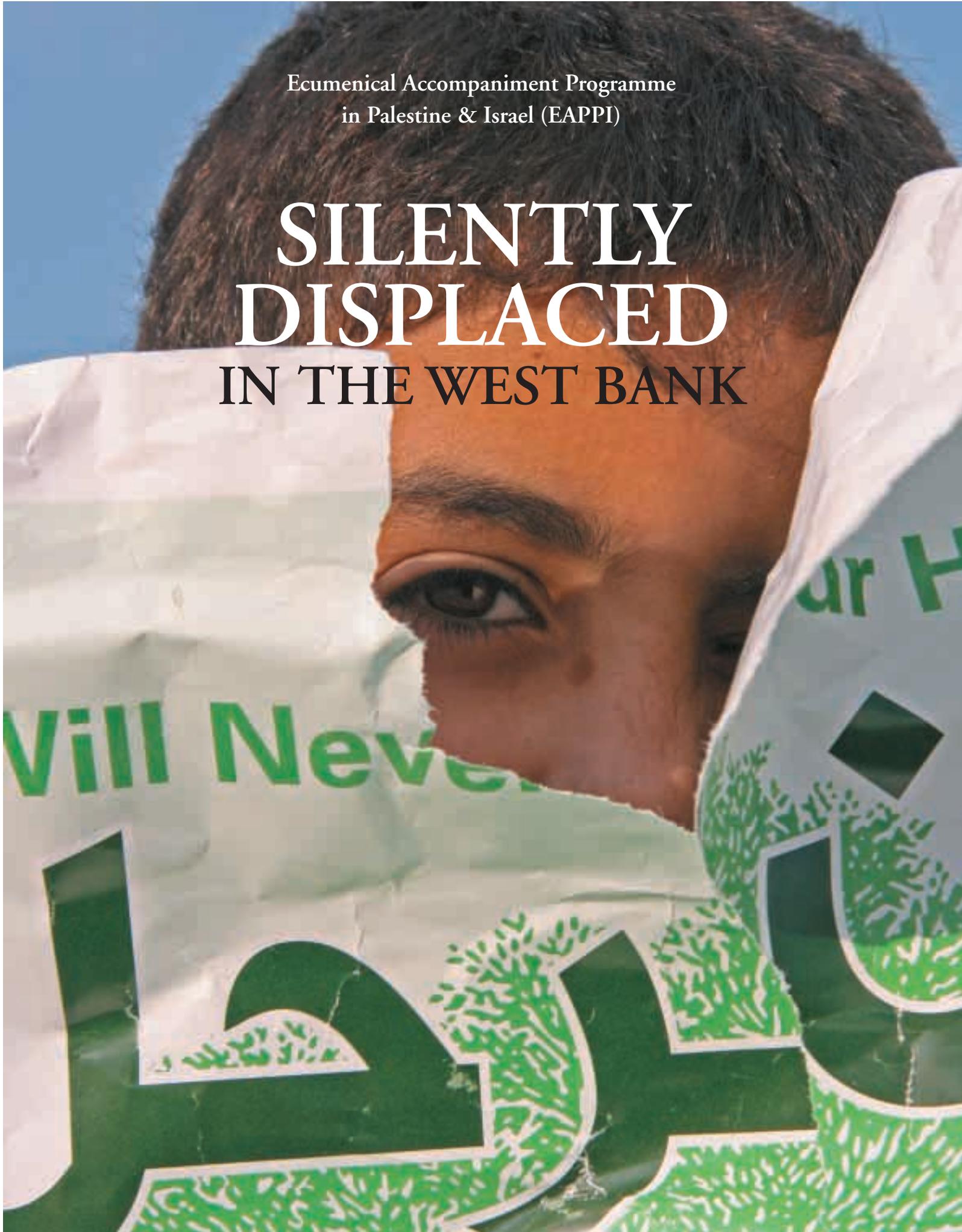


Ecumenical Accompaniment Programme
in Palestine & Israel (EAPPI)

SILENTLY DISPLACED IN THE WEST BANK



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The Separation Wall in Abu Dis, close to Cliff Hotel in Jerusalem.

The Ecumenical Accompaniment Programme in Palestine and Israel (EAPPI) seeks to support local and international efforts to end the Israeli occupation based on principles of international humanitarian and human rights law. Responding to a call from the Heads of Churches in Jerusalem to stand in solidarity with the churches and people in Palestine, the World Council of Churches launched the EAPPI in 2002. Since then, over 500 Ecumenical Accompaniers (EAs) from 16 countries have volunteered for three-month periods. EAs monitor and report violations of human rights and international humanitarian law, support acts of non-violent resistance alongside local Christian and Muslim Palestinians and Israeli peace activists, offer protection through non-violent presence, engage in public policy advocacy and, in general, stand in solidarity with the churches and all those struggling against the occupation.



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in Palestine and Israel (EAPPI)
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SILENTLY DISPLACED IN THE WEST BANK

The Ecumenical Accompaniment Programme
in Palestine & Israel (EAPPI)

FOREWORD

by Manuel Quintero
EAPPI international coordinator

Armed conflicts or natural disasters force them to abandon their homes, grasping at survival. They do not cross state boundaries, but are displaced to other areas of the national territory as they seek minimal protection and support. It has happened many times in human history, but only in the last few decades have this phenomenon and its social, cultural, economic and demographic implications attracted the attention they deserve from the international community and specialized agencies.

They are “internally displaced people”, and estimates suggest that there are approximately 25 million in the world today. Most are women and children, with some 5 million in Sudan and over 3 million in Colombia, countries torn apart by protracted and bloody conflicts. As opposed to “refugees” who have crossed borders and enjoy the protection of international law, at least in theory, there is no international convention or specific mandate concerned with the plight of internally displaced people.

The Palestinian people have lived the drama of forced exile and displacement for over 60 years now. The creation of the state of Israel in 1948 meant the deportation of hundreds of thousands of people to whom the basic right of living in the land of their ancestors was callously denied. Following the 1967 war, Israeli adopted a policy permitting settlements in the Occupied Palestinian Territory although this was deemed as illegal and formally denounced by the United Nations. Recent years have seen the building of a “security” Wall, also ruled illegal by the Hague International Court. Each of these events has proven a decisive factor in the internal displacement of Palestinians in the West Bank, the Gaza Strip and East Jerusalem. According to reliable sources, 115,000 Palestinians have been internally displaced since 1967.

An acute sense of loss and uprooting is alive in the soul of the Palestinians, an historically rural people with roots as deeply planted in their homeland as those of their olive orchards and orange trees. This book tells us about this sense of loss and the existential drama of thousands of Palestinians who are banned from returning to their homes by the unlawful occupation of their land.

Participants in the Ecumenical Accompaniment Programme in Palestine and Israel (EAPPI) wrote the narratives compiled in this book. The EAPPI is an initiative of the World Council of Churches aimed at accompanying Palestinians and Israelis in their nonviolent actions and concerted advocacy efforts to end the occupation and seek a just peace in the region. Participants in the programme monitor and report violations of human rights and international humanitarian law, offer protection through nonviolent presence and engage in public advocacy.

The testimonies compiled by Ecumenical Accompaniers (EAs) are passionate but not biased, for the authors drew on a wealth of objective, factual information. These EAs should be praised for having illuminated another dimension of the suffering of the Palestinian people for churches and Christians the world over.

With amazing insight Dvora Amir, an Israeli poet born in Jerusalem during the 1948 war, once wrote:

*Whoever scars the house of another,
in the end his eyes will be scarred.
Whoever uproots the house of another,
in the end his soul will be uprooted.*

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LIST OF ACRONYMS

CP	checkpoint
DCL	District Civil Liaison Office
DCO	District Coordination Office
EA	Ecumenical Accompanier and “EAPPI Ecumenical Accompaniment Programme in Palestine and Israel”
EU	European Union
GoI	Government of Israel
IASC	UN Inter-Agency Standing Committee
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
ICISS	International Commission on Intervention and State Sovereignty
ICJ	International Court of Justice
ICRC	International Committee of the Red Cross
IDMC	Internal Displacement Monitoring Centre
IDF	Israeli Defence Force
IDP	internally displaced person
IHL	international humanitarian law
IOM	International Organization for Migration
IVGC	Fourth Geneva Convention
MFA	Ministry of Foreign Affairs
NGO	Non-governmental Organization
NRC	Norwegian Refugee Council
OCHA	UN Office for the Coordination of Humanitarian Affairs
oPt	occupied Palestinian territory
PA	Palestinian Authority
PLO	Palestine Liberation Organisation
RSG	Representative of the Secretary-General
UNHCR	United Nations High Commissioner for Refugees
UNROD	UN Register of Damage caused by the construction of the Wall
UNRWA	United Nations Relief and Works Agency for Palestine Refugees in the Near East





I. INTRODUCTION

Since the first Arab-Israeli war in 1948, Palestinians have suffered several waves of forced displacement. At the end of 2008, there were an estimated 7 million Palestinian refugees and more than 110,000 internally displaced Palestinians, representing 70% of the entire Palestinian population worldwide (10.1 million).¹ An additional 30,000 to 90,000 people are reportedly at risk of displacement. However, while refugees benefit from a specific international regime devoted to ensuring protection and assistance when their own leadership cannot or will not, international action on behalf of the internally displaced is ad hoc and therefore not assured. This difference in international obligations is particularly alarming as the scope of internal displacement in the occupied Palestinian territory (oPt) is rising due to a number of measures, including revocation of residency rights, deportation, house demolitions and evictions, land confiscation, closure and movement restrictions, Israeli settler harassment, the Separation Wall² and military operations.³

Although it has been recognized that these measures are displacing people, there appears to be a general reluctance to categorize these people as internally displaced persons or IDPs. There are nevertheless certain legal aspects that cannot be disputed. For example, the oPt is occupied by Israel and thereby governed by the rules belonging to the special legal regime of occupation. Furthermore, because the Israeli-Palestinian conflict is classified as an international one, international humanitarian law (IHL) as specified in the four Geneva Conventions is applicable to the entire oPt.⁴ All High Contracting Parties, signatories of the Fourth Geneva Convention,⁵ have obligations to respect and ensure respect of the Convention as it applies to the oPt, and are bound by its regulations. Moreover, customary IHL as laid down by the 2005 ICRC study⁶ applies in the context of the Israeli occupation of the Palestinian territory.

After a brief conceptualization of internal displacement, this report highlights the issue of internal displacement in the West Bank. Ecumenical Accompaniers (EAs), present in six locations throughout the West Bank and Jerusalem, have produced a number of case studies of current causes and threats of displacement in the oPt.⁷ Although the causes for forced displacement are in many cases interlinked and connected, four overarching themes are apparent: closure, movement restrictions and tightening control; home demolitions and evictions; the Wall and its associated regime; and Israeli settler violence and harassment.

Under the theme of closure, movement restrictions and tightening control, the EAPPI Bethlehem team reports on the hardships of the village of An Nu'man, which according to human rights agencies is suffering from "systematic property destruction, land appropriation and de facto annexation, physical and psychological harassment and restrictions on movement ... to create living conditions so unbearable as to bring about the gradual indirect forcible transfer of residents out of the village."⁸ Providing regular presence at home demolitions, the Jerusalem team reports on the case of the Al Kurd family, 1948 refugees from Jaffa and Talbieh, who were displaced for a second time when they were forcefully evicted from the East Jerusalem neighbourhood of Sheikh Jarrah to provide a home for Israeli settlers in November 2008.



The Wall and its associated regime constitute multifaceted grounds for forced displacement. The Jayyous team reports on the effects of the Wall, which was completed in that area in 2003 and isolated 75 percent of Jayyous' agricultural land between the Green Line and the Wall, seriously restricting access and the ability to farm the land. After considerable pressure from the village and the international community, the Israeli authorities agreed to re-route the Wall and are currently doing so, but the question is where and whether those affected by its location have actually been seriously consulted. The Tulkarem team explores the village of Jubarah, located in the so-called "closed" or "seam zone" between the Green Line and the Wall. Accessible only for residents of Jubarah, the village is effectively cut off from the rest of the West Bank. The Bethlehem team reports on the village of Al Walaja, which stands to lose some 50 percent of its land to make way for expanding Israeli settlements, the route of the Wall and the construction of a new Israeli-only bypass road.

Israeli settler violence against Palestinian civilians is on the rise. UNOCHA reports that in most cases, it is ideology-driven, organized violence, the goal of which is to assert settler dominance over an area, and in some cases, so systematic as to directly contribute to the displacement of Palestinian residents.⁹ The Hebron and Nablus governorates were particularly targeted in the autumn of 2008, when the EAPPI Yanoun team reported on settler harassment and actions in Asira al Qibliya.

This publication is guided by the idea that although displaced persons need to be assisted, the international community has a responsibility to try to prevent their displacement in the first place. Effective information, documentation and early warning systems are critical aspects of protecting those facing the threat of forced displacement. In this publication, the EAPPI uses its field presence and experience to highlight certain vulnerable areas in the West Bank, thereby providing a cross-cutting view of the diverse and interconnected causes of potential displacement today.

II. CONCEPTUALIZATION OF INTERNAL DISPLACEMENT

A widely used indicator of suffering in war zones is the number of “refugees,” that is, exiles who flee across the borders of their country of origin.¹⁰ When such people are forced migrants within their own countries, they are often even more vulnerable. While international law entitles refugees to physical security, human rights protection and assistance, no such legal guarantees exist for those who participate in an “exodus within borders.”¹¹ The internally displaced fall under the sovereign authority of their governments, which, if not actually their persecutors, may be unable or unwilling to help them. This growing category of war-affected populations still has no institutional sponsor or formal international legal framework, leading the vice-president of the International Crisis Group to describe them as “orphans of conflict.”¹²

Over the past two decades, the ratio of refugees to internally displaced persons has seen a dramatic reversal. When IDP data were first gathered in 1982, there was one IDP for every ten refugees;¹³ at present the ratio is approximately 2.5:1.¹⁴ As the nature of war has changed in the last few decades, with more and more internal conflicts replacing interstate wars, the number of IDPs has increased significantly to some 26 million worldwide who are displaced within the borders of their own countries as a result of armed conflict, internal strife and serious violations of human rights.¹⁵ The growing number of IDPs worldwide has forced the international community to organize itself to remedy the shortcomings in international assistance and protection for these people. In 1992, UN Secretary-General Boutros-Ghali submitted the first analytical report on IDPs to the UN Commission on Human Rights.¹⁶ Later that year, Boutros-Ghali designated Francis Deng, a former Sudanese ambassador and minister of state for foreign affairs, to serve as the Representative of the Secretary-General (RSG) on Internally Displaced Persons.¹⁷ RSG Deng developed what has since become one of the central tenets behind the efforts to assist and protect this disparate group: “sovereignty as responsibility.”¹⁸

SOVEREIGNTY AS RESPONSIBILITY

The idea of “sovereignty as responsibility” has two essential parts: governments are responsible for the human rights of their citizens as part of the essence of statehood, but when they are unwilling or unable to provide for the security and well-being of their citizens, an international responsibility arises to protect vulnerable individuals.¹⁹

By reconciling humanitarian concerns and issues of sovereignty through the conception of “sovereignty as responsibility,” RSG Deng paved the way for the international acceptance of his thirty Guiding Principles on Internal Displacement. These principles attempt to bring together in one document the relevant principles of international human rights and IHL, clarify grey areas and fill in gaps that may exist in relation to the protection of IDPs. Although the principles were issued more than a decade ago and are merely guiding, many of them have already achieved customary law status.²⁰

GUIDING PRINCIPLES ON INTERNAL DISPLACEMENT

Since the end of World War II, international human rights law, international refugee law and IHL have developed along separate paths, with distinct normative and institutional frameworks. IDPs are not explicitly mentioned in the guarantees of existing international law. From the outset of his mandate, RSG Deng therefore envisioned the gradual development of a defined normative base to govern the situation of IDPs prior to and during displacement, as well as during return, resettlement and reintegration.²¹ Initially faced with widespread opposition to creating a special category for the internally displaced from both governments and organizations such as the International Committee of the Red Cross (ICRC) and the International Organisation for Migration (IOM),²² Deng and his legal team gradually obtained their acceptance and even active collaboration in elaborating standards for IDPs. In 1998, 50 years after the adoption of the Universal Declaration of Human Rights, the thirty Guiding Principles on Internal Displacement were finalised at a meeting of international legal experts and representatives of UN agencies, regional bodies and non-governmental organizations.²³





The Wall in Ar Ram, Jerusalem, separates Palestinians from Palestinians.





