

The gender-specific impact of movement restrictions in the occupied Palestinian territories

The Right to Freedom of Movement

The right to freedom of movement is enshrined in Article 13 of the *Universal Declaration of Human Rights* of 1948. It states that everyone has the right to freedom of movement and residence within the borders of each State and that everyone has the right to leave any country, including his own, and to return to his country.¹ The right to freedom of movement is furthermore reiterated in Article 12 of the *International Covenant on Civil and Political Rights* which entered into force in 1976 and was ratified by Israel in 1991. The Covenant asserts that all individuals within the territory of a State have the right to liberty of movement and freedom to choose their residence, everyone shall be free to leave any country and no one should be deprived of the right to enter his own country. These rights shall not be subjected to any restrictions, except those provided by law and still consistent with the other rights recognized in the Covenant².

Since its military occupation of the West Bank and Gaza in 1967, Israel has been in continuous violation of international law and international humanitarian law. The latter applies to situations of armed conflict and foreign occupation and is mainly based on rules defined in the Geneva Conventions of 1949. In the context of Palestine particular relevance is given to the *Fourth Geneva Convention* which deals specifically with the protection of civilians during war or under foreign occupation. The Convention addresses a number of issues pertaining to the reality of Palestine and clearly defines the duties and responsibilities of foreign powers towards the population of the territories they occupy. Among others, it prohibits forcible population transfer, systematic demographic change in the occupied territory, measures of collective punishment and acts of retaliation towards the occupied population. The Convention also affirms the responsibility of the occupying state to protect the occupied population, ensure family unity, give adequate medical care and food supply, securing freedom of movement and preventing deportation.³

This paper will provide an overview of the restrictions on freedom of movement imposed by Israel on the Palestinian population in the occupied territories and the scale of their gender specific impact on women; it will focus on two examples pertaining right to health and protection from gender-based violence. It is imperative to highlight that women and girls endure specific gender-based violations which are often overlooked or summarized under the general umbrella of human rights breaches by the occupying forces. Yet, the prolonged military occupation has had a particularly negative impact on women, exacerbating the pressure and constraints imposed upon them by traditional patriarchal structures within their own society. The spiral of violence and frustration generated by the occupation has severe consequences on family life, seeping in and destroying the fabric of Palestinian society. Continuous policies of settlements expansion, land confiscation, arbitrary detentions and large scale military aggressions are not only means of psychological and physical terror, but also of economic strangulation. Palestinian women losing their male counterparts as a result of the above mentioned policies are often required to become income providers without having the necessary skills and means to do so.

The *Convention on the Elimination of all Forms of Discrimination against Women* (CEDAW) states that:

“The eradication of apartheid, all forms of racism, racial discrimination, colonialism, neo-colonialism, aggression, foreign occupation and domination and interference in the internal affairs of States is essential to the full enjoyment of the rights of men and women”

and

*“that the strengthening of international peace and security, the relaxation of international tension, mutual co-operation among all States irrespective of their social and economic systems, general and complete disarmament, in particular nuclear disarmament under strict and effective international control, the affirmation of the principles of justice, equality and mutual benefit in relations among countries and the realization of the right of peoples under alien and colonial domination and foreign occupation to self-determination and independence, as well as respect for national sovereignty and territorial integrity, will promote social progress and development and as a consequence will contribute to the attainment of full equality between men and women”.*⁴

¹Universal Declaration of Human Rights

²International Covenant on Civil and Political Rights

³Fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War

⁴Convention on the Elimination of all Forms of Discrimination against Women (CEDAW)

In line with MIFTAH's commitment to this vision, it is essential to document the gender specific struggle of women under occupation and how restriction of movement obstruct their access to a range of civil and political rights such as education, health, employment and family unity.

A brief History of Restriction on Freedom of Movement in Occupied Palestine

As an occupying power Israel has been administering all aspects of life in the West Bank and Gaza Strip since 1967. Under the pretext of guaranteeing security to his citizens, Israel has been imposing disproportionate and discriminatory restrictions on Palestinians that very often amount to collective punishment.

Following the June 1967 war, the West Bank and Gaza were declared closed military zones. In 1972 general exit permits were issued, allowing residents of the occupied territories to travel between the West Bank and the Gaza Strip and to enter Israel and east Jerusalem. They were however not allowed to stay between 1 a.m. and 5 a.m. In 1989, during the first Intifada, a new system of restrictions was put into place. Residents of the Gaza Strip had to be holders of magnetic cards in order to enter Israel. Such cards were not issued to former prisoners and administrative detainees, even when no charges had been filed against them. Palestinians living in the West Bank, who were now banned from entering Israel and Jerusalem, were issued green identity cards.

