



**THE RIGHT TO ACCESS AGRICULTURAL LAND**

*An Information Leaflet for Palestinian Residents of the West Bank, October 2008*

- The aim of this document is to clarify the laws in place regarding access to land, and your legal rights in the case that access to your land has been denied.
- At the end of the document there is a list of the telephone numbers of the relevant authorities and human rights organizations through which you can seek assistance in the event of an attack.

**The Rights of Palestinian Residents to Access Land**

Every individual has the right to free and safe access to his or her land and the right to cultivate it. These rights are not dependent on permits.

**The Legal Obligations of the Military Commander**

- It is the legal duty of the military commander and his representatives in the field (Israel Defense Forces soldiers, Border Police, Israel Police) to protect the security of Palestinian farmers en route to perform agricultural work and to protect them while they are undertaking that work. The IDF Military Commander is also obliged to assign forces to protect the property of farmers. This was stated in High Court ruling 9593/04 (*Murad and others v. the IDF Commander of Judea and Samaria and others*, Para 33 published 26.6.2006)
- The Supreme Court rejected the procedure of closing an area in order to protect Palestinians against settler violence. Thus, protection of Palestinian farmers must not be implemented by means of closing off their agricultural areas and must not cause more than minimal disruption to farming work.
- In the absence of an order proclaiming an area a closed military area, Palestinians cannot be denied access to their land.
- An order which proclaims an area to be a closed military area has legal validity only when signed by a Brigade Commander or a more senior officer. The conditions required for issuing such a command are as follows:
  - There is real and concrete danger (in a specified place and specified time) to human life;
  - There is no way of averting the danger by a reasonable alternative measure in the given time;
  - The area is closed for the minimal essential time;
  - The closed area is the minimal area required for the protection of human life;

- And the type and magnitude of the disturbance to the Palestinian farmers has been determined on an individual basis.
- The IDF is authorized to issue verbal orders for the local and limited closing of an area only in **exceptional cases when unanticipated circumstances occur**, which evoke fear of immediate danger to security. This order is also subject to the conditions specified above regarding issuance of an order for a closed military area.
- Even when areas have been closed by virtue of a legal order, the Military Commander is **obliged** to permit Palestinians to complete all necessary agricultural work on their land in the closed area “**to the last olive.**”
- In the event of an assault by settlers on Palestinian farmers cultivating their land, it is the duty of the IDF and the police to take action against the assailants, and in no event to deny the Palestinian farmers access to their land. This was also stipulated in High Court ruling 9593/04 (*Murad and others v. the IDF Commander of Judea and Samaria and others*).
- Civilians, including settlements' security officers, have no authority to take action outside the area of the settlement and are not authorized to bar entry to a certain area which does not lie within the settlement.

### **If You Have Been Denied Access to your Land – What Can You Do?**

#### **It is important to know:**

- **The right to access land can be restricted only with a valid military order referring to a closed military area.**
- **Whenever you access your land it is advisable to take with you all land title documents as well as army directives regarding the olive harvesting period**
- **You should clarify the legal situation if asked and if you have any questions or require assistance, you should contact the human rights organizations listed below.**

### **When You Are Denied Access to the Area Itself:**

- Ask the soldier who is barring access to show you an order declaring the land to be a closed military area;
- Ask the soldier to identify himself;
- If a civilian is preventing access (which is illegal) – ask him for identification and for an identity card or guard's permit. If you are forcibly denied access to your land by a civilian or settlement security guard, you can file a complaint with the police;

- If there is risk of a clash with settlers- you can summon the police and/or army in the district (see telephone numbers below);
- In such cases, the security forces are obliged to take action against the assailants and to protect your right to cultivate your land. If the security forces do not fulfill their obligation, you can file a complaint against them;
- **Complaints against soldiers** can be lodged at the offices of the Coordination and Communication Administration (CCA) of the Civil Administration or the Police Investigation Bureau (see telephone numbers below). You can consult human rights organizations or a private lawyer for assistance in filing the complaint.