A passage for Palestinians to Jerusalem.



It is important to emphasize that the Guiding Principles “should be understood not as a layer of completely new international obligations but as a tool to facilitate the application of existing international legal standards.”²⁴ Although they reflect and are consistent with international law-synthesizing human rights law, humanitarian law and refugee law - they do not constitute a binding instrument. This was a deliberate choice by Deng and his colleagues as a non-binding instrument was considered to be the most realistic and quickest way to proceed. Additionally, it was believed that it would “attain authority through use and help create the moral and political climate needed for improved protection and assistance for the internally displaced while avoiding confrontation with governments opposed to binding rules.”²⁵ Deng expressed the hope that the Principles would contribute, over time, to the creation of “a moral and political climate in which they might eventually attain the force of customary law.”²⁶

Until the beginning of the 1990s, IDPs had been defined negatively: they were people who had fled their homes, but who were not refugees (having remained in their country). The drafting of the Guiding Principles on Internal Displacement refined the working definition, identifying IDPs as:

Persons or groups of persons who have been forced or obliged to flee or to leave their homes or places of habitual residence, in particular as a result of or in order to avoid the effects of armed conflict, situations of generalized violence, violations of human rights or natural or human-made disasters, and who have not crossed an internationally recognized state border.

Recognizing that the reasons for displacement are often complex and interrelated, this definition is the broadest one in use at the international and regional level. It tries to “strike a balance between too narrow a framework that risks excluding people and one so broad that it could prove operationally unmanageable.”²⁷

The new definition and the compilation of Guiding Principles were integral in formulating a more comprehensive approach in dealing with internal displacement, to steer away from the prevailing approach that Deng and his colleagues felt was too concentrated on the delivery of emergency relief. They reasoned that strategies to address mass displacement need to encompass “prevention, protection, and political and economic solutions as well.”²⁸ In addition to the Guiding Principles, Deng and his colleagues therefore outlined preventive strategies in the form of “effective information and early warning systems, good governance, a strengthened civil society, and humanitarian intervention prior to mass displacement”²⁹ in addition to underlining that the restoration of peace has to be accompanied by rehabilitation and development programmes. They argued that without such solutions, albeit costly and time-consuming, “there is little or no chance that the underlying causes of the conflict will be addressed, that displacement will be resolved, and that reconciliation, reconstruction, and development will follow.”³⁰

Applying both to governments and insurgent forces, the Principles are non-derogable and applicable in all circumstances.³¹ By providing a yardstick for monitoring the treatment of IDPs, they are today seen as an important advocacy tool for humanitarian, human rights and development organizations.

III. INTERNAL DISPLACEMENT IN THE OCCUPIED PALESTINIAN TERRITORY

One of the least recognized groups of internally displaced persons in the Middle East exists within the oPt due to the lack of internationally accepted borders between Israel and its neighbours, including the future State of Palestine. The UN's vague use of the term "displaced person" is further complicating the issue for IDPs in the oPt. The United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA) does not distinguish between "refugees" and "IDPs," providing aid to all "persons whose normal place of residence was Palestine during the period 1 June 1946 and 15 May 1948, who lost both home and means of livelihood as a result of the 1948 Arab-Israeli conflict" as well as their descendants.³² According to UN Security Council Resolution 237(1967), the term "displaced person" refers to Palestinians displaced within and from the West Bank and Gaza Strip as a result of the 1967 Arab-Israeli conflict and their descendants.³³ The General Assembly also subsequently endorsed UNRWA to also "provide humanitarian assistance ... on an emergency basis and as a temporary measure," to persons displaced as a result of the June 1967 Six-Day War and subsequent hostilities.³⁴ In a situation where various generations of displaced persons have accumulated without the prospect of durable solutions, the added value of applying a new label and a new "regime" specifically tailored for IDPs needs to be considered.

The Geneva-based Internal Displacement Monitoring Centre (IDMC) considers Palestinians, who have been displaced from their homes in Gaza and the West Bank due to deliberate home demolitions and evictions, and have remained in these areas, to be IDPs and not refugees since they have not left their country.³⁵ As Gaza and the West Bank are considered a single territorial unit under the Oslo Accords,³⁶ the IDMC argues that movement between the two areas does not engender refugee status. With internal displacement on the rise in the oPt,³⁷ it is critical that the international community recognizes it as such, in order to engage in the prevention, protection and assistance of those facing forced displacement in addition to those who have already been displaced.

Estimates of the total IDP population in the oPt remain controversial and vary according to sources, existing data and applicable definition of IDPs. Estimated numbers of IDPs in the oPt vary between 24,500 and 115,000.³⁸ There is no registration system and no systematic data on internal displacement, although the Inter-Agency Displacement Working Group (DWG) formed in January 2008 under the auspices of the protection sector (now called the Protection Cluster) of the Office of the UN High Commission for Human Rights (OHCHR) in the oPt is making considerable headway in this regard. The DWG was established after nearly two years of efforts by a small number of local and international NGOs, who worked to raise awareness of the problem and its solutions. Most agencies argue that in the oPt, the term IDP includes the following groups of people:

- 1) Palestinians originating from the West Bank or the Gaza Strip, who were internally displaced for the first time during the 1967 Israeli-Arab conflict.
- 2) Palestinians originating from the West Bank or the Gaza Strip who were (and continue to be) internally displaced as a result of human rights violations by the Israeli occupation regime after the 1967 Israeli-Arab conflict.³⁹

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For months, a narrow opening was left in the Wall in Ar Ram, through which only young children could squeeze.



All of these people were indeed displaced as a result of an armed conflict and/or violations of human rights and have remained within the territories. Using the working definition of the Guiding Principles, they can be considered IDPs. The United Nations has defined forced population transfer as the “systematic, coercive and deliberate ... movement of population into or out of an area ... with the effect or purpose of altering the demographic composition of a territory, particularly when that ideology or policy asserts the dominance of a certain group over another.”⁴⁰ It is clear that forceful displacement risks altering the demographic composition of the population, therefore amounting to a violation of human rights law and IHL. It is time to address the underlying causes for displacement and focus on prevention and protection. The Ecumenical Accompaniment Programme in Palestine and Israel (EAPPI) is visibly present in vulnerable communities, listens actively to local people’s experiences, giving voice to peoples’ daily suffering under occupation and produces first-hand written materials and testimonies. We will now present seven case studies of communities that, for different reasons, are particularly vulnerable to forced displacement.

IV. CASE STUDIES OF POTENTIAL DISPLACEMENT IN THE WEST BANK

Since 1967, Palestinians in the occupied West Bank have experienced continued forced displacement through a number of measures, including closure and movement restrictions, home demolitions and evictions, the Wall and its associated regime, confiscation and annexation of land, and Israeli settler harassment and violence.

CLOSURE, MOVEMENT RESTRICTIONS AND TIGHTENING CONTROL

Since the Second Intifada in 2000, the West Bank has been increasingly fragmented as a result of land appropriation, continuing restrictions in access and movements and the development of a two-tier infrastructure which benefits Israeli settlers in the West Bank, including East Jerusalem. According to UNOCHA, approximately 38 percent of the West Bank, including East Jerusalem, is off limits to Palestinians, due to Israeli settlements and informal outposts, military infrastructure and firing zones, Israeli-designated nature reserves and “closed areas” or “seam zones” between the Separation Wall and the Green Line.⁴¹ The situation of the small village of An Nu'man typifies the extent to which the closure regime, Israeli infrastructure and settlement expansion contribute to forced displacement.

AN NU'MAN: DECREASING OPTIONS AND INCREASING HARDSHIPS

This report discusses Israel's infringement of a number of human rights of residents of the Palestinian village of An Nu'man, including their right to work, to health care, to education and simply the right to a livelihood.

From An Nu'man you can see the towering apartment blocks of Har Homa, an Israeli settlement just a couple of kilometres from the village boundaries, where the cranes are seen working all day long. In the settlement, it is possible to see increased livelihood, opportunity and a future. From An Nu'man

you see a settlement inching closer, a cement surveillance tower behind you, and a highway that you can never use.

A bureaucratic mistake

An Nu'man is a small village southeast of Jerusalem with some 200 inhabitants in 20 homes.⁴² The village's problems are largely a result of what could be considered as a bureaucratic mistake. In 1967, An Nu'man was unilaterally and illegally absorbed into the expanded boundary of Jerusalem by the Israeli authorities without informing the villagers. However, the inhabitants were recorded as residents of the West Bank and issued with West Bank identity cards. The absurd result is that the residents and their houses belong to different legal and

administrative systems: the houses and land are part of the (annexed) Jerusalem municipality, while the inhabitants are residents of the West Bank.⁴³ Because they are deemed by the Israeli government to be living illegally in the homes they have had for generations, options for the residents of An Nu'man are dwindling fast. Their removal from their homes is slow and indirect, but no less effective. Rather than forcibly removing the people, the Israeli government confines them in a closed space where it is virtually impossible to develop their land and homes. This leads to the residents having no other option but to develop elsewhere - An Nu'man is bleeding its inhabitants. Meanwhile, the expansion of Har Homa settlement is on schedule.

In 1992, the Jerusalem municipality informed the residents of An Nu'man that the presence of West Bank identity card holders in a community inside Jerusalem was illegal.⁴⁴ In 1993 and 2007, the residents petitioned the Israeli Supreme Court for the village to be recognized as part of the West Bank, or, alternatively, for residents to be issued with Jerusalem identity cards and to receive a master plan and services from the Jerusalem Municipality. The latter case is still pending.⁴⁵

Although the village is officially located inside Jerusalem, the Jerusalem Municipality refuses to provide essential services to the "illegal" residents. Located within the Jerusalem borders, however, the village is not permitted to receive any services from the Palestinian Authority in the West Bank. As UNOCHA refers to the situation, the villagers of An Nu'man are truly "living in limbo."⁴⁶

In 1996 the children of An Nu'man were forced to leave the school in Umm Tuba, a village north of them, as they did not have Jerusalem residency rights and so were not entitled to use the municipality's school system. The road link to the nearest city, Bethlehem, was repeatedly closed for periods of 20-30 days between 1998 and 2003. During this time, the Israeli authorities broke water pipes leading to the

village⁴⁷ and uprooted telephone poles provided by the Palestinian Authority.⁴⁸ Throughout the 1990s no building permits were granted in the village and those who did build were promptly issued with demolition orders or forced to pay fines.

According to B'Tselem,⁴⁹ an Israeli Human Rights organization, the failure of the Ministry of the Interior and the Jerusalem Municipality to recognize the residents of An Nu'man as residents of Jerusalem is part of the policy of all Israeli governments since 1967. "The policy's goal is to maintain the 'demographic balance' in Jerusalem, meaning that the percentage of Palestinians in the city must not be allowed to exceed a certain ceiling" - formerly set at 25 percent and now 30 percent.⁵⁰

The checkpoint

Upon the completion of the separation wall, the village is now surrounded on three sides. In May 2006, a military checkpoint was established at the entrance to the village, where residents' names are registered. It is virtually impossible for the community to receive outside visitors, public transportation has ceased, and most service providers are prevented from entering or no longer come because of delay and harassment at the checkpoint. The community has no shops, school, mosque or health facilities. The checkpoint further complicates normal activities such as

shopping and going to school, because of the regular cases of delays and humiliation that are reported there. Numerous villagers have testified that they have been ordered to remove their clothes under threat of being shot. Children have also been subjected to intimidating and degrading treatment.⁵¹

Present situation

Due to their unique situation The residents of An Nu'man face a particular set of hardships that are not experienced by other West Bank residents. A decision by the Israeli High Court of Justice on 9 July 2008 stated that the separation barrier would not be dismantled in the area which has severed the village from the rest of the West Bank. The only option for the residents of An Nu'man to make their presence in their homes legal is to submit a request to the Israeli Ministry of the Interior for a temporary permit to access their own village, thereby undergoing the Ministry's arbitrary scrutiny, hoping that no security issues are raised to deny such a permit. Should the permit application be refused, the applicants will have no option but to leave their homes and indirectly be forcibly transferred from their place of origin.⁵²

According to the Jewish-Arab group Ta'ayush,⁵³ this temporary permit will allow villagers to enter Jerusalem but not to stay there. No travel into Israel is allowed. At

best it is a fragile permit that needs to be renewed every six months at the whim of Israel's security needs. Many residents will not apply for the permits out of principle and the consequences of this are not known at this time. Efrat Ben Zeev from Ta'ayush says, "It is very easy to drive them away from An Nu'man now". It is believed there are two families that have already moved out of the village, although residents do not talk of this as most of them feel a very strong purpose to stay in An Nu'man.

Daily life

What most affects An Nu'man villagers is the interruption of their family and social life. Children cannot invite friends to their homes; families are unable to have any guests or visits from their relatives living in the West Bank, not even if someone is ill or during special occasions such as weddings or holidays.

Young couples are prevented from building in the community because of the impossibility of receiving construction permits. Those who have built houses anyway have been unable to obtain permits retroactively, and have faced steep fines and/or demolition of their homes. Two homes were demolished in December 2005 and a pending demolition order has been issued.

Testimony

Ghassan, 25, built a house in the neighbouring village of Dar Salah. If he wants to marry, he needs a house and since he can't build in An Nu'man, he did the next best thing. Tradition says that the wife comes to live in the husband's village but this is not possible in An Nu'man as she would not be able to get a permit to live inside the village. The possibility of marrying from the village is extremely slim since there are only two extended families. But he is building a house nearby just in case, even though he is not planning to leave the village.

Ghassan does not yet have a wife but he is holding out for the situation to change in the village. And his story is not unique. There are about ten marriage-age men in the village in the same situation, and they feel that the village needs to come before marriage. If the situation changes Ghassan will sell the house and build a new one in An Nu'man. "I would rather stay unmarried than leave An Nu'man. Land comes first for Palestinians," he says. "The village is a part of us, I can't leave it."⁵⁴

In recent years, village land has been confiscated to construct a Border Police Base, and the Mazmoriyya terminal, and for part of a settler bypass road to connect Har Home and the settlements of Teqoa and Noqedim in the southern Bethlehem

governorate.⁵⁵ In addition, the Jerusalem Municipality Master Plan 2000 envisages the planned expansion of Har Homa settlement on a portion of An Nu'man's land.⁵⁶ Human rights organisations have claimed that what is occurring in An Nu'man is clearly a case of indirect forcible transfer, not justified by the security of the occupied population, and not by imperative military reasons. The concept of forcible transfer is considered a war crime.⁵⁷

In an affidavit to Al Haq, a Palestinian human rights organization, a villager states: "We feel isolated and under siege. The authorities, so we see, are trying to make things hard for us, to molest us and our children and to cut us off from our entire surroundings, all in order to hinder us and to cause us despair on the way to abandoning our village."⁵⁸

The right to freedom of movement is enshrined in Article 12 of the International Covenant on Civil and Political Rights. Also, according to Article 43 of The Hague Regulations, the occupier is required to take all measures in its power to ensure that public life continues in the area under its control. The Israeli barrier around the village infringes on the basic right granted to all persons to move about freely and without restrictions in their country. Under international law, East Jerusalem has the same status as other areas on the West Bank,

so village residents should have the right to enter East Jerusalem.

