

ASYLUM AND IMMIGRATION TRIBUNAL

THE IMMIGRATION ACTS

Heard at: Hatton Cross

Date of hearing: 15 November 2006
Determination Promulgated: 20 February 2007

Before

Senior Immigration Judge Gill
Immigration Judge Dineen

Between

Appellant

and

The Secretary of State for the Home Department

Respondent

Merely being a Palestinian Arab in the Occupied Territories , even if male aged between 16-35 from the northern part of the West Bank, does not mean that a person would face on return a real risk of persecution, serious harm under paragraph 339C of the amended Immigration Rules or ill-treatment contrary to Article 3 of the ECHR. This Determination, made with the benefit of up-to-date and detailed background evidence, updates and replaces AB & others as country guidance.

Representation:

For the Appellant: Mr. A. Bandegani, of the Refugee Legal Centre (RLC).
For the Respondent: Mr. K. Norton, Senior Home Office Presenting Officer.

DETERMINATION AND REASONS

1. This is a second-stage reconsideration of the appeal of the Appellant (now about 24 years old) who is a Palestinian Arab from Tulkarm (sometimes also spelt as Tulkaram) in the northern part of the West Bank. The Appellant arrived in the United Kingdom on 29 June 2003 and claimed asylum on arrival. In the Respondent's Notice of refusal of leave to enter dated 4 December 2003, it is stated that he proposes to give directions for the Appellant's removal to the "Palestinian Occupied Territories". This appears to supersede a Notice of refusal of leave to enter which is signed but not dated and which states that the Respondent proposes to remove the

Appellant to “the Palestine Authority”. At the hearing on 15 November 2006, Mr. Norton informed us that the Respondent proposes to remove the Appellant to the Occupied Territories via Jordan and the King Hussein Bridge (also known as the Allenby Bridge). It was the agreed position of both parties before us that the Appellant would have to pass through checkpoints manned by the Israeli authorities at the King Hussein Bridge and that, thereafter, he would have to pass through checkpoints (“several” in Mr. Norton’s submission and “numerous” in Mr. Bandegani’s submission) in order to travel back to Tulkarm, the Appellant’s hometown.

2. The West Bank is populated by 2.5 million Palestinians. It borders Jordan to the east and Israel to the south, north and west. There are about 420,000 Israeli settlers living in the West Bank.
3. The parties agreed that the issue before us is whether there is a real risk that the Appellant would be persecuted or subjected to ill-treatment in breach of his rights under Article 3 of the 1950 European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR) by the Israeli authorities on seeking entry through the King Hussein Bridge, and thereafter. The Refugee or Person in Need of International Protection (Qualification) Regulations 2006 came into force on 9 October 2006 (“Protection Regulations”), as did command paper 6918 (Cmnd 6918) which amended the Immigration Rules. Pursuant to the President’s Practice Direction of 9 October 2006, we also need to consider whether the Appellant is entitled to humanitarian protection if he is not entitled to refugee status.
4. As stated above, this is a second-stage reconsideration. The Appellant’s appeal was originally heard on 2 December 2003 and 29 March 2004 by Mr. G. Jamieson, then an Adjudicator. The Appellant had claimed that he was a member of Fatah and that, whilst at university in Tulkarm, he was critical of the then leader of the Palestinian Authority and in particular Yasser Arafat. He claimed that he subsequently experienced problems from two of his friends who took exception to his criticisms, that he was attacked by these two friends on 7 May 2003 and that he subsequently received telephone threats from them. He says he complained to the local Fatah branch, but was abused by the officer in charge. He says he then had no choice but to escape.
5. The following is a summary of the Adjudicator’s findings and conclusions:
 - (a) The Adjudicator did not find the Appellant credible and rejected his entire account of these events (paragraph 17 of the Determination).
 - (b) The Adjudicator did not consider that there was a real risk of any ill-treatment at the hands of the Palestinian authorities or Fatah, because he did not believe that the Appellant had been a credible witness (paragraphs 17 and 26 of the Determination).
 - (c) The Adjudicator then went on to consider whether the Appellant would be at real risk of persecution or Article 3 ill-treatment at the hands of the Israeli authorities who are in occupation of Tulkarm. In this regard, the argument advanced to the Adjudicator was that the Israeli authorities have imposed restrictions on the movement of Palestinians within the West Bank, that the Appellant would therefore be liable to be stopped at Israeli checkpoints and that this would amount to persecution or, failing that, to treatment in breach of Article 3. The Adjudicator found that such restrictions would not be so severe as to amount to persecution (paragraph 20 of the Determination). He

found that the Appellant would not suffer treatment amounting to torture or inhuman treatment at the hands of the Israeli authorities on account of the restriction of his movements as a Palestinian in the West Bank. However, he concluded that Israel's treatment of the Palestinian people amounts to degrading treatment of the Palestinian people in their own territory. He therefore accepted the submission advanced on the Appellant's behalf that there is a real risk of the Appellant as a Palestinian, and especially as a young Palestinian male, being subjected to degrading treatment by the Israeli authorities if returned to the West Bank. Accordingly, he allowed the appeal on human rights grounds, Article 3. He did not find that the Appellant's removal would be disproportionate to his right to family life with his sister who was then in the United Kingdom (she has since returned to the West Bank). Accordingly, the Adjudicator did not find that Article 8 would be breached by the Appellant's removal.

6. The Respondent's grounds of application for permission to appeal to the Immigration Appeal Tribunal (IAT) contend as follows:

- (a) that, although the background evidence before the Adjudicator details incidents of harsh treatment of Palestinians by the Israeli authorities, the evidence was not such that all Palestinians are subjected to such treatment, nor did the evidence show that the Appellant faced a real risk of treatment reaching the level of severity required to engage Article 3;
- (b) the fact that the Appellant had not had any problems from any of the authorities in the past is a relevant factor which should have been considered by the Adjudicator when assessing the likelihood of ill-treatment in the future. In this regard, the grounds contend that the Appellant had not given any history of having faced any problems from any of the authorities in the past and that, at his asylum interview and in cross-examination, he was asked if he had ever had problems with anyone other than the Al-Fateh group and, on both occasions, he confirmed that he had not.
- (c) the comparison which the Adjudicator made at paragraph 25 between Somali minority clans and returning Palestinians is not relevant and that the Adjudicator's opinion that all returning Palestinians are at real risk of ill-treatment contrary to Article 3 is purely speculative.

7. On 13 May 2004, a Vice President of the IAT granted permission to appeal. The appeal was not heard by the IAT before 4 April 2005, when the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 ("the 2004 Act") came into effect. Pursuant to the transitional provisions relating to the 2004 Act, the Asylum and Immigration Tribunal had to deal with the appeal as if it had originally decided the appeal and was reconsidering its decision. The first-stage of the reconsideration took place on 17 March 2006. The panel (chaired by Immigration Judge Widdup) gave the following reasons for its decision that there was an error of law in the Adjudicator's Determination:

1. In paragraph [sic] the Adjudicator found that there was not a real risk that the Appellant would suffer torture or inhuman treatment at the hands of Israeli forces on the West Bank. The Adjudicator went on to find in the next paragraph that the restrictions on Palestinians amounted to degrading treatment and that returning the Appellant to the West Bank would expose him to a real risk of degrading treatment contrary to Article 3 of the ECHR.
2. It is arguable that the treatment relied upon by the Adjudicator does not reach the level of ill treatment required to engage Article 3.

3. The Adjudicator had found in paragraph 20 that the restrictions imposed on the Appellant did not amount to persecution within the meaning of the Refugee Convention.
 4. The Appellant had not put in a Reply seeking to challenge that finding. The Appellant submitted that if the restrictions on the Appellant engaged Article 3 the Adjudicator should have found that the Appellant was also at risk of persecution. It was submitted that this was a Robinson obvious issue which should be pursued even though not specifically taken thus far. The Respondent did not oppose that course.
 5. We therefore concluded that the Adjudicator had erred in his assessment of Article 3 or that he had erred in his assessment of the risk of persecution.
8. That panel identified the following issues for consideration at the second-stage:
1. whether there is a real risk that the treatment likely to be experienced by the Appellant on his return to the West Bank engages Article 3 or is sufficient to amount to persecution;
 2. whether the Appellant is a member of a particular social group likely to be subjected to persecution on account of imputed political opinions.
9. Before us, it was agreed that the Appellant was free to argue that, if removed, he would receive ill-treatment which amounts to persecution. Mr. Bandegani informed us that the Appellant also wished to give oral evidence and that he wished to rely on a witness statement dated 29 May 2006. Both parties requested us to consider the witness statement and hear oral evidence. We pointed out that the Appellant's credibility had been rejected by the Adjudicator and we also pointed out that we would have to assess the credibility of the Appellant's fresh evidence.
10. At the commencement of the hearing, Mr. Bandegani informed us that the expert (Dr. A. George) was not available to give oral evidence. No request was made for an adjournment in order to enable him to attend and give oral evidence.
11. Mr. Bandegani and Mr. Norton confirmed receipt of the document giving the Tribunal's reasons for finding an error of law and were content to proceed with the second-stage reconsideration. The documents relied upon by the parties are set out in greater detail in the appendix attached to this Determination. Briefly, the following documents were served on the Respondent's behalf:
- (a) a bundle entitled "Respondent's Supplementary Bundle" with a 10-page skeleton argument followed by 146 pages of various documents;
 - (b) a black-and-white copy of a A-3 size map of Israel and the Occupied Territories.

We also have before us a copy of the Respondent's statutory appeal bundle.

The following documents were served on the Appellant's behalf:

- (a) Bundle A entitled "Index of Documents", containing a witness statement from the Appellant dated 29 May 2006 (pages 1 to 8), a report of Dr. A. George dated 15 May 2006 (pages 9 to 25) and background evidence (pages 26 to 476);
- (b) Bundle B entitled "Index of Legal Materials" (pages 1 to 271);
- (c) Bundle C entitled "Index of Case law" (pages 1 to 140);
- (d) a skeleton argument dated 15 November 2006.

We agreed to give Mr. Bandegani some time (until Friday, 17 November 2006) to provide a better copy of the document at pages 327 and 328 of the Appellant's

Bundle A. At the end of the hearing, Mr. Bandegani kindly agreed to send us a colour copy of a map of Israel and the Occupied Territories by the following Friday. We confirm that we have received complete copies of pages 327 and 328 of the Appellant's bundle A and two colour copies of the large map (not three, as stated on the protective tube in which the maps arrived).

Also relevant is the current country guidance case a copy of which we found on file – i.e. AB & Ors (Risk – Return – Israeli Checkpoints) Palestine [2005] UKIAT 00046.

The Appellant's statement dated 29 May 2006:

12. In his written statement, the Appellant says that the Israeli government's policy is to make life for Palestinians unbearable, placing them under unbearable pressure and stress. He says that he fears that he will suffer more than most other Palestinians because he is young and male. He would be targeted if he tried to go about his affairs - for example, if he tried to secure work to support himself or if he tried to visit family in other parts of Tulkarm or outside Tulkarm. He says that the way in which the Israeli occupation forces treat Palestinians - in particular, the targeting of young men - amounts to persecution. The Appellant goes on to describe various checkpoints around his home area and in and around his town. He also described the separation wall which has been built along the border with Israel and which he says cuts into the Tulkarm area. The wall and the checkpoints are used by the Israeli authorities to prevent Palestinians from moving within their own cities or villages and to control or ruin the lives of the Palestinians. The Appellant says that, when Palestinians are allowed to pass through checkpoints, they are made to feel like animals.
13. The Appellant's parents are both alive and still living in Tulkaram. They live in the centre of the town. There are many villages around the city centre and many checkpoints around this area. The Appellant has two brothers and four sisters. He describes their circumstances as follows:
 - (a) His eldest sister (aged 32 years) has a doctorate in DNA research. In January 2006, she returned to Tulkaram in the West Bank from the United Kingdom. She had to travel through the Jordanian border, over the bridge and through many checkpoints into Tulkarm. She had to wait many times. She was only able to get through with an identity card.
 - (b) An older sister (aged thirty years) previously studied at a local university in Tulkaram and is unemployed. Her husband, who is a nurse, is not being paid his salary. They live with their children in one of the camps next to Tulkarm. The camp is run by the Palestinian Authority and has been severely affected by the Israeli forces. This sister has experienced regular periods during which she and her family are not allowed to leave their home; the Israeli forces move through the streets telling people with the aid of loudspeakers that they are not allowed to leave their homes.
 - (c) One brother is studying in the Czech Republic. The remaining three brothers are in the Occupied Territories.
 - (d) The oldest of the Appellant's brothers in the Occupied Territories (aged 26 years) is a teacher in a school in Tulkarm.

- (e) The Appellant's younger brother (aged nineteen years) is studying in a university in Nablus. He experiences great travelling difficulties nearly every day because he has to stay at checkpoints for hours. Sometimes he is told to return to Nablus and sometimes "they" will not allow him to return to Tulkarm.
- (f) The Appellant's youngest brother (aged sixteen years) studies at a school near the family home. He has not suffered any specific targeting because (the Appellant says) he is still quite young.
14. In his witness statement, the Appellant goes on to describe one particular incident which occurred in or around spring 2003, after the Intifada. On this occasion, the Israeli Defence Forces surrounded the entire area and picked out any one of up to a specific age. Anyone who was male and over sixteen was picked up. In this way, the Appellant and the older of his two younger brothers (i.e. the one described in paragraph 13(e) above, who was then 16 years old) were picked up. Other neighbours under the age of forty but over the age of sixteen were also picked up. The circumstances leading to this detention were that the Appellant and his father were sitting at their balcony when the Israeli Defence Forces arrived and surrounded the area. The Appellant and his father tried to get into their house by crawling along the floor to avoid being seen but, when the Israeli soldiers noticed a door moving, they started to shoot at the house. The following day, the Israeli Defence Forces went to the Appellant's home. All night they had been moving from house to house taking people from their homes. The Appellant's family were told to leave their house and, when they were outside, they were asked for their identity cards. When they saw the ages of the Appellant and his brother, they detained them. Their hands were tied behind their backs and they were forced to kneel. The Appellant and his brother were publicly humiliated. After about six hours, they were separated and questioned individually. The Appellant was slapped, sworn at and pushed. When he asked for water to drink, he was first given hot water and later he was given water to drink whilst his hands were still tied behind his back. After he was released, he was informed by his neighbours that the Israeli Defence Forces had told them that they knew which mosque the Appellant and his family were praying at and were watching them. The Appellant says that he felt he was targeted because he was a Palestinian and because of his age. He says that the Israeli Defence Forces knew that he had not done anything and that he could not help them with any information. They simply wanted to punish him, his brother, his family and all Palestinians.
15. The Appellant fears returning to the Occupied Territories and in particular to Tulkarm. The Israeli Defence Forces have segregated the West Bank into different areas and do not allow movement in or between them. When they do, Palestinians are intimidated and degraded. Sometimes they are shot or arrested never to be seen again.

