



Ten years since the International Court of Justice Ruling: **THE IMPACT OF THE SEPARATION WALL ON THE RIGHT TO HEALTH**

Medical Aid for Palestinians works for the health and dignity of Palestinians living under occupation and as refugees.

MAP
MEDICAL AID FOR PALESTINIANS

The 9th of July 2014 marks ten years since the International Court of Justice issued an advisory opinion declaring Israel's separation wall to be illegal and ordering that it be dismantled. That never happened. Instead construction continued. The wall – part of which is a concrete wall and part fence - now stretches for over 400 miles. MAP has produced this factsheet on the anniversary of the ICJ ruling to highlight the impact of the wall on the right to health in occupied Palestine.

'Construction of the wall severely impedes the exercise by the Palestinian people of its right to self-determination and cannot be justified by military exigencies or by the requirements of national security. Israel is obliged to cease forthwith the works of construction of the wall, to dismantle it forthwith and to make reparation for the damage caused to all natural or legal persons affected by construction of the wall.'

International Court of Justice: Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory. Advisory Opinion of 9 July 2004.

In November 2000, Israeli Prime Minister Ehud Barak first approved the construction of what he called a 'Security Barrier' ostensibly to separate Israel from the West Bank and protect Israelis from attacks. In June 2002, under the leadership of PM Ariel Sharon, construction began west of Jenin. Land was confiscated and trees uprooted to make way for the proposed route.

However, the route of what others would describe as the 'Separation Wall' did not follow the internationally recognised 1967 border; known as the 'Green Line' which had served as the border between the West Bank and Israel since 1949. Instead it followed a meandering path around Israeli settlements, built on Palestinian land and isolating Pales-

tinian communities. When finished, the wall will de facto annex around 46% of the West Bank to Israel.

In 2004, the United Nations General Assembly expressed its grave concern that construction of the Wall 'has involved the confiscation and destruction of Palestinian land and resources, the disruption of the lives of thousands of protected civilians and the de facto annexation of large areas of territory'.i It requested that the International Court of Justice (ICJ), the principal judicial organ of the United Nations, render an Advisory Opinion. On 9 July 2004, the ICJ stated that:

- The construction by Israel of a wall inside occupied Palestinian territory and its associated regime cannot be justified by the require-

ments of national security and is contrary to international law.

- Israel is obliged to cease the construction of the Wall, dismantle what has already been built and make reparations for the damage caused to anyone who has been affected by its construction.

- All States are under an obligation not to recognise the illegal situation resulting from the construction of the wall or to render aid or assistance in maintaining the situation created by it.

- And all States have an obligation to ensure compliance by Israel with international humanitarian law as embodied in the Fourth Geneva Convention.

However, far from heeding the instructions of the ICJ, Israel continued with the construction of the wall and today almost 80% has been completed. Much of the wall comprises of electric fences protected by trenches, cameras, sensors, and military patrols. Urban areas however are surrounded by an eight metre high concrete barrier - twice the height of the Berlin Wall.ii



In urban areas like this, the wall takes the form of an eight meter high concrete barrier.



Dr Rafiq Hussein

'Access is a crucial component of the fundamental right to health and is protected by international law even in times of conflict. Palestinians living under Israeli occupation have many barriers to health access due to population-wide movement restrictions. The separation wall further isolates Palestinians in the West Bank and Gaza from their historical medical referral centers in Jerusalem. Palestinians must apply for a permit to travel to hospital, which can come too late for their medical appointment or be denied altogether. Even patients transferred urgently by ambulance face delays at checkpoints. Health workers from the West Bank must apply twice a year for permits to travel to their work in the East Jerusalem hospitals and can also be denied. WHO case studies demonstrate that permits have been denied arbitrarily, most often for unexplained 'security' reasons.'

WHO West Bank and Gaza (Advocacy Unit).

Dr Rafiq Hussein, Director General of Makassed Hospital in East Jerusalem, the largest specialist hospital in East Jerusalem, explains the problems his hospital encounters.

The wall has created a lot of problems for East Jerusalem hospitals because our patients mainly come from the West Bank and Gaza and every patient has to have a permit. In fact, 70% of our staff are also from the West Bank and need permits to come here.

