

# Exposed Realities

## *Palestinian Residency Rights in the Self Rule Areas Three Years After Partial Israeli Redeployment*

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November 1997

**Acknowledgments:** The AIC-Project for Palestinian Residency & Refugee Rights would like to thank all those who contributed to this report: clients of our legal aid program, al-Haq, Hotline, Quakers' Legal Information Center, ACRI and B'tselem for their productive cooperation, the Bethlehem Interior Ministry of the PA and the PA Civil Affairs Committee for their valuable information. We also thank the Danish Refugee Council, the European Commission, and CRIC/Italy for their financial support of AIC-PPRRR publications.

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## **INTRODUCTION**

This report is an effort to shed light on the situation of Palestinian residency rights in the West Bank and Gaza Strip three years after the partial Israeli redeployment from the areas designated for Palestinian self rule. It aims at presenting a comprehensive picture of the new institutional set-up involving both Israeli and Palestinian authorities and their respective decision making powers. It discusses the major problems, some of which are a direct inheritance of the old Israeli occupation system, others newly created by the Israeli-Palestinian agreements. The final section includes a list of recommendations to Palestinian and international policy makers, as well as human rights activists.

A report of this kind is overdue. No systematic effort at evaluating the legal status of Palestinians in the self rule areas has been made. Local and international media have been reporting misleading and contradictory news, and the Palestinian public has remained confused. We sincerely hope that this report will contribute to a better understanding of an issue which is vital for the Palestinian people who, for fifty years, has been struggling to remain in its homeland. We also hope that our report will enable human rights activists, researchers, policy makers and journalists to work towards the formulation of new strategies for the protection of Palestinian residency rights in the 1967 occupied Palestinian lands. Old strategies of legal assistance and public pressure used by human rights organizations until the hand-over of civil affairs to the Palestinian Authority in 1994 are no longer valid. A new concerted effort for encountering the deterioration of Palestinian residency rights in the West Bank and Gaza Strip remains yet to be made.

We would like to point out, that this report does not discuss Palestinian residency rights in 1967 occupied East Jerusalem. This is because Israel's occupation policy has succeeded in further splitting up the Palestinian people by excluding residents of East Jerusalem from the new framework created by the Oslo Accords. Palestinian residents of Jerusalem are subject of the ongoing Israeli occupation and annexation policies. Thus, their situation has become so different from the rest of the 1967 occupied Palestinian territories that inclusion of this subject in this report would have unnecessarily complicated the presentation of affairs.[\(1\)](#)

## **Chapter 1: THE INSTITUTIONAL FRAMEWORK**

Based on the Declaration of Principles (DOP) signed by Israel and the PLO on 13 September 1993, the handling of civil affairs was transferred from the Israeli authorities (Military Government/Civil Administration) to the Palestinian Authority (PA) in May 1994. While the DOP was still open to interpretations implying that significant decision making power over Palestinian civil affairs would be given to the new PA in the interim period, the consequent Cairo Agreement (4 May 1994) did away with all ambiguity and established clearly that Israel would maintain ultimate control over all major issues, including those pertaining to Palestinian residency rights in the areas administered by the PA. Thus, during the interim period and until resolved otherwise in the final status negotiations, matters of population registration, entry to and exit from the PA areas by both local residents and foreign nationals, family reunification, etc., were to be handled jointly by the Israeli District Coordination Office (DCO) and the Civil Affairs Committee of the PA (CAC). The final decision making power in all these matters was to remain with the Israeli side.

The institutional framework, first set up in the Gaza Strip and Jericho after the partial Israeli redeployment there in 1994, has since been replicated in the remainder of the West Bank.

On 17 May 1994, the day of the Israeli redeployment from the Gaza Strip and the West Bank town of Jericho, the Civil Affairs Committee (CAC) started to operate in the Palestinian self-rule areas. The CAC and the Palestinian Interior Ministry inherited\_ the offices of the former Israeli

interior ministry in the 1967 occupied territories, i.e. the compounds of the Israeli Civil Administration, a branch of the Israeli military government. The old Israeli Civil Administration offices, on the other hand, did not cease to exist, but were renamed to District Coordination Office (DCO) and removed from Palestinian population centers (Areas A) to new sites located in Area C, i.e. areas which would remain under Israeli control in the interim period. Palestinian liaison officers of the CAC began meeting on a regular basis with their Israeli counterparts of the DCO, usually at the DCO offices (e.g. Erez checkpoint/Gaza, Gush Ezion settlement block/Bethlehem).

The headquarters of the CAC, i.e. the Ministry of Civil Affairs of the PA headed by Jamil Tarifi, is located in Ramallah. The CAC functions as an intermediary between the Palestinian population, other PA ministries, and the Israeli authorities. Through other PA ministries, especially the Ministry of Interior, the CAC collects applications, requests and complaints and transfers them to the DCO. Later on, CAC liaison officers come to receive the Israeli answers and may negotiate requests not granted. Based on this mechanism, the CAC has become the only legitimate channel for raising Palestinian residency matters to the Israeli side. It replaced all former channels of direct intervention to Israeli decision makers and Israeli courts by residents, lawyers, and human rights activists.

In the field of residency, the CAC has the following designated tasks:

- Permits for work in Israel (for workers, traders, businessmen);
- Permits for crossing Israel to reach educational institutions in the West Bank (students from Gaza); Permits for entering Israel or East Jerusalem (for visits to lawyers, physicians, etc.);
- Exit permits for residents of the PA areas whenever Israel refuses to issue a permission for travel; Visitor's permits for relatives of residents in the PA areas;
- Entry permits for PA personnel, police force, investors and their families;
- Israel-issued ID cards for PA personnel, police force, and their families;
- Family Reunification;
- Lost ID cards, i.e. ID cards revoked by the Israeli authorities before 1994;
- Matters pertaining to population registrations (e.g. new, PA-issued ID cards for residents in the PA areas, registration of births and deaths, PA population census);

### **Core Problems**

Implementation and the practical division of tasks revealed themselves to be much more complicated and confusing than suggested by the text of the political agreements. The result is a series of severe problems - inherent in the new system - which have since prevented Palestinians from realizing their rights as residents of the 1967 occupied Palestinian territories, even within the narrow margins of the Oslo Accords. The problems listed below have obstructed Palestinian access to all those dimensions of residency rights discussed in the body of this report:

a) **Long Waiting Periods:** The involvement of three parties (applicant - PA/CAC - Israeli DCO), restrictions on movement, bureaucratic and red-tape awkwardness, as well as frequent interruptions of Israeli-Palestinian coordination have led to a situation where Palestinian applicants are left waiting for extended periods of time (weeks and months), even for simple requests (i.e. a visitor's permit for a relative).

b) **Proneness to Abuse by the Politically Powerful Side:** Since the functioning of the new institutional set-up for civil affairs in the PA areas is totally dependent upon the progress and functioning of the broader political process (peace process) between Israel and the PLO/PA, set-backs on the higher levels have an immediate and detrimental effect on the daily handling of Palestinian residency matters. Thus, for example, the breakdown of the political negotiations and

meetings between the two sides since March 1996 has led to a situation where Palestinian requests requiring Israeli approval (visitor's permits, family reunification) have remained unattended.

c) **Lack of Legal Redress:** Both the Palestinian and the Israeli authorities have upheld that - based on the agreements (1993 DOP, 1994 Cairo, 1995 Taba) - the Israeli-Palestinian liaison committees meeting at the DCO offices are the only body authorized to handle civil affairs. Therefore, human rights organizations and lawyers find themselves confronted with a situation where they can no longer represent their clients by legal means. Several Palestinian and Israeli human rights organizations received official notice from the Israeli military governor's office at Beit El, informing them that they were expected to abstain from intervening on behalf of cases from the PA areas. In most cases, Israeli authorities and courts refuse to accept appeals on behalf of their clients, arguing that - based on the political agreements with the PLO - all petitions by Palestinian residents must be channeled through the CAC and the DCO.

d) **Overlapping Legislation:** The situation is exacerbated by the fact that approximately all of the 1,200 Israeli military orders issued in the occupied territories between 1967 and 1993 have not been canceled. They continue to apply parallel to the provisions of the political agreements.

e) **Lack of Public Information:** Following the Israeli redeployment, the population was confused and had difficulty finding the Palestinian or Israeli offices which would actually handle their requests. The Israeli DCO continued to handle some types of requests, (e.g. entry permits to Israel), others had to be submitted first to the PA Interior Ministry, and others directly to the CAC offices. Persons living in areas B or C would sometimes succeed in filing their applications with the local Palestinian offices. At other times, the Israeli side would refuse to receive their applications via the PA-CAC and demand they be submitted directly to the Israeli DCO. PA information issued for the broad public and aiming to clarify the new procedures and policies remains scarce.

f) **Lack of coordination between the CAC and independent human rights organizations:** The CAC continues to be reluctant to inform human rights organizations of PA policies and strategies. Moreover, important information about - and experience with - Israeli decisions and policies prior to the establishment of the PA could not be transferred to the PA-CAC by human rights experts.

g) **Nepotism and Bribery:** The awkwardness of the new system, the long waiting periods involved, and the practical breakdown of Israeli-Palestinian coordination since March 1996, all encourage people to seek alternative channels to obtain vital permits. Thus, persons with good relations with staff of PA ministries or in other influential positions may get the needed permit following the intervention of their contact. Also, persons who are able and willing to pay money to mediators who can make things go smoothly have a good chance of obtaining what they need. It seems obvious that nepotism and bribery cannot be fought effectively, unless an efficient option for channeling requests through the official system can be guaranteed.

