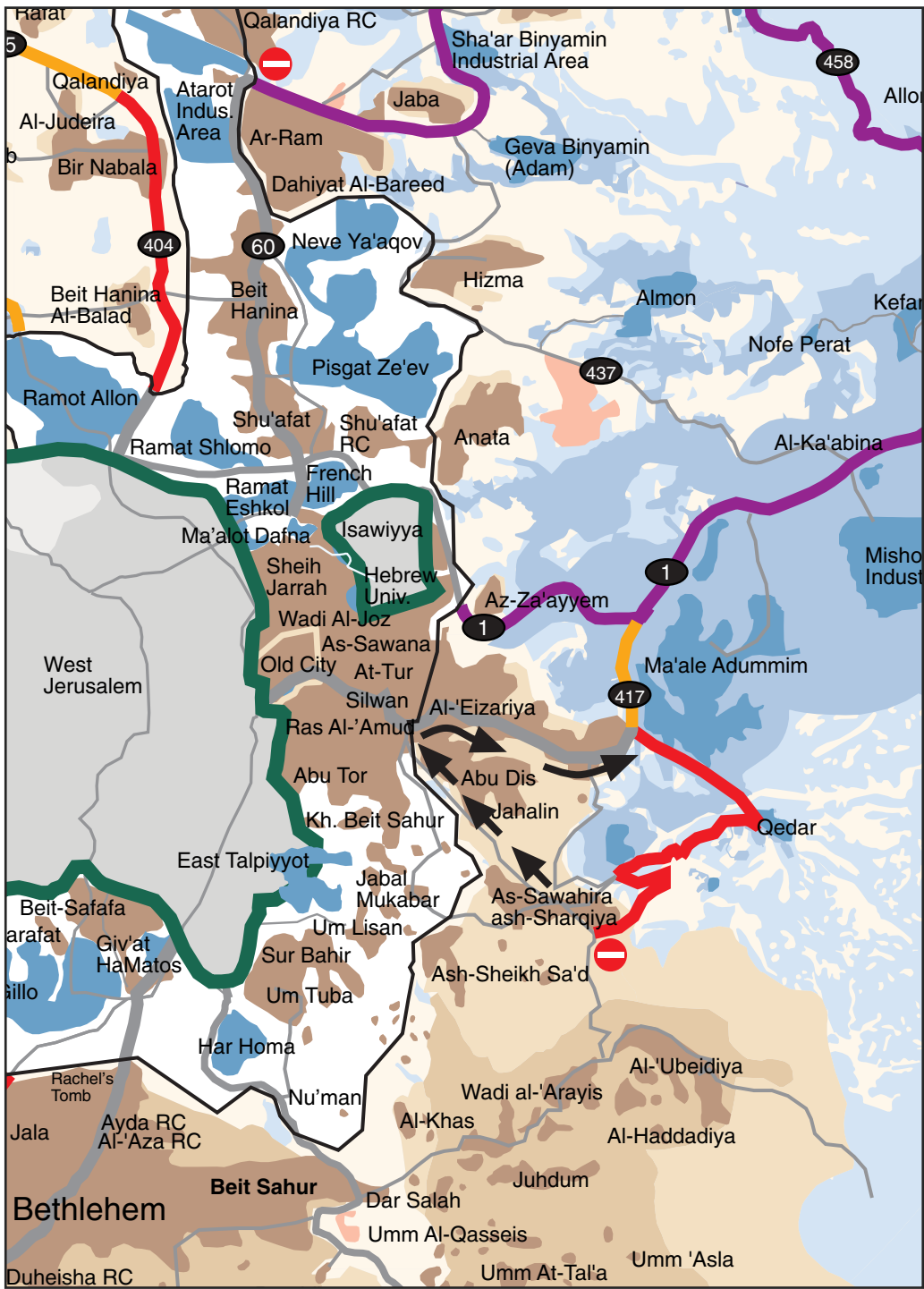
1. The Qedar – Ma’aleh Adumim Road: Completely prohibited

The main road running from the north to the south of the West Bank passes through East Jerusalem, an integral part of the West Bank. In the early 1990s, Israel placed a total closure on the Occupied Territories. Palestinians were prohibited from entering East Jerusalem unless they had a special permit. Palestinian drivers have had to use alternate routes that run east of Jerusalem’s municipal border. The route runs from Beit Sahur, a village near Bethlehem, passes by the entrances to the settlements Qedar and Ma’aleh Adumim, and continues to the Qalandiya checkpoint, north of Jerusalem.

Halfway between Beit Sahur and Ma’aleh Adumim lies a checkpoint staffed by Border Police officers. At this checkpoint, the Border Police officers demand that Palestinians driving in private cars display special passage permits. Drivers of taxis and commercial vehicles generally do not face this requirement.

A six-kilometer road joins the settlements Qedar and Ma’aleh Adumim. The IDF forbids Palestinian vehicles from traveling on this road. To ensure that the road is used solely by residents of Qedar (about 550 persons), the Border Police officers at the checkpoint direct all Palestinian vehicles to the narrow, run-down road through Sawahra a-Sharqiya, Abu Dis, and al-‘Eizariya. This is the only road available to the 2.3 million Palestinians in the West Bank, making it very congested. Travel along this road, which used to take six or seven minutes, now takes fifteen to twenty minutes, and sometimes more, not including the surprise checkpoints that are sometimes set up along the route.

It should be noted that while the southern entrance to this road has concrete blocks and staffed checkpoints, the entrance from the north (near the Ma’aleh Adumim settlement) does not have a sign or any other indication that Palestinian travel on the road is prohibited. However, Palestinians have learned to refrain from using the road.



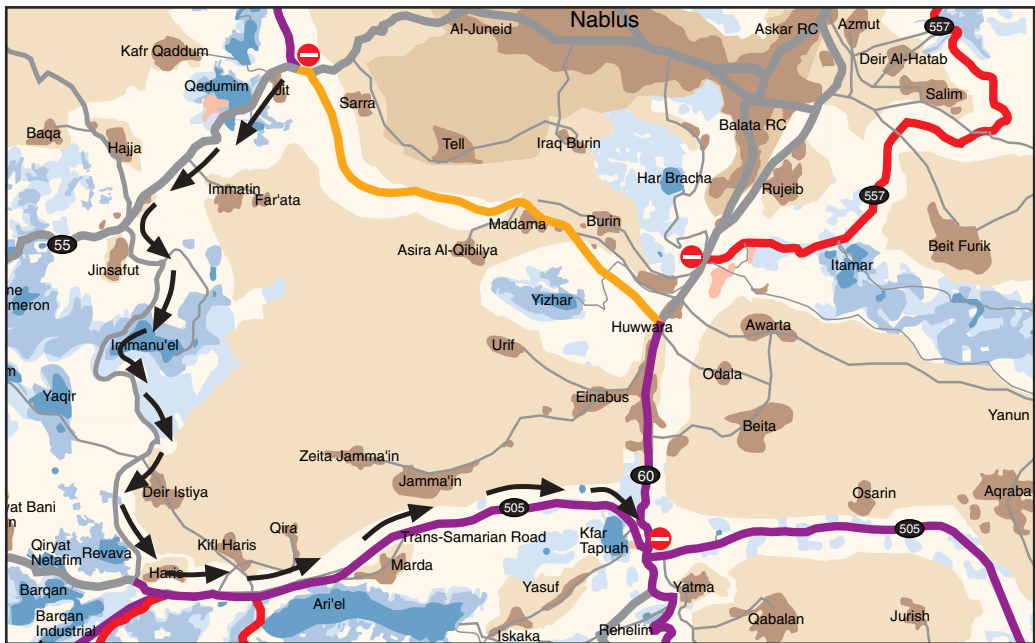
completely prohibited
 partially prohibited
 restricted use
 unrestricted use
 staffed checkpoint
 alternate route
 Green Line
 Jerusalem municipal boundary

2. Route 60 – the Nablus bypass section: Partially prohibited

Route 60 is the main north-south artery in the West Bank, which links the six major Palestinian cities. Its importance is comparable to the Coastal Road or the Jerusalem – Tel-Aviv Highway. Since the outbreak of the intifada, Israel has restricted Palestinian travel on this road, primarily by use of physical obstacles on the roads linking the road with villages situated on both sides. On the few roads that are not blocked, Israel has placed staffed checkpoints, and police patrols on the road are especially diligent in enforcing the traffic code.

In addition, the security forces impose especially severe restrictions on the section of the road that bypasses Nablus on the west, for a distance of twelve kilometers. This section runs from the Jit intersection, near the Qedumim settlement, and the Palestinian village Huwwara. The Yizhar settlement lies near this road. Part of this section of the road crosses

through Area B, but is also used by residents of nearby settlements (Homesh, Einav, Avney Hefetz, Shavey Shomeron, and Qedumim) on their way to Jerusalem or settlements along the road to Jerusalem. Only Palestinian vehicles with permits are allowed on this section of the road. As a result, many Palestinians from the Jenin, Tubas, and Tulkarm districts, some half a million people, have to drive to the Ramallah area or the southern part of the West Bank along alternate roads. To do this, the drivers have two options. The first route runs via Route 55 (the Nablus-Qalqiliya Road) to the Trans-Samaria Highway, from which they can get back onto Route 60. Because Israeli security forces patrol and set up many surprise checkpoints on Route 55, many Palestinians refrain from using this option. The other route runs along roads that pass through the local villages to get to the Trans-Samaria Highway, and return to Route 60 from there. A trip that once took no more than ten minutes now takes between twenty and forty minutes.