Oral evidence

16. The Appellant gave oral evidence through an interpreter in the Arabic language. After the first interpreter had been assisting the Appellant in the giving of his oral evidence in examination-in-chief for about twenty minutes, Mr. Bandegani expressed his concern that the interpreter was not fully translating the Appellant's answers. As the Appellant appeared able to speak English to a fair standard, he told us directly that, although he understood the interpreter, he did not feel that his answers were being translated fully. We successfully arranged for another interpreter to assist, with whose help the Appellant's evidence-in-chief was taken

again. The second interpreter confirmed both at the commencement and end of examination-in-chief (which lasted for about half an hour), that he was satisfied that he had understood the Appellant and that the Appellant had understood him. The Appellant told us directly that there were no problems in communication with the second interpreter up until that point. No further problems were drawn to our attention by the Appellant and/or Mr. Bandegani by the end of the hearing.

17. In examination-in-chief, the Appellant said that, in order to get to the West Bank, he would have to travel through the Jordanian bridge and then through the Israeli side of the bridge. He does not know what would happen to him at that point. There is a possibility of his detention at this point; the Israeli Defence Forces may also allow him to pass through. If he is allowed to pass through, he would have to cross the barrier, after which there would be checkpoints. At the checkpoints, he would be asked where he comes from and he may, at that point, be returned. There is also a possibility that, by approaching the barriers, he may be shot.
18. The Appellant said that there are many travel restrictions. A person who carries an identity card showing that s/he lives in Nablus is not permitted to travel anywhere other than Nablus itself. If s/he wishes to travel to a different town, s/he has to obtain permission to move from one area to another. Permission is issued by the Israelis. The Appellant felt that, as a human being, he should have the right to move from one town to another town in order to visit his family.
19. Asked whether every single Palestinian Arab is at risk of harm every time they attempt to move through a checkpoint, the Appellant replied "that is something certain. Yes". Furthermore, every Palestinian is treated inhumanely and in an insulting way at the checkpoints. The treatment received by Palestinians at Israeli checkpoints depends on the person's age. A young person is subjected to more insults and even beatings. People are tortured at the checkpoint. Scars are left on their bodies – for example, marks representing the star of David - so that they can be recognised by the Israeli forces at other checkpoints. Many people have lost their lives passing through checkpoints. Even pregnant women have been harmed. From time to time, the Israeli forces will announce that certain age categories - for example, people between the age of sixteen and forty years of age - have restrictions imposed upon their movement.
20. In order to travel to the West Bank, the Appellant would have to pass through Jericho. If he were to live in Jericho, he would not be able to support himself because there are no jobs. He would not be able to rent a place to live in in Jericho because no one in Jericho is prepared to let a place to someone like him who is considered to be a stranger there.
21. In cross-examination, the Appellant told us that the document at page 12 of the Respondent's supplementary bundle ("Jordanian crossing card") is a card which is considered necessary in order to pass through the King Hussein Bridge. The document at page 14A is a copy of his passport.
22. Asked whether the incident he had described in his recent witness statement which occurred in Spring of 2003 would put him at greater risk than any other Palestinian who has not been previously detained by the Israeli forces, the Appellant said that he had no idea. The Israeli forces arrested him and took all the information from him. He does not know whether this particular detention would put him in a serious position. At the time of the incident, he asked the Israeli forces why he was being taken but he was not given any answers. The reason why he had not previously mentioned this incident is because his asylum claim was based on the troubles he

had experienced from the Al-Fateh organisation and had nothing to do with this incident.

23. The Appellant was referred to paragraph 9 of his recent witness statement at which he referred to his eldest sister having travelled from the Jordanian border, over the bridge and through the many checkpoints back to Tulkarm in January 2006. The Appellant said that he was not sure about the exact date when his sister went to Tulkarm. He thought that it was January 2005, and not January 2006. Furthermore, her journey should have taken no more than three hours but it in fact took six to seven hours. She was mistreated at the checkpoints and she was delayed. She was threatened with arms. If she succeeded in completing her journey, this was partly because she is a Doctor and she carries a doctor's identity card as well as a passport. The reason why his sister travelled to the West Bank on that occasion was because she wished to visit the Appellants' paternal uncle, who was suffering from the terminal stages of cancer and was going to die.
24. There were no questions by way of re-examination, nor did the panel have any questions.

Submissions

25. On the Respondent's behalf, Mr Norton relied on his written skeleton argument and the refusal letter. He then addressed us briefly. The Respondent does not accept that there is any specific adverse interest from any Palestinian group or the Palestinian authorities or the Israeli Defence Forces in the Appellant. The Appellant now claims to be at real risk of persecution at the hands of the Israeli Defence Forces because he is a Palestinian Arab male from the West Bank who falls within the sixteen to forty age group. In Mr Norton's submission, the Appellant is a member of a group which comprises hundreds of thousands of other Palestinians. The Geneva Convention reason which is relied upon is that all Palestinian Arabs form a group which face persecution in breach of either the Geneva Convention or Article 3 of the ECHR. In Mr Norton's submission, the evidence before us does not show that the current situation in the West Bank is such that there is a real risk of persecution to the groups described. Almost all the background evidence presented on the Appellant's behalf comes from partisan sources, namely either the Israelis or the Palestinians. This is a political debate which the Respondent does not wish to be drawn into. Mr Norton reminded us that the threshold for persecution or for Article 3 ill-treatment is high. In his submission, the threshold was not met. The first document in the Appellant's bundle B was a decision of the International Court of Justice (ICJ) dated 9 July 2004 concerning "the legal consequences of the construction of a wall in the occupied Palestinian Territory". With regard to this document, Mr Norton submitted that the findings of the ICJ do not show that the high threshold for persecution or Article 3 ill-treatment is breached.
26. On the question of returnability, Mr Norton informed us that it was previously the Respondent's position that returns to the West Bank were impracticable and it was therefore accepted that there would be no returns. The position has since changed, as recorded in AK v Secretary of State for the Home Department [2006] EWCA Civ 1117. Mr Norton asked us to note that the Appellant has a valid Palestinian passport, that he said at his interview that he holds a Palestinian green card or identity card which was issued after the Oslo Accords. The Appellant was previously able to exit the Palestinian area lawfully and he was able to enter Jordan lawfully. Mr Norton expressed the hope that it was now the agreed position that the Appellant would be able to reach the border crossing from Jordan. The issue is whether he would be able to pass through the checkpoints without experiencing

Article 3 ill-treatment or whether he would be ill-treated or denied entry. Mr Norton asked us to note that, in January 2006 according to the Appellant's witness statement dated 29 May 2006 or in January 2005 according to the Appellant's oral evidence, the Appellant's sister was able to enter from Jordan and travel through the many checkpoints to Tulkarm in the West Bank although her journey took longer than it should have. In Mr Norton's submission, the Appellant would be able to make the journey, although he would be inconvenienced.

27. On the question of returnability, we informed the parties that, in our view, pursuant to the recent judgment of the Court of Appeal in Gedow and Others v Secretary of State for the Home Department [2006] EWCA Civ 1342, the precise method of return is not a matter which needs concern us; it was sufficient that Mr Norton had made clear that the Respondent's intention was to return the Appellant via Jordan and the King Hussein Bridge. Both Mr Norton and Mr Bandegani agreed that the method of return did not concern us.
28. On the Appellant's behalf, Mr. Bandegani relied on his skeleton argument. The objective material relied upon was either referred to by way of extracts in the skeleton argument or would be referred to us in oral submissions. Mr Bandegani submitted that there were two possible groups the Appellant could be a member of:
- (a) "Arab male Palestinian between the ages of fourteen and forty who comes from Tulkarm";
 - (b) by the end of the hearing, Mr Bandegani had refined the group and described it as follows: "Palestinian Arab males from Tulkarm or Jenin aged between fourteen to forty".

Other possible Geneva Convention reasons would be perceived political opinion, race or ethnicity.

29. In Mr Bandegani's submission, the northern part of the West Bank is targeted. It is completely divided from the other areas because of the perception on the part of the Israeli Defence Forces that the Palestinian Arabs in the northern part of the West Bank are more likely to be involved in anti-Israeli armed activities. With regard to Mr Norton's submission that there was no evidence to show that the high threshold required for persecution or Article 3 ill-treatment would be breached, Mr. Bandegani submitted that there was no evidence to show that there was no clear breach. Every case has to be decided on its own facts.
30. A particular risk factor in this case is that the Appellant comes from Tulkarm. Accordingly, it is not the case that hundreds and thousands of people would belong to the groups mentioned above. The mere fact that this is a political issue upon which opinions have been given does not mean that the probative value of the reports tendered on the Appellant's behalf is reduced. The Appellant also relies upon the report of an expert, Dr A George. In any event, it is not correct to say that all the evidence tendered on the Appellant's behalf is partisan. The reports are from many different sources from around the world. The fact that all of the evidence points one way does not make it partisan.
31. Although the decision of the ICJ is not binding on us, Mr Bandegani submitted that what the court says is important because it is an independent body. In this regard, Mr Bandegani referred us to the following paragraphs of the report of the ICJ in bundle B:

Para 65 (page 28): the ICJ rejected the contention that the question of the wall was outside its jurisdiction. In any event, the court stated that there is no compelling reason for it to use its discretion not to give its opinion;

Para 137 (page 55): the court stated that it is not convinced that the specific course Israel has chosen for the wall was necessary to attain its security objectives. It stated that the wall, along the route chosen and its associated regime, greatly infringed a number of rights of Palestinian Arabs residing in the territory occupied by Israel, and the infringements resulting from that route cannot be justified by military insurgences or by the requirements of national requirements of public order;

Para 113 (page 44): the court rejected another argument, i.e. that human rights law does not apply to the Occupied Territories;

Para 101 (page 40): the court rejected the argument that the fourth Geneva Convention is not applicable in any occupied territory in the event of an armed conflict arising between two more high contracting parties. The court held that the Convention is applicable in the Palestinian territories which before the conflict lay to the east of the green line and which, during that conflict, were occupied by Israel;

Para 120 (page 46): the court noted that the fourth Geneva Convention required the occupying power not to deport or transfer parts of its own civilian population into the territory it occupies. The court considered that the information provided to the court shows that, since 1977, Israel has conducted a policy and developed practices involving the establishment of settlements in the occupied Palestinian territory, contrary to the fourth Geneva Convention. The Security Council has thus taken the view that such policy and practices “have no legal validity”. It has called upon Israel as the occupying power to abide scrupulously by the fourth Geneva Convention;

Para 134 (page 54): the court concluded that the construction of the wall by Israel and its associated regime inhibited the liberty of movement of the inhabitants of the occupied Palestinian territories with the exception of Israeli citizens and those assimilated thereto;

Para 142 (page 57): the court concluded that Israel could not rely on a right of self defence or on a state of necessity in order to preclude the wrongfulness of the construction of the wall resulting from its previous considerations. The court accordingly found that the construction of the wall and its associated regime are contrary to international law.

32. In Mr Bandegani’s submission, the findings of the ICJ were not a light set of findings. Although Mr Bandegani accepted that the ICJ's findings do not mean that the Appellant is a refugee, he asked us to bear in mind that the ICJ found that the package of measures mentioned at paragraph 3 of his skeleton argument are in breach of international law because the Israeli authorities have annexed land and they have induced the transfer of the Arab population. Paragraph 4 onwards of the skeleton argument describes how the Israeli authorities manage the Arab population, the cornerstone of their tactics being the use of administrative measures which make life extremely difficult for Palestinian Arabs. The cumulative effect is that the West Bank has become a social model with real parallels to apartheid South Africa, managed and overseen by occupying state agents.
33. Mr. Bandegani referred us to Article 9 of the Qualification Directive (Council Directive 2004/83/EC of 28 April 2004) (the Qualification Directive) which states:

- (1) Acts of persecution within the meaning of Article 1 A of the Geneva Convention must:
 - (a) be sufficiently serious by their nature or repetition as to constitute a severe violation of basic human rights, in particular the rights from which derogation cannot be made under Article 15(2) of the European Convention for the Protection of Human Rights and Fundamental Freedoms; or
 - (b) be an accumulation of various measures, including violations of human rights which is sufficiently severe as to affect an individual in a similar manner as mentioned in (a).
- (2) Acts of persecution as qualified in paragraph 2, can, inter alia, take the form of:
 - (a) acts of physical or mental violence; including acts of sexual violence,
 - (b) legal, administrative, police, and/or judicial measures which are in themselves discriminatory or which are implemented in a discriminatory manner;
 - (c) prosecution or punishment, which is disproportionate or discriminatory;
 - (d) denial of judicial redress resulting in a disproportionate or discriminatory punishment;
 - (e) prosecution or punishment for refusal to perform military service in a conflict, where performing military service would include crimes or acts falling under the exclusion clauses as set out in Article 12(2);
 - (f) acts of a gender-specific or child-specific nature.

34. The West Bank has been externally closed and Arab residents of the West Bank are unable to travel to Jerusalem or to Gaza or from one city to another. In Mr. Bandegani's submission, there are gross impediments imposed by the Israeli authorities on the ability of Palestinian Arabs to move. Israel has denied a right of return to those Palestinian Arabs who were (displaced) in 1948 and 1967. None of these measures have been applied to Israeli settlers. The policies which Israel follows are intended to induce a transfer from the territory. This is implemented in a discriminatory manner. Israel has adopted or pursued the denial of the ability of Palestinian Arabs to return to the West Bank. Dr Alan George states, at paragraph 32 on page 19 of his report, that hundreds of checkpoints have been placed at the entrances of Palestinian communities in the West Bank in order to restrict the movement of Palestinian citizens from one community to another. The report of Al-Haq of April to June 2006 states that Israel has revoked the residency rights of thousands of Palestinian Arabs living in the West Bank on the pretext of their having lived abroad for prolonged periods. These individuals now find themselves separated from their families and livelihoods.

