

Case Studies on the Soviet Union and Palestine



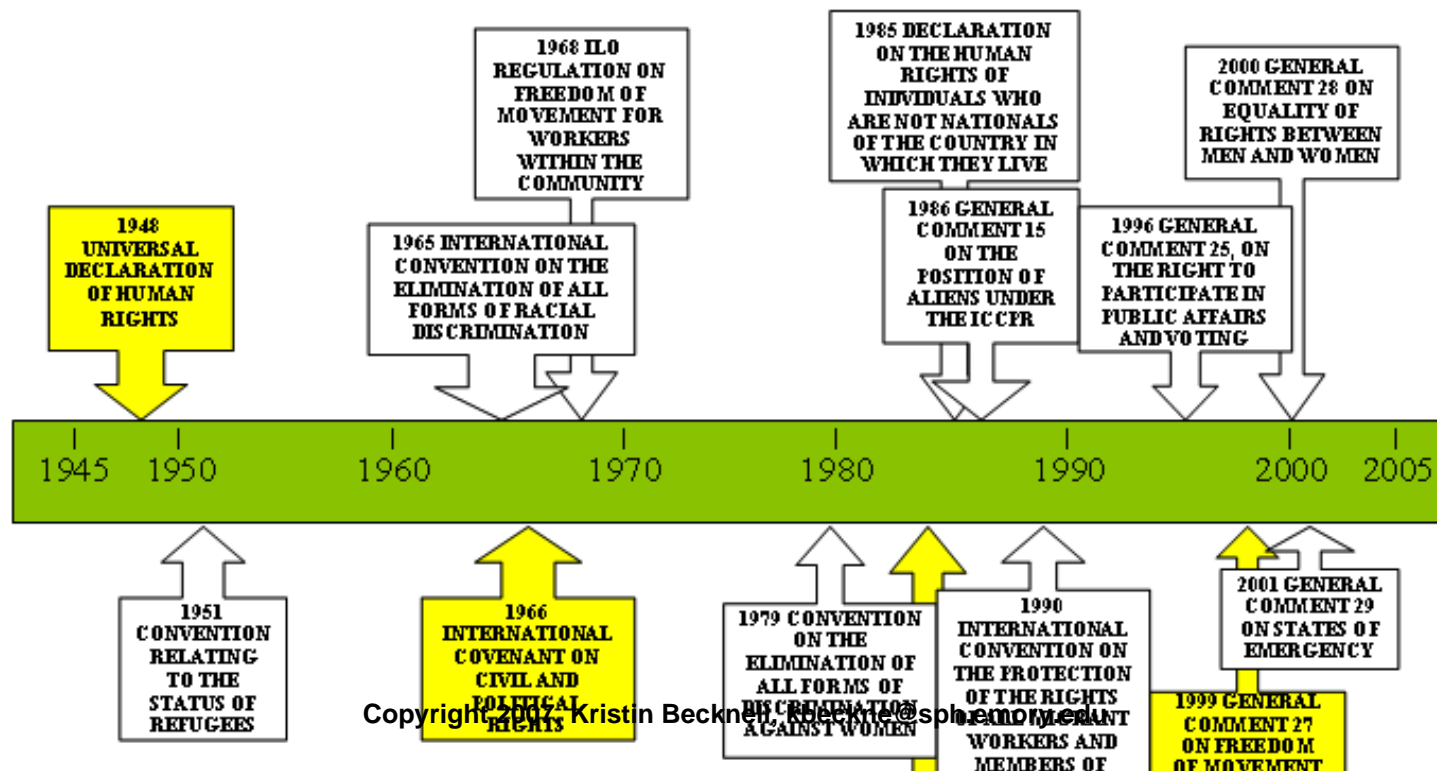
Kristin Becknell
Kimberly Cernak

to free movement has been incorporated in international documents throughout his

Carta (1215): *“It shall be lawful to any person, for the future, to go out of our kingdom to return, safely and securely, by land or by water...”*

Universal Declaration of Human Rights (1948): *“Everyone has the right to freedom of movement and residence within the borders of each State. Everyone has the right to leave any country, including his own, and return to his country.”*

