One-Way Ticket

Israel is committing forcible transfer of protected persons in the occupied Palestinian territory, and most of the victims are women.

Introduction

Israel’s "Procedure for Issuing Permits for Judea and Samaria Residents in the Gaza Strip" (Hebrew, hereinafter: the procedure) stipulates that Palestinians registered as West Bank residents in the Palestinian population registry who reside in the Gaza Strip must sign a document stating that they have "settled" in Gaza permanently in order to apply for an Israeli permit to exit Gaza for any reason. In signing the document, Israeli authorities assert, these individuals "agree" to waive their right to move back to the West Bank in the future.

Israel prohibits family unification for Palestinian residents of Gaza in Israel and the West Bank. Palestinian families in which one spouse is registered as a resident of Gaza can, therefore, only live together as a family in Gaza. Since women are most often those who move to live near their spouses’ families after marriage, women are disproportionately impacted by the procedure, and also by the Israeli permit regime, which prevents family visits to the West Bank other than in rare cases.* In essence, the procedure forces Palestinian women who are registered as West Bank residents and live in the Strip, or wish to move there, to ostensibly give up their protected right to return to the West Bank in the future. In doing so, the procedure violates fundamental rights to freedom of movement, family life, autonomy, health, and dignity.

Hiba Aldenaf, a lawyer working at Aisha Association for Woman and Child Protection in Gaza, summarized the cruelty of - and harm caused by - this element of Israel’s policy in stating that "the procedure is basically forced deportation. It not only infringes on freedom of movement but also has far-reaching social repercussions, even effecting people's mental health."

Israel’s use of the procedure as a means of preventing Palestinian residents of the West Bank from returning to the West Bank effectively constitutes forcible transfer, which is a grave breach of international law amounting to a war crime.

* Given that most victims of this policy are women, this document may sometimes refer to them collectively as such, though the procedure also applies to Palestinian men whose registered address is in the West Bank and are living in the Gaza Strip, or wish to move there.
Salma (pseudonym), a mother of five, is originally from Tulkarem in the West Bank. She married a Palestinian resident of Gaza in 2012, and given Israel’s ban on family unification for Palestinian residents of Gaza in the West Bank, Salma decided to move to the Strip in order to live with her spouse. She filed an application for a permit to enter Gaza, which was approved by the Israeli authorities. As she waited to pass through Erez Crossing, Israeli officials informed her that she would not be able to enter Gaza unless she signed the form declaring she was “settling” in Gaza.

"They [Israeli authorities] demanded that I sign a form saying I wouldn’t be able to return to the West Bank [to live there]. I didn’t know what to do. I had just gotten married, and I really wanted to move in with my partner and start our new life together. They said they would not let me enter the Strip unless I signed the document, and in the end, I did. I left everything behind, everything. It’s not easy. It’s a very difficult decision. You are faced with the promise of a new life, but you know that you may never see your parents again, and you’re somehow supposed to choose between them."

This was the first time Salma had ever entered Gaza. In demanding she sign the settlement form, Israel forced her to decide between a life she had not yet been given the opportunity to know, and the possibility of returning to her life as she knew it, in the West Bank, if and when she wished.

Now, Salma realized, she would only be able to apply for a permit to visit her family in the West Bank according to Israel’s limited criteria for travel by Gaza residents, which allow family visits only in a narrow set of circumstances: The wedding, funeral, or grave illness of a first-degree relative.

During her first years in Gaza, Salma submitted several permit applications in the hope that she would be able to visit the West Bank, but they were refused by Israeli authorities on the grounds that they did not meet the criteria for Palestinian travel between Gaza and the West Bank. In 2015, she finally received a permit for a short visit in the West Bank.

"For three years, I waited to see my family [in the West Bank]; for three years, I did not exit the Strip.” When Salma returned from her visit to the West Bank, she was stopped again at Erez Crossing and again, told she would only be allowed to enter if she signed the settlement form [it is unclear why Salma was made to sign the form for a second time or why her signing it was again presented as a condition for entering Gaza]. "It was difficult for me. I was alone; my children were in Gaza; my partner and my life were in Gaza. I didn’t know what to do; go back to the West Bank? Leave my home in the Strip?” Left with no good alternatives, Salma decided to sign the form again, and entered the Strip.

"Since 2015, I’ve applied for exit permits, but I haven’t received permission to travel to the West Bank again,” she told us [Gisha does not know on what grounds Israeli authorities denied Salma’s applications]. "I have since given birth to three sons. My children have never met my family. It’s been seven years. It burns my heart. I’m desperate to see my family. I live with constant feelings of want and loss. They tore them away from me.”
To this day, Israel continues to control the Palestinian population registry, giving it extensive power and influence over Palestinians’ lives. Importantly, it is Israel which determines whether Palestinians are registered as "Gaza residents" or "West Bank residents" in the population registry.

