

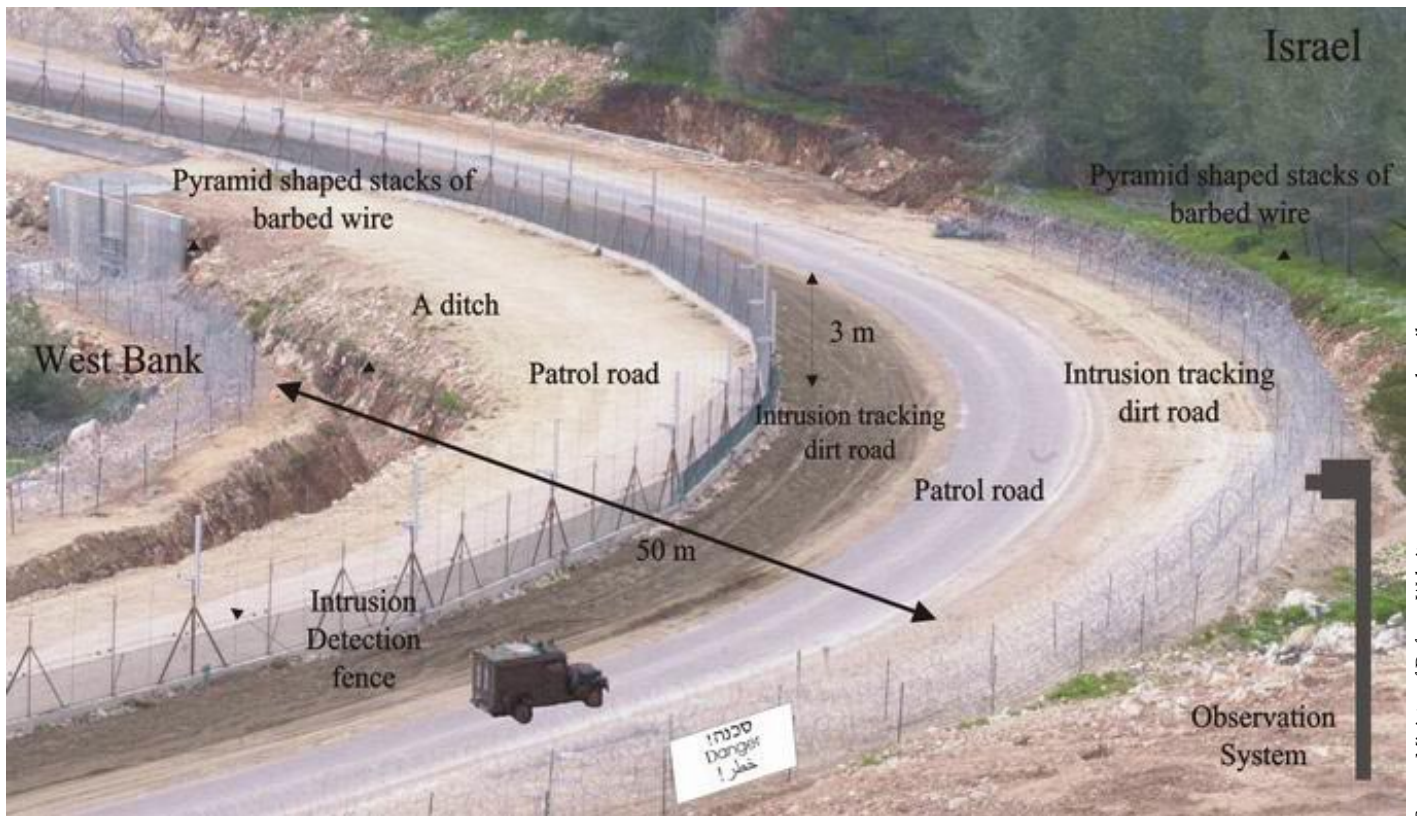


Humanitarian Impact of the West Bank Barrier

Special Focus

Crossing the Barrier:
Palestinian Access to Agricultural Land

January 2006
Update No. 6



Design of the multi layered fence system

Source: Ministry of Defence Website www.seamzone.mod.gov.il



Abu Dis Barrier, Jerusalem

OCHA/ Steve Sabella, June 2005

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Introduction

This report is produced by the United Nations Relief and Works Agency (UNRWA) and the UN Office for the Coordination of Humanitarian Affairs (OCHA) and documents the impact of the West Bank Barrier on Palestinian lives. It is submitted to the Humanitarian Emergency Policy Group (HEPG) in two parts:

- * **Part 1** provides updated information on the status of the Barrier's construction in the West Bank and its humanitarian impact.
- * **Part 2** examines the impact of the permit system that regulates Palestinian movement through the Barrier into the 'closed areas' (areas of land that lie between the Barrier and the 1949 Armistice Line or 'Green Line'). This part of the report covers two northern West Bank governorates (Qalqiliya and Tulkarm) and is based on extensive fieldwork conducted during 2004 and 2005 and an analysis of permit applications submitted in Qalqiliya governorate.

It is important to note that had the Barrier in the West Bank been constructed on the Green Line, this report would be unnecessary.

Concerned that Palestinian livelihoods and access to essential services would be harmed by the construction of the West Bank Barrier, the international donor community – through the Humanitarian Emergency Policy Group (HEPG) - requested regular updates on the humanitarian impact of the Barrier. The HEPG comprises the European Commission and the EU President, the World Bank, USAID, Norway and UNSCO.



Background

A brief chronology of the Barrier

November 2000 – Israeli Prime Minister Ehud Barak approves a plan to establish a barrier along a section of the northern and central West Bank to prevent vehicular crossings.

June 2001 – Israeli Prime Minister Ariel Sharon establishes a Steering Committee under National Security Council (NSC) Director Uzi Dayan to develop a more comprehensive plan to prevent Palestinian militants from infiltrating into Israel. The Steering Committee's recommendations lead to the implementation and expansion of Barak's earlier plan. A barrier blocking Palestinians crossing by foot into Israel at certain high risk locations along the 'Seam Zone' (a strip of land extending on both sides of the Green Line) is conceived.

July 2001 – The NSC's plan for a barrier is presented to members of the Ministerial Committee for National Security (MCNS) and is approved in principle.

April 2002 – After a wave of suicide attacks inside Israeli cities killing dozens and injuring hundreds of Israelis, the Israeli Cabinet decides to establish a barrier composed of fences and walls in three areas of the West Bank. A 'Seam Zone Administration' headed by the Director-General of the Ministry of Defense is established and the Israel Defense Forces (IDF) begin requisitioning and levelling land.

June 2002 – The Seam Zone Administration formulates a plan to build Phase I of the Barrier through the northern part of the West Bank. Phase I also includes a barrier along the northern and southern borders of the 'Jerusalem Envelope'. The Jerusalem Envelope was previously approved by the MCNS in December 2001 and again in March 2002. The plan is approved in principle by Government Decision 2077 in the Israeli Cabinet on 23 June 2002. Construction of the Barrier commences.

14 August 2002 – The Israeli Cabinet approves the final route of Phase I which consists of 123 km of Barrier in the northern West Bank and 20 km around Jerusalem.

October 2003 – The Government of Israel publishes the full plan of the Barrier's route throughout the West Bank.

30 June 2004 – A new map is published revising the October 2003 route.¹

30 June 2004 – The Israeli High Court of Justice rules that the planning of the route must give weight to the humanitarian considerations of Palestinian civilians.

9 July 2004 – The International Court of Justice (ICJ) issues an advisory opinion declaring the Barrier constructed in the West Bank contrary to international law and calls on Israel to dismantle it.

20 July 2004 – The UN General Assembly reaffirms the ICJ Advisory Opinion.

20 February 2005 – The Israeli government publishes a revised route of the Barrier.²

15 September 2005 – Contrary to the ICJ Advisory Opinion the Israeli High Court of Justice rules that the route of the Barrier is not illegal under international law. It decides to continue to examine individual segments of the Barrier on the basis of a proportionality test.

Israel has stated that the Barrier was conceived by the Israeli Defense Establishment to reduce the number of terrorist attacks. It maintains that "the sole purpose of the Security Fence, as stated in the Israeli Government decision of July 23rd 2001, is ... security ... [and] Israel's response to suicide bombers who enter into Israel".³ The Government of Israel further stated that "the Security Fence is a manifestation of Israel's basic commitment to defend its citizens, and once completed, it will improve the ability of the IDF to prevent the infiltration of terrorists and criminal elements into Israel for the purpose of carrying out terrorist attacks or the smuggling of arms and explosives".⁴

The Palestinian Liberation Organization (PLO) has stated that the Barrier's construction and its associated regime within the occupied Palestinian territory (oPt) violates international humanitarian law because it is not justified by military necessity and violates the principle of proportionality. The PLO maintains that the Barrier causes destruction of Palestinian property and infringes Palestinian human rights.⁵ The PLO contends that the "construction of the Barrier is an attempt to annex the territory contrary to international law [and] the de facto annexation of land interferes with the territorial sovereignty and consequently with the right of the Palestinians to self-determination."⁶

The UN Secretary-General has reported to the General Assembly that "Israel has repeatedly stated that the Barrier is a temporary measure. However, the scope of construction and the amount of occupied West Bank land that is either being requisitioned for its route or that will end up between the Barrier and the Green Line are of serious concern and have implications for the future. In the midst of the Road Map process... the Barrier's construction in the West Bank cannot, in this regard, be seen as anything but a deeply counterproductive act. I acknowledge and recognize Israel's right and duty to protect its people against terrorist attacks. However, that duty should not be carried out in a way that is in contradiction to international law."⁷

In its advisory opinion of 9 July 2004, the International Court of Justice (ICJ) found that the Barrier constructed in the West Bank is illegal under international humanitarian and human rights law. The Court found that "[Israel]

has the right, and indeed the duty, to respond in order to protect the life of its citizens. The measures taken are bound nonetheless to remain in conformity with applicable international law".⁸

The ICJ concluded that "Israel also has an obligation to put an end to the violation of its international obligations flowing from the construction of the wall in the Occupied Palestinian Territory ... Israel accordingly has the obligation to cease forthwith the works of construction of the wall being built by it in the Occupied Palestinian Territory, including in and around East Jerusalem ... [and] dismantling forthwith of those parts of that structure situated within the Occupied Palestinian Territory, including East Jerusalem".⁹

The Court also concluded that Israel has an obligation to make reparation for the damage caused to all persons and that Israel is under a responsibility to return the land, orchards, olive groves and other immovable property seized for purposes of construction of the Barrier in the oPt.¹⁰



Nazlet Issa Barrier, Tulkarm

OCHA/ Steve Sabella, June 2005

Overview and key developments of the Barrier (March - October 2005)

In June 2002, the Government of Israel began construction of the Barrier in the West Bank.

On 20 February 2005, the Israeli Cabinet approved a revised route of the Barrier and published a map on the Ministry of Defense's website (www.seamzone.mod.gov.il).

Barrier route

Once completed, the total length of the Barrier will be 670 kilometres (km). This includes parts of the sections around the Ma'ale Adumim and Ari'el/Emmanuel settlements.

The Barrier will run from eastern Tubas governorate in the north of the West Bank to the southern tip of the West Bank in Hebron governorate. Because of its meandering path (into the West Bank), the Barrier's length is approximately twice the length of the 1949 West Bank Armistice Line (the 'Green Line') adjacent to Israel at 315 km.

Status of construction

As of October 2005, approximately 243 km (36.3%) of the Barrier has been completed while 166 km (24.8%) is under construction. The constructed Barrier consists of a combination of ditches, trenches, roads, razor wire, electronic fences and concrete walls. Of the constructed Barrier, 37 km is made up of 9 metre high concrete slabs (15.2%).

West Bank land affected

Construction of the Barrier has led to the requisition of approximately 35,000 dunums (3,500 hectares) of West Bank land.¹¹ The Barrier buffer zone in the northern West Bank¹², including the area where the Barrier is located, covers approximately 62,890 dunums (6,289 hectares) of West Bank land. In this approximately 150 - 200 metre buffer zone on the West Bank side of the Barrier, no building is permitted without IDF approval.