KEY INTERNATIONAL DOCUMENTS RELATED TO FREEDOM OF MOVEMENT



International Covenant on Civil and Political Rights and its General Comment 27 discuss the importance of movement in relation to the realization of other rights outlined

ARTICLE 12

1. Everyone lawfully within the territory of a State shall, within that territory, have the right to liberty of movement and freedom to choose his residence.
2. Everyone shall be free to leave any country, including his own.
3. The above-mentioned rights shall not be subject to any restrictions except those which are provided by law, are necessary to protect national security, public order (ordre public), public health or morals or the rights and freedoms of others, and are consistent with the other rights recognized in the present Covenant.
4. No one shall be arbitrarily deprived of the right to enter his own country

GENERAL COMMENT 27

published 2nd November 1999

Liberty of movement is an indispensable condition for the free development of a person. It interacts with several other rights enshrined in the Covenant...”

The right to free movement is essential, authorities also hold a reserved power to restrict movement. Under international law, restriction of movement must occur in circumstances of extreme necessity, and, furthermore, must follow the principle of proportionality.

Order for movement to be lawfully restricted ...

“it is not sufficient that the restrictions serve the permissible purposes; they must also be necessary to protect them. Restrictive measures must conform to the principle of proportionality; they must be appropriate to achieve their protective function; they must be the least intrusive instrument amongst those which might achieve the desired result; and they must be proportionate to the interest to be protected.”

ns for Restricting Movement:

The Siracusa Principles

1. The restriction is provided for and carried out in accordance with the law
2. The restriction is in the interest of a legitimate objective of general interest
3. The restriction is strictly necessary in a democratic society to achieve the objective
4. There are no less intrusive and restrictive means available to reach the same objective
5. The restriction is not drafted or imposed arbitrarily, i.e. in an unreasonable or otherwise discriminatory manner.

State Laws for Isolation and Quarantine -- North Carolina State Laws

G.S. 130A-2(3a): Health Officials have “the authority to limit the freedom of movement or action of a person or animal with a communicable disease or condition”

G.S. 130A-2(7a): Health Officials have “the authority to limit the freedom of movement or action of persons or animals that have been exposed (or are reasonably suspected of having been exposed) to a communicable disease or condition; limit access by any person or animal to an area or facility that may be contaminated with an infectious agent, or limit the freedom of movement or action of persons who have not received immunizations against a communicable disease when the state health director or a

Freedom of movement is essential to the realization of other rights including the right to health.

Economic and political policies which force or restrict movement may affect such rights, thereby influencing physical, mental, and social health.

States and non-state actors may create policies leading to either forced or restricted movement.

and Movement
adverse conditions forcing
people to become
refugees
transportation
forced resettlement and
reactivation
supplement

VS.

Restricted Movement

- Physical barriers
- Temporal barriers
- Bureaucratic barriers
- Incarceration

BEFORE
DEPORTATION

Threat or reality of
physical violence

Inability to access
social services

Denial of economic
rights

Denial of civil and
political rights

DURING
DEPORTATION

Exposure

Starvation

Separation from
home and family

Increased
susceptibility to
infectious
diseases

AFTER
DEPORTATION

Discrimination from
general population

Physical Health

Starvation, exposure, and increased susceptibility to infectious disease
Physical violence and torture, forced labor
Inability to access emergency, preventative, and curative health care

Mental Health

Discrimination, deportation, arrest, and torture
Intimidation associated with personal/property searches
Separation from home, family, communities, religious sites
Worry and frustration due to economic losses and denial of economic rights

Social Health

Communities separated from land, work, religious sites, and other communities
Denial of political rights (voting, registry of births / deaths / marriages)
Inability to access existing social services (health care, education, social services)

Four Main Methods of Movement Restriction

I. Deportation



II. Forced Collectivization



III. Incarceration



IV. Bureaucratic Control



Deportation

1944 - Meskhetian Turks deported from Georgia to Central Asia
1944 - 17,000 died in transit

Following Deportation:

malnutrition, typhus, and other poverty-related illnesses

insufficient food, shelter, clothing, or medical care

discrimination from local populations

not allowed to leave assigned settlements or choose work assignments

deprived of all civic and political rights

“On the way, people were dying – children and the elderly. Their bodies were tossed out of the box cars. It was impossible to bury anyone. The soldiers would come by and pull the dead from our cars like cattle.”

