



NORWEGIAN
REFUGEE COUNCIL

Legal Memo

Movement between the West Bank and the Gaza Strip

OBJECTIVE:

This memo reviews the background to the current separation between the West Bank and the Gaza Strip and the various procedures imposed on Palestinian families that are split between the two or between the Gaza Strip and Israel (including East Jerusalem). Israel's current policy of separation results in thousands of families being stripped of their basic right to family life and freedom of movement in their homeland.*

BACKGROUND – the Separation between the West Bank and the Gaza Strip

After occupying the Gaza Strip and the West Bank in 1967, the Israeli military declared these areas a closed military zone.¹ In 1972, exit permits were issued with unlimited duration,² granting Palestinians practically free movement between the Gaza Strip and the West Bank and between the two occupied Palestinian territories (oPt) and Israel, including East Jerusalem in which Israeli law had been applied in contravention of international law. Israel allowed Palestinians to relocate from the Gaza Strip to the West Bank and vice versa with relative ease and updated new addresses in the Palestinian Population Registry, which was administered by Israel.

Gaza Strip and West Bank residents who married Israeli citizens or Israeli residents could submit a request for family unification, and after a process of several years, obtain legal status in Israel. This reality facilitated the renewal of family ties, social contacts and trade relations that had been severed since 1948.

In 1988, during the first intifada, the military revoked the unlimited exit permits.³ In 1991, the military decreed that residents must obtain individual permits.⁴ The consequences of this change were not immediately apparent since Israel issued many individual permits that remained valid for long periods of time. However, over time, Israel adopted a stricter policy, gradually reducing the number of individual permits granted.

* This factsheet is based primarily on the joint report of B'tselem and Hamoked: So Near and Yet So Far - Implications of Israeli-Imposed Seclusion of Gaza Strip on Palestinians' Right to Family Life, January 2014.

¹ Order Closing Area (Gaza Strip and Northern Sinai) (No. 1), 5727 – 1967; Order Regarding Closing of Territory (West Bank Area) (No. 34), 5727 – 1967.

² General Exit Permit (No. 5) (Judea and Samaria), 5732 – 1972. A similar permit was issued for the Gaza Strip.

³ Order Regarding Suspension of the General Exit Permit (No. 5) (Temporary Order) (Judea and Samaria), 5748 – 1988. A similar order was issued for the Gaza Strip.

⁴ Order Regarding Suspension of the General Exit Permit (No. 5) (Temporary Order) (Judea and Samaria), 5751– 1991. A similar order was issued for the Gaza Strip.

In March 1993, after 16 Israelis were killed by Palestinians in Israel and in the oPt in different attacks, **Israel imposed a general closure on the Gaza Strip and the West Bank, during which no one could leave the oPt or enter Israel without individual permit. The general closure has remained in effect until today.** Along with the closure, the criteria for permits to exit from the oPt to Israel were made considerably stricter, and the number of permits issued by Israel dropped dramatically.

On 22 September 2005, Israel completed its disengagement from the Gaza Strip, in the course of which it evacuated all Israeli settlements from the Gaza Strip and withdrew its military forces from the area.⁵ Subsequent to the disengagement, Israelis are barred from entering the Gaza Strip. The declared rationale behind the prohibition is to prevent Israelis from returning to the evacuated settlements.⁶ However, the prohibition also applies to Palestinians with Israeli documentation (citizens or residents) who have relatives in the Gaza Strip. Thus, a new procedure was enacted, much like the one in place before the disengagement, to address cases of Israelis married to Gaza Strip residents.

In June 2007, after Hamas seized control of the Gaza Strip, Israel imposed a siege on the Gaza Strip. It closed the border crossings between Israel and the Gaza Strip, thereby denying the residents of the Gaza Strip almost any possibility of exit or entry, as well as blocking most imports and exports. Although Israel has eased some aspects of the siege over the years, the restriction on entering the Gaza Strip and on travel from the Gaza Strip into Israel remains in effect.



