

Palestinian Workers Rights

A Report Commissioned by the Palestinian Human Rights Monitoring Group



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Glossary

GDP	Gross Domestic Product
GOI	Government of Israel
Histadrut	General Federation of Labour
HRW	Human Rights Watch
IDF	Israeli Defence Force
ILO	International Labour Organisation
IMF	International Monetary Fund
MEDEA	European Institute for Research on Mediterranean and Euro-Arab Cooperation
NGO	Non Governmental Organisation
NIS	New Israeli Shekel
OCHA	Office for the Coordination of Humanitarian Affairs, UN
OPT	Occupied Palestinian Territories – West Bank and Gaza
PA	Palestinian Authority
PALTRADE	Palestinian Trade Centre
PCBS	Palestinian Central Bureau of Statistics
PGFTU	Palestine General Federation of Trade Unions
PHRMG	Palestinian Human Rights Monitoring Group
UNCTAD	United Nations Conference on Trade and Development
UNRWA	United Nations Relief and Works Agency
WAC	Workers Advice Centre

1 Introduction

This report examines the position of Palestinian's who decide to enter Israel in order to find paid employment. It draws on the Palestinian Human Rights Monitoring Group's (PHRMG) report of 1999 on Palestinian workers rights and considers how the situation has changed in the last ten years since the second Intifada in 2000, the construction of the separation wall in 2005 and the Gaza war of 2008. This report considers the legal status of Palestinian migrant workers, the labour they undertake and the working conditions they experience. This report examines the affects Israeli measures have had on the Palestinian migrant labour force. The position of Palestinian citizens of the Occupied Palestinian Territories (OPT) has been inextricably bound to the political goals of the Government of Israel (GOI). As the 2009 International Labour Organisation (ILO) report on the situation of Arab workers in Palestine comments, 'The Report depicts a dismal human, economic and social situation in the occupied Arab territories, overshadowed by stalled peace negotiations.'¹ Israel's treatment to Palestinians has always been linked to the broader geo-political considerations of the GOI. It is in this context that Palestinian workers attempt to find work in Israel. This report explores why Palestinians risk travelling to Israel to find work, the impact of the separation wall, the affect that border closures have had on Palestinian workers.

Since 1948 and the annexation of the Palestinian territories migrant labour from the OPT has provided solutions to Israeli shortages of labour in construction, agriculture and the service sector. This source of labour is a comparatively cheap, non-domicile workforce which supplements the Israeli labour market and makes-up labour market shortages. The occupation of the West Bank and Gaza, 'provided the Israeli economy with a large reservoir of unprotected and cheap non-citizen workers with no political and social rights.'² As a nation under occupation Palestinians fill low ranking jobs at the bottom of the economic ladder with little prospect of social advancement.

The Gulf war in 1994 altered the labour relationship between Israel and Palestine, and the GOI moved from a policy of encouraging the employment of Palestinians to importing immigrant labour from abroad. The increasing segmentation (at least ideologically) of the two states came to be enshrined in the Oslo treaty. The Oslo treaty established Israel and Palestine as two separate economically independent entities. As such it undermined the movement of Palestinian workers, making it more difficult for them to find work in Israel. This

¹ International Labour Conference, *Report of the Director-General, Appendix - The Situation of Arab Workers of the Arab Occupied Territories*, 98th Session, 2009, p.iii

² Rosenhek, Z., 'The Political Dynamics of a Segmented Labour Market: Palestinian Citizens, Palestinians from the Occupied Territories and Migrant workers in Israel', in *ACTA Sociologica*, 2003, p.239

position was highlighted in PHRMG's 1999 report which noted that Palestinians were increasingly being denied access to the Israeli labour market.³

The international relations between Israel and the OPT was again put under strain in 2000 with the onset of the second Intifada. The eruption of violence between the two states led to Israel instituting a policy of closed border crossing making it even more difficult for non-domicile Palestinians to enter Israel and find work. The unreliability of the Palestinian labour force as a result of border closures, curfews and restrictions on movement encouraged employers increasingly to turn to labourers from abroad. This marked a turning point for Palestinian migrant labour and concurrently dealt a major blow to the Palestinian economy. As noted in the following graph, Palestinian migrant workers fell from around 115,000 in 1999 to around 9,000 by mid-2001. This number has steadily increased to around 42,000 currently.



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The cumulative effect is that since 2000 Palestinian living standards in the OPT has markedly declined. As Kawasmi commented, 'the income and consumption levels dropped about one third from 1999-2003. The unemployment rate increased greatly from 10% to about 26%.⁵ Statistics show that the income of

³ Silverman, M., *Workers Rights...Hard Times*, PHRMG Monitor Report, July 1999, p.1; see also Roshenek, Z., 'The Political Dynamics of a Segmented Labour Market: Palestinian Citizens, Palestinians from the Occupied Territories and Migrant workers in Israel', in *ACTA Sociologica*, 2003, p.242

⁴ Zohar, H. & Hever, S., *The Economy of Occupation: A Socioeconomic Bulletin*, No.25 January 2010, Alternative Information Centre & Kav LaOved, p.19

⁵ Kawasmi, H., 'The Economic Situation for the Palestinian Refugees in the Occupied Territories', in *International Conference on Palestinian Refugees Conditions and Recent Developments*, Al-Quds University, November 2006, p.156

56% of the Palestinian families has decreased. 55% of these families have lost half their income during the above-mentioned period.⁶

2 Economic Context

The impact of Israeli employed Palestinian labour force has always had a marked effect on the Palestinian economy. As highlighted by MEDEA, 'In 2000, as much as 25% of the work force in the West Bank and 20% overall could rely on work in Israel.'⁷ Income from Palestinian workers in Israel represented more than one-quarter of Gross National Income until 2002.⁸ Ajluni notes that 'GNI...was estimated to have fallen from about \$6.1billion in 1999 to \$5 billion in 2001 – a 17% decline. Factoring in population growth, per capita income declined by about 23% in the first fifteen months of the crisis.'⁹ Ajluni continues, 'Palestinians are estimated to be earning on average 40% less in 2002 relative to 1999.'¹⁰ Israel's tightened border controls and restrictions on the movement of people and goods has contributed to an erosion of the OPT's productive base and economic well-being. Mahmoud Elkhafif, a coordinator for the Assistance to the Palestinian People Unit at an UNCTAD conference noted that the second Intifada led to the erosion of the Palestinian production base, of which one-third had been lost between 2000 and 2005 due to destruction, closure and lack of maintenance.¹¹ As such the Palestinian economy has become increasingly reliant on imports from Israel (56% of the OPT's trade is with Israel),¹² in 2008 UNCTAD reported there to be a 78.5% trade deficit.¹³ As the WAC's 2004 report noted, 'The Palestinian business sector...continued to depend on Israel for energy, communications, raw materials, and its ability to export.'¹⁴ The ultimate impact of this has been the systematic erosion of the Palestinian productive base, particularly in Gaza, which deprives the Palestinian people of their ability to

⁶ Kawasmi, H., *op cit.* p.156

⁷ European Institute for Research on Mediterranean and Euro-Arab Cooperation (MEDEA) – at <http://www.medeas.be/index.html?page=2&lang=en&doc=284>

⁸ 'Increasing Need, Decreasing Access: Tightening Control on Economic Movement', *OCHA Special Focus*, January 2008

⁹ Ajluni, S., 'The Palestinian Economy and the Second Intifada', *Journal of Palestine Studies*, Vol. 32, No.3 (Spring, 2003), p.67

¹⁰ *Ibid.* p.67

¹¹ United Nations Seminar on Assistance to the Palestinian People: Analyses Current State, Future of Economy from <http://domino.un.org/UNISPAL.NSF/eed216406b50bf6485256ce10072f637/cfa9ad4b78fca46c852576f00071a42a?OpenDocument>

¹² United Nations Conference on Trade and Development (UNCTAD), 'Report on UNCTAD Assistance to the Palestinian People: Developments in the Economy of the Occupied Palestinian Territory' from <http://domino.un.org/UNISPAL.NSF/5ba47a5c6cef541b802563e000493b8c/bb544ccfd6f4d6968525762c004869ac?OpenDocument>