Collectivization: *kolkhoz* and *sovkhoz*

movement voluntary, then forced.

“to Serfdom”

Internal passport system prevented workers from moving to urban areas.

Until 1969, children born on collective farms not allowed to leave unless granted special permission.

Overvalued agricultural production led to famines in 1921 and 1923 (*holodomor* in Ukraine).



Bureaucratic Control of Internal and External Move

Restrictions of emigration and travel abroad:

- exit visas
- *Refuseniks*

Restrictions of travel and residence
within the Soviet Union via internal
passports and residence permits:

- 1980 Summer Olympics in
Moscow
- residence permits

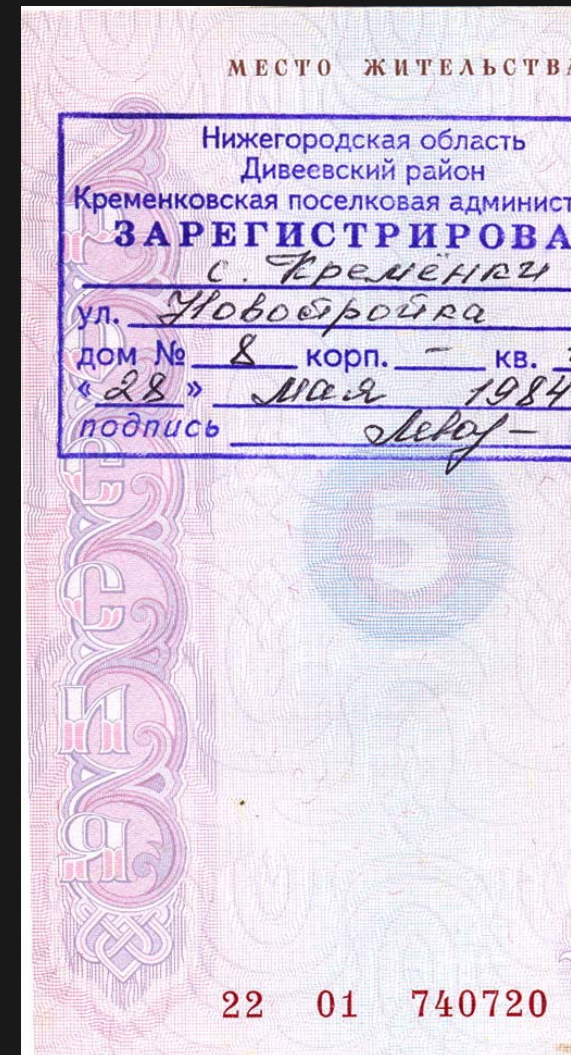


Propiska (Residence Permit) System

Officially abolished in 1991, but still exists in many Soviet successor states.

Propiska is necessary for:

- Residence
- Securing work
- Possessing and registering property (home/apartment, car, etc.)
- Securing voting rights and the freedom to travel (internally and internationally)
- Official registry of births, deaths, and marriages
- Access to education, social benefits (including pensions), and medical care



Four Main Methods of Movement Restriction

I. Closure



Eliezer Moav, B'Tselem

II. Curfew



Magnus Johansson, Reuters

III. Checkpoints



IV. The Wall



Closure

The closure system is a primary cause of the humanitarian crisis in the West Bank and the Gaza Strip. It restricts Palestinian access not only to basic services such as health and education, but divides communities from their land and one another, places of work and sites of religious worship.

OCHA, occupied Palestinian territory

1993: Issued General exit orders for Occupied Palestine



1993: General exit orders complicated by magnetic ID cards requirements.

ID cards denied for released prisoners, administrative detainees, or those who had been detained and released without charge.