Israel has created in the occupied Palestinian territory a separation regime based on discrimination, applying two separate systems of law on the same area and basing the rights of individuals on their nationality. This is an unsustainable system. By creating a physical barrier between the village and the West Bank and not allowing the

inhabitants to have any contact with either the Palestinian Authority or the Jerusalem Municipality, their infrastructure of existence will be totally undermined. Ultimately they will leave the village “of their own accord.”⁵⁹

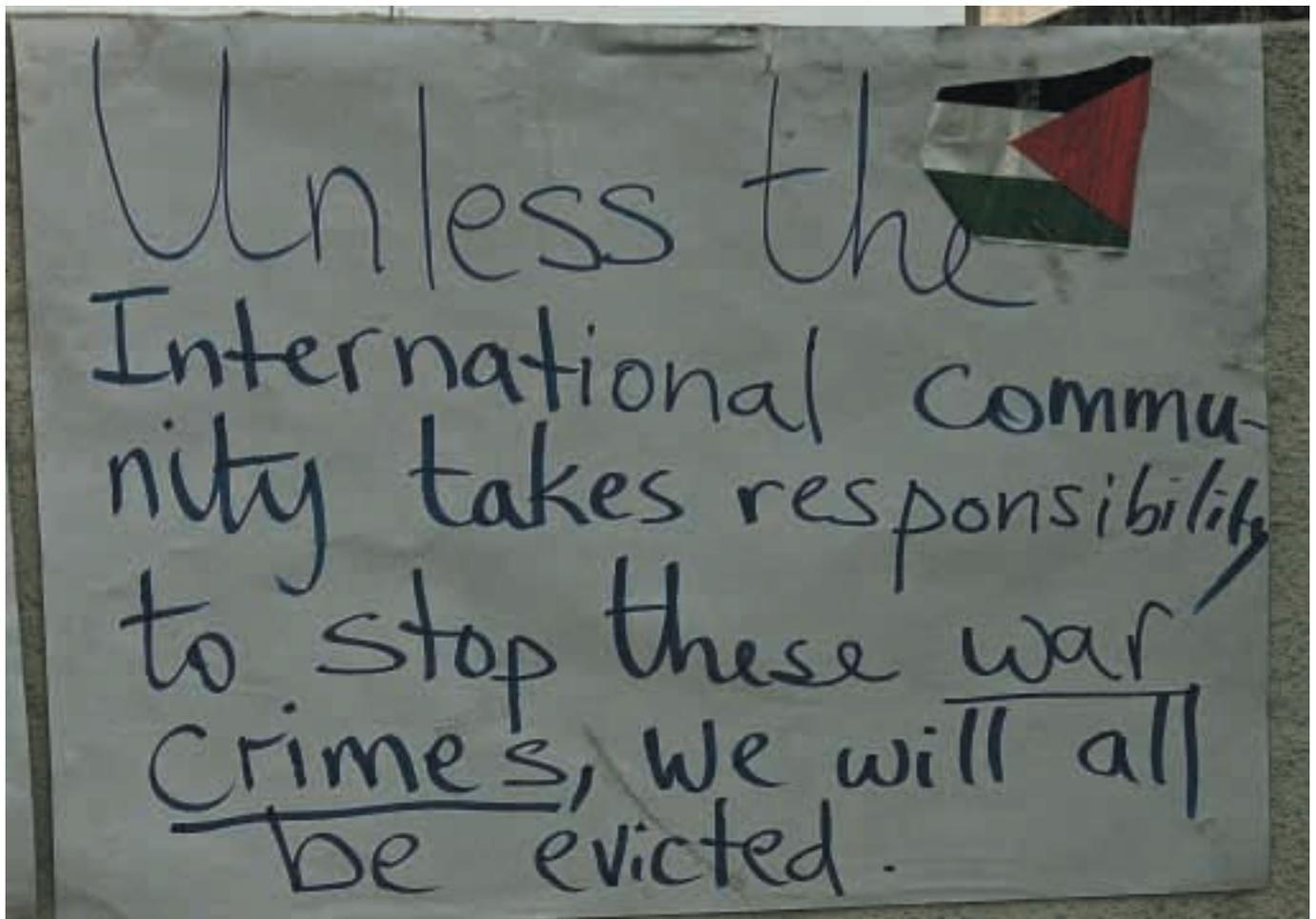
Har Homa settlement is deemed to be one of the fastest growing communities since the bulldozers first arrived in March 1997. Its population is expected to grow to 25,000

in the near future.⁶⁰ In light of the Israeli government’s refusal to change the position of the separation barrier,⁶ it should grant all residents of the village permanent residence status in Jerusalem so that they may have access to Jerusalem, as well as receive municipal services from the Jerusalem municipality.

Text: Dirk Gieselmann, Niina Karling, Pat Woods and Scott Smith, October 2008.

HOME DEMOLITIONS AND EVICTIONS

According to the Israeli Committee Against House Demolitions (ICAHD), Israel has demolished over 24,000 Palestinian houses in the oPt between 1967 and 2009.⁶² The protection of private property against confiscation, unless required by imperative military necessity, is a long-standing rule of customary international law, recognized in the Lieber Code and the Brussels Declaration and codified in the Hague Regulations and the Fourth Geneva Convention.⁶³ The violation of this rule through “extensive destruction and appropriation of property, not justified by military necessity and carried out unlawfully and wantonly,” is a grave breach under the Geneva Conventions.⁶⁴ Israel accordingly justifies the demolition of Palestinian houses by referring to three specific reasons: administrative reasons, military operations and punitive demolitions. As of April 2009, 4,694 Palestinian homes have been demolished by the Civil Administration for administrative reasons, that is,



Fawzieh Al Kurd "Um Kamel" has become a symbol of Palestinian resistance.







First evicted, then robbed.





Neighbours help Um Kamel to level the ground around the protest tent after the Caterpillar has cratered the privately owned land.



NAKBA
لنساء النكبة

عائدون
الى بورتنا في الطاب
القفصون هوناه
We want our Homes in
Talbieh, Katamon.....

for lack of building permits, which therefore account for approximately 26% of defined demolitions.⁶⁵ It is important to point out that in most cases, Palestinians have no choice but to build “illegally” as permits are almost impossible to obtain. According to Amnesty International and B’Tselem, demolitions for administrative reasons are based on “a discriminatory policy that has consistently refused planning permission to Palestinians while giving Israelis permission to set up settlements.”⁶⁶ Article 53 of the Fourth Geneva Convention declares that the destruction of property “is prohibited, except where such destruction is rendered absolutely necessary by military operations.” With these administrative demolitions there is no pretence of military action, and as such they are clear violations of international law.

11,798 Palestinian homes have been destroyed due to military operations since 1967, accounting for about 65.5% of defined demolitions.⁶⁷ Although imperative military necessity allows for the destruction of personal property, the ICRC’s commentary on Protocol I draws attention to the fact that it is at the discretion of the Occupying Power to interpret this clause in a reasonable manner, keeping a sense of proportion in comparing the military advantages to be gained with the damage done. The ICRC warns that “unscrupulous recourse to the clause concerning military necessity would allow the Occupying Power to circumvent the prohibition set forth in the Convention.”⁶⁸ Large-scale demolition operations of civilian homes immediately after an attack on Israelis suggest different interpretations of the principle of proportionality, since there is arguably no absolute military necessity to destroy this property.⁶⁹

ICAHD reports that 1,523 Palestinian homes have been demolished as “collective punishment and deterrence” affecting families of people known or suspected of involvement in attacks on Israeli civilians.⁷⁰ These demolitions account for 8.5% of all defined demolitions. B’Tselem reports that the policy has left 4,182 Palestinians homeless since the beginning of the second Intifada.⁷¹ The Israeli policy of punitive house demolitions is a flagrant breach of international law which, as we have seen, allows destruction of property only when necessary for a military operation.⁷² According to the ICRC, “military operation” is defined as “the movements, manoeuvres and actions of any sort, carried out by the armed forces with a view to combat.”⁷³ Punitive house demolitions do not meet this definition and human rights organizations have therefore stated that the policy amounts to collective punishment, which is a violation of IHL in itself.⁷⁴ Article 33 of the Fourth Geneva Convention states, “No protected person may be punished for an offence he or she has not personally committed. Collective penalties and likewise all measures of intimidation or of terrorism are prohibited.” The policy of punitive house demolitions was officially suspended by the IDF in February 2005, after it reached the conclusion that rather than deterring attacks, punitive demolitions only enflame the people and lead to more attacks. However, the practice was resumed on 19 January 2009.

THE CASE OF THE AL KURD FAMILY IN JERUSALEM

Internally displaced Palestinians generally fall into two groups: those who fled from their homes in 1947-48 but remained in the area that became the state of Israel in 1948 - approximately 338,000 people, and those displaced during the 1967 war and since the beginning of the occupation -

currently over 110,000 persons.⁷⁵ The second category includes displaced persons due to home demolitions and evictions. There are also people who have been displaced twice and are counted in both groups.⁷⁶ One such unfortunate family is the Al Kurd family living in the Sheikh Jarrah neighbourhood of East Jerusalem.

The EAPPI has accompanied the Al Kurd

family since the day they received their eviction order in July 2008. The writers of this report coincidentally began serving their three-month term as Ecumenical Accompaniers on the day of the Al Kurd family’s forced eviction in November 2008. The EAs visit the family several days a week and have seen the tent into which they moved be demolished, time and time again, with their own eyes. The case has gained

some international attention from volunteers, media and diplomats, very much thanks to the continuous struggle of Um Kamel, Mrs. Al Kurd.

The legal status of East Jerusalem and its residents

Between the years 1948 and 1967, Jerusalem was divided into two distinct areas. West Jerusalem occupied 38 square kilometers (Km²) and was under Israeli control while East Jerusalem covered 6 km² and was under Jordanian authority. Following the six-day war in June 1967, Israel occupied the West Bank and unilaterally annexed 70.5 km² of the occupied area, integrating it within the Jerusalem municipality. This territory consisted of East Jerusalem, including the whole of the Old City, and 64 km² of the West Bank, including 28 villages. This meant that almost overnight, the area of Jerusalem tripled and it became the largest city in Israel.⁷⁷ The annexation contravenes international law and was not recognized by the UN Security Council or UN member states.

Following the annexation, the government organized a census in these areas. Persons not present at the time the census was taken lost forever their right to reside in Jerusalem. Those who were present became permanent residents. They were permitted to become Israeli citizens if they met certain conditions, but for political reasons most did not apply. Instead, they accepted Jerusalem residency, which gave them more limited rights than Israeli citizens but did afford them some privileges that West Bankers do not enjoy, such as health insurance and social benefits. But Jerusalem residency, unlike Israeli citizenship, is easily lost and rarely regained.⁷⁸ Also, unlike

citizenship, permanent residency is passed to the holder's children only if they were born in East Jerusalem or Israel and if their parent holds a Jerusalem ID card.⁷⁹

Planning policies

Throughout its occupation, Israel has significantly restricted Palestinian development in East Jerusalem. UNOCHA reports that over one third of East Jerusalem has been expropriated for construction of illegal Israeli settlements, while only 13 percent of the annexed area is currently zoned by the Israeli authorities for Palestinian construction.⁸⁰ However, the building permit application process is complicated and expensive, and the number of permits granted per year to Palestinians does not meet the existing demand for housing. UNOCHA reports that the gap between housing needs based on population growth and the legally permitted construction is estimated to be at least 1,100 housing units per year.

Because of the difficulties in trying to obtain building permits from the Israeli authorities and due to the lack of feasible alternatives, many Palestinians risk building on their land without a permit in order to meet their housing needs. At least 28 percent of Palestinian homes in East Jerusalem have been built in violation of Israeli zoning requirements, meaning that some 60,000 Palestinians are at risk of having their homes demolished.⁸¹

Since 1967, the Israeli authorities have demolished thousands of Palestinian-owned structures in the occupied Palestinian territory, including an estimated 2,000 houses in East Jerusalem. Between 2000 and 2008,

the Israeli authorities demolished more than 670 Palestinian-owned structures in East Jerusalem due to lack of permits. According to B'Tselem, the Israeli Information Center for Human Rights, 89 houses in East Jerusalem were demolished in 2008, making more than 400 people homeless.⁸²

A Judaization of East Jerusalem?

Palestinians have long argued that evictions and demolitions are an attempt by Israel to reduce the number of Palestinians in East Jerusalem to allow settlement expansion and to pre-judge a final status peace agreement.⁸³ There is a plan from 2004 by the Israeli municipality in Jerusalem, which states as its goal "to secure an absolute Jewish majority in the city by creating a framework to proceed with the development of the city of Jerusalem as a capital for the Jewish state." The plan warns the government that the number of Palestinians in the city, if left to their present growth rate, will reach 40 percent of the Jerusalem population in 2020, which will undermine the government's decision to maintain an approximate 70:30 Jews to Palestinians ratio.⁸⁴

Palestinian and Israeli critics argue that the Israeli government and private Jewish groups are working in concert to build a human cordon around Jerusalem's Old City and its disputed holy sites to "Judaize" these historically charged areas. According to a Washington Post investigation, the eviction of the Al Kurd family is part of a plan to move Jewish residents into Palestinian neighbourhoods to consolidate Israel's grip on strategic locations.⁸⁵ A spokesman for Jerusalem City Hall rejected the accusations by saying that municipal enforcement is carried out equally and according to the law

and that the demolition of houses built on “public land” took place only after the residents lost their appeals in the district and supreme courts.⁸⁶

The case of the Al Kurd family

Evictions are much less common but no less alarming than house demolitions.

Background

In 1956, housing units were built in the Sheikh Jarrah neighbourhood in East Jerusalem for the purpose of providing housing for Jerusalemite families, including the Al Kurd family who were refugees from Jaffa and West Jerusalem. The construction of these units was carried out in cooperation between the Jordanian government represented by the Ministry of Construction and Development and the United Nations Relief and Works Agency for Palestine Refugees, UNRWA. The agreement between the two bodies indicated that the Jordanian Government would offer the land for UNRWA to build the housing units in return for the resettled refugees relinquishing part of the services offered by UNRWA, namely food assistance.⁸⁷ The families were given the properties under 33-year leases, which would revert to full ownership as long as they paid a token rent and kept the properties in good order.⁸⁸

Orthodox Jews from a religious organization, the Sephardi Jewry Association, claim that they purchased the land in the late 19th century - it is close to an old Jewish tomb popular with pilgrims. In 1967, when Israel annexed East Jerusalem, the property was taken by the Custodian for Absentee Property, an Israeli institution that had also

taken control of all property left behind by the 700,000 Palestinians who fled or were forced out in the 1948 war.