### The Stamp Dispute

The lack of clarity and detail characteristic of interpreting Palestinian-Israeli agreements, resulted, among others, in the so-called Palestinian-Israeli stamp dispute. This conflict paralyzed the new PA Interior Ministry offices in the early months of their operation, i.e. from December 1995 until the spring of 1996. The conflict started when it appeared that the PA Interior Ministry was not yet technically prepared to process official

forms and documents. So, as in the past, they had to be processed by Israel. Therefore, the Israeli side argued that it would have the right to demand the same fees as in the past, while the PA-Interior Ministry demanded to set fees considerably lower than the old, Israeli fees. Israeli and Palestinian officials could not find an agreement. The dispute led to the breakdown of services at the offices of the PA Interior Ministry. Applications for family reunification could not be submitted. Parents could not register their new-born children, and more than 10,000 ID cards could not be issued in time. The stamp dispute was finally resolved in spring of 1996, when the Palestinian side accepted the higher fees as demanded by Israel.

## **Chapter 2: ISSUES OF THE INTERM PERIOD-AGREEMENTS AND IMPLEMENTATION**

### **1. Becoming a Permanent Resident via Family Reunification**

The issue of family reunification (FR) was not mentioned explicitly in either the Oslo Accords (1993) or the Cairo Agreements (1994). The Taba Agreement (Oslo II, September 1995) finally reasserted the continuation of the Israeli quota of 2,000 cases of family reunification (i.e. up to 6,000 persons) to be granted annually. The only forum which dealt with family reunification rather extensively is the Refugee Working Group (RWG) of the multilateral negotiations initiated at the 1991 Madrid Conference. France, functioning as the responsible party (shepherd) for family reunification in the multilateral talks, made efforts to introduce standards which would oblige Israel to pursue a more transparent policy of family reunification in the 1967 occupied Palestinian territories. However, all Israeli concessions in the RWG remained informal and have never been implemented. In 1995, multilateral negotiations went into crisis. No substantial debate about family reunification has occurred since then.

Neither the multilateral RWG, nor the political agreements between Israel and the PLO/PA have introduced significant changes in the Israeli way of handling family reunification. FR functions until today in accordance with the military orders and regulations elaborated by Israel between 1967 - 1993. The only major change introduced by the political agreements is the new role of the PA-CAC as collector of applications and messenger to the Israeli DCO. On the other hand, FR has remained the only means for obtaining permanent resident status in the occupied Palestinian territories, with the exception of Palestinians who have access to repatriation within the framework of the PA ([see below, 2. National Numbers](#)).

#### **1.1 Regulations and Procedures**

##### **Annual**

The current quota for family reunification (2,000 cases or 6,000 persons annually) was established in the summer of 1993, in a policy statement issued by the Israeli State Attorney entitled The Future of Family Reunification in the Areas [West Bank and Gaza Strip]. This policy statement - issued apparently in order to circumvent expected criticism from the multilateral RWG - was further clarified in spring 1994 and has since been treated as the official reference on family reunification in the occupied territories (excluding East Jerusalem).

##### **Quota**

**The Israeli policy statement also provides that the annual quota would apply to persons belonging to one of three categories:**

- Spouses of Palestinian residents in the area;
- Persons who apply for humanitarian reasons;
- Persons whose presence in the area is in the authorities' interest.

### **Regulations for Spouses Based on the 1992 High Court Agreement**

The 1992 High Court Agreement was achieved through public protest and broad media coverage, in Palestine, Israel, and internationally, of the extensive deportation of wives of Palestinian residents by the Israeli military authorities in June 1990. The High Court Agreement provides that spouses and minor children of residents of the 1967 occupied territories (East Jerusalem not included), who entered the country for at least one day prior to 31 August 1992 have a right to:

- Renewable six-month visitor's permits;
- Family reunification (not part of the regular annual quota of 2,000 cases);
- Travel abroad and return without losing their protected status;
- Work and to public health services in the 1967 occupied territories.

**An extension of this agreement was included in the 1993 Israeli policy statement on family reunification and its 1994 clarification** (see above). From then on, spouses and minor children who entered the country between 1 September 1992 and 31 August 1993 have been entitled to renewable six-month visitor's permits and all other rights listed above. However, they do not enjoy the main privilege of the group defined by the original 1992 agreement (family reunification applications from their side are part of the regular annual quota and thus subject to a long waiting period).

### **1.2 Implementation of Family Reunification 1994 - 1997: From Slow and Obscure Handling to Total Breakdown**

In May 1994, following Israeli redeployment from the Gaza Strip and Jericho, the PA decided to suspend family reunification procedures. At this early stage, the PA attributed little importance to individual family reunification, because the return of the hundreds of thousands of Palestinians displaced as a result of the 1967 war was perceived as a likely outcome of the political negotiations during the interim period. Later on, the PA in Gaza realized that family reunification, especially family reunification in the framework of the 1992 Israeli High Court Agreement, was a tool for obtaining an immediate solution for separated families. Thus, in October 1994, the PA Interior Ministry in Gaza issued press announcements calling upon the people to file applications for the following categories:

- Spouses of residents covered by the 1992 High Court Agreement and its extensions;
- Palestinian expelled from Kuwait during the Gulf War.

By December 1994, 2,240 applications belonging to the above categories were gathered by the Gaza Interior Ministry, all of them pertaining to non-resident spouses. By April 1995, 100 of these applications were approved by Israel.[\(2\)](#)

Following Israeli redeployment from the West Bank in November 1995, the new offices of the PA Interior Ministry were expected to handle the collection of family reunification applications in all West Bank areas. Then, the CAC was supposed to transfer them to the Israeli District Coordination Offices (DCO).

Already by spring 1996, however, the procedure of family reunification in the West Bank had come to a complete standstill. 1996 was characterized by a drastic increase of open violence and Israeli repression in the area which resulted, among others, in frequent interruptions of Israel-

Palestinian coordination on all levels, including CAC - DCO. Throughout 1996, the Israeli authorities were exclusively handling family reunification applications submitted to Israel before the November 1995 hand-over to the PA, and applications for spouses covered by the November 1992 Israeli High Court Agreement.

**Table 1 - Israeli Response to FR Applications (Bethlehem District, 11/95 - 11/96)**

<b>Preliminary Positive</b>	<b>Positive, Waiting for Result of Close Investigation</b>	<b>Refused</b>	<b>Received ID</b>
<b>6</b> (1 dated 92, 2 dated 94, 3 dated 95)	<b>314</b> (17 from 94 quota, 105 from 95 quota, 192 unknown)	<b>42</b>	<b>220*</b>

\*list submitted by Israel to the PA Interior Ministry

NOTE: All Israeli answers to applications reaching the Bethlehem Ministry concern applications from before November 1995. The total number of pending pre-November 95 applications is unknown.

**Table 2 - Israeli Response to FR Applications in the West Bank (CAC-Ramallah, 28-5-97)**

<b>Applications Collected by the CAC</b>	<b>Applications Handled by Israel</b>
<i>approximately</i> <b>10,000</b>	<b>1,700*</b>

\* All applications are from before November 1995 and applications in the framework of the 1992 Israeli High Court Agreement [\(3\)](#).

**In the West Bank, not a single family reunification application dating from 1996 or 1997 has been issued by Israel.** According to the CAC, the breakdown of family reunification is the result of the ongoing controversy over the annual quota. In protest of the insufficient Israeli quota, the CAC-headquarters decided, in 1996 to suspend family reunification. Israeli DCO's responded by refusing to deal with family reunification applications, whenever approached on this matter by local CAC officers, who wanted to hand over applications despite the CAC's policy decision.

The local PA Interior Ministry offices, on the other hand, were apparently not informed of the CAC headquarters' policy decision to suspend family reunification, a fact which is not surprising given the frequent lack of coordination between the two ministries. Thus, by November 1996, the PA Interior Ministry in Bethlehem interpreted the refusal of the Israeli DCO to process family reunification applications as nothing but pure provocation from the Israeli side. This interpretation was supported by the arrogant attitude of the Israeli liaison officers, who claimed in front of their Palestinian counterparts that, there is a quota which is full, and in fact it will remain full until the year 2,000. When the local Interior Ministry offices understood that they were unable to transfer new family reunification applications for handling, they completely stopped collecting applications, in order to avoid creating wrong expectations and becoming the subject of public criticism.

The situation in the Gaza Strip is different. The CAC-headquarters in Gaza has complied to the rules set by Israel and accepted the quota system. Fees collected from applications benefit the Israeli side exclusively. Therefore, between 700 and 800 family reunifications - i.e. the quota reserved for the Gaza Strip - have been approved there by Israel in 1996 and 1997.

