



UNRWA Reports on the West Bank Barrier

Case Study

The Permit System: The Case of Jayyous and Falamyeh, Qalqilya Governorate

May 2004



Jayyous and Falamyeh are sister villages that lie in the agricultural heart of Qalqilya Governorate, their shared lands spreading westwards six kilometers towards the Green Line. The area is unusual in supporting intensive irrigated agriculture because of its abundant water resources. Here is some of the most fertile land in all the West Bank with dunum upon dunum of

olive groves, citrus trees, other fruit trees and, most important of all, hundreds of greenhouses for the cultivation of vegetables.¹

The IDF-imposed closures and road blocks since the start of the second *intifada* in 2000 changed all this, robbing the area of the lucrative Arab market, most of the Israeli market and to some extent the local markets. However, farmers still had access to their lands and were producing goods for the local markets in nearby towns and villages supporting their own families. The land also provided a support system for those men who had been attracted to the Israeli labour market by high wages and were now unemployed due to the closures.

Following the completion of the barrier, however, access has become a Kafkaesque exercise for many of the communities depending on the land as regulations become more stringent and convoluted. According to Israeli authorities, the gates installed in the barrier in Jayyous and Falamyeh in summer 2003 were to allow all Palestinian farmers access to their lands (see page 3). The introduction and implementation of the 'permit system', however, is presenting an insurmountable obstacle for increasing numbers of farmers.

¹ A dunum is a unit of land area used in Palestine that equals one-quarter of an acre or 1,000 square meters.

October 2003
Round 1



Palestinian farmers waiting to cross the gate at Jayyous in November 2003.

By summer 2003, construction of the barrier in Jayyous and Falamyeh was complete and farmers were separated from their land and their main source of income. In Jayyous 70 per cent of the most arable land, or about 9,000 dunums, is now isolated on the western side of the barrier, beyond gates and barbed wire.

On 2 October 2003, the IDF declared the land isolated between the barrier and the Green Line a closed military area. According to this IDF order, inhabitants of the 'seam zone' are classified as 'long term residents' and require a permit to live on the land they own. A permit is also required for non-residential land. According to the order, access would be provided through one of 47 gates which are supposed to be in place in the first phase of the barrier (120 kilometers) between Salem and Qalqilya.

The process of obtaining the permits, as described below, belies Israeli assertions of easy access. Furthermore, residence and ownership guarantees **eligibility** for a permit only; they do not guarantee **granting of the permit itself**.

Initially, farmers from Jayyous and Falamyeh resisted applying for permits but eventually accepted them when the first round of permits was delivered by the Israeli Civil Administration on 19 October 2003.

In this first round of distribution villagers were supposed to apply to obtain permits, but, anticipating resistance, the IDF distributed thousands of permits throughout the area affected by the barrier, seemingly at random. Jayyous received 630 permits and Falamyeh 130, including permits for farmers in neighbouring villages, persons living abroad, the elderly, children and even the deceased (*see box*). Permits were also issued to some non-landowning agricultural laborers who were now marketing their services to landowners without permits. The permits were generally valid for three months.

Rushdi's Family

Rushdi and his brother Rashid inherited 110 dunums of land from their father in Falamyeh village. Half of the land has olive trees on it and the other half has varieties of citrus trees. The family used to sub-contract the citrus groves to an agricultural firm which paid them JD 14,700 annually. In Falamyeh, this was enough to assure a comfortable life for the family.

In October 2003, the gates in the barrier were effectively closed and farmers required permits to access their land. The IDF issued eight permits to Rushdi's family, one for each of his children aged 3-16 years. He and his wife were not issued permits. The olive harvest was partially lost and the family lost the contract with the sub-contractor.

Rushdi finally obtained a permit on 18 January 2004, but he doesn't have the right to bring in a truck or other farm vehicle. However, the family had already cut down many of the citrus groves in order to plant low-maintenance wheat. Unfortunately, it also provides much less income.

