Frequently Asked Questions:
Family Unification

What prevents residents of the Gaza Strip from moving to the West Bank for the purpose of family unification?

As a rule, Israel prohibits Palestinian residents of the Gaza Strip from relocating to the West Bank, except in exceptional and rare circumstances. Israel maintains that family relations do not in and of themselves constitute a humanitarian reason that justifies granting permission to move to the West Bank — this even though Israel recognized Palestinians’ right to choose their place of residence in either part of the Palestinian territory in the interim agreements. Furthermore, since 2007 Israel has almost completely forbidden travel between the Gaza Strip and the West Bank, even for visits. Since there are many familial ties that stretch across the West Bank and the Gaza Strip, the Israeli policy routinely separates parents from their children and husbands from their wives; family activities that are normally taken for granted — visiting a sick family member, attending a sister’s wedding, choosing a place of residence as a couple, and even maintaining family life under a single roof — have become unattainable wishes for Palestinian families divided between the Gaza Strip and the West Bank.

What are the criteria for moving from Gaza to the West Bank for the purposes of family unification?

In 2008, HaMoked: Center for the Defence of the Individual filed a number of petitions to the High Court of Justice concerning Palestinians whose requests for relocation from Gaza to the West Bank the State had rejected outright even though there were no security allegations made against them. As part of the proceedings in the petitions, the Court ordered the State to draft a procedure for handling requests by Palestinians to move from Gaza to the West Bank. The procedure that Israel developed makes relocating from Gaza to the West Bank almost impossible. Even in clearly humanitarian circumstances — an orphan living in Gaza who wishes to unite with his or her remaining parent in the West Bank, an elderly person in need of intensive care who wishes to be tended to by a family member in the West Bank, or a husband separated from his wife — Israel does not permit relocation, except under
the most exceptional conditions. As part of the procedure, Israel has declared that family relations do not in and of themselves constitute a humanitarian reason to receive permission to move to the West Bank and to have one's change of residence officially recorded. This is true even in the case of a couple that wants to live together or a mother and her children who want to live with the father of the family.

The option of moving to the West Bank is only available to chronic medical patients, orphaned children, and elderly people in nursing care, and only on the condition that they wish to be cared for by a first-degree relative living in the West Bank, and that they have no relatives of any degree in Gaza who are able to care for them. By almost completely blocking the possibility of relocating residence from Gaza to the West Bank with these impossible criteria, Israel separates parents from their children and husbands from their wives, and it denies Palestinian residents the basic right to family life and the choice of their place of residence. Furthermore, according to the stringent rules of the procedure, it is easier for a foreign national living in the West Bank to receive residency status in the Palestinian territory than it is for a Palestinian from Gaza who manages to meet the criteria for moving to the West Bank: in the latter case, permission for permanent residence will be granted only after seven years of living in the West Bank with temporary permits.

Why does Israel have to let Palestinian family members pass through its territory?

Despite the physical separation between them, the West Bank and the Gaza Strip existed for years as a single social and cultural unit for their residents. As part of the Declaration of Principles in 1993, and later in the interim agreement signed between Israel and the Palestinian Authority in 1995 ("the Oslo Accords"), Israel recognized that the two areas constitute "a single territorial unit" where the Palestinian people were to realize their right to self-determination and where freedom of movement was to be allowed. As part of the Oslo Accords, it was agreed to institute a "safe passage" through Israel, where Palestinians would be able to move freely between the West Bank and Gaza. Nonetheless, it was only in October 1999 that one of the routes of the safe passage between the areas opened for the first time, and it operated for a single year. Upon the outbreak of the Second Intifada, Israel closed the passage, and its activity has not resumed since despite repeated promises (for instance, in the 2005 Agreement on Movement and Access) to renew passage. The political agreements reflect the right enshrined in international legal principles which concern human rights, namely every person's right to move freely within his or her own territory.
The obligation to allow passage between Gaza and the West Bank also derives from the right recognized in public international law as the right of transfer: a state is obligated to allow transfer through its territory to people wishing to reach another country when the transfer is necessary but does not harm the transfer state. That obligation exists even if alternatives exist for transfer. A split territory, such as the Palestinian territory, is one of the cases that contributed to the development of the principle of the right of transfer.

But not only does Israel forbid Palestinians from Gaza from traveling to the West Bank through its territory, it also refuses to allow them to enter the West Bank from Jordan through the Allenby Crossing, which does not require transfer through Israeli territory. This indicates that it is not the transfer through Israel that motivates its refusal to allow Gaza residents to move to the West Bank, but rather Israel’s desire to prevent people who are residents of Gaza from living in the West Bank, regardless of their route of transfer.