### 1.3 Family Reunification - Core Problems

Although the situation described above suggests that some of the problems of family reunification in the PA areas are caused by inefficiencies in the PA system itself, it must be underlined that Israel continues to be solely responsible for the core problems.

The specific problems - in addition to the major general problems mentioned already in the introduction to this report - are the following:

a) **Insufficient Israeli Quota:** The current quota of 2,000 family reunifications granted by Israel annually is far from sufficient to reunite divided Palestinian families, even when considering only nuclear families as defined by western cultural standards. The major part of these cases should have been solved not by means of family reunification, but in the framework of the repatriation of the 1967 Displaced Persons. The lack of progress on that matter, however, leaves the current Israeli quota desperately low in comparison to Palestinian needs.

b) **Israeli Non-Compliance with Standards Set by the Multilateral Refugee Working Group (RWG)**

**Denial of Family Reunification on Humanitarian Grounds:** Humanitarian hardship cases are mentioned explicitly in the 1993 Israeli Policy Statement as a category eligible for family reunification. Moreover, in 1994, Israel promised in the multilateral RWG to issue criteria defining what it considers humanitarian reasons.<sup>(4)</sup> Despite this, by 1997 Israel has neither approved family reunifications for humanitarian reasons, nor specified the relevant criteria.

**Withholding of Data:** In violation of all promises and agreements in multilateral and bilateral talks, the Israeli military government in the 1967 occupied territories continues to withhold records of pending applications from the CAC and the PA Interior Ministry. The CAC is supposed to process applications according to the respective submission dates. Yet, they have been unable to do so because Israel is not willing to transfer its lists, and Israeli DCOs continue to handle pre-1995 applications alone.

**Absence of Documentation:** According to summaries of the RWG multilateral talks in 1994 (Bajolet Report), Israel was expected to provide the Palestinian side with precise documentation of its decisions on family reunification (e.g. number of applications received, number of applications approved/rejected, reason for rejection). Between 1994 - 1997, Israel regularly failed to provide this information. Whenever annual figures on family reunification are issued by Israel, these figures cannot be verified due to the lack of basic data. The same holds true for frequent Israeli claims that the quota in district X for year Y is full.

## 1.4 Conclusions

### The PA Conclusion: Dealing with the Possible

Efforts by human rights organizations to convince the CAC to protest against the Israeli quota in other ways than by suspending the collection of requests for family reunification were unsuccessful. Human rights organizations had argued that pressure against the Israeli quota could be built only, if a large number of requests, i.e. factual evidence of the need for family reunification, is gathered by the CAC.

Unable to tackle the core problems of family reunification, and faced with frequent and lengthy interruptions of the joint meetings with the Israeli side, the CAC has been working to solve the cases of persons who applied prior to 1995 and to improve internal structures. Thus the CAC suggested the establishment of a central PA Family Reunification Committee to handle all applications in the West Bank and the Gaza Strip, aiming to improve the transparency of PA procedures and prevent nepotism and bribery. The Committee would be staffed by the CAC, its

subcommittee for Population Registry, the PA Interior Ministry, and the PA Preventive Security.<sup>(5)</sup> By autumn 1997, this central Family Reunification Committee was not yet established.

Moreover, the CAC worked to formulate new suggestions and proposals which - due to the breakdown of the system of coordination - have never actually been presented to the Israeli side:

**Simpler application procedures for family reunification:**

Applications should be collected by the PA Interior Ministry in form of simple name-lists (instead of the extensive personal information currently required); these lists should then be studied and approved/rejected by the Israeli side;

**Changes in the quota system:**

The current Israeli district quota should be replaced by a central quota for the West Bank and Gaza Strip. This, the CAC hopes, would be followed by the complete abolishment of the quota system.<sup>(6)</sup>

In October 1997, negotiations between the CAC and the Israeli military government (Beit El) were renewed, and family reunification was one of the issues discussed. In these negotiations, the CAC hopes to achieve finally an Israeli compromise with regard to the annual quota in the West Bank. According to CAC expectations, Israel will agree to raise the quota for 1998, the number of family reunifications to be granted for 1996 and 1997 will remain 1,200 for each year. The CAC also hopes that Israel will agree to lower the fees for applications from currently US \$100 to approximately US \$30. Pending a positive outcome of the new negotiations, the CAC is ready to start collecting family reunification applications for the 1996 and 1997 quota and to transfer them to the Israeli side. Applications will be handled by the CAC exclusively and not collected by the PA Interior Ministry as in the past.

**The Conclusion for the Palestinian people: *Married in 1996 - United in 2001,2,3?***

The persistent Israeli denial of family reunification leaves Palestinians who wish to live in the West Bank or Gaza Strip with no other choice but to obtain a short term visitor's permit and to stay on after it expires. In response, the Israeli authorities repeatedly demanded the Palestinian CAC request persons illegally present in PA territory to leave the country. Moreover, Israel threatened to suspend all visitor's permits - including permits requested for married spouses.

The breakdown of the system of family reunification has strongly effected the lives of Palestinian residents in the PA areas. New marriages lead to more suffering, as couples wed after November 1995 face forced separation with no prospect of living united, legally, and secure, until after the turn of the millennium. Israeli denial of family reunification to newly-wed couples represents a gross violation of international law and standards which cannot be justified by references to the peace process crisis.

**Sample Case: Married to Live in Separation**

Aseel A. (not her real name) was born in al-Wihdad refugee camp in Amman in 1976, where her parents, originating from the Palestinian town of Ramle, had found refuge in the early 1950s. In February 1996, Aseel married her cousin Mahmoud A., a resident of Bethlehem/West Bank. Mahmoud, who had never planned to establish his family anywhere but in his Bethlehem home, went immediately to apply for family reunification for his new wife. To his big surprise, the clerks at the Palestinian Interior Ministry in Bethlehem told him, that they had instructions to stop receiving family reunification applications. A human

rights organizations which adopted Mahmoud's case and addressed the Israeli authorities in Beit El received a written notice stating that family reunification in the self rule areas was to be handled by the Israeli-Palestinian coordination bodies established in the framework of the Oslo agreements. In May 1996, Mahmoud submitted an application for a visitor's permit for Aseel, hoping that she would be allowed at least to spend the summer in Bethlehem. Three months later, in July 1996, he received a negative answer from the Israeli DCO. Mahmoud, desperate about his situation, has been traveling to Amman to visit his wife whenever he can take a leave from work. In the meantime, Aseel and Mahmoud expect the birth of their first child in December 1997. Aseel remains living in her parents home in Amman, and Mahmoud - determined not to lose hope - continues construction of the future home of his family in Bethlehem.

### Family Reunification: International Law and UN Resolutions

**UN Resolution 237 (14 June 1967):** Calls upon the Government of Israel to ensure the safety, welfare, and security of the inhabitants of the areas where military operations have taken place and to facilitate the return of those inhabitants who have fled the areas since the outbreak of the hostilities[...]

**Article 74 of Protocol 1 of the 1977 addendum to the Fourth Geneva Convention:** The High Contracting Parties and 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 humanitarian organizations engaged in this task in accordance with the provisions of this Protocol and in conformity with their respective security regulations. (Israel did not sign this Protocol.)

**UN Convention on the Rights of the Child:** The Convention states that it is a child's right to be cared for by his/her parents, and the State's obligation to further both parents' familial responsibility to supervise the growth and development of the child.

Furthermore, the Convention which Israel endorsed in 1991 states:  
**Article 9:**

1. State Parties shall insure that a child shall not be separated from his or her parents against their will, except when competent authorities subject to judicial review determine, in accordance with applicable law and procedures, that such a separation is necessary for the best interest of the child ...

**Article 10:**  
1. In accordance with the obligation of State Parties under Article 9, paragraph 1, applications by a child or his or her parents to enter or leave a State Party for the purpose of family reunification shall be dealt with by State Parties in a positive, humane and expeditious manner [28 I.L.M. (1989) 1457].

So far, the crisis of family reunification - effecting thousands of

Palestinian families - has received little attention by the international community. Lack of interest in the ongoing Israeli violation of this basic human right is aggravated by the fact that the same foreign governments, ardent supporters of and actors in the Middle East peace process, have been willing to bolster Israeli propaganda efforts for Israeli concessions which - compared to the scope of the crisis - are almost negligible (see below).

### **The Case of Canada Camp: Turning Refugee Repatriation Into a Farce?**

Canada Camp is a Palestinian refugee camp in the Sinai, southwest of the Gazan city of Rafah. In 1970, Israel relocated several thousands of camp residents to a former Canadian contingent camp in the then Israeli-occupied Sinai. With the redrawing of the international border in 1982, some 5,000 persons were left on the Egyptian side. Under the Israeli-Egyptian peace agreement, they were to be repatriated to the Gaza Strip. However, over the course of 12 years, only 135 of the original 500 households were permitted to return by the Israeli authorities.

In the framework of the multilateral Refugee Working Group (RWG), Canada agreed to finance 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 funded the return of 70 families in 1994. In 1997, Israel agreed to repatriate 40 additional families. Under the auspices of the RWG, US \$1.4 million have been provided through the Canadian International Development Agency and US \$1.0 million from the Government of Kuwait to UNRWA for the repatriation project.<sup>(7)</sup> Many of the returned individuals have remained without Israeli documents to date.