Conversely, according to the Jayyous Land Defense Committee, 116 land-owning farmers who required permits did not receive them. Among them were 30 greenhouse owners (each owning more than one greenhouse) and 16 experienced greenhouse workers. Many fruit farmers also did not receive permits.

Permits for private vehicles to pass the gate were denied. Only two trucks obtained permits to cross the gate in order to transfer fresh produce to the market. Tractors and donkey carts were allowed.

November 2003 - January 2004

Round 2

Following the expiry of the initial round of permits, delivered by the IDF to the Jayyous and Falamyeh municipalities without a formal application process, Palestinians were required to apply for access permits through the Israeli Civil Administration at Qedummim. In addition to their West Bank identification cards, applicants were required to present either *tabu* or *ikhraj qayd* land ownership documents (see page 7).

Landowners who received permits in the first round presented themselves to the Qedummim Civil Administration by January 18 to apply for an extension. Others who had not been included in the first round had to go through the application process and prove their land ownership. Many permits were issued, but many were refused. (see The Case of Qalqilya, pg.6).

Some landowners who were originally denied a permit for 'security reasons', were able to obtain a permit after employing a lawyer (see The Case of Miriam, pg. 5).

Landless agricultural laborers who had previously obtained permits were now denied them altogether. Only where significant international publicity was generated were there been exceptions. One such case is that of Jalal Zeid, a landless poultry farmer, who lost thousands of chickens due to lack of access. Following intense media coverage, he finally obtained a permit.

The Case of Al Ras

Al Ras is a small village in the Tulkarm area. 59 families own land in nearby Khirbet Jubara which lies isolated behind the barrier. In October 2003, 40 people were issued permits to access their lands in Khirbet Jubara. The permits generally had a short-term validity of between three to 10 days only. Residents have reported that it sometimes takes them two days to obtain a three-day permit. As these expired, fewer people managed to have them renewed in the second round of the process. By November 2003 only 20 people were issued permits, half the original number. Private cars, farm vehicles or equipment are often not allowed – just food and water for personal use.

THE CASE OF MIRIAM



Miriam from Jayyous, pictured with her granddaughter Shajan, owns ten dunums of land on the western side of the barrier which she inherited from her husband. Years ago the family cut down the citrus groves to grow vegetables in order to earn a more regular income throughout the year.

Following her husband's death, Miriam worked the land alone while her three sons studied in Jordan and established families there. In 1996, suffering from arthritis and no longer capable of working the land alone, Miriam asked her son Abdel Latif to return to Jayyous with his family. Miriam now stayed at home to help her daughter-in-law raise her young grandchildren.

When the IDF issued permits in Jayyous in October 2003, Miriam's family was issued seven permits. Six of them were for two of her sons and grandsons who live in Jordan. Her son, Abdel Latif, who lives with her in Jayyous was denied a permit 'for security reasons' as he had had a 'security-related' problem before. The only member of the family living in Jayyous who obtained a permit was Miriam herself.

Having lost his day job in Israel due to the closures, Abdel Latif's access to the land was crucial to the family's survival. Abdel Latif engaged a lawyer at a cost of NIS 1,500 to help him obtain his permit. In the meantime he was forced to sub-contract part of the land to his cousin for a modest rent. Abdel Latif finally obtained a permit on 16 December 2003 valid for three months, security apparently not being an issue anymore. However, with the new regulations in place, getting an extension on the permit could prove to be even more time-consuming and expensive.

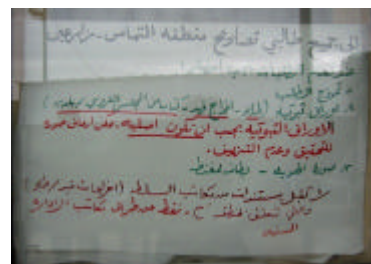
January 22, 2004

Round 3

On January 22, 2004, the IDF Civil Administration at Qedummim issued new requirements for permits. (Most of the farmers had had their permits extended by 18 January 2004).

