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Israel and the Occupied Territories

Surviving under siege:

The impact of movement restrictions on the right to work

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Executive Summary

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The restrictions imposed by Israel on the movements of Palestinians in the Occupied Territories have reached an unprecedented level since the beginning of the *intifada* (Palestinian uprising) in September 2000.¹ Closures, blockades, checkpoints, roadblocks, curfews and other restrictions have had a disastrous impact on the lives of Palestinians in the West Bank and Gaza Strip, and have crippled the Palestinian economy. Unemployment and poverty have spiralled, malnutrition has emerged, anaemia and other health problems have increased and education has been negatively affected.

In law as well as in practice, the Israeli authorities have breached their obligations under international law to respect and protect the rights of the Palestinians in the West Bank and Gaza Strip. The sweeping and indiscriminate restrictions imposed by Israel on the movement of people and goods in the Occupied Territories not only violate the right to freedom of movement, but also infringe the right to work and other economic and social rights of Palestinians in the Occupied Territories.

Some 60 percent of Palestinians now live below the poverty line of US\$2 per day and most are forced to depend on aid. The high levels of unemployment, poverty, malnutrition and other health problems afflicting Palestinians are not just a humanitarian problem – they are the direct result of the restrictions imposed by Israel on the Palestinians in the Occupied Territories.

“No one is starving in the Gaza Strip and the West Bank. International organizations including UNWRA and the Red Cross operate extensively in the territories.” Colonel Shimshon Arbel, Head of Information and Coordination of Government Activities in the Occupied Territories²

Charity and humanitarian assistance do not absolve Israel of its obligation to guarantee the Palestinians’ right to work under international law, so that they can feed themselves. Moreover, according to international law, Israel’s obligations as the occupying power in the West Bank and Gaza Strip include ensuring the food and medical supplies of the occupied population. However, Israel has long relied on international humanitarian organizations to ensure the survival of a significant percentage of some three and a half million Palestinians in the

¹ Palestinians have had their movement restricted to varying degrees since Israel’s occupation of the West Bank and Gaza Strip in 1967. Such restrictions increased in the past decade and reached an unprecedented level in the past three years.

² In an interview with Israel Radio on 13 October 2002.

Occupied Territories, while at the same time frequently hindering the work of aid organizations.

Hopes that in the context of the Roadmap peace plan restrictions on the movement of Palestinians in the Occupied Territories would be lifted have not materialized. Only a handful of more than 300 checkpoints and roadblocks have been lifted. In addition, more and more Palestinians are finding themselves trapped in enclaves and separated from their land as the construction of the barrier/fence/wall continues inside the West Bank. Israeli settlements, established in the Occupied Territories in violation of international law, and roads built for the benefit of Israeli settlers continue to expand, resulting in further restrictions being imposed on Palestinians.

This document summarizes Amnesty International's report, *Israel and the Occupied Territories: Surviving under siege: The impact of movement restrictions on the right to work* (AI Index: MDE 15/001/2003, September 2003) which analyses the impact of movement restrictions on the right to work of Palestinians in the West Bank and Gaza Strip.³ The report details the findings of the organization's research, describes representative cases in different areas of the West Bank and Gaza Strip, and contains recommendations to the Israeli authorities, the international community, the Palestinian Authority and Palestinian armed groups.

Restrictions on movement

***"The directives of the military command are to freeze all traffic on West Bank roads, including taxis, buses, private vehicles and others according to security needs."* Binyamin Ben Eliezer, Defence Minister, explaining the Israeli army's policy in the Knesset on 3 October 2002**

In the West Bank Palestinian vehicles are prohibited from using main roads, which are used freely by Israeli settlers. Secondary roads which pass near settlements or intersect with roads used by settlers have likewise been blocked. With the spread of Israeli settlements throughout the West Bank and Gaza Strip, the areas where passage is prohibited to Palestinians have multiplied.

When at all possible, travelling even a short distance between West Bank towns and villages usually entails a lengthy, costly and potentially dangerous journey for Palestinians. Detours to avoid closed checkpoints, blockades or areas which are forbidden to them often take travellers miles out of their way, sometimes on tracks over or round steep hills, changing several vehicles and crossing blockades on foot. In addition this involves the risk of being turned back, harassed or even shot. Such detours are difficult or impossible for the sick, the elderly or those carrying heavy packages or small children.

