

Displaced by the Wall

Pilot Study on Forced Displacement Caused by the Construction of the West Bank Wall and its Associated Regime in the Occupied Palestinian territories

**Badil Resource Center for Palestinian Residency and Refugee Rights and
The Norwegian Refugee Council/Internal Displacement Monitoring Centre**



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for Palestinian Residency and Refugee Rights



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Mission of Badil Resource Center

Badil is an independent, Palestinian non-governmental organisation established by people active in Palestinian refugee community organisations and national institutions. Badil takes a rights-based approach and promotes protection and durable solutions for Palestinian refugees and internally displaced persons based on their right of return. Badil supports community-based campaigns and undertakes research and advocacy for this aim.

Badil publishes research, information and advocacy tools in Arabic and English, including magazines and an annual Survey of Palestinian Refugees and Internally Displaced Persons. Badil also conducts advocacy training for Palestinian community activists. Badil has consultative status with UN ECOSOC and a partnership agreement with UNHCR. Badil is affiliated with the Child Rights Information Network (CRN) and is a member of the International Council of Voluntary Agencies (ICVA), the Habitat International Coalition (HIC), the global Palestine Right-of-Return Coalition and the Occupied and Syrian Golan Heights Advocacy Initiative (OPGAI).

Mission of the Internal Displacement Monitoring Centre

The Internal Displacement Monitoring Centre (IDMC), established in 1998 by the Norwegian Refugee Council, is the leading international body monitoring conflict-induced internal displacement worldwide. Through its work, the Centre contributes to improving national and international capacities to protect and assist the millions of people around the globe who have been displaced within their own country as a result of conflicts or human rights violations.

At the request of the United Nations, the Geneva-based IDMC runs an online database providing comprehensive information and analysis on internal displacement in some 50 countries. Based on its monitoring and data collection activities, the Centre advocates for durable solutions to the plight of the internally displaced in line with international standards. The IDMC also carries out training activities to enhance the capacity of local actors to respond to the needs of internally displaced people (IDPs). In its work, the Centre cooperates with and provides support to local and national civil society initiatives.

Authorship

This report is based on research conducted from June to August 2006. Research and this report were sponsored by the Internal Displacement Monitoring Centre of the Norwegian Refugee Council. The report was written by Karine Mac Allister and Ingrid Gassner Jaradat of Badil. The NRC/IDMC, in particular Elodie Guego, authored chapter I and provided research comments. Field researchers included Karine Mac Allister and Hassan Faraj of Badil.

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Executive Summary

Palestinians have undergone several waves of forced displacement, at least since the first Arab-Israeli war in 1948, and continue to face displacement. The Wall and its regime are the most recent cause of forced displacement in the occupied Palestinian territories. The forced displacement of Palestinian communities is alarming because it affects the fabric of Palestinian society as well as their fundamental right to return, restitution and self-determination. Although around 70 percent of the Palestinian people are either refugees or internally displaced persons, no systematic effort has yet been undertaken for their protection, including the search for a durable solution.

Acting upon the International Court of Justice advisory opinion, the UN General Assembly requested the Secretary-General of the United Nations in 2004 to set up a UN Registrar of damages caused by Israel's illegal Wall in the occupied Palestinian territories. More than two years later, the Registrar has yet to be implemented. Meanwhile, discussions and studies on the effect of the Wall and its regime concentrate on the material damages caused; little information is available about its impact on people.

This Badil-IDMC pilot study pursued several objectives: first, to develop a methodology for documenting forced displacement caused by the Wall and its associated regime, including clarification of relevant concepts and categories; second, to gather reliable statistical data about the current scope of displacement and major displacement-inducing factors; and finally, to analyse the findings in the broader context of ongoing forced displacement and dispossession of the Palestinian people, the relevant legal regime and the obligations deriving therefrom for national actors and the international community.

Recognising internal displacement and internally displaced persons (IDP)

Although all UN agencies and international and local NGOs consulted in the framework of this study acknowledge the existence of involuntary or coerced population movements within the occupied Palestinian territories, there is confusion as to the correct terminology applicable to this particular context, and the use of the category "internally displaced persons" (IDP) is controversial. This *status quo* may be explained by the fact that various generations of displaced persons have accumulated without prospect of durable solutions, while various new categories and instruments for their assistance and protection evolved but were rarely applied.

This study argues that application of the IDP category to the Palestinian context is useful. Recognition of the occurrence of internal displacement represents a vital first step towards the application of available international instruments and mechanism of assistance and protection. The latter may pave the way for more effective and rights-based humanitarian action and advocacy.

The study moreover suggests that IDPs are not the only group of humanitarian concern in need of protection and assistance. Those who choose to remain or are too poor to flee may be worse off than those who have the means to flee. A focus on internal displacement may also help to better understand the precarious situation of this population.

Finally, application of the framework of the Guiding Principles on Internal Displacement to displaced Palestinians guarantees a rights-based approach to the problem of displacement and ensures that sufficient emphasis is placed on the necessity of preventing displacement and offering durable solutions.

Ongoing displacement as a result of violations of fundamental rights

Quantitative findings about forced displacement presented in this study are derived from a statistical survey on the impact of the Wall in occupied East Jerusalem conducted by the Palestinian Central Bureau of Statistics (PCBS) and Badil between May and June 2006.

The findings clearly show that the Wall and its regime generate forced displacement in East Jerusalem: 17.3 percent of all the Palestinians in Jerusalem who have changed their previous place of residence (32.9 percent) did so as a direct result of the construction of the Wall. The number of those currently considering changing their place of residence is increasing (63.8 percent compared to 52.2 percent in the past).

Violation of the right to an adequate standard of living, particularly as a result of restriction of movement and access to services and basic goods, was found to be the major factor inducing forced displacement by the Wall and its regime in East Jerusalem. No less than 34.5 percent of all households, and 88.3 percent of households on the eastern side of the Wall, are cut off from health services in the centre of Jerusalem. Palestinian family life is disrupted and households are often separated by the Wall. 21.4 percent of all the Palestinian households in East Jerusalem have been split and are separated from their relatives. A striking finding of the Survey is the impact of the Wall on the choice of spouses: 69.4 percent of the households state that the Wall has been an obstacle for the choice of a spouse since the beginning of its construction in 2002.

The findings suggest that Palestinian women and children are particularly affected by violation of the freedom of movement. Some 67.8 percent of children (81.9 percent among those residing on the eastern side of the Wall) and 78.5 percent of women (84.3 percent East of the Wall) have reduced their movement due to the Wall and its associated regime.

Voices of vulnerable groups

Voices of vulnerable groups, Palestinian refugee children, women and Bedouin communities affected by the Wall, are included in this study in order to shed light on their experience, coping strategies and needs. Their testimonies affirm that Palestinians are determined to build a better future, preserve their lifestyle and a Palestinian presence in Jerusalem, despite the uncertainty and difficulties ahead. All of them wish for international action and pressure on Israel to dismantle the Wall and its closure and permit system; many however, have lost faith that this will happen.

Developing a protection mechanism and addressing the root causes of forced displacement

Analysis of the relevant legal regime and of the obligations deriving thereof shows that Israel – as the national authority in effective control of the occupied Palestinian territories – bears the primary responsibility for providing assistance and protection to internally displaced Palestinians. However, as the occupying power and displacement-inducing authority, Israel has been unable and unwilling to provide such assistance and protection.

The study argues that forced displacement of Palestinian communities has been incremental to Israel's policy of population transfer, particularly in East Jerusalem. As stipulated by international law, forced displacement as a result of the Wall and its associated regime is prohibited and amounts to a crime against humanity and a war crime. Moreover, the Wall and its associated regime violate the right to self-determination of the Palestinian people. It is likely to prevent the establishment of a sovereign Palestinian state and a two-state solution of the protracted conflict.

Given Israel's unwillingness to act, international actors, in particular UN member states, have a responsibility and a duty to assist and, especially, protect internally displaced Palestinians, to prevent further forced displacement, and to protect the right to self-determination of the Palestinian people in accordance with the International Bill of Human Rights, the UN Guiding Principles on Internal Displacement, the International Court of Justice advisory opinion, and relevant UN resolutions. The international community also has a duty to promote durable solutions for displaced and dispossessed Palestinians and to ensure their voluntary return, restitution and compensation.

The study recommends that the international community recognise the problem of internal displacement in the occupied Palestinian territories and develop an effective response, in order to prevent further forced displacement and remedy displacement afflicted in the past.

Recommendations

Government of Israel

- Stop the construction of and dismantle the Wall and annul all related legal acts pertaining to the administrative regime established, particularly the permit and closure system, as stipulated in the International Court of Justice Advisory Opinion and UN Resolutions ES-10/13 of 21 October 2003 and A/RES/ES-10/15 of 2 August 2004.
- End the occupation and colonisation of Palestinian land, including East Jerusalem; allow the return of and just reparation to displaced and/or dispossessed persons, including restitution and compensation, as stipulated in the International Court of Justice advisory opinion, UN resolutions and international law.

until then,

- Establish protection and assistance mechanisms for Palestinian displaced and groups vulnerable to displacement.
- Stop issuing military orders and enforcing measures (land confiscation, permits, closure, etc.) leading to the forced displacement of Palestinians in East Jerusalem.
- Provide adequate services to areas of occupied East Jerusalem on the eastern side of the Wall and ensure the availability and accessibility of health and educational services of the Palestinian population residing in them.
- Guarantee the non-cancellation of Jerusalem ID cards, including the right to access, residency rights and benefits therefrom of Palestinians living on the Western side of the Wall.
- Remove all legal obstacles to family reunification and child registration for Jerusalem ID card-holders; reform applicable law and policies so as to meet standards set by international law.
- Stop the policy of demolishing Palestinians homes, reform municipal planning, including zoning of residential areas and policies pertaining to building permits, so that Palestinian residents can obtain building permits through a timely and transparent procedure.
- Facilitate access to humanitarian organisations and the Palestinian Authority in their operations in occupied East Jerusalem.

Palestinian Authority and Palestinian Liberation Organisation

- Continue monitoring displacement caused by the Wall, and consider monitoring other forms of displacement, including displacement as a result of the general closure policy within the West Bank and military operations in the Gaza Strip.
- Include displacement-related issues in the 2007 population Census to be undertaken by the Palestinian Central Bureau of Statistics.
- Encourage the international community to establish protection and assistance mechanisms for Palestinian displaced and vulnerable to displacement.
- Advocate for and, where possible, protect the rights of the Palestinian displaced population, including in meetings with foreign governments and political negotiations.
- Ensure that Palestinian IDPs do not suffer any form of discrimination due to their being displaced, especially in accessing public services.

United Nations

- Recognise displacement in the occupied Palestinian territories, particularly as a result of the construction of the Wall and its associated regime, by undertaking studies and adopting a resolution on the question of the forced displacement of the Palestinian people.
- Address the root causes of displacement (i.e. population transfer in Israeli policies) and their impacts on the right to self-determination of the Palestinian people, the individual human rights of Palestinians and the prospect for a just and peaceful solution to the conflict.
- Recommend further action which can ensure respect and implementation by Israel of the International Court of Justice advisory opinion and UN Resolutions ES-10/13 of 21 October 2003 and A/RES/ES-10/15 of 2 August 2004.
- Establish the UN registry of damage caused by the Wall without further delay and include data relating to population displacement in the registry.
- Develop with the Humanitarian Coordinator of OCHA an IDP-specific response based on the Collaborative Response and cluster-led approach with all relevant UN agencies (UNRWA, OHCHR, UNDP, WFP, UNICEF, etc.), as well as international and local partners on the field.
- Mitigate the effects of forced displacement by providing assistance (i.e. shelter, food, sustainable living conditions, etc.) and protection (i.e. guarantee access to health, work and education as well as the search for durable solutions) to IDPs and persons vulnerable to displacement in line with relevant international laws.
- Include assistance and protection to the displaced and persons vulnerable to displacement in projects and assess the impact of such activities on displacement and the situations of IDPs and vulnerable groups.
- Monitor the multiple displacement trends and the situation of the displaced and of people at risk of displacement.
- Raise awareness among donors of the importance of the issue of displacement and its impact on the fundamental rights of the Palestinian people.

International and Palestinian NGOs

- Call upon Israel to end the occupation and colonisation of Palestinian land, including East Jerusalem, and to facilitate the return of and just reparation to displaced and/or dispossessed persons, including restitution and compensation as stipulated in the International Court of Justice advisory opinion, UN resolutions and international law.
- Call upon Israel to dismantle the Wall and to fully implement the International Court of Justice Advisory Opinion and UN Resolutions ES-10/13 of 21 October 2003 and A/RES/ES-10/15 of 2 August 2004.
- Call upon all States Members of the United Nations to comply with their legal obligations to abstain from supporting the illegal situation created by Israel in the occupied Palestinian territories as stated in the International Court of Justice opinion.
- Build up pressure on Israel and other States, including boycotts, divestment and campaigns for sanctions, in order to encourage compliance by States with their obligations under international law, UN resolutions, and the International Court of Justice advisory opinion.
- Study the issue of internal displacement and relevant legal framework (i.e. Deng Principles and Pinheiro Principles).

- Address the root causes of displacement from an historical and holistic perspective and its impact on the rights of the Palestinian people.
- Study and monitor internal forced displacement in the occupied Palestinian territories as a result of the Wall and its regime as well as a result of other human rights and humanitarian law violations.
- Respond to the protection and assistance needs of the displaced by developing specific programmes for IDPs and people at risk of displacement, disseminating information, and raising awareness of forced displacement and its impact on the rights of the Palestinian people (i.e. the right to freedom of movement, family life, self-determination, etc.).
- Assess the potential impact of their activities on displacement, the IDPs and persons at risk of displacement.

Donor Governments

- End sanctions against the Palestinian Authority, which affect the entire Palestinian population of the occupied Palestinian territories and undermine the capacity of the Palestinian Authority to provide assistance and protection.
- Address the root causes of displacement and their impacts on the right to self-determination of the Palestinian people and the prospect of a just and peaceful solution to the conflict.
- Support financially all efforts by the UN and NGOs in favour of IDPs and persons vulnerable to displacement, particularly for protection activities.
- Express concern to Israeli authorities about the situation of IDPs and people at risk of displacement and advocate for the application of the Deng and Pinheiro Principles.
- Demand that Israel, the occupying Power, comply with its legal obligations as mentioned in the International Court of Justice Advisory Opinion.
- Undertake further action required, including sanctions against Israel, in order to end the illegal situation resulting from Israel's occupation and colonisation of Palestinian land, in particular from the Wall and its associated regime.
- Meet their international obligation not to convey recognition on the situation arising from the Wall and its Associated Regime as noted by the International Court of Justice advisory opinion, in particular, not to recognise Israel's permit system in the closed zone or Israeli sovereignty over areas in the occupied Palestinian West Bank.

Glossary

Bedouin	Persons who identify themselves as Bedouin and who are or used to be nomadic or semi-nomadic.
Durable solutions	Means by which the situation of refugees and internally displaced persons can be satisfactorily and permanently resolved to enable them to live normal lives. The three durable solutions are voluntary repatriation (i.e. return), host country integration and third country resettlement. Voluntary repatriation in safety and dignity, based on the person's free and informed decision, is the preferred option and an independent right enshrined in human rights law. Housing and property restitution is an integral component of durable solutions.
International Assistance	Aid provided to address physical and material needs. This may include food items, medical supplies, clothing and shelter, as well as the provision of infrastructure, such as schools and health care centres. In UNHCR practice, assistance supports and complements the achievement of protection objectives.
International Protection	Interventions by UNHCR or international organisations on behalf of asylum-seekers, refugees or internally displaced persons to ensure that their rights, security and welfare are recognised and safeguarded in accordance with international standards. Such interventions include: ensuring respect for the right of <i>non-refoulement</i> ; admission to safety; access to fair procedures for the determination of refugee status; human standards of treatment; and the implementation of durable solutions.
Internally displaced persons	<p>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 <i>as a result of or in order to avoid</i> the effects of armed conflict, situations of generalised violence, violations of human rights or natural or human-made disasters, and who have not crossed an internationally recognised State border.</p> <p>The term includes:</p> <ol style="list-style-type: none"> 1) Palestinians displaced during the first Israeli-Arab conflict in 1947-48 from their homes in that part of Palestine which became Israel on 15 May 1948, who remained in Israel and are unable to return to their homes. 2) Palestinians who were (and continue to be) displaced from their homes inside Israel after 1948 and unable to return to their homes. 3) Palestinians originating from the West Bank or the Gaza Strip, who were internally displaced for the first time during the 1967 Israeli-Arab conflict and unable to return to their homes. 4) Palestinians originating from the West Bank or the Gaza Strip who were (and continue to be) internally displaced for the first time as a result of human rights violations by the Israeli occupation regime occurring after the 1967 Israeli-Arab conflict (e.g. home demolition, land confiscation, Wall).
Intifada	An Arabic term referring to the Palestinian popular uprising against the Israeli belligerent occupation of the West Bank and the Gaza Strip. The first <i>intifada</i> began in 1987 and ended in 1991 (Madrid Conference). The second <i>intifada</i> began in September 2000 following the collapse of the "Oslo Peace Process" and is still ongoing.

Jerusalem Governorate	Administrative district of Jerusalem of the Palestinian Authority, including the area occupied and annexed by Israel in 1967 (J-1; see also “Jerusalem Municipality” below) and additional areas of the occupied West Bank (J-2).
Jerusalem ID/ West Bank ID	Personal identity card reflecting the legal status of Palestinians living in the “Jerusalem Municipality” (see below) and subject to Israeli law. Jerusalem ID cards were issued by administrative decision to all those Palestinians who were present in this area during the Israeli census conducted following the 1967 occupation. Palestinians originating from Jerusalem but not present in the area at that time were not issued Jerusalem ID. Jerusalem ID entitles to access and permanent residency in Jerusalem and to the benefits of Israel’s social security and health system. It does not convey citizenship in Israel.
Jerusalem Municipality	The area of Israeli-occupied and annexed East Jerusalem under the jurisdiction of Israel’s municipality. This area includes not only the area of pre-1967 Palestinian Jerusalem, but also an additional 64 square kilometres of the West Bank which were annexed by Israel during the 1967 occupation. Based on the route of the Wall approved by Israel’s government, this and additional areas of the occupied West Bank will be incorporated into Israel on the western side of the Wall.
Nakba	An Arabic term meaning catastrophe referring to the mass displacement and dispossession of Arab Palestinians in 1948.
Occupied Palestinian territories	That part of former Palestine (22 percent) occupied by Israeli military forces in 1967.
Palestinian Authority	The body established under the 1993 Declaration of Principles on Interim Self-Government Arrangements and the 1994 Agreement on the Gaza Strip and Jericho Area to administer those parts of the 1967 occupied Palestinian territories evacuated by Israel pending the negotiation of a final settlement. The Palestinian Authority is an organ of the Palestinian Liberation Organisation (PLO).
Persons vulnerable to displacement	Persons who are physically present in their homes or places of habitual residence, but are subject to deprivations of their fundamental rights as a result of the construction of the Wall and its associated regime and are likely to be forcibly displaced.
Population transfer	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.
Road Map	An international framework adopted by the United States, Russia, the European Union and the United Nations in 2003 setting out a three-stage process based on UN Security Council resolutions 242 (1967), 338 (1973) and 1397 (2002) for a two-state solution to the Israeli-Palestinian conflict.
UNRWA	United Nations Relief and Works Agency for Palestine Refugees in the Near East. The international organ established by the United Nations in 1949 to provide assistance to persons displaced during the 1948 Arab-Israeli conflict. The United Nations later requested the Agency to provide assistance to persons displaced during the 1967 Arab-Israeli conflict.

UNCCP

United Nations Conciliation Commission for Palestine. The international organ established by the United Nations in 1948 to protect and facilitate solutions for all persons displaced during the 1948 Arab-Israeli conflict and to facilitate a solution to all outstanding issues between the parties.

Wall and Associated Regime

The Wall is either a concrete wall of approximately 8-9 meters high with watchtower and sniper positions, or an electric barrier of approximately 3-5 meters high with a buffer zone, ditches, razor wire, roads, electronic sensors and cameras.

The Associated regime is a set of administrative decisions composed of military orders (land, property confiscation), closed areas, a new permit system, and new regulations at checkpoints (or terminals) and gates.

Introduction

Palestinians have undergone several waves of forced displacement, at least since the first Arab-Israeli war in 1948, and continue to face displacement. No accepted definition of forced displacement or comprehensive database, however, exist to serve the monitoring and registration of refugees and internally displaced persons in the Palestinian context. Hence exact data about the scope of forced displacement are not available in a situation which appears alarming, not least because of the ongoing nature of displacement and its *raison d'être* in the Israeli-Palestinian conflict.

The purpose of this study is to shed light onto the phenomenon of forced displacement, particularly internal displacement in the occupied Palestinian territories (OPT). While there are an estimated 6.8 million Palestinian refugees worldwide, the scope of internal displacement in the occupied Palestinian territories appears to be increasing as a result of Israeli measures including house demolition, land confiscation and military operations. As recently as June 2006 for instance, over 3,500 Palestinian refugees were displaced in the Gaza Strip as a result of the Israeli military operation code-named "Operation Summer Rains."

Israel's Wall and its associated regime under construction in the occupied West Bank since June 2002, moreover, also appear to be creating a new wave of displacement. In some regions, the Wall is a concrete wall of approximately 8-9 metres high (more than twice the height of the Berlin Wall) with watchtowers and sniper positions every 300 metres, while in other regions it is an electric fence approximately 3-5 metres high with a buffer zone, trenches, barbed wires, sensors and cameras. The route of the Wall has been revised many times; the latest route was approved by the Israeli Cabinet on 30 April 2006 and is 703 km long (more than twice the length of the 1949 armistice line, or "Green Line").¹ While the Wall follows the Green Line on some 20 percent of the route, most of it is being built inside the 1967-occupied Palestinian West Bank, thereby isolating West of the Wall some 10.1 percent of the Palestinian land, which is likely to be annexed by Israel.² The total amount of land *de facto* annexed by the Wall, if Jewish colonies ("settlements") and related infrastructure are included, is 46 percent.³

As early as 2003, John Dugard, the UN Special Rapporteur on the Situation of Human Rights in the Palestinian Territories Occupied since 1967 warned that the Wall and its regime were "...likely to lead to a new generation of refugees or internally displaced persons."⁴ In his latest report in January 2006, the Rapporteur spoke of the "de-Palestinisation of Jerusalem" and "the emergence of a new wave of internally displaced persons."⁵ In June 2005, the Palestinian Central Bureau of Statistics estimated that close to 15,000 persons had already been displaced as a result of the Wall and its regime in the West Bank. Yet, there is no clearly defined international response to situations of internal displacement in the occupied Palestinian territories.