The new regulations require applicants to obtain the following:

1. An application form;
2. An ID card with their photograph;
3. Up-dated land ownership documents (*Tabu* or *Ikhraj Qayd*) issued or renewed by the IDF Civil Administration in 2004 and showing congruence of all names;
4. A certification from the local village council/municipality asserting that the documents are valid, and
5. A magnetic card.



Handwritten instructions posted inside a window at the Qedummim Civil Administration. Picture taken 26 January 2004.

Concerning point 3, significantly the IDF will only issue a new *ikhraj qayd* upon payment of taxes (NIS 22.5/dunum) on all irrigated land isolated behind the barrier, retroactive to 1995.

Other fees for the application process include NIS 7 for the application itself, NIS 55 for the magnetic card and NIS 41 for the *ikhraj qayd* for those who only need to renew this document. If a new *ikhraj qayd* needs to be issued on the basis of a *tabu* document, this costs NIS 250.

The Case of Qalqilya Town

About 83 per cent of Qalqilya's arable land has been isolated beyond the barrier and between 1,700 and 1,800 families need to obtain permits to cross gates, checkpoint to land in the 'seam zone'. In the first round, about 400 people were issued permits. Of these, about 100 are persons who are either out of the country or deceased. The municipality confirms that the process of obtaining a permit is getting progressively more difficult. In January 2004, one Qalqilya landowner had to make eight trips to the DCL to provide all the proper documentation requested by the Israeli Civil Administration.

Although elements of these regulations are not new, their stringent and selective implementation at this point makes it very difficult if not impossible for many applicants to obtain an access permit. In a community where over nearly two-thirds of the population depend on agriculture for their livelihood this is potentially devastating. According to the Ottoman Land Law (adopted by Israel in 1967) which stipulates that land which is not cultivated for three consecutive years can be appropriated by the state, it could also threaten landownership in future.

The main difficulties lie in obtaining a magnetic card, obtaining an *ikhraj qayd* in the name of the applicant and, most of all, in paying taxes retroactive to 1995 in order to have the *ikhraj qayd* newly issued or renewed.

MAGNETIC CARDS

Throughout the West Bank and Gaza, the IDF issues magnetic cards to Palestinians wishing to enter *Israel*, usually for work. A magnetic card signifies that the applicant is not deemed a security risk by the IDF.

Magnetic card applications are only accepted on Thursday at the Qedummim Civil Administration. An applicant has to wait one week and collect the magnetic card the following Thursday. If the card is not issued on that day, the applicant can try again the following Thursday, and so forth. Each new application costs NIS 55.

TABU AND IKHRAJ QAYD

The Ottoman Authority first introduced *tabu* in 1858 to establish rights of land ownership. *Tabu* is a geometric description of the land parcels describing the nature of the interests and the ownership or control of those interests. Registration of land as *tabu* also entailed payment of taxes for the cultivated areas and possible enlistment of the male family members into the Ottoman army.

Registration largely failed as Palestinian farmers resisted the abrogation of their traditional landownership system (*musha'a*) which was based on communal property.

Under Jordanian rule, Palestinians had the option of registering their lands as *tabu* (the full cadastral registration) or, in the absence of *tabu*, could obtain a document called *ikhraj qayd* from the local court or land office. *Ikhraj qayd* is simply a certification showing the details of a transaction if one did not possess the original document, in this case *tabu*.

Because of traditional land ownership patterns and due to the extremely slow process of land registration, only about one-third of the West Bank was registered as *tabu* land by the time of the 1967 War.

Today, the majority of landowners in the West Bank possess an *ikhraj qayd* document. However, more often than not, this may have been issued in the name of the father or the grandfather and has not been up-dated to reflect current ownership.

According to the traditional musha'a landownership system, land always belonged to families and their descendants and this was known and respected by the entire village. Villagers did not feel compelled to initiate and complete the application process, which could be very cumbersome, especially after the 1967 war.

The new IDF regulations since January 2004 require the *ikhraj qayd* to be in the name of the applicant. The process of adjustment if this is not the case, can be very complicated. Without it, land ownership cannot be officially proved and permits cannot be obtained.