Palestinians may apply to the Israeli army for permits to travel between West Bank towns but the army's criteria for delivering such permits are unclear and requests are frequently refused without explanation. Permits are normally only issued for a limited period and are only valid for travel on certain days and at certain times. When curfews or full closures are imposed, the permits cannot be used and at other times Israeli soldiers may deny passage to those who have permits. Often permit holders limit their travel because they fear soldiers may shoot at them from a distance, before approaching to check whether they have a valid travel permit.

³ Different legislation and policies apply in East Jerusalem, which is part of the occupied West Bank. For the purposes of this report, references to the West Bank do not include East Jerusalem.

“Every time I drive on these roads and see a tank in the distance I wonder if I’ll make it home to see the children again. I have a permit, for a month, but if the soldiers shoot at me and I am killed the permit won’t do any good to me or my family. They can always say I was a terrorist, or that I did something suspicious that made them think I was a danger. And even if they admit making a mistake and apologize what good would that be if I am dead? So I try to avoid travelling as much as possible”

Human rights lawyer, November 2002

The Gaza Strip has likewise suffered from closures, with the movement of some 1.3 million Palestinians made subordinate to the movement of some 5,000 Israeli settlers. Since October 2000, sections of the two main north-south roads, which run near Israeli settlements, have been completely or partially closed.

Closed areas : In parts of the Gaza Strip, areas where Palestinians live surrounded by settlements, such as al-Mawasi and al-Sayafa, have been declared closed military zones (see cases studies in the report). These enclaves are accessible only to residents, who are only allowed to enter and leave the areas on foot, and only at specified times. A dusk to dawn curfew is often in force and residents are frequently prevented from leaving or returning to their homes for days or even weeks. With the construction of the barrier/fence/wall similar closed enclaves have been created in the western part of the West Bank (see below).

Transporting goods – the back-to-back system: When at all possible, the movement of goods is difficult, time consuming and costly, as Palestinian trucks are usually not allowed to travel between towns in the West Bank and in and out of closed areas. Goods must be transferred from a truck on one side of a checkpoint to a truck on the other side of the checkpoint, a procedure known as the “back-to-back” system. The process can take hours and as a result the time and cost of transport have increased dramatically, as several vehicles and drivers have to be used, as well as extra people to unload and reload the merchandise at each checkpoint. The repeated handling of goods and the waiting periods cause many of the goods, especially agricultural produce, to get spoiled or damaged. Palestinians medical services are also often forced to use the back-to-back system and transfer patients between ambulances on each side of checkpoints.

Methods of restricting freedom of movement

Physical barriers : The Israeli army controls movement in and out of the main towns and many villages in the Occupied Territories by setting up checkpoints on primary and secondary roads, by blocking other roads with earth barricades and cement blocks and by digging deep trenches to stop Palestinians from opening closed roads or from passing even on foot. During the winter, rain and mud fill the trenches and make the slopes slippery, and sewage is sometimes diverted by the Israeli army into the trenches to obstruct the passage of even the most agile pedestrians.

Some villages have been completely besieged by earth barriers, cement blocks and trenches, making vehicle access impossible, even for ambulances and water tankers. Passage on foot is also far from easy. Taking long detours and climbing up and down dirt mounds or trenches carrying shopping bags and small children is difficult even for the young and able. For the elderly or disabled, movement in such condition is virtually impossible.

In addition to the permanent or long-term closures of roads by checkpoints, blockades, trenches or other physical obstacles, other roads are frequently blocked temporarily by Israeli tanks or other military vehicles. These are usually referred to as “flying” roadblocks. Israeli military and emergency legislation give military commanders the broadest discretion to declare closed military areas, restrict the use of roads and impose curfews.

On 25 October 2002 Amnesty International's delegates negotiated for the passage of a Palestinian human rights fieldworker at a "flying" roadblock. An armed personnel carrier was blocking the road connecting Nablus to a nearby village, near a road used by settlers. The soldier agreed to let him pass but refused to allow anyone else through. Scores of Palestinians had been waiting in the sun for up to three hours. As an old woman, supported by two people, and two women with babies in their arms took a few steps forward, the soldier engaged his rifle and threatened to shoot them. Yet a few minutes later, without contacting anyone by radio or telephone (indicating that he had not received any instructions), he got back inside the armoured personnel carrier and the vehicle drove off, leaving the road free for those waiting to cross.