Two Jewish groups, the Oriental Jews Association and the Knesset Yisrael Association, began a legal process to reclaim ownership of the property and in 1972 the court gave control of the land to the heirs of two rabbis who appeared to be the 19th-century owners. The Al Kurd family was forced to pay rent to its new landlords, which it refused in principle.⁸⁹

Settlers moving in

While the Al Kurd family continued legal proceedings challenging the settlers’ claim, the settlers started filing suits against the Palestinian family. In 2001, settlers occupied half of the house.⁹⁰ The area of the seized section of the house is 78 m². The family unequivocally denied the settlers’ claim to the land, insisting that they have no legal documentation to prove it. Settler organizations have offered the Al Kurd family large sums of money in return for selling the house to them, but the family has refused.⁹¹

In 2006, the court ruled the settlers’ claim void, recognizing it was based on fraudulent documents. Subsequently, the Al Kurd family lawyer petitioned the Israeli Land Registrar to revoke the settler’s registration of the land and state the correct owner of the land. Although it did revoke the settlers’ claim, the Israeli Land Registrar refused to register the Al Kurd family’s ownership of the land.⁹² Based on the same grounds, another 27 families in the Sheikh Jarrah neighbourhood are now threatened with eviction.⁹³

According to Kamel Al Kurd, the son of the family, the Al Kurds have for years lived with constant settler surveillance around their home, verbal threats, offered bribes and actual invasion of settlers into their house. The settler families arrived and stayed on a rotational basis, making it even more difficult to secure their removal through the courts. Despite the fact that their claim to the land was revoked, settlers were given the keys to the Al Kurd’s family home extension by the Jerusalem municipality.

Eviction orders to both parties

The Al Kurd family went to the Israeli Supreme Court and obtained an eviction order against the settlers in 2007. In spite of this, the settlers remained in the building.

In July 2008, the Israeli Supreme Court ordered the eviction of the Al Kurd family for their refusal to pay rent to the settlers for use of the land. Although the settlers’ claim to the land had been revoked two years earlier, the court based their decision on an agreement made between a previous lawyer for the family and the settlers even though the Al Kurd family, and the Sheikh Jarrah neighbourhood as a whole, rejected this agreement and fired their legal representative at the time.

According to the Al Kurd family, in the beginning of 2008, the two settler associations who were claiming ownership to the Al Kurd’s land sold their claim to the property to a large investment company called Nahalat Shamo’an. In turn, the company presented plans to build 200 housing units atop the ruins of the present Palestinian community of 28 homes. As such, the “legal” proceedings to evict the Al

Kurd family were set in motion. The Al Kurd family's lawyer petitioned the Magistrate Court, the District Court and the High Court on 13 July 2008 to block the proceedings. However, all petitions were denied. On 15 July, the lawyer petitioned the High Court yet again with two demands: the first was to stop the eviction proceedings against the Al Kurd family and the second was to reconsider the validity of the settlers' claim of land ownership. On 16 July, the Israeli High Court refused to look into the issue of the Al Kurd eviction while asking for additional clarification about the lawyer's second demand no later than 20 July 2008. The clarifications were presented to the Court within an hour of the request.

The eviction of the Al Kurd family

At 03.30 in the morning of 9 November 2008, the Al Kurd family was forcefully evicted from the house. According to Mrs Al Kurd, Um Kamel, she was helping her sick husband Mohammed with a bedpan when she heard a knock on the door.

Outside the front door stood almost one hundred policemen and Border Police, who burst into her house. She was dragged into the street and her husband was taken into the neighbour's house. An ambulance was called when Mohammed Al Kurd, who was wheelchair-bound, became ill but the police did not let the ambulance reach the home. Um Kamel and her husband were evicted in their pyjamas and not allowed to take any belongings from the house.

When she appeared at the press conference later in the day, Um Kamel was dressed in clothes she had borrowed from her neighbours. Mohammed Al Kurd was taken to hospital shortly after the press conference.

Um Kamel's protest tent

Um Kamel was invited to put up a tent on a compound approximately 50 metres from the family house on land owned by a Palestinian. Since then, she has been staying there continuing her struggle for the neighbourhood and the other 27 families with eviction orders.

Her tent has become known as the Um Kamel protest tent. A large number of visitors have showed their respect and solidarity by visiting the tent.

The Committee of the Residents in Sheikh Jarrah considers the Israeli legal system to be designed to serve Jewish interests at the expense of Palestinian rights. The Committee also deplored the Israeli High Court's decision to evict the Al Kurd family and characterized it as unfair and constituting a dangerous precedent. The Committee claims that the decision is setting a precedent for the seizure of the other 27 housing units in the neighbourhood, confirming that the eviction of people from their homes comes in the context of establishing a new Israeli settlement in East Jerusalem.

Several demolitions of the tent

Since the eviction, the tent has been demolished several times because the Israeli authorities consider it to be an illegal building on the land. The fence around the





land has also been demolished and holes have been drilled into the ground to make access more difficult. After every demolition, the tent has been put up again.

In the night of 22 November 2008, less than two weeks after their eviction, Mohammed Al Kurd, who suffered from a serious kidney disease, passed away after a heart attack in hospital. Three days of mourning followed with hundreds of family members, friends, neighbours, internationals, politicians and religious leaders visiting the mourning tent in Sheikh Jarrah.

Mohammed Al Kurd was buried near the Al Aqsa Mosque after the family had requested the settlers to allow his body to be brought to visit the house for the last time. The request was rejected.

Um Kamel's struggle will surely continue. She and her tent are increasingly seen as a symbol of Palestinian resistance.

Al Kurds set precedent

On Sunday, 2 August 2009, just before 5:00AM, a large number of police officers in riot gear broke into the Hannoun and Ghawi family homes and forced all 53 inhabitants, including 19 children out at gunpoint.

Insensitive to the cultural norms, the police even refused to allow the women to properly dress before being thrown out on the street.

After arresting numerous Israeli and international peace activists who tried to intervene and stop the evictions, the police loaded the families possessions onto a truck and dumped them at a municipal site on the edge of Jerusalem. Just hours later, both homes were given to Israeli settlers and security personnel were stationed outside to ensure that the rightful owners do not erect tents within sight of the houses.

Now 25 other Palestinian families in Sheikh Jarrah remain threatened with eviction notices.

Text: Bente Bertheussen, Fofø Lerefolo, Helena Koumi and Liz Burroughs, January 2009.









Home demolition in Silwan, Jerusalem, November 2008.











THE WALL AND ITS ASSOCIATED REGIME

Concerns over potential forced migration have been raised ever since the decision to build the Wall was made public. The Wall and its associated regime present two main types of obstacles that have direct humanitarian effects on the lives of Palestinians: physical and administrative. From the West Bank side, the Wall indeed provides a very visible statement of where Israel wishes the border to be, meandering predominantly inside occupied Palestinian territory. According to the official Israeli Ministry of Foreign Affairs website, the eight-metre-high concrete wall sections will make up only five percent of the total barrier once the entire project is completed. These sections are built “only in areas where the threat of sniper fire is real and immediate ... or in areas in which it was impossible to build a fence for topographical reasons.”⁹⁴ The rest of the barrier is comprised of a “multilayered composite obstacle” composed of a three metre high wire-and-mesh “intrusion-detection” fence, augmented by static security features, such as patrol roads, smoothed strips of sand showing footprints of intruders, trenches and coiled razor wire.⁹⁵ Although the concrete wall appears more formidable and oppressive, UNOCHA’s Ray Dolphin reminds us to bear in mind that the more extensive “fence” segment takes up more Palestinian land for its “footprint” and is equally effective - and destructive - in terms of its security and humanitarian impact.⁹⁶ Given that the violation of international law and the subsequent humanitarian consequences occur because of the Wall’s intrusion into the West Bank and East Jerusalem, it is difficult not to wonder if the Wall would have been any less effective had it been built along the internationally-recognized Green Line.⁹⁷

JAYYOUS: A VILLAGE IN THE SHADOW OF THE WALL

The village of Jayyous is located east of the city of Qalqiliya in the northern West Bank and has about 3,700 inhabitants, most of whom are farmers.⁹⁸ In addition, approximately 5,000 Jayyousis live outside the village, many of them abroad. The village is directly affected by the Separation Wall, whose construction in Jayyous began in late 2002 and was completed in 2003. In Jayyous, the Separation Wall was built approximately six kilometres from the Green Line, inside the Palestinian West Bank. Subsequently, 75 percent of Jayyous’

farmland (approx. 8,600 dunums or 860 hectares⁹⁹) is located in the “seam zone”, between the Wall and the Green Line.

From the roof of the municipality building you can see how the Wall meanders through the valley below and how it climbs up the mountain in bends making enormous deep and broad cuts in the landscape. The Wall and its infrastructure is 40-80 metres wide and destroys many dunums of agricultural land for the local farmers simply through its construction. What you cannot see from the municipality building is the nearby Israeli settlement of Zufin behind the mountain in the west.

Zufin settlement

The Israeli settlement of Zufin was established in 1989 and is situated three kilometres from the Green Line, inside the West Bank. It consists of about 2,000 housing units on more than 1,000 dunums. With the future expansion envisioning hundreds of planned new housing units, the total area of the settlement is about 2,000 dunums. The number of new houses will be far more than the natural growth need for the settlement, which shows an intention to create possibilities for new settlers to move to Zufin. Several Palestinian communities in the area have lost parts of their land to this settlement. Jayyous,

however, was the most severely affected by the confiscation of land.

The Wall

In 1988 the Israeli Military Governor of Qalqiliya district declared 1,362 dunums of Jayyous village land as State Land. The villagers were given 30 days to object. 79 farmers gathered to complain against this decision, but only one farmer was invited to testify.

The construction of the wall around Jayyous began in October 2002 and was completed in August 2003, resulting in the uprooting of 4,000 olive and citrus trees.¹⁰⁰ The wall has isolated 68 percent of Jayyous land on its west side, in addition to most of the greenhouses and six of the wells. Another 4.5 percent of the land was taken to build the actual wall on. This is in addition to the 11 percent of Jayyous land that was taken to build the Zufin settlement in 1989.

The wall affects access to the land, cultivation and the economic situation of the villagers.

Access

All the land in between the Separation Wall and the Green Line, the so-called “closed” or “seam zone,” is no longer freely accessible to the owners. The land can only be reached only by permit-holders and by passing through one of the gates in the Wall. As it is possible to get a permit only for either the North or the South Gate, farmers who have several plots of land situated in

different areas have to travel long distances from the gates to their land.

The opening hours of the gates also limit movement to certain access times.

The South Gate, for example, is open 08:00-08:15; 14:10-14:25 and 17:00-17:45. The gates are manned only during these hours, so in an emergency there is no possibility to open the gate. A hotline number is posted at the gates since the opening times are not always respected by the Israeli military, and changes of the opening times are poorly communicated by the military to the farmers. More importantly, the opening times do not correspond to the needs of the farmers in regards to the cultivation of their fields. Finally, the farmers must return to their homes in the evening and are not allowed to spend the night on their agricultural land.

Permits

In October 2003, the land between the Wall and the Green Line in the Northern West Bank was declared “closed” by military order. For Palestinian communities with land on the west side of the wall, those above the age of 12 require a “visitor” permit to access the closed area. Jayyous was one of the communities most affected by this order.¹⁰¹

Farmers must prove their connection to the land and most applications are answered negatively. The number of approved permits is drastically decreasing. In October 2003, 630 farmers received permits. In June 2008, only 168 farmers received permits,

representing a mere 18 percent of Jayyous farmers with land in the closed area.¹⁰²

An example of how this affects families is “MO” who currently holds a permit while all other family members including his wife and children do not. They have been refused permits due to “security reasons”, one of the most common and also most imprecise reasons for refusing to provide permits.

The validity of the permits is also limited, currently varying between two and six months. In 2005, the average permit was valid for between one or two years. The permits are not renewed automatically. Each time the permit expires, a new application, along with a copy of the ID, the original birth certificate and the original deed of ownership for the land has to be handed in with the Municipality who forwards them on to the Israeli authorities. A new permit can only be applied for when the old one has expired, making constant access to the land impossible. Sometimes it takes several months to receive a permit. The last time “MO” applied for a new permit in February 2008, he finally received it on 30 June 2008. Nevertheless, even when holding a permit, the farmers are sometimes not allowed to pass through the gates.

Cultivation/Economic situation

The opening hours of the gates negatively impact the farmers’ ability to cultivate their land, subsequently affecting their economic situation. For example, the opening hours of the gates obstruct farmers from irrigating their fields before sunrise, which they would

normally do to avoid the water evaporating. The merchandising of the agricultural products has become more difficult as the opening hours of the gates do not allow the traders to pick up the fruits and vegetables early enough in the morning to bring them to the regional markets in Nablus or Ramallah. In addition, there are no more than two traders with visitor permits to enter the “seam zone” with their vans. The farmers cannot sell their crops for the same prices in the smaller nearby markets of Azzoun or Qalqiliya.

In addition, intensive irrigation necessary for example to plant new trees has become nearly impossible as the water tank vehicle would have to stay for several hours in the “seam zone”, which is very expensive. The vehicle only has a permit for the North Gate making it difficult to reach the land in the South. It is no longer possible to cultivate plants that need daily treatment and keep greenhouses, as the access to land is so uncertain. Most farmers have had to give up the cultivation of vegetables they used to plant between the trees in the winter.

Agricultural equipment or products necessary for the cultivation of the land are not always allowed to enter into the “seam zone”. In August 2004, a year after the completion of the wall around Jayyous, local production had fallen from seven to four million kilograms of fruit and vegetables. The export of agricultural products has been stopped completely.¹⁰³

Finally, fewer people than are required to

work the land usually manage to obtain a permit to access the land. Harvests, especially the olive harvest, are for some farmers impossible to complete with such a small number of available workers.

Re-routing the Wall near Jayyous

Several complaints have been filed with the Israeli High Court of Justice (IHCJ) regarding the route of the Wall on Jayyous' land.

In June 2006, the IHCJ, in response to a complaint regarding the route of the Wall submitted by the Association for Civil Rights in Israel (ACRI) on behalf of the villages of Jayyous and Falameya, ordered a revision of the wall around Jayyous. In response to another petition, the state admitted that plans for an industrial zone for Zufin settlement had been taken into consideration in planning the route.¹⁰⁴ The court gave the state a deadline of 45 days to find a new path for the barrier that would take into consideration the needs for both the inhabitants of Zufin and the two villages.

On 1 June 2008, the IDF issued a map recommending a revision of two sections of the route of the wall in the greater Zufin area. The plan returns some land to Jayyous but does not re-route the wall in its entirety to the Green Line, as ACRI and the Jayyous community requested. Instead, only approximately 2,500 of the 8,600 dunums currently isolated will be restored to Jayyous. The revision does not affect the most productive areas for fruit and

vegetable cultivation, the four groundwater wells and the majority of greenhouses. Re-routing will also result in the uprooting of more trees.

The effects of re-routing the wall

Many of the local farmers in Jayyous are concerned about the re-routing of the wall. It only returns a small amount of land to the villagers and there are concerns that some gates will be closed, making access to the land even more difficult than at present.

Only one out of the six wells in the “seam zone” will be “released” with the new route of the wall. The usage of water will continue to be controlled by a quota system which only allows farmers to use minimal amounts of water for their crops. This will continue to affect the community that is already suffering from drought. Moreover, the wells which are situated next to the Zufin settlement are suffering from pollution from the settlement which consequently affects the people of Jayyous.

The people of Jayyous were not democratically involved in the decision of the re-routing of the Wall, nor will they be sufficiently compensated for their losses. As the current Wall is illegal according to international law, the revised route of the Wall will be no more legal as it will not follow the Green Line. There is also a fear that moving sections of the Wall after a hearing in the IHCJ might have the effect of legitimizing the Wall as an accepted border.



Two cases

MO

MO owns 35 dunums (35,000 square metres), which is all located west of the Wall in the Seam Zone. Although none of his land was destroyed by the current wall, two dunums will be destroyed and 50 trees uprooted by the proposed re-routing of the Wall.

MO obtained his land from a relative who left the country. He received 20 dunums in 1980 and another 15 dunums in 1993. He started cultivating the first part of the land by planting olive trees, almonds, fig trees, zitr and grapes. During the winter he added seasonal vegetables like beans, onions, wheat and forage crops.