35. In Mr Bandegani's submission, the Appellant would be denied re-entry into the West Bank. In Mr. Bandegani's submission, if the Appellant is refused permission to enter the West Bank, this would amount to persecution. Although this does not amount to torture, Mr Bandegani submitted that, cumulatively, the Appellant would be subjected to ill-treatment amounting to persecution. He referred us to the Court of Appeal's judgment in AK.

36. The Appellant's case is that whether he is allowed to re-enter would depend on the discretion of the Israeli Defence Forces. There are no rules; verbal orders are handed down. The Appellant says he would be ill-treated. In the event that the Appellant is allowed re-entry, the issue then arises as to what would happen to him. Even if his sister was able to travel to the West Bank in January 2005 or January 2006, the Appellant's evidence was that this was because she was a doctor. Mr Bandegani submitted that it may also be that she was able to make the journey

because she is female and not as young as the Appellant. Furthermore, the Appellant's sister travelled prior to May 2006, when there was a serious worsening of the situation.

37. At this point, Mr Bandegani showed us the large map of Israel and the Occupied Territories and this is when it was agreed that the Appellant would have to pass through checkpoints – “numerous” according to Mr Bandegani and “several” according to Mr Norton. In Mr Bandegani's submission, the background evidence shows that the number of physical obstacles have increased even since last year. There are an average of 121 flying checkpoints. The number and location of checkpoints fluctuates but is always high. One is never certain when one might encounter a checkpoint. It would be impossible for the Appellant to pass through the closed areas. It is a possibility that the Appellant may have to pass through 80 or so checkpoints to navigate through the central area. He would only be able to travel through the central area. The restrictions on movement have become more and more of a concern in recent times. The fact that a person has been able to pass through previously does not mean that he or she would be able to do so now. In Mr Bandegani's submission, there is a real risk that someone in the Appellant's category would be at risk although it cannot be said that all are.
38. Mr Bandegani then referred us to the CAABU (Council for the Advancement of Arab-British Understanding) Report dated 18 May 2006, at pages 223 to 267 of the Appellant's bundle A, as follows:

Page 236: the report states that the “forbidden roads regime” is a slippery policy, in part because its rules and regulations have never been set in writing;

Page 238: the report states that the “roads regime”, which is based on separation through discrimination, bears clear similarities to the racist apartheid regime which existed in South Africa until 1994. An individual's national origin determines their rights to use various roads. This policy is based on a racist premise: that all Palestinian Arabs are security risks, and that it is therefore justifiable to restrict their movement. Thus the policy indiscriminately harms the entire Palestinian population, in violation of their human rights and of international law.

Page 239: the CAABU Report states that the routes set for most of the new roads ran across privately-owned Palestinian land. To enable this, Israel used illegal "requisition for military needs" and "expropriation for public use" measures.
39. We were then referred to the extract of a book entitled "Checkpoint Watch – Testimonies from Occupied Palestine" by Yehudit Kirstein Keshet with a foreword by Amira Hass, at pages 268 to 299 of the Appellant's bundle A. This is a book written by Israeli women who monitor human rights abuses. In Mr Bandegani's submission, it is therefore worthy of considerable weight being given to it because the authors are Israelis who monitor what happens to Palestinians. The key issues they raise are extortion at checkpoints and confiscation of identity cards.
40. The book makes the point that an individual may be able to pass through checkpoints once, twice, or three times, but they may subsequently be stopped and arrested. According to the book, the standard applied by the Israeli Defence Forces or the border police to men from the north is low. No benefit of the doubt is given. The book states that checkpoints make it difficult for people to obtain employment. There are references to racial abuse and physical ill-treatment. Any normal rhythm to life is denied to the Palestinians.

41. In Mr Bandegani's submission, even if the Appellant passes through King Hussein Bridge, he would suffer persecution at checkpoints or he would be made destitute.
42. Mr Bandegani then referred us to the humanitarian reports on food and security. The CAABU Report at page 256 of the Appellant's bundle A refers to an incredibly high number of people living below the poverty line. The family is very important as a social safety net. On page 257, the CAABU Report shows that food insecurity in Jericho increased by 30% since 2005. In Mr Bandegani's submission, the reason is because of the restrictions on movement.
43. Accordingly, Mr Bandegani submitted that the Appellant would be very vulnerable if he were to find himself in an area outside of his home area of Tulkarm with no social safety net and with Tulkarm clearly identified as his place of origin on his identity card.
44. We reserved our determination.

Consideration of the issues

45. Under Regulation 2 of the Protection Regulations, a refugee is defined by reference to Article 1A of the Geneva Convention (the United Nations' Convention Relating to the Status of Refugees). It is for the Appellant to show that he has a well-founded fear of persecution for one of the qualifying reasons (Regulation 5 (3) and Regulation 6). If (and only if) the Appellant is not a refugee, we would need to consider whether he would be at real risk of serious harm as defined in paragraph 339C of the Immigration Rules. If he would be at real risk of serious harm, then he is entitled to humanitarian protection under the Immigration Rules. With regard to his appeal on human rights grounds, the Appellant relies on Article 3 of the ECHR. In this regard, we have to decide whether there is a real risk that he would be subjected to inhuman or degrading treatment or punishment if removed.
46. In our view, the standard of proof with regard to the asylum claim, the claim for humanitarian protection and the Article 3 claim is the same – i.e. that of a reasonable degree of likelihood or a real risk.

The Qualification Directive as compared with the Protection Regulations and the amended Immigration Rules:

46. Mr. Bandegani referred us to the definition of persecution in Article 9 of the Qualification Directive. However, he informed us that he was not aware that the Protection Regulations and the Immigration Rules (as amended by Cmnd 6918) have transposed the obligations in the Qualification Directive incorrectly. Nevertheless, it is useful to set out the way in which the United Kingdom legislation transposes Article 9 of the Qualifications Directive. We have set out Article 9 of the Qualification Directive at paragraph 33 above. Regulations 2 and 5 of the Protection Regulations state:

Regulation 2: "persecution" means an act of persecution within the meaning of Article 1 (A) of the Geneva Convention;

Regulation 5 (1) In deciding whether a person is a refugee an act of persecution must be:

- (a) sufficiently severe by its nature or repetition as to constitute a severe violation of a basic human right, in particular a right from which derogation cannot be made under Article 15 of the Convention for the protection of Human Rights and Fundamental Freedoms; or

- (b) an accumulation of various measures, including a violation of a human right which is sufficiently severe as to affect an individual in a similar manner as specified in (a).
- (2) An act of persecution may, for example, take the form of:
- (a) an act of physical or mental violence, including an act of sexual violence;
 - (b) a legal, administrative, police or judicial measure which in itself is discriminatory or which is implemented in a discriminatory manner;
 - (c) prosecution or punishment, which is disproportionate or discriminatory;
 - (d) denial of judicial redress in a disproportionate or discriminatory punishment;
 - (e) prosecution or punishment for refusal to perform military service in a conflict where performing military service would include crimes or acts falling under regulation 7.

48. Article 9(1) and (2) of the Qualification Directive refer to acts in the plural whereas Regulations 2, 5(1) and 5(2) refer to an act in the singular. We do not think that this results in any real difference in transposition, because persecution can result from a single act, as well as from an accumulation of acts. The only other difference in wording is that Article 9(2)(f) of the Qualification Directive provides one further example of an act of persecution – namely, “acts of a gender-specific or child-specific nature” which is not mentioned in Regulation 5(2) of the Protection Regulations. However, we do not think that this leads to any real error of transposition because Regulation 5(2) only sets out examples of acts of persecution and we are therefore able to take account of the further example given in Article 9(2)(f) of the Qualification Directive if that becomes relevant in any particular case. It was not raised as an issue in this case.

49. With regard to the meaning of serious harm, Regulation 2 of the Protection Regulations states that “serious harm” means serious harm as defined in the Immigration Rules. Paragraph 339C of the Immigration Rules states:

Paragraph 339C: Serious harm consists of:

- (i) the death penalty or execution;
- (ii) unlawful killing;
- (iii) torture or inhuman or degrading treatment or punishment of a person in the country of return; or
- (iv) serious and individual threat to a civilian's life or person by reason of indiscriminate violence in situations of international or internal armed conflict.

50. “Serious harm ” is defined in the Qualification Directive in Article 15. We note that Article 15 of the Qualification Directive does not make any reference to “unlawful killing”. However, Article 15 of the Qualification Directive refers to “torture or inhuman or degrading treatment or punishment” which, in our view, is wide enough to include “unlawful killing”.

51. Given that the Protection Regulations and the amended Immigration Rules correctly transpose the meaning of persecution and serious harm, we see no reason to refer to the Qualification Directive directly in deciding the issues in this appeal. We refer

instead to the Protection Regulations and the amended Immigration Rules which are part of our domestic legislation.

The minimum level of severity

52. In order for an act, or for a series of acts, to be regarded as persecution, the act or acts must be such that, taken cumulatively, they reach a minimum level of severity. It is also clear from decided cases with regard to Article 3 (which continue to apply) that ill-treatment must reach a minimum level of severity before Article 3 will be engaged and that the level of severity which must be shown is, effectively, the same as must be shown for persecution to result. In our view, the position remains the same. Furthermore, in our view, the minimum level of severity or the threshold which the feared harm must reach before it can be regarded as “serious harm” under paragraph 339C is the same as for persecution and for Article 3. This means that the minimum level of severity for treatment to be regarded as “persecution” under the Protection Regulations, “serious harm” under paragraph 339C and ill-treatment contrary to Article 3 of the ECHR is the same. Neither Mr. Bandegani nor Mr. Norton sought to suggest otherwise.

Country guidance cases

53. Mr. Bandegani relied on the Tribunal's Determination in WK (Article 8 – expulsion cases – review of case-law) Palestinian Territories [2006] UKAIT 00070. Mr. Norton also referred to this case in his skeleton argument (see paragraph 10 of the Respondent's skeleton argument). A copy of this determination is included in the Respondent's bundle.
54. However, the WK case was primarily concerned with a review of the case-law on Article 8. Insofar as reference was made to the background evidence, the Tribunal did not embark upon an in-depth analysis of it. Indeed, the Tribunal appeared content to accept the observations of the Adjudicator in that case stating, at paragraph 80, that the Occupied Territories were in an area of the world which was ‘in the Adjudicator's words “effectively a war zone”’. Whilst we would not take issue with the Tribunal's own description of the situation in the Occupied Territories at paragraph 74 of its Determination in the following terms:

“... the very unusual set of country conditions prevailing in the destination country, namely, that the Occupied Territories is afflicted by significant levels of violence in the context of an ongoing armed struggle being conducted by various Palestinian organisations against the Israeli authorities and there is also a very significant presence of fundamentalist Muslim organisations.....”

we have to bear in mind, firstly, that the Tribunal in the WK case did not conduct an in-depth analysis of the general background evidence relating to the situation in the Occupied Territories and, secondly, that the Tribunal's brief all-embracing observation in the quote above does not help us to decide the specific questions which have been raised in the instant case, which include whether denial of re-entry per se amounts to persecution, whether there is a real risk of ill-treatment if the Appellant travels from the point of re-entry to his hometown in Tulkarm, whether the cumulative difficulties which Palestinian Arabs face in the Occupied Territories is such that it can be said that Palestinian Arabs are a persecuted ethnic group, whether the Appellant would be at real risk on account of being a young male Palestinian Arab from Tulkarm or the northern part of the West Bank and whether (if he had to stay in Jericho) he would face a real risk of persecution and/or of suffering general conditions sufficiently severe as to amount to serious harm or treatment in

breach of Article 3. Thirdly, this case was not a country guidance case and was not reported for what it said about country conditions.

55. We are surprised that the parties did not instead refer at the hearing to the current country guidance case, AB & others (Risk – Return – Israel Check Points) Palestine CG [2005] UKIAT 00046, a copy of which we found in the Appellant's bundle C. As the Practice Directions (paragraph 18) makes clear, country guidance cases must be followed unless there is (compelling) fresh evidence. AB & others involved three failed asylum seekers of Palestinian Arab ethnicity from the Occupied Territories. The first and second appellants were formerly resident in the West Bank and the third appellant was formerly resident in the Gaza Strip. The respondent proposed to remove the first appellant to "Palestinian authority (West Bank)", the second appellant to "the West Bank (Palestine)" and the removal directions in the case of the third appellant were formally amended to "Gaza in the Occupied Territories". In the case of all three appellants, the Adjudicators had found that there was nothing in the personal histories of the appellants which indicated that they would be of adverse interest to the Israeli authorities. Accordingly, all three appellants relied on a risk of persecution or treatment in breach of their human rights on account of their Palestinian Arab ethnicity. The question before the Tribunal was whether there was a real risk of persecution of a returned failed asylum seeker of Palestinian ethnicity from the Occupied Territories at the point of return when he will have to pass through a checkpoint manned by the Israeli authorities in order to regain the West Bank or the Gaza Strip as the case may be (paragraph 1 of the Determination). There are four main points which emerge from this Determination, which we would summarise as follows:

- (a) that there is no evidence before the Tribunal that anyone has ever been successfully removed to any part of the Occupied Territories or that the Respondent would seek the procurement of any Emergency Travel Documents other than such as might be issued via the Palestine General Delegates Office in London (paragraph 24 of the Determination);
- (b) if there were any prospect of a successful return, it would inevitably follow that each appellant would be placed in the control of the Israeli authorities at the point of entry to the Occupied Territories. The Tribunal did not consider that the background evidence supported the contention that this would expose any of the appellants to a real risk of persecution or a breach of their protected human rights. The only relevant evidence is that the Israeli security forces will not allow ethnic Palestinian Arabs being forcibly returned from abroad to re-enter the Occupied Territories (paragraph 33 of the Determination);
- (c) the Tribunal concluded that the general evidence does not, in its judgment, justify the conclusion that all ethnic Palestinian Arabs from the Occupied Territories are at real risk of arbitrary detention and ill-treatment by the Israeli authorities (paragraph 32 of the Determination);
- (d) the mere fact of being stateless, whilst this may pose difficulties for each of the appellants, could not of itself amount to persecution or a breach of the appellants' human rights because there is no country which is excluding them from a nationality to which they would otherwise be entitled. There is no state of Palestine to offer them citizenship and neither is there any international obligation on the State of Israel who retain a large measure of control over the Occupied Territories to offer them citizenship (paragraph 35 of the Determination).

