Residency Rights in the Territories Administered by
the Palestinian National Authority

A Preliminary Report

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MORE INFORMATION ON PALESTINIAN RESIDENCY & FAMILY REUNIFICATION

Memorandum on Family Reunification & Related Residency Issues in East Jerusalem
A joint statement by al-Haq, AIC, PHRIC, and Dr. Haider Abdel Shafi which was submitted to the Palestinian delegation. Available in English and Arabic, January 1994, $2 US/2NIS.

Punished Twice - Punished Collectively
A report on the persistent Israeli denial of family reunification to wives of Jerusalem ex-political prisoners. Available in English, February 1994, $3 US/5 NIS.

Guidelines for Palestinians Who Wish to Reside in the West Bank, Gaza Strip, or Jerusalem

Orders should be made by sending a cheque or international money order (in SUS or equivalent amount in your local currency) made payable to the Alternative Information Center, POB 31417, Jerusalem. All prices include postage and handling.

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Introduction

The political situation created by the Oslo Declaration of Principles was defined by the agreement as a transitional period. Transitions are always problematic, both in terms of definition and practice.

A few outstanding factors reflect the practical problems resulting from the DOP:

- An intentional ambiguity exists concerning the source of authority during the transitional period, which creates, in many fields, grey areas concerning “who is in charge” and has the final say.

- Divergences exist between the Israeli government and the Palestinian National Authority concerning the interpretation and practical implications of the various agreements.

- There are several different transitional periods between the pre-Oslo era and the final status: Gaza-Jericho, IDF redeployment, Palestinian self-government throughout the Occupied Territories. All these transitions, and the practical problems associated with them, also exist concerning residency issues. According to the spirit of the DOP, residency issues in the territories administered by the PNA were supposed to be under the jurisdiction of the Palestinian authority, while control over entry permits to those territories was to remain in Israeli hands. However, the Cairo “implementation” agreements created a completely different reality, whereby the State of Israel maintains total control over residency issues, including that of identity cards. Is this another transition or, like in many other instances, a re-interpretation of the DOP, limiting the PNA’s power?

In the pre-Oslo multilateral negotiations, a few minor steps were achieved in the realm of residency and family reunification. What is the status of these gains following the opening of direct talks with the PLO, and is it possible that everything will be reopened for negotiation. On the ground, it appears that the policy stated in the multilateral negotiations remains valid, but may still come into contradiction with the DOP Article XII, which deals with the right of Palestinians displaced in 1967 to return to the Palestinian administered areas; has this article’s implementation only been postponed, or has it fallen into the cracks between Oslo and Cairo?

The role of organizations and individuals dealing with human rights in general, and residency rights in particular, has been greatly complicated, because they must now deal with:

- Two administrations, instead of one;

- Bilateral agreements, which may contradict both international law and human rights standards, in addition to the existing rules, regulations and policies.

These complications have, in fact, worsened the situation of tens of thousands of Palestinians who, one year ago, had big hopes that the DOP would indeed improve their situation, if not resolve it completely.

The role of human rights organizations is definitely not to replace the partners in the negotiation process. However, they should not accept procedures and policies that contradict basic human rights standards, only because they were agreed upon in the bilateral negotiations.
As both an information center, and as a project dealing with residency issues, our first duty is to collect as much of the available data as possible in order to understand, and to make understood, the new procedures and regulations resulting from the Palestinian-Israeli negotiations, as well as the new problems stemming from the current situation. Only by means of such information are we able to arrive at the most suitable ways of attempting to resolve the many problems concerning family reunification, residency rights and refugees, but also to launch the necessary public campaigns to generate a substantial change in policy that will, in turn, usher in a new era in which Palestinians can fully exercise their rights to residency in their homeland.

Between June and October 1994, the Alternative Information Center’s Project for Palestinian Residency and Refugee Rights undertook five fact-finding missions to the PNA-administered territories in Gaza and Jericho. The missions were comprised of the projects legal advisors, a special team of experts on Palestinian residency rights, and was led by PPRR Coordinator Ingrid Jaradat-Gassner.