### **If You Are Shown an Order Declaring a Closed Military Area:**

- The order must be written and contain details including the period and area for which it is valid. There must be an appended map clearly marking the closed area.
- **You should check** that the order relates to the specific area you are banned from entering, and that it is valid.
- **Ask for a copy of the order** or alternatively keep full documentation of the order (photocopy of the order, details of the order, details of the individual who showed it to you, details of the signatories, etc.)
- Ask the soldier who showed the order for identification.
- **Make a detailed written record of the incident** including: place, date and time, who barred access (soldier/civilian, identity, description, rank, license number of vehicle, and any other identifying details), additional witnesses, description of the event, etc.

### **Checking the Legal Validity of the Order:**

- In order to determine the validity of the order, you should contact the IDF Legal Adviser. This application can be submitted by the holder of the land title and through human rights organizations or a private lawyer.
- The application should be accompanied by all details of the order and of the event.

### **If You Were not Shown an Order:**

Contact the CCA to determine whether the area has been declared a closed military area. Remember, only in exceptional cases is it permissible to declare the closing verbally and then only until a written order is issued.

- If the area is not declared to be a closed area – **it is forbidden to deny access.**
- **If, notwithstanding, the soldiers bar access – this is a breach of the law** (Para. 68 of the Military Jurisdiction Law)
- Ask the soldier/s barring access to identify themselves, and check the identity of the individual who issued the order.

- It is advisable to record all of the details of the event including: place, date and time, who barred access (soldier/civilian, identity, description, rank, vehicle license number, any other identifying details), additional witnesses, description of the event.
- Complaints against soldiers who did not fulfill their duty or committed a criminal act can be filed at the CCA offices or the offices of the Police Investigating Bureaus. You can consult human rights organizations or private lawyers for assistance. (See telephone numbers below).
- Keep full documentation – a copy of the complaints and all details of the incident.

### **If Access is Restricted on a Regular Basis**

- Contact the Israeli CCA (if it is not possible to make direct contact, contact the Palestinian CCA) in order to apply for access.
- It is advisable to submit the application in writing and to include the following details:
  1. Description of the area to which access has been denied (location of the area, how many dunams, name of landowner)
  2. Details of reason given for denial of access (closure of area by the IDF or settler violence).
  3. Details of the request – cancellation of the ban on access and/or a request for military escort to protect farmers against assaults by settlers.
- It is recommended that you keep a copy of the request submitted to the CCA and ask for written confirmation of submission and transfer to the Israeli CCA.
- It is advisable to ask for a written reply from the Israeli CCA. If a verbal reply is given, document the exact reply and the name of the individual who gave it.
- If within a reasonable period of time (depending on the circumstances and the urgency of the need to access land) no reply is received from the CCA, you can apply to the IDF Legal Adviser for assistance through human rights organizations or a private lawyer.

### **If Access is Denied under the Pretext of an Existing “Land Dispute”:**

- First, check whether there is in fact an existing “land dispute.” You can ask the CCA for the identity of the individual who claims title to the land.
- If this claim has already been handled and you have a document attesting to this, you can consult the area commander in person or the CCA representative by telephone and present the document to him or her.

- If no investigation has taken place, you will be asked to submit copies of the documents relating to land rights (the landowner should keep the originals) to the CCA representative. It is recommended to submit copies of all existing documents. If the landowner has a surveyor's map, a copy should be submitted. Ask for confirmation of submission and for the name of the recipient. If no confirmation is given, document the recipient's details and the date of submission.
- It is advisable to contact a human rights organization or a private lawyer to accompany you and to perform follow-up and documentation of the way in which the "land dispute" is handled. The organizations will require:
  1. Testimony of the landowner including:
    - a. Name of the landowner;
    - b. Details of the incident wherein access was denied;
    - c. Identity of the settler/s who claimed rights to the land and the nature of the claim;
    - d. The date and time the documents were submitted to the CCA and to whom.
  2. Copies of land title documents. If the land is registered in the name of a deceased individual, it is recommended to append documents attesting to inheritance/purchase where these exist.
  3. Photocopy of the landowner's identity card
  4. Copies of complaints filed with the police, letters sent to other bodies on this matter in the past, and all responses received.

### **In Conclusion:**

- You have the right to free and secure access to your land.
- The IDF is obliged to respect this right and guarantee that you be able to realize it.
- This right can be restricted only by a valid order pronouncing the area a closed military area.
- Even if the area has been pronounced a closed military area, you have the right to carry out **all of** the necessary agricultural work, in coordination with the CCA.
- In the event of a clash with settlers, you have the right to submit a complaint to the police and the IDF (through the CCA).
- The security forces are obliged to take action against assailants and to defend your right to cultivate your land. Often the security forces do not act as required. In such cases, you can file a complaint against those involved.