1995: Personal Exit Permits Required for all citizens of Palestine



1993: 9 Israeli Civilians and 6 members of IDF killed; Complete closure enforced

Total amount of closure today is highly dependent on the sociopolitical climate; closure

Closure

Comprehensive Closure Days, 2005 & 2006, West Bank

MONTH	# of Comprehensive Closure Days
January 2005	3
February 2005	0
March 2005	5
April 2005	8
May 2005	5
June 2005	4
July 2005	19
August 2005	20
September 2005	6
October 2005	31
November 2005	13
December 2005	18
Total	132

MONTH	# of Comprehensive Closure Days
January 2006	14
February 2006	0
March 2006	21
April 2006	30
May 2006	7
June 2006	0
July 2006	6
Total	78

Curfew

Operation Defensive Shield, 23 March - 3 May 2002:

24-hour curfew imposed on a large percentage of the West Bank; continued for 2-3 weeks past May 3rd, 2002.

Operation Determined Path, June 22 - mid August, 2002:

24-hour curfew imposed on all cities in the West Bank except Jericho; 2 million Palestinians were under constant curfew for almost 2 months.

Implementation of Curfews

Often enforced using firearms

Unclear regulations create a non-transparent situation for Palestinians living under curfew.

Curfews often follow sociopolitical climate.

Operation Cast Lead, 2008-2009: Palestinians living in Gaza lived under 24 hour curfew for 2 weeks.

Checkpoints

A system of West Bank Checkpoints were created by the IDF beginning in 1993.

Palestinians passing through the checkpoints are required to show ID cards and undergo physical and property searches.

In some areas, men between the ages of 18 and 35 are prohibited from passing through checkpoints.

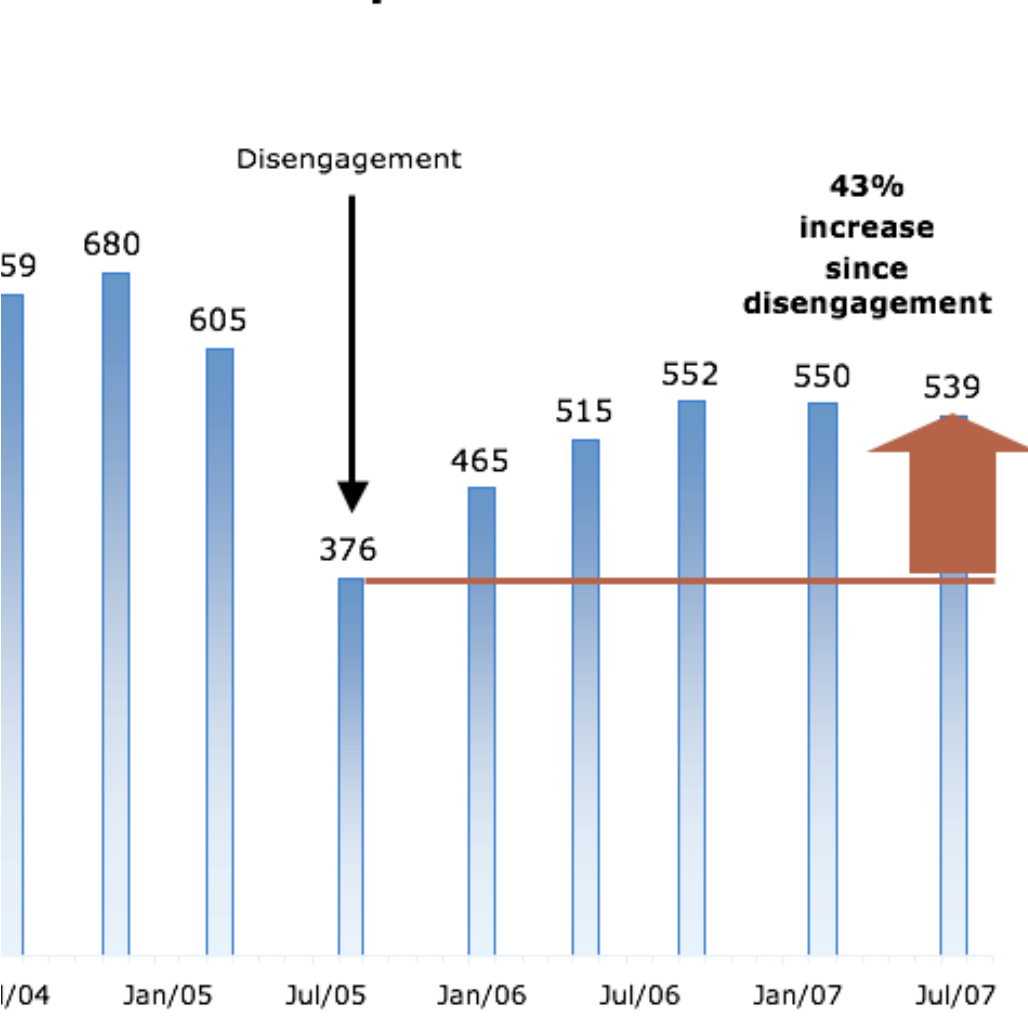
	No. of Physical Obstacles		
	Total	Manned	Unmanned
2006	475	59	416
2006	487	60	427
2006	505	63	442
2006	504	66	438
2006	519	71	448
2006	526	76	450
2006	540	77	463