With the full cooperation of PNA and UNRWA officials, as well as local human rights organizations and lawyers, the missions succeeded in drawing an overall picture of the new situation and its many related problems.

A first draft of this report was submitted to the coalition of human rights organizations and lawyers on family reunification. It was intended to be the first part of a more comprehensive study dealing with, in addition to residency issues, the problem of refugees in the PNA-administered areas and the issue of 1967-displaced Palestinians.

However, the urgency of residency and family reunification issues in the PNA-administered areas, and the lack of fundamental information concerning these problems, prompted the early publication of this part of the report even before the overall study is completed.

This preliminary report is aimed at serving the Palestinian residents of the PNA-administered areas and their relatives, as well as the human rights institutions and lawyers dealing with residency issues. Our hope is that it will also inspire further studies on more specific topics, that will include concrete strategies on promoting this crucial issue.

Michael Warschawski
AIC Director
Palestinian Residency Rights in the PNA-Administered Territories

Note: All facts presented in this report are based on information provided by the heads of the PNA-Liaison Committees for Civil Affairs in Gaza and Jericho and by representatives of independent human rights organizations during five AIC fact-finding missions held between July and October 1994. [See list of contacts at the end of the report.]

Part I

The New Framework Created by the Agreements between the PLO and Israel (Selected Aspects)

Border Crossings

Based on the DOP and the Cairo Agreement, Israel remains responsible for matters of external security (border control). Both Israeli and Palestinian personnel handle travelers at border crossings. The Palestinian border section is authorized to deal with travelers from and to the PNA-administered territories, the Israeli section with all others, including Palestinians from the rest of the Occupied Territories. In any case, the final decision concerning permission/denial of entry rests with the Israeli security officers. On October 31, 1994, the Palestinian section at the Rafah and Allenby border crossings started to operate.

Free Passage between Gaza and Jericho

Annex II to the DOP provides for the "safe passage ... between the Gaza Strip and the Jericho area." No such
passage has been provided by Israel to the residents of either area until now. Thus local residents wishing to travel between both areas must first obtain entry permits to Israel.

Israel Denies Responsibility for the Well-Being of the Local Population

Since the May 17 takeover by the PNA in Gaza and Jericho, Israel has refused to accept its responsibility for the well-being of the local residents. As in the past, collective punishment by means of total military closures has been justified with "security reasons"; however, the Israeli authorities now claim that they can no longer be held accountable for the closure's devastating economic effects.

The Palestinian Liaison Committee for Civil Affairs (PLCCA)

Based on the DOP, the Israeli authorities transferred the handling of civil affairs (public services, town planning, population registration, etc.) in Gaza and Jericho to the PNA. Civil affairs issues which must be solved in cooperation with the Israeli side (e.g. entry and exit of local residents, population registration, family reunification, legal claims towards Israelis) are to be handled jointly by the Israeli and Palestinian Liaison Committees for Civil Affairs. The final decision making power, however, remains with the Israeli side.

On May 17, the day of the partial Israeli withdrawal, the Palestinian Liaison Committee for Civil Affairs (PLCCA) started to operate in the new "self-rule areas." The PLCCA-Jericho and the PLCCA-Gaza are part of the Palestinian Interior Ministry, whose headquarters is in Gaza. Its offices are located in the interior ministries (at the site of the former Israeli civil administrations), and its officers convene regular work meetings with their Israeli counterparts (ILCCA) at the Erez checkpoint in Gaza, and at the Israeli checkpoint on the road from Jerusalem to Jericho.

Members of the PLCCA are civilians, local businessmen and lawyers who are familiar with the situation on the ground, and most of them speak Hebrew (in contrast to the Palestinian Liaison Committee for Military Affairs whose members are all military officers who recently returned from outside).

Basically, the PLCCA functions as a messenger between the local population Israeli authorities: applications, requests, and complaints are collected and handed to the ILCCA at the checkpoints. One week later the PLCCA comes to receive the answers and to negotiate about requests denied. Both the PLCCA and independent lawyers in the PNA-administered areas may address the Israeli authorities only via the ILCCA. There is no other means of redress (except for taking disputed issues to Nabil Sha' th, head of the Palestinian negotiating team).