In 1993, he planted 300 olive trees on the

15 dunums that he had acquired. These were uprooted by the Israeli military on the grounds that the land had been confiscated - but without giving any explanation. He waited for six months and replanted 400 olive trees, and got an official letter from the District Coordination Office (DCO) telling him “officially” that the land where he had planted the 400 trees had been confiscated by the IDF. However, there has



not been any follow-up until now. The effects of the re-routing of the Wall remain the same as all of his land will still be located in the seam zone.

AA

AA owns 48 dunums which is all in seam zone. Four dunums were destroyed by the first Wall and another four dunums will be destroyed and 20 trees uprooted by its new

route. AA inherited the land from his parents, already with a certain crop of old olive trees. He planted another 130 trees ten years ago. In the winter, he also used to cultivate seasonal vegetables and planted grapes and figs.

After the construction of the Wall, he could no longer go to his land - having been living abroad for a while, he did not get an

ID upon his return in 1995. With the help of the Municipality, he finally succeeded in obtaining new papers and got a permit to reach his land in 2008. It took him two months to recondition the land, and it will take another 3-4 years to obtain the same harvests as in 2003. As with MO, the effects of re-routing the Wall remain the same, as AA's land will remain in the seam zone.



Conclusion

We have seen how the restrictive permit regime curtails the time available for cultivation in farming communities such as Jayyous. According to the village mayor, unemployment now stands at 70

percent and Jayyous has been transformed “from an exporter of food to a community where social hardship cases receive periodic food aid.”¹⁰⁵ The International Court of Justice 2004 advisory opinion warned that the Wall

would in the long run induce forced displacement. This is now evident in Jayyous, particularly with the young university-educated men, who move to other West Bank cities or emigrate to Europe or North America.



The Wall would not have been illegal if it had been built on the Green Line, the internationally recognized border between Israel and a future Palestinian state. As it stands, residents of Jayyous feel that the permit and gate restrictions to access their

own land are deliberate and constitute “a policy intended to create despair among the farmers, hoping that they will cease working their land west of the Barrier,”¹⁰⁶ give up and decide to move elsewhere.

Text: Folathela Botipe, Ingrid Colvin,

Kerstin Gollembiewski, Linn Aarvik, Pehr-Albin Edén, Simon Kortjaas, Susanne Bieri and Ulf Tèbelius, January 2009.



ECUMENICAL
ACCOMPANIER

فلسطين
فلسطين
فلسطين

Ecumenical Accompaniers standing by a road block on the way to the village of Shufa.





*The winding Separation Wall close to At Tira village.
Palestinians are prohibited from using the military patrol road.*





palastine
will be
free

الله الشهد
البطل ابو عمار

JUBARAH VILLAGE

Jubarah is a small village of 52 families or 350 people, situated on a plateau south-west of Tulkarm. It lies close to the Green Line and the Israeli settlement of Sal'it, with a population of 400 people. In 2003, the Wall was completed to the east of Jubarah, confiscating 3,500 dunums from the village¹⁰⁷ and isolating the village between the Green Line and the Wall.

Situated on the land between the Wall and the Green Line, Jubarah became known as a seam zone village. Seam zone residents are physically separated from the rest of the West Bank and from health, education and commercial services located east of the Wall. Children, patients and workers have to pass through a checkpoint to reach schools, medical facilities and workplaces and to maintain family and social relations. Furthermore, residents of Jubarah require "permanent resident" permit-holders to continue to live in their own homes.¹⁰⁸

This report highlights the difficulties of living in the seam zone, between the Green Line and the Wall, under constant pressure to move out of the village.

The checkpoint

Access in and out of the village is strictly controlled by the Israeli military. In March

2009, the Israeli authorities removed one of the two checkpoints controlling all traffic to and from Jubarah.¹⁰⁹

The soldiers at the remaining checkpoint allow villagers to bring small quantities of goods into Jubarah. Everything had to be divided up before inspection. The previously vibrant economy of vegetable and chicken farming consequently collapsed as feed and fertilizers could not be brought in, and the checkpoint made marketing untenable.

On 15 September 2008, a Jubarah resident was kept waiting at the CP for four hours because he was trying to bring a newly purchased sofa to the village. When the commander finally confirmed that the Israeli DCO had given authorization, he was so angry that he took a knife and cut the seat. The Ecumenical Accompaniers (EAs) witnessed the villager lodge a complaint with the Palestinian DCL, as well as with the Israeli DCO.

Permits

Since 2004, every resident in Jubarah above the age of six must possess a residential permit, issued by the DCL which states that they are residents of the seam zone. This permit looks similar to a farmer's

visitor permit, but it allows the person to sleep in the seam zone. The problem at the root of this system is the way the Israeli army registered people: they issued the residential permit to people who were in Jubarah on one particular day, without giving prior notice to the residents of the village. Absent villagers were not registered, thus did not get a residential permit, even though they had lived there all their life. They were subsequently not allowed to sleep in Jubarah, because they were not present in the Israeli survey, which happened on one day only and without prior notice.

The EAs were told of one woman who was not home that day and did not receive a permit identifying her as a resident. After four years, she was finally given a residence permit on 13 December 2008. In the interim, she had to apply for visitor permits, which did not permit her to sleep in her own house, but only to visit it during the day. She was forced to sleep on the eastern side of the Wall, although her house and all her belongings were on the western side of the barrier. Her sons are still waiting for their residential permits.

Everyone without a resident permit must apply for a special permit to visit Jubarah. This permit

is nearly impossible to obtain, effectively cutting Jubarah off from the West Bank.

A villager told the EAs how four months ago his brother who lives in Germany came to stay with relatives in Aras. The villager organized a big meal for all family members at his house. However, his brother was not given permission to pass through the checkpoint, so they had to take all the food over to the village of Aras.

Another villager told the EAs how her mother has not been given a permit to visit Jubarah for two years. The difficulty of receiving visitors is seriously circumscribing the social and family life of Jubarah villagers, putting indirect pressure on the villagers to move.

Services

As there is no school in the village, the approximately 100 children have to leave the village every day to go to school elsewhere. The primary school children go by bus to Aras (now extended to 9th grade) and the secondary school children go either to Kafr Sur or Kafr Zibad.

Villagers have to travel to Tulkarm for hospital treatment including maternity services. An UNRWA mobile medical clinic also visits on the fourth Wednesday or Thursday of the month.

There are two small stores which sell sweets, drinks and sundry items that the soldiers allow the shopkeepers to bring through the checkpoints. Most of the shopping nevertheless needs to be done outside the village.

The village council first applied to have a large water tank installed in 1992. On 4

November 2008, they finally got permission to install the water tank.¹¹⁰ In 2007, electricity was finally connected to the village, after the villagers had contributed with one million NIS (over \$250,000) for the cost.

The Civil Administration has designated an area of just 75 dunums for the village, and therefore all houses and buildings on the roads leading to the centre could potentially be destroyed. There are demolition orders on two buildings belonging to UNRWA registered refugees along the military road and an almost completed new primary school had a cessation of building order placed on it a year ago.

Re-routing the Wall

In October 2004, the Israeli authorities informed residents of Jubarah that they would realign the Wall to the west so that the village would be on the West Bank side. Some 522 dunums would be confiscated as part of the realignment of the Wall but 90 percent of the villagers' land would be returned to the villagers of Jubarah.

With the re-routing of the Wall, many villagers are hoping to be brought back into the West Bank. This would allow for easier movement of people as well as goods, and ultimately solve the problems connected with being isolated in the seam zone.

Text: Anna Seifert, Iris Bildhauer, Judith Hammond, Lars-Martin Nygren, Milena Aviram, Pauliina Mäkinen, Susan Palmari and Wolfgang Sreter, January 2009.

AL WALAJA

Al Walaja, a village west of Bethlehem with about 2,000 inhabitants,¹¹¹ has been issued numerous house demolition orders that have also been executed. In addition, the Wall is about to be constructed through and around the village. The life of the villagers is strongly affected by the occupation. People find themselves with a destroyed house or have to live in fear of being cut off from their land.

1948 Refugees

Al Walaja village was completely destroyed in the 1948 war, turning 1,200 people into UNRWA registered refugees who now live mainly in Bethlehem and in Jordan.¹¹² The villagers who remained built a new village on the portion of land located in the Jordanian-controlled West Bank. When Israel occupied the West Bank in 1967, Israeli authorities included parts of the new Al Walaja in the unilaterally expanded Jerusalem.

Complex legal situation

Al Walaja finds itself in a complex legal situation. Most of the village lies within Area C, where the Israeli military and civil administration is responsible for planning and building permits. The northern part of Al Walaja, called Ein Jewaiseh, is considered by Israel to be part of Jerusalem, under jurisdiction of the municipality of Jerusalem.

The Wall

Approximately 4-5000 dunums (400-500 hectares)¹¹⁴ of village land is located on the other side of the planned Wall route.¹¹⁵ According to the website of the Ministry of Defence, Al Walaja will also be completely encircled within an additional

inner Wall.¹¹⁶ The construction of the Wall was stopped due to a lack of funds in October 2007. In the meantime, however, villagers are living in uncertainty of what its completion will entail.

There are fears that the area between the Wall and the Green Line will be declared a closed military area seam zone, as were similar areas in Hebron and parts of the Salfit, Ramallah, Jerusalem and northern Bethlehem governorates in January 2009.¹¹⁷ Seam zone residents are physically separated from the rest of the West Bank and from health, education and commercial services located to the east of the Wall. UNOCHA raises the concern that the closed area designation would also affect residents on the “Palestinian side” of the Wall, who would require IDF-issued “visitor” permits to access their land behind the Wall.¹¹⁸

Furthermore, a recent report by the Israeli organization Peace Now reveals that the Israeli Ministry of Housing and Construction is planning to build a new settlement, Gi’vat Yael, consisting of 20,000 housing units on lands belonging to Al Walaja, Battir and Beit Jala.¹¹⁹ This is being done despite the commitments made by the government of Israel under the road map to halt all settlement expansion, including natural growth, and to dismantle the settlement outposts created since March 2001. This commitment was reconfirmed at the Annapolis summit in November 2007.

Home demolitions

Home demolitions have taken place in Al Walaja for many years. According to the UNOCHA, 23 homes and 12 agricultural structures have been demolished while 46

houses have pending demolition orders.¹²⁰ Among them are demolition orders on the village council building and the mosque. With the support of the villagers, 10 houses have been rebuilt, but some destroyed a second time. One family has moved to Al ‘Azza Refugee Camp in Bethlehem, while the other families still live in other houses in the village.

Even an UNRWA school is affected by a “building stop.” The new building for the co-educational school in Al Walaja is funded by UNRWA, US aid and local people and is necessary for the 276 pupils aged between 5 and 14. So far only the ground floor has been built because there is no permission to build the planned second floor.

The Salem family¹²¹

The Salem family is one of two families who have resisted the house demolitions by rebuilding their house even after a second demolition. After having worked abroad for a few years, they returned to the area where they were born and brought up and in 2003 they built a house on land that they legally own. This land, although in the West Bank according to the pre-June 1967 borders, has been claimed as part of Jerusalem since 1967.

After some months, the Salem family received a demolition order and after many attempts in the courts to save their house it was demolished in January 2006 when the father was out of the house. The eldest son was arrested to prevent him from causing trouble.

The villagers collected money to rebuild the house and it was rebuilt in February/March 2006, but they soon received new

demolition orders and the house was demolished for the second time in December 2006. The demolition took just five minutes. For a while afterwards, the family lived in a tent and later in a one-roomed house nearby until that too was demolished. The family then lived in a friend’s apartment until July 2007 when they managed to rebuild their house with the help of the Holy Land Trust and international volunteers.

Now their deep hope is to be able to live a normal and quiet life. While the younger sons are still studying, their eldest son has recently found work with a Bethlehem company. With an unemployment rate of over 50 percent, they see it as a very hopeful sign for a better future.

The case of Abed

Abed is a man in his late forties, living in the Dheisheh camp in Bethlehem, the largest refugee camp in the Bethlehem area. His parents and grandparents were among the many villagers who were expelled from the original village of Al Walaja in 1948. He and his family were born in the camp, but his father, ever since he got expelled from the original village in 1948, kept the papers that prove land ownership in regard to the fields. Abed holds a West Bank ID but his land is situated in the Jerusalem municipality. In the Israeli authority’s eyes he and his co-villagers are therefore “illegal residents in their own homes.” Abed summarizes it very astutely: “It’s a crazy legal situation!”

The first time we met Abed was in the beginning of December 2008. It was a beautifully sunny winter day with clear blue skies when we met him in his fields. We

had been given an invitation through an e-mail from some of his Israeli friends to come and help him build a water collection system to irrigate his land. His Israeli friends are planning to develop his fields into an ecological haven of organic excellence, using traditional methods and thereby trying to protect Abed's land from settlers and the Israeli authorities.

Abed's fields are located on slopes, terracing down the valley where he cultivates onions, figs, olives, beans and herbs. On the right side of Abed's fields we saw the huge Gilo settlement, in front of his fields is a clear view of the city of Jerusalem and an animal zoo - a recreational spot for Jerusalemites during weekends. Right down in the valley we saw an Israeli road to Jerusalem and a train track. We were told that the road represents the Green Line or the 1949 armistice line. So Abed's land is clearly in the present West Bank together with the new village of Al Walaja. On our left side, we could see the hill of the original village of Al Walaja.

Abed comes to work on his land almost every day. Often he stays overnight on his

land for five or six nights a week, he explains. He has set up a little shelter made of canvas and spare bits of wood and plastic. In December 2008, a car from the Israeli Ministry of the Interior accompanied by two military jeeps came to his land and said he had no building permit for his shelter. The Israeli authorities claim that his shelter is illegal.

Abed tells us he has had problems with settlers from the neighbouring settlements of Gilo and Har Gilo. They have come and offered to purchase Abed's land. He was even offered the amount of five million US dollars for his piece of land. Abed tells us he would never sell the land, no matter how much they offer him. Even though Abed is poor and has a family to support, the land is too precious to him - it is his connection to his past, his family's roots and history. For him and other Palestinians the land is too valuable to sell - it is simply priceless.

Conclusion

Under international humanitarian law, it is prohibited for the occupying power to transfer its own civilians into the occupied territory.¹²² Although seizure of lands for

immediate military purposes is permitted, confiscation of private property and transfer of ownership to the occupying power is prohibited.¹²³ The UN Security Council has stated that the measures taken by Israel which change the physical character and demographic composition in the West Bank including the construction of settlements constitutes a violation of IHL.¹²⁴

As the population of Al Walaja consists of refugees from 1948 who have a right to return to their original home or be compensated and given accommodation elsewhere, the state of Israel is doubly in error.

The planned encircling of Al Walaja with the Wall has not yet been realized. In the meantime, the villagers have to live with the depressing certainty that the home demolitions will continue, further imprisoning them and eventually destroying their way of life.

Text: Enid Gordon, Kaisa Huuva, Trond Pedersen and Urs Rybi, January 2009.



View from Abu Dis over Jerusalem.