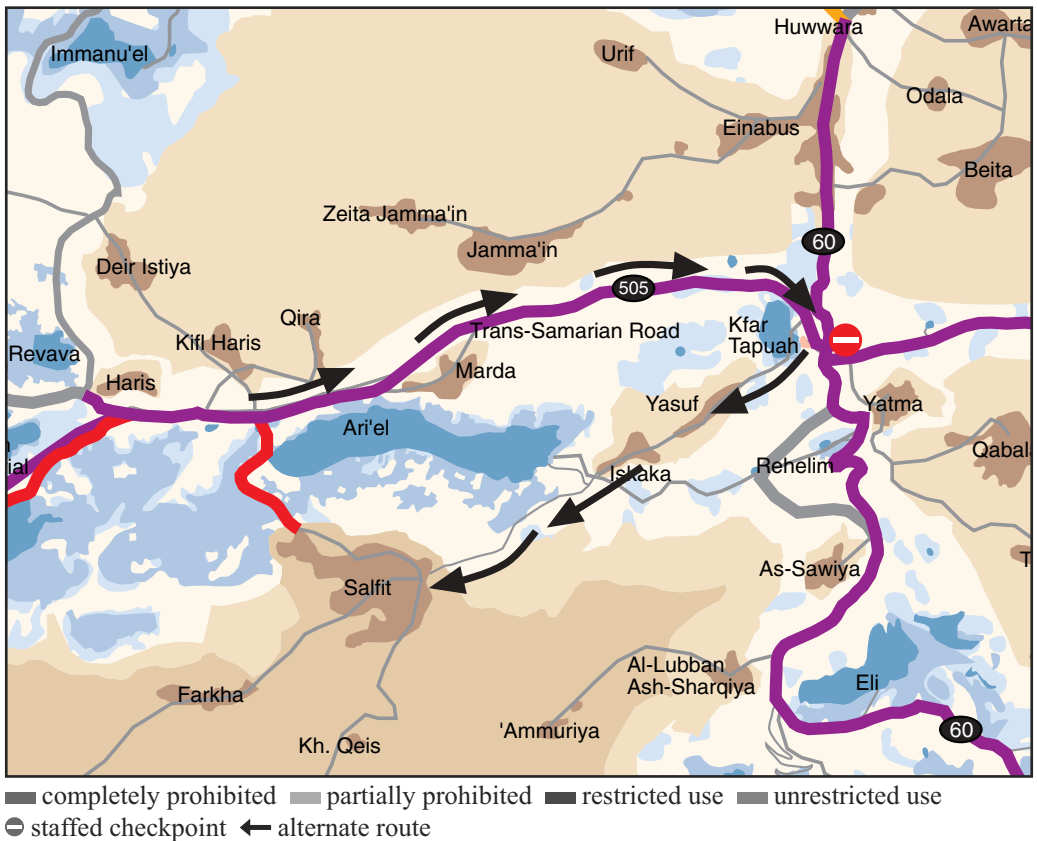
completely prohibited
 partially prohibited
 restricted use
 unrestricted use
S staffed checkpoint
 alternate route

3. The Ariel-Salfit Road: Completely prohibited

Salfit is the governmental and commercial center of surrounding Palestinian villages. It plays an especially important role for the villages situated to its north: Haris, Kifl Haris, Qira, Marda, Jam'in, Zita-Jam'in, and Deir Istiya. Prior to the institution of the Forbidden Roads Regime, residents of these villages used a local road that branches off the Trans-Samaria Highway (Route 5) and continues south to the northern entrance of Salfit. This road is three kilometers long and also serves as the main access road to the Ariel settlement.

Beginning in early 2001, the IDF blocked the southern entry point to this road. Since then, all Palestinian travel on this road has

been prohibited. To reach Salfit, residents of the Palestinian villages north of Salfit must travel along the Trans-Samaria Highway, which is defined as a "restricted-use road," to its intersection with Route 60 at the Tapuah junction, and then turn south to the road leading to Yasuf. At the entrance to Yasuf, the IDF placed a physical roadblock that forces the passengers to get out of the car, cross the road by foot, and get into another car that will take them, via Yasuf and Iskaka, to the eastern entrance of Salfit. This alternate route is twenty kilometers. The trip from Kifl Haris to Salfit, which previously took five minutes, now takes at least thirty to forty minutes, assuming there is no delay at one of the checkpoints and that the vehicle is not stopped by a police patrol.



4. Route 466 – the road to Beit El: Completely prohibited

Ramallah is the district seat for dozens of nearby towns and villages, and serves for certain purposes as the “capital” of the entire West Bank. The status of Ramallah has increased since the 1990s, when Israel prohibited Palestinians from entering East Jerusalem. Until the beginning of the intifada, all traffic to Ramallah from the east fed into Route 466, which leads from Route 60 to one of the main entrances to the city, known as the City Inn intersection.³⁹

However, since Route 466 also leads to the Beit El settlement, the IDF has prohibited Palestinian travel on this road. The IDF enforces the prohibition by means of a staffed checkpoint near the City Inn intersection.

Palestinian vehicles, except for ambulances and VIP vehicles, are forbidden to cross in either direction.

The prohibition especially harms residents of two groups of villages situated east of Ramallah: Burqa, Beitin, and ‘Ein Yabrud, which lie west of Route 60, and Deir Jarir, Tayba, Rammun, and Deir Dibwan, which lie east of Route 60. Residents of these villages now have to travel to Ramallah along one of two alternate paths that greatly extend their journey. They can either drive north to Bir Zeit and then turn south to reach Ramallah, or drive east to the Alon Road and then south to the Qalandiya checkpoint, north of Jerusalem, and continue north to Ramallah. Residents of Tayba told B’Tselem that the trip to Ramallah, which prior to the intifada took fifteen minutes, now takes at least one hour.



— completely prohibited — partially prohibited — restricted use — unrestricted use
 ⊖ staffed checkpoint ← alternate route — Green Line — Jerusalem municipal boundary

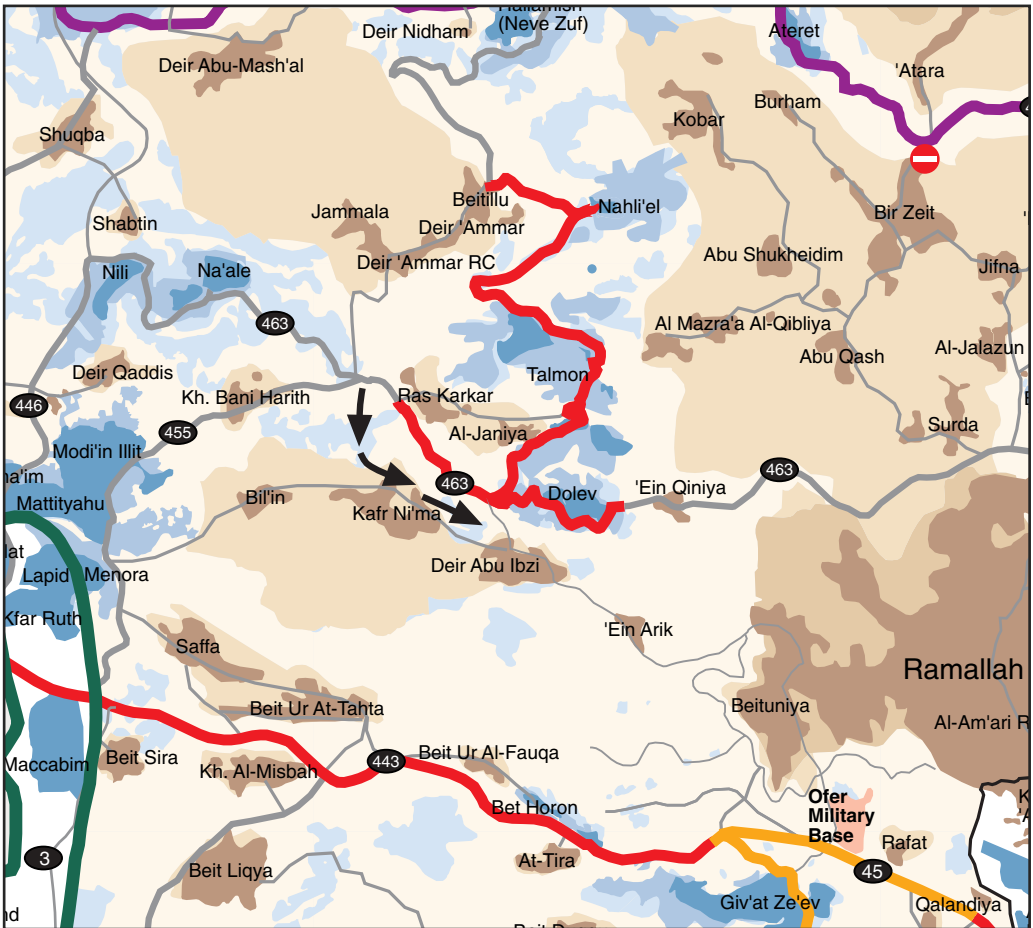
39. The name was taken from the hotel located nearby. The IDF refers to the intersection as the Judea and Samaria intersection.

