

# ISRAEL

## ISRAEL'S CLOSURE OF THE WEST BANK AND GAZA STRIP

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## SUMMARY

Since late March 1993, following a series of stabbings inside Israel, a general policy of "closure" — the term referring to Israel's sealing of the West Bank and Gaza — has been in effect in the occupied territories.<sup>1</sup> The general closure has, for the last three years, prohibited the movement of Palestinians and of goods from or into the West Bank or Gaza, as well as movement between the occupied territories, except by persons in possession of permits issued by Israel.<sup>2</sup> In addition, Israel has repeatedly imposed "total closure," preventing even those who hold valid permits from entering or leaving the West Bank and Gaza.

In February and March 1996, four deadly suicide bombs killed fifty-eight people in Israel, in addition to the suicide bombers, and wounded 200. While Israelis struggled to overcome the fear and terror caused by these bombings, over two million Palestinians found themselves under a state of siege for nearly two weeks, when the government of Israel imposed the strictest total closure in the history of the occupation (hereinafter the "Spring 1996 closure").<sup>3</sup> During the Spring 1996 closure, Israel also placed military checkpoints around the cities and 465 towns and villages of the West Bank, thus blocking movement between them. Since the signing of the Oslo Accords, Israel has imposed over 300 days of closure, over and above the general closure, in the West Bank and Gaza.<sup>4</sup> The easing of this particular closure in late March 1996 did not end the crisis, however, since the "general closure" was still in place.<sup>5</sup> On May 16, 1996, then-Prime Minister Shimon Peres authorized the imposition of total closure on the West Bank and Gaza "whenever warnings of terrorist attacks are received."<sup>6</sup> As this report went to press, the new Israeli government of Prime Minister Binyamin Netanyahu had not indicated any change in policy with respect to closure, although certain members of the government urged that the closure be eased or lifted.<sup>7</sup> Human Rights Watch would welcome the lifting of the closure but, more important, believes that it is necessary for the government of Israel to address that the current policies would permit re-imposition of closure without taking into account its impact on the welfare of the population of the West Bank and Gaza.

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<sup>1</sup>The territory known as the West Bank includes East Jerusalem, which was annexed by Israel in 1967. This annexation has not been recognized by the international community, which considers East Jerusalem to be occupied territory under international law. However, since Israel has applied a different legal and administrative structure to East Jerusalem and the West Bank, a distinction is often made between the two areas. For the purposes of this report, references to the West Bank do not include East Jerusalem, unless otherwise stated.

<sup>2</sup>Palestinian residents of the West Bank and Gaza must obtain permits whenever they wish to enter Israel or occupied East Jerusalem, even if they will be in Israel only in transit to other parts of the occupied territories. Different permits exist for students, medical personnel and patients, religious worshipers, businesspersons, day laborers, and other categories. Permits are usually issued for a single day, expiring at 7:00 p.m., but can also be issued for up to a maximum of three months.

<sup>3</sup>In 1995, the population of the West Bank (excluding East Jerusalem) was 1,333,000 and the population of the Gaza Strip was 934,000. Palestinian Bureau of Statistics, *Demographic Survey 1995*, June 2, 1996.

<sup>4</sup>Shomron News Service, citing a June 24, 1996 report by Peace Watch, based on Israeli Defense Forces figures. See also the appendix.

<sup>5</sup>Israel has used the policy of closure in the West Bank and Gaza with varying degrees of frequency since the military occupation first began in 1967. The March 1993 closure, which is still in place, has lasted the longest.

<sup>6</sup>Consulate General of Israel, *Israel Line*, New York, May 15, 1996.

<sup>7</sup>Human Rights Watch wrote a detailed letter to the Israeli government on June 10, 1996, requesting information for inclusion on this report, including an official perspective on Israel's policy with respect to closure. We did not receive a response to this letter.

The policy of closure does not only prevent the movement of Palestinians whose final destination is Israel. Due to the non-contiguity of the West Bank and Gaza, and Israel's 1967 annexation of East Jerusalem, the sealing of the occupied territories also prevents the movement of those who wish to transit Israel or East Jerusalem in order to travel between the West Bank and Gaza. It also makes it very difficult to move between the north and south of the West Bank: Although one route bypassing East Jerusalem does exist, it is not a practical alternative for most Palestinians since it requires making a lengthy and costly detour. This road is also often blocked off during closure. Thus, Israel's policies have effectively divided the occupied territories into four distinct regions — the Gaza Strip, the northern and southern parts of the West Bank, and East Jerusalem — with access from one to another controlled by Israel. Although occupied East Jerusalem is the medical, educational, religious, cultural and economic center of the Palestinian community, the Israeli closure has virtually severed access to it for Palestinian residents of the West Bank and Gaza. In addition to restricting the movement of Palestinians between and within the occupied territories, Israel continues to control Palestinian travel abroad since it controls the external borders of the Palestinian self-rule areas, including their borders with Jordan and Egypt.<sup>8</sup> Thus, even the logically impractical alternative of traveling between the occupied territories via Jordan and Egypt requires Israeli permission.

Israel's actions in the West Bank and Gaza are subject to the 1907 Hague Convention Respecting the Laws and Customs of War on Land and its Annexed Regulations (hereinafter the "Hague Regulations") and the 1949 IV Geneva Convention Relative to the Protection of Civilian Persons in Time of War (hereinafter the "IV Geneva Convention"), which seek to protect civilians living under military occupation. The establishment of Palestinian self-rule in parts of the West Bank and Gaza has dramatically altered the political and administrative structure of the territories, but has not significantly changed the nature of Israel's obligations as an occupying power under international law. Despite redeployment from parts of the occupied territories and the fact that most Palestinian residents of the West Bank and Gaza now live under total or partial self-rule, Israel retains direct control over nearly 70 percent of the territory of the West Bank and 40 percent of the Gaza Strip.<sup>9</sup> Even in the self-rule areas, where the Palestinian Authority (PA)<sup>10</sup> has responsibility for internal security, the Israeli military still retains the "overriding responsibility for security," as well as responsibility for external security and control of the borders of the self-rule areas with neighboring Jordan and Egypt.<sup>11</sup> The senior Israeli government negotiator in the Israeli-PLO talks has stated that

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<sup>8</sup>In this report, the "self-rule areas" refers to the areas of the West Bank and Gaza Strip where, pursuant to the Oslo Accords, (see note 20, below) the Palestinian Authority has the responsibility for both civil affairs and internal security. "Partial self-rule" refers to the areas of the West Bank and Gaza where the Palestinian Authority has responsibility for civil affairs, but Israel has the "overriding responsibility" for security.

<sup>9</sup>Approximately one-third of the Palestinian population of the West Bank live under total self-rule, and 68 percent live under partial self-rule. In the Gaza Strip, nearly 100 percent of the Palestinian population lives under total self-rule. Foreign Ministry of Israel, as cited by the Embassy of Israel, Washington, D.C.

<sup>10</sup>The PA, which is also referred to as the Palestine National Authority, is the interim self-governing authority for Palestinians in the occupied territories. It is led by President Yasser Arafat and the Palestinian Council, whose members were elected in January 1996.

<sup>11</sup>See Israeli-Palestinian Interim Agreement on the West Bank and Gaza Strip, signed by Israel and the PLO on September 1995 in Washington, D.C. (hereinafter "Oslo II"), Art. XIII, para 2(a) and Art. XII, para 1.

notwithstanding the transfer of a large portion of the powers and responsibilities currently exercised by Israel to Palestinian hands, the status of the West Bank and Gaza Strip will not be changed during the interim period. These areas will continue to be subject to military government.<sup>12</sup>

Both the Hague Regulations and the IV Geneva Convention prohibit the imposition of collective penalties on the occupied population. The IV Geneva Convention also requires that the occupying power ensure the food and relief supplies of the occupied population, in addition to ensuring and maintaining medical and health services, and allowing medical personnel to carry out their duties. These specific requirements exist alongside a general duty, set forth in the Hague Regulations, to ensure the welfare of the occupied population. Even if Israel were to claim that that it is no longer an occupying power because it has handed over sufficient powers and functions to the Palestinian Authority, the fact that it retains adequate security powers to affect the welfare of the population means that, at a minimum, an occupation functionally exists for purposes of the Hague Regulations and the IV Geneva Convention.

The manner in which Israel implements restrictions on movement violates its obligations under the Hague regulations and the IV Geneva Conventions. The three-year closure in the occupied territories does not merely create inconveniences for Palestinians; it creates profound hardship and, in some cases, humanitarian crises and even deaths. The closure also adversely affects the welfare of the population by, at times, preventing the regular flow of food and other essential products into and out of the occupied territories. In addition, the permit system prevents health-care personnel from reaching their workplaces or providing emergency services. It also severely hampers patient access to both primary and specialized health care and interferes with the movement of ambulances. Since Israel has not ensured and maintained health-care facilities within the West Bank and Gaza that adequately meet the basic needs of the population, Palestinians often have no choice but to seek medical treatment in specialized hospitals in East Jerusalem, Israel and Jordan — access to which Israel regularly prevents through closure. The general closure also prevents thousands of students from attending schools and universities and interferes with both Christian and Muslim worship. Finally, it prevents access by relatives and lawyers to Palestinian prisoners who are being held inside Israel rather than in the occupied territories, and separates families divided by the borders of the West Bank, East Jerusalem and Gaza.<sup>13</sup>

These blanket restrictions, which have been in place for over three years and are often applied arbitrarily, are so broad in impact that they do not appear tailored to preventing individual acts of violence. Rather, they are applied against entire portions of the population, without regard to individual responsibility. These factors indicate that these restrictions on movement are not exclusively designed to address security concerns, but are also punitive in nature, thus amounting to collective penalties that are proscribed under international law. Instead, any security measures adopted should be discriminate and proportional, and their necessity balanced against both the exigencies of the security situation and the likely impact upon the welfare of the population.

As described below, onerous restrictions on the movement of goods have further impoverished the economies of the West Bank and the Gaza Strip, causing a serious decline in wages and a rise in local unemployment. At the same time, Israel has dramatically cut back on the number of Palestinians permitted to work in Israel. Israel does not have an obligation under international law to create economic prosperity in the West Bank and Gaza or provide jobs inside Israel to Palestinians. However, when its security policies make it difficult or impossible for Palestinian residents of the

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<sup>12</sup>Joel Singer, "The Declaration of Principles on Interim Self-Government Arrangements," *Justice* (published by the International Association of Jewish Lawyers and Jurists) 4, February 1994, p. 6.

<sup>13</sup>The general closure also violates the Oslo II Agreement, which provides that

In order to maintain the territorial integrity of the West Bank and the Gaza Strip as a single territorial unit, and to promote their economic growth and the demographic and geographic links between them, both sides shall implement the provisions of [the Protocol Concerning Redeployment and Security Arrangements], while respecting and preserving without obstacles, normal and smooth movement of people, vehicles and goods within the West Bank and between the West Bank and the Gaza Strip.

Annex I, Art. I, para 2

West Bank and Gaza to meet their basic needs independently, Israel bears responsibility for ensuring that these needs are met. At a minimum, Israel has the duty to mitigate the impact of its security policies, with the goal of ensuring the welfare of the population.

This duty is heightened in light of the history, throughout the occupation, of Israeli actions that kept the West Bank and Gaza economically dependent upon Israel, and made tens of thousands of Palestinians turn to Israel for employment in order to meet their families' basic needs. Yet, Israel continues to cut back on Palestinian labor, without adopting any substitute measures to provide for the occupied population's basic needs, such as providing food and relief supplies as required by the IV Geneva Convention. These factors have caused a rise in poverty in the West Bank and Gaza and increased the number of individuals and families requiring food or cash assistance. As a result, contributions to the PA by the international donor community have often had to be diverted from investment and development projects to emergency job creation or relief programs.

Although the general closure has been in place since March 1993, procedures for obtaining permits to enter or transit Israel or East Jerusalem are not transparent. Israel has still not made public any clear or consistent rules or procedures governing which Palestinian residents of the West Bank and Gaza are eligible to receive permits. According to local organizations, many procedures are subject to conflicting interpretations by different officials, and requirements for obtaining a permit are often unpredictable. Permit applications by medical personnel or those seeking access to medical facilities are not reviewed by individuals with the requisite training to make potentially life-saving decisions. Local Israeli organizations that assist Palestinian applicants in challenging permit denials report that Israeli authorities often deny permit requests arbitrarily, or on unsubstantiated security grounds. In many cases, Israel rejects permit requests without disclosing the basis for denial. In particular, there is evidence that Israel routinely rejects applications from individuals who have a history of nonviolent opposition to the occupation or to the peace process, but have never been convicted for any act of violence. According to Physicians for Human Rights-Israel (PHR-Israel),

... the entry permit [into Israel or East Jerusalem] is not granted to anyone considered a 'security threat.' This includes all men who have at one time or another been held under arrest or been imprisoned for security reasons, as well as activists in political opposition movements and their relatives. Many other Palestinians, especially the young and single, are also unofficially barred.<sup>14</sup>

This lack of transparency, as well as the absence of a meaningful opportunity for appeal of permit denials, disregards the principle underlying Article 78 of the IV Geneva Convention, requiring that restrictions on movement such as those imposed during internment or assigned residence, be applied in accordance with regular procedures and include the right of appeal. Israel provides no explanation for denial of a permit and, while it is possible to request reconsideration of a decision, the applicant is not provided with an in-person hearing or any venue for substantive review of the decision. The arbitrary or punitive (in the case of those with a history of nonviolent opposition to the Israeli occupation) nature of many decisions on individual permits is made abundantly clear by the fact that intervention before the State Attorney's office by an Israeli human rights organizations, and the accompanying threat that a time-consuming case will be brought before the Israeli High Court, will often lead to the prompt issuance of a permit that had previously elicited no response, or been denied on unsubstantiated security grounds. While Israel's eventual issuance of permits in these cases is welcome, the limited staff and resources of Israeli organizations means that only a limited number of Palestinians are able to benefit from their help in challenging such decisions.

The impact of the closure has been particularly severe in the Gaza Strip, where educational, health-care and other infrastructure is inferior to that which exists in the West Bank. There are fewer opportunities for higher education

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<sup>14</sup>PHR-Israel, *Health Services: One Year after Transfer to the Palestinian Authority*, Physicians for Human Rights Annual Report 1994 (hereinafter "Annual Report 1994"), p. 18.

All references in this report to "Physicians for Human Rights" or "PHR," are to the independent Israeli organization Physicians for Human Rights -Israel, which is a sister organization of Physicians for Human Rights-US.

and far greater unemployment and poverty. Yet Gazans are subject to stricter restrictions and face even greater difficulty in obtaining permits than residents of the West Bank.

Israel's policy of closure also discriminates along ethnic lines. At no point has Israel responded to settler violence against Palestinians by restricting the movement of the West Bank or Gaza settler population.<sup>15</sup> For example, following the Hebron Massacre of February 25, 1994, in which settler Baruch Goldstein fired on worshipers at the Haram al-Ibrahimi Mosque in Hebron, killing twenty-nine Palestinians and wounding 250 others, Israel correctly did not take measures arbitrarily restricting the movement of Jewish settlers living in the West Bank. Israel did, however, impose a closure on the Palestinians of the West Bank and Gaza after the massacre, the victims of which had all been Palestinian, ostensibly in order to protect the settler population against the possibility of Palestinian reprisals. Yet in cases of Palestinian attacks against settlers, Israel has not sought to restrict settler movement in order to protect the Palestinian population against potential reprisals.

In light of the security situation in Israel, the closure provides important political gains, as well as psychological comfort to Israeli citizens. The Israeli government has appeared to fall back on the policy of closure in order to prove to an outraged public that it is doing *something* in response to terrorism, regardless of that policy's impact on the welfare of the population. The daily newspaper *Yediot Achronot*, discussing the Spring 1996 closure, observed:

In the system of considerations for making decisions on the future of the closure, the political considerations push aside the security considerations....This time the closure is dictated by the public opinion polls.<sup>16</sup>

In addition, the Israeli government has used the immense pressure that the closure places on the Palestinian population as a means of securing more anti-terrorist action on the part of Yasser Arafat, president of the Palestinian Authority. In the words of *Yediot Achronot*,

The assumption is that Arafat acts only when he is placed with his back against the wall. In fact, not explicitly, Israel gave Arafat an ultimatum. The means are economic strangulation, to the brink of hunger, of the residents of Gaza, and to a lesser degree, of the residents of the West Bank....<sup>17</sup>

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<sup>15</sup> Israel has, however, prevented the entry of non-settler Israelis to both the Gaza Strip and the West Bank, at certain points, in an effort to protect the safety of Israeli citizens. Those affected are primarily human rights activists, lawyers, and Israelis with business relationships in the occupied territories.

<sup>16</sup> Roni Shaked, "All the Harm of the Closure," *Yediot Achronot*, March 22, 1996.

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<sup>17</sup> Nachum Barnea and Shimon Shifer, "Not Attacking Them, Strangling Them," *Yediot Achronot*, March 8, 1996.  
Human Rights Watch/Middle East 7 July 1996, Vol. 8, No. 3 (E)

A few weeks later, security sources were quoted as saying, "Our intention is to keep the heat at the current temperature, while keeping a finger on the pulse of Gaza and the West Bank, to try to gauge their tolerance, in order to keep away from the breaking point."<sup>18</sup> Both these policies — meeting a fearful public's demand for action and gaining Yasser Arafat's cooperation in the battle against terrorism — may be part of a genuine desire to address Israel's security problems. However, both policies go beyond the legitimate security steps permissible under international law, by adopting means that adversely affect the welfare of the population and seek to punish individuals who themselves pose no security threat.

This critique does not preclude Israel from taking measures to secure the safety of its citizens. Israel's security concerns are real and substantial. The four suicide bombings in February and March 1996 were particularly horrific, occurring within the span of nine days. Since April 1994, Israel had experienced eight other such attacks, which caused the deaths of at least sixty-six people. Human Rights Watch has condemned these acts in strong terms.<sup>19</sup> The government of Israel has the right — indeed, the duty — to protect its citizens against attacks or the threat of attacks. However, the measures it takes must conform with principles of international humanitarian law.

Both Israel and the international community have the obligation to subject any security measures implemented by Israel to greater scrutiny, in order to ensure that they comply with international law. Israel's policies must reconcile security needs with the rights and welfare of the Palestinian population, and stop subjecting the entire Palestinian population of the occupied territories to collective punishment and suffering for the crimes of a few.

## RECOMMENDATIONS

### **Human Rights Watch Urges the Government of Israel to:**

#### ***With Respect to Movement and Permits:***

- Refrain from imposing restrictions on Palestinian movement between and within the occupied territories, including East Jerusalem, except when required by imperative reasons of security, and when the measures imposed are tailored to preventing specific acts or threats against Israeli security;
- Ensure that any restrictions on movement are proportionate in impact and duration, regularly re-evaluated and implemented only when and to the extent necessary;
- Ensure that, if restrictions on movement are imposed, Israel adopts measures providing alternative forms of relief to the population;
- Ensure that permits are not denied arbitrarily, or punitively, in the case of Palestinians with a history of non-violent political activity;
- Establish publicized, standardized, written procedures governing the issuance of permits;
- Require that individualized reasons be provided in writing when permits are denied, as well as a meaningful opportunity for appeal;

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<sup>18</sup>Roni Shaked, "All the Harm of the Closure," *Yediot Ahronot*, March 22, 1996.

<sup>19</sup>See, for example, Human Rights Watch/Middle East, "Human Rights Watch Deplores Tel Aviv Bombing: Voices Concern at Rabin's Vow to Toughen Interrogation, Detention and House Demolition Policies in Occupied Territories," October 19, 1994, and Human Rights Watch/Middle East, "Human Rights Watch Condemns Bomb Attacks Against Civilians in Israel," March 5, 1996.

- If permits are revoked in a blanket manner, ensure that a mechanism is in place for the prompt re-issuance of permits, as soon as security conditions permit, in order to minimize the harm to the population;
- Provide for the prompt establishment of “safe passage routes” between the West Bank and Gaza, as stipulated in the Oslo Accords.

***With Respect to Medical Care, Food, Relief Assistance and Other Basic Needs:***

- Ensure the food, relief and medical supplies of the occupied population, in accordance with international law;
- Ensure and maintain medical services and facilities in the occupied territories;
- Ensure that medical personnel are able to carry out their duties and patients are able to reach health-care facilities, by allowing both groups to move freely. Permits for ambulances, ambulance drivers and health-care personnel should be valid for twenty-four hours a day and health-care personnel should be permitted to use their private vehicles in order to attend to emergencies in a timely manner;
- Permit medical patients who must leave the West Bank or Gaza in order to seek required medical treatment (as well as those required to accompany them) to move freely at all times;
- Ensure that a system is in place for the prompt approval of permit requests where the need is urgent and grave, and ensure that such applications are reviewed by persons qualified to judge their urgency and gravity;
- Ensure that economic activity that is necessary in order to meet the basic needs of the population of the West Bank and Gaza is not restricted, unless Israel provides alternative forms of relief;

***With Respect to Collective Punishment:***

- Ensure that collective penalties are not imposed, including collective penalties that deny access to education, religious sites or family visits;

***With Respect to Laborers:***

- In light of Israel's obligation to ensure the welfare of the occupied population, either allow Palestinian day laborers to work inside Israel, or provide relief to the tens of thousands of workers who have lost their jobs due to over three years of closure, and to their dependents. The legacy of Israeli policies that created Palestinian dependence upon the Israeli economy and upon employment inside Israel heightens Israel's obligation to provide workers who cannot get to their jobs due to closure and have no other viable means of support, with access to some form of relief.