Curfews: West Bank towns and villages have often been placed under curfew, in many cases for prolonged periods. After the Israeli army retook control of the main West Bank towns in the spring of 2002, 24-hour curfews were imposed for days and in some cases weeks. The army almost completely stopped vital service providers and ambulances from functioning. At times curfews were lifted for a few hours to allow Palestinians to purchase essential supplies. Nablus was under curfew for longer than any other city, and remained under 24-hour curfew for five months after 21 June 2002, apart from one month when it was under a night curfew only. In the H2 area of Hebron some 30,000 Palestinians have been under full or partial curfew most of the time in order to allow some 500 Israeli settlers to move freely.

'Abd al-Rahman Jobe' owns the al-Nada factory in Hebron's industrial area in H-2, producing decorative metal objects, such as banisters. Before the *intifada*, the factory operated two eight-hour shifts each day and employed up to 25 day labourers. Some 40 to 50 percent of production was destined for the market in Hebron governorate, the rest for other areas of the West Bank and for export to Jordan. Output has declined sharply since October 2000, with profits down to an estimated 10 to 20 percent. By October 2002, the factory was employing only four workers with only one shift a day. When curfews were imposed in H-2, the factory was unable to operate.

The barrier/fence/wall

On 14 June 2002, the Israeli government announced that work would begin immediately to build a barrier/fence/wall along the perimeter of the West Bank, and north and south of Jerusalem. The barrier, some 400km long and up to 100m wide, comprises a complex of obstacles, including deep trenches, electric fences, trace paths and patrol roads for tanks.

The stated aim of the project is to prevent Palestinians crossing clandestinely from the West Bank into Israel. However, most of the separation barrier is being constructed on Palestinian land inside the West Bank in order to encompass a number of Israeli settlements. The barrier/fence cuts off scores of Palestinian villages from the rest of the West Bank or from their farming land. The land in these areas is among the most fertile in the West Bank, with better water resources than elsewhere, and agriculture in the region constitutes the main source of income for the Palestinians.

In Qafin, a village west of Jenin with a population of about 9,500, some 600 dunums of land was to be seized on grounds of military necessity to build the barrier/fence. In September 2002, Israeli land bulldozers began to clear the land, tearing down most olive trees before their owners had been able to harvest the crop. In the Qafin area, the barrier/fence lies some three kilometres inside the West Bank and surrounds the village on three sides. Sixty percent of the village's agricultural land and thousands of olive trees are on the other side of the fence. Most of the active population in Qafin used to work in Israel but is no longer permitted to, and the income from the olives harvest is crucial for many residents.

The barrier has serious economic and social consequences for over 200,000 Palestinians in nearby towns and villages. Beyond land confiscation, the construction of the barrier is resulting in increased restrictions on movement. Palestinians who live in these areas have to cross the barrier at designated checkpoints – which are only open at certain times – to go to work, to tend to their fields, to sell their agricultural produce, and to access education and health facilities. Non-residents require special permits to enter these areas.

The city of Qalqilya, home to more than 40,000 Palestinians, is completely walled in from all sides with a single checkpoint in and out of the city. This is in order for the barrier to encompass the Israeli settlements to the north-east and south-east of the town. The checkpoint is normally open from morning to evening but times vary. When Amnesty International delegates visited the town the Israeli soldiers said that the checkpoint usually closes at 7 or 7.30 pm but on that day it would close at 5.30 pm. Residents coming back after 5.30, expecting the checkpoint to be open, would have to stay outside until the following morning.

The impact of restrictions on movement

No Palestinian has escaped the impact of the severe restrictions on movement imposed in the Occupied Territories. Although less well documented than other human rights violations, such as killings, torture and detentions, the economic and social consequences of the restrictions are devastating.

In 2001 the UN Committee on Economic, Social and Cultural Rights described Israel as perpetrating “continuing gross violations of economic, social and cultural rights in the occupied territories, especially the severe measures adopted by the State party to restrict the movement of civilians between points within and outside the occupied territories, severing their access to food, water, health care, education and work.”⁴

Nabil Hani ‘Ashur, a self-employed plumber living in Nablus, has four children and also supports his mother. His monthly salary has fallen by some 90 percent since the start of the *intifada*. There has been little construction in Nablus because of the depressed economic situation and the shortage of building materials. Some months, he earns nothing at all.