### **Comment by Dr. Elia Zureik, member of the Palestinian team in the multilateral Refugee Working Group [\(8\)](#)**

*The Refugee Working Group of the Middle East peace process has been meeting for five years to deal with the thorny issue of Palestinian refugees. Mr. Andrew Robinson, the current Canadian coordinator of the Refugee Working Group, was personally at hand to welcome the return of eight Palestinian refugee households from the Sinai desert to the Gaza Strip. He later commented that this return was a concrete expression of the benefits of the peace process. For someone who has been a member of the Palestinian delegation to this Working Group since its inception, this comment sounds comical had it not been for the sad reality it hides. Namely, according to the United Nations, there are more than three-quarters of a million Palestinian households, or more than four million individual refugees, stranded and waiting to go home. At this rate it is going to take two, three, or more centuries to return the rest. I trust that Mr. Robinson will keep faith and will be there to welcome the remaining refugees upon their return.*

**Elia**  
**Professor of Sociology, Queen's University, Kingston**

**Zureik**

## 2. ACQUIRING RESIDENT STATUS VIA 'NATIONAL NUMBERS' ISSUED BY THE PA

According to the Cairo Agreement (May 1994), PA personnel such as the police force, public servants, professionals and their families are to be allowed entry into the PA areas and to receive Israeli-issued ID cards. Repatriation via National Numbers is the only major channel for Palestinian entry to Palestine opened in the framework of the peace process. It is the only addition to the existent mechanism of family reunification which was installed in 1967.

### 2.1 Regulation and Procedures:

Applicants must be registered on lists prepared by the PLO/PA. These lists are periodically submitted for screening by the Israeli side. Persons whose application is approved by Israel receive a special entry visa carrying their future ID number (national number) at the border crossing. Once in the country, PA personnel must submit an application for an ID card to the CAC. Then, the Israeli Military headquarters in Beit El issues an ID card carrying a special identification number. These ID cards do not authorize the bearer to enter Israeli territory, with the exception of high ranking officers and functionaries who are issued special VIP permits.

Wives and children of PA personnel below the age of 22 are entitled to enter the country under the same conditions. Children above the age of 22 require a regular family reunification permit. They are, however, exempt from the usual application fees and not included in the regular annual quota for family reunification.

### 2.2 Problems related to Palestinian Entry via National Numbers

a) **The PA does not release data on national numbers.** It is therefore impossible to know whether the functioning of this procedure was effected by a policy change of the new Likud government in Israel, and updated official figures of the number of persons who have entered the country by this means are not available.

b) **The undemocratic principle underlying entry via PA lists:** The demand for the return of all Palestinian refugees and exiles has been a central component of the Palestinian struggle for national rights. It was widely expected that Israel, in the framework of the political agreements with the PLO/PA, would be ready for compromises to the effect that all Palestinians evicted from the 1967 occupied territories would be granted the right to return home. Based on this expectation, eligibility to repatriation would be determined solely by the question whether a persons belongs to one of the relevant categories (1967 displaced persons, deportees, persons whose ID card was revoked by Israel between 1967 and 1994) or not.

The logic of PLO/PA listing is different; it is a matter of favor and not one of right. Whether or not an applicant belongs to a category scheduled for repatriation is secondary. The main factor determining whether a persons succeeds to be listed by the PLO/PA is his/her prior service in the PLO and/or his/her ability to obtain the support of influential PLO/PA functionaries.

c) **The political context of silent immigration:** It is estimated that close to 60,000 people (PA personnel, police forces, civilians) have entered the PA areas via National Numbers since 1994. The absence of progress in the political negotiations over alternative channels of collective Palestinian return (repatriation of 1967 displaced persons, repatriation of persons whose ID cards were revoked by Israel in the past, return of 1948 refugees) on the one hand, and the break-down of the mechanism of family reunification on the other, has made return via PA lists the predominant means for entering the PA areas. A collusion of Israeli and PA interests seems supportive of this development: Israeli governments, on the one hand, seem less reluctant to compromise on Palestinian entry into the PA areas if it happens via a bureaucratic and unspectacular mechanism which remains hidden from the Israeli media, public opinion, and

political pressure groups. The PA, on the other hand, has favored a mechanism of return which permits a selection of returnees according to immediate interests. The silent and selective mechanism of entry/return via PA lists serves the interest of both.[\(9\)](#)

### **3. PALESTINIAN "VISITORS " TO THE PA AREAS**

#### **3.1 Common Visitor Permits**

Until 1994, Israeli-issued temporary entry permits to the 1967 occupied territories constituted the only major means for maintaining family ties between Palestinian communities in the diaspora and their relatives in the West Bank and the Gaza Strip. Thus, each year, tens of thousands of Palestinian refugees crossed the Allenby bridge, the designated border crossing from Jordan. The application for a visitor's permit had to be submitted by a spouse, parent, or child of the requested visitor. Permits were valid for three months and renewable only with great difficulty.

The Israeli-Palestinian agreements introduced no major changes to the old system of visitor's permits. Israel maintains control over issuing these permits to individuals destined for the West Bank or Gaza Strip.

##### **3.1.1 Agreements and Regulations**

According to the 1994 Cairo Agreement, visitor permits granted by Israel are valid for 90 days. The PA is authorized to renew them once for an additional four months. Further renewals require Israeli approval.

The 1995 Taba Agreement (Annex III, Article 28/13) included several procedural changes which promised a somewhat less restrictive situation:

- Israel agreed to issue visitor's permits throughout the whole year (and not only in the summer season);
- Both relatives and friends (not only first degree relatives) were to be eligible to submit an application;
- Visitor permits would allow the holder to enter East Jerusalem and Israel.

Since May 1994, residents of Jericho and Gaza wishing to obtain a visitor's permit for a relative must submit an application to the PA Interior Ministry. The same applies to the rest of the West Bank since the Israeli redeployment in 1995. Applications collected by the PA Interior Ministry offices are then taken by the CAC to the nearest Israeli DCO for approval.

One improvement reported by the CAC is the fact that payment of approximately NIS 80 (US \$26) must be made upon receipt of the permit only, and not for the application as previously required.

The PA had originally hoped to further improve the new system created by the agreements with Israel. Among the ideas raised in 1995 was the facilitation of applications directly from abroad: visitors would apply to the PLO/PA representations abroad, the latter would forward the applications to the CAC in Gaza, then they would be processed by Israel, after which the permit would be deposited at the border where the visitor would receive it upon arrival.

##### **3.1.2 Implementation ... disappointing**

**Gaza Strip and Jericho, 1994-5:** Immediately after the Israeli redeployment on 17 May 1994, the PA began handling visitor's permit applications in these areas. According to PA sources in Gaza, 50,000 Palestinians entered

the autonomous areas on Israeli-issued visitor's permits between 17 May 1994 and April 1995. Most of them (35,000) entered the Gaza Strip during the summer of 1994. When their visitor's permits expired three months later, the majority wished to stay on and obtained a four-month renewal from the PA. By March 1995, almost all of these visitor's permits expired and Israel turned down all requests for a third extension. In April 1995, the CAC reported that Israel demanded from the PA to take measures to ensure that all Palestinian visitors with expired permits would leave the country.

### **West**

### **Bank**

**1994-5:**

Between November 1994 and summer 1995, the Israeli military authorities engaged in what seemed a last effort to evict Palestinian visitors with expired permits from the West Bank territory still under Israeli control. Dozens of Bethlehem district residents were summoned by Israeli Civil Administration officers. In the northern West Bank, army raids of peoples' homes accompanied the summons. The summoned residents' ID cards were confiscated. Then, they were informed that their visiting relative (mostly spouses) must leave the country.

Two army raids in the villages of Qabalan/Nablus and Kharbatha/Ramallah resulted in the actual detention and deportation of several people to Jordan (al-Quds, 2/6/1995). Subsequently, human rights organizations intervened at the headquarters of the Israeli military government in Beit El. Yehuda Cohen, the officer in charge at Beit El, claimed that there was no new policy of deportation and the summons were personal initiatives of local Civil Administration officers. Consequently, confiscated ID cards were returned and human rights lawyers obtained temporary restraining orders for their clients.

In summer 1995, two years after the signing of the Oslo Accords but prior to the Israeli redeployment from West Bank (except Jericho), human rights lawyers were informed by the Israeli State Attorney that non-resident spouses of West Bank residents not covered by previous agreements with the Israeli High Court would no longer be issued visitor permits. Their justification, there is a strong reason to suspect that they will not leave the country upon expiration of their visitor permits. (10) Such spouses would be allowed to enter the country only after they are granted family reunification, i.e. a procedure implying years of waiting (see Chapter 1 above).