Tasks handled by the PLCCA:
- work permits in Israel (workers, traders, merchants)
- student permits for entering Israel in order to study in Jerusalem/West Bank
- individual entry permits to Israel/East Jerusalem
- solving problems related to import and export of goods to and from Israel
- exit permits for residents
- visit permits for relatives of local residents
- visit permits for relatives of PNA personnel and police force
- Israel-issued ID cards for PNA personnel, police force and their families
- family reunification
- "lost IDs" - i.e. those revoked by Israeli authorities
- birth and death registration

Part II

New PNA/PLCCA Procedures Regarding Residency Rights

1) Israel-issued ID cards for PNA personnel and police force: PLO-prepared lists of names of PNA personnel and policemen were checked by the Israeli side; those approved received a special entry visa carrying their future ID number at the border crossing. These PNA workers, once in the country, must submit an application for an ID card at the PLCCA. These ID cards are issued by Beit El, the civil administration headquarters, and are colored green, carry a special identification number, and do not authorize the bearer to enter Israeli territory (except for a number of high-ranking officers and functionaries). Although not all personnel have yet obtained such ID cards, no major problems have been reported.

2) Visit permits for relatives of PNA personnel and police force: Once a PNA official or policeman is in the country, he may apply for a visit permit for his family ("first degree" only, including sons born in 1972 or before and unmarried daughters regardless of age). Although obtaining these visit permits is a lengthy procedure (in Gaza at the end of July, two-thirds of applicants were still waiting for their families; in Jericho as of October 6, two-thirds of the families had not arrived), progress seems steady (by October 29, most of the relatives had arrived in Gaza). Moreover, entering relatives are reportedly treated politely at the borders, and are permitted to bring household equipment.

3) The PNA is currently planning to issue new Palestinian ID cards (with "Passport" written in Arabic, and "Travel Document" in Hebrew and English) to the whole population living in the PNA-administered territories. Such a model for the documents exist, and it will be printed in Germany. However, even this new Palestinian "passport" will be a temporary one, and it will carry the same Israeli serial number, because Israel will continue to control matters of population registration during the interim period.

The distribution of this "passport" will follow a census conducted by the Gaza Interior Ministry which has been delayed, because Israel has not implemented its withdrawal from the rest of the occupied territories defined in the DOP.

4) Registration of births and deaths: Residents file their applications for certificates with the PLCCA, they are processed by the ILCCA, and certificates are handed to the applicants via the PLCCA. In the case of child registration, identification numbers listed on the birth certificates are the usual Israel-issued serial numbers.

5) Visit permits for relatives of local residents living abroad: Residents submit their applications at the PLCCA ("first degree" relatives and minor children only). Israel provides answers after two to three weeks. Visit permits granted by the Israeli side are valid for 90 days, and the PNA
is authorized to renew them once for four additional months. Until now, none of these visit permits have expired. The price of a visit permit has been reduced to 25% of the old price and amounts to NIS 100. PNA-regulations provide that NIS 10 must be paid when an application is submitted, the rest upon receipt. These instructions, however, are apparently not being implemented in Jericho (see Point 3, Part IV).

No serious problems with visit permits have been reported in Gaza: 35,000 applications were received between May 17 and October 29, 1994, and only a small proportion (150-200) were refused. Applications from Jericho, however, are apparently handled less favorably by the Israeli authorities (see Point 8, Part III).

Currently, the PNA is working to establish a new procedure for visit permits: visitors will apply at the PNA representatives abroad, the applications will be sent to the PLCCA-Gaza, then processed by the Israelis, after which the visa will be deposited at the border where the visitor will receive it upon arrival.

The implications of the recent agreement between Jordan and Israel on the right of Palestinian citizens of Jordan to come to visit the Occupied Territories are still unclear. Most of the Palestinian refugees in Jordan hold Jordanian passports: will this give them the right to cross the borders as tourists, with visas obtained through travel agencies, and to visit any place (including Jerusalem and inside the State of Israel)? In that case, only Palestinians without a Jordanian passport would have to apply for the traditional visit permit through the PLCCA or PNA offices abroad. Given Israel's ongoing closure of Jerusalem and the Green Line, and its uncompromising stand regarding family reunification and visit permits in Occupied Territories (spouses whose visit permits have expired now face expulsion), such an arrangement seems highly unlikely, and we must expect new, joint Jordanian-Israeli measures for restricting Palestinian entry to the country.