Apart from supporting his family, he had to find money to buy drugs for his wife, Suhad ‘Ashur, who was suffering from breast cancer. She was unable to receive any treatment for nearly two months because of curfews and closure and the specialist doctor could not reach the hospital in Nablus from his home in Jenin for weeks. She died on 9 July 2002.

Living standards: Some 60 percent of the Palestinian population is living below the poverty level of US\$2.1 per day and unemployment has risen to close to 50 percent.⁵ There is no unemployment benefit system in the Occupied Territories. An unemployed person’s only means of support are from family or community networks and the limited assistance available from the UN Relief and Works Agency (UNRWA), the Palestinian Authority’s Ministry of Social Welfare, and charitable and humanitarian organizations. The dramatic decline in the standard of living among Palestinians in the Occupied Territories has led to increased malnutrition and other health problems.

As Palestinians have increasingly been forced to rely on charity to meet their basic needs, feelings of hopelessness and alienation have grown, damaging the fabric of society and fuelling resentment. In the predominantly youthful Palestinian community, the lack of prospects for the future has contributed to increased radicalism and violence.

⁴ E/C.12/1/Add.69, para. 13.

⁵ Two Years of Intifada, Closures and Palestinian Economic Crisis; An Assessment. World Bank, 5 March 2003.

The damage inflicted on the Palestinian society and economy by movement restrictions in the past three years will have grave long-term effects. Even if the restrictions were to be lifted immediately, it would take a long time for the economic situation to improve.

Unemployment: Loss of jobs in Israel, where wages are significantly higher than in the Occupied Territories, has been followed by a reduction in demand for goods and services in the Occupied Territories. Closures and curfews have disrupted the import and transport of raw materials, creating shortages and sharp price rises. Most Palestinian export businesses have lost their export markets as a result of the closures and have extreme difficulties transporting their products between the West Bank and the Gaza Strip, or even moving them short distances to local markets. Perishable foodstuffs spoil when repeatedly handled and delayed at checkpoints or border crossings, making them unmarketable or reducing their price.

In addition to increased unemployment, there has been a huge increase in underemployment and a significant drop in wages. Those who still have jobs have often been unable to reach their workplaces because of curfews and closures. For labourers who are paid on a daily basis, failure to show up for work means loss of a day's wages, as well as an increased risk that their place will be filled by others.

'Omar Ahmad Kababji, aged 56, owns a stone factory in Nablus and supports his wife and seven children. Before the *intifada*, the factory employed five workers to produce stone building blocks for the market in the West Bank and in Israel. The raw materials come from stone quarries near Nablus. 'Omar Kababji had to close the factory and lay off the workers after the Israeli army blocked off the main roads and back roads into Nablus at the start of the *intifada*. Transport of the raw materials and finished stone became impossible. All 85 quarries and stone factories in Nablus governorate were forced to close.

Impact on farming: Families in rural areas traditionally turn to farming in times of rising unemployment and declining incomes, but farm incomes have also shrunk and some operate at a loss because of restrictions on movement. In many areas, farmers do not have regular access to their land because it is within a closed military area or near an Israeli settlement or settlers' roads. They may be barred from it or fear attack by settlers or the army. Lack of access at key times of the year results in crops being lost or damaged or in severely reduced yields.

Expenditure on agricultural inputs – such as fertilizers, pesticides and animal feed – has risen sharply, as suppliers have passed on increased transport costs. Some such products are no longer available or farmers cannot afford to buy them. Some villages are not connected to a water network and farmers have to buy water. The price of water has increased on average by 80 percent, because of increased transport costs. Some farmers have sold off productive assets, such as livestock and even land, to cover their basic, immediate needs. This jeopardizes their long-term prospects, even in the event of a future improvement in economic conditions.

Sa'id al-Agha is married with nine children. He owns 50 dunums of land in al-Mawasi, a closed military area in the Gaza Strip. The yield from his land has fallen since the Israeli army stopped fertilizer being brought into al-Mawasi. Before the *intifada*, he would expect to make a profit of US\$15,000. In 2002 he made US\$1,000.

