

Background on Israeli Policy of Entry Denial to Occupied Palestinian Territory

Israel's arbitrary and abusive exercise of discretion over entry into the occupied Palestinian territory (oPt) continues to cause serious and unjustified harm to Palestinian families, educational, religious and social service institutions and businesses and investments in the oPt. In December 2006, the Israeli Ministry of Defense -- Coordinator for Government Activities in the Territories (CoGAT) outlined¹ new procedures for entry into the oPt. In March 2007 a similar statement was issued by the Israeli Ministry of Foreign Affairs and addressed to third state missions. Despite reported assurances from Israeli officials that under the new procedures entry denials would be based on legitimate security considerations, documented cases of persons denied entry indicate that the practice resulting from the implementation of announced procedures remains arbitrary, abusive and internationally unlawful. Furthermore, **persons who fall within the categories that Israel has declared eligible for entry and visa renewal are being barred from doing so in practice.**

The two notices issued by Israeli authorities address only the issue of temporary admissions (typically granted for short term family visits, tourism and humanitarian, business, educational or other professional activities). **Procedures for granting residency** to foreign nationals whose center of life is in the oPt remain unaddressed.² Israel's failure to process in a systematic and timely fashion **family reunification (FU)** applications has directly affected as many as 500,000 to 750,000 people, many who have been forced to leave the oPt to keep their families intact. Since late 2007, Israel lifted a seven-year freeze on the processing of applications but only for those currently in the oPt. While the PA recently announced that it hopes to conclude the processing of all FU by the end of 2008. This process only includes those currently residing in the oPt and neglects to address the numerous family members unable to enter the oPt, not to mention new applicants.

Together with the many foreign nationals who have established their primary business, investment or professional activities in the oPt, or otherwise aspire to build their lives in the oPt, the new procedures place them, at best, in a state of continuous uncertainty under constant threat of expulsion and exclusion.

Israel's announcements **arbitrarily and unreasonably limit the categories of residents and travelers eligible to apply for permits to the oPt.** No provisions are made for the right of dependent children above the age of 16 to reside with their parents in the oPt. Similarly, no provision is made for the eligibility of adult children and siblings, grandparents or in-laws to visit or reside with their families. Such exclusions are devastating to social stability and family welfare in the Palestinian community which relies heavily on the extended family as an essential provider of care across several generations for both the young and the elderly. If a key family member is denied entry, extended family units are often forced to relocate. Also excluded from the list of eligible categories are tourists, putting travelers at risk of being arbitrarily barred from entry and

¹ On December 28, a letter announcing new procedures for foreign nationals wishing to visit, live or work in the oPt was sent by CoGAT to Dr. Sa'eb Erakat head of the PLO Negotiation Affairs Department, and several diplomatic missions in Tel Aviv, including the German (then representing the EU-presidency) and US Embassies. On 5 March, the Israeli Ministry of Foreign Affairs issued a similar statement entitled "Transit Policy to the West Bank via Israel." The letter was again distributed to embassies in Tel Aviv.

² Those eligible for visa renewals may receive a maximum of 27 months residency followed by a mandatory departure with no assurance of return. Moreover, visa periods are restricted to a single entry.

further undermining the already fragile Palestinian economy.

The notices also fail to offer a clear solution for the **untold numbers of individuals and their families who have been forced to relocate out of the oPt** due to previous entry denials unjustly issued by the Israeli authorities. Finally, the notices provide no indication that **foreign nationals seeking entry into occupied East Jerusalem or the Gaza Strip** will be eligible to apply for temporary admission or visa extensions. Access to the Gaza Strip, in particular, has been severely restricted since early 2006.

Failure to implement announced procedures

Cases documented by the Campaign demonstrate that **Israel is failing to implement even** the limited procedures outlined in the announcements by the Israeli Ministry of Defense (12/06) and the Ministry of Foreign Affairs (3/07) **in a consistent and transparent manner:**