Another purpose of this pilot study is to examine the nature and scope of internal forced displacement as a result of the Wall and its associated regime in East Jerusalem. We aim to develop a methodology that would allow other organisations to study and monitor forced displacement in a systematic, comprehensive and reliable manner. We also hope to foster a debate on the need to recognise internally displaced persons as such and to develop a specific response to internal displacement in the Occupied Palestinian territories. Ultimately, a database and a working group on forced displacement could be developed in order to better address the root causes as well as assistance and protection needs of the displaced or of those vulnerable to displacement.

1 "Fifty-one percent of the West Bank Barrier construction is completed (362 km), 13 percent is under construction (88 km) and 36 percent remains marked as planned (253 km)." Office for the Coordination of Humanitarian Affairs (OCHA), *Preliminary Analysis of the Humanitarian Implications of the April 2006 Barrier Projections*, update 5 (Jerusalem: OCHA, July 2006), p. 1.

2 Humanitarian and Emergency Policy Group (HEPG), *The Impact of Israel's Separation Barrier on Affected West Bank Communities*, update No. 5 (Jerusalem, 2005), p. 3, para. 1.

3 Department of Negotiations Affairs, *Israel's Wall*, (Ramallah: Palestine Liberation Organisation, 9 July 2005), p. 15.

4 *Report of the Special Rapporteur of the Commission on Human Rights on the Situation of Human Rights in the Palestinian Territories Occupied by Israel since 1967*, Commission on Human Rights, Sixtieth Session, E/CN.4/2004/6, 8 September 2003, p. 1.

5 Question of the Violation of Human Rights in the Occupied Arab Territories, Including Palestine, *Report of the Special Rapporteur of the Commission on Human Rights, John Dugard, on the Situation of Human Rights in the Palestinian Territories Occupied since 1967*, Commission on Human Rights, Sixty-second session, E/CN.4/2006/29, 17 January 2006, p. 5, para. 2.

The geographical area of Jerusalem was selected for this pilot study because of its special importance to the Palestinian people: 1967 occupied East Jerusalem is the social, cultural, economic and political centre of Palestinian society and is designated to become the capital of a Palestinian state in the future. Along with the questions of borders, Palestinian refugees and Jewish settlements in the occupied West Bank, the question of Jerusalem has remained one of the “final status issues” to be resolved in political negotiations between Israel and the Palestinian Liberation Organisation (PLO) in the future. In the meantime, however, the character of Jerusalem is being significantly altered due to the occupation, the illegal annexation of Jerusalem by Israel in 1967,⁶ the settlement enterprise (i.e. colonies) and increasingly tight movement restrictions imposed on the Palestinian population. There are clear indications of massive population movements in East Jerusalem, as a result both of the construction of the Wall and of other Israeli measures.

The Wall and its associated regime represent Israel’s most recent measure applied towards the separation of Palestinian Jerusalem from the rest of the occupied West Bank. The route of the Wall around Israeli-annexed Jerusalem is 75 kilometres long, with only 5 kilometres running along the “Green Line”.⁷ As of January 2006, 29 km of the Wall around Jerusalem were built, 34 km were under construction and 12 km were planned.⁸ The Wall and the checkpoints are all situated East of the “Green Line” and inside the occupied West Bank. There are currently 12 checkpoints between the West Bank and Israeli-annexed Jerusalem; eight are reserved for Palestinians with Jerusalem ID,⁹ Israeli citizens and persons – including Jewish settlers – entitled to entry and residency under Israel’s Law of Return, and foreigners with valid visas. Four other checkpoints are designated for Palestinians with West Bank ID holding special permits.¹⁰ As a result, “movement is controlled from one part of the occupied West Bank to other parts of the West Bank – parts that were annexed by Israel into its Jerusalem municipal lines.”¹¹

This study is divided into four chapters. The first chapter examines concepts and definitions as well as the added value of using the internally displaced person category in the context of the occupied Palestinian territories. The second chapter provides an analysis of the statistical findings of the survey on forced displacement conducted by the Palestinian Central Bureau of Statistics and Badil Resource Center in June 2006. The third chapter is a compilation of interviews undertaken with vulnerable groups of Palestinians in Jerusalem: women in the Al-Ram neighbourhood, children in the Shu’fat refugee camp and the Jahalin Bedouin near Ma’ale Adumim and Abu Dis. The final and fourth chapter is an analysis of the political and legal implications of forced displacement on the rights of the Palestinian people, the root causes of the conflict and the responsibilities of national and international actors.

6 Following the war in 1967, Israel annexed some 70² kilometres to the municipal boundaries of West Jerusalem. These annexed territories include 28 West Bank villages. In this annexed area, the Israeli government established 15 Jewish colonies. Despite the fact that no state recognises Israel’s annexation of the east side of the city, Israel has focused much of its colonial activities in and around East Jerusalem, culminating in the Wall, for demographic purposes. Office for the Coordination of Humanitarian Affairs (OCHA), *Access to Jerusalem – New Military Order Limits West Bank Palestinian Access*, Humanitarian Update (Jerusalem: OCHA, February 2006), p. 2. See also UN Security Council Resolutions 252, 21 May 1968, UNSC Resolution 298 (1971), UNSC Resolution 478 (1980).

7 The so-called Green Line constitutes the ceasefire line between Israel and Jordan drawn in the framework of the 1949 armistice agreement among the parties. It is a line dividing the territory of the state of Israel (West of the line) and the 1967 occupied Palestinian territories.

8 OCHA, *Access to Jerusalem – New Military Order Limits West Bank Palestinian Access*, supra 6, p.8, fn. 5.

9 Jerusalem and West Bank ID were introduced by Israel in 1967 to differentiate between Palestinians living in 1967 Israeli-occupied and annexed Jerusalem from those living in other areas of the occupied West Bank. Jerusalem ID provides access to both Israel and the OPT, Israeli labour market and social services, particularly health care, education and social welfare. See UNRWA, *Camp Profile, Profile of Shu’fat Refugee Camp*, Reports on the West Bank Wall/Barrier (January 2004), p.1

10 West Bank ID holders have not been able to enter Jerusalem without a permit since 1993. See *ibid*, p.1 and OCHA, *Access to Jerusalem – New Military Order Limits West Bank Palestinian Access*, supra 6, p.3.

11 OCHA, *ibid*, p.2.

Internal Displacement: An Issue?

Internal displacement is not a recent phenomenon in the occupied Palestinian territories. Starting with the first Arab-Israeli war of 1948 and following the occupation of the West Bank, including East Jerusalem and the Gaza Strip by Israel in 1967, internal and external displacement have been the – often deliberate – consequence of the longstanding Israeli-Palestinian conflict. With the numerous military operations (incursions or clearing operations) conducted in Palestinian territory since the beginning of the second *Intifada*, the construction of the Wall in the West Bank and the enforcement of a strict closure policy and various permit systems throughout the territories, internal displacement is now on the increase.

Internal displacement and substantial refugee flows have often coincided. While the problem of Palestinian refugees is well documented, internal displacement remains a largely unknown and invisible phenomenon. Internal displacement is generally not perceived as a pressing issue but rather as one of the symptoms of the 40-year-long Israeli occupation which will only be resolved with the end of the conflict. When it is not ignored or denied, internal displacement is overlooked and dismissed as irrelevant or marginal. The word “displacement” itself has been used in a confusing manner to describe a variety of situations, without necessarily encompassing forcible displacement inside the occupied Palestinian territories.

Several factors may explain this situation. First, the political weight and the magnitude of the refugee problem are such that the question of internal displacement often appears as secondary. Secondly, distinguishing between Palestinian refugees and internally displaced persons proves difficult in practice since many of the Palestinian internally displaced persons (IDP) are in fact Palestinian refugees displaced for a second or third time. In addition, the use made of the expression “displaced persons” by the United Nations Relief and Works Agency in the Near East (UNRWA) and its scope of operations blurs this distinction. Finally, the applicability of the “internally displaced person,” or IDP, label and its usefulness in the context of the occupied Palestinian territories is still much debated, in particular as no internal displacement-specific assessment or study has ever been conducted.

This chapter seeks to clarify the terms of the debate by going back to the basic concepts and their implications. It then discusses the practical benefit of using the IDP category and the need for a specific response to internal displacement in the occupied Palestinian territories.

1. A question of vulnerability and borders: the concept of internal displacement

Internally displaced persons are often described as “internal refugees.” Though highlighting two essential elements of the concept – coercive or otherwise involuntary movement and remaining within one’s national borders – this image can be misleading. Indeed, the “internally displaced person” category is not a legal category, it only describes the state of particular vulnerability in which those who were forced to abandon their homes but remained within their country of residence may find themselves, without conferring specific rights or legal status.

There is no internationally agreed definition of internal displacement. Only a working definition of an internally displaced person exists. The latter, elaborated by a group of experts under the lead of the then Representative of the UN Secretary-General on Internally Displaced Persons, Francis M. Deng, was reproduced in the non-binding UN Guiding Principles on Internal Displacement in 1998 (“Deng Principles”). It reads as follows: “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.”

Under this definition, the main criteria for qualifying as an internally displaced person are limited to the two elements mentioned earlier: involuntary movement and remaining within one's national borders. As distinct from the 1951 Refugee Convention, the Guiding Principles are not restrictive with regard to the causes of displacement.¹² Potentially all forms of involuntary displacement fall within the scope of this definition.

The rationale for such an inclusive definition lies in the attempt to bridge the protection gap affecting the uprooted – victims of war, natural disasters and human rights violations – who are unable to cross an international border and cannot benefit from the international protection and status granted to refugees. Drawing on existing norms of international human rights and humanitarian law, the Guiding Principles represent an attempt to compile, complement and reinforce the provisions of international law applicable to situations of displacement. The Guiding Principles are in line with the spirit of existing provisions under international humanitarian and human rights law and further elaborate a number of rights critical to adequate assistance and protection of internally displaced persons such as the right to personal liberty; the right to freedom of movement, including the right not to be displaced and the right to return; as well as the right to personal documentation, the right to family reunion, and the right to restitution or compensation for the losses incurred by displacement.¹³

Since the adoption of such a protective new legally binding instrument by UN member states was unlikely, the price to pay for inclusiveness and progressive development of international law was the non-binding character of the Guiding Principles. While constituting an important tool for upholding the rights of IDPs, the Guiding Principles do not guarantee *per se* the protection of the displaced, but seek to provide practical guidance to all those with a role in addressing the plight of the internally displaced.¹⁴ The principles carefully avoid using such terms as the “definition of an IDP,” “IDP status,” “IDP determination” and other common terms used in the context of refugees in order to avoid any confusion regarding their nature. For the same reason, the “working definition” of an internally displaced person quoted above is considered in the “Annotations” to the Guiding Principles as a “descriptive identification of the category of persons whose needs are the concern of the Guiding Principles” rather than as a definition.¹⁵

In the case of the occupied Palestinian territories, people displaced during the 1967 war and subsequently in the course of military incursions and clearing operations (as in Southern Gaza), by house demolitions and land confiscations at variance with the principles of international law¹⁶, by the Wall and its associated regime,¹⁷ and by the various permits systems enforced throughout the territories (e.g. in the closed zone and the Jordan Valley)¹⁸ can be considered internally displaced persons, provided that they remained within these territories. They were indeed displaced as a result of an armed conflict and/or violations of human rights. In the same way, Palestinians displaced by Israeli settler violence and intimidations can qualify as IDPs.

The absence of internationally recognised borders between what remains of pre-1948 Palestine and Israel and the geographical non-continuity of the occupied Palestinian territories may appear at first to present obstacles in principle to applying the IDP category to displaced Palestinians. However, considering the spirit of the Guiding Principles and the breadth of the working definition contained therein, this objection can easily be ruled out. As mentioned earlier, the purpose of the Guiding Principles and, beyond, of international concern for IDPs is to ensure adequate assistance and protection to individuals exposed to specific risks and vulnerabilities due to their displacement and the ensuing temporary deprivation of their rights.

12 According to Article 1 of the Convention relating to the Status of Refugees (Geneva, 1951), a refugee is “a person who is outside his/her country of nationality or habitual residence; has a well-founded fear of persecution because of his/her race, religion, nationality, membership in a particular social group or political opinion; and is unable or unwilling to avail himself/herself of the protection of that country, or to return there for fear of persecution.”

13 Nils Geissler, “The International Protection of Internally Displaced Persons”, *International Journal of Refugee Law*, vol. 11 (1999), pp. 462-468.

14 Francis Mading Deng, “The Global Challenge of Internal Displacement”, *Journal of Law and Policy*, vol. 5 (2001), pp. 150-152.

15 The American Society of International Law Studies, “Guiding Principles on Internal Displacement Annotations”, *Transnational Legal Policy*, No. 2 (2000), p.2.

16 On the illegality under international law of Israel's destruction of land and property in the OPT, see for example: Amnesty International, *Under the rubble: House demolition and destruction of land and property*, (18 May 2004).

17 In July 2004, the International Court of Justice (ICJ) held, in an Advisory Opinion requested by the United Nations General Assembly, that the wall being built on the Palestinian territory violated international humanitarian and human rights laws and should be dismantled. International Court of Justice (ICJ), *The Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, Advisory Opinion, 9 July 2004, paras.137 and 149-159.

18 On the illegality under international human rights law of Israeli movement restrictions in the OPT, see: Al Haq, *Waiting for Justice. Al Haq: 25 Years Defending Human Rights (1979-2004)*(Ramallah, June 2005), pp. 102-104.



Children from Shu'fat refugee camp looking at the Wall and the Jewish colony of Pisgat Ze'ev, August 2006. © Anne Paq.

Palestinians displaced from the Gaza Strip to the West Bank, or conversely from the West Bank to Gaza, cannot be said to have crossed an “internationally recognised State border” as, according to relevant UN resolutions and the Oslo Accords, the Gaza Strip and the West Bank are considered a single territorial unit.¹⁹ Movement between the two areas does not create refugee status. The same principle applies to Palestinians displaced from Israeli-annexed East Jerusalem to the surrounding West Bank and vice versa. Although Israel annexed Palestinian East Jerusalem in 1967, together with an additional 64 square kilometres of the surrounding occupied West Bank and declared this larger Jerusalem to be its “united and eternal capital,” this action was unanimously denounced by the international community which has consistently and repeatedly declared East Jerusalem to be part of the Occupied Palestinian territories.²⁰

By contrast, Palestinians, who left their homes in 1948 from Israel to the Gaza Strip or the West Bank are refugees.²¹ They went from Israel to a different entity, which has never been under Israeli sovereignty.²²

19 See Government of Israel and Palestinian Authority, *Declaration of Principles on Interim Self-Government Arrangements (“Oslo Accord”)*, 13 September 1993.

20 In UNSC Resolution 298 (1971), the UN Security Council confirmed: “in the clearest possible terms that all legislative and administrative actions taken by Israel to change the status of the City of Jerusalem, including expropriation of land and properties, transfer of populations and legislation aimed at the incorporation of the occupied section, are totally invalid and cannot change that status”. See also UNSC Resolution 478 (1980) and ICJ, *The Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, supra 17, para. 78.

21 The United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA) provides principally assistance to: 1) any person whose normal place of residence was Palestine during the period from 1 June 1946 to 15 May 1948 and who lost both home and means of livelihood as a result of the 1948 conflict; 2) any person currently displaced and in serious need of continued assistance as a result of the June 1967 Six-Day War and subsequent hostilities; 3) descendants by the male line of the aforementioned persons. In UNRWA’s terminology, the first category of persons and their descendants are ‘Palestine refugees’ while persons belonging to the second category are ‘displaced persons’. However, these are not legal categories and Palestinians who fled this part of Mandate Palestine which became the State of Israel in 1948 and those who fled the Occupied Palestinian territories in 1967 remain prima facie refugees for the purpose of the 1951 refugee Convention. Only ‘Palestine refugees’ and 1967 ‘displaced persons’ who receive or are eligible to receive assistance from UNRWA and find themselves in UNRWA’s area of operations (Jordan, Syria, Lebanon, the West Bank and the Gaza Strip) are excluded from the benefits of the 1951 refugee Convention under its article 1D and from the protection and assistance of UNHCR. See UNHCR, *Note on the Applicability of Article 1D of the 1951 Convention relating to the Status of Refugees to Palestinian refugees* (Geneva, October 2002).

22 This holds true although Palestinians have never had full control or exercised jurisdiction over the West Bank and Gaza Strip. Control/jurisdiction by Egypt and Jordan (1948 – 1967) was replaced by Israel’s occupation in 1967, and the interim agreements under the Oslo Accords never led to full Palestinian control/jurisdiction over these areas. The status of the West Bank and Gaza as Occupied Territories and the right to self-determination of the Palestinian people were both confirmed by the International Court of Justice in its Advisory Opinion. ICJ, *The Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, supra 17, paras. 78, 88.



A Palestinian family living in a tent next to their destroyed house in the village of Wallaja, where the Wall is planned to pass, March 2006. © Anne Paq.

The use made of the expression “displaced person” in the case of Palestinians is confusing and contributes to the reluctance of some actors to use the internally displaced person label in the Palestinian context. In accordance with UN Security Council Resolution 237 (1967), the term “displaced persons” refers to Palestinians displaced within and from the West Bank and the Gaza Strip as a result of the 1967 Arab-Israeli conflict and their descendants. UNRWA also uses the term “displaced persons” to designate persons falling within its mandate under UN General Assembly Resolution 2252 (1967). In this and subsequent resolutions on the same issue, the General Assembly endorsed the efforts of the Commissioner-General of UNRWA “to provide humanitarian assistance, as far as practicable, 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. These two categories of displaced are to be strictly distinguished from “internally displaced persons” since they extend to persons displaced externally.²³

In short, uncertainty and confusion about the terminology applicable to the Palestinian context are the result of a situation where various generations of displaced persons have accumulated without the prospect of durable solutions, while various new categories and instruments for their assistance and protection evolved but were rarely applied. In this context of uncertainty and confusion, the added value of applying a new

label and a new “regime” specifically tailored for internally displaced persons needs to be clearly demonstrated.

II. Recognising Palestinian IDPs as a special category of concern

Because coerced or otherwise involuntary displacement may seriously disrupt the enjoyment of a number of human rights, vulnerability is inherent to internal displacement. Consequently, all internally displaced persons – to varying degrees – are vulnerable and remain so until displacement has ended and they have recovered normal enjoyment of the totality of their rights. The consequences of displacement are multiple and may affect entire communities beyond the displaced. They range from lack of food, clean water and sanitation, exhaustion of savings, loss of livelihood and discrimination, to depopulation of entire areas, overcrowding of urban centres, and alteration of family structure and roles.²⁴ While displacement is often seen as a temporary problem that disappears upon the voluntary return home or resettlement of the displaced, it often has long-term consequences on the lives of displaced people and their host communities.

In the 1990s, the international community acknowledged the state of particular vulnerability of the IDPs. Evidence of this recognition is the attempt to address the protection gap in which the displaced often find themselves with the elaboration of the Guiding Principles on internal displacement, and the various institutional and operational reforms undertaken by the UN system to remedy major shortcomings in assisting and protecting the displaced.

Having set aside the idea of a single agency responsible for the entire IDP caseload – a caseload of approximately 24 million individuals in over 50 countries – the international community opted for a Collaborative Response to internal displacement based on the coordination of efforts by all UN and other humanitarian agencies. Faced with criticism

²³ The use of the term displaced persons is explained by the fact that in 1967 Jordan had annexed the West Bank and, since most Palestinians sought protection in Jordan, the Palestinians who fled were considered displaced within Jordan as a whole. When Jordan relinquished its claim to the West Bank, these displaced persons became – retroactively – refugees in legal terms.

²⁴ Roberta Cohen and Francis Mading Deng, *Masses in Flight: The Global Crisis of Internal Displacement* (Washington D.C.: Brookings Institution Press, 1998), pp.23-26.



Art on the Wall, Bethlehem, 2005. © Anne Paq.

of the numerous shortcomings and inefficiencies of the Collaborative Response²⁵ and following recommendations by the independent Humanitarian Response Review, the UN, Non-Governmental Organisations (NGOs) and the Red Cross/Red Crescent Movement, through the UN Inter-Agency Standing Committee, moved in 2005 towards a clear allocation of leadership for various sectors of the humanitarian response, designating a lead agency for each of the sectors or “clusters” where systemic and critical gaps exist. One of the main goals of the cluster approach is to answer the repeated calls for a more predictable, effective and accountable inter-agency response to the protection and assistance needs of the internally displaced.²⁶

As mentioned above, internally displaced persons have not yet been recognised as a special category of concern in the occupied Palestinian territories and little attention has been paid to internal displacement as such. While policies of “population transfer”, “ethnic cleansing” or “displacement” have been denounced from time to time, the emphasis has never been laid on the situation of internally displaced persons and people at risk of displacement. On the UN side, internal displacement among Palestinians has not triggered any specific measure or response. No survey of the internally displaced population and no study or assessment of its needs has been conducted. In practice, activities of humanitarian agencies in this field have been limited to addressing the immediate assistance needs of people displaced *en masse* in the course of military operations (incursions or clearing operations).

While it is true that internally displaced persons do not necessarily have specific needs, their situation of acute vulnerability requires special attention. In this perspective, close monitoring of displacement trends and regular assessment of the protection and assistance needs of the internally displaced population appear crucial. An essential first step would be for the UN and other humanitarian agencies to officially recognise internal displacement as a matter of concern.

In preparation for the present report, a series of consultations was held with various UN and non-UN actors, both in Geneva and the occupied Palestinian territories, to discuss their position regarding the existence of – and possible ways

25 Jens-Hagen Eschenbächer, “Making the Collaborative Response system work”, *Forced Migration Review*, Supplement, (2005), pp.15-16.