***With Respect to Prisoners:***

- Transfer to the West Bank and Gaza Strip all Palestinian prisoners arrested in these areas who are being held inside Israel, in order to allow easier access by their relatives and lawyers and comply with Article 76 of the IV Geneva Convention.

**Human Rights Watch Urges the International Community to:**

- In order to comply with the requirement in Article 1 of the IV Geneva Convention that the High Contracting Powers ensure respect for the Convention, ensure that any Israeli-imposed restrictions on movement between and within the occupied territories, including East Jerusalem, comply with international law and Israel's continuing obligations toward the occupied population. In light of the extensive economic assistance that the international community provides to Israel, it should urge Israel to bring an end to any measures that violate international humanitarian law and cause such severe hardship to the Palestinian population.

**ISRAEL'S OBLIGATIONS UNDER INTERNATIONAL LAW**

## Summary of Legal Analysis

The Oslo Accords, which introduced self-rule to the Gaza Strip and the West Bank as an interim measure pending a long-term agreement, created an unprecedented legal and political structure.<sup>20</sup> Pursuant to the interim agreements, however, Israel retains a military presence in the West Bank and Gaza, and maintains the “overriding responsibility for security,” even in the self-rule areas. In addition, Israel continues to exercise significant control over the daily lives of the Palestinian population through the policy of closure. Thus, while the nature of the occupation may have changed, Israel remains subject to the obligations that international law imposes on an occupying power, and which have governed its actions since it first occupied the West Bank and Gaza in June 1967.<sup>21</sup> Specifically, according to the principles of international humanitarian law embodied in the Hague Regulations and IV Geneva Convention, Israel has the duty to ensure the welfare of the occupied population and ensure access to food, relief goods and medical care. When Israel’s actions have adversely affected the welfare of the population, it has not taken affirmative steps to provide for their basic needs, such as bringing in food and other essential supplies, or permitting Palestinians to work inside Israel, thus providing them with the means to obtain their basic needs independently. Finally, the IV Geneva Convention prohibits the use of collective punishment against the occupied population.

## Israel’s Continued Military Presence

The interim agreements have introduced a new administrative structure in the occupied territories and brought numerous changes, the most visible of which was the redeployment of Israeli troops from Gaza and Jericho beginning in May 1994, and from most of the major population centers of the West Bank in December 1995. Israel has transferred civil and internal security responsibilities to the PA in these areas, which comprise 60 percent of the territory and nearly 100 percent of the population of Gaza, and less than 3 percent of the territory and approximately 30 percent of the population of the West Bank (the “self-rule areas”).<sup>22</sup> An estimated 28 percent of the West Bank, home to 68 percent of the West Bank’s population, is under “partial self-rule,” meaning that civil responsibilities have been transferred to the PA, but security responsibility rests with Israel.<sup>23</sup> The remaining 40 percent of the territory of Gaza and nearly 70 percent of the West Bank remains under full Israeli control.<sup>24</sup>

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<sup>20</sup>The Oslo Accords (or interim agreements) refer to the Declaration of Principles on Interim Self-Government Arrangements, signed by Israel and the PLO on September 13, 1993 (hereinafter the “Declaration of Principles”), the Agreement on Gaza and the Jericho Area, signed by Israel and the PLO in Cairo, Egypt on May 4, 1994 (hereinafter the “Gaza-Jericho Agreement”), and the Israeli-Palestinian Interim Agreement on the West Bank and Gaza Strip, signed by Israel and the PLO on September 1995 in Washington, D.C. (hereinafter “Oslo II”).

<sup>21</sup>There has been a consensus within the international community, including the United States and the United Nations Security Council, that the IV Geneva Convention applies to Israel’s military occupation of the West Bank and Gaza. Israel has rejected the applicability of the IV Geneva Convention, while pledging to uphold its “humanitarian” provisions on a *de facto* basis. Israel does, however, consider the Hague Regulations, which are part of customary international law, to be binding. For a discussion of the applicability of the IV Geneva Convention to the occupied territories and Israel’s position on this issue, see Richard A. Falk and Burns H. Weston, “The Relevance of International Law to Israeli and Palestinian Rights in the West Bank and Gaza,” in *International Law and the Administration of Occupied Territories*, Emma Playfair, ed. (Oxford: Clarendon Press, 1992,) and Allegra Pacheco, “Occupying an Uprising: the Geneva Law and Israeli Administrative Detention Policy During the First Year of the Palestinian General Uprising,” *Columbia Human Rights Law Review*, vol. 21, 1989-90.

<sup>22</sup>Foreign Ministry of Israel, as cited by Embassy of Israel, Washington, D.C.

<sup>23</sup>Ibid.

<sup>24</sup>Ibid.

These changes notwithstanding, it is not the case that the Israeli occupation has ended. An examination of the Oslo Accords and of day-to-day life in the West Bank and Gaza indicates that Israel has transferred certain responsibilities without relinquishing overall control. According to the Hague Regulations, "Territory is considered occupied when it is actually placed under the authority of the hostile army. The occupation extends only to the territory where such authority has been established and can be exercised."<sup>25</sup> While there is no question that Israel, as the hostile army, no longer exercises the same degree of control throughout the West Bank and Gaza that it did prior to redeployment, the extent of its control is still substantial.

Although Israel has reduced its military presence in the West Bank and Gaza, it has not fully withdrawn, and its military continues to claim and to exercise military authority. Joel Singer, legal advisor to the Israeli Foreign Ministry and senior legal negotiator in the Israeli-PLO talks leading to self-rule, has explicitly asserted Israel's continuing authority over the self-rule areas:

[T]he fact that the military government in the West Bank and Gaza Strip will continue to exist is very significant. It emphasizes that notwithstanding the transfer of a large portion of the powers and responsibilities currently exercised by Israel to Palestinian hands, the status of the West Bank and Gaza Strip will not be changed during the interim period. These areas will continue to be subject to military government. Similarly, this fact suggests that the Palestinian Council will not be independent or sovereign in nature, but rather will be legally subordinate to the authority of the military government. In other words, operating within Israel, the military government will continue to be the source of authority for the Palestinian Council and the powers and responsibilities exercised by it in the West Bank and Gaza.<sup>26</sup>

The Oslo Accords place no restriction on the number of Israeli troops that may be present in the Gaza Strip and the West Bank, and Palestinians living in the self-rule areas are still subjected to measures of control and harassment by Israeli soldiers—a phenomenon that, according to local human rights groups, has grown more frequent since the Spring 1996 closure.<sup>27</sup>

In addition to operating joint military patrols with the PA in areas that cross the self-rule zones, Israel retains physical control and responsibility for security in numerous areas falling within the autonomous regions. These include border crossings, military installations, lateral roads leading to settlements, the areas in the Gaza Strip identified in the interim agreements as the "Yellow Areas" and the "Mawasi Area," and Jewish holy sites such as Rachel's Tomb in the West Bank.<sup>28</sup> Throughout the West Bank and Gaza, Israel also retains control over settlements and sole criminal jurisdiction over offenses committed by Israelis.<sup>29</sup>

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<sup>25</sup>Hague Regulations, Art. 43.

<sup>26</sup>Joel Singer, "The Declaration of Principles on Interim Self-Government Arrangements," *Justice* (published by the International Association of Jewish lawyers and Jurists) 4, February 1994, p. 6.

<sup>27</sup>See, for example, Palestinian Centre for Human Rights, Closure Update No. 2, March 11, 1996, p. 6.

<sup>28</sup>Oslo II, Annex I, Art VI and Art. V, para 2(b).

<sup>29</sup>*Ibid.*, Annex IV, Art I, para 2 (b).

Even more significant, however, is the provision in Oslo II that, even following redeployment, Israel will have “the overriding responsibility for security....”<sup>30</sup> The agreement also confers all responsibility for external security upon Israel:

Israel shall continue to carry the responsibility for defense against external threats, including the responsibility for protecting the Egyptian and Jordanian borders, and for defense against external threats from the sea and from the air, as well as the responsibility for overall security of Israelis and Settlements, for the purpose of safeguarding their internal security and public order, and will have all powers to take the steps necessary to meet this responsibility.<sup>31</sup>

The granting of “all powers to take the steps necessary” would permit Israel to re-enter the self-rule areas. Oslo II provides Israel with extensive powers in areas where it exercises security functions: specifically, the agreement permits Israel to respond to “an act or incident constituting a danger to life or property” by taking “any measures necessary to bring an end to such act or incident,” including, in certain instances, the use of firearms.<sup>32</sup> Israel appears to have interpreted its post-Oslo II powers broadly: during the Spring 1996 closure, then-Prime Minister Peres declared, “From a security perspective, we do not recognize one side or another of the green line [separating Israel and East Jerusalem from the occupied territories], and we will interfere for the security of Jews, Arabs and settlers.”<sup>33</sup>

### **The Continuing Occupation**

Even though the PA now exercises a range of powers in the self-rule areas, the IV Geneva Convention is still applicable because Israel continues to take actions, in its governmental or military capacity, both unilateral and in collaboration with the PA, that trigger humanitarian problems that the IV Geneva Convention seeks to prevent during occupation. Consequently, persons living in the self-rule areas are automatically “protected,” within the meaning of the Convention.

The IV Geneva Convention makes it clear that an agreement concluded between the Occupying Power and the authorities of the occupied territories cannot automatically be construed as having ended the occupation; certainly, it does not terminate the applicability of the Convention, and cannot deprive protected persons of its benefits.<sup>34</sup>

Speaking in his personal capacity at an international human rights colloquium in Gaza City in September 1994, Dr. Hans Peter Gasser, legal advisor to the International Committee of the Red Cross (ICRC), which is charged with monitoring compliance with the IV Geneva Convention, stated

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<sup>30</sup>Ibid., Art. XIII, para 2(a).

<sup>31</sup>Ibid., Art. XII, para 1.

<sup>32</sup>Ibid., Annex I, Art. XI, paras 3(a), (b) and (c).

<sup>33</sup>Eitan Rabin, Ori Nir and Reali Se’ar, “The Hamas in Gaza: We have no Connection to the Attacks,” *Ha’aretz*, February 28, 1996, p. 1.

<sup>34</sup>IV Geneva Convention, Art. 47.

...obligations arising out of international humanitarian law become applicable only if and when they are relevant to an issue. Indeed, to argue for continuing applicability of international law to the situation created by the Oslo and Cairo [Gaza-Jericho] agreements does not automatically mean that humanitarian law covers all relations between Israel and the Palestinian Authority....Israel exercises prerogatives which are de facto those of an occupying power. International humanitarian law, in particular the Fourth Geneva Convention, is therefore applicable to them.<sup>35</sup>

An additional indication that the occupation is not over is the fact that Israel has not taken steps, pursuant to Article 77 of the IV Geneva Convention, to hand Palestinians detained by Israel over to the PA, as an occupying power is required to do at the close of occupation. Instead, Israel has transferred all prisoners and detainees who were not released pursuant to the Oslo Accords to facilities inside Israel. (See "Impact of the Closure on Prisoners and Detainees," below.) This action, in itself, violates the IV Geneva Convention, which requires that protected persons be detained in the occupied territory.<sup>36</sup>

The degree of control that Israel continues to exercise over the daily lives of Palestinians is a further indication of the continuing occupation:

The law of occupation is also applicable to occupations in which the occupant shares power with local administering agencies. From the point of view of the law of occupation it applies regardless of the modalities of administration chosen by the occupant....[T]he test for effective control is not the military strength of the foreign army .... [W]hat matters is the extent of that power's effective control of civilian life *within* the occupied area.<sup>37</sup>

As described below, Israel controls the daily lives of Palestinians primarily through the permit system. This regulates who can enter and leave the occupied territories, including the self-rule areas, including travel abroad and to schools, universities, hospitals and jobs in East Jerusalem and elsewhere in the occupied territories. Israel also controls the movement of goods and businesspersons to and from the occupied territories, and thus controls trade and economic activity. According to PA official Ahmad Faris, "You look outside and there are no longer soldiers in Ramallah, but we need the Israeli agreement for everything — our life is still in Israeli hands."<sup>38</sup>

In addition to evidence of a continuing military occupation over the territories, there is an additional reason why Israel's obligations and responsibilities vis-a-vis the population of the self-rule areas have not terminated, even with expanding self-rule. This is the fact that the status of the self-rule areas, is, quite explicitly, not that of a state; accordingly, the PA does not exercise sovereign rights over the area. To relieve Israel of its obligations would leave the

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<sup>35</sup>Hans-Peter Gasser, "On the Applicability of the Fourth Geneva Convention after the Declaration of Principles and the Cairo Agreement," paper presented at the International Human Rights Colloquium, Gaza City, September 10-12. The ICRC is still present in the self-rule areas, pursuant to a July 13, 1994 Memorandum of Understanding with the PLO. However, "the ICRC's presence and activities in the Autonomous Areas are not linked to the Geneva Conventions. They are not "treaty-based" activities." Rather, they are an example of the ICRC "offer[ing] its services in situations not covered by the Convention, if needs of a humanitarian nature so require." *Ibid.*

<sup>36</sup>IV Geneva Convention, Art. 76.

<sup>37</sup>See Eyal Benvenisti's paper "The Present Status of the Occupied Territories." Benvenisti concludes, in this study, that Israel does not control civil life in the occupied territories. The evidence presented below, however, indicates that Israel does retain significant control.

<sup>38</sup>Human Rights Watch interview with Ahmad Faris, director general of the PA civil affairs coordination committee in the West Bank, Ramallah, February 29, 1996. Palestinians must submit permit applications to the PA civil affairs coordination committee; the PA then transfers these applications to Israel for approval.

population of the West Bank and Gaza in a state of legal limbo, not only denying them the rights and protection that accrue to the citizens of a state, but also the protection afforded to occupied populations under international humanitarian law, despite the continuing and extensive control exerted by Israel.

The unprecedented nature of the self-rule arrangements in the West Bank and Gaza cannot be construed in a manner that deprives Palestinians of their human rights. According to Dr. Gasser,

The Oslo and Cairo Agreements seem to raise rather intricate legal questions with regard to the applicability of the Fourth Geneva Convention. However, the underlying policy consideration is clear: to make sure that there is continuing international protection for residents of the autonomous territories.<sup>39</sup>

### **Israel's Obligations Under International Humanitarian Law**

Under international humanitarian law, an occupying power has the duty to balance its own security needs against the obligation to ensure the welfare of the occupied population. Pursuant to Article 43 of the Hague Regulations the occupier "shall take all steps in his power to re-establish and insure as far as possible, public order and safety, while respecting, unless absolutely prevented, the laws in force in the country." Some legal commentators have interpreted this provision as imposing rather significant obligations on the occupying power with respect to commercial and economic life in the territory:

The phrase "public order and safety" is an inadequate translation of 'l'ordre et la vie publics' the phrase used in the French text, which is the only authentic text of the Hague Regulations. A duty to restore "l'ordre et la vie publics" reaches far beyond the mere restoration of public order and extends to the conduct of 'the whole social, commercial and economic life of the country.' The occupant is thus under a duty to prevent economic collapse as well as a breakdown of law and order.<sup>40</sup>

What is made clear by the authoritative commentary to the IV Geneva Convention, in its discussion of the occupier's specific obligations to provide for the population's basic needs such as food and medical supplies, is that the occupier has a general duty to ensure the welfare of the population:

The rule that the occupying Power is responsible for the provision of supplies for the population places that Power under a definite obligation to maintain at a reasonable level the material conditions under which the population of the occupied territory lives.<sup>41</sup>

The Israeli High Court of Justice has also recognized Israel's obligations with respect to the welfare of the Palestinian population. A 1972 opinion, for instance, stated that

alongside an occupant's right to do all that is necessary in the occupied territory for military purposes and the safety of its forces, is a duty imposed by international law to be concerned with the welfare of the population in the territory.<sup>42</sup>

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<sup>39</sup>Gasser, "On the Applicability of the Fourth Geneva Convention after the Declaration of Principles and the Cairo Agreement."

<sup>40</sup>Christopher Greenwood, "The Administration of the Occupied Territories in International Law," in Emma Playfair, ed., *International Law and the Administration of Occupied Territories* (Oxford: Clarendon Press, 1992), p. 246.

<sup>41</sup>Jean S. Pictet, ed., *Commentary: IV Geneva Convention Relative to the Protection of Civilian Persons in Time of War* (hereinafter "Commentary: IV Geneva Convention") (Geneva: International Committee of the Red Cross, 1958) p. 310 (Commentary on Art. 55).

<sup>42</sup>H.C. 337/71, *The Christian Society for the Holy Places v. Minister of Defense et al.*, 26 (1) *Piskei Din* 574 (1972).

This obligation is violated when restrictions on the movement of people and goods between and within the occupied territories indiscriminately bar access to hospitals, universities and jobs and, as demonstrated in this report, cripple economic activity, thus jeopardizing the livelihood and welfare of the population. The policy of closure also violates specific provisions of the IV Geneva Convention, which seek to ensure food, medical supplies and relief goods, even in times of conflict.<sup>43</sup>

Moreover, both the IV Geneva Convention and the Hague Regulations prohibit the use of collective penalties against the occupied population.<sup>44</sup> In describing the “principle of individual responsibility,” the authoritative commentary states, “responsibility is personal and it will no longer be possible to inflict penalties on persons who have themselves not committed the acts complained of.”<sup>45</sup> Israel contravenes these provisions when it imposes blanket restrictions and often arbitrary restrictions, that have already been in place for over three years and are so broad in impact that they do not appear tailored to preventing individual acts. Rather, they are applied against entire portions of population, without regard to individual responsibility or accurate balancing of the rights and welfare of the population against Israel’s security needs. The combination of these factors indicates that these measures are not only related to security, but are also punitive in nature, thus amounting to collective penalties.

Finally, while movement may be restricted as required by imperative reasons of security, the authoritative commentary to the IV Geneva Convention makes clear that the occupying power should strive to keep the rights of the occupied population unimpaired:

So far as the local population is concerned, the freedom of movement of civilians of enemy nationality may certainly be restricted, or even temporarily suppressed, if circumstances so require. That right is not, therefore, included among other absolute rights laid down in the convention, but that in no way means that it is suspended in a general way. Quite the contrary: the regulations concerning occupation ... are based on the idea of the personal freedom of civilians remaining in general unimpaired.<sup>46</sup>

### **Israel's Duty to Balance Security and Human Rights**

In seeking to protect the rights of civilians during belligerent occupation, international humanitarian law does not prevent an occupying power from taking legitimate measures to ensure the security of its own citizens. Rather, it prevents the principle of military necessity from superseding humanitarian concerns. Leading legal commentators have concluded that the laws of war require

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<sup>43</sup>IV Geneva Convention, Arts. 16, 17, 55, 56 and 59.

<sup>44</sup>See IV Geneva Convention, Art. 33 and Hague Regulations, Art. 50.

<sup>45</sup>Commentary: *IV Geneva Convention*, p. 225 (Commentary on Art. 33).

<sup>46</sup>Commentary: *IV Geneva Convention*, p. 202 (Commentary on Art. 27).

a balancing of the customary principle of military necessity, on the one hand, against the customary principles of humanity and chivalry on the other .... the law of war insists absolutely upon the principle of humanity over that of military necessity in the administration of a belligerent occupation .... the doctrine of military necessity, while helping to clarify permissible acts of repression and deprivation, has never been internationally recognized as an unqualified license to disregard the well-being of an occupied people or as a pretext to undermine their underlying sovereign rights. Indeed it is precisely to guard against such excesses that the Fourth Geneva Convention ... was negotiated and made law. The purpose was to ensure a measure of discrimination and proportionality in the administration of belligerent occupation and, in so doing, to overcome the discredited *kriegsraison* theory of military necessity ....<sup>47</sup>

To ensure that the security measures it imposes are not overly-broad, but tailored to preventing specific acts, Israel must consider their scope and duration, taking into account the heightened hardship resulting from the lack of contiguity between the West Bank and Gaza. Israel must also regularly reexamine its restrictions to confirm that they are still warranted by the circumstances, and that they have only security, rather than punitive or political objectives. Finally, when the measures imposed have an adverse impact on the welfare of the population, Israel has the obligation to take steps to counter this impact and reduce the hardship to the population.

## A HISTORY OF CURFEWS AND CLOSURES

Israel has regularly restricted the free movement of Palestinians since occupying the West Bank and Gaza in 1967. During the *intifada*, the Palestinian uprising that began in December 1987, the use of curfews and closures to control the population of the occupied territories grew more frequent. These measures often indiscriminately prevented Palestinian residents of the West Bank and Gaza from leaving their homes, or required them to go through a burdensome, highly bureaucratic and often arbitrary process of obtaining a permit to enter or leave closed areas.<sup>48</sup> During the first years of the *intifada*,

the most populated areas of the Gaza Strip were under curfew an average of 30 percent of the year. In some of Gaza's refugee camps, that average was as high as 42 percent of the year, or 153 days. During curfews residents were forbidden to leave their homes. This meant workers lost a day's wage for each day of curfew.<sup>49</sup>

However, aside from periods when a specific curfew or closure had been imposed, residents of the occupied territories had been more or less free to cross the border into occupied East Jerusalem or Israel. There were two significant exceptions. First, individuals who were considered a "security risk," were issued green identification cards, and prevented from entering Israel or East Jerusalem.<sup>50</sup> In addition, Israel introduced magnetic identification cards in Gaza

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<sup>47</sup>Richard A. Falk and Burns H. Weston, "The Relevance of International Law to Israeli and Palestinian Rights in the West Bank and Gaza," in Playfair, *International law and the Administration of Occupied Territories*, pp.136 and 138.