If all of the Ma'ale Adumim and Ari'el/Emmanuel sections marked as "subject to the completion of further inter-ministerial examination" are included then approximately 570,560 dunums (57,056 hectares) or about 10.1% of West Bank and East Jerusalem land will lie between the Barrier and the Green Line.¹³

Departure from the Green Line

As of October 2005, 525 km (74.6%) of the total length of the Barrier (constructed and projected) is inside West Bank territory. A further 145 km (25.4%) is on the Green Line.

Israeli settler population between the Green Line and the Barrier

Fifty-six West Bank Israeli settlements (excluding East Jerusalem settlements) will lie between the Barrier and the Green Line, comprising approximately 170,123 Israeli settlers. In addition, there are over 170,000 Israeli settlers in East Jerusalem settlements. Together approximately three-quarters of the total settler population will be between the Barrier and the Green Line.

Ma'ale Adumim section

The planned route around the Ma'ale Adumim settlement extends 14 km into the West Bank (45% across the width of the West Bank in this area). This planned section will impede movement between the northern and southern areas of the West Bank, blocking roads currently used by Palestinians to travel between these areas. For Palestinians residing in and around East Jerusalem, the addition of the Ma'ale Adumim section will increase existing movement restrictions created by the constructed sections of the Barrier.

"E1" is a planned new development within the municipal boundaries of the large Israeli settlement of Ma'ale Adumim. E1 will create a corridor between Ma'ale Adumim and the Israeli municipal boundary

of Jerusalem. The E1 plan remains, “subject to completion of further inter-ministerial examination”, but its impact would be to encircle East Jerusalem and isolate it from the rest of the West Bank.

In August 2005, the IDF issued four requisition orders for Barrier construction near and around the Ma’ale Adumim settlement bloc totaling 1,585 dunums (158.5 hectares).¹⁴ The orders, requisition land from the Palestinian communities of Al Eizariya, Abu Dis and As Sawahria ash Sharqiya.

Ari’el / Emmanuel section

The planned route around the Ari’el/ Emmanuel settlements extends 22 km into the West Bank (42% across the width of the West Bank in this area). Around the Ari’el/Emmanuel settlements, 43 km of the Barrier’s planned route is marked as a ‘Special Security Arrangement’. Military orders have been issued requisitioning land in these areas and construction of the Barrier is in progress.

Gush Etzion settlement bloc

Extensive land requisitions were recorded in July and August 2005 in western Bethlehem governorate around the Gush Etzion settlement bloc for the construction of the Barrier.

In total, approximately 1,429 dunums (142.9 hectares) of land has been requisitioned in this area.¹⁵

Barrier gates

As of October 2005, 65 gates exist in the Barrier (Figure 1). Of these 27¹⁶ are open to Palestinians with the appropriate permit and a further ten are open on a seasonal basis. A further 28 gates are closed to Palestinians.

Humanitarian impact

The land between the Barrier (projected and constructed) and the Green Line comprises some of the most fertile in the West Bank. Approximately 5,000 Palestinians currently reside in these closed areas and once the Barrier is completed a total of 49,400 West Bank Palestinians living in 38 villages will be included.

Approximately 230,000 Palestinians hold East Jerusalem residency permits. These people, who reside in the area of East Jerusalem that was illegally annexed by Israel in 1967, are entitled to live and work in Israel, although they are not Israeli citizens. About one-quarter of East Jerusalem residents will be located to the east of the Barrier and will need to cross the Barrier to access services to which they are entitled inside Jerusalem.

More generally, other West Bank Palestinians will be affected. Palestinians living east of the Barrier will need to cross it to get to their farmland, jobs and services. More than 500,000 Palestinians, for example, live within one kilometre of the Barrier.

Where the Barrier has been constructed, Palestinians face economic hardship due to restrictions of access to their land to harvest crops, graze animals and earn a living. Palestinians have also been cut off from schools, universities and specialised medical care by the Barrier.

The damage caused by the destruction of land and property for the Barrier’s construction will take many years to recover from and hinder Palestinian development should a political situation allow this.¹⁷

The Barrier also fragments communities and isolates residents from social support networks. Even where the Barrier’s route does not encircle an area, its presence may still impact a community. For example, the Barrier route surrounds on three sides approximately 43,900 Palestinians residing in communities between At-Tira and Beit Sira northwest of Jerusalem.

Figure 1: Barrier gates

Governorate	No Access (closed)	Restricted Access (seasonal)	Restricted Access (open)	Total Gates
Qalqiliya	9	3	12	24
Salfit	1	0	1	2
Tulkarm	6	2	8	16
Bethlehem	4	0	0	4
Hebron	1	0	0	1
Tubas	0	0	1	1
Jenin	6	6	5	17
Total	27	11	27	65

Source: OCHA fieldwork

West Bank Barrier Route Projections: - as of October 2005

The Barrier's total length is 670km, approximately twice the length of the 1949 West Bank Armistice Line (Green Line) adjacent to Israel. 25.4% of the Barrier's length runs along the Green Line

AREA AFFECTED

10.1% of the West Bank and East Jerusalem
142,641 acres or
57,726 hectares

Excluding the areas subject to completion of further inter-ministerial examination:

6.8% of the West Bank and East Jerusalem
96,537 acres or
39,068 hectares

BARRIER ROUTE

- Completed - 243 km
- Under construction - 166 km
- Planned - 132 km
- Part of the Barrier route is under Special security arrangement area
(14 km are under construction and 28 km are planned)
- Route subject to completion of further inter-ministerial examination - 129 km
- Road protection - 10 km*
*not included in sum of Barrier length

Area located between the Barrier and the Green Line

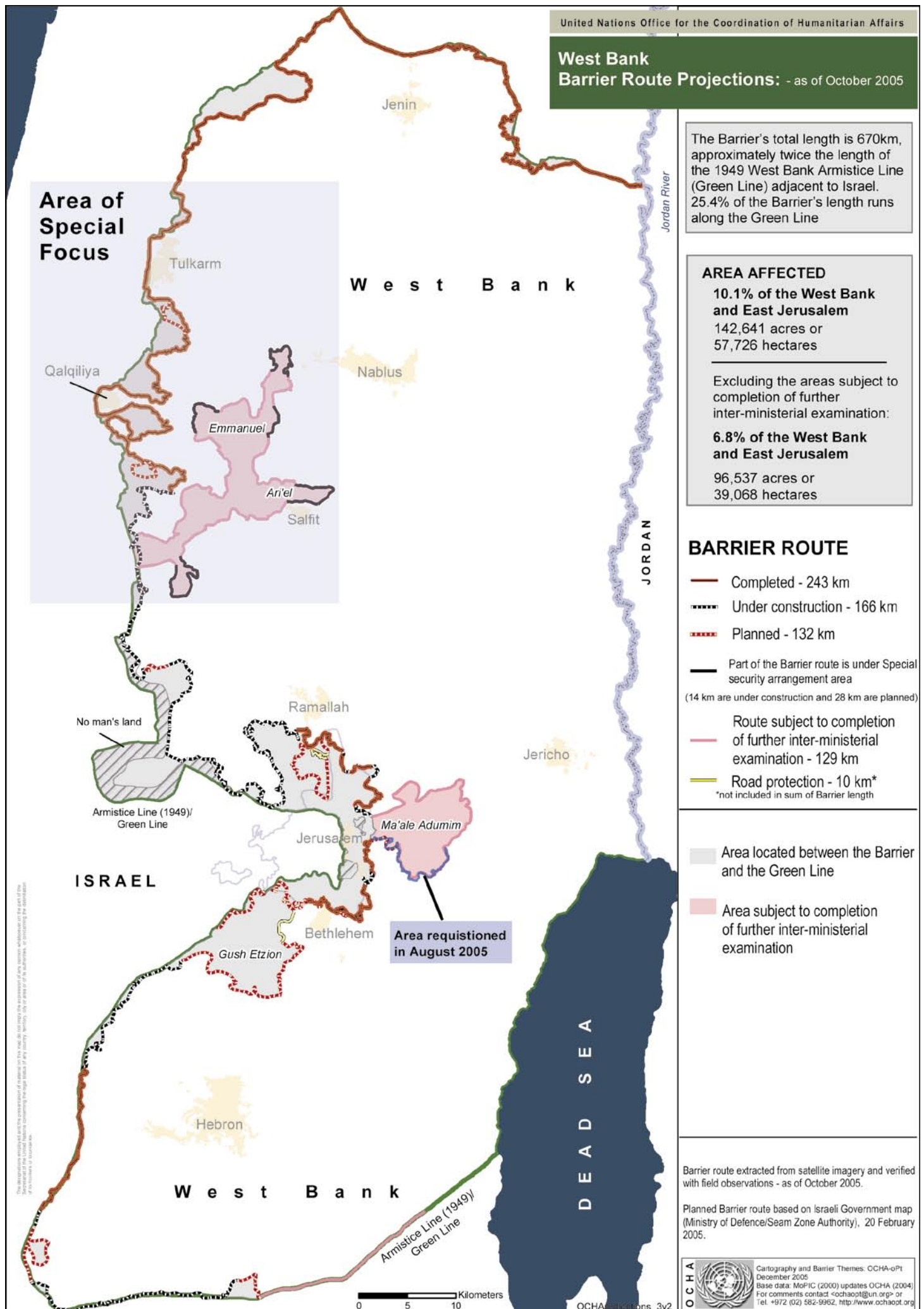
Area subject to completion of further inter-ministerial examination

Barrier route extracted from satellite imagery and verified with field observations - as of October 2005.

Planned Barrier route based on Israeli Government map (Ministry of Defence/Seam Zone Authority), 20 February 2005.



Cartography and Barrier Themes: OCHA-oPT December 2005
Base data: MoPIC (2000) updates OCHA (2004)
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Special Focus | Crossing the Barrier: Palestinian Access to Agricultural Land

Introduction to Special focus

This part of the report documents access through the Barrier. It is based on extensive fieldwork conducted during 2004 and 2005 and an in-depth analysis of 7,995 permit applications submitted in Qalqiliya governorate.¹⁸ The report covers 28 Palestinian communities located on the eastern side of the Barrier that have to obtain a permit to reach their land to the west of the constructed Barrier. Twenty-seven of these communities are in the Tulkarm and Qalqiliya governorates and one is in Salfit governorate.¹⁹ Nearly 180,000 Palestinians live in these communities, including over 75,000 registered refugees. The total area of this land is 8,500 hectares most of which is farming land, some of the most productive land in the West Bank. The amount of land separated from communities by the Barrier varies - in some cases as little as four percent of the agricultural land is separated from their communities (e.g. 'Attil) while in others, more than 70% of their land is separated (e.g. Ar Ras, Mas-ha, Qalqiliya).



Summary and Key Findings of Special Focus

The route of the Barrier cuts into the West Bank creating enclaves – areas of land that lie between the Barrier and the ‘Green Line’ (1949 Armistice Line). These areas are referred to in this report as ‘closed areas’²⁰ and measures have been implemented by the Government of Israel to restrict Palestinian movement into them (see map p. 11).

Humanitarian impact

The closed areas of the West Bank are no longer accessible for most West Bank Palestinians.

Palestinians living east of the Barrier have faced increased difficulty accessing their farm land in the closed areas. The result is widespread loss of agricultural livelihoods. Unemployment levels in areas close to the Barrier have increased.

Land in the closed areas is becoming less productive. Increasingly it is either not being farmed, or because access to it is limited and unreliable. As a result, farmers have reverted to lower maintenance crops (such as wheat) rather than high returning crops (such as tomatoes and cucumbers) grown prior to the Barrier’s construction.

Many West Bank farmers fear the loss of their land in the closed areas. Ottoman land law continues to apply in the West Bank. It has been interpreted by the Government of Israel to mean that land not registered or cultivated for three consecutive years is vulnerable to be declared ‘State Land’ and ultimately confiscated. Much of the Palestinian land in the closed areas has already been declared by Israel as State Land and its confiscation could come into force.

