



המוקד להגנת הפרט

HAMOKED Center for the Defence of the Individual

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## The Separation Wall and the Permit Regime in “Seam Zone” – Timeline

Israel is building a separation wall deep inside the occupied territory. In so doing Israel is contravening the principals of international law and breaching its authority as a temporary custodian. Palestinian land is being trapped in an area designated as the "seam zone" – isolated from both the State of Israel and the rest of the Occupied Palestinian Territories. Since Israel began erecting the wall, the military has been imposing a draconian permit regime, under which, inter alia, every Palestinian who lives inside the seam zone or seeks to enter it is required to obtain a special permit in advance. The permit regime is tantamount to apartheid as it applies only to Palestinians, while Israelis and tourists are exempt from any permit requirement for entering and remaining in the seam zone.

The separation wall violates many of the basic rights of West Bank Palestinians unlawfully and without authority. Their right to property is violated by the land seizures themselves, as well as the denial of access to the lands. Their rights to freedom of movement and freedom of occupation are also violated. The wall impedes village children’s access to education of and disrupts family and community life. Freedom of religion is injured by the denial of access to holy sites. Environmental values such as nature preservation are also damaged. The wall effectively serves as a means of collective punishment, which is prohibited under international law.

By erecting the wall on occupied Palestinian lands and implementing a permit regime which applies to Palestinians only, Israel breaches its obligation under international law to ensure OPT residents are able to lead normal lives.

1990's	<p><b>During the 1990's, Israel devises several plans for erecting a physical barrier between the West bank and Israel</b></p> <p>The barrier's objective is to increase supervision and control over Palestinians' entry into Israel. The plans never materialize.</p>
18.7.2001	<p><b>The ministerial committee for national security, headed by Prime Minister Ariel Sharon, endorses the "seam zone" plan</b></p> <p>The seam zone is defined on the map as an area located on both sides of the Green Line. The plan purports to prevent Palestinian infiltration from the West Bank (including the "Jerusalem envelope") into Israel, and to implement a "regime" enabling effective action in order to "prevent, obstruct, and undermine" infiltration and prevent illegal presence in Israel.</p>

- 14.4.2002 **Israel announces the immediate start of construction of the wall: the cabinet clarifies that "this plan and its implementation do not amount to a drawing of national boundaries"**  
 The Israeli security cabinet proclaims that "in order to improve and reinforce readiness and operational capabilities in coping with terrorism, and to frustrate, obstruct and prevent the infiltration of terrorist activity from the areas of Judea and Samaria into Israel", the military and the police will prevent the passage of Palestinians from the West Bank into Israel and Jerusalem – other than in humanitarian and exceptional cases.
- 20.4.2002 **First petitions against the wall**  
 The petitioners – villagers whose lands were requisitioned for the construction of the separation wall by virtue of military orders – assert that the seizure conflicts with the decision of the Israeli Government, and that it was performed without delivery of prior notice to the owners and without the required permits. The seizure of lands contradicts the law in the area and the norms of international law, and constitutes an attempt to annex lands and establish permanent boundaries outside of negotiations.
- 24.4.2002 **The military issues a land seizure order and requisitions dozens of acres of farmland of Palestinian villages in the Ramallah area: "for military purposes and given the special security circumstances"**  
 Many such orders are issued in the following months, expropriating hundreds of acres of Palestinian-owned lands along the entire planned route of the barrier.
- 9.5.2002 **The High Court of Justice dismisses the first two petitions against the wall**  
 The justices endorse the state's position that the wall's route was determined according to the need for topographic control, a security zone and minimal damage to cultivated lands – unrelated to any political motivation. The court rules that "the respondents' [Israel's] decision did not include any flaw which would justify our intervention".
- 15.5.2002 **The Ministry of Defense establishes the Seam Area Administration, in charge of constructing the wall**
- 24.6.2002 **Prime Minister Ariel Sharon: [the wall] "does not express a border of any kind, political or otherwise. It is a means only"**  
 The government is presented with the security concept of the seam zone, the Jerusalem envelope and the eastern security zone. Israel approves "the construction of security fences and obstacles, with the objective of reducing infiltration by terrorists from Judea and Samaria into Israel".
- 31.7.2002 **The State Comptroller's report points to defects in the implementation of the seam area project**  
 The report focuses on aspects of the project relating to the security of Israeli citizens and the activities of the Israeli security forces. The State Comptroller completely ignores the severe infraction of the human rights of OPT residents caused by the wall.