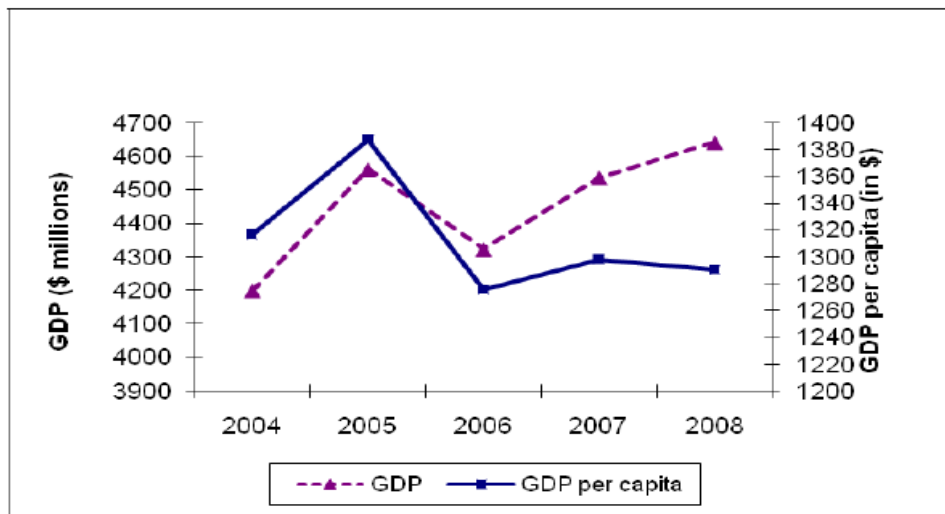
¹³ *Ibid.*

¹⁴ Final Report of the International Labour Delegation, *The Labor Market in Israel, 2004: The Construction Industry as a Test Case*, WAC, 2004

produce and feed themselves, and turns them into poor consumers of essential goods imported mainly from Israel and financed mainly by donors.¹⁵

The economic position of Palestinians has remained relatively stagnant for the past decade. Economic activity increased by close to 5% in 2007, and 2% in 2007.¹⁶ However, with the population growing at 2.7% per year, average income dipped slightly in 2008 (-0.6%). The level of GDP per capita, at US\$1,290 in 2008, is still around 28% lower than its peak in 1999. A growing Palestinian population has been living in a stagnant economy, with many more existing in poverty than ten years ago. 'The proximate cause of this dismal economic situation remains the military occupation and the manifold limitations imposed on movements of persons and of goods.'¹⁷ As highlighted in *advocacy.net* report on the economic situation of Palestinian's, 'Overall, Palestinian workers face a stagnant economy, exacerbated by the Israeli occupation and severe limitations on the movement of people and goods.'¹⁸

Figure 3.2. GDP and GDP per capita



Source: PCBS preliminary national accounts data, 2008 (PCBS, 2009d).

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It is crucial therefore that movement and trade restrictions be lifted if there is to be an improved economic performance in the OPT. As noted in the IMF's

¹⁵ United Nations Conference on Trade and Development (UNCTAD), 'Report on UNCTAD Assistance to the Palestinian People: Developments in the Economy of the Occupied Palestinian Territory' from <http://domino.un.org/UNISPAL.NSF/5ba47a5c6cef541b802563e000493b8c/bb544ccfd6f4d6968525762c004869ac?OpenDocument>

¹⁶ International Labour Conference, *Report of the Director-General, Appendix - The Situation of Arab Workers of the Arab Occupied Territories*, 98th Session, 2009, p.18

¹⁷ *Ibid.* p.18

¹⁸ 'Appointment of New Labor Judges Promises Justice for Palestinian Workers', 24 July 2009 from <http://advocacy.net.org/resource/1258> accessed on 19/3/10

¹⁹ International Labour Conference, *op. cit.* p.18

September 2009 report, 'There is a realistic chance that the downward trend in Palestinians' living standards can be reversed in the near future, at least in the West Bank, provided that restrictions on movement and access continued to be eased'.²⁰ The IMF projects a 7% rise in the real GDP of the West Bank, the first such rise since 2005 if these restrictions were to be relaxed.²¹ As the IMF comments, 'the elimination of these restrictions is essential for an expansion in the West Bank and Gaza's external trade, which in turn is key to a sustained rise in real GDP per capita beyond 2009.'²² This outlook is supported by Palestinian Prime Minister, Salam Fayyad of the Palestinian Authority (PA) who commented, 'If growth is to continue, the restrictions still facing Palestinian businesses and foreign investors must be eased.'²³ This assessment is shared by UNRWA.²⁴

As a result of the OPT's sluggish economic performance Gaza, and to a lesser extent the West Bank economies, have become heavily reliant on foreign aid which in 2008 stood at around US\$1.8 billion, approximately 30% of GDP, i.e. US\$487 per Palestinian per year.²⁵ Foreign aid provides essential food aid for approximately half the population and finances essential services, notably education and health, enabling the PA to operate and pay its civil servants (estimated at 140,000 in 2008).²⁶ The OPT does not have the economic infrastructure to support lasting fiscal growth. The agricultural and industrial sectors account for only 21% of GDP and 28% of employment. At the UN's seminar on assistance to Palestinian people Mahmoud Eljafari Professor of Economics at Al-Quds university argued that the main challenge for the Palestinian economy was to move away from an income economy enabled by donor funds to a productive economy engaging with regional and world markets. The unfair economic links with Israel impede Palestinian economic growth with the OPT being subject to the interests, measures and policies of Israeli occupation.²⁷ As UNCTAD's report on Assistance to Palestinian people noted,

²⁰ International Monetary Fund, *Macroeconomic and Fiscal Framework for the West Bank and Gaza: Fourth Review of Progress; Staff Report for the Meeting of the Ad Hoc Liaison Committee*, New York, 22 September 2009, p.3

²¹ *Ibid.* p.3

²² *Ibid.* p.3

²³ *Economic and Social Development in the West Bank and Gaza continues to be a World Bank Priority*, from <http://domino.un.org/UNISPAL.NSF/eed216406b50bf6485256ce10072f637/21253f5e1ece2aef852576e4006d3b9b?OpenDocument>

²⁴ See *The West Bank Labour Market in 2008*, UNRWA Briefing Paper, December 2009 which states, 'Movement restrictions remain the key obstacle to economic growth and to long-term domestic employment generation and development.'

²⁵ International Labour Conference, *op. cit.* p.19

²⁶ International Labour Conference, *ibid.* p.19

²⁷ United Nations Seminar on Assistance to the Palestinian People: *Analyses Current State, Future of Economy* from <http://domino.un.org/UNISPAL.NSF/eed216406b50bf6485256ce10072f637/cfa9ad4b78fca46c852576f00071a42a?OpenDocument>

Whatever strategy might have been pursued in the four decades of Israeli occupation of the Palestinian territory, there has been one constant in the equation: expanding Israeli settlement and occupation controls as against diminishing Palestinian economic policy space, territory and economic structure and scale...This asymmetry has deepened Palestinian structural economic dependence on Israel with very little benefits to the Palestinian economy or its impoverished population.²⁸

2.1 Gaza

The Gaza strip has been placed under blockade since the election of Hamas in 2007 limiting not only the flow of people, but also the import and export of raw materials. Israel's blockade has denied basic goods to Gaza's 1.5 million residents and prevented post-war reconstruction.²⁹ The blockade has left Gaza in a position of economic vulnerability with delays in donor aid and substantial borrowing from commercial banks and accumulation of arrears in the first half of 2009.³⁰ Gaza relies on Israel as its major supplier of electricity and fuel so Israel's restriction has crippled transportation, water-pumping, sewage and sanitation facilities.³¹ Whatever productive base there was in Gaza before 2007 has been undermined over the last three years. As noted in the IMF report, 'the dramatically low levels of employment shares in agriculture (7%), manufacturing (2.7%) and construction (less than 1%). Some 68% of total employment in Gaza (up from 37% in 1999) is now in services – a very skewed distribution.'³² In addition 'Economic activity is now reduced to its minimum expression, around food aid, public employment and the "tunnel economy" that continues to operate, even after the military invasion launched in December 2008.'

The Israel-Gaza war between December 2008 and January 2009 has had severe humanitarian consequences. As the 2009 ILO report comments, 'The war inflicted a further devastating blow on the livelihoods of Gaza's already beleaguered and aid-dependent population. The private sector, which was already operating at minimal capacity and therefore providing little employment as a result of the blockade, has been virtually wiped out, and 85% of the population is now dependent on aid, having exhausted most other coping mechanisms. Arik Alami, from the United Nations Economic and Social Commission for Western Asia noted that the cost of "Operation Cast Lead" was around 25% of Gaza's GDP.'³³ Due to trade restrictions household index prices

²⁸ UNCTAD, 'Report on UNCTAD Assistance to the Palestinian People: Developments in the Economy of the Occupied Palestinian Territory' from <http://domino.un.org/UNISPAL.NSF/5ba47a5c6cef541b802563e000493b8c/bb544ccfd6f4d6968525762c004869ac?OpenDocument>

²⁹ Human Rights Watch, World Report, 2010, p.509

³⁰ International Monetary Fund, *op cit.* p.3

³¹ Human Rights Watch, World Report 2010, p.516

³² International Monetary Fund, *op. cit.* p.20

³³ United Nations Seminar on Assistance to the Palestinian People: Analyses Current State, Future of Economy from

have risen and the spending power of Gazan's has declined by 11%.³⁴ The UNCTAD in August 2009 commented on the war in Gaza, 'the devastation visited upon the occupied Gaza Strip and its economy has plunged its 1.5million inhabitants into the depths of poverty and disintegration unknown for generations'.³⁵