### **Following Israeli redeployment in the West Bank (November 1995 - 1997):**

Starting in November 1995, the PA was supposed to begin handling visitor permit applications in all major West Bank towns (except Hebron). However, Israeli-reinterpretations of the Taba Agreement (1995), in addition to the hermetic military closure imposed on the PA areas after the March 1996 bus bombings in Tel Aviv and Jerusalem, lead to a situation where visitor permit procedures came to a stand-still before the PA ever actually started to work. Throughout 1996 and 1997 the number of visitor permits issued remained way behind the original expectations, due to frequent military closures and interruptions in Israeli-Palestinian coordination. Visitor's permits are not on the immediate agenda of the negotiations renewed in October 1997 between the CAC and the Israeli military government (Beit El). The CAC intends to tackle this issue only after other priority issues (family reunification, PA identity cards) are settled with the Israeli side.(11)

The only category of visitors not encountering significant problems were spouses of Palestinian residents covered by the November 1992 Israeli High Court Agreement. As in the past, Israel continues renewing their six-month visitor's permits.

### **3.1.3 Core Problems Pertaining to Visitors' Permits**

#### **a) Israeli Re-interpretation of the Taba Agreement (Article 28/13):**

Israel requires - in contravention to Article 28/13 of the Taba Agreement - that applications for visitor's permits be submitted by a first degree relative (parent, sibling, child). Moreover, Israel introduced additional requirements not mentioned in the Agreement, e.g. applicants for visitor's permits must document that:

- s/he has permanent resident status in another country;
- s/he possesses a valid passport of another country;

In contravention to the Taba Agreement, Palestinian visitors have not been permitted to cross the Israeli checkpoints into Israel and occupied East Jerusalem. According to the CAC, the chief Israeli negotiator on civil affairs under the Rabin-Peres government, Oren Shahor, informed the PA immediately after signing the Taba Agreement (September 1995) that Israel would not implement this provision of Article 28/13.<sup>(12)</sup> Since then, CAC negotiators have tried to obtain a compromise by offering various new formulas (e.g. a special Israel-entry visa attached to the visitor's permit), but to no avail. PA Interior Ministry staff in Bethlehem expressed the suspicion that this Israeli policy was part of a broader Israeli scheme, i.e. to prove to the population that the PA is inefficient.<sup>(13)</sup> For example, visitor's permits issued via the PA do not allow access to East Jerusalem and Israel, its holders are subject to the Israeli-imposed military closure, while Palestinians coming from Jordan on an Israeli-issued tourist visa are permitted to move freely and even allowed to cross the checkpoints in their private cars.

By the end of 1996, PA Interior Ministry offices reported that the Israeli DCO refused to accept applications for visa extensions submitted by foreigners residing in the West Bank PA areas. Holders of foreign passports could only obtain a renewal directly from the Israeli Interior Ministry, or - if rejected - leave the country. The Israeli DCO at the Erez checkpoint/Gaza does not object to extending visas for foreigners residing in the Gaza Strip, however these visas, extended via the PA, do not permit entry into Israeli state territory. By mid-1997, Israeli DCO offices in the West Bank began adopting the policy of the DCO in Gaza.

**b) Denial of Visitor's Permits on Security Grounds:**

Israel continues its old practice of claiming unspecified security reasons to justify the rejection of applications for visitor's permits. In the absence of legal redress, the CAC may only re-raise the case of a rejected application in the joint meetings with the Israeli side.

**c) Break-down of Israeli-Palestinian Coordination - Pile-up of Applications:**

Already in early 1996 it was obvious that the demand for visitor's permits far exceeded the number of applications processed by the Israeli side. Additional military closures of PA areas A and the total collapse of the system of Israeli-Palestinian coordination led to a situation where hundreds of applications remained unattended for months. In order to avoid additional pile-up of applications, the PA Interior Ministry decided by mid-1996 to accept no more than a quota of 100 applications per week.<sup>(14)</sup>

**d) Illegal Visitors and Israeli Pressure on the PA:**

Due to Israel's restrictive renewal policy and the lack of progress in the political negotiations over all forms of repatriation, many Palestinian visitors decided to stay in the country even after their visitor's permit expired (15,000 persons between 1994 - March 1996 according to PA sources). Israel can no longer deport persons living in Palestinian areas A (mainly towns). Still, living in the occupied territories without valid documents contains considerable hardship and risk. These Palestinians face difficulties in finding employment, access to educational institutions and legal transactions, the impossibility of traveling abroad, and the danger of being picked up at one of the Israeli checkpoints between Palestinian towns. Thus, the risky option of staying on illegally is chosen mainly by the desperate and poor. These may be persons who are not permitted re-entry to the country of their previous domicile (e.g. approximately 6,000 persons from Libya and

Kuwait), and/or persons who have no hope for rapid family reunification (elderly parents, spouses, ill relatives).

Already in March 1996, only three months after the hand-over of civil affairs to the PA, Israel informed the PA Interior Ministry in Bethlehem of 960 allegedly illegal persons present in the district. The issue of illegal persons is regularly raised by the Israeli side in joint meetings on all levels. Israel claims that a total of 36,000 people with expired visitor's permits are currently staying in the West Bank and the Gaza Strip and demands action by the PA. The PA-CAC has been trying to counter the Israeli pressure by preparing detailed case lists based on field research. According to the CAC, these findings show that many of the allegedly illegal over-stayers have either left the country, obtained other types of visas (students, investors), or have been registered as residents. Therefore, the Israeli figures are exaggerated.[\(15\)](#)

#### **Sample Case: "Illegal Visitors"**

Faten and Khalil F. (not their real names) were born and raised in Nablus. In 1965, Faten followed her husband Khalil who had found employment in Amman and later in Kuwait. Due to their absence, they were not issued Israeli ID cards following the 1967 occupation of the West Bank and thus could no longer return home. In the course of the 1990 Gulf Crisis, Khalil lost his job as civil servant in Kuwait. The couple, who had remained childless, found temporary refuge with distant relatives in Amman. In late 1995, Khalil's brother in Nablus obtained a visitor's permit for the two. Faten and Khalil came to Nablus. They have remained in Nablus, where they still own property, even after their visitor's permit expired in the spring of 1996. "Old and retired people like us", they say, "lack the strength to start over again."

### **3.2 Special Visitors to the PA**

According to the Taba Agreement (Annex III, Article 28/13), Palestinian professionals and investors may be issued special visitor's permits - again pending Israeli consent. Applicants must enter first on a regular visitor's permit or visa and then submit an application for a work permit to the local Palestinian Interior Ministry offices. The application is then transferred to the CAC, which negotiates each case with the Israeli side. If the application is approved, a six-month work visa is issued and renewed once for another six months. If the applicant holds a visa which permits entry to East Jerusalem and Israel, his/her work permit will also permit crossing the Israeli checkpoints. If the original visitor's permit is restricted to the PA areas, the attached work permit will include the same restriction.

In 1995-6 the CAC filed 250 applications for professionals working in PA institutions, investors, employees in the private sector (large enterprises only) and in local and international NGOs. By December 1996, Israel had approved 140 special work visas.

### **3.3 Palestinian Tourists in Palestine**

One implication of the 1994 peace agreement between Jordan and Israel is the fact that - for the first time since 1948 - Palestinian citizens of Jordan, i.e. the vast majority of Palestinian refugees in Jordan, can visit Palestine on an Israeli tourist visa. Thus, the first alternative to the traditional Israeli visitor's permit system was established.

Entering Palestine as a Palestinian tourist certainly has many implications on the political-symbolical level. It symbolizes termination of the Palestinian refugees' historical rights to Palestine. This symbolism has concrete expressions also on the legal level. Palestinians entering on an Israeli tourist visa (and not on a visitor's permit) cannot take advantage of the provisions of the November 1992 Israeli High Court Agreement (six-months renewable visitor's permits), nor of the new visa arrangements based on the Israeli-Palestinian agreements (four-month renewal of visitor's permit via the PA).

Israel certainly has a vested interest in Palestinian tourism. However, the fear of being flooded by thousands of refugee-tourists who come to stay and join the cheap labor market in Israel, has compelled Israeli authorities to maintain a strongly selective visa policy. Jordanian applicants for tourist visas are screened thoroughly. Visas are only issued to certain categories (not to young males who could be seeking employment in Israel, travelers in guided group tourism, etc.). Moreover, tourist visas are issued for very short time periods (only 5 - 10 days).

#### **4. REPARATION OF RESIDENTS WHOSE ID CARDS WERE REVOKED IN THE PAST -THE CASE OF "LOST ID'S"**

The demographic policy of the Israeli occupation in the West Bank and Gaza Strip between 1967 and 1993 was characterized by two major components. First, Israel's open bridge policy with Jordan enabled Palestinians to leave for study and work abroad. This option was taken by tens of thousands given the lack of employment and specialized education at home. Second, Israeli restrictions on re-entry to Palestine caused many of those studying and working abroad to lose their right to return home. It was Israeli policy to revoke the ID cards of Palestinians who failed to renew their re-entry visa within a set period of time (after three years for persons who left with an exit permit via the Jordan bridge, after one year for persons who left via the Israeli airport on a laissez passer). The number of Palestinians who lost their resident status in this way is estimated to be 100,000, the large majority of them are currently living in Jordan.