6) Family Reunification for local residents: Initially, the PNA did not appear to recognize the importance of family reunification parallel and complementary to their efforts to achieve the return of the 1967-displaced persons in the political negotiations. Meanwhile, and thanks to the intervention of human rights organizations, the PNA has changed this position: In October 1994, the Palestinian Interior Ministry/PLCCA decided to accept applications for the following family reunification priority categories:
- spouses of residents covered by the 1992 High Court decision and its extensions
- Palestinian refugees from Kuwait (300 cases in Gaza)

In Gaza, the PLCCA has collected several applications, but none of them have been forwarded to the Israeli side. Therefore, information concerning Israeli responses is not yet available.

In Jericho, on the other hand, the PLCCA seems to have collected FR applications since May, contrary to the policy that was declared initially. According to the PLCCA-Jericho, the Israeli side has refused to accept FR applications by local residents, while only taking into consideration those applications submitted by PNA personnel and police force for their relatives.
No information regarding the cost of FR applications was gathered.

7) Family Reunification for PNA-personnel and police force: The Israeli-Palestinian agreements provide for the right of those relatives of PNA workers who enter via visit permits to obtain permanent residency in the PNA-administered areas. Although the formal procedure for obtaining permanent residency is by means of an application for family reunification, these persons are not to be included in the Israeli quota for family reunification granted to local residents.

8) Lost IDs: No information concerning the current procedures regarding lost IDs - IDs which have been revoked by the Israeli authorities from Palestinians who went to study and reside abroad - was collected. It seems that the PNA is counting on the negotiations to solve the problem of this group.

9) PNA revenues from permits (stamps) have remained with the PNA, at least in Gaza. Initially, Israeli stamps, printed by means of local tax money and left over from the former civil administration, were used. In the meantime, new stamps have been printed.

The PLCCA-Jericho, on the other hand, stated that 10% of the money collected in stamps is transferred to the Israeli authorities, while the rest remains with the PNA.

10) Exit permits for local residents: Applications are submitted to the PLCCA, with the majority being approved by the Israeli side. In general, travelling abroad and return-

ing has become easier than before. A problem exists concerning people with "security files" (see Point 6, Part III). An exit permit costs NIS 60 for an adult, and NIS 16 for a minor child.

The PLCCA-Gaza reports a major improvement: Exit permits issued after July 17, 1994 do not have to be renewed after 1 or 3 years. Holders can stay abroad for as long as they wish without losing their residency rights in the PNA administered territories.

Part III

Major Problems of the Population in the PNA Administered Territories - Potential Fields for Human Rights Interventions

1) Unemployment Created by Military Closures: Local Employment capacity is limited. In Gaza, the PNA has become the largest local employer (7,000), followed by UNRWA (5,200). The local population will remain dependent upon income from work inside the State of Israel.

| Total work force in Gaza (1993) | 140,000 |
| Gazans working in Israel         |         |
| Prior to the Intifada            | 70,000  |
| Prior to the Gulf War            | 56,000  |
| Early 1993                       | 35,000  |
| Prior to the 19-10-94 closure    | 25-27,000* |
| 1/11 - 5/11                      | 4,000   |

* the exact number of workers is difficult to specify, because not all the work permits are actually issued for this purpose. On July 24, 14,000 of the 23,000 work permits had been
issued to people requesting entry into Israel for other purposes, e.g. medical treatment, business, visits, etc. (Gaza Center for Human Rights and Law); and numerous holders of work permits do not succeed in entering Israel each day (see Point 2 below).

Jericho work force in Israel has always been comparatively small, and it has further decreased since May 1994: many workers inside Israel could no longer obtain permits, those employed in the ‘Ein Gedi nature reserve were dismissed. As of October 6, 1994, 50-60 workers from Jericho were able to obtain work permits in Israel.