56. Proposition (a) in the AB & others case should now be read in light of the judgment of the Court of Appeal in the Gedow case (supra). The Court of Appeal's judgment in the AK case (supra) is also relevant. It is clear from these cases that we are not concerned with the method of removal up until the point when the Appellant will be seeking permission to cross from Jordan across the King Hussein Bridge into the Occupied Territories. It is clear from the AK case that we must consider what would happen to the Appellant at the border as well as whether after entry, if he is permitted re-entry at the Israeli checkpoint at this bridge. Before we consider the background evidence relating to treatment at the border and after re-entry, we will consider the argument advanced on the Appellant's behalf that, if the Appellant is refused re-entry, such refusal in itself amounts to persecution.

Whether refusal of re-entry into the Occupied Territories amounts to persecution

57. At paragraph 5.3 of his skeleton argument, Mr. Bandegani relies on paragraph 28 of the judgment in the AK case in order to support his argument that the refusal of re-entry at the border is capable of amounting to persecution or serious harm. However, paragraph 28 of the Court of Appeal's judgment in the AK case should not be read in isolation from the remainder of the judgment. Albeit by way of obiter, Lord Justice Richards said:

- (a) that the argument of the appellant in that case that denial of re-entry by the Israeli authorities to the place of his former habitual residence would amount to persecution was a line of argument which was beset with difficulties (paragraphs 44 to 47 of the judgment). His lordship said:

I am far from satisfied that there is a true analogy between a state's denial of entry to one of its own citizens and denial of entry to a stateless person (who, unlike a citizen, has no right of entry into the country), or that denial of entry to a stateless person can be said to constitute a denial of his third category rights of sufficient severity to amount to persecution (especially given the possibility of his exercising those rights elsewhere).

- (b) that it was unnecessary to deal in any detail with the submission on behalf of the appellant that the denial of re-entry to the Occupied Territories by reason of the appellant's Palestinian identity was capable of constituting degrading treatment contrary to Article 3 of the ECHR.

58. In our judgment, in the event that a Palestinian Arab is denied re-entry to the Occupied Territories at the Israeli end of the crossing at King Hussein Bridge, this would not amount to persecution. Palestinian Arabs from the Occupied Territories are stateless and have no right of re-entry into the Occupied Territories unlike a citizen. For the same reason, we do not consider that the denial of re-entry would in itself amount to degrading or inhuman treatment contrary to Article 3. Although the judgment in the AK case was delivered before the Protection Regulations and cmdnd 6918 came into force, we see no reason to take a different view in relation to serious harm under paragraph 339C.

The re-entry route and the documents needed to seek re-entry:

59. There is some useful information in the Respondent's bundle (which does not appear to be disputed) concerning the route by which (if the Appellant is removed) he would be approaching the West Bank in order to seek re-entry, and the documents which he would need to have. The relevant information is as follows:

- (a) According to the Respondent's supplementary statement at pages 9 and 10 of the Respondent's supplementary bundle, the Respondent has confirmed the following with the Palestinian General Delegates Authority (PGDA) in London:
- (i) removals of Palestinian Arabs to the West Bank via Israel using Ben Gurion Airport is not effective unless the person in question exited via that route with the appropriate permission and documentation;
 - (ii) removals of Palestinian Arabs to the West Bank via Jordan is currently the only effective route for those holding Palestinian documentation and the PGDA have confirmed that the Jordanian authorities are content to let those with a valid passport pass through their territory.
- (b) The bridge which crosses the Jordan River and connects Jericho in the West Bank to the country of Jordan is known by many names. It is known to the Israelis as the Allenby Bridge, the Jordanians as the King Hussein Bridge and the Palestinian Arabs as the Al-Karemeh Bridge (according to the Wikipedia encyclopaedia on page 19 of the Respondent's bundle). Another name for this bridge is the Malik Hussein Bridge (paragraph numbered 3 of the "Travel Information and tips" issued by the International Solidarity Movement (ISM) (undated but downloaded on 13 November 2006);
- (c) The Wikipedia article on page 19 of the Respondent's bundle also states that the West Bank side of the bridge is considered a border entry point by Israel and is controlled exclusively by the Israelis but the Jordanian authorities do not recognise this as an international border entry point and therefore (in contrast to other border crossings with Israel) do not grant entry visas to foreign passport holders at this crossing. Although we recognise that the Jordanian authorities do not recognise this as an international border crossing, we have referred to it as a border crossing in this Determination for convenience in order to mark the point when a returnee will be requesting the Israeli security forces for permission to re-enter the West Bank;
- (d) Documents: The article by the Forced Migration Organisation (FMO) entitled "Palestinian Refugees in Jordan" (undated but downloaded on 13 November 2006 (at pages 90 to 98 of the Respondent's supplementary bundle) states (at pages 93 and 94 of the Respondent's supplementary bundle) that "Cards of Crossing" issued by the Jordanian authorities are of three types:
- (i) a Yellow card (family reunification card) indicates that the holder is a permanent resident in Jordan and is able to go to the West Bank because of the family reunification card s/he holds;
 - (ii) a Green card indicates that the holder lives in the West Bank and that his/her visit to Jordan is temporary;
 - (iii) a Blue card is issued to "Gazans" who live in Gaza or Jordan and it indicates that the holders were included in family reunification cards as being able to live in Gaza.

The likelihood of re-entry being permitted

60. In AB and others, the Tribunal had evidence before it which indicated that the Israeli security forces will not allow ethnic Palestinians being forcibly returned from abroad to re-enter the Occupied Territories. In the Respondent's supplementary bundle which is before us, there is evidence that the King Hussein Bridge is a very busy crossing between Jordan and the West Bank – for example, we have noted that the “Travel Information and Tips” issued by ISM (pages 20 to 24 of the Respondent’s Supplementary bundle) refers to this bridge in the following terms:

This is where Palestinians cross back and forth into Jordan and it's usually crowded.

61. However, there is no indication in this document or elsewhere as to whether Palestinian Arabs being forcibly returned from abroad would be successful in gaining re-entry into the West Bank via King Hussein Bridge. Mr. Norton did not draw our attention to any background evidence to persuade us to take a different view from that taken by the Tribunal in the AB and others. Mr. Bandegani drew our attention to the report of Al Haq for the period between April and June 2006. We found an extract of this in the CAABU report, on page 230 of the Appellant's bundle A. The extract reads:

Israel has revoked the residency rights of thousands of Palestinians living in the West Bank on the pretext of their having lived abroad for prolonged periods. These individuals now find themselves separated from their families and livelihoods..... Today, a number of them are trapped in Jordan after repeated attempts to return to their homes in the West Bank.

The Appellant’s sister was able to re-enter the West Bank in January 2005 or January 2006. However, the evidence is that she returned voluntarily. Furthermore, the evidence from Al Haq is more recent. On the whole of the evidence, we conclude that the Tribunal's view on this point in AB and others holds good.

62. If a Palestinian Arab formerly resident in the West Bank who is being removed to the West Bank is refused re-entry into the Occupied Territories at the Israeli checkpoint on the King Hussein Bridge, then he would simply have to turn back into Jordan. The country guidance case on the situation of Palestinians in Jordan is NA (Palestinians – Not at general risk) Jordan CG [2005] UKIAT 00094. That case decided that ethnic Palestinians, whether or not recognised as citizens of Jordan, are not persecuted or treated in breach of their protected human rights by reason of their ethnicity, although they may be subject there to discrimination in certain respects in their social lives in a manner which does not cross the threshold from discrimination to persecution or breach of protected human rights. No fresh evidence has been adduced to suggest otherwise. Given our decision that refusal of re-entry does not of itself amount to persecution or serious harm or degrading or inhuman treatment, we must determine the appeal on asylum grounds and in relation to humanitarian protection (both of which require determination of an appellant's status as a refugee or someone entitled to humanitarian protection) on the hypothetical assumption that he would be permitted to re-enter the Occupied Territories and decide whether he would thereafter receive ill-treatment amounting to persecution or serious harm. In this regard, we make the point that the background evidence before us does not distinguish between the situation of Palestinian Arabs who are not being forcibly returned and those who are, nor does it distinguish between those Palestinian Arabs who have never been abroad and those who have lived abroad for some time. Although Dr. George deals with “the practicality of forced return” at paragraphs 41 to 46 of his report, he does not describe any specific instances of the treatment at the Israeli checkpoint on the King Hussein Bridge (or thereafter) of Palestinian Arabs who are being forcibly returned or who have lived abroad. It may be that the lack of specific evidence in

this regard is because forced removals may not be taking place. We cannot say whether that is the case.

63. We therefore consider the background evidence which is before us to decide what general conclusions can be drawn from it as to the risk facing Palestinian Arabs in general, and young Palestinian Arabs males from the West Bank or the northern part of the West Bank in particular. We then consider whether we are able properly to draw any inferences from the evidence before us that the risk for a Palestinian Arab who is forcibly returned or who has lived abroad for some time is increased such that there is a real risk of persecution or serious harm. Similarly, our attention was not drawn to any background evidence which describes instances of the treatment of Palestinian Arabs at the border crossing on the King Hussein Bridge. Accordingly, we have considered the evidence as to the situation of Palestinian Arabs inside the West Bank and then considered whether any inferences can properly be drawn that the risk at the border crossing on the King Hussein Bridge for someone in the Appellant's situation – i.e. a young male Palestinian Arab from the northern part of the West Bank who is being forcibly returned and/or who has lived abroad for some time - is increased such that there is a real risk of persecution or serious harm.
64. Before us, the parties' submissions were made on the assumption that the Tribunal was obliged to decide whether the Appellant would be at real risk of treatment in breach of Article 3 in the West Bank regardless of our answer to the question as to whether he would be able to re-enter the West Bank. We are prepared to determine this appeal on the basis of that assumption. Accordingly, we will decide whether, if the Appellant regains re-entry into the West Bank, it is reasonably likely that he would be subjected to persecution or serious harm or Article 3 ill-treatment.

The report of Dr. A. George – our general observations

65. We have before us a report from an expert, Dr A. George. With regard to his background, we have noted that he states, inter alia, as follows: From 1984 until the present time, Dr George has worked on his own account as a writer, journalist, consultant and researcher. He says he has written regularly for a wide range of specialist publications and national publications in the United Kingdom and Europe. Since May 1996 he has been a consultant on Middle East matters to Kroll Associates, the world's leading investigations and risk management company. From 1984 until 1992, he was the Lebanon author for the Economist Intelligence Unit, the consultancy arm of the Economist organisation. In that capacity, he produced, inter alia, an annual review on political and economic developments in Lebanon during years in which the country's civil war was at its height. Dr George is a Senior Associate Member of St. Anthony's College, Oxford University. St. Anthony's has one of the world's leading Middle East centres. Dr. George states that, since the late 1970s, he has studied, written about and commented very extensively on the Palestine question, "in all its ramifications", and he says he is very familiar with the history and present situation of the Palestinians. During the last 35 years, Dr George has travelled throughout the Middle East, having visited Turkey, Syria, Lebanon, Jordan, Israel, the Israeli-occupied West Bank, and other countries. He says he has considerable experience as an expert witness in asylum cases involving applicants from the Middle East, including the occupied Palestinian Territories.
66. Dr. George refers to his expertise on the region as having been accepted by the courts. By way of example, he cites the case of Jasim [2006] EWCA Civ 342. He states that, in that case, Lord Justice Sedley said of him (Dr. George) that he is "an

experienced writer and consultant upon and analyst of Middle Eastern political and economic affairs". This is to be found at paragraph 15 of the judgment. We bear this in mind, as we do the final two sentences of paragraph 22 of the judgment. We also bear in mind that, at paragraph 44 of the judgment, Lord Justice Pill referred to Dr. George in the following terms (paragraph 44):

That Dr Alan George was qualified to provide the report on Iraq he did is not in doubt and the report was a helpful contribution to the in-county information available to the immigration judge.....

67. However, Sir Peter Gibson and Lord Justice Pill gave the majority judgments in that case, holding that the Immigration Judge was entitled not to accept the opinion of Dr. George as to the risk on relocation. Accordingly, we considered that the fact that Dr. George was referred to in complimentary terms in the judgment does not oblige us to accept his opinion. Indeed, we are obliged to evaluate his opinion, which we do below.
68. Dr. George's reports have been considered by the Tribunal in the following reported cases:

KK IH HE (Palestinians – Lebanon – camps) Palestine CG [2004] UKIAT 00293;
AR (Kurd: not risk per se) Syria CG [2006] UKAIT 00048; and
LM (Educated women – Chaldo- Assyrians- risk) Iraq CG [2006] UKAIT 00060.

- (a) In the LM case, Dr. George is referred to at paragraphs 9, 53 and 54 of the Determination. We cannot see any in-depth analysis in that case of the general expertise of Dr. George.
- (b) In the KK IH HE case, the Tribunal heard oral evidence from Dr. George, whose written and oral evidence is summarised at paragraphs 18 to 43 of the Determination in that case. The Tribunal assessed the evidence of Dr. Joffe (from whom it also heard evidence and Dr. George at paragraph 85 onwards. At paragraph 86, the Tribunal expressed concern about the fact that Dr. George had only visited Lebanon once in 1996. The Tribunal found surprising Dr. George's statement that he can better monitor the Middle East from London than on the ground as people speak more freely in London. The Tribunal considered that a person would be far more likely to be able to get a realistic feel for the conditions in the camps if (in the case of Dr. George) he had visited the camps more recently than in 1996. The Tribunal found itself in agreement with the Respondent's representative concerning the occasional sweeping generalisation to be found in the evidence of Dr. George. The Tribunal did not consider that it can properly be said, as contended by Dr. George, that conditions in the camps are life threatening generally. Otherwise and, in general, the Tribunal found the evidence of Dr. George was essentially consonant with the various country reports of specialist bodies.
- (c) We note that the AR case concerned Syrian Kurds. In the AR case, the Tribunal also heard oral evidence from Dr. George, whose written and oral evidence is summarised at paragraphs 27 to 59 of the Determination in that case. At paragraph 77 onwards, the Tribunal commented on Dr. George's evidence referring to him as "clearly a knowledgeable witness..... [with] a lengthy history of commentating on Middle Eastern matters" (paragraph 77). However, at paragraph 78, the Tribunal expressed concern with the efforts

Dr. George made as to the truth or lack of it concerning the suggestions that significant numbers of Syrian Kurds were to be granted citizenship. The Tribunal considered that Dr. George seemed to have gone to a source from which the answer given could be expected and that the Tribunal would have expected Dr. George to have carried out more extensive research than he did. At paragraph 79, the Tribunal stated that, with that caveat in mind, the Tribunal considered that Dr. George's evidence is in general consistent with the background evidence and deserving of weight being attached to it as a consequence.

