

# **THE IMPACT OF ISRAEL'S SEPARATION BARRIER ON AFFECTED WEST BANK COMMUNITIES**

**A FOLLOW-UP REPORT TO THE HUMANITARIAN AND  
EMERGENCY POLICY GROUP (HEPG) AND THE LOCAL AID  
COORDINATION COMMITTEE (LACC)**

**Update Number 2, September 30, 2003**

*In accordance with a decision of the HEPG, an update of the original study of April 30, 2003 will be released every two months. This update is the second in that series. The next update will be released by November 30, 2003.*

# **THE IMPACT OF ISRAEL'S SEPARATION BARRIER ON AFFECTED WEST BANK COMMUNITIES: THE "JERUSALEM ENVELOPE"**

**FOLLOW-UP REPORT<sup>1</sup>  
TO THE HUMANITARIAN AND EMERGENCY POLICY GROUP (HEPG)  
AND THE LOCAL AID COORDINATION COMMITTEE (LACC)**

**SEPTEMBER 30, 2003**

## **BACKGROUND**

1. Motivated by concerns that Palestinian livelihoods and the viability of local economies could be harmed by the construction of a separation barrier and that the barrier might negatively impact the delivery of humanitarian aid and damage assistance projects, the international donor community through the Local Aid Coordination Committee (LACC) commissioned a study<sup>2</sup> and series of follow-up reports<sup>3</sup> of the possible socio-economic impact of the barrier on affected Palestinian communities.

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<sup>1</sup> In addition to the Background section, this report includes the following: I. Summary Findings, II. Trajectory, III. The Economic Implications of the Jerusalem Area Barrier on Affected Communities, IV. The Social Consequences of the Barrier's Construction in the Jerusalem Area, V. Land Requisitioning, VI. The Israeli Debate on the Separation "Fence", VII. Palestinian Perspectives on the Separation "Wall", VIII. Donor Interventions in Support of the Affected Populations. Annex I, The Process of Land Requisition for the Wall, originally appeared in "The Impact of Israel's Separation Barrier on Affected West Bank Communities" (see footnote 2). Two maps tracing the trajectory of the barrier around Jerusalem are attached.

<sup>2</sup> "The Impact of Israel's Separation Barrier on Affected West Bank Communities" was carried out at the request and under the direction of a Steering Group composed of members of the donors' Humanitarian and Emergency Policy Group (the European Union Presidency (HEPG chair), the European Commission, the Government of Norway, the US Government, UNSCO, and the World Bank), plus the International Monetary Fund. Released on May 4, 2003 the report focused on the impact of the initial 126 km of Phase I construction (officially launched on June 16, 2002; its completion was announced by the Israeli Ministry of Defense on July 31, 2003) running south from Salem Checkpoint through Jenin, Tulkarm, Qalqiliya, and Salfit Governorates to the Israeli settlement of Elkana, and the additional 21 km of construction to the north and south of Jerusalem. The report is available at the following web address: <http://www.reliefweb.int/hic-opt/docs/HEPG/Wallreport.pdf>; Maps and Annex I (Economic Impact), Annex II (Social Impact), Annex III (Impact on Water Management), at: [http://www.reliefweb.int/hic-opt/docs/HEPG/Wall\\_Annexes.zip](http://www.reliefweb.int/hic-opt/docs/HEPG/Wall_Annexes.zip).

<sup>3</sup> The first follow-up report, "The Impact of Israel's Separation Barrier on Affected West Bank Communities: Update Number 1, July 31, 2003" examined the impact of Phase II construction, which was initiated in January 2003. This approximately 45 km stretch runs along the northern edge of Jenin Government from Salem eastward to Gilboa and the Beit She'an Valley. At present, works extend eastward from Salem past the Palestinian village of Jalbun; beyond Jalbun the future alignment is uncertain. IDF maps obtained by OCHA show a projected path extending 12 km southward into the Jordan Valley to the village of Taysir (located 3 km northeast of Tubas and approximately 10 km west of the Israeli settlements at Mahola and Rotm, which are 4 km west of the Jordan River), possible evidence of a second "eastern barrier" reportedly under consideration (although not yet approved nor budgeted). The effect of this second barrier, if built, would be to situate these and other Jordan River valley settlements

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2. This report examines the impact of construction surrounding Jerusalem – the so-called “Jerusalem Envelope”.<sup>4</sup> Residents of eight Jerusalem Governorate communities located north and west of Jerusalem’s municipal boundary<sup>5</sup> (with a combined mid-2003 population of more than 56,400) have already lost land to the construction of the barrier. Likewise, south of Jerusalem, eight Bethlehem Governorate communities (combined population of over 63,800) are being impacted (see tables 1 and 2). Within Jerusalem’s municipal borders, the communities in the southeast of the city – Sur Bahir, Umm Tuba, Jabal al Mukabbir, As Sawahira al Gharbiya, Ras al ‘Amud, Ash Shayyah, and At Tur will be affected; some are losing land to the barrier, and all could find access to Palestinian neighborhoods in the West Bank immediately adjacent to the municipal border further restricted.

3. The Government of Israel has not yet begun the process of land requisition for the north-eastern section of the Jerusalem Envelope, nor decided on the final trajectory linking Phase I construction in the north-west West Bank with the separation barrier around Jerusalem. Should such construction be undertaken, the number of affected communities and individuals in Jerusalem Governorate will grow.<sup>6</sup>

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“outside” the barrier system and, in the process, sever Palestinian population concentrations in the West Bank from the Jordan Valley. Report available at: [http://www.reliefweb.int/hic-opt/docs/HEPG/Israels' Separation Barrier -- Report to the HEPG July03.pdf](http://www.reliefweb.int/hic-opt/docs/HEPG/Israels%20Separation%20Barrier%20--%20Report%20to%20the%20HEPG%20July03.pdf).

<sup>4</sup> Fieldwork for this study was conducted by a three-person team between September 2-15, 2003. The following twenty West Bank communities and villages were visited: Jerusalem Governorate – Rafat, Kafr ‘Aqab, Qalandiya Camp, Qalandiya, Jaba’, Al Jdeira, Ar Ram, Al Jib, Bir Nabala, Az Za’ayem, Al ‘Eizariya, Abu Dis, As Sawahira ash Sharqiya, Ash Sheikh Sa’d; Bethlehem Governorate – ‘Ayda Camp, Khallet an Nu’mān, Al Khas, Beit Jala, Bethlehem, Beit Sahur. In addition, the following four communities within Jerusalem’s municipal boundary were also visited: Beit Hanina, Ras al ‘Amud, Jabal al Mukabbir, and Sur Bahir. Semi-structured interviews and focus group discussions were also undertaken in the five villages of Rafat (September 2, 2003); Kfar Aqab (September 3, 2003); and Al Judeira (September 4, 2003) in the northern section of the barrier, Sur Bahir (September 6, 2003) to the south; and Abu Dis (September 7, 2003) to the east. These villages were chosen to reflect situations in which the barrier was complete (Rafat, Kafr ‘Aqab, and Al Judeira), under construction (Abu Dis), or planned (Sur Bahir). Five interviews were carried out with village council heads and representatives from “popular committees” established in response to the barrier; four interviews were conducted with women in their homes; and three focus groups with women and one with men were also conducted. Technical assistance related to land requisition orders was provided by the Applied Research Center in Jerusalem (ARIJ), and is gratefully acknowledged.

<sup>5</sup> On June 29, 1967, the Israeli Minister of Interior ordered the inclusion in Jerusalem’s municipal boundaries of 30,000 dunums of land, only 6,000 of which represented the land that was within the Jordanian East Jerusalem municipal boundaries.

<sup>6</sup> In the initial study and first update report, “impacted” communities were defined as Palestinian communities that lost land to the construction of the separation barrier, were located in enclaves between the barrier and the Green Line, or, while remaining on the eastern side were nevertheless located within 1.5 km of the barrier, having a major (or principal) access road bisected by the barrier’s alignment. Since the trajectory of the barrier to the northeast of Jerusalem has not yet been determined, in this update report the definition of impacted communities has been restricted to those communities losing land or located inside the envelope, so as not to overstate the number of impacted communities. See tables 1 and 2 and paras. 11-13.

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4. In focusing on the barrier's Phase I alignment in the north-west West Bank<sup>7</sup>, the initial study emphasized the potential impact of physical separation and isolation on residents who might be cut off from their agricultural lands, irrigation networks and water resources, as well as from West Bank workplaces, schools, health clinics and other social services. The extent and impact of such isolation will depend to a significant extent upon the number and operating hours of access points and crossings, and the degree to which unimpeded movement of persons and goods is permitted.<sup>8</sup>

5. The first update report, reviewing the impact of Phase II of the separation barrier in northern Jenin Governorate, identified the intensification of external closure that the barrier represents as its primary economic impact in that area. Unless mitigated by significant well-managed access passages, the virtual elimination of employment prospects for West Bank Palestinians from this area in Israel will persist, and losses of income by Palestinian commercial establishments resulting from restrictions on the ability of Israeli Arab customers to frequent Palestinian shops will continue (particularly in the border community of Al Jalama, but also in other communities further inside such as Jenin city). Because Phase II's alignment more closely adheres to the Green Line (although still built within the West Bank), much less agricultural land has been affected than in areas near Tulkarm and Qalqiliya under Phase I. This is not to minimize the economic loss to individual landowners who have seen their lands requisitioned for the barrier's alignment.

## I. SUMMARY FINDINGS

6. In many respects, the likely impact of the Jerusalem Area barrier combines the worst effects of the barrier in the Tulkarm-Qalqiliya and Jenin areas. West Bank identity card (ID) holders living on both sides of the barrier are likely to find their ability to access employment in East Jerusalem seriously limited, while Jerusalem ID holders will face difficulty in reaching jobs and services outside the city in West Bank neighborhoods (e.g. Ramallah to the north, and Bethlehem to the south). Commercial establishments in Palestinian communities outside Jerusalem may face further reductions in their customer

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<sup>7</sup> In some places extending as much as six kilometers inside the West Bank, as a result of which some 12,000 Palestinians in 15 villages and hamlets now find themselves in enclaves on the western, Israel-facing side of the barrier.

<sup>8</sup> According to IDF plans submitted to the Israeli High Court, Phase One of the barrier is to incorporate 26 "agricultural crossings" along its route, with an additional five crossings in the associated "depth barriers" – additional barriers located further to the east of the main barrier and designed to funnel traffic into a limited number of checkpoints. (Response of the Israeli State Attorney to the High Court of Justice in HCJ 7784/02, Sa'al 'Awani 'Abd al Hadi et al. v. Commander of IDF Forces in the West Bank, sec. 35, as cited in B'Tselem-The Israeli Information Center for Human Rights in the Occupied Territories, "The Separation Barrier: Update", October 2002, p.2 and B'Tselem, "Behind the Barrier: Human Rights Violations as a Result of Israel's Separation Barrier", Position Paper, April 2003, p. 12.) OCHA has identified 14 possible "agricultural crossings," described as "uncontrolled gaps in the wall" along Phase I of the barrier (OCHA, "The West Bank Wall, Humanitarian Status Report: Northern West Bank Trajectory," July 2003, p. 9; the report can be found at <http://www.reliefweb.int/hic-opt/wall.htm>). Construction in the Jerusalem Envelope has not advanced to a stage at which the location of such crossings – beyond the existing checkpoints in the north at Qalandiya and south at Gilo – can be definitively identified.

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base (a loss of clientele from Jerusalem in the markets and repair shops of Abu Dis has already occurred as a result of the provisional barrier obstructing access from Ras al 'Amud). In Bethlehem, the tightened closure effected by the barrier could inhibit any robust recovery of the tourism industry.