For decades, and even more so since tightening the closure on Gaza in 2007, Israel has prevented or severely restricted Palestinians’ travel between its own territory, the Gaza Strip, and the West Bank, with the objective of maintaining control over the land and people under its occupation. As Gisha has demonstrated extensively in previous publications, Israel restricts Palestinian travel in ways that serve its illegitimate demographic and political goals of isolating the Gaza Strip and advancing de facto annexation of the West Bank. Israel calls this policy the "separation policy," and uses it as a tool of demographic engineering.

The permit regime used by Israel to govern Palestinian movement is designed with a distinct directionality: Palestinians can, for the most part, relocate from the West Bank to Gaza permanently, while permanent relocation from Gaza to the West Bank is rarely, if ever, permitted. Travel of "Gaza residents" from the Strip is only allowed for short-term reasons, under a narrow list of "exceptional, humanitarian" criteria Israel sets for Palestinian travel between Gaza, Israel, and the West Bank. For example, Palestinians may only submit applications for permits that enable them to visit family in another area in the case of a family member’s wedding, funeral, or life-threatening illness, and on the condition that the family member in question is a first-degree relative only.

According to the procedure, Palestinians who are registered as West Bank residents but live in Gaza must sign a form declaring that they have settled permanently in Gaza and relinquished their right to return to the West Bank in order to travel in the narrow and exceptional circumstances permitted by Israel. In other words, West Bank Palestinians who live in Gaza and need to travel to Israel or the West Bank under Israel’s criteria for humanitarian family visits, medical treatment, professional needs or any other reason are compelled to waive their protected right to return to the West Bank permanently in the future in order to be considered for a permit. People who choose not to sign the settlement form are effectively blocked from exiting Gaza via Erez Crossing for any purpose whatsoever, no matter how humanitarian their need to travel might be.

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Appendix B

Declaration of Settlement

1. I ________, ID No. __________, requested on (enter date) _______ to settle in the Gaza Strip. My request was approved, and during the passage, I declared that I am permanently relocating to the Gaza Strip and that I understand the implications of said relocation.

2. I have now been informed that the declaration I signed could not be located and that I am therefore required to sign anew.

3. I was further informed that without signing again, my current passage to the Judea and Samaria Area would be permanent, and that I would not be given a permit to return to the Gaza Strip after my arrival in the Judea and Samaria Area. In keeping with the aforesaid, any future application I submit to travel from the Judea and Samaria Area to the Gaza Strip will be considered according to the policy in effect with respect to travel to Gaza by West Bank residents, which is possible in humanitarian exceptional cases only. Family ties between the permit applicant and a resident of the Gaza Strip do not, in and of themselves, constitute grounds for a travel permit under the policy in effect today.

4. As I have declared previously, I have permanently relocated to the Gaza Strip and currently live there permanently with my minor children who moved to the Gaza Strip with me at the time of my settlement there, on (insert date) _______, and with my children born thereafter. Listed below are the names of the children who settled with me in the Gaza Strip:

____________________________________________________________________
_________________________________________________________________________________
_________________________________________________________________________________

5. I was informed at the time of my settlement, and I am still aware at present, that according to the policy in effect today, entry into the Judea and Samaria Area by residents whose center of life is in the Gaza Strip is permitted in exceptional humanitarian cases only.

6. I am further aware that should I wish to travel to the Judea and Samaria Area via the State of Israel, I will be required to file a detailed application with the Palestinian Civil Affairs Committee. Any such application forwarded to the Israeli side will be considered according to the policy in effect at the time with respect to travel by Gaza Strip residents to the Judea and Samaria Area.

7. Having understood the aforesaid, which was explained to me in my own language, I hereby affix my signature:

Date: ____________
I.D. No. ____________
Signature ____________

8. Personal information of the CLA [Israeli Coordination and Liaison Administration] representative who explained the content of the commitment to the resident, in his own language, and ensured they understood said content before affixing their signature:

Name and surname ____________
Personal No. ____________
Rank ____________
Signature ____________

Unofficial translation by Gisha.
Declaration of Settlement, Appendix B of the November 2020 procedere.
Israel views the signing of the settlement form as an effective forfeiture of Palestinians’ West Bank residency status. In numerous cases handled by Gisha, the state tries to present the signed forms as justification for preventing West Bank Palestinian residents from moving back to the West Bank, even though the person who signed was clearly compelled by the authorities to do so.