Some patients have been denied permits – not a big percentage but an important percentage because everybody who is referred to East Jerusalem hospitals, especially to Makassed, is very sick and is therefore in need of high quality, tertiary care. If they are denied they don't have other suitable hospitals to go to.

We have to take care of the patients and their companions in every respect

beyond their treatment. The cost of the treatment is covered by the Palestinian Ministry of Health but their other needs in terms of feeding them, where to accommodate them, whether to give them pocket money or how to help them subsist during their stay in Jerusalem, those are our responsibility as a hospital and are a drain on our resources.

We also have a shortage of drugs and medical supplies, not because of the closure but because of the drain on our resources and because we have to comply with Israel's rules and regulations. We cannot, for example, use any medicine that is manufactured in the West Bank because they are not registered in Israel and are considered illegal. We have to buy these medicines at high prices from Israel. As a tertiary hospital, we need a lot of expensive supplies and medicines and we find that we are always in debt in order to be able to supply them to our patients.

THE WALL AND THE RIGHT TO HEALTH

The right to health is defined by the International Covenant on Economic, Social and Cultural Rights as comprising four essential elements: availability; accessibility (physical and financial); acceptability and quality (General Comment No. 14). In the ten years since the ICJ's ruling, all four of these elements have been further compromised.

As signatory to this Covenant and to the Fourth Geneva Convention, Israel's duty to the Palestinians is clear:

"The occupying power has the duty of ensuring and maintaining [...], the medical and hospital establishments and services, public health and hygiene in the occupied territory. (...) Medical personnel of all categories shall be allowed to carry out their duties".

Yet denial of access of patients and physicians to medical facilities is well documented. An injury or acute or chronic illness may be severely exacerbated by a delay in care and can prove fatal.

CUT OFF: DENIED ACCESS TO HEALTHCARE

Instead of following the route of the Green Line, the internationally recognised border between the West Bank and Israel, the Wall cuts deep into the West Bank. 85% of its route is within the occupied territory; dividing not Palestinians from Israelis but Palestinian communities from each other, farmers from their land and villages from basic services such as health clinics and schools.

Almost 80% of the Wall's total length of 422 miles has now been built. When completed, it will be more than double the length of the 199 mile Green Line because it zigzags through the West Bank incorporating Israeli settlements, appropriating Palestinian land and property and preventing the expansion of Palestinian towns and villages. When finished, the wall will de facto annex around 46% of the West Bank to Israel.

The route of the wall means that nearly half of the Israeli settlements in the West Bank (71 out of 150) and over

85% of the settler population are located on the Israeli side of the Wall – though they are on the Palestinian side of the Green Line.iii

Palestinian Jerusalemites are also effected by the wall in their access to healthcare. 14.3% of Jerusalem's Palestinian population of 404,165 reported that they had to cross the wall to access healthcare in 2013.iv

The Wall's route not only has the effect of annexing valuable land or property to Israel but also of excluding land, or, rather populations, which Israel does not wish to absorb.

THE SEAM ZONE

The Biddu Enclave is an example of one such population. The area is home to eight villages of approximately 30,000 residents, 70% of whom are refugees. The villages are surrounded to the south, east and west by the Wall, hindering access to the rest of the West Bank. Access to Jerusalem,

to which they have traditionally been tied economically, socially and culturally, is prohibited to all except permit holders.v