5. Route 463 – the road to Talmon and Dolev: Completely prohibited

Another group of villages dependent on Ramallah for services is situated west and northwest of the city. Residents of these villages – Qibya, Shuqba, Shabtin, Deir Abu Mash'al, Beitillu, Deir 'Ammar, and Ras Karkar – who wanted to go to Ramallah started their trip on Route 463 and continued along a branch road that passed Deir Ibzi'. During the intifada, the IDF has prohibited Palestinian vehicles from traveling along the section of Route 463 that

also leads to the settlements Dolev, Talmon, and Nahliel. The army placed concrete blocks where the road branches in the direction of Deir Ibzi'.

Residents of these villages now have to travel along a winding dirt road that runs to Kufr Ni'ama, from which they take a paved road to Deir Ibzi'. Travel along the three-kilometer dirt road adds about fifteen minutes to the trip to Ramallah. The alternate path is run-down, and travel along it is exhausting, dusty, and hard on the vehicles.⁴⁰



completely prohibited
 partially prohibited
 restricted use
 unrestricted use
 staffed checkpoint
 alternate route
 Green Line
 Jerusalem municipal boundary

40. For an illustration of the difficulties in traveling along this alternate road, see the taxi driver's testimony, Appendix 2.

D. The regime and the military legislation

One of the unique features of the Forbidden Roads Regime is that Israel has failed to incorporate it in written orders.

In May 2004, B'Tselem wrote to the offices of the Judge Advocate General and the IDF Spokesperson to inquire about the legal basis for the various restrictions on Palestinian travel in the context of the Forbidden Roads Regime and for the actions taken against Palestinians who violate the restrictions. They replied that the legal basis for the restrictions and the actions taken against Palestinians is found in the Order Regarding Defense Regulations (No. 378), 5730 – 1970 (hereafter: “the Order”).

The Order, which was issued early in the occupation, includes ninety-seven sections that grant the IDF numerous powers, including the handling of criminal proceedings, carrying out arrests and administrative detention, conducting searches, confiscating property, closing institutions or areas, and restricting freedom of movement. The Order empowers the IDF commanders in the West Bank to issue declarations and orders setting forth the measures to be taken and the directives that will apply in each and every case. Examples of such orders are orders for the administrative detention of a particular individual, a declaration closing a particular area for a fixed period of time, and an order to seize a house for military needs. Section 1(d) of the Order empowers the commanders to issue verbal orders, but the High Court of Justice ruled that “proper administration dictates that even where it is permissible to give an order verbally, when

the urgency has passed, and where justified, an order should be given in writing.”⁴¹

The most relevant section relating to the Forbidden Roads Regime is Section 88(a)(1), which grants the military commander the power “to prohibit, restrict, or regulate the use of certain roads or establish routes along which vehicles or animals or persons shall pass, in either a general or specific manner.”

In response to B'Tselem's letter inquiring into the legal basis, the IDF Spokesperson's office recognized the existence of roads in the West Bank that are closed to Palestinian travel, contended that the Order establishes the power to issue such restrictions, and stated that the power is given “to anyone who is empowered as a military commander (i.e., the Command OC, division commanders and their deputies, sector brigade commanders, and other officials, who are so empowered by the Command OC).” The letters also states: “Presently, no written orders have been issued that prevent Palestinian travel on particular roads in Judea and Samaria.” The IDF Spokesperson's office explained the lack of written orders by referring to Section 1(d) of the Order, whereby “the military commander may also give any order verbally.”⁴²

Regarding confiscation of vehicles found on the forbidden roads without a permit, the IDF Spokesperson's office stated as follows:

Section 80 of the Order Regarding Defense Regulations and the directives issued pursuant thereto by the IDF military commander in the region regulate the procedure for temporarily seizing vehicles that were used for the commission of an offense under the defense legislation...

41. HCJ 469/83, *Hebron National United Bus Company Ltd. et al. v. Minister of Defense et al.*, *Takdin Elyon* 92 (2) 1477.

42. Letter from the IDF Spokesperson's office to B'Tselem, 21 June 2004.

The directives state that, if an offense is committed, the Israel Police Force shall open an investigation. Following the investigation, a decision will be made whether to file an indictment against the suspect. In such a case, the vehicle may be seized as an exhibit during the criminal proceeding against its owner.⁴³

It should be noted that, in other matters, the IDF incorporates in writing orders and directives given pursuant to the Order. The army's failure to state in writing the directives regarding the forbidden roads is a deviation from normal

practice and contrary to the High Court's ruling. Regarding opening investigations against Palestinians who travel along the roads in violation of the order, mentioned in the response of the IDF Spokesperson's office, B'Tselem is unaware of any police investigation of a driver whose vehicle was seized that led to an indictment for committing the said violation. This strengthens the claim that seizure is used as an arbitrary punitive measure, outside any formal judicial or administrative procedure, for the purpose of deterring Palestinians from using the forbidden roads.

43. Letter from the IDF Spokesperson's office to B'Tselem, 13 June 2004.

Chapter Three

District Civil Liaison Offices and Movement Permits

In response to criticism of the extensive restrictions on movement on Palestinian travel in the Occupied Territories, Israeli authorities point out that Palestinian civilians are able to obtain permits to move around within the West Bank. However, the permit system is founded on the same basis that underlies the Forbidden Roads Regime: Palestinians are not entitled to freedom of movement unless they prove, to the satisfaction of the security forces, that they do not constitute a security risk, and meet all the requirements to obtain a permit. This way of thinking is wrong, and flagrantly discriminates on grounds of national origin.

Even if we ignore for the time being the fundamental inequity of this approach, and examine its consequences, we see that Palestinians holding the desired movement permits still suffer hardships: they are forbidden to travel along some of the roads, their access to many villages is blocked, and they are not allowed to pass by motor vehicle through some staffed checkpoints.

Palestinians also face many bureaucratic hardships. The Civil Administration, which operates under the jurisdiction of the Coordinator of Government Operations in the Territories, an arm of the Ministry of Defense, is responsible for issuing the permits. In practice, the Civil Administration is under the

direct charge of the commanding officer of Central Command, who regulates by means of the military legislation the administration's powers and functions and establishes to a great extent its policy and priorities. The Civil Administration acts as a kind of staff headquarters that operates a system of District Civil Liaison offices (hereafter: DCLs). Individuals wanting a permit file their requests with the DCLs. Similarly, there are Palestinian DCLs, which are subject to the Palestinian Authority.⁴⁴

The DCLs were established in 1995 in the framework of the Israeli-Palestinian interim agreement (Oslo II) in order to foster coordination and cooperation between the Israel governmental systems in the West Bank and the Palestinian Authority. The need for these systems arose from the many civil and security powers that remained in Israel's hands.⁴⁵ One of the functions of the Israeli DCL is the handling of requests forwarded to it by Palestinian DCLs on behalf of Palestinians. Since the outbreak of the al-Aqsa intifada, the DCLs have essentially ceased to enable coordination between the Israeli and Palestinian authorities, and have concentrated on the handling of requests for permits. Unlike in the past, many Palestinians now apply directly to the Israeli DCL rather than go through the Palestinian DCL.

44. There are currently nine Israeli DCLs operating in the West Bank. These DCLs are located as follows: near Sallem, in the northwest part of the West Bank; near Huwwara, south of Nablus; south of Tulkarm; at the Qedumim settlement; at the Civil Administration offices in the Beit El settlement; near the Ma'aleh Adumim settlement; near the Etzion intersection, south of Jerusalem; on Mt. Manohah, south of Hebron; near the Vered Yericho settlement, southwest of Jericho.

45. The Israeli-Palestinian Interim Agreement on the West Bank and the Gaza Strip, 28 September 1995, Annex III, Protocol Concerning Civil Affairs.

The obligation to obtain permits for all aspects of life is one of the oldest methods that the IDF has used to maintain control over the local population. However, until January 2002, Palestinians were not required to obtain permits to travel within the West Bank, except for East Jerusalem. In the words of the Civil Administration's spokesperson, Talia Somech, "The idea was born out of the necessity of the complex security situation, which requires prolonged sieges. Following the hardships placed on the movement of Palestinians... it was decided to ease passage by means of the issuance of permits to cross areas under siege."⁴⁶

According to the Somech, these permits are intended primarily for pedestrians, while permits for vehicles are exceptional.⁴⁷ As of July 2004, only 3,412 Palestinians from among the 2.3 million Palestinians living in the West Bank hold this special permit, known as a "Special Movement Permit at Internal Checkpoints in Judea and Samaria."⁴⁸ In addition, the Israeli DCLs issued permits for 135 buses that take passengers from the checkpoint at the exit of one Palestinian city to the checkpoint at the entrance to another city.

A prerequisite for submitting a request for a movement permit is a valid magnetic card. Magnetic cards, a kind of second identity card which confirms that the holder is not a "security risk," have been used in the West Bank for the past decade and are only issued following approval by the General Security Service. The Palestinian applicant files his request on a tax-stamped form that is obtained at the Palestinian DCLs. The form must be completed in Hebrew,

so most applicants have to retain the services of a "scribe," who generally sits in the Palestinian DCL. The cost for submitting the request ranges from NIS 60 – 80, which includes the stamp tax, photocopying, photo of the applicant, and, when necessary, the scribe's fee.

