

**האגודה לזכויות האזרח בישראל**  
**جمعية حقوق المواطن في اسرائيل**  
**The Association for Civil Rights in Israel**



7 June 2009

Ehud Barak  
Minister of Defense

Yitzhak Aharonovitch  
Ministry of Public Security

**Re: Qalandiya Checkpoint: Severe Restrictions on Freedom of Movement**

Dear Ministers Barak and Aharonovitch:

1. **We write on behalf of Ir Amim and the Association for Civil Rights in Israel to seek your urgent intervention with regard to the situation at the Qalandiya checkpoint.** We are appealing to you both because the Ministry of Defense is responsible for the route of the Barrier and undertook commitments to the High Court of Justice about its operation. Furthermore, the Military Police still cooperates in operating the checkpoint. At the same time, overall responsibility for operating the checkpoint has been transferred to the Israel Police, and falls within the purview of the Border Police for the Jerusalem Perimeter.
2. Construction of the Separation Barrier along the Jerusalem perimeter has cut off nearly a hundred thousand East Jerusalemites in neighborhoods on the other side of the Barrier (some within the municipal jurisdiction of Jerusalem) from the center of their lives in Jerusalem. Since the A-Ram checkpoint was dismantled in February 2009, the Qalandiya checkpoint in northern Jerusalem remained the only passageway from the north Jerusalem neighborhoods beyond the Barrier into the center of Jerusalem. Every day, residents of these north Jerusalem neighborhoods must cross this checkpoint on their way to work, school, medical clinics, etc., in addition to the Palestinians with entry permits into Israel who must also use the checkpoint.

3. Although five pedestrian lanes are available at the Qalandiya checkpoint, they are not all in routine use. As a result, congestion at this checkpoint is severe and conditions are unbearable. **Those using the checkpoint have to endure extensive waits of an hour or two every time they cross.** Incidentally, the opening time of the checkpoint is often delayed, especially on Sunday mornings when soldiers return from weekend furloughs.
4. **The passage of vehicles through Qalandiya checkpoint has also become onerous in recent months, requiring inordinate amounts of time.** Until three months ago, passengers in vehicles that entered the checkpoint were not required to leave their vehicles in order to cross. **New procedures were recently instituted, however, and now passengers in public transportation and some in private cars are required to leave their vehicles and cross on foot.** Students on their way to school, for example, must disembark from their bus and cross the checkpoint on foot. In addition, only car owners traveling with young children in first-degree relationship with them are allowed to drive through the vehicle lane, while other passengers, including the car owner's children over 13, must leave the car and cross the checkpoint on foot, with all the waiting this entails.
5. **These new arrangements create massive traffic jams around the Qalandiya checkpoint and severe, hours-long delays during some times of day for those crossing by vehicle.** It should be noted that during hours of heavy traffic, the arrangement at the traffic circle north of the checkpoint leads to a severe bottleneck in the flow of traffic from various directions, and compounds the congestion in the entire area.
6. The new procedures for vehicular traffic at the Qalandiya checkpoint are fundamentally different from the procedures for vehicles at other checkpoints used by Israelis to drive from the West Bank into and out of Jerusalem, such as the Hizmeh checkpoint in north Jerusalem or the tunnels checkpoint south of the city. **Since all those passing through the Qalandiya checkpoint by vehicle are residents of Israel, this constitutes discrimination, which must be halted at once.**
7. In addition to harsh restrictions on the freedom of movement, the humiliation involved in passing through the checkpoint and the endless waits, we are in receipt of **numerous complaints from those crossing the Qalandiya**

**checkpoint about unwarranted delays and offensive remarks made by soldiers and the police.** Many of the complaints concern the conduct of the private security guards stationed there, who intervene in the work of the soldiers, are unreasonable with regard to the form and type of inspection, and treat those who cross in a humiliating manner.