February 13, 2005 - Palestinian workers waiting to get checked before entering the West Bank.

Checkpoints

Number of checkpoints and roadblocks



74

Checkpoints

A barrier manned by IDF or Police.



12

Partial Checkpoint

An established checkpoint periodically.



90

Road Gates

A metal gate, often manned to control movement along a road.



56

Roadblocks

A series of 1 metre high concrete blocks used to obstruct vehicle access.



191

Earthmounds

A mound of rubble, dirt and stones used to obstruct vehicle access.

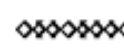


14

35.9 km

Trenches

A ditch used to prevent vehicle access.



87

86 km

Road barriers

Road barriers placed along roads to prevent movement across them.



15

15 km

Earth Walls

A continuous wall or series of earth mounds used to restrict movement.

The Wall

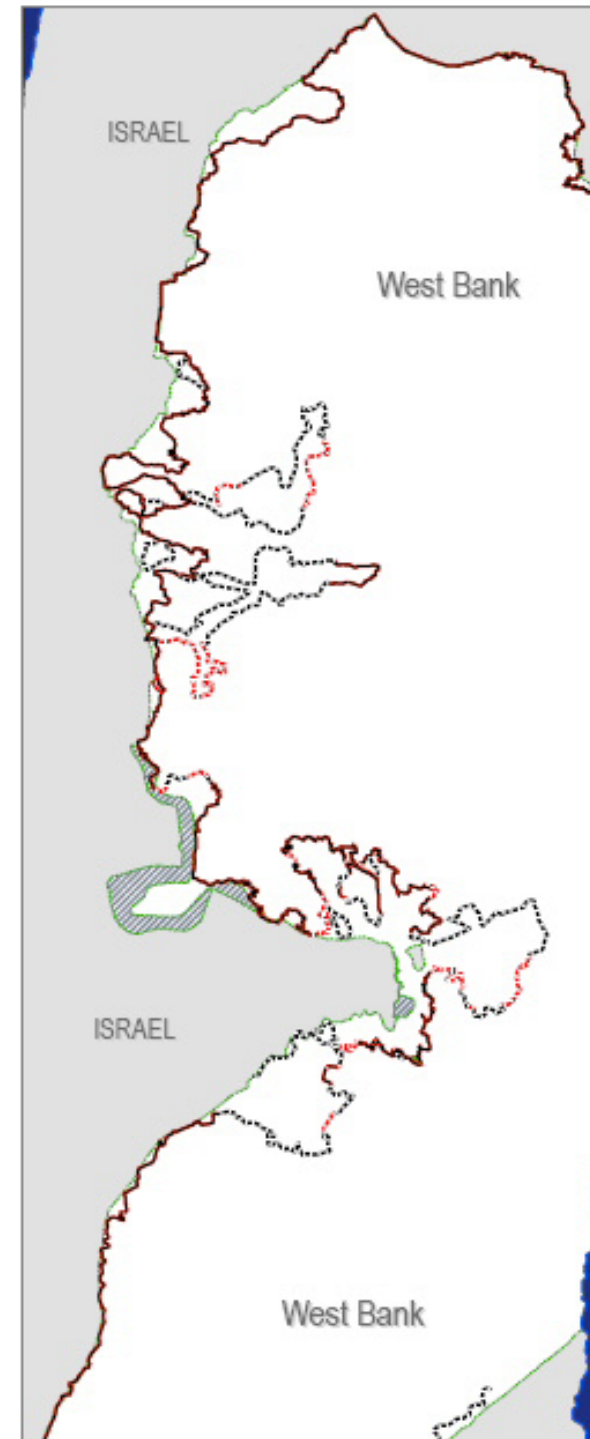
Construction began in 2002.