Tens of thousands of Palestinian residents of the West Bank are classified as "security risks" by Israeli security forces. Individuals in this category who submit requests for a magnetic card or movement permit (in those cases in which the applicant is classified as "prevented for security reasons" after being granted a magnetic card) face automatic rejection of their requests. The Israeli official transmits the rejection verbally and generally without explanation. According to Brig. Gen. Ilan Paz, head of the Civil Administration, the information regarding the reason for rejection is not made available to the DCLs, and they are not allowed to overrule the decision. "The only way to remove a prevented-for-security-reasons classification is by meeting with a GSS official."⁴⁹

The GSS has always used the dependence of Palestinians on permits as a means to recruit collaborators.⁵⁰ The phrase "You help me, and I'll help you" has long since become an integral part of meetings between GSS agents and Palestinian residents who seek a magnetic card or movement permit. Testimonies given to B'Tselem over the years indicate that a substantial number of Palestinians classified as "prevented" are not suspected of committing any offense, nor are they considered security risks. In many instances, Palestinians are given

46. The comments were made in a letter to B'Tselem of 17 September 2003.

47. See the Civil Administration's letter of 8 February 2004.

48. See the Civil Administration's letter of 15 July 2004.

49. These comments were made at the meeting B'Tselem held on 20 June 2004 with Civil Administration officials.

50. See, for example, B'Tselem, *Builders of Zion: Human Rights Violations of Palestinians from the Occupied Territories Working in Israel and the Settlements*, September 1999, Chapter 4.

this classification because a relative or neighbor is listed as a target to obtain intelligence data.⁵¹ A Palestinian classified as “prevented for security reasons” who refuses to collaborate with the GSS has absolutely no chance of obtaining a permit. However, the intervention of a third party is likely to help, and there have been cases in which a security-risk classification was removed following intervention by an attorney or human rights organization.

Another condition that must be met is that the applicant is not “prevented for Police-related reasons.” The Police consider prior criminal conviction, or intelligence assessments that the person will commit a criminal offense in the future, as grounds for rejection.⁵² According to Civil Administration head Brig. Gen. Paz, most of the persons rejected on such grounds were previously charged with staying in Israel illegally.⁵³ The Police has the authority to remove these grounds as a basis for rejection.

Rejection for Police-related reasons can also be based on a traffic fine that has not been paid. In such instances, this reason for rejection is removed when the fine is paid. But payment of a fine is not a simple matter for a resident of the West Bank. The fine must be paid at an Israeli post office, which are located inside Israel or in the settlements. To reach a post office, a Palestinian needs special permits.⁵⁴ These permits are difficult to obtain if the applicant is listed as “prevented for Police-related reasons.” Most Palestinians in this situation rely on relatives or friends who have permits to enter settlements or Israel. Palestinians who do not have such permits have reported to B’Tselem

that they were allowed to enter the post office in the Barqan industrial zone near the Ariel settlement after they displayed the ticket.

The permit application form asks the purpose for which the applicant uses the vehicle. The applicant has to attach relevant documents, such as an employer’s letter, registration at the Trade Ministry, and medical documents, as well as a photocopy of the applicant’s identity card, driver’s license, registration, and certificate of insurance.

Liaison officers at the DCL review the request, and in some cases transfer the request to the head of the DCL for review. According to Brig. Gen. Paz, “There are no definitive criteria for examining requests for a permit.” When the applicant is not classified as prevented for “security” or “Police-related” reasons, the DCL officer makes the determination. Brig. Gen. Paz also mentioned that, if a request is denied, the applicant is allowed to reapply at a later date, but there is no formal appeals procedure at which the individual may argue his case.⁵⁵ As mentioned, the decision is conveyed to the applicant verbally at the reception counter, usually without explanation.

The lack of transparency characterizing the approval or rejection of permits inevitably leads to arbitrary action and reliance on improper considerations. The permit system is an integral part of a roads regime that grossly infringes Palestinian freedom of movement. Yet, Israel seeks to use the permit system to give the misleading impression that Israel is actually showing concern for the needs of the local population.

51. For an illustration, see the testimony of a Palestinian whose request for a movement permit was denied because he refused to become a collaborator, Appendix 1.

52. Machsom Watch and Physicians for Human Rights, *The Bureaucracy of Occupation*, May 2004.

53. See footnote 49 above.

54. Order Regarding Defense Regulations (Judea and Samaria) (No. 378), 5730 – 1970, Declaration Regarding Closure of Area (Israeli Settlements), of 6 June 2002.

55. These comments were made at the meeting B’Tselem held on 20 June 2004 with Civil Administration officials.

Chapter Four

The Regime in light of International Law

The Forbidden Roads Regime that Israel has implemented in the West Bank severely infringes two principal human rights: the right to equality and the right to freedom of movement. In violating these rights, the regime flagrantly breaches international human rights law and international humanitarian law.

A. The right to freedom of movement, derogation

Everyone has the right to freedom of movement within his or her country. This right is recognized in Article 13 of the Universal Declaration of Human Rights, which was adopted by the UN in 1948. Although the UN General Assembly called on all the member states to adopt the Declaration, it is not a binding international agreement. In 1966, the General Assembly incorporated the right to freedom of movement in Article 12 of the International Covenant on Civil and Political Rights. This covenant is legally binding on all parties to it. Israel ratified the Covenant in 1991. However, Israel contends that the Covenant does not apply to its activities in the Occupied Territories, which are subject to international humanitarian law.⁵⁶

This position is baseless. Article 2 of the Covenant explicitly states that a state that is party to the Covenant must implement it in regards to all persons “subject to its jurisdiction.” The UN Human Rights Committee, which is in charge

of interpreting the Covenant and monitoring its implementation, has declared on various occasions in different contexts that the test for determining application of the Covenant in a given area is the degree of actual control by the relevant state, and not the official status of the territory.⁵⁷ Furthermore, the Committee stated clearly that the Covenant does not cease to apply, regardless of the situation in the state, even in time of war. The Committee stated that international humanitarian law, which was created especially for situations of war and occupation, is not inconsistent with the Covenant, in that both spheres of law are complementary.⁵⁸ Consistent therewith, the Committee explicitly held that Israel must strictly conform to the provisions of the Covenant in its actions in the Occupied Territories.⁵⁹

Israel contends that the restriction on freedom of movement of the Palestinian population arises from the need to protect Israeli citizens against attacks. Therefore, it argues, its actions are lawful and do not breach its obligations under international law. Israel’s right to protect its citizens is clear and recognized by all spheres of international law. From the perspective of Israeli citizens, the obligation to protect them is the state’s primary duty. Despite the importance of this purpose, Israel is not allowed to take measures that do not comply with international law.

56. See, for example, Second Periodic Report of Israel, CCPR/C/ISR/2001/2, 4 December 2001.

57. See, for example, the Committee’s comments in 1991 regarding the obligation of Iraq to apply the Covenant in the territory of Kuwait so long as its occupation continued, CCPR A/46/40/1991, Par. 652.

58. General Comment 3, “On the Nature of State Obligations,” Par. 11.

59. See, for example, Concluding Observations of the Human Rights Committee: Israel, CCPR/C/78/ISR, of 2003.

Article 4 of the International Covenant on Civil and Political Rights states that, “In time of public emergency which threatens the life of the nation,” parties to the Covenant may take measures derogating from their obligations under the Covenant. Had Israel recognized the application of the Covenant, it might argue that the situation since the outbreak of the intifada constitutes a “public emergency which threatens the life of the nation.” However, the Covenant states that, in such a situation, a state party may violate rights incorporated in the Covenant only if the harm is proportional, the measure is consistent with the state’s other obligations under international law, and the violation does not involve discrimination based solely on the ground of race, color, sex, language, religion, or social origin. As we shall see below, the Forbidden Roads Regime fails to meet any of the tests set forth in this article.

B. Proportionality and collective punishment

The most striking features of the Forbidden Roads Regime is its sweeping, indiscriminate nature. The regime denies Palestinians freedom of movement, and grants special movement permits as a privileged right to Palestinians who meet Israel’s criteria. On certain roads, travel is even forbidden to persons holding this privileged right. The fundamental right to freedom of movement may be denied only if the individual endangers public safety. In its implementation of the roads regime, Israel transferred the burden of proof to the Palestinian population, making them responsible for proving that they do not constitute a risk if they wish to exercise their right. The period of the sweeping denial of the right to freedom of movement is open ended,

and has continued now for more than three years.

Therefore, the Forbidden Roads Regime violates the conditions set forth in Article 4 of the International Covenant on Civil and Political Rights, which allows derogation “to the extent strictly required by the exigencies of the situation.”

In this spirit, the High Court of Justice recently held that the route of the separation barrier Israel is building northwest of Jerusalem disproportionately violates the fundamental rights of the local Palestinians, and the Court prohibited construction of the barrier along that route. The Court reached this decision even though it recognized that the route that had been planned was likely to contribute to the security of Israel’s citizens. In the decision, Supreme Court President Aharon Barak stated:

According to the principle of proportionality, the decision of an administrative body is legal only if the means used to realize its governmental objective is of proper proportion. The principle of proportionality focuses, therefore, on the relationship between the objective whose achievement is attempted, and the means used to achieve it....

The route of the Separation Fence severely violates their right of property and their freedom of movement. Their livelihood is severely impaired. The difficult reality of life from which they have suffered (due, for example, to high unemployment in that area) will only become more severe.