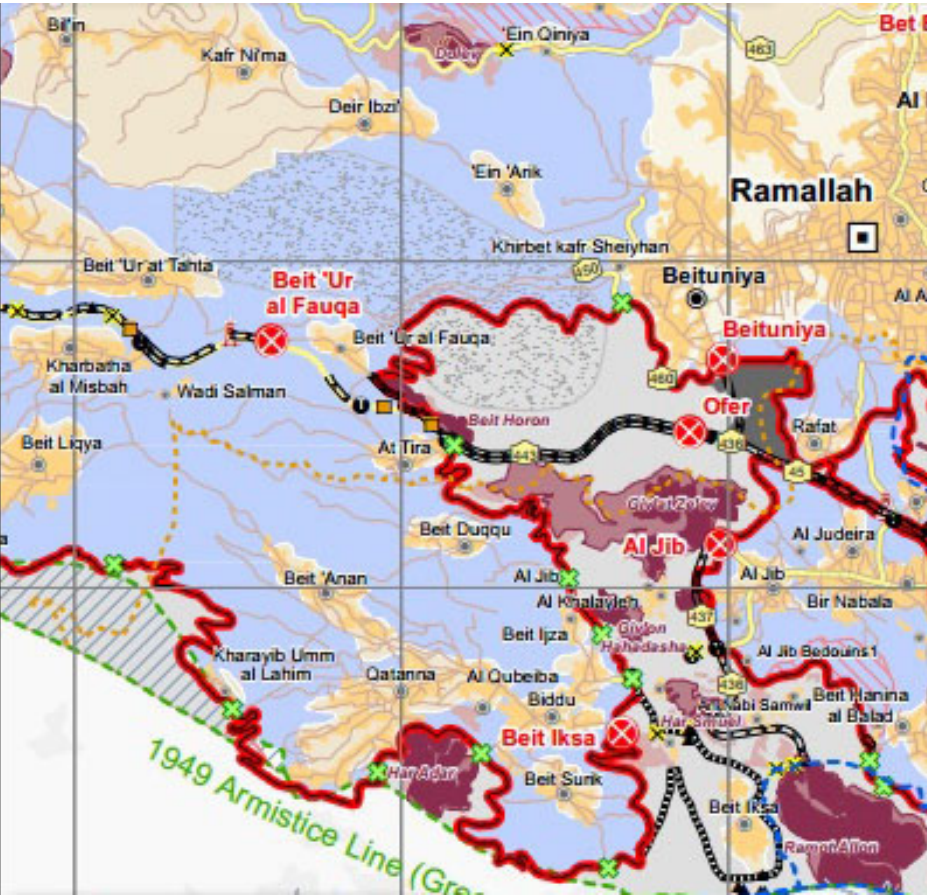
The United Nations Relief and Works Agency for Palestinian Refugees (UNRWA) runs a health clinic within the enclave but residents are cut off from health facilities in Jerusalem, including the six main Palestinian specialised hospitals. They are also restricted in their access to other health clinics in the West Bank.

The Biddu Enclave is not alone. Across the West Bank there are many villages either completely cut off or under threat of being similarly isolated. Al Walaja is a small village near Bethlehem, home to 2,400 people almost all of whom are registered refugees. When the Wall's original route was drawn up, it ran through the centre of the village, cutting it in two. After the residents appealed to the high court, a new route was proposed meaning that the Wall would completely encircle al Walaja with a tunnel leading out of the village. Currently, UNRWA health centres in Bethlehem city and Dheisheh camp provide health services to Al Walaja residents but when the Wall is completed, these will be accessible only by passing through an Israeli controlled checkpoint.vi

In Barta' Al Sharqiya, an enclosed enclave in the Jenin District in the West Bank, entry and exit to other districts in the West Bank are only accessible through two gates. Access to hospital services elsewhere in the West Bank is complicated, especially after the gates are closed (from 9 p.m. to 5 a.m.), and can pose a life-threatening risk for patients who need urgent lifesav-

Map showing the Biddu Enclave caught in the 'seam zone' between the route of the wall and the green line.

Map credit: OCHA OPT, Humanitarian Atlas 2012.