8. In a decision by the High Court of Justice (HCJ 6080/04 *Muselmani v. Minister of Defense*), which deliberated the route of the Barrier in the A-Ram area, it was stated that Qalandiya and other checkpoints must allow a reasonable fabric of life for East Jerusalemites who reside beyond the Barrier (parag. 58).
9. The Court was persuaded that the harm wrought to these residents by the Barrier route was not disproportionate, based on the State's commitment to preserve the fabric of life of the residents by opening five pedestrian lanes in the Qalandiya checkpoint – including one lane for Palestinians with an entry permit to Israel and one lane for students, the physically disabled, municipal workers, medical personnel and teachers – with each lane allowing 250 pedestrians to cross every hour during heavy traffic times of day. The State also undertook to ensure a sufficient number of lanes and that additional lanes would be opened, if needed. Concerning vehicular traffic, the State committed that the checkpoint would include one lane for vehicles from Jerusalem to the West Bank and four lanes from the West Bank into Jerusalem, including one lane for public transportation. In the State's commitment, every vehicle lane would allow approximately 170 vehicles an hour to cross during times of day of heavy traffic (parag. 22 of the State's response to the aforementioned case, dated 18 May 2005).
10. **Based on these commitments and an update by the State in June 2006 asserting that the average waiting time for vehicles and pedestrians was several minutes, and during heavy traffic hours, 15 minutes for pedestrians and 25 minutes for vehicles, the High Court accepted the State's position, stating that the Qalandiya checkpoint "enables a reasonable regime of access to Jerusalem"** (parag. 55 of the judgment).
11. Based on the aforesaid, **a significant discrepancy exists between the State's commitments and reality:** Not all five pedestrian lanes to which the State committed are in operation (and it committed to opening additional lanes if required), and the lanes for specific groups also do not operate. With regard to

vehicles, no lane is designated for public transportation, while passengers, including children, are required to disembark from vehicles and cross the checkpoint on foot. **As a result, the length of wait significantly deviates from that on which the High Court based its decision.**

12. **The extensive delays in crossing the Qalandiya checkpoint constitute a severe and disproportionate violation of the freedom of movement of the population, which is dependent upon passing through the checkpoint.** These checkpoint delays violate the access of East Jerusalem residents to schools and educational institutions, hospitals, and religious and cultural institutions that are on the other side of the Barrier. **As a result, there are violations of the residents' rights to livelihood, access to medical care, education, prayer in their holy places, and visits to their relatives.**
13. In the aforementioned judgment, the Court specifically stated that the petitioners have the option of returning to the Court if the routine of crossing Qalandiya checkpoint does not function properly. The current situation at the checkpoint does not allow preservation of a reasonable fabric of life for those who must cross it.
14. **Therefore, to obviate the need to return to the Court, we call for your urgent intervention to improve passage through the Qalandiya checkpoint, including the following measures:**
  - a. Opening all lanes in the checkpoint, especially in the morning and during other hours of heavy traffic.
  - b. Ensuring that, as a rule, waiting time in the checkpoint during periods of heavy traffic not exceed the waiting time to which the State committed to the High Court of Justice, and, if this is not possible in the existing structure, weighing the option of creating additional lanes.
  - c. Rescinding the requirement that passengers in vehicles cross the checkpoint on foot.
  - d. Opening at least one lane for public transport.
  - e. Improving and adapting the traffic circle north of the checkpoint to ease the congestion during heaviest traffic hours.

- f. Sharpening the orders and procedures given to soldiers and police regarding their treatment of those crossing the checkpoint, and emphasizing the need for fair and respectful conduct.
  - g. Ensuring that all checkpoint lanes are open early in the morning to allow for the timely arrival of residents to their destinations.
15. Finally, we would like to draw your attention to one more issue: During a recent tour of the Qalandiya checkpoint, we discovered that the police at the checkpoint do not allow Jews to cross. In light of the fact that the checkpoint itself, as well as the area to the north of it, are located within the municipal boundaries of Jerusalem, we are surprised by this conduct. According to the police, these directives are anchored in a military commander's order. Since this is not a military zone, we would like to know whether there is indeed a military commander's order that prevents Jews from crossing the checkpoint and, if so, we would appreciate receiving of a copy of that order.
16. **We would be grateful for your expeditious reply.**

Yours very truly,

Atty. Tali Nir

CC:

Atty. Osnat Mandel, High Court of Justice Department, State Attorney's Office

Maj. Gen. Aharon Franco, Commander, Jerusalem District Police

Maj. Gen. Gadi Shamni, GOC Central Command

Commander Nissim Edri, Border Police, Jerusalem Perimeter Area

Atty. Alon Yifrah, Legal Counsel, Ministry of Defense

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Atty. Ronen Leibowitz, Legal Counsel, Jerusalem District Police