These injuries are not proportionate. They can be substantially decreased by an alternate route, either the route presented

by the experts of the Council for Peace and Security, or another route set out by the military commander.⁶⁰

The combination of the sweeping nature of the Forbidden Roads Regime and the systematic and indiscriminate harm to all aspects of life of the Palestinians in the West Bank turns the regime into a case of collective punishment. Collective punishment is completely forbidden in international humanitarian law. Article 50 of the Regulations Attached to the Hague Convention of 1907 states that, “No general

penalty, pecuniary or otherwise, shall be inflicted upon the population on account of the acts of individuals for which they can not be regarded as jointly and severally responsible.” A similar prohibition is found in Article 33 of the Fourth Geneva Convention of 1949, which states:

No protected person may be punished for an offense he or she has not personally committed. Collective penalties and likewise all measures of intimidation or of terrorism are prohibited.

Testimony of “E”

Lieutenant in the Reserves who served as company commander in an infantry brigade in the Hebron area in April 2003

If two years ago passenger vehicles were allowed to travel along the roads, following the terrorist attack on the Dolphinarium [a night club in Tel Aviv], Palestinians were forbidden to travel on Route 60, and they were removed from the road. New roadblocks were set up... A car found traveling on an Israeli road would be forced to turn around. If you were strict, you would take it in for a check. If you were a real bastard, you would take the air out of the tires. After the attack on the Dolphinarium, punishment

was the reason [Palestinian] travel wasn't allowed. There is no connection between the Dolphinarium and South Hebron. No connection at all. This whole deal about physical roadblocks is nothing more than a means of pressure. It wasn't because of gunfire on the roads. Now, no mention is made of that. Both Noam Tibon and Dror Weinberg [Hebron area brigade commanders] spoke about roadblocks as a means to pressure the population, so as to separate the population from its leadership. They looked for the cracks they could make to create a wedge between the population and the leadership. It wasn't because of the gunfire along the roads. The shooting at passing vehicles began after that.⁶¹

60. HCJ 2056/03, *Beit Sourik Village Council et al. v. The Government of Israel et al.*, Paragraphs 40, 60-61.

61. The testimony was given to Lior Yavneh and Ronen Shnayderman on 15 May 2003.

C. Discrimination based on national origin

As noted, the third condition set forth in Article 4 of the International Covenant on Civil and Political Rights, whereby the measure must not involve discrimination, is a basic principle of international human rights law. Article 2 of the Universal Declaration of Human Rights states:

Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation or sovereignty.

The prohibition on discrimination is also enshrined in the Convention on the Elimination of All Forms of Racial Discrimination, which the UN General Assembly adopted in 1966, and which Israel ratified in 1979. Article 1.1 of the Convention defines “racial discrimination” as follows:

Any distinction, exclusion, restriction or preference based on race, color, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise,

on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life.

The Convention also enshrines the right of every person to freedom of movement within the borders of the state without discrimination, as defined in the Convention.⁶²

International law allows states to give preference, in certain cases, to its citizens over non-citizens.⁶³ However, the preference that Israel gives to its citizens over Palestinians regarding freedom of movement in the West Bank exceeds the limits of permitted preference for three primary reasons.

First, a state is generally allowed to give preference to its citizens, without being perceived as acting in an improperly discriminatory manner, in two instances: the right to enter the state and the right to take part in the state’s political life. Infringement of non-citizens’ other rights, primarily sweeping and prolonged violation of rights of a separate national group, is clearly illegal discrimination.

Furthermore, Israelis are not citizens of the area in which the relevant measures are taken, so they are not granted privileged rights there. Certainly, they may not be given rights that result in harm to the local population.

Finally, the permanent presence of Israeli citizens in the West Bank is itself a violation of international humanitarian law.⁶⁴ In that the Roads Regime is intended to serve and

62. Article 5(d)(1).

63. Article 1.2 of the Convention states that the Convention does not apply to distinctions made on this basis.

64. See B’Tselem, *Land Grab*, Chapter 2.

perpetuate the settlements, the regime does not meet the second condition of Article 4 of the Covenant on Civil and Political Rights, which provides that a violation of rights during a time of emergency must be consistent with the state's other obligations under international law.

The prohibition on forbidden discrimination is also set forth in the Fourth Geneva Convention of 1949, which is intended to protect the civilian population in times of warfare and occupation. Articles 13 and 27 of the Convention prohibit the occupying state to discriminate against civilians in the occupied territory, who are classified as "protected persons." The favored treatment given the settlers, who are living in occupied territory in violation of international law, is gravely aggravated by the severe harm it causes to the local population, which the Convention is intended to protect.⁶⁵

D. Other violations

In addition to the breaches mentioned above, the Forbidden Roads Regime violates other provisions of international law.

The confiscation of Palestinian vehicles seized on the forbidden roads is arbitrary punishment, which is categorically prohibited by international human rights law and international humanitarian law.⁶⁶

The use of the permit system to pressure Palestinians into collaborating with the General Security Service flagrantly violates international humanitarian law. Article 51 of the Fourth Geneva Convention states:

The Occupying Power may not compel protected persons to serve in its armed or auxiliary forces. No pressure of propaganda which aims at securing voluntary enlistment is permitted.

65. It should be explained that the term "protected" relates to the special status given civilians of the occupied state with the intention of protecting them against the occupying state. However, the fact that the settlers do not have this status does not, in and of itself, allow their rights to be infringed, either by the state or by "protected persons."

66. See Article 11 of the Universal Declaration of Human Rights, Article 14 of the International Covenant on Civil and Political Rights, and Article 66 of the Fourth Geneva Convention.

Summary and Conclusions

The Forbidden Roads Regime is a collection of undeclared measures that together form a single, undeclared policy. This policy has never been enshrined in legislation, nor stated in official declarations, nor even indicated by road signs on the relevant roads. The policy is entirely based on verbal orders given to soldiers in the field.

The strongest proof of the regime is the local population's awareness of its existence. Palestinians have almost completely ceased using many of these roads, even when entry to the road is not blocked by physical obstacles or staffed checkpoints.

The failure to provide written regulations regarding the regime makes it difficult to investigate the policy and describe its features precisely. This lack of transparency prevents intelligent public debate on the issue, and releases policymakers from accountability. For example, state officials are able to claim that the restrictions placed on Palestinians traveling on certain roads are "specific measures" taken at the discretion of the local commander, based on the situation on the ground. This report refutes such claims, and demonstrates that the regime is institutionalized and stable, despite periodic fluctuations.

B'Tselem's investigation indicates that the roads subject to the regime may be classified into three main categories, based on the severity of the restrictions: completely prohibited, partially prohibited, and restricted use. The first category includes roads intended for the sole use of Israeli citizens. Some of these

roads are classified by the army as "sterile roads." The second category includes roads on which Palestinians may travel if they hold permits issued by the Civil Administration, or if their identity cards indicate that they live in a village sole access to which is via the road. The third category, restricted use, includes roads in which Palestinian vehicles are allowed to travel without a special permit, but most access to the roads is blocked by the army.

Access to these roads requires passing a staffed checkpoint at which the travelers are forced to undergo prolonged checks. Police patrol these roads and strictly enforce the traffic laws against Palestinians only, with the intention of deterring them from using the road. Soldiers confiscate Palestinian cars caught on a forbidden road.

The Forbidden Roads Regime has forced West Bank Palestinians to change their travel habits. They must use long, winding alternate roads that pass through densely populated urban areas, or use run-down dirt roads between the mountains. Travel on these alternate roads impairs all aspects of daily life in the West Bank, including the economy and the health and education systems, and severely disrupts social and family life.

The report also describes the Israeli bureaucracy charged with issuing the special movement permits required of Palestinians who wish to drive on some of the roads. The permit system, which is run by the Civil Administration and its District Civil Liaison offices, lacks all transparency and is patently arbitrary. No clear criteria exist for approving or rejecting requests,

and in most cases, the decision is based on the discretion of the DCL staff. Rejections are given verbally and usually without explanation. The requests of Palestinians who are classified as “prevented for security reasons” are denied automatically, and only the GSS can remove this basis for rejection. The GSS takes advantage of this power to pressure Palestinians to serve as collaborators.

The Forbidden Roads Regime infringes two fundamental human rights: the right to equality and the right to freedom of movement. The

roads regime breaches fundamental rules of international law that are binding on Israel as a party to international treaties, among them the Covenant on Civil and Political Rights, the Convention on the Elimination of All Forms of Racial Discrimination, and the Fourth Geneva Convention.

B'Tselem demands that the government of Israel immediately end the Forbidden Roads Regime and that it respect the right of Palestinians to freedom of movement on all roads inside the West Bank.

Appendix 1

Testimony of a Palestinian whose request for a movement permit was denied because he refused to collaborate⁶⁷

For six years, I have been driving a truck for a company in Ramallah. I transport merchandise between Palestinian towns and villages in the West Bank. When the restrictions on movement were imposed, I went to the Civil Administration in Beit El and submitted a request for a magnetic card. I reached the office about 9:00 A.M., waited in line for about two hours, and when my turn came, the soldier at the counter took my request form and told me to come back in ten days. I did as he said. When I came back, I had to wait in line for three hours. When I finally got to talk with the soldier at the reception counter, he checked my information in the computer and then handed me the magnetic card.

The next day, I returned to the Civil Administration and submitted a request for a permit to travel between checkpoints. It is essentially one document that includes two movement permits, one for the truck and the other for the driver. The permit lists the truck's license plate number and my ID number. The soldier told me to wait, and he checked my information on the computer. About five minutes later, he issued me a movement permit that was good for one month.

When the permit expired, the manager of the company I work for went to the Civil Administration and renewed the permits. Sometimes we received permits that were valid for one month and sometimes they were good for three months. As for renewal of the

magnetic card, the worker himself has to submit a renewal request. So, in early 2002, when my card expired, I went to the Civil Administration and renewed it. Since 2001, I have renewed it three times. The card will now expire on 8 October 2004.