2.2 West Bank

The economic outlook for the West Bank is more positive with a relaxation on internal trade and movement of people contributing to a rise in real GDP.³⁶ As detailed in the UN's Office for the Coordination of Humanitarian Affairs (OCHA), 'during 2009 the Israeli authorities have implemented several measures that have eased restrictions on movement and access affecting the West Bank cities of Nablus, Qalqiliya, Ramallah and Jericho. These measures have significantly reduced the amount of time required for people and goods to enter and leave these cities.'³⁷ The IMF projects that if there is continued relaxation of restriction of movement there would be real GDP growth of 5.5% in 2009. GDP growth in the West Bank in 2010 is projected to rise from about 5% to 7%, while in Gaza there would be an up-turn in growth from -5% to around 1%. Movement and trade restrictions can be seen as the main impediment to the OPT's economic growth. The above growth rates imply that Gaza's real GDP per capita would continue to decline in contrast to the West Bank, where real GDP per capita would grow by about 4%, representing the first significant improvement in living standards since 2005.³⁸

Any sustained growth in the West Bank's economy is dependant upon trade with Israel. 'The [OPT's] potential for sustained growth has always been heavily reliant on trade with Israel, given the long common border, Israel's much larger economy in both absolute and per capita terms, as well as the fact that Israel is the [OPT] key outlet to external markets in the absence of a functioning seaport or airport.'³⁹ Since occupation in 1967 over three quarters of OPT's export and import of goods and services has gone to or come from Israel.⁴⁰

The ILO notes that the improvement in economic performance may be due to improvements in the security of the West Bank. However, this economic growth

<http://domino.un.org/UNISPAL.NSF/eed216406b50bf6485256ce10072f637/cfa9ad4b78fca46c852576f00071a42a?OpenDocument>

³⁴ *The Gaza Labour Market in 2008*, UNRWA Briefing Paper, December 2009

³⁵ United Nations Conference on Trade and Development (UNCTAD), 'Report on UNCTAD Assistance to the Palestinian People: Developments in the Economy of the Occupied Palestinian Territory' from <http://domino.un.org/UNISPAL.NSF/5ba47a5c6cef541b802563e000493b8c/bb544ccfd6f4d6968525762c004869ac?OpenDocument>

³⁶ International Monetary Fund, *op. cit.* p.4

³⁷ International Monetary Fund, *op. cit.* p.4

³⁸ *Ibid*, p.11

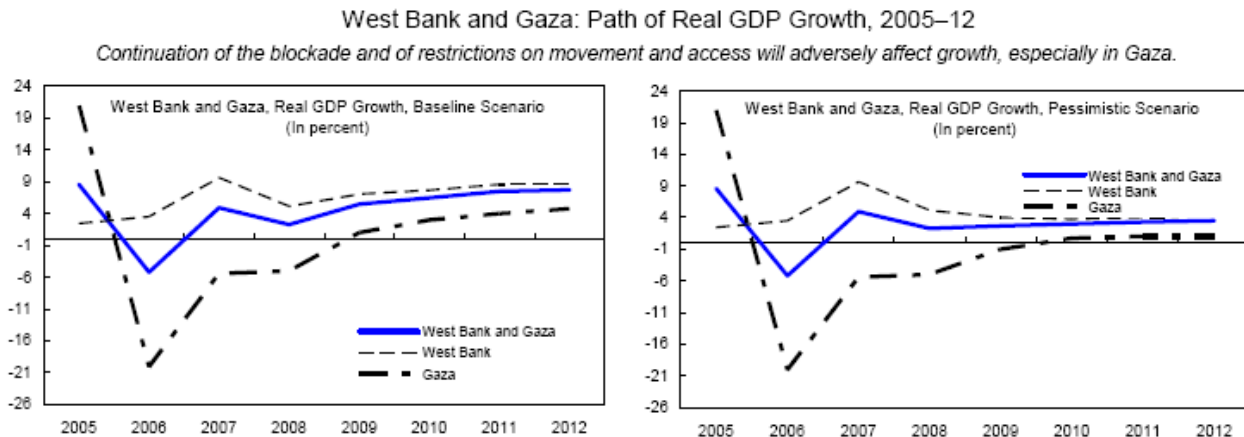
³⁹ *Ibid*. pp.12-13

⁴⁰ *Ibid*. p.13

is pyrrhic, driven not by improvements in the economic infrastructure of the country but rather by foreign aid and consumption.⁴¹ The ILO report highlights this issue,

Taking a look at the sources of this modest growth, the economic scars of occupation become apparent. The shares of agriculture, manufacturing and construction in total GDP have been declining year after year, while that of services has been rising. The shares of agriculture and construction have fallen by more than half (4.6 and 4.9% in 2008 compared to 10.4 and 13.7% in 1999), while manufacturing dipped by close to 1% compared to its share in 1999. By contrast, the share of services increased from 42.6% in 1999 to 50.3% in 2008. These relative shares suggest that the Palestinian economy is driven not by productive investment but by consumption, which is sustained first by foreign aid and second by the wages earned by Palestinians working in Israel and in settlements.

Even with projected improvements in the economy, living standards would still be below pre-closure levels in 2000. Real GDP is estimated to have declined by 13% since the imposition of restrictions on movement and access between 2000 and 2008 (or a cumulative 30% in per capita terms). This indicates the Palestinian economy is performing below potential.⁴² The effects of continuing trade restrictions on the Palestinian economy are noted in the following table,



Sources: Palestinian Central Bureau of Statistics; and IMF staff estimates and projections.

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Restrictions on trade and movement are one aspect undermining the Palestinian economy. Continued expansion of Israeli settlements on some of the most fertile OPT land limits the ability of Palestinians to feed and support themselves. As these Israeli communities grow they undermine Palestinian access to lands and

⁴¹ International Labour Conference, *op. cit.* p.19

⁴² International Monetary Fund, *op. cit.* p.14

⁴³ *Ibid.* p.16

water as well as from building reconstruction and developing the economic infrastructure. 'The continued expansion of settlement activity directly jeopardizes the rights and livelihoods of the Palestinian population living under occupation.'⁴⁴ The restriction of access to valuable resources and limits on the freedom of movement of people and goods is and will continue to have a negative impact on the financial well-being and stability of Palestinians.

3 Employment

In both the West Bank and Gaza the issue of unemployment, particularly amongst young people is one of the most pressing concerns. Once a Palestinian completes their education there are limited job opportunities in the OPT. They can stay in Palestine and try to find work in often low-skilled areas; attempt to travel abroad; or finally, apply for low skilled, but compared to Palestine, well paid work in Israel with limited rights and precarious job security. As Bulmer writes,

Palestinians can choose to work domestically within [the OPT], but wages are lower than those offered by Israeli employers. Jobs in Israel are not readily available, however, owing to permit requirements, uncertain access as a result of security controls and border closures, and high transportation and search costs. Nevertheless, the prospect of higher wages leads many Palestinians to seek jobs in Israel despite the associated costs and risks of unemployment and income loss.⁴⁵

The scarcity of job opportunities in the OPT is in large part the consequence of an undermined productive base. According to data collected by PALTRADE, the number of industrial establishments declined from 3,900 in June 2005 to 200 in December 2008 (prior to the military invasion), while the number of workers fell from 35,000 to 1,900 over the same period.⁴⁶ Mr Majdalani, (PA representative) commented at the International Labour Conference in June 2009, 'Unemployment is a natural consequence of the policies applied by the Israel authorities, which have reduced the possibilities of creating new jobs. As a result, our workers are forced to seek work in the Israeli market.'⁴⁷

Diminished job opportunities have in turn pushed down wages a Palestinian can expect to get and can be seen to encourage workers to seek employment in Israel either legally or illegally. The average income in Israel is 20% higher than that of the OPT, however this is still below Israeli minimum wage of 20.7NIS per hour. A Palestinian agricultural worker may receive a third of the minimum wage, 50-60NIS for an eight hour day. By contrast in the Israeli industrial zones

⁴⁴ International Labour Conference, *op. cit.* p.13

⁴⁵ Bulmer, E.R., 'The Impact of Israeli Border Policy on the Palestinian Labor Market', in *Economic Development and Cultural Change*, Vol.51, No.3 (April 2003), p.663

⁴⁶ International Labour Conference, *op. cit.* p.20

⁴⁷ Seventh Sitting, International Labour Conference, *Provisional Record: 98th Session, Geneva 2009*, 11 June 2009

Palestinian workers can expect two-thirds of the minimum wage (80-120 NIS per day).⁴⁸ The appeal of working in Israel is influenced by high unemployment in the West Bank and as shown in the table below unemployment stands at around 20 per cent:

Table 3.4. Employment and unemployment

	2007 Q4	2008 Q4	Change (%)
Employment (in '000s):			
West Bank	403	406	3
Gaza	189	161	-28
Unemployment (in %):			
West Bank	19.2	19.8	0.6
Gaza	28.9	44.8	15.9

Source: PCBS, 2007-08.

