

## **ISOLATION OF JERUSALEM, RESTRICTIONS ON MOVEMENT CAUSING SEVERE HARDSHIP IN OCCUPIED TERRITORIES**

**Middle East Watch is deeply concerned about the hardships caused by Israel's indefinite ban on the entry of nearly all of the 1.8 million Palestinian residents of the West Bank and Gaza Strip into Israel and annexed East Jerusalem. These hardships include:**

- \* The abrupt loss of income for some 100,000 Palestinians who were employed in Israel and in East Jerusalem, and who have few job opportunities inside the territories, due partly to long-standing Israeli policies that have stifled indigenous economic development.**
- \* The lack of access to hospitals, mosques, churches, schools, banks, foreign consulates and other vital institutions in East Jerusalem, the de facto capital of the Palestinian community.**
- \* The fragmentation of the occupied territories into four sectors — the Gaza Strip, East Jerusalem, the West Bank north of Jerusalem, and the West Bank south of Jerusalem — that are inaccessible from one another without hard-to-obtain permits.**
- \* A drastic reduction in visits by lawyers to Palestinians incarcerated in Israel, East Jerusalem, and in the other region of the West Bank from where the lawyers reside.**

**The three-week-old restrictions amount to the "most damaging and disruptive policy of the occupying power on the daily lives of Palestinians" since the prolonged Gulf War curfew, as the Jerusalem-based Palestine Human Rights Information Center has termed it. Distressed by the consequences of the closure, Middle East Watch urges Israel to:**

- \* Provide for the welfare of workers and their dependents whose income has abruptly stopped because of the closure order. (It is worth noting that Palestinians who had been working legally in Israel are not eligible for unemployment benefits, in contrast to Israeli workers, even though the same deductions are taken from their paychecks.)**
- \* Ensure unimpeded access for Palestinians to annexed East Jerusalem, and through Jerusalem for those wishing to travel from one part of the West Bank to another.**
- \* Act promptly and favorably on exit permit requests from Palestinians with compelling reasons to enter Israel, including persons needing to travel to Ben Gurion International Airport near Tel Aviv, and persons needing health care who are eligible under their insurance policies to use Israeli hospitals.**

**\* Ensure regular client consultations for lawyers representing Palestinians imprisoned inside Israel, until such time as Israel complies with the Fourth Geneva Convention by transferring these prisoners to facilities in their territories of origin.<sup>1</sup>**

**Since March 30, the Israeli government has prohibited Palestinians from entering Israel or East Jerusalem without a special permit. The policy was implemented in response to the worst wave of attacks on Israeli soldiers and civilians by Palestinians using guns and knives in several years. Israeli officials described the closure as an attempt to provide a cooling-off period for the Arab and Jewish populations. The Israeli cabinet has said it will review the closure on a weekly basis. At its April 18 meeting, the cabinet agreed to maintain the closure indefinitely.**

**Applicants for exit permits have generally been made to wait for at least three hours and sometimes longer than one day at offices of the Civil Administration, the local government run by the Israeli military. The majority have been refused without explanation. The few successful applicants have, almost without exception, received permits valid for short periods only.**

**The delays and the high refusal rate have kept many Palestinians from medical care and other important personal business. Gaza City lawyer Sharhabeel Y. al-Zaeem pointed out that some Gazans have been denied permission to travel to Israel or East Jerusalem for specialized medical care that is unavailable at Gaza's three hospitals. He pointed out that many Palestinians are entitled by their insurance policies to receive care in hospitals inside Israel.**

**Israel has the right to restrict entry at its borders, in a manner consistent with international human rights law.<sup>2</sup> However, Israel has implemented the current closure in a manner that disregards the harsh and immediate impact on the affected population. The closure, has, furthermore, severed Arab East Jerusalem from the rest of the occupied territories.**

**For these reasons, the current closure violates Israel's obligation under international humanitarian law to balance its security needs against the welfare of the population under occupation.<sup>3</sup> It**

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<sup>1</sup> The Geneva Convention (IV) of 1949 Relative to the Protection of Civilian Persons in Time of War is legally applicable to Israel's occupation of the Gaza Strip and all of the West Bank, including East Jerusalem, in the view of nearly the entire international community, including the five permanent members of the U.N. Security Council. The government of Israel has steadfastly rejected the Convention's de jure applicability, although it has stated that it would abide by its humanitarian provisions, without specifying which of those provisions it considers to be humanitarian.