As part of the disengagement plan, Israel transferred control of the Rafah Crossing, the sole point of crossing between the Gaza Strip and Egypt, to Egypt. The Rafah Crossing was also closed for the majority of time between 2006 and 2010. Egypt opened the border in rare humanitarian cases and only after informing Israel.⁷ In 2010, Egypt formally opened the crossing. Gaza Strip residents could leave the Gaza Strip, and West Bank residents could enter it. However, the political upheavals in Egypt in 2011 greatly impacted the regular opening of the crossing. As of July 2013, Egypt has restricted the passage through the crossing to limited numbers of people. In 2015, the crossing was open for a total of only 32 days.⁸

The Rafah crossing serves as an inadequate solution for movement between the West Bank and the Gaza Strip. For West Bank residents, taking the route to the Gaza Strip via Egypt is lengthy, arduous, and usually beyond their means. One must first cross the border, via Allenby Bridge, from Israel into Jordan. Then, from Jordan, one must drive through Jordan to Al-'Aqaba port, take a ship to cross into Egypt and then drive within Egypt to Rafah crossing and into Gaza. Due to the limited opening hours at the borders, the process of entering the Gaza Strip through the Rafah crossing may take up to 24 hours and includes sleeping on the road. In comparison, traveling from the west

Bank to the Gaza Strip directly through Israel is about 40 minutes' drive.

⁵ Declaration Stating the End of Military Rule, 22 September 2005.

⁶ Disengagement Plan Implementation Law 5765-2005, Articles 22-25.

⁷ Gisha, Rafah Crossing: Who holds the keys, March 2009. Available at: http://www.gisha.org/UserFiles/File/publications/Rafah_Report_Eng.pdf.

⁸ Gisha, Gaza 2015: A few steps forward and several steps back. Available at: http://gisha.org/UserFiles/File/publications/2015_annual_summary/summary_en.pdf.

Israel does not allow Gaza Strip residents to enter the West Bank through the Allenby Bridge. Israel's position is that Gazan spouses of West Bank residents or of Israeli citizens or residents have no right to enter Israeli territory, even for the sole purpose of transit to the West Bank. Israel also cites security concerns, stating that any movement between the Gaza Strip and the West Bank may pose a security risk, even when the person requesting permission is not considered a threat in himself/herself.⁹ Based on the above, Israel limits the entry into Israel of Gaza Strip residents to exceptional humanitarian cases only, even where the purpose of entry is solely to reach the West Bank.¹⁰

Travel between the Gaza Strip and the West Bank

Under the agreements between Israel and the Palestinian Authority, also known as 'the Oslo Accords', "the two sides view the West Bank and the Gaza Strip as a single territorial unit, whose integrity will be preserved during the interim period."¹¹ In order to implement this in practice, the Accords dictated arrangements for operating a 'safe passage' along two routes connecting the northern and southern West Bank with the Gaza Strip.¹² The passage was only opened in October 1999, through the southern route solely, and operated for less than one year – until September 2000, with the outbreak of the second intifada.

Although the position declared in the Oslo Accords was never officially rescinded and despite the fact that Israel's High Court of Justice (HCJ) confirmed that the two areas comprise a single territorial unit,¹³ Israel's stated policy has changed. **Israel now views the West Bank and the Gaza Strip as two separate and distinct areas.**¹⁴

We shall now turn to elaborate on the procedures regulating relocation, change of address, or a simple visit— from the Gaza Strip to the West Bank, and vice versa.

A. From the Gaza Strip to the West Bank

Relocation

The Interim Agreement ('Oslo II'), signed in 1995, specified that "Powers and responsibilities in the sphere of population registry and documentation in the West Bank and the Gaza Strip will be transferred from the military government and its Civil Administration to the Palestinian side."¹⁵ The latter was charged with informing Israel "of every change in its population registry, including, inter alia, any change in the place of residence of any resident."¹⁶ This arrangement enabled Israel to retain control of the Palestinian population registry.

In 2000, after the second intifada broke out, Israel suspended all updates to its copy of the registry regarding changes of address from the Gaza Strip to the West Bank. Since then, Gaza Strip residents

⁹ HCJ 2748/12, *Muslem et al. v. Commander of the Military Forces in the West Bank et al.*, preliminary response on behalf of the Respondents, 10 April 2012, Article 17.