The Government of Israel has stated the Barrier will not result in a change of ownership of the land²¹ and “that residents and those that use the area will be able to live in and use the [closed areas] with minimal interference”.²² Regarding farmers’ access to the closed areas, the Israeli

government has stated that “while legal proof of ownership or residence would be best, it will not be necessary to receive official documentation proving ownership”.²³

However, these statements have been challenged by the reality on the ground. Two main reasons account for the lack of Palestinian access to the closed areas:

- Tightening of the permit regime to cross the Barrier.
- Unreliability of gate operation through the Barrier.

Tightening of the permit regime to cross the Barrier

Palestinians are required to obtain a permit to enter the closed areas. In Qalqiliya governorate, a greater proportion of permits are being rejected – from approximately 25% at the beginning of 2005 to 38% in July.

Security grounds have become less of a factor in refusing permits. Instead, proof of land ownership or a direct relationship to the owner of the land has become the primary determinant. In Qalqiliya governorate, 11% of permit rejections in January 2005 were related to a purported failure to establish land ownership or a direct relationship to the land. By July 2005 this had risen to 65%.

Since the introduction of the permit system, the number of applications has increased - more are accepted but proportionally more are rejected. Applications in Qalqiliya, for example, have increased because the permit

system in the past few months has been more widely implemented and Palestinians are making repeat applications to increase their chances of having their permit application accepted.

Those most affected by this change in permit refusal are tenant farmers, labourers, spouses and second degree owners (relatives such as grandchildren). Approximately 50% of these people were refused permits for land ownership related reasons compared to 9% of landowners during the first half of 2005. This has adversely affected landowners who have traditionally relied on extended family members and hired labourers to assist with farming their land.

Unreliability of gates through the Barrier

Even with a permit, farmers are not guaranteed regular access to their land because the Barrier gates operate erratically. Restrictions on the opening time limits the period of time a farmer can be in the closed areas. Farmers also report that the IDF control of the gates is so erratic that this is as much a problem as the permit regime itself.

In October 2005 in the governorates of Tulkarm, Qalqiliya and Salfit, only 21 out of a total of 42 gates in the Barrier were open for Palestinians with the correct permit.

From 2003 until the present, the status of the gates has often changed – previously open gates have been converted into seasonal gates. Others have been closed completely while previously closed gates have re-opened.

Gates are often some distance from farmland. Because the former road system was cut by the Barrier, some farmers have to travel over other farmers' land to reach their plots. In Jayyus village (Qalqiliya governorate), for example, there are only two gates to reach the land, where previously there were ten dirt roads.

Agricultural gates are open three times a day, generally for 20 minutes to an hour.

Following a security incident, the gates can be closed for several days or more.

Tractors and other farm vehicles are frequently not permitted to cross the gate. Farmers must either walk or use a donkey to reach their land and bring out produce.

Each permit is valid for a particular gate. Some farmers have the wrong gate numbers on their permits, leaving access for the farmer reliant on a soldier's discretion.



Qalqiliya City Barrier, Qalqiliya

UNDP/ Steve Sabella, 2004

Background

Communities in four northern West Bank governorates - Jenin, Tulkarm, Qalqiliya and Salfit - have been affected where the construction of the Barrier is complete. Two of the four governorates – Tulkarm and Qalqiliya - are the subject of this report.²⁴ In Tulkarm and Qalqiliya governorates alone, over 85,000 dunums (8,500 hectares) of mostly agricultural land lie to the west of the Barrier isolated from the rest of the West Bank.²⁵

This had two immediate effects. First, it created a number of enclaves of Palestinian communities that lie in the closed areas. Second, it separated communities on the east side of the Barrier from their agricultural lands on the west. Access to and from these closed areas is regulated through gates.

In October 2003, the IDF introduced a permit regime for West Bank Palestinians who need to cross the Barrier to reach land in the closed areas. An Israeli military order authorised the new permit requirements: ‘Declaration of Closing

an Area No. S/20/03 (Seam Zone)’ declared the area between the Barrier and Green Line to be a “closed area”. The only people authorised to enter this area without a permit are identified as citizens of the State of Israel, registered residents of the State of Israel or a person who has the right to immigrate to Israel according to the Law of Return.²⁶

The IDF contended that as Israel was easily accessible from the closed areas Palestinians would be required to pass a security review before they would be given a permit to enter. The task of issuing of permits to Palestinians to enter or stay in the closed areas was given to the heads of the Israeli Civilian Coordination and Liaison offices (DCLs).

The IDF also required Palestinians living inside the closed areas to obtain permits to continue residing in their homes. For these communities, although physically and socially separated from the West Bank by the Barrier, they are not, for the most part, separated from their farmlands.

Statistics on Tulkarm and Qalqiliya governorates:

Land in the closed areas:

Qalqiliya:	63,000 dunums (6,300 hectares)
Tulkarm:	22,000 dunums (2,200 hectares)

Land requisitioned by the IDF for construction of the Barrier:

Qalqiliya:	3,690 dunums (369 hectares)
Tulkarm:	4,663 dunums (466 hectares)

Land affected by the Barrier (including Barrier Buffer Zone):

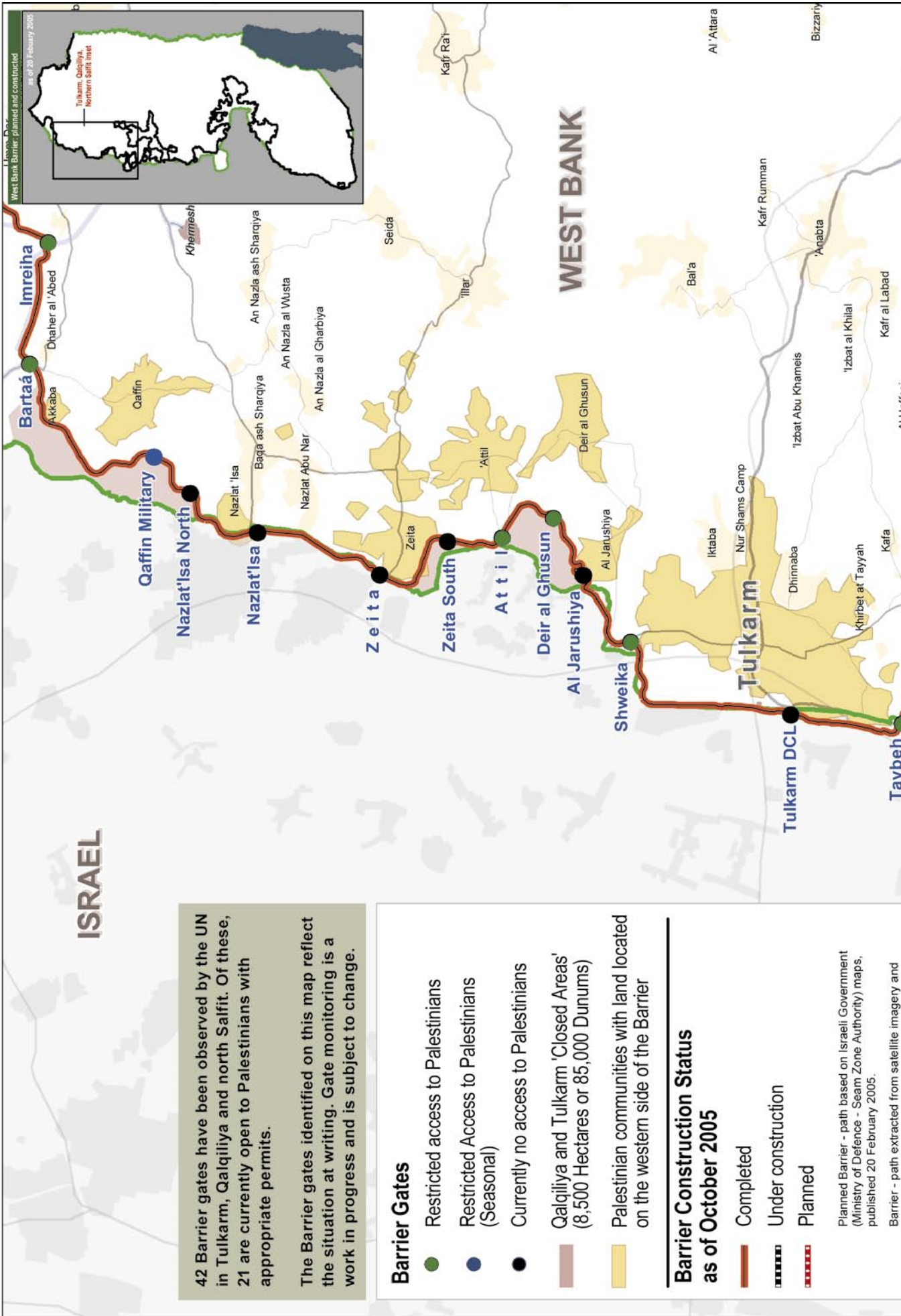
Qalqiliya:	17,273 dunums (1,727 hectares)
Tulkarm:	13,583 dunums (1,358 hectares)

Number of Israeli settlements in the governorate:

Qalqiliya:	19
Tulkarm:	3

BARRIER GATES: Access to the 'Closed Areas' in Tulkarm and Qalqiliya governorates

December 2005



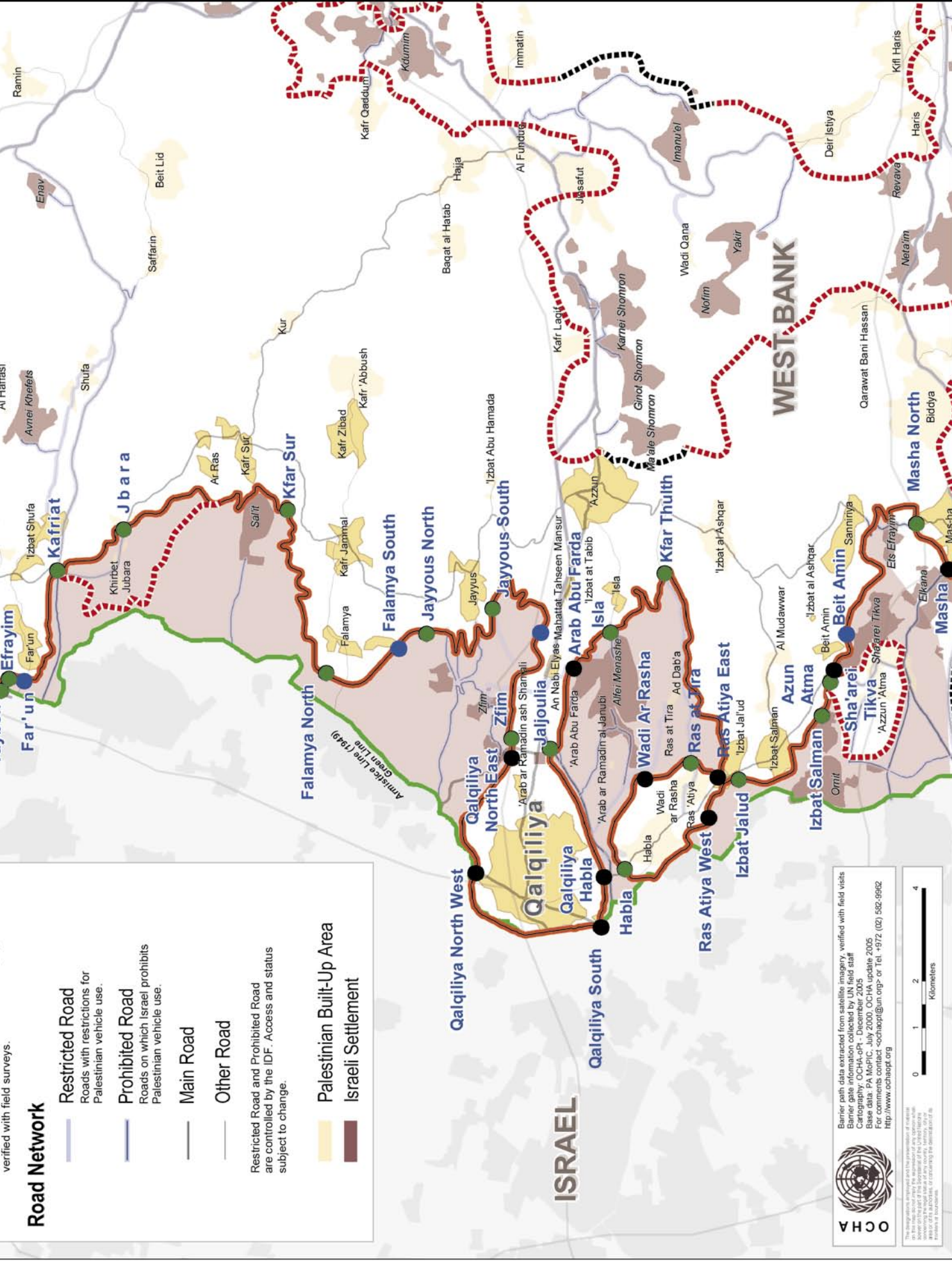
verified with field surveys.