7. Access to specialized medical services and educational facilities located west of the barrier in East Jerusalem will likely become problematic for Palestinians residing outside the barrier.<sup>9</sup> Similarly, Jerusalem students attending school or university outside the city could face further difficulties in reaching them.<sup>10</sup>

8. Existing sections of the Jerusalem area separation barrier and the land that has been requisitioned for its construction are located across the Green Line, and in some places, outside Israel's Jerusalem municipal boundary. As a consequence, Palestinian families and communities will be separated from each other – at times affecting members of the same village and/or family. The barrier will separate children from their schools, women from modern obstetric facilities, workers from their places of employment and communities from their cemeteries.<sup>11</sup> A degree of population displacement appears to have occurred already as a result of barrier construction.

9. In many Palestinian families in the Jerusalem area, some members have Jerusalem residency permits<sup>12</sup> and others, West Bank IDs. To the extent that movement restrictions increase as a result of the barrier, hard decisions will have to be made – either to maintain separate residences; or to live on the eastern side of the barrier, exposing Jerusalem ID holders to the risk of no longer satisfying Israel's requirement that Jerusalem is the ID holder's place of residence (which could lead to a forfeit of the right to work in Jerusalem, to educational and health facilities, to insurance, and to social welfare benefits) – or to relocate to the western side of the barrier in order to maximize employment prospects (although for a West Bank ID holder, such relocation without a Jerusalem residency permit is a violation of Israeli law).

10. If passage for West Bank Palestinians through the Jerusalem barrier is limited and, as a consequence, livelihoods and access to services is affected, donors are likely to be sympathetic to a call for measures of economic mitigation. In August, UNDP launched an US\$18 million emergency aid appeal for assistance to West Bank communities affected by the separation barrier, with particular emphasis on the northern West Bank. At the World Bank/IMF Annual Meetings in Dubai on September 21, 2003,

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<sup>9</sup> For example, Augusta Victoria Hospital is the only hospital in the West Bank providing kidney dialysis. Similarly Mukassad Hospital provides specialized heart care treatment.

<sup>10</sup> Al-Quds University, in Abu Dis, draws a significant portion of its student body from East Jerusalem.

<sup>11</sup> The cemetery for As Sawahira ash Sharqiya and Ash Sheikh Sa'd (villages to the east of the barrier's trajectory), is located within As Sawahira al Gharbiya, a village to be located to the west of the barrier. The Palestinian cemetery in Al 'Eizariya will be divided, since the barrier's route passes directly over cemetery land.

<sup>12</sup> In 1967, a census of the Palestinian population in expanded Jerusalem was taken; those registered were granted rights as "Permanent Residents" (although they were permitted to apply for Israeli citizenship, few did so.) Palestinian residents away at the time were required to apply for "family reunification" in order to continue residing legally within the municipal boundaries. By no means were all applications successful.

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the Islamic Development Bank launched a US\$20 million initiative to provide assistance to those affected by the barrier.

## II. TRAJECTORY

11. Two sections of the Jerusalem Envelope were completed as part of the Phase I construction that began last year. Already finished are an (approximately) eight kilometer stretch north of the city, running from Ofer military camp to Qalandiya checkpoint, and an (approximately) 14.5 kilometer section south of Jerusalem, running from Beit Jala through Bethlehem and east to Beit Sahur. In both of these sections, the barrier ranges between 40 and 100 meters in width and consists of an electrified fence, electronic sensors, trenches, military roads, barbed wire, buffer zones and watchtowers.

**Table 1: Phase I Construction of the "Jerusalem Envelope"  
West Bank Communities Impacted by the Completed Sections**

Locality	Governorate	Census Code	2003 Population
Rafat	Jerusalem	401870	2,002
Kafr 'Aqab	Jerusalem	401875	9,811
Qalandiya Camp	Jerusalem	401900	8,542
Qalandiya	Jerusalem	401915	1,087
'Ayda Camp	Bethlehem	452185	3,065
Al 'Aza Camp	Bethlehem	452195	1,639
Beit Jala	Bethlehem	452210	15,688
Bethlehem	Bethlehem	452240	28,132
Umm al Qasseis	Bethlehem	452250	344
Beit Sahur	Bethlehem	452255	14,465
<b>Total</b>			<b>84,775</b>

*Source: Mid-2003 PCBS population projections based on 1997 Census. Population estimates of Arab neighborhoods within (expanded) Jerusalem municipality are not available.*

12. Beginning on July 27, 2003 and continuing through August 24, military orders were issued requisitioning land on which upwards of 18 kilometers of barrier will be built to the east and southeast of Jerusalem.<sup>13</sup> This stretch of barrier begins in the West Bank villages of Al Khas (Al Hujeila) and Khallet an Nu'man (approximately one kilometer north of where the constructed barrier now ends, in Beit Sahur) -- and proceeds north to Abu Dis and Al 'Eizariya, from where it turns east to approach the Israeli settlement of Ma'ale Adumim. These particular requisition orders will lead to the sealing of much of the space between the parts of the barrier already in place in Jerusalem's northern, eastern and southern sectors. The existing barrier and the requisition orders are all situated well beyond the Green Line, and in some places also beyond Israel's Jerusalem municipal boundary of June 1967. Requisition orders in Al 'Elzariya, for example, extend the alignment of the barrier three kilometers beyond the municipal boundary (and 5.5 km beyond the Green Line).

<sup>13</sup> See table 7 for the list of requisition orders.

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**Table 2: Ongoing Construction of the "Jerusalem Envelope"  
West Bank Communities Impacted by Recent Land Requisition Orders**

Locality	Governorate	Census Code	2003 Population
Al 'Eisariya	Jerusalem	402100	16,395
Abu Dis	Jerusalem	402120	11,413
As Sawahira ash Sharqiya	Jerusalem	402145	4,910
Ash Sheikh Sa'd	Jerusalem	402160	2,267
Khallet an Nu'man	Bethlehem	452190	186
Al Khas	Bethlehem	452200	324
<b>Total</b>			<b>35,495</b>

*Source: Mid-2003 PCBS population projections based on 1997 Census. Population of Arab neighborhoods within (expanded) Jerusalem municipality are not available.*

13. Collectively these three sections encompass three-fourths of West Bank-facing Jerusalem. The trajectory of the remaining north-east quadrant has yet to be specified. Depending on the barrier's ultimate alignment between Qalandiya checkpoint and Ma'ale Adumim, four West Bank communities adjacent to Jerusalem's northern municipal boundary (with an estimated mid-2003 population of 41,250) could find themselves located inside the barrier and thereby separated from the West Bank.<sup>14</sup>

14. The trajectory of the barrier between the Jerusalem Envelope's current northwest terminus at Ofer Military Base and the southern end of Phase I construction at Elkana has not been finalized, though the Cabinet is expected to decide on October 1 to include the Ariel salient in the barrier's future trajectory.<sup>15</sup>

<sup>14</sup> These communities (and estimated mid-2003 populations) are: Az Za'ayem (2,317); 'Anata (9,067); Hizma (5,745); and Ar Ram/Dahiyat al Bareed (24,119). Two additional communities located just one kilometer west of Ar Ram (and a similar distance east of the Israeli settlement of Geva Binyamin, or Adam – Jaba' (3,052) and al Ka'abina /Tajammu'Badawi (919) – could also come to be located inside the barrier, or could lose land for its construction. Press reports suggest they would be within the barrier (see Akiva Eldar, "Carving Up Jerusalem, for security, of course", *Ha'aretz*, August 19, 2003; Eldar specifically mentions that 'Anata and Ar Ram/Dahiyat al Bareed would be included inside the barrier. See also Amira Hass, "Outside the Envelope", *Ha'aretz*, August 1, 2003: "As absurd as it sounds...the Ar Ram neighborhood, which belongs to the West Bank in terms of administration, and most of whose residents carry West Bank identity cards, will be inside the so-called Jerusalem envelope". Nonetheless, because the actual future trajectory of the barrier in this area is not yet known, these communities are *excluded* from further analysis of the impact of the Jerusalem Envelope for the purposes of this report. It is by no means unreasonable to expect that the barrier will have a major effect on these communities, however.

<sup>15</sup> A route that includes Ariel and Kedumim would add approximately 60 km to the barrier's total length, and because of topography could be "an enormous engineering challenge and very expensive." Amos Herel, "Mofaz: Decision on Fence's Route near Ariel with weeks," *Ha'aretz*, August 7, 2003. Herel cites "senior army sources." In February 2003, the Yesha Council of Settlements called for including these settlements within the separation barrier. (See Map 1 annexed to original study.) The degree to which the Yesha Council's proposed alignment corresponds to the first option above is not yet known.

### **III. THE ECONOMIC IMPACT OF THE JERUSALEM AREA BARRIER ON AFFECTED COMMUNITIES**

15. Prior to the *Intifada*, the communities located in Jerusalem Governorate enjoyed the highest standards of living and the lowest poverty rates in the West Bank. Workers (be they Jerusalem ID holders or West Bank ID holders) living outside the municipality's boundaries enjoyed easy access to employment in Jerusalem and elsewhere in Israel, as well as to jobs in Ramallah (to the north) and Bethlehem (to the south). With external closure, movement restrictions as well as penalties levied against Israeli employers hiring non-permitted (illegal) Palestinian workers drastically reduced the number of Bethlehem and Jerusalem Governorate workers employed on the Israeli side of the Green Line. At the same time, internal closures – checkpoints, barriers – disrupted Palestinians' ability to reach job sites in Ramallah and Bethlehem. The economy of Jerusalem and Bethlehem further suffered from a sharp decline in tourism due to the deteriorating security situation.

16. The relative prosperity of the Jerusalem Governorate was described in a 2001 World Bank study of poverty in the West Bank and Gaza.<sup>16</sup> The estimated poverty rate for the West Bank was 18.0 percent; for Bethlehem Governorate 13.7 percent and for the Jerusalem Governorate excluding municipal Jerusalem, only 2.5 percent.<sup>17</sup> The analysis showed that living in a village, and even more so, in a refugee camp, increased the probability of being poor. It also showed that household earnings were in general higher if a member worked in Israel rather than the West Bank, or in the West Bank private sector rather than in the PA – and that household consumption was positively correlated with educational levels.

17. Within the affected areas, some of the lowest poverty rates were found in the five urban communities of Al 'Eisariya and Abu Dis in Jerusalem Governorate, and in Beit Jala, Bethlehem, and Beit Sahur (the three urban communities in Bethlehem Governorate). The highest rates were in the rural communities of Bethlehem Governorate furthest away from Jerusalem's municipal boundaries – Umm al Qasseis, Khamat an Nu'man, and Al Khas, the three communities with the smallest populations.

18. Since late-2000, the economic advantages of this region have been steadily eroded. Progressively stricter mobility restrictions for people and vehicles have reduced to a trickle the numbers of Israeli shoppers in local markets, aggravating the decline in income resulting from lost construction and agricultural employment across the Green Line in Israel. This has translated into reductions in the number of commercial establishments still in operation, lower profitability, and increased unemployment in the service sectors.

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<sup>16</sup> World Bank, "Poverty in the West Bank and Gaza", 2001.

<sup>17</sup> The poverty line used was developed by the National Commission for Poverty Alleviation's *Palestine Poverty Report 1998* – NIS 1460 per month for a benchmark household of two adults and four children, equivalent to US\$767 annually per person or US\$2.1 per day. For a full description of the methodology employed, see National Commission for Poverty Alleviation, *Palestine Poverty Report 1998*.