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The boundaries between employment, unemployment and the economically inactive population are increasingly blurred. Those working but not getting paid or working few hours a week are not included in the statistics. UNRWA⁵⁰ estimates there to be 45,000 Gazans who are in effect “absentee workers”.⁵¹ Though individuals may work they may not make enough money to live comfortably and support their families. In addition the high price of food and commercial products means that there is a significant pressure on wages. The Gaza war of 2008 and 2009 had a marked impact on unemployment figures in Gaza. Total employment declined by 28,000 in Gaza in the fourth quarter of 2008 as compared with the same quarter in 2007; and rose only marginally by 3,000 in the West Bank over the same period, as shown in table above. This was reflected in a steep increase in unemployment in Gaza, from 28.9% to 44.8%. In the West Bank, unemployment increased from 19.2% in the fourth quarter of 2007 to 19.8% in the fourth quarter of 2008. Unemployment in West Bank is expected to decline in line with improved economic performance, ‘provided that the easing of restrictions on movements and access is perceived as durable by the private sector.’⁵²

The impact of extensive unemployment is far reaching. Around half of those of working age are between 15 and 29. 43% of the population is younger than 14 years of age. ‘52%, or just over 1 million, are in the 15–29 age group (based on 2007 census data).’⁵³ Of 15-17 year-olds, 85% are in education, at 18 enrolment

⁴⁸ Alenat, S., ‘Palestinian Workers in Israeli West Bank Settlements – 2009’, Kav LaOved

⁴⁹ International Labour Conference, *op. cit.* p.20

⁵⁰ United Nations Relief and Works Agency for Palestine Refugees

⁵¹ International Labour Conference, *op. cit.* p.20

⁵² International Monetary Fund, *op. cit.* p.4

⁵³ International Labour Conference, *op. cit.* p.21

drops to 12%. This suggests 34% of the 15-29 age-group are in education.⁵⁴ PCBS⁵⁵ data indicates 20% of that age-group are in employment. 'Taken together, these figures reveal that some 540,000 young people, or 54% of that age group, are neither in employment nor in education.'⁵⁶ Once these young people have completed their education they face limited job opportunities – 'over half of those in the 15-29 age group are neither in education nor in employment – a waste of precious human resources anywhere but, in the context of the occupied territories, a dangerous mix.'⁵⁷ As highlighted in the ILO report the employment rate of people aged over 15 increased in the West Bank to 34.3% in the last quarter of 2008 but declined in Gaza to 21.4% (1 in 5 of that age group).⁵⁸

It is this economic context that drives many Palestinians to seek work in Israel despite the many difficulties. Kav LaOved (worker advice charity) estimates there to be 20,000 Palestinian permit holders employed in the settlements with an additional 10,000 who work there without permits. Additionally around 20,000 Palestinians work in Israel.⁵⁹ This number has diminished due to the impact of movement restrictions but still has a significant impact on the economy of the West Bank. For many necessity dictates they work in the settlements or Israel, either legally or illegally. Alenat notes, 'the harsh economic reality and the lack of alternatives force them to inadvertently facilitate settlement growth.'⁶⁰ The ILO report notes that one employed person on average supports 4.7 people in the West Bank and 8.8 persons in Gaza.⁶¹ The economic development of the OPT has been severely hindered by the occupation. With no land, air or sea ports, any export or import of goods comes through Israel and is susceptible to arbitrary closure of the checkpoints by the GOI. As Kawasmi argues, the Israeli government is actively inhibiting the growth of the Palestinian economy;

The provisional phase agreements kept Israel's control over the Palestinian territories in the West Bank and Gaza Strip. Israel also kept control over the international passageways with Jordan and Egypt. It kept the ability to cut the Palestinian economy from the rest of the world. It prevented the establishment of strategic projects like ports and airports and also the generating of energy, digging wells, safe passage between the West Bank and Gaza Strip, and the establishing and renovating of new highways...The Israeli Government hindered, as much as it could,

⁵⁴ *Ibid.* p.21

⁵⁵ Palestinian Central Bureau of Statistics

⁵⁶ International Labour Conference, *op. cit.* p.21

⁵⁷ *Ibid.* p.iv

⁵⁸ *Ibid.* p.20

⁵⁹ Alenat, S., 'Palestinian Workers in Israeli West Bank Settlements – 2009', Kav LaOved

⁶⁰ *Ibid.*

⁶¹ International Labour Conference, *op. cit.* p.20

important Palestinian projects and used military force to destroy economic facilities and structures.⁶²

The separation wall has been one of the latest signifiers of the enclosure of the Palestinian people. It makes it difficult for those Palestinians who work in Israel to cross in order to arrive at their place of work.

4 The Impact of the Separation Wall

The construction of the separation wall adds to the already restrictive working practices of Israel. As noted in the ILO report the projected route of the West Bank separation wall extends 725km, 57% of which had been constructed by September 2008.⁶³ The wall has come to represent a significant and symbolic threat to the liberties of Palestinians. HRW reported;

The barrier embodies long-term and severe restrictions on the movement that causes disproportionate harm to the lives of tens of thousands of Palestinian civilians. It effectively confines more than a hundred thousand men, women and children in enclaves. It will institutionalize, and threatens to make permanent, a system in which all movement for large numbers of people is sharply curtailed except for a handful of permit-holders. The scope and duration of such restrictions endanger Palestinians' access to basic services like education and medical care, and in many cases to land, jobs, and other means of livelihood. The Israeli government has failed to demonstrate that it could not adopt less intrusive and less restrictive alternatives to address the security of civilians, including a barrier contiguous with the 1949 Armistice Line, commonly known as the Green Line.⁶⁴

The Separation barrier confiscated around one fifth of the West Bank's most fertile land, involved the destruction of physical infrastructures and limited access to water resources with farmers having restricted access to their land. The barrier has forced 3,551 enterprises out of business and disrupted road and water networks to 171 villages.⁶⁵ Large swathes of fertile Palestinian land have been annexed and many farmers have been cut off from the source of their income. Human Rights Watch reports, 'Israel maintained many restrictions on freedom of

⁶² Kawasmi, H., 'The Economic Situation for the Palestinian Refugees in the Occupied Territories', in *International Conference on Palestinian Refugees Conditions and Recent Developments*, Al-Quds University, November 2006, p.156

⁶³ Cited in International Labour Conference, *op. cit.* p.11

⁶⁴ Human Rights Watch Briefing Paper, 'Israel's "Separation Barrier" in the Occupied West Bank: Human Rights and International Humanitarian Law Consequences', February 2004, p.2

⁶⁵ United Nations Conference on Trade and Development (UNCTAD), 'Report on UNCTAD Assistance to the Palestinian People: Developments in the Economy of the Occupied Palestinian Territory' from <http://domino.un.org/UNISPAL.NSF/5ba47a5c6cef541b802563e000493b8c/bb544ccfd6f4d6968525762c004869ac?OpenDocument>

movement for Palestinians, demolished hundreds of homes under discriminatory regulations, continued unlawful settlement construction, and continued to arbitrarily detain children and adults.⁶⁶ The ILO report comments,

According to OCHA, 86% of the Barrier's route lies inside the West Bank. Once the Barrier is complete, approximately 9.8% of West Bank land, including much of its fertile farmland and water resources, as well as East Jerusalem, will fall in the "seam zone", between the barrier and the Green Line, and will hence be isolated from the rest of the West Bank. Over 80% of Israeli settlers will be incorporated in the same area, and thus will be connected to Israel. An estimated 125,000 Palestinians will be surrounded on three sides by the Barrier, and a further 35,000 will live in closed areas.⁶⁷

There are 12 crossing points in the barrier of which 11 allow the movement of people and goods. These checkpoints are manned by Israeli border police. Palestinians seeking to enter must pass through the checkpoints which are often overcrowded and dirty. 'Many international organisations and NGOs have pointed to the inhumane conditions under which workers are required to undergo security checks. These involve long hours of waiting, submission to daily humiliation and personal risk at checkpoints.'⁶⁸ As noted in Human Rights Watch World Report, 2010, 'Israel maintained onerous restriction on the movement of Palestinians in the West Bank. In September Israeli authorities announced the imminent removal of 100 closure obstacles (ranging from checkpoints to earth mounds and concrete blocks), which if carried out, would leave 519 closure obstacles.'⁶⁹ The separation barrier continues to act as an impediment to movement, especially for migrant Palestinian workers who find it increasingly difficult to enter Israel for work and harms the Palestinian economy. It makes it difficult for workers to arrive in Israel on time and therefore undermines the efficiency of Israeli business. As PGFTU Secretary-General Shaher Saed commented;