During the Gulf war in 1991, the general exit permit order of 1972 was revoked and replaced with a new policy under which individual permits had to be requested in order to enter Israel. One of the major consequences of this new restriction was the division of the occupied territories in three areas: the West Bank, east Jerusalem and the Gaza Strip. At this stage the North and the South started becoming isolated areas since passing through Jerusalem was prohibited to the vast majority of Palestinians. The policy of permanent closure was further sharpened in 1993, when Israel began setting up checkpoints along the Green Line, between the West Bank and east Jerusalem as well as within the West Bank. The number of permits decreased steadily and assumed a strikingly arbitrary character.

The Oslo Agreements, specifically Oslo II signed at Taba in 1995, added a new geopolitical element to the existing restrictions of movement. The interim arrangements were meant to facilitate a gradual transfer of power to the newly formed Palestinian Authority; instead they have been lasting for twenty years and only contributed to institutionalize restrictions of movement within the occupied territories. The Accords divided the West Bank into three areas, each with different administrative and security regulations: Area A comprises the main cities and is under Palestinian Authority (PA) administration in regard to public order and internal security; area B includes several hundred villages and towns, where public order is overseen by the PA while the occupying forces are in charge of security matters (understood as in any threat to the security of Israeli citizens). Area C represents 60% of the West Bank and is controlled by Israel in regard to all civil matters and security. While it is nearly impossible for Palestinians to obtain a construction permit in this area, all Israeli settlements⁵ are based here and enjoy full access to infrastructures such as roads, water and electricity. Area C has strategic importance to the development of a self-sustainable Palestinian economy since the main water and land resources are located here. Moreover, it surrounds – or better divides – areas A and B, erasing any possibility of establishing a contiguous territorial entity. Fear of violent settler attacks and numerous “closed military zones” severely obstruct Palestinian freedom of movement living in area C.

After the Al-Aqsa Intifada in 2000, which saw a total closure of the West Bank for several months, freedom of movement for Palestinians was constantly reduced. In 2002 the Israeli government started building the Separation Wall under the pretext of preventing Palestinians to illegally cross into Israel and of stopping the wave of suicide bombings attacks. In reality the Wall has not been built on the Green Line borders but on confiscated Palestinian land, cutting deeply inside the West Bank⁶, in order to include a number of illegal Israeli settlements and continuing the annexation of parts of the West Bank. The Wall has had a devastating impact on the lives of Palestinians: it destroyed large amounts of farmland and water supplies, prevented farmers from reaching their fields and thus destroyed the local economy, isolated villages (some of which have been entirely surrounded by the Wall), obstructed residents from accessing medical and education services. Last but not least it had disastrous psychological consequences since it was aimed at breaking the spirit of a population being gradually caged into their native homeland by a foreign power.

⁵ It is important to note that settlements have been constructed on confiscated Palestinian land and are considered illegal under international law.

⁶ According to the Israeli human rights organization [B'Tselem](#), 85% of the Wall has been constructed on Palestinian Land.

In 2004, under request of the UN General Assembly, the International Court of Justice in The Hague gave an advisory opinion on the Separation Wall.⁷ The Court addressed a variety of issues such as the promised temporary nature of the Wall and the fear it would turn into a permanent barrier, its relation to illegal settlements and the subsequent breaches of both international human rights and humanitarian law. Furthermore, it called on Israel to cease construction, tear down the existing sections and compensate the affected population for the damage caused. As of 2015 none of these measures have been taken into consideration by the Israeli government. On the contrary, following the recent escalation of violence, harsher restrictions of movement have been inflicted, especially on Palestinian residents of east Jerusalem. A system of temporary so-called flying checkpoints, roadblocks and random checks has been implemented in several neighborhoods since the beginning of October 2015.⁸ These actions tie in with Israeli policies of collective punishment and intimidation and significantly contribute to fuel anger and retaliation.

At present there are 96 permanent checkpoints in the West Bank: 57 are located deep inside the occupied territories while 39 serve as a last inspection point on the border to Israel. An additional number of concrete blocks, dirt mounds, gates, flying checkpoints and road closures obstruct free movement within and outside the Territories on a daily basis.⁹ Gaza has been almost completely sealed off since 2007 with only two partly operational checkpoints, the Erez crossing for pedestrians and the Kerem Shalom crossing for transportation of goods.