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**Table 3: Estimated 1997 Number of Poor, Poverty Rates, and Population  
for Communities Currently Affected by the Jerusalem Envelope**

Locality (Governorate)	Estimated Poverty			Population	
	Number	Rate	Share of Governorate	Number	Share of Governorate
Northern Barrier – Construction Completed (Jerusalem)	284	1.6 %	9.7 %	17,371	14.8 %
Rafat	48	3.0 %	1.7 %	1,613	1.4 %
Kafir 'Aqab	62	0.8 %	2.1 %	7,763	6.6 %
Qalandiya Camp	163	2.3 %	5.6 %	7,087	6.0 %
Qalandiya	11	1.2 %	0.4 %	908	0.8 %
Southeastern Section – Under Construction (Jerusalem)	504	1.8 %	17.5 %	28,733	24.2 %
Al 'Eisariya	197	1.5 %	6.7 %	13,133	11.2 %
Abu Dis	151	1.6 %	5.2 %	9,438	8.0 %
As Sawahira ash Sharqiya	95	2.4 %	3.3 %	3,954	3.4 %
Ash Sheikh Sa'd	61	3.6 %	2.2 %	1,856	1.6 %
Southeastern Section – Under Construction (Bethlehem)	90	21.9 %	0.5 %	412	0.3 %
Khallet an Nu'man	30	19.8 %	0.2 %	151	0.1 %
Al Khas	60	23.1 %	0.3 %	261	0.2 %
Southern Barrier – Construction Completed (Bethlehem)	2,662	5.2 %	14.2 %	51,127	37.4 %
'Ayda Camp	246	10.0 %	1.3 %	2,462	1.8 %
Al 'Aza Camp	123	9.3 %	0.7 %	1,319	1.0 %
Beit Jala	552	4.4 %	2.9 %	12,550	9.2 %
Bethlehem	1,303	5.7 %	6.9 %	22,865	16.7 %
Umm al Qasseis	65	23.5 %	0.3 %	277	0.2 %
Beit Sahur	373	3.2 %	2.0 %	11,653	8.5 %
<b>Overall Numbers of Poor/Poverty Rate (Jerusalem)</b>	<b>788</b>	<b>1.7 %</b>	<b>27.2 %</b>	<b>46,104</b>	<b>39.0 %</b>
<b>Overall Numbers of Poor/Poverty Rate (Bethlehem)</b>	<b>2,752</b>	<b>5.3 %</b>	<b>14.6 %</b>	<b>51,539</b>	<b>37.7 %</b>
<b>Total, Jerusalem Envelope To Date</b>	<b>3,547</b>	<b>3.6%</b>		<b>97,271</b>	

*Note: Population estimates are end-1997, reflecting ex-post adjustments by PCBS to the 1997 Census. While point estimates of the number of poor and poverty rates are shown in the table, because of small population, confidence intervals for poverty rates are large and rates should be seen as indicative. The 1997 Census and World Bank poverty study both excluded municipal Jerusalem; hence poverty rates for Arab neighborhoods are unavailable.*

19. Annual labor surveys clearly show the decline in employment associated with the *Intifada* and the imposition of tighter internal and external closure (Tables 4a and 4b). Of the 11,400 jobs lost from 2000 to 2002 in the Jerusalem Governorate, 4,000 were in construction – mostly across the Green Line. Hotels, restaurants and commerce saw a

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decline of 2,600 jobs. Service sector jobs dropped by 2,000 in two years, many related to losses of tourism-related income (see Table 5 for indicators of decline in the hotel sector in Jerusalem Governorate).

**Table 4a: Employment by Sector and Residence of Worker, 1998-2001  
Jerusalem Governorate**

Sector	Year	Jerusalem Governorate		
		Number	Percent	Share W.B.
Agriculture, hunting and fishing	1998	400	0.7	0.7
	1999	1,500	2.3	3.1
	2000	1,300	2.0	2.4
	2001	1,800	2.7	4.0
	2002	1,000	1.9	2.0
Mining , quarrying, and manufacturing	1998	8,200	13.6	12.2
	1999	9,700	14.6	14.1
	2000	9,800	14.6	15.0
	2001	9,400	14.4	16.2
	2002	7,600	13.9	15.0
Construction	1998	10,100	16.8	11.1
	1999	14,400	21.6	14.4
	2000	14,000	20.9	14.8
	2001	14,200	21.9	20.8
	2002	10,000	18.4	22.5
Commerce, hotels, and restaurants	1998	18,300	30.4	24.2
	1999	17,900	27.0	22.9
	2000	17,800	26.6	21.7
	2001	17,200	26.5	22.3
	2002	15,200	27.9	20.1
Transportation, storage, and communications	1998	5,800	9.6	30.2
	1999	4,800	7.2	24.4
	2000	5,500	8.2	25.3
	2001	5,100	7.8	23.8
	2002	4,100	7.6	19.5
Services and other branches	1998	17,400	28.9	18.9
	1999	18,100	27.3	17.5
	2000	18,500	27.7	17.1
	2001	17,400	26.7	16.5
	2002	16,500	30.3	15.1
<b>Total Employment, Jerusalem Governorate Residents</b>	<b>1998</b>	<b>60,300</b>	<b>100.0</b>	<b>15.1</b>
	<b>1999</b>	<b>66,400</b>	<b>100.0</b>	<b>15.9</b>
	<b>2000</b>	<b>66,900</b>	<b>100.0</b>	<b>15.7</b>
	<b>2001</b>	<b>65,100</b>	<b>100.0</b>	<b>17.3</b>
	<b>2002</b>	<b>54,500</b>	<b>100.0</b>	<b>15.5</b>
Total Employment, West Bank Residents	1998	400,400		100.0
	1999	418,300		100.0
	2000	424,900		100.0
	2001	375,700		100.0
	2002	350,500		100.0

*Source: Mission calculations on the basis of percentage distributions reported in PCBS, Annual Labor Surveys, 1998-2002. Includes East Jerusalem.*

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**Table 4b: Employment by Industry and Residence of Worker, 1998-2001  
Bethlehem and Jericho Governorates**

Industry	Year	Bethlehem and Jericho		
		Number	Percent	Share W.B.
Agriculture, hunting and fishing	1998	5,300	14.0	9.6
	1999	6,000	15.1	12.5
	2000	4,900	11.6	9.2
	2001	5,200	12.4	11.4
	2002	5,200	14.7	10.5
Mining , quarrying, and manufacturing	1998	7,700	20.5	11.4
	1999	7,200	18.0	10.4
	2000	7,000	16.5	10.7
	2001	7,600	18.1	13.1
	2002	6,400	18.0	12.6
Construction	1998	9,600	25.4	10.6
	1999	9,200	23.1	9.2
	2000	11,900	28.2	12.6
	2001	11,100	26.5	16.2
	2002	5,400	15.2	12.1
Commerce, hotels, and restaurants	1998	4,600	12.3	6.1
	1999	5,300	13.3	6.8
	2000	5,700	13.5	7.0
	2001	5,400	12.9	7.0
	2002	5,200	14.7	6.9
Transportation, storage, and communications	1998	2,000	5.2	10.4
	1999	1,400	3.6	7.1
	2000	1,900	4.6	8.8
	2001	2,100	5.0	9.8
	2002	2,200	6.2	10.5
Services and other branches	1998	8,500	22.6	9.2
	1999	10,800	26.9	10.5
	2000	10,800	25.6	10.0
	2001	10,500	25.1	10.0
	2002	11,100	31.2	10.2
<b>Total Employment, Bethlehem and Jericho Governorates Residents</b>	<b>1998</b>	<b>37,800</b>	<b>100.0</b>	<b>9.4</b>
	<b>1999</b>	<b>40,000</b>	<b>100.0</b>	<b>9.6</b>
	<b>2000</b>	<b>42,100</b>	<b>100.0</b>	<b>9.9</b>
	<b>2001</b>	<b>41,900</b>	<b>100.0</b>	<b>11.2</b>
	<b>2002</b>	<b>35,700</b>	<b>100.0</b>	<b>10.2</b>
Total Employment, West Bank Residents	1998	400,400		100.0
	1999	418,300		100.0
	2000	424,900		100.0
	2001	375,700		100.0
	2002	350,500		100.0

*Source: Mission calculations on the basis of percentage distributions reported in PCBS, Annual Labor Surveys, 1998-2002. Data does not allow for disaggregation between Bethlehem and Jericho Governorates.*

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**Table 5: Indicators of Hotel Activity, 1998-2001  
Jerusalem Governorate**

	1998	1999	2000	2001	2002
Number of Hotels	48	42	43	29	21
Number of Rooms	2,225	2,054	1,996	836	915
Number of Beds	4,928	4,449	4,344	2,032	2,199
Average of Room Occupancy	626	818	897	171	166
Room Occupancy Rate (%)	28.6	38.3	44.4	15.4	19.7
Average of Bed Occupancy	1,126	1,707	1,824	315	249
Bed Occupancy Rate (%)	23.2	34.1	42.0	12.1	12.0
Number of Guests	157,731	217,041	206,583	37,295	29,497

*Source: PCBS. Includes East Jerusalem.*

20. The decline in employment in Bethlehem and Jericho Governorates shows similar patterns (Table 4b).<sup>18</sup> In the period 2000-2002, a total of approximately 6,400 jobs disappeared, with the number lost in the construction sector (6,500) exceeding this total as laborers from Bethlehem Governorate are no longer able to access jobs across the Green Line.<sup>19</sup>

21. On the eve of the *Intifada*, Jerusalem and Bethlehem/Jericho Governorates had unemployment rates slightly below the overall rate for the West Bank. In 2001, employment in the environs of Jerusalem was less affected than employment in the West Bank as a whole, due primarily to continued access to the Jerusalem labor market (on both sides of the Green Line) to West Bank ID holders. In 2002, however, the pattern changes – a sharp rise in unemployment is discernible that year, by 80 percent in the Jerusalem Governorate and by 53 percent in Bethlehem, as compared to 28 percent for the West Bank as a whole. This is largely accounted for by greater restrictions on movement, including from the construction of the barrier, with West Bank ID holders facing increasing difficulty in accessing jobs within the municipal boundary. No disaggregated poverty data for the area is currently available, but it can be confidently predicted that poverty has increased significantly in the past year. Poverty in the West Bank and Gaza is closely related to unemployment: over the first 27 months of the *Intifada*, unemployment increased from 10 percent to 27 percent of the workforce (a factor of 2.7), and poverty from 21 percent to 60 percent of the population (a factor of 2.8).<sup>20</sup>

<sup>18</sup> Annual labor surveys do not disaggregate data for the two; of the combined group, Bethlehem accounts for approximately 80 percent.

<sup>19</sup> Data on place of employment correlated by governorate of residence is not available. For West Bank residents overall, almost two-thirds of the more than 45,000 jobs lost by West Bank residents working in Israel between 2000 and 2002 were in the construction sector – a drop of 32,200 jobs.

<sup>20</sup> World Bank, "Twenty-Seven Months: *Intifada*, Closures and Palestinian Economic Crisis—An Assessment", May 2003.

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**Table 6: Unemployment 2000-2002  
Jerusalem and Bethlehem & Jericho Governorates**

Governorate	Year	Unemployment		
		Number	Rate	Share W. B.
Jerusalem Governorate	2000	8,700	11.5	14.9
	2001	11,900	15.5	11.2
	2002	21,000	27.8	15.3
Bethlehem and Jericho Governorates	2000	4,100	8.9	7.0
	2001	5,600	11.7	5.3
	2002	7,800	17.9	5.7
West Bank	2000	58,500	12.1	100.0
	2001	106,000	22.0	100.0
	2002	137,700	28.2	100.0

*Source: Mission calculations on the basis of percentage distributions reported in PCBS, Annual Labor Surveys, 2000-2002. Includes East Jerusalem.*

22. The agricultural sector has not been a major employer in Jerusalem Governorate or in the larger communities in Bethlehem Governorate immediately to the south of municipal Jerusalem (Beit Jala, Bethlehem, Beit Sahur), because of relative land scarcity, lack of sufficient water resources for intensive cultivation, and the availability of other, more lucrative forms of employment. Nevertheless many families receive supplemental income from agriculture, primarily from olives. With general increases in closure during the course of the *Intifada*, the importance of this income supplement has grown. The construction of the barrier will reduce available land as well as access to land close to the barrier. Evidence of this was found by mission field visits (Box 1).