The occupation and separation wall have destroyed the Palestinian economy. The 600 checkpoints and barriers in the West Bank continue to strangle the economy and workers' ability to support their families...How can workers have justice in this climate? We need comprehensive peace that ends the separation wall, the checkpoints, and the occupation'.⁷⁰

⁶⁶ Human Rights Watch, World Report 2010, p.509

⁶⁷ International Labour Conference, *Report of the Director-General, Appendix - The Situation of Arab Workers of the Arab Occupied Territories*, 98th Session, 2009, p.11

⁶⁸ European Institute for Research on Mediterranean and Euro-Arab Cooperation (MEDEA) – at <http://www.medea.be/index.html?page=2&lang=en&doc=284>

⁶⁹ Human Rights Watch, World Report 2010, p.518

⁷⁰ International Labour Conference, *Report of the Director-General, Appendix - The Situation of Arab Workers of the Arab Occupied Territories*, 98th Session, 2009, p.18

Ironically the weakening of the Palestinian economy has increased the desire for jobs in Israel. As noted in PHRMG's report, 'By hindering the development of an independent Palestinian economy, Israel caused workers to seek, en masse, employment in Israel proper.'⁷¹

5 The Permit Lottery

The entry of Palestinians into Israel for work is coordinated through the Israeli employment service which was created in order to ensure equality of wages and benefits for Palestinians and to control and supervise Palestinian workers. For any Palestinian seeking to work in Israel they must first apply for a permit and once they are deemed suitable to enter Israel they are given a magnetic ID card. Without either of these forms of identification it is impossible to cross the checkpoints. In order to receive a work permit and magnetic ID card one has to pass all of the regulations and checklists, which can be altered at any time by the GOI. As the ILO notes;

There are numerous categories of permits, and restrictions and regulations change frequently and without notice. A work permit and quota system controls Palestinian access to Israeli labour markets across the West Bank Separation Barrier as well as to Israeli settlements on both sides. Security clearance is mandatory, and possession of a magnetic ID card appears to be a new prerequisite for receiving a permit to cross the Barrier. As in 2008, the mission heard worrying reports of the Israeli authorities attempting to recruit collaborators in exchange for issuing or renewing a work permit. Permits for workers from Gaza to enter Israel have ceased to be issued since April 2006.⁷²

A Palestinian seeking to work in Israel or the settlement must first find an employer who is willing to apply for a work permit on his behalf. To be eligible for a permit the applicants must be over 35, married with at least one child, no security record and have no familial connection with anyone who has a security record. Permits are issued for three months and can be withdrawn at short notice without explanation. Kav LaOved collected 90 complaints of workers who were refused a work permit but were not given a reason. 85% had worked in Israel legally, but lost their work permits for security reasons.⁷³ Once a permit has been granted Palestinians are not allowed to remain in Israel overnight.⁷⁴ A lower age limit of 25 is applicable for those working in industrial estates.

⁷¹ Roy, Sarah M., *The Gaza Strip: The Political Economy of De-development*, Institute for Palestine Studies, 1995

⁷² International Labour Conference, *op. cit.* p.12

⁷³ Kav LaOved, *Abuse of Palestinian Workers Rights by Authorities*, 31 March 2008

⁷⁴ 'Increasing Need, Decreasing Access: Tightening Control on Economic Movement', *OCHA Special Focus*, January 2008

As a result of the application process Palestinian migrant labour is placed in a subservient relationship, there is a sense that the employee is indebted to their employer or subcontractor. As the ILO reports, 'dependence on employers and subcontractors makes these workers vulnerable to exploitation and violations of labour rights. Claiming labour rights in Israeli courts is costly and complicated, and complaining workers are reportedly frequently laid off.'⁷⁵ In this environment Palestinian workers are totally reliant on the wages they receive in order to support their family and there is little regulation of employers. As Alenat argued, "There is no enforcement. It's like a jungle... the employer can pay whatever he wants, the subcontractor can get whatever he wants, and the workers lose."⁷⁶ This is in contravention of humanitarian law. The ILO report notes,

Under international humanitarian and human rights law, it is the responsibility of the Israeli authorities to ensure the well-being and safety of Palestinian men and women working in Israeli settlements and industrial zones and to protect fundamental human rights, including the right to safe and healthy working conditions.⁷⁷

Table 3.2. Quotas and permits for Palestinians to work in Israel and the settlements

	Quota	Permits issued			Total
		Israel	Jerusalem	Settlements	
April 2005	38 035	17 905	1 787	16 135	35 827
March 2006	37 771	20 096	2 414	13 371	35 881
March 2007	45 510	18 873	2 770	18 410	40 053
March 2008	47 062	20 280	3 036	21 162	44 478
April 2009	49 113	22 610	3 104	22 063	47 777

Source: COGAT presentations (various).

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As noted in the preceding table, almost 50,000 Palestinians receive permits to either work in Israel or the settlements. Around 26,000 are entitled to work in Israel or Jerusalem. There has been an increase in the issuing of permits by around 12,000 between April 2005 and April 2009. However, the 2009 ILO report notes that 'The PCBS estimates that actual Palestinian labour flows to Israel and the settlements numbered almost 75,000 in 2008, implying that approximately 27,000 Palestinians worked without a permit.'⁷⁹ These illegal workers have no rights or protection and MEDEA highlights many of the issues faced by such workers;

⁷⁵ International Labour Conference, *op. cit.* p.15

⁷⁶ Cited in Sharp, H., 'Dilemma of Palestinian settlement builders', Kav LaOved, 30/8/09

⁷⁷ International Labour Conference, *op. cit.* p.15

⁷⁸ *Ibid.* p.12

⁷⁹ *Ibid.* p.13

The actual number of Palestinians from the West Bank and Gaza working in Israel is highly dependent on the continuously changing restrictions on the movement of persons within the occupied territories and into Israel. For this reason, work in Israel for Palestinians has become much more erratic, depending on quota numbers decided unilaterally by the Israeli authorities, on the issuance of valid permits subject to one level of security checks, on actual entry into Israel subject to another level of security checks and on day-to-day decisions of the Israeli Defence Force (IDF) regarding the opening and closing of checkpoints.⁸⁰

Once a permit has been issued a Palestinian worker has then to negotiate border crossings. Often they are turned away at the checkpoint and not given a reason for their rejection. They are also subject to a system of closures and curfew that the GOI periodically imposes on the OPT. For both employers and employees this is very inconvenient. It undermines the productivity of Palestinian workers and impacts negatively on the profit margins of Israeli companies.

6 Closures and Palestinian Migrant Labour

Closures have impacted heavily on the lives of Palestinian workers. Where once they were a reliable, productive workforce, the closures have undermined the infrastructure and productivity. The closures make it difficult for Palestinian workers to arrive at work on time. As noted by Kav LaOved of a worker travelling to work in Israel, 'I leave home at 2:00 am, I reach work at 7:00. I leave my workplace at 4:00 pm and get home at 7:00pm. I sleep for 5 hours a day and spend 17 hours away from home.'⁸¹ The broader issue of closures has been highlighted by Human Rights Watch (2004) reported, 'The internal "closure" regime has been used since 1991 to control population movements within the West Bank and Gaza; as of December 2003, some 700 movement barriers were operational in the West Bank and Gaza.'⁸² Israel has moved from a position of relative openness to closure. For Palestinians the regime of closures has meant not only a denial of job opportunities and economic hardship but it has also meant a denial of access to medical care, education, and contact with family and friends in Israel. These closures take shape in a number of ways, the most physical embodiment being the separation wall. However there are also interior impediments to movement,

Within the West Bank, these restrictions include obstacles in the form of checkpoints, roadblocks, metal gates, earth mounds and walls, road barriers and trenches, in addition to the Separation Barrier, which is being constructed predominantly east of the Green Line...Physical barriers are

⁸⁰ European Institute for Research on Mediterranean and Euro-Arab Cooperation (MEDEA) – at <http://www.medeas.be/index.html?page=2&lang=en&doc=284>

⁸¹ Yusef, R.A., 'The Daily Journey of Palestinian Workers', Kav LaOved, 30/08/09

⁸² Human Rights Watch Briefing Paper, 'Israel's "Separation Barrier" in the Occupied West Bank: Human Rights and International Humanitarian Law Consequences', February 2004, p.2

further reinforced by intricate administrative procedures, including a highly restrictive permit requirement system.⁸³

In January 2008 there were 563 physical obstacles including checkpoints, road blocks etc. In addition there were ad hoc flying checkpoints and age restrictions on the movement of Palestinians.⁸⁴ The movement of goods and labour has become increasingly difficult. 'Goods must first pass the internal closures around urban West Bank via one of five Barrier Terminals into Israel or across the King Hussein Bridge into Jordan.'⁸⁵ Since July 2005 closure obstacles have increased from 376 to 563 in January 2008.⁸⁶