In a December 2020 letter (Hebrew) to the Coordinator of Government Activities in the Territories (COGAT), Gisha and HaMoked: Center for the Defence of the Individual demanded it revoke an update to the procedure (Hebrew) published by COGAT in November 2020. The organizations emphasized that the procedure enshrines draconian restrictions on permits for humanitarian needs and exacerbates the infringement on the protected right of West Bank Palestinians living in Gaza, most of whom, as noted above, are women. Unlike previous versions (Hebrew), the November 2020 procedure contains no commitment on the part of Israeli authorities to individually examine exceptional applications by West Bank Palestinians who have "settled" in Gaza but wish to return to the West Bank, based on their merits. Additionally, people being made to sign the settlement declaration form that appears in this version of the procedure must list the names of any children (minors) "settling" in Gaza with them (see section 4 in the form, below). This suggests that by signing the form, parents are made to "waive" the right of their children, who are registered as West Bank residents, to return to the West Bank in the future.

In fact, under the current procedure, Palestinians who signed the form declaring they have "settled" in Gaza are effectively considered by Israel to be residents of the Gaza even if Israel does not change their status in the population registry. Therefore, should they wish to move back to the West Bank, they would have to meet Israel’s criteria for Gaza residents’ settlement in the West Bank which are extremely narrow and formulated by Israel to ensure no one can meet them (to read more about how Israel’s policy effectively prevents Gaza residents from relocating to the West Bank, see here, here and here). In COGAT’s response (Hebrew), received in January 2021, COGAT stood by its egregious procedure and refused to rescind it.

Given Israel’s position, whereby anyone who signs the settlement declaration is prohibited from moving back to the West Bank, one might expect the declaration form to state this fact explicitly. Contrary to reasonable expectation, however, the November 2020 procedure and the settlement declaration included in it (see English translation below) are vague and unclear, obscuring the injurious implications of signing the form. It states that a person who wishes to return to the West Bank will be considered according to the procedure for Gaza residents wishing to relocated (Hebrew), without including information about that procedure or alluding to the fact that is it essentially impossible to meet the criteria therein. Even if individuals signing the form were made fully aware of its content and future implications, the rights granted by international law are inalienable and immutable, including the protected right of West Bank residents to return to live in the West Bank at any point they so choose.
Application of the procedure in practice

Since its establishment, Gisha has represented numerous Palestinian women from the West Bank who live in Gaza with their spouses and children and submitted applications to visit family in the West Bank or move back there permanently. In cases where the applicants had already signed a settlement form upon entering the Strip, Israel used the form to justify denying them the possibility of moving back to the West Bank. In cases where the applicants had not yet been made to sign the settlement form, Israel exploited their basic, urgent need to visit the West Bank (within its own criteria for humanitarian travel) in order to force them to sign it. Women were pressured and intimidated into signing the form, as a condition for travel - whether to visit their relatives in the West Bank, or to return to their homes and families in Gaza.

In cases handled by Gisha, in which women who signed the form wished to move back to live in the West Bank, not only did Israel refuse to allow it, it also went so far as claiming that allowing their travel would undermine its “separation policy.” Preventing West Bank residents from moving back to the West Bank constitutes prohibited forcible transfer, as detailed below. In recent years, there have been a handful of cases in which, following Gisha’s prolonged legal battle and intervention from the courts, Israel was forced to allow women who had signed the settlement form to return to the West Bank.

COGAT has claimed that it does not collect information pertaining to the scope of this illegal and unacceptable practice. Responding to a Freedom of Information request filed by Gisha in 2019, where we asked how many Palestinians had applied to “settle” in the Gaza Strip under the procedure, COGAT claimed that it did not have the information at its disposal.

Shada

Shandghali was born in the West Bank in 1996. Her registered address is in Al Bireh in the West Bank. In 2015, she married a resident of Gaza, and subsequently moved to the Strip to live with him. The couple had two daughters who were both registered in the Palestinian population registry as West Bank residents, in keeping with their mother’s status.

In 2017, in light of the worsening living conditions in Gaza, Shada and her husband decided it would be better for the girls to grow up in the West Bank, even if it meant living separately from their father, who, as a Gaza resident, cannot move to live in the West Bank according to Israel’s policy.

Shandghali filed several permit applications to return to the West Bank with her daughters. The two applications she filed in 2017 received no response, nor did the three applications she filed in 2018.

When Gisha intervened on Shada’s behalf, a response from Israeli authorities finally arrived, denying her permit on the grounds that she had signed the settlement form, supposedly declaring her intent to settle in Gaza permanently. Shandghali did indeed remember being made to sign a document to this effect, years earlier. Once, when she was returning to her home in Gaza from a visit to the West Bank, an Israeli official at the Israeli Coordination and Liaison Administration (CLA) near her parents' home told her that signing the form was mandatory, though she did not understand what it meant. She was told that if she did not sign, she would not be able to return to her daughters in Gaza.