In the middle of March 2004, my movement permit expired. The manager went to the Civil Administration to obtain a new permit, but they told him that the request had been denied. So, on 25 March, at around 11:00 A.M., I submitted a new request. The soldier at the reception counter checked my information in the computer and said to me: "Go to the Shabak [General Security Service]. Your request was rejected." I told him that I have a valid magnetic card. He replied: "The problem is with the Shabak." He made an appointment for me with "Captain Rasmi," from the Israeli intelligence services. The meeting was set for 28 March, at the Ofer detention camp, which is situated south of Ramallah.

At 8:00 A.M. on the scheduled day, I arrived at the detention camp and gave the guards the note indicating I had been summoned to a meeting. One of them took my ID card and the note and told me to wait. I waited for three hours. Then a Shabak agent dressed in civilian clothes came over to me. He searched me and told me to go into one of the rooms, apparently a room for visitors, which was located in the prison facility. The room had lots of leather chairs, but no tables. The Shabak agent photographed

67. The testimony was given to Iyad Haddad in Ramallah on 17 May 2004. The witness's details are on file at B'Tselem.

me and searched me again, more carefully than before. He told one of the soldiers to guard me and left the room. About fifteen minutes later, another Shabak agent came into the room. He, too, was dressed in civilian clothes. He introduced himself as "Captain Rasmi." He sat down on a chair next to me, and told me: "I am in charge of your area." He asked where I worked, and if I was having trouble crossing the checkpoints. I said that I have some problems. Then he said, "What would you think if I were to give you a permit to enter Israel, and not just one to move around within the West Bank?" I told him that I didn't want a permit to enter Israel, but only one for inside the West Bank. He insisted. "With a permit to enter Israel, you could move around easily, and your employer would like you better." I told him that I don't need a permit to enter Israel. He continued to try and convince me. "What would you think if I were to give you a cellular phone and you would tell me what you see when you drive along the roads?" Then, I realized that he wanted me to collaborate with the Israeli intelligence services.

I immediately refused, and told him that that was the job of the Police. He threatened me, and said that the Police can't erase the security grounds for rejection which appear next to my name in the computer, that I should think it over, and that he was available whenever I wanted. He tried to give me his telephone number, but I refused to take it. Then he demanded that I give him my telephone number. He said, "If you want some help from me, you can help me as well." He gave me back my ID card and I left. It was about 1:00 P.M.

Because I didn't have a permit to travel between the checkpoints, my employer pressured me and complained that work was almost at

a stand still, and that it couldn't continue like that. He suggested that I write a letter to the Civil Administration, describe my situation to them, and request that they issue me a permit. In the middle of April, I wrote a letter to the Civil Administration and attached a request to renew the movement permit. I gave it to the soldier at the reception counter. He checked my details on the computer and told me, "Your problem is with the Shabak." I asked him what he meant, and he said, "Go to the Shabak and straighten out the problem with them. Then the Shabak will contact us and tell us that there are no problems with you. After that, you can come and get the permit." The soldier returned the request to me and made another appointment for me with "Captain Rasmi."

On 18 April, at 9:00 A.M., I went again to the Ofer detention camp. The guard took my ID card and the note indicating that I had an appointment, and told me to wait. An hour later, "Captain Rasmi" asked me if I knew him. I said that I did. He took me to the same room where I had been the previous time, and he sat down next to me. He asked me, "Well, did you think about it?" I replied, "I don't want anything other than a permit to move about inside the West Bank. I do not want a permit to enter Israel." He asked me about a relative of mine who was in prison in Israel. He asked how we were related. I told him that the man is my brother-in-law, my wife's brother. "Captain Rasmi" said, "We don't want to give you the permit because of your relationship to him. He is very dangerous to Israel." I asked him if someone should have to suffer because of what a relative of his does. I asked, "What do I have to do with that?" He replied, "Maybe he asked you to help him?" I told him that I never visited him in prison. He said that he knew that, but maybe I got letters from him. Then he asked,

“Why are you being so stubborn in your refusal to cooperate with me. You are not the first, and won’t be the last, to cooperate with me.” “I don’t want to cooperate,” I said.

“Captain Rasmi” said that we were not having a pleasant meeting. He suggested that we meet wherever I wanted, whether in Jerusalem or anywhere else. He said that I would enjoy the meeting. I told him, “I am not happy now and I don’t want to sit with you.” He said, “As you wish. Your name will remain on the computer.” I did not give in, and said I would go to a lawyer. He said, “It’s a waste of money to pay a lawyer, because nobody will look into your case.” Around 1:30 P.M., I left.

When I got to work, my employer continued to pressure me, and said that the movement permit was very important in order for me to continue working. Due to all the pressure, I wrote another letter to the Civil Administration and

attached a new request for a permit allowing me to travel between checkpoints.

On 16 May, at 10:00 A.M., I went to the Civil Administration. I waited in line for three hours and gave the letter and request to a soldier named Yotam, who was sitting at the reception counter. He checked my information in the computer and said, “You are rejected by the Shabak.” I took the request and went home.

I should mention that I support a family of nine, including my elderly mother. I have worked at the company for six years. Now, I have no permit to move between the checkpoints, so I work only within Ramallah. I am afraid of losing my job, which is my only source of income. I do not know what will happen to my family if I get fired. My employer has already cut my salary by 500 shekels, and he constantly threatens to cut it even more. I am afraid that he will fire me.

Appendix 2

Testimony of a Palestinian taxi driver from the Ramallah area who was forced to travel along a dirt road because of the Forbidden Roads Regime

*Testimony of Murad 'Ali Za'id Mazar'a, 32, married with two children, taxi driver, resident of 'Ein Qiniya, Ramallah District*⁶⁸

I live in 'Ein Qiniya and work as a taxi driver. My taxi is a 1973 Volkswagen. Before the al-Aqsa intifada, I used to drive from 'Ein Qiniya to Ramallah along the main road, a distance of six kilometers, and it took five to seven minutes. When the intifada broke out, the IDF closed off the two main exits from 'Ein Qiniya with concrete blocks and a barbed-wire fence. Alongside the concrete block, which was on the road leading to Ramallah, there is the "Yad Ya'ir" army base. We Palestinians are not allowed to travel along that road, which means that we have no road to get to Ramallah or villages in the area. The other road, which runs west from our village, is subject to frequent surprise IDF checkpoints, which are intended to control travel on the road and prevent Palestinian vehicles from traveling along it.

The village's residents and taxi drivers started to use a dirt road, known as the al-Khabta road. It is a path generally used by farmers. It is hilly and winding, six or seven kilometers long, and runs east of the village in the direction of Mt. al-Khabta. It takes you to the 'Ein 'Arik intersection, and an asphalt road that leads to Ramallah, about five kilometers away. From 'Ein Qiniya to the 'Ein 'Arik intersection takes around twenty-five minutes. The Palestinian Construction Office tried to improve this road,

but the Israeli army prohibited it. Soldiers hid in wait for people in the area, harassed them, and sometimes even shot at them.

The road has not been improved or repaired, except for one time last winter at the beginning of 2004, when laborers from the 'Ein Qiniya Council threw down gravel in preparation for paving the road. But the rains swept much of the gravel off the road. This situation causes suffering and injury to my passengers and me. I travel on this road at least twice every day. Driving on the road is exhausting. I get nauseous from the shaking and bumps along the way.

In the winter, the taxi gets stuck in the mud about ten times a month. When that happens, I have to call and pay for a tractor to pull us out. If the taxi is damaged, the taxi has to be towed to a garage in the village or in Ramallah. In the summer, traveling along this road is uncomfortable because we end up breathing in the dust from the road. I can close the windows, but then it is very hot. So, I have two choices, either inhale the dust or suffer from the heat. I prefer the former.

In many instances, the army ambushes us to prevent us from passing. Once, I don't recall the exact date, it was about a year and a half ago, I left the village at 5:00 P.M. Soldiers in a Hummer jeep stopped me on the way to al-Khabta. One of the soldiers took out a sharp knife and slashed all the tires on my taxi and

68. The testimony was given to Iyad Haddad at the taxi parking lot in 'Ein Qiniya on 11 July 2004.

left. I had to walk to the village, which was about two kilometers away. I borrowed tires from neighbors and friends, a taxi driver drove me to my taxi, and I changed the tires and returned to the village. I know that soldiers have smashed the windows of other taxis.

Traveling along this route also causes a great deal of damage to the taxi. I spend a lot every month to replace parts that wear out quickly due to the lousy condition of the road. I also have to change tires once or twice a year, which costs about a thousand shekels a year. I give the taxi a complete overhaul once every four years, which costs NIS 3,500 - 4,000. I have difficulty

paying these expenses. I make up to NIS 1,500 a month. My taxi license costs NIS 500 a year, and I pay NIS 1,200 in taxes and NIS 3,400 for insurance, including liability. My gross revenue amounts to about eighteen thousand shekels, and after all these expenses, I am left with very little profit. If I were able to drive the regular route, I would not have to spend so much on repairs.

I am married and have two children. I also help my brother 'Imad's family. He died about eight years ago, leaving a family of five. I am unable to help them due to my grave financial condition, which embarrasses me.