- 31.3.2003 **B'Tselem: the separation wall will infringe on the human rights of over 210,000 Palestinians living in the West Bank**  
 The B'Tselem report concludes that the separation wall – which Israel plans to build inside the West Bank – will turn dozens of Palestinian communities into enclaves, trapped between the wall and the green line, and will separate villages from their farmlands west of the wall. B'Tselem claims the planned route ignores human rights considerations and is guided by extraneous considerations, among them, the desire to leave as many settlements as possible west of the wall, facilitating their annexation to Israel.
- 1.7.2003 **An UNRWA report on the adverse impact of the separation wall on the situation of human rights in the OPT**  
 The UN Relief and Works Agency for Palestine Refugees in the Near East (UNRWA) concludes that the separation wall has a harmful effect on the rights of Palestinians relating to lands, water access, health care, employment and education.
- 21.8.2003 **The UN Human Rights Committee: Israel should stop the construction of the separation wall within the Occupied Territories**  
 The UN determines that the construction of the “seam zone” and the wall has all encompassing repercussions on the life of Palestinians, in particular, on their rights to freedom of movement and access to health care and water.
- 1.10.2003 **Israel resolves to proceed with the construction of the separation wall**  
 The government proclaims "every effort will be made to reduce as much as possible disturbances to the daily life of Palestinians following the construction of the barrier".
- 2.10.2003 **The military issues an order declaring the seam zone to be a closed area: henceforth, entry to the seam zone and presence therein are reserved for Israeli residents and citizens as well as any Jew**  
 "The permit regime" – Palestinians who live in the enclaves formed in the "closed area", must obtain "permanent resident" permits in order to continue living in their homes; Palestinians who seek to enter the seam zone – to visit their family, farm their lands or for any other purpose – must obtain a special permit from the military.
- 2.10.2003 **The military commander of the West Bank issues the General Permit to Enter and Remain in the Seam Area**  
 The permit applies to "three categories of human beings"(sic): tourists, Palestinians with permits for employment in settlements, and Palestinians with permits for entry into Israel.

- 6.11.2003 **HaMoked to the High Court of Justice: order Israel to desist from building segments of the wall east of the Green Line and rescind the permit regime**  
HaMoked argues that the construction of the wall inside the occupied territory contravenes the principles of international law. HaMoked challenges the declaration of the “seam area” as a closed zone, and asserts that the permit regime effectively institutes apartheid and subjects West Bank Palestinians to blatant inhuman, immoral and illegal discrimination. The petition is founded on the provisions of international law relating to belligerent occupation, among them those of the Fourth Geneva Convention, the Hague Convention and the Rome Statute.
- 24.11.2003 **UN Secretary-General’s report on the separation wall: the construction of the wall is in contradiction to relevant provisions of international law. Israel must stop building the wall and dismantle the segments already erected in the OPT**
- 28.12.2003 **Petition of the Association for Civil Rights in Israel to the High Court of Justice: instruct the military to keep the separation wall crossings open 24 hours a day**  
The organization asserts that the intermittent opening of the gates infringes on the fundamental rights of tens of thousands of Palestinians, making their lives intolerable.
- 2004 and onwards **HaMoked and others file about 150 individual petitions to the High Court of Justice against the separation wall**  
The petitioners request the court instruct Israel to dismantle segments of the wall which violate the residents' rights and expropriate dozens of acres of Palestinian farmlands in order to expand settlements, unrelated to any security needs.
- 21.1.2004 **Petition of the Association for Civil Rights in Israel to the HCJ: instruct the military to revoke the regime of permits and orders implemented in the seam zone**  
The organization asserts that the military closure of the area infringes on Palestinians’ basic rights, particularly the rights to freedom of movement, dignified existence and family life.