Road Network

-  Restricted Road
Roads with restrictions for Palestinian vehicle use.
-  Prohibited Road
Roads on which Israel prohibits Palestinian vehicle use.
-  Main Road
-  Other Road

Restricted Road and Prohibited Road are controlled by the IDF. Access and status subject to change.

-  Palestinian Built-Up Area
-  Israeli Settlement



Barrier path data extracted from satellite imagery, verified with field visits
Barrier gate information collected by UN field staff
Data current as of July 2005
Base data: PA MoPIC, July 2000, OCHA update 2005
For comments contact: ochaapt@un.org or Tel. +972 (02) 532-9992
<http://www.ochaapt.org>

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Discussion and findings

I. Tightening the permit regime: analysis of permit trends in Qalqiliya governorate

Israel requires all Palestinians to obtain a permit to cross the Barrier into the 'Seam Zone'. Over the first seven months of 2005, the proportion of permit applications being rejected has increased (Figure 2). In July 2005, for example, 38% of permit applications were rejected compared with 27% in December 2004.

The total number of permit applications to access the closed areas is increasing as the permit system becomes more widely used.²⁷ Palestinians are also applying several times (i.e. the number of permits issued and the number rejected are both increasing largely as a result of repeat permit applications to increase chances of getting a permit).

Between December 2004 and July 2005, the main reason for permit refusal changed from security to the applicant being unable to prove land ownership or a direct relationship to the land owner. In January 2005, these land-related issues constituted 11% of rejections. By July 2005, they constituted 65% of all rejections. In the same month, by contrast, 27% of all rejections were for security reasons.²⁸

The highest number of rejections occurred in February and May, when 46% and 51% of all permits were rejected. During these months the number of people refused access for security reasons remained stable while there was an increase in refusals for non-security related reasons.

Periods of high security alert may coincide with the increased percentage of rejections but do not affect the number of rejections for security-related reasons (Figure 3).

In May 2005 there was a sharp increase in the number of land-related reasons for rejecting applications. This jump was sustained in the subsequent

months of June and July. It appears to indicate a policy shift on the part of the IDF to increase restrictions for those unable to prove a direct connection to the land in the closed areas (Figure 4).

The likelihood that labourers or tenants are refused access to their land is higher than that of land owner. The gender of applicants has a statistically significant effect on probability of refusal – being male increases the probability of refusal by 20%.

Two land-related reasons for permit refusal are commonly given by the Israelis - 'insufficient proof of first degree relationship to the land owner' and 'no land west of the Barrier'. Most of the refusals are of the first type - because applicants could not provide evidence of a first degree relationship to the owner either in the form of the tax document (*ikhraj qaid / maaliyeh*) or registration as privately-owned land (*tabu*) (Case Study 2).²⁹ This means that while 3% of all landowners applying for permits were rejected for this reason, the proportion of applicants rejected was much higher for tenants (29%), labourers (25%) and second degree relatives (18%).

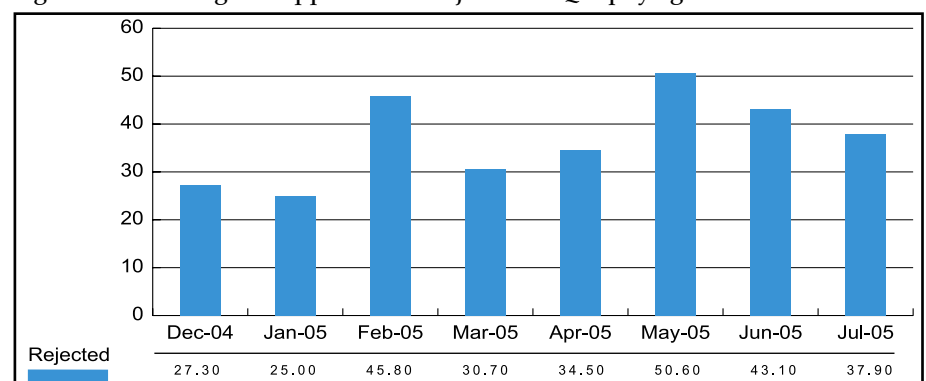
In the future, the likelihood that an applicant will be refused because he/she cannot prove a direct relation to the land owner increases by 9% each

month for second degree relatives and spouses, and 10% for labourers and tenants.³⁰ If this trend continues, such people will not be able to access the closed areas within a year. As discussed above, owners who have inherited the land from the original land owner and first degree relatives of these owners currently have better access to the closed areas but their future probability of being refused for this reason is also increasing (Figure 5).

Palestinian farming involves the extended family including spouses, siblings, children, grandchildren, nieces and nephews. The inability of these family members to access the closed areas because they cannot get a permit has undermined farmers' ability to cultivate their land (Figure 6, Case Study 3). It also hampers social or cultural traditions associated with communal harvesting especially during the olive harvest season.

The second land-related category for permit refusal is 'no land west of the Barrier'. The proportion of rejections for this category hovers at around the 16.5% mark. The exact basis for this category of rejection is unclear, as no further explanation is given and Palestinians lacked the resources (i.e. access to Israeli official maps, surveyors) to challenge this (Case Study 1).

Figure 2: Percentage of Applications Rejected in Qalqiliya governorate



Source: OCHA analysis of Palestinian DCO data.

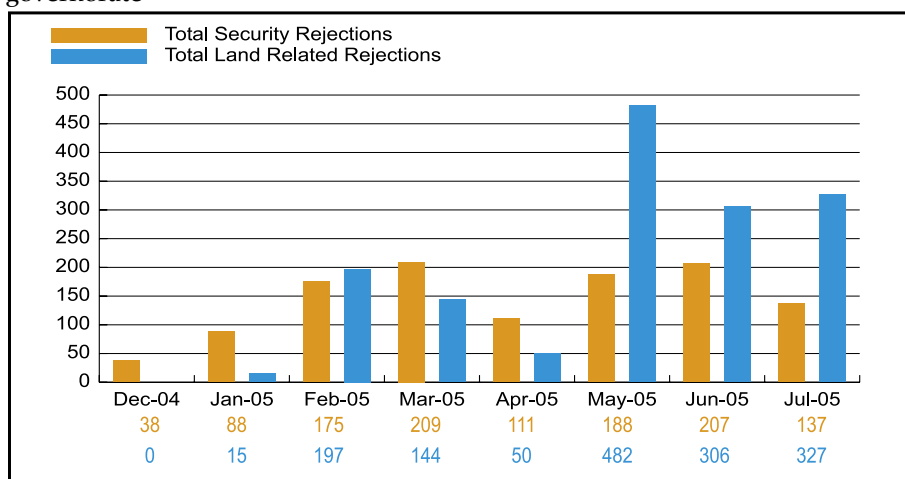
Traditional land ownership and farming practices in the West Bank

Palestinian farming practices are mostly based on a family farming tradition, whereby entire extended families (including grandchildren, nieces, and nephews) participate in planting, harvesting and maintaining the land. Land ownership is proven through a traditional method of affirmation by neighbours or the village *mukhtar* (village elder). Ownership is passed down to next generations through traditional methods which do not require inheritance documentation.

The Ottoman Land Code of 1858 was superimposed on the traditional land ownership system as a tool to tax the population. Land owners were required to obtain a document certifying the tax payment. On the basis of this tax document, a farmer could rent, sell and pass down possession rights.

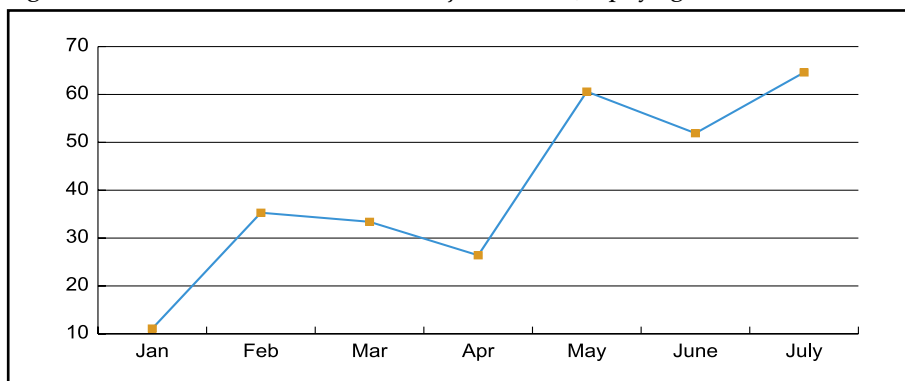
During the British Mandate period (1920 – 1948), there was a move to formalise land ownership in Palestine on the basis of tax documentation from the Ottoman era. This process was continued under Jordanian rule until Israel's occupation of the West Bank and Gaza Strip in 1967 (see Appendix 1).

Figure 3: Total land related rejections and security rejections in Qalqiliya governorate



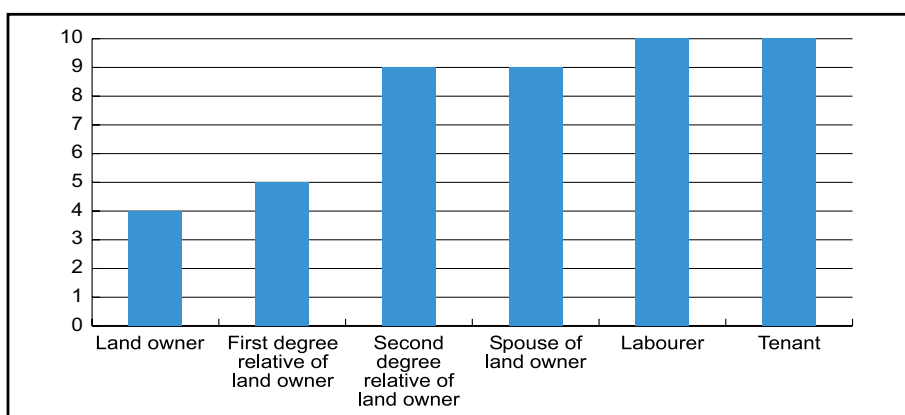
Source: OCHA analysis of Palestinian DCO data.

Figure 4: All land related reasons for rejection in Qalqiliya governorate



Source: OCHA analysis of Palestinian DCO data.

Figure 5: Average monthly increase in refusal probability in Qalqiliya governorate



Source: OCHA projections of Palestinian DCO data. Refusals because of 'insufficient proof of first-degree relationship to the land owner'

Figure 6: Permit refusals according to applicant's profile in Qalqiliya governorate

Profile	% refused for land-related reasons*
Landowner	9%
First degree relative	17%
Second degree relative	48%
Labourer	49%
Tenant	56%
Spouse	43%

*Aggregate data for Dec 2004 – July 2005

Source: OCHA projections of Palestinian DCO data. Refusals because of 'insufficient proof of first-degree relationship to the land owner'

Case studies

Case Study 1:

No land west of the Barrier

Eid Ahmed Yassin lives in Ar Ras, which is a small community south of Tulkarm. He and his family own 110 dunums of land in the closed areas west of the Barrier, near the Israeli settlement of Salit.

Following the construction of the Barrier, Mr. Yassin applied for access permits to his land on several occasions. According to his testimony he was previously refused for having a security record and then again for not being related to the principal owner. B'Tselem, the Israeli Information Center for Human Rights in the oPt intervened on his behalf and he obtained a permit in late 2004.