Settlements expansion also plays a key role in restricting freedom of movement, fragmenting the land and displacing the Palestinian population. The International Court of Justice, the UN Security Council and UN General Assembly have declared Israeli settlements to be illegal under international law, since the Fourth Geneva Convention prohibits an occupying power from transferring its citizens to the territory it occupies.¹⁰ In the West Bank there are 125 government-recognized settlements and approximately 100 outposts which have been installed with governmental support and protection. The rapidly growing settler population in the West Bank currently amounts to 547,000 excluding east Jerusalem and Hebron.¹¹

United Nations Security Council Resolution 1325 and Freedom of Movement

In 2000, as part of its Women, Peace and Security agenda, the UN Security Council adopted *Resolution 1325 (UNSCR 1325)*¹², which was the first resolution to comprehensively address the gender specific impact of armed conflicts on women. Among its most prominent goals the resolution counts preventing gender-based violence in armed conflict, increasing participation of women in peace negotiations and at decision-making levels, and ensuring their protection in refugee settings. At Palestinian level several issues obstruct the work of the National Coalition for the Implementation of UNSCR 1325, first and foremost its failure to include the uniqueness of the Palestinian situation as one of prolonged occupation, and second the lack of accountability mechanisms. The internationally accepted feminist reading of UNSCR 1325 cannot work in the specific context of Palestine as it doesn't take into account the brunt of the military rule over the occupied territories. Participation, protection and empowerment of women cannot be realized unless the Israeli occupation and colonialist enterprise are dismantled. Participation becomes an empty concept if it doesn't include a right-based approach rooted in the equality of all human beings. Protection cannot be guaranteed by the Palestinian Authority due to their limited power under occupation; the repeated military attacks and incursions in both the Gaza Strip and the West Bank are a clear example of this. Women empowerment is closely linked to a more comprehensive political and economic empowerment which can only be achieved through self-determination and therefore liberation from the occupying power.

UNSCR 1325 can only be implemented in a stable environment where governments and relevant institutional bodies are truly committed to preserve human rights and follow transparent judicial mechanisms. Moreover, the fulfilment of 1325 cannot be disconnected to all other UN resolutions applicable to the Palestinian cause such as the right to national sovereignty, right of return and right to access holy sites. In this context the ability to move freely can be seen as the condition sine qua non for the realization of such a safe environment: it is the prerogative to access a set of fundamental rights enshrined in the *International*

⁷ [International Court of Justice: Legal Consequences of the Construction of a Wall in the occupied Palestinian territory](#)

⁸ Current closures have been monitored and documented by both [AI-Haq](#) and [B'Tselem](#).

⁹ [B'Tselem: Checkpoints, Physical Obstructions, and Forbidden Roads](#)

¹⁰ [IV Geneva Convention, Article 49](#)

¹¹ [B'Tselem: Statistics on Settlements and Settler Population](#)

¹² [Full text of UNSCR 1325](#)

*Covenant on Economic, Social and Cultural Rights*¹³ such as right to health, right to education, right to work, right to worship and right to protection of family life. If women cannot reach universities because of movement restrictions and fear of settler violence, they cannot possibly acquire the necessary level of education required in governmental and other high position roles. When the judicial system suffers under the territorial fragmentation imposed by the Oslo Accords, it becomes impossible to ensure efficient rule of law and prosecution, for instance in relation to gender-based violence. And again, when the Wall and a discriminatory system of residency permits govern individual relationships, family unity is subjected to insurmountable bureaucratic ordeals.

Restriction of movement significantly prevents the human development that is essential to the implementation of UNSCR 1325 in several aspects. Furthermore, it contravenes with the request to protect women and their gender specific needs. The most striking example concerns the treatment of pregnant women in need to access urgent and/or specialised health care. West Bank residents need to apply in advance for a permit to travel into Israel (including east Jerusalem) for medical reasons. In order to obtain a permit, patients need to provide a referral from the Ministry of Health certifying their illness, an appointment confirmation from the hospital and evidence that this specific hospital is the only facility where the required treatment is available. Although the delivery date for the majority of pregnancies is uncertain, permits are generally valid for one or two days and must be continually renewed during the ninth month of pregnancy. In the time between 2000 and 2009 these circumstances led to 69 women giving birth at checkpoints¹⁴. As a consequence of the movement restrictions women often experience pregnancy in a status of stress and anxiety. Family members may not be allowed to accompany or visit them in hospital due to a lack of permit or may be delayed at checkpoints for a variety of reasons. Palestinian women are also less likely to seek ante- and post-natal care and do not enjoy the full range of psychosocial services that should be available to them¹⁵. Restrictions on movement also impact the functioning of West Bank hospitals and the professional development of their medical staff, once again creating a situation of dependency from the occupying power. Doctors are impeded at checkpoints because of delays and the more general unpredictability of how long their journey will take, while students are often unable to carry on their study and access high levels of trainings, for example abroad. A 2012 study commissioned by the World Health Organisation on health access barriers in the occupied Palestinian territory identifies the occupation, specifically the presence of settlements in the West Bank and the Wall enclosing Jerusalem, as the main obstacle to achieving the right to health¹⁶.