69. Dr. George's report, which is dated 15 May 2006, pre-dates the date of promulgation of the AR case and the date on which it was added to the publicly-available country guidance list on 8 June 2006. We can therefore understand why he made no mention of the AR case. However, it is unfortunate that, whilst he referred to the Jasim case as an example, he overlooked mentioning the KK IH HE case in which he gave oral evidence to the Tribunal and in which the Tribunal commented in more specific terms on his evidence than the generalised comments in the Jasim case. Whilst we note that Dr. George makes clear that he was referring to the Jasim case only by way of example, we do not consider that he was entitled to state that his "expertise has been accepted by the Courts" without also drawing the attention of the reader to the reservations expressed on his evidence in the KK IH HE case.
70. The KK IH HE case is included in the Appellant's bundle B (pages 160 to 177 of bundle B). We consider that we are also entitled to have regard to the AR case; it is a reported case and deals with Dr. George's evidence on part of the Middle East. We consider that we are entitled to have regard not only to the general observations about Dr. George in the Jasim case but also to the Tribunal's more specific observations in the KK IH HE and AR cases. We are not aware that the observations of the Tribunal in those cases to which we have referred have been disapproved of by the Court of Appeal. It may be argued that, for example, the fact that the Tribunal in the KK IH HE case considered that Dr. George made occasional sweeping comments does not mean that Dr. George has done so in the report before us. That is of course entirely correct. Similarly, it would be entirely correct to say that the KK IH HE and the AR cases concern different countries and that accordingly they have no bearing on the question as to whether Dr. George's opinion in the report which is before us should be accepted or rejected. An individual's expertise concerning the situation in different countries may not be the same and it may be argued that he has greater expertise to opine on the situation for Palestinians in the Occupied Territories than in Syria or the camps in Lebanon. We bear that in mind. However, just as it would be appropriate to bear in mind the complimentary observations about Dr. George in the Jasim case, so too is it relevant to bear in mind the reservations of the Tribunal in the KK IH HE and in AR cases. However, we should make clear that, even if we had not been aware of the Tribunal's reservations, we would nevertheless have reached the conclusions we have reached in the instant appeal (see below).
71. As far as we can see, Dr. George last visited Israel and the Occupied Territories in 1971 (paragraph 9 of his report). That is a relevant matter and we bear it in mind although it does not disqualify him from giving an opinion. Of more concern is the use by Dr. George of the word "colonisation" in paragraph 25, the first sentence of which reads:

"As well as persisting with its colonisation of the West Bank, Israel is persisting with its human rights violations in the territory."

72. The use of the word “colonisation” is unfortunate. It may be that Dr. George was merely referring to the creation of Israeli settlements in the Occupied Territories. However, the word is often generally taken to portray the idea of a more powerful country placing another country under its power and taking over its legislative and security functions and infrastructure. It is a term which is redolent of old imperial colonial powers. The international community does not recognise a “State of Palestine”. There is therefore no question of Israel placing another country under its power. We prefer the more neutral word “occupation” which does no more than convey the fact that the West Bank and the Gaza Strip are occupied.
73. There were therefore features of Dr. George’s report which led us to attach less weight to it than we would otherwise have. We also found that his opinion that the northern part of the West Bank has become a particular focus of attention by the Israeli security forces is not consistent with the rest of the background evidence (see paragraph 88 below).
74. Nevertheless, we are of the view that, in general terms, his report gave useful information, in particular with regard to the historical background at paragraphs 13 to 23 of the report. We will consider other aspects of his report below, although we make it clear that we do not intend to embark upon a precise paragraph-by-paragraph analysis of Dr. George’s report or the other background evidence to which we have been referred. Such an approach would not be realistic, especially given that the Appellant’s bundle A alone comprises of 476 pages. However, we stress that our assessment is based on the whole of the evidence before us.

The separation wall and the advisory opinion of the ICJ

75. At paragraph 24 of his report, Dr. George describes the separation wall and makes the point that its route does not coincide with the “Green Line” marking Israel’s 1967 frontier and that the area between the wall and the Green Line constitutes about 10 per cent of the area of the West Bank. This is the subject of the advisory opinion of the ICJ on the question posed to it which the ICJ sets out at paragraph 1 on page 7 of its report and according to which the ICJ was asked to give its opinion on the legal consequences arising from the construction of the separation wall in the Occupied Territories. It is important, in our view, to bear in mind the terms of the resolution adopted by the General Assembly of the United Nations and which led to its decision to submit this question to the ICJ for an opinion. The full text of this resolution, which is quoted at paragraph 1 of the opinion of the ICJ, refers to the principles of the Charter of the United Nations and the fact that the development of friendly relations among nations is amongst the purposes and principles of this Charter. It states that the General Assembly affirms the necessity of ending the conflict on the basis of a two-state solution of Israel and Palestine living side by side in peace and security based on the Armistice Line of 1949. When seen in the context of the terms of the resolution adopted by the General Assembly of the United Nations and the reasons for its decision to submit the question to the ICJ, the opinion of the ICJ (that the construction of the separation wall, and its associated regime, is contrary to international law) is clearly important.
76. However, the Tribunal is concerned with the reality of the situation as it applies to individual appellants. We have to decide whether it can be said that the individual returnee faces a real risk of persecution or serious harm or treatment in breach of Article 3. In our view, the lawfulness or otherwise of the separation wall and the occupation by the Israeli authorities of land outside the Green Line does not affect the outcome of an appeal if the individual appellant does not claim to have suffered

from any loss of any land due to the building of the separation wall or to have to pass between the separation wall and the Green Line - for example, because the individual in question has land between the Green Line and the separation wall which he needs to look after and which would therefore necessitate his having to endure, on a more frequent basis, restrictions in travel or movement across the separation wall by having to pass through the additional checkpoints along the separation wall.

77. If the personal history of an individual Palestinian Arab is such that it is reasonably likely that he/she would be suspected by the Israeli security forces of being involved in suicide bombing missions or terrorist activities against Israel or Israeli settlements, it is reasonably likely that he/she would be arrested and detained and held in “administrative detention”. This is so whether the individual is picked up in military incursions, round ups or at checkpoints. A returnee who is reasonably likely to fall under such suspicion is reasonably likely to be persecuted or subjected to ill-treatment amounting to serious harm (or in breach of their rights under Article 3) although questions as to their possible exclusion under Article 1F of the Geneva Convention or paragraph 339C of the Immigration Rules may then arise.
78. We have been asked to examine whether a Palestinian Arab who has nothing in his personal history which would draw the adverse attention of the Israeli security forces would nevertheless fall under suspicion by the Israeli security forces of involvement in suicide bombing missions or terrorist activities against Israel or Israeli settlements by virtue solely of being a Palestinian Arab male aged between 4 years and 40 years who is from Tulkarm in the West Bank or another part of the northern West Bank. Given the extensive nature of the background evidence before us, we have extended our enquiry to Palestinian Arabs males of this age who are from other parts of the West Bank or from the Gaza Strip.

Israeli military incursions and operations in the Occupied Territories

79. At paragraph 33 of his report, Dr. George states that the northern part of the West Bank, including Tulkarm (the Appellant’s home area), has become a particular focus for “Israeli oppression”. The reasons given at paragraph 33 of his report are that the northern West Bank contains several major Palestinian population centres “which have been important centres of militancy, and whence a high proportion of Palestinian suicide bombers have emanated”. In this regard, we note and take into account the fact that Dr. George refers to an article from the Guardian newspaper issue of 28 April 2006 which refers to a single cell of the Islamic Jihad from the northern West Bank having been responsible for six of the last seven suicide bombings in Israel since February 2005. This evidence would tend to support Dr. George's opinion that the northern West Bank includes major Palestinian population centres which ““have been important centres of militancy”. However, we have also analysed other background evidence before us to examine the validity of Dr. George's opinion that the northern part of the West Bank has become a particular focus.
80. Our analysis of the other background evidence before us is as set out below. In this analysis, we have divided the West Bank into two geographical areas as follows:

the northern part, which includes: Nablus, Jenin, Tulkarm and Qalqilya
the southern, which includes: Ramallah, Jerusalem (east), Jericho,
Bethlehem and Hebron.

We have also considered the background evidence relating to the Gaza Strip.

81. We have noted the evidence below which describes particular incidents in particular locations on the dates specified below (the page numbers relate to the Appellant's bundle A):

<u>Page No:</u>	<u>Date:</u>	<u>Report by:</u>	<u>Area / location</u>
157	28.05.06	Ma'an News Agency	Quaffin, north of Tulkarm
158	26.05.06	Ma'an News Agency	Tulkarm
159	19.05.06	Ma'an News Agency	Tulkarm
161	15.05.06	Ma'an News Agency	Tulkarm
162	10.05.06	Ma'an News Agency	Tulkarm
163	07.05.06	Ma'an News Agency	Attil, north of Tulkarm
164	07.05.06	Ma'an News Agency	Hebron and Tulkarm
303	03.09.06	Reuters Foundation	Tulkarm
304	31.08.06	Reuters Foundation	Nablus
310	06.08.06	Reuters Foundation	Nablus
315, 318 - 320	19.07.06	Reuters Foundation	Nablus + central Gaza Strip

82. We take into account the fact that the article at page 303 refers to the proximity of Tulkarm to the Israeli coastal town of Netanya which, according to the article, is a frequent target of Palestinian suicide bombers since the uprising in 2000. However, we considered that the evidence which we have set out in the table above does not enable us to decide whether the areas mentioned in the articles in question were targets of particular focus, because there was little or no information about what was happening in other areas of the West Bank and in the Gaza Strip. We were therefore unable to make any comparisons.

83. In this regard, we found the following reports/press releases were of greater help, because sufficient information is given in the reports/press releases about incursions/military operations during the periods covered by the reports/press releases to enable us to make comparisons and assess whether it is correct to say that the northern part of the West Bank is a particular focus. We have conducted both a quantitative analysis as well as a qualitative analysis. By "quantitative" analysis, we mean a simple comparison of numbers – that is to say, a comparison between the numbers of incidents in the northern part of the West Bank with the numbers of incidents elsewhere i.e. in the southern part of the West Bank and in the Gaza Strip. By "qualitative analysis", we mean a comparison of the seriousness of the incursions/operations which are reported in one area compared to another.

84. Our quantitative analysis shows that the numbers of incidents described in the reports/press releases mentioned below in the geographical areas are as follows:

<u>Report (a) for the period</u> <u>from 11.05.06 to 17.05.06:</u>	<u>(NUMBER OF INCIDENTS REPORTED)</u>		
	<u>northern</u> <u>West Bank</u>	<u>southern</u> <u>West Bank</u>	<u>Gaza</u> <u>Strip</u>
In or around Nablus	14		
In or around Jenin	7		
In or around Tulkarm	3		
In or around Hebron		11	
In or around Bethlehem		5	
In the Gaza Strip			5
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TOTAL	24	16	5
<u>Press release (b) dated 07.07.06</u> <u>from the PCHR concerning Israeli</u> <u>operations on 06.07.06:</u>			
In and around Nablus	1		

In and around Jenin In the Gaza Strip	1		(major operation)
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TOTAL	2	0	(major operation)

<u>Report (c) for the period from 03.08.06 to 09.08.06:</u>	<u>northern West Bank</u>	<u>southern West Bank</u>	<u>Gaza Strip</u>
In or around Nablus	6		
In or around Jenin	8		
In or around Tulkarm	1		
In and around Qalqilya	3		
In and around Al-Bireh	1		
In or around Hebron		12	
In or around Bethlehem		4	
In and around Ramallah		2	
In and around Jericho		1	
In the Gaza Strip			(major operation)
	----	----	----
TOTAL	19	19	(major operation)

<u>Report (d) for the period from 10.08.06 to 16.08.06:</u>	<u>northern West Bank</u>	<u>southern West Bank</u>	<u>Gaza Strip</u>
In or around Nablus	5		
In or around Jenin	12		
In or around Tulkarm	2		
In and around Qalqilya	2		
In or around Hebron		13	
In or around Bethlehem		3	
In and around Ramallah		1	
In and around Jericho		1	
In and around Jerusalem		1	
In the Gaza Strip			14
	----	----	----
TOTAL	21	19	14

Report (a) is the report pages 195 to 218 of the Appellant's bundle A entitled: "Israeli Violations documented during the reporting period 11 to 17 May 2006" issued by the General Union of Palestine Students (GUPS) (the details of the incursions are at pages 199 to 211);

Press Release (b) is the press release from the PCHR (Palestinian Centre for Human Rights) dated 7 July 2006 at pages 321 to 323 of the Appellant's bundle A;

Report (c) is the weekly report from the PCHR for the period from 3 August to 9 August 2006 435 to 456 of the Appellant's bundle A (the details of the incursions are at pages 440 to 450); and

Report (d) is the weekly report of the PCHR for the period from 10 to 16 August 2006 of the Appellant's bundle A (the details of the incursions are at pages 461 to 470; these include incursions into the Gaza strip, despite the title of this section on page 461).

85. Whilst reports (a) and (d) indicate that the northern part of the West Bank experienced a greater number of incursions during the periods concerned than the southern part of the West Bank or the Gaza Strip (although only marginally greater than the southern part of the West Bank for the period covered by report (d)), report (c) shows that the southern part of the West Bank experienced the same number of incursions/operations as the northern part of the West Bank during that particular period. However, it is also clear that, during this period, there was a major operation in the Gaza Strip in early August 2006 (see press report (c), at pages 440 to 445 of the Appellant's bundle A) which commenced on 2 August 2006 by land and air and which continued until 6 August 2006. There was further Israeli action by air and land in the Gaza Strip on 7, 8 and 9 August 2006. Overall, we considered that the seriousness of the Israeli action in the Gaza Strip over the period covered by report (c) was such that, in our view, the Gaza Strip was the main focus of attention by the Israeli security forces during this period. Similarly, press release (b) indicates that there was a major operation in the Gaza Strip on 7 July 2006. In the light of these

materials, we are of the view that, in the period covered by reports (b) and (c), the Gaza strip received greater attention from the Israeli security forces than the West Bank in general or the northern part of the West Bank in particular.