Guavas, his main crop, used to be exported from Gaza to Israel, the West Bank and Jordan. Now it is almost impossible to send the crop even to the West Bank and often even out of al-Mawasi. The price has collapsed because the market in Gaza is flooded with guavas. When Amnesty International visited Sa'id al-Agha's house, a large pile of rotting dates was piled up in front of it. He had not been able to transport them across the checkpoint out of al-Mawasi.

Excessive use of force to enforce closures and curfews

When a town or a village is under curfew, the Israeli army usually schedules to allow the movement of civilians for a few hours during daylight. However, scheduled breaks in the curfew are often cancelled without notice. Members of the Israeli security forces have frequently resorted to lethal force to enforce closures, killing or injuring scores of unarmed Palestinians as a result. Soldiers have opened fire on Palestinians bypassing checkpoints, crossing trenches, removing barriers and breaking curfews. They have fired at ambulance personnel, municipal employees and journalists who had coordinated their movements in advance with the Israeli army.

Jihad ‘Abd al-Rahman al-Qurini, a driver for the Nablus municipality, was shot dead by an Israeli soldier on 20 August 2002 during a curfew. The Nablus municipality had coordinated with the IDF to ensure that his vehicle could move during the curfew to carry out electrical repairs. The truck was marked as a Nablus municipality vehicle and had a distinctive crane and flashing light. In Faisal Street, one of four Israeli soldiers searching a Palestinian ambulance indicated that Jihad al-Qurini should reverse. He backed the vehicle about two metres. The soldier indicated that he should drive forward and fired one shot in the air. Jihad al-Qurini drove the truck slowly forward. The soldier reportedly aimed his weapon at the truck, motioned with his right hand that the vehicle should proceed, then fired twice. One bullet hit Jihad al-Qurini in the head.

The Chief Military Prosecutor concluded that the soldiers *“did not deviate from the domain of reasonable conduct expected in actions by military forces in the relevant area and circumstances”* and declined to open an investigation into the incident.

Justification on security grounds

The Israeli authorities claim that the restrictions imposed on the movement of Palestinians in the Occupied Territories are justified on security grounds, notably to prevent Palestinian armed groups from carrying out suicide bombings and other attacks in Israeli cities. The Israeli authorities have the right to take necessary, reasonable and proportionate measures to protect Israelis from such attacks. However, the sweeping and stringent restrictions imposed indiscriminately on all Palestinians have not put a stop to the attacks. On the contrary, attacks intensified as restrictions on the movements of Palestinians increased, calling into question the effectiveness of indiscriminate restrictions that treat every Palestinian as a security threat and punish entire communities for the crimes committed by a few people.

Moreover, it cannot be said that preventing Palestinians from travelling between Nablus and Ramallah is necessary to prevent attackers from entering Israel to carry out attacks in Jerusalem or Tel Aviv. Yet closures inside the Occupied Territories are often justified on these grounds and are routinely imposed or tightened following Palestinian attacks inside Israel. Like the Israeli bombardments of PA buildings which have usually followed Palestinian suicide bombings or other attacks, closures and curfews often appear to be intended as punishment or retaliation for attacks by Palestinians, as well as to show the Israeli public that the army is taking action. This is particularly obvious in the Gaza Strip, which has been surrounded by an electric fence for over a decade. None of the Palestinians who have carried out attacks inside Israel in recent years are known to have come from the Gaza Strip. Yet, in the wake of major Palestinian attacks inside Israel the Israeli army has frequently attacked PA installations in the Gaza Strip, such as the airport, the sea port or police stations.

The main reason for the imposition of restrictions on the movement of Palestinians within the Occupied Territories is to keep them away from Israeli settlements and from the roads used by the settlers.

Israeli settlements and human rights abuses in the Occupied Territories

Israeli settlements in the Occupied Territories⁶ violate international law, notably Article 49 of the Fourth Geneva Convention, which prohibits an occupying power from transferring its nationals into occupied territory, and the principle of non-discrimination – one of the fundamental principles contained in all the major international human rights treaties ratified by Israel. Settlements have repeatedly been condemned as illegal by the international community, including the UN Security Council and other UN bodies.

Settlements and the network of roads built to connect them to each other and to Israel are spread through the West Bank and Gaza Strip and surround all the major Palestinian cities and many villages, making it impossible for Palestinians to travel very far without passing close to an Israeli settlement or a road used by settlers.