26 Jan Egeland, “Towards a stronger humanitarian response system”, *Forced Migration Review*, Supplement, (2005), pp.4-5.



A woman passing the Bethlehem checkpoint (“Terminal”), where a sign on the Wall on the “Bethlehem side” indicates “Welcome to Jerusalem”. Although the Wall is located approximately 2 kilometers inside Bethlehem municipal borders, the Wall now stands as the new border between Bethlehem and occupied East Jerusalem. January 2006. © Anne Paq.

to handle – internal displacement in the occupied Palestinian territories. Several off the record interviews were conducted with UNRWA officials, as UNRWA is the principal agency providing assistance to Palestine refugees who are also IDPs and is generally considered as having the necessary expertise to coordinate an IDP-specific response. OCHA (the UN Office for the Coordination of Humanitarian Affairs), was consulted, not least as it would also be well placed to monitor internal displacement considering its extensive monitoring presence in the OPT. The UN Humanitarian Coordinator – the very first one in the occupied Palestinian territories – was also consulted since, according to his mandate, he is responsible for alerting the UN Emergency Relief Coordinator of any new or changing internal displacement situation and coordinating an inter-agency response to internal displacement.²⁷

One of the main conclusions following these consultations is that all agencies and organisations consulted acknowledge the existence of involuntary or coerced population movements within the OPT. This is particularly true in regards to internal displacement in the Jerusalem area where there is clear evidence of massive population movements as a result of the construction of the Wall and its associated regime.²⁸ Whether victims of internal displacement should officially be categorised as internally displaced persons and therefore receive special protection and assistance is the subject of greater controversy.

There were various arguments against officially recognising the displaced as IDPs and addressing internal displacement as such through specific measures or responses. It is important to remark in this context that while the United Nations, in particular UNRWA and OCHA, occasionally refers to “displaced persons” or people “forced to flee their homes” in statements or reports, the use of these terms lacks consistency and does not reflect a clear policy of the agencies concerned.

²⁷ Inter-Agency Standing Committee (IASC), *Implementing the Collaborative Response to Situations of Internal Displacement Guidance for UN Humanitarian and/or Resident Coordinators and Country Teams* (New York: United Nations, 2004), p.10.

²⁸ According to OCHA, approximately 40,000 Palestinians holding Jerusalem residency status may have already moved to the “Israeli side” of the Wall in order to retain their residency rights and the social benefits attached to it.

According to an OCHA representative interviewed, the agency reserves the use of the term “displaced” for situations where at least 50 people were forced to flee their homes as a result of Israeli military operations. As far as UNRWA is concerned, the choice of terminology seems to be random; while recognising that people displaced in the course of Israeli military operations “had to flee their homes”, UNRWA has sometimes simply described them as “homeless.”²⁹

The first argument against official recognition is that displacement does not need to be recognised in order to be addressed. It is a matter of fact rather than a matter of denomination. While convincing at first glance, this line of argument presents some weakness. That internal displacement is first and foremost a reality with which humanitarian agencies have to deal in their daily activities is undeniable. However, if the main concern is effective protection of internally displaced persons and people at risk of displacement, conducting surveys in order to obtain reliable estimates of the displaced population and assessing its specific needs is of critical importance. Such a focus on the displaced population may only be possible if internal displacement is recognised as an issue requiring specific attention. Moreover, while UNRWA assists displaced Palestinian refugees during emergency and post-emergency phases, its assistance to non-refugee IDPs is limited to the provision of emergency shelter and basic commodities in situations of massive displacement. Considering UNRWA’s limited protection mandate and activities, the protection needs of Palestinian refugees displaced for a second or third time may not be adequately addressed in the absence of a specific response.



Shu’fat Refugee camp, August 2006. © Anne Paq.

The second objection made against raising the profile of the displacement issue is that official statements on the situation of the internally displaced might well frustrate the action of humanitarian agencies on their behalf rather than enhance it. Displacement, whether internal or external, is indeed a very sensitive issue that finds its roots at the heart of the Palestinian-Israeli conflict. Displacement has often been a tool in the demographic battle for land and other natural resources Israel has fought against the Palestinians. Attracting the world’s attention to such deliberate displacement policies might thus prove contentious. The agency concerned might suffer adverse consequences from its courage and end up with less access to the population it is supposed to assist and protect. The legitimacy of this objection is again difficult to deny. However, one can also argue that all humanitarian agencies protecting the displaced in countries where the government is, in one way or another, the agent of displacement face the same difficulties. It is one of the challenges posed to humanitarian agencies in all situations of internal displacement, and something that the UN could not ignore when it decided that all agencies should nonetheless strive to ensure the protection of IDPs.³⁰ Drawing on the experience acquired in other countries, UN agencies might find ways of maintaining adequate working relationships with Israeli authorities while recognising internal displacement as an issue of concern.

A third concern of some of the organisations consulted relates to the relevance of applying the Guiding Principles in the context of a military occupation. The basic premise on which the Guiding Principles are based is the primary responsibility of the government for the protection of and assistance to its internally displaced population.³¹ In the

29 See for example UNRWA, *Rebuilding Khan Younis Camp: United Arab Emirates donates \$13 million to re-house homeless refugees* (30 November 2005); UNRWA, *UNRWA Opens School to shelter Homeless Palestinians in Khan Younis* (20 December 2004).

30 The Inter-Agency Standing Committee policy paper affirms that all agencies providing humanitarian assistance to internally displaced persons have “a responsibility to consider how the design and implementation of their assistance activities might best contribute to promoting protection of the internally displaced.” Inter-Agency Standing Committee (IASC), *Protection of Internally Displaced Persons*, Policy Paper Series, No.2 (New York: United Nations, 2000), p.11.

31 “National authorities have the primary duty and responsibility to provide protection and humanitarian assistance to internally displaced persons within their jurisdiction.” Guiding Principles on Internal Displacement (Deng Principles), (11 February 1998), Principle 3(1).



Wall in Abu Dis, Jerusalem, 2005. © Anne Paq.

case of the OPT, the Palestinian Authority – whose government and parliament are defunct following the arrest of the majority of its ministers and many parliamentarians by Israel and due to economic sanctions undertaken by the international community – is unable to provide adequate assistance and protection to the displaced, both because of its current constraints and due to limited authority conveyed to it under the terms of the Oslo Accords. While this particular situation may not be equated with situations of internal displacement in failed or weak states, the latter provide useful examples of how action by the international community can compensate the inability of state authorities to deal with displacement.. In addition, as ruled by the International Court of Justice in its advisory opinion on the construction of the wall in the OPT, Israel is bound to apply international human rights and humanitarian law, in particular the Fourth Geneva Convention, as well as the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights, and the Convention on the Rights of the Child to the OPT.³² Considering that various Guiding Principles on Internal Displacement are drawn from these instruments, Israel may legitimately be considered as bearing primary responsibility for protecting and assisting Palestinian IDPs.

Another argument against unconditionally recognising IDPs as a population of concern was the need to allocate new and sufficient resources to the agency entrusted with the assistance and protection of IDPs. All agencies present in the OPT suffer indeed from lack of funding and the recent deterioration of the humanitarian situation in the OPT, following the sanctions adopted against the government of the Palestinian Authority, increased pressure on the budgets of humanitarian agencies.³³ Any decision in favour of a specific response to internal displacement would require the support of donor governments and the financial burden created by this new case-load would have to be shared between various agencies. In that sense, an inter-agency response to internal displacement and the establishment of a protection network would appear a satisfactory option and allow for more effective allocation of available resources.

³² ICJ, *The Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, supra 17, paras. 107-113.

³³ See for example “Donors pledge Palestinians \$500m”, *BBC*, Friday 1 September. Available at: http://news.bbc.co.uk/2/hi/middle_east/5304546.stm.

As evidenced during the consultations, behind the reluctance of a number of actors to use the IDP category lay the fear of weakening the claim of Palestinian refugees, victims of successive displacement, to restitution and compensation for the losses suffered during the 1948 war. Several of the organisations consulted underlined the necessity to distinguish between the latter and individuals displaced for the first time. Many recommended avoiding using the IDP label with regards to Palestinian refugees. Whereas this recommendation seems well founded, highlighting the successive coerced displacements undergone by part of the Palestinian population demonstrates the systemic nature of forced displacement and the insufficiency of the protection enjoyed by Palestinian refugees. The expression “displaced refugees” in that sense seems to strike an adequate balance between the need to protect the legitimate claims of Palestinian refugees to voluntary return, restitution and compensation, and the necessity of highlighting repeated and systemic displacement.

This last remark sheds light on the main advantage of categorising individuals as internally displaced persons: recognising people displaced as such would allow targeted assessments, better knowledge of their protection and assistance needs, better advocacy for their rights and a better humanitarian response. While rendering the profiling of the Palestinian internally displaced population difficult, the multiplicity of the causes of displacement and the invisibility of internally displaced persons strengthen the case for close monitoring of internal displacement in the occupied Palestinian territories. As the majority of Palestinian internally displaced appear to be moving in with relatives, into the cities or in existing refugee camps, protection problems and assistance needs may be more difficult to identify but are not necessarily less serious.

Designating internally displaced persons as a group entitled to special attention does not entail neglecting other vulnerable categories of the population. It may on the contrary increase humanitarian agencies’ awareness of the protection and assistance needs of distinct communities. IDPs are not the only group of humanitarian concern in need of protection and assistance. The situation of people who choose to remain or are too poor to flee may be worse than that of those who had the means to flee. This might in particular be the case of people affected by the Wall and its associated regime who are unable or unwilling to relocate further away from the Wall. Focusing on internal displacement may however underline their precarious situation. Since these communities are at risk of displacement, they should be entitled to special assistance and protection. As the living standards of host communities of IDPs may considerably deteriorate due to this unexpected influx of population, special programmes of assistance should also target host communities.

In addition, using the framework of the Guiding Principles on Internal Displacement guarantees a rights-based approach to the problem of displacement and ensures that sufficient emphasis is placed on the need to prevent displacement and offer durable solutions to the displaced. In the specific context of the occupied Palestinian territories, it is of critical importance to ensure that no negotiation, agreement or mechanism neglects or negatively impacts the rights of internally displaced persons and the general population. Recognising displacement as an issue of concern for the international community would for example guarantee that the UN Register of damages and losses caused by the Wall, being set up upon the request of the UN General Assembly in application of the ICJ advisory opinion,³⁴ includes not only data on material damages but also on displacement.

Finally, focusing on internal displacement calls attention to an invisible but nonetheless serious transformation of the Palestinian social fabric as a result of various Israeli policies. Talking about displacement as a result of the Wall and its associated regime highlights the profound human impact of the Wall, land confiscations, closure and permit system beyond the human rights and humanitarian law violations already denounced in innumerable NGO and UN reports. In the same way, describing displacement trends as a result of the general closure policy applied in the OPT highlights the overall consequences of restrictions on freedom of movement, despair and lack of economic opportunities.

The advantages of recognising internally displaced people as a population of humanitarian concern appear to be widely understood by Palestinian and international organisations working on the ground. There seems to be in addition certain willingness on the part of some major UN agencies to better document displacement trends and reflect on ways to address internal displacement. With the present study, BADIL and the IDMC hope to make a meaningful contribution to the debate about the relevance of the issue of internal displacement in the occupied Palestinian territories.

³⁴ UNGA Resolution 10/15 (2004), para. 4. While the principle of a register of damages was agreed upon in 2004 by the UN General Assembly, the register has still not been set up and everything seems to indicate that it will, in any case, only have limited effectiveness, considering the obstacles Israel has promised to put in the way of the collection of information in the OPT.

Analysis of the Statistical Survey on Forced Displacement by the Wall

On 4 July 2006, Badil Resource Center and the Palestinian Central Bureau of Statistics (PCBS) released the preliminary findings of the first systematic survey on the impact of the Wall and its Associated Regime on the forced displacement of Palestinians in Jerusalem. This statistical survey, also part of the pilot study, aimed to develop a methodology for the quantitative study of forced displacement in the occupied Palestinian territories, provide an answer to the question whether and to what extent the Wall and its regime generate forced displacement, and encourage further research. This chapter provides a summary of the methodology used as well as analysis of the major findings in the framework of international human rights and humanitarian law.

1. Methodology

The concept and criteria of forced displacement, as distinguished from migration/voluntary movement of persons, were clarified with the help of legal experts based on a review of relevant literature and legal instruments (see Chapter I). The terminology and definitions thus developed were operationalised by the PCBS into the survey questionnaire. A random sample of 1,008 households in the Jerusalem Governorate (including J1 and J2 areas)³⁵ was selected to cover localities East and West of the Wall. Special attention was given to some localities that were especially affected by the Wall, such as the Bedouin locality of Al-Ka'abneh (81 households), Shu'fat refugee camp (108 households) and Anata (108 households).

Twenty PCBS interviewers, supervisors and editors were selected to work on the survey. Interviewers received a four-day intensive training based on the questionnaire, an interviewer manual, a description of the objectives and organisation of the survey, methodology and maps. Data collection was undertaken between 15 May and 4 June 2006, and data entry and processing was completed on 10 June 2006. No obstacles were encountered in this process, except for restrictions on the movement of interviewers caused by Israeli checkpoints and the Wall.

The results presented in this chapter are based on interviews completed with 981 households comprising 5,148 persons. Data are statistically representative for the Jerusalem Governorate as a whole and for the areas on each side of the Wall; statistical and non-statistical errors are within the standard of error margins. Data quality requirements posed limitations to data disaggregation, due to the particular design (two-level stratification) and the limited size of the sample. Thus, for example, the survey provides only a limited amount of information about the socio-economic characteristics and specific circumstances of the persons affected by forced displacement. More detailed statistical data require a more complex sample design, a larger sample, and a larger budget than the one available for this Badil-PCBS survey. It is hoped that this can be accomplished by future follow-up research.

2. Findings of the survey and Palestinian rights

The findings of the Survey are examined here in light of the legal framework relevant to situations of forced displacement, internally displaced persons, and groups vulnerable to displacement, as found in humanitarian and human rights law, in

³⁵ **J1:** Includes that part of Jerusalem, which was annexed illegally by Israel following its occupation of the West Bank in 1967. This part includes the following Palestinian localities: Beit Hanina, Shu'fat Refugee Camp, Shu'fat, Al' Isawiya, Sheikh Jarrah, Wadi Al-Joz, Bab Al-Sahira, As Suwwana, At-Tur, Jerusalem "Al -Quds", Ash - Shayyah, Ras Al-Amud, Silwan, Ath-Thuri, Jabal Al-Mukabbir, As-Sawahira Al-Gharbiya, Beit Safafa, Sharafat, Sur Bahir, and Um Tuba.

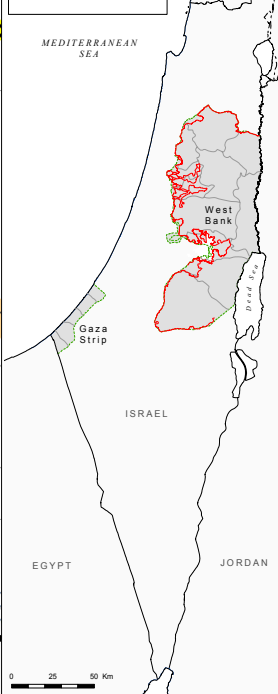
J2: Includes those parts of the Palestinian governorate of Jerusalem which were occupied but not annexed by Israel in 1967, namely: Rafat, Kufr A'qab, Mikhmas, Qalandya Refugees Camp, the Bedouin Community-Jaba', Qalandya, Beit Duquq, Jaba', Al-Judeira, Beit Anan, Al-Jib, Bir Nabala, Beit Ijza, Al-Qubeiba, Khirbet Um Al-Lahem, Biddu, An-Nabi Samu'eil, Hezma, Beit Hanina Al Tehta, Qatanna, Beit Surik, Beit Iksa, A'nata, The Bedouin Community-Al-Khan Al-Ahmar, Az Za'eem, Al-Eizariya, Abu Dis, Al-Sawahreh Al-Sharqiyeh, Ash-Sheikh Sa'd. As of mid-2006, according to the Central Bureau of Statistics, the combined Palestinian population of J1 and J2 (Jerusalem Governorate) amounted to 407,090 (J1= 253,394 and J2 = 153,696).

West Bank Closures - East Jerusalem

June 2006

West Bank Barrier

Planned and constructed



Access

Closed and Restricted Areas

- Israeli military base (black area)
- Access is prohibited (black area with diagonal lines)
- Israeli closed military area (grey area)
- Access is prohibited (grey area with diagonal lines)
- Existing and projected 'closed areas' behind the Barrier (grey area with diagonal lines)
- Access is limited to permit holders (grey area with diagonal lines)

Israeli Settlements

- Outpost (purple area)
- Land cultivated by settlers (purple area with diagonal lines)
- Settlement built-up and outer limit (purple area with diagonal lines)

Palestinian Areas

- Built-up (orange area)

Roads

- Jerusalem Municipal Boundary (dashed blue line)
- Prohibited or Restricted Palestinian vehicle use (red line)
- Main road (yellow line)
- Other Road (grey line)

Oslo Agreement

- Area A¹ (orange area)
- Area B² (yellow area)
- Special Case (H2)³ (red area)
- Intended Nature Reserve (yellow area with diagonal lines)
- Area C⁴ (grey area)

Physical Closures

- Checkpoint (red circle with 'X')
- Partial Checkpoint (red circle with 'P')
- Agricultural Gate¹ (green 'X')
- Road Gate (yellow 'X')
- Observation Tower (yellow triangle)
- Earthmound (yellow triangle)
- Roadblock (yellow triangle)
- Tunnel (blue circle with 'P')
- Planned Tunnel (blue circle with 'P')
- Earth Wall (dashed line)
- Road Barrier (red line)
- Trench (red line)

West Bank Barrier

- Constructed (red line)
- Under Construction (dashed red line)
- Planned Route (dotted red line)

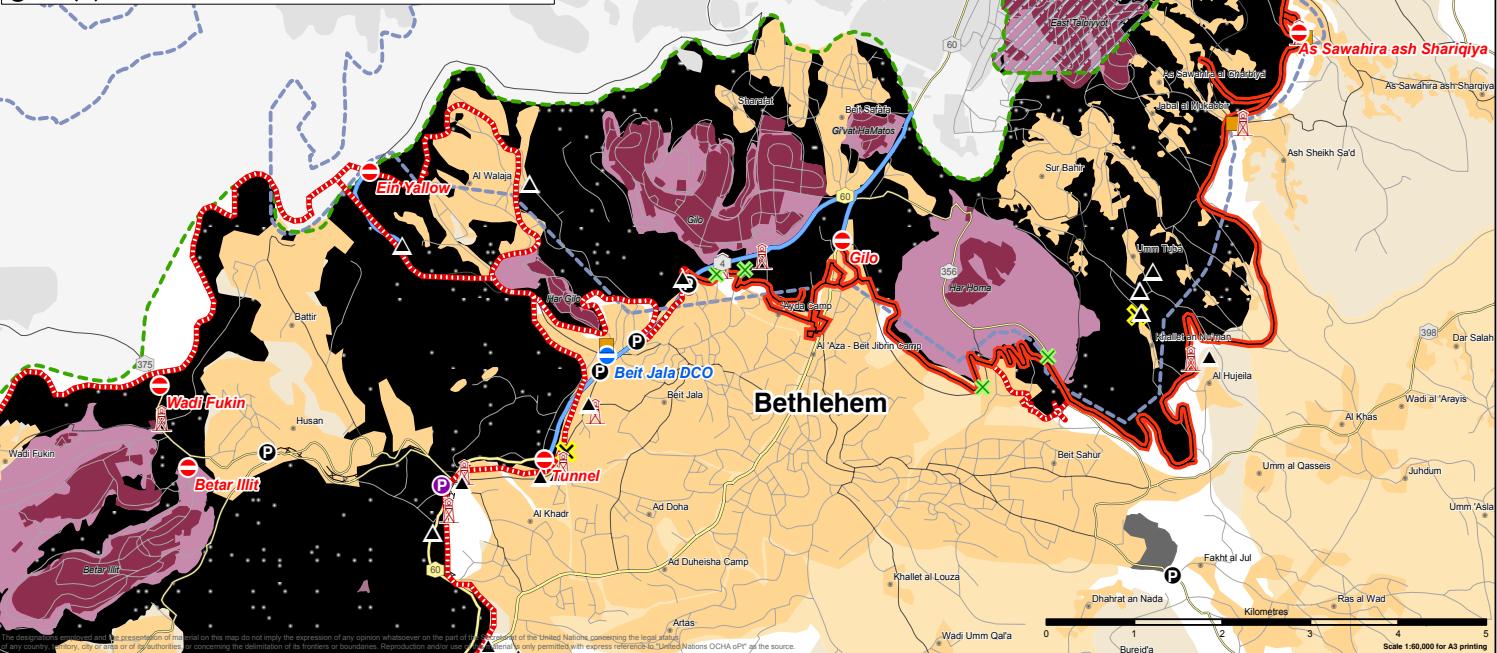
- 1- Full Palestinian civil and military control (Effective in Jericho only.)
- 2- Full Palestinian civil control and joint Israeli-Palestinian military control
- 3- Hebron Agreement military control
- 4- Full Israeli civil and military control

Planned Barrier: path based on Israeli Government map, published April 30 2006 and IDF land seizure orders. (Ministry of Defence - Seam Zone Authority)

Constructed Barrier - path extracted from satellite imagery and verified by field survey as of May 2006.



This update includes data up to June 2006. Access and closure data is collected by OCHA field staff and is subject to change. Access mapping is a work in progress. Maps will be updated regularly.
 Cartography: OCHA Information Management Unit.
 Map Produced: June 2006
 Base data and statistics: OCHA, MOP
 For comments contact: ochaap@un.org or tel +972 (0)2 582-9962
 URL: http://www.ochaopt.org



particular the Fourth Geneva Convention on the Protection of Civilians in Times of Armed Conflict, the International Bill of Human Rights,³⁶ and the Guiding Principles on Internal Displacement (Deng Principles).

a) Forced displacement

The Deng Principles state that forced displacement is prohibited (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.³⁷ The Rome Statute of the International Criminal Court defines population transfer as the “forced displacement of the persons concerned by expulsion or other coercive acts from the area in which they are lawfully present, without grounds permitted under international law.”³⁸ Furthermore, in situation of armed conflict, the Statute includes among war crimes “the transfer, directly or indirectly, by the Occupying Power of parts of its own civilian population into the territory it occupies, or the deportation or transfer of all or parts of the population of the occupied territory within or outside this territory.”³⁹ Forced displacement which has for goal population transfer is both a crime against humanity and a war crime (See also Chapter IV for a more detailed definition).