23. Many interviewees directly affected by the barrier's construction reported that they had recently further reduced household expenditure on food, in particular on the more expensive items like meat and vegetables, and were eating less in general than a few months ago.<sup>21</sup> Several families reported that this year they have foregone sending their children to kindergarten for lack of money. Credit from local shops continues to play an important role as a "shock absorber", and has remained available to most due to strong social bonds, but the precarious financial situation faced by many stores has led to the closure of a number of these establishments in the visited communities in recent months.

<sup>21</sup> This is consistent with a widely-found forced coping strategy associated with Palestinian income and employment losses of the last three years. In "Twenty Seven Months" (op. cit.), the Bank estimated that per capita real food consumption declined by as much as 25 percent between 1998 and the end of 2002.

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**Box 1. Impact on Agricultural Livelihoods and Rural Communities**

**Rafat**

In Rafat, where there has been little reliance on employment in Israel, many residents depend on agriculture. According to the head of the village council, approximately 768 dunums of agricultural land used for the cultivation of rain-fed crops were requisitioned and an estimated 900 olive, fig, almond trees have been uprooted (and many confiscated) for the construction of the barrier. Residents used to cultivate wheat and vegetables for sale in Ramallah but now, with little remaining land, they are obliged to go to Ramallah to buy such produce. With reduced grazing land and the inability of their owners to purchase feed, the number of sheep in the village has fallen from an estimated 2,000 last year to just 150. Many farmers are now *de facto* unemployed, and report relying heavily on the salaries of the 30 Palestinian Authority employees in the village and on piecemeal and unpredictable local construction work.

**Abu Dis**

In Abu Dis, located in the path of the east section of the barrier, residents' land has been requisitioned, olive trees uprooted, and animal pens destroyed. Households have resorted to sheltering goats and sheep in their homes because of a lack of alternative sites for grazing or keeping the animals. One family interviewed for this report is no longer able to keep their 200 sheep and goats in a nearby *wadi* due to the barrier's trajectory, and now keep them in their home. In the past, livestock provided for roughly one third of the family's household needs; the family makes cheese and *labneh* for sale and home consumption and sells meat (now at a price considerably below the one prevailing before the *Intifada*, when purchasers came from Jerusalem). Livestock rearing became an important fall-back for them when the family's three men lost their jobs in Israel. Although these men find occasional short-term jobs in Abu Dis and nearby Al 'Eizariya, agriculture has come to provide the family's only steady income. Now this livelihood is under threat, with two and a half dunums of the family's land requisitioned (including 18 of their 25 olive trees). The household head estimated that the livestock required NIS 180,000 of feed per year during the summer months (when there is no grazing); feeding costs will double with the completion of the barrier, as feed will have to be purchased all year round.

**Al Judeira**

Approximately half Al Judeira village's agricultural land has been requisitioned for the construction of the barrier, and residents reported being afraid to approach their olive trees near the barrier because of IDF patrols. Olives provide a main income source for the village. The erection of the barrier has meant that the cost of having olive oil extracted has increased beyond what is viable, since the olive press formerly used is now on the other side of the barrier at Beit 'Ur, near Beituniya. Prior to the construction of the barrier villagers would transport the olives to the press in their own Palestinian-licensed cars. During the 2002 olive harvest, the road to Beit 'Ur that they used was closed due to barrier construction. In order to transport their olives to the press, villagers resorted to paying five times the previous price to Israeli-licensed trucks that could use a bypass road. At the same time, the price of olives fell. One family interviewed had three quarters of its land (48 dunums of olive trees) requisitioned for the barrier and for a new road running to the east of the village. The family used to sell vegetables and olive oil in Ramallah and Jerusalem, but the cost of pressing and the low price of oil in the surrounding villages (less than half the price prior to the *Intifada*) now makes this activity unprofitable. The family has resorted to sharecropping in Beituniya, keeping half of the produce for home consumption.

Sources: Mission interviews with community residents.

#### **IV. THE SOCIAL CONSEQUENCES OF THE BARRIER'S CONSTRUCTION IN THE JERUSALEM AREA**

24. The Jerusalem barrier will intensify the access difficulties faced by *West Bank ID holders* living within and outside the municipal boundary. Those inside municipal Jerusalem already find it problematic to travel to and from areas beyond the emergent barrier for employment, health and education purposes. This difficulty will increase if their status comes under greater scrutiny when they attempt to transit through the barrier. For West Bank ID holders residing outside municipal Jerusalem, questions arise over continued access to services (schools, hospitals) in East Jerusalem, as well as the ability to visit family members living in villages inside the municipal boundary. Many Palestinians who are *Jerusalem ID holders* will also be affected. Palestinian Jerusalem residents living outside the barrier will be separated from the city where they have a legal right to work and to use public services.

25. Of concern is the potential interruption of family relationships as a result of the barrier bisecting particular communities. The barrier/marked trajectory cuts through municipal Jerusalem in some places, and through a number of West Bank villages. In addition, a number of population enclaves have been created in the barrier's southern Jerusalem sector as a result of the interaction of the barrier and IDF restrictions in the area of Rachel's Tomb.

26. Access points that permit a predictable flow of goods and people through the structure will be essential if the negative socio-economic potential of the barrier is to be minimized. Contacts between two villages and the IDF have yielded promises of gates in two locations, Sur Bahir and Abu Dis. Nevertheless, based on what inhabitants have heard about the operation of such gates in the north of the West Bank (short and unpredictable opening times, reports of IDF harassment), considerable apprehension was expressed to the mission about the future access regime. Gates, however liberally-managed, will not solve all access problem in the Jerusalem Envelope area. The barrier will solidify and institutionalize the differences between those holding West Bank and Jerusalem IDs. West Bank ID holders who have hitherto accessed Jerusalem "illegally" will, it is presumed, no longer be able to do so.

27. The following section gives details of how the barrier is impacting on communities to the north, east and south of Jerusalem (see also **Maps 1 and 2**).

##### **➤ The Northern Section of the Jerusalem Barrier**

28. In this area, the barrier does not adhere to the Jerusalem municipal boundary but cuts across it, leaving the Qalandiya Camp and Kfar 'Aqab municipal communities north of the barrier. The barrier also runs west of the municipal boundary and deep into the West Bank.

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29. ***Villages North of the Barrier.*** Access to schools and health facilities for residents of Rafat and Kfar 'Aqab has been largely unaffected, since West Bank ID holders go to schools and hospitals in Ramallah, while Jerusalem ID holders are able to pass south through the barrier to attend schools and hospitals in Jerusalem.<sup>22</sup> Employment also conforms to this pattern, with Jerusalem ID holders passing through Qalandiya checkpoint to Jerusalem, and those possessing West Bank IDs traveling north to Ramallah or El Bireh.

30. However, there is concern among Jerusalem ID holders that the completion of the barrier could lead to their exclusion from Jerusalem unless they establish residency south of the barrier. Village representatives for Rafat claimed that no pre-emptive migration had occurred, though.<sup>23</sup> Kfar 'Aqab representatives, on the other hand, spoke of a general displacement trend that began in early 2002 after the Qalandiya checkpoint became a fully-developed terminal. The treasurer of the village council claimed that the barrier has reinforced this: "those who are able to work in Jerusalem have the most opportunity to leave Kfar 'Aqab."<sup>24</sup> This notion was reinforced by Jerusalem advocate Daniel Seidemann who asserts that a number of Kfar 'Aqab residents with Jerusalem IDs have begun to rent properties in the Shufat refugee camp, inside the Jerusalem municipal boundary, as a direct consequence of the barrier.<sup>25</sup>

31. The barrier's impact on social relations between villages to its north and south is already proving problematic, though only a relatively short stretch has been completed. In Kfar 'Aqab, council representatives informed the mission that the barrier is blocking almost all direct access between their village and the network of villages to the south which are intimately connected to them by marriage and by long-standing commercial ties.<sup>26</sup>

32. ***Villages South of the Barrier.*** South of the barrier, many West Bank ID holders now find themselves living between the barrier (to the north), the Green Line (south) and the Jerusalem municipal boundary (east). Four villages south of the barrier were researched,<sup>27</sup> and in all the great majority of residents have West Bank IDs.<sup>28</sup> While access to schooling is not a problem, owing to the availability of local schools, access to health,<sup>29</sup> jobs and family networks has become very problematic. Those who do not possess Jerusalem IDs face an uncertain future – one analogous to those living between

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<sup>22</sup> Albeit incurring the time and transport costs resulting from having to navigate Qalandiya checkpoint.

<sup>23</sup> Interview with Mohammed Hader, head of the Rafat Village Council, September 2, 2003.

<sup>24</sup> Interview with Ali Barakat and Imad Awad, head and treasurer of the Kfar 'Aqab Village Council respectively, September 7, 2003.

<sup>25</sup> Telephone interview with Daniel Seidemann, Advocate, September 15, 2003.

<sup>26</sup> Interview with Ali Barakat and Imad Awad, head and treasurer of the Kfar 'Aqab Village Council respectively, September 7, 2003.

<sup>27</sup> Al Juderia, Qalandiya, Bir Nabala, and Al Jib.

<sup>28</sup> Al Jib, for example, is a village populated by West Bank ID holders (only some half-dozen families in a population of 4,300 have Jerusalem IDs). Interview with Abed Rahim Ibrahim, head of the Al Jib Village Council, September 7, 2003.

<sup>29</sup> West Bank ID holders seek healthcare in Ramallah, since non-Jerusalem ID holders do not contribute to Israel's National Insurance scheme and cannot benefit from the Israeli public health system. Access to these facilities is now seen to be at risk.

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Phase I of the barrier and the Green Line in the north-western West Bank. Should the barrier's construction be accompanied by greater efforts by the Israeli authorities to prevent "illegals" from entering or residing within the municipal boundaries, some residents may feel obliged to relocate north of the barrier. Thus far there is no evidence that this has occurred.

**Box 2: The Difficulty of Traveling Back South Around the Barrier**

One 36 year-old unmarried woman from Al Judeira village supports the household (consisting of her sick father and four younger unmarried siblings) by working as a seamstress making clothes for individual clients. Following the construction of the barrier, she has lost the majority of her clients – who used to come from Ramallah. Now she relies on customers from the neighboring villages of Bir Nabala and Al Jib. Buying inputs in Ramallah has become very difficult. She continues to travel north through Qalandiya checkpoint, walking across and then taking a taxi to Ramallah. Because she has a West Bank ID, she used to return home *via* Rafat to avoid Qalandiya. This is no longer possible because the barrier has blocked the Rafat road and she now has to take a much longer route west from Ramallah via the Surda checkpoint, which she crosses on foot. Following this she takes a taxi to Burqa and another to Jaba on the southern side of the barrier. The cost of the return journey has increased from NIS 10 to NIS 45, and instead of taking 45 minutes it takes between 2 and 4 hours.

*Source: Field interviews and observations.*

33. Traditionally, these villagers relied heavily on work in Jerusalem/Israel. Since the beginning of the *Intifada* it has been very hard to obtain permits to work or trade, and clandestine access has also become more difficult. As a result, increasing numbers have sought work in Ramallah. Now, though, the barrier is making it difficult to access towns to the north. Transporting agricultural produce to Ramallah is virtually impossible, and daily access to Ramallah's job markets and health facilities seems to many villagers to be in jeopardy. Although technically eligible for permits to travel to other parts of the West Bank, the Al Jib village council head reported that such permits are in practice very hard to obtain for a non-resident of Ramallah.<sup>30</sup> These villagers can pass north through Qalandiya (at times when the checkpoint is not restricted for security reasons),<sup>31</sup> but they cannot return though it, and this obliges them to take long roundabout routes home. While this is costly and inconvenient, respondents feared that the completed barrier would seal off such access entirely.