For example, the built up area of Nablus, including eight villages and two refugee camps, with a total population of about 184,000 Palestinians, is surrounded by eight settlements inhabited by some 6,000 Israeli settlers. The rapid spread of settlements and settlers' roads in the past decade, notably during the Oslo peace process years (1993-2000), has fragmented the Occupied Territories, disconnecting Palestinian communities from each other.

To ensure the freedom of movement of some 380,000 Israeli settlers, the Israeli army has increasingly confined some three and half million Palestinians to some form of house, village or town arrest.

International law

According to international law, an occupying power is required to administer the territory it controls as far as possible without making far-reaching changes to the existing order, while at the same time ensuring the protection of the fundamental rights of the local population.⁷ The core idea of the international rule of belligerent occupation is that occupation is transitional, for a limited period, and one of its key aims is to enable the inhabitants of an occupied territory to live as “normal” a life as possible.

While Israel has a right to take certain security measures, including imposing restrictions on those who constitute a security threat, the sweeping restrictions currently imposed on the movement of Palestinians are disproportionate and discriminatory. They violate fundamental freedoms guaranteed in international humanitarian and human rights law.

Freedom of movement: *“Everyone lawfully within the territory of a State shall, within that territory, have the right to liberty of movement and freedom to choose his residence”*. (Article 12.1, International Covenant on Civil and Political Rights (ICCPR)).

⁶ The total number of settlers is about 380,000. Of them, some 5,000-6,000 live in the Gaza Strip, some 198,000 in the West Bank and the rest in East-Jerusalem settlements. There are 123 officially recognized settlements in the West Bank (excluding East Jerusalem) and 17 in the Gaza Strip. In addition there are some 100 small settlements, known as “illegal outposts”, which were recently established without the approval of the Israeli government, but which benefit from Israeli army protection and other public services.

⁷ The sources for the obligations under international humanitarian law applicable to belligerent occupation are found in: The Hague Convention (IV) respecting the Laws and Customs of War on Land (Hague Convention) and its annexed Regulations respecting the Laws and Customs of War on Land (Hague Regulations) of 18 October 1907; The Fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War (Fourth Geneva Convention) of 12 August 1949; Article 75 of the 1977 Protocol Additional to the Geneva Conventions of 12 August 1949 and relating to the Protection of Victims of International Armed Conflicts (Protocol I); Rules of customary international law.

Restrictions imposed by Israel on Palestinians in the Occupied Territories consistently violate their right to freedom of movement protected by the ICCPR, to which Israel is party. Restrictions on this right may only be imposed if they are based on law, pursue a legitimate objective, such as protecting public order, and are strictly necessary.

The sweeping restrictions on the movement of Palestinians are disproportionate and discriminatory – they are imposed on all Palestinians *because* they are Palestinians, and not on Israeli settlers who live illegally in the Occupied Territories. Even though the Israeli authorities claim that such measures are always imposed to protect the security of Israelis, the restrictions imposed do not target particular individuals who are believed to pose a threat. They are broad and indiscriminate in their application and as such are unlawful. They have a severe negative impact on millions of Palestinians who have not committed any offence.

The right to work: According to Article 6(1) of the International Covenant on Economic, Social and Cultural Rights (ICESCR): “*The States Parties to the present Covenant recognize the right to work, which includes the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts, and will take the appropriate steps to safeguard this right.*” Article 6(2) specifically requires Israel to: “*take steps to...achieve the full realization of [the right to work] and...full and productive employment under conditions safeguarding fundamental and economic freedoms to the individual*”.

Israel’s restrictions on the movement of Palestinian in the Occupied Territories have dramatically reduced the employment opportunities which existed and have prevented the creation of new ones. These restrictions contravene Israel’s obligation to secure the Palestinians’ right to work. Closures and curfews in particular have regularly prevented thousands of people from reaching their places of employment. The quality of employment still available has also been affected and many Palestinians have had no choice but to opt for casual jobs or to work for substantially reduced wages.

Freedom from discrimination: According to Article 1 of the ICCPR, Israel is obliged to “*ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origins, property, birth or other status.*”

The restrictions imposed by Israel discriminate against Palestinians and are inconsistent with fundamental human rights principles, notably the principle of equality. Restrictions on movement, such as the prohibition on the use of roads and the imposition of curfews in the Occupied Territories are imposed on Palestinians only, not on Israeli settlers. The measures which the Israeli authorities have taken to protect the security and freedom of movement of some 380,000 Israeli settlers, whose presence in the Occupied Territories violates international law, curtail the freedom of movement of some three and a half million Palestinians.