¹⁰ *Ibid.*, Article 24

¹¹ Declaration of Principles on Interim Self-Government Arrangements, Washington, D.C., 13 September 1993, Article 4. Similar phrasing appeared in the Agreement on the Gaza Strip and Jericho Area (Oslo I), Cairo, 4 May 1994, and the Israeli Palestinian Interim Agreement on the West Bank and Gaza Strip (Oslo II), Washington, D.C., 28 September 1995.

¹² Oslo I, Annex I, Article IX; Oslo II, Annex I, Article X.

¹³ HCJ 7015/02, *Ajuri et al. v. Commander of the Military Forces in the West Bank et al.*

¹⁴ Letter from Civil Administration to HaMoked, 15 April 2008. Available at: <http://www.hamoked.org.il/items/110360.pdf> (Hebrew only).

¹⁵ Oslo II, Annex III (Protocol Concerning Civil Affairs), Article 28 (1).

¹⁶ *Ibid.*, Article 28 (10).

who have moved to the West Bank have been unable to update their home address in the registry. Yet even prior to the suspension of updates, Israel did not always automatically approve changing a Gaza Strip address to a West Bank one.

In March 2009, the Israeli military presented a new procedure. This procedure was formulated subsequent to petitions to the HCJ, which concerned women from the Gaza Strip who had married men from the West Bank but could not live with them since Israel refused their entrance to the West Bank.¹⁷ **The new procedure barred Gaza Strip residents almost entirely from officially relocating to the West Bank, even if they had lived there for years. The procedure allowed for submission of requests only in exceptional cases.**¹⁸

According to the procedure, the Gaza Strip applicant and the West Bank resident with whom he/she wishes to live must pass security clearance and have first-degree kinship. The Israeli authorities review the request only if the Gaza Strip applicant fits one of three categories: chronically ill patient, minor under the age of sixteen who has lost a Gazan parent, or an elderly person in need of nursing care who has no relative of any degree in the Gaza Strip to care for him/her. Those categories were so strict that only few could even file a request.

In the rare case where the request was granted, the applicant would be given a temporary permit for six months. The permit could be renewed for an additional six months, and then once per year. Only after seven years (throughout which the permit was renewed on an annual basis) would the possibility of granting "permanent residence" in the West Bank be considered, with no assurance that it would be approved. If permanent residency was not granted, the applicant's temporary permit would be extended. However, applying for the temporary permit every year was onerous, and the permit could be revoked at any point under three conditions: lack of security clearance, termination of the humanitarian need, and leaving the West Bank for the Gaza Strip or another destination for a long period of time.

The HCJ rejected a petition filed against the procedure,¹⁹ adopting the state's position that the procedure was necessary for security concerns. However, the HCJ did mention in its ruling that it may be appropriate to apply the exceptions in a way that would enable Palestinians from the Gaza Strip and the West Bank to remain in contact with their first-degree relatives. Following the ruling, several minor amendments to the procedure were made,²⁰ none of which provided a workable solution. The procedure remains in place to this day, **making it practically impossible to relocate from the Gaza Strip to the West Bank.**²¹

Change of Address

In November 2009, Israel declared that West Bank Palestinians, whose registered address is in the Gaza Strip, are to be considered 'illegal aliens', and placed within the military commander's authority the power to expel them from the West Bank to the Gaza Strip. However, the state committed not to expel Palestinians who had moved to the West Bank from the Gaza Strip before October 2000, unless there

¹⁷ HCJ 2680/07, *Amer et al. v. Commander of the Military Forces in the West Bank*; HCJ 2905/08, *Abu Snar et al. v. Commander of the Military Forces in the West Bank*; HCJ 3952/08, *Hamidat et al. v. Commander of the Military Forces in the West Bank*; HCJ 3911/08, *Bardawil et al. v. Commander of the Military Forces in the West Bank*.

¹⁸ Letter from the Coordination of Government Activities in the Territories (COGAT) to 'HaMoked', 8 March 2009.