86. On the other hand, there is evidence indicating that, in April 2006 to early May 2006, the northern part of the West Bank bore the brunt of Israeli incursions. In this regard, we noted that:
- (i) the weekly report from the PCHR from 27.04.06 to 03.05.06 (page 135 of the Appellant's bundle A) refers to an extra-judicial execution of a Palestinian activist in the Gaza Strip and 37 incursions into Palestinian communities in the West Bank particularly Nablus;
 - (ii) the weekly report from the PCHR from period for 04 to 01.05.06 (page 140 of the Appellant's bundle A) refers to an extra-judicial execution in the Gaza Strip and 38 incursions into Palestinian communities in the West Bank particularly Nablus; and
 - (iii) the figures from the 2005 Annual Report by the PCHR which are mentioned at paragraph 34 of Dr. George's report and which show that, in 2005, a total of 123 civilians were killed by the Israeli security forces in the Occupied Territories as a whole, 27 of whom died in the Gaza Strip and 96 in the West Bank. Of those who died in the West Bank, 83 deaths occurred in the northern part of the West Bank, with 28 in Nablus, 24 in Jenin and 17 in Tulkarm.
87. Viewing the evidence as a whole (including the background evidence in the Appellant's bundles which we have not specifically referred to), we do not consider that any generalised conclusions can be drawn that the West Bank is of greater interest to the Israeli security forces than the Gaza Strip, or that the northern part of the West Bank is of greater interest than the southern part or the Gaza Strip. We conclude that the situation fluctuates from time to time.
88. We therefore reject Dr. George's opinion that the evidence shows that the northern part of the West Bank has become a particular focus of attention by the Israeli security forces. His opinion is not consistent with the rest of the background evidence before us. In our view, the reality is that the whole of the Occupied Territories is an area of conflict where tension is extremely high due to the armed struggle between Palestinians and the Israeli authorities. Whilst we have every sympathy for individuals who are caught in these difficulties because they happen to live in an area which, at a particular time, becomes a focus of attention by the Israeli security forces in their pursuit of individuals involved in suicide bombing missions and terrorism, the evidence as a whole does not show that it is reasonably likely that an individual who hails from the northern part of the West Bank would be of adverse interest to the Israeli security forces simply because of his place of origin.
89. On the narrow question as to the significance of Tulkarm in comparison with the other regions in the northern part of the West Bank, we consider that, whatever the perception of the Israeli security forces at any particular time as to whether the northern part of the West Bank poses a greater threat than the southern part or the Gaza Strip, Tulkarm on the whole attracts far less attention than other areas in the northern West Bank such as, for example, Nablus and Jenin. However, we stress that the mere fact that an individual comes from Nablus or Jenin or the Gaza Strip will not of itself give rise to a real risk of treatment sufficiently severe as to amount

to persecution or serious harm (or treatment in breach of Article 3). It is a factor which, in combination with other factors relating to the individual's personal history, may increase the risk to the point where it can properly be said that there is real risk of such treatment.

90. Mr. Bandegani submitted that Palestinian Arab males aged between 14 years and 40 years are at real risk. From the reports and other background evidence which we have considered above, we can see that, when Israeli incursions / military operations into the West Bank and the Gaza Strip take place, a large proportion of the individuals arrested by the Israeli security forces fit the profile of being male Palestinian Arabs within the age group of 16 to 35 although we accept that there are some instances of individuals below 16 or above 35 being included. We therefore accept that, during any such incursions or military operations in any region, Palestinian Arab males between 16 and 35 years of age are more likely to be picked up by the Israeli security forces than others but we do not accept that the range of age of those who are more likely to be picked up is as wide as the 14 to 40 age group as suggested by Mr. Bandegani.
91. However, there is an absence of information before us as to the proportion of those arrested who fit this profile as compared to the size and overall composition of the community which is the subject of the incursion or military operation. If it were the case that all Palestinian Arabs males between 16 and 35 years old are (for those reasons alone) suspected by the Israeli security forces of being involved in suicide bombing missions or terrorist activities, we would expect to see reports of large scale arrests of all individuals who fit this profile and who are discovered by the Israeli security forces during any incursions or military operations. That is clearly not the evidence before us. To the contrary, the reports are of limited and small numbers (in single figures) being picked up on any occasion, albeit that those who are arrested do in general fit the profile we have described i.e. of being Palestinian Arab males between 16 years and 35 years of age. The overwhelming impression we gain from the background evidence is that the Israeli security forces search for those engaged in suicide bombing missions and other terrorist activities. Whilst the fact that a Palestinian Arab male aged between 16 to 35 is likely to lead that individual to be more closely examined, it is not reasonably likely that he would for those reasons alone fall under suspicion. The same applies in the case of a Palestinian Arab male aged between 16 and 35 who is from the northern part of the West Bank. There must be something more to give rise to a real risk of suspicion.
92. In his report, Dr. George refers to evidence as to the numbers of Palestinians killed or injured during Israeli military incursions or operations including shelling and extra-judicial execution operations (see, for example, the final quote on page 8 and paragraph 29 of the report). At paragraph 28 of Dr. George's report, it is said, for example, that 207 Palestinians were killed, including 187 unarmed civilians. These figures are quoted from the 2005 Annual Report of the PCHR. This shows that civilians get caught up in incursions and military operations by the Israeli security forces. It is not evidence that Palestinian Arabs are targeted simply because of their ethnic origin.

Travel restrictions

93. As a result of the 1993 Oslo Accord, the West Bank was divided into three types of areas – areas A, B and C - denoting different levels of control by the Palestinian Authority and by Israel. The Palestinian Authority had civilian and security control over area A but only civilian control in area B. After the Palestinian uprising in 2000, the Israeli forces resumed control over a number of areas within areas A, B and C,

citing the failure of the Palestinian Authority to abide by its security responsibilities. The large colour map we have been provided with shows that large parts of areas A and B are non-contiguous. Certain towns in areas A and B are almost wholly encircled by land denoted as area C – for example, Tulkarm and Qalqilya. On the other hand, other parts of areas A and B appear to be contiguous – for example, there is a large area of contiguous areas A and B between Jenin and Nablus. The CAABU report states (page 224 and 225 of the Appellant’s bundle A):

Since 1967, in various forms, Israel has monitored and limited the movement of Palestinians within and between the West Bank, East Jerusalem and the Gaza Strip. Since 1991, Israel has imposed a system by which Palestinians need individual exit permits to travel to and from three areas: the West Bank, East Jerusalem, and the Gaza Strip. Since the roads between the north and south of the West Bank pass through Jerusalem movement within the West Bank itself became severely limited.

94. It is common ground that the Israeli security forces man checkpoints throughout the West Bank which impede the movement of Palestinian Arabs. Although we have not been supplied with a map which includes the Gaza Strip, it is clear from the background evidence that the Israeli security forces operate checkpoints in the Gaza Strip which restrict the movement of Palestinian Arabs within the Gaza Strip itself as well as between the Gaza Strip and the West Bank, by whatever route.

95. It is not disputed that the Israeli security forces operate permanent checkpoints and “flying checkpoints” throughout the West Bank, and also in the Gaza Strip. “Flying checkpoints” appear suddenly and without warning. They are operated for unpredictable lengths of time. At paragraph 38 of his report, Dr. George makes the point (and we see no reason to take issue with this) that the use of temporary or flying checkpoints makes it very difficult to predict restrictions on movement. Earth mounds and concrete road blocks are used on lesser used roads to obstruct vehicular access; ditches are used to prevent vehicles crossing. Travel permits are issued by the Israeli authorities but the permit system is said to be complex and applied differently from region to region. A permit eases travel and reduces the risk of being turned back at a checkpoint. Permits are necessary for crossing specific checkpoints, in accessing the Jordan valley, the closed area between the Green Line and the separation wall and for entering Jerusalem.

96. It is said in the article entitled “Checkpoint Witnesses” by Amelia Thomas dated 8 June 2006 (at page 424 of the Appellant’s bundle A) that:

The purpose of such interior checkpoints is solely “to prevent free passage of Palestinian residents between their villages and towns,” says group spokeswoman [of Machsom Watch] Adi Dagan.....

The Israeli Defence Force disputes this. “If the Army’s sole purpose would be to prevent freedom of movement for normal Palestinians, “says IDF spokesman, Captain. Jacob Demal, “it would be a waste of our time. But checkpoints are there to impair the transportation efforts of potential suicide bombers, who use the routes time and time again”.

97. Elsewhere in the Appellant’s background evidence, opinions are expressed that the severity of the travel restrictions imposed by the Israeli security forces and the unpredictable way in which they are applied are together a form of “collective punishment” by the Israeli government against Palestinians, and that the measures used by the Israeli authorities are not proportionate to the security situation. All these writers are, of course, entitled to hold and express opinions on this subject. Indeed, this is not the least surprising given the seriousness of the conflict particularly since September 2000. Mr. Norton requested us not to place weight on the background evidence submitted on the Appellant’s behalf because, he said, it

was from organisations or people who were partisan. We do not, however, consider that the mere fact that the evidence is from a party holding a particular opinion means that we should disregard that evidence. Our task is to look at the reality of the situation which Palestinians Arabs would face. We have therefore considered all the documents in order to discern the situation on the ground, and make findings of fact. We will mention here that we found several instances of overstatement in the background evidence – see, for example, our paragraphs 101 and 103 below – which explains why we have had to examine, and refer to, the evidence with particular care and in the detail we have.

98. We turn now to consider the evidence as to the travel restrictions imposed by the Israeli security forces on travel by Palestinians in the West Bank.

99. We commence by considering the evidence in order to decide whether it is true to say that greater restrictions are imposed on the movement of Palestinian Arab males who originate from the northern part of the West Bank. The following are brief summaries of, or extracts from, some of the objective material before us, although we stress that we have considered all of the evidence:

- (i) Page 142 (PCHR weekly report dated “04 – 01.05.06”) evidence that the Israeli security forces separate the north and south of the West Bank. The Za’tara checkpoint was closed. The presence of Israeli security forces at the ‘Attara checkpoint, north of Ramallah, was re-established. Two new checkpoints near Ramallah were erected.
- (ii) Page 148 (PCHR press release dated 23 April 2006) evidence that the Za’tara checkpoint is being developed into an “international” crossing similar to Qalandiya checkpoint. The PCHR contend that the Za’tara checkpoint is part of the Israeli plan of dividing the West Bank into 3 “Bantustans”.
- (iii) Pages 198, 214 to 216 (GUPS report entitled: “Israeli Violations documented during the reporting period 11 to 17 May 2006”) refers to “abuse” by Israeli security forces at various checkpoints against a number of Palestinian civilians. It also states that two Palestinians were arrested at checkpoints in the West Bank during this period. On 12 May 2006, a checkpoint was erected to the west of Nablus through which all Palestinians civilians aged under 30 were prevented from crossing. The following day, dozens of young men were detained for several hours at Hawara checkpoint, south of Nablus. On 14 May 2006, a number of civilians were beaten and humiliated at a checkpoint to the west of Nablus. On 11 May 2006, severe restrictions imposed on the movement of residents of Tulkarm. Prolonged and “humiliating” checks. Civilians who tried to use alternative dirt roads were chased, and dozens held for several hours. On 13 May 2006 restrictions prohibited the movement of Palestinians to and from Tulkarm. Dozens of young men who resorted to using alternative dirt roads were held.
- (iv) Page 254 (report of CAABU dated 18 May 2006) states:

Palestinians of all ages, no matter the gender or social status or affiliation with a certain group, are likely to be subject to limits and/or mistreatment. However, it is far more likely for young men, usually between the age of 16-35 (at least) to be stopped or denied entry to a certain area more than any other. In this case, it has nothing to do with the proven track record or history of the young man in question. Simply by being of a certain age singles him out for harsher restrictions. Overall, the very young (up until the age of 10-12), and the elderly (70 and older) are most likely to have less problems of movement than any other age group.

 - All Palestinian males from Nablus, Jenin and Tulkarm between the ages of 16-35 are prevented from heading south through all permanent, semi-permanent and flying checkpoints in the northern West Bank, unless they have special permits [*attributed to the weekly briefly notes 9-15 August*

- The gender of applicants [for a travel permit] has a statistically significant effect on probability of refusal – being male increases the probability of refusal by 20 %.

(v) Pages 305, 306, 308 & 309

Reuters Foundation press report of 20 August 2006: that Palestinians under the age of 35 are generally prevented from passing through Israeli military checkpoints in the West Bank as part of security restrictions against potential bombers. At a checkpoint in the West Bank, Israeli soldiers shot dead one Palestinian and wounded two others at Hawara checkpoint near Nablus.

(vi) Pages 451 to 453

(PCHR weekly report from 03.08.06 to 09.08.06) reports the imposition of severe restrictions on the movement of Palestinian civilians in the Gaza Strip and the West Bank. In the West Bank, severe restrictions are reported in Ramallah, Hebron, Tulkarm, Nablus and Jenin. In Tulkarm, Palestinians aged below 35 were prevented from passing two checkpoints. Palestinians who resorted to alternative dirt roads were chased and held for several hours under the sun.

(vii) Pages 471 to 473

(PCHR weekly report from 10.08.06 to 16.08.06) reports the imposition of additional restrictions on movement of Palestinians in east Jerusalem, Ramallah and Hebron and severe restrictions on the movement of Palestinian civilians in Nablus, Tulkarm and Jenin. In Nablus, Palestinians below the age of 30 were prevented from crossing various checkpoints. In Tulkarm, Palestinians below the age of 35 were prevented from crossing all checkpoints around Tulkarm.

(viii) Para 32 of Dr. George's report

Quoting from the PCHR 2005 Annual Report, Dr. George refers to the Israeli security forces having "imposed restrictions at border crossings between the [Occupied Territories] and Israel; limiting the movement of Palestinian civilians between the West Bank and the Gaza Strip; preventing students from the Gaza Strip from attending their universities in the West Bank; preventing family visitations; depriving hundreds of patients from the Gaza Strip of access to medical treatment in hospitals in the West Bank, including occupied East Jerusalem; and depriving Palestinian civilians of access to Islamic and Christian sites in Jerusalem, Bethlehem and Hebron.....The [Israeli security forces] have also imposed more complicated restrictions on internal movement in the West Bank and the Gaza Strip. Hundreds of checkpoints have been placed at the entrances of Palestinian communities in the West Bank in order to restrict the movement of Palestinian civilians from one community to another.