Why does Israel have to help Palestinians in Gaza when they continue to fire rockets at Israel and hold Corporal Gilad Shalit?

The ever-tightening closure that Israel has imposed on Gaza harms all the residents of the Strip - more than half of whom are children - regardless of any personal involvement in acts of violence against Israel. This constitutes collective punishment in contravention to international law. Indeed, the prohibition on punishing civilians for acts which they did not commit is a fundamental principle of international humanitarian law. IHL seeks to distinguish between those who participate in hostilities and innocent civilians, who are entitled to special protections. The firing of rockets at Israeli civilian population centers is unacceptable and constitutes a violation of international law. This and the ongoing captivity of Gilad Shalit do not, however, justify the imposition of restrictions on freedom of movement for the entire civilian population of the Strip, effectively punishing them for political or other circumstances which are beyond their control. Judging by recent statements of the Israeli government, even the release of Corporal Shalit will not necessarily lead Israel to remove restrictions on freedom of movement for residents of Gaza. Moreover, it should be emphasized that although movement restrictions have been tightened in response to rocket fire, the capture of Shalit, and the rise of the Hamas regime, these restrictions, especially between Gaza and the West Bank, were already in place many years prior. For example, the ban preventing students from Gaza from traveling to study in the West Bank has been in place since 2000.
Isn’t Israel entitled to keep the residents of Gaza away from the West Bank?

Palestinian residents of the occupied Palestinian territory have the right to move and choose their place of residence throughout the Occupied Territory, in light of the provision under international law allowing a person to move freely inside their own territory. Israel committed explicitly in the Oslo Accords to maintain the status of the Gaza Strip and the West Bank as a "single territorial unit" where freedom of movement should be allowed. However, since 2000, Israel has been operating in various ways to prevent passage between Gaza and the West Bank, while employing increasingly stringent bureaucratic obstacles for doing so. One of the instruments Israel uses in order to deepen the separation between the Gaza Strip and the West Bank is its continued control of the Palestinian population registry. Since 2000, Israel has refused to update changes to the registered addresses of Palestinians who continue to be listed as “residents of the Gaza Strip”, even if they moved to the West Bank and have been living there for many years.

The address originally entered in an identity card dictates the fate of individuals and families: thousands of Palestinians who have been living for years in the West Bank are still registered as living in the Gaza Strip because of the prohibition on changing addresses from Gaza to the West Bank. Israel considers these individuals to be "illegally present" in the West Bank and acts to remove them to Gaza and/or to prevent their return to the West Bank after visits abroad or to Gaza, leading to their separation from their family members in the West Bank.

Why don’t family members just go live together in the Gaza Strip?

Israel forbids Palestinians from Gaza from relocating to the West Bank, even for the purposes of family unification, except in exceptional and rare circumstances. On the other hand, Israel tends to allow members of a family divided between the two areas to unite in the Gaza Strip. In this way, Israel encourages movement in one direction and exerts heavy pressure on Palestinians who wish to maintain the unity of their families to uproot from the West Bank to Gaza. This is an act with serious consequences, because it requires Palestinian residents who have been living in the West Bank for many years, or were even born there, to leave their homes, their livelihoods, and their family and social ties in the West Bank. Because of the travel restrictions, moving to Gaza means separation from family members in the West Bank.
Bank and the inability to visit them, even for celebrations, illnesses, or mourning rituals.

Isn’t Israel preventing families from the Gaza Strip and the West Bank to unite because of concrete security threats?

No. Israel prevents families from uniting as a sweeping policy, without conducting individual security checks in each case. Even Palestinian residents against whom Israel has no security allegations are precluded from moving from Gaza to the West Bank if they do not meet Israel’s stringent criteria for doing so. The prohibition on movement became almost absolute following the political–security Cabinet Decision from September 2007 to restrict the movement of people and goods into and out of the Gaza Strip in response to the rise to power of Hamas and its firing on civilian targets in Israel. The restrictions are not imposed in order to confront a concrete security threat created by movement of people, but rather to exert indirect pressure on the Hamas government in the Gaza Strip by imposing restrictions on the civilian population of the Strip. It is important to remember that these are restrictions meant to prevent families from uniting in the West Bank, regardless of the question of transfer through Israel: in the absence of security information, Israel allows the members of a divided Palestinian family to pass through its territory to unite in the Gaza Strip, but not family members who wish to unite in the West Bank; thus, the restrictions work in only one direction. Furthermore, the policy of removing people from the West Bank to the Gaza Strip prevents Palestinian residents from staying in the place of their residence, regardless of the question of passage through Israel. The predictable effect of the policy — movement in one direction from the West Bank to Gaza — raises questions about Israel's motives, since it has abandoned its territorial claims to the Gaza Strip, but not to the West Bank.