Once an ID card was revoked, the decision could be appealed to the Latecomers' Committee, a special body established by the Israeli military government in the early 1990s. The appeal had to include official documents proving strong reasons for the person's absence (e.g. medical reports, university documents). The Israeli authorities did not accept absence for economic reasons (work) as an adequate justification. Moreover, chances for a successful appeal decreased if the appellant had married and raised children abroad.

##### **4.1 New Agreements and Procedures**

The 1993 Oslo Accords include no specific mention of Lost IDs. The 1994 Cairo Agreement provides that residents of the self rule areas are free to travel and return at their own discretion. The abolishment of the Israeli time limit on the right of re-entry implied that ID cards of Palestinian traveling abroad would no longer be confiscated. Yet, the Cairo Agreement does not offer a solution to the already existing problem, i.e. to ID cards which were confiscated in the past. Consequently, the issue of Lost IDs was raised by the Palestinian negotiating teams in the multilateral Refugee Working Group (since 1993) and in the Quadripartite Committee on the 1967 Displaced Persons, but without success.

The Taba Agreement signed between Israel and the PLO in late 1995 finally included an explicit - although vague - reference to the problem: A Joint Committee will be established to solve the re-issuance of identity cards to those residents who have lost their identity cards (Annex III, Article 28/3). The hopes for a speedy repatriation of the 100,000 stranded (former) Palestinian residents finally seemed realistic.

##### **4.2 Implementation? Not in Sight!**

Once the Palestinian elections of January 1996 were successfully completed, and the PA somehow adapted to operating under the restrictive situation of military closure imposed by Israel

in March 1996, the CAC made an effort to organize for the upcoming negotiations on Lost IDs. In April 1996, the CAC established a special Population Committee authorized to prepare for these negotiations. The CAC-Population Committee disseminated forms for the registration of persons whose ID cards were revoked by Israel. The forms were transferred to local offices of the PA Interior Ministry which began case registration.

The first Israeli-Palestinian meeting, a preliminary discussion of the question of Lost IDs, took place on 16 May 1996. In this meeting, the Israeli delegation of the Military Government Headquarters in Beit El took advantage of the vague wording of the Taba Agreement, claiming that Article 28/3 of Annex III (see above) did not refer at all to Palestinian residents whose ID cards were revoked while staying abroad, but to residents who physically lost their ID cards while present in the country (e.g. in a taxi, in the market). The Palestinian negotiators were thrown off balance by this unexpected Israeli argument, and the CAC consulted human rights organizations. The latter provided letters of the Beit El Legal Advisor addressed to human rights lawyers which stated that Article 28/3 of the interim agreement states that an Israeli-Palestinian Committee will be established to solve the problem of the renewal of ID cards for those residents who lost their resident status.<sup>(16)</sup> The ridiculous Israeli argument was finally refuted. Regardless, valuable time was lost and negotiations over Lost ID Cards have yet to be renewed.

### 4.3 Lost IDs - Core Problems

#### **Absence of a mechanism for dealing with Lost IDs:**

With the signing of the Taba Agreement in 1995, Israel abolished its Latecomers' Committee arguing hence forth that the Joint Committee (Article 28/3) was the only body authorized to deal with the issue of Lost IDs. The Joint Committee, however, was never established. This has led to an unacceptable situation where neither legal redress nor a politically negotiated mechanism is available for handling requests for the re-instatement of ID cards is available.

By 1997, hundreds of such requests have been brought to human rights organizations and the office of the PA Interior Ministry by discouraged relatives of victims of ID card confiscation. These cases have been partially registered and transferred to the CAC. Moreover, also the PA population census to be conducted in December 1997 includes questions on family members whose ID cards were revoked by Israel. However, the issue of lost IDs is not on the agenda of the negotiations renewed in October 1997, and a clear policy for handling this problem is unforeseen.

#### **International Law**

**Fourth Geneva Convention, Article 49 (1):** "Individual or mass forcible transfer, 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.

**International Bill of Human Rights, 1948 Declaration of Human Rights, Article 13, Paragraph 2:** Everyone has the right to leave any country, including his own, and to return to his country.

**International Bill of Human Rights, 1966 Covenant on Civil and Political Rights, Article 12, Paragraph 4:** No one shall be arbitrarily deprived on the right to enter his own country.

### Sample Case: "Lost ID"

Wahid Q. was born and raised in a village of the Ramallah District/West Bank. Following his highschool graduation, he received a scholarship for studies in Syria. In 1979, he tried to return home via Jordan to renew his exit permit as required by the Israeli occupation law. However, he was arrested in Jordan for alleged membership in a communist organization (a common practice in Jordan at that time). He was detained in Jordanian prisons until 1987. Following his release, he married and was determined to return home. In 1996, a human rights organization tried to file his request for re-instatement of his ID card with the "late-comers committee" of the Israeli military government, but the committee was already inactive. Since then, an alternative address for raising his request has not been available. Wahid, his wife, and their two small daughters continue to live in Amman. Also Wahid's frequent applications for a temporary visitor's permit to the West Bank are usually rejected.

## 5. REPARATION OF PALESTINIAN DEPORTEES

Between 1967 and 1992, Israel deported 1,657 Palestinians from the 1967 occupied territories, usually for reasons of state security. Among them were 385 alleged activists of the Islamic movement who were temporarily deported to South Lebanon in 1992 and returned in 1993. All other deportation orders issued by the Israeli Military government were issued without a time limit. Following years of pressure by human rights lawyers, the Israeli military government agreed to establish, in the early 1990's, a special Appeals Committee authorized to handle petitions for the cancellation of deportation orders. Until 1993, five deportees obtained Israeli permission to return home in this way. [\(17\)](#)

Remarkably enough, none of the political agreements between Israel and the PLO contain an explicit reference to the issue of Palestinian deportees. On the other hand, international norms and common sense suggest that deportations - like political imprisonment - are inherent components of the belligerent conflict which must be reverted immediately with the signing of a peace accord. In the case of Palestine-Israel, however, political prisoners have not been released and the majority of the deportees (approximately 1,000) have not been permitted to return home. Since the establishment of the Quadripartite Committee on 1967 Displaced Persons, the PLO/PA has been raising the deportees' issue in this forum. Israel persistently rejected including deportees in the agenda of this forum. Therefore, no progress has been achieved.

### 5.1 New Agreements and Regulations [\(18\)](#)

a) In the absence of explicit reference to the issue of Palestinian deportees in the Israeli-Palestinian agreements, Israel has handled this issue in the framework of its confidence building measures and good will gestures towards the PA and the Palestinian people. Between April 1993 and May 1994, 88 Palestinian deportees and their families returned collectively in small groups. Thereafter, no such Israeli gesture followed.

b) 141 deportees, mainly Fatah activists and functionaries, returned individually via the PA names' lists approved by Israel [\(National Numbers\)](#) between September 1993 and January 1996.

c) In January 1996, Israel decided to approve the return of all 482 members of the Palestinian National Council (PNC). This, in order to facilitate their participation in PNC meetings to be held in the 1967 occupied territories, and especially in the PNC vote on the change of the Palestinian

Charter as demanded by Israel. As a result, 25 deportees, members of the PNC, returned between January and March 1996.

d) Unlike in the case of Lost IDs (see above), in the case of deportees the Israeli Military government did not abolish the legal channel of appeal (Appeals Committee) established prior to the Oslo Accords. Thus, Palestinian deportees, represented by a lawyer, may still submit a request for abolishment of their deportation order directly to the Israeli military government. Sixty-six deportees used this option successfully between September 1993 and January 1996.

### 5.3 Core Problems Related to the Repatriation of Deportees

**The Forgotten Majority:**  
In past agreements, Palestinian negotiators have neglected to insist that Palestinian deportees' right of return be recognized. It is difficult to foresee how this will be repaired in the future. Israel refuses to recognize their right of return, and return via PA lists is reserved for deportees with influence and contacts. Consequently, a large number of Palestinian deportees will forfeit recognition and reparation of the injustice perpetrated in the past.[\(19\)](#)

## 6. POPULATION REGISTRY BY THE PA

Between 1967 and 1994, the Israeli military government's Civil Administration was the only authority handling the Palestinian population registry in the 1967 occupied territories. Only Palestinians included in the population census conducted by the military occupation in 1967 and their descendants were considered legal residents and issued Israeli ID cards (orange colored with an identification number which distinguished them from citizens of the State of Israel).

In January 1995, shortly before the hand-over of West Bank civil affairs to the PA, Israel issued a new order concerning child registration in the 1967 occupied territories.[\(20\)](#) The new order provided that a child of Palestinian parents can be registered in the Population Registry if:

- s/he is below the age of 18;
- Both parents have resident status;
- One of the parents has resident status and the responsible officer is convinced that this parent has a permanent domicile in the area.

As a result of the old military order, which had conditioned child registration with resident status of the mother, thousands of Palestinian children in the 1967 occupied territories were left unregistered. This new military order promised a partial solution of this already unbearable problem. In addition, the new order permitted registration until the age of 18 (not 16 as was the case previously). However, the actual impact of this new order remained marginal, because its implementation was delayed until the September 1995 Taba Agreement and the consequent hand-over of civil affairs to the PA.