A Case in Falamyeh

A farmer from Falamyeh village showed UNRWA staff members a certification issued by a court in Nablus which recognized his father's title to 100 dunums of land he purchased 20 years ago. The father had wanted to register the land with the Nablus Land Office but was informed by the Israeli authorities that the *official transfer* of ownership in the land office was not allowed. They informed him that a court certification would suffice and would indeed supercede any registration in the land office. Thus, until this day the land is officially in the name of the original owner and the family has no official title to the land such as *tabu* or *ikhraj qayd*. In the absence of these documents, the farmer cannot prove land ownership for the land he inherited from his father and is not eligible to obtain a permit.

Interview in Falamyeh on 23 January 2004

Obtaining Ikhraj Qayd – A Story from Jayyous

Abdel-Latif Mohammed Mahmoud Abdelhalim Khalid and his family own land in Jayyous. Abdel Latif has nine sisters and seven brothers. His mother is also alive. Their father, Mohammed Mahmoud Abdelhalim Khalid, obtained *ikhraj qayd* for his land under Jordanian rule. His children all inherited shares in their father's land when he passed away. There are by now 130 persons who have a right to a share of the father's original land, including his children, grandchildren and great-grandchildren.

In keeping with traditional landownership customs, the father did not change this document after his children were born, nor did his children amend it after he died. Thus, the *ikhraj qayd* is still in the name of the father. Abdel-Latif is not mentioned by name.

If he wants a permit to access the land which is now isolated behind the barrier, Abdel-Latif will have to produce a new *ikhraj qayd* that includes his name (as well as that of all 129 other family members).

To do this, Abdel-Latif will have to obtain an affidavit from the Palestinian court in Nablus, certifying that he is in fact an heir and that the land has not been sold, is free of debt and mortgages or any other liens.

To obtain this affidavit, he will first have to post an announcement in the Jayyous mosque for one week stating his claim to the land. If this is uncontested at the end of the week, Abdel-Latif will have to bring two witnesses to the Nablus court who will certify his land ownership.

Once he has obtained the affidavit, Abdel-Latif will have to take this to the Jayyous municipality where it will be certified again.

Now the document will be ready for presentation at the Qedummim Civil Administration. Following the back-payments of taxes since 1995 on all the irrigated lands, Abdel-Latif will now have fulfilled **one** of the requirements for eligibility for a permit.

The names on these documents were formed according to Jordanian rules, mentioning the father, the grandfather and the great grand-father before the family name. Thus, somebody might be called Abdel-Latif Mohammed Husni Ahmed *Khaled* in Jordan, with Abdel-Latif being the given name and *Khaled* being the family name.

Under Israeli occupation, documents would be issued using only three names. On Israeli documents, this person would then be referred to as Abdel-Latif Mohammed Husni *Khaled*, dropping Ahmed, and there would no longer be congruence of names on all documents. The IDF requirement of congruence of names on all official documents stems from these different practices. Name adjustment frequently involves many bureaucratic steps.

Refugee Landowners from Tulkarm Camp

Twenty refugee families registered in Tulkarm Camp own land which is now isolated behind the barrier in the Palestinian village of Khirbet Jubara. Some are reporting that it is getting progressively more difficult to obtain a permit to access their land. Mr. Abdel Ghrab owns one dunum of land in Jubara and said that the longest his permit has been valid for is two weeks. However, according to Ghrab it was not difficult to obtain a permit in the beginning. Regulations became stricter at the end of January 2004 when his last permit expired and he had to provide up-dated copies of land ownership, or *ikraj qayd*, and proof of residency (he showed his UNRWA registration card). The Camp Services Officer (CSO) of Tulkarm Camp has reported that at least one landowning refugee came to him asking him for a letter confirming his residence as Tulkarm camp. The landowner said the Qedummim Civil Administration has asked him for this in order to receive a magnetic card.