¹⁹ HCJ 2088/10, *HaMoked v. Commander of the Military Forces in the West Bank et al.*

²⁰ "Procedure for Processing Requests of Gaza Residents to Settle in the West Bank", July 2013, Articles 10-11. Available at: <http://www.cogat.idf.il/2027-he/Cogat.aspx> (in Hebrew).

²¹ Only eight applications were submitted after the procedure was amended, all of which were rejected on the grounds of not having been submitted in accordance with the procedure. Available at: <http://www.hamoked.org.il/Document.aspx?dID=Updates1412> (in Hebrew).

existed a security reason to do so. Israel added that in the event that a person is expelled from the West Bank and sent back to the Gaza Strip despite this commitment, or in the event that a person reached the Gaza Strip for whatever reason and remained "stuck" there, he or she would be allowed to return home to the West Bank.²² In April 2013, Israel expanded this commitment to include any person who had moved from the Gaza Strip to the West Bank before the disengagement plan was completed in September 2005.²³ Despite this declared commitment, Israel did make attempts to expel people who had moved from the Gaza Strip to the West Bank before the stipulated date, yet reversed those decisions once petitions to the HCJ were filed.²⁴

According to official data from 2012, some 3,000 people moved from the Gaza Strip to the West Bank after September 2005, and they currently live under threat of expulsion. In some cases, their children were also registered as residents of the Gaza Strip despite the fact that they resided in the West Bank. Israel does not have an estimated number of these children.²⁵

Israel's commitment **not to expel** people who have been living in the West Bank for lengthy periods of time does not include an additional commitment to **change the address** registered in their IDs. Persons wishing to update their registered address in their ID must submit a separate request. If granted, they receive temporary permits only and must wait many years until their address is updated, if at all. In July 2013, a new procedure was issued reducing the period of time in which one may apply for change of address from seven to three years for persons who moved to the West Bank before the disengagement and who had received periodically renewed permits.²⁶

In March 2011, Israel announced that, as part of a diplomatic gesture of goodwill towards the Palestinian Authority, it had decided to retroactively approve an address update for 5,000 Palestinians. Of these, some 3,300 had entered the West Bank via the secure passage before the year 2000.²⁷ Later, the state expanded this option to include anyone who had moved to the West Bank before the end of 2007.²⁸ As of 2012, only some 2,450 residents and an accompanying 1,440 minors have had their address-change approved as part of the gesture, after many months of processing.²⁹

In 2013, two petitions were submitted to the HCJ by minors from the Gaza Strip who moved to the West Bank with their families when they were infants. Their addresses were listed in the Gaza Strip and their requests for change of address went unanswered. The petitioners demanded that their addresses be changed immediately, without the three-year waiting period. In a hearing from October 2015, the HCJ reprimanded the state, stating that it was unreasonable to demand individuals who had been living in the West Bank since infancy to renew permits on a yearly basis. The court added that the fact that the petitioners were no longer under threat of deportation was not sufficient, nor was it sufficient that the waiting period for change of address was reduced from seven years to three. The HCJ had furthermore found it inconceivable that persons residing in the West Bank for several years

²² HCJ 6685/09, *Kahouji et al. v. Military Commander of the West Bank*, response on behalf of the Respondent, 18 November 2009, para. 25, 28.

²³ HCJ 4019/10, *HaMoked v. Military Commander of the West Bank et al.*

²⁴ See, for example, HCJ 391/10, *Abu Jazar et al. v. Military Commander of the West Bank*; HCJ 4976/13, *Abu Wadi et al. v. Israel Prison Service et al.*

²⁵ HCJ 2088/10, *HaMoked v. Commander of the West Bank et al.*, notice on behalf of the Respondents, 31 January 2012, para. 7-9.²⁵

²⁶ Article 15 of the procedure; see footnote 19 above.

²⁷ HCJ 9084/10, *Khallu et al. v. Military Commander in the West Bank et al.*, preliminary response on behalf of the Respondents, 16 March 2011, para. 4.

²⁸ Letter to Gisha - Legal Center for Freedom of Movement from Major Nir Keidar, Head of the Economic and Humanitarian Section, International Law Department at MAG Corps Headquarters, 23 July 2012.