SETTLER VIOLENCE AND HARASSMENT

Today, nearly 470,000 Israelis live in settlements and outposts in the occupied Palestinian territory, resulting in the takeover of Palestinian land, natural resources and transportation routes.¹²⁶ Since Binyamin Netanyahu's government took office in the spring of 2009, settlement expansion is seeing the biggest boost since 2003, reports the Israeli advocacy group Yesh Din.¹²⁷ Over the years, settler attacks on Palestinians in the oPt have also increased substantially. In the first 10 months of 2008, UNOCHA recorded 290 settler-related incidents targeting Palestinians and their property, producing an average of five settler-related Palestinian injuries per week.¹²⁸ This figure reflects a worrying trend as it surpasses the total recorded by UNOCHA in each of the previous two years (182 in 2006 and 243 in 2007).¹²⁹ B'Tselem further reports that Israeli settlers, "individually or in organized groups, carry out the attacks on Palestinians and Palestinian property to frighten, deter, or punish them, using weapons and ammunition they received from the IDF."¹³⁰ UNOCHA notes that since 2006, a significant majority of settler incidents have been carried out by groups of Israeli settlers, rather than lone individuals. Actions include blocking roads to impede Palestinian life and commerce, shooting solar panels on roofs of buildings, torching automobiles, shattering windowpanes and windshields, slashing vehicle tires, destroying crops, uprooting trees and abusing merchants. B'Tselem concludes, "Some of these actions are intended to force Palestinians to leave their homes and farmland, and thereby enable the settlers to gain control of them."¹³¹ Settler violence has a tendency to rise during periods of intensive agricultural activity for Palestinians (e.g. olive harvest) as well as during the Israeli government's attempts to dismantle settlement outposts.¹³² While all governorates have suffered from settler attacks, the Hebron and Nablus governorates are most frequently targeted by rising radicalism and violence among settlers.

SETTLER VIOLENCE IN ASIRA AL QIBLIYA

The Palestinian village of Asira al Qibliya lies in the hilly countryside around five km southwest of Nablus. Asira is spread across the side of a large hill, the top of which is dominated by the Israeli settlement of Yitzhar. The settlement's outposts are visible from several points in and around Asira.

Yitzhar, an orthodox Jewish settlement established in 1984, covers 1,528 hectares. Its outposts, illegal even under Israeli law, cover an additional 298 hectares.¹³³ It is

fully connected to the Israeli road system via Route 55 while the residents of Asira are restricted to inferior roads and "fabric of life" tunnels in order to travel into Nablus and beyond.

There has been tension between the inhabitants of Yitzhar and the local Palestinians for several years, often resulting in violence. In May 1999, settlers tried to prevent Palestinian farmers from harvesting their wheat. An argument ensued when seven settlers put up a tent on the farmers' land and beat two Palestinian farmers with their rifle butts.¹³⁴

The Jerusalem Post has referred to Yitzhar as "a centre for radical settler ideology."¹³⁵ Judging from our research as EAs, while the Yitzhar settlers have been regularly harassing the residents of Asira since the 1990s, there has been a marked increase in attacks over recent months. These actions have included assault, firearms offences, attacks with noxious substances, theft, arson and damage to property.

Settler harassment in 2008

Asira saw two particularly intense periods of settler-related violence in 2008. The first was in May, when settlers attacked

Palestinian houses on a weekly basis, usually on Fridays and Saturdays. The rest of the summer was relatively quiet apart from an incident of stone-throwing. In early September the situation started to deteriorate again, with settlers shooting, throwing rocks and drawing graffiti on houses.

On Saturday 13 September, in response to the stabbing of an Israeli child in the settlement by a Palestinian infiltrator, around 200 settlers launched an attack on Asira. The attack was reported by the media around the world. We were present on this occasion and were able to make a full report, which is summarized below. First, we offer the following chronological account of the settler harassment leading up to the attack.

JB, a resident of Asira, lives in one of the last houses in the village and very close to the settlement outposts. He told us that around two years ago, the water pump on his roof was stolen. In May 2008, there was a particularly intense period of harassment, when a group of around 20 settlers came and threw rocks at his house. This, he said, happened every Friday and Saturday in May; the IDF accompanied the settlers but did nothing to intervene.¹³⁶

In August, Ha'aretz reported that unknown assailants had thrown a brick at a Palestinian car travelling near Asira, injuring a

Palestinian girl. It was widely assumed that Yitzhar settlers were responsible.¹³⁷

On Thursday 4 September, we received a telephone call from our contact in Asira who told us that settlers were attacking the houses at the top of the village. We visited the next day to investigate.

When we arrived at JB's house, we were shown six stars of David that had been spray painted on the house, and another on a piece of machinery in the driveway. We gathered that the settlers had come down from the hill in the dark, in two groups. One group started throwing rocks at another isolated house down the hill, while three people came up to JB's house and painted stars of David on the wall - the second attack of its type on the same house.

We were told that the well of the village had recently been damaged with a bulldozer, and that shots had been fired at the pipes leading from the well down to the village.

On Wednesday 10 September, we received another phone call from AS at around 4.10pm. Five people had come from Yitzhar settlement down towards the houses on the edge of the village. They had no guns, but they were using slingshots to fire rocks at the houses. Some Palestinians came out of the houses and frightened them away. The

settlers withdrew up the hill and then lit a fire in the grass to prevent the Palestinians from following them. After this, the settlers started to shoot at the Palestinians' legs - possibly with live ammunition and possibly with rubber-coated bullets, from about 100-150 metres.

After Palestinian contact with the District Coordination Office (DCO), the army arrived and separated the two parties by firing in the air. The settlers withdrew, and a unit from the army stayed at or around the house of IM, at the very top edge of the village, until around 7pm.

The events of Saturday 13 September 2008

Violent conflict between the settlers of Yitzhar and the residents of Asira hit a new level on Saturday 13 September. The chain of events, as reported by the Jerusalem Post, was as follows:

A Palestinian man infiltrated Yitzhar at around 5.40am and set fire to a vacant house. He then tried to enter a second house through a window but was prevented from doing so. He saw an Israeli child, Tuvia Shtatman, walking to the synagogue and stabbed him five times with a knife. Shtatman was admitted to hospital with "moderate wounds."¹³⁸

In response, the Samaria Brigade of the IDF imposed a curfew on Asira and began

searching for the attacker. “Two hours later, several dozen settlers descended the mountain atop which Yitzhar is located and raided Asira el-Kibliyeh, marching through the streets, shooting in the air, smashing windows and overturning a car.”¹³⁹

The Yanoun team of EAPPI received a telephone call from the Rabbis for Human Rights at 6.30am. We telephoned our contact in the village, who requested that we come immediately as he could see smoke in the village. He was aware of the stabbing.

Two members of our team travelled to Asira. They were unable to enter Asira due to the curfew imposed by the army. They stood at a roadblock outside the village and spent much of their time making telephone calls and observing developments from a distance. They telephoned a contact in the village who informed them that approximately 200 settlers were attacking the village, shooting and throwing rocks at the houses. He also said that the army was doing nothing to stop the settlers. From where they were standing, the EAs could hear shots coming from various areas of the village.

The Jerusalem Post, quoting Asira’s Mayor Hosni Sharaf, later reported that two villagers were hit by live fire and four by rubber-coated bullets. The IDF said that soldiers neither fired live ammunition nor

rubber-coated bullets, and that any Palestinian casualties were caused by the settlers.

The International Women’s Peace Service (IWPS) reported that:

*During the course of the settler raid and the imposition of curfew, seven residents of Asira al Qibliya were injured... Four injuries were inflicted by live ammunition and were treated [at] Raffidiyah hospital in Nablus. The remaining three injured persons, among them a 10-year-old boy, were hit by rubber bullets, stones and shrapnel, and could be treated by the ambulance and inside the clinic of the village.*¹⁴⁰

The EAs witnessed ambulances not being allowed to pass into the village and injured persons who were forced to come to the checkpoint by car and be transferred into the ambulances by stretcher. It took until 9.58am for the first two ambulances to be allowed in.

The EAs returned to Asira the next day to record testimonies of what had taken place. UA lives in a house at the top of the village. She reported that her house came under attack by settlers not long after 6am. She was trapped inside but attempted to film the attack with a camera from B’Tselem. The settlers shouted, damaged the nearby trees and threw rocks at the windows, which fortunately had bars.¹⁴¹

Later, UA opened a window to see where the settlers were, and a settler, who was waiting, threw something into the window, apparently a poisonous substance. UA reported that her hands were burning and she had difficulties breathing. Her 7-year-old daughter also had breathing difficulties, vomited in her bed and passed out.

Later, a soldier came and persuaded her to let him into the house. At this stage there were no settlers in the area. The soldier touched the object that the settlers had thrown through the window with a finger and immediately started to choke and cough. He told the family to leave the house and called for an ambulance, which never came.

It took two hours for the gas to dissipate. During this time, the house had no running water, as the settlers had destroyed the pipes. UA used what water she had to try to help her children. They all had headaches and were yellow in their faces. Fortunately, nobody from the family was seriously injured and UA was eventually able to clear the substance from the house.

The destruction of property was recorded by IWPS:

Several houses located at the outskirts of the village (towards the outpost of the settlement) were severely damaged by settlers. International volunteers who arrived at the



EAs returning to Tulkarem after visiting Shufa village.



A farmer on his way home to Shufa with an Israeli settlement in the background.







*scene shortly after the settlers had drawn back at approximately 10am bore witness to the outcome of the settlers' aggression: large numbers of stones hurled at residential homes, shattered windows, broken water canisters and cut water pipes as well as a Palestinian-owned car that had been demolished and pushed down a hill.*¹⁴²

The EAs documented the damage that we believe to have been caused by these actions. Many of the houses towards the top of the village had their solar heating panels smashed. We also saw marks left by bullets, smashed windows and other physical damage, both from the attack on the 13th of September and from other occasions.

Residents of the village accused the IDF of failing to intervene to prevent this violence and damage. On the 13th of September a number of residents of Asira al Qibliya were detained and held by the army, but not one settler was arrested:

*One resident reported to IWPS that when he and four other men tried to defend their homes from settlers' attacks, the army responded by restraining them, handcuffed and on their knees, for several hours. At least one of their homes was damaged severely by the settlers... According to several Israeli media articles quoting army spokespeople, not one settler was detained or arrested by the Israeli army or police.*¹⁴³

According to the Jerusalem Post, senior IDF officers in the Central Command later "said

their hands were tied when dealing with the settler violence and that the Israeli Police were responsible for arresting and charging Jewish law-breakers."¹⁴⁴

On 2 October the Israeli police did arrest a resident of Yitzhar in connection with a firearms offence on 13 September. The suspect was later released, although the police said they intended to pursue criminal charges against the man. The court admonished the prosecution for the delay in scheduling a hearing.¹⁴⁵

Other recent incidents in Asira

JB related to us that on 14 September, a small group of settlers marched down towards Asira. The villagers walked towards them but IDF officers told them to return to their homes. Three EAs arrived in the afternoon and estimated that there were ten army vehicles and more than 50 soldiers present. A large number of army personnel were stationed at the top of the village. Significantly, they were positioned facing towards Asira, and it was the Palestinians who were told to return to their homes. As far as we saw, the soldiers did nothing to send the settlers home. The situation remained like this for two hours while we were present, and continued into the evening.

On 20 September, we received a call informing us that the brother of one of our contacts had been shot dead by the IDF.

There was much speculation as to the nature of this shooting. The IDF claimed that the 16-year-old Suhaib Salah was attempting to infiltrate Yitzhar and launch an attack with a Molotov cocktail. The residents of Asira argued that he was simply walking along a road at the edge of the village when he was captured by the IDF and shot from close range. The IDF later arrested Suhaib's brother, our contact, apparently in order to prevent a revenge attack. At the time of writing, the brother is still in detention.

Analysis

From what we have witnessed and recorded, including from interviews with local Palestinians, we can draw the following conclusions regarding violence and harassment by Yitzhar settlers:

An increase in harassment by settlers

Our analysis of the situation in Asira al Qibliya and surroundings is that violence and harassment by settlers from Yitzhar is increasing. An official from the IDF recently told Ha'aretz that "In the past, only a few dozen individuals took part in such activity but today that number has grown into the hundreds. That's a very significant change."¹⁴⁶

Until the events of 13 September, this analysis did not necessarily apply to Asira al Qibliya. JB told us that between May and September, there were only a few incidents



involving a small number of individuals. However, the scale of the attacks of 13 September was apparently unprecedented in Asira, and we can only conclude that it shows a renewed willingness on the part of the residents of Yitzhar to take the law into their own hands.

We have quoted above from various interviews conducted with residents of Asira al Qibliya. They describe a pattern of settler violence and harassment including assault, theft and wilful damage of property which has gone on for several years. This, of course, is in addition to the fact that much of Yitzhar - and certainly its outposts - lies on land illegally confiscated from Palestinian farmers, many of whom now face huge difficulties tending their land, if they can reach it at all.

As mentioned to us by JB, people with land at the top of the hill “can’t get there. Nobody can get there. They don’t want to work it any more. They are scared; they might get beaten, or shot.”¹⁴⁷

IDF failure to protect civilians

“Whatever the settlers want, the army does it,” claimed one of our interviewees in a village not far from Asira. “Last year, the

IDF set limits within which we could pick our olives. We said ‘okay,’ and got on with the work. But the settlers came and told the army to move the limits back, and they did. That meant that we couldn’t harvest all of our trees.”¹⁴⁸

Palestinians we have spoken to about settlers are unanimous in their assertion that the Israeli authorities do not act to prevent violence against them by settlers. Yesh Din, an Israeli human rights organization which campaigns for effective law enforcement in the oPt, claimed that after the 2006 harvest season that Israeli civilians had engaged in various acts of “assault, threats, theft and sabotage. In general, the security forces and the police have stood by and not prevented this harassment, and in certain cases even use them to justify stopping the harvest at the site.”¹⁴⁹

Many other human rights organizations have expressed similar sentiments. Indeed, even the Israeli Attorney General has noted “a lack of appropriate law enforcement against Israelis” in the West Bank.¹⁵⁰

The people we have met have little faith in the willingness of Israeli security forces to intervene and protect them.

The future

Sitting with JB in his house close to the top of the village, we could clearly see new infrastructure in the outpost of Yitzhar at the top of the hill. JB claimed that one house was less than a year old, and as yet did not have residents. There was also a tent close by.

From the perspective of the Palestinians, it is clear that the infrastructure provided to the settlers by the Israeli state is designed to make it easy for them to stay where they are and to expand. The outposts are connected to the electricity grid and are easily accessible from Route 55, a highway mainly for Israelis’ use.

Taking this and the nature of the abuse his community has suffered from the settlers, JB is pessimistic about the future.

“The future is black. Those people, there’s no solution for them. No solution. It’s either them or us. For us and them to live together is hard. Do you think we can live together?”¹⁵¹

Text: Gabriella Engell-Nielsen, Lars Söderlund, Paul Adrian Raymond and Simi-Ann Solaas, October 2008.



The Palestinian village of Lifta.

V. CONCLUSION & RECOMMENDATIONS

The number of IDPs is on the rise around the world, including within the occupied Palestinian territory (oPt). Although internally displaced persons do not yet have access to an established system of international protection and assistance (in contrast to refugees), they now have a Representative to the UN Secretary-General (RSG) and Guiding Principles reflecting international law on the prevention prior to, protection and assistance during, and return and reintegration after displacement. The first RSG Francis Deng proved integral in putting the issue of “masses in flight” on the map.¹⁵² Sovereignty was recast as a concept of responsibility, where a state that fails to meet its obligations to provide for the security and well-being of its population forfeits its prerogatives and legitimizes international action to fill the vacuum.

Since the publication of the Guiding Principles on Internal Displacement ten years ago, there have been some notable developments. The Guiding Principles have become the international standard for IDPs, some states have incorporated them into national legislation, and they have become the benchmark for humanitarian and human rights actors in dealing with internal displacement.¹⁵³ However, there are numerous shortcomings that must be recognized and addressed: most states affected by internal displacement still do not have domestic laws or policies on IDPs, many IDPs are still unaware of their rights, and there are many obstacles to their realization.