Appendix 3

Soldiers stop minibus in the Nablus area, delay the passengers for hours, and mistreat them

*Testimony of Osama 'Abd a-Latif Di'ab, 23, single, minibus driver, resident of Beita, Nablus District*⁶⁹

I live in Beita, which is about thirteen kilometers south of Nablus. About six months ago, I began to work as a minibus driver. I transport passengers from the Huwwara checkpoint to Beita and other villages in the area.

On the morning of Thursday, 8 April 2004, one of the drivers called me and told me to pick up passengers whom he had dropped off in the 'Asira al-Qibliya area. I drove to an area between 'Asira al-Qibliya and Tell to pick them up. I got there about 8:00 and picked up ten passengers, including a young woman. I went via the road that bypasses the Huwwara checkpoint. About ten minutes into the drive, I encountered a mobile checkpoint. There was a Hummer jeep and four soldiers. One of the soldiers motioned for me to stop.

I got out of the minibus and went over to the jeep. I gave the soldier the papers for the minibus. He told me to give him my ID card and the IDs of all the passengers. I gave him the IDs. Then he said, "Tell all the passengers to get out and sit down on the ground." I did what he said. We sat like that for more than an hour. The soldiers sat in the jeep. After an hour passed, one of the soldiers called me to go over to them. The soldier sitting in the driver's seat told me to have the passengers get into the minibus, and that I should follow the jeep to the station at the top [the Tell base]. He spoke to me in very good Arabic. From his accent, I think he was Druse.

He was fair-skinned, and had green eyes and blond hair. He was thin and about 28-30 years old. An officer sat next to the driver. He had dark skin, black hair, and was heavysset. The other soldiers sat in the back of the jeep. I could not see them too well.

On the way, I stopped the minibus, and then the jeep stopped as well. The soldier and the officer got out. The officer asked me in Hebrew, with the driver translating, "Why did you stop?" I replied, "Why are you delaying me? What did I do? What did the passengers do? Let them go." The two of them grabbed me by the shoulders and throat, and the soldier took plastic handcuffs out of his pocket and cuffed my hands. He said, "Now I am going to detain you." He asked the passengers if any of them knew how to drive the minibus. They said that they didn't. The driver asked me: "What's wrong with you?" I replied: "I don't know what I did." He said: "You were transporting passengers in an area where travel is forbidden. We'll hold you for two hours and then let you go." He took off the handcuffs and I drove the minibus, following the jeep.

When we got to the Tell base, I stopped near the jeep, at the entrance to the base. The officer got out of the jeep and told me to turn off the engine and have the passengers get out. I asked him why I was being detained and what I had done. He said that I was a criminal who transports people on a road situated on army territory. I told him: "OK. But what about the passengers?" The officer said that they would keep us for two hours and then let us go. The passengers got out of the minibus. One of the

69. The testimony was given to Salma Dab'i at the witness's home on 4 May 2004.

soldiers at the base came out from behind a small iron door at the entrance to the base. He was holding plastic cuffs and pieces of cloth. The soldiers tied our hands and blindfolded us. I heard one of the passengers tell the soldier that he is sick and asked them not to tie his hands. He was holding some documents, but I don't know what they were. The soldier did not tie his hands, but covered his eyes. They did the same with the young woman. They blindfolded her but did not tie her hands.

Every once in a while, the soldiers would leave us alone for a half an hour. I think that they went over to the tents and concrete buildings that were about fifteen meters from us. When they had gone, we removed the blindfolds a bit, and the woman lit cigarettes for those of us who smoked. When the soldiers came back from their break, they saw that we were talking among ourselves or that we had moved our blindfolds, and they shouted at us. But they didn't yell at the woman, even though she lifted the blindfold and didn't put it back in place.

Around 11:00 A.M., I asked one of the soldiers if I could go to the bathroom. He replied: "There is no bathroom. Shut up!" I knew what time it was because I could see my watch, despite the blindfold. I heard a few of the men make a similar request. The soldiers did not answer them. After fifteen minutes passed, I thought that my bladder was going to burst. I asked the soldiers again if I could go to the bathroom, and one of them said, "Go." He pointed to a place about seven or eight meters away. They let us urinate there. I asked the soldier, in both Arabic and Hebrew, to remove the handcuffs. "I am not going to remove the handcuffs or the blindfold. Let the young woman help you," he said. I was stunned. I did not expect that kind of response. I told him that we are Muslims and that we are

forbidden to do something like that, because I am a man and she is a woman.

The other men also asked the soldier to remove their handcuffs so that they could go to the bathroom. Each time, he said the same thing: "If you don't want the young woman to help you, stay the way you are." Every time that somebody asked to go to the bathroom, the soldier would tell him to take the young woman with him so that she could help.

Later, I saw that soldier and another soldier go in the direction of the observation tower, which was about three meters from us. When I lifted my head up, I managed to see a bit, despite the blindfold. They came back about thirty minutes later. When they came back, one of the men asked to go to the bathroom. The soldier told him: "Let the young woman help you." The guy said that his brother could help him, because the soldiers had not tied his hands. The soldier consented.

I saw the two of them walking, and the one whose hands were not bound helped his brother. I asked the soldier if I could go to the bathroom, and the soldier told the brother to help me. To my surprise, he was not willing to help me. Apparently, he was shy. I was so upset and tense that I shouted at him and told him that he was inhumane.

After a few minutes passed, one of the guys, I think it was the man from the 'Askar refugee camp, asked the soldier if he could go to the bathroom. The soldier said, "Let your sister help you." The man apparently did not understand what the soldier said and went over to him. When he was about five meters from the soldier, he asked him to remove the cuffs. The soldier said, "I will not remove the cuffs, ask your sister to help you." When he heard

that, he got very mad and said, "What are you saying? I am a Muslim. That is forbidden! It is shameful!" The man went back to his place and sat down.

There was one man who asked a few times for something to drink, and I asked for something to eat because I had not eaten breakfast. The soldiers told us repeatedly: "Shut up, shut up!"

Around 2:30 P.M., a white army jeep pulled up. I know that it belonged to the DCL. Two officers got out. One of the officers went over to one of the soldiers and spoke with him, but I don't know what they discussed. After that, the soldier came over to us and asked, in Arabic: "Who is the driver?" I told him that I was, and he asked me, "What is the problem?" I said, "I don't know! They stopped us and told me to follow them, and here we are, with our hands cuffed and waiting. None of the passengers are a problem. I have a license, a permit to cross checkpoints and drive along the settlement roads. What's the problem?" The officer answered that they would release us in another half an hour. Then they left. I waited for them to release us. I constantly looked at my watch. A half an hour passed and nobody let us go.

One of the men lifted his blindfold and two soldiers went over to him. One of them ordered him to get up, and hit him twice in the legs, causing him to fall down.

Around 3:30 P.M., we insisted that the soldiers let us go to the bathroom. One of the soldiers came over to us and removed the cuffs and blindfolds. He let us go, one after the other, to relieve ourselves. When we returned, the soldiers blindfolded us and cuffed our hands.

We stayed there like that until 6:30 or so, when one of the soldiers removed the cuffs and blindfolds. He told us to get into the minibus.

The soldier gave one of the guys our ID cards. Mine was not among them. The soldier told me not to turn the motor on until he told me to. Then he came over to us, took the ID cards, and told me to start the engine and follow the jeep.

I followed the jeep to the Huwwara checkpoint. A soldier got out of the jeep, called the passengers by name and gave them back their ID cards. He told them to go home. I did not receive my ID card. The soldier told me to turn around and follow him. I asked him where we were going, and he said: "Up there, where you were. I am not going to let you and the minibus go for now." I asked, "Why are you keeping me there? I am afraid to stay there alone." He told me to follow him in the minibus, and I did as he said. At the Yizhar intersection, I decided to make a run for it. I drove to the Odala intersection and then to Beita. The soldier in the jeep chased me and honked at me to stop, but I ignored him. He chased me for about three kilometers. At one of the turns, I almost flipped over, but it wouldn't have bothered me if I flipped over. I was sure that, if I had gone with them, they would have abused me.

At 7:30 or 8:00 P.M., I was back in Beita. At the entrance to the village, I did not see the soldiers. At home, I told my father what I had gone through all day long. About an hour later, I heard the sound of horns and commotion in the village. I went onto the roof to see what was happening. I saw two army jeeps and children throwing stones at them. I heard gunfire. I was very frightened because I thought they were coming to arrest me. I went onto a hill that had no houses and returned home only after the soldiers had left the village. They were in the village for about half an hour. I had a tough night. Every time I heard voices, I thought soldiers were coming to arrest me.

I did not go to work on Friday and Saturday [the next two days]. My brother Heysham, 35, drove the minibus instead of me on Saturday. Around 7:30 A.M., he called me to say that soldiers had stopped him at the Huwwara checkpoint. They asked about me and told him that they were holding him until I arrived. He said that he had already been held there for half an hour, and asked me to come and give myself up. I consented. I told my grandfather and father about Heysham's situation. We drove together to the checkpoint. My father asked the soldiers why they were holding Heysham. They said that Heysham would be released when I turned myself in. I stood far away from the soldiers. I was afraid to turn myself in. I knew that the soldiers had nothing against me, but they could do whatever they wanted, and could detain me for as long as they liked. At the same time, the soldiers were holding my brother Bassem, 34. He also drives a minibus in the area, and they wouldn't release him or his vehicle. Around 2:30, the soldiers released my brothers and one of the minibuses. My minibus stayed with the soldiers as collateral.