A positive aspect of the September 1995 Taba Agreement was that it provided, for the first time, procedures to establish a Palestinian population registry handled by the PA, including voter, birth, and death registration, and a provision about new ID cards to be issued by the PA (Annex III). It was expected that the empowerment of the PA to handle the population registry would contribute to securing the residency rights of all Palestinians living in the West Bank and the Gaza Strip.

### 6.1 New Agreements and Regulations

a) **PA Travel Documents (Palestinian Passport):**  
Based on the Cairo Agreement (1994), the Palestinian Authority is authorized to issue new travel documents replacing the old Israeli-issued exit permits. The legal status of this document is,

however, not equivalent to passports issued by sovereign states. Its validity is dependent upon the validity of the 1993 Oslo Accord (and thus void upon nullification of the Accord).<sup>(21)</sup> Moreover, it is a document issued jointly by the PA and the Israeli military government. It carries a PA serial number plus the holder's Israeli-issued ID number. The new serial number must be deposited at the Israeli border crossings prior to departure.

**b) PA Identity Cards (Taba Agreement, Annex III/Article 28/4):**

The PA is authorized to issue new identity cards with new serial numbers, one year after the signing of the Agreement (i.e. by September 1996). The new identification numbers and the new PA numbering code must be transferred to the Israeli side.

**c) Child Registration (Taba Agreement, Annex III/Article 28/12):**

The PA has the right to register children (until the age of 16) who have at least one resident Palestinian parent. No Israeli permission is required.

Article 28/12 is more liberal than the previously issued new Israeli military order (see above). No longer is proof of domicile in the West Bank/Gaza Strip required. Any Palestinian resident holding an Israel-issued ID card, no matter where s/he lives, can register his/her child in Palestine. The age limit set by Article 28/12 is 16, not 18 as in the new Israeli military order. This inconsistency can only be attributed to the Palestinian negotiators' lack of familiarity with the military orders and regulations issued by the Israeli occupation authorities prior to re-deployment.

**d) Registration of Unregistered Persons (Taba Agreement, Article II of Annex I/1/1/g: Voter Registration):**

This provision was considered a unique opportunity for solving the problem of 20-30,000 unregistered persons living mainly in remote areas. It entitled any individual able to document three years (if above the age of 40) or four years (if below the age of 40) of presence in the country to an ID card if s/he filed an application during the registration period for the Palestinian elections (November - December 1995). In this way, these individuals would be allowed to vote in the elections. In actuality, the time available (2-3 weeks) was clearly too short for thorough registration.

## **6.2 Implementation: The PA Experience with Population Registration Under Limited Sovereignty**

**a) PA Passports and ID Cards:** Until 1 January 1997, Palestinian residents of the West Bank could still travel to Jordan with an Israeli-issued exit permit and their Jordanian passport. Many people who did so were faced with a new restriction. Israel decided not to issue exit permits to persons holding an ID card issued before 1985. So, travelers had to obtain a new Israeli ID card (and pay the requested fees). Already by 1995, Palestinians wishing to travel from Israel's international airport could do so only if they had obtained a new Palestinian passport. Initially, many travelers were delayed, because their new serial number was not entered into the Israeli border computers in time. Further complications resulted when new passports issued in Gaza were stuck due to long Israeli military closures and failed to reach their holders in the West Bank. By late 1997, only Palestinian travelers holding new Palestinian passports can leave Palestine. This includes Palestinian residents of the 1967 occupied territories who hold a second passport. The Palestinian travel document is recognized by the majority of the Western states, but many Arab states (e.g. Lebanon, Syria, Libya) refused to do so based on their opposition to the Oslo Accords.

By October 1997, new Palestinian ID cards are not yet available. Prototypes of the new ID card were designed by the CAC in 1996, however, its issuance was delayed. The main reasons for the delay were Israeli objections to the new coding system proposed by the PA on the one hand, and technical-administrative shortcomings of the PA (lack of printing and processing facilities) on the

other. By fall 1997, the PA is ready to print, process, and disseminate the new ID cards. Thus Palestinian residents of the PA areas will soon receive ID cards produced by the PA (and not by Israel as has been the case so far).<sup>(22)</sup> Due to ongoing disagreements about the serial coding, the numbers on the new ID cards will, however, remain the same old Israeli serial numbers. Media announcements of the new PA-issued ID cards were accompanied by a myriad of false information and interpretations. Irrespective of all rumors, the fact is that the PA will have no decision making power in deciding who are the Palestinians to be issued new ID cards. As long as there is no Palestinian sovereignty over entry to and exit from the borders of the Palestinian territories, the decision about who has a right to reside in the PA areas will remain with Israel.

b) **The PA Population Census:** Two years ago, the CAC was expecting to receive wide-scale authority over population registration. The Palestinian population census mentioned in the Taba Agreement (Annex III), was considered by the PA as the tool which would allow the PA to include all those who did not succeed in registering as residents in the past. Expectations of this actualizing stopped after increasing experience with Israeli interpretations of the terms of the agreements. Today the CAC recognizes that it will be able to issue new PA ID cards only to persons already holding an old, Israeli-issued ID card.

The Palestinian population census, currently under preparation by a special commission, (composed of the PA Statistical Bureau, the CAC, the PA Interior Ministry a.o.) will include all persons staying in the PA areas, as well as Palestinian residents whose ID cards were revoked by Israel. The census will be conducted between December 1 - 24, 1997. It will, however, not have implications on the issuing of PA ID cards.

c) **Child Registration:** The start of child registration by the PA was obstructed for months because Israel and the PA could not agree on the fees to be collected.<sup>(23)</sup> By mid-1996, a compromise solution finally enabled Palestinian parents to register their children. The compromise provides that child registration is free of charge within 10 days of birth (based on the Israeli military regulation). Later registrations require payment of a fine set by Israel (between NIS 70 - 120).

Still, the problem of overlapping legislation has not been resolved: Article 28/12 (Annex III of the Taba Agreement) applies parallel to Israeli military order #1421 (17 January 1995). The first sets the age limit for child registration at 16, while the latter sets it at 18. Meanwhile, PA Interior Ministry offices continue to register children only if they are 16 years of age or younger.

d) **Registration of Unregistered Persons:** By 12 December 1995, the official registration period for previously unregistered persons expired, according to Annex I/1/1g (Voter Registration, Taba Agreement). Only approximately 5,500 applications were gathered by the CAC in the West Bank. In the Gaza Strip, this opportunity was entirely missed. There, the CAC received only 180 ID card applications.

Lack of public information and confusion concerning eligibility and procedures were the major reasons for the low application turn-out. Approximately 50% of the applicants were spouses of residents who were already entitled to ID cards via family reunification based on the 1992 Israeli High Court Agreement. They were required to pay the application fee set by the PA for this special registration procedure (US \$100), even though Israel had already exempt them from additional fees. The CAC clerks lacked necessary background information. Since Israeli agreement to use the computerized information of the Israeli population registry was not obtained, the CAC tended to accept only applications which included a full record of entry permits for the past three or four years, something many could not provide. Moreover, applications could be only submitted to the CAC headquarters, representing an additional obstacle for people from remote areas. By April 1996, 3,000 of the 5,500 applications from the West Bank had been approved.

## **7. RELATED ISSUES**

### **Freedom of Movement**

Freedom of Movement for Palestinian residents is intrinsically related to the issue of residency rights in the PA areas. The first type of closure, i.e. closure of the green line (1967 cease-fire line) and a system of Israel-entry permits, was established permanently in March of 1993, prior to the Oslo Accords. Immediately following Israeli redeployment in the West Bank (November - December 1995), a new system of Israeli travel restrictions between West Bank towns was imposed (March 1996), in addition to the ongoing closure of the first type. This second type of closure was of a new kind; it included the closure of Palestinian areas A and cantonization of the Palestinian self rule areas. This cantonization took a more solid form after the virtual land-locking of the Gaza Strip. Between 30 March 1993 and the end of 1996, approximately 329 calendar days of comprehensive closure were imposed on the West Bank and Gaza Strip.<sup>(24)</sup> This same policy continued throughout 1997.

### **Absence of Safe Passage between the Gaza Strip and the West Bank**

Annex II of the Oslo Accords (DOP) provides for a safe passage to be established between the Gaza Strip and Jericho. No such passage has been provided by Israel. Gazan's wishing to travel to other parts of Palestine are totally dependent upon obtaining entry permits to Israel. Such permits are issued only in exceptional cases. Residents of the West Bank wishing to travel to the Gaza strip must obtain a special entry permit as well . These permits are usually refused.

By 1997, the separation of the West Bank and the Gaza Strip from each other, from Israel, and East Jerusalem has become a de facto reality. Closures within the West Bank are frequent. The cantonization has had a detrimental effect on Palestinian employment, business, commerce, medical treatment, and social relations. Palestinian residents of the West Bank wishing to change their address to the Gaza Strip (or vice versa) require legal assistance for a matter which now is almost as difficult as obtaining family reunification.<sup>(25)</sup>

Palestinian college and university students have suffered tremendously from the lack of access to their place of study and frequent interruptions of their academic program. In December 1994, the Israeli authorities introduced a tight security check of Gaza students wishing to study in West Bank universities and colleges. 500 Gaza students failed to receive permission to cross into the West Bank by April 1995, losing an entire academic year. Since then, the number of Gaza students studying in the West Bank has dropped drastically. The majority of those enrolled in West Bank universities are forced to risk staying there illegally.