<sup>48</sup>See Arts. 89 and 90, respectively, of Israeli Military Order #378, as cited in Al-Haq: Law in the Service of Man, *Punishing a Nation: Human Rights Violations During the Palestinian Uprising, December 1987 - 1988*, December 1988, pp. 260 and 277.

<sup>49</sup>Sarah Roy, *The Gaza Strip: The Political Economy of De-development* (Washington, D.C.: Institute for Palestine Studies, 1995), p. 296.

<sup>50</sup>Green identification cards were issued to former administrative detainees and ex-prisoners convicted by a military court, as well as to individuals who had been detained and released without charge. See Al-Haq, *A Nation Under Siege, Annual Report on Human Rights in the Occupied Territories*, 1989 (Ramallah: Al-Haq, 1990), p.328.

in 1989, without which it was impossible to leave the Gaza Strip; these cards were denied to those with a record of political activism. (See "Palestinian Labor in Israel," below).

While closures and curfews were often of short duration, there were exceptions. On January 16, 1991, during the Gulf War, Israel imposed a comprehensive curfew on the West Bank and Gaza Strip, requiring individuals to obtain permits in order to enter or transit Israel or occupied East Jerusalem, even on their way to another part of the occupied territories. The curfew, which lasted up to seven weeks in certain areas, had a devastating economic impact. In Gaza alone, the cost of the curfew to the Palestinian economy was estimated at \$84 million.<sup>51</sup> Equally significant, however, was the sudden upsurge in unemployment, in an area that had always known underemployment, as Palestinians employed in both Israel and Gaza were prevented from reporting to work. In many cases, this turned into long-term unemployment, when thousands of workers were fired by their Israeli employers during and immediately following the Gulf War, without even the severance pay to which they were legally entitled, or the ability to collect back wages.<sup>52</sup> Thousands of Gazans who had been illegally employed until the war, by Israeli employers who wanted to avoid paying social security or the minimum wage, also lost their jobs.<sup>53</sup>

## THE GENERAL CLOSURE

On March 30, 1993, in response to a series of stabbings of Israelis, Israel sealed off the West Bank and Gaza Strip, preventing, with few exceptions, the entry of Palestinians from the West Bank and Gaza to Israel or East Jerusalem. This general closure is still in place and has been the longest in the history of the occupation. Dozens of checkpoints have been set up to monitor the general closure and to prevent all Palestinians, except those who are able to obtain permits, from entering or leaving the occupied territories.

The international community has not recognized Israel's annexation of East Jerusalem in 1967, and considers this to be occupied territory under international law.<sup>54</sup> East Jerusalem is not only an economic and cultural center for Palestinians, but also their traditional political center and the site of Palestinian educational institutions, specialized hospitals and major Muslim and Christian holy sites, as well as foreign consulates. The highly restricted access to East Jerusalem since March 1993 has thus had a dramatic impact on Palestinian life. It has also disconnected West Bank and Gaza Palestinians from the over 150,000 Arabs living in East Jerusalem. The general closure has made it very difficult for most Palestinians to travel between the West Bank and Gaza, or even between northern and southern points within the West Bank. A resident of Bethlehem, for example, may find him or herself without access to the West Bank city of Ramallah, which is only approximately twenty-two kilometers or a half-hour drive away, but is difficult to reach if one cannot go through Jerusalem.<sup>55</sup>

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<sup>51</sup>Roy, *The Political Economy of De-development*, p. 310. The loss of direct aid from Gulf countries and remittances from Palestinians living in the Gulf to their family members in the occupied territories also dealt a severe blow to the occupied territories.

<sup>52</sup>Ibid.

<sup>53</sup>Amira Hass, "Gaza's Workers and The Palestinian Authority," *Middle East Report*, May-June/July-August 1995, p. 26.

<sup>54</sup>See, e.g., U.N. General Assembly Resolutions 181, 2253 and 2254.

<sup>55</sup>The only other route between the northern and southern parts of the West Bank is the Wadi-il Nar road, which is often closed during "total closure." This route, which is a dangerous one and frequently the site of accidents, requires making a lengthy and expensive detour. Thus, it is not a practical alternative for most Palestinians.

Israel's policies have thus effectively divided the occupied territories into four distinct regions—the Gaza Strip, the northern and southern parts of the West Bank, and East Jerusalem—with access from one to another controlled by Israel.<sup>56</sup> Moreover, no progress has been made on the plan for the establishment of a "safe passage" route, as stipulated in both the Gaza-Jericho and the Oslo II Agreements, which was supposed to facilitate travel between the West Bank and Gaza.<sup>57</sup>

The decision, in 1993, to seal off the territories has been exacerbated by Israel's recurrent "total closures" of the West Bank and Gaza, as a security measure. During total closure, Palestinian residents of the West Bank and Gaza are prohibited from entering Israel and East Jerusalem, regardless of whether they hold valid permits, need to reach their jobs or universities, or require medical treatment. Although Israel maintains that exceptions are made for humanitarian reasons, this frequently does not happen (see below).

Between September 13, 1993, the signing date of the Declaration of Principles, and June 24, 1996, Israel has imposed 200 days of total closure and 100 days of partial closure on the territories.<sup>58</sup> These closures were imposed over and above the general closure. Israel justified many such closures as "preventive." On August 10, 1995, for example, Israeli officials said that they had received information that an attack on Israel was imminent, and thus imposed an eleven-day closure on Gaza.<sup>59</sup> During the 1995 Jewish holidays, a twelve-day closure was imposed on Gaza and the West Bank, because of a reported expectation of attacks by opponents of the peace process.<sup>60</sup> Other closures have followed attacks against civilians or soldiers inside Israel, such as a thirteen-day closure imposed following the October 1994 suicide bombing of a Tel Aviv bus. In some cases, Israeli officials provide no reason for a closure, such as the February 12, 1996, closure of the West Bank and Gaza, when the self-rule city of Ramallah was also sealed off and declared a military zone. This unexplained closure was then extended for three days due to security concerns related to the end of the forty-day mourning period for the January 5, 1996 assassination of Yahya Ayyash in Gaza.<sup>61</sup>

## THE PROCESS OF GETTING A PERMIT

The stated purpose behind the closure policy is to prevent the entry into Israel of Palestinians who pose security threats to the Israeli population. Only a limited number of Palestinian residents of the West Bank and Gaza, are able to obtain permits into Israel or occupied East Jerusalem—the only means of traveling between the occupied territories, since the logically impractical alternative of traveling between the West Bank and Gaza via Jordan or Egypt is also

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<sup>56</sup>This also violates one of the underlying provisions of Oslo II: the agreement that the two sides would "view the West Bank and Gaza Strip as a single territorial unit, the integrity and status of which will be preserved during the interim period." Oslo II, Art. XI , para (1).

<sup>57</sup>See Gaza-Jericho Agreement, Art. XI and Oslo II, Annex I, Art. X.

<sup>58</sup>Shomron News Service citing a June 24, 1996 report by Peace Watch, based on Israeli Defense Forces figures. See also Palestinian Centre for Human Rights, "Closure Update No. 2," March 11, 1996, p. 8, and "The Policy of Closure: A Collective Punishment Harming Palestinians' Lives and Destroying Palestinian Society," joint press release of Al-Haq, Palestine Human Rights Information Center and the Mandela Institute, September 11, 1995. Partial closure usually means that a limited number of workers are allowed into Israel.

<sup>59</sup>"Israel Reopens Gaza Border after 10 days," *The New York Times*, August 21, 1995.

<sup>60</sup>Derek Brown, "Israel Shuts Borders to all Palestinians," *The Guardian*, April 13, 1995.

<sup>61</sup>Ayyash, known as the "Engineer," had been at the top of Israel's most wanted list, as the primary suspect in the planning of a number of suicide bombings. His death, due to the explosion of a booby-trapped cellular phone, is widely believed to have been carried out by the Israeli intelligence service.

subject to permission from Israel. When a total closure is imposed, permits are automatically invalid. As discussed above, the need to transit Israel in order to travel between the occupied territories, including East Jerusalem, means that many of those who are denied permits are effectively precluded from the normal pursuit of education, work, health care, religious, commercial and cultural interests.

In spite of the hardship that the permit policy entails for Palestinians, the process of granting permits is highly arbitrary and bureaucratic. Although the policy of closure and permits has existed since 1991, Israel has still not established and made public clear, consistent, written rules to govern the process. On April 24, 1991, the Israeli High Court of Justice recommended that "the Civil Administration issue comprehensive and specific directives, which will be publicized, concerning movement of physicians and sick persons during curfew" and that "said procedures will serve as standing orders for soldiers stationed at checkpoints."<sup>62</sup> To date, the government has failed to make public any such procedures. Instead, according to local human rights organizations, many rules are oral and are inconsistently interpreted by different individuals at the Israel central coordinating office and its regional branches, the coordination and liaison administration (CLA), as well as by soldiers at checkpoints.<sup>63</sup> According to Physicians for Human Rights-Israel, these individuals, who decide whether a permit will be issued or an emergency case will be allowed through a checkpoint, "lack clear definitions of what constitutes an 'emergency humanitarian case' entitled to special consideration under the closure's entry restrictions."<sup>64</sup>

An example described by Physicians for Human Rights-Israel illustrates the problem: there is a rule that trucks can get in [to the West Bank and Gaza] with medicines if they have an Israeli license plate. But then at the checkpoint [the soldiers] can refuse. Or they insist that not only the plates must be Israeli but the driver must be Jewish. There are no written rules — no way to prove that this entry is permitted.

An additional obstacle is the difficulty in obtaining what officials from the coordination and liaison administration consider "sufficient" medical documentation. According to Physicians for Human Rights-Israel,

Israel demands that prior to submitting a request for a permit to the PA, patients must have written confirmation of an appointment with an Israeli doctor or hospital, specifying date and time. This often constitutes a Catch-22, since in order for a doctor to refer a patient for examination or treatment in Israel, the patient must already have had a prior exam. For Gazan residents, even preliminary communication with Israeli hospitals is problematic due to serious deficiencies in telephone and postal services between Gaza and Israel.<sup>65</sup>

This is further complicated by "the CLA's [the Israeli coordination and liaison administration's] insistence on seeing the original documents and not Xeroxed copies or facsimiles.... The major advantage of electronic communications tools is to save time — an especially important factor when medical issues are concerned."<sup>66</sup> The following case is not unusual:

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<sup>62</sup>High Court of Justice case 477/91, as cited in B'Tselem, *Without Limits: Human Rights Violations Under Closure*, April 1996.

<sup>63</sup>The coordination and liaison administration was formerly the civil administration, and is sometimes referred to by that name in this report.

<sup>64</sup>PHR-Israel, *A Special PHR Activity Bulletin: Closure and Medical Rights*, April 13, 1996.

<sup>65</sup>PHR-Israel, *Annual Report 1994*, p. 13.

<sup>66</sup>*Ibid.*

A forty-five year old woman [from Gaza] and her mother, age sixty-eight, had a doctor's appointment at the Herzliya Medical Center [in Israel]. The appointment letter was sent from the Hospital Center by fax. The reply: insufficient medical document." What about it was insufficient? That was not noted. Was the insufficiency the fact that the appointment letter arrived by fax?.... At times of normal closure it is possible to find someone [who has a permit] who happens to be going to Tel Aviv and is willing to pick up the document from the doctor's office. At times of total closure this is impossible.<sup>67</sup>

There is little sensitivity to the needs of patients, or to the cultural traditions of the Palestinian community. In a letter to Prime Minister Peres, Physicians for Human Rights-Israel wrote

Parents of young children, especially fathers [aged twenty to forty,] face numerous difficulties, and sometimes absolute refusal, when they apply for exit permits from Gaza for the purpose of accompanying their young children for examinations or treatment in hospitals in Israel or the West Bank. In certain cases the permit is granted to the mother but not the father.... Few women in Gaza speak Hebrew [so cannot get by alone in Israel.] Moreover, Muslim society does not look favorably upon women traveling in foreign places alone. Even if we do not agree with this, we cannot ignore it.<sup>68</sup>

As a result,

sick or injured patients hospitalized in Israel may not see their family for weeks and sometimes months at a time. This has adverse implications for both their physical recovery and mental adjustment. In certain instances Israel allows entry, but not in private vehicles. However, only well-to-do families can afford to hire a taxi to visit a hospitalized family member, as costs can run up to hundreds of dollars. A case in point is twelve-year old Ismael Al-Shamas who was hospitalized in an East Jerusalem medical center for seven months after sustaining bullet wounds in the back from IDF fire.<sup>69</sup> During this time, his family visited him every week, each time paying US\$50 for a taxi.<sup>70</sup>

In another case, the father of nine-year old Iman Yusuf Karaje, who had been hospitalized in Jerusalem since November 1995 and was reportedly close to death, was denied a permit to visit his child during the Spring 1996 closure. A permit was issued only following the intervention of the Association for Civil Rights in Israel (ACRI).<sup>71</sup>

### **Bureaucracy and a Lack of Transparency**

Since the implementation of self-rule, Palestinian authorities are also involved in the permit application process. Applicants file their request with the Palestinian Authority's Civil Affairs Coordination Committee, which then submits the application to its Israeli counterpart, the Coordination and Liaison Administration. According to the Israeli rights organization Hamoked - the Center for the Defence of the Individual,

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<sup>67</sup>Amira Hass, "Please Note the Number of the Ambulance," *Ha'aretz*, October 27, 1995.

<sup>68</sup>Letter dated November 26, 1995, from PHR-Israel to Prime Minister Peres (translated from Hebrew by Human Rights Watch). See also PHR-Israel, *Annual Report 1994*, p. 14.

<sup>69</sup>The IDF, or Israeli Defense Forces, is the Israeli army.

<sup>70</sup>PHR-Israel, *Annual Report 1994*, p. 14 and note 17.

<sup>71</sup>B'Tselem, *Without Limits*, April 1996.

the Palestinian officials play no real role — they are like the mailman who delivers the application to the Israelis, who decide whether or not to grant the permit. In Gaza, the PA won't even accept applications which they think are likely to be refused, such as men under the age of thirty-five.<sup>72</sup>

The involvement of the PA adds another step to a process that is already quite bureaucratic. It also eliminates direct contact between the applicant and the decision maker, thus removing the possibility that a sympathetic Israeli official might expedite an urgent case on the basis of a personal plea. The addition of Palestinian bureaucrats to the process has also diffused accountability. When applicants whose requests have been rejected address themselves to Israeli authorities, Israel's position is that the application was made to the PA, and it is thus the PA that is responsible. The Association for Civil Rights in Israel (ACRI) points out,

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<sup>72</sup>Human Rights Watch interview with representative of Hamoked, East Jerusalem, February 29, 1996.

In the past it was easier to deal with these issues because it was clear that it was the Israeli Authority that decided. But now that the Palestinians are also involved, the courts can dismiss these cases as political issues because the mechanisms for the process were agreed upon in the Oslo Agreements.<sup>73</sup>

### **Lack of Opportunity for Appeal**

The most glaring flaw in the process is the lack of a meaningful opportunity for appeal. This indicates a disregard for the principle underlying the requirement in Article 78 of the IV Geneva Convention that restrictions on movement, such as those imposed in the case of internment or assigned residence, include the right of appeal. First, no explanation is given for denial of a permit, and responses to permit requests are rarely provided in writing. Moreover, the person responsible for the decision is not required to sign the form, making follow-up even more difficult. Although a request for reconsideration can be submitted, applicants are not provided with an in-person hearing or any venue for substantive review of the decision. Consequently, the right to appeal is not a meaningful one. Instead, according to established procedures, the Gaza or West Bank director of the PA civil affairs coordination committee must raise each permit issue with his counterpart on the Israeli side. If the case remains unresolved, it rises another level to the head of the PA civil affairs coordination committee, and his Israeli counterpart. The final level requires that the issue be raised by President Arafat to Prime Minister Peres. This set-up indicates that the process is intended as a mechanism for political negotiation, since it is controlled by political bodies rather than by the individual affected. According to Physicians for Human Rights-Israel,

The process doesn't make sense. It's a way for Israel to get out of the responsibility because they know the PA cannot complain every time there is a denial or no response to a permit request, while the individual would probably persist with the Israeli authorities, because it's his own case. The "four-stage process" for appeal involves very high level people — they are very busy and have more serious problems to worry about than the denial of a permit. Also, when relations between Israel and the Palestinians are not good, doors are shut in the face of the PA. The system is ridiculous; there should be other means for a person to appeal than to go through these high levels.<sup>74</sup>

Due to this ineffective system, the applicant's only real recourse is to the Israeli High Court of Justice. At this stage, intervention by an Israeli or other human rights organization, and the implicit threat that a case will be brought before the High Court of Justice, a time-consuming prospect for Israeli authorities, will often suddenly expedite a case to which the authorities had been unresponsive, or result in the issuance of a permit to an applicant who had previously been rejected without explanation or on unspecified security grounds. Physicians for Human Rights-Israel states,

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<sup>73</sup>Human Rights Watch interview with representative of ACRI, West Jerusalem, March 7, 1996.

<sup>74</sup>Human Rights Watch interview with representative of Physicians for Human Rights-Israel, Tel Aviv March 19, 1996.  
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the fact that the authorities removed their opposition to issuing permits with only the threat of court action is in itself proof that they have no acceptable excuse for keeping medical workers out; otherwise, they would surely have gone to court.<sup>75</sup> The Israeli officials' willingness to re-evaluate the requests of Palestinians when PHR or other human rights organizations intervene underlines the fact that security is not the sole consideration leading to the policy of total closure. Moreover, in PHR's negotiations with numerous Israeli authorities it has become apparent that different levels of compassion exist: even within the very strict rules of this closure, room for one's own judgment remains. In the worst of cases, this arbitrariness endangers lives.<sup>76</sup>

It is difficult to state precisely how long it takes to obtain a permit, since there are no public rules or consistent patterns. Hamoked estimates that it can take one to two months to obtain a permit to visit Jordan, one to two weeks to get a one-day medical permit, and three weeks to three months for divided families (see below) to obtain a permit. When permits are granted, they are only valid for a limited period of time, ranging from a single-entry to a maximum of three months. Permits are rarely issued for the use of private vehicles, and Israeli security officials have not made public any permanent procedures for the issuance of private vehicle entry permits for medical staff. In addition, although permits sometimes include overnight stays in Israel or East Jerusalem, they usually expire at 7:00PM; anyone violating this restriction can have his or her permit confiscated, and is subject to a fine and imprisonment. These restrictions are particularly harsh when medical personnel are involved; indeed, the limited hours and the inability to use private vehicles allow no flexibility for medical emergencies and sharply reduce the number of personnel available to work night shifts.

Every time a total closure is imposed, permits that have already been issued are automatically revoked. Once the closure has been lifted, permit holders are required to repeat the bureaucratic process in order to obtain a new permit by "special request," the processing of which can take several days or longer. This also applies to all employees of Palestinian hospitals and other institutions, who must reapply for permits. According to Physicians for Human Rights-Israel,

Not infrequently, Israel will deny new permits to individuals who had previously obtained one without any problems. In these cases, PHR [intervenes and] after some time, ranging from a week to several months, and following repeated action by PHR, most of the bans are removed.<sup>77</sup>

### Arbitrary Permit Denials

According to Hamoked, permit requests can be denied for a variety of reasons, including "security grounds, the 'captain's' personal whim, denial of entry to the [Israeli] Civil Administration office, etc."<sup>78</sup> Physicians for Human Rights-Israel states that "writing anti-Israeli slogans on a public wall in 1989 — even if the perpetrator was twelve years old at the time — may be reason enough to be denied entry by the GSS [General Security Services] in 1994."<sup>79</sup> Examples of arbitrary denials of permits abound. Israeli attorney Allegra Pacheco, who works at the Society of St. Yves, a Catholic legal resource and human rights organization, described the following case to Human Rights Watch:

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<sup>75</sup>PHR-Israel, *Annual Report 1994*, p. 39.

<sup>76</sup>PHR-Israel, "A Special PHR Activity Bulletin: Closure and Medical Rights," April 11, 1996, p. 3.

<sup>77</sup>PHR-Israel, *Annual Report 1994*, p. 18.

<sup>78</sup>Hamoked, Center for the Defense of the Individual, *Annual Report 1995*, p. 6.

<sup>79</sup>PHR-Israel, *Annual Report 1994*, p. 13.

One of our clients, a twenty-eight year old woman from a village near Bethlehem, has to go to Ramallah three times a week for kidney dialysis. The doctors have ordered that she be accompanied by someone after dialysis. Her parents are elderly and she only has one brother. On July 24, 1994, her brother applied for a permit [to transit East Jerusalem on his way from the south to the north of the West Bank] but was refused for security reasons. We inquired on his behalf and it took three months to get a response from the Civil Administration. The only explanation was that three years ago he had been a suspect in a robbery case, in which he was acquitted. We appealed to the State Attorney on February 7, 1995 and said that we would take the case to the High Court. So he finally got a permit, but now we have to go through this every three months, where he applies for a new permit, the permit is denied for security reasons, and we have to go back and explain the whole story and threaten to go to the High Court.<sup>80</sup>

Hamoked describes a case in which it was asked to intervene on behalf of a resident of the West Bank, who had been injured in an explosion, requiring the amputation of both of his hands.