- 30.6.2004 **Ten days before the International Court of Justice in the Hague publishes its advisory opinion on the wall: the High Court of Justice voids the separation wall route in the area of Beit Sourik ("the Jerusalem envelope")**  
 The HCJ rules that under the test of proportionality – based on international humanitarian law and Israeli administrative law – the damage to the local residents is disproportionate to the security benefit gained by the wall's construction. However, in opposition to the petitioners' claim, the court holds that the reason for constructing the wall is security related rather than political.  
 In light of the ruling, interim orders are issued in several petitions, suspending further construction of other wall segments. Many petitions are granted, and the court rules that the route devised by Israel disproportionately infringes on the rights of the Palestinian residents. Israel is compelled to dismantle the wall and devise an alternative route which is less injurious to the residents.
- 9.7.2004 **The International Court of Justice in the Hague: the construction of the wall and its associated regime in the OPT contravene international law**  
 The International Court of Justice rules that Israel must dismantle the wall and compensate the Palestinians injured by its construction; and that the UN General Assembly and the Security Council should consider further action to put an end to the illegal situation.
- 20.2.2005 **Israel announces its decision to proceed with the construction of the separation wall according to the revised route**  
 The government determines that the wall will be constructed "with diligence, to minimize to the utmost ability its impact on the daily life of Palestinians, following the criteria prescribed in the HCJ decisions".  
 Nonetheless, under the revised plan, 85% of the route still trails inside the West Bank, rather than along the Green Line.
- 30.6.2005 **Israel admits for the first time: the wall's route was intended to expand the area of settlements**  
 During the proceeding on HaMoked's petition against the segment of the separation wall near the villages of 'Azzun and An Nabi Elyas, the state admits that the route was chosen according to the unapproved expansion plan of the Zufin settlement. This contradicts the state's earlier contention, given in the framework of the initial petition on this matter, that the route was only dictated by operational security considerations (on the basis of this position, the petition was rejected).  
 The court grants HaMoked's petition, orders to dismantle a segment of the wall, and condemns the state's conduct: "a grave phenomenon has been exposed in the petition before us. In the first petition, the Supreme Court was not presented with the full picture [...] The petition before us points to an event that cannot be tolerated, whereby the information provided to the court did not reflect all of the considerations taken into account by the decision-makers". The court orders the state to pay the petitioners' expenses in the sum of NIS 50,000.

- 15.9.2005 **The High Court of Justice grants petition by the Association for Civil Rights in Israel which challenged the legality of the separation wall's route in the area of Qalqiliya (the Alfei Menashe enclave)**  
 The court rules that the route disproportionately infringes on the rights of the Palestinian residents in the villages trapped inside the enclave, severed from the rest of the West Bank, and orders Israel to dismantle the wall in the area and to plan a route which is less injurious to the Palestinian residents.  
 However, the court also rules that according to international law, the military commander is authorized to erect the wall inside the occupied territory for the purpose of protecting settlers.  
 In the ruling, President Barak avers that the HCJ and ICJ judgments share a common normative foundation, and that the difference in the conclusions results from the different factual basis presented to each court.
- 6.4.2006 **HaMoked's amended petition to the High Court of Justice: Israel's permit regime in the "seam zone" is a legal apartheid**  
 HaMoked amends the petition following the HCJ ruling of September 2005 that the military commander is authorized to erect the wall inside the occupied territory in order to protect settlers.  
 HaMoked argues that this regime is a legal apartheid that establishes a distinction between two kinds of people in the seam zone: Israelis and tourists, who freely travel in, around and out of the zone; and local Palestinians, for whom the area is closed and who must obtain various permits in order to enter, leave, work and sleep in the area,. This regime contravenes international humanitarian and human rights law and its implementation may be considered a war crime.
- 4.9.2007 **The High Court of Justice invalidates the route segment west of Bil'in. President Beinisch: "[t]his route can only be explained by the desire to include the eastern part of 'East Mattityahu' west of the fence"**  
 The Supreme Court Justice further adds that: "the current route of the fence also leads one to wonder about the security advantage it provides. It is undisputed that the route passes mostly through topographically inferior territory [...]. It endangers the forces patrolling the route".
- 2009 **The military publicizes a set of standing orders relating to the seam zone, which establishes detailed rules for entry, presence or residence therein**  
 The set of standing orders is presented in the framework of HaMoked's petition against the permit regime. The set prescribes, inter alia, the conditions for obtaining various seam zone permits and documents. It is worth recalling that the seam zone is a part of the West Bank, fenced in by the Israeli separation wall, and that any Palestinian who lives in or seeks entry to the seam zone must endure needless burdens and bureaucratic obstacles placed by Israel in order to obtain the required permit.