2) Israeli soldiers tearing up work permits at Erez checkpoint: Every morning, Israeli soldiers tear up hundreds of valid work permits, thus preventing the holders from entering Israel.

3) Denial of entry permits to Israel to students studying in the West Bank/Jerusalem: Only a small percentage of the 1,300 Gazan students in institutions of higher education in the West Bank/Jerusalem could obtain entry permits to Israel, as of October 1994. This, despite the fact that the PLCCA-Gaza had already handed their applications to the ILCCA by July. The Israeli side argues that the students to whom permits were denied are affiliated with the Palestinian opposition, and therefore not eligible for permits. Hundreds of Gazan students were forced to interrupt their studies; they will lose precious time needed to complete their education, unless a solution is found rapidly.

None of the Jericho students were issued a permit to enter Jerusalem. Many of those studying in West Bank universi-

ties arrive there illegally, for those studying in Jerusalem this is almost impossible.

4) Difficulty in obtaining one-time entry permits to Israel: While work permits, and permits for traders and merchants, are renewed regularly prior to their expiry, it has become extremely difficult for individuals in Gaza to obtain a one-time entry permit to Jerusalem/West Bank. People are in urgent need of these permits for medical check-ups, visits to embassies, lawyers, urgent family visits, etc. They can obtain a permit only if they present an official invitation by the institution they wish to visit, or by means of a direct application on their behalf submitted by the institution itself.

5) Arbitrary “Saturday Closures” of Gaza by the IDF: During the October 19 - 31 closure of Gaza, entry from Israel to Gaza was permitted for holders of Israeli ID cards or foreign passports. On Saturdays, however, the Israeli soldiers at the Erez checkpoint had orders to prevent the entry of Israeli-licensed vehicles and holders of Israeli and East Jerusalem IDs (except Israeli settlers). Thus Gaza was closed from both sides, probably for reasons of convenience: It is cheaper to reduce Israeli personnel on a Jewish holiday. Whenever the PNA-Gaza tried to negotiate the entry of an important visitor, there simply was nobody present on the Israeli side to negotiate with - only the soldiers who had clear orders to keep people out.

6) Denial of exit permits based on old “security files”: Although traveling and returning has become easier for the residents of the PNA administered territories, a considerable number of exit permits continue to be refused due to “security reasons”. The PLCCA-Gaza holds that this prac-
tice contradicts Israeli-Palestinian agreements, which pro-
vide that old “security records” must no longer be used against local residents.

The PLCCA-Jericho reports that several local residents had their documents torn up at the bridge to Jordan.

7) Israeli refusal to accept applications for family reun-
ification in Jericho: The PLCCA-Jericho reports that it has been trying to hand over applications for family reunifica-
tion to its Israeli partners since May 1994. However, the ILCCA has refused to accept them, except for applications submitted by PNA-personnel and police force.

8) Refusal of visit permits to Jericho: While the PLCCA-
Gaza reports that almost all applications for visit permits have been answered positively, the PLCCA-Jericho reports that an equal number of permits have been granted as have been denied (1,000 granted, 1,000 denied).

9) Non-implementation of positive decisions regarding family reunification in Gaza: Both Lawyers for Human Rights and the PLCCA-Gaza reported in July that the Israeli authorities refused to issue ID cards to persons who had already been granted family reunification, prior to the May 17 handover of authority. (They could not specify whether people had received the positive answer longer than one year ago or not; the problem was not re-confirmed during our second visit in October).

The PLCCA-Jericho had 200 pending applications for family reunification in May 1994; three of them were granted and people were officially informed after the May 17 handover of authority. The rest were either refused or received no answer.

10) Longer waiting periods for answers to applications: Due to the fact that applications for permits are no longer submitted directly to the Israeli authorities, but have to be passed through the PLCCA, the minimum waiting period for any kind of Israel-issued permit is 2-3 weeks in Gaza, and 2-10 days in Jericho.