He turned to Hamoked following the refusal of the Civil Administration to issue him with an entry permit to Jerusalem, to take driving lessons on a specially equipped vehicle unavailable in the West Bank. He had also requested an exit permit to Jordan, for the fitting of artificial hands, which was also refused by the Civil Administration. Hamoked's appeal concerning the exit permit was granted; however this person [fell] into the 16-25 years category, [who were previously] required to stay abroad for nine months before being allowed to return. Hamoked turned to the State Attorney's office on both issues: the entry permit without time specifications for the stay abroad [was also] granted.<sup>81</sup>

In another case, a twenty-six-year-old resident of the West Bank needed to travel to Jordan for a kidney transplant, after a transplant in Israel had failed. According to Hamoked,

On April 2, 1995, he came to the bridge [connecting the West bank to Jordan] with his mother and younger brother ([his] prospective kidney donor) and was returned by the police. Intensive and urgent advocacy by Hamoked produced no results, except for the 'security risk' answer. Hamoked turned to the State Attorney's office on April 11, 1995, whereupon the resident was able to exit to Jordan and undergo the transplant operation.<sup>82</sup>

According to Attorney Pacheco,

Two weeks ago a man from Beit Sahour [which is under self-rule] who has a pottery factory was supposed to travel to Germany for a pottery exhibition. He had a Palestinian passport and a German visa. But the Israeli Civil Administration refused to give him a permit for Ben Gurion Airport. If they had a real security reason for denying him a permit, they would arrest him. But what's happening is that anyone who has a history of opposition to the occupation — including those who were never involved in any violent acts — are denied permits. And now the population has been divided into parts: those who support the peace process and those who oppose it. So even if someone opposes the process peacefully, or if they were active in the past but have now stopped all political activity, they still have a black spot. This means these people will be security cases for the rest of their lives.<sup>83</sup>

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<sup>80</sup>Human Rights Watch interview, Bethlehem, March 6, 1996.

<sup>81</sup>Hamoked, *Annual Report 1995*, p. 15.

<sup>82</sup>Ibid., p. 16.

<sup>83</sup>Human Rights Watch interview, Jerusalem, March 3, 1996.

George Abu Zuluf, director of the Bethlehem office of the Society of St. Yves, was a student activist and had been detained five times during the intifada. He explained to Human Rights Watch that

I was always accused of being active in the PFLP [Popular Front for the Liberation of Palestine], but never for any violence or military activity. I was released from administrative detention for the last time in April 1992.<sup>84</sup> Since then, every time I apply for a permit I am denied. Our office has sent many letters to the Civil Administration, explaining that I am a human rights activist, that I need a permit to travel to our Jerusalem office meetings and other places in the West Bank for work, to interview clients and go to court. The Israelis have responded that they found that I continued in my activities and that I threatened the security of the state and the security of Jerusalem. I have the right to struggle against the occupation — I will not deny that I have. But I have never been involved in any violence and the Israelis have never brought such charges against me. This is not just my case. There are thousands of cases like this in the Palestinian community. If you're talking about a new page in Israeli-Palestinian history, then the Israelis should change their thinking. We are still being punished for the past.<sup>85</sup>

According to Ahmad Faris, director general of the PA civil affairs coordination committee in the West Bank,

Seventy to eighty percent of the applications we submit are refused under the umbrella of security, but no reasons are given. Sometimes it could be because they have a relative who is active in the opposition. Even high level ministers and officials of the PA, and members of the Palestine National Council need permits to move between the occupied territories. If a ministry employee needs to go from Ramallah to Gaza and we ask for a permit, the Israelis will ask why it is necessary for him to do this job in Gaza. They may not have a specific security concern, but they interfere in how the PA conducts its affairs. So a simple PA employee will rarely get a permit; we have to send a high level official — even a minister — to do a simple task, and even they are not allowed to stay the night. Even they are often refused permits. Even if a PA official gets a permit, we have to coordinate in advance with the soldiers at Erez checkpoint to let them know someone will be entering. Sometimes even if you have done the coordination and you have a permit, the person will still be turned back at Erez.<sup>86</sup>

### **Confiscation of Magnetic Identification Cards**

In August 1995, Israel renewed the magnetic identification cards that all Gazans must obtain, in addition to a permit, in order to leave the Gaza Strip (see section on Palestinian Labor in Israel, below.) Immediately thereafter, an estimated 700 cards were confiscated by Israel, preventing their holders from leaving Gaza. According to the newspaper *Ha'aretz*,

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<sup>84</sup>Administrative or preventive detention is detention without charge or trial.

<sup>85</sup>Human Rights Watch interview, Bethlehem, March 6, 1996.

<sup>86</sup>Human Rights Watch interview, Ramallah, March 2, 1996.

The CLA computer monitor displayed the announcement they all were 'prevented for security reasons.' Indeed? So many people - adults, fathers of at least five or six children, whose extended families, not only the nuclear families, depend on their paychecks — decided at such short notice to take the risk and join in hostile activity? And if they are 'prevented for security reasons' why wasn't that information passed on to the Palestinian Authority so that the latter might take steps to frustrate their subversive plans? Following pleas by [the director general of the PA Labor Ministry], magnetic cards were returned to eighty-five people.<sup>87</sup>

Human rights activists also allege that Israel denies work permits on security grounds to individuals who have been working in Israel for years, and do not actually pose such a threat, in order to induce them to collaborate with Israel on security issues. In exchange for providing information, these people are promised work permits. According to *Ha'aretz*,

Experience shows that there is another reason for confiscation [of magnetic cards]: this is how the Israeli Shin-Bet tries to recruit new informers. The magnetic card is now the only document, the issuing of which brings residents of the Gaza Strip into direct contact with Israeli officers .... "Help us and we will help you"— workers said that they heard this sentence from Shin-Bet agents at the CLA offices, when they came to find out why their magnetic cards had suddenly been taken from them.<sup>88</sup>

According to Kav La'oved, the Workers Hotline for the Protection of Workers' Rights in Israel, "We've heard about this problem so much that we know it exists. We have collected testimony from workers and written a letter to the Civil Administration about this matter. They responded that these people were security risks."<sup>89</sup>

## THE SPRING 1996 CLOSURE

On February 25, suicide bombings in Jerusalem and Ashkelon killed twenty-six people. The government immediately placed the West Bank and Gaza, including the self-rule areas, under strict closure, not even permitting food to move in or out. Exactly one week later, another suicide bombing in Jerusalem claimed eighteen lives. This was followed by a fourth suicide bombing in Tel Aviv on March 4, that left another fourteen people dead. These attacks shook the state of Israel, and prompted some of the most restrictive measures ever carried out during closure. The Israeli government declared the occupied territories, including the self-rule areas, a military zone. For the first time, internal movement within the West Bank was also prohibited, as cities under self-rule and the 465 towns and villages of the West Bank were separated by Israeli military checkpoints, effectively placing more than 1.3 million residents under town arrest. In addition, a naval blockade was imposed on the Gaza Strip. Even PA officials were prevented from moving between the West Bank and Gaza, or among different villages in the West Bank, forcing most ministries and official bodies to operate with serious staff shortages.<sup>90</sup> The statement announcing the closure stated, "the IDF will treat all violators of closure in a very severe and unmerciful manner."<sup>91</sup>

### Collective Punishment

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<sup>87</sup> Amira Hass, "Take Him, He's a Suspect," *Ha'aretz*, October 20, 1995.

<sup>88</sup> Ibid.

<sup>89</sup> Human Rights Watch interview with representative of Kav La'oved, Tel Aviv, March 14, 1996.

<sup>90</sup> One exception was made for the inaugural meeting of the Palestinian Council on March 7, 1996, when members were allowed to enter Gaza, but had to be escorted from the West Bank by Israeli army vehicles. "News Briefs," *Jerusalem Post*, March 7, 1996, p. 2.

<sup>91</sup> Notice distributed on March 6, 1996. English translation provided by Security Section, IDF Headquarters, Central Command.

The Israeli government took immediate steps in response to the deadly bombings, many of which targeted large groups within the population without regard to individual responsibility, and appeared aimed at punishing the population, rather than preventing specific acts of terror. Such measures, which amount to collective punishment, violate Article 50 of the Hague Regulations and Article 33 of the IV Geneva Convention. The Israeli army placed entire villages and refugee camps under twenty-four-hour curfew. In Al-Fawar refugee camp near Hebron, for example, residents were prohibited from leaving their homes and no provisions were allowed in for at least eleven days.<sup>92</sup> The army carried out some 1,000 arrests, often arbitrarily, in the areas under its control and subjected many of those who were arrested to torture and ill-treatment during interrogation.<sup>93</sup> Relatives of suspects, including minors, were also placed under arrest.

In addition, the army sealed and demolished the homes of nine terrorism suspects, leaving at least seventy-five uninvolved family members homeless and causing damage to twenty-two neighboring homes.<sup>94</sup> This directly contravenes the IV Geneva Convention, which not only prohibits collective punishment, but specifies that the destruction of property is only permitted when "rendered absolutely necessary by military operations."<sup>95</sup> In this case, most of the homes belonged to the families of individuals who had already killed themselves in suicide bombings. According to the IDF spokesman, "The sealing and demolition of houses in the West Bank is a deterrent measure. It is legal according to the law prevailing in these areas and the principles of international law."<sup>96</sup> At the same time, however, Israeli officials did not attempt to conceal the punitive aim of these actions. For example, the chief commander for the West Bank, Maj.-Gen. Ilan Biran, stated that

The house of each family of a suicide [bomber], or one who intends to commit suicide, will be destroyed, and the surrounding area will be severely punished. This will be the case in every village and town. We shall act mercilessly.<sup>97</sup>

The daily newspaper *Davar Rishon* pointed out that

...nobody proposed that the home of Baruch Goldstein [responsible for the 1994 Hebron massacre] be demolished, thereby harming his wife and children. Also, the houses of members of the Jewish underground, as well as the suspect in the murder of late Prime Minister Rabin, were not demolished; and it is good that they were not.<sup>98</sup>

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<sup>92</sup>Land and Water Establishment, "Death Toll Rises to Five as Direct Result of the Siege," *Human Rights Alert* # 4, Jerusalem, March 13, 1996.

<sup>93</sup>See Human Rights Watch/Middle East, "Israel and the Palestinian Authority Engaging in Arbitrary Arrests, Denial of Due Process and Torture in Response to Suicide bombings: U.S. Criticized for Failing to Condemn," April 3, 1996. See also B'Tselem, *Without Limits*. The PA, for its part, also arrested an estimated one thousand Palestinians in the self-rule areas, and there were credible reports of torture and ill-treatment during detention.

<sup>94</sup>B'Tselem, *Without Limits*. According to B'Tselem, the civil administration "came to the site several days after the blast [and] compensated, in amounts ranging from NIS 450 - NIS 2,500 (US\$ 150 - US\$833) each, other homeowners whose property was damaged.

<sup>95</sup>IV Geneva Convention, Art. 53.

<sup>96</sup>"IDF Spokesman's Response to B'Tselem Report on the Closure of Judea, Samaria and Gaza," April 2, 1996. The deterrent value of house demolitions is doubtful; indeed, 400 house demolitions carried out during the intifada failed to deter attacks on Israeli civilians.

<sup>97</sup>As quoted in B'Tselem, *Without Limits*, April 1996.

<sup>98</sup>Editorial, *Davar Rishon*, March 12, 1996, p. 7.

Dismissing claims of collective punishment against more than one million Palestinian residents of the West Bank, Maj.-Gen. Biran declared, "If humanity among them has disappeared or vanished then we can take any step to save our people."<sup>99</sup>

### **A Humanitarian Crisis**

The unprecedented restrictions imposed by Israel in March 1996 closure paralyzed the occupied territories. Since movement between villages and cities, as well as between the West Bank, Gaza and East Jerusalem, were prohibited, most medical, educational, commercial and other activities came to a halt. A total ban was also placed on Palestinians working in Israel and Israeli settlements in the occupied territories. A humanitarian crisis ensued, as even food, medications and other essential supplies were not allowed into the territories. Both health-care personnel and patients were denied access to health facilities. At least nine people died during the first ten days of the closure, following delays or denial of passage at checkpoints. In addition, hundreds of other patients, including those in need of treatment for cancer, renal failure and heart disease, were denied access to medical care. (See section on Obstruction of Health Care, below.) The PA Deputy Minister of Economics, Trade and Industry, Samir Huleileh, provided the following appraisal of the new closure's economic effects:

There is no Palestinian economic activity; the economy has ground to a halt. Internal trade is very limited and trade with the outside world is non-existent. Production in most Palestinian factories has stopped, all produce is being sold at very low prices. As for transportation, banking and tourism sectors, they are completely paralyzed. Economic performance has been totally frozen. The economy is performing at about 3 to 4 percent of its capabilities, and countries in general can cope with this type of situation for around a week. If conditions stay as they are, then we will be faced with an economic disaster, which neither the PA nor the donor countries will be able to deal with.<sup>100</sup>

### **Interference with Access to Food and Medical Supplies**

Blocking the movement of essential foodstuffs and medical supplies is a violation of Article 55 of the IV Geneva Convention, which imposes on the Occupying Power the "duty of ensuring the food and medical supplies of the population," including "bring[ing] the necessary foodstuffs, medical stores and other articles if the resources of the occupied territories are inadequate." Despite this requirement, Israel closed the Karni crossing, which serves as a transfer point for Israeli and Palestinian goods for Gaza and, for nearly ten days, nothing was allowed through, including emergency food and medications. Although Israeli security measures had, in the past, regularly interfered with the movement of goods across the borders of the West Bank and Gaza, they had never before blocked food and essential supplies for such a long period of time. According to the Palestinian Centre for Human Rights, access to the sea was also denied to the 4,000 Gazans employed in the fishing industry, which provides \$3 million in annual revenue to Gaza's economy and provides a major source of food.<sup>101</sup> Those who did venture out were fired upon by the Israeli navy.<sup>102</sup>

According to Deputy Minister Huleileh,

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<sup>99</sup>Arieh O'Sullivan, "IDF Clamps Curfew on 465 Villages," *Jerusalem Post*, March 6, 1996, p. 1.

<sup>100</sup>Interview with Samir Huleileh, PA deputy minister of economics, trade and industry, in *Palestine Report*, March 15, 1996.

<sup>101</sup>Palestinian Centre for Human Rights, "Closure Update No. 2," March 11, 1996, p. 5.

<sup>102</sup>Arieh O'Sullivan, "IDF Demolishes Suicide Bomber's House, Continues Arrests," *Jerusalem Post*, March 10, 1996, p. 1.

There is a serious lack of foodstuffs in Gaza due to the imposition of total closure. In the West Bank, there is a shortage of general provisions in some, but not all areas .... These regions, while maybe not heading for famine, are suffering from a serious food shortage....Israel is not dealing with us at all, nor does it have the desire to do so, as it has prevented the shipment of thousands of tons of flour from Egypt.<sup>103</sup>

In violation of its obligations under international law, it was not until nearly ten days after the imposition of the total closure that the Israeli army finally allowed eighty trucks of flour and produce to enter the Gaza Strip from Egypt — a quantity that was insufficient for the needs of the population. Gaza requires 250 tons of flour daily in order to feed its population of nearly 950,000, but only 3,113.5 tons of flour were allowed in between February 25 and March 22, 1996. According to the Palestinian Centre for Human Rights, the flour was distributed through a ration system and families often ended up waiting in line overnight to obtain their share.<sup>104</sup> Meanwhile, tons of produce intended for export to Israel, abroad or elsewhere in the occupied territories were left to rot because of restrictions on exportation.

Similarly, despite critical shortages of medications, oxygen tanks and sterile water, shipments were not permitted into Gaza until March 7 — ten days after the PA had requested permission from Israel. A permit for a truck carrying surgical thread was also delayed four days. In both cases, permits were finally obtained following intervention by Physicians for Human Rights-Israel for Human Rights and Yael Dayan, a member of the Knesset.<sup>105</sup>

Many Palestinian villages, particularly those that are contiguous to Jerusalem, are completely isolated when denied access to Jerusalem, because they have no shops, schools or businesses of their own; these were among the villages that suffered the most. The "internal" closure of the West Bank, which lasted nearly ten days, was lifted three times for twelve-hour intervals, in order to permit Palestinians to move to neighboring villages to stock up on food and other essentials, and seek medical treatment. Dr. Moustafa Barghouti, director of the Union of Palestinian Medical Relief Committees commented, "The lifting of the closure for twelve hours so people can get to a hospital is a temporary solution, but it's too short. People do not plan when to get sick."<sup>106</sup> Moreover, supplies continued to dwindle as no replacement goods or produce were allowed in; cash was also a problem, since the vast majority of Palestinians were not able to get to their workplaces and, thus, did not receive salaries.

### **Denial of Access to Relief Supplies**

By denying access to vital relief supplies during the March 1996 closure, Israel violated its obligations under Article 55 of the IV Geneva Convention, which requires that the occupying power "bring in the necessary foodstuffs, medical stores and other articles if the resources of the occupied territory are inadequate," as well as Article 59, which provides that, "if the whole or part of the population of an occupied territory is inadequately supplied, the Occupying Power shall agree to relief schemes on behalf of said population, and shall facilitate them by all means at its disposal."

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<sup>103</sup>Interview with Samir Huleileh, PA deputy minister of economics, trade and industry, in *Palestine Report*, March 15, 1996.

<sup>104</sup>Palestinian Centre for Human Rights, "Closure Update No. 4," March 26, 1996, p. 4.

<sup>105</sup>B'Tselem, *Without Limits*, April 1996.

<sup>106</sup>Human Rights Watch interview, Ramallah, March 12, 1996.

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<sup>107</sup>Human Rights Watch telephone interview with Bill Lee, Chief - UNRWA Liaison Office, New York, NY, May 20, 1996.

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At our headquarters in Jerusalem, 200 of our 350 employees can't come to work. We haven't been able to do relief distribution because our international staff is so small, and they are the only ones who can move around inside the West Bank.<sup>108</sup>

The Mennonite Central Committee reported, "Foreign nationals — including international NGO [nongovernmental organization] workers — have also been hindered from moving between Palestinian population areas, at a time when the services of NGOs are desperately needed."<sup>109</sup> The unprecedented near-total barring of foreigners from Gaza paralyzed much relief work. According to Patrick Conners of Save the Children, U.S.A.,

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<sup>108</sup>Human Rights Watch interview, East Jerusalem, March 10, 1996.

<sup>109</sup>Mennonite Central Committee, *MCC West Bank Monthly Newsletter*, April 1996.

Our water and sanitation program has stopped, because we need to purchase water and sewage pipes. We had reached the point, in past closures, where international staff had to be the link between our offices [in the occupied territories.] This time we are completely cut off.<sup>110</sup>

In the West Bank, there was confusion as to the precise limitations on movement. On several occasions, residents discovered that checkpoints blocking off their villages had suddenly been lifted and the soldiers had departed. Because the closure had been temporarily lifted at a few points, people from villages that had no shops or were low in stocks would take immediate advantage of the removal of the checkpoint to go to surrounding villages to buy food and supplies, or to return to work. However, a few hours later they would discover that the checkpoint had been reinstated, without warning, because this had not been an "official" lifting of the checkpoint. Such incidents left dozens of individuals stranded, sometimes for days.<sup>111</sup>

### **Lifting of the Internal Closure**

The internal closure of the West Bank was lifted on March 15, 1996. The general closure remained in effect, however, and Israel granted very few permits to Palestinians, with the exception of some 7,000 laborers working in Israel; by June 1996, this figure had risen to 22,000. Prior to the Spring 1996 closure, approximately 35,000 Palestinians had permits to work in Israel as day laborers.<sup>112</sup> Restrictions on the flow of food and goods into Gaza continued into the month of April. According to the Palestinian Centre for Human Rights,

The easing measures which have been taken only allow the import of amounts which are below the minimum requirement of basic foodstuffs; and the amount of goods Israel allows to be exported is not sufficient to maintain the various production sectors.<sup>113</sup>

The Spring 1996 closure also caused substantial damage to the Palestinian economy. Indeed, the shortage of raw materials crippled most industrial and construction activity, causing Palestinian unemployment to skyrocket. According to Huleileh,

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<sup>110</sup>Human Rights Watch telephone interview, Gaza, March 11, 1996.

<sup>111</sup>Human Rights Watch interviews, Ramallah and Birzeit, March 9, 1996.

<sup>112</sup>For a further discussion of this issue, see the section on Palestinian labor in Israel, below.

<sup>113</sup>Palestinian Centre for Human Rights, "Closure Update No. 5," April 3, 1996, p.2.

Previously, the figures [for losses to the Palestinian economy due to the closure] were around US\$5-6 million a day, but now you have to take into account the loss of revenue from our agricultural harvest, and the loss of importers' and people in general's confidence in our ability to produce.<sup>114</sup>

On May 15, 1996, Israel decided to reimpose a total closure on the Gaza Strip and tighten the closure on the West Bank until the May 29 Israeli election.<sup>115</sup> This primarily affected the movement of the estimated 7,000 laborers who had been issued permits since late March 1996, and whose permits were once again invalid.