All of these measures have negatively impacted upon Palestinian workers. It makes it difficult to get to work and the closures block access to all except a select few. The closures essentially mean a loss of income, not only for Palestinians but also for Israeli business. As Hanna Zohar, a director at Kav LaOved comments, 'the increasing use of policies of closures and limitation of entry into Israel for Palestinian workers, which impacted not only on the number of workers but also on the number of work days, permitted them.'⁸⁷ The days they are not allowed to work means that for that day Israeli construction, agriculture etc. are without a significant percentage of their workforce. All of this adds to the mental strain Palestinians face. Yusef writes,

The physical pressure and mental stress that the workers must deal with in order to get to the place of employment cause some workers psychological and mental problems, which may affect their performance at the workplace. This further places the employment of the worker at risk and may result in work related injuries.⁸⁸

Until the 1992 Gulf war Palestinians were free to enter Israel for paid labour. This was true even as the Intifada raged between 1987 and 1991. 'According to the statistics of the PA, during the entire three years of the pre-Gulf War Intifada (9 December, 1987 – 15 January 1991), the West Bank was closed for just 18 days. During the same period the Gaza Strip was closed for only 16 days.'⁸⁹ Statistics suggest that in 1991 around 100,000 Palestinians were commuting into Israel for work. At the beginning of the Intifada as much as 60% of Gaza's gross national product came from work in Israel.⁹⁰

⁸³ International Labour Conference, *op. cit.* p.9

⁸⁴ 'Increasing Need, Decreasing Access: Tightening Control on Economic Movement', *OCHA Special Focus*, January 2008

⁸⁵ *Ibid.*

⁸⁶ *Ibid.*

⁸⁷ Zohar, H. & Hever, S., *The Economy of Occupation: A Socioeconomic Bulletin*, No.25 January 2010, Alternative Information Centre & Kav LaOved, p.25

⁸⁸ Yusef, R.A., 'The Daily Journey of Palestinian Workers', Kav LaOved, 30/08/09

⁸⁹ Silverman, M., *Workers Rights...Hard Times*, PHRMG Monitor Report, July 1999, p.1

⁹⁰ *Ibid.* p.5 and see Palestinian National Authority Official Website, Palestinian Labour and Employment, 'An Introduction,' http://pna.net/facts/pal_labor_employ.htm

Closures have had a severe impact on Palestine's economic and humanitarian wellbeing. Closure measures, including the Separation Wall and intensified settlement activity in occupied territory have inhibited economic rejuvenation.⁹¹ As early as December 1998 the United Nations Committee on Economic, Social and Cultural Rights noted that 'Israel's emphasis on its security concerns, including its policies on closures, has hampered the realization of economic, social and cultural rights within Israel and the occupied territories.'⁹² As Trojan argues, 'since the beginning of the second Intifada in September 2000, restrictions on trade and movement of goods and people imposed by Israel have caused an overall progressive economic deterioration.'⁹³ Similarly Rosenhek commented that the hermetic closure of borders caused a decline of 33% between 1992 and 1993 in the labour input of Palestinians employed in Israel causing labour shortages in construction and agriculture.⁹⁴ In this environment closures have become a fact of life for many Palestinians. The OCHA Special report of January 2008 noted that since 2006 West Bank crossings were closed for a total of 91 days.⁹⁵ The closures are justified on grounds of security but often appear arbitrary impositions from the GOI. HRW⁹⁶ notes that these restrictions of movement must be legally justifiable and proportionate to the threat. 'As stated by the UN Human Rights Committee in its General Comment 27, any limits on freedom of movement cannot reverse the relation between right and restriction, between norm and exception.'⁹⁷ The report questions the legitimacy of the closures and restrictions of movements. It writes, 'The separation barrier will institutionalize and intensify these restrictions on movement even further.'⁹⁸ Their impact is not only felt by Palestinian workers but their family and community also.

⁹¹ International Labour Conference, *op. cit.* p.iii

⁹² United Nations Committee on Economic, Social and Cultural Rights, *Consideration of Reports Submitted by States Parties Under Articles 16 and 17 of the Covenant: Concluding Observations of the Committee on Economic, Social and Cultural Rights*, 4 December 1998

⁹³ Trojan, V., *Child Rights Situation Analysis: Right to Protection in the OPT*, 2008, p.20

⁹⁴ Rosenhek, Z., 'The Political Dynamics of a Segmented Labour Market: Palestinian Citizens, Palestinians from the Occupied Territories and Migrant workers in Israel', in *ACTA Sociologica*, 2003, p.242

⁹⁵ 'Increasing Need, Decreasing Access: Tightening Control on Economic Movement', *OCHA Special Focus*, January 2008

⁹⁶ Human Rights Watch

⁹⁷ Human Rights Watch Briefing Paper, 'Israel's "Separation Barrier" in the Occupied West Bank: Human Rights and International Humanitarian Law Consequences', February 2004, p.2

⁹⁸ *Ibid.* p.2

Table 3.1. Internal closure measures (physical obstacles) and estimated workforce by West Bank governorate

No. of closure measures in:	Bethlehem	Hebron	Jenin	Jericho	Jerusalem	Nablus	Qalqilya	Ramallah	Salfit	Tubas	Tulkarem	Total
December 2007	30	191	17	11	40	102	20	82	33	10	22	558
April 2008	33	227	16	11	36	104	23	81	36	11	29	607
September 2008	32	202	21	14	41	128	20	97	36	13	26	630
Labour force (2008, Q4)	48 700	133 200	64 300	12 500	115 300	79 200	21 800	63 000	15 900	10 900	39 200	604 000

Sources: OCHA, 2007–08; labour force data from PCBS, 2009a.

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The total number of closures increased from 558 in December 2007 to 630 by September 2008, not including temporary (“flying”) checkpoints.¹⁰⁰ This number represents a 59% increase over the 396 closures that were in place at the time of the signing of the Agreement on Movement and Access in November 2005.¹⁰¹ Each time a checkpoint closes it places more pressure on families and communities that have come to rely on wages from Israel to survive and maintain a reasonable standard of living. It is noted in the ILO 2009 report that ‘The decline in livelihoods of Palestinians, recorded in decreasing incomes and economic activity, is to a large extent the result of continued closures and the associated restrictions and prohibitions imposed on the economic freedoms of Palestinians.’¹⁰²

Following 2000, a once reliable Palestinian migrant workforce has become unreliable as a result of border restrictions. As the 2004 WAC report comments, ‘The construction firms which suffered greatly from the lack of regularity in the supply of Palestinian labour, have concluded that this source cannot be relied on.’¹⁰³ In response employers and the state of Israel have increasingly employed foreign workers from Eastern Europe, Asia and Africa to replace a now unreliable Palestinian workforce. As MEDEA comments, ‘one may notice a consistent strategy of diminishing the Palestinian workforce, in the way of replacing it gradually by migrant workers from the Philippines, China, Thailand and Eastern European countries.’¹⁰⁴ The number of foreign workers in Israel rose from 30,500 in 1994 to 84,000 in 1997.¹⁰⁵ This immigrant labour force represented to Israeli

⁹⁹ International Labour Conference, *op. cit.* p.9

¹⁰⁰ *Ibid.* p.9

¹⁰¹ *Ibid.* p.9

¹⁰² *Ibid.* p.14

¹⁰³ Final Report of the International Labour Delegation, *The Labor Market in Israel, 2004: The Construction Industry as a Test Case*, WAC, 2004

¹⁰⁴ European Institute for Research on Mediterranean and Euro-Arab Cooperation (MEDEA) – at <http://www.medeas.be/index.html?page=2&lang=en&doc=284>

¹⁰⁵ Silverman, M., *Workers Rights...Hard Times*, PHRMG Monitor Report, July 1999, p.6, ¹⁰⁵ *Report on the Situation of Workers of the Occupied Arab Territories* at ¶ 44. ^v *Report on the Situation of Workers of the Occupied Arab Territories* at ¶ 38.

construction and agricultural sectors better value for money. They were cheap and reliable and not subject to the dictats of GOI policy and closures. However, rather ironically in recent years the importation of this foreign labour has come to be seen as a threat to a Jewish sense of national identity. As Rosenhek comments, 'Since 1996 the declared policy goal has been to drastically reduce the number of migrant workers. In 1997 the Inter-Ministerial Committee on Foreign Workers set the target of reducing their number to only 16,000 documented and 9,000 undocumented by 2002.'¹⁰⁶ Any shortfall would be met by a Palestinian workforce. As a result of international pressure and economic needs the GOI has relaxed some of its restrictions on Palestinian labour which currently stands at around 42,000.