The second example pertains to restrictions of movement resulting from geopolitical issues of fragmentation. The above-mentioned division of the West Bank in Area A, B and C following the Oslo Agreements has had a disastrous impact on the Palestinian legislative system, more precisely on its development potential. The Palestinian judicial system is built on a variety of legal codes leaning on Palestinian Basic Law, Sharia law, Ottoman, Jordanian and British Mandate law; notably, this already disjointed system exists in the context of the overarching Israeli military rule of the West Bank. The implementation of the rule of law is further affected by the PA lack of authority in Area C and its limited authority in Area B. The impossibility of efficient prosecution arising from juridical fragmentation is clearly illustrated in the 2009/2010 UNDP report on human development in the occupied territory: criminals and wanted persons can flee from Area A to B to C, where Palestinian police has no jurisdiction and therefore coordination with the Israeli forces has to be requested, meaning delays in investigation and lack of interest from the Israeli authority to cooperate on intra-Palestinian crimes that do not affect Israeli citizens¹⁷. Closures and movement control also have an impact of the day to day functioning of the legal system: judges, lawyers and clerks may be unable to reach the courts, while the Palestinian Legislative Council can convene only prior to obtaining travel permits from the Israeli authorities¹⁸. A dysfunctional judiciary system is bound to have major repercussions especially on the vulnerable groups in society. Palestinian women already suffer under gender inequality due to the persistency of patriarchal rule in the majority of society; they silently endure domestic violence, abuse and oppression and have no legal tools to escape their condition of persistent, underlying discrimination. Their situation is worsened by the constraints under which the Palestinian legislative system operates. For instance, the PA could pass a law conferring women equal rights when applying for child custody, though the

¹³ [International Covenant on Economic, Social and Cultural Rights](#)

¹⁴ [OHCHR Annual Report on the Issue of Palestinian women giving Birth at Checkpoints](#)

¹⁵ [Jerusalem Center for Women: The Israeli Practice of forcing Palestinian Women to give birth at checkpoints](#)

¹⁶ An abstract of the study published in the UK medical journal *The Lancet* can be found [here](#).

¹⁷ [Human Development Report 2009/2010: occupied Palestinian territory, p. 57](#)

¹⁸ Palestinian Centre for Human Rights, [Position Paper](#) regarding Regulations adopted in the Context of ongoing political Fragmentation

implementation of such law is totally dependent on Israel when it involves movement between Gaza and the West Bank¹⁹. In other cases, the system is unable to protect the right of Palestinians because of land fragmentation: residents of east Jerusalem do not fall under PA jurisdiction and have to rely on Municipal Courts instead. Also, as previously mentioned, Palestinian police cannot handle calls of potential victims of violence across areas B and C without prior permission from the occupying forces.

Women inequality can only be overcome by a mind shift within the male dominated society, and this requires a great deal of advocacy and education in the field of women's rights. However, it is the general aim of legislation to facilitate - and if necessary - force this type of mentality shift by providing the legal means to prosecute criminal actions. Restrictions of movement imposed by the occupation are preventing the development of an efficient Palestinian judicial system, thus exacerbating the situation of women affected by gender-based violence in the territories. The role of the military occupation in regard to the oppression of women cannot be overstated since no reforms can be pushed forward in a context of permanent instability. At the same time, the efforts to end the Israeli occupation must be complemented by the pursuit of full equality for women and the dismantling of patriarchal ruling within Palestinian society. Ending one form of oppression doesn't make up for the persistence of one other and in this sense it is imperative that the movement to end occupation goes hand in hand with the movement for women's equality. Empowerment and participation of women in peace negotiations as stated in UNSCR 1325 has to be seen as a tool to end occupation. Great efforts have already been made by the National Coalition for the Implementation of UNSCR 1325 jointly with the General Union of Palestinian Women to develop a National Action Plan for all women's organizations. Looking forward, there is an urgent need to develop questionnaires to document human rights violations against women and girls mentioned in Resolution 1325 as part of the Palestinian vision. Additionally, the Coalition should stress the applicability of the resolution to women under occupation at UN level and make sure the specificity of the Palestinian situation is not pushed into the background.

¹⁹[UNDP, A Review of Palestinian Legislation from a Women's Rights Perspective, p. 20](#)