## **CONCLUSIONS AND RECOMMENDATIONS**

Investigation into the situation of Palestinian residency in the PA areas - four years after the Oslo Accords and three years after the start of partial Israeli redeployment - shows a dark picture. Problems inherited from the old Israeli occupation system have remained unsolved, new problems have been added by the awkward new system of Israeli-Palestinian coordination, and the prospects for negotiated improvements are slim. Devoid of legal protection and subjected to arbitrary decisions and policies, Palestinians living in the 1967 Israeli occupied territories are in urgent need of protection of their right to live in their homeland.

Palestinian and Israeli human rights organizations are called upon to re-establish coordination and to engage in a concerted effort towards:

- broad public information; Palestinian human rights organizations must improve their ability to provide guidance and protection to an extremely disoriented public.
- the improvement of coordination with the PA-CAC, especially around the most urgent problems (family reunification, lost IDs, visitor's permits);
- the formulation of new strategies for pressuring the Israeli authorities. Old channels of legal redress no longer available must be replaced by a new plan of action. Given the unlikelihood of progress of the Israeli-Palestinian negotiations, international law and standards must be re-affirmed as primary terms of reference.

The PA continues to allocate major resources to the negotiation process with the Israeli side. Family reunification, the new PA identity cards and passports have been given priority. However, it is likely that neither these issues, nor other issues scheduled for treatment at a later stage (lost IDs, visitor's permits) will find an adequate solution in the negotiations conducted on the level of technical committees (i.e. CAC and the Israeli military government in Beit El). Therefore, the PA-CAC is called upon to shift its focus from the futile negotiation process towards community based action aimed at protecting Palestinian residency rights by:

- developing a public service orientation, democratic procedures, and efforts towards broad public information;
- coordinating with human rights and grass-roots organizations in strategic thinking about new ways of protecting Palestinian residency rights, i.e. involving the community in finding creative solutions and in building pressure on the Israeli authorities.

International interest in the actual situation of Palestinian residency rights is vital.

- Both governmental and non-governmental parties are called upon to monitor the (non) implementation of Israeli-Palestinian agreements and Israeli promises in the Multilateral Refugee Working Group, as well as the situation of Palestinian residency rights on the ground (fact finding missions, media reports, briefings of policy makers).
- International law and standards must remain the prior measure of presence/absence of improvement of Palestinian residency rights in the PA areas. This is especially important in times when progress in the Israeli-Palestinian negotiations is not tangible, and agreements reached are vague and/or not implemented.

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## **Annex I**

### **Palestinian Migration to the PA Areas (1994 - 1997)**

1. Persons entering on visitor's permits and staying after expiration

15,000 (PA estimate) 35,000 (Israeli estimate);

2. Persons granted residency via family reunification (average of 3 persons/case)

19,800 (Gaza: 4,200 cases                      West Bank: 2,400 cases)

3. Spouses granted family reunification based on November 92 High Court Agreement (est. 1,000 cases, i.e. 50% of total)

3,000

4. Persons granted residency based on the Election Agreement/Taba

3,000

5. Palestinian Deportees permitted to return

326 (1,000 including families)

6. PNC members permitted to return (without deportees and persons returned earlier via the PA)

167 (500 including families)

7. Persons entering with PA national numbers

50-60,000 (this estimate includes family members)

Total (1 - 7) 91,800- 121,800

**Note:** This estimate is based on The Silent Migration (1994 - March 1996), ARTICLE 74 Bulletin, no. 15 (April 1996), p. 7, and on updated estimates provided by the CAC-headquarters in November 1997. No survey available.

## **Annex II**

### **Sources and References**

ARTICLE 74 Bulletin for the Promotion of Palestinian Residency & Refugee Rights, nos. 13 - 21 (June 1995 - September 1997), AIC-Project for Palestinian Residency & Refugee Rights.

Civil Affairs Committee of the PA (CAC), Ramallah: Protocols of meetings with human rights organizations (21-12-95 to 2-11-1997).

Family Reunification Criteria and Procedures, Report prepared by the Israeli-Palestinian Coalition of Human Rights Organizations for Family Reunification for the Palestinian Delegation to the Multilateral Refugee Working Group, December 1993 (unpublished).

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Guidelines for Palestinians in Jordan Who Wish to Live in Occupied Palestine, AIC-Project for Palestinian Residency & Refugee Rights, Amman, February 1995 (Arabic).

Israeli State Attorney, letters to Atty. Lea Tsemel/AIC-Project for Palestinian Residency & Refugee Rights, 9 August 1995 and 9 January 1996.

Memorandum 2/97: Palestinian Deportees: The Leaders Returned - The Soldiers Remaining in Exile?, Muhammad Jaradat/AIC-Project for Palestinian Residency & Refugee Rights, January 1997 (Arabic).

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Palestinian Deportees' Committee: Special Report on the Right of Return of the Palestinian Deportees and their Families; Amman, 1 May 1995.

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Salim Tamari, Palestinian Refugee Negotiations: From Madrid to Oslo II, Washington DC, Institute for Palestine Studies, 1996.

Second Report by the French Emissary on Family Reunification (Bajolais Report), Multilateral Working Group on Refugees, Tunis Meeting (October 12 - 14, 1993) (unpublished).

Status of Family Reunification Issues - Achievements and Problems, Report Submitted by the Palestinian Delegation to the Intercessional Meeting of the Refugee Working Group on Family Reunification, Paris, November 15-16, 1994 (unpublished).

UNSCO Special Report: An Analysis of the Israeli Closure Policy, Spring 1997.

## Footnotes

- (1) For detailed information on Palestinian residency rights in occupied East Jerusalem, see: Nathan Krystall: Urgent Issues of Palestinian Residency in Jerusalem, AIC, June 1994 (English and Arabic); Atty. Lea Tsemel, Ingrid Jaradat Gassner: The Trap Is Closing on Palestinian Jerusalemites , AIC, Memorandum 1/96, February 1996 (English and Arabic); B'tselem & Hamoked: The Quiet Deportation, April 1997.
- (2) ARTICLE 74 Bulletin, no 12 (April 1995)
- (3) In the Gaza Strip, 800 family reunifications were issue in 1995 and 1996 respectively (i.e. in accordance with the Israeli quota). Nothing comparable has happened in the West Bank.
- (4) see example: "Bajolet Report" submitted to the RWG (Appendix II, References)
- (5) Protocol of meeting between CAC-Ramallah and AIC/Project for Palestinian Residency & Refugee Rights, Ramallah, 2-11-97.
- (6) Protocol; CAC suggestions presented in a meeting with human rights organizations, Ramallah, 29-2-96.
- (7) From: Canadian Embassy press release, 16 April 1997.
- (8) First published in Globe and Mail, Canada, 24 April 1997.
- (9) For estimates of the scope of Palestinian immigration to the PA areas, see Annex I.
- (10) Israeli State Attorney: letter to Atty. Lea Tsemel, 9-8-1995.
- (11) Protocol of meeting CAC-Ramallah and AIC-Project for Palestinian Residency & Refugee Rights, 2-11-1997.
- (12) Protocol of meeting CAC-Ramallah with human rights organizations, 17-10-1996.
- (13) Protocol of meeting PA Interior Ministry-Bethlehem with AIC-Project for Palestinian Residency & Refugee Rights, 8-10-1996.
- (14) PA Interior Ministry to AIC-Project for Palestinian Residency & Refugee Rights, 8-10-1996.
- (15) Protocol of meeting CAC-Ramallah and human rights organizations, 17-10-1996.

- (16) Beit El: letter to Atty. Lea Tsemel, 9-1-1996.
- (17) All figures are taken from a report prepared by the Palestinian Deportees Committee/Amman, 1995;
- (18) For more detail on the situation of Palestinian deportees see: Memorandum 2/97, Palestinian Deportees: The Leaders Returned- The Soldiers Remaining in Exile?, AIC, January 1997 (Arabic, 50pages; English edition forthcoming).
- (19) For International Law on Deportation see: Forth Geneva Convention, Article 49(1), quoted above.
  - (20) Military order #1421 replacing order #197/11a of 1969.
- (21) The effort of the architects of the Israeli-Palestinian agreements to trick the Palestinian public is also shown by the fact that the outside cover of this PA document reads "travel document" in English and "passport" in Arabic.
- (22) According to the CAC-Ramallah (2-11-97), population files will be transferred from Israel to the PA on 25 November 1997. On 1 December 1997, the PA will start printing the new ID cards.
- (23) See "Stamp Dispute" in chapter 1.
- (24) UNSCO Special Report: An Analysis of the Israeli Closure Policy, Spring 1997.
- (25) It is important to emphasize that an address change from the Gaza Strip to the West Bank would be a procedure completely under the discretion of the PA, if the principle of territorial unity of the PA areas was applied.