The closures have placed a high premium on the jobs available to Palestinians in Israel with many willing to work for less than the minimum wage and forego many of their worker rights. As PHRMG's 1999 report commented, 'Because of the labour market dynamic created by the closure and the influx of foreign workers, Palestinian workers are generally treated by their employers as no more than expendable.'¹⁰⁷ Furthermore it makes Palestinians dependent on foreign aid in the face of deteriorating socio-economic opportunities, 'Figure 3.1 shows a clear inverse relationship between closures and Palestinian gross domestic product (GDP) per capita, in which an increase in West Bank closure measures is correlated with a decline in per capita output. International agencies, including the UN, have long identified restrictions on movement and access as one of the biggest impediments to economic growth and development in the West Bank and Gaza, and have repeatedly called on Israel to lift them.'¹⁰⁸

7 Workers Rights

Israel is governed by the 1907 Hague regulations and the 1949 Geneva Convention. The Oslo Treaty and Paris Accords (1993) altered the juridical, political and administrative structure of the OPT, establishing Israel and the Palestinian territories as two separate states. However, this has not significantly altered Israel's status as an occupying power, controlling significant parts of Gaza and the West Bank. As an occupying power Israel is subject to international humanitarian law and as such is legally responsible for the general welfare and conditions of Palestinians.¹⁰⁹ As article 39 of the Geneva Convention notes,

Where a party to the conflict applies to a protected person methods of control which result in his being unable to support himself, and especially

¹⁰⁶ Rosenhek, Z., 'The Political Dynamics of a Segmented Labour Market: Palestinian Citizens, Palestinians from the Occupied Territories and Migrant workers in Israel', in *ACTA Sociologica*, 2003, p.244

¹⁰⁷ Silverman, M., *op. cit.* p.11

¹⁰⁸ International Labour Conference, *op. cit.* p.10

¹⁰⁹ Silverman, M., *op. cit.* p.5

if such a person is prevented for reasons of security for finding paid employment on reasonable conditions, the said Party shall ensure his support and that of his dependents.¹¹⁰

In 1993 the 'Equalisation tax' was meant to level out the difference between money collected from Palestinian workers and their employers to that paid by Israelis. This was meant to act as an incentive for Israel employers to appoint Israeli workers, but actually led to shortages in the construction and agricultural sectors. Following the signing of the Oslo Accords it was announced that Israel intended to transfer part of the equalization tax to the PA instead of giving the workers the full rights for which the money was deducted. A clause was added stating that two-thirds would be deducted for the expense of the Department of Payments and for health insurance payments. Only one third would be deposited in a fund to help workers. Zohar and Hever highlight the issue stating, 'Even if we assume zero interest on the fund's money, up until 2003 NIS560 million of the monies collected disappeared into the budget of the Finance Ministry (State Comptroller, 2005).¹¹¹ The Israeli government in 2003 diverted the equalization tax monies to the Civil Administration of the Israeli military.¹¹²

The legal position of Palestinian workers in Israel is complex. Under Israel's Law of Equal Opportunities, Arab citizens are meant to have an equal footing in the job market. In spite of this Palestinian communities continue to 'occupy the lowest positions in all branches of the labour market; their working conditions are far worse than those of their Jewish counterparts; and they are more vulnerable to economic fluctuations.'¹¹³ Many are unaware of the abuses of their rights and others are thankful for having a job that, compared to Palestine pays well and enables them to live 'comfortably'. The limited job opportunities in the OPT serves as a disincentive for those contemplating appealing against the abuses of their rights in the workplace. Israel has strict anti-discrimination laws that are meant to protect Palestinians and immigrant labour against discrimination. The Israeli high court ruled that the country's labour protection laws apply to Palestinians working in the Jordan valley for Israeli employers. In spite of this there are still abuses of their rights. As Cole comments, 'Some 30,000 Palestinians work in agriculture in the Jordan valley, often earning less than a third of the minimum wage. Settler landlords operate date farms and refuse responsibility for accidents at work, health care or compensation.'¹¹⁴ As the Ministry of Industry website notes,

A Palestinian worker is eligible for social conditions to which every other worker with identical characteristics is eligible in Israel, in accordance with

¹¹⁰ *Ibid.* p.5, Fourth Geneva Convention, at Article 39 (emphasis added).

¹¹¹ Zohar, H. & Hever, S., *The Economy of Occupation: A Socioeconomic Bulletin*, No.25 January 2010, Alternative Information Centre & Kav LaOved, p.10

¹¹² *Ibid.* p.11

¹¹³ Final Report of the International Labour Delegation, *The Labor Market in Israel, 2004: The Construction Industry as a Test Case*, WAC, 2004

¹¹⁴ Cole, P., 'Israel Privatises the Occupation', Kav LaOved

the law, expansion orders and group agreements. The Department of Payments of the Support Unit is responsible for implementation of aforementioned decision.¹¹⁵

The rights of Palestinian workers have been strengthened over the last two years with increased cooperation between the PGFTU and Histadrut (General Federation of Labour). The two unions reached a landmark agreement in July 2008 aimed at increasing the protection of Palestinian workers and advancing fraternity and coexistence between the Israeli and Palestinian peoples.¹¹⁶ The key features of this agreement is highlighted below,

<p style="text-align: center;">Box 5.1 The 2008 PGFTU–Histadrut agreement: Some key features</p> <ul style="list-style-type: none">– Reimbursement by the Histadrut to the PGFTU of the outstanding balance of legal representation fees paid by Palestinians working for Israeli employers since 1993, and transfer of at least 50 per cent of such fees to the PGFTU in the future.– Provision of legal assistance by the Histadrut to Palestinian workers employed by Israeli employers, and support to the PGFTU in handling such cases.– Organization of educational and vocational training courses and workshops, particularly in the area of workers’ rights and occupational safety and health.
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The ILO report notes that,

[that] Histadrut presented several new projects and initiatives to be pursued under the new agreement, in cooperation with Palestinian counterparts. These include a training project for Palestinian and Israeli truck drivers on labour rights and occupational safety and health, a joint initiative between the Israeli and Palestinian transport unions, and a project providing training and employment to Palestinian construction workers in Israel, an initiative involving the respective construction workers’ unions. The latter project will enable 60 Palestinian workers to upgrade their skills and subsequently be employed by Israeli construction companies.¹¹⁸

However, in spite of this agreement Palestinian workers continue to experience discrimination in the work place and this is reflected in the GOI’s broader attitude to the OPT. As Rosenhek argues, ‘the varying conditions in the national conflict between Israel and the Palestinians and the changing strategies employed by the

¹¹⁵ Website of the Ministry of Industry, Trade and Labour, 2010

¹¹⁶ International Labour Conference, *op. cit.* p.25

¹¹⁷ *Ibid.* p.25

¹¹⁸ International Labour Conference, *op. cit.* p.26

Israeli state to manage this conflict have been basic factors affecting the incorporation processes.¹¹⁹

The Economy of Occupation suggests this agreement falls short of paying back much of what the Palestinians are owed. Zohar and Hever have calculated the amounts that the Department of Payments deducted from the salaries of workers from the OPT between 1970 and 2009. The majority of funds deducted for social rights were transferred to the Israeli Ministry of Finance and Histadrut. The report estimated the level of deductions,

EXCESSIVE DEDUCTIONS 1970-2009 (IN MILLIONS OF NIS)

Deduction for National Insurance (transferred to the Ministry of Finance)	1,354.0
"Equalization tax" (from 1995)	941.0
Organising fees – Histadrut	132.0
Provident fund	152.0
Promotion of construction sector (from 1990)	219.0
Sick pay deductions	275.0
Worker disability deductions	8.4
Sum of Israel's debt before interest	3,082.0
Debt of Israel with interest	8,350.0

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The majority of Palestinian workers are employed in construction and agriculture and are covered by the collective agreements regardless of nationality.¹²¹ According to Histadrut the collective agreements cover all nationalities. Palestinian workers employed in Israel pay 1% of their wages to Histadrut, though they are not eligible to register as members. The agreement, coupled with national insurance payments is meant to ensure Palestinians are entitled to the same benefits as Israelis, though in reality they often do not get such benefits.

Many Palestinians do not receive the same benefits as Israelis. The Payment division deducts money from Palestinian wages which is intended to fund benefits. Zohar and Hever highlight that in many cases these deductions have not been used to improve the conditions of Palestinian workers. They note that, '92% of the money supposedly deducted for National Insurance for old age payments, disability, unemployment and child payments was transferred to the

¹¹⁹ Rosenhek, Z., 'The Political Dynamics of a Segmented Labour Market: Palestinian Citizens, Palestinians from the Occupied Territories and Migrant workers in Israel', in *ACTA Sociologica*, 2003, p.232

¹²⁰ Zohar, H. & Hever, S., *The Economy of Occupation: A Socioeconomic Bulletin*, No.25 January 2010, Alternative Information Centre & Kav LaOved, p.8

¹²¹ Ben Israel, Ruth, 'On Social Human Rights for Workers of the Administered Areas', *Israel Yearbook on Human Rights*, 1981, p.149

Ministry of Finance. Money was transferred to National Insurance only for insurance in cases of work accidents and bankruptcy of the employer.¹²² The *Economy of Occupation* report notes that from the tax deductions in their wages Palestinians only received a small proportion of the services that they are due.¹²³

Palestinians have also faced excessive taxation for pension funds and sick pay. These deductions are included in the collective bargaining agreements for the construction and agricultural sectors. The issue is that Palestinian workers have limited access to these services. Only 1,000 Palestinian workers receive a pension from the Payments Department. A majority of Palestinian workers withdrew their money from the pension fund during times of unemployment, closure or out of mistrust of the Israeli system, doubting whether it would provide them with monthly allowances they were due.¹²⁴ If anyone withdraws money from the pension fund there are high cash penalties. Furthermore most of the withdrawals are done through the mediation of attorneys who themselves are expensive to employ.¹²⁵ Zohar questions the validity of these withdrawals commenting that, 'The Payments Department is supposed to manage the fund just like other pension funds, but it continues to allow workers to withdraw the pension money, in contravention to the directives of the Department of the Capital Market in the Ministry of Finance.'¹²⁶ This means that on retirement Palestinian workers are left in a position of destitution and poverty.