## OBSTRUCTION OF HEALTH CARE

Israel's policy of closure has severely interfered with, and in many cases prevented, the access of patients and medical personnel to hospitals and treatment centers both within the occupied territories and in Israel. This violates explicit protections set forth in Articles 16 and 17 of the IV Geneva Convention, requiring that the wounded, sick, infirm and expectant mothers be "the object of particular protection and respect" and that provisions be made for medical evacuation. In addition, Israel has violated its obligation, pursuant to the IV Geneva Convention, to ensure and maintain "the medical and hospital establishments and services, public health and hygiene in the occupied territories," and permit "medical personnel of all categories ... to carry out their duties."<sup>116</sup> The effects of this policy have been all the more severe due to Israel's failure, throughout the occupation, to maintain adequate health-care services in the occupied territories. In order to comply with its obligations under international law to ensure and maintain medical facilities and services, Israel has a duty either to permit access to available facilities in Israel and East Jerusalem, or maintain adequate facilities inside the West Bank and Gaza.

### Inadequate Health Care in the West Bank and Gaza

According to Physicians for Human Rights-Israel,

The health services in the territories do not meet the needs of the population or fulfill the criteria of developed nations .... [D]uring 28 years of occupation, Israel failed to invest in the development of a comprehensive health system in the territories .... The infrastructure of health services in the territories is collapsing under the load, and no change for the better is on the horizon.<sup>117</sup>

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<sup>114</sup>Interview with Samir Huleileh, PA deputy minister of economics, trade and industry, in *Palestine Report*, March 15, 1996.

<sup>115</sup>Consulate General of Israel, *Israel Line*, New York, May 15, 1996.

<sup>116</sup>IV Geneva Convention, Art. 56.

<sup>117</sup>PHR-Israel, *Annual Report 1994*, p. 9.

In 1986, for example, a year for which statistics are available, the per capita expenditure for medical services in Israel was \$350, while the Israeli military government spent only \$30 per capita in the Occupied Territories.<sup>118</sup> Despite chronic unemployment, even amongst physicians, hospital budgets were insufficient to hire additional physicians; as a result, the physician/population ratio for the occupied territories was 8/10,000 in contrast to 28/10,000 in Israel and 22/10,000 in Jordan.<sup>119</sup> Serious deficiencies in equipment and training render hospital facilities inadequate:

[H]ospitals [in the West Bank and Gaza] do not even have the medical equipment or services that their counterparts in Israel would consider basic.... it is enough to note that in Shifa Hospital, the largest in Gaza, not a single electronic microscope can be found, as opposed to twenty in Sheba Medical Center alone. Because of this acute lack of equipment, hospitals in the territories perform no radiotherapy at all and only very little chemotherapy. There is almost no early diagnosis of cancer — a staggering deficiency, since early detection drastically increases the chances of recovery. No mammographs to detect breast cancer or angiographies are performed; there are no special chemicals to detect antibodies, no isotopes, cryopreservation equipment, projectors or video microscopes. The story is the same in surgery, cardiology, intensive care (including ambulatory ICUs) and rehabilitation. The health system ... also suffers from a total lack of laboratory technicians in such fields as virology, immune chemistry, genetics, toxicology and food testing; trained CT scanner and dialysis machine operators are also lacking.<sup>120</sup>

Following the Oslo Accords, it was hoped that the Palestinian Authority could begin to correct many of the infrastructural and other deficiencies in the Palestinian medical system. It is estimated that the construction of an independent medical infrastructure in the occupied territories would require approximately three hundred million dollars.<sup>121</sup> However, the entire annual budget of the PA Ministry of Health is only twelve million dollars.<sup>122</sup>

Israel has also occasionally delayed health-related products intended for the occupied territories in its customs warehouses. According to Physicians for Human Rights-Israel:

At the end of 1994, \$3.5 million worth of medical instruments and equipment sent by the World Health Organization were detained by customs for six months and only in mid-1995 did Israel release them. These delays are a violation of [Article III, para. 14 (a) of the Protocol on Economic Relations], which stipulates that, in the event of a disagreement regarding the nature of goods intended for the PA, the goods may not be delayed at customs in Israel for more than forty-eight hours.<sup>123</sup>

### **The Importance of East Jerusalem and Israel**

With each total closure, the inadequacy of the health-care system in the occupied territories grows more acute, jeopardizing the limited health-care infrastructure and services that do exist. This is primarily due to the denial of access to East Jerusalem, which is the center of medical care in the occupied territories, and is the site of the Mokassed,

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<sup>118</sup> American Academy of Arts and Sciences, *Transition to Palestinian Self-government: Practical Steps Toward Israeli-Palestinian Peace, Report of a Study Group Convened by the American Academy of Arts and Sciences* (hereinafter "Report of the American Academy of Arts and Sciences") (Cambridge and Bloomington: AAAS and Indiana University Press, 1992) p. 24.

<sup>119</sup>Ibid.

<sup>120</sup>PHR-Israel, *Annual Report 1994*, p. 21.

<sup>121</sup>Ibid.

<sup>122</sup>Ibid., p. 9, note 3.

<sup>123</sup>Ibid., p. 22. The Protocol on Economic Relations entered into by Israel and the PLO on April 29, 1994 (hereinafter the "Economic Protocol), regulates economic relations between Israel and the autonomous Palestinian areas during the interim period.

Augusta Victoria and St. John's Ophthalmic Hospitals, which offer virtually the only specialized medical care in the occupied territories. In addition, there are many kinds of treatment that even the specialized Palestinian hospitals have very little capacity to provide, such as cancer treatment, dialysis and specialized surgery. Patients seeking these treatments have no choice but to travel to Israel or abroad. Since the March 1993 closure, however, it has grown increasingly difficult for both patients and medical personnel from the West Bank and Gaza to travel to outside hospitals, even in East Jerusalem. According to Dr. Amin Thalji, the director of Mokassed Hospital,

There are specialties at our hospital, such as internal medicine and surgery, where all the doctors are from the West Bank. Every time there is a closure they cannot get to work. These are well-known physicians. Why not give them permanent permits? There are also specialties that only exist at Mokassed, such as neurosurgery, pathology, neonatology and cardiac catheterization. Patients from the West Bank do not have any other hospitals to go to for these services if they cannot get to Jerusalem. So the Israeli policy is depriving people of the basic right of getting medical care.<sup>124</sup>

The financial blow dealt by the repeated closures threatens the very survival of Palestinian health-care institutions. According to Dr. Thalji,

Mokassed is a charitable institution, but we've had to shift our focus to efforts to raise income. We've had to raise fees and tighten our admission and discharge policies. Before the [Spring 1996] closure, we grossed 50,000 shekels a day. Now, it is down to 5,000 shekels a day. Two-thirds of our patients come from the West Bank and two-thirds of our employees also—they can't get to Jerusalem. For the last six months, we have not been able to pay salaries on time. This month, I don't know what we'll do. We haven't even paid a portion of the salaries. Ramallah Hospital now has three children to a bed and no money to expand. Even under normal circumstances it would be very difficult for us to cope, let alone with this situation of closure. So, if the closure continues for a long time, Mokassed, which was established in 1960, before the occupation, will have to close, and so will other health institutions.<sup>125</sup>

David Johnson of the Lutheran World Foundation, which operates the Augusta Victoria Hospital in East Jerusalem, echoed many of these concerns:

Because of the closure, our patient levels have gone down substantially since 1992. This has changed the funding basis for the hospital. During this [Spring 1996] closure, our patient load has gone down about 50 percent. But it is still easier for patients to get here than doctors when there is a closure. We primarily serve the refugee community, but we have had to reduce the number of refugee and West Bank patients. But if we're not available, it is a safe assumption that our specialized services, such as high risk obstetrics and neonatal intensive care, will be lost to the refugee community.<sup>126</sup>

If rules exist governing the issuance of permits to enter East Jerusalem and Israel in emergency medical cases, they have not been made public. According to Physicians for Human Rights-Israel,

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<sup>124</sup>Human Rights Watch interview, Ramallah, March 9, 1996.

<sup>125</sup>Ibid.

<sup>126</sup>Human Rights Watch interview, Ramallah, March 12, 1996.

Residents of the West Bank and Gaza who require medical care in Israel and have the necessary funding must await their turn like any Israeli patient. However, in the event that a closure is imposed at the time of the scheduled appointment, the treatment will be missed and the individuals must restart the procedure all over again—from arranging a new date to submitting another entry permit request. This is the result of Israeli policy permitting only “humanitarian cases” to be considered for entry during times of closure. But what is a humanitarian case? Who decides what the definition of a humanitarian case is? And how long is the waiting period before a case is classified as humanitarian or not? There are no definitive answers to these questions, but it is known, for example, that the humanitarian category excludes patients in need of ongoing treatment (except chemotherapy), like rehabilitation. Clearly, this policy fails to account or make exceptions for medical conditions that can potentially deteriorate as a consequence of cessation or deferral of treatment.<sup>127</sup>

Moreover, according to Physicians for Human Rights-Israel, a precedent has been established whereby “individuals with no medical training whatsoever are allowed to affect decisions on medical care in accordance with financial, security and political considerations.”<sup>128</sup>

### **The Results of the Spring 1996 Closure**

During the Spring 1996 closure, the restrictions were more far-reaching than ever before, and exceptions were rarely made even for “humanitarian” cases. The blockade of villages and towns in the West Bank halted the entry of all medical supplies into the occupied territories, and prevented medical personnel, including employees of the PA Ministry of Health, from getting to their workplaces. As a result, both primary and specialized health care suffered immensely. During the closure, Dr. Munzer Shareef, deputy minister of health for the PA, told Human Rights Watch,

Two hundred and forty-five primary health centers in the West Bank and thirty in Gaza cannot carry out curative or preventative health care. Even NGO [nongovernmental organization] and hospital staff can't move. Immunization programs have stopped because we can't bring vaccines from Israel into the West Bank. Medications and oxygen supplies are running out. Around 130 patients with cancer or renal failure patients who used to go to Israel for chemotherapy or dialysis aren't allowed in. There are shortages of nutritional materials and we can't send any supplies or medications to Gaza. During a normal closure, we have problems transferring patients to hospitals in Israel or Jordan. Now we can't transfer patients even within the West Bank. There is a three-year old boy with a fractured skull in Kalkilya who needs to be transferred to Nablus Hospital, but we can't do it. I can't trust Israel anymore on these matters. Israel says that it gives us special permission for emergency cases, but they refuse to recognize this at the checkpoints. Even the [PA] Deputy Minister of Health cannot pass through checkpoints. We have never witnessed such a situation before.<sup>129</sup>

By March 19, 1996, thirty-six PA health workers had been arrested by Israel for trying to get to their jobs, in defiance of the closure.<sup>130</sup> According to Dr. Barghouti,

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<sup>127</sup>PHR-Israel, “Movement of Patients,” Newsletter, Vol. 1, no. 1, February 1996.

<sup>128</sup>PHR-Israel, *Annual Report 1994*, p. 7. This practice still continues, according to PHR-Israel. Human Rights Watch interview with PHR-Israel, Tel Aviv, March 19, 1996.

<sup>129</sup>Human Rights Watch interview, Ramallah, March 12, 1996

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<sup>130</sup>Human Rights Watch interview with Physicians for Human Rights-Israel, Tel Aviv, March 19, 1996.

Seventy percent of our population live in rural areas where there are no health-care facilities. Eighty percent of our facilities are not functioning and one hundred communities have no facilities at all. So far we have not charged workers for not coming to work. But starting Saturday we will have to consider them on leave. 30 percent of the funding for our health-care facilities was targeted to come from local income. Now we will have to ask for emergency help or we cannot go on.<sup>131</sup>

### **Denial of Passage to Ambulances**

A major problem is the Israeli practice of restricting the passage of ambulances, which violates the IV Geneva Convention.<sup>132</sup> Only a limited number of ambulances receive permits to enter Israel or East Jerusalem. In the Gaza Strip there are only twenty-four ambulances; of these, Israel has provided permits to only six. Another four or five ambulances in the West Bank have permits. According to Physicians for Human Rights-Israel, at least double this number would be required to meet the population's needs.<sup>133</sup> Of forty-three ambulance drivers, only eleven have permits to drive ambulances into or through Israel; only three have twenty-four hour permits and up to five are permitted limited stays, from 5:00AM to 7:00PM.

Even drivers and ambulances that have permits can be delayed or turned back at checkpoints. According to the Palestinian Centre for Human Rights,

Notwithstanding the serious medical conditions of the patients, and possession of the required permits, ambulances leaving the Gaza Strip are subjected to stringent security measures at the border. These security measures last around three hours and in several cases Israeli security personnel at the border have sent the ambulances back, demanding that they be changed.<sup>134</sup>

In addition, even before the Spring 1996 closure, Physicians for Human Rights-Israel reported,

Patients are often forced to disembark from the ambulance before the checkpoint, cross the border on foot, and then reboard on the other side (some 750 meters). Ambulances leaving Shifa Hospital in Gaza at 6:30AM complete the journey into Israel at 10:30AM, although the actual travel time ... is one half hour.<sup>135</sup>

Many of the deaths that occurred during the first week of the Spring 1996 closure demonstrated the danger posed by this Israeli policy. On February 25, 1996, fifty-nine year old Khadija Odwan, who was suffering from a retroperitoneal tumor, kidney disease, anemia and hypertension, was declared in a critical medical state by doctors at Shifa Hospital in Gaza. The PA immediately handed in a request to secure her transferral to an Israeli hospital, but received no response from the Israeli authorities until February 27, following the intervention of several human rights organizations. According to the Palestinian Centre for Human Rights,

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<sup>131</sup>Human Rights Watch interview, Ramallah, March 12, 1996.

<sup>132</sup>This also violates Oslo II agreement, which provides that "The Israeli authorities shall endeavor to facilitate the passage of Palestinian ambulances within and between the West Bank and the Gaza Strip and Israel, subject to the provisions of Annex I [on security arrangements.]" Annex III, Appendix I, Art. 17, para 5.

<sup>133</sup>Human Rights Watch interview with Physicians for Human Rights-Israel, Tel Aviv, March 19, 1996.

<sup>134</sup>Palestinian Centre for Human Rights, "Closure Update No. 7," April 18, 1996, p. 4.

<sup>135</sup>PHR-Israel, *Annual Report 1994*, p. 17.

At 2:00 PM on February 27, the ambulance carrying Khadija Odwan and Dr. Jamal Tarazi arrived at Erez Checkpoint. The Israeli soldiers checked the ambulance three times during a period of two hours, regardless of Dr. Tarazi's entreaties to speed the procedure. The soldiers ... ordered that the ambulance had to be changed. The second ambulance crossed at 6:30PM, following further checks, which took ninety minutes. At 7:00PM the patient arrived at Asaf Harofeh Hospital in Sarafand, Israel and died minutes after being admitted into the emergency unit.<sup>136</sup>

On March 10, a two-month old baby, Shaker Shawaneh, died on his way to the hospital in the West Bank city of Tulkarem, only fifteen kilometers away, after his ambulance was stopped for ninety minutes at one checkpoint, and another sixty minutes at the entrance to Tulkarem. At the time, the spokesperson for the Civil Administration attributed this death to "a lack of coordination."<sup>137</sup> However, in an April 8, 1996 letter addressed to the Association of Civil Rights in Israel, the deputy director of the Israeli defense ministry stated,

I have been told that on March 22, the IDF officers and representatives from the PA investigated the incident and they have concluded that there is no immediate connection between the death of the baby and the fact that the ambulance had been detained at the army checkpoint and prevented from reaching the hospital.<sup>138</sup>

In another case, Salma Shkir, an eighty-year old woman suffered from chest pain and collapsed on March 6, 1996. Her son, Khalid Abdallah Surki, told Human Rights Watch,

We could not call an ambulance because all the phone lines in the village have been cut for several days. At 7:30 a.m I carried her, with three other men, to the checkpoint outside our village, Sheikh Sa'ad. I tried to explain the situation to the soldiers but they refused to let her through to Jerusalem, which is fifteen meters from our village! So we had to try to go to Bethlehem, which is twenty-five to thirty kilometers away. We carried her up the hill to the other side of the village where we stopped a car and asked them to take her to a West Bank hospital. At the checkpoint in the South of Beit Sahour the soldiers refused to let her enter Beit Sahour or Bethlehem. We spent two and a half hours at the checkpoint. Gradually she went into shock. Finally, they gave us permission to go to Beit Jalla Hospital [in the West Bank.] But her condition had deteriorated and when we arrived there, at 2:00PM, she had a cerebral infarction. The doctors said they couldn't do anything. She needed a coronary care unit, and the only ones are at Mokassed and Hadassah [hospitals] in Jerusalem. So we had to bring her home. At Beit Sahour, the same checkpoint we had crossed just a few hours before, they stopped us again for one hour. At 6:00PM we arrived home. She died on Sunday.<sup>139</sup>

### **The Failure to Issue Sufficient Emergency or Temporary Permits**

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<sup>136</sup>Palestinian Centre for Human Rights, "Closure Update," March 5, 1996, p. 5.

<sup>137</sup>Jon Immanuel, "Food Shortages in Gaza Not as Serious as Claimed," *Jerusalem Post*, March 12, 1996, p. 2.

<sup>138</sup>"Re: the Impact of the Closure on the Occupied Territories on Palestinian Terror," Letter from Chiam Yisraeli, deputy director, Israeli defense ministry, addressed to Professor Zev Charles Greenbaum, chairman of the Children's Rights Team at ACRI, April 8, 1996 (translated from Hebrew by Human Rights Watch).

<sup>139</sup>Human Rights Watch interview, Sheikh Sa'ad, West Bank, March 11, 1996.

During the three weeks following the Spring 1996 closure, "approximately 100 permit requests were filed [in] Gaza concerning medical treatment in Jordan and Israel; only ten received positive answers, and three of those required Physicians for Human Rights intervention."<sup>140</sup> On March 31, 1996, Israeli authorities informed the PA that only applications for "very urgent" medical cases should be submitted for permits between April 3 and 19, due to the Passover holiday. According to the Palestinian Centre for Human Rights, "It is unclear what is meant by 'urgent cases,' as all the cases which have been submitted so far for permits have been patients requiring medical treatment for cancer and heart disease."<sup>141</sup>

Efforts to secure permits for a limited number of essential medical personnel met with failure. Palestinian health ministry officials found that "their appeals to Israeli authorities requesting entry permits for patients and physicians were being answered by having telephones slammed down."<sup>142</sup> On March 12, 1996, Lt. Colonel Shmulik Ozenboi, Assistant Coordinator of Activities in the Territories, reiterated that the entry of Palestinian physicians into Israel and East Jerusalem was prohibited. Even the transport of corpses from hospitals for burial in other West Bank villages and cities, as well as the attendance by family members at funerals in surrounding villages, was prohibited.<sup>143</sup>

On March 18, 1996, Mokassed Hospital, Physicians for Human Rights-Israel for Human Rights and the Association for Civil Rights in Israel petitioned the High Court to overrule prohibitions against the movement of medical personnel. Two days later, the court ordered that 250 physicians and nurses be temporarily permitted to report to work in East Jerusalem hospitals. In addition, the court demanded that procedures be established within forty-five days to provide a limited number of health-care personnel with permits that would remain valid during future closures. Of the list of names submitted for temporary permits, only 181 were issued permits by Israel; the remainder were rejected for "security and administrative" reasons.<sup>144</sup> According to Physicians for Human Rights-Israel for Human Rights,

In spite of the arrangement approved by the Court — and in contradiction to the spirit of its ruling — the State of Israel has failed to exercise its ability to expand the quota of medical employees with permits, and in the month that has passed since the decision, no answer to the court order has been submitted. Clearly, no real understanding of the medical needs of these hospitals or the unbearable difficulties closure causes exists.<sup>145</sup>

Thus, the issuance of temporary permits amounted to a token measure, as the denial of permits to hundreds of medical personnel perpetuated serious staff shortages. At Mokassed Hospital, for example, only 150 of 435 employees were permitted to reach the hospital by the end of April. None of the thirty-five Gazans employed at the hospital had received permits. At St. John's Hospital in East Jerusalem, only twenty-three out of sixty-five West Bank nurses had received permits; moreover, three of the six physicians who are West Bank residents continued to be denied permits, on the grounds that part-time employees and staff engaged in training are not crucial to the functioning of the hospital."<sup>146</sup>

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<sup>140</sup>PHR-Israel, *A Special PHR Activity Bulletin*, p. 1.

<sup>141</sup>Palestinian Centre for Human Rights, "Closure Update No. 5," p. 6, note 4.

<sup>142</sup>PHR-Israel, "Lives Lost Due to the Closure," March 11, 1996.

<sup>143</sup>Al-Haq, "Alert Concerning the Health Situation in the Occupied Palestinian Territories," March 14, 1996.

<sup>144</sup>B'Tselem, "Without Limits," April 1996.

<sup>145</sup>PHR-Israel, "East Jerusalem Hospital Staff from the West Bank and Gaza," Report and Urgent Action Request, April 28, 1996.

<sup>146</sup>Ibid.

### **The Isolation of Gaza**

Additional problems arise due to the increasing isolation of Gaza, which is often closed off, not only to West Bankers, but even to residents of East Jerusalem, Israelis and foreigners — regardless of whether there is an emergency.