100. Notwithstanding the fact that certain reports specifically mention restrictions on movement in particular areas in northern West Bank (such as Nablus, Tulkarm and Jenin - see, for example, the GUPS report at sub-paragraph (iii) and the CAABU report at (iv) above), the evidence as a whole shows that stringent restrictions are imposed on the movement of Palestinian Arabs *throughout* the Occupied Territories including the Gaza Strip (see, for example, the PCHR weekly report at pages 451, 452, 470 and 471 of the Appellant's bundle A) and areas in the southern parts of the West Bank such as Hebron as well as towards the centre of the West Bank such as East Jerusalem and Bethlehem (see, for example, (vi), (vii) and (viii) above as well the PCHR weekly reports at pages 452 and 472 and the GUPS report at pages 197, 198 and 214 of the Appellant's bundle A).

101. Although there are some suggestions in the background evidence before us that restrictions, once imposed, are permanent and should not be regarded as temporary, we have concluded that the severity of the restrictions imposed varies from time to time. For example, the article from "Al Mubadara Palestinian National

Initiative” (undated but which appears to have been written in January 2006 according to the first line on page 327 of the Appellant's bundle A) states that, from the second week of December 2005, the Israeli security forces “severed” the northern part of the West Bank from other sections and prohibited residents from travelling towards Ramallah and points southward. This “severance” (if it is not overstatement) must have been temporary, because the press release by the PCHR dated 23 April 2006 (page 326 of the Appellant's bundle A) states that, on 22 April 2006, the Israeli security forces began to implement a “complete separation” of the northern West Bank from the south “by restricting the movement of Palestinians in a way not previously seen since the uprising in 2000”. If the restrictions imposed from the second week of December 2005 led to the northern part of the West Bank being “severed” from the other sections and if those restrictions were permanent, there would have been no need for further restrictions to be implemented on 22 April 2006. Indeed, it appears from the 3-page article by “Al Mubadara Palestinian National Initiative” dated 16 January 2006 (beginning at page 327 of the Appellant's bundle A) that increases in restrictions tend to be temporary, as this article states:

At various hours, there is also an age restriction on leaving through various checkpoints. The restrictions affect people between the ages of 16 and 30.

..... It was implemented several times last year, for varying durations. Sometimes, the separation is in both directions.

102. On the whole of the evidence before us (including the background evidence in the Appellant's bundles which we have not specifically referred to), we conclude that, whilst the severity of the restrictions varies from time to time, it is reasonably likely that Palestinian Arab males aged between 16-35 face greater restrictions in their ability to travel south from the northern part of the West Bank. However, the restrictions are not such that they are reasonably likely to be unable to make the journey, although the possibility that the Israeli security forces may, at any moment, restrict all movement by this group southwards cannot be excluded. Palestinian Arab males in this age group who originate from the northern part of the West Bank face less difficulties in travelling from a point at or near the centre (such as Ramallah or East Jerusalem) to the northern part of the West Bank. Even then, however, the journey is likely to take much longer than a journey without such restrictions would.
103. This conclusion is supported by the example of a journey between Tulkarm and Ramallah by a Palestinian male (Mr. Abdel-Karim Dalbah) and his fellow travellers – all of whom were over 40 years old - which Dr. George gives on pages 13 to 15 of his report. This journey took place on 23 April 2006 – that is, the day after the day on which, according to the PCHR press release dated 23 April 2006 (page 326 of the Appellant's bundle A), began to implement a “complete separation” of the northern West Bank from the south “in a way not previously seen since the uprising in 2000”. It is evident that there was in fact no “complete separation” because Mr. Dalbah and his fellow travellers made the journey from Tulkarm to Ramallah, and back. Mr. Dalbah's account of his journey does show that greater restrictions were applied in April 2006 in the West Bank. We note from his description of his journey that the 90-kilometre journey which should normally have taken 90 minutes to travel directly by car, in fact took 5 hours 30 minutes covering a distance of 300 kilometres by car and on foot. Instead of costing 15 to 25 shekels, the journey cost 65 shekels. We noted that it is said that, on the return journey from Ramallah to Tulkarm, Mr. Dalbah and his fellow travellers were able to drive directly from Ramallah to Tulkarm, passing through roads which were forbidden to them to pass on the southward journey from Tulkarm to Ramallah. They were not stopped at any checkpoints, leading one of the travellers to remark that “it is very easy to get into the prison”.

104. Palestinian Arabs who do not fit the profile we have considered above – i.e. Palestinian women and males younger than 16 or older than 35 – are not in general subjected to the additional restrictions which Palestinian Arab males between 16 and 35 are. Nevertheless, they have to pass through the checkpoints and endure the situation at the checkpoints. We deal with that issue below.
105. Mr. Bandegani submitted that the Appellant would have to pass through “numerous” checkpoints between Jericho and Tulkarm, whereas Mr. Norton submitted that he would have to pass through “several” checkpoints. It is unnecessary for us to decide this fine point. There is some force in the argument that the greater the number of checkpoints which an individual returnee has to pass through, the greater the likelihood that he would arbitrarily be picked up or stopped and subjected to persecutory ill-treatment. Nevertheless, we have concluded, on the basis of the whole of the evidence before us, that the risk remains speculative, although it cannot be excluded entirely. We are satisfied that it is not reasonably likely to happen.

Treatment at checkpoints

106. Mr Bandegani relied heavily on the extract from the book called “Checkpoint Watch” and the report the CAABU report dated 18 May 2006. Although the CAABU report was prepared specifically for the Appellant, it does not appear to rely on any specific evidence about the Appellant other than that he is a young Palestinian Arab male from Tulkarm. The extract of “Checkpoint Watch” is at pages 269 to 299 of the Appellant’s bundle A. The foreword, which is written by Amira Hass, describes Yehudit Kirstein Keshet, a co-founder of the group, as someone who “critically reviews the organisation’s transformation from a feminist, radical protest movement to one both reclaimed by, and reclaiming, the consensus”. Checkpoint Watch is described in the foreword as an organisation of Israeli women monitoring human rights abuses. It is said (on page 271 of the Appellant’s bundle A) that the book gives an account of daily reports from the checkpoints and along the separation wall. The book contains a general narrative about the organisation’s experience of and view about the situation pertaining at checkpoints between February 2001 and February 2005. This is mainly, but not exclusively, set out at pages 56 to 66 of the book (pages 273 to 289 of the Appellant’s bundle A). The book also describes specific “watches” carried out by its members (or “watchers”) which took place between September 2001 and May 2004. About 20 or so “watches” are described in the extract mainly - but not exclusively – at page 66 onwards of the extract. Given the heavy reliance of Mr. Bandegani on this piece of background evidence, we will refer in some detail to the contents of the extract.

The main points which are made in the general narrative are as follows:

- (i) Palestinians have to wait for long periods of time, often for hours, in the scorching heat, in order to pass through checkpoints;
- (ii) Page 57 of the book describes several checkpoints as well as flying or mobile checkpoints.
- (iii) “At checkpoints there is only the rule of the moment, always shifting, always changing, sometimes responsive to pleading, sometimes not. There is scant shelter, no seating, no toilets, no facilities fit for human beings.” (page 57)
- (iv) The procedure at the checkpoints is described at page 58. One would arrive at a checkpoint to face a line of waiting pedestrians. If the crowd gets impatient and begins to surge or struggle forwards, it is herded back with shouts and curses to some arbitrary point. If soldiers feel provoked or threatened, they may respond with live fire, not infrequently with

fatal results. Documents are checked at the examination point. Checks may be cursory or thorough. The transitee may stand ten to twenty metres from the soldiers, or suffer close examination. Men may or may not be asked to bare their chests and bellies and execute a piroti to prove the absence of weapons or explosives. Women may or may not be required to undergo a more discreet body check. Children and women may be passed ahead of the crowd, or forced to wait in line. The variations are unpredictable and endless. Petty extortion and blackmail have their place here.

- (v) A common sight is a group of detainees, held while their documents are checked by radio with a computer. "Officially, it is illegal to detain people as punishment for longer than three hours, but actual waiting periods may last a whole day, or even overnight, in blazing heat or freezing cold, with little or no shelter. Detainees may be forced to stand facing a wall, hands above head, or be allowed to stand or sit at ease, at the whim of their captors or on the intervention of the Watchers. The majority are released sooner or later, but young men are particularly vulnerable to a detention." (pages 58 and 59)
- (vi) An individual lucky enough to pass a checkpoint may be stopped on the other side by the civil police (page 59).
- (vii) At page 60 of the book, a reference is made to the problems of language and culture at checkpoints.
- (viii) The majority of Israelis do not speak Arabic and many Palestinians, especially women and older children, do not know Hebrew.
- (ix) Page 61 of the book refers to the disruption which occurs at checkpoints when there is an alert. An alert is a signal for the checkpoint to close, whether for minutes or for hours. The author of the report likens rumours to a "hot alert", which can bring about the so-called "stop all life" procedure – i.e. the sudden closing of the checkpoint to all movement for an indefinite period.
- (x) "Orders from the senior echelons are vague and inconsistent. Conscripts must rely on their own interpretation of the rules, every man and woman a king." (page 64)
- (xi) There is a reference to illegal labourers being vulnerable targets for kicks, blows and curses, even death (page 74 of the book).
- (xii) "Violence is endemic at checkpoints, never far from the surface of the routine and inevitable in the encounter between military and civilian" (page 84 of the book).

With regard to the descriptions of events at specific watches, we noted that:

- (xiii) There are references to "checkpoint watchers" having witnessed a soldier being "particular rude and foul" to the Palestinians and another soldier reportedly saying that the Palestinians "are animals and do not deserve any human rights" (page 68 of the book).
- (xiv) There is a description of an account by Dr Ilana Hammerman of a journey on the edge of route 60 (page 75 of the book). This account demonstrates the existence of internal checkpoints. Dr Hammerman states (page 77 of the book) that he witnessed "no abuse, and no atrocities but the routine of military and police activity so that anyone coming here, just forty minutes' ride from Jerusalem, will find themselves more concerned for their security than they were before."
- (xv) There is an account of an incident involving children who were throwing stones at a few soldiers who retaliated by shooting live ammunition at the fleeing children whilst chasing them (page 80 of the book).
- (xvi) There is an account of a "watch" during which the "watchers" heard shouts and screams and sounds of beating at a checkpoint which went on for about half an hour (page 81 of the book).
- (xvii) In one incident (see page 82), a sick man who had requested permission to be allowed to pass on account of his health was ordered by the soldiers to the end of the line. A row then erupted in the course of which the man was dragged to a small sentry post and "probably beaten" - he suddenly lost his consciousness, fell and remained unconscious."

- (xviii) On page 83, the author states that the incidents described in that section were often regarded by the military as operational and that soldiers are therefore not called to account. Page 83 records one case where the perpetrators were actually punished due to the testimony of “watchers”. On page 84 of the book, the author states that the soldier who perpetrated an attack on a Palestinian doctor and his commander were charged and sentenced, respectively, to 35 and 21 days imprisonment.

The CAABU report states:

- (xix) (Page 230 of the Appellant’s bundle A) Closely linked with movement restrictions is ill-treatment at checkpoints and gates in the [separation wall]. Delays, harassment and humiliation continued to be endured by Palestinians attempting to pass through the checkpoints.
- (xx) (Page 247) Both verbal and physical assaults take place at checkpoints/within villages At times the abuse is aggravated by racism, humiliation, anger or amusement..... Palestinians are routinely subjected to harassment and abuse at checkpoints.

107. One point which emerges clearly not only from the evidence which we have described at paragraph 106 above but from the whole of the background evidence is the absence of evidence which shows that Palestinian Arab males within the 16-35 age group or Palestinian Arab males between 16 and 35 years old who are from the northern part of the West Bank receive any different treatment at checkpoints – apart, that is, from the fact that they have greater restrictions imposed upon them on their ability to travel and are therefore more likely to be more closely examined for this reason. The evidence does not show that they are at greater risk of ill-treatment such as physical or verbal abuse than Palestinian Arabs who do not fit this profile. If a Palestinian Arab travels southwards from the northern part of the West Bank, he would be travelling towards East Jerusalem which has large Israeli settlements. Nablus is surrounded by Israeli settlements. On the whole of the background evidence, we conclude that, whilst a Palestinian Arab male aged between 16 to 35 or a Palestinian Arab male within this age group who is from the northern part of the West Bank is more likely to be more closely examined if travelling from the northern part of the West Bank southwards towards East Jerusalem or Nablus, it is not reasonably likely that he would for those reasons alone be of adverse interest to the Israeli security forces. There must be something more to give rise to a real risk of adverse interest on the part of the Israeli security forces.

108. We note that the total number of incidents of physical abuse reported by “Checkpoint Watch” is small (about 5 in total, see paragraph 106 sub-paragraphs (xv) to (xviii) above) when compared to the overall period covered by the book (from February 2001 to February 2005) and the total number of “watches” reported (about 20). We take into account other background evidence we have before us – for example, that the GUPS described a number of civilians being beaten and humiliated on 14 May 2006 (see paragraph 99(iii) above). However, the background evidence we have considered describe a large number of events at checkpoints over lengthy periods. In our view, the total number of incidents which involve physical abuse represent a very small proportion of the overall total reported in the objective material before us. We concluded that the evidence before us does not show a reasonable likelihood of physical ill-treatment of Palestinians at checkpoints, although we accept that there is evidence that incidents of violence do occur. They appear to be due to unpredictable matters, such as sudden movements on the part of a traveller and tempers getting short in the poor conditions. We accept that overreaction on the part of the Israeli soldiers has sometimes resulted in violent and even fatal consequences – see, for example the two separate incidents at Hawara checkpoint on 20 August 2006 reported by the PCHR in its press release dated 20

August 2006 (page 316 of the Appellant's bundle A), the incidents at pages 82 and 83 of "Checkpoint Watch" and the incident described by Reuters Foundation at pages 305, 306, 308 and 309 of the Appellant's bundle A. However, we do not accept the opinion expressed in "Checkpoint Watch" that "violence is endemic at checkpoints". This opinion is not borne out even by the extract of the book we have before us because (as we have said above) the extract only mentions a very small number of incidents of violence compared to the total number of "watches" reported in the extract. We do not accept that this is reasonably likely to happen to the generality of Palestinian Arabs who pass through checkpoints or to Palestinian Arab males aged between 16 and 35 or to Palestinian Arab males aged between 16 and 35 who are from the northern part of the West Bank.

109. We accept that Palestinian Arab travellers have to endure long queues and a lack of facilities. There is some evidence of extortion and confiscation of identity cards. They often face verbal abuse. However, as we have said in paragraph 52 above, an act or series of acts will not be regarded as amounting to persecution or serious harm (or treatment in breach of Article 3) unless the act or acts are such that, taken cumulatively, they reach a minimum level of severity. In our judgment which we make on the whole of the evidence before us (including the background evidence in the Appellant's bundles which we have not specifically referred to), the treatment which Palestinian Arab travellers are subjected to at checkpoints in the West Bank and the Gaza Strip (whether fixed or flying checkpoints) does not reach that minimum level of severity. In reaching this decision, we have taken into account not only the nature of the restrictions and the general situation at the checkpoints but also the very fact that restrictions exist which impede the freedom of movement of Palestinian Arabs.

Risk to returnees

110. We will now consider whether returning Palestinian Arabs who are forcibly removed and/or who have lived abroad for some time are at greater risk of ill-treatment at the border on the King Hussein Bridge, or after gaining re-entry. As we have said above, there is no evidence before us of any specific instances of the returns of such persons. However, Dr. George has commented on the risk at the border in the following terms:

46. Whether [MA] were to attempt to travel to the West Bank via Jordan and the King Hussain Bridge crossing point or via Israel's Ben Gurion international airport in Tel Aviv, or if he was to attempt to travel to the Gaza Strip via Egypt, he would come to the notice of the Israeli security authorities. In each case, he *might* attract adverse Israeli attention at the border. In my opinion, the Israelis *could view* with suspicion the extended period that he has been outside the West Bank.

(our emphasis)

111. Dr. George's opinion as to the likelihood of the Appellant attracting adverse attention is based the Appellant having the characteristics of being a young Palestinian Arab male within the 16 to 35 age group who is from Tulkarm in the northern part of the West Bank. It is clear from paragraph 42 of the report that Dr. George was considering the situation of an individual being forcibly returned. We note that Dr. George expressed his opinion at paragraph 46 in moderate terms. In our view, his opinion in this regard is in line with the generality of the background evidence we have considered. It is a *possibility* that a young Palestinian Arab male between 16 and 35 years old from the northern part of the West Bank who is being returned or who returns after having lived abroad *may* attract the adverse attention of the Israeli security forces at the border and thereafter but, in our judgment, the

risk is not such as to make this reasonably likely to happen. The same is true in the case of any Palestinian Arab who does not have this profile. There is no evidence to show that the possession of valid travel documents would ensure re-entry.

112. The Appellant's sister was able to gain re-entry into the West Bank from Jordan in either February 2005 or January 2006. After gaining re-entry, she was able to travel to Tulkarm. Given that she was a voluntary returnee and that she returned some time ago, we did not take into account the evidence of her return in order to reach our conclusions above.

The economic condition in the West Bank, and the general situation

113. Mr Bandegani referred us to the humanitarian reports on food and security and submitted that, if the Appellant is unable to reach Tulkarm, he would be forced to live in Jericho without family support. In his submission, the family is very important as a social safety net given that the CAABU report at pages 256 and 257 of the Appellant's A shows an incredibly high number of people living below the poverty line and that food insecurity in Jericho has increased by 30% since 2005. In Mr Bandegani's submission, the economic condition is poor because of the restrictions in movement.
114. Mr. Bandegani did not seek to suggest that the economic situation and general humanitarian condition in the West Bank is such that it reaches the minimum level of severity. His submissions were made on the basis that the general situation combined with a lack of family support would result in an individual's situation being such that the minimum level of severity would be reached. The background evidence before us relates not only to the West Bank but also to the Gaza Strip. We propose to consider the background evidence on a wider basis and to decide whether the situation which any returnee to the Occupied Territories would face is reasonably likely to amount to serious harm (or treatment in breach of his rights under Article 3).
115. We acknowledge that the general situation in the West Bank and the Gaza Strip is very bad. For example, we noted that the CAABU report states (page 240 of the Appellant's bundle A):

..... Severe and frequently arbitrary restrictions on freedom of movement in the West Bank, Gaza Strip, and East Jerusalem, contributing to a serious humanitarian crisis marked by extreme poverty, unemployment, and food insecurity. The movement restrictions also have severely compromised Palestinian residents' access to health care, education, and other services.

116. The maps in the CAABU report (at pages 256 and 257 of the Appellant's bundle A) portray a dismal picture. In the central part of the West Bank, 49% of Palestinians live under the poverty line. The proportion in the northern part of the West Bank is higher. The worst area is the southern part of the West Bank and the Gaza Strip, where 75 % or more Palestinians live under the poverty line. The map on page 257 shows that there are high levels of food insecurity. The situation even in the central part of the West Bank – which appears to fare better in this regard than the rest of the West Bank and the Gaza Strip – is very bad, with 39 to 40 % food insecurity. The worst areas are the Gaza Strip, the southern part of the West Bank and the greater part of the northern West Bank (where food insecurity is in excess of 40% and which includes Jericho) although the area surrounding Tulkarm and Qalqilya appears to fare better than the other areas in the northern West Bank.

117. We appreciate fully that the situation is very bad. The conditions under which Palestinians have to live in the West Bank are truly difficult. They have to try and eke out a living and provide food and shelter for themselves and their families in very difficult circumstances. The exigencies of the conflict and the security situation place enormous strains on the transportation and availability of food supplies and medicines and access to medical treatment. We consider the difficulties faced on a cumulative basis. In the case of travel restrictions, we take into account not only the nature of the restrictions and the fact that their severity varies from time to time but also the very existence of restrictions which impede freedom of movement. Whilst we have every sympathy for the plight of Palestinians caught up in this situation, we have nevertheless concluded that, considering all the factors cumulatively (that is, travel restrictions, treatment at checkpoints, economic situation, food insecurity, access to healthcare etc.), the minimum level of severity for serious harm (or treatment in breach of Article 3) is not reached.
118. Given our conclusions, it is not necessary for us to decide whether a Palestinian Arab male between 16 and 35 years old and who comes from the northern part of the West Bank is a member of a particular social group. That will have to await determination on another occasion when the outcome of an appeal on asylum grounds will depend on a decision on the Geneva Convention ground issue. Given that there is no real risk of persecution, it is not necessary for us to decide whether there is a sufficiency of protection for Palestinians in the West Bank or the Occupied Territories.
119. The CAABU report states (page 223) that the Appellant will be subjected to inhuman or degrading treatment or punishment. The relevant paragraph reads:
- CAABU is of the firm view that to understand the facts on the ground in the [Occupied Territories], and in particular in the West Bank, the full reality has to be considered as a whole. This means considering the cumulative effect of 'closure', the separation barrier, the treatment of Palestinians, especially young male Palestinians, at checkpoints and generally, the denial of self-determination, the annexation of land, the restricted use of roads, and the myth of security reasons as a means to further inhibit movement and to break up the daily rhythm of life, access to permits necessary to move within de facto 'cantons' in the west bank [sic] and the discriminatory policy that pervades the Israeli Defence Force thinking and action throughout all these practices and policies and which manifests itself in the collective punishment of Palestinians to one degree or another because they are Arab. There are other considerations as well and other harsh realities to be considered, but we have tried to touch on as many as possible. That clearly does not mean there is more evidence to add to this picture. From what we know and honestly believe, it is our view that [the Appellant], because he is a young Arab male Palestinian national from Tulkarm, will be subject to inhumane and degrading treatment if returned to the West Bank.
120. We reject the opinion of CAABU that the Appellant would be subjected to inhuman and degrading treatment for the following reasons:
- (a) The organisation has taken into account irrelevant matters in reaching its opinion on the Appellant's case. We agree that the cumulative difficulties which each individual faces must be considered as a whole but we do not agree that that means that the existence of the separation wall is relevant in all cases. CAABU assumes that it is relevant in the Appellant's case notwithstanding the fact that he has not given any evidence to suggest that it has any bearing on the reality of his situation. He has not suggested that he has suffered from any loss of any land due to the building of the separation wall or that (if returned) he would regularly need to pass through checkpoints along the separation wall in order to access land between the wall and the Green Line. For the same reasons, the fact that the Israeli authorities have not built the separation wall

along the Green Line (referred to by CAABU as “annexation”) will not be relevant unless the individual can show that it is relevant to the reality of the situation he/she will face on return. The Appellant has not given any evidence to indicate that this is relevant to the reality of his situation in the West Bank.

- (b) The general tone of the language in which CAABU’s opinion is expressed shows that the subjective and partisan view of the organisation on the political situation has been allowed to influence their decision concerning their opinion on the Appellant’s case. Of course, they are fully entitled to hold opinions on the political situation. It is another matter, however, when those opinions are allowed to influence their decision on their opinion as to whether the Appellant is reasonably to be subjected to inhuman or degrading treatment. CAABU’s opinion is partly based on their opinion that there are no valid security reasons for the action of the Israeli security forces which CAABU contends are directed towards all Palestinians simply because they are Arabs.
- (c) The opinion of CAABU that the Appellant will be subject to inhuman and degrading treatment is based on general factors which apply to all young Palestinian Arab males from the West Bank. We have considered the background evidence carefully to decide whether it can be said that Palestinians are at real risk of persecution or serious harm simply on account of their ethnicity and whether it can be said that young Palestinian Arab males are reasonably likely to face persecution or serious harm. We have answered those questions in the negative. We have concluded that the opinion of CAABU is not consistent with the background evidence.

Summary of our conclusions

- 121. Palestinian Arabs who would be at real risk in the Occupied Territories: If the personal history of an individual Palestinian Arab is such that it is reasonably likely that he/she would be suspected by the Israeli security forces of being involved in suicide bombing missions or terrorist activities against Israel or Israeli settlements, it is reasonably likely that he/she would be arrested and detained and held in “administrative detention”. This is so whether the individual is picked up in military incursions, round ups or at checkpoints. A returnee who is reasonably likely to fall under such suspicion is reasonably likely to be persecuted or subjected to ill-treatment amounting to serious harm (or in breach of their rights under Article 3) although questions as to whether there is an applicable Geneva Convention reason and as to the possible exclusion of an applicant under Article 1F of the Geneva Convention or paragraph 339C of the Immigration Rules may then arise.
- 122. Likelihood of re-gaining entry into the West Bank, and its significance: In AB and Others, the Tribunal considered that there is no evidence that anyone has been successfully removed to any part of the Occupied Territories. This view holds good. There is no evidence to show that the possession of valid travel documents would ensure re-entry to the West Bank. However, if a Palestinian Arab who comes from the West Bank is refused re-entry by the Israeli security forces, this would not, of itself, amount to persecution or serious harm or Article 3 ill-treatment. Palestinian Arabs from the West Bank are stateless and have no right of re-entry into the Occupied Territories unlike a citizen. If a Palestinian Arab returnee is refused re-entry into the West Bank at the Israeli checkpoint on the King Hussein Bridge, then he would simply have to turn back to Jordan. The guidance in NA (Palestinians – Not at general risk) Jordan CG [2005] UKIAT 00094 that ethnic Palestinians, whether or not recognised as citizens of Jordan, are not persecuted or treated in breach of their protected human rights by reason of their ethnicity although they

may be subjected there to discrimination holds good. . Appeals on asylum grounds and humanitarian protection grounds must be determined on the hypothetical assumption that a returnee will be successful in re-gaining entry into the West Bank.

123. Relevance of the separation wall: The lawfulness or otherwise of the separation wall and the occupation by the Israeli authorities of land between the Green Line and the separation wall do not affect the outcome of an appeal if the appellant does not claim to have suffered from any loss of any land due to the building of the separation wall or to have to travel on a regular basis to the land between the separation wall and the Green Line in order to gain access to land lying between the two. Where an appellant gives evidence to this effect, the question as to whether he or she would face persecution or serious harm is a question of fact in all the circumstances of the case which would involve considerations such as the necessity of such travel and the reasons for it and the frequency with which such journeys would have to be made.
124. At checkpoints and in general round-ups, the fact that an individual is a Palestinian Arab male aged between 16 and 35 from the West Bank or the Gaza Strip is reasonably likely to lead that individual being more closely examined by the Israeli security forces but it is not reasonably likely that he would fall under suspicion for those reasons alone. There must be something more to attract the adverse attention of the Israeli security forces.
125. Travel restrictions: It is reasonably likely that Palestinian Arab males aged between 16-35 face greater restrictions in their ability to travel from the northern part of the West Bank south towards East Jerusalem or towards Nablus. However, the restrictions are not such that they are reasonably likely to be unable to make the journey, although the possibility that the Israeli security forces may, at any moment, restrict all movement by this group southwards cannot be excluded. Palestinian Arab males in this age group who originate from the northern part of the West Bank face fewer difficulties in travelling away from Israeli settlement areas in or near the centre (such as Ramallah or East Jerusalem) or Nablus. Even then, however, the journey is likely to take longer than a journey without such restrictions would.
126. Palestinian Arabs who do not fit the profile we have considered above – i.e. Palestinian women and males younger than 16 or older than 35 – are not in general subjected to the additional restrictions which Palestinian Arab males between 16 and 35 are. Nevertheless, they have to pass through the checkpoints and endure the situation at the checkpoints.
127. The evidence before us does not show a reasonable likelihood of physical ill-treatment of Palestinians at checkpoints, although we accept that there is evidence that incidents of violence can occur. They appear to be due to unpredictable matters, such as sudden movements on the part of a traveller and tempers getting short in the poor conditions. We accept that it is a *possibility* that Palestinian Arabs seeking permission to pass through checkpoints may face violence but this is not reasonably likely to happen. We accept that the treatment which Palestinian Arab travellers face at checkpoints in the West Bank and the Gaza Strip (whether fixed or flying checkpoints) and the conditions they endure are very unpleasant but this is not reasonably likely to reach the minimum level of severity for persecution or serious harm (or treatment in breach of Article 3). In reaching this decision, we have taken into account not only the nature of the restrictions and the general situation at the checkpoints but also the very fact that restrictions exist which impede the freedom of movement of Palestinian Arabs.

128. There is no evidence to suggest that individuals who are forcibly returned and/or who have lived abroad for some time would be treated any differently from other Palestinians, whether at the time of seeking re-entry into the West Bank via the King Hussein Bridge, or thereafter.
129. The difficulties faced by Palestinians in the Occupied Territories (economic situation, food insecurity travel restrictions etc) taken cumulatively are not such that the minimum level of severity for persecution or serious harm is reached, nor is the minimum threshold for a breach of a returnee's rights under Article 3 reached. This applies even in the case of a Palestinian male within the 16 to 35 age group who is from the northern part of the West Bank who would have to endure greater restrictions on his ability to move in the Occupied Territories.
130. Notwