The Dilemmas of Humanitarian Action in the Occupied Palestinian Territories[1]

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This essay reflects upon the dilemmas of humanitarian action in the Occupied Palestinian Territories (OPT). Its reflections center around the experience of Machsom Watch, an Israeli organization established in 2001 in response to the current closure regime that restricts the mobility of Palestinians living in East Jerusalem and the West Bank. Machsom Watch is not a traditional humanitarian organization in the sense of providing relief and/or protection in accordance with the principles of impartiality, neutrality, and independence. Rather, it is an organization that works to protect human rights and to end Israel's occupation of the Palestinian Territories that has integrated humanitarian activities into its political work. As such, its experiences assisting Palestinians reveal both the dilemmas facing all humanitarian organizations working in the OPT as well as the serious difficulties that confront organizations that combine humanitarian and political work.

The essay begins with a brief overview, first, of the current closure regime and its effects on Palestinian society and the economy of the West Bank, and second, of humanitarian efforts in the Occupied Palestinian Territories and specifically the work of Machsom Watch. It then turns to the dilemmas of humanitarian action in the OPT, focusing in particular on the ways in which aid can help to sustain and bestow legitimacy upon Israel's occupation of the Palestinian lands. The final part of the essay considers the ways in which organizations might respond to these dilemmas and try to minimize the possible negative effects of humanitarian aid. Here, it argues that both international

and local organizations must insist that Israel fulfill its responsibilities under international law and ensure, as well, that humanitarian aid is provided in compliance with international law. It also contends that all organizations, but especially those organizations that combine humanitarian and political work, must resist the framing of their activities in humanitarian terms.

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The humanitarian situation in the West Bank and East Jerusalem has been documented in detail by international and local (Palestinian and Israeli) non-governmental organizations as well as by the United Nations Office for the Coordination of Humanitarian Affairs (UNOCHA). In their reports, these organizations have identified a number of key concerns including, but not limited to, mobility restrictions and the resulting decline in socio-economic conditions (including employment, food security, health, and education); lack of access to safe water; the demolition of Palestinian-owned structures by Israeli authorities; settler attacks on Palestinians and their property; and the absence of effective law enforcement in response to such attacks. Given the constraints of this essay, I will focus my discussion on one key aspect of the current situation: the restrictions on Palestinians' freedom of movement. These restrictions and their effect on Palestinian lives and livelihoods were identified by the United Nations Country Team in June 2008 as being among those factors that have "the greatest impact on the current humanitarian situation in the Occupied Palestinian Territory."[2]

For a visitor to Israel and the West Bank in 2008, the most striking manifestation of the occupation is clearly the West Bank barrier. Approved by Israel in 2002 following a series of suicide bombings by Palestinian militants, the barrier's stated purpose is to protect Israeli citizens from further attacks. Although a 2004 advisory opinion of the International Court of Justice (ICJ) on the "Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territories" found that the current route of the barrier—87% of which runs inside the West Bank rather than along the Green Line—and the associated gate and permit system violated Israel's obligations under international law, construction of the barrier continues, with approximately 57% of the announced route completed and 9% still under construction as of July 2008.[3] It is important to note, however, that the barrier is only

one feature of the current closure regime that restricts the freedom of movement of Palestinians and their access to agricultural lands, water resources, services, and jobs. The regime also includes various types of physical obstacles (earth mounds, trenches, roadblocks, staffed checkpoints, and random or "flying" checkpoints) that restrict mobility and access *within* Palestinian territory. According to UNOCHA, there were just over 600 of these internal obstacles throughout the West Bank at the end of April 2008.[4]

These physical obstacles operate in conjunction with a permit system run by the Civil Administration in the Occupied Territories. Today every Palestinian man or woman with a West Bank ID card must apply for a permit, as well as the magnetic card that is a prerequisite for receiving a permit, to enter Israel (including East Jerusalem, which has been formally annexed to Israel) whether for work or to access services, including medical care. Permits are also required to cross at internal checkpoints during an "encirclement," and to enter the "seam area" (the area isolated between the barrier and the Green Line), which the Israeli Defense Forces (IDF) has declared a "closed military zone."[5] It should be noted that access to this zone has been restricted not only for Palestinians who live east of the barrier and who now require permits to access their farms and wells, but also for those whose villages are located within the seam area. These Palestinians currently require special permits to live in their own homes. Palestinians often wait for long periods for their permits and there is no guarantee that individuals who apply for permits will actually receive them.

Even with the required permit, crossing checkpoints can be a long and arduous process for Palestinians. When traveling from the West Bank to East Jerusalem, for example, permit holders are only allowed to cross the barrier through four of the seventeen existing checkpoints, and only by foot. There are also restrictions on the times of day during which permit holders may cross. This can result in long delays, particularly for workers trying to enter East Jerusalem during the morning rush hour.[6] But long delays are not only the result of the limited number of checkpoints open to Palestinians. Palestinians are also made to wait at checkpoints, often for prolonged periods, while their documents undergo a routine check by soldiers.[7] These long waits are made more difficult for Palestinians by what has been characterized as the arbitrariness of the entire closure regime. According to observers, rules governing checkpoints change constantly, often based on the whim of the particular soldiers on duty. Because of this, "[t]he people waiting

never know when—and if—they will be able to continue on their way, or whether they'll be required to turn back."[8] One result of the waiting and the uncertainty is an increase in the daily stress and humiliation experienced by Palestinians.

In addition, the closure regime also restricts the access of Palestinians to main roads throughout the West Bank. Cars with Palestinian license plates are prohibited from traveling on certain roads, and they are prevented from accessing other roads not by an official prohibition, but by long delays that result from the limited number of staffed checkpoints open to Palestinian vehicles. The result is that most Palestinians are forced to take longer routes on poor quality roads. This significantly increases their travel time and costs.[9]

The overall effect of the closure regime has been devastating for Palestinian society and for the economy of the West Bank. Restrictions on Palestinians' freedom of movement have made it extremely difficult, and in many cases impossible, for people to access jobs, agricultural lands, services, and medical care. They prevent people from visiting their family and their friends. The long waits for permits and at checkpoints also rob Palestinians of their time—time for work, time for education, time for leisure activities.[10] With regard to economic activity, because the economy of the West Bank depends on trade (the majority of which is with Israel) and remittances from jobs in Israel, the closure regime, with its restrictions on the movement of people and also goods, has contributed to economic decline. This results in high unemployment and increased reliance on food aid, among other hardships. As the World Bank stated in 2007, with reference to the OPT, "no economy can develop without mobility."[11] Finally, a number of other serious concerns about the closure regime have been raised by international and local organizations. These include the delay or denial of passage through checkpoints of the sick and/or those who are accompanying the sick, the delay of ambulances, violent assaults against Palestinians by soldiers at checkpoints, and damage to Palestinian property.

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In general, the need for humanitarian assistance arises only when governments, and also combatants in times of armed conflict, have been either unable or unwilling to shoulder their responsibilities under international law.[12] In cases of occupation, responsibility for the population living in the occupied area lies with the occupying power. Thus,

the need for humanitarian assistance in the Occupied Palestinian Territories has resulted primarily from Israel's failure to fulfil its legal obligations to the Palestinian people.[13] These obligations are clearly defined in International Humanitarian Law (IHL), in particular, the 1907 Hague Convention and its annexed regulations and the Fourth Geneva Convention of 1949 on the Protection of Civilian Persons in Time of War.[14] In very basic terms, the provisions of these Conventions require that Israeli authorities respect and protect the Palestinian population and its property, and that they take all necessary steps to ensure the well being of this population—steps which include, *inter alia*, ensuring access to food, water, and medical care; maintaining public order; and enforcing the law.[15] In addition, with respect to the current restrictions on Palestinians' freedom of movement, the International Committee of the Red Cross (ICRC) has made it clear that while Israel has the right under international law to protect itself, "the measures used to do so must allow the occupied population to live as normal a life as possible."[16] Where the basic needs of the population are not being met, the occupying power must, under international law, agree to allow assistance programs operated by impartial international organizations, such as the ICRC or United Nations agencies. It is important to note, however, that these assistance programs do not relieve Israel of its responsibilities to the Palestinian people. "Humanitarian agencies may thus offer their services and operate in cooperation with the Israeli authorities but they are prohibited from providing assistance in lieu of the occupying power or pre-empting Israel's responsibility."[17]

The current humanitarian effort in the OPT involves many different actors. Included in these is the United Nations Relief and Works Agency (UNRWA), which was established by the United Nations General Assembly in 1949 to implement relief and works programs for Palestinian refugees. Today, UNRWA is the main provider of educational, health, and social services to the more than one million Palestinian refugees in the Occupied Territories. It also provides emergency assistance in the form of food, temporary job creation, and the rebuilding of shelters—assistance that has become critical for many in the context of the current closure regime. There are a number of other UN agencies active in the humanitarian effort in the OPT, including UNICEF, the World Food Program, and the World Health Organization. Since 2000, the work of these agencies has been coordinated by OCHA-OPT. Joining the United Nations is a host of international non-governmental organizations. These NGOs range from large organizations like the

ICRC, which has been serving in its traditional dual role of emergency assistance provider and guardian of IHL since 1967, to much smaller organizations like the Christian Peacemaker Teams, whose volunteers in Hebron attempt to protect Palestinian civilians by direct non-violent intervention in situations of violence. In addition to international NGOs, there are also a number of local Israeli organizations (some with Palestinian partners) that are active in providing humanitarian relief and protection to the Palestinian people. Among other things, the members of these organizations rebuild Palestinian homes after they have been demolished by Israeli authorities, assist Palestinians at checkpoints, provide material aid including medical care to Palestinians in need, and accompany Palestinian farmers as they work their fields in order to protect them from settler violence. Although there are important differences among them, what makes these local Israeli organizations particularly interesting, from the perspective of this study, is that many of them are not "purely" humanitarian in the sense of providing relief and protection in accordance with the principles of impartiality, neutrality, and independence. Rather, they are political organizations working to protect human rights, to build peaceful relations between Palestinians and Israelis, and, above all, to end Israel's occupation of the Palestinian Territories, that have integrated humanitarian activities into their political work.

The next part of the essay will explore some of the dilemmas facing humanitarian organizations working in the Occupied Palestinian Territories. It will focus primarily on the example of Machsom Watch, an Israeli organization established in response to the problems of mobility and access discussed earlier in the essay. The work of Machsom Watch reveals the tensions that are inherent in humanitarian action as organizations try to "assist populations without contributing to the forces responsible for their suffering."[18] It also reveals the serious difficulties faced by organizations that attempt to combine humanitarian and political work.

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Machsom Watch is an organization of Israeli women, self-described "peace activists," who are opposed to Israel's occupation of the Palestinian Territories and to its oppression of the Palestinian people. It was founded in February 2001 by a small group of women who, after reading newspaper reports about abuses at checkpoints, decided to go see

for themselves what was happening. Machsom Watch's main objective is to raise awareness about the restrictions on Palestinians' freedom of movement and their far-reaching implications, which the organization describes as "one of the occupation's severest aspects."[19] Its main activity is monitoring checkpoints in Jerusalem and throughout the West Bank. Every day, volunteers from Machsom Watch observe events at dozens of checkpoints and document their observations. In so doing, many of these volunteers subject themselves to the disapproval of family and friends as well as to verbal and physical attacks by Israeli settlers. These observations are then made public, in Israel and around the world, through the organization's website, electronic mailings, published reports, and photo exhibits. In addition to their main activity of monitoring checkpoints, Machsom Watch volunteers also act to assist Palestinians in a number of ways. First, they intervene directly at checkpoints in cases in which Palestinians are being intimidated or subjected to physical violence. In the most serious cases of violence and intimidation, Machsom Watch volunteers also file written complaints with the Israeli authorities. They also intervene in other cases, for example, to help the sick and the elderly through checkpoints and to secure the release of detainees. Second, Machsom Watch volunteers help Palestinians navigate the complexities of the permit system by, for example, filing appeals for farmers who have been refused permits to access their land in the seam area. It is significant to note that the women of Machsom Watch did not initially plan to engage in assistance activities. In fact, their own rule was that they would never intervene at checkpoints except in cases of physical or verbal abuse of Palestinians. From almost the very beginning, however, they found that they could not stand silently by as sick children were denied access to needed medical treatment or as men and women were detained for hours in handcuffs, so they moved increasingly toward the provision of humanitarian aid.[20]

Through their monitoring and assistance activities, Machsom Watch volunteers have been able to help many individual Palestinians, who are often in desperate need, and also to improve the overall situation at the checkpoints. As stated in the organization's 2004 report: "From the experience we've accumulated over the past four years, we know that soldiers at the checkpoints tend to use less physical violence when we are watching. This bears out our belief that our presence has a moderating influence on the army's conduct in and around the checkpoints."[21] Significantly, however, the report goes on to say "[a]t the same time, it's

clear to us that the soldiers act cautiously around us, the watchers and reporters, but lose their restraint when we are absent."[22]

Machsom Watch volunteers are also making positive connections with Palestinians. This is particularly important at a time when "[v]irtually all interactions between Palestinians and Israelis…occur either through press reports about violence or at checkpoints in the presence of guns."[23] The response from Palestinians to Machsom Watch and its activities at checkpoints has been very positive.[24] Yet volunteers do receive some negative reactions to their presence. These reactions hint at some of the complexities of humanitarian action in the OPT, especially for Israeli organizations that are attempting to combine humanitarian assistance with their political efforts to end the occupation.

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Some of the most profound dilemmas facing humanitarian organizations working in the OPT concern the ways in which humanitarian aid can help to sustain, and to bestow legitimacy on, Israel's occupation of the Palestinian Territories. One of these ways is through relieving Israel of its obligations to protect and ensure the well being of the Palestinian population. According to Mary Anderson, there is a widespread view that aid helps to sustain the occupation by enabling the continuation of Israel's repressive policies and practices—that aid rebuilds what Israel destroys and that it simply "maintains" levels of poverty that have resulted from current restrictions on mobility and access and other forms of Israeli control.[25] This dilemma is perhaps most obvious in the case of humanitarian organizations that provide material assistance—such as food, medical care, the rebuilding of shelters—to the Palestinian population, but it confronts all organizations engaged in humanitarian work in the OPT. One illustration is the ICRC's Family Visit Programme, which was set up in 1967 to enable families living in the OPT to visit relatives held in Israeli detention centers. While ICRC staff members recently celebrated the fortieth anniversary of this important program, they did so with the recognition that it is, in part, the existence of the program that enables Israel to detain individuals so far from their homes and families in the first place.[26] For Machsom Watch, the specific concern is that while their efforts to assist Palestinians in crossing checkpoints and navigating the permit system can help in individual cases, these efforts may do little to bring about change in

the overall closure regime and may unwittingly, by addressing some of the most problematic aspects of this regime, make it more sustainable. In addition, the inequality inherent in the provision of humanitarian aid may help to sustain the occupation by weakening the ability of Palestinian organizations to resist oppression.[27]

Another dilemma facing humanitarian organizations in the OPT is that while working with the Israeli government can help to get things done, it can also contribute to legitimizing Israel's authority over the Palestinian population and territory. As Fiona Terry argues, humanitarian action can bestow legitimacy on individuals, rebel movements, and governing regimes in a number of ways.[28] One of the ways in which humanitarian action helps to legitimize the Israeli government and its occupation of the Palestinian Territories is through the negotiations that take place between aid organizations and Israeli military and government officials—negotiations which implicitly recognize Israel's authority in the OPT. For Machsom Watch, this dilemma is one that is confronted whenever volunteers intervene with soldiers at checkpoints to help Palestinians through, phone military commanders to report cases of harassment and abuse, or meet with Israeli officials to raise issues of concern. What makes it particularly challenging is that the effectiveness of the organization in addressing the humanitarian needs of the Palestinian population is due in part to the contacts that Machsom Watch volunteers have formed with Israeli military and government officials as well as to their ability, as Israelis, to connect with soldiers and appeal to them as members of the same society.[29] Referring to an offer of assistance Machsom Watch received from Israeli authorities early in the organization's history, one of the group's founders noted: "Then as now, the line between contact with the military and collaboration with them was a very fine one. In retrospect, it might have been better had we not availed ourselves of this 'assistance.' This would have diminished our 'fire-fighting' capacity, but would have strengthened our position as radical opposition."[30]

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These and other dilemmas of humanitarian action in the OPT are well-known to the women of Machsom Watch as well as to other individuals and organizations involved in providing relief and protection to the Palestinian people. They are regularly discussed and debated both

within and between organizations. The problem is that there are no easy solutions. The dilemmas highlight the limitations of humanitarianism in the absence of a political process leading to a just resolution of the conflict. Given that the option of withdrawing assistance is one that many find morally unacceptable, the question then becomes how to minimize the negative effects of aid; specifically, the ways in which aid can help to sustain and bestow legitimacy on Israel's occupation of the Palestinian Territories. One recent and, it appears, growing response to this question among local and international aid organizations has been to insist that Israel fulfil its responsibilities as an occupying power under international law, and to ensure that humanitarian aid is provided in compliance with international law. As noted by David Shearer and Francine Pickup of OCHA-OPT, "[t]he obvious answer to the dilemmas of aid in the OPT—international humanitarian law—remains missing. IHL states simply that the welfare of Palestinians is the obligation of the occupying state, which in this case is Israel."[31] This response has been prompted in part by recent rulings of the Israeli Supreme Court, which have acknowledged the applicability of at least certain provisions of the Geneva Conventions to the OPT, as well as by the 2004 ICJ advisory opinion on the West Bank barrier. In addition to determining that the current route of the barrier violated Israel's obligations under international law, this opinion "also held that all states are under an obligation not to recognize the illegal situation created by the barrier's construction and 'not to render aid or assistance in maintaining the situation created by such construction.'"[32] Like other organizations, Machsom Watch has also broadened its efforts to ensure that Israel fulfils its responsibilities under international law through the 2005 establishment, by some of its volunteers, of a new organization called Yesh Din (Volunteers for Human Rights). Yesh Din is working to address problems of law enforcement in the OPT, including, for example, the failure of authorities to effectively enforce the law regarding Israelis who have committed offences against Palestinians and their property.[33] This emphasis on international law, while not eliminating the dilemmas of humanitarian action in the OPT, can help organizations to minimize the negative effects of aid.

Especially for Israeli organizations that have integrated humanitarian assistance into their political work, the challenge goes beyond insisting that Israel fulfil its responsibilities under international law and ensuring that aid is provided in compliance with international law.

There are inevitable tensions—some argue a contradiction—between the provision of humanitarian aid and political efforts to end the occupation. These tensions and the trade-offs that they require have led some individuals and organizations to stand firmly against combining humanitarian and political work.[34] For those organizations that attempt to do both, it is important that they guard against the way in which humanitarian acts can "deflect attention from the political causes of the conflict."[35] As Jeff Halper reminds us, this is a political conflict, not a humanitarian crisis. "The conflict contains a humanitarian crisis, but one that has been induced by Israel as a means of forcing the Palestinians to submit to its political dictates."[36] Halper argues that Israeli organizations must avoid a "humanitarian framing" of their activities, which can turn a political story of occupation and oppression into a humanitarian one of Israelis helping Palestinians.[37]

This essay has reflected upon the dilemmas of humanitarian action in the Occupied Palestinian Territories. What these dilemmas reveal, above all, are the limitations of humanitarian action in the absence of a political process to resolve the conflict. They also reveal the profound challenges facing organizations that provide humanitarian assistance to the Palestinian people. In providing this assistance, these organizations must work to minimize the negative effects of aid. One way in which they can do this is through a greater emphasis on international law. For Israeli organizations that combine humanitarian and political work, there is no way to avoid the trade-offs that this involves, and different groups may evaluate these trade-offs differently. The important point for all of them is to acknowledge the competing principles involved in humanitarian and political work and to reflect on the political, as well as the legal, effects of their humanitarian activities. ◉

Notes

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2. UNOCHA, *The Humanitarian Monitor: Occupied Palestinian Territory* (June 2008), p. 22, accessed online at http://www.ochaopt.org.

3. Ibid., p. 6.

4. Note that this figure does not include checkpoints placed on the Green Line, "flying" checkpoints, or the barrier. UNOCHA, *OCHA Closure Update* (May 2008), accessed online at http://www.ochaopt.org.

5. "Encirclement" means a prohibition of entry into and exit from villages and towns within the West Bank. Machsom Watch, *A Counterview: Checkpoints 2004*, pp. 26–33.

6. UNOCHA, *OCHA Closure Update*, Op. Cit.

7. Machsom Watch, Op Cit., p. 20.

8. Ibid., p. 15.

9. UNOCHA, *OCHA Closure Update*, Op. Cit.

10. Machsom Watch, Op Cit., p.15.

11. Cited in UNOCHA, *Increasing Need, Decreasing Access: Tightening Control on Economic Movement* (January 2008), p. 1, accessed online at http://www.ochaopt.org.

12. Fiona Terry, *Condemned to Repeat? The Paradox of Humanitarian Action* (Ithaca, N.Y.: Cornell University Press, 2002), p. 17.

13. It is important to note that Israel is not the only state with legal obligations under IHL. All state parties to the Geneva Conventions are obliged to ensure Israel's compliance with IHL.

14. It should be noted that the State of Israel has traditionally considered the Hague Regulations, but not the Fourth Geneva Convention, to apply to the OPT. This position has been rejected by international legal opinion as well as by recent rulings of the Israeli Supreme Court, which have acknowledged the applicability of at least certain provisions of the Geneva Conventions to the OPT.

15. Yesh Din (Volunteers for Human Rights), *A Semblance of Law: Law Enforcement upon Israeli Civilians in the West Bank* (June 2006), pp. 23–24.

16. Marcin Monko, "The ICRC in the Palestinian Territories: Double Role, Single Aim," *Humanitarian Exchange Magazine* 37 (March 2007), accessed online at http://www.odihpn.org.

17. David Shearer and Anuschka Meyer, "The Dilemma of Aid Under Occupation," in Michael Keating, Anne Le More, and Robert Lowe, eds., *Aid, Diplomacy and Facts on the Ground: The Case of Palestine* (London: Chatham House, 2005), p. 170.

18. Terry, Op Cit., p. 27.

19. Machsom Watch, *Machsom Watch Alerts 2007: Yearly Report*, p. 7.

20. Interview with Yehudit Elkana, Machsom Watch, Jerusalem, June 2008.

21. Machsom Watch, *A Counterview: Checkpoints 2004*, p. 48.

22. Ibid.

23. Cited in Mary Anderson, "'Do No Harm': The Impact of International Assistance to the Occupied Palestinian Territory," in Michael Keating, Anne Le More, and Robert Lowe, eds., *Aid, Diplomacy and Facts on the Ground: The Case of Palestine* (London: Chatham House, 2005), p. 145.

24. Interview with Yehudit Elkana, Machsom Watch, Jerusalem, June 2008.

25. Anderson, Op Cit., p. 144.

26. Interview with ICRC spokesperson, Jerusalem, June 2008.

27. Jeff Halper, "'Victims of War are Not Like Victims of Earthquake': The Conflict Between Humanitarianism and Political Work," in Michael Keating, Anne Le More, and Robert Lowe, eds., *Aid, Diplomacy and Facts on the Ground: The Case of Palestine* (London: Chatham House, 2005), p. 189.

28. Terry, Op Cit., pp. 42–47.

29. Interview with Yehudit Elkana, Machsom Watch, Jerusalem, June 2008.

30. Machsom Watch, *Machsom Watch—A Brief History*, p. 4, accessed online at http://www.machsomwatch.org/en.

31. David Shearer and Francine Pickup, "Dilemmas for Aid Policy in Lebanon and the Occupied Palestinian Territories," *Humanitarian Exchange Magazine* 37 (March 2007), accessed online at http://www.odihpn.org.

32. Shearer and Meyer, Op Cit., 171.

33. Interview with Yehudit Elkana, Machsom Watch, Jerusalem, June 2008.

34. See Halper, Op Cit., pp. 186–192.

35. Ibid., p. 187.

36. Ibid.

37. Ibid., p. 192.