When his permit expired on 23 February 2005, Mr. Yassin once again applied for a permit. In mid-April 2005, his permit application was rejected

with the following handwritten comment in Hebrew: "Refused. This location is not found west of the valley".³¹

On a visit to Ar Ras, Mr. Yassin showed the UNRWA field team the land in question from a nearby hilltop. According to him, the land, mostly comprising olive groves, is just inside the closed areas. Unfortunately, neither his family nor Ar Ras municipality have any official Israeli maps indicating the location of the three places named in their taxation documents (*ikhraj qaid / maaliyeh*) nor do they have any recourse to prove their claim.

According to the Palestinian authorities, 90% of Ar Ras community land is located west of the Barrier.

Source: UNRWA staff interviews with Eid Ahmed Yassin.

Case Study 2:

Denial of permits for grandchildren and persons who have 'no relation' to the owner

Ghassan Abdel-Aziz Abdel-Raziq Abdel Ghanem from Deir Al Ghusun (Tulkarm governorate) owns five dunums of land in the closed areas. He grows cucumbers and tomatoes in greenhouses he has built on his land.

Since the construction of the Barrier, Mr. Abdel Ghanem was able to provide all the necessary documentation to apply for a permit to his land and had in the past received a permit.

In March 2005, Mr. Abdel Ghanem reapplied for a permit after his current permit expired. This time, however, the IDF refused his application on the grounds that he was the grandchild of the original owner.

On the top of the application was the handwritten remark in Hebrew, *nekhed* (grandchild).

Source: Original permit application document kept by the Deir Al Ghusun local council.

Case Study 3: Land tenants in the closed areas

Ahmed Kamil Abdel Ghani Ghrab and two of his brothers, all refugees living in Tulkarm camp, rent 10 dunums of land south of Tulkarm near the community of Jubara. Altogether some 20 people benefit from this plot of land.

Twelve family members – three women and nine men actively participate in the planting, harvesting and maintenance of the land. Over the years, they have laid a simple irrigation system which is fed by a water tank which, in turn, is powered by a generator near the main road (Route No. 57).

The land is situated in a valley inside the closed areas between the Barrier to the east and a military observation point on a hill to the west of the land. Since November 2003, family members have required permits to access the land.

Damage to crops

Ahmed Ghrab says that since the construction of the Barrier, the IDF has repeatedly damaged the crops and the irrigation system by driving over the land with military jeeps. Family members report that their crops have been damaged three times in the last three years. Mr. Ghrab claims that the last time the IDF damaged his crops, on 23 July 2005 it cost him NIS 30,000 in lost revenue.

In early October 2005, Ahmed returned to his land after a hospital stay to find that the water tank feeding the irrigation system was punctured with bullet holes rendering the system useless. Unable to afford to replace the broken tank, Ahmed could not irrigate the fields and his harvest was ruined.

Confiscation of permits

The family has faced numerous difficulties in obtaining and retaining permits. Over the past two years, these permits have been variously issued, extended, terminated and/or confiscated. For example, Ahmed's permit has been confiscated four times in three years, most recently on 15 October 2005. As of the middle of October 2005, out of 12 family members, three have had their applications for renewal refused and four have had their permits confiscated. Today only five family members – two women and three men – have access to the land in the closed area. All three brothers – the primary renters of the land – are without access.

On 1 December 2005, Ahmed received a permit for daily entry into Israel through 'Taibe gate. The permit, valid for one month, does not give him permission to cross the gate to reach his land in the West Bank.

Source: UN staff interviews with the Palestinian DCO and members of the Ghrab family, mid-October 2005.

II. Developments in the permit regime: Tulkarm governorate

The trends that occurred in Qalqiliya also took place in Tulkarm governorate. Initially when the Barrier and gates became operational in October 2003, Palestinians did not apply for permits. The Israeli DCL distributed permits based on the land population registry and most farmers and their family members received them.

In early 2004, the IDF instituted a permit application process for all renewals and new permit applications. Following a bombing incident at the Israeli DCL in Tulkarm in October 2003, the Palestinian District Coordination Office (DCO) in Tulkarm agreed with the Israeli DCL to act as a go-between and began submitting permit applications on behalf of Palestinian farmers, landowners, their extended family, partners, tenant farmers and labourers to the Israeli DCL.³² Typically, permits were easily obtained and the majority of applications were approved. Of those rejected, the Palestinian DCO in Tulkarm reported that most were on security grounds.

At the beginning of 2005, the Israeli DCL informed the Palestinian DCO in Tulkarm that only landowners and their first-degree relatives would be eligible to receive permits. At this time, grandchildren with inheritance documents (*hasr irth*) could still obtain permits but with difficulty. The practice of not allowing second degree relatives to obtain permits started to be more consistently implemented from May 2005. This date parallels the more restrictive regime that occurred in Qalqiliya. Many Palestinian applicants were refused on land ownership grounds – that he/she had no relationship to the owner or had no land west of the Barrier. Many of those who were refused had received permits in the past using the same documents (Case Study 4).³³

Case Study 4:

Tightening of the permit restrictions in Tulkarm governorate



Qaffin Fence, Tulkarm - Farmers at gate waiting to cross Barrier

OCHA, July 2003

Ar Ras village (Tulkarm governorate)

In February 2005, the village council reported that it submitted 120 applications for agricultural permits. By April, only seven people received permits. They were all elderly men and women and all original landowners. In June 2005, three children aged 10 -15 years received permits but their parents did not. So as not to miss the wheat harvest, the Ar Ras villagers paid Jubara village farmers to harvest the crops on their behalf. Between June and September 2005 the village council reported that only one person from the village managed to secure a permit.

In preparation for the olive harvest season, villagers submitted 180 applications to the Israeli DCL in late summer. While some farmers started picking olives in September, by 15 October only one-third of the applicants (66) received permits.

According to the Palestinian DCO, the Israeli DCL promised to issue a total of 85 permits for Ras, leading the Tulkarm DCO to believe that a quota system has been instituted.

Deir al Ghusun village (Tulkarm governorate)

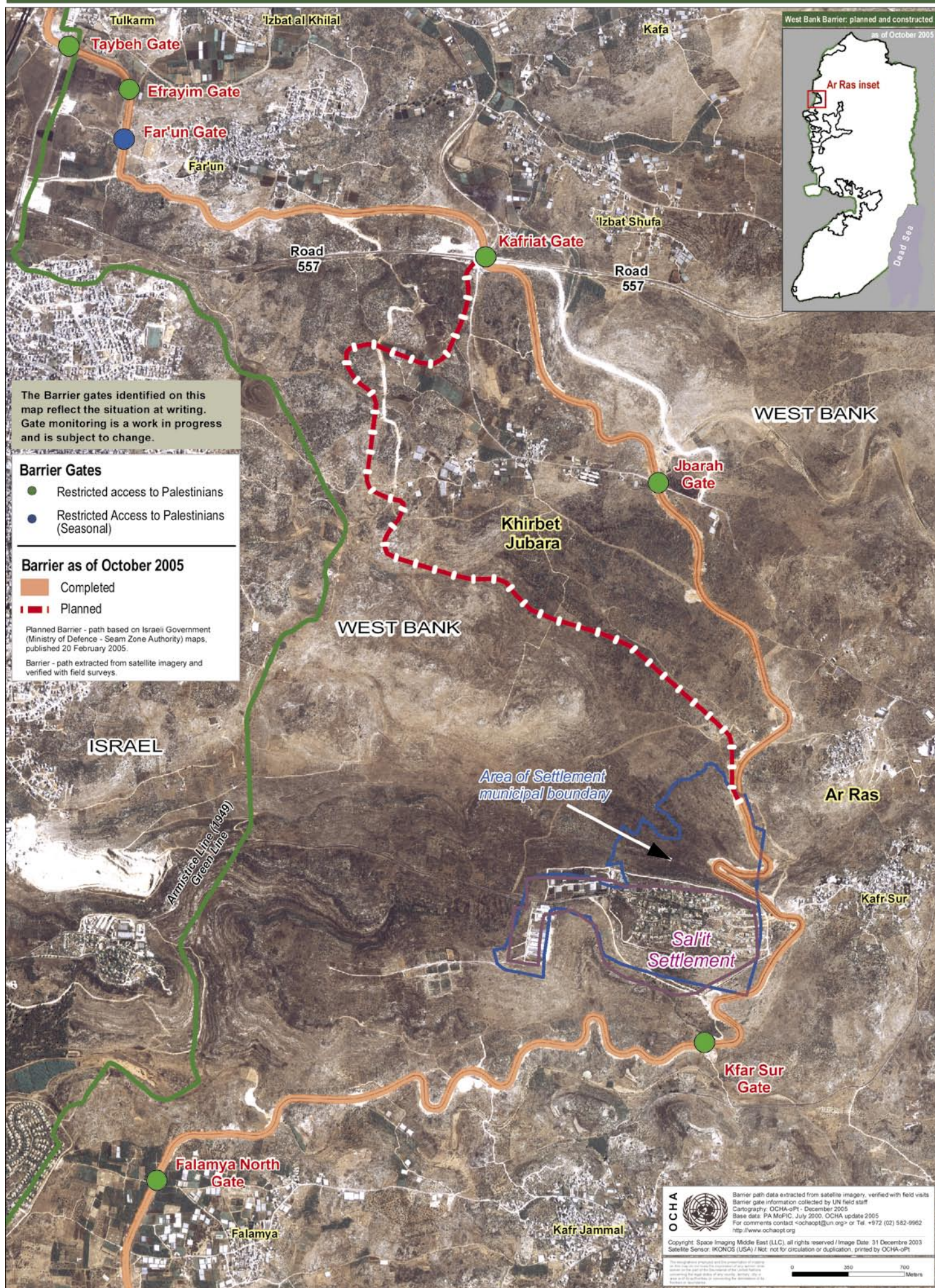
In 24 April 2005, the Mayor of Deir al Ghusun received 25 permit rejections out of a reported 45 applications submitted. Thirteen were refused because the applicant was a

grandchild of the original owner and thus ineligible, 11 had 'no relation' to the owner and one was unclear. There were no rejections on security grounds.

Source: UNRWA

Tulkarm governorate - Ar Ras village

December 2005



III. Unreliability of gates through the Barrier: Qalqiliya, Salfit and Tulkarm governorates

There are 42 gates in the Barrier in these governorates. Only 21 are open to Palestinians with permits (Figure 7).

The IDF controls the frequency and times that the Palestinians can cross, and how long they must remain beyond the Barrier before they can return home.

The gates pose the following daily problems to Palestinian permit-holders:

i. Erratic operation of gates:

Throughout 2003 until the present, the Barrier gates have operated erratically. At times their status is altered. Previously open gates for example, were converted into seasonal or special gates, while some were closed completely; or previously closed gates were re-opened (Case Study 6, Appendix 2).

ii. Distant location of gate from farmland:

The location of the gates means that farmers face a detour to reach their lands. Because the former road system was cut by the Barrier, some farmers have to travel over other farmers' land to reach their plots. For example, in Jayyus village (Qalqiliya governorate) there are only two gates to reach the land, while previously there were 10 dirt roads. Farmers often have to travel double or treble the distance to reach their land.

iii. Tractors and other farm vehicles may not be allowed to cross the gate:

Vehicles may not be allowed to cross the gates and farmers are required to either walk or use a donkey to access their land and bring out produce. A special permit may be required for the vehicle or the donkey to transport cultivated products.

iv. Permits have wrong gate number:

Some farmers have the wrong gate numbers on their permits, leaving access for the farmer at the soldier's discretion (Case Study 7).³⁴

v. Harassment at the gates:

Farmers report humiliating treatment by the soldiers at the gate. Searches and the confiscation of permits often occur.

General information about Barrier gate operations:

- Barrier gates open for specific periods (in general, agricultural gates are open for between 20 minutes to one hour, three times a day).³⁵
- Even if a farmer has only an hour or two of work each day (e.g., irrigating the fields) the opening times require a four or five hour commitment in the closed areas.
- Following a security incident, the Barrier gates can be closed for several days or more.
- In some instances, closed Barrier gates have been used by the Israeli DCL as a reason to refuse permit applications.³⁶
- A "humanitarian hotline" phone number to the IDF is posted on each gate.