Displacement is not a new phenomenon for the Palestinian people. The Survey reveals that 46.1 percent of the Palestinians in Jerusalem were refugees, hence, had already been displaced at least once in the past.⁴⁰ Evidence of subsequent displacements is revealed by the fact that 32.9 percent of all Palestinians in Jerusalem have changed their previous place of residence, and 20 percent have done so involuntarily; 83.3 percent of the latter have been forcibly displaced once in their lives, 9.3 percent twice, and 7.4 percent three times or more (these figures do not include displacement in the wars of 1948 or 1967).

The Survey shows that displacement continues and has increased as a result of the Wall and its associated regime. Almost 54 percent of the involuntary changes of residence have occurred since the beginning of the construction of the Wall in 2002. Some 17.3 percent of all the Palestinians in Jerusalem who have changed their previous place of residence (32.9 percent) did so as a direct result of the construction of the Wall and its associated regime.⁴¹ Among those currently residing West of the Wall, the Wall was the reason for a forced change of residence in 22.3 percent of the cases (10.7 percent among those currently East of the Wall).

At the level of households, the impact of the Wall is even more pronounced with 34.8 percent of households having been displaced as a result of the Wall and its regime. The Wall was the second most important reason for moving, after “other” (35.9 percent), which includes households who moved because of studies, medical treatment or the building of a new house.

In-depth analysis of forced displacement caused by the Wall in Jerusalem shows that 49.2 percent of Palestinians in Jerusalem who have been forced to change their previous place of residence as a result of the Wall are refugees. Hence, both refugees and non-refugees are affected by the Wall and its regime, indicating both repeated displacement and first-time displacement.

A Jerusalem refugee population which appears to be particularly affected by forced displacement as a result of the Wall are

36 The Bill includes the Universal Declaration of Human Rights (1948), International Covenant on Civil and Political Rights (ICCPR), (1966), the International Covenant on Economic, Social, and Cultural Rights (ICESCR), (1966), Optional Protocol to the International Covenant on Civil and Political Rights (1966) and the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty (1989).

37 Guiding Principles on Internal Displacement, supra 31, Principle 6. In analysing whether the Occupying Power can invoke the principle of necessity to justify the route of the Wall due to military exigencies, the ICJ found that the relevant article providing for such exceptions, namely Article 53, failed to convince the Court that “...the destructions carried out contrary to the prohibition in Article 53... were rendered absolutely necessary by military operations.” ICJ, *The Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, supra 17, para. 135.

38 International Criminal Court (ICC), *Rome Statute of the International Criminal Court*, A/CONF.183/9 (17 July 1998, as corrected in 10 November 1998 and 12 July 1999), Article 7 (2)(d).

39 Ibid. Article 8(b).

40 Palestinians became refugees during the Arab-Israeli wars of 1948 and 1967, and as a result of Israel’s occupation and subsequent hostilities. Totalling an estimated 6.8 million persons, they today represent around 70 percent of the Palestinian people. For more information, see BADIL, *Survey of Palestinian Refugees and Internally Displaced Persons 2004-2005* (Bethlehem, 2006).

41 Based on the overall Jerusalem Governorate population of 407,090 in mid-2006, 23,170 persons have thus already been displaced as a result of the Wall and its regime. According to OCHA, the number of Palestinians with Jerusalem ID residing on the East side of the Wall is around 55,000 persons. See OCHA, *Preliminary Analysis of the Humanitarian Implications of the April 2006 Barrier Projections*, supra 1, p. 2.

Table 1: Percentage Distribution of Palestinian Persons in the Jerusalem Governorate who Have Changed their Previous Place of Residence by Selected Indicators and by Location from the Wall, June 2006

Indicator	Location from the Wall		Governorate Total
	East of the Wall	West of the Wall	
Change Place of Residence:			
Changed	83.3	29.7	32.9
Didn't Change	16.7	70.3	67.1
Total	100	100	100
Number of involuntary changes			
Once	60.9	93.3	83.3
Twice	17.2	5.7	9.3
Three times and above	21.9	1.0	7.4
Total	100	100	100
Date of the first involuntary change			
Before the construction of the Wall	48.3	45.1	46.1
Since the construction of the Wall	51.7	54.9	53.9
Total	100	100	100
Reasons of last Change of residence			
Involuntary:			
Nakba 1948/ occupation of 1967	2.1	3.1	2.7
The Wall and it's Associated Regime*	10.7	22.3	17.3
Voluntary:			
Work / accompaniment	48.7	15.6	29.7
Marriage	23.1	50.1	38.6
Other**	14.4	8.9	11.7
Total	100	100	100

* It includes all Israeli measures such as protection Jerusalemite ID, land or house confiscation and other measures.

** Other include study, medical treatment, building of new house.

Palestinian Bedouin. Analysis of the findings of the survey among the Bedouin residing in the area of Al-Ka'abneh shows that 95.7 percent have refugee status, and that 78.2 percent of those who have been forced to change their place of residence have been forced to do so since the beginning of the construction of the Wall in 2002.

Palestinian holders of a "Jerusalem ID" were also found to be particularly affected by forced displacement as a result of the Wall. The "Jerusalem ID" reflects the special residency status of Palestinians who are recognised by the Israeli authorities as lawfully residing in Jerusalem.⁴² Lawful residence and maintenance of other rights associated with a Jerusalem ID require that Palestinians prove that their "centre of life"⁴³ is in the Israeli-annexed part of Jerusalem (J1). The survey shows that the majority of those who have involuntarily changed their place of residence are Jerusalem ID holders (78.7 percent).

The findings also show that female-headed households have moved more than their relative proportion in society. Whereas

⁴² Jerusalem ID was instituted in 1967 by the occupying power as a result of the illegal annexation of Jerusalem to Israel which resulted in the legal and administrative separation of Jerusalem from the rest of the occupied West Bank. Most (44,000) Palestinians in Jerusalem at the time of the census in 1967 were included in Israel's population register, but many (26,000) who were not included in the census, because they were outside the country or for other reasons, were not issued a Jerusalem ID. See BADIL, *Eviction from Jerusalem, Restitution and the Protection of Palestinian Rights*, (Bethlehem, 1999).

⁴³ The "centre of life" test is a set of conditions requiring Jerusalem ID holders to prove they reside in Jerusalem by providing tax receipts, work location, school location and electricity and telephone bills. In short, Palestinians holding Jerusalem ID must prove that Jerusalem is indeed the centre of their life, if not, they may lose their Jerusalem ID and residency rights. These conditions are monitored and enforced by all relevant Israeli authorities. No such conditions are imposed on Jewish persons.

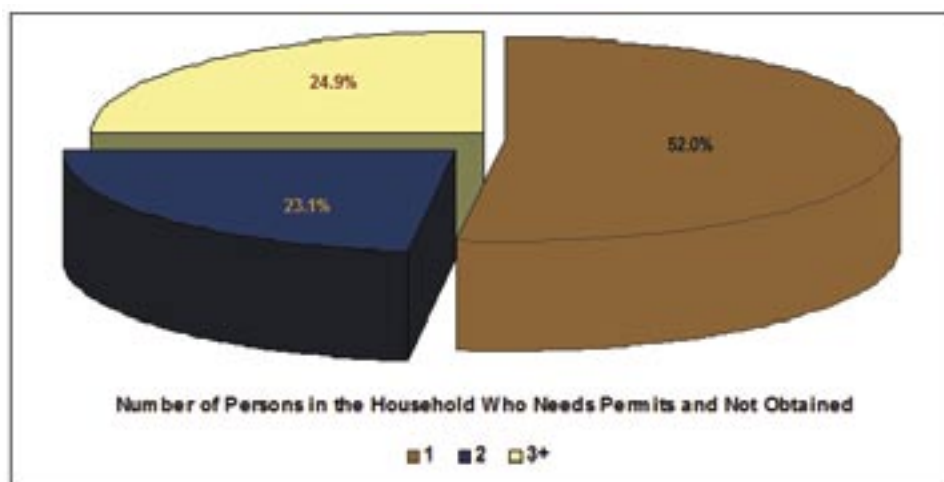
female-headed households account for 10.2 percent of all Palestinian households in Jerusalem, 13.7 percent of the households who have changed their place of residence were female-headed households. The question as to whether female-headed households are also over-represented among households forced to move by the Wall could not be determined due to limitations deriving from requirements of data quality.

b) Freedom of movement and to choose his or her residence

The International Covenant on Civil and Political Rights recognises that “everyone lawfully within the territory of a State shall, within that territory, have the right to liberty of movement and freedom to choose his residence.”⁴⁴ Precisions provided by the Commentary on Article 12 are clear on this point, “...the right to reside in a place of one’s choice within the territory includes protection against all forms of forced internal displacement. It also precludes preventing the entry or stay of persons in a defined part of the territory.”⁴⁵ The Deng Principles clearly reaffirm that “every internally displaced person has the right to liberty of movement and freedom to choose his or her residence.”⁴⁶

The survey confirms that the Wall, in particular its associated regime of permits and access gates, restricts the freedom of movement of *all* Palestinians in Jerusalem, irrespective of whether they have already been displaced or continue to live in their homes. Time spent to pass checkpoints, for example, is an obstacle for 94.7 percent of the Palestinian households.

Chart 1: Percentage Distribution of Palestinian Households in the Jerusalem Governorate Residing East of the Wall by Number of Persons in the Household who Need but Have not Obtained a Permit, June-2006



Israeli-issued “Jerusalem entry permits” are required for Palestinians who hold a West Bank ID in order to enter the parts of the city located West of the Wall.⁴⁷ Households on the East side of the Wall are in particular affected by the denial of such entry permits. Among all Palestinian households who had applied for but were denied “Jerusalem-entry permits”, permits were needed by one member (52 percent), two members (23.1 percent), or even three and more members (24.9 percent). Moreover, 31.2 percent of households located on the East side of the Wall cited problematic access to the benefits from their Jerusalem ID card as one of the main effects of the Wall and its regime on their household (see also Chapter III, interviews with women from Al-Ram).

Freedom of movement has been identified as a core-right and a condition for the exercise of all other fundamental rights. Loss or restriction of freedom of movement by the Wall and its associated regime thus infringes against Palestinians’ right of access to and enjoyment of all other fundamental rights, including the right to an adequate

⁴⁴ ICCPR, supra 36. Article 12.

⁴⁵ *Continuity of obligations under the International Covenant on Civil and Political Rights*, Human Rights Committee, General Comment No.27, CCPR/C/21/Rev.1/Add.9 (1999).

⁴⁶ Deng Principles, supra 31. Principle 14.

⁴⁷ Palestinian West Bank ID holders have not been able to enter Israeli-annexed Jerusalem without a permit since 1993, and since the beginning of the second *Intifada*, these permits have become very difficult to obtain.

standard of living.⁴⁸ The major infringement by the Wall on Palestinians' right to an adequate standard of living is the restriction of access to services and basic goods. Restriction of the freedom of movement by the Wall should therefore be regarded as a major factor inducing forced displacement of Palestinians in Jerusalem.

c) The right to health

The International Covenant on Economic, Social and Cultural Rights stipulates the right “of everyone to the enjoyment of the highest attainable standard of physical and mental health.”⁴⁹ The right to health, food and housing are subject to three essential elements, namely availability, accessibility and acceptability.

The survey confirms that many Palestinian households, the vast majority residing on the East side of the Wall, face difficulties in accessing health services. Indeed, 34.5 percent of households (88.3 percent of households on the East side of the Wall) are cut off from health services in the centre of Jerusalem (see below, Table 2 for additional details).

Table 2: Percentage of Palestinian Households in the Jerusalem Governorate who Faced Difficulties in Accessing Health Services by Type of Difficulty and Location from the Wall, June-2006

Type of Difficulty	Location from the Wall		Governorate Total
	East of the Wall	West of the Wall	
Cut off from Health Centers in the Center of Town	88.3	5.8	34.5
Inability of Medical Staff to Reach Health Centers	81.8	4.4	31.3
Inability to Pay Cost of Services	76.6	3.1	28.7
Lack of Medicine and Other Essential Medical Supplies	66.6	3.0	25.1
Lack of Essential Medical Equipment	65.7	3.0	24.8
Lack of Infant and Child Health Care Services	65.8	2.2	24.3
Lack of Maternal Care Services	65.4	2.0	24.1

The difference between the level of difficulties faced by households on the East and West side of the Wall can be explained by the fact that Palestinians West of the Wall have direct access to Palestinian hospitals and clinics located there, and Jerusalem ID holders have access to Israel's health insurance and service system, which alleviates pressure on the person and/or household.

d) Right to family life

According to the International Covenant on Economic, Social and Cultural Rights “the widest possible protection and assistance should be accorded to the family, which is the natural and fundamental group unit of society, particularly for its establishment and while it is responsible for the care and education of dependent children.”⁵⁰

The Hague Regulation states that “family honour and rights, the lives of persons, and private property, as well as religious convictions and practice, must be respected.”⁵¹ The Protocol to the Fourth Geneva Convention states “the Parties to the conflict shall facilitate in every possible way the reunion of families dispersed as a result of armed conflicts and shall encourage in particular the work of the

48 State Parties to the International Covenant on Economic Social and Cultural Rights recognise “the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions” (ICESCR, Article 11). The Special Rapporteur on the right to housing, Miloon Kothari, has adopted an inclusive approach whereby the right to food, water, health, work, property, and security of persons, security of the home and protection against inhuman and degrading treatment are interdependently linked to an adequate standard of living. See *Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living*, Miloon Kothari, Economic and Social Council, Commission on Human Rights, E/CN.4/2004/48, 8 March 2004. Similarly, the General Comments on Article 12 restate this relationship, “the right to health is closely related to and dependent upon the realisation of other human rights, as contained in the International Bill of Rights, including the rights to food, housing, work, education, human dignity, life, non-discrimination, equality, the prohibition against torture, privacy, access to information, and the freedoms of association, assembly and movement.” *The rights to the highest attainable standard of health (Article 12)*, General Comments, Economic and Social Council, Committee on Economic, Social and Cultural Rights, E/C.12/2000/4 (2000).

49 ICESCR, supra 36. Article 12.

50 Ibid. Article 10.

51 Convention (IV) respecting the Laws and Customs of War on Land and its annex: Regulations concerning the Laws and Customs of War on Land (The Hague, 1907), Article 46.

humanitarian organisations engaged in this task...”.⁵² Moreover, “to give effect to this right for internally displaced persons, family members who wish to remain together shall be allowed to do so” and “families which are separated by displacement should be reunited as quickly as possible.”⁵³

The Survey revealed that Palestinian family life has been disrupted by the Wall, and that households are often separated due to the location of the workplace, residence or educational institution of family members on the other side of the Wall. Some 21.4 percent of all the Palestinian households in Jerusalem have been split and are separated from their relatives, including from the father, mother, daughter or son in the household (see Table 3 below).

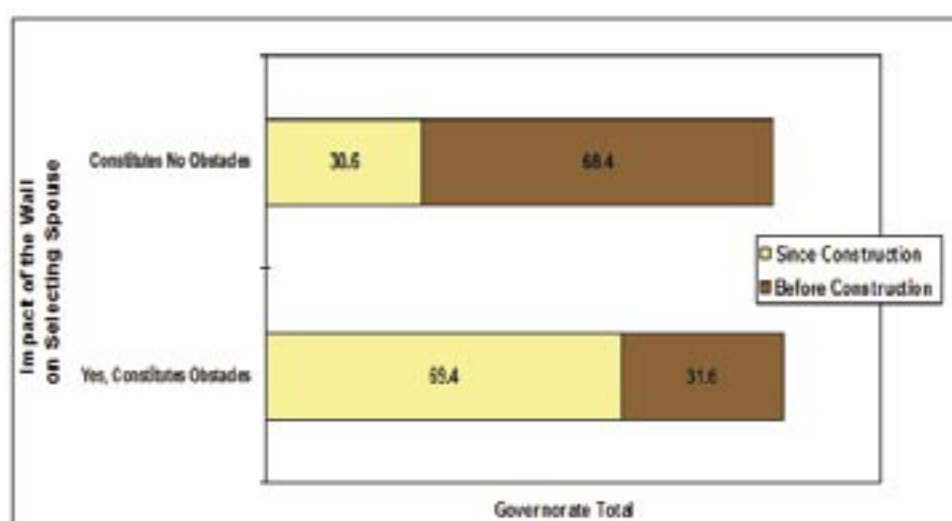
Table 3: Percentage Distribution of Palestinian Households in the Jerusalem Governorate with Some Members Separated Due to the Wall by Relationship to the Household and Location from the Wall, June-2006

Separated Person	Location from the Wall		Governorate Total
	East of the Wall	West of the Wall	
Father	26.2	14.3	18.0
Mother	12.3	12.9	12.7
Son/Daughter	33.8	10.0	17.6
Others	27.7	62.8	51.7
Total	100	100	100

In addition, the Wall and its regime have affected the ability of 84.6 percent of all households to visit relatives. The separation of family members is likely to have damaging consequences for the development of children, who “...should grow up in a family environment, in an atmosphere of happiness, love and understanding”⁵⁴ The separation and isolation of the family unit and the extended family has not only had a negative effect on the capacity of the family and its members to cope, but also on the whole of Palestinian society, which has become more divided and isolated (See also Chapter III).

A striking finding of the Survey is the impact of the Wall on the choice of spouses; 69.4 percent of the households state that the Wall has been an obstacle for the choice of a spouse since the beginning of its construction in 2002. Households expressed increasing difficulties in marrying a partner who does not live on the same side of the Wall or hold the same residency status. This may be particularly true for Jerusalem ID holders, who fear losing their residency status if marrying a West Bank ID holder (See also Chapter III).

Chart 2: Percentage Distribution of Palestinian Households in the Jerusalem Governorate by Impact of the Wall on Selecting a Spouse, Before and After Construction of the Wall and Location from the Wall, June, 2006



⁵² Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I), (1977), Article 74.

⁵³ Deng Principles, supra 31. Principle 17.

⁵⁴ Convention on the Right of the Child, (1989), preamble.

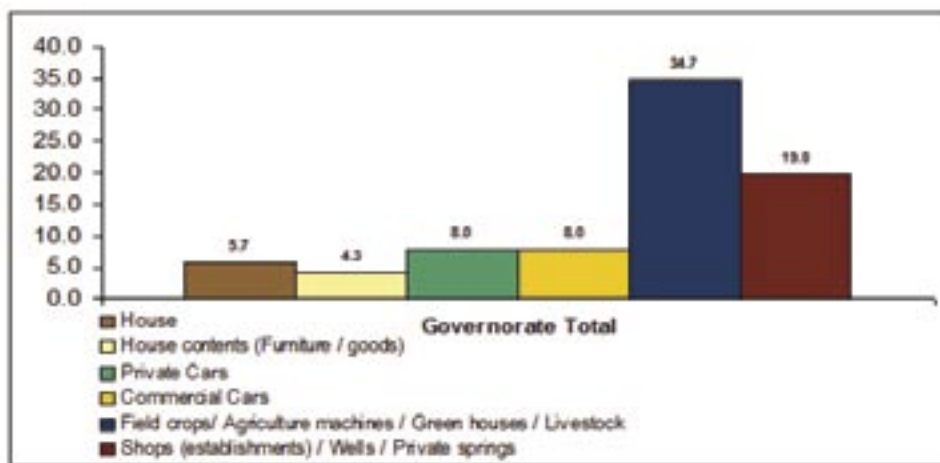
e) Right to security, dignity and property

During occupation, the Hague regulations prohibit the confiscation of private property. The Geneva Convention states “any destruction by the Occupying Power of real or personal property belonging individually or collectively to private persons, or to the State, or to other public authorities, or to social or cooperative organisations, is prohibited, except where such destruction is rendered absolutely necessary by military operations.”⁵⁵

The International Covenant on Civil and Political Rights states that “no one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honour and reputation.”⁵⁶ The Deng Principles also recognise that “no one shall be arbitrarily deprived of property and possessions.” Moreover, “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.”⁵⁷ In all circumstances, “property and possessions left behind by internally displaced persons should be protected against destruction and arbitrary and illegal appropriation, occupation or use.”⁵⁸

The survey shows that many Palestinian households have had their private property damaged by the construction of the Wall and its associated regime. Most affected are agricultural goods, such as crops, farm machines, greenhouses and livestock, for which 34.7 percent of the affected households reported damages, and commercial properties.

Chart 3: Percentage of Palestinian Households in the Jerusalem Governorate Whose Properties have been exposed to damage Due to the Wall and its Associated Regime by Type of Property, June 2006



As much as 10.2 percent of all Palestinian households in Jerusalem, and 19.2 percent of those who own land saw part or all of the household land confiscated as a result of the construction of the Wall. Palestinian households located East of the Wall were more affected by land confiscation (31.4 percent) than those located West of the Wall (5.3 percent).

f) Right to education

The International Covenant on Economic Social and Cultural Rights recognises the “right of everyone to education” which “shall be directed to the full development of the human personality and the sense of its dignity, and shall strengthen the respect for human rights and fundamental freedoms. They further agree that education shall enable all persons to participate effectively in a free society, promote understanding, tolerance and friendship among all nations and all racial, ethnic or religious groups, and further the activities of the United Nations for the maintenance of peace.”⁵⁹ The Commentary on the

⁵⁵ *Exceptionally necessary by military operation* implies that the destruction comes as a result of the pursuit of war. However, the destruction of houses caused by the construction of the Wall does not occur in the midst of a military operation. Convention (IV) relative to the Protection of Civilian Persons in Time of War (Geneva, 1949), Article 53.

⁵⁶ ICCPR, supra 36. Article 17.

⁵⁷ Deng Principles, supra 31. Principle 21.

⁵⁸ Ibid.