Gisha petitioned the court on Shada’s behalf against this flagrant infringement on her rights, demanding she and her daughters be permitted to move to the West Bank. At the hearing, the court urged the state to reconsider its claim regarding Shada’s consent to sign the document. The state eventually retracted its denial of the permits for Shandghali and her daughters, and permitted the three to return to the West Bank.
The procedure institutionalizes the war crime of forcible transfer

According to international law, protected persons have a right to return to their homes, and forcing a waiver of this right is explicitly forbidden. The Israeli "Procedure for issuing permits for Judea and Samaria residents in the Gaza Strip" deprives Palestinians of the right to return to their homes in the West Bank because they signed a document in circumstances where their need to travel for humanitarian needs is being exploited.

The procedure results in a blatant breach of Article 49 of the Fourth Geneva Convention, which prohibits relocating a person against her will, whether through direct or indirect, open or implicit pressure, or by exploiting governmental powers:

"Individual or mass forcible transfers, as well as deportations of protected persons from occupied territory to the territory of the Occupying Power or to that of any other country, occupied or not, are prohibited, regardless of their motive."

According to the convention, any alleged "consent" on the part of the individual for such relocation should be examined carefully, taking into consideration the full context in which it was given and with attention to the person's level of vulnerability.

The jurisprudence of the International Criminal Tribunal for the former Yugoslavia consistently applied a broad interpretation of the terms forcible transfer and expulsion. It held that a transfer is considered forcible even when no direct physical force is used to induce residents' departure. The court considered the occupying forces' indirect creation of circumstances that drive protected persons to leave the occupied territory to constitute prohibited forcible transfer.

The UN Human Rights Committee has recognized some of the measures enforced by Israel as creating a "coercive environment" that facilitates the forcible transfer of Palestinians. The measures in question include the revocation of West Bank residency status, and pressuring Palestinians into "waiving" this status.

Suhaire

Al Wahidi, a West Bank resident, lived in Gaza for about a decade before she was made to sign the settlement form. Nearly ten years after she married a Gaza resident and moved from the West Bank to the Strip, her brother, who lives in the West Bank, fell seriously ill, and for the first time, Israel granted her a permit to visit him and the rest of her family there.

On her way out of Gaza, at Erez crossing, Al Wahidi was shown the declaration of settlement in Gaza, a document she had never heard of previously. The form was written in Arabic and Hebrew, but she did not understand what it meant. She says an official from the Israeli side of the crossing approached her and explained, hurriedly, using hand gestures, that she had to sign. Feeling pressured, Al Wahidi signed the document without understanding the repercussions.

"I'm usually very careful," she told us. "My residency in the West Bank is so important to me that I didn't even want to renew my ID card after I got married and moved to Gaza, for fear of losing it."

Al Wahidi explains that if she had understood that Israel considered the form a "waiver" of her right to return to the West Bank, she would never have signed it, even at the cost of giving up that longed-for visit to her sick brother.
In the years since she returned to Gaza, Al Wahidi submitted additional applications to visit the West Bank in circumstances that Israel defines as "humanitarian," but the Israeli authorities either refused her applications or failed to respond altogether. When her father passed away, Al Wahidi was unable to obtain a permit that would allow her to attend his funeral in the West Bank. Though they try to keep in touch through social media, her four children in Gaza have not seen their West Bank family members for eighteen years.

The dire economic situation in Gaza, as well as Israel’s repeated attacks on the Strip, have worried Al Wahidi, leading her to consider moving back to the West Bank. In April 2022, she filed an application to do so but Israel denied it, probably because she had previously been made to sign the settlement document. Of course, given that Israel bars effectively Gaza residents from moving to the West Bank, even if Al Wahidi had been allowed to return there, she would have been forced to live in separation from her family in Gaza, including her spouse.

"It's a tragedy for me. I have a strong desire to visit my family and to be with my mother. But I cannot take part, not in celebrations nor in mourning."

Conclusion

The procedure described here is yet another example of Israel's abuse of its control over Palestinian movement and its attempt to engineer a political reality of continued dispossession, persecution, and apartheid.

Palestinians pay unacceptable prices, and here, especially Palestinian women, for Israel’s desire to maintain control over land, occupied territory, without taking responsibility for the protected persons living on it.

Gisha maintains that Israel must immediately rescind the illegal procedure, allow freedom of movement across the Palestinian territory and stop the deliberate violation of Palestinians’ human rights.

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