Figure 7: Status of Barrier gates in Tulkarm, Qalqiliya, Salfit governorates³⁷

Gates	Tulkarm	Qalqiliya	Salfit	Total
Restricted access (open)	8	12	1	21
Restricted access (seasonal)	2	3	0	5
Closed	6	9	1	16
Total	16	24	2	42

Source: OCHA and UNRWA fieldwork, October 2005



Azzun Atmeh, Qalqiliya - woman with 'Green permit' waiting to cross.
OCHA/ Steve Sabella, June 2005

Case Study 5:

Erratic operation of gates: Qaffin gate in Tulkarm governorate

Within a period of one year, the IDF closed and re-opened the Qaffin gate five times. The IDF first opened the gate during the olive harvest season in autumn 2004 and then closed it. After pressure from the community,

the IDF opened the gate in December 2004. After 15 days, it closed again. On 18 March 2005, the gate was reopened. Three days later, the IDF closed the gate following an alleged shooting incident in the area. Once again

the IDF opened the gate in June 2005 after being pressured by the community, but it remained open for only one week. Qaffin gate opened in September 2005 three times daily for the olive harvest season.

Source: Interview with Mayor of Qaffin and members of the municipality, May and October 2005.

Case Study 6:

Wrong gate number on permit: the case of Mohammed Jalud (see map opposite page)

Mohammed Jalud, an UNRWA registered refugee, is a farmer with two plots of land near 'Izbat Jal'ud in the closed areas. One is to the west and one to the north of 'Izbat Jal'ud. Mr. Jalud had greenhouses on his land and continued to maintain them for the first ten months after the Barrier had been completed. Prior to the construction of the Barrier, the trip to the western plot took him about ten minutes on foot.

When the Barrier first became operational in September 2003, the 'Izbat Jal'ud gate that could have provided him with the most direct access was closed and he used an alternative gate (Azun Atma) entailing a 50 minute detour. This detour included the use of the patrol road adjacent to the Barrier to access his plot of land. The IDF allowed him to use the patrol road as any other route would force him to travel close to the Israeli settlement of Oranit.

In November 2003, following the introduction of the permit system, Mr. Jalud needed two different permits to access his plots of land.

He was issued with a permit which officially designated the Azun Atma gate as the point he was allowed to cross to his western plot.

In mid-2004, the Israeli authorities opened the Izbat Jalud gate to Palestinians with permits, but as the gate number on Mr. Jalud's permit was for Azun Atma, he was not allowed to use this more direct route.

Mr. Jalud was also unable to reach his first plot through the Azun Atma gate because the IDF no longer allowed him to use the patrol road. The reason for this was, according to the IDF, that there was a more direct route ('Izbat Jal'ud gate) available to him.

In August 2004, Mr. Jalud's permit was once again renewed and he was, once again, assigned to the Azun Atma gate.

In February 2005, Mr. Jalud wrote an official request to the Israeli DCL to change the gate number assigned on his permit to the 'Izbat Jal'ud gate. He did not receive a response and the gate assigned on his new permit was once again Azun Atma.

Consequently, Mr. Jalud has not been able to visit his land since the IDF opened the 'Izbat Jal'ud gate in mid-2004.

Mr. Jalud relocated his greenhouses to the east side of the Barrier. He rented land for his relocated greenhouses. As a result of these additional expenses, he has taken a supplementary job as a labourer.

After a year without access to his lands and following the intervention the Palestinian DCO, the Israeli DCL provided him in September 2005 with a gate number that allowed him to reach his land in the closed areas. He decided to cultivate his northern plot as the opening hours for the gate are longer: 0600 hours to 1800 hours. In contrast, the 'Izbat Jal'ud gate is open three times a day for about 20 minutes each time. He also changed the type of crops that he is planting to those that do not require daily care, as he is not confident that the gate will remain open daily.

Case Study : Wrong Gate Number on Permit

Mohammed Jalud's route to his land located to the west of the Barrier



IV. Implications

i. Farmers are discouraged from applying for permits

The complicated and restrictive requirements to prove a relationship to the land in addition to the erratic operation of the gates have led some Palestinian farmers and agricultural workers to give up applying for permits. Some farmers have decided to leave the land uncultivated rather than assume the financial risk of planting and losing part or all of the crop. Farmers are also discouraged from applying for permits for the following reasons:

- The farmer does not want to suffer the humiliation of the application process;
- The farmer does not have the necessary papers to complete the process;³⁸
- Obtaining a permit does not necessarily enable the farmer to reliably access his land;
- The farmer is sometimes not allowed to bring in tools and/or farm vehicles making care, maintenance and harvesting difficult;
- The effort involved in obtaining a permit and physically getting to the land outweighs any benefits gained from the harvest;
- If the farmer falls ill, he/she is unable to leave the closed area. Calling the humanitarian hotline number posted at the gate does not necessarily ensure that an IDF patrol will respond. Many of the landowners are older and health concerns play a significant factor in keeping them away from their lands.

ii. Disruption of the family-farming tradition and best use of crops

Palestinian farming is family based. When second degree relatives, including grandchildren, nieces and nephews, face difficulties accessing land, it disrupts the traditional farming patterns that are based on the extended family.

Uncertainty over access to their lands has made many farmers reassess the types of crops they plant. Some farmers, for example, are switching from the cultivation of high-maintenance, lucrative crops (such as tomatoes and cucumbers in greenhouses) to wheat which is less profitable but requires less maintenance.

iii. Protection and care of assets and property

The inability to secure continuous access to their land has resulted in large scale loss of crops for communities.³⁹ Landowners, for example, lost thousands of olive tress when fires broke out and they were unable to take the necessary equipment to extinguish the fire.⁴⁰

Gates providing only seasonal access mean that farmers cannot maintain crops and trees throughout the year.⁴¹ This impairs their productivity, and has resulted in large scale losses of crops for communities.

iv. Unemployment

Palestinians located east of the Barrier face high unemployment levels because of the problems they face accessing employment in Israel as well as their agricultural land. (Figure 8)

Figure 8: Unemployment in communities located near the Barrier

	Unemployment (1997)	Unemployment (2003)
Communities located east of Barrier	15%	20%
Communities located west of Barrier	13%	15%

Source: PCBS 1997 Population and Establishments Census; Labour Force Survey (Q4 2003) (using standard unemployment rate)



West of Road 6 Barrier Gate, Qalqiliya

OCHA/ Steve Sabella, June 2005

v. Risk of dispossession

Israeli land and settlement policies in the West Bank along with the permit system for crossing the Barrier are raising concerns that Palestinian farmers may be at risk for dispossession of their land in the closed areas.

In December 2005 Israel revised the military order regarding permits into the closed areas.⁴² This amendment revised the procedure for permit applications to reach agricultural land in the closed areas. It outlines the additional documentation that is required to accompany a permit application to prove direct connection to the land in the closed areas.⁴³

'State Land'

The Ottoman Land Code formed a significant part of the land law in the West Bank at the time of Israeli military occupation in 1967 (see Appendix 1). Under the Ottoman Land Code, much of the land in the West Bank had been designated as *miri* land, where an inheritable possession right could be acquired through continuous cultivation.⁴⁴ A comprehensive settlement of land

claims to formalise Palestinian possession into ownership began during the British Mandate period and continued under the Jordanian rule. Registration was slow and by 1967, approximately 66% of West Bank land remained unregistered.⁴⁵

In the early 1980s, the Government of Israel reinterpreted the Ottoman Land Code, to allow the Commander of the IDF in the Region to declare as 'State Land' uncultivated *miri* land that had not been registered during the British Mandate or Jordanian rule. Between 1980 and 1984, Israeli authorities declared approximately 800,000 dunums (80,000 hectares) of the West Bank as State Land, at times without the knowledge of the Palestinian farmers who had possessed the land for decades.⁴⁶ Following the State Land declaration, the authorities confiscated the land and transferred title to Israeli government bodies who used this land to build settlements. By 1985, approximately 90% of Israeli settlements were established on land declared State Land.⁴⁷ It is estimated that 40% of the area of the West Bank has been confiscated by the Israeli authorities in this way.⁴⁸

Much of the land in the closed areas has already been declared State Land⁴⁹ and Israeli settlements have been constructed in the closed areas.⁵⁰ However, there remains declared State Land in the closed areas where no settlement construction has taken place and where Palestinian farmers continue to cultivate their land. Due to the expansion plans of Israeli settlements in the closed areas, there is concern that the Israeli authorities will begin to enforce the State Land declaration and deny farmers permits to their land on the grounds that they are not the owners of these lands.

There is also concern over the risk of dispossession regarding unregistered Palestinian land that has not been declared State Land. Farmers fear that the access restrictions created by the Barrier and the permit system will prevent them from cultivating their land. If this situation continues for three consecutive years, the land may become vulnerable to be declared State Land and confiscated by the Israeli authorities. The construction of the Barrier and the lack of permits for the last two years have already prevented some farmers from cultivating their land.

Appendices

Appendix 1: Land law and State Land in the West Bank

The prevailing land law in the West Bank is comprised of Israeli military orders amending Jordanian land laws and prior British and Ottoman legislation.

Ottoman Land Code - 1858

The Ottoman Land Code of 1858 divided all land in Palestine into five categories. The most dominant category was *miri* land - large fertile areas near a community whose ultimate ownership lay with the Ottoman Sultan. In exchange for a tax on crops from the land paid to the Sultan, farmers could earn a possession right. This right was inheritable and could be sold. It remained with a farmer as long as there was no break in cultivation for more than three years.

Registration of ownership

Under the British Mandate (1920-1948), a comprehensive settlement of all land claims was undertaken including to register *miri* possession in the form of ownership. This continued under Jordanian rule (1948-1967). Owners could register the land in their names in the Land Registry and secure "indisputable title to it".⁵¹

For unregistered land, ownership or possession of land continued to be recognised using the taxation document of the land (*ikhraj qaid / maaliyeh*) from the Ottoman or Jordanian era and the mutual recognition by neighbours and the village leader of possession rights. The British and the Jordanian authorities respected these traditional landownership systems.

Land registration of ownership was a slow process. By the time of the Israeli occupation in 1967, only one-third of West Bank land had been registered, mostly in the urban areas.⁵²

The State Land policy

Following the occupation of the West Bank, the IDF suspended the registration process in 1968 issuing Military Order No. 291 "Order Regarding the Regulation of Land and Water (Judea and Samaria)".⁵³ It also passed a series of orders reinterpreting the Ottoman Land Code (Military Orders No. 58 and 59).⁵⁴ These orders gave the Israeli military commander the authority to assume the power of the Sultan, or State, and take possession of hundreds of thousands of dunums of unregistered *miri* land if the lands had not been cultivated for designated periods of time or a possession right under the Ottoman Land Code had not yet been secured.⁵⁵

Under this authority, large tracts of land were declared State Land and confiscated from the Palestinian farmer (at times without his/her knowledge). The Israeli authorities then transferred title to Israeli companies and authorities to build settlements. Whereas, prior to 1967, only 13% percent of all the land in the West Bank had been officially declared State Land, by the 1980's, over 40% of the land was defined by Israel as State Land.⁵⁶

International humanitarian law

Under international humanitarian law, since the presence of an occupying power is considered temporary, it can act as an administrator or usufruct of "State" property. Article 55 of the 1907 Hague Regulations states:

"The occupying State shall be regarded only as administrator and usufructuary of public buildings, real estate, forests, and agricultural estates belonging to the hostile State, and situated in the occupied country. It must safeguard the capital of these properties and administer them in accordance with the rules of usufruct."⁵⁷

In addition, international humanitarian law requires the occupier to respect the laws in force prior to the occupation⁵⁸, refrain from confiscating private property⁵⁹ and requisition property only for the needs of the army of occupation.⁶⁰

Paragraph 6 of Article 49 of the IV Geneva Convention Relative to the Protection of Civilian Persons in Time of War, states:

"The Occupying Power shall not deport or transfer parts of its own civilian population into the territory it occupies."