⁵⁹ ICESCR, supra 36. Article 13.

implementation of Article 13 underlines the reciprocal relationship between education and the realisation of other human rights.⁶⁰ The Commentary further states, "...the importance of education is not just practical: a well-educated, enlightened and active mind, able to wander freely and widely, is one of the joys and rewards of human existence."⁶¹

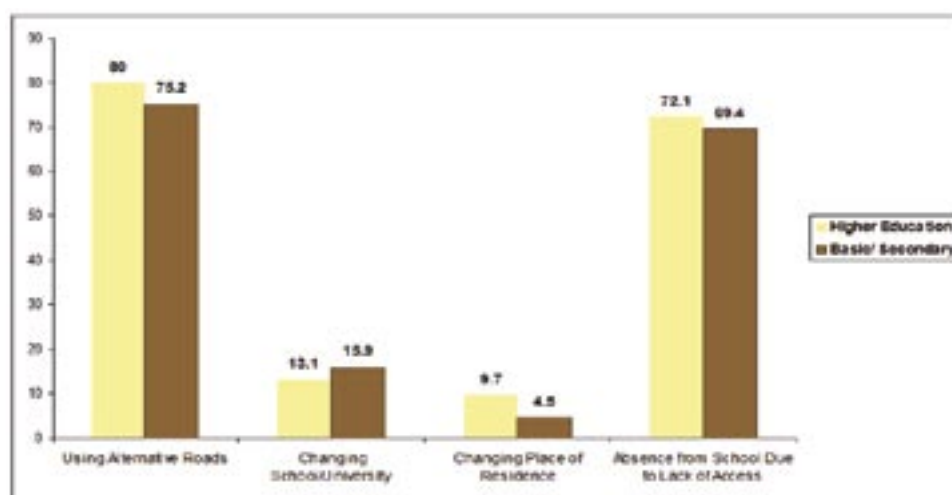
The Convention on the Right of the Child stipulates that "every child shall have, without any discrimination as to race, colour, sex, language, religion, national or social origin, property or birth, the right to such measures of protection as are required by his status as a minor, on the part of his family, society and the State."⁶² "States Parties shall ensure to the maximum extent possible the survival and development of the child."⁶³ The Convention on the Right of the Child also requires states to "...take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse..."⁶⁴ With regard to internally displaced persons, the Deng Principles provide that "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."⁶⁵

The survey shows that 43.9 percent of the Palestinians in the Jerusalem Governorate aged five and above have attended school, 24.7 percent attended but have left, 24.6 percent attended and have graduated, while 6.8 percent have never attended school. Non-attendance (12.3 percent) and the drop-out rate (28.8 percent) were higher among Palestinians East of the Wall than among those West of the Wall. The majority of students attend schools located on the same side of the Wall as their homes (on average 90 percent), while a little over 9 percent have to cross to the other side of the Wall in order to reach their educational institutions.

Although most students do not have to cross the Wall in order to reach school, 48.4 percent of the households on the eastern side of the Wall and 8.7 percent on the West side say that the Wall and its regime have affected access to education, mainly due to the checkpoints and closures. Thus, for example, 80 percent of the university students and 75.2 percent of basic/secondary school students use alternative roads. Some 72.1 percent of university students and 69.4 percent of basic and high school students have sometimes been absent from school due to lack of access.

While not all access problems are directly related to the Wall and its regime, it is clear that the increasingly restrictive movement policy exacerbates an already trying situation for Palestinian students and infringes on their right to education and development. The current situation hardly prepares a child subjected to crossing the Wall to a "...responsible life in a free society, in the spirit of understanding, peace, tolerance, equality of sexes, and friendship among all peoples, ethnic, national and religious groups..."⁶⁶

Chart 4: Percentage of Palestinian Households in the Jerusalem Governorate Who Face



⁶⁰ *The right to education (Article 13)*, General Comments, Economic and Social Council, Committee on Economic, Social and Cultural Rights, E/C.12/1999/10 (1999).

⁶¹ Ibid

⁶² CRC, supra 54. Article 24.

⁶³ Ibid. Article 6.

⁶⁴ Ibid, Article 19(1).

⁶⁵ Deng Principles, supra 31. Principle 23.

⁶⁶ CRC, supra 54. Article 29(d).

g) Right to work

The International Covenant on Economic Social and Cultural Rights defines the right to work as “the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts...”⁶⁷ The Deng Principles also state that internally displaced persons shall not be discriminated against as a result of their displacement and shall enjoy the “the right to seek freely opportunities for employment and to participate in economic activities.”⁶⁸

According to the survey, 31.8 percent of the Palestinians in the Jerusalem Governorate aged 10 years or more were in the labour force, while 68.2 percent were outside the labour force. The unemployment rate was estimated at 15.7 percent for the overall Governorate, but reached 26.3 percent on the East side of the Wall.⁶⁹

Both, Palestinians on the East side and the West side of the Wall, are mainly employed in the field of services (30.7 percent), commerce, restaurants and hotels (28.2 percent), construction (19.7 percent), mining and manufacturing (11.7 percent), and transportation and communication (6.3 percent). Most employed persons on the East side of the Wall work in the locality where they reside (55.8 percent), in the wider Jerusalem Governorate (22.3 percent), or in Israel and settlements (12.0 percent). Employed persons on the West side of the Wall work mainly in the wider Jerusalem Governorate (48.1 percent), in Israel and settlements (31.0 percent), or in their own locality (15.7 percent). Relatively few work in another governorate (10 percent on the East side and 5.2 percent of employed persons on the West side of the Wall).

Palestinians in Jerusalem work mainly in elementary occupations such as cleaners or security guards (29.9 percent), as craft and related workers (16.2 percent), service and sales workers (15.5 percent), and plant and machine operators and assemblers (9.7 percent). A total of 22.2 percent are professionals, technicians and clerks, 3.6 percent legislators and managers, and 2.8 percent are skilled agricultural workers. The survey did not show a significant correlation between type of occupation and change of residence, although the proportion of service and sales workers (18.4 percent) and professionals, technicians and clerks (24.6 percent) among those who have changed residence is larger than their relative representation in the overall population. While this finding indicates that work, in addition to financial capacity, is related to mobility, requirements of data quality prevented an analysis of the relationship between labour force participation or type of occupation and forced displacement by the Wall.

h) Rights to cultural life, religion, association and expression

The International Covenant on Economic, Social and Cultural Rights recognises the right of everyone “to take part in cultural life.”⁷⁰ The Deng Principles reaffirm the rights of internally displaced persons to “freedom of thought, conscience, religion or belief and opinion and expression” and “the right to associate freely and participate equally in community affairs.”⁷¹

The survey confirms that the rights to participate in cultural life, community affairs and freedom of religion have all been affected by the Wall and its regime. No less than 56.3 percent of all Palestinian households experience restrictions of their cultural and social activities as well as their leisure and entertainment because of the Wall and its regime. In general, the percentage of households affected was significantly higher among those on the East side of the Wall (70.9 percent). Especially strongly affected is the ability of households located on the East side of the Wall to visit holy sites (91.8 percent).

i) Right to dignity and physical, mental and moral integrity: Palestinian coping mechanisms

The International Covenant on Economic, Social and Cultural Rights stipulates the right “of everyone to the enjoyment of the highest attainable standard of physical and mental health.”⁷²

In order to adapt to the requirements of daily life, Palestinians affected by the Wall and its regime have developed numerous coping mechanisms (see Table 4 below). Many of these coping mechanisms, however, appear unsustainable – for example, reduction of movement – and/or infringe upon human dignity and mental integrity. The negative impact

67 ICESCR, supra 36. Article 6.

68 Deng Principles, supra 31. Principle 22.

69 The high number of children included who are probably students may also have contributed to the lower than average unemployment rate.

70 ICESCR, supra 36. Article 15.

71 Deng Principles, supra 31. Principle 22.

72 ICESCR, supra 36. Article 12.

of the Wall and its regime on the dignity and integrity of the person became also apparent during interviews with vulnerable groups (see Chapter III).

Table 4: Percentage of Palestinian Households in the Jerusalem Governorate by Type of Coping Mechanisms with the Wall and its Associated Regime, June 2006

Type of Cope	Location from the Wall		Governorate Total
	East of the Wall	West of the Wall	
Alternative roads	76.3	68.9	71.5
Changing residence	13.2	6.3	8.7
Changing place of work	25.8	7.2	13.7
Changing place of education	11.4	N/A	5.1
Changing place of health service	39.8	N/A	15.9
Bringing case / cases to Israeli courts	10.0	N/A	4.0
Reducing movement	78.9	73.7	75.5
Applying for movement permits	36.8	N/A	14.5
Selling property / using savings / taking bank loans	8.8	N/A	3.4

Reduction of movement has particularly affected women and children. Altogether 67.8 percent of children (81.9 percent for those residing on the East side of the Wall) and 78.5 percent of women (84.3 percent East of the Wall) have reduced their movement. The long-term implications of isolation and separation from relatives and friends would need further research, but women already suffer from the effect of movement reduction on their quality of life; depression, loneliness and boredom are some of the symptoms of the impact of the Wall and its associated regime on mental health (See also Chapter III, interviews with women from Al-Ram).

Table 5: Percentage Distribution of Households in the Jerusalem Governorate by Type of Impact of the Wall and its Associated Regime on the Mobility of Females and Children and Location from the Wall, June 2006

Type of Impact	Location from the Wall				Governorate Total	
	East of the Wall		West of the Wall		Children	Females
	Children	Females	Children	Females		
Movement Decreased	81.9	84.3	59.2	75.5	67.8	78.5
Movement Increased	3.8	3.4	0.9	1.3	2.0	2.0
No Impact	14.3	12.3	39.9	23.2	30.2	19.5
Total	100	100	100	100	100	100

Furthermore, the procedures at checkpoints and other crossing obstacles negatively impact Palestinians' freedom of movement as well as their dignity, mental and moral integrity.

j) Requirements for Palestinian resilience

The number of Palestinians contemplating changing their current place of residence continues to grow as a result of the Wall. While in the past (three months and prior to the survey), 52.2 percent of the Palestinians in Jerusalem were thinking of changing their current place of residence, this number had increased to 63.8 percent at the time the survey was conducted. The majority aged 16 years and above still believe they will be able to remain in their current place of residence for the next five years or more (93 percent), but 7 percent think they may have to change their place of residence within the next five years. Among those residing East of the Wall, 14.1 percent expect to have to move before five years pass. The Wall

and its regime was the main reason (69.2 percent) for households who thought of moving in the past, and 71.2 percent of households who thought of moving or wanted to move from the East side to the West side of the Wall.

However, not all those who thought or are thinking about relocating actually do so. At the time of the survey, 32.9 percent of the Palestinians had actually changed their previous place of residence, and of all Palestinian households who had moved, 26.3 percent had actually moved from a location East to a location West of the Wall.

Findings from the survey suggest that financial difficulties (63.1 percent) account for the major reason why persons remain in their current place of residence despite the difficulties caused by the Wall. Other reasons include work and protection of Jerusalem ID (20.4 percent), and the desire to maintain family ties (16.5 percent).

Needs and requirements for staying in the current place of residence (see Table 6) derive special importance from the fact that those who remain and try to cope with the new reality created by the Wall appear to be predominantly from among the poorer sectors of society. The high level of demand for more services, infrastructure, social security and suitable jobs among Palestinians living to the West of the Wall is an important finding in this context.

Table 6: Percentage Distribution of Palestinian Persons 16 Years and over in the Jerusalem Governorate Who Stated Requirements for Remaining in their Current Place of Residence by Requirements and Location from the Wall, June 2006

Requirements	Location from the Wall		Governorate Total
	East of the Wall	West of the Wall	
Providing:			
Suitable Job	16.8	16.0	16.3
Suitable Services	20.4	18.9	19.3
Social Security	14.2	18.4	17.1
Infrastructure	20.6	18.2	18.9
Political Leadership Interest	13.5	12.9	13.1
Cultural Institutions and Entertainment	14.5	15.6	15.3
Total	100	100	100

3. Conclusion

The findings of the BADIL-PCBS survey clearly confirm that the Wall and its associated regime have caused forced displacement among Palestinians in Jerusalem. The survey also shows that the Wall and its associated regime infringe upon the exercise of fundamental rights and freedoms of all Palestinians in Jerusalem, including those who have not (yet) been displaced. Thus, Israel's illegal Wall and its associated regime represent a measure which both has and is likely to continue to induce forced displacement among Palestinians.

The survey also confirms that Palestinian women and children, as well as Jerusalem's Bedouin population, constitute populations which are particularly vulnerable to forced displacement and other violations of fundamental rights and freedoms caused by the Wall. Additional surveys, based on adequate sample size and design, could help to shed more light on the specific impact of the Wall on forced displacement in the general population, and its impact on the situation and needs of these vulnerable groups in particular.

Of particular interest would also be the study of persons and households who are vulnerable to displacement, but are either resisting displacement or unable to move due to their socio-economic situation. Preliminary findings from this survey suggest that such persons could in fact be "internally stuck persons" as a result of the Wall.⁷³

⁷³ Internally stuck persons is a term that was first used in Afghanistan, whereby the most vulnerable persons were not those who moved but actually those who were unable to move. It is not a legal term nor widely used, but it adequately describes the situation of many persons who, due to limited financial capacity and support, are unable to move to a better location and situation.

Giving a Voice to Vulnerable Groups

Palestinian children, women, and Bedouin are particularly vulnerable to violations of humanitarian and human rights law. This chapter presents a set of personal accounts of their perceptions, experiences and coping mechanisms with regard to the Wall and its associated regime. These personal accounts complement the analysis of the statistical data provided by the Badil-PCBS survey (See Chapter II).

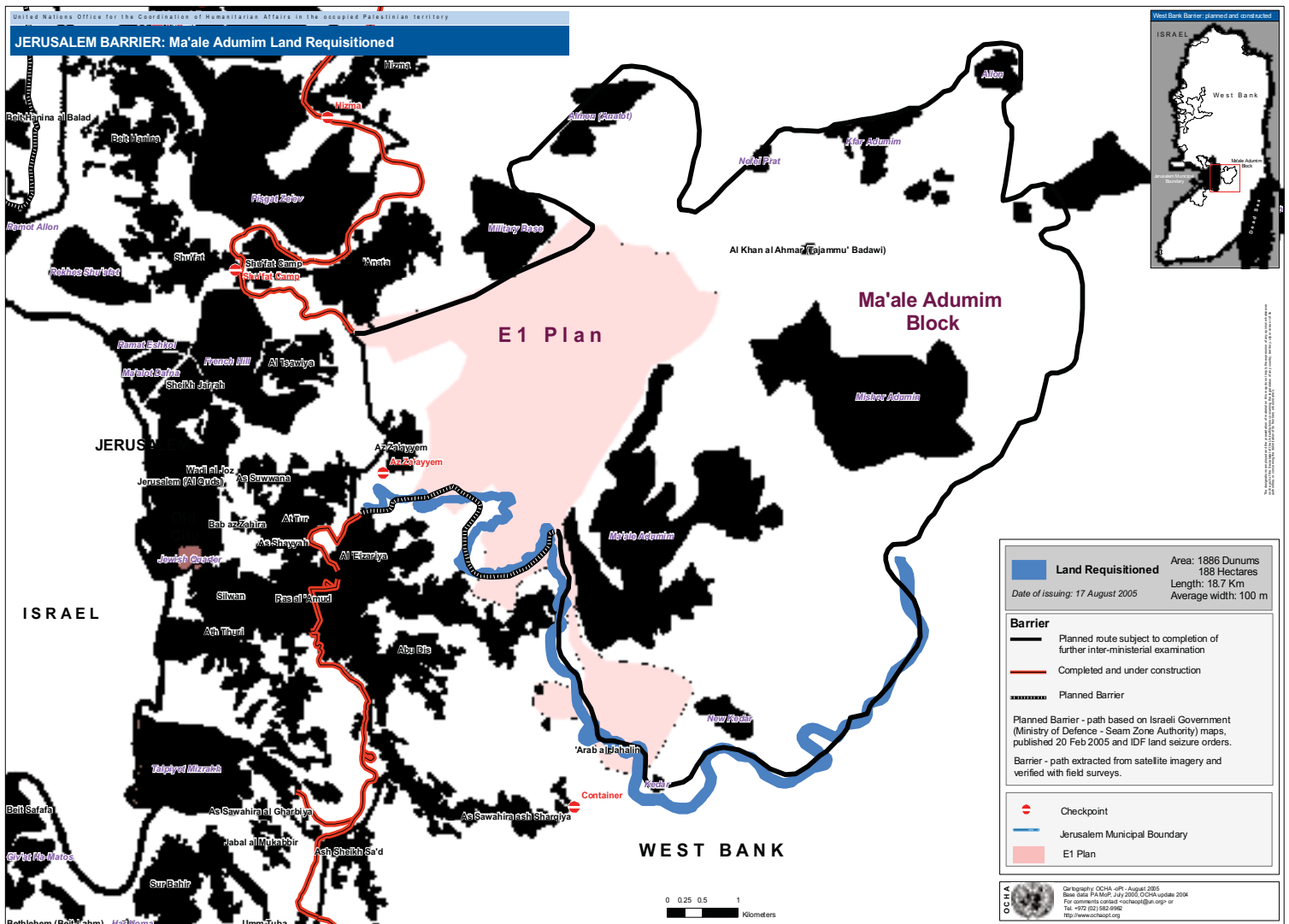
Focus group meetings, activities and site visits, and individual interviews were conducted between 26 July and 22 August 2006 with 40 children from the Shu'fat refugee camp, six women from the Al-Ram neighbourhood and 15 Jahalin Bedouin living in the environs of the Jewish colony of Ma'ale Adumim and the Palestinian town of Abu Dis. A set of questions developed jointly by the Internal Displacement Monitoring Centre (IDMC) and Badil served as a guide to discussion. Discussions were conducted in English, sometimes with the help of a translator, sometimes directly, and lasted between one and three hours.

More in-depth interviews in the presence of a professional may have been necessary, especially to evaluate the psychological impact of the Wall and its regime on mental health. It is hoped that this report will encourage further study of the psycho-social impact of the Wall and its regime on Palestinian society, in particular its vulnerable populations.

1. Children from the Shu'fat refugee camp

a) Shu'fat refugee camp and the Wall

Situated in East Jerusalem, about four kilometres to the north of the old city, Shu'fat camp is the only Palestinian refugee camp under



direct Israeli jurisdiction and located within the Israeli-defined Jerusalem municipal border.⁷⁴ Preserving the political and territorial continuity between Palestinian East Jerusalem and the wider West Bank, the camp is of particular geopolitical significance.

Shu'fat camp was established between 1964 and 1966 to provide shelter for 1948 Palestinian refugees⁷⁵ who had been living in the old city of Jerusalem in inadequate conditions. At present, the camp is home to 20,000 – 30,000 people, among them approximately 11,000 UNRWA-registered refugees who generally hold Jerusalem ID cards. The camp and its environs also provide accommodation to 10,000 – 20,000 additional persons who arrived in the 1990s, because they could not find accommodations in the city of Jerusalem and/or wanted to preserve their Jerusalem resident status.⁷⁶ The population of the camp is thus diverse, including refugees and non-refugees, UNRWA-registered and non-registered refugees, and holders of Jerusalem ID and West Bank ID cards. The camp is overcrowded, and services and infrastructure are overstretched. There are problems of access to water,⁷⁷ sewerage (leaking in the camp) and uncollected garbage, which create an unsanitary environment. Although the camp is located within the Israeli-defined municipal boundary, it receives only minimum services from the Israeli municipality or the government.



View of the Wall separating Shu'fat refugee camp from the Jewish colony of Pisgat Ze'ev, August 2006. © Karine Mac Allister/Badil.

The Jewish colonies of Pisgat Ze'ev and French Hill have expanded to the perimeters of the camp. The route of the Wall, as approved by the Israeli government in June 2004, encircles the camp to the north, south and west. The Wall prevents expansion of the camp and severs its residents from the urban centre of East Jerusalem. A petition to the Israeli High Court to re-route the Wall in this area was rejected. Currently, the camp's two entrances/exits are controlled by one permanent and

⁷⁴ Based on the municipal boundary, drawn in the context of the illegal expansion and annexation of the city by Israel in 1967, also the Kalandia refugee camp falls within Jerusalem. This is, however, not recognised by the Israeli authorities.

⁷⁵ Palestinian refugees in the camp come from over 50 different locations, including western Jerusalem, Haifa and Deir Yassin, now located in Israel. Others are refugees who have relocated from other refugee camps and gatherings in the occupied Palestinian territories and in Lebanon, Jordan and Syria.

⁷⁶ These people have moved to the camp in order to maintain their place of permanent residence within the Jerusalem municipal boundary, a condition imposed by the Israeli "Centre of Life" test. See BADIL, "Shu'fat Camp", *Article 74*, No. 25 (Bethlehem, September 1998), p. 8.

⁷⁷ In fact, at the time of writing the report, the Jerusalem Municipality had cut the water to the camp for over 10 days (the camp is connected to the Jerusalem municipality water and sewerage network). See Maisa Abu Ghazaleh, "Jerusalem's Shu'fat camp residents appealing for water", *Palestine News Network* (Jerusalem, Saturday, 19 August 2006).

one temporary Israeli checkpoint. Although freedom of movement is already severely restricted, more restriction of access to the city of Jerusalem is expected.⁷⁸

UNRWA provides health services to the refugees. The Agency anticipates that the Wall will “strongly impac[t] residents’ access to education and health care services in town.”⁷⁹ Camp residents with West Bank ID cards use hospital facilities in Ramallah. Holders of Jerusalem ID have access to the UNRWA hospital in East Jerusalem and are entitled to the services of the Israeli health system. If there is need for an ambulance, patients must meet it at the checkpoint. UNRWA does not provide an ambulance service to the camp. Israeli ambulances enter the camp only under exceptional circumstances and with an army escort. Palestinian ambulances are not allowed to enter the camp. UNRWA fears that in the future Israeli “ambulances and other service providers will refuse to serve the area, on alleged security grounds.”⁸⁰

UNRWA operates three primary schools (grade 1–10) in the Shu’fat camp. Most students transfer to a secondary school outside the camp upon completion of the 9th grade, in order to prepare for their Tawjihi (high school) exams. There is no high school in the camp or the nearby village of Anata. It is expected that a “considerable proportion” of high school students will be affected by the Wall.⁸¹ While no disaggregated data are available for university students, UNRWA expects that access to the Palestinian universities of Al-Quds, Bethlehem and Birzeit will become strongly impeded.⁸²

There is no formal law enforcement authority in the camp; the Palestinian police are not permitted into the camp, and the Israeli police have no presence there. The only authority is the Israeli army, which creates an atmosphere of insecurity and impunity. While crime remains low, there has been an increase in drug consumption among youth.



Groups doing art project, Shu’fat refugee camp, July 2006. © Karine Mac Allister/Badil.

78 “According to the planned path, the Barrier will only be open on the West Bank side, separating these communities from Jerusalem.” UNRWA, *Update: New Barrier Construction*, Reports on the West Bank Barrier (June 2004), p.3.

79 UNRWA, *Camp Profile, Profile of Shu’fat Refugee Camp*, supra 9, p.1 “Jerusalem town is an important centre for the provision of health care services to refugees. Construction of the barrier will directly affect access to the UNRWA Jerusalem Health Centre; two other UNRWA Health Centres and two Sanitation stores will be separated from surrounding areas (Shu’fat and Kalandia Camps); also access to secondary and tertiary care in Jerusalem hospitals will be severely hampered.” UNRWA, *Town Profile, Impact of the Jerusalem Barrier*, Reports on the West Bank Wall/Barrier (January 2004), p. 3.

80 UNRWA, *Camp Profile, Profile of Shu’fat Refugee Camp*, ibid, p.1.

81 See UNRWA, *Town Profile, Impact of the Jerusalem Barrier*, supra 79, p. 2.

82 See ibid.

b) In the words of children and youth

One group of children aged 10–13⁸³ prepared drawings about what the Wall means to them and about their hopes and dreams for the future. Another group⁸⁴ of children and youth (aged 11–16) was invited to share their thoughts in a focus group discussion.

The children drew the Wall, with bulldozers and signs saying “No to the Apartheid Wall”, “No Jedar” (wall in Arabic) or next to a drawing of the Wall, “No X”. In most of the drawings, the Wall took the entire space, showing the proximity and presence of the Wall in the children’s lives. One child took an entire white carton and with paint drew a wall that took up the entire space. He had difficulty concentrating, and other children refused to work with him. He was absorbed in making the Wall as big as possible. “I feel I am in a closed room”, he explained and added that in the past, he could pass behind the checkpoints to go out of the camp but that this was no longer possible. Children’s explanations to their drawings of the Wall had a very clear message: a bulldozer moving towards a house, behind which is the Wall. “Bulldozers come and destroy our homes which stand in the way of the path of the Wall”.



Children presenting their project on the theme of hopes and dreams, Shu’fat refugee camp, July 2006. © Karine Mac Allister/Badil.

“The aim of the Wall is to separate Palestinians from Palestinians in order to separate our nation”

In the discussions, the children appeared eager to show that they understand the broader political implications of the Wall. The initial focus was on the effect of the Wall on the Palestinian people as a nation and the divisions it caused: “The goal of the Wall is to separate Palestinians from Palestinians in order to separate our nation.” “It is there to separate us from our people in Jerusalem, Gaza and other areas.” “It prevents us from accessing the Haram al-Sharif mosque in Jerusalem.” “The Wall discriminates between people with Jerusalem ID and West Bank ID.”

⁸³ This group included 17 children (eight boys and nine girls). All of them, except one child from the Anata village, are refugees living in the camp or nearby. Some attend UNRWA schools in the camp while others go to school in the villages of Shu’fat or Anata, or in the East Jerusalem neighbourhoods of Al-Ram, Beit Hanina and Wadi Joz. Half of the children have to pass at least one checkpoint to reach school (nine children out of 17). All children hold Jerusalem ID.

⁸⁴ The second group was composed of 14 children (three boys and 11 girls) between 11 and 16 years old. All children are refugees living in the camp and holding Jerusalem ID. Out of 14 children, nine studied outside the camp, mainly in Wadi Joz and Shu’fat in Jerusalem, and had to pass at least one checkpoint every day. The meeting was held on Wednesday, 26 July 2006, in the Shu’fat Child Centre, Shu’fat refugee camp.

“The Wall is ugly; it destroys the land and the people”

Many children expressed concerns about the impact of the Wall on the physical safety and security of the people living in the camp. They emphasised the destruction caused by the Wall to land, villages, the camp and houses. They also said the Wall caused death and injuries because children throwing stones are being injured. On numerous occasions, children talked about how ambulances had been unable to reach patients. They said that eight persons in the camp had died because the ambulance was held up at the checkpoints. “We can’t stand looking at the Wall,” they said repeatedly, because “it is so ugly, and because it destroys the nature we like.”



Children presenting their project on the theme of the Wall, Shu'fat refugee camp, July 2006. © Karine Mac Allister/Badil.

“The Wall causes conflicts among people”

The negative impact of the Wall on social relations in the camp and the family was clearly noted. One of their recurrent concerns was the fact that the Wall generates bad feelings between Jerusalem and West Bank ID: “People with West Bank ID do not like us because we can move more easily and have access to Israeli medical insurance.” Two girls mentioned that the Wall had caused more stress within the family and had affected people psychologically. They also said that the Wall affected their mentality and culture because it made them shout and fight more than in the past.

“The Wall takes away our freedom”

On a very personal level, children appeared to be particularly affected by the lack of freedom of movement as a result of the Wall. They said the Wall took away their freedom, mainly because they could no longer visit their relatives, or easily go out of the camp for a walk, or travel to Ramallah.⁸⁵ “In the past, children would go for trips with the school, but this year the science trip to Jerusalem was cancelled because students with West Bank ID were not allowed to pass.” “I feel I am suffocating, I cannot breathe,” said one girl. Another feared she might not be able to continue her studies.

⁸⁵ Five children mentioned that they could not or had difficulty visiting their relatives.

The children did not clearly state whether they were afraid to go to school, pass checkpoints or travel outside the camp. However, they recollected numerous incidents they had witnessed at the checkpoints. One boy said that the soldiers refused to let him pass and demanded that he bring his original birth certificate, which he now always carries with him. Another girl saw a soldier refusing to allow a family to pass and when the family argued, a sound bomb was thrown at them and injured the mother of the family. A third recalled that a child lost his eyesight after an unexploded tear gas grenade blew up in his face. They spoke about the “flying checkpoints” (temporary checkpoints set up suddenly) and clashes with Israeli soldiers near their school. One girl recalled how she had had to force her way through clashes between soldiers and a group of protesters in order to leave school and fainted. On her way back to school, another girl was caught in the middle of children throwing stones and soldiers shooting tear gas.



Children presenting their project on the theme of hopes and dreams, Shu'fat refugee camp, July 2006. © Karine Mac Allister/Badil.

“I wish to be a lawyer ... or a witch that can make things happen”

Those who worked on the theme of their hopes and dreams drew themselves as well as beautiful scenes of nature. Many expressed their wish to become professionals: a nurse, electronic engineer, archaeologist, teacher, lawyer or a paediatrician.

The yearning for freedom and space was a dominant theme: “I wish I could fly in the sky”, explained one girl. “I would like to be a witch”, said another, “in order to make things happen.” One girl did not express any particular career goal but drew a peaceful and beautiful scene of nature and stated her wish for green space, lakes, trees and mountains.

All children anticipated a bleak future and feared their lives and freedoms would become even more restricted. Still, they all agreed: “We will never leave the camp, because we do not have another place.”

They also agreed that what they needed most was good education, because “education is our last weapon.” Many stated that education in the camp was poor and needed to be improved. One boy said they needed weapons, others asked for



Group discussion, Shu'fat refugee camp, July 2006. © Hasan Faraj/Badil.

the international community to organise demonstrations against the Wall and pressure Israel to remove the Wall. Some also said that they needed psychological, spiritual and financial help in order to continue to live in the camp.

Children also mentioned the need to keep faith in the cause: “one day, we will regain our freedom.” “We must stop buying Israeli products,” some of them suggested, “because buying Israeli products helps Israel build the Wall.” “And we must also not work in Israel, and not talk to them. We should rather take care of ourselves, our culture, tradition and religion.”

c) The camp through children's eyes

We asked a group of nine children, some of whom had been interviewed a few days earlier, to show us the camp, in order to see it with their eyes.⁸⁶ As we were walking near the Wall, it seemed easier for the children to recall their experience and tell us about the impact of the Wall on their lives in the camp.

We sat near the Wall next to the Pisgat Ze'ev colony and discussed their relations with the Jewish settlers. The children said that adult settlers sometimes shouted at them, while their children would throw stones, when they passed close to a settler's house. One boy recalled that he was near the colony with his father to graze the sheep, when settlers came and told them to leave.



Two brothers whose house was destroyed and partially rebuilt, Shu'fat refugee camp. August 2006. © Karine Mac Allister/Badil.

⁸⁶ The visit of the camp was conducted with nine children (seven boys and two girls) aged 10 – 14 on Thursday, 3 August 2006.

Then, two brothers took us to their home near the Wall. It had been destroyed and was partially rebuilt. The family went to court, but there is still no ruling on the case. They told us that soldiers now bring gifts to their family, “in order to make us drop the lawsuit. They have brought a tea kettle and canned food.”

Many boys told us about their experiences with the Israeli army. One had just been detained the day before because the soldiers saw him with a knife, but he managed to run away and hide. Other young boys were stopped by soldiers, hit in the face and asked whether they were throwing stones. They said that soldiers often hit the children in order to find out who was throwing stones. They have seen people hurt by soldiers, sound bombs, and tear gas. One boy told the story of an old woman who was injured. The Israeli ambulance did not allow her daughter to accompany her. The boy's father tried to intervene but was beaten by the soldiers in front of his son. “I felt very, very sad then,” he said.

The walk with the children along the Wall revealed a path littered with garbage and open sewerage accompanied by a strong stench, exposing the unhealthy living conditions in the camp.

The visit ended at the Anata Village School, a few metres away from the Wall. The Wall there is “double”, because an additional wall has been built in the middle of the schoolyard. The children quickly recalled how soldiers entered the school on a daily basis or threw tear gas and sound bombs.



Children on the roof of Anata school showing the remains of a sound bomb thrown at the school, Anata village, August 2006. © Karine Mac Allister/Badil.

II. Interviews with Women from Al-Ram

a) Al-Ram and the Wall

Al-Ram is a Palestinian neighbourhood located on the northern outskirts of occupied East Jerusalem. Situated on what used to be the main road connecting Palestinian Jerusalem with the West Bank city of Ramallah, Al-Ram has attracted a diverse population of Palestinian Jerusalemites in need of lower-cost housing, villagers, refugees, and urban Palestinians from all parts of the West Bank who wished to live in the vicinity of the country's commercial centre. Currently, Al-Ram has

a population of 26,000, the majority holds Jerusalem ID cards. The neighbourhood, dependent upon access to Jerusalem and Ramallah for economic, political, medical, religious, educational and cultural purposes, has been transformed into a ghetto by the Wall and its regime. The Wall has severed Al-Ram from Jerusalem and from Ramallah; passing right in the middle of the main street of the neighbourhood, it also cuts Al-Ram into two parts (one on the East and one on the West side of the Wall).



Al-Ram, the construction of the Wall, which is located on the main street and passes through the neighbourhood, August 2006. © Anne Paq.

b) Palestinian women's perspectives

Six Palestinian women were asked to share their personal struggle with the new reality created by the Wall. The interviews were conducted in Al-Ram on August 1 and August 22. The meetings were held at the Centre for Women's Studies and in the women's homes. While the six women express many common experiences and concerns, their testimonies also reflect distinct patterns of coping, which are highlighted in this presentation.⁸⁷

Isolated and depressed

Nadia⁸⁸ is a housewife living in Al-Ram. She holds a Jerusalem ID card, and her home is located on the eastern side of the Wall.

I have two children, both of them have Jerusalem ID cards like me. My daughter has recently graduated from university but cannot find a job nearby. She cannot go to Jerusalem on a daily basis, because the checkpoints have prolonged the trip by 30 minutes to one hour, and even more, depending on the circumstances. My son and my husband live in Al-Azariya, where they both work. They do not make much money.

Everything has changed since the Wall is here. My main concern is money, because our difficult financial situation affects all aspects of our lives. I can hardly go anywhere, because of the checkpoints and the high cost of transportation. I move around

⁸⁷ Testimonies are not verbatim translations of the interviews, but rather a summary account of stories as told by the women.

⁸⁸ All names used here are not the women's actual names.

much less now than in the past and rarely go to Jerusalem or elsewhere. The whole family can no longer really afford to go to Jerusalem. Our relatives come to visit us instead.

My children will have to marry someone with a Jerusalem ID, because people with a West Bank ID will not be able to cross the checkpoints to Jerusalem.

I spend most of my time in the house, watching television, feeling very bored and sick. I often have a headache, and I often cry, because I can hardly see my son and husband. I feel lonely. Of course the Wall should be taken down, but what can I do to change the situation?



Al-Ram, Women being checked by soldier, August 2006. © Anne Paq.

Focus on the personal, withdraw from the political

Noura is a young university student. She studies psychology. She lives on the eastern side of the Wall and holds a Jerusalem ID.

I currently study at the Al-Quds Open University in Jerusalem, but I am thinking of transferring to the University's branch in Ramallah. The Wall has made transportation to Jerusalem expensive and it takes a long time to get there. My priority is to complete my studies and to find a good job. I had studied banking before, but could not find work.

The Wall doesn't really affect my life much, other than that I may have to change the place of my studies. I try to keep focused on my personal life and my family. I try to forget about the general political situation and other political or social issues.

No, I am not worried about losing my Jerusalem ID or being forced to move in the future. Also, I would not marry somebody with a West Bank ID, because people with a West Bank ID think differently, have no money and cannot go to Jerusalem.

I don't know what the future will bring, and how the Wall will affect the future of Palestine. In fact, I try not to think about the Wall, but only about my life and my studies.

Changing sides as life becomes too difficult

Leila and Rania are mother and daughter; the entire family holds Jerusalem ID. Rania's house, as well as the homes of many family members, is located on the eastern side of the Wall, while others, including mother, Leila, live West of the Wall. Rania and most of her family (some 18 persons) East of the Wall are currently trying to find new homes on the other side, although they still do not know the exact route of the Wall. Leila and her family have temporarily moved in with her mother.

Both: Everything has changed because of the Wall. We feel a lot of stress and anxiety in the family, especially with our husbands and children. The Wall divides the land and makes Palestinian lives more difficult in order to force us to move out of the country.

Rania: When I walk near the Wall, I am not really afraid. It rather makes me think about how things were and how much has changed. I still cannot really grasp how the situation is now. I cannot sleep at night; I keep thinking about how to continue and find solutions. The Wall keeps me from living my daily life. This is why I have decided to move. I had to leave my house on the East side of the Wall at 6 a.m. every day, in order to pass the Kalandia checkpoint, bring my child to the kindergarten, and reach work in time. All movement had to be thought through and coordinated all the time. I had to think before I made any move: how I will go, and how and when I will come back. All of us travel less now than in the past, the same applies to our children. I have stopped sending my son to swimming lessons, because it became too complicated.

But then, of course, moving is expensive and my financial situation is difficult. I am on maternity leave now and will be able to go back only to work part-time. Although we own our house, we had to take up a bank loan in order to build a new flat on the western side of the Wall. And here we are for now, all of the four of us in one room. I have lost my home and still need to make a new one. And then, how will I move the furniture from the old house once the Wall is closed? Also, I cannot leave my old house empty, and I cannot stay there either... We have five houses in our extended family that will become empty.



Al-Ram, living with the Wall, August 2006. © Anne Paq.

Of course, we also decided to move because we want to keep our rights in Jerusalem, and our Jerusalem ID.

Both: The settlers who have Israeli passports can live in the West Bank, but we, the original inhabitants, holding Jerusalem ID, are not allowed to. We are afraid to travel in the West Bank, because we may be arrested and fined.

Leila: We have close relatives in Nablus, but we have not been able to visit them for the past three years. The last time I went, a soldier told me not to ever come back or I would be arrested. We now meet with them in Amman, Jordan.

Rania: If I had a chance, I would leave the country. Not so much for myself, but for the future of my children. Living in the West Bank, East of the Wall, is not an option, because services are not good and salaries are too low for the cost of living in Jerusalem.

Leila: The only thing that makes us feel good is the family. We support each other and we know that there is always somebody around. But also the family is no longer together. I have one son in the United States, the other is in the old city of Jerusalem, the third has moved to live in the Pisgat Ze'ev settlement. So the family house here is mainly empty. Like all mothers, I want my family to be together, but this is not happening.

Rania: As Arabs and in our culture, we have to stay close to our parents and live together.

Both: The world cannot do anything to stop Israel. It is better not to think about the future, because you can go to bed one night and the next day it is all a new reality.

Facing difficulty but determined to maintain a Palestinian presence in Jerusalem

Karma is a professional working for a local non-governmental organisation. She lives on the West side of the Wall but works a few metres away, on the Eastern side of the Wall.

In the past, I had a five-minute walk from home to work. Now I have to take my car and go through the Beit Hanina checkpoint, which takes around 10 minutes in the morning. On the way home from work I have to pass through the Kalandia checkpoint ("Terminal")⁸⁹ and this takes up to an hour. Things are stressful, also because the procedures change all the time. My children, for example, one day realised that they were unable to come back home from school, because the army had installed a new gate during the day. You must thus always try, but do not know whether you will be able to reach your home.

The construction of the Wall creates a very dusty and dirty environment, and I have to keep the windows closed. I feel that I have to lock myself in the house.⁹⁰ I am very worried about a friend and neighbour who has lung cancer. There is no green space, no park, there are only some restaurants and coffee shops, there are no other facilities, especially for children. After work, I go to visit my sister in Ramallah, because I no longer like to spend time in my house, with the closed windows and the dust. I have a Jerusalem ID, while my sister doesn't, so she cannot come to visit me. The same applies to many of my friends. It makes me wonder why people have houses if they cannot use them?

All my movements have to be planned and organised in advance, especially when I go to work. I cannot allow myself to forget anything, because turning back is difficult and time-consuming. The Wall prevents you from living spontaneously. One morning, at the Beit Hanina checkpoint, I was sent back in the queue because the soldier checking people's IDs claimed he had not seen mine. I told him: "I am not a child, I am a mature woman and this is humiliating." But I felt helpless and decided to go to another checkpoint instead.

Moreover, I am divorced and my husband lives in Ramallah. This makes it difficult for my children to see their father. The children don't want to live in Jerusalem any more; they are begging me to move to Ramallah, where life is easier and they have their relatives.

It is expensive to live on the West side of the Wall. It is like living in a one-star hotel but paying the price of a five-star one. But I want to stay here, because the purpose of the Wall is to make life so difficult that people will eventually move. Then the Israelis will confiscate our Jerusalem ID. One of my daughters lives in Austria but comes back to Jerusalem every year; she has had her Jerusalem ID confiscated. She is now fighting in court to have her ID back, but for now, she cannot come back. I want to keep my Jerusalem ID, because of the health insurance, and because I want to resist the pressure to make Jerusalem "Palestinian-free." Nobody can imagine the suffering we are going through. People cannot understand or imagine the situation, and there is no international support to stop the construction of the Wall.

⁸⁹ Although she has a Jerusalem ID, she cannot go back through Beit Hanina checkpoint as it requires a permit which the Israeli authorities do not grant to residents of the Western side of the Wall.

⁹⁰ Her neighbourhood petitioned the Jerusalem Municipality about the dirt and dust, but all they do is water the roads every second day.

Ahlam works in Jerusalem and holds a Jerusalem ID. Her house is supposed to be located on the East of the Wall, but the route may have been changed due to pressure from religious institutions.

For the moment, nothing is clear and I am still waiting to see on which side of the Wall my house will fall. Al-Ram will be cut off from Jerusalem and will become a tiny ethnic ghetto. Depending on where the Wall will be, we may have to move to the West of the Wall. If I want to keep my rights and preserve a Palestinian presence in Jerusalem, I should move. If we don't move, the Israelis will gradually take away the benefits based on our status, our right to access Jerusalem and eventually the ID itself. Palestinians should be present in Jerusalem and not leave, to defend our country in a non-violent manner.

Not knowing is a terribly stressful situation. When we learned about the Wall and where it might pass, my whole family changed. Although my husband is very soft and calm, he became stressed and angry. We are all scared to lose the house. My husband taught at Bethlehem University and used to travel there every day, but now, with this "new border", he can no longer do so. He has resigned recently to take on a school teacher's position nearby. As a woman, I have always to try to make things smoother, easier.

My children are having nightmares and refuse to sleep alone because they are scared that soldiers will come into the house. We have to liberate our children from fear and from being scared of the Israelis. We have to defend our rights and stop being afraid. I don't mean to hate, I try to keep my children from developing hatred, because it will harm them. Still, my two children, 10 and 12 years old, speak of Israel as a "terrorist country" and English as a "terrorist language". They are angry at Israel and the United States and tell me, "mummy, you have been working for peace, but this is in vain." Israel will not sleep peacefully as long as children are witnessing their aggression. This ongoing aggression is also unsustainable; it affects Israel's continuity and viability as a state.

My children are asking me to leave the country for a better life, because they say, "we only live once". They want to stop negotiating with the soldiers. Now they even have to carry their birth certificate with them to pass the checkpoint; their Jerusalem ID is no longer sufficient proof of being a "Jerusalemite". But I don't want to leave, although the future ahead is uncertain. Despite everything, my children too are thinking about the future. One of them says he will become a president and create one state called "Palaisrael."

The Jerusalem ID does not exempt me from discrimination or racism in Israel. I am often treated as someone inferior and have faced humiliating experiences, particularly at the Ben Gurion airport in Tel Aviv and the Interior Ministry in Jerusalem. I know I should take care of my Jerusalem ID; it is the only way to stay in Jerusalem, but I am not very proud



Al-Ram, the Wall divides neighbors, August 2006. © Anne Paq.

of it. I always try to be polite, I believe in non-violence and in peace, but this does not protect me from their attacks. Nevertheless, we have to be more civilised than them.

The Wall also creates more conflict in our society. For example, even Palestinians with Jerusalem ID have started to discriminate against Palestinians with West Bank ID. The Wall also brought more patriarchy, because men want to “protect” women, “secure her life”, so women get married earlier, stay in the house and reduce their movements. Many men have also lost their jobs, so women now have to look for small jobs or try to find an alternative.

The Wall is an act of aggression, the most visible symbol of Israel’s policy of separation and isolation. The Wall separates Palestinians from their brothers and sisters. They want us to get fed up and leave. They do not want to be bothered by Arabs.

I would like to see more UN action, and if Israel does not stop these crimes, the Security Council should take the necessary steps. Why this double-standard? We need not only words, but also involvement and action. I sometimes feel that peace has become an industry. All the meetings, dialogues and discussions do not address the root causes, as fear and racism towards the other remains. Boycott would be a tool to pressure Israel, we need a strategy to survive. I would also like to go around among all churches in the world to tell them to boycott, to make our voice heard in the Christian world. The world is not educated about the conflict and our image is distorted in the West. People must be educated about the situation, also Jewish Israelis, because many are misled by their government. Education is the only way to bring change. Change can be brought with basic ideas.

3. Interview with members of the Jahalin Bedouin Community near Ma’ale Adumim and Abu Dis



Jahalin Bedouin facing displacement and living near the Jewish colonies of Qedar and Ma’ale Adumim, August 2006. © Anne Paq.

a) Background on the Jahalin Bedouin

The Jahalin Bedouin are 1948 refugees originating from the area of Bersheba in the Naqab (Negev). The Jahalin Bedouin initially found shelter in the Hebron Governorate. In the 1960s they moved into the hilly Judean desert between Jerusalem and Jericho, next to Road No. 1. While all Jahalin Bedouin are 1948 refugees, only 80 to 85 percent

are registered with UNRWA. Bedouin live a semi-nomadic lifestyle and – based on custom and tradition – use land they perceive as ‘empty’, i.e. not privately owned or used for crops.

The Jewish colony of Ma’ale Adumim was built in 1976.⁹¹ In 1996 and 1998, Jahalin Bedouin families were forced to relocate on so-called security grounds from the vicinity of Ma’ale Adumim to the Palestinian communities of Abu Dis and Al-Azariya. Remaining Bedouin families who were not issued an expulsion order stayed in the area around Ma’ale Adumim. However, as the colony expanded, and especially since the beginning of the construction of the Wall, they too face displacement.



Jahalin Bedouin facing displacement and living near the Jewish colonies of Qedar and Ma’ale Adumim, August 2006. © Anne Paq.

The Wall will include Ma’ale Adumim and the E1 Block⁹² in Israeli-annexed Jerusalem, thus once more redrawing the boundaries of Israel’s Jerusalem municipality. Approximately 3,000 Bedouin in the Ma’ale Adumim area are at risk of being forcibly displaced in this context. An Israeli military order was given to some families stipulating that the Ma’ale Adumim area must be empty of Bedouin by 2007. An Israeli lawyer has taken the case of the Bedouin to the Israeli High Court but a hearing is still pending. The lawyer aims to either move the route of the Wall so that the Bedouin can remain in a small area outside Ma’ale Adumim, or – at least – obtain compensation for their resettlement on Jerusalem’s municipal garbage dump in Abu Dis.

An additional problem is the possibility of life on the garbage dump in Abu Dis; the land is contaminated and even if the dump is closed and covered with earth, the area will remain uninhabitable for several years. Moreover, ownership of the land is contentious; the Israeli government argues it is state land, while the municipality of Abu Dis says it is theirs. A court case is pending as to the ownership of the land.

91 “Ma’ale Adumim was originally founded by a tiny group of settlers in 1976, but did not begin to expand significantly until 1982. It was at this time that the Israeli government declared the area to be ‘State Land’, in spite of the legal ownership of the Palestinian residents of Abu-Dis. Despite being 4.5 kilometres from Jerusalem, Ma’ale Adumim has been promoted as the new eastern limit of the city. Ma’ale Adumim is also slated to be the limit of the newly-conceived ‘Greater Jerusalem’, which is an Israeli plan to annex an enormous area of the West Bank and to confirm its 1967 annexation of Arab East Jerusalem.” Applied Research Institute Jerusalem (ARIJ), *The Expansion of Ma’ale Adumim Colony and the Expulsion of Jahalin* (Bethlehem, 24 February 1997). Available at: <http://www.arij.org/paley/maale/index.htm>

92 “The E1 Plan calls for the largest single settlement construction project in recent history. Bulldozers begun to clear Palestinian land north of the large Israeli settlement of Ma’ale Adumim in December 2004 but it was only on February 28 that the Israeli government announced its intention of building at least 3,500 new housing units on the site. The E1 Plan intends to appropriate approximately 12,500 dunums (125 km²) of Palestinian lands belonging to the Palestinian villages of Al-Tur, ‘Anata, Al Eizaryieh, Abu Dis, Al Essawyieh and Hizma.” Dr. Jad Isaac & Fida Abdel Latif, *Jerusalem: the strangulation of the Arab Palestinian city*, (Bethlehem: Applied Research Institute Jerusalem (ARIJ), July 9, 2005). Available at: <http://www.arij.org/pub/Colonization in Jerusalem/index-1.htm>



Jahalin Bedouin facing displacement and living near the Jewish colonies of Qedar and Ma'ale Adumim, August 2006. © Anne Paq.

Living conditions are also harsh at the site near Ma'ale Adumim. Without electricity and often without running water, a two-hours' donkey ride away from the closest urban area, and with no access to essential services, the Jahalin Bedouin live in "third world-like" conditions. Most of those visited lack essential food and potable water, basic shelter and housing, appropriate clothing, and essential medical services and sanitation. Qedar colony's sewerage runs through the valley they inhabit.

A small school financed by the Palestinian Authority and other donors provides primary school education. Children usually do not continue their studies afterwards, as there is no school nearby. Boys are requested to help with the livestock while it is not well-perceived for girls to continue their education in far away or co-ed schools. Most families cannot afford to pay for education. There are also a number of cases of disabled and handicapped children, reportedly due to inter-marriage. Some families have sent these children to specialised centres, others prefer to keep the children with them, although no assistance or specialised services are available.

b) Voices of Bedouin in the Ma'ale Adumim area

Testimonies and accounts of the Jahalin Bedouin in the area of the Jewish colonies of Ma'ale Adumim and Qedar and the Palestinian town of Abu Dis were gathered during a day-long visit to the area. We visited two main gatherings where four to six families reside.⁹³ One interview was provided by the head of the household, the second account was given by women. The United Nations Office for the Coordination of Humanitarian Affairs (OCHA) facilitated access and discussion with the different families living in the Ma'ale Adumim "enclave", which otherwise would have been inaccessible; the area is controlled by an Israeli checkpoint, and only UN or other essential vehicles (e.g. water tanks) are allowed in. These Jahalin Bedouin are located in an area which will be completely encircled by the Wall; all of them hold West Bank ID cards.

Leave us alone to live our lives

The head of the family conveyed that,

the Wall is a way to grab land, it is not about security. It rather puts Palestinians in closed areas, prevents them from

⁹³ The visit was conducted on Tuesday, 15 August 2006.



Jahalin Bedouin women facing displacement and living near the Jewish colonies of Qedar and Ma'ale Adumim, August 2006. © Anne Paq.

conducting their activities and destroys their social life.

We fear that we will be forced to move. Our way of life, raising livestock and collecting plants, is all we have. We do not want to and cannot adapt, to a life in a village or town. I am convinced that the only way to counter the threat of displacement is through the Israeli High Court.⁹⁴ I have no faith in the power or the willingness of the international community to address this injustice and our problems.

If there is no choice and we are relocated, we don't want to be moved to the site of the garbage dump. It should at least be to a healthy place. Also we don't want to be moved to land that belongs to Abu Dis. We have no money to buy land, and are afraid that our relocation in Abu Dis land will create tensions with the community there.

We men travel to towns and villages, mainly Abu Dis and Al-Azariya, on donkeys to go to work or buy essential goods, while the women and girls do not leave the house often. I also disagree with the idea of women studying at university or working. Women only leave the house once they are married or in the company of men.

Of course, there is a problem with health care. We travel to see a doctor only in very serious emergencies, such as snakebite or heart attack. Israeli ambulances are very expensive and medical treatment as well. No doctor or medical clinic comes to visit us here. Still, my household is not in need of humanitarian assistance, although many other families are.

In the past, we had quite good relations with the Jewish settlers; the settlers were giving us water, and their children played with ours. But now, we no longer talk to them, and the water from the colony has been cut. I keep contact with one settler only; I take care of his cattle. Nobody ever gave a hard time to the Bedouin, only the Israelis.

All we are asking for is to be left alone so we can continue living here and keep our animals.

We are women, we want a better life!

Four to six women and some 25 children described their concerns as follows:

Our life has always been difficult, but the Wall has made it even more difficult. Many of our men have lost their jobs because of the closures in this intifada, and our economic situation has become worse. The children have become sick from the dust caused by

⁹⁴ They have no help to pay for the Israeli lawyer representing their case and this causes great financial stress and pressure on all families.



Jahalin Bedouin Women facing displacement and living near the Jewish colonies of Qedar and Ma'ale Adumim, © August 2006. Anne Paq.

the construction of the Wall.

Only UNRWA, once or twice a year, and OCHA come to visit us. UNRWA brings wheat flour, vegetable oil, and lentils, which is not enough. Sometimes the food is even expired. We leave our houses only to buy essential goods, or if we or one of the children need medical treatment. Otherwise, we rarely go out and never for fun. We mainly take care of the children and the animals. We don't have money to buy a variety of food. We have plenty of bread and tea, but lack vegetables and fruit.

We are women, and we want a better life, especially for our children. Do you think we like this life, to live in this house and for our children to be dirty? We would not mind relocating somewhere else, as long as our rights are respected and our conditions improve.

We would also like to send our children, including our daughters, to school and university. People should develop and adapt because life is changing. The problem with the men is that they do not say the whole truth, because they are narrow-minded and proud. Women here marry young, at the age of 16–18, and have many children. We would like to learn about family planning. And we would like more help from UNRWA, a small health care centre, or visit from a doctor. But we are not angry. We know we are living difficult lives, but we hope you can help us.

c) Voices from those already displaced onto the garbage dump in Abu Dis

After our visit of the Jahalin community in the Ma'ale Adumim area, we met Jahalin community leaders (six men) who were forcibly displaced in 1996 and 1998 as a result of the expansion of Ma'ale Adumim. Their community comprises approximately 1,000 persons. They live in the area of the Palestinian town of Abu Dis, on the site of the garbage dump, and near the Palestinian village of Al-Azzariya.

In the winter of 1997, the Israeli army arrived at their previous location near Ma'ale Adumim with approximately 2,000 soldiers and bulldozed the shelters of around 35 families without prior warning. With the support of peace groups, they remained in the area, living in the rubble of their shelters. The Palestinian Authority hired a lawyer and after a successful court ruling, they were allowed to rebuild. In 1998, however, a new ruling from the Israeli High Court ordered them to leave the area for the security of the settlers of Ma'ale Adumim.

The six men described the experience of their community:

The families displaced in 1996 and 1998 received a small financial compensation for their relocation, between 15,000 and 30,000 NIS each (between \$3,500 and \$7,000). We rent the land where we currently live from the Israeli government for 49 years, although the land belongs to the municipality of Abu Dis. This makes us feel uncomfortable. Some families have built houses, while others have kept the old lifestyle and remained in their tents and shacks.

Of course displacement has changed our lifestyle, we have become more settled and like city people. But we insist in keeping our cattle. And we think that education is important, also for women. In the past, there was the idea that sending women out of the house, to school for instance, was a shame, but now, the mentality has changed. A woman should take care of herself the way she wants, and in any case, she would not be the only woman at university!

We worry what will happen if more families will be moved to our site. There is not enough space for everybody. If all 3,000 or so Jahalin are brought here, this will prevent us from keeping our cattle and lifestyle. Tensions with residents from Abu Dis may also arise as the land on which they would be relocated belongs to the municipality.



Jahalin Bedouin youth whose family was displaced in 1998 looking at the Jerusalem municipality garbage dump, August 2006. © Anne Paq.



Jahalin Bedouin displaced in 1998 to Abu Dis, August 2006. © Anne Paq.

The biggest problems caused by the Wall are that it closes the access of our animals to grazing land and that we cannot go to Jerusalem for treatment at UNRWA clinics or the hospital and for services. There is also only a primary school (grade 1 to 6) in the neighbourhood and it is not finished. Some families have no cattle and no money to buy food. UNRWA's support has been helpful for them.

We have formed a committee, the Arab al Jahalin Committee for Development, and we are looking for new ideas and projects to develop and improve our community. We know that staff of the UN and other organisations are working hard, but we do not see change or impact on our lives. We have lost our faith in the UN and its readiness to deal with the reality on the ground.

4. Conclusion

The Wall and its associated regime have aggravated division and isolation among vulnerable Palestinian populations. The Wall causes stress and anxiety and threatens traditional familial relationships. The city of Jerusalem has become further removed from these Palestinians. This fact affects all aspects of their lives, from access to health services to the choice of a spouse. People's lives have been changed; the security and stability provided by work and school, home and neighbourhood, have been shattered by the concrete Wall, checkpoints and permits. Women's freedom of movement appears to have become particularly reduced, and many are feeling depressed and powerless. The Wall and its closure regime, combined with increased unemployment, have caused poverty and increased financial stress on families.

While some people have already been forced to move and are trying to adapt, many are still awaiting their fate in an uncertain future. They do not know whether they will be able to remain where they currently reside, on which side of the Wall they will live, or whether they will eventually be expelled. Still, they are determined to build a better future, preserving their lifestyle and a Palestinian presence in Jerusalem. All of them wish for international action and pressure on Israel to dismantle the Wall and its closure and permit system; many, however, have lost faith that this will happen.

Political and Legal Implications of Forced Displacement and Responsibilities to Assist and Protect

This chapter examines the legal and political implications of forced displacement as a result of the Wall and its associated regime on the conflict and the fundamental rights of the Palestinian people. The chapter also looks at national and international responsibilities to assist and protect, including the search for durable solutions to situations of internal displacement.

1. Forced displacement as part of the conflict

Palestinians have been subjected to forced displacement on successive occasions, hence the importance of considering displacement from an historical and ongoing perspective. For many Palestinians, the Wall and its associated regime pose as the continuation of a policy of forced displacement that began in the early 20th century.⁹⁵ The majority of Palestinians, around 750,000, became refugees during the first Israeli-Arab War in 1948, also known as the *Nakba* or literally, the Catastrophe. An estimated 30,000 became internally displaced in Israel. Several thousand Palestinians were displaced within and from Israel between 1949 and 1967 while approximately 430,000 Palestinians were displaced, half for a second time, during the 1967 Israeli-Arab War, when Israel occupied the West Bank, including East Jerusalem, and the Gaza Strip. Subsequent displacement occurred in the 1967-occupied Palestinian territories and today, an unknown, but estimated number of 57,000 are internally displaced as a result of house demolition, military operations, the Wall and its regime and land confiscation.⁹⁶ Over the years, Palestinians have seen available land reduced, space isolated and areas restricted. Many displaced Palestinians, particularly refugees, are confronted with a “double form of isolation: the prohibition of return or repatriation by the Israeli state and the disappearance of their Homeland and landscape as they knew it.”⁹⁷ In fact, once completed, the Wall will confine Palestinians to 12 percent of historic Palestine.⁹⁸

The absence of a just and peaceful solution allows forced displacement to continue; hence the need to address one of the root causes of the conflict: population transfer in Israeli policies. Since the 19th century, the notion of population transfer has played an important role in the thinking of the Zionist movement. The political founder of Zionism, Theodor Herzl wrote “we shall try to spirit the penniless population across the border “... Both process of expropriation and removal of the poor must be carried out discreetly and circumspectly.”⁹⁹ Numerous population transfer plans were also envisaged in order to establish and maintain a Jewish majority.¹⁰⁰ According to Miloon Kothari, the UN Special Rapporteur on Adequate Housing, “essentially, the institutions, laws and practices that Israel has developed to dispossess the Palestinians (now Israeli citizens) inside its 1948 border (the Green Line) have been applied with comparable effect in the areas occupied since 1967...”¹⁰¹ This dispossession of Palestinian communities is widely interpreted as a reflection of Israel’s systematic policy of “... depopulation and demographic manipulation by way of expulsion, destruction of homes and villages...”¹⁰² Forced displacement and population transfer are thus inherent to Israeli policies in the conflict. These policies can be summed up as ‘the forcible annexation of Palestinian land without Palestinians.’

The Deng Principles state that forced displacement is prohibited (a) when it is based on policies of apartheid, “ethnic

95 It is estimated that as many as 150,000 Palestinians were displaced during the British Mandate, which ended with the UN-recommended Partition Plan in 1947. See BADIL, *Survey of Palestinian Refugees and Internally Displaced Persons 2004-2005*, supra 40, chapter 1.

96 See *ibid.* chapter 2.

97 Randa Farah, “Palestinian refugee camps, Reinscribing and contesting memory and space” in *Isolation, Places and Practices of Exclusion*, Carolyn Strange and Alison Bashford (eds.), (New York: Routledge Studies in Modern History, 2003), p. 192.

98 Department of Negotiations Affairs, *Israel’s Wall*, supra 3, p. 9.

99 *The Complete Diaries of Theodor Herzl*, Vol. 1, Patai, Rephael (ed.), (New York: Herzl Press and T. Yoseloff, 1960), pp. 8-9 in BADIL, *Survey of Palestinian Refugees and Internally Displaced Persons 2004-2005*, supra 40, p. 4, fn. 6.

100 See *ibid.* p. 4.

101 *Report by the Special Rapporteur on Adequate Housing, Miloon Khotari*, Commission on Human Rights, Fifty-ninth session, E/CN.4/2003/5, 10 June 2002, p. 4.

102 *Ibid.* p. 5.

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.¹⁰³

The United Nations defines 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.”¹⁰⁴ Transfer can take two forms, forcible removal or forcible settlement, but the result is the same: the displacement, internally or across boundaries, of people without their consent.¹⁰⁵

The Rome Statute of the International Criminal Court defines population transfer as the “forced displacement of the persons concerned by expulsion or other coercive acts from the area in which they are lawfully present, without grounds permitted under international law.”¹⁰⁶ Furthermore, in situation of armed conflict, the Statute includes among war crimes “the transfer, directly or indirectly, by the Occupying Power of parts of its own civilian population into the territory it occupies, or the deportation or transfer of all or parts of the population of the occupied territory within or outside this territory.”¹⁰⁷ Forced population transfer is both a crime against humanity and a war crime under the Rome Statute of the International Criminal Court.

In July 2004, in its advisory opinion on the *Legal Consequences of the Construction of a Wall in the Occupied Palestinian territories*, the International Court of Justice found that “...a significant number of Palestinians have already been compelled by the construction of the wall and its associated regime to depart from certain areas, a process that will continue as more of the wall is built, that construction, coupled with the establishment of the Israeli settlements ... is tending to alter the *demographic composition* of the [OPT].”¹⁰⁸ The Court then held that “Israel measures to change the demography and status of East Jerusalem through expropriation of land and properties and transfer of populations aimed at incorporating the occupied land into its territory were illegal, null and void.”¹⁰⁹ Article 49 of the Fourth Geneva Convention states that “individual or mass forcible transfers, as well as deportations of protected persons from occupied territory to the territory of the Occupying Power or to that of any other country, occupied or not, are prohibited, regardless of their motive.”¹¹⁰ Forced displacement as a result of the Wall and its associated regime alters the demographic composition of the affected population and therefore amounts to a violation of human rights and humanitarian law.

The Wall and its regime are thus part of a policy of forced displacement and population transfer which leads to the clearing of controlled or annexed land of its inhabitants, particularly in the areas between the Wall and the Green Line of its inhabitants. The civilian population of the occupier will eventually be settled on this land, in violation of international law. United Nations Security Council Resolution 465 requires that Israel dismantles its settlements and states that “Israel’s policy and practices of settling parts of its population and new immigrants in those territories constitute a flagrant violation of the Fourth Geneva Convention.”¹¹¹

103 Deng Principles, supra note 31. Principle 6. In analysing whether the Occupying Power can invoke the principle of necessity to justify the route of the wall due to military exigencies, the Court found that the relevant article providing for such exceptions, namely Article 53, failed to convince the Court that “...the destructions carried out contrary to the prohibition in Article 53... were rendered absolutely necessary by military operations.” para. 135

104 [Emphasis added] A.S. al-Khawasneh and R. Hatano, *The Human Rights Dimensions of Population Transfer including the Implantation of Settlers*, Preliminary Report, 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.

105 Population transfer has also been defined as “the movement of large numbers of people, either into or away from a certain territory, with state involvement or acquiescence of government and without the free and informed *consent* of the people being moved or the people into whose territory they are being moved.” UNPO, Conference on Human Rights Division of Population Transfer cited in Christopher M. Goebel, “A Unified Concept of Population Transfer”, *Denver Journal of International Law and Policy*, Vol. 21:1, 1992, pp.37-39.