Physicians for Human Rights-Israel for Human Rights reports,

Because there is no individual with sufficient expertise living in Gaza, a medical technician from Tulkarem [in the West Bank] is responsible for all of the medical equipment belonging to the public hospitals there. Each time his expertise is required in Gaza, before departing he must request a permit from the regional coordinating office and await an answer. This process alone may take several days. Meanwhile, potentially life-saving equipment remains out of use. Similarly, during [the January 1996 closure,] a CT scanner — one of two in the entire Gaza Strip — broke down. Israeli authorities refused an entry permit request from an East Jerusalem technician due to instructions not to consider any requests for entry into Gaza.<sup>147</sup>

When a permit was finally issued after the intervention of Physicians for Human Rights-Israel for Human Rights, *Ha'aretz* reported,

Once again it was proven that the best way to maneuver between unequivocal instructions from the IDF and their meticulous interpretation by the CLA [Israeli coordination and liaison administration], and civil and human logic, is through the intervention of an Israeli group. The requests of the latter are heard more clearly it seems. And once again, the question arises: what of all those people who do not manage to reach an Israeli group that will bother to open a crack in the wall surrounding the Gaza Strip?<sup>148</sup>

During the first few weeks of the Spring 1996 closure, no foreigners or Israelis were permitted into Gaza, with the exception of journalists and diplomats. For example, Israel rejected a March 17, 1996 request by Physicians for Human Rights-Israel for Human Rights, for permission to send staff members to assess the medical situation in Gaza. The group did not succeed in entering Gaza until May 1996.

## **IMPACT OF THE CLOSURE ON PRISONERS AND DETAINEES**

Prior to redeployment from the Gaza Strip and Jericho in July 1994 and from parts of the West Bank in December 1995, Israel transferred over three thousand prisoners and detainees from the occupied territories to prisons inside Israel.<sup>149</sup> This is a violation of Article 76 of the IV Convention, which requires that protected persons who are detained or sentenced to prison terms be held in the occupied territory. Pursuant to the Gaza-Jericho and Oslo II Agreements, over 4,000 prisoners were released following redeployment, but because additional individuals have since been detained, an estimated 3,500 Palestinians remain in custody in Israel.<sup>150</sup> It is difficult to know how many have

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<sup>147</sup>PHR-Israel, "Passage between the Self-rule Areas," *Newsletter*, Vol. 1, no. 1, February 1996.

<sup>148</sup>Amira Hass, "For That You Need Israelis," *Ha'aretz*, January 11, 1996.

<sup>149</sup>Statistics compiled from Addameer - Prisoners' Support Association and the Mandela Institute for Political Prisoners, Ramallah. 2,268 prisoners and detainees were already being held in facilities in Israel.

<sup>150</sup>Statistics compiled from Addameer - Prisoners' Support Association, the Mandela Institute for Political Prisoners and the Palestinian Centre for Human Rights, "Closure Update no. 5," April 3, 1996, p. 6.

been charged with or convicted of violent crimes. Some were arrested after being found in Israel without a permit; others are accused not of having committed any violent acts, but of membership in an illegal organization. Still others are being held in administrative detention without charge or trial.

Israel's policy of closure has had a profound impact on prisoners. First, lawyers from the occupied territories are unable to visit their clients in Israel without going through the burdensome permit application process. During total closures, they are not able to enter Israel at all. Since March 1996, for example no Palestinian lawyers from the West Bank and Gaza were permitted to visit detainees in Israel, despite the fact that Israel arrested and detained over 1,000 Palestinians during this period. This meant that only Israeli attorneys could visit their Palestinian clients, leaving hundreds of Palestinians detainees without legal representation.

The closure also makes it difficult for family members to visit detainees. This violates Article 116 of the IV Geneva Convention, which requires that "every internee shall be allowed to receive visitors, especially near relatives, at regular intervals and as frequently as possible." Even when a total closure is not in place, and family members (usually women, since it is far more difficult for men, particularly young ones, to obtain permits) are able to obtain permits, the trip to Israel is nevertheless much more time-consuming and logistically difficult than the trip to a facility in the West Bank. The difficulty of visiting prisoners in Israel can also make it difficult to obtain prompt information about detainees' conditions or their whereabouts.

## **RESTRICTIONS ON TRAVEL ABROAD OR ENTRY INTO THE OCCUPIED TERRITORIES**

Oslo II provides that Israel will remain responsible for external security, including along the Egyptian and Jordanian borders, even though travel between these countries and the occupied territories does not require entry into Israel.<sup>151</sup> Israel has also retained the authority to deny exit or entry to the West Bank or Gaza. Although Palestinian security forces are present at the borders, they have only limited responsibility.<sup>152</sup>

Since there are no consular services in the occupied territories (except in East Jerusalem), anyone who needs to travel abroad must first obtain a one-day permit to enter East Jerusalem or Israel, in order to apply for a visa. Since there are no airports or ports in the occupied territories, travelers planning to fly out of Tel Aviv must then apply for a second permit to enter Israel on the day of their trip, and a third permit for entry to Ben Gurion Airport in Lod. During total closures, Palestinians are denied access to Ben Gurion Airport, although they may, with Israeli permission, travel to Jordan or Egypt via the crossing points in the self-rule areas.

A visitor coming to the self-rule areas from Egypt or Jordan must either obtain an Israeli visa, or in the event that his or her country of citizenship does not have diplomatic relations with Israel, must obtain a special visitor's permit through a resident of the West Bank and Gaza. This permit is cleared by Israel but issued by the PA. Just as it regularly denies, without providing a basis, permit applications from Palestinians seeking to move between the occupied territories, Israel often denies permits to applicants who wish to visit their relatives residing in the West Bank or Gaza.<sup>153</sup> Hamoked intervened in the case of a resident of Qatar who wished to visit his family in Gaza:

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<sup>151</sup>Oslo II, Annex I, Art. VIII, para 1 (a).

<sup>152</sup>Oslo II, Annex I, Art. VIII, para 2 (b) (1) and para 3.

<sup>153</sup>Oslo II, Annex III, Art. 28, para 13(a).

His mother, aged seventy-nine, is a resident of Gaza, as well as his brother and sister, together with their families. The mother has three times requested an exit permit, allowing her son to visit. All of her requests were refused.<sup>154</sup>

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<sup>154</sup>Hamoked, *Annual Report 1995*, p. 15.

Following Hamoked's intervention before the State Attorney's office, the permit was issued. In another case, Hamoked turned to the State Attorney's office when an eighty-year old Jerusalem resident in a poor state of health asked for a permit enabling her physician son to visit her from Dubai. The permit was refused on security grounds, with no reasons given. When Hamoked protested to the State Attorney's office, the son was issued a permit, after paying a deposit that was to be refunded upon his departure.<sup>155</sup>

Arbitrary conditions are often attached to permits. For example, until February 1996, men under the age of twenty-five could not receive permits to travel to Jordan unless they stayed out of the occupied territories for at least nine months.<sup>156</sup> This meant, for example, that students who were attending university in Jordan could not return home for weekends or holidays, even though they simply had to cross a bridge to do so. Although Israel has reportedly canceled this requirement, human rights organizations have not yet been able to obtain written confirmation of this change.

## THE IMPACT OF CLOSURE ON OTHER SPHERES

### Education

The policy of closure has also disrupted all levels of education in the West Bank and Gaza. It prolongs the time and expense required for completion of a degree — at a high cost both to individuals and to Palestinian society as a whole. During the intifada, the education of an entire generation of young Palestinians was routinely disrupted due to regular school and university closures by the Israeli military.<sup>157</sup> Even after the signing of the Oslo Accords, Israel has continued to block the pursuit of education through regular closures and the arbitrary system for granting of permits. In May 1995, for example, Israel passed regulations prohibiting the issuance of permits for study in Jerusalem to any students who had not previously been registered in an educational institute, thus preventing any new students from enrolling for studies in Jerusalem.<sup>158</sup> Closures can often prevent the access of students and staff to universities. For example, a "preventive" closure imposed by Israel on February 12, 1996, on the city of Ramallah, which is under Palestinian self-rule, blocked the access of some 3,000 of Birzeit University's 5,000 students, faculty and staff to the campus.<sup>159</sup>

### Gaza Students at West Bank Universities

The students who are hit hardest by these restrictions are Gaza students who choose to pursue their studies at West Bank universities, where they can pursue specialities that are unavailable in Gaza, such as electrical and chemical engineering, sociology and political science. In 1995, an estimated 1,300 Gaza students were able to enroll in West Bank universities; others wished to enroll but were not granted permits.<sup>160</sup>

The situation at Birzeit University in the West Bank illustrates the hardship imposed on Gaza students due to restrictions on movement. In a report issued in 1995, the university estimated:

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<sup>155</sup>Ibid., p. 17

<sup>156</sup>Human Rights Watch interview with representative of Hamoked, East Jerusalem February 29, 1996.

<sup>157</sup> For example, according to Al-Haq, "All academic institutions in the West Bank were shut for eight months during 1989, suspending the education of approximately 310,000 school pupils and 21,000 university and community college students." Al-Haq, *A Nation Under Siege: Al-Haq Annual Report on Human Rights in the Occupied Palestinian Territories, 1989*, Al-Haq, 1990, p. 452.

<sup>158</sup>Hamoked, *Annual Report 1995*, p. 7.

<sup>159</sup> Birzeit University, "Over 3,000 Staff and Students Denied Access to University," Press Release, February 12, 1996.

<sup>160</sup>See Nigel Parry, "Problems Facing Gazan Students in the West Bank," *Middle East International*, March 31, 1995. Human Rights Watch/Middle East

The average Gaza student spends approximately fifteen hours waiting in line at various Israeli civil administration offices each time they [sic] must apply for the three necessary permits [to transit Israel, to reside in the West Bank for three months, and a renewal for the fourth month of each school semester].<sup>161</sup> During the first two months of the [1995] second semester, permits have been canceled twice. With each cancellation, students are forced to start from the beginning, once again .... All Birzeit students from Gaza were denied permits for the first half of the semester. Midway through the semester, Israel agreed to grant permission to about two-thirds of the students on the condition that they sign a declaration of support for the political negotiations. The remaining one-third of the Gaza students were never granted permits to attend the university. No reasons were provided to explain why so many students were denied permits.<sup>162</sup>

Even when a permit is granted, students must still cope with "potential refusals of any of their permits at any part of the four-tier process, arbitrary confiscations of valid permits by soldiers at checkpoints and blanket confiscations of existing permits after 'security' incidents or 'administrative' problems."<sup>163</sup> During the 1994-95 academic year, all permits were canceled on three separate occasions in a single semester, leaving students vulnerable to arrest.<sup>164</sup>

Seventy days after the 1995-96 academic year had already begun, Israel finally responded to the list of 350 Gaza students on whose behalf the university had requested permits.<sup>165</sup> Eighty-two of Birzeit's 102 female Gaza students and thirteen of its 282 male students were granted permits, although the men received only four-day permits.<sup>166</sup> As a result of such problems, the university must constantly schedule make-up classes and tutoring for students who miss significant portions of the academic year.<sup>167</sup>

According to the Palestinian Council for Higher Education,

Harassment of students who happen to come from Gaza illustrates well the backwards premise of 'guilty until proven innocent' that has characterised Israel's recent pursuit of security objectives .... As all students must undergo a rigorous security check prior to being issued permits in the first place and are subsequently required to travel between the West Bank and Gaza in groups coordinated by the Regional Affairs Office in Gaza, the targeting of these students cannot be considered a legitimate security concern and must be seen as arbitrary and punitive.<sup>168</sup>

## Impact of the Spring 1996 Closure

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<sup>161</sup>In addition to these three permits, Gaza students must be in possession of a valid magnetic identification card.

<sup>162</sup>"High Toll of Human Rights Violations Continue," *Birzeit Human Rights Record: A Report on Human Rights at Birzeit University*, no. 14, June 1994 - March 1995.

<sup>163</sup>Nigel Parry, "Birzeit University Takes Initiative on Gaza Permits," *Jerusalem Times*, September 22, 1995.

<sup>164</sup>Birzeit University, "Academic Freedom First - Gaza Students Campaign," September 22, 1995.

<sup>165</sup>Eight Gazan professors also teach at Birzeit and need to obtain permits.

<sup>166</sup>"Academic Freedom First: Gaza Students Campaign," November 29, 1995.

<sup>167</sup>Birzeit University Press Release, October 11, 1995. For years, Birzeit had also called on Israel to issue permit rejections in writing. Israeli authorities finally complied in January 1995.

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<sup>168</sup>"Israeli Siege Paralyzes University," *Birzeit Human Rights Record*, No. 16, August 1995 - March 1996, p. 5.

During the Spring 1996 closure, almost 90 percent of Birzeit's students, faculty and staff who come from outside of Birzeit village were unable to get to the university. Although Israel did not formally shut down Birzeit University, this effectively closed down the university's operations for eleven days. Israel did formally close the University of Hebron, with a student body of 1,700, and the Hebron Polytechnic Institute, with a student body of 900, as well as the Abu Dis College of Science and Technology, with a student body of 1,050 and the College for Islamic Da'wa and Religious Affairs, with a student body of 520, both at Al-Quds University.<sup>169</sup> For the first time, the Israeli army imposed six-month, rather than the customary three-month, closure orders on these universities.

The internal closure also affected secondary schools. According to Lee O'Brien, The UNRWA elementary school in Sur Baher, a Jerusalem village, has been closed because the teachers are mainly from the West Bank. The UNRWA schools in the Jericho refugee camps have also been closed. All other UNRWA schools are at 50 percent staff. This has happened in past closures too, but it's worse this time because there is no internal movement.<sup>170</sup>

In all, an estimated 71,000 students at all educational levels were affected by the closure, and a number of universities and primary and secondary schools in the West Bank were forced to close temporarily.<sup>171</sup>

On March 11, during the Spring 1996 closure, the Israeli army also ordered all Gazans students at West Bank universities, including those holding valid student permits, to return immediately to the Gaza Strip. Those who did not comply would, according to Maj.-Gen. Biran, "face all possible consequences."<sup>172</sup> At dawn on March 28, 1996, Israeli authorities raided student dormitories and houses at Birzeit, at times arresting every resident of a building. Two hundred and eighty students — almost 10 percent of the university's student body — were arrested and detained. The students were blindfolded, and some were beaten and otherwise abused during a day of interrogation. That evening, all but seventeen were released. By May 1996, another ten had been released without charges.<sup>173</sup> This raid was reminiscent of the intifada, when studies were regularly interrupted by raids, arbitrary arrest and detention, and an average of 150 Birzeit students were detained or imprisoned every year.<sup>174</sup>

## Divided Families

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<sup>169</sup>B'Tselem, *Without Limits*, April 1996.

<sup>170</sup>Human Rights Watch interview, East Jerusalem, March 10, 1996.

<sup>171</sup>Land and Water Establishment, "Update on the Human Rights Situation in the West Bank," March 13, 1996.

<sup>172</sup>Arieh O'Sullivan and Jon Immanuel, "IDF Orders Expulsion of all Gaza Students from West Bank," *Jerusalem Post*, March 12, 1996, p. 1.

<sup>173</sup>HRAP, Birzeit University. See also, "One-Tenth of our University is Missing," Preliminary Report from Birzeit University, March 30, 1996. See also Human Rights Watch/Middle East letter addressed to Prime Minister Shimon Peres and President Yasser Arafat on April 3, 1996 and Human Rights Watch/Middle East, "Israel and Palestinian Authority Engaging in Arbitrary Arrest, Denial of Due Process and Torture in Response to Suicide Bombings: U.S. Criticized for Failure to Condemn," April 3, 1996.

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<sup>174</sup>Human Rights Action Program (HRAP), Birzeit University.

Countless Palestinian families fall into the category of “divided families.” In many cases, this means that a resident of the West Bank or Gaza has married a Palestinian with residency in East Jerusalem.<sup>175</sup> Israel does not permit them to reside together in East Jerusalem until they are granted a request for “family reunification,” which is a long and burdensome process. According to Hamoked, “Applications of families who have applied to Israel for family reunification in 1992 and 1993 have not yet been processed.”<sup>176</sup>

In such cases, spouses who reside in the West Bank or Gaza are required to apply for permits in order to enter or transit Israel on their way to visit their spouse in East Jerusalem. Such permits are generally issued for a three-month period for residents of the West Bank, including nights, but only for a one-week to ten day period, without the possibility of spending any of those nights in East Jerusalem, for residents of the Gaza Strip. Moreover, these permits are automatically revoked whenever a closure is imposed. Not only does this prevent families from being together in the short term, but it creates a backlog in family reunification requests, thus prolonging the long-term division of families.

Some divided families opt to take the risk of living together, even if they do not have official permission to do so. The American Friends Services Committee, which has extensively documented this issue, describes the case of Majda el-Ghoul, who is from Bethlehem but married to a resident of East Jerusalem. Although she has three children, Ms. el-Ghoul cannot live legally in East Jerusalem. According to the AFSC,

During a military closure when the border between Jerusalem and the West Bank is shut down, it is extremely difficult for Majda to leave her home to go to work or shop in the city. As an ‘illegal’ person in Jerusalem, she cannot pass through the military checkpoint near their home ... she cannot visit her family in the West Bank either, because if she crosses the city boundaries, she will not be allowed back into Jerusalem. According to Israeli law, Majda is not allowed to stay in Jerusalem after 7:00PM, unless she gains permanent residency status through family reunification.<sup>177</sup>

### **Interference with Religious Practice**

Many of the holiest sites of both Islam and Christianity are located in Jerusalem. For Muslims, Jerusalem is the site of the Haram al-Sharif, containing Al-Aqsa Mosque, the third holiest shrine in Islam, and the Dome of the Rock. Important Christian sites include the Church of the Holy Sepulcher, the fourteen “stations” marking Christ’s last journey, and the Mount of Olives. Jerusalem also contains dozens of pilgrimage sites for specific Christian denominations, including the Greek Orthodox, Greek Catholics, Lutherans and Anglicans, many of whose local adherents live in the West Bank. There are also important holy sites in the West Bank, such as the Church of the Nativity in Bethlehem, Shepherd’s Field near Beit Sahour and the Haram al-Ibrahimi Mosque in Hebron.

The continuing closure restricts or prevents access to these sites, in spite of the requirement in Oslo II that both sides respect and protect free access to holy sites.<sup>178</sup> Ironically, tourists and pilgrims from all over the world are usually able to visit these sites, while local Palestinians are denied access.

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<sup>175</sup> Although a detailed examination of the issue of divided families is beyond the scope of this report, it should be noted that this term also applies to the hundreds of thousands of Palestinians who fled East Jerusalem, the West Bank or Gaza due to the 1967 War, and were thereafter prevented from returning to the occupied territories, unless they were granted permission for family reunification by Israel.

<sup>176</sup>Ibid.

<sup>177</sup>AFSC, “Profile: The el-Ghoul Family,” *Family Reunification*, p.7

<sup>178</sup>Oslo II, Annex III, Appendix I, Art. 32, para 2 (b) and (c).

During the holy month of Ramadan, Muslim Palestinians typically gather for prayers in Al-Aqsa mosque every Friday. On January 26, 1996, just hours before the first Friday prayers, the Israeli army announced that the entry to East Jerusalem of residents of the West Bank under the age of thirty, and of all Gazans, even if they held valid permits, would be prohibited.<sup>179</sup> On the last Friday of Ramadan, when 40,000 were expected to attend Friday prayers in the Haram al-Sharif, Israel only partially lifted the closure on the occupied territories at 5:00PM, allowing Palestinians from the West Bank, over thirty years old and holding permits, to enter East Jerusalem.<sup>180</sup> On the last three nights of Ramadan, Israel deployed hundreds of soldiers, in full riot gear, in East Jerusalem. Clashes ensued between youths and soldiers, in which

...soldiers fired rubber bullets and tear gas, attacked would-be revelers with wooden batons, smashed food carts, shop fronts and market stalls, and left at least a dozen people badly wounded. A five-year old child lost sight in his right eye from a rubber bullet wound, while a Palestinian journalist was badly beaten while trying to photograph the violence. Soldiers forced stores on main streets in east Jerusalem to close in the afternoon on the last three days before Eid.<sup>181</sup>

On the last day of Ramadan — Eid-il-fitr — the Israeli military imposed a total closure on both the West Bank and Gaza Strip.

Due to the general closure, most local Christians, except Jerusalem residents, are unable to reach Jerusalem for weekly services, or for important occasions such as Holy Week, Easter rites, Advent or Christmas. In an April 1996 memorandum, Brother Ronald Gallagher, Rector of Bethlehem University, stated that

[A]ll West Bank Palestinian Christians were prevented from attending Holy Week services at Christian churches and sites in Israel and Jerusalem .... travel within Bethlehem was severely restricted by Israeli police on Easter Sunday in order to allow Jews to enter the town and pray at Rachel's Tomb.<sup>182</sup>

This occurred despite the fact that the Israeli army had already redeployed from Bethlehem, which was now under self-rule. Even on Easter Sunday, the Church of the Holy Sepulcher was unusually empty, consisting only of visiting pilgrims and Christian Arabs from East Jerusalem.<sup>183</sup>

## THE ECONOMIC IMPACT OF CLOSURE

The general closure and the recurrent total closures have impoverished the Palestinian economy. Even prior to the March 1993 general closure, however, the Palestinian economy was already in a fragile state, because twenty-six years of occupation had led to a high degree of dependency by the Palestinian population on trade routes, markets and jobs controlled by Israel.

The March 1993 permanent closure and recurrent total closures have also introduced significant new restrictions on business activity in the occupied territories, leading to rising unemployment and impoverishment. Israel

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<sup>179</sup>"Gazans Barred from Jerusalem Ramadan Worship," *Reuters*, January 26, 1996.