The next day, I went to the DCL in Huwwara. I spoke with the officer and explained what happened. He said there shouldn't be a problem, and told me to go home and come back the next day to settle the matter with the soldiers. He also gave me a document confirming that I did not have an ID card. With that document, I was able to obtain a new ID card.

The next day, I returned to the same officer. He repeated that there was no problem and that I should come back the next day. I asked him about the minibus, and he said that I could take it the next day. On Tuesday [13 April], I went back again, but could not find the officer. The next day, I drove to the Huwwara checkpoint. I had a document indicating that my bus had been seized and that I could get it back on 4 April. The previous time that they had seized the minibus, I was able to get it back without the confirmation document, so I had the old confirmation. I added the number 1 alongside the date that was on the document, gave it to the soldiers, and they handed over the minibus.

Appendix 4

Sample form for confiscating a Palestinian vehicle

אישור החרמת רכב – מחסום שב"ש

סוג הרכב: מ.ס.ל. 7464930 מקום החרמה: ש"ש

ת.החרמה: 16/6/04 ת.החזרה: 16/6/04 שם המחרים: ר.א.ן

שם הנהג: מ.ס.ל. 22 מס"ד: 22

תאריך: 20.12.03 מקום החרמה: פתח תקוה סוג הרכב: מ.ס.ל. 6128930

בעל הרכב: אחמד סאדה ת"ז: 996790838 מספר הרכב: 6128930

מאריך בחזרה: 4.1.04 מקום החזרה: ש"ש הוחרם ע"י: סבאח

חתימה: 

CONFISCATION OF VEHICLE – SHAVEY SHOMERON CHECKPOINT

Type of vehicle: Mercedes Lic. 746930 Place of Confiscation: Shavey Shomeron

Date of Confiscation: 12 June 2004 Date returned: 16 June 2004 Seized by: [illegible name]

Name of Driver: Muhammad Abu Salam Serial Number: 22

Date: 20 Dec. 2003 Place of confiscation: In the Territories Type of vehicle: Yellow Mercedes

Owner of vehicle: Ahmad Sadeh ID No.: 996790838 Vehicle Reg. No.: 612830

Date of Confiscation: 4 Jan. 2004 Place vehicle returned: Shavey Shomeron

Confiscated by: Sabah

Signature: [signed]

Response of the IDF Spokesperson's Office

| Israeli IDF Int. | Defense Spokesperson Org. | Forces Unit Desk |
|------------------------|---------------------------------|------------------------|
| Tel: | 972-3-6080220/358 | |
| Fax: | 972-3-6080343 | |
| <u>2217</u> | - | <u>8-1</u> |
| 12 | August | 12 |



To,
Mr. Yehezkel Lein
B'Tselem

Re: In Response to Your Query

Since September 2000, Israel has been the target of a relentless campaign of terrorism instigated by Palestinian terrorist organizations. The attacks against Israel have included shooting incidents, use of explosives devices, suicide bombings and other forms of terrorism which are carried out for the sole purpose of killing Israeli citizens.

Unfortunately, these terror attacks - which have resulted in the death of nearly 1,000 Israelis and the injury of over 6,500 others - have become a part of our day-to-day life.

The state of Israel, as any sovereign state, retains the inherent right to self defense, and bears the obligation to provide security for its citizens. Towards this purpose, the IDF uses various means to combat the threat of terrorism. Unfortunately, the roads in Judea and Samaria are among the main conduits of terrorist activity, including suicide bombings, who use the roads to carry out terrorist attacks within Israel. Restrictions on the use of these roads are an essential part of the defense mechanism against terrorist groups, who wish to perpetrate shooting attacks against Israeli citizens in Judea and Samaria, and against terrorist groups or individuals looking to sneak into large Israeli population centers in order to carry out mass attacks.

The authority to restrict movement on certain roads is in accordance with Security Order Number 378 published in 1970, and is granted to anyone who is an authorized military commander. In this case – the commanding officer (CO) of the regional command, divisional commanders, their deputies, and regional brigade commanders, authorized by the CO of the regional command.

During the recent period, there have been no written instructions restricting Palestinian movement in specific roads in Judea and Samaria. Nonetheless, paragraph 1(D) of the Military Order, grants military commanders the ability to give verbal orders as they see fit, according to the ascertained security threat in the given area.

This option has occasionally been used due to specific security circumstances.

Moreover, terrorist organizations acting within populated areas, force the IDF to conduct, from time to time, strict security screenings of people and baggage in the area of Judea, Samaria and the Gaza Strip. At the same time, it is important to emphasize the fact that IDF commanders are obligated, on a daily basis, to give their full attention to the humanitarian aspects of IDF activities in those areas. In general, every effort is made to prevent unnecessary inconvenience for those Palestinian civilians not involved in terrorist activities, allowing them to live as much of a normal daily routine as is realistically possible given the security environment.

The list of roads that are closed or restrict Palestinian movement that appears in the report, does not, in any way, reflect the reality on the ground.

For example, route 60, which was pointed out in the report for having its use restricted between Hawara and Kalandia, and between the tunnel check post (at the exit from Jerusalem) and Shama'a. **In fact**, this road sees a very high flow of Palestinian traffic on a daily basis. The road leading from Hawara to Kalandia, for example, crosses Samaria from north to south, while at the north end of it there is a check post (Tofah). The check post does not operate on a regular basis, but when it does, it **does not prevent Palestinian vehicles from passing**, stopping them only briefly for the purpose of a security check. At this very road block, two explosive belts were caught in two different incidents.

Moreover, not only is Palestinian traffic allowed on route 60 between Shama'a and the tunnel check post, but it has also been learned from Hamas activists recently arrested, that the suicide bomber from Hebron used this very road on his way to carry out his suicide attack at "Café Kafit" in Jerusalem last July.

The same is true with regard to the Trans-Samaria Road, the Trans-Judea Road and other roads which were claimed in the report to either forbid or restrict Palestinian traffic. Again, the reality on the ground is quite different than that described in the report. Contrary to the report, movement on these roads is free and does not require any permit from the DCO.

Furthermore, the report's claims that Palestinians need approval from the DCO for driving on main roads, are entirely incorrect. Movement on these roads is not restricted, except for the entrance/exit from the city of Nablus, which requires special authorization from the DCO for men between the ages of 16 and 30.

The roads between the Seam Zone and Israel proper are also mentioned in the report as roads along which Palestinian movement is prohibited. In many cases, these roads never saw Palestinian traffic to begin with since the roads do not lead to Palestinian villages or cities, but into the Israeli hinterland. Thus, for example: the roads leading from Teneh towards the west, from the settlement Tzofim towards the west, where a check point is positioned on the route of the Security Fence, on the road leading from the Tunnel Check Post to the Gilo intersection, and other roads.

Moreover, the statistical data regarding the number of IDF road blocks in Judea and Samaria appearing in the report is, again, inaccurate. While the report states that there are 41 permanent check posts deep inside Judea and Samaria, the truth is quite different, with no more than 15 such check posts, most of the time.

It is to the report's discredit that it makes no mention of a long list of measures that have been taken by the IDF over the past year for the purpose of easing existing inconveniences throughout Judea and Samaria – measures which have significantly improved Palestinian traffic throughout these areas. These measures were implemented after effective steps were taken against key elements of the terrorist infrastructure in Judea and Samaria, following developments in the construction of the Security Fence, and the desire to improve the Palestinian's quality of life.

These measures include the following:

1. During the last year, the IDF refrained from the use of curfews on Palestinian cities, except for special cases.
2. Movement restrictions have been removed from all Palestinian cities, apart from Nablus, so that there is nothing to prevent the movement, by foot or by vehicle, between Palestinian cities in Judea and Samaria.
3. Dozens of permanent road blocks have been either removed completely or reduced to part time operation
4. Nearly half of the road blocks and check posts have been removed from the roads between the different cities.

The actions described above have a significant effect on the freedom of movement of the Palestinians in Judea and Samaria and therefore, it is unclear why the report totally ignores these positive elements.

At the initiative of the Civil Administration and the IDF, dozens of public transportation lines have been created in Judea and Samaria which have been used by more than a million Palestinians during the first half of 2004 alone. Contrary to what was stated in the report, these bus lines were not created as a substitute for the use of private vehicles **but as a cheaper and more convenient option for the Palestinian population.**


In this context, it is important to note that movement restrictions are indeed in effect with regard to Israeli citizens, and in certain circumstances they are prohibited from traveling on given roads due to security reasons. For example, since the closure of the "Velerstein" road north of Ramala, residents of the Dolev and Telmon settlements are required to use by-pass roads which significantly lengthen the duration of their journey. In this case, the road has been closed since the beginning of the Palestinian hostilities due to concrete security threats.

In conclusion, IDF actions against Palestinian terrorism are taken with respect to both Israeli and international law and, with a genuine desire to ease the burden on the innocent Palestinian population without neglecting the security requirements of the Israeli civilian population.

The erection of the Security Fence will enable the IDF to continue to remove more check points, which, in turn, will further improve Palestinian freedom of movement throughout Judea and Samaria.

In several cases reviewed by the Israeli High Court of Justice, the Court decided not to intervene in the IDF's choice of security measures limiting Palestinian freedom of movement. These cases include: 2847/00 – **Physicians for Human Rights vs. the Minister of Defense**; and, 2847/03 – **Hassan Ma'arof Ratab Ala'ona vs. the Commander of IDF forces in Judea and Samaria**.

Sincerely,



Sam Wiedermann, Major
Head of Int. Org. Section