²⁹ See footnote 24 above, para. 10.

could find themselves classified as illegal aliens. In its interim decision the HCJ advised the respondents to consider changing the address permanently. The petitions are still pending.³⁰

Israel's refusal to formally change the addresses of Gaza Strip Palestinians who have moved to the West Bank, along with its policy of forcefully transferring those who moved to the West Bank after 2005 back to the Gaza Strip, has created a reality in which couples and families which do not share a registered address face three options: either live together in the West Bank in constant fear of expulsion, relocate to the Gaza Strip, or live apart.

According to Israeli estimates, there are some 19,000 adults and 2,500 minors currently living in the West Bank, whose home address is listed as the Gaza Strip.³¹ However, the state has made it clear in the past that for a host of reasons, its figures do not reflect accurately the reality on the ground.³²

Visits by Gaza Strip residents to the West Bank

The criteria for travelling between the Gaza Strip and the West Bank for visits are very strict. Permits for visiting loved ones are given for two reasons only: visiting a gravely ill first-degree relative in danger of death or prolonged hospitalization, or participating in a wedding or a funeral of a first degree relative. Children of the primary applicant, under the age of fifteen, may be issued permits as well – all subject to security clearance. Permits to enter the West Bank can also be given in urgent medical cases.³³

B. From the West Bank to the Gaza Strip

Relocation

While Israel makes every effort to prevent Palestinians who live in the Gaza Strip from moving to the West Bank and settling there, as far as the reverse direction is concerned – moving from the West Bank to the Gaza Strip – Israel has adopted the opposite policy. The reason for this huge difference might be found on one hand, in Israel's territorial aspirations in the West Bank and its goal to minimize the number of Palestinians in it, in contrast to its interest secure a distinct separation from the Gaza Strip, on the other hand.

The procedure for relocating from the West Bank to the Gaza Strip states that “the basic assumption is that a resident of the West Bank may submit a request to permanently settle in the Gaza Strip for any need that is considered humanitarian (usually family unification).” **Requests will be granted on condition that the applicant sign a document that includes a declaration of intent to settle in the Gaza Strip permanently** and the applicant’s understanding that there is no possibility of returning to the West Bank, even for visits, except in unusual humanitarian circumstances.³⁴ The humanitarian circumstances are: visiting a gravely ill first-degree relative in danger of death or prolonged hospitalization, or participating in a funeral or a wedding of a first-degree relative. The procedure does not address the issue of minors accompanying the applicant. A petition filed to the HCJ against the procedure was rejected.³⁵

³⁰ HCJ 580/13 Fares Masri v. *Commander of the West Bank et al*, Interim Decision from 28.10.2015.

³¹ *Ibid*, para. 7-9.

³² See, for example, letter from COGAT to the HaMoked, 2 June 2010, para. 4-8. Available at: <http://www.hamoked.org.il/files/2010/112281.PDF> (in Hebrew).

³³ Unclassified status of permissions of Palestinians entry to Israel, passage between Judea and Samaria and the Gaza Strip and travel abroad, 17 July 2016. Available at: <http://www.gisha.org/UserFiles/File/LegalDocuments/procedures/general/50.pdf> (Hebrew only).

³⁴ “Procedure for West Bank Residents Settling in Gaza”, December 2010, Articles 1b, 3b. For full procedure, see <http://www.hamoked.org.il/Document.aspx?dID=Documents2212> (in Hebrew).

³⁵ HCJ 1583/10, *Abu Hamida et al. v. Military Commander of the West Bank et al.*

Between 2011 and 2014, 58 people signed a commitment never to return to the West Bank, after which they were issued a permit to relocate to the Gaza Strip. Of the 58, 51 were women. Six were allowed to return to the West Bank for a singular visit and another seven were allowed to visit more than once.³⁶

Travel between the Gaza Strip and Israel – The ‘Split Family’ Procedure

With the signing of the Cairo Agreement in May 1994 (also known as ‘the Gaza-Jericho Agreement’), Palestinian independent rule was established in the Gaza Strip, and Israeli citizens or residents could enter the Gaza Strip with individual permits. This resulted in the establishment of the ‘split family procedure’, a procedure established to determine how Palestinians with Israeli documentation who are married to Gaza Strip residents may visit or establish residence in the Gaza Strip. The procedure remained in force during the second intifada, with the exception of several periods when it was suspended, and is in force until today.