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<sup>30</sup> Ibid. The permit was said to cost NIS 30 and to take about two weeks to obtain. It would generally need renewing every week.

<sup>31</sup> On September 11 and 13, 2003, for example, Qalandiya checkpoint was closed all day to all pedestrian and vehicular traffic, including ambulances, due to security alerts in the wake of two suicide bombings on September 9. The result was that Palestinians with Jerusalem IDs or work permits were not able to access work or services in Jerusalem, and Palestinians with West Bank IDs could not enter the West Bank.

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**Box 3: The Barrier's Impact on Women**

The construction of the separation barrier is having a particular impact on women and their mobility, given social norms relating to travel (the widespread unacceptability of traveling alone after dark or staying away from home for the night, for example). Women who have married outside their village reported increasing difficulty in visiting relatives. The mission held discussions with a number of female West Bank ID holders in Kfar 'Aqab and Qalandiya Refugee Camp, both located to the barrier's north, who have relatives south of the barrier in villages such as Ar Ram, Bir Nabala, Al Judeira, Hizma and Al Jib. Although close by, direct access to these villages is no longer possible because of the barrier. Conversely, female West Bank ID holders to the south of the barrier can visit Kfar 'Aqab and Qalandiya to the north, but reported increasing difficulties in returning home through the checkpoint. Residents of Kfar 'Aqab reported that relatives on the other side of the barrier were sometimes refused passage through the checkpoint and had to return and either try again the following day or find an alternative route. Focus group discussions in Al Judeira elicited the view that girls are marrying younger as a result of the barrier's restrictions -- so that fathers can avoid having to send them to school or university under insecure circumstances.

*Source: Field interviews and observations.*

➤ **The Eastern Section of the Jerusalem Barrier**

34. In this area the alignment of the barrier tracks north-south on or relatively close to the municipal boundary – with the major exception of the spur running in an easterly direction away from Al 'Eizariya down to the edge of Ma'ale Adumim.

35. **From Abu Dis North.** In August 2002, a previous checkpoint was replaced by today's row of six-foot concrete blocks, perhaps 150-200 meters in length, running along Jerusalem's municipal boundary between Ras al 'Amud (East Jerusalem) and Abu Dis (West Bank). These blocks are temporary and will be replaced by an eight-meter wall equipped with sensory devices.<sup>32</sup> Movement through the barrier is now possible, as the blocks have gaps between them large enough to allow people to squeeze by, while the more agile can also climb over them. Construction to the north and south of this stretch is currently underway.<sup>33</sup>

36. A permanent barrier in this area will affect Abu Dis residents' access to health services.<sup>34</sup> The Abu Dis clinic only provides basic care; women giving birth need to go to hospitals in Jerusalem. When movement restrictions have been imposed and entry to Jerusalem prohibited, women have been using hospitals in either Ramallah or Jericho. Plans to extend the barrier approximately 14 km east to the Ma'ale Adumim junction may

<sup>32</sup> Interview with Daniel Seidemann, Advocate, August 26, 2003.

<sup>33</sup> In Abu Dis, construction has resulted in the demolition of the back gate of the Cliff Hotel. According to *Ha'aretz*, the barrier's alignment is slated to pass through middle of the hotel's garden; Israel's Ministry of Defence forwarded requisition notices to the hotel's owners "for military purposes." Lily Galili, "Even Prison has a Door," *Ha'aretz*, August 29, 2003. Elsewhere, in Al 'Eizariya, barrier construction has resulted in the destruction of a road leading to 15 residential homes. On-site inspection, September 13, 2003.

<sup>34</sup> The barrier will also affect Al 'Eizariya residents since many use this entrance to Jerusalem to reach education and health facilities. Telephone interview with Daniel Seidemann, Advocate, September 15, 2003.

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make such movement impossible, unless a reliable crossing point is established in this section of the barrier.<sup>35</sup> The barrier will also affect access to Abu Dis' five schools, which offer education from the first to the twelfth grades for both boys and girls. Many people living to the west of the barrier's trajectory within the Jerusalem municipal boundary send their children to these schools – while some parents in Abu Dis, especially those holding Jerusalem IDs, send their children west to schools inside the municipal boundary. Al Quds University in Abu Dis straddles the barrier's trajectory and is subject to current GoI requisition orders and will lose the use of one-third of its property.

37. Employment in Abu Dis has already been affected by the temporary barrier. Once dependent on agriculture, Abu Dis adapted to the requisitioning of much of its agricultural land after 1967 by developing strong links with Jerusalem and establishing a vibrant market to which Jerusalem residents came to purchase competitively-priced goods and services (meat, car repairs, etc.). Rents and tax rates are also lower than in the Jerusalem municipality. Traders interviewed by the mission reported that the barrier has already interfered with trade; they fear that a permanent barrier will prevent most of their customers from accessing their shops.<sup>36</sup>

38. The built-up nature of the area and the natural volume of traffic between Ras al 'Amud and Abu Dis (even with the obstacles currently in place) means the completed barrier will grossly impede movement, even if a liberal access regime is put in place. As in the northern section of the Jerusalem Envelope described above, families and communities will be divided, leaving Jerusalem ID holders outside the barrier and West Bank ID holders inside, prompting a multitude of painful calculations about the feasibility and wisdom of relocating. Some population migration was reported to the mission in this area. The representative of Abu Dis and Al 'Eizariya stated that a "small number" of Jerusalem ID holders had left both villages for Ras al 'Amud, out of fear of losing their Jerusalem IDs if left on the eastern side of the barrier.<sup>37</sup> However, no movement to the eastern side of the barrier by Ras al 'Amud residents with West Bank IDs was reported. In Al 'Eizariya, 84 residents (all of whom hold West Bank IDs) will be situated north of where the barrier angles down to Ma'ale Adumim – that is, between the municipal boundary (west), Ma'ale Adumim (east) and the barrier (south). The rest of the community, including members of many of the same families, will be south of and outside the barrier.

39. ***South of Abu Dis.*** Again, Jerusalem ID holders contacted in Ash Sheikh Sa'd, and As Sawahira ash Sharqiya believed they could soon find it difficult to access education, health and workplaces within the Jerusalem municipality. In As Sawahira ash Sharqiya, approximately 100 families (with a combined population of c.1000 persons, some 300 of whom are school children), who hold Jerusalem IDs and pay Jerusalem property taxes, will be wedged between the barrier to their west and the municipal

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<sup>35</sup> Telephone interview with Salah Bader, Office of Civil Affairs in the DCL, Abu Dis, September 14, 2002.

<sup>36</sup> Field research conducted with local traders in Abu Dis on September 7, 2003.

<sup>37</sup> Interview with Salah Bader, Office of Civil Affairs in the DCL, Abu Dis, and representative for Al 'Eizariya and Abu Dis, September 13, 2003; Interview with Khaled Elghoul, representative of Ras al 'Amud, and Director of the Silwan Club, September 13, 2003.

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boundary to their east.<sup>38</sup> In Sur Bahir, a village within the municipal boundary, approximately 600 residents holding Jerusalem IDs will find themselves east of the barrier.<sup>39</sup> In As Sawahira ash Sharqiya, an indeterminate (but small) number of Jerusalem ID holders are said to have left the village for areas within the municipal boundary, for fear of losing their IDs.<sup>40</sup> Some Ash Sheikh Sa'd residents have left for the neighboring village of Jabal al Mukabbir (within the Jerusalem municipal borders) for similar reasons (see also box 4).

40. Various West Bank ID holders interviewed in the villages south of Abu Dis freely admitted to relying on "illegal" access to the Jerusalem municipality (i.e. entry without permits) in order to work, visit hospitals in East Jerusalem, and see family and friends. When completed, the barrier may well prevent this. Conversely, Palestinians with West Bank ID currently living within the Jerusalem municipal boundary in this area fear that the barrier may result in stricter enforcement of Israeli ID policies.

**Box 4: Community and Family Division: Ash Sheikh Sa'd and Jabal al Mukabbir**

Prior to Israel's occupation of East Jerusalem in June 1967, the villages of Ash Sheikh Sa'd and Jabal al Mukabbir were a single entity. Hence family ties between the two villages remain strong; to this day Ash Sheikh Sa'd remains dependent on Jabal al Mukabbir for schooling and shops. For Ash Sheikh Sa'd, the barrier will block the village's only passable exit, west into the Jerusalem municipality. Access to the east is not feasible due to poor road quality, and because there is nothing to the east of the village except desert.

Mahmoud Mansour, Ash Sheikh Sa'd's representative, lives with his three brothers in Jabal al Mukabbir – to the west of the barrier's alignment. All four of them are Jerusalem ID holders. They would thus be separated from nine sisters and another brother, all currently residing in Ash Sheikh Sa'd and holding West Bank IDs.

*Source: Field interviews and observations, including telephone interview with Daniel Seidemann, Advocate, September 15, 2003; Interview with Mahmoud Mansour, village representative, September 10, 2003. According to Mansour, children from Ash Sheikh Sa'd are only permitted to enter schools in Jabal al Mukabbir if at least one parent possesses Jerusalem ID. Otherwise, children attend school in Abu Dis.*

41. Villages on the eastern and southern flanks of Jerusalem are socially and economically integrated into Jerusalem. To this point they have been dependent to a large degree on access to the municipality, and this has cushioned them from the economic shock of the *Intifada* period much better than most other Palestinians. The barrier threatens to bring about a sharp deterioration in the standard of living of those villagers who will no longer be able to access work with any ease or regularity. In summary, the Jerusalem barrier will solidify a municipal boundary which has remained porous throughout the troubles, and will measurably increase the level of hardship on Jerusalem's doorstep.

<sup>38</sup> Telephone interview Daniel Seidemann, Advocate, September 14, 2003; Telephone interview with Salah Bader, Office of Civil Affairs in the DCL, Abu Dis, September 14, 2003.

<sup>39</sup> Interview with Yasser Abed Rabbo, civil engineer and resident, and Hussein Daoud, Village *Mukhtar*, September 10, 2003; Interview with Hasan Abu Asleh, surveyor and resident, and Mohammed Attoun, Village *Mukhtar*, September 10, 2003.

<sup>40</sup> Telephone interview with Hussein Abdul Qader, village representative, September 15, 2003.

42. Although population displacement as a consequence of the barrier is still modest and appears limited to those holding Jerusalem IDs, the potential exists for significant population flows in and out of Jerusalem. Further monitoring of this should be undertaken over the coming months.

➤ **The Southern Section of the Jerusalem Border**

43. In this area the alignment of the barrier tracks roughly east-west on or relatively close to the municipal boundary – and has the effect of separating the municipalities of Bethlehem (Beit Jala, Beit Sahour and Bethlehem itself) from the settlements of Gilo and Har Homa. This is the longest stretch of completed barrier so far in the Jerusalem area, and features six small actual or potential population enclaves, five of them created by the security measures enacted around Rachel's Tomb.

44. Access to schools and hospitals for the populations of the Bethlehem municipalities has not been affected by the barrier, as these services are provided within greater Bethlehem. Since the area is populated predominantly by West Bank ID holders and because employment was abundant in Bethlehem prior to the *Intifada* (from tourism trade and services), relatively few families depended on employment in Jerusalem. Nor will the barrier interpose itself significantly between Palestinian communities, or break established family and social ties.

45. Nevertheless, the barrier will create six enclaves (**Map 2**). Three hundred and twenty people, all with West Bank IDs, will need to adapt to demanding new realities.