The *Economy of Occupation* then examines the issue of health insurance. It notes that all workers contribute 2.5% of their salary for sick pay insurance and only a small percentage of this deduction is transferred to Palestinian workers as sick pay. The difficulty of claiming this money means that many Palestinians accept the loss of income. The report notes that 1.56% of deductions from worker salaries did not actually aid them.¹²⁷ The report comments, 'since 1 August 2004, the collective bargaining agreement of the construction sector determines that sick day insurance will be taken only from veteran workers. As the Department of Payments defines all Palestinian workers as "daily" or "temporary", it no longer has justification to deduct sick day insurance from their salaries. However even after August 2004 the Department continues to deduct 2.5% from the workers for sick days.'¹²⁸ An estimation of the total taken is NIS 275 million (2008).¹²⁹ In addition to this deductions are also made for worker disability. As part of the collective bargaining agreement in the construction sector 1.3% of salaries is deducted for disability pension. The right to special payment is realized to a lesser extent by Palestinians. In 1993 at the height of

¹²² Zohar, H. & Hever, S., *The Economy of Occupation: A Socioeconomic Bulletin*, No.25 January 2010, Alternative Information Centre & Kav LaOved, p.7

¹²³ *Ibid.* p.8

¹²⁴ Zohar, H. & Hever, S., *op. cit.* p.15

¹²⁵ *Ibid.*,p.15

¹²⁶ *Ibid.* p.16

¹²⁷ *Ibid.* p.16

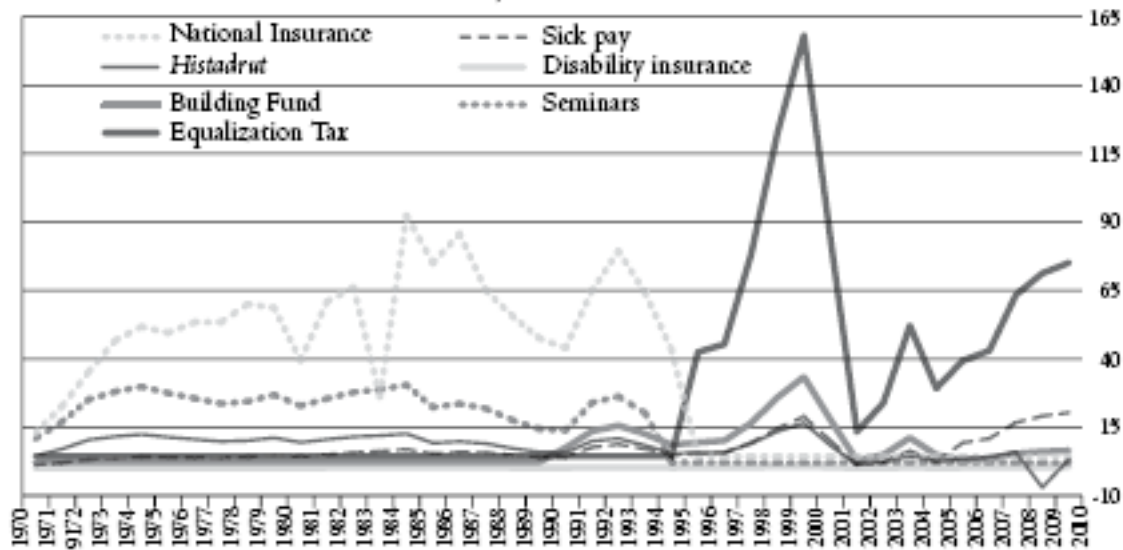
¹²⁸ *Ibid.* p.16

¹²⁹ *Ibid.* p.16

Palestinian employment, 76.67% of this fund was transferred to the Ministry of Finance.¹³⁰

The *Economy of Occupation* calculates the excessive collection of taxes from Palestinians by the Israeli Payments Division to be NIS 3.082 billion without interest and with interest of 5%, NIS 8.350 billion (2009). The excessive deductions can be seen in the following graph.

GRAPH 2: EXCESSIVE COLLECTION FROM PALESTINIAN WORKERS
2008 PRICES, MILLIONS OF NIS



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As can be seen on the graph 2000 marked a peak in terms of taxation. Since 2005 there has been almost continuous increase in deductions from Palestinian income. This is not the only form of discrimination a Palestinian worker faces once in Israel. As PHRMG noted,

in an effort to short change their Palestinian employees, many Israeli employers have circumvented the system by misreporting or even wholly failing to report certain information such as the number of days worked, the per day salary, or even a worker's amount of children. The employer thereby saves money, contributing less for benefits, while the worker suffers in the long run as his benefits are calculated according to the very figures which employers are fudging.¹³²

Employers in order to reduce costs, reported fewer working days with the last few days being paid in cash. There is also the mis-definition of Palestinian workers in

¹³⁰ *Ibid.* p.17

¹³¹ Zohar, H. & Hever, S., *op. cit.* p.20

¹³² Silverman, M., *Workers Rights...Hard Times*, PHRMG Monitor Report, July 1999, p.10

order to avoid paying them benefits such as severance pay, pension and disability payments.¹³³ As noted by Hever and Zohar,

Under the false definition of Palestinians as “daily” or “temporary” workers, a majority of the benefits determined in the collective bargaining agreements of the *Histadrut* with the employers were stolen from Palestinian workers, including increments for security, family upkeep, grants for not missing work, a 13th salary in the agricultural sector and more.¹³⁴

Palestinian migrant workers face direct and indirect discrimination in terms of salaries and working conditions. Palestinian workers have little job security and are indebted to their employers who are capable of dismissing them or withdrawing their work permit with impunity.¹³⁵

8 Conclusion

Migrant Palestinian workers face a multitude of difficulties in seeking to support themselves and their families. PHRMG calls on the GOI to relax restrictions on trade and movement for Palestinians. If the OPT is to experience lasting economic growth it is important that existing restrictions on trade and movement are relaxed and that the Palestinian Territories are allowed to trade with its international partners not only in the Middle East but worldwide. We call for the investment of a sustainable infrastructure that will increase employment opportunities for Palestinians so that the imperative to commute to Israel or the settlements is diminished.

For those Palestinians who continue to commute into Israel for work, PHRMG calls on Israel to actively enforce its labour legislation and where there are found to be circumventions of the regulations, those responsible should be held accountable in a court of law. In addition, we call for the GOI to make accessible to Migrant Palestinian workers the rights and benefits for which they are taxed, or if this is not acceptable to the GOI, to refund the excessive taxation to the workers.

The programme of closures and curfews must be scaled back and only be imposed on the OPT if it is absolutely necessary. If checkpoints are closed PHRMG calls for the establishment of a compensation package for employers and Palestinian workers affected by the closures. Checkpoints should be improved and border guards trained so that they become more efficient in dealing with permit holders and the whole process improved so as to limit the stress of border crossing.

¹³³ Zohar, H. & Hever, S., *op. cit.* p.19

¹³⁴ Zohar, H. & Hever, S., *op. cit.* p.13

¹³⁵ European Institute for Research on Mediterranean and Euro-Arab Cooperation (MEDEA) – at <http://www.medea.be/index.html?page=2&lang=en&doc=284>

PHRMG calls on the GOI to be more lenient with the work permits and establish clear criteria for accepting or rejecting a permit request and call upon them to inform the applicants of the reasons for their rejection. It is important that the age restriction of 35 is reduced for applicants in order to help ease some of the problems of youth unemployment in the OPT. We also call on the GOI to be more lenient when it comes to allowing Palestinians to remain in Israel over night. This would improve their efficiency and productivity.

Discrimination against Palestinian migrant workers is institutional and it is important that police and regulatory mechanisms begin to actively enforce Israeli law. Since 1967 Palestine has been a source of cheap non-domicile labour and has not been accorded the rights that their Israeli colleagues receive. If the GOI intends to tax this migrant labour, PHRMG calls for these workers to receive the same benefits as their Israeli counterparts.