The UN Security Council has declared on numerous occasions the construction of Israeli settlements on West Bank land has no legal validity and violates the Fourth Geneva Convention.⁶¹ The ICJ reaffirmed these Security Council declarations in its advisory opinion in July 2004.⁶⁶

Appendix 2: Communities petition the gate opening hours

In 2003, the Association for Civil Rights in Israel (ACRI) filed a petition with the Israeli High Court of Justice on behalf of Jayyus, Khirbet Jubara, Far'un and Falamya communities asking it to order the IDF to keep the agricultural gates open 24 hours, and to enable farm vehicles to cross (HCJ 11344/03).

In its response, Israel committed itself to improving the procedures and increase and modify opening hours to suit the needs of the farmers. Following the petition, the Kafriyat crossing and the Tzufin gate were, indeed, staffed around the clock. In February 2004, the Jayyus North and Falamya North official gate opening hours were increased to a total of four hours a day. However, opening times remained erratic in contravention of the High Court decision.

The community of Jayyus reported that they have been informed by the IDF that these new arrangements are only temporary since there are plans to close both Jayyus gates and redirect the traffic through the re-opened Falamye South gate (Falamya North will then be closed). Representatives of the community have told UNRWA fieldworkers that they believe the diversion emanates from the fact that in the area of the northern gates, 1,500 new settlement units are under construction for the expansion of the Tzufin settlement.

From 22 May 2005, the IDF opened the Jayyus South gate between 6 a.m. and 6 p.m. The residents believe that the IDF extended the opening hours in anticipation of an Israeli Supreme Court ruling on the matter. In the beginning of June 2005, the IDF began construction of a bypass road which will result in the closing of the Jayyous gate.

Sources:

- B'Tselem Information Sheet, Not all it Seems: Preventing Palestinian Access to their Lands West of the Separation Barrier in the Tulkarm-Qalqiliya Area, June 2004.
- UNRWA staff member interview with Jayyus Municipality, 11 May and 26 May 2005

Appendix 3: West Bank Barrier gates summary as of October 2005

No.	Name/location	Gate Code (OCHA)	Access Status	Gate Type	Opening Hours	Governorate
1	Bisan	TB1	● Restricted Access to Palestinian	Terminal	Daily, 24 hours	Tubas
2	Al Mutilla	J1	● Restricted Access (Seasonal)*	Military/Seasonal	6:30-7:00, 16:00-16:30	Jenin
3	Jalbun South	J2	● Restricted Access (Seasonal)	Military/Seasonal	6:30-7:00, 16:00-16:30	Jenin
4	Jalbun North	J3	✗ No access to Palestinians	Military	closed	Jenin
5	Faqqu 'a	J4	✗ No access to Palestinians	Military	closed	Jenin
6	Arrabuna	J5	● Restricted Access (Seasonal)	Military/Seasonal	6:30-7:00, 16:00-16:30	Jenin
7	Al Jalama	J6	● Restricted Access to Palestinian	Terminal	Daily 24 hours	Jenin
8	Al Yamun	J7	✗ No access to Palestinians	Military	closed	Jenin
9	Ti'nnik	J8	✗ No access to Palestinians	Military	closed	Jenin
10	Zabuba	J9	✗ No access to Palestinians	Military	closed	Jenin
11	Salem	J10	● Restricted Access to Palestinian	Military/Checkpoint	8:00-8:30, 16:00-16:30	Jenin
12	At Tayba North	J11	● Restricted Access (Seasonal)	Military/Seasonal	8:00-8:30, 16:00-17:00	Jenin
13	At Tayba South	J12	✗ No access to Palestinians	Military	closed	Jenin
14	'Anin	J13	● Restricted Access (Seasonal)	Military/Seasonal	6:30-7:00, 16:00-17:00	Jenin
15	Al ' Araqa	J14	● Restricted Access (Seasonal)	Military/Seasonal	7:30-8:00, 16:00-16:30	Jenin
16	Umm ar Riham	J15	● Restricted Access to Palestinian	Checkpoint/Road	7:00-7:30, 16:00-16:30	Jenin
17	Imreiha	J16	● Restricted Access to Palestinian	Terminal	7:00, 21:00	Jenin
18	Barta'a	J17	● Restricted Access to Palestinian	Seasonal	Open only for olive harvest	Jenin
19	Qaffin Military	T1	● Restricted Access (Seasonal)	Military/Seasonal	6:00-7:00, 12:00-13:00, 17:00-18:00	Tulkarm
20	Nazlat 'Isa North	T2	✗ No access to Palestinians	Military	Closed	Tulkarm
21	Nazlat 'Isa	T3	✗ No access to Palestinians	Checkpoint	Closed, coordination for 6 families	Tulkarm
22	Zeita	T4	✗ No access to Palestinians	Military	Closed	Tulkarm
23	Zeita South	T5	✗ No access to Palestinians	Military	Closed	Tulkarm
24	Attil	T6	● Restricted Access to Palestinian	Agriculture/Military	5:00-6:00, 11:00-12:00, 15:00-16:00	Tulkarm
25	Deir al Ghusun	T7	● Restricted Access to Palestinian	Agriculture	5:00-6:00, 11:00-12:00, 15:00-16:00	Tulkarm
26	Al Jarushiya	T8	✗ No access to Palestinians	Military	Closed	Tulkarm
27	Shweika	T9	● Restricted Access to Palestinian	Road/Agriculture	5:00-6:00, 11:00-12:00, 15:00-16:00	Tulkarm
28	Tulkarm DCL	T10	✗ No access to Palestinians	Military	Closed	Tulkarm
29	Taybeh	T11	● Restricted Access to Palestinian	Checkpoint	Daily, 5.30 am, 17:00	Tulkarm
30	Efrayim	T12	● Restricted Access to Palestinian	Terminal	Daily, 4:00- 17:00	Tulkarm
31	Far'un	T13	● Restricted Access (Seasonal)	Military/Seasonal	Closed	Tulkarm
32	Kafriat	T14	● Restricted Access to Palestinian	Checkpoint	Daily, 24 hours	Tulkarm
33	Jbarah	T15	● Restricted Access to Palestinian	Road/Agriculture/School	5:00-6:00, 11:00-12:00, 15:00-16:00	Tulkarm
34	Kfar Sur	T16	● Restricted Access to Palestinian	Agriculture/Military	5:00-6:00, 11:00-12:00, 15:00-16:00	Tulkarm
35	Falamya North	Q1	● Restricted Access to Palestinian	Agriculture	6:30-8:00, 12:30-13:30, 16:00-17:30	Qalqiliya
36	Falamya South	Q2	● Restricted Access (Seasonal)	Military/Seasonal	Closed	Qalqiliya
37	Jayyous North	Q3	● Restricted Access to Palestinian	Agriculture	6:00-18:00	Qalqiliya
38	Jayyous South	Q4	● Restricted Access to Palestinian	Agriculture	6:00-7:00, 12:00-13:00, 17:00-18:00	Qalqiliya
39	Tzufin	Q5	● Restricted Access to Palestinian	Agriculture/Settlement	5:00- 19:00	Qalqiliya
40	Qalqiliya North East	Q6	✗ No access to Palestinians	Military	Closed	Qalqiliya
41	Qalqiliya North West	Q7	✗ No access to Palestinians	Military	Closed	Qalqiliya
42	Qalqiliya South	Q8	No access to Palestinians	Military	Closed	Qalqiliya



No.	Name/location	Gate Code (OCHA)	Access Status	Gate Type	Opening Hours	Governorate
43	Qalqilya Habla	Q9	✗ No access to Palestinians	Agriculture/Military	Closed	Qalqilya
44	Jaljoulia	Q10	● Restricted Access to Palestinian	Checkpoint	Daily, 24 hours	Qalqilya
45	Arab Abu Farda	Q11	✗ No access to Palestinians	Military	Closed	Qalqilya
46	Isla	Q12	● Restricted Access to Palestinian	Agriculture	6:40-7:00, 13:40-14:00, 16:30-17:00	Qalqilya
47	Kfar Thulth	Q13	● Restricted Access to Palestinian	Agriculture	Open three times daily	Qalqilya
48	Ras Atiya East	Q14	✗ No access to Palestinians	Military	Closed	Qalqilya
49	Ras at Tira	Q15	● Restricted Access to Palestinian	School/Road	6:00-18:00	Qalqilya
50	Wadi Ar Rasha	Q16	✗ No access to Palestinians	School	Closed	Qalqilya
51	Habla	Q17	● Restricted Access to Palestinian	Agriculture	Open three times daily	Qalqilya
52	Ras Atiya West	Q18	✗ No access to Palestinians	Military	Closed	Qalqilya
53	Izbat Jalud	Q19	● Restricted Access to Palestinian	Agriculture	5:45-6:00, 15:45-16:00	Qalqilya
54	Izbat Salman	Q20	● Restricted Access to Palestinian	Agriculture	Open three times daily	Qalqilya
55	Azzun Atma	Q21	● Restricted Access to Palestinian	Road/Agriculture/School	5:00-19:00	Qalqilya
56	Sha'are Tikva	Q22	✗ No access to Palestinians	Military	Closed	Qalqilya
57	Beit Amin	Q23	● Restricted Access (Seasonal)	Military/Seasonal	Closed, open for olive harvest 2005 only	Qalqilya
58	An Nabi Elyas	Q24	● Restricted Access (Seasonal)	Military/Seasonal	Closed, open for olive harvest 2005 only	Qalqilya
59	Masha North	S1	● Restricted Access to Palestinian	Agriculture	Prior coordination required	Salfit
60	Masha	S2	✗ No access to Palestinians	Road	Closed, open for one family only	Salfit
61	Beit Jala 1	B1	✗ No access to Palestinians	Military	closed	Bethlehem
62	Beit Jala 2	B2	✗ No access to Palestinians	Military	closed	Bethlehem
63	Beit Sahour 1	B3	✗ No access to Palestinians	Military	closed	Bethlehem
64	Beit Sahour 2	B4	✗ No access to Palestinians	Military	closed	Bethlehem
65	Beit 'Awwa1	H1	✗ No access to Palestinians	Military	closed	Hebron
	Total Gates:	✗ No Access to Palestinians:	● Restricted Access to Palestinians:	● Restricted Access (Seasonal):		
	65	27	27	11		

All information found in this table is reported and validated by UNOCHA and UNRWA field teams. These data represent the status of the Barrier gates as of October 2005

● Restricted Access (Seasonal) refers to gates that are generally closed but which open for permit holders during harvesting periods for up to one month.