46. In the enclave areas east and west of Gilo checkpoint, identified as Areas 5 and 6 respectively on Map 2, residents currently enter and exit through gaps in the barrier, timing their movements to avoid IDF patrols.<sup>41</sup> For those living in Area 6, however, this entails walking east to the end of the barrier, which takes at least one hour.<sup>42</sup> Residents of both areas can still reach their places of employment as well as schools and health facilities in the Bethlehem area and south of the barrier. With the completion of construction near Area 5 and the issuance of additional requisition orders north to Khallet an Nu'man near Area 6, these routes will be blocked unless permits are issued to these residents.

47. Access to Areas 1 and 2, close to Rachel's Tomb, is currently limited to residents and shopkeepers from the area, and movement is subject to the permission of IDF soldiers stationed at entrance points to each zone; permission for outside guests to visit

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<sup>41</sup> During a field trip conducted on September 11, 2003, the research team visited the area in question. Border police informed the team and its Palestinian hosts that this was an "Israeli zone," with unauthorized entry forbidden.

<sup>42</sup> Israeli journalist Amira Hass reported on September 5, 2003 that Israel's Civil Administration arranged permits for families to cross into Bethlehem through the Gilo checkpoint. The majority of permits were for a period of one week, although one permit allowed movement through the checkpoint for one month. Amira Hass, "Betwixt, Between, Bewildered," *Ha'aretz*, September 5, 2003.

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residents must be sought from the IDF in advance. Permission must also be sought by potential customers of the businesses in these areas. The significant military presence, difficulties of access and history of tension in this area are conducive neither to commerce nor to normal social life.<sup>43</sup>

48. Rachel's Tomb Areas 3 and 4 are relatively unaffected at present. Although surrounded on three sides by land subject to requisition for further barrier construction, access to and from each is still freely permitted. As and when construction proceeds, residents of both areas could find themselves facing restrictions similar to those in Areas 1 and 2, given their proximity to a heavily guarded religious site and a major IDF encampment.

49. There is already evidence of population displacement from the enclaves. Displacement from Area 6 was reported to the mission; 22 children now live with relatives in Beit Sahur during the school week, and return home for the weekends.<sup>44</sup> Should construction proceed in the area of Rachel's Tomb, it is likely that further displacement will take place.

## V. LAND REQUISITIONING

50. The mission reviewed the processes used to requisition land for the Jerusalem area barrier, and the progress of the requisitioning exercise to date. Lawyers actively involved in the legalities of barrier-related land acquisition were interviewed and extensive site visits were made.<sup>45</sup>

51. The process of land requisition applicable to the Separation Barrier was described at length in the report of May 30, 2003. For convenience, the relevant section of that report is attached as **Annex 1**.

52. Land requisitions are made pursuant to orders issued by either the IDF for property in the West Bank<sup>46</sup> or the Ministry of Defense (MoD) for property within the municipal boundary of Jerusalem.

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<sup>43</sup> Interview with Tony Marcos, Department of Public Relations, Bethlehem Municipality, September 15, 2003. Throughout the course of fieldwork in this area, respondents frequently used the metaphors of a prison or a zoo to describe their feelings about living under these circumstances.

<sup>44</sup> Telephone interview with Suzanne Sahori, Department of Public Relations, Beit Sahur Municipality, September 19, 2003.

<sup>45</sup> Advocates Daniel Seidemann and Muhammed Dahleh were interviewed on September 5 and September 8 respectively. Further interviews were conducted with Anwar al Darkazally of the Negotiations Support Unit (September 6) and Dr. Jad Isaac of the Applied Research Institute of Jerusalem, ARIJ (September 9). All are actively involved in either representing Palestinian landowners or following appeals through the organizations which they represent. Special thanks are owed to ARIJ and its director, Dr. Isaac, for providing copies of the military requisition orders applicable to the area and for technical assistance related to this subject.

<sup>46</sup> Thus IDF orders are issued for lands outside Jerusalem's municipal boundaries but still considered to be within the Jerusalem "area".

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53. Most orders became effective the day they were issued, or within 1-2 days thereafter (table 7). The methods of serving land requisition orders on landowners or holders in the Jerusalem area were similar to those used in Phase I and II of the barrier in the northern West Bank. Residents' accounts of how they first came to learn about the barrier describe an absence of consistent, clear communication by the Israeli authorities. Several reported never receiving the requisition order at all. Some orders were left weighted under a stone near or on the subject land. In Rafat, respondents discovered the land requisitions from orders attached to trees. In Al Judeira, residents first learned that the barrier would be built in their neighborhood from the television.<sup>47</sup> Sur Bahir residents learned about the barrier when the IDF entered the village in Ramadan 2002 and dug a trench along the planned alignment.<sup>48</sup> The orders issued by the MoD specifically provide that failure to deliver the order to the landowner does not prevent its implementation.<sup>49</sup>

54. The orders identify the land to be requisitioned with different colored markings on an attached map – however, the maps provided were normally photocopies of the original, in black and white, and several respondents said they were unable to tell which land was subject to requisition. The maps provided to residents list land by parcel number, as opposed to identifying features and names familiar to the landowner – once again creating confusion as to whether a particular order applied to a particular piece of land. Parcel numbers, moreover, sometimes differ between the text of the order and the map. These map-related problems applied to entries 2, 6 and 14 in table 7.

55. At least fourteen orders requisitioning land in the Jerusalem area have been issued since. The exact number of landowners these orders affect is unknown as the orders refer only to parcels of land and not the land owners themselves.

56. IDF orders contain no mechanism for appeal or objection.<sup>50</sup> However, pursuant to an undertaking given by the IDF to the Supreme Court in another case<sup>51</sup>, the IDF is to verbally inform the landowner that he or she has seven days to appeal the order.

57. The orders issued by the Ministry of Defense contain two options: i) to appeal to the Committee of Appeal of the MoD within 14 days of date of delivery or of when the landowner was notified<sup>52</sup> – in accordance with the Law on Seizure of Lands Under Martial Law (1949); or ii) without prejudice to an appeal, to object to the Ministry of Defense itself by a specified date (usually seven days from the date of the order). Orders

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<sup>47</sup> According to the local representative, access to approximately 300 dunums is now forbidden either as a result of the barrier itself, or the presence of land sitting beyond the structure. Interview with Fakhri Jawdal, Secretary of the Al Judeira Village Council, 4 September 2003.

<sup>48</sup> Field visits were made on the following dates: Rafat, September 2, 2003; Al Judeira, September 4, 2003; Sur Bahir, September 6, 2003.

<sup>49</sup> "For reasons of necessity and according to section 22(a) of the Law on the Seizure of Lands under Martial Law... non-delivery of this order to the landowners/holders does not operate as a stay of performance."

<sup>50</sup> An objection is a request to have the deciding body reconsider its own decision.

<sup>51</sup> Petition filed by Advocate Arie Tousia-Cohen to the High Court of Justice, No. 1890/03, on behalf of Bethlehem municipality vs the State of Israel and Gen. Moshe Kaplinsky.

<sup>52</sup> The Order does not specify which date prevails in the event of a conflict.

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from either the IDF or the MOD can be appealed to the High Court of Justice, but only after exhausting all administrative remedies provided under Israeli law.

58. At least two appeals of IDF orders have been filed for property in Abu Dis and Rachel's Tomb, and at the time of writing were pending. At least three appeals of MOD orders have been filed for property in Kfar 'Aqab, As Sawahira, and Sur Bahir. An injunction was originally issued halting construction on the property in Kfar 'Aqab, but the appeal was not pursued and was therefore dismissed. The appeals in As Sawahira and Sur Bahir remained pending at the time of writing.

59. The mission was told by a many interviewees that land owners have little faith in the legal system; nor can they always bear the cost of a lawyer called to the Israeli Bar to carry an appeal to hearing. It was thought by the lawyers interviewed that those who lodge appeals do so in order to buy time -- in the hope that they can negotiate a realignment of the route of the fence, rather than halt its construction. Residents in a number of communities, upon learning of plans for the barrier's trajectory (or witnessing its initial construction) established committees to negotiate alterations in the barrier's planned route; no successes have been reported. Likewise, demonstrations were staged in several communities (Kafr 'Aqab, Al Judeira, Abu Dis) and protests lodged with nearby Israeli police stations (Sur Bahir), again without success. Throughout the course of field research, respondents often cited the closure of Orient House as a key reason for the lack of any concerted effort to protest the land requisitioning or to organize coherent civil action against the barrier. Qalandiya's village *mukhtar* described Orient House as "a place to go for protection."<sup>53</sup>

60. Table 7 details military orders requisitioning property for the Jerusalem barrier. The orders are arranged by area, running clockwise from Rafat.

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<sup>53</sup> Interview with Ali Awadallah, *Mukhtar* of Qalandiya, September 6, 2003.

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**Table 7: Land Requisition Orders, Jerusalem Envelope**

	<b>Military Order #</b>	<b>Date of Issue</b>	<b>Date of Entry into Force</b>	<b>Issued By</b>	<b>Location</b>	<b>Barrier (km)</b>	<b>Area of Requisitioned Land (dunums)</b>	<b>Expiration Date<sup>54</sup></b>	<b>Option to Appeal Specified</b>
1.	T/07/02	8/14/2002	8/15/2002	MoD	Ar Ram; Qalandiya; Atarot; Kfar 'Aqab; Rafat; Al Bireh	3.8	Unclear; see text	--	Yes
2.	T/22/03	8/12/2003	8/14/2003	MoD	Al 'Eizariya	--	27.118	--	Yes
3.	T/52/03	8/7/2003	Immediate	IDF	At Tur Al 'Eizariya	4.136	202	12/31/2005	No
4.	T/53/3	8/5/2003	Immediate	IDF	Al 'Eizariya Abu Dis	2.346	105	12/31/2005	No
5.	T/48/03	7/22/2003	Immediate	IDF	Abu Dis	0.912	42.6	12/31/2005	No
6.	T/22/03 (2)	8/12/2003	8/14/2003	MoD	Abu Dis	--	Unclear; see text	--	Yes
7.	T/23/03	8/24/2003	8/25/2003	MoD	Abu Dis	--	Unclear; see text	--	Yes
8.	T/47/03	7/22/2003	Immediate	IDF	Sur Bahir	2.8	134	12/31/2005	No
9.	T/22/03 (3)	8/12/2003	8/14/2003	MoD	Sur Bahir; Umm Tuba	0.7	23.6	--	Yes
10.	T/23/03 (2) <sup>55</sup>	8/24/2003	8/25/2003	MoD	Sur Bahir; Umm Tuba	18.88	Unclear; see text	--	Yes
11.	T/49/03	7/22/2003	Immediate	IDF	Bethlehem; Sur Bahir	2.796	134.5	12/31/2005	No
12.	T/29/03	4/29/2003	Immediate	IDF	Beit Sahur	1.3	19.7	12/31/2005	No
13.	T/14/03 – boundary amendments	2003 <sup>56</sup>	Immediate	IDF	Rachel's Tomb	1.75	35.9	12/31/2005	No
14.	T/15/03	2/28/2003	3/3/2003	MoD	Marelias Convent (near Gilo checkpoint)	--	Unclear; see text	--	Yes

*Key: IDF = Israeli Defense Forces; MoD = Ministry of Defense.*

<sup>54</sup> Military orders issued by the Ministry of Defense did not include an expiration date. It should be noted that the expiration dates listed on the IDF orders can be renewed indefinitely and at the discretion of the issuing body (see also **Annex 1**).

<sup>55</sup> According to the military order, block number 4 was subject to requisition. The attached map, however, referred to block number 6.

<sup>56</sup> No date was specified on the military order. The order was an amendment to a previous order [T/14/03], issued on 9/2/03.