PROPERTY TAXES

Obtaining all the necessary documentation can be very cumbersome, time-consuming and costly, but it is usually possible, even though there are exceptions. What is proving to be most difficult and effectively stopping many landowners from obtaining permits is the obligation to pay taxes on all irrigated land retroactive to 1995.

Following the occupation of the West Bank in 1967, the Israeli Civil Administration regularly levied direct property taxes. Although the Oslo process made provisions for Israel to continue levying taxes, the process effectively ceased following the hand-over of the West Bank to the Palestinian Authority in 1995.

A number of officials in the Jarryous and Falameh municipalities, including the mayors of these two villages, confirm that farmers stopped paying property taxes as of 1995.

According to the new regulations introduced in late January 2004, however, retroactive payment of these taxes is now a prerequisite to obtaining a new or renewed *ikhraj qayd* from the Qedummim Civil Administration. The rate is set at NIS 22.5 per irrigated dunum and at NIS 8.5 per non-irrigated dunum of cultivated land. For many farmers, already financially devastated from the imposition of closures, the checkpoints, the permit requirements and the barrier, this is a final hurdle they cannot or will not overcome.

On January 30, 2004, Ibrahim Mustafa Salman Kharisheh, an elderly landowner from Jarryous, went to the Qedummim Civil Administration to renew his permit. Mr. Kharisheh was asked to pay NIS 1032 in back taxes before he obtains a permit. The mayor of Qalqilya confirmed that this landowner does not have enough money to pay the taxes and may sell a parcel in order to pay the fee (*see Annex II*).

One farmer from Falamyeh told UNRWA staff that he has a total of 25 dunums of land isolated behind the barrier. The Civil Administration ordered him to pay NIS 5000 in back taxes before they would renew his *ikhraj qayd*. When asked if he would pay them in order to get his permit he replied,

'No. Even if I had that kind of money I would not risk that. Payment is no guarantee of actually obtaining the permit. And even if I were to obtain the permit there is no guarantee that I would be allowed to cross the gate or that it will be renewed in six months. This land is lost. I have to accept this fact.'

In a number of interviews at the Qedummim Civil Administration, many applicants expressed their deepest fears of losing their land if they could not access it for three consecutive years based on the three-year law. The 'three-year law' refers to the Ottoman Land Law which was adopted by the Israel shortly after the occupation of the West Bank in 1967 and stipulates that land which is not cultivated for three consecutive years can be appropriated by the state, in this case Israel.

Some farmers in Jayyous and Falamyeh fear that their land isolated behind the barrier may be expropriated by the Israeli authorities if they fail to obtain a permit and consequently cannot cultivate it for three consecutive years. Rashad Salman, for example, a farmer from Kufr Zibad 17 dunums of citrus trees isolated behind the 'barrier' near Falamyeh. He has not obtained a gate permit and is paying a permit holder NIS 400/month to for cultivation and irrigation so that it may not be expropriated by the Israeli authorities in future.

PROTECTION OF PRIVATE PROPERTY

In addition to the outright loss of private property, landowners are also concerned about damage to their private property. In at least two instances, farmers were not able to protect their property from fire as they did not have permits. In August 2003, a fire broke out in an olive grove isolated behind the barrier near Qaffin. Nobody was allowed to the land because the gates were not yet operational and nobody had permits. Villagers watched their land burn from the other side. The following month, farmers said they did not know how many trees were lost because they still had no access to the land.

In September 2003 a fire broke out on land isolated behind the barrier near Khirbet Jubara. The IDF only allowed 12 people to cross the checkpoint to fight the fire; after a long delay and without their cars. Local reported that about 2,000 trees burned down.

Conclusion

Eligibility for access is now strictly limited to landowners who have a title to the land they claim in their name, whose name is listed in the same manner on all documents, who have paid all taxes retroactive to 1995 and who have passed Israeli security procedures in order to obtain a magnetic card,

ordinarily required for entry to Israel only. Once these requirements are met, landowners in Jayyous and Falameyeh may hope to obtain a permit.

However, obtaining a permit once does not guarantee renewal of permit or long-term validity.