<sup>2</sup> This right does not preclude the right to return that belongs to all former Palestinian residents of what has become Israel and the occupied territories. In Middle East Watch's view, this right is affirmed by Article 12(4) of the legally binding International Covenant of Civil and Political Rights, which Israel ratified in 1991. It states that "In no one shall be arbitrarily deprived of the right to enter his own country." For those who fled or were forced to leave the area of Palestine that became Israel in 1948, their "country" is Israel, just as Israel has become the country of citizenship to the many Palestinians who remained within its boundaries.

<sup>3</sup> This obligation derives from the Hague Convention of 1907, which is considered customary international law. The obligation was recognized by Israel's Supreme Court, sitting as the High Court of Justice in *The Christian Society for*

also amounts to an act of collective punishment, forcing 1.8 million Palestinians to suffer for the crimes of a handful.<sup>4</sup>

**Article 39 of the Fourth Geneva Convention states, in part,**

**Where a party to the conflict applies to a protected person methods of control which result in his being unable to support himself and especially if such a person is prevented for reasons of security from finding paid employment on reasonable conditions, the said Party shall ensure his support and that of his dependents.**

Israel has so far done virtually nothing to insure alternative means of support, medical care and other necessities for Palestinians affected by the current closure. The hardship has been made worse by the paucity of work opportunities inside the occupied territories. In part, this is the result of long-standing Israeli policies that have suppressed economic growth in the West Bank and Gaza Strip and made their economies heavily dependent on exporting labor to Israel and overseas. Ze'ev Schiff and Ehud Ya'ari, two leading Israeli journalists, write in their 1989 book *Intifada*, "Israel stunted the development of the Palestinian economy by harnessing it to Israel's priorities and needs...[making] any improvement in the Palestinian standard of living conditional upon some direct link to the economy inside the Green Line."<sup>5</sup>

On April 15, the government announced it would increase its budget for development projects in the territories from 120 million New Israeli Shekels (US \$42.8 million) in 1992 to NIS 450 (US \$160 million) this year. It said the projects would begin immediately and create jobs for Palestinians. Such initiatives, however ambitious, cannot address the short-term repercussions of the closure on the Palestinian community.

### **LOSSES TO WORKERS, BUSINESSES**

Perhaps the most dire consequence of the closure is the economic isolation of the occupied territories. Shortly before the closure, some 70,000 Palestinians had permits enabling them to enter Israel in order to work (this number excludes those working in annexed East Jerusalem for Palestinian employers). Another 30,000 entered illegally to work on any given day, according to Kav La'Oved (Workers' Hotline), the Tel Aviv-based workers' rights organization; government officials put the number of "unregistered workers" as high as 50,000. Most performed menial labor, while a minority held skilled jobs

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*the Holy Places vs. The Minister of Defense et al.* (H.C. 337/71, 1972): "The occupant is entitled to impose its authority on the population of the territory...But alongside the right of the occupant is its duty to be concerned with the welfare of the population."

<sup>4</sup> Article 33 of the Fourth Geneva Convention states, "No protected person may be punished for an offense he or she has not personally committed. Collective penalties...are prohibited."

<sup>5</sup> *Intifada* (New York: Simon and Schuster, 1990), p. 91. See also Richard Toshiyuki Drury and Robert C. Winn, *Plowshares and Swords: The Economics of Occupation in the West Bank* (Boston: Beacon Press, 1992), and al-Haq, *Protection Denied* (Ramallah, 1991), Chapter Five: "Overview of Restrictions on Economic Development."