Freedom from collective punishment: “*... Collective penalties ... are prohibited... Reprisal against protected persons and their properties are prohibited*”. (Article 33, Fourth Geneva Convention).

Closures and curfews in the Occupied Territories have been routinely increased after suicide and other attacks by Palestinian armed groups inside Israel or in other areas of the Occupied Territories. Such measures constitute a form of collective punishment and appear to be a retaliation intended to intimidate and punish the whole Palestinian community, as well as to show to the Israeli public that the army is reacting to attacks. Such conduct breaches the prohibition on collective punishment contained in the Fourth Geneva Convention and the Hague Regulations.

The applicability of international law: According to the Israeli government, international human rights law applies only to Israeli settlers in the Occupied Territories – whose presence there is illegal under international law – but not to the local Palestinian population. Israel’s position has not been accepted by any of the UN human rights treaty bodies.

Israel contends that the only applicable legal regime for the Palestinians in the Occupied Territories is humanitarian law (and not human rights law), but at the same time Israel also rejects the applicability of the Fourth Geneva Convention to the West Bank and Gaza Strip. The UN, the International Committee of the Red Cross (ICRC) and the international community at large have consistently maintained that the Fourth Geneva Convention fully applies to the Occupied Territories and that the Palestinians are a protected population under the terms of the Convention.

International monitoring

Amnesty International has repeatedly called for an international human rights monitoring presence in Israel and the Occupied Territories. This call has received substantial support both at the local and international level, but the Israeli authorities have consistently refused to accept human rights monitors. In addition, the Israeli army has increasingly targeted international peace activists, whose activities include monitoring restrictions on movement and assisting Palestinians, including medical personnel, who are affected by the restrictions.

Main recommendations

Amnesty International calls on the Israeli authorities:

- To put an end to the regime of curfews and internal closures as currently imposed in the West Bank and the Gaza Strip; to refrain in all circumstances from imposing closures, curfews and other restrictions on movement which constitute collective punishment; and to ensure that restrictions on movement are only imposed if they are absolutely necessary, are related to a specific security threat and are non-discriminatory and proportionate in terms of their impact and their duration.
- To refrain from constructing separation barriers/fences or other permanent structures inside the West Bank and Gaza Strip which constitute or result in permanent restrictions on the right to free movement of Palestinians within the Occupied Territory or in the arbitrary destruction or seizure of their property;
- To ensure the right of everyone to gain their living by work which they freely choose or accept;
- To stop immediately the use of lethal force to enforce curfews and other restrictions on movement;
- To initiate a full, thorough, transparent and impartial investigation into all allegations of violations of international human rights and humanitarian law, including those documented in this report, and to make the results public;
- To bring to justice those alleged to have committed violations of international human rights or humanitarian law in proceedings that meet international standards for fair trial, and to ensure prompt and adequate compensation and reparation for victims of international human rights or humanitarian law violations;
- To take effective action to prevent, investigate, prosecute and punish human rights abuses committed by Israeli settlers against Palestinians.
- To put an immediate end to the construction or expansion of Israeli settlements and related infrastructure in the Occupied Territories as this violates international humanitarian law and will only lead to further arbitrary restrictions on Palestinians and further human rights abuses;

- To take measures to evacuate Israeli civilians living in settlements in the Occupied Territories, in such a manner as to ensure the human rights of Palestinians are respected, in particular their rights to free movement and to an adequate standard of living. Such measures should include too respect for the rights of those evacuated, including adequate compensation.
- To accept an international monitoring presence in the Occupied Territories with a strong human rights component, which should provide increased security for Israelis and Palestinians.

Amnesty International calls on the international community:

- To ensure that Israel's obligations under international human rights and humanitarian law, most specifically its obligations as an occupying power under the Fourth Geneva Convention, are met;
- To ensure that human rights are central to all negotiations, interim accords and any final agreement;
- To bring to justice anyone suspected of war crimes or crimes against humanity who may be within their jurisdiction;
- To set up an international monitoring presence in the Occupied Territories with a strong human rights component, for the security of Israelis and Palestinians.