Ever since Israel occupied the West Bank and Gaza Strip in 1967, thousands of Palestinians have been internally displaced. This report has highlighted communities that are vulnerable to forced displacement for various reasons, including closures and movement restrictions, home demolitions and evictions, the Wall and its associated regime, and settler harassment and violence. With the international community’s reluctance to recognize those displaced as IDPs, however, their plight is going largely unnoticed. Given that internal displacement is on the rise in the oPt, the first step in designing a remedy is **international acknowledgement**. Such acknowledgement would, on the one hand, enable IDPs to access the normative framework with which to assert their rights and, on the other hand, encourage a deeper look by the international community at the root causes of current displacement in the West Bank. Instead of merely responding to emergency needs, the international community must strive to prevent the conditions that cause displacement in the first place.

Second, states such as Israel must develop and strengthen its policies to include **preventive measures** to avert displacement; crisis mitigation procedures to be activated once displacement has occurred; and durable solution frameworks.¹⁵⁴ The Guiding Principles should be incorporated into national legislation to promote their implementation and improve accountability for the protection of IDPs. The ICRC Customary Law Study¹⁵⁵ moreover identifies a number of customary rules of international humanitarian law that must be applied by all parties in all types of armed conflict, international and non-international:

- the prohibition of forced displacement
- the obligation to take all possible measures to receive civilians under satisfactory conditions of shelter, hygiene, health, safety and nutrition

- non-separation of members of the same family unit
- the right to voluntary and safe return
- the protection of the property of civilians

However, as noted by the international conference on the Ten Years of the Guiding Principles on Internal Displacement (GP10), “a majority of states affected by internal displacement remain unable or unwilling to take on their responsibilities for protection of IDPs.”¹⁵⁶ Cordula Droege, ICRC Legal Adviser, succinctly sums up, “the real challenge remains respect for, rather than development of, the law.”¹⁵⁷

Third, **more effective partnerships** are necessary in order to meet the twin challenges of preventing displacement and ending displacement. The international conference on the Guiding Principles suggests that these partnerships should be forged amongst states; between states and financial institutions; between states, civil society and international protection and assistance agencies; and between international humanitarian agencies and development agencies.¹⁵⁸ Through more efficient partnerships, more efforts can be made both to prevent and end displacement through coordinated political commitment of all influential actors.

Finally, it is important to develop mechanisms to **ensure the participation of IDPs** in political processes, in decisions affecting their lives during displacement, and in developing and implementing solutions to bring an end to their displacement.¹⁵⁹ A serious obstacle in this regard is the lack of awareness of the Guiding Principles in many contexts, including the oPt, which seriously mitigates their effectiveness as an advocacy tool for IDPs themselves, national NGOs and international agencies. The Guiding Principles are reproduced in an Annex to this publication to remind us to make active use of the already existing legal framework for the protection of IDPs. As Walter Kälin, the current RSG on the Human Rights of IDPs, says, “The law of internal displacement can only grow if states, international organizations and other actors continue to insist that specific guarantees exist for the internally displaced.”¹⁶⁰

The EAPPI values the fact that internal displacement has recently been recognized by the humanitarian community in the oPt, most notably by having been included as one of many priorities in the UN Consolidated Appeals Process (CAP) for both 2008 and 2009, as well as through the establishment of a sub-protection working group on forced displacement in February 2008. Cases of forced displacement in the oPt are now being more systematically monitored and documented by national and international human rights and humanitarian agencies. This documentation constitutes significant evidence of the Israeli state’s unwillingness to provide for the security and well-being of the persons under Israeli occupation. With reference to the concept of sovereignty as a form of responsibility, the EAPPI hence urges the international community to fulfil its responsibility to “prevent and avoid conditions that might lead to displacement of persons” (Guiding Principle 5) and to protect those being “arbitrarily displaced from his or her home” (Guiding Principle 6).

ANNEX: GUIDING PRINCIPLES ON INTERNAL DISPLACEMENT

INTRODUCTION - SCOPE AND PURPOSE

1. These Guiding Principles address the specific needs of internally displaced persons worldwide. They identify rights and guarantees relevant to the protection of persons, from forced displacement to their protection and assistance during displacement as well as during return or resettlement and reintegration.
2. For the purposes of these Principles, internally displaced persons are persons or groups of persons who have been forced or obliged to flee or to leave their homes or places of habitual residence, in particular as a result of or in order to avoid the effects of armed conflict, situations of generalized violence, violations of human rights or natural or human-made disasters, and who have not crossed an internationally recognized state border.
3. These Principles reflect and are consistent with international human rights law and international humanitarian law. They provide guidance to:
 - (a) The Representative of the Secretary-General on internally displaced persons in carrying out his mandate;
 - (b) States when faced with the phenomenon of internal displacement;
 - (c) All other authorities, groups and persons in their relations with internally displaced persons; and
 - (d) Intergovernmental and non-governmental organizations when addressing internal displacement.
4. These Guiding Principles should be disseminated and applied as widely as possible.

SECTION I. GENERAL PRINCIPLES

Principle 1

1. Internally displaced persons shall enjoy, in full equality, the same rights and freedoms under international and domestic law as do other persons in their country. They shall not be discriminated against in the enjoyment of any rights and freedoms on the ground that they are internally displaced.
2. These Principles are without prejudice to individual criminal responsibility under international law, in particular relating to genocide, crimes against humanity and war crimes.

Principle 2

1. These Principles shall be observed by all authorities, groups and persons irrespective of their legal status and applied without any adverse distinction. The observance of these Principles shall not affect the legal status of any authorities, groups or persons involved.
2. These Principles shall not be interpreted as restricting, modifying or impairing the provisions of any international human rights or international humanitarian law instrument or rights granted to persons under domestic law. In particular, these Principles are without prejudice to the right to seek and enjoy asylum in other countries.

Principle 3

1. National authorities have the primary duty and responsibility to provide protection and humanitarian assistance to internally displaced persons within their jurisdiction.
2. Internally displaced persons have the right to request and to receive protection and humanitarian assistance from these authorities. They shall not be persecuted or punished for making such a request.

Principle 4

1. These Principles shall be applied without discrimination of any kind, such as race, colour, sex, language, religion or belief, political or other opinion, national, ethnic or social origin, legal or social status, age, disability, property, birth or on any other similar criteria.
2. Certain internally displaced persons, such as children, especially unaccompanied minors, expectant mothers, mothers with young children, female heads of household, persons with disabilities and elderly persons, shall be entitled to protection and assistance required by their condition and to treatment which takes into account their special needs.

SECTION II. PRINCIPLES RELATING TO PROTECTION FROM DISPLACEMENT

Principle 5

All authorities and international actors shall respect and ensure respect for their obligations under international law, including human rights and humanitarian law, in all circumstances, so as to prevent and avoid conditions that might lead to displacement of persons.

Principle 6

1. Every human being shall have the right to be protected against being arbitrarily displaced from his or her home or place of habitual residence.
2. The prohibition of arbitrary displacement includes displacement:
 - (a) When it is based on policies of apartheid, “ethnic cleansing” or similar practices aimed at or resulting in altering the ethnic, religious or racial composition of the affected population;
 - (b) In situations of armed conflict, unless the security of the civilians involved or imperative military reasons so demand;
 - (c) In cases of large-scale development projects, which are not justified by compelling and overriding public interests;
 - (d) In cases of disasters, unless the safety and health of those affected requires their evacuation; and
 - (e) When it is used as a collective punishment.
3. Displacement shall last no longer than required by the circumstances.

Principle 7

1. Prior to any decision requiring the displacement of persons, the authorities concerned shall ensure that all feasible alternatives are explored in order to avoid displacement altogether. Where no alternatives exist, all measures shall be taken to minimize displacement and its adverse effects.
2. The authorities undertaking such displacement shall ensure, to the greatest practicable extent, that proper accommodation is provided to the displaced persons, that such displacements are effected in satisfactory conditions of safety, nutrition, health and hygiene, and that members of the same family are not separated.
3. If displacement occurs in situations other than during the emergency stages of armed conflicts and disasters, the following guarantees shall be complied with:

- (a) A specific decision shall be taken by a state authority empowered by law to order such measures;
- (b) Adequate measures shall be taken to guarantee to those to be displaced full information on the reasons and procedures for their displacement and, where applicable, on compensation and relocation;
- (c) The free and informed consent of those to be displaced shall be sought;
- (d) The authorities concerned shall endeavour to involve those affected, particularly women, in the planning and management of their relocation;
- (e) Law enforcement measures, where required, shall be carried out by competent legal authorities; and
- (f) The right to an effective remedy, including the review of such decisions by appropriate judicial authorities, shall be respected.

Principle 8

Displacement shall not be carried out in a manner that violates the rights to life, dignity, liberty and security of those affected.

Principle 9

States are under a particular obligation to protect against the displacement of indigenous peoples, minorities, peasants, pastoralists and other groups with a special dependency on and attachment to their lands.

SECTION III. PRINCIPLES RELATING TO PROTECTION DURING DISPLACEMENT

Principle 10

1. Every human being has the inherent right to life which shall be protected by law. No one shall be arbitrarily deprived of his or her life. Internally displaced persons shall be protected in particular against:
 - (a) Genocide;
 - (b) Murder;
 - (c) Summary or arbitrary executions; and
 - (d) Enforced disappearances, including abduction or unacknowledged detention, threatening or resulting in death.
 Threats and incitement to commit any of the foregoing acts shall be prohibited.
2. Attacks or other acts of violence against internally displaced persons who do not or no longer participate in hostilities are prohibited in all circumstances. Internally displaced persons shall be protected, in particular, against:
 - (a) Direct or indiscriminate attacks or other acts of violence, including the creation of areas wherein attacks on civilians are permitted;
 - (b) Starvation as a method of combat;
 - (c) Their use to shield military objectives from attack or to shield, favour or impede military operations;
 - (d) Attacks against their camps or settlements; and
 - (e) The use of anti-personnel landmines.

Principle 11

1. Every human being has the right to dignity and physical, mental and moral integrity.
2. Internally displaced persons, whether or not their liberty has been restricted, shall be protected in particular against:
 - (a) Rape, mutilation, torture, cruel, inhuman or degrading treatment or punishment, and other outrages upon personal dignity, such as acts of gender-specific violence, forced prostitution and any form of indecent assault;

- (b) Slavery or any contemporary form of slavery, such as sale into marriage, sexual exploitation or forced labour of children; and
 - (c) Acts of violence intended to spread terror among internally displaced persons.
- Threats and incitement to commit any of the foregoing acts shall be prohibited.

Principle 12

1. Every human being has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention.
2. To give effect to this right for internally displaced persons, they shall not be interned in or confined to a camp. If in exceptional circumstances such internment or confinement is absolutely necessary, it shall not last longer than required by the circumstances.
3. Internally displaced persons shall be protected from discriminatory arrest and detention as a result of their displacement.
4. In no case shall internally displaced persons be taken hostage.

Principle 13

1. In no circumstances shall displaced children be recruited nor be required or permitted to take part in hostilities.
2. Internally displaced persons shall be protected against discriminatory practices of recruitment into any armed forces or groups as a result of their displacement. In particular any cruel, inhuman or degrading practices that compel compliance or punish non-compliance with recruitment are prohibited in all circumstances.

Principle 14

1. Every internally displaced person has the right to liberty of movement and freedom to choose his or her residence.
2. In particular, internally displaced persons have the right to move freely in and out of camps or other settlements.

Principle 15

Internally displaced persons have:

- (a) The right to seek safety in another part of the country;
- (b) The right to leave their country;
- (c) The right to seek asylum in another country; and
- (d) The right to be protected against forcible return to or resettlement in any place where their life, safety, liberty and/or health would be at risk.

Principle 16

1. All internally displaced persons have the right to know the fate and whereabouts of missing relatives.
2. The authorities concerned shall endeavour to establish the fate and whereabouts of internally displaced persons reported missing, and cooperate with relevant international organizations engaged in this task. They shall inform the next of kin on the progress of the investigation and notify them of any result.
3. The authorities concerned shall endeavour to collect and identify the mortal remains of those deceased, prevent their despoliation or mutilation, and facilitate the return of those remains to the next of kin or dispose of them respectfully.
4. Grave sites of internally displaced persons should be protected and respected in all circumstances. Internally displaced persons should have the right of access to the grave sites of their deceased relatives.

Principle 17

1. Every human being has the right to respect of his or her family life.
2. To give effect to this right for internally displaced persons, family members who wish to remain together shall be allowed to do so.
3. Families which are separated by displacement should be reunited as quickly as possible. All appropriate steps shall be taken to expedite the reunion of such families, particularly when children are involved. The responsible authorities shall facilitate inquiries made by family members and encourage and cooperate with the work of humanitarian organizations engaged in the task of family reunification.
4. Members of internally displaced families whose personal liberty has been restricted by internment or confinement in camps shall have the right to remain together.

Principle 18

1. All internally displaced persons have the right to an adequate standard of living.
2. At the minimum, regardless of the circumstances, and without discrimination, competent authorities shall provide internally displaced persons with and ensure safe access to:
 - (a) Essential food and potable water;
 - (b) Basic shelter and housing;
 - (c) Appropriate clothing; and
 - (d) Essential medical services and sanitation.
3. Special efforts should be made to ensure the full participation of women in the planning and distribution of these basic supplies.

Principle 19

1. All wounded and sick internally displaced persons as well as those with disabilities shall receive to the fullest extent practicable and with the least possible delay, the medical care and attention they require, without distinction on any grounds other than medical ones. When necessary, internally displaced persons shall have access to psychological and social services.
2. Special attention should be paid to the health needs of women, including access to female health care providers and services, such as reproductive health care, as well as appropriate counselling for victims of sexual and other abuses.
3. Special attention should also be given to the prevention of contagious and infectious diseases, including AIDS, among internally displaced persons.

Principle 20

1. Every human being has the right to recognition everywhere as a person before the law.
2. To give effect to this right for internally displaced persons, the authorities concerned shall issue to them all documents necessary for the enjoyment and exercise of their legal rights, such as passports, personal identification documents, birth certificates and marriage certificates. In particular, the authorities shall facilitate the issuance of new documents or the replacement of documents lost in the course of displacement, without imposing unreasonable conditions, such as requiring the return to one's area of habitual residence in order to obtain these or other required documents.
3. Women and men shall have equal rights to obtain such necessary documents and shall have the right to have such documentation issued in their own names.

Principle 21

1. No one shall be arbitrarily deprived of property and possessions.
2. The property and possessions of internally displaced persons shall in all circumstances be protected, in particular, against the following acts:
 - (a) Pillage;
 - (b) Direct or indiscriminate attacks or other acts of violence;
 - (c) Being used to shield military operations or objectives;
 - (d) Being made the object of reprisal; and
 - (e) Being destroyed or appropriated as a form of collective punishment.
3. Property and possessions left behind by internally displaced persons should be protected against destruction and arbitrary and illegal appropriation, occupation or use.

Principle 22

1. Internally displaced persons, whether or not they are living in camps, shall not be discriminated against as a result of their displacement in the enjoyment of the following rights:
 - (a) The rights to freedom of thought, conscience, religion or belief, opinion and expression;
 - (b) The right to seek freely opportunities for employment and to participate in economic activities;
 - (c) The right to associate freely and participate equally in community affairs;
 - (d) The right to vote and to participate in governmental and public affairs, including the right to have access to the means necessary to exercise this right; and
 - (e) The right to communicate in a language they understand.

Principle 23

1. Every human being has the right to education.
2. To give effect to this right for internally displaced persons, the authorities concerned shall ensure that such persons, in particular displaced children, receive education which shall be free and compulsory at the primary level. Education should respect their cultural identity, language and religion.
3. Special efforts should be made to ensure the full and equal participation of women and girls in educational programmes.
4. Education and training facilities shall be made available to internally displaced persons, in particular adolescents and women, whether or not living in camps, as soon as conditions permit.