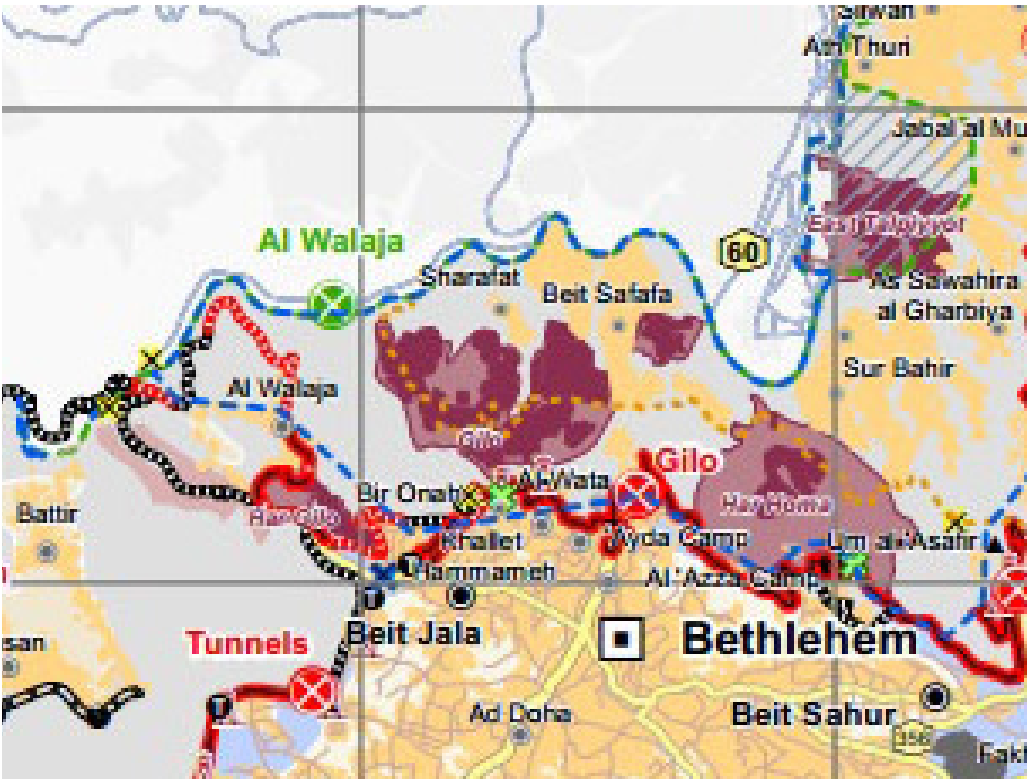


Map showing several communities caught in the 'seam zone' between the route of the wall and the green line.

Al Walaja in the bottom left hand side is one such example.

The route of the Wall has left more than 11,000 people trapped in this zone. These people are denied access to Israel and can only cross to the West Bank through Israeli checkpoints.

Map credit: OCHA OPT, Humanitarian Atlas 2012.



ing treatment. Special coordination with the Israeli soldiers at the gates is required for ambulances and no drugs or vaccinations are allowed into the village without prior coordination with the Israeli soldiers.vii

Anata faces a similar problem. The approximately 15,000 residents of the village are surrounded on three sides by the barrier, which keeps its residents from regular access to businesses, hospitals, cultural centres and other services in Jerusalem.

These communities have one thing in common. They are all totally or partially located within the so called 'seam zone' or area between the Wall and the

Green line. The route of the Wall has left more than 11,000 people trapped in this area. These communities are allowed to access the West Bank only through checkpoints which are open at limited times, and, like their compatriots on the West Bank side of the Wall, they are not allowed access to Israel.viii

Recent re-routings of the wall by Israel have been designed to bring some communities back to the 'Palestinian' side. However, they do not conform with the ICJ's Advisory Opinion. Although the changes have reconnected some communities to essential services, in many cases, they have at the same time cut them off from their lands and livelihoods.

The problem for seam zone communities is that they have to access the remainder of the West Bank through checkpoints and the checkpoints aren't open all the time. If you have a medical emergency and the checkpoint is closed, you are stuck – unless you can prevail on the soldiers, if they are there, to open the checkpoint for you. Then there are also problems with ambulances accessing the seam zone; they also have to get permission to go in.

Ray Dolphin, United Nations Office for the Coordination of Humanitarian Affairs (UN OCHA)



Seam zone communities can access services in the West Bank only through gates such as this one operated by Israel

EXTERNAL ACCESS DENIED

Permit system: Palestinians denied access to East Jerusalem hospitals

The six main specialist hospitals for Palestinians living in the West Bank and Gaza are located in East Jerusalem. These hospitals are cut off from their patients in the West Bank by the separation wall; patients and staff require a permit from the Israeli authorities to access care or get to work.

The Palestinian Ministry of Health refers around 20,000 patients a year

to these hospitals from the West Bank for specialised treatment. There are also other referrals paid for by individuals, private insurance or charitable sources. All of them require a permit to enter East Jerusalem from the Israeli authorities. During the two years, one in five applications for permits made by patients, patient-companions and patient-visitors from the West Bank were denied or

delayed by the Israeli Authorities.