## VI. THE ISRAELI DEBATE ON THE SEPARATION "FENCE"<sup>57</sup>

61. Israeli public support for the separation fence is very high. A Tel Aviv 'Peace Index' survey conducted on July 28-30 reported that 80 percent of Israeli-Jewish respondents supported the construction of a fence "separating Israel from the Palestinians"<sup>58</sup>, with 71 percent believing that construction should continue despite the objections of the Bush Administration (an increase from 64 percent one month previously). The poll indicated a clear majority in favor of the fence among supporters of each of the six major political parties in the Knesset (Likud, Labour, Shinui, Shas, NRP, National Union).

62. The collapse of the unilateral Palestinian cease-fire (*hudna*) in early September accelerated demands for the fence's rapid completion. Following the two suicide attacks on September 9, 2003, Finance Minister Binyamin Netanyahu called for the fence to be erected as soon as possible, declaring that his ministry would not stint on the allocation of funds for the fence, despite this year's very difficult budget situation. The Mayor of Jerusalem, Uri Lupoliansky, at the same time decried the slow pace of construction around Jerusalem as an "abandonment" of the city to terror.<sup>59</sup> On September 11, the Security Cabinet decided to "accelerate the construction of the security fence."<sup>60</sup> The State Comptroller's Report released on September 30 is sharp in its criticism of the slow pace of fence construction, the Government's failure to gain approval for the whole length of the fence and the delays in budgetary approval for it.

63. For most Israelis, the fence is necessitated by security considerations. As negative opinions on the fence have multiplied in Palestinian and international circles during the past nine months, frustration that Israel's position is either misunderstood or is being distorted can be discerned. Moshe Arens, writing in *Ha'arezt*, offers the following observations: "After the government has repeated for the *n*th time that the fence was for security, pure and simple, and that no other significance should be ascribed to it, the Palestinians, and with them most of the rest of the world, insist that that is not the way they see it. The location of the fence separating Israel from the Palestinians has become a *cause celebre*.... Beyond the considerable inconvenience caused to Palestinians living in the fence's vicinity, the assumption by almost everybody is that territory to the west of the fence will remain under Israeli control for the foreseeable future, eventually lying within the borders of the state of Israel.... The Palestinians have only themselves to blame.... The Sharon government has been most unenthusiastic about the fence. It was going to cost a fortune, the settlers hated it, and despite government statements to the contrary, almost everybody sensed that it had significance beyond security. Prodded by the opposition on the left and a growing wave of public opinion, as the number of Israelis killed by Palestinian suicide bombers rose from week to week, it finally gave in.... It

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<sup>57</sup> In Israeli discourse, the barrier is generally described as the "Separation Fence."

<sup>58</sup> Prof. Ephraim Ya'ar and Dr. Tamir Steinmetz, "The July Peace Index: Support for the Fence, and for the Hudna," *Ha'arezt*, August 6, 2003.

<sup>59</sup> "Netanyahu: Build Jerusalem Security Fence as Fast as Possible," *Ha'arezt*, September 10, 2003.

<sup>60</sup> Israeli Cabinet Communique, issued on September 11, 2003.

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may very well be that the fence's location will affect negotiations between Israel and the Palestinians, when and if they take place. But the protection of Israel's citizens must take priority over such considerations. Even Condoleezza Rice will understand that."<sup>61</sup>

64. In recent weeks, Israeli media attention has focused more on the proposed Ariel salient of the fence than on the Jerusalem Envelope, with the US expressing disquiet at the route favored by the Government of Israel, and from concern that this might strain the bilateral relationship and lead to deductions from US loan guarantees to Israel. In mid-September, *Yedioth Ahronoth* reported that the Prime Minister and Defense Minister Shaul Mofaz held that the settlements of Ariel, Emmanuel and Kedumim would remain to the east of the fence.<sup>62</sup> Prior to an expected October 1 Cabinet decision to begin construction of the salient east of Ariel, the Prime Minister told the Likud faction of the Knesset that "the separation fence will be built east of Ariel and east of Kedumim.... If we reach a point where the matter once again creates a dispute, we will sit with the Americans again."<sup>63</sup> To this point, little controversy has surfaced in Israeli public discourse over the Jerusalem Envelope.

65. Some Israelis object to the fence. Jeff Halper of the Israel Committee Against House Demolitions writes that one of the fence's objectives is "unilaterally determining borders: to erect massive physical barriers to "protect" those parts of the West Bank Israel "wants and needs to defend" while confining Palestinians to pockets of "self-rule" – all of which would become permanent if the Palestinians were not more "forthcoming" in negotiations."<sup>64</sup> On September 30, B'Tselem protested the proposed Ariel salient on grounds of human rights infringement and the use of security arguments to pursue political objectives.<sup>65</sup>

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<sup>61</sup> Moshe Arens, "The Battle of Ariel", *Ha'aretz*, September 30, 2003.

<sup>62</sup> "Sharon and Mofaz Agree: Ariel to Lie Beyond the Fence," *Yedioth Ahronoth*, September 14, 2003. In addition to reservations over the possible inclusion of Ariel on the "Israeli" side of the fence, the US was also reportedly objecting to the fence's route north-east from Jerusalem toward Ramallah. See, for instance, Ze'ev Schiff, "Israel, U.S. Divided Over Security Fence's Route Around Jerusalem," *Ha'aretz*, September 9, 2003.

<sup>63</sup> Zvi Zrahiya, "PM: When Fence Reaches Ariel, We'll Deal with US Objections", *Ha'aretz*, September 30, 2003. "Defense Minister Shaul Mofaz, a long-standing supporter of including Ariel inside the fence, reiterated this position at the meeting. "Ariel, Kfar Sava and Ra'anana are one and the same" he said, comparing the settlement to two other bedroom communities of Tel Aviv located inside Israel."

<sup>64</sup> The Palestinian Environmental NGOs Network (PENGON), "Stop The Wall", 2003, p. 172.

<sup>65</sup> Agence France-Presse, September 30, 2003 : "A new phase of the controversial barrier being built by Israel through the West Bank will infringe on the rights of 80,000 Palestinians, an Israeli non-governmental organisation (NGO) said Tuesday. According to the NGO B'Tselem, the third phase of the barrier will be "established in the heart of the West Bank -- at one point 22 kilometres (14 miles) east of the Green Line." The entire width of the West Bank in that area is only 53 kilometres (32 miles), it said. "Such a route will lead to the violation of the rights of an additional 80,000 Palestinians," it said in a statement. B'Tselem accused Prime Minister Ariel Sharon of "manipulating the public's fear of suicide attacks in order to obtain political objectives under the guise of security and defense arguments." It said the wall had already made it difficult for tens of thousands of Palestinians to reach their places of work and farmland, to obtain medical treatment, attend school and maintain reasonable living conditions."

## VII. PALESTINIAN PERSPECTIVES ON THE SEPARATION "WALL"<sup>66</sup>

66. To many Palestinians, the barrier's main function is to annex Palestinian land: "Israel is building the new Berlin Wall in order to partition the Palestinian territories."<sup>67</sup> Palestinian politicians have repeatedly declared their opposition to a barrier on West Bank territory, in contrast to construction on or behind the Green Line. At the Ad Hoc Liaison Committee Meeting in London in February 2003, this position was articulated by Minister of National Economy Maher El-Masri. More recently, Nidal Jaloud, spokesman for Qalqiliya municipality, said "If the Israelis want to build the wall on the 1967 Green Line – no problem, they could build it 100 meters high. But it is not being built on the Green Line – it is built on our lands."<sup>68</sup>

67. Land confiscations for the wall are seen by many as the latest in a continuing series of requisitions that reinforce occupation and settlement.<sup>69</sup> Land previously owned by residents of Sur Bahir, for example, now lies beneath East Talpiot and Har Homa, an experience common to the communities around the Jerusalem municipal perimeter.<sup>70</sup> The processes used to requisition land for the wall are akin to those used in requisitioning land for settlements and bypass roads. The construction of the wall in the Jerusalem area has greater political significance to Palestinians than in other sectors, though, because a Palestinian capital in East Jerusalem is seen as an integral part of any final settlement, and because the construction process is perceived by many as an attempt to forestall this. Hafez al Barghouti, editor-in-chief of the Palestinian Authority's official daily newspaper, *Al Hayyat al Jadida*, declared in an editorial that "The map of the fence cancels out the road map."<sup>71</sup> According to the Applied Research Institute of Jerusalem, "creating facts on the ground or unilateralism drastically changes the parameters of a permanent solution to the Israeli-Palestinian conflict."<sup>72</sup> To Sari Nusseibeh, President of

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<sup>66</sup> In Palestinian discourse, the barrier is described as the "Wall." For this reason, hereafter in this section, it will be referred to as such.

<sup>67</sup> President Yasser Arafat cited in Arnon Regular, "Press in Conflict / Railing at the Fence – It's a Palpable Result", *Ha'aretz*, August 4, 2003.

<sup>68</sup> Thomas L. Friedman, "One Wall, One Man, One Vote," *New York Times*, September 14, 2003.

<sup>69</sup> See for example, PENGON, "Stop The Wall", 2003, p. 11: "In June 2002, Israel began ..... building a Wall inside the West Bank that would run at least the West Bank's entire length. Not surprisingly, the path of the ever-winding wall would follow, consistently, the logic of land confiscation and control, including the annexation of settlements and the caging off of built-up, Palestinian areas. Contrary to world-wide news reports, the Wall.... will not mark the 1967 border, also known as the Green Line. The Wall is in fact a major land grab and a sealing of the fate of the Occupied Territories and of Palestine."

<sup>70</sup> House demolitions are also familiar in this context. On September 29, the PA's Palestinian Monitoring Group released a Special Report on the demolition orders issued on September 17 against seven houses in the Ein El Samra neighborhood of Qatanna Village north-west of the Jerusalem Municipality. "The locations of these.... houses correspond to the projected route of the second phase of the separation wall that will encircle entirely an enclave including the villages of Qatanna, Tira, Beit Duqqu, Beit Ijza, Biddu, Beit Surik, Qubeiba, Beit Inan and Um al Lahm – near the settlements of Bet Horon, Giv'at Ze'ev, Giv'on Hahadasha, Har Shmuel and Haradar."

<sup>71</sup> Arnon Regular, *op. cit.*

<sup>72</sup> "Undermining Peace: Israel's Unilateral Segregation Plans in the Palestinian Territories," Applied Research Institute of Jerusalem, April 2003, p. 60.

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Al-Quds University and former Minister of Jerusalem Affairs for the Palestinian Authority, the Wall is "saying to Palestinians: no peace. There's a wall between us."<sup>73</sup>

68. The PLO's Negotiations Affairs Unit has articulated the fear that the Jerusalem wall, by expanding "Jerusalem's municipal boundaries deeper into Occupied Palestinian Territory" and by sealing what is still a permeable boundary, may lead to disenchantment with the peace process and with Palestinian aspirations for statehood – should that state not satisfy certain minimum requirements, a key one being East Jerusalem as its capital.<sup>74</sup> The ultimate consequences, it has been argued, may be the opposite of separation. Thomas Friedman recently cited attorney Muhammad Dahleh on this issue: "If Palestinians lose their dream to have an independent state, then the only thing that might guarantee for them a dignified life will be asking for the right to live in one state with the Israelis."<sup>75</sup>

### **VIII. DONOR INTERVENTIONS IN SUPPORT OF THE AFFECTED POPULATIONS**

69. The donor community is beginning to mobilize to provide financial assistance to those families and communities affected by the barrier. On August 8, UNDP launched an appeal for US\$18 million in emergency assistance to address employment and income needs and to provide for "vital social, municipal and agricultural infrastructure requirements."<sup>76</sup> UNDP aims to generate over 200,000 job opportunities and to undertake land reclamation projects, build new agricultural roads and improve water infrastructure. It also aims to revamp health care and education, and to strengthen administrative/management capacity in affected municipalities and village councils. A "comprehensive emergency action plan" has been created in consultation with community leaders and farmers in the Phase I barrier area in Jenin, Tulkarm, and Qalqiliya Governorates.