Justified by Israeli Government with the described purpose of “saving the lives of Israeli citizens who continue to be targeted by the terrorist campaign that began in 2000.”

Decried as contrary to international law by the International Court of Justice in July 2004.

408 km of the total 721 km proposed route has been constructed (56.5%), while a further 10% is under construction (OCHA oPT, May 2007).

West Bank 2007 Barrier



The West Bank Barrier (May 2007):

Total Length of the Barrier Route:	721 km
Construction currently completed:	408 km or 56.5%
Under construction:	71 km or 10%
Planned:	242 km or 33.5%
Land between the Green Line and the Barrier:	10.17%
Length of planned Barrier around Jerusalem:	168 km

jection of over 700,000 persons in the main cities to curfews, and the denial of access by the villagers to the cities, has resulted in unemployment, poverty, malnutrition and disease. Over 50 per cent of the population of the Palestinian Territory is unemployed. Poverty, based on two dollars or less consumption per day, is at 70 per cent in Gaza and 60 per cent in the West Bank. A total of 1.8 million Palestinians receive food aid or other forms of emergency humanitarian support from a variety of sources, notably the United Nations Relief and Works Agency for Palestine Refugees in the Near East, the World Food Programme and the International Committee of the Red Cross. Twenty-two per cent of children under the age of five suffer from acute or chronic malnutrition, while 40 per cent suffer from iron-deficiency anaemia. Mental health problems have increased significantly among children. Health care has suffered drastically as a result of the unavailability of medication and the inability to reach health centres. As usual, the situation in the refugee camps is particularly bleak, as was evident when the Special Rapporteur visited the Balata refugee camp near Nablus.

- John Dugard, 2007

Restriction on Palestinian Movement
the principle cause of the economic decline
of the Palestinian economy.

- The World Bank, 2007

al Health concerns

ss to land and water resources

sical Health

% of clinics have difficulty procuring drugs and medical equipment
,000 Palestinians have difficulty accessing emergency care and
medical services.

n additional 80,000 Palestinian have trouble reaching hospitals
,000 Palestinians lack sufficient health care services

n additional 6,000 Palestinians have deficient access to vaccination
programs, availability to a general practitioner, preventative dentistry
DS.

ational support and advocacy to uphold the rule of international law and end
occupation of the Palestinian territories remain the most crucial ways to help th

became a signatory to the ICCPR on 19 December 1966
ratified the ICCPR on 3 October 1991

*Holds no Reservations or Declarations to Article 12, Freedom of
Movement*

Although Israel maintains the right to protect its citizens, it also has the
obligation under international law, and, indeed, a special obligation as an
occupying power under the 4th Geneva Convention, to protect the rights of
the Occupied.

Current policies on movement do not satisfy the principle of proportionality.
Current restrictions on Palestinian movement within Palestine instead
constitute collective punishment, illegal under international law.

s unique status as an Occupying force under the 4th Geneva Convention holds the country to a special obligation to protect human rights within the Occupied land.

Israel must:

Eliminate checkpoints

Eliminate comprehensive closures

Eliminate Curfews

Halt the creation of the Wall

Destroy all built portions of the wall.

Supporting stipulations contingent within the UDHR and the ICCPR, which Israel is a signatory, Israel will reaffirm its position as a world leader and set an example for the upholding of international human

Individuals interested in working to preserve the right to freedom of expression for others can become active through the advocacy work of human rights organizations worldwide. Human Rights Education Associates ([hrea.org](http://www.hrea.org)) provide an exhaustive list of such organizations, including:

BTSELEM: www.btselem.org

Human Rights Watch: www.hrw.org

Memorial': www.memorial.ru

DASH: www.d-a-s-h.org

December 18: www.december18.net

European Roma Rights Centre: www.errc.org

High Commissioner for HR: www.ohchr.org

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