The process of obtaining a permit is complicated and difficult and is an incredibly stressful experience for the patient themselves and their family who may find that they are denied permission to accompany them. In some cases, children are denied access if their accompanying relative is not approved to travel.

DOCTORS DENIED ACCESS TO EAST JERUSALEM

Access restrictions affect health professionals directly as well as patients. Palestinian hospitals in East Jerusalem employ many staff who live in the West Bank who also require a permit to cross the barrier. Like many other West Bank residents who work in East Jerusalem and Israel, they must make this crossing every day and are subject to crowded, lawless checkpoints and long delays. In January 2014, 59 year old Adel Muhammad Yakoub died after been crushed to death inside the Ephraim/Taybeh checkpoint as he tried to cross en route to his work in Israel. Even this relatively small checkpoint sees 10,000 Palestinian workers cross every day and

all are subjected to time-consuming checks.^{ix}

The World Health Organisation (WHO) reports that in 2012, 1,053 physicians and health workers with West Bank or Gaza IDs who work in East Jerusalem hospitals received short-term permits with conditions limiting how and where they may enter Jerusalem and 21 hospital employees were denied permits to travel to work.^x

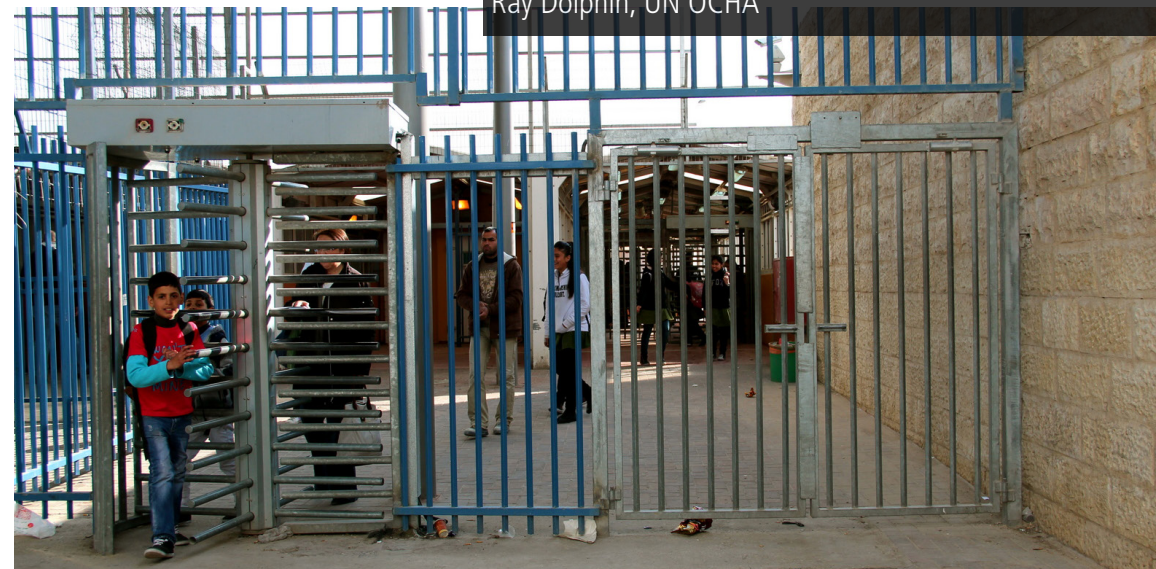
Palestinians living in the West Bank are further compromised in their access to

quality health care through the denial of access for physicians to train or work in East Jerusalem. Preventing the transfer of skills between Jerusalem and the West Bank by denying the opportunity for West Bank doctors to work and train in the better equipped hospitals of East Jerusalem compromises the quality of treatment available in health centres in the West Bank. The WHO notes that referrals to Jerusalem hospitals have increased due to the lack of trained doctors in the West Bank and Gaza.^{xi}

All of the specialised hospitals are located in East Jerusalem; we have the main maternity hospital for example, and then the hospitals that treat cancer and cardiac cases. So if you've been referred it's because you need something beyond routine; specialised or tertiary health care.