Amnesty International once again reiterates its call to Palestinian armed groups:

- To put an immediate end to their policy of killing and targeting Israeli civilians, whether inside Israel or in the Occupied Territories.

Amnesty International calls on the Palestinian Authority:

- To take urgent concrete measures to prevent attacks by Palestinian armed groups on Israeli civilians, inside Israel and in the Occupied Territories;
- To thoroughly investigate any such attacks and ensure that those responsible are brought to justice in proceedings that meet international standards for fair trial.

Background

The human rights situation in Israel and the Occupied Territories has seriously deteriorated in the past three years and violence has reached unprecedented levels. Since the start of the *intifada* in September 2000, more than 2,100 Palestinians, including some 380 children have been killed by the Israeli army and more than 750 Israelis, most of them civilians, including more than 90 children have been killed by Palestinian armed groups. Tens of thousands of Palestinians and thousands of Israeli civilians have been injured, many seriously.

In addition the Israeli army has destroyed more than 3,000 Palestinian homes, as well as hundreds of workshops, factories and public buildings in the West Bank and Gaza Strip; they have bulldozed vast areas of cultivated land, uprooting olive groves and orchards and flattening greenhouses and fields of growing crops. Such massive destruction of land and property has damaged the Palestinian economy, but the stringent restrictions imposed on the movement of Palestinians have been the main cause of the severe economic depression and dramatic increase in unemployment and poverty.

Restrictions on Palestinian movement pre-*intifada*

The Oslo Agreements created the widespread impression that Palestinians had gained “autonomy” or “self-rule”. However, despite the creation of the Palestinian Authority (PA) and the redeployment of the Israeli army from some areas of the Occupied Territories, this was not the case. Palestinians soon found that their newly acquired freedom extended no further than the confines of overcrowded refugee camps and disjointed enclaves.

The 1995 Oslo II Agreement established three zones in the West Bank. The PA was given jurisdiction over the densely populated areas while Israel retained full control of some 60 percent of the West Bank, including all the main roads linking these Palestinian population centres, interspersed with Israeli settlements. In the Gaza Strip, the PA had jurisdiction over some 60 percent of the land. Again, densely populated Palestinian areas were separated from each other by 17 Israeli settlements and their “bypass” roads. An electrified perimeter fence was built along the eastern side of the Gaza Strip adjoining Israel.

Thus, virtually all movement in the West Bank and Gaza Strip remained under Israeli control. Moreover Palestinian land continued to be frequently seized by Israel for settlements and roads built to connect the settlements to each other and to Israel.

Following the establishment of the PA, the Israeli army started to impose so-called “internal closures”, stopping all movement of Palestinians between different areas of the West Bank for days, sometimes weeks. The closures demonstrated how Israel, despite its withdrawal from some 40 percent of the West Bank, could easily bring Palestinian life to a halt and the Palestinian economy to its knees.

Amnesty International’s research

Amnesty International delegates have frequently visited Israel and the Occupied Territories to carry out field research and discuss the organization’s concerns with Israeli and Palestinian authorities. It has published numerous reports on different aspects of the human rights situation and on abuses by the Israeli security forces, by Palestinian armed groups and by the Palestinian Authority.

For this report the organization’s delegates have interviewed Palestinians, Israelis and others whose lives have been affected by closures, curfews and other restrictions on their movement or who have been subjected to or witnessed abuses. They include medical professionals, human rights and humanitarian workers, journalists, trade unionists, community leaders, businesspeople, workers and self-employed people in various towns and villages, as well as diplomats, government officials and Israeli soldiers.

Over the years, Amnesty International delegates have frequently witnessed Israeli soldiers harassing, threatening and blocking the passage of Palestinians at checkpoints throughout the West Bank and Gaza Strip. They have themselves experienced similar treatment and lengthy travel delays between towns and villages caused by closures and curfews, on occasion being threatened and fired at by soldiers.

This document summarizes a 79-page report: *Israel and the Occupied Territories: Surviving under siege: The impact of movement restrictions on the right to work* (AI Index: MDE 15/001/2003) issued by Amnesty International on 8 September 2003. The full report and extensive range of our materials on this and other subjects is available at <http://www.amnesty.org>. Amnesty International news releases can be received by email: <http://web.amnesty.org/ai.nsf/news>.

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