11) Gaza residents trapped on Egyptian territory:

   a) Canada Camp: Following the Israeli occupation of the Sinai and Gaza in 1967, an extension camp to Rafah RC was built on former Egyptian territory to house some 2,500 refugees whose shelters were demolished by the Israeli authorities when they widened roads for “security purposes.” This new area became known as Canada Camp, named after the Canadian contingent to the UNEF based in the area after 1956. With the redrawing of the international border in 1982, some 5,000 persons were left in Egypt. Under the Israeli-Egyptian agreement, they were to be repatriated to Gaza. However, over the course of 12 years, only 135 of the original 500 households have been permitted to return to the Gaza Strip, with most of them being resettled in the Tel es-Sultan neighborhood of Rafah. In the framework of the multilateral peace negotiations, Canada agreed to provide 4 million Canadian dollars for the repatriation of more than 200 families, but Israel was not willing to accept such a rate of return. As part of a compromise agreement, the Canadian government is currently funding the return of 70 families in 1994.
b) Tens of Gazan families had remained on the Egyptian side of the new Israeli-Egyptian border in 1982, and were consequently not issued Israeli ID cards. Many of them and their children have remained without Israeli documents until now.

12) Palestinian refugees from Kuwait, relatives of Gaza residents: The Palestinian exodus from Kuwait during the Gulf War included hundreds of Gazans. Approximately 300 of them lack personal documents which allow them to stay legally in Jordan or elsewhere. Following pressure by local human rights organizations, the PNA-Gaza adopted their case as a priority issue for immediate family reunification.

Part IV
Additional Problems for Human Rights and Legal Aid Work

1) Absence of legal redress in civil affairs involving the Israeli authorities: The Israeli authorities have upheld that, based on the DOP and the Cairo Agreement, the only body authorized to handle civil affairs involving both sides is the Liaison Committee. Consequently, several Israeli human rights organizations received official notice that they were expected to abstain from intervening on behalf of cases located in the PNA-administered areas. Palestinian lawyers and human rights organizations in these areas, on the other hand, can no longer directly address the Israeli government’s legal advisor. This has rendered matters of human rights in Gaza and Jericho subject to a bargaining process between the members of the two Liaison Committees.

2) Lack of coordination between the Palestinian Liaison Committee and independent human rights organizations: Perhaps due to the heavy work load of the PLCCA, coordination meetings with local human rights organizations have remained few, although the situation has somewhat improved since July 1994. Therefore, human rights experts are frequently not informed about PNA policy decisions and strategies, and it has been impossible to jointly discuss and develop adequate strategies (e.g. PNA-policy concerning family reunification applications). Moreover, important information about previous Israeli decisions cannot be transferred to the PNA/PLCCA by human rights experts (e.g. Until October, the PLCCA-Gaza was not informed about the Israeli decision regarding future quota for family reunification).

The need to establish a regular channel for information exchange and coordination between the PLCCA and independent human rights organizations is obvious.

3) Lack of transparency of policy decisions and instructions within PNA institutions; lack of coordination between PLCCA-Gaza and PLCCA-Jericho: Three AIC fact-finding missions showed that the PLCCA-Gaza and the PLCCA-Jericho differ regarding major issues of policy and procedures:
- While no applications for family reunifications were accepted in Gaza until October 1994, the PLCCA-Jericho has collected residents’ applications since May.
- While the Gaza Interior Ministry requires payment of only NIS 10 for visit permit applications (and NIS 90 following
receipt), Jericho residents pay NIS 100 and receive no refund if their applications are rejected by the Israeli side. While the PLCCA-Jericho states that 10% of the revenue from public services is transferred to the Israeli side, the PLCCA-Gaza says that no such transfer has occurred.

4) Establishment of a new system of favoritism and bribery: Independent human rights organizations in Gaza, and also PLCCA officials in Jericho, mention the fact that permits can be obtained more easily by persons who have good contacts with the new Palestinian establishment and/or via “wasta” (e.g. in Jericho 200-300 of the 1,000 persons who were refused visit permits by the Israeli side received them eventually by means of warsta). Human rights organizations will have to study this new system, which has replaced the old system of collaborators with the Israeli authorities.

Contacts in Gaza and Jericho:

Gaza

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Jericho

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Tens of thousands of Palestinian families have been divided as a result of the wars of 1948 and 1967, and due to the Israeli policy of minimizing the number of Palestinians entitled to live legally in their homeland.

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