**in construction.**

**When workers cannot reach their jobs because the borders are sealed, they lose their wages without compensation. In contrast to Israeli workers, Palestinians working legally in Israel are not eligible for unemployment benefits, even though deductions are taken on an equal basis from their paychecks.<sup>6</sup>**

**The loss of income is a blow to the workers' dependents as well as to the West Bank and Gaza economies. The wages earned inside Israel represented as much as one-third of the total income of West Bank Palestinians and one-half of the income of Gazans.**

**In Middle East Watch's view, the government of Israel has no absolute duty to provide jobs to residents of the occupied territories, but it does have obligations to attend to the welfare of the protected population. By having transformed the West Bank and Gazan economies over the past 26 years to satellites of Israel's economy, the government of Israel has a duty to assist families that have been suddenly deprived of their main source of income and for whom no employment is readily available.**

**The government has been making exceptions to the ban on workers when this means saving Israeli produce from rotting in the fields. The Cabinet reportedly approved the entry of about 9,000 Palestinians to work on the Israeli farms most affected by the closure of the territories, according to the *New York Times* of April 19.**

**Palestinian farmers, meanwhile, have sustained losses because of obstacles to trucking their perishable products into Israel for sale and exportation. (Trucks entering Israel and East Jerusalem must obtain separate permits for both the driver and the vehicle.) The transport of produce grown on Jewish settlements in the occupied territories, however, has not been impeded.**

**Before the March 30 closure decision, worker's exit permits were valid generally for a period of three months and were renewable upon the employer's demand. Most of the workers' permits issued since the closure have been valid for one week or less. Some would-be workers spent hours in line at the Civil Administration only to receive a permit that expired the same evening.**

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<sup>6</sup> See Palestine Human Rights Information Center, "New Israeli Measures Restricting Palestinian Workers," *From the Field*, July/August 1992, and the newsletters of Kav La'Oved (Workers' Hotline) dated March 1993 and November-December 1990.

## **COMPARTMENTALIZATION OF THE OCCUPIED TERRITORIES**

### **Isolating Jerusalem**

**The closure does not simply separate Israel from the territories it captured and occupied in June 1967. It isolates segments of those territories from each other, disrupting day-to-day life for the many Palestinians who depend on institutions and amenities in East Jerusalem. Also affected are those who must travel, for personal or business purposes, between the northern and southern West Bank, and between the Gaza Strip and the West Bank.**

**East Jerusalem, with its Arab population of 150,000, is the de facto capital of the West Bank and Gaza Strip. It contains many institutions that are not found elsewhere in the occupied territories. These include specialized hospitals and foreign consulates, a wide variety of banks, shops, and professional services. For example, in all of the occupied territories, St. John's in Jerusalem is the only adult ophthalmic hospital, and Maqassid is the only adult orthopedic hospital.<sup>1</sup>**

**The closure has also denied access to major Christian and Muslim holy sites in Jerusalem. Under the closure, West Bank and Gaza Strip residents cannot reach the sanctuary containing al-Aqsa mosque and the Dome of the Rock, among the most revered sites in the Muslim world and a favored site for Friday prayers. Christians from the occupied territories were unable to join in Easter services over the past two weeks.**

**Some Palestinians who work or attend school in Jerusalem have still not received permits. Those who did get permits have lost much time waiting at the Civil Administration, at backed-up army checkpoints, and finding alternative means of transportation because they have not received the required exit permits for their vehicles.**

**Dr. Rustom Nammari, an orthopedist at Maqassid Hospital who lives in Ramallah, described the effects that the closure has had on the hospital's operations.**

**The doctors and workers have been given permits, valid initially for one week at a time, and more recently for two or four weeks in some cases. But no member of our staff has received permission to use his car. So those who live in the West Bank (and do not have legal residence in Jerusalem) have to find their own means of getting to work. I can drive in because I have a Jerusalem ID, so I have been picking up five colleagues every morning. The trip now takes seventy minutes instead of twenty, because traffic is backed up at the checkpoint. The hospital has also arranged for buses to pick up its workers.**

**Our clinics in Jerusalem are getting less than half the number of patients that were coming in before the closure, because the patients are not receiving the permits they need. Some of those who did come in were very anxious because their permits specified that they could remain in Jerusalem for only a couple of hours. As a result, Maqassid has been sending out doctors and nurses to clinics in various places around the West Bank, where people can reach us.**

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<sup>1</sup> For background, see al-Haq, "Restriction of Access to and through East Jerusalem," *Human Rights Focus*, April 4, 1991.

## **Northern and Southern West Bank Cut Off from One Another**

**By restricting access to Jerusalem, authorities are also, in effect, severing the northern West Bank from the southern part, since the only modern road between the two regions passes through Jerusalem. The few north-south routes east of Jerusalem are in disrepair and are not served by public transportation. Thus, without a permit, a Palestinian living in a northern suburb of Jerusalem cannot reach his job if he works in a southern suburb; a student from Bethlehem cannot commute to Beir Zeit university near Ramallah. Goods produced in one region cannot be transported for sale or use in another, unless permits are obtained for the driver and vehicle.**

**This cantonization prevents residents of the southern region from reaching services provided at the headquarters of the Civil Administration for the West Bank, which is located near Ramallah. Residents of the northern region cannot reach the headquarters of the motor-vehicle bureau, which is located near Bethlehem.**

**The closure has also disrupted the work of relief and human rights organizations. Operations of the United Nations Relief and Works Agency (UNRWA) have been hampered by the inability of many of its staff to reach Jerusalem. UNRWA drivers lacking permits are unable to make deliveries or pickups on routes that traverse East Jerusalem or Israel, including to and from Ben Gurion airport. The Ramallah-based rights organization al-Haq reported on April 13 that six of its workers were unable to reach the office because they reside in the southern West Bank or the Gaza Strip.**

## **NEW OBSTACLES TO LAWYERS' VISITS TO PALESTINIAN PRISONERS**

**The incarceration of more than 7,000 Palestinians<sup>8</sup> in prisons and military detention centers inside the Green Line violates the Fourth Geneva Convention, which states in article 76, "Protected persons accused of offenses shall be detained in the occupied country, and if convicted they shall serve their sentences therein."**

**For prisoners who are held inside Israel and whose relatives and lawyers reside in the West Bank or Gaza Strip, the new restrictions on movement have led to a complete halt in visits by lawyers from the territories, except for those holding Jerusalem IDs. The access problem for lawyers is a consequence of Israel's illegal policy of incarcerating West Bank and Gaza Palestinians inside Israel.**

**On April 14, Palestinian lawyers were unable to represent administrative detainees at their scheduled appeals hearings at Ketsiot. Middle East Watch was unable to learn if the hearings had taken place in the lawyers' absence or had been postponed; either way, the detained appellants stood to lose.**

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<sup>8</sup> On April 16, a spokesperson of the Israel Defense Forces told Middle East Watch that it was holding 4,215 Palestinians at Ketsiot military detention center and 947 at Megiddo military detention center. Approximately 2,000 Palestinians are being held at prisons and jails inside Israel run by civilian authorities.

**Before the closure, a working arrangement between the Civil Administration and Palestinian bar associations had facilitated travel by lawyers to meet clients at prisons inside Israel. (However, some lawyers, especially Gazans, continued to face obstacles to entering Israel.) The Arab Lawyers Committee, which is the bar association of the West Bank, has thus far boycotted the new permit procedures, and insists that their professional identification cards should suffice to permit them passage to meet clients. Their boycott of the procedure stems partly from a principled objection to the requirement that they apply for permission to enter or pass through East Jerusalem, which they consider to be part of the occupied Arab lands. Reached on April 19, ALC member Ahmed Sayyad said that West Bank lawyers have carried out no visits to prisoners inside Israel since the closure began. Thus, many prisoners have been unable to exercise their right to legal counsel.**

**The Gaza bar, which has not joined the ALC's boycott, has submitted applications for exit permits for its members. As of April 18, the Civil Administration in the Gaza Strip has approved no permits for lawyers wishing to enter Israel, Gaza lawyers told Middle East Watch.**

**Visits by relatives of Palestinian prisoners held inside Israel and in other sectors of the West Bank have continued, although the tighter entry policy has resulted in some lengthy delays at checkpoints of buses carrying families. The visits are carried out with the International Committee of the Red Cross acting as a logistical intermediary between the families and the Civil Administration.**

#### **EXIT PERMITS: TIGHTENING EXISTING RESTRICTIONS**

**The government of Israel imposed the current closure on March 30, in response to a wave of attacks by West Bank and Gaza Palestinians on Israeli civilians and soldiers. During March, 13 Israelis, both civilians and security forces, were slain by Palestinians.<sup>9</sup> Non-fatal attacks also occurred, including one on March 22 in which a Palestinian man stabbed five students and a principal in a Jerusalem schoolyard before being arrested. Of the 11 incidents resulting in deaths, two occurred inside the Green Line and nine occurred in the occupied territories. Meanwhile, 20 Palestinians were killed by security forces' gunfire during March, according to B'Tselem, the Israeli Center for Human Rights in the Occupied Territories.**