In 2003, Israel enacted a temporary order barring West Bank or Gaza Strip residents who marry Israelis from receiving legal status in Israel or from being in Israel.³⁷ Over the years, exceptions were made to this ban, enabling some Palestinians to receive temporary status in Israel or temporary permits to be in the country, if they met strict criteria of age and security clearance. However, in 2008, Gaza Strip residents could no longer be included in these limited exceptions to the rule. The Israeli government declared the Gaza Strip an area where activity “that may endanger Israeli security” is taking place and thus enforced a blanket ban on the issuance of permits to live or stay in Israel to persons living in the Gaza Strip or whose home address is listed in the Gaza Strip.³⁸ Accordingly, couples where one partner is a Gaza Strip resident and the other a resident of Israel cannot live together in Israel. They must either live in the Gaza Strip or live apart.

For these couples, living together in the Gaza Strip is governed by the aforementioned ‘split family procedure.’ The procedure requires the Israeli partner, usually the woman, to obtain a permit for every entry into the Gaza Strip. According to the procedure, the request to enter can be either for the purpose of visiting the Gazan spouse (if the couple lives apart), or it might be a request by the Israeli spouse to return home to the Gaza Strip after a visit in Israel (if the couple lives together in the Gaza Strip). Requests are processed on an individual basis by the District Coordinator Officer and security officials, who can deny the request on security grounds relating to the applicant, to the spouse, or to their extended family.³⁹

If the request is granted, the woman is given a permit for a limited amount of time, subject to changes based on the security situation. At present, permits are issued for six months at a time. Women who wish to remain in the Gaza Strip after the permit expires must come in person to the Erez Checkpoint to renew it shortly before the permit's expiration date.⁴⁰

³⁶ Letter from COGAT to Gisha and Hamoked, 26 March 2015.

³⁷ Citizenship and Entry into Israel Law (temporary provision) 5763 – 2003.

³⁸ Citizenship and Entry into Israel Law (temporary provision) 5763 – 2003 – Validity Extension; Government Resolution No. 3598, 15 June 2008. See <http://www.hamoked.org/Document.aspx?dID=8881>.

³⁹ See, for example, HCJ 6409/08, *Azbeh et al. v. OC Southern Command et al.*, consented request to cancel petition, 24 November 2008.

⁴⁰ Letter to HaMoked from Meital Zarihan, Assistant to the Legal Advisor for Gaza, 9 November 2004, para. 8. Available at: <http://www.hamoked.org.il/items/8623.pdf> (in Hebrew).

Since these women are citizens or residents of Israel, they are entitled to enter Israel via Erez Checkpoint whenever they wish. However, once they do so, their permit for the Gaza Strip expires, meaning that they must submit a new request to re-enter the Gaza Strip. This request can only be submitted once they are in Israel. Requests take many weeks to process, and even longer when there is an escalation in conflict in the Gaza Strip. Consequently, many of these women have no choice but to stay in Israel much longer than they had planned to, without knowing when they will be reunited with their spouses and children in the Gaza Strip.

Women who remain in the Gaza Strip without renewing their permits encounter difficulties when they request a permit to re-enter the Gaza Strip after having been in Israel. Usually, when these women arrive at Erez Checkpoint in order to cross into Israel, they are taken for police interrogation on suspicion of having breached a major general's order prohibiting Israelis from entering the Gaza Strip. In several cases, women were even prosecuted on those charges.⁴¹