- When an order for a closed military area has been issued – you can clarify its validity at the CCA and apply to the IDF Legal Adviser thereafter.
- You can consult human rights organizations for information on your rights and how to realize them.

## **CONTACT INFORMATION**

### **Coordination and Communication Administrations**

The Civil Administration Humanitarian Center, Telephone: 02-9977733, Fax: 02-9977337

CCA Hebron, Telephone: 02-9967215, 02-9964360 Fax: 02-9962254

CCA Etzion/Bethlehem, Telephone: 02-9934010, 02-5485369, Fax: 02-5485370

CCA Abu Dis, Telephone: 02-2799520, Fax: 02-2797920

CCA Jericho, Telephone: 02-9943305, 02-9943894, Fax: 02-9943305

CCA Ramallah/Salfit, Telephone: 02-9970284, 02-9970285, Fax: 02-9974693

CCA Beit El, Telephone: 02-9977747, 02-9706444, Fax: 02-9977337

CCA Kalkilya, Telephone: 09-7759217, 09-7922359, Fax: 09-7922331

CCA Nablus, Telephone: 02-5486214, 02-5486217, Fax: 02-5486218

CCA Tulkarm, Telephone/Fax: 09-8948803

CCA Jenin, Telephone: 04-6407312, Fax: 04-6407315

### **Military and Police**

Police – emergency center 100 from a cellular phone

Hebron District, Telephone: 02-9969444, 02-9963894, Fax: 02-9964605, 02-9964413

Shomron District/Ariel, Telephone: 03-9065444, 03-9065410, Fax: 03-9065454, 03-9065436

Benjamin District, Telephone: 02-9706444, Fax: 02-9706440

Ma'aleh Adumim Station, Telephone: 02-5358444, 02-5358409, Fax: 02-5358440

### **Military Departments**

The Legal Adviser for Judea and Samaria, Telephone: 02-9977071, Fax: 02-9977326

### **Police Investigation Branches – Complaints against Soldiers**

PIB Judea and Samaria (North West Bank) , Telephone: 03-9575054

PIB Jerusalem (South West Bank), Telephone: 02-5842603

### **Help Lines – Human Rights Organizations**

*The Association for Civil Rights in Israel (ACRI)*, Telephone: 02-652-1218, Fax: 02-652-1219

*Hamoked- The Center for the Defense of the Individual*

Emergency hotline: 02-6283555, 02-6264438, 02-6271698 Fax: 02-6276317

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האגודה לזכויות האזרח בישראל, ת"ד 34510, ירושלים 91000, טלפון: 02-6521218, פקס: 02-6521219  
 جمعية حقوق المواطن في إسرائيل, ص. ب. 34510, القدس 91000, تل: 02-6521218, فاكس: 02-6521219

The Association for Civil Rights in Israel, PO Box 34510, Jerusalem 91000, Tel: 02-652-1218, Fax: 02-6521219  
[www.acri.org.il](http://www.acri.org.il), [mail@acri.org.il](mailto:mail@acri.org.il)

*Rabbis for Human Rights*, Telephone, 02-648-2757, 050-5607034 (Rabbi Arik Asherman), 050-2103982 (Zachariah Sadeh), 050-2110639 (Rabbi Yehiel Greinman), Fax: 02-5662815

*B'Tselem – The Israeli Information Center for Human Rights in the Occupied Territories*, Telephone: 050-5465277 (Najib), Fax: 02-6749111

*Yesh Din – Volunteers for Human Rights* (24 hours)

Assistance with filing complaints and follow up: Azmi Badir (North West Bank) 054-4608524 and Muhanad Anati (South West Bank) 054-6720966

*This leaflet is a publication of the Association for Civil Rights in Israel (ACRI).*

*The Association for Civil Rights (ACRI) in Israel is Israel's leading human and civil rights organization and the only one that deals with the entire spectrum of rights and liberties in Israel and the Occupied Territories. ACRI works to defend the rights of all through three parallel channels: litigation and legal intervention, education, and public outreach.*