- 1. Individuals continue to be denied entry at all major ports of entry -- Allenby Bridge, Sheikh Hussein Bridge, Ben Gurion Airport and Taba.**
- 2. The overwhelming majority of documented cases involve US citizens.**
Among the cases of entry denial are citizens from Australia, Canada and EU member countries as well as countries in Latin America, East Asia, the Middle East and Eastern Europe. **Documented cases include men, women and children, ranging from 2 to over 70 years in age.**
- 3. Procedures set out in the announcements are not being implemented in a clear, consistent and transparent manner.**
 - * Individuals who have demanded explanation for their denial of entry have been physically abused and forced back into vehicles returning to Jordan.
 - * Individuals who have previously traveled to the region on a regular basis have been denied entry for the first time. Others who have never visited the country have also been denied.
 - * Israeli assurances to third state representatives regarding granting entry for particular foreign nationals have failed to materialize in a number of instances.
 - * Individuals seeking to apply for permits from Israeli embassies / consulates in their home countries to enter the West Bank (the procedure "recommended" in CoGAT announcement) have been informed upon inquiry that this procedure is not in effect.
 - * Individuals have been denied entry without access to a CoGAT representative contrary to stipulations in the CoGAT announcement.
 - * Many of the individuals permitted to enter have been able to do so only through exclusive arrangements – often for fees including sometimes exorbitant fees to lawyers. Some individuals are being required to provide monetary deposits (between NIS 20,000 and 50,000) to guarantee their departure before the expiration of their visas.
 - * Moreover, the duration of visas issued to a number of individuals granted entry varies widely and is issued without clear reason or explanation. Documentation includes cases of individuals granted visas for as little as one week and suggests that the Israeli authorities are increasingly issuing visas of shorter duration to those indicating their intention to travel to the oPt.
 - * Despite a reactivation of visa extension processes, documented cases suggest that Israel's granting of visa extensions remains arbitrary, clearly harming Palestinian family life, educational and social service institutions and businesses.



Campaign for the Right of Entry/Re-Entry to the Occupied Palestinian Territory (oPt)

A Grassroots Campaign for the Protection of Foreign Passport Holders Residing in and/or Visiting the oPt

Position Statement

(Updated June 2008)

To date, Israeli authorities have failed to provide a transparent policy for foreign nationals wishing to enter or maintain their presence in the occupied Palestinian territory (oPt). Instead, Israel has continued to pursue both policies and practices that fail to comply with international humanitarian law. In fact, the *de facto* policy announced in December 2006 and again in March 2007 signals Israel's intent to continue to violate international law. The failure of third states to object in such circumstances implies acceptance and violates their own obligations in international law.

Until such time as the Israeli occupation has ended and the sovereign Palestinian right of self-determination is fully implemented, the Campaign takes the following positions regarding Israel's exercise of discretion over entry into oPt, and the corresponding responsibilities of third states:

1. Procedures outlined in announcements by the Israeli Ministry of Defense (December 2006) and the Israeli Ministry of Foreign Affairs (March 2007) fail to address a number of critical issues, especially the fundamental issue of *how* Israel will exercise its discretion over entry into the oPt. (See separate document "RTE Background Paper" for details.)
2. Residents of the oPt, like people the world over, have the right to marry at will and to live together with their families. By maintaining its general refusal to permit foreign nationals to securely and permanently reside with their family members in the oPt, Israel, as the occupying power, is blatantly violating international humanitarian law (IHL).
3. Third states have a duty to ensure Israel's respect for IHL and to obtain Israel's compliance in this case, where the means to do so are readily available to them.
4. Third states have an obligation to scrutinize Israel's exercise of authority and to oppose arbitrary denials of entry and residency that harm Palestinian family life and welfare, including educational and social service institutions and economic development.
5. Third states have an obligation to defend the interests of their own nationals when they are subjected to arbitrary or discriminatory treatment by a friendly state and to protect them against violations of human rights including Israeli use of duress in coercing foreigners to collaborate with the occupier in order to gain entry into the oPt.
6. States have a duty not to acquiesce to the internationally unlawful acts of other states. Third states have an obligation to object when notified directly by another state of its establishment of, or intent to continue, an internationally unlawful policy - especially one that contravenes the other state's obligations to them. Their failure to object in such circumstances implies acceptance and their persistent failure results in acquiescence. In the case at hand, Israel has addressed public declarations and written communications to third states that explicitly announce policies, and signal



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Israel's intent to take measures, that are clearly internationally unlawful. The failure of third states to object and invoke Israel's obligations to them in this instance will soon cross the line into acquiescence.

Recommended Action

Third states maintaining friendly relations with Israel command the standing to challenge the arbitrary exclusion of their nationals from the oPt. Moreover, they have a clear obligation to scrutinize Israel's exercise of authority as an occupying power and to oppose arbitrary denials of entry and residency that harm Palestinian family life, educational, religious and social service institutions, businesses and socio-economic development more broadly.