Figures compiled by the WHO show that about 80% of people who apply get permits. That may sound like quite a large number but it means that 20% of people who apply for permits to access healthcare in East Jerusalem - this is Palestinian healthcare - or their escorts don't actually get permits. That is a large number of people unable to access the health care they need.

Ray Dolphin, UN OCHA



Qalandia checkpoint between Ramallah and Jerusalem sees between 15,000 - 20,000 people cross each day to study, work or seek medical treatment in the city.

Photo: Nuriya Oswald

MUSAB'S STORY

Musab, aged five, was travelling to see his uncle with family members in September 2013 when they became caught up in clashes with Israeli soldiers in the West Bank. Shots were being fired and no sooner had the family got out of the car than they realised Musab had been hit. Musab started to shout 'Mum! My eye! My eye!' his mother looked down to see his face covered in blood. He had been shot in the eye with a rubber bullet.

Musab was first taken to Yatta hospital in the West Bank and from there transferred to Hebron hospital. The doctors at Hebron, however, could do little more than keep the wound clean. He needed specialist care and was referred to St John Eye Hospital in East Jerusalem. However, like many families in this position, Musab's father and uncle were not given permits to travel to Jerusalem for 'security reasons'.

Musab went with his mother and after a long journey - during which they were delayed at a checkpoint - arrived at the hospital late at night. The doctors said they would operate the following day. It was a complicated situation. The bullet was resting



Musab and his father tell MAP about their ordeal

on nerves and removing it would risk disturbing these and paralysing Musab on one side of his body.

Meanwhile Musab's father was stuck on the other side of the wall, not knowing his son's fate. Finally, unable to bear sitting at home, he made the decision to reach him by any means possible. He succeeded in scaling the separation wall and made it to the hospital shortly after Musab had come out of surgery.

I couldn't stay in the house, thinking about my son lying in hospital between life and death. So I decided that if I could fly I would - I would do anything to get to my son in the hospital.

Crossing the separation wall illegally is not uncommon. Although the permit system and the wall itself

are justified by Israel as security measures against terrorist attacks, between January and March 2013 alone, at least 14,000 Palestinians without the required permits smuggled themselves every day into Israel to look for employment, calling in to question the wall's efficacy as a security measure.^{xii}

Fortunately, the surgery was successful. The bullet was removed and now Musab wears a glass eye. Now the family are doing all they can to try and make sure Musab's life can return to normality. His father told MAP: 'I just want him to have a normal life: go out, play, eat, sleep. That's all we want.'

The family are now pursuing a legal case against the army with the support of B'tselem, an Israeli human rights NGO.



Although shy and withdrawn during our interview, Musab came alive during a game of football on the roof

INTERNAL ACCESS DENIED

AMBULANCES

The construction of the wall has also seriously affected ambulances transferring critically ill patients to hospital and between hospitals. WHO reports that in 2011, only 5% of Palestinian Red Crescent ambulances were allowed to enter Jerusalem from the West Bank and only 9% in 2012. All the rest had to shuttle patients from a Palestinian to an Israeli ambulance at the checkpoint in what is known as a 'back to back transfer'.xii

On the 25th June, an elderly Palestinian woman, who was on her way to hospital after experiencing sharp chest pains, died after being delayed at a checkpoint. Amneh Haj- Muhammed who was 62, was being rushed to hospital by her husband and children by taxi from their home near Nablus. Before they could reach Nablus National Hospital however, they were stopped at a checkpoint erected by Israeli soldiers near the entrance to Beit Dajan village. Their car was held up for more than half an hour leading to her death before they could reach the hospital.xiii

In addition to this, ambulances face problems due to Israel's associated regime of checkpoint and access restrictions. In July 2013, Amneh 'Abd al-Fatah Daher 'Abd Rabo, 71 years old, died following a delay in receiving medical care. Amneh suffered a stroke at her home near Hebron and lost consciousness. An ambulance called to the scene was detained for over 20 minutes at a nearby checkpoint. Amneh was pronounced dead later at hospital.xiv

As of February 2014, there were 99 fixed checkpoints in the West Bank: 59 of which are internal checkpoints of which only 33 are

We also have a problem with ambulances because they are not permitted to bring patients from the West Bank directly to Makassed. They have to do 'back-to-back' transfers to an East Jerusalem ambulance, unless one of the only three ambulances that work with the six Palestinian hospitals in East Jerusalem can go and bring them to the hospital here.