Access depends on gate opening hours which are erratic. Laborers or agricultural firms cannot be hired and frequently access of agricultural vehicles and tools is severely if not totally restricted. In many cases, a landowner cannot cultivate and tend his land by himself, thus abrogating land ownership rights.

Based on field research by UNRWA staff and information provided by local municipalities, the number of permits issued to the farmers in the Qalqilya governate, in general, and in Jayyous and Falameyeh, in particular, has steadily declined. In some cases, the validity time of these permits is also shortened. According to one source, as of 4 February 2004, only three farmers had managed to fill all the requirements and obtain permits in Jayyous.

Some farmers have given up going to the land altogether either because they cannot fulfill the requirements or because even with a permit they cannot do all the work by themselves. If the trend continues, much land risks lying fallow, in the category eligible for state confiscation based on the old Ottoman Land Law.

In a period of only five months, the process of obtaining a permit for land isolated beyond the barrier has become progressively more difficult, allowing only access to a small percentage of those persons who used to work the land. Based on the new regulations issued by the Qedummim Civil Administration in late January 2004, the difficulty in obtaining these permits will only increase.

Postscript, 18 April 2004 Round 4

In a meeting with the Qalqilya DCL on 25 February 2004, UNRWA staff were informed that the Qedummim Civil Administration would revise the new regulations introduced on 22 January 2004 and would rescind the requirement for permit applicants to pay taxes on irrigated land retro-active to 1995. During a visit to the Qedummim Civil Administration on 11 March, UNRWA staff members confirmed that the sign which had been posted in a window explaining the new regulations had been removed. Palestinians waiting to apply for permits also confirmed that they were no longer required to pay taxes for irrigated land prior to obtaining their new *ikhraj qaid*.

It is not clear, however, what the policy is with regard to those persons who already paid between 22 January and early March 2004. For example, in Kufr Jammal, a village near Falameyeh, four landowners applied for a renewal of their original permits after 22 January and were required to pay the back taxes

in order to obtain their updated *ikhraj qaid*. One of these landowners reported that he owned 12 dunums of olive groves beyond the barrier in Falamyeh for which he was required to pay NIS 2300 in back taxes. He made a down payment of NIS 480 and was informed that in order to renew his permit (which expires in late August) he would have to pay the balance. He believes he will still have to pay the balance, even though the requirement has since been cancelled.

Others, like Ibrahim Kharisheh from Jayyous who paid NIS 1032 in back taxes on 30 January 2004 for his land beyond the barrier, do not expect to be reimbursed.

Notwithstanding the official easing of regulations to obtain an access permit, UNRWA staff members continue to document significant problems encountered by Palestinians wishing to obtain access permits. So, for example, some farmers report they are now required to pay a 'fee' of NIS 45 per dunum of land which is registered with the Qedummim Civil Administration as cultivating citrus groves, whether they currently are or not. Salim Shaker Hussein, head of the Kufr Jamal village council, for example, paid NIS 1719 on 20 February for his citrus groves in order to obtain his permit.

Another example of the difficulties encountered by applicants despite the easing of the regulations is presented by Kufr Zibad. In this village of 1500 persons located east of Falamyeh. 40 families from Kufr Zibad (among them 25% refugee families) own a total of 700 dunums of land that is isolated behind the barrier accessed through the Falamyeh gate.

Initially, when the first permits were issued in October 2003, all 40 families were issued permits, including landless labourers. The permits were valid for three months from 15 October to 15 January 2004. Now that the permits have expired, none of these 40 families have been able to secure permission to go to the lands, despite repeated efforts with the Israeli authorities.

The landowners said that it was not the question of the payment of taxes which prevented them from obtaining the permits, but simply the paperwork involved in obtaining a new *ikhraj qaid* which is very cumbersome and time-consuming. Up until 11 April 2004, not a single villager had managed to fulfill all the requirements to obtain a permit. However, some of the landowners are still managing to convince the soldiers to allow them to pass through the gates on the expired permits.