5.10.2009	<p><b>The court harshly criticizes the state for defying the High Court of Justice decision in HaMoked's petition to dismantle the wall</b></p>
	<p>Three years after the verdict, and only following HaMoked's application for an order for contempt of court, Israel begins dismantling the wall around the villages of 'Azzun and An Nabi Elyas. The justices determine that "this sort of conduct cannot be accepted. The judgments of this court are not recommendations and the state is bound by duty to respect them and implement them with [...] speed and efficiency". The court instructed the state to pay the petitioners' expenses to the sum of NIS 20,000.</p>
March 2010 and onwards	<p><b>HaMoked petitions the High Court of Justice regarding Palestinians' entry to the seam zone to cultivate their lands</b></p>
	<p>After the construction of the separation wall, thousands of Palestinian farmers ended up with their homes on one side of the wall and their farmlands on the other.</p> <p>Many who filed applications for seam zone entry permits in order to farm their lands were refused or received no answer. HaMoked argues that Israel unreasonably and disproportionately infringes on the farmers' rights to freedom of movement, freedom of property and freedom of occupation.</p>
5.9.2010	<p><b>Following HaMoked's petition, the military ceases to systematically detain a Palestinian youth as he crosses through the separation wall which cuts off his home from the rest of the West Bank</b></p>
	<p>The petitioner is detained at the checkpoint almost daily. The petition stresses the harm caused to the petitioner's livelihood and freedom of movement. HaMoked asserts it is illegal for the military to detain a person who seeks to travel from one place to another inside the occupied territory.</p>
September 2010	<p><b>The military publicizes the second version of the Standing Orders</b></p>
	<p>The new Standing Orders do not include substantive changes to the military orders implemented in the "seam zone".</p>
6.10.2010	<p><b>Following HaMoked's petition to the High Court of Justice, the military issues the husband of a Palestinian who lives in the seam zone a new resident permit for the seam zone</b></p>
	<p>HaMoked contends that in preventing the couple from living under the same roof, their basic right to family life and the petitioner's freedom of movement are drastically injured. HaMoked stresses that it entirely opposes the permit regime, and that had the military followed its own orders, the permit would have been issued long ago and the severe violation of the couple's rights would have been avoided.</p>
5.4.2011	<p><b>The High Court of Justice legitimizes the "permit regime", rejects the general petitions and rules that the closure of the seam zone and the permit regime applied therein meet the tests of legality</b></p>
	<p>The petitions are rejected despite the court's decision that "the application of the permit regime, with the requirement to receive permits in order to enter and exit the zone, constitutes a clear restriction of the freedom of movement of the Area's residents in this zone, and restricts their access to their homes, lands, and businesses located inside the seam zone".</p> <p>The petitioning organizations, HaMoked and the Association for Civil Rights</p>

in Israel, criticize the judgment: the court has avoided addressing the legal arguments regarding systemic discrimination. The High Court of Justice has legitimized institutional and systematic discrimination intended to deprive Palestinians of their lands rather than increase security.

November  
2011

**Following the HCJ's recommendations in the general petitions, the military publicizes the third version of the Standing Orders**

The main changes relate to the setting of timetables in the procedure for filing entry permits to the "seam zone" and the procedure of appeal. In reality, the timetables remain largely the same as they were before the publication of the third version, at least with regard to the issuing of permits to Palestinians who are not "permanent residents of the seam zone", but seek to pass through the wall as part of their routine lives.

December  
2011

**A UN report concludes, inter alia, that the yield of olive trees in the "seam zone" areas has declined by some 60% compared to the olive yield on the other side of the wall, in the plots accessible to farmers in all seasons**

10.7.2012

**In the framework of a petition by HaMoked, Israel undertakes before the HCJ – an undertaking recorded in the court's judgment – that the military will publicize a new version of Standing Orders for the "seam zone" by September 1, 2012; a year later, the new Standing Orders have not yet been publicized**

The new Standing Orders should establish, inter alia, orders and procedures concerning Palestinians who lease agricultural plots in the "seam zone".

March  
2013

**HaMoked's publishes "The Permit Regime" report: the decline in the scope of permits issued and the heavy bureaucratic burden imposed by the military severely harm the rights of Palestinians in the "seam zone"; the permit regime cannot be justified by "security reasons", and the violation of rights is the inevitable result of the regime**

The report shows that Israel's policy has clear and immediate consequences: the physical separation of the Palestinians living in the "seam zone" from the rest of the West Bank and their economic, familial, social and cultural isolation; and the change of agricultural practices in the area, including a sharp reduction in the scope of cultivated farmland in the "seam zone", which severely harms about 150 communities and villages located east of the wall with farmlands trapped west of it.

2.4.2013

**HaMoked files the hundredth petition in a series of petitions to the High Court of Justice filed on behalf of farmers whose homes and lands are separated by the separation wall; in about 90% of the petitions in which proceedings were concluded, the petitioners received permits**



The  
situation  
to date

**Following dozens of individual petitions against the route of the separation wall, certain segments of it have been dismantled and reconstructed closer to the Green Line. However, the separation wall – constructed mostly inside the West Bank on lands expropriated from Palestinians – continues to violate the basic rights of West Bank residents. Israel continues to implement a draconian permit regime in the seam zone, and betrays its obligation under international law, to ensure the OPT residents are able to lead normal lives.**