The Campaign urges individual third states and the Quartet Representative's Office to:

1. Ensure Israeli implementation of the rights to family unity and family reunification and the establishment of clear and transparent procedures for foreign nationals seeking to reside in the oPt, in keeping with international law.
 - obtain Israeli cancellation of the stipulation by Israel's Coordinator of Government Activities in the Territories (COGAT) that foreigners are restricted to a 27-month, single entry, maximum stay
 - demand Israel's adoption and implementation of a clear, transparent policy for issuing multiple entry residency permits to foreign nationals
2. Call for an immediate halt to Israel's arbitrary and abusive practice of denying entry to foreign nationals traveling to the oPt.
 - demand Israel's adoption and implementation of a clear, transparent policy for unhindered access to the oPt by foreign nationals
 - obtain explicit assurances that people who have previously been denied entry will be permitted to re-enter the oPt
 - end the practice of issuing permits that restrict exit and re-entry
 - end the practice of issuing permits of less than three months to those traveling to the oPt
 - cease the collective punishment of those whose relatives may have 'overstayed' their original visa duration
3. Apply vigorous scrutiny to cases of denied entry and denied residency in the oPt with a view to promoting Israel's adoption and transparent application of principles consistent with the internationally accepted rights and obligations of an occupying power.
 - set up clear mechanisms for citizens to report and appeal cases of denied entry
 - set up clear mechanisms for liaising with Israeli authorities to ensure safe passage to the oPt for all citizens and ensure the prompt and proper resolution of cases where safe passage has been hindered
 - insist on receiving a formal explanation of each decision taken by Israel to bar any of their citizens from the oPt
 - object to all arbitrary denials of entry and residency that harm Palestinian family life, educational, health and social service institutions and businesses and act to resolve all such cases of exclusion.
4. Respect the duty of all states not to acquiesce to internationally unlawful acts, bearing in mind that failing to object to *prima facie* unlawful acts or policies when notified of them implies accepting them as lawful.
5. Promote Israel's compliance with international humanitarian law with appropriate and effective tools of persuasion and dissuasion. Take appropriate measures based on reciprocity to ensure that the correct treatment accorded to Israel nationals seeking to enter third countries is reciprocated by correct treatment of their nationals seeking to enter Israel or the oPt.

The successful return of individuals previously denied entry and the unhindered entry of others was made possible by organized civic action involving a broad alliance of concerned individuals and organizations within the Palestinian, Israeli and

international communities. Concerted effort must be made to hold the governments of Israel, third states and the Palestinian National Authority to their respective obligations under international humanitarian law and international human rights law.

The Campaign urges concerned individuals and organizations to:

1. **Send a letter to Israeli, UN, the Quartet Representative's Office and your government representatives**, documenting your case and emphasizing the need to obtain clear assurances from Israel that persons carrying foreign passports will not be arbitrarily denied safe and secure passage to the oPt and that all foreign citizens seeking entry will be treated with dignity and respect.
2. **Write your local press** protesting Israel's unlawful policy of entry denials by telling your personal story and the impact it has had on you, your loved ones, your business, your organisation, etc.
3. **Update the Campaign on your experience**. Updated and reliable information about how entry denials (whether recent or past) continue to affect individuals, families and the general welfare of the Palestinian people in the oPt is essential to effectively combat Israel's policies. Even if you wish to keep your information confidential, it helps the Campaign to have documentation and statistics to establish trends and report impact. If you've attempted / been successful in returning, let us know. If you haven't tried, let us know why and under what conditions you might try to return. **Fill out the Campaign's denial of entry form and contribute to the Campaign's efforts to document and defeat Israel's unlawful policy of restricting entry into the oPt.** The on line form can be found on this link:
<http://www.righttoenter.ps/ReportYourCase.php?mid=16&sid=18>
US citizens are also encouraged to file a report with ADC at:
[http://www.adc.org/index.php?id=2980&no_cache=1&sword_list\[\]=Entry&sword_list\[\]=Denial](http://www.adc.org/index.php?id=2980&no_cache=1&sword_list[]=Entry&sword_list[]=Denial)
4. **Encourage friends and family members affected by the policy to take action.**

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Moreover, even those who do receive visa extensions are unable to leave the country since they fear they will be denied entry on their return.

- 4. The welfare and integrity of countless Palestinian families continue to be affected by separation or the imminent threat of separation.**
 - * Spouses remain separated despite provisions in the CoGAT announcement for visa entry and renewal of spouses.
 - * Young children continue to be separated from their parents and the elderly are denied visits and essential care from their immediate family.
- 5. The functioning of Palestinian health, educational and social services continue to be affected.**
- 6. Clergy, volunteers and staff of religious institutions and pilgrims have been among those denied entry and/or refused visa renewals.**
- 7. Continued interference and uncertainty regarding access thwarts business and investment and undermines international and national efforts to support economic development.**
- 8. Members of the international press , filmmakers and artists have been among those denied entry .**

– End –