70. A US\$20 million initiative was launched by the Islamic Development Bank on September 21 at the World Bank/IMF Annual Meetings in Dubai. IDB will contribute US\$10 million, and has asked other donors to contribute the remainder. The facility is under design, and would provide "urgent humanitarian assistance" to those populations affected by the barrier throughout the West Bank, including health and school services and water infrastructure where such facilities have been compromised or damaged by the barrier's construction.<sup>77</sup>

71. Donor interventions might take three main forms – i) grants or loans to individuals/families that have suffered damage or loss to property and livelihoods; ii) the construction of facilities to replace those that no longer function, cannot be accessed or

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<sup>73</sup> James Bennett, "Small Town on West Bank Stands as an Epitaph to Dashed Dreams," *New York Times*, September 14, 2003.

<sup>74</sup> "Bad Fences Make Bad Neighbors," PLO Negotiations Support Unit, June 2003.

<sup>75</sup> Thomas L. Friedman, *op. cit.*

<sup>76</sup> UN News Service, August 8, 2003.

<sup>77</sup> IDB Press Release, September 21, 2003.

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have been damaged/destroyed (schools, medical facilities, water systems); and iii) employment generation programs. Such programs could be implemented by a variety of actors, including PA agencies, municipalities, NGOs and the UNDP. It will be important that a coordinated program be drawn up to ensure transparent and equitable levels of assistance to the needy, and to avoid duplication – and it is also important that the program be designed with the intensive involvement of the affected communities. Update Number 3 will report on progress.

## **ANNEX I**

*From "The Impact of Israel's Separation Barrier on Affected West Bank Communities", Report of the Mission to the Humanitarian and Emergency Policy Group (HEPG) of the Local Aid Coordination Committee (LACC), April 30, 2003. (paragraphs numbered as in original)*

### **The Process of Requisitioning Land for the Wall<sup>78</sup>**

34. In order to obtain the land on which the Wall is being constructed in the West Bank,<sup>79</sup> private property is requisitioned pursuant to military orders that are signed by the Military Commander of the West Bank based on military and security needs. These orders provide that the property will be requisitioned through December 31, 2005; however, the orders are renewable without limitation. During this period of time, the owners of the property remain the legal owners of the property and are entitled to request rental fees or compensation. The Interim Agreement signed in 1995 forbids either side from changing the status of land in the West Bank and Gaza until there is a final settlement. The Government of Israel does not consider the construction of settlements, roads, or the Wall as an infringement of the Interim Agreement.

35. Military orders are not issued pursuant to any current Israeli legislation – the orders themselves serve as the legal basis for the requisition. The orders become effective on the date signed and are valid even if they are not delivered to the property owners. In cases of urgent military operations, the IDF retains the right to requisition land prior to the issuance of a military order, which is then applied retroactively.<sup>80</sup>

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<sup>78</sup> IDF processes and procedures for requisitioning land in the West Bank were discussed by the mission with the following representatives of the IDF in Tel Aviv on February 13, 2003: Col. Daniel Reisner, Head of the International Law Department of the IDF; Lt. Col. Oded Herman, Office of the Coordinator of Government Activities in the Territories; Capt. Gil Limon, Office of the Legal Advisor of the Military Commander of the West Bank; Nisim Zimbar, Legal Department of the Ministry of Defense; and Lt. Osnat Ben-Zivi, International Law Department of the IDF.

<sup>79</sup> Procedures in Jerusalem differ slightly from those in the West Bank since this land, having been annexed, is considered by the GOI as part of the State of Israel and not occupied territory. Land is obtained pursuant to the Land Seizure Act in Emergency Time of 1949. In such cases the General Director of the Ministry of Defense is considered the competent authority for conducting land requisition, and military orders are issued through his office. According to the human rights organization LAW, land owners have not in most cases received prior notification. Objections can be filed with a special committee established in Tel Aviv pursuant to the Land Seizure Act. Thus far, all cases of objections and requests for injunctions against construction have been rejected.

<sup>80</sup> The orders also entitle owners to contact District Coordination Offices (DCOs) regarding possible rental fees or compensation. However, this mechanism has not yet proved functional, since most owners are thought not to pursue compensation claims for fear that by doing so they will give further legal effect to the requisitions (this perception was confirmed by the mission in a number of interviews with affected land owners). In addition, the prospect of compensation from Israeli authorities remains uncertain. IDF authorities are of the opinion that compensation is not required since land is being seized pursuant to military needs, not through standard requisition procedures, and they are concerned about setting a precedent for compensation in such situations. (Mission discussion referred to in footnote 51.)

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36. Property owners have one week in which to file an objection to the requisition with the Legal Advisor of the Military Commander, for review by an IDF Appeals Committee. The documentation necessary to substantiate an objection depends on the type of property affected. Owners of "settled land" – property which has been registered and the boundaries demarcated – need merely to submit a copy of the deed to the property. Owners of property which is not "settled" must also include proof of ownership and a map demarcating the boundaries of the property. (Such owners are still legal owners of the property, and often are registered as owners for tax purposes. They only lack deeds, since in these cases the property has never been officially surveyed.)<sup>81</sup>

37. If an objection is filed within the one week deadline, construction will be halted until a decision on the objection is issued. If the objection is filed after the one week deadline, it will still be reviewed, but construction will not be halted in the meantime. Once an Appeals Committee's recommendation is reviewed by the Military Commander, decisions on the objections are issued and signed by his Legal Advisor. If an objection is denied, the property owner can then appeal to the High Court. In cases where an objection has been denied but construction has not yet begun, the property owner can request the High Court for an injunction to halt construction until a final Court ruling is issued. The request for an injunction needs to be made on the grounds that the Wall's construction will cause irreparable harm to the owner's property.

38. These procedures are problematic in a number of ways. The manner of notifying land owners of a requisition appears arbitrary in practice, despite the requirement that the District Coordination Office (DCO) deliver the requisition order to the land owner whenever feasible. Orders are sometimes left on the property or given to village representatives (*muhktars*), and according to owners and human rights organizations are rarely delivered directly to property owners.<sup>82</sup> The mission was informed that many land owners become aware of requisition orders only after construction has begun, at which point the deadline for filing an objection may have passed. Cases involving land requisitioned prior to issuance of retroactive military orders are particularly troublesome, as the property might become irreparably damaged before the owner is given a hearing. Filing appeals may also prove expensive, requiring the hiring of lawyers and in some cases land surveyors to draft a map to attach to the appeal. In addition, lawyers and surveyors are hampered by restrictions on freedom of movement within the West Bank, making it difficult to meet the one week deadline, especially since most lawyers and licensed surveyors are located within cities.

39. Under international law, a body responsible for reviewing an appeal should generally be independent and impartial. The military Appeals Committee, though, is a part of the entity (the IDF) issuing the orders to requisition the property,<sup>83</sup> making the army both the issuing and the reviewing body. Rules of procedure and evidence have

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<sup>81</sup> Military Order 291, "Military Order Regarding Land Settlement".

<sup>82</sup> Copies of the order are also made available at offices of the Civil Administration as well as the Legal Advisor to the Military Commander of the West Bank, but due to travel restrictions resulting from closures and curfews most property owners can access these offices only with difficulty, if at all.

<sup>83</sup> Order Regarding Appeals Committee (Judea and Samaria) (No. 172), 5728-1967.

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also been developed by the IDF, and the Appeals Committee is exempt from applying the rules of evidence applicable under Israeli law. On top of this, moreover, the Military Commander has the authority to reverse a recommendation by the Appeals Committee.

40. For a legal remedy to be credible, it needs to be effective in practice. In every case so far in which a land owner has filed an appeal against the requisitioning of land for the Wall, the appeal has been rejected by the military Appeals Committee, according to information from the Palestinian Society for the Protection of Human Rights and the Environment (LAW).<sup>84</sup> LAW estimates the number of rejected appeals to be in the hundreds. The only relief provided to date has been a reduction in some cases of the amount of land requisitioned. Interviews with land owners revealed that the IDF at times negotiates with owners who have filed appeals, and reduces the requisition.

41. According to LAW, the very few cases submitted to the Israeli High Court on appeal have all been rejected. The High Court has also rejected the vast majority of requests for injunctions against construction pending the Court's final decision on an appeal – arguing that if the land owner's appeal is entertained, construction will be stopped then and any structures removed.

42. In the cases submitted to the High Court land owners have asked for several kinds of relief. In most cases, the land owners have requested cancellation of the military orders, or a change in the location of the Wall/that it be constructed on property west of the Green Line. All requests for the cancellation of the military orders have been rejected. As for requests for changing the Wall's location, the High Court has ruled that the Wall's alignment is an issue best left to the judgment of the IDF.

43. Land owners have also asked the High Court for other kinds of relief should the military order be upheld. They have asked that the period of the requisition be shortened, that the amount of property to be requisitioned be reduced, that they be provided guarantees of free access to property not requisitioned but separated from their residence by the Wall, and/or that they be allowed time to remove certain objects, such as trees and greenhouses.

44. On every issue the High Court has ruled against the land owner. The High Court has found that the period of requisition is proportionate and reasonable given the situation, especially since the status of the property will be reviewed at the end of the initial three year period. The Court has deferred to the IDF regarding the amount of land to be requisitioned. Regarding access to separated property, representatives of the state have indicated that free access will be guaranteed via gates situated every fifteen kilometers along the security barrier. The High Court has accepted this response as a commitment on the part of the IDF, and has not indicated concern at the lack as yet of any mechanism to guarantee free passage through such gates. The High Court also ruled that requests for free access guarantees were premature since the Wall had not yet been

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<sup>84</sup> LAW has represented several hundred land owners in the appeals process. Much of the information in this section comes from mission meetings with Azem Bishara, an advocate with LAW, since information regarding appeals is not available to the public.

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built. The Court indicated that land owners can file a complaint if, after construction is complete, access to their property is impeded. The Court has also accepted an IDF commitment to allow land owners to remove valuable objects from requisitioned property. According to the IDF, construction companies have been asked to assist owners to remove and replant trees, with this obligation included in the tender process. Anecdotal evidence presented to the mission suggests that the implementation of this policy appears erratic and largely depends on the individual contractor.

45. The High Court's acceptance of the IDF's commitment to ensure access notwithstanding, property owners remain concerned over the status of property bordering the Wall. Many people complained to the mission of restricted access to their property, often as a result of intimidation by contractors undertaking the Wall's construction. Since this adjacent property has not been requisitioned, however, it is not clear that any remedies are available. According to the IDF, land bordering the security barrier should remain fully accessible to property owners – although the army reserves the right to restrict access for military or security reasons. Landowners fear that denying them access to such lands might in time lead to a situation whereby said land could be expropriated through legislation that allows the confiscation of unused agricultural property".<sup>85</sup>

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<sup>85</sup> Israeli authorities have used the Ottoman Land Law of 1858 to declare West Bank land as state land, on the grounds that a parcel of land has not been cultivated for a period of three years. GOI maintains that such action is justified under international humanitarian law since the regulations were in force in the West Bank prior to 1967 under Jordanian legislation, and that this allows the IDF to take possession of, and manage, properties that belong to the former enemy state (see Order Regarding Government Property (Judea and Samaria), (No. 59), 5727-1967). The High Court has upheld the legality of such actions, confirming ownership of the property by the State of Israel and rejecting appeals by Palestinian land owners on the grounds they cannot object to the use of state property (see HJC 81/285, Fadih Muhammad a-Nazar et al. v. Commander of Judea and Samaria et al., Piskei Din 36 (1) 701). According to B'Tselem, the portion of state land in the West Bank is approximately forty percent; the Israel Lands Administration has never made public the amount of land registered as state land (see Yehezkel Lein, "Land Grab: Israel's Settlement Policy in the West Bank, B'Tselem, May 2002).