Dr Rafiq Husseini, Director General of Makassed Hospital in East Jerusalem

regularly staffed. In addition to these, the military erects hundreds of 'flying' checkpoints (temporary checkpoints which appear on any road at any time); 256 were counted by OCHA in December 2013.xv

In a comprehensive survey carried out in June 2012, OCHA documented and mapped 542 obstacles blocking Palestinian movement within the West Bank. These included 61 permanently staffed checkpoints, 25 partial checkpoints (staffed on an ad-

hoc basis) and 436 unstaffed physical obstacles, including roadblocks, earthmounds, earth walls, road gates, road barriers, and trenches.xvi

A further restriction Palestinians must contend with are roads which they are not permitted to use. In February 2014, there were 65.12km of roads in the West Bank that Israel had classified for the sole, or practically sole, use of Israeli settlers- even the crossing some of these roads is forbidden for Palestinians.xvii



An ambulance is inspected by Israeli soldiers at a checkpoint

MINISTRY OF HEALTH PROGRAMMES IMPEDED

Internal access restrictions within the West Bank also severely impede the implementation of government health initiatives. The WHO reports that vaccination programs for example, conducted by the Ministry of Health through the existing school structure, are often undermined due to the access restrictions placed on ministry officials charged with project implementation. Nevertheless, permits for those traveling to the areas between the Green Line and separation wall are sometimes provided at a later date.



Road blocks like this are common in the West Bank. OCHA counted 436 unstaffed physical obstacles in June 2012.

BABIES BORN AT CHECKPOINTS

In the ten years since the construction started on the Wall, access restrictions have impacted the lives of Palestinian women not only during childbirth, but also during pre- and post-natal care.

According to UNFPA and UNIFEM in 2009, an estimated 2,500 women per year faced difficulties en route to a delivery facility between 2000 and 2005. 67 Palestinian women were forced to give birth at checkpoints. 36 babies and 5 mothers died.xviii Since 2005, numbers of checkpoint births have not been recorded consistently although the United Nations High Commissioner for Human Rights (UNHCHR) issued two reports in 2009 and 2010 which indicated that at least four women were held up between 2008 and 2009, resulting in one further stillbirth at a checkpoint.

In their 2010 report, UNHCHR noted that the drop in the number of babies born at checkpoints by this date was due to the fact that 'most women leave the village a month before delivery and relocate to relatives' homes outside the community, often returning during the day to look after their families'.xix

Since this time, access restrictions have been eased somewhat within the West Bank. Pregnant women living in the seam zone however, continue to face the threat of being unable to access to healthcare during childbirth.

The village of Azzun 'Atma, a com-

munity of 2,000 residents located within the seam zone, demonstrates the problems pregnant women encounter accessing health care. The only access to the rest of the West Bank for this community is through a checkpoint which closes daily from 10pm to 6am and there is no hospital or 24-hour medical service available within the village. In fact, the only clinic available operates for just 2 hours a day, twice a week. Between January and June 2009, 33 babies were born: 20 were delivered outside the village and 13 at home. None of the home births was attended by a trained midwife or a doctor.xx

Certainly in the past one of the major problems was with expectant mothers or pregnant women because obviously in many cases babies are born at night when the checkpoints are closed. So we did have the phenomenon of expectant mothers moving to the West Bank side of the wall perhaps a month before they were due to deliver. Then, if there is some type of complication or if there is a premature delivery, they're on the side of the wall where they can at least get proper health care.

Ray Dolphin, UN OCHA

THE RIGHT TO HEALTH

Ten years after the ICJ ruling, the separation wall still stands as a brutal symbol of occupation. Together with other facets of the occupation regime – checkpoints, barriers, restricted roads, settlements and settler violence and the omnipresent Israeli military forces - it defines daily life for Palestinians living in the West Bank and restricts their access to health services. International law protects the right to health even in times of conflict. Medical Aid for Palestinians calls on Israel to respect the right to health and to do more to ensure that Palestinians can access health care without impediment and delay.

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