106 ICC, *Rome Statute of the International Criminal Court*, supra 38, Article 7 (2)(d) .

107 Ibid. Article 8(b).

108 ICJ, *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, supra 17, para. 133.

109 Ibid. para. 75.

110 IV Geneva Convention, supra 55. Article 49.

111 UNSC, Resolution 465 (1980). See also UNSC Resolutions 446 (1979) and 452 (1979).

2. The right to self-determination of the Palestinian people and a Palestinian state

The international community recognises the right to self-determination of the Palestinian people.¹¹² The right to self-determination is the right of all peoples to “freely determine their political status and freely pursue their economic, social and cultural development.”¹¹³ State Parties to the International Covenant on Economic, Social and Cultural Rights and the Covenant on Civil and Political Rights have the responsibility to “promote the realisation of the right of self-determination, and shall respect that right...”¹¹⁴ The International Court of Justice held that the right to self-determination is a right *erga omnes*, which is the concept of international legal obligation “...owned to the international community as a whole and binding irrespective of consent.”¹¹⁵

Since 1988, the Palestine Liberation Organisation (PLO), the recognised representative of the Palestinian people, has proposed the establishment of a sovereign and independent state in the West Bank, including East Jerusalem, and the Gaza Strip as the expression of the Palestinian people’s right to self-determination.¹¹⁶ The State of Israel did not endorse this proposal in the Madrid-Oslo peace process (1991 – 2000), and official international support of the Palestinian proposal was slow to evolve. The “Performance-based Road Map” pronounced by the Quartet (United States, Russia, EU, United Nations) in 2003 is the latest international proposal for Israeli-Palestinian peace to include an explicit call for the creation of an independent, sovereign and viable Palestinian state living side-by-side in peace and security with Israel. This vision of a two-state solution was endorsed by the UN Security Council in 2003¹¹⁷ and has been reiterated by the international community ever since.¹¹⁸

However, no progress has been made on the implementation of the Road Map. In the meantime, Israel’s Wall and its associated regime, annexing over 10 percent of the occupied West Bank, assuring territorial contiguity between the colonies and allowing further colonial expansion, is rendering the establishment of a sovereign Palestinian state unfeasible. This conclusion was also reached by the UN Special Rapporteur, John Dugard, who recognised that “the construction of the Wall, the expansion of settlements, the de-Palestinisation of Jerusalem and the gradual



Jahalin Bedouin displaced in 1998 near the garbage dump in Abu Dis, August 2006. © Anne Paq.

112 The right of the people of Palestine to self-determination was already recognised by the League of Nations following the First World War. The right to self-determination of the Palestinians was recognised in the Treaty of Sèvres, which affirmed that Palestine “be provisionally recognised as an independent State subject to the rendering of administrative advice and assistance by a Mandatory until such time as they can be able to stand alone.” *The Treaty of Peace Between the Allied and Associated Powers and Turkey* (Sèvres, 10 August 1920), Part II, Section VII, Art. 94. The United Nations clearly affirmed the right of self-determination of the Palestinian people by the UN General Assembly in 1970 and more expressly in 1974 and has since done so regularly. UNGA Resolution 2649 “Condemns those Governments that deny the right to self-determination of peoples recognised as being entitled to it, especially of the peoples of southern Africa and Palestine.” UNGA Resolution 2649 (1970). See also UNGA Resolution 3236 (1974). However, the United States, Israel, the Marshall Islands and Palau voted against the latest resolution on the right to self-determination of the Palestinian people which was approved by 162 votes with four against and three abstentions. *Palestinian Self-determination, Human Rights in Democratic People’s Republic of Korea Addressed in Texts Approved by Third Committee, General Assembly, GA/SHC/3840, Sixtieth General Assembly, Third Committee, Forty-second Meeting* (2005).

113 ICECSR, supra 36. Article 1(1).

114 Ibid and ICCPR, supra 36. Article 1.

115 Maurizio Ragazzi, *The Concept of International Obligations Erga Omnes*, Oxford Monographs in International Law (Oxford, March 2000). For a sample of the book see <http://www.oup.co.uk/pdf/0-19-829870-6.pdf> See ICJ, *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, supra 17, para. 88

116 Self-determination, however, may also be expressed through other forms; the right to self-determination is not limited to statehood. It is the right of a people to choose its future and control its resources. Self-determination thus means that Palestinians can choose the political, civil, social, economic and cultural arrangement they wish to create, an arrangement that can take various shapes.

117 UNSC Resolution 1515 (2003).

118 In 2005, the Quartet reiterated the view that “a new Palestinian State must be truly viable, with contiguity in the West Bank and connectivity in the Gaza Strip. “Transcript of Press Conference on the Middle East,” by Secretary-General Kofi Annan, Quartet Foreign Ministers, at United Nations Headquarters, SG/SM/10115, New York: Department of Public Information, 20 September 2005.

incorporation of the Jordan Valley are incompatible with the two-State solution.”¹¹⁹ The increasing unfeasibility of a two-state solution has led many observers and analysts, including Dugard, to consider the establishment of a bi-national state or one state on the whole of historic Palestine.¹²⁰

Recent Israeli statements seem to corroborate the fear that the Wall is intended to become the future border between Israel and the West Bank. Minister of Justice Tzipi Livni stated: “the wall is the future border of the state of Israel” and “the [Israeli] High Court of Justice, in its ruling on the fence, is drawing the country’s border.”¹²¹ Furthermore, Israel has recently presented its “disengagement” or “convergence” plan, which calls for a unilateral and limited withdrawal or decolonisation of the West Bank, while Israel will retain all major Jewish settlement blocs as well as major portions of the open (not built-up) Palestinian land in the West Bank.¹²² In this perspective, forcing Palestinian residents to abandon these parts of the occupied Palestinian territories situated on the Western side of the Wall – East Jerusalem and the so-called “closed zone” between the Wall and the Green Line – may be seen as a means of reinforcing future Israeli claims to the areas concerned.

The political developments in the second half of 2006 have further reduced the likelihood that Palestinians will be able to exercise their right to self-determination through a sovereign state in the 1967-occupied territories. Indeed, international and Israeli sanctions against the Palestinian Authority in the wake of Hamas’ election victory are rapidly reversing the earlier state-building efforts and the Israeli government – severely weakened by the outcome of its War in Lebanon – lacks the political power required for the implementation of its “Convergence Plan”. Jewish colonisation of the occupied West Bank will thus continue unhampered while construction of the Wall will proceed. This is a scenario which will leave no territory for the expression of the right self-determination of the Palestinian people in the 1967-occupied part of Palestine.

Redrawing the municipal boundaries of Jerusalem has been at the core of Israel’s policies since 1967. As Dugard observed, “Israel has embarked upon major changes to the character of Jerusalem. In essence, these changes are designed to reduce the number of Palestinians in the city and to increase the Jewish population in the city, thereby undermining the Palestinian claim to East Jerusalem as the capital of an independent Palestinian State. That this is the purpose of the wall in Jerusalem was acknowledged by the Israeli Minister for Jerusalem Affairs, Haim Ramon, on 10 July 2005 when he stated that the route of the wall would make Jerusalem “more Jewish.”¹²³ Although the construction of the Wall in and around Jerusalem is not yet completed, the separation between occupied Palestinian Jerusalem and the rest of the West Bank is already so profound that the Office for the Coordination of Humanitarian Affairs concluded in February 2006 that “the new military order [further restricting access to Jerusalem] combined with the Barrier completion will physically seal off Jerusalem from the West Bank: accessing Jerusalem will become indistinguishable from accessing Israel.”¹²⁴ By increasing the Jewish presence in East Jerusalem and limiting Palestinian access and rights to the city, Israel is implementing a policy of annexation and population transfer, which has severe consequences for the exercise of the fundamental rights of Palestinian individuals, as well as their collective right to self-determination, and the two-state solution.

Belligerent occupation intrinsically frustrates the right to self-determination, and Israel’s measures, including the determination of the route of the Wall, have shown no consideration for the right of self-determination of the Palestinians or for Israel’s obligation to “...promote the realisation of the right of self-determination...”¹²⁵ The International Court of Justice considered “that the construction of the wall and its associated regime create a “fait accompli” on the ground that could well

119 *Report of the Special Rapporteur of the Commission on Human Rights, John Dugard, on the Situation of Human Rights in the Palestinian Territories Occupied since 1967*, supra 5, p. 5, para. 2.

120 *Ibid.* p. 29, para. 39.

121 Yuval Yoaz, “Justice Minister: West Bank Fence is Israel’s Future Border”, *Ha’aretz*, 1 December 2005.

122 The ‘Revised Disengagement Plan’, concluded without the cooperation of the Palestinians, but rather in coordination with the United States – what has now come to be termed the “American trusteeship” – definitely eliminates the right of return of the Palestinians while allowing for the annexation of Palestinian land and Israel’s main settlements inside Israel. The possibility that some settlements may not be removed in a hypothetical peace agreement has been conceded by the United States and implicitly by the European Union, who have supported the Disengagement Plan. See “Ariel Sharon and George W. Bush’s letters in full,” *Haaretz*, 7 April 2004. Available at: <http://www.haaretz.com/hasen/pages/ShArt.jhtml?itemNo=415475&contrassID=2&subContrassID=1&sbSubContrassID=0&listSrc=Y>

123 *Report of the Special Rapporteur of the Commission on Human Rights, John Dugard, on the Situation of Human Rights in the Palestinian Territories Occupied since 1967*, supra 5, p. 13, para. 31.

124 OCHA, *Access to Jerusalem – New Military Order Limits West Bank Palestinian Access*, supra 6, p.3.

125 ICCPR and ICESCR, supra 36, Article 1(3).

become permanent, in which case ... it would be tantamount to *de facto* annexation.” The Wall and its associated regime, the Court has declared, is thus illegal and undermines the right to self-determination of the Palestinians, and therefore requires Members of the United Nations not to recognise the “...forcible action which deprives peoples ...of their right to self-determination.”¹²⁶ The Court also insisted on the fact that the violation of the right to self-determination, which is a right *erga omnes*, entails certain obligations for States, which should “promote, through joint and separate action, realisation of the principle of equal rights and self-determination of peoples...”¹²⁷



Jahalin Bedouin facing displacement and living near the Jewish colonies of Qedar and Ma'ale Adumim, August 2006. © Anne Paq.

3. Responsibility to assist and protect

National and international actors have a responsibility to assist and protect internally displaced and an obligation to prevent forced displacement. Indeed, “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.”¹²⁸ More precisely, everyone has “the right to be protected against being arbitrarily displaced from his or her home, land or place of habitual residence.”¹²⁹

a) National responsibility to assist and protect

Assistance and protection for internally displaced persons follows principles of international human rights law, including refugee law, and humanitarian law. Instruments and mechanisms, however, are not as strong as those applicable to refugees, mainly because the responsibility to assist and protect internally displaced persons lies first and foremost with the competent authorities of the state in which displacement is occurring. Indeed, the Deng Principles stipulate that “national authorities have the primary duty and responsibility to provide protection and humanitarian assistance to

126 See ICJ, *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, supra 17, paras. 87-88.

127 Ibid. para. 156.

128 Deng Principles, supra 14. Principle 5.

129 United Nations Principles on Housing and Property Restitution for Refugees and Displaced Persons (Pinheiro Principles), Commission on Human Rights, Sub-Commission on the Promotion and Protection of Human Rights, Fifty-sixth session, E/CN.4/Sub.2/2005/17 (28 June 2005), Principle 5.

internally displaced persons within their jurisdiction.”¹³⁰ In this context, a number of issues arise regarding Israel’s and the Palestinian Authority’s obligations and role in assisting and protecting Palestinians IDPs.

First, the Deng Principles mean that Israel, the occupying and displacement-generating power, is the primary “competent authority” obligated to protect and assist Palestinians in the occupied Palestinian territories; it is responsible for the wellbeing of the protected population. Indeed, “the Party to the conflict in whose hands protected persons may be, is responsible for the treatment accorded to them by its agents, irrespective of any individual responsibility which may be incurred.”¹³¹ This gives rise to a set of fundamentally contradictory roles. This contradiction, however, is not particular to the case of Israel; it is inherent in the current protection regime applicable to internally displaced persons and a challenge to be tackled also in other countries and IDP situations.¹³²

Moreover, although internally displaced persons are entitled to request humanitarian assistance and protection from an occupying power, it is doubtful whether displaced persons, including Palestinian IDPs, would want to receive help from the same authorities responsible for their displacement.

Finally, a third and major challenge arises from the fact that Israel, as the displacement-generating state, is under the dual obligation to both assist and protect internally displaced persons during displacement, and to put an end to the measures generating arbitrary displacement. The argument that it is Israel’s primary obligation to end and remedy the illegal displacement generating situation was adopted by the ICJ in its ruling on the Wall and its associated regime. The Court affirmed the right to return and restitution of Palestinians displaced by the Wall and its regime; it called upon Israel to cease construction of the Wall and dismantle the sections already built. It further requested Israel to make reparations for the damage caused by its unlawful act, through restitution of properties to their lawful owners and through the payment of compensation for property damaged or destroyed. Israel was also called upon to annul all related legal acts pertaining to the administrative regime established.¹³³

Given the weak and non-binding character of the current regime available for assistance and protection of internally displaced persons and the unwillingness of Israel to search for a durable solution and provide reparation, the bulk of the burden – or the “collective responsibility to protect” – thus falls on the international community. In this regard, competent authorities, including Israel, have a duty to cooperate with international and regional organisations.¹³⁴

b) International responsibility to assist and protect

The Deng Principles recognise the right of “international humanitarian organisations and other appropriate actors ... to offer their services in support of the internally displaced” based on “the protection needs and human rights of internally displaced persons...”¹³⁵ International response should ensure the right to equality, life, dignity, liberty, security, mental and moral integrity, as well as the right to an adequate standard of living, family life, recognition before the law and education. It can involve having to set up “early warning systems, negotiate access with governments [and] deploy staff among threatened communities...”¹³⁶ Minimum assistance should ensure that internally displaced persons have access to (a) Essential food and potable water; (b) Basic shelter and housing; (c) Appropriate clothing; and (d) Essential medical services and sanitation.¹³⁷

130 Deng Principles, supra 14. Principle 3.

131 IV Geneva Convention, supra 55. Article 29. “Protected persons are entitled, in all circumstances, to respect for their persons, their honour, their family rights, their religious convictions and practices, and their manners and customs. They shall at all times be humanely treated, and shall be protected especially against all acts of violence or threats thereof and against insults and public curiosity.” IV Geneva Convention, *ibid.* Article 27.

132 The fundamental contradiction lies in the fact that the competent authorities (i.e. Israel) are unwilling to assist and protect civilians and thus prevent or mitigate forced displacement by raising national awareness, collect data on the numbers, locations and conditions of the displaced, facilitate access to populations at risk as well as adopt laws and policies to protect the displaced, designate institutional focal point for coordination within the government and local and international partners and finally, allocate resources from the budget for the displaced and find a durable solution based on voluntary return, restitution and compensation. *Addressing Internal Displacement: A Framework for National Responsibility*, (Brookings Institution-University of Bern Project on Internal Displacement, April 2005) cited in UN High Commissioner for Refugees, *The State of the World’s Refugees 2005* (Geneva: UNHCR, 2006), chapter 7, p. 161.

133 See ICJ, *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, supra 17, paras. 151 and 153.

134 *Addressing Internal Displacement: A Framework for National Responsibility*, supra 132, p. 161.

135 Deng Principles, supra 31. Principle 27.

136 *The State of the World’s Refugees 2005*, supra 132, p. 169.

137 Deng Principles, supra 31. Principle 18.

Of equal importance is protection, namely, “activities aimed at obtaining full respect for the rights of the individual,” particularly the search for durable solutions to the situations of internal forced displacement (see section IV below). The international response, through assistance and/or protection, should also address the root causes of conflict-induced displacement.

Unlike in the case of refugees, no single UN agency is currently mandated to assist and protect internally displaced persons.¹³⁸ An international mechanism launched in 2002, the Collaborative Response to situations of internal displacement, aims to provide a coordinated response by all agencies to the assistance and protection needs of displaced persons. Most UN Agencies such as UNHCR, OCHA and UNICEF are involved as well as the International Committee of the Red Cross (ICRC) and the International Organisation for Migration (IOM). The overall coordinator at headquarters or ‘focal point’ at the UN level is the Emergency Relief Coordinator, Jan Egeland, who heads OCHA and the Resident/Humanitarian Coordinator in the field. The Representative of the Secretary-General on the Human Rights of Internally Displaced Persons, Walter Kälin, is the main ‘advocate’ for the internally displaced.

In addition, the Inter-Agency Internal Displacement Division within OCHA has been established to promote a predictable and concerted response and assist country teams in the field to develop a clear action plan. The action plan, based on the Collaborative Response, puts protection as a core objective: all UN agencies with a protection mandate¹³⁹ should pursue activities reinforcing the protection of IDPs’ fundamental rights and work with the Country Team to monitor, report, manage information and advocate with the authorities. The Collaborative Response, however, has so far produced modest results and failed to meet expectations mainly because “UN agencies regularly resist coordination and that there is no real centre of responsibility for the displaced in the field.”¹⁴⁰ A new ‘cluster’ or ‘sectoral’ approach has been developed to clarify roles, whereas each agency has a specific area of responsibility for IDPs based on their expertise (e.g. protection, camp coordination and management, emergency shelter, nutrition, water and sanitation). It remains to be seen whether it will be able to improve implementation of the Collaborative Response.

At present, there is no clearly defined international response to internal displacement in the occupied Palestinian territories. Recently, however, and for the first time, a Humanitarian Coordinator was appointed by OCHA. Based on its mandate, the Coordinator can develop an action plan and coordinate response to situations of internal displacement in the field. Although UNHCR does not operate in the occupied Palestinian territories, the ICRC, the Office of the High Commissioner for Human Rights (OHCHR) and/or UNICEF could take the lead protection role, including human rights monitoring and advocacy activities for displaced persons and those vulnerable to displacement. OCHA can help in facilitating access to IDPs or vulnerable groups, collect, analyse and disseminate information regarding internally displaced and vulnerable groups, and more generally, ensure the inclusion of IDP concerns. UNICEF, the World Food Programme (WFP) and the World Health Organisation (WHO) can provide for the special needs of children such as education and ensure food assistance, nutrition and health programmes. For its part, UNRWA can continue and improve assistance to displaced refugees. International and local non-governmental organisations should also participate by collecting and disseminating information, providing humanitarian assistance and advocating for the rights of the displaced and communities vulnerable to displacement. A working group and an action plan should

138 Although at the international level, UNHCR is the mandated UN Agency to provide assistance and protection to refugees, and most recently to IDPs, this is not the case for Palestinian refugees and IDPs. A special regime was created for Palestinian refugees in 1948-1949 whereby the UN Conciliation Commission for Palestine (UNCCP) had a mandate to provide protection and UNRWA had a mandate to provide assistance. The UNCCP however was unable to fulfil its mandate and ceased to operate in the mid-1950s. Since, then, Palestinian refugees have not been receiving protection from a UN Agency. Only a small number of Palestinian refugees outside UNRWA’s area of operations and which are of concern to the UNHCR are being provided a limited form of protection (i.e. not including the search for durable solutions). Since UNHCR does not operate in UNRWA’s areas of operations and is according to the cluster-led approach the Agency responsible for providing protection to IDPs, Palestinian IDPs are also not receiving any form of protection (See also Chapter I).

139 Only two agencies have a specific legal mandate to carry out protection work, the UNHCR at the UN level and the ICRC. See *The State of the World’s Refugees 2005*, supra 132, p. 169.

140 See S. Bagshaw and D. Paul, *Protect or Neglect*, p. 4 and R. Cohen, “UNHCR: Expanding its Role with IDPs”, *Forced Migration Review*, Supplement, October 2005, p. 10 cited in *The State of the World’s Refugees 2005*, supra 132, p. 169. “Despite agreements on putting the Collaborative Approach into practice, the results failed to match expectations, marked as they were with large gaps in delivery of essential goods and services combined with some areas of duplication, and an ad hoc approach by the system as a whole to the level and comprehensiveness of response. In 2003, an IDP protection survey and response matrix found that there were systematic gaps in protection and some other sectors, that agencies took unilateral and mandate-based decisions on their involvement and lacked accountability, and that Humanitarian Coordinators were not clear on their responsibilities or accountability to assess and coordinate a comprehensive response.” UNHCR, *UNHCR’s Role in IASC Humanitarian Reform Initiatives and in the Strengthening of the Inter-Agency Collaborative Response to Internally Displaced Situations*, Discussion Paper, 20 September 2005, p. 1.



Jahalin Bedouin facing displacement and living near the Jewish colonies of Qedar and Ma'ale Adumim, August 2006. © Anne Paq.

be developed in order to share responsibilities and better utilise available resources and expertise in responding to the assistance and protection needs of displaced persons and those at risk of displacement.

4. Durable solutions for internally displaced persons

Internally displaced persons as a result of the Wall and its regime are a relatively new category of displaced persons in the occupied Palestinian territories. Still, the existing international legal instruments and mechanisms are applicable and should be used for the promotion of durable solutions for Palestinian IDPs.

The Deng Principles reiterate principles well-known in human rights and refugee law, namely the duty of competent authorities “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.”¹⁴¹ In line also with international practice, internally displaced persons should fully participate “in the planning and management of their return or resettlement and reintegration.”¹⁴² A participatory, voluntary, well-informed and individual choice to return of the displaced is the most favoured durable solutions.

The Deng Principles also consider reparation as core to the rights of internally displaced persons, “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.”¹⁴³

The 2005 Principles on Housing and Property Restitution for Refugees and Displaced Persons (Pinheiro Principles) stipulate that the rights to housing, land and property restitution are essential elements of conflict resolution, peace-building and restorative justice; the successful implementation of housing, land and property restitution programmes can deter future situations of displacement. Restitution is thus the preferred remedy to dispossession and displacement caused by violation of international humanitarian law.¹⁴⁴

Based on the “collective responsibility to protect,” the international community is under an obligation to protect internally displaced Palestinians, and it is primarily obligated to promote durable solutions. The Pinheiro Principles affirm that the international community has a responsibility to “promote and protect their right to housing, land and property restitution, as well as the right to voluntary return in safety and dignity.”¹⁴⁵

The duty of states and the international community to promote durable solutions for Palestinians displaced and dispossessed as a result of the Wall and its associated regime was explicitly affirmed by the International Court of Justice. It called upon states “... not to render aid or assistance in maintaining the situation created by such construction. It is also for all States, while respecting the United Nations Charter and international law, to see to it that any impediment, resulting from the construction of the wall, to the exercise by the Palestinian people of its right to self-determination is brought to an end.”¹⁴⁶ The Court finally requested the General Assembly and the Security Council to “...consider what further *action* is required *to bring to an end* the illegal situation...”¹⁴⁷ The General Assembly subsequently called on the Secretary-General of the United Nations to establish a register of damage; however, little progress has since been made.¹⁴⁸

141 Deng Principles, supra 31. Principle 28.

142 Ibid.

143 Ibid. Principle 29.

144 Pinheiro Principles, supra 129. Principle 2.

145 Ibid. Principle 22.

146 ICJ, *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, supra 17, para 159.

147 [Emphasis added] Ibid, para 163 (3)(E).

148 UNGA resolution 10/15 (2004).