SECTION IV. PRINCIPLES RELATING TO HUMANITARIAN ASSISTANCE**Principle 24**

1. All humanitarian assistance shall be carried out in accordance with the principles of humanity and impartiality and without discrimination.
2. Humanitarian assistance to internally displaced persons shall not be diverted, in particular for political or military reasons.

Principle 25

1. The primary duty and responsibility for providing humanitarian assistance to internally displaced persons lies with national authorities.

2. International humanitarian organizations and other appropriate actors have the right to offer their services in support of the internally displaced. Such an offer shall not be regarded as an unfriendly act or an interference in a state's internal affairs and shall be considered in good faith. Consent thereto shall not be arbitrarily withheld, particularly when authorities concerned are unable or unwilling to provide the required humanitarian assistance.
3. All authorities concerned shall grant and facilitate the free passage of humanitarian assistance and grant persons engaged in the provision of such assistance rapid and unimpeded access to the internally displaced.

Principle 26

Persons engaged in humanitarian assistance, their transport and supplies shall be respected and protected. They shall not be the object of attack or other acts of violence.

Principle 27

1. International humanitarian organizations and other appropriate actors when providing assistance should give due regard to the protection needs and human rights of internally displaced persons and take appropriate measures in this regard. In so doing, these organizations and actors should respect relevant international standards and codes of conduct.
2. The preceding paragraph is without prejudice to the protection responsibilities of international organizations mandated for this purpose, whose services may be offered or requested by states.

SECTION V. PRINCIPLES RELATING TO RETURN, RESETTLEMENT AND REINTEGRATION

Principle 28

1. Competent authorities have the primary duty and responsibility to establish conditions, as well as provide the means, which allow internally displaced persons to return voluntarily, in safety and with dignity, to their homes or places of habitual residence, or to resettle voluntarily in another part of the country. Such authorities shall endeavour to facilitate the reintegration of returned or resettled internally displaced persons.
2. Special efforts should be made to ensure the full participation of internally displaced persons in the planning and management of their return or resettlement and reintegration.

Principle 29

1. Internally displaced persons who have returned to their homes or places of habitual residence or who have resettled in another part of the country shall not be discriminated against as a result of their having been displaced. They shall have the right to participate fully and equally in public affairs at all levels and have equal access to public services.
2. Competent authorities have the duty and responsibility to assist returned and/or resettled internally displaced persons to recover, to the extent possible, their property and possessions which they left behind or were dispossessed of upon their displacement. When recovery of such property and possessions is not possible, competent authorities shall provide or assist these persons in obtaining appropriate compensation or another form of just reparation.

Principle 30

All authorities concerned shall grant and facilitate for international humanitarian organizations and other appropriate actors, in the exercise of their respective mandates, rapid and unimpeded access to internally displaced persons to assist in their return or resettlement and reintegration.

ENDNOTES

- 1 The estimated 7 million displaced Palestinians include 4.6 million registered with UNRWA and over 1.5 million unregistered refugees. The number of internally displaced Palestinians is a hotly debated statistic, extending up to 450,000 Palestinians according to the BADIL Resource Center for Palestinian Residency & Refugee Rights. *Survey of Palestinian Refugees and Internally Displaced Persons 2006-2007*. (Bethlehem: BADIL, June 2007), vii. The number of 110,000 IDPs comes from the Internal Displacement Monitoring Center (IDMC). *Occupied Palestinian Territory: Forced displacement continues*. (Geneva: IDMC and NRC, 10 September 2008).
- 2 Although it has many names such as the security fence, anti-terror fence and barrier, EAPPI will henceforth be using the term “Wall” in line with the wording of the 2004 advisory opinion by the International Court of Justice. (ICJ. *The Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*. Advisory Opinion. (9 July 2004).)
- 3 BADIL estimates that 115,000 Palestinians have been internally displaced since 1967. (BADIL. *1948-2008: 60 Years of the Palestinian Nakba - Survey of Palestinian Refugees and Internally Displaced Persons 2006-2007*. (Bethlehem: Badil Resource Center for Palestinian Residency and Refugee Rights, June 2007), 43).
- 4 The UN Security Council, General Assembly and States Parties to the Fourth Geneva Convention have declared that this Convention is applicable to the entire oPt.
- 5 Fourth Geneva Convention (IVGC). *Convention relative to the Protection of Civilian Persons in Time of War*. (Geneva: ICRC, 12 August 1949).
- 6 Henckaerts, Jean-Marie and Louise Doswald-Beck (eds.). *Customary International Humanitarian Law, Volume I: Rules*. (ICRC: Cambridge University Press, March 2005).
- 7 Ecumenical Accompaniers are placed in teams of four and serve for three-month terms in the following six locations: Tulkarem, Jayyous, Yanoun, Jerusalem, Bethlehem and Hebron.
- 8 Al Haq. *Al Nu'man village: A case study of indirect forcible transfer*. (November 2006), 35. <http://www.alhaq.org/pdfs/Al-Numan%20Village.pdf>
- 9 UNOCHA. *Unprotected: Israeli settler violence against Palestinian civilians and their property*. Special Focus. (December 2008). http://www.ochaPt.org/documents/ocha_oPt_settler_vilonce_special_focus_2008_12_18.pdf
- 10 UN Convention relating to the Status of Refugees (1951).
- 11 Korn, David A. *Exodus Within Borders: An Introduction to the Crisis of Internal Displacement*. (Washington, D.C.: Brookings Institution Press, 1999).
- 12 Steinberg, Donald. *Orphans of Conflict: Caring for the Internally Displaced*. Special Report 148. (Washington, D.C.: U.S. Institute of Peace, 2005).
- 13 Cohen, Roberta and Francis M. Deng. *Masses in Flight: The Global Crisis of Internal Displacement*. (Washington, D.C.: Brookings Institution Press, 1998), 3.
- 14 Weiss, Thomas G. and David A. Korn. *Internal Displacement: Conceptualization and its Consequences*. (London: Routledge, 2006), 1.
- 15 Norwegian Refugee Council and Internal Displacement Monitoring Centre. *Internal Displacement: Global Overview of Trends and Developments in 2007*. (April 2008), 6.
- 16 Now the Human Rights Council, as established by General Assembly Resolution 60/251 “Human Rights Council.” (3 April 2006). The UN Secretary-General’s report can be found at *Analytical Report of the Secretary-General on Internally Displaced Persons*. E/CN.4/1992/23. (14 February 1992).
- 17 Korn 3.
- 18 Weiss and Korn 3.
- 19 Cohen and Deng 275-76.
- 20 In Chapter 38 relating to displaced persons, Henckaerts and Doswald-Beck refer to the Guiding Principles in 12 footnotes out of 112 (over 10% of the Chapter’s citations). Guiding Principles 5, 6, 18, 21, 25 and 28 are used to back up four of their five rules of customary international humanitarian law on displacement and displaced persons (rules 129, 131-133).
- 21 Cohen and Deng 75; See also Deng, Francis M. “Introductory Note by the Representative of the Secretary-General on Internally Displaced Persons.” *Guiding Principles on Internal Displacement*. (1998).
- 22 While many governments had general apprehensions of losing their national sovereignty, the early reactions by the ICRC were defensive, apparently fearful that its Geneva Conventions and Additional protocols would be undermined. Moreover, the IOM argued that it helped resettle all migrants equally, whether internally or externally displaced, and required nothing additional. (Weiss and Korn 56.)

- 23 Korn 90.
- 24 Neussl, Peter. "Bridging the national and international response to IDPs." *Forced Migration Review*. Vol. 20. (Oxford: Refugee Studies Centre, May 2004), 42-43.
- 25 Korn 90.
- 26 Cohen and Deng 258.
- 27 Cohen and Deng 18.
- 28 Ibid. 240.
- 29 Ibid.
- 30 Ibid. 284.
- 31 Ibid. 258.
- 32 UNRWA. "Who is a Palestine Refugee?" www.unrwa.org
- 33 Security Council. Resolution 237. "The situation in the Middle East." S/RES/237. (14 June 1967).
- 34 General Assembly. Resolution 2252. "Humanitarian assistance." A/RES/2252 (ES-V). (4 July 1967).
- 35 Internal Displacement Monitoring Centre (IDMC) and Norwegian Refugee Council (NRC). *Occupied Palestinian Territories: West Bank Wall main cause of new displacement amid worsening humanitarian situation*. (Geneva, Switzerland: IDMC and NRC, 21 June 2006), 6.
- 36 Declaration of Principles on Interim Self-Government Arrangements. (13 September 1993).
- 37 The IDMC and Norwegian Refugee Council (NRC) report that a rise in poverty and the increasing restrictions on everyday life have increased displacement among Palestinians in the past years. (IDMC and NRC. *Internal Displacement: Global Overview of Trends and Developments in 2006*. (Geneva: IDMC and NRC, April 2007), 62.)
- 38 Internal Displacement Monitoring Centre. *Displacement database, Occupied Palestinian Territory*. 10 September 2008. www.internal-displacement.org
- 39 BADIL (June 2007), 15-29.
- 40 Economic and Social Council. "The Human Rights Dimensions of Population Transfer including the Implantation of Settlers." Preliminary Report prepared by Mr. A.S. Al-Khasawneh and Mr. R. Hatano. Commission on Human Rights, Sub-Commission on Prevention of Discrimination and Protection of Minorities. Forty-fifth session. (2-27 August 1993). E/CN.4/Sub.2/1993/17. (6 July 1993), paras. 15 and 17.
- 41 UNOCHA. (July 2007 and 22 January 2008).
- 42 Ta'ayush. *The Silent Transfer: The case of El-Nu'man village*. www.taayush.org
- 43 Ta'ayush. *The Silent Transfer: The case of El-Nu'man village*. www.taayush.org
- 44 UNOCHA. *Shrinking Space: Urban Contraction and Rural Fragmentation in the Bethlehem Governorate*. Special Focus. (May 2009), 8.
- 45 Ibid.
- 46 UNOCHA (May 2009), 8.
- 47 Al-Haq. *An Nu'man Village: A case study of indirect forcible transfer*. (November 2006), 10.
- 48 Ta'ayush. *The Silent Transfer: The case of El-Nu'man village*.
- 49 B'Tselem. www.btselem.org/English
- 50 B'Tselem. *An Nu'man, East Jerusalem: Life under the threat of expulsion*. (September 2003), 21.
- 51 Al-Haq. *An Nu'man Village: A case study of indirect forcible transfer*. (November 2006).
- 52 Al-Haq press release, Ref: 19.2008E 9 July 2008.
- 53 Taayush. www.taayush.org
- 54 Testimony taken by EAPPI (28 September 2008).
- 55 UNOCHA (May 2009), 8.
- 56 Al Haq. *Al Nu'aman Village: A Case Study of Indirect Forcible Transfer*. (2006).
- 57 Fourth Geneva Convention, Article 49, forbids forcible transfer regardless of the motive of the occupying power. According to Article 49, there are only two cases when forcible is allowed - when it is demanded by the security of the population or for imperative military reasons.
- 58 Extract from affidavit given to Labib Habib, Adv., by Yousef Dir'awi. (Al-Haq. *An Nu'man Village: A case study of indirect forcible transfer*. (November 2006), 35.)
- 59 Ta'ayush. *The Silent Transfer: The case of El-Nu'man village*.
- 60 Tehilla, the voluntary movement for religious aliyah. <http://www.tehilla.com>
- 61 A recent decision by Israeli High Court. See Al-Haq press release, Ref: 19.2008E 9 July 2008.

- 62 ICAHD. "Statistics on House Demolitions (1967-2009)" as of 7 April 2009. <http://www.icahd.org/eng/docs/ICAHD%27s%20updated%20House%20demolition%20statistics.pdf>
- 63 Lieber Code, Articles 15-16; Brussels Declaration, Article 13(g); Hague Regulations, Article 23(g); IVGC, Article 53.
- 64 First Geneva Convention, Article 50; Second Geneva Convention, Article 51; IVGC, Article 147.
- 65 Israeli Committee against House Demolitions (ICAHD). "Statistics on house demolitions (1967-2009)" as of 7 April 2009. <http://www.icahd.org/eng/docs/ICAHD%27s%20updated%20House%20demolition%20statistics.pdf>
- 66 Global IDP Project and Norwegian Refugee Council. Internally Displaced People: A Global Survey. Second Edition. (London: Earthscan Publications Limited, 2002), 186.
- 67 Israeli Committee against House Demolitions (ICAHD). "Statistics on house demolitions (1967-2009)" as of 7 April 2009. <http://www.icahd.org/eng/docs/ICAHD%27s%20updated%20House%20demolition%20statistics.pdf>
- 68 ICRC. Commentaries on the Fourth Geneva Convention (IVGC), Convention relative to the Protection of Civilian Persons in Time of War. (Geneva: 12 August 1949), Article 53 - Prohibited destruction.
- 69 Diakonia. "The House Demolition Policy." Easy Guide to International Humanitarian Law in the Occupied Palestinian Territory. www.diakonia.se/ihl
- 70 Israeli Committee against House Demolitions (ICAHD). "Statistics on house demolitions (1967-2009)" as of 7 April 2009. <http://www.icahd.org/eng/docs/ICAHD%27s%20updated%20House%20demolition%20statistics.pdf>
- 71 B'Tselem. "House Demolitions as Punishment: Statistics on punitive house demolitions." www.btselem.org
- 72 IVGC, Article 53.
- 73 ICRC. Commentaries on Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I), (8 June 1977), Article 3 - Beginning and end of application.
- 74 Collective punishment contravenes the IVGC, Article 33 and the Hague Regulations, Article 50, and customary IHL identified by the ICRC study, Rule 103. The policy of punitive house demolitions also constitutes a violation of international humanitarian law due to the following reasons: the policy results in illegal destruction of private property (IVGC, Article 53); violates the right to a fair trial and due process (IVGC, Article 71-73); may constitute inhuman treatment (GC, Common Article 3); violates the obligation to respect the honour and family rights as well as the anti-discrimination rule (IVGC, Article 27); violates the obligation to suspend local laws that contradict IHL (IVGC, Article 64); and may amount to a war crime (IVGC, Article 147).
- 75 IDMC. (September 2008).
- 76 Nihad Bokae'e. Palestinian Internally Displaced Persons inside Israel: Challenging the Solid Structures. Badil Resource Center for Palestinian Residency and Refugee Rights. (February 2003).
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- 78 B'Tselem. "Family unification and child registration in East Jerusalem" http://www.btselem.org/English/Family_Separation/East_Jerusalem.asp
- 79 B'Tselem. "Legal status of East Jerusalem and its residents" http://www.btselem.org/English/Jerusalem/Legal_Status.asp
- 80 UNOCHA. The Planning Crisis in East Jerusalem: Understanding the Phenomenon of "Illegal" Construction. Special Focus. (April 2009), 2.
- 81 Ibid.
- 82 B'Tselem. "Statistics on demolition of houses built without permits in East Jerusalem" http://www.btselem.org/english/Planning_and_Building/East_Jerusalem_Statistics.asp
- 83 McCarthy, Rory. "Palestinian couple evicted from home of 50 years as Jerusalem settlers move in: Britain, US and UN fail to stop Supreme Court decision" in *The Guardian* (10 November 2008). <http://www.guardian.co.uk/world/2008/nov/10/israelandthepalestinians>
- 84 Nashashibi, Amal. "The Israeli Master Plan: Jerusalem 2000" in IMEMC News (12 August 2006).
- 85 Anderson, John Ward. "Israelis Act to Encircle East Jerusalem" in *Washington Post* (7 February 2005). <http://www.washingtonpost.com/wp-dyn/articles/A3263-2005Feb6.html>
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Press conference after the Al Kurd family was evicted from its home in the East Jerusalem neighbourhood of Sheikh Jarrah in November 2008.







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