Children of Israeli citizens are entitled to Israeli citizenship, and as opposed to residents, they have the right to enter their country whenever they choose. However, in order to be recognized as an Israeli citizen and receive the rights attached to such status, the Israeli citizen mother must register them with the Israeli population registry. Until such time, the military treats these children as residents of the Gaza Strip. Registered children under the age of 16 are officially registered under their citizen parent's ID. They automatically receive permits to be in the Gaza Strip when their mother receives a permit. When they reach the age of 16, these children are required to apply for their own Israel ID, and they must pass a 'security classification as a prerequisite for entering the Gaza Strip. When they reach the age of majority at 18, they are no longer considered part of the 'split family' and the procedure no longer applies to them. **These young adults can no longer remain in the Gaza Strip with their families and their requests for permits to enter the Gaza Strip are denied. There is no procedure enabling them to visit their parents and family in the Gaza Strip on a regular basis.** They can do so only in exceptional humanitarian cases. As of July 2013, 278 Israelis over the age of 16 and 157 Israelis under the age of 16 were in the Gaza Strip under 'split family procedure' or for visits.⁴²

Children of Israeli residents have an entirely different status than that of children of Israeli citizens. Residency status, unlike citizenship, is not an automatic right granted upon birth. The child of an Israeli resident is only eligible for residency if he/she can prove that his/her 'center of life' is in Israel. If the child is living in the Gaza Strip, he/she will not be able to prove "center of life" in Israel and will be registered in the Palestinian population registry as a resident of the Gaza Strip. Unlike his/her Israeli resident parent, such a child will not benefit from the 'split family procedure' and will have no independent right to enter Israel. However, if the Israeli resident mother lives in Israel or East Jerusalem and only visits her spouse in the Gaza Strip, her children who reside with her in East Jerusalem are registered as residents of Israel and may receive permits to enter the Gaza Strip for visits with their mothers.

As of August 2015, there were approx. 470 Palestinians — men ,women and children — with Israeli documentation (either Israeli citizens or residents of East Jerusalem) in the Gaza Strip, holding permits under the 'split family procedure'.⁴³

⁴¹ *Ibid.*, para. 11.

⁴² Letter to the B'Tselem from Major Guy Inbar, COGAT Spokesperson, sent on 10 June 2013.

⁴³ Letter to Gisha from first lieutenant Noam Amor, DCO Gaza, sent on 06 August 2015. Available at:

http://gisha.org/UserFiles/File/LegalDocuments/divided_families_foi_2015/Divided_answer_6.8.2015.pdf (Hebrew Only).

Visits by Palestinians with Israeli documentation to the Gaza Strip

When the second intifada broke out, Israel raised the bar for issuing permits to visit the Gaza Strip for Palestinians with Israeli documentation. In a ruling given in 2002, the Chief Supreme Court Justice at the time, Aharon Barak, held that visiting the Gaza Strip does not fall under the freedom of movement to which Israelis are legally entitled since the area was declared by the army commander a closed military zone.⁴⁴

In the past, Israel used to permit Israeli citizens and residents to enter the Gaza Strip during the major Muslim holidays and the Christian high holidays. That ended with the 2007 Hamas takeover of the Gaza Strip. Ever since, Israel has objected to allowing such visits, and all HCJ petitions requesting entry have been rejected or dismissed.⁴⁵

At present, permits for Israelis to enter the Gaza Strip not under the 'split family procedure' are issued only for humanitarian cases and in unusual circumstances: visiting a seriously-ill first-degree relative, attending a wedding or funeral of a first-degree relative, or accompanying a person who has been issued such a permit – a spouse or a minor under the age of eighteen. Entry is contingent on security clearance.⁴⁶

⁴⁴ HCJ 9293/01 *Barakeh et al. v. Minister of Defense et al.*

⁴⁵ HCJ 552/05 *HaMoked v. Commander of the IDF Forces in the Gaza Strip*; HCJ 10135/05 *HaMoked v. OC Southern Command*; HCJ 8451/06 *HaMoked v. OC Southern Command et al.*; HCJ 2823/07 *HaMoked v. OC Southern Command et al.*; HCJ 8250/07 *HaMoked v. OC Southern Command et al.*; HCJ 7235/09 *HaMoked v. OC Southern Command et al.*; HCJ 5649/12 *Hamdan et al. v. OC Southern Command et al.*

⁴⁶ HCJ 10043/03, *Abajian et al. v. Commander of the IDF Forces in the Gaza Strip*, complementary response (no. 2) on behalf of the Respondent, 27 August 2004, para. 22.