<sup>180</sup>Consulate General of Israel, *Israel Line*, New York, February 16, 1996; see also Stephanie Nolen, "Israelis Sabotage Eid: Thousands Barred from Praying in Jerusalem," *Palestine Report*, February 23, 1996, p. 3

<sup>181</sup> Stephanie Nolen, "Israelis Sabotage Eid: Thousands Barred from Praying in Jerusalem," *Palestine Report*, February 23, 1996, p. 2.

<sup>182</sup>Memorandum sent to the Board of Trustees of Bethlehem University, April 8, 1996.

<sup>183</sup>*The Jerusalem Times*, April 12.

has no obligation to *create* an optimal investment or economic environment in the territories, or to provide jobs to Palestinians. However, as described below, there is a very high correlation between the existence of commercial activity in the occupied territories, particularly in Gaza, and the ability of the population to meet its basic daily needs. When these needs are not met, Israel has an obligation to provide relief to the occupied population. This duty is heightened in view of the fact that the current economic stagnation and dependence on the Israeli economy are direct outgrowths of the long-term military occupation, and only exacerbated by the policy of closure.

### **Israel's Policy of Economic Dependency**

Since 1967, an elaborate permit system has regulated nearly every aspect of economic activity in the occupied territories. According to Al-Haq,

As early as 1967, the import, export and internal transportation of all goods within the West Bank was made contingent upon the permit system. Restrictions were introduced controlling agriculture; military orders required permits for the transport of any agricultural good as well as the registration of all tractors, diggers, cranes, compressors, ditchers and other construction vehicles. No tractor could be brought into the West Bank without the prior approval of the authorities. The planting of specific fruit trees and vegetables was similarly restricted. Other orders regulated currency transactions and money markets .... The decline of agriculture is, in turn, directly related to the process of land acquisition by the Israeli authorities.<sup>184</sup>

After the intifada began in late 1987, such permits became nearly impossible for farmers from certain regions to obtain. Agricultural productivity was further restricted by Israeli confiscations of Palestinian land and restrictions on water use.<sup>185</sup>

According to a study by the American Academy of Arts and Sciences, Israel's policies, particularly with respect to the industrial and agricultural sectors, have sought to create a barrier against the flow of inexpensive Palestinian goods to Israeli markets, which would otherwise undermine Israeli production and economic growth. By this analysis, the military government rarely granted permits for the establishment of industries that would compete with Israeli products. Palestinian exports to Israel were subjected to tariffs, generating an estimated one million dollars annually, prior to the Gulf War.<sup>186</sup> Meanwhile, Israeli products freely entered Palestinian markets, without restrictions or import duties.<sup>187</sup>

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<sup>184</sup>Al-Haq, *A Nation Under Siege*, p. 409.

<sup>185</sup>Richard Toshiyuki Drury and Robert C. Winn, *Plowshares and Swords: The Economics of Occupation in the West Bank* (Boston: Beacon Press, 1992), p. 35. See also *Report of the American Academy of Arts and Sciences*, p. 104.

<sup>186</sup>Patrick Clawson and Howard Rosen, "The Economic Consequences of Peace for Israel, the Palestinians and Jordan," Policy Paper No. 25, The Washington Institute for Near East Policy, as cited in *Report of the American Academy of Arts and Sciences*, p. 107.

<sup>187</sup>*Ibid.*, pp. 105 and 107.

Israel has also restricted trade and capital movements between the occupied territories and Arab countries, resulting in the isolation of the West Bank and Gaza from their traditional and most natural markets. Palestinian exports to and through crucial markets in Jordan, in particular, have been limited and at times cut off.<sup>188</sup> These and other restrictions placed on Palestinian exports abroad have required the Palestinians to market the little that is exported abroad through Israeli exporters and export agencies, at a higher cost than they would otherwise incur.<sup>189</sup>

Tight restrictions have impeded even the construction sector, once considered one of the most potentially profitable in the occupied territories. In an extensive study of impediments to investment in the occupied territories, the Palestinian Businessmen's Association identified a number of problem areas. The Association's analysis of restrictions on construction in East Jerusalem is illustrative:

Only 21 percent of the land that remains in Palestinian hands [in East Jerusalem] is zoned for construction.... Building height in Arab neighborhoods in East Jerusalem may not exceed two stories; [Jewish neighborhoods] are entitled to as many as eight stories.... To build a house in East Jerusalem, a detailed master plan for each parcel of land is required and the process may take two to three years, at a cost of US\$20,000. It takes another two years to get the actual permit to start construction.<sup>190</sup>

Such policies have stifled economic growth in the occupied territories and created a relationship of dependence that made it impossible for the Palestinian economy to function on its own. Since the intifada, Palestinian productivity has been further hampered by widespread human rights violations, including killings, injuries, mass detentions, prolonged curfews and closures; in addition to these Israeli actions, political strikes called by Palestinian leaders further interfered with Palestinian productivity. Due to the shortage of viable economic opportunities in the territories, tens of thousands of Palestinians have had no other option in order to support themselves and their families but to seek employment in Israel.

### **The Rise in Unemployment**

The closure has led to significant local unemployment within the West Bank and Gaza. At the same time, Israel has gradually reduced the number of Palestinian workers permitted to work in Israel, from 130,000 in 1987 to 35,000 prior to the Spring 1996 closure.<sup>191</sup> Repeated total closures have prevented even those with permits from getting to work. (See section on Palestinian Labor in Israel, below.) As a result, more and more families have found themselves struggling to survive.

The number of Palestinians working inside Israel dropped by almost 50 percent in the first eight months after the general closure was first imposed in March 1993; in Gaza, the unemployment rate rose to 55 percent during this period.<sup>192</sup> According to UNRWA, Gaza alone suffered a loss of \$38 million during the first two months of the closure.<sup>193</sup> The resulting decreases in purchasing power, savings, and consumption patterns adversely affected local markets, wages and domestic employment, and led to halts in production. While many forms of economic activity have since resumed, the general closure has had a long-lasting impact on the occupied territories, particularly the already poor Gaza Strip, adding to the class of permanently unemployed, and causing even more families, ever dependent on Israel for income, to plunge into indebtedness or below the poverty line.

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<sup>188</sup>Ibid., pp. 38-39.

<sup>189</sup>Muna Jawayh, *The Palestinian-Israeli Trade Agreements: Searching for Fair Revenue-Sharing* (Jerusalem: Palestine Economic Research Institute (MAS), December 1995), p. ix.

<sup>190</sup>Palestinian Businessmen's Association, "Impediments to Investment in East Jerusalem," Autumn 1995, pp. 4-5.

<sup>191</sup>See Sarah Roy, "Separation or Integration: Closure and the Economic Future of the Gaza Strip Revisited," *Middle East Journal*, vol. 48, no. 1, winter 1994, p. 12, and Kav La'oved - Workers Hotline for the Protection of Workers' Rights, "Employment of Palestinian Workers in Israel," *Newsletter*, October 1995.

<sup>192</sup>Roy, *The Politics of De-development*, p. 313.

The euphoria surrounding the signing of the Declaration of Principles in 1993 and pledges of assistance to the PA have yielded few visible economic benefits in the occupied territories. Job growth has lagged far behind population growth.<sup>194</sup> At the same time, those who are locally employed are constantly prevented, due to the recurrent total closures, from getting to their jobs in other parts of the occupied territories; during such periods, they often do not receive salaries. Moreover, as described below, onerous restrictions on local businesses have led to a dramatic decline in profitability. This has created enormous job instability and, in many cases, led to dismissal of employees or bankruptcies.

Before the Spring 1996 closure, the Palestinian Ministry of Labor estimated the unemployment rate in Gaza at 35 to 40 percent; others, including UNRWA, placed it as high as 55 percent.<sup>195</sup> In the West Bank, the figure was 13 percent.<sup>196</sup> These figures do not include those who have work permits but are unable to reach their jobs in Israel due to regular closures. The desperation for jobs is evident in the response to job openings. For example, an announcement by the Palestinian Ministry of Education of four hundred new jobs in the summer of 1994 elicited 7,000 applicants. UNRWA has received similar responses to its job openings.<sup>197</sup>

The job shortage has contributed to poverty; a 1995 study concluded that "the Palestinian family can meet its basic needs if one of its male members [has] a regular job."<sup>198</sup> Terje Larsen, the United Nations Special Representative for the Occupied Territories, estimates that every Gazan who works in Israel is able to feed ten people.<sup>199</sup> Following the Spring 1996 closure, unemployment, which had already been quite high, reached at least 60 to 70 percent in Gaza and 40 to 50 percent in the West Bank.<sup>200</sup> As a result, according to Dr. Sarah Roy, an economist at Harvard University, the poverty rate in Gaza rose to an estimated 25 to 30 percent.<sup>201</sup> Growing unemployment has made more families dependent upon cash or food assistance. UNRWA, for example, has reported an increase in requests for food aid since the Spring 1993 Closure, which it has been unable to meet due to its limited food stocks.<sup>202</sup>

## The Palestinian Authority

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<sup>194</sup>Hass, "Gaza's Workers and the Palestinian Authority," *Middle East Report*, May-June/July-August 1995, p. 26-27 and note 8.

<sup>195</sup>Hass, "Gaza's Workers and the Palestinian Authority," p. 26.

<sup>196</sup>Palestinian Central Bureau of Statistics, *Labor Force Survey*, September - October 1995 Round.

<sup>197</sup>Hass, "Gaza's Workers and the Palestinian Authority," p. 26.

<sup>198</sup>Radwan A. Shaban and Samia M. Al-Botmeh, *Poverty in the West Bank and Gaza* (Jerusalem: Palestine Research and Economic Policy Research Institute (MAS), November 1995), pp. xxxi. According to the study, "as a lower bound estimate ... 20 percent of the population of Gaza is poor."

<sup>199</sup>David Makovsky, "...While Peres Ponders Ending Open Borders," *Jerusalem Post*, March 1, 1996, p. 7.

<sup>200</sup>American Near East Refugee Aid, "Middle East Trip Report," April 8-27, 1996 (hereinafter "ANERA Report"), p. 6.

<sup>201</sup>Sarah Roy, Talk at the Center for Policy Analysis on Palestine, Washington, D.C., May, 15, 1996.

<sup>202</sup>Interview with Bill Lee, Chief - UNRWA Liaison Office, New York, May 24, 1996.

The PA, suffering daily losses from the closure, has been unable to provide adequate assistance to a needy population. This is primarily due to the substantial losses that the Palestinian economy has experienced due to closure.<sup>203</sup> According to the PA, daily losses are five-six million dollars per day.<sup>204</sup> The U.N.'s Terje Larsen estimates that total closure applied throughout an entire year would lead to a loss of at least \$750 million per year, which is more than the thirty-five donor countries give annually to the PA.<sup>205</sup>

Losses to the Palestinian economy during closure result from a range of factors, including the interruption of economic activity and local unemployment. Restrictions on movement prevent many from getting to their jobs in other parts of the occupied territories; during such periods, they often do not receive salaries. These losses are compounded by the increasing inability of Palestinians to work in Israel. In Gaza, for example, at least 30 percent of the GNP constitutes wages gained from employment in Israel.<sup>206</sup> At the same time, cumbersome security measures and frequent closures have served as a major impediment to the profitability and development of the private sector, which accounts for up to 85 percent of Palestinian GDP (see below.) This has led to a further decline in local employment.

Between February 25 and April 4, 1996, the PA's estimates of the total direct losses to the Palestinian economy from wage losses alone came to US\$78.3 million.<sup>207</sup> The total loss to the economy was estimated at US\$244.3 million.<sup>208</sup> To counteract the impact of the closure, the PA regularly turns to donor countries which, following the 1993 Declaration of Principles, had pledged more than US\$2.5 billion over a five-year period. This international assistance effort is being coordinated by the World Bank. By the end of 1995, less than 50 percent of the \$1.26 billion commitments for 1994-95 — or \$603 million — had been disbursed, and only \$480 million had actually translated into activities on the ground.<sup>209</sup>

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<sup>203</sup> An additional problem which has not been well-documented but is growing more serious, is the fact that many Palestinian state enterprises have become monopolies, resulting in the distortion of prices for essential commodities such as flour, sugar, petroleum, steel and tobacco. Many of these monopolies are run by individuals who hold senior positions within the PA or are simply close to President Arafat. This issue was raised by Dr. Roy during her talk at the Center for Policy Analysis on Palestine, Washington, D.C., May 15, 1996.

<sup>204</sup> Interview with Samir Huleileh, PA deputy minister of economics, trade and industry, in *Palestine Report*, March 15, 1996.

<sup>205</sup> David Makovsky, "...While Peres Ponders Ending Open Borders," *The Jerusalem Post*, March 1, 1996, p. 7.

<sup>206</sup> Graham Usher, "Palestinian Trade Unions and the Struggle for Independence," *Middle East Report*, May-June/July-August 1995, p. 20.

<sup>207</sup> Palestinian Bureau of Statistics, as cited by Dr. Sarah Roy, talk at Center for Policy Analysis on Palestine, Washington, D.C., May 15, 1996.

<sup>208</sup> *Ibid*, Roy.

<sup>209</sup> Joachim Zaucker, Andrew Griffel and Peter Gubser, *Toward Middle East Peace and Development*, InterAction Occasional Paper, December 1995, pp. 8-9.

Not only has the level of international assistance to the PA failed to meet expectations but, according to the *Jerusalem Post*, "Some European envoys have privately complained that the donors feel that they are offsetting the effects of the closures instead of having the money spent on infrastructure projects."<sup>210</sup> For example, to combat the dramatic consequences of the Spring 1996 closure, donor countries were forced, as with past total closures, to divert contributions that would otherwise have gone to investment and development projects, to emergency measures and budget support. This included a \$23 million World Bank-administered emergency job creation program in March 1996, which created 15,000 to 20,000 jobs in the West Bank and Gaza, for periods ranging from ten days to three weeks. Similarly, at a January 1996 meeting, donor countries noted significant progress in the reduction of Palestinian budget deficit, from \$260 million to \$120 million, with a projected budget deficit for 1996 of \$75 million.<sup>211</sup> Following the Spring 1996 closure, however, the deficit was projected at \$180-200 million and donors expected a cash-flow crisis in the PA by June or July 1996.<sup>212</sup> Thus, additional donor money had to be diverted to budget support.

### **Impediments to Investment and Business**

In addition to disrupting the travel of local workers to jobs inside the occupied territories, thus causing significant staff shortages, the complex and highly burdensome security measures imposed by Israel through closure impede the normal functioning and profitability of local businesses. When goods and workers are held up or blocked at borders, businesses inside the West Bank and Gaza are either unable to pay their employees or, in many cases, must shut down their operations altogether, leading to more unemployment.

Because of the severe impact of its policies, Israel has an obligation to take steps to reduce the harm. In particular, it should address the fact that many of the haphazard, unclear and burdensome security procedures implemented have made Palestinian trade with the outside world less competitive and logically difficult. These factors, combined with frequent closures, have led to a climate of uncertainty and reduced investor confidence, as businesses find it increasingly difficult to plan or meet production and delivery schedules. Many of the procedures require the payment of additional fees for Israeli middlemen, agents and vehicles, and are thus favorable to Israeli importers and businesses, while raising costs for Palestinians.

### **Increased Costs and Delays**

Due to the closure, almost all businesses have reported an increase in costs and a decrease in profitability. According to Majid Abu Daqa, the director of the Abu Daqa Sewing Company in Gaza,

With these closures our gross profits don't even cover our costs. Paying for the convoys [see below] adds about 10 to 15 percent to our costs. Then we have to pay for loading and unloading. Even though we don't operate at capacity we can't just fire people; we still have to pay all the wages, insurance, licensing, and for the cars that we own but can't get permits for. Our profits are destroyed.<sup>213</sup>

The closure has had a devastating impact on many businesses. A survey of the textile industry, for example, found that "Interrupted delivery of goods has, since the Oslo agreement, forced the closure of 350 textile shops in Gaza, fully one-third of the textile companies in the Gaza Strip."<sup>214</sup> The shoe industry in Hebron has also suffered due to the

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<sup>210</sup> David Makovsky, "...While Peres Ponders Ending Open Borders."

<sup>211</sup> Dr. Sarah Roy, Talk at the Center for Policy Analysis on Palestine, Washington., D.C., May 15, 1996.

<sup>212</sup> ANERA Report, p.6.

<sup>213</sup> Human Rights Watch telephone interview, Gaza, March 13, 1996.

<sup>214</sup> Palestinian Businessmen's Association, "Israeli Impediments to Investment in Palestine," Autumn 1995, p. 4.

lack of access to Israeli shoe wholesalers, putting a large portion of its 3,000 laborers out of work.<sup>215</sup> According to Khaled Asaileh, the director of the company Asaileh for Trade,

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<sup>215</sup>ANERA Report, p. 7.

Due to the closure, our company almost shut down its operations, since 70 percent of the deliveries were to Jerusalem and Israel. Physically delivering the merchandise was impossible. Very few employees could get permits so we had no sales.<sup>216</sup>

The United Arab Plastic Corporation in Jerusalem reports a 50 percent decrease in profits since the 1993 closure, which its director attributes to the inability of workers to come to Jerusalem from the West Bank and the resulting decline in production.<sup>217</sup>

Ali Hassasna, the head of a bus company in the Bethlehem area, stated that the company had suffered losses every year since the Gulf War, but that its income had declined a further 60 to 65 percent since the March 1993 closure:

Since the end of 1995, no Palestinian bus companies have permits to enter Jerusalem from the West Bank; before that, only two of our buses and drivers had permits for Jerusalem. The buses are not running but we still have to pay our taxes, insurance and wages. Soon we will have to sell the buses — this cannot continue.<sup>218</sup>

The closure regularly interrupts the productivity of even potentially productive sectors. For example, the Gazan construction sector has a daily need for 3,000 tons of cement. Between March 25 and 31, 1996, only 6,096 tons of cement were allowed into Gaza. In addition, vehicles transporting gravel from the West Bank were not permitted into Gaza between February 25 and March 27, at which point, only twenty vehicles a day were allowed in, according to the Palestinian Centre for Human Rights.<sup>219</sup> As a result, donors estimate that 23,000 Palestinians employed in the construction sector found themselves without jobs.

Restrictions imposed by the closure have also led to significant delays for businesses. Fuad Dweik, of the United Arab Plastic Corporation in Jerusalem, noted:

Due to the closure and its pressures, the traveling time has extended tremendously. A truckload delivery to Tel Aviv before the closure would take forty-five minutes. Now, sometimes it can take a week.<sup>220</sup>

Kamal Hassouneh, director of the Eastern Electrode Metal Corporation, describes the obstacles and expenses that his company confronts:

When deliveries are being sent to Gaza, [Israeli] trucks have to be rented by West Bank traders for one thousand shekels [over US\$330], to deliver to the Erez checkpoint only. From Erez, traders have to rent a Gazan plated truck and from Erez to Gaza they have to pay another seven hundred shekels [US\$230].

### **Restrictions on the Movement of Goods**

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<sup>216</sup>Palestinian Businessmen's Association, "Impediments Facing Palestinian Businessmen in Their Different Regions," Autumn 1995, p. 5.

<sup>217</sup>Palestinian Businessmen's Association, "Impediments Facing Palestinian Businessmen in Their Different Regions," p. 1.

<sup>218</sup>Human Rights Watch telephone interview, Bethlehem, March 6, 1996.

<sup>219</sup>Palestinian Centre for Human Rights, "Closure Update No. 5," April 3, 1996, p. 4.

<sup>220</sup>Palestinian Businessmen's Association, "Impediments Facing Palestinian Businessmen in Their Different Regions," p. 1.

The decline in profits of West Bank and Gaza businesses is linked to restrictions on movement. Since the West Bank and Gaza have had no port or international airport during the occupation, a significant portion of imports and exports go through Israel. Other than a limited number of Palestinian vehicles, only Israeli trucks may transport goods, adding significantly to transport expenses for Palestinians. Otherwise, Palestinian trucks can travel in convoys to Ashdod port in Israel to deliver or pick up goods, escorted by Israeli vehicles. The trucks participating in a convoy "must arrive at Erez at 7:00AM, but they are often kept waiting until 3:00 or 4:00PM; as a result, by the time they reach Ashdod, the port may already be closed."<sup>221</sup> According to Abu Daqa,

There are only twenty Palestinian vans that are licensed to go into Israel in these convoys. It can take hours at the checkpoint to have all of our goods checked and loaded and unloaded, or sometimes they don't allow us to pass through at all. If there are delays, sometimes the Israeli patrols just won't wait, and then we can't deliver our goods at all.<sup>222</sup>

Except for this limited number, no Palestinian vehicles are provided permits to cross into Israel, even if they are traveling only to the West Bank. In early February 1996, for example, only 600 of the 3,200 trucks in Gaza were permitted to use the Karni crossing; a closure imposed on February 12 reduced this number to 200. The Spring 1996 closure altogether closed the Karni crossing from February 25 until mid-March, when limited use was permitted. By late May, passage had still not reached pre-March 1996 levels.<sup>223</sup>

Palestinians also need special permits to enter Ben Gurion airport in Israel, even if they have a permit to enter Israel. Therefore, according to Nabil Buwab, a director of APICO, a flower exporting business,

Our flowers are taken from Gaza to Erez; they are unloaded into Israeli cars and taken to Ben Gurion airport. There, we can't enter the airport, so we have to have an Israeli agent who we pay to do all the paperwork.<sup>224</sup>

### **Security Procedures at Crossings**

Israel has imposed exhaustive clearance procedures at the Karni and Erez crossings on the Gaza-Israeli border, as well as at the bridges connecting the West Bank and Jordan. As mentioned, these transit points are completely inaccessible during total closures, but even when closures are eased or lifted, complex procedures have made crossing prohibitively expensive and time-consuming for many businesses. Palestinian trucks transporting goods from Gaza to the West Bank are stripped down at the border and the merchandise is unloaded and then reloaded on the Israeli side after it has gone through a security check; similar procedures exist for the movement of goods between the West Bank and Jordan.