**"We must see to it that Palestinians do not swarm among us," Prime Minister Yitzhak Rabin asserted on April 7. He has advocated reducing Israel's dependency on cheap labor provided by Palestinians from the occupied territories, a frequently stated goal of successive Israeli governments.**

**The current closure of the territories is the latest in a series of ever-stricter regulations imposed during the intifada governing the entry of Palestinians into Israel and East Jerusalem. Between 1971 and 1991, West Bank Palestinians had been permitted into Israel and annexed East Jerusalem as a matter of routine, unless explicitly forbidden, even though the West Bank and Gaza Strip officially retained the status of "closed military areas."**

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<sup>9</sup> The circumstances surrounding the death of an additional two Israeli civilians remains under investigation. The two died after being run over by a car outside a West Bank Jewish settlement. Investigators have not yet announced whether they consider the incident to be a terror attack or a hit-and-run accident.

**Beginning in January 1991, West Bank residents were forbidden to enter Israel or to enter or traverse East Jerusalem, unless they acquired permits, which were refused in an often arbitrary and indiscriminate fashion. For instance, they were denied to virtually every Palestinian who had ever been arrested on security grounds, including some who had been picked up and then released without charge, as well to as others who had never been arrested.**

**Entry of Gazans was restricted beginning in 1989, with the introduction of magnetic cards. Issued by the Civil Administration in the Gaza Strip, the cards are required of all Gazan males between 16 and 50 years of age wishing to enter Israel. The cards are denied to Gazans whom the authorities consider to be security risks or tax delinquents. Following the Gulf War, exit from Gaza was further restricted when magnetic card-holders were required to obtain an additional permit to enter Israel.**

**The ban on entering Israel and East Jerusalem is enforced by scores of checkpoints at or near the 1967 border, by routine checks of Palestinians at checkpoints and in public places inside Israel, and by raids on workplaces and Arab villages inside Israel where "illegal" Palestinians from the territories are suspected of working or sleeping. These measures were employed in the past, but are now being practiced more vigorously.**

**West Bank residents found to have entered Israel or East Jerusalem without a permit are subject to arrest, a fine of NIS 350 (U.S. \$125), and denial of an exit permit until the fine is paid. (NIS 350 is equivalent to seven days' pay at Israel's legal minimum wage.) Gazans are subject to arrest and to payment of a NIS 500 bond (U.S. \$178) to guarantee their appearance in court, where they are commonly fined and risk the possible confiscation for six months of their magnetic card. Palestinians who are arrested for illegal entry into Israel or East Jerusalem commonly spend up to two days in jail, and are then bused back to their district.**

**Israel has closed off the occupied territories numerous times in the past. The longest such period in recent years was during the 1991 Gulf War, when Palestinians were barred from entering Israel for six weeks. A two-week closure of the Gaza Strip was ordered in late May 1992 following the murder by a Gazan of an Israeli civilian south of Tel Aviv. The West Bank and Gaza Strip were closed for five days in October 1990, after three Israelis were killed by Palestinians in the days following the killing of 17 Palestinians by police at the sanctuary surrounding al-Aqsa mosque in Jerusalem.**

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*Middle East Watch was created in 1989 to monitor human rights practices in the Middle East and North Africa and to promote respect for internationally recognized standards. The chair of Middle East Watch is Gary Sick, the vice chairs are Lisa Anderson and Bruce Rabb. Andrew Whitley is the executive director; Eric Goldstein is the research director; Virginia N. Sherry and Aziz Abu Hamad are associate directors; Suzanne Howard is the associate.*

*Middle East Watch is a component of Human Rights Watch, a nongovernmental organization which is also composed of Africa Watch, Americas Watch, Asia Watch, the Fund for Free Expression, and Helsinki Watch. The chair of Human Rights Watch is Robert L. Bernstein, the vice chair is Adrian W. DeWind, the executive director is Aryeh Neier, the deputy director is Kenneth Roth, the Washington director is Holly J. Burkhalter, and the press director is Susan Osnos.*