Endnotes

- 1 For more information see OCHA, *Barrier Update No. 4 – The Humanitarian Impact of the West Bank Barrier on Palestinian Communities* (September 2004).
- 2 For more information see OCHA, *Barrier Update No. 5 – The Humanitarian Impact of the West Bank Barrier on Palestinian Communities* (March 2005).
- 3 Israel Seam Zone Authority (<http://www.seamzone.mod.gov.il>).
- 4 *Ibid.*
- 5 Annex II – Summary legal position of the Palestine Liberation Organization, report of the Secretary-General prepared by pursuant to General Assembly resolution ES-10/13, A/ES-10/248, 24 November 2003.
- 6 *Ibid.*
- 7 Report of the Secretary-General prepared pursuant to General Assembly resolution ES-10/13, A/ES-10/248, 24 November 2003 at para 29-30.
- 8 Advisory opinion of the International Court of Justice on the Legal Consequences of the Construction of the Wall in the Occupied Palestinian Territory, 9 July 2004, para 141.
- 9 *Ibid.*, para. 150-51.
- 10 *Ibid.*, para. 152-53.
- 11 Based on military orders requisitioning land in the West Bank for construction of the Barrier recorded by OCHA.
- 12 In areas where the Barrier has been constructed the IDF issued military orders in September 2004 creating a strip averaging 150 – 200 metres on the West Bank side of the Barrier where new construction is prohibited.
- 13 If the Ma'ale Adumim and Ari'el/Emmanuel sections were excluded then 6.8% of the West Bank land would be incorporated by the Barrier.
- 14 When OCHA mapped these requisition orders it calculated a larger area of land requisitioned by the orders, 1,886 dunums (188.6 hectares).
- 15 Military Orders T/131/05 – 133/05 and T/135/05 – 137/05.
- 16 OCHA defines gates as open or closed according to whether they can be used by Palestinians with permits to enter the closed areas. Seasonal/special gates are open for an isolated family or in special cases only.
- 17 A registry of damages was proposed by UN General Assembly resolution A/RES/ES - 10/15 in August 2004.
- 18 The total number of records collected from the Palestinian District Coordination Office (DCO) in Qalqiliya from December 2004 to July 2005 was 7,995. A database was populated with randomly selected records containing applicants' ID number, stated reasons for application, reason for rejection, gender and date. Statistical models were created using SPSS and STATA. Trends established were based on statistically significant data.
- 19 The communities which are the subject of the report are 'Akkaba, Qaffin, Nazlat 'Isa, Nazlat Abu Nar, Zeita, 'Attil, Deir al Ghusun, Al Jarushiya, Tulkarm, Far'un, 'Izbat Shufa, Ar Ras, Kafr Sur, Kafr Zibad and Kafr Jammal (Tulkarm governorate); Falameya, Jayyus, Qalqiliya, 'Izbat at Tabib, An Nabi Elyas, 'Isla, Kafr Thulth, 'Izbat Jal'ud, 'Izbat Salman, Beit Amin, Sanniriya and 'Azzun (Qalqiliya governorate); and Mas-ha (Salfit governorate).
- 20 The Israeli Government refers to these areas as the 'Seam Zone'.
- 21 Annex I: Summary Legal Position of the Government of Israel, report of the Secretary-General pursuant to General Assembly resolution-10/13, 24 November 2003.
- 22 *Ibid.*
- 23 *Ibid.*
- 24 A small portion of Salfit governorate is impacted and this is included in the analysis of the Qalqiliya data.
- 25 The Barrier buffer zone, including the Barrier, covers approximately 62,890 (6,289 hectares) of West Bank land from Tubas Governorate to Salfit Governorate.
- 26 Article 4, Israeli Law of Return.
- 27 Palestinians state that often it seems random whether they obtain a permit. They can apply several times before a permit is granted. Alternatively, Palestinians do not receive a response at all and just keep submitting new applications. Palestinians have had their permits confiscated by the IDF at the gates and the DCLs then re-issue permits. A further reason for the increase in applications is that increasingly applicants go through the Palestinian DCO rather than approaching the Israeli DCL directly as had earlier been the case. The permits data analysed in this study focuses on the applications that went through the Palestinian DCO.
- 28 Between December 2004 and July 2005, security based rejections made up an average of 36% of all rejections.
- 29 The Israeli authorities require an ownership document with the name of the owner. This could be in the form of the tax document based on the Ottoman tax registry (*ikhraj qaid / maaliyeh*) or formalised ownership from the British rule (*tabu*). Frequently these documents are in the name of a grandparent or great grandparent, who is either elderly or deceased. This can pose a problem for the grandchildren. They are the actual farmers and are now in their thirties or forties. However, the DCL increasingly discriminates against them as second-degree relatives.
Current Palestinian land law bars changing the name of the original owner on the tax document unless a tax assessment has been conducted on the land. By contrast, on the formalised ownership document (*tabu*) emanating from the British Mandate period, the name of the owner can be changed.
The Israeli authorities confirmed that grandchildren could be eligible for a permit following the death of their grandparent and upon presentation of a certificate of inheritance (*hasr irth*). However this requirement poses another bureaucratic problem. Many Palestinian farmers have not registered their inheritance for generations. Correcting this lapse retroactively is difficult and often requires the involvement of a lawyer which many landowners cannot afford.
The Palestinian DCO in Qalqiliya has reported that since the start of October 2005, the Israeli DCL stopped granting access permits to the grandchildren of landowners. In the past, relatives of landowners holding an ownership document were eligible for access permits providing they could prove a relationship to the owner. In the case of a grandparent/grandchild relationship, the children of landowners would have to provide a certificate of inheritance (*hasr irth*) for their parents' land, thus enabling their children (the grandchildren of the original landowner) to obtain a permit. This practice has now been stopped and according to the Palestinian DCO in Qalqiliya, only landowners, their spouses and their children are eligible for permits.
- 30 The exception to this trend remains the olive harvest season where eligibility requirements in place are relaxed.
- 31 A Hebrew transliteration reads "*Lo Me'ushar. Ha makom lo nimitza ma'arev le emek*".
- 32 The same agreement applies between the Palestinian DCO and the Israeli DCL in Qalqiliya governorate.
- 33 The Palestinian DCO in Tulkarm confirms that since May 2005, most second degree relatives have had their permit application refused. As of mid-October 2005, the current restrictive policy continues.



- 34 At the start of the 2005 olive harvest season, the IDF re-numbered the gates along the first phase of the Barrier. This has added confusion and limited gate access further. In Falameyeh village (Tulkarm governorate), for example, some farmers had permits granting them access through Gate No. 22, which is the gate near Salit settlement. After the renumbering of the gates, the Salit gate became Gate No. 919. Farmers, however, still have the Gate No. 22 written on their permits and the IDF will not allow them to pass through the new Gate No. 919.
- 35 There are two exceptions to this in the Tulkarm/Qalqiliya area: In Ras Attiyeh the gate has been opening from 6 am to 6 pm since early 2005. In Jayyous, the northern gate was opened between 6 am to 6 pm from 22 May 2005.
- 36 For example in 'Akkaba, Qaffin and Nazlat 'Isa (Tulkarm Governorate).
- 37 OCHA defines gates as open or closed according to whether they can be used by Palestinians with permits to enter the closed areas. Seasonal/special gates are open for an isolated family or in special cases only.
- 38 The Palestinian DCO's in Tulkarm and Qalqiliya will not forward any application form that does have the correct documentation as requested by the Israeli DCLs. Therefore, some farmers find themselves in a position where they cannot apply for a permit through the Palestinian DCOs. This group is not represented in the data collected for the report. All the rejected applications referred to in the report are from the group of applications that have been vetted through the Palestinian DCO in Qalqiliya for the correct documentation.
- 39 For example, the guava harvest in Jayyous (Tulkarm governorate) in 2003/04, the cucumber harvest in Deir al Ghusun (Tulkarm governorate) in 2005.
- 40 For example, Jubara in 2004 and Qaffin and 'Akkaba in 2005. In the summer of 2005, five fires broke out on 'Akkaba land affecting up to 75% of all the olive trees isolated west of the Barrier. According to the village council, the village will not be able to harvest olives for another four years until the trees recover.
- 41 This includes pruning the trees, aerating the soil and clearing weeds.
- 42 "Regulations Regarding Entry Permits into the Seam Zone and Staying There" (Amendment No. 1) (Judea and Samaria) of the Order Regarding Security Regulations (Judea and Samaria) (No. 378), 1971.
- 43 In response to several petitions to the Israeli High Court, the IDF amended in December 2005, the military orders governing the procedure for Palestinians to obtain permits into the closed areas. The new procedures re-classify permit applicants into two categories – those with "permanent interests" requiring a permit for a long period and those with "occasional interests". The order lists the following persons as having permanent interests: a farmer, merchant, business owner, employee of an international organisation, employee of the Palestinian Authority, teacher, medical staff, and a student. According to the order, persons with "permanent interests" can obtain a one year permit; farmers are entitled, generally, to obtain a two year permit. Farm labourers are not included in the "permanent interests" category.
- The order also specifies all the documents needed to obtain a permit and establishes a rejection form, to be filled out by an authorised body, explaining the reasons for rejection and where and to whom to appeal. Farmers who are rejected on grounds of failure to prove ownership of land in the closed areas cannot appeal. However, they may be entitled to submit alternative documents including a tax document (*ikhraj qaid / maaliyeh*), a map of their land and other documents as requested by the Israeli authority. The order does not elaborate the procedure following the submission of these documents, whether the farmer will indeed obtain a permit or the decision making process to determine this.
- The documents required for a farmer to obtain a permit are listed as follows: "ID card, copy of registration, tabu, and a letter from the municipal authority." The documents required for a labourer employed by a farmer are: "ID card, notarized statement, work contract, an employer's undertaking, copy of the registration, tabu, and business license".
- 44 B'Tselem, *Land Grab – Israel's Settlement Policy in the West Bank* (May 2002), p. 51 (hereinafter, "*Land Grab*").
- 45 Benvenisti, M., *The West Bank Data Project: A Survey of Israel's Policies*, American Enterprise Institute Studies in Foreign Policy (1984), p. 32 (hereinafter, "*West Bank Data Project*").
- 46 *Land Grab*, p. 54.
- 47 *Land Grab*, p. 51, quoting Pliya Albeck, former head of the Civil Department in the State Attorney's Office.
- 48 *West Bank Data Project*, p. 32.
- 49 *Land Grab*, see accompanying map.
- 50 There are 56 Israeli settlements (excluding those in East Jerusalem) located between the Barrier and the Green Line.
- 51 *West Bank Data Project*, p. 32.
- 52 According to one official in the PA's Ministry of Planning, only 28 per cent of all land in the West Bank had been registered in 1967. Most of this was in the north. To this day there are no cadastral maps (blocs and parcels maps) available for these 'unregistered lands' at the Palestinian Land Authority (meeting on 19 May 2005).
- 53 *Land Grab*, p. 54.
- 54 *Ibid.*
- 55 *Land Grab*, p. 53.
- 56 *Ibid.*
- 57 Section III, Annex to Convention (IV) respecting the Laws and Customs of War on Land, Hague, 18 October 1907 (hereinafter the Hague Regulations).
- 58 The Hague Regulations, Section III, and Article 43: "The authority of the legitimate power having in fact passed into the hands of the occupant, the latter shall take all the measures in his power to restore, and ensure, as far as possible, public order and safety, while respecting, unless absolutely prevented, the laws in force in the country."
- 59 Section III of the Hague Regulations, Article 46: "Family honour and rights, the lives of persons, and private property, as well as religious convictions and practice, must be respected. Private property cannot be confiscated."
- 60 Section III of the Hague Regulations Article 52: "Requisitions in kind and services shall not be demanded from municipalities or inhabitants except for the needs of the army of occupation. They shall be in proportion to the resources of the country..."
- 61 SC Res. 446 (1979) as of 22 March 1979, SC Res. 452 (1979) as of 20 July 1979, SC Res. 465 (1980) as of 1 March 1980.
- 62 Advisory opinion of the International Court of Justice on the Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, 9 July 2004, para. 120

List of Acronyms

ACRI	The Association for Civil Rights in Israel
DCO	Israeli District Coordination Office
DCL	Palestinian Civilian Coordination and Liaison Office
E1	A term applied by the Israeli Ministry of Housing to a planned new Israeli development within Ma'ale Adumim settlement bloc in the West Bank
HEPG	Humanitarian Emergency Policy Group
ICJ	Israeli High Court of Justice
ICJ	International Court of Justice
IDF	Israel Defense Forces
NIS	New Israeli Shekel equivalent to 0.25 US dollars
OCHA	UN Office for the Coordination of Humanitarian Affairs
oPt	occupied Palestinian territory comprising of the West Bank, Gaza Strip and East Jerusalem
PLO	Palestinian Liberation Organization
UNRWA	United Nations Relief and Works Agency
UNSCO	Office of the Special Coordinator of the Middle East Peace Process

Glossary of Terms

Barrier	A complex of series of concrete walls, electronic fences, observation towers, trenches, patrol roads and razor wire used to block or control the movement of Palestinian pedestrians and vehicles in the West Bank and East Jerusalem.
Barrier gate	Allows restricted movement through the Barrier to Palestinian lands and to Israel. Permits are required for Palestinians to go through the gate. Barrier gates can be closed to Palestinians, operate on the basis of restricted access or on a seasonal basis.
Checkpoint	An obstacle manned by the IDF, used to block or control the access of Palestinian pedestrians and vehicles.
Closed areas	Areas of West Bank land that lie between the Barrier and the Green Line (1949 Armistice Line).
Earth mound	A mound of rubble, dirt and/ rocks used to obstruct vehicle access.
Enclave	An area of the oPt encircled by the Barrier.
Roadblock	A series of one metre high concrete blocks used to obstruct vehicle access.
Observation Tower	An elevated military tower to monitor/ control Palestinian pedestrian and vehicular access.



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