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<sup>221</sup>Palestinian Businessmen's Association, "Impediments from Gaza," Autumn 1995, p. 1.

<sup>222</sup>Human Rights Watch telephone interview, Gaza, March 13, 1996.

<sup>223</sup> Arieh O'Sullivan, "Yanai: IDF Troops at Crossing Failed to Detect Bomber," *Jerusalem Post*, March 11, 1996, p. 2.

<sup>224</sup>Human Rights Watch telephone interview, Gaza, March 13, 1996.

Even at the Karni crossing, which was specifically designed to facilitate the crossing of vehicles for commercial purposes, the security measures fail to take commercial considerations into account. Dozens of Israeli and Palestinian trucks wait back-to-back for hours, while goods are transferred under the supervision of Israeli authorities.<sup>225</sup> Since no refrigeration or containers are made available, delays at checkpoints can often damage perishable or fragile merchandise. Truckloads of fresh produce, for example, one of the primary exports of the occupied territories, often rot after sitting in the sun for hours; merchandise can also sustain damage due to improper handling when moved from Palestinian to Israeli trucks. Goods are loaded and unloaded using Israeli fork lifts or work crews, for which additional fees are charged. Due to the time-consuming nature of the checks and resulting delays, importers into the occupied territories must pay extra costs for storage. According to Kamal Hassouneh, "Three months ago the Electrode factory had a truck delivery (ten tons) to Gaza. The truck was stuck at Erez checkpoint for twenty days."<sup>226</sup>

Because permits are so difficult to obtain, companies cannot use their staff effectively. At the Electrode Factory, for example, only two of sixty employees have been able to obtain permits.<sup>227</sup> Companies cannot simply send their staff, or hired drivers, to other parts of the occupied territories or to Israel. Thus, the head of the business, assuming that he receives a permit, is often the only person able to transport goods. According to Hassan Badran of the Badran Factory for Fashion and General Trade,

Before the closure, my employees would go to Tel Aviv and bring the company all its needs. After the closure, none of them can get permits and I am the only person who can go to Tel Aviv. This is impossible; I have to let the Israelis bring me what the company needs. This gives privileges to the Israeli companies; it lets them take advantage of our company, and to impose costs on us by force, which we have no choice but to accept.<sup>228</sup>

Michael Rishmawi, who runs Al-Walid Medical Training Co., Ltd., a pharmaceutical company in the West Bank city of Ramallah, told Human Rights Watch:

Pharmaceutical products must be registered in Israel, so everything from abroad must come through Israel. Therefore, we must hire an Israeli to serve as middleman for receiving the goods. During the present [Spring 1996] closure we can't go to Israel to pick up our goods, and I have drugs that are supposed to go to Mokassed, Augusta Victoria and Bethlehem Hospital. Since March 7 they are allowing some severe humanitarian emergency things to get in, but there is so much bureaucracy that it's still delayed. Even before this closure, I had to wait one to two weeks each time to get a permit. I do a lot of business in Gaza and it's very difficult to get permits.<sup>229</sup>

Mohammed Yaziji of the Union of Industrialists of the Gaza Strip describes the additional expenses and delays that he now encounters

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<sup>225</sup>Trucks carrying medical supplies must go through the same procedures. According to PHR-Israel, "The trucks unload at the Erez Industrial Zone [in Israel] ... and only after a special permit is extended are the Gazan trucks allowed to enter the area and reload the drugs and medical equipment. This "back-to-back" method leads to a triple-digit increase in the rate of shipment and can delay, sometimes for days, the transfer of foods, medicines or urgent materials such as oxygen that may be running low. In some cases, the long wait in the sun has led to drug spoilage." See PHR-Israel, *Annual Report 1994*, p. 22.

<sup>226</sup>Palestinian Businessmen's Association, "Impediments Facing Palestinian Businessmen in Their Different Regions," pp. 4-5.

<sup>227</sup>Ibid.

<sup>228</sup>Ibid., p. 4.

<sup>229</sup>Human Rights Watch interview, Ramallah, March 9, 1996.

Usually I cannot leave Gaza because of the strict closure. If I get a permit to enter Israel, I can use two different procedures. I can rent an Israeli taxi which takes me to and from Erez. This will cost US\$150. Or if a Gazan car or taxi has a permit to enter Israel I can go with him. But at Erez they make all Palestinian cars stop. The security check for the car or taxi takes about half an hour. With all the other security checks, it takes about two to four hours at Erez.<sup>230</sup>

### **Movement of Businesspersons and Investors**

Even with respect to investors, Israel determines who can enter and leave the West bank and Gaza Strip. Arab investors, for example, are granted only one-week business visas. Israel also impedes travel by Palestinian businesspersons and investors between the occupied territories, to Israel or abroad, for the purpose of meeting with business contacts and promoting their businesses. At the same time, Israeli products penetrate the Palestinian borders with little competition, and unimpeded by any administrative or tax barriers.

According to Muhammad Qudwa, the Chairman of the Palestine Chamber of Commerce, I have not been able to go to Tel Aviv for the last two months, and I am the chairman of the Chamber of Commerce. If permits are given to us to go to Israel, we cannot return to Erez any later than 5:00PM, or stay overnight in Israel or the West Bank; otherwise, our permits are automatically taken away from us. Traveling to Amman is more difficult than before. They make very scrutinizing checks on us all. It's so humiliating to go to Amman that people no longer want to go.<sup>231</sup>

Even those who hold valid permits can be arbitrarily denied entry to Israel. On October 24, 1995, for example, three prominent businesspersons representing the Palestinian Businessmen's Association had a meeting in Tel Aviv with the Israeli Military Coordinator for the West Bank to discuss the very issue of travel impediments. At the checkpoint, soldiers refused to permit them to pass, even though all three held valid permits, as well as VIP cards issued by the Israeli CLA, and were expected at a meeting.<sup>232</sup>

According to Tareq Elhait, manager of the Huda textile factory in Nablus,

I want the [PA] to make it easier for me to go outside the territories with my goods. I no longer want to be restricted by Israeli rules. I don't want to have to gain permission from the Palestinian Authority and then hear from the Israeli authorities that this is allowed but that isn't allowed. As an example, I am prevented from going inside Israel, from going outside the territories and from going to Jordan. I have no permission to travel and I have a factory with a turnover in the millions.<sup>233</sup>

## **PALESTINIAN LABOR IN ISRAEL**

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<sup>230</sup>Palestinian Businessmen's Association, "Impediments Facing Palestinian Businessmen in Their Different Regions," p. 6.

<sup>231</sup>Ibid., p. 5.

<sup>232</sup>Palestinian Businessmen's Association, "Israeli Impediments to Investment in Palestine," p. 5.

<sup>233</sup>Elizabeth Price, "Israeli Middlemen Create Difficulties for Clothing Industry," *The Jerusalem Times*, March 1, 1996, p. 10.

One of the most serious consequences of the general closure is that it prevents tens of thousands of Palestinian workers, primarily in the agriculture and construction sectors, from getting to work in Israel each day. This is not, *per se*, a violation of any international standard. Certainly, every sovereign nation has the right to regulate the entry into its territory of foreigners seeking employment. Moreover, the 1994 Economic Protocol signed by Israel and the PLO gives each side "the right to determine from time to time the extent and conditions of the labor movement into its area."<sup>234</sup> However, Israel, as the Occupying Power and the creator of a dependent economy in the occupied territories, has the duty to weigh restrictions on laborers entering Israel against the negative impact that such restrictions will have on the occupied population. Until the occupation ends or the economic dependency is considerably reduced, this history imposes on Israel the obligation to maintain the basic welfare of the occupied population by allowing Palestinian day laborers to work inside Israel, or provide relief to the tens of thousands of workers who have been accused of no wrongdoing but have lost their jobs due to over three years of closure and whose families face destitution as a result.<sup>235</sup>

### **A Tradition of Palestinian Labor in Israel**

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<sup>234</sup>Economic Protocol, Art. VII.

<sup>235</sup>According to a 1994 Israeli defense establishment study and press reports following the spring 1996 bombings, not a single attack within Israel has been committed by a Palestinian holding a work permit. Report cited in *Ha'aretz*, July 7, 1994, as reported in FBIS.

As described above, economic dependency on Israel has created a situation where, for decades, tens of thousands of Palestinians have had little choice but to seek employment in Israel. During this time, Palestinian workers had made the same contributions to social security as Israeli workers but did not receive unemployment insurance, pensions, general disability insurance or maternity leave; instead, their benefits were limited to compensation for work-related accidents, employer bankruptcy and childbirth in an Israeli government hospital.<sup>236</sup> Between 1970 and 1987, for example, the number of Gazans working in Israel jumped from 6,000 to 80,000; another 40,000 Palestinians from the West Bank were also employed in Israel by 1987.<sup>237</sup> The closures and curfews imposed during the intifada, as well as the Gulf War, significantly reduced this figure. Then, following the general closure of March 1993, Israel once again reduced the number of workers eligible to receive permits, this time down to 65,000.<sup>238</sup> Prior to the March 1996 closure, the quota for workers eligible to receive permits had been further reduced to 34,750; 17,950 permits were issued to residents of the West Bank and 16,800 to the Gaza Strip.<sup>239</sup> Several weeks after the March 1996 closure, Israel permitted the entry of only 7,000-10,000 workers. However, even these workers were prevented from reporting to work by a closure imposed during Israel's Memorial day and Independence day holidays, from April 22 to April 25, 1996.<sup>240</sup> In early June 1996, 22,000 workers from the occupied territories were issued work permits — the most significant easing of the closure since the February and March bombings.<sup>241</sup>

Just as the weakness of the Palestinian economy has benefited the Israeli economy, the employment of Palestinian labor has also Israel offered distinct advantages. Palestinians have accepted jobs that Israelis shun, particularly in the agriculture and construction sectors, working for wages that are on average one-third lower than Israeli workers in roughly comparable positions.<sup>242</sup> They are also non-unionized and thus present few challenges to their employers. This history has given rise to certain duties. According to Kav La'oved - the Workers' Hotline for the Protection of Workers' Rights in Israel:

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<sup>236</sup>See Kav La'oved, "Lawsuit Demanding Full Social Rights for Workers from the Territories," *Newsletter*, February 1994, p. 2, and "Palestinian Social Rights Lawsuit Dismissed," *Newsletter*, October 1995, p. 4. In December 1994, pursuant to the Oslo Accords, the Knesset legislated the transfer to the PA of all future national insurance (social security) payments deducted from Palestinian wages. However, attempts to recover the deductions that had accumulated over the past twenty-four years have been largely unsuccessful, revealing a discriminatory policy towards Palestinian workers in Israel. In October 1995, the Jerusalem District Court dismissed a lawsuit for the refund to Palestinian workers of an estimated one billion dollars in national insurance deductions since 1970, arguing that the 1994 Knesset law retroactively canceled any obligations of the Israeli government with respect to past deductions from Palestinian salaries. More important, the court concluded that the deductions from Palestinian salaries had never been intended to be repaid as benefits; rather, the deductions had been made in order to "equalize" Palestinian and Israeli wages, thus protecting Israeli workers from having to compete with the cheap labor supply available in the West Bank and Gaza. In fact, however, salaries for Palestinian workers in Israel have been, on average, one-third lower than those of Israeli workers. See note 244, below.

<sup>237</sup>Human Rights Watch telephone interview with Dr. Sarah Roy, Boston, May 17, 1996.

<sup>238</sup>Usher, "Palestinian Trade Unions," p. 21.

<sup>239</sup>Kav La'oved - Workers Hotline for the Protection of Workers' Rights, "Employment of Palestinian Workers in Israel," *Newsletter*, October 1995. The quotas are occasionally altered. On December 9, 1995, for instance, Israel announced that 9,500 additional laborers would be permitted to enter Israel from the West Bank and Gaza. *Reuters*, December 9, 1995. It should also be noted that tens of thousands of illegal Palestinian workers have managed to penetrate Israel annually and find jobs without permits.

<sup>240</sup>*Reuters*, April 22, 1996.

<sup>241</sup>Consulate General of Israel, *Israel Line*, New York, June 5, 1996.

<sup>242</sup>Usher, "Palestinian Trade Unions," at 20.

As long as there is no independent Palestinian state, Israel, as the occupying power, remains ultimately responsible for the welfare of the Palestinian population in the territories. After twenty-eight years of enforced economic dependency, Israel cannot suddenly shrug off all economic and social responsibility for West Bank and Gaza Palestinians, and begin to treat workers who only yesterday built the country's infrastructure and harvested its crops — as criminals.<sup>243</sup>

Since Oslo II, the economic situation in the territories has remained grim, and few new jobs have been created. Meanwhile, the 25 percent increase in the cost of living since the installment of the PA in July 1994 has made Palestinians even more desperate for the few existing jobs, most of which are in Israel.<sup>244</sup> Thus, when there is no total closure in place, the highly reduced number of Gazans who still receive permits continue to gather at 3:00AM at the Erez checkpoint, to go through stringent security checks prior to beginning their daily trip into Israel, where they begin work at 7:00AM.

### **Restrictions on Palestinian Labor**

The introduction, in August 1989, of magnetic identification cards for Gazans presented yet another obstacle to the ability of Palestinians to work in Israel. In order to apply for a permit, a Gazan must already possess a magnetic card. As with permits, Israeli authorities do not provide reasons for denial of magnetic card. Moreover, magnetic cards are only provided to Palestinians who have no record of "criminal" activities, which essentially means no history of political activism.<sup>245</sup>

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<sup>243</sup>Kav La'oved, "Mass Arrests of Palestinian Workers Without Permits," *Newsletter*, October 1995, p.3.

<sup>244</sup>Usher, "Palestinian Trade Unions," at 21.

<sup>245</sup>PHR-Israel, *Annual Report 1994*, p. 18.

In Gaza, the general rule is that workers must be married and over the age of thirty in order to be eligible to receive a work permit. However, this rule is made temporarily stricter with each new closure. For example, a nearly month-long total closure imposed on the territories in September 1995 was partially lifted on October 17, 1995, but it was announced that only married West Bank workers above the age of thirty, and Gazan workers above the age of thirty-five, would be permitted to enter Israel.<sup>246</sup> During the closure imposed in March 1996, some 7,000 agricultural workers ages forty and above were gradually permitted to return to work in Israel. Age requirements pose particular difficulties in the Gaza Strip, where a high percentage of the work force is between the ages of twenty-five and thirty.<sup>247</sup> A decision in April 1996 to allow certain workers over the age of thirty to return to their jobs at the Erez Industrial zone was carried out in a discriminatory manner, since only Palestinian workers employed by Israeli, rather than Palestinian businesses, were permitted to return to work.<sup>248</sup>

### Arrests of Workers

Because the ongoing policy of closure and quotas on permits has kept tens of thousands of workers from getting to their jobs in Israel and led to mass unemployment among Palestinians, many workers have sought to enter Israel secretly, without permits, in the hopes of finding work. This has, in turn, led to arrests of workers who are charged with illegal entry, fined and subjected to prison sentences of up to one year. Thousands of such arrests are made each month; according to the Police Ministry, over 40,000 arrests were made in 1995 of Palestinian workers found in Israel without permits.<sup>249</sup> According to Kav La'oved, the Workers' Hotline for the Protection of Workers' Rights in Israel, this policy of arrests "could turn thousands of formerly legal workers in Israel into criminals serving prison time."<sup>250</sup> In addition,

often workers with valid working permits were being arrested during hours when their permits were in force, often when they went out to buy something to eat or when they were sent out on an errand by their employers .... Many of the workers who have been arrested have attempted to explain to the police that their permits are valid but they have been told that they are permitted to be only inside the work area. If they have to go out for any reason, they must be accompanied by their employer. Palestinian workers have been taken off buses, told that it is illegal for them to use public transport—and then arrested... The spokesman for the Police has not found it necessary to clarify precisely what 'illegal' presence is."<sup>251</sup>

### Addressing the Labor Issue

Just as Palestinian laborers depend on Israel, Israel depends on Palestinian labor, which offers concrete advantages to the Israeli employer. In order to offset the regular absence of Palestinian workers due to closure, Israel is relying increasingly on foreign migrant workers. Prior to the March 1996 closure, Israel employed nearly 80,000 legal and 100,000 illegal foreign workers, primarily from Eastern Europe and Asia.<sup>252</sup> Less than a week into the Spring 1996

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<sup>246</sup> Arieh O'Sullivan, Chief Liaison officer: PA Crackdown Bearing Fruit," *Jerusalem Post*, March 8, 1996, p. 2.

<sup>247</sup> Amira Hass, "8,000 Workers from Gaza, Aged 35 and Over, to Work in Israel," *Ha'aretz*, October 18, 1995.

<sup>248</sup> Amira Hass, "Erez Employers Complain about Stricter Conditions for Employing Palestinians," *Ha'aretz*, March 20, 1996.

<sup>249</sup> Policy letter from Ido Guttman, Reconnaissance Unit of Police Ministry, January 29, 1996.

<sup>250</sup> Kav La'oved, "Mass Arrests of Palestinian Workers without Permits," *Newsletter*, October 1995, p. 2.

<sup>251</sup> Kav La'oved, "Twilight Zone," *Newsletter*, March 1992.

<sup>252</sup> Reli Sa'ar, Aluf Ben and Amira Hass, "Peres Considering Easing Closure; Territories Coordinator: Strip on Brink of Starvation," *Ha'aretz*, March 11, 1996, p. 1.

closure, the government approved import permits for an additional 13,000 foreign workers in the construction sector and 3,500 in agriculture.<sup>253</sup>

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<sup>253</sup>Ibid.

At the same time, many Israeli officials have recognized that the severance of access to jobs in Israel would harm the Palestinian economy and prospects for peace. In February 1995, then-Environment Minister Yossi Sarid proposed that the Israeli government make a monthly payment to the PA equivalent to the wages earned in Israel by Palestinian laborers, in exchange for a permanent closure. This money was to be invested in infrastructure, in order to help create more jobs in the territories.<sup>254</sup> The proposal was never adopted by the government. On March 17, 1996, Prime Minister Peres proposed the establishment of a \$150 million international fund, to which Israel would also contribute, aimed at creating alternative jobs for Gazans who had previously been employed in Israel.<sup>255</sup> However, the Israeli government did not follow up on this announcement in the ensuing months.

So far, the only long-term Israeli project that has addressed the labor issue has been the plan to establish labor intensive industrial zones in the territories. Modeled on similar projects in Mexico and Taiwan, these zones would seek to reduce the need for Palestinian employment inside Israel. However, these plans have not progressed very far. In the meantime,

Israel has been quietly building 'pockets of infrastructure' adjacent to the territories. Capital will be invested by joint Israeli, Palestinian and foreign ventures, but tied to main contractors in Israel and directed to labor-intensive industries such as food-processing, textiles and furniture-making. The parks are adjacent to the territories but not in them, hence coming under Israeli jurisdiction and subject to Israeli tax rates and U.S. tax breaks. The main draw for these investments is the mass reserve of cheap labor that lies at their edge .... Israeli (and other) capital enjoys the profits from surplus Palestinian labor without the social costs of security hassles or surplus Palestinian laborers on its turf.... Under self-rule, most Palestinians will be relocated in these peripheral adjuncts to the Israeli economy.<sup>256</sup>

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<sup>254</sup>Hass, "Gaza's Workers and The Palestinian Authority," p. 28.

<sup>255</sup>"Fund for Palestinians Proposed: Israel Says Borders will Remain Closed Indefinitely," *Washington Post*, March 18, 1996.

<sup>256</sup>Usher, "Palestinian Trade Unions," p. 21.

*Human Rights Watch/Middle East*

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## APPENDIX

### Dates of Israeli-Imposed Closure of the Gaza Strip September 13, 1993 - June 30, 1996

MONTH	DATES OF CLOSURE
Sept. 1993	<b>15-19, 24-26</b>
Oct. 1993	
Dec. 1993	
Jan. 1994	
Feb. 1994	<b>25 (partial closure)</b>
Mar. 1994	
April 1994	<b>7 (partial closure)</b>
May 1994	<b>1 (partial closure), 20-27</b>
June 1994	
July 1994	<b>10-12, 17-22</b>
Aug. 1994	
Sept. 1994	<b>14-16</b>
Oct. 1994	<b>11-17, 19-31</b>
Nov. 1994	<b>1, cont. from Oct.</b>
Jan. 1995	<b>22-30</b>
Feb. 1995	<b>1-19, cont. from Jan.</b>
Mar. 1995	<b>21-24</b>
April 1995	<b>13-24</b>

MON	
May	
June	
July	
Aug	
Sept	
Oct.	
Nov.	
Dec.	
Jan.	
Feb.	
Mar	
April	
May	
June	

Note: All closures are "total" unless otherwise stated. During "partial" closure, a limited number of Palestinian workers are given permits.

Adapted, with permission, from Closure Update No. 2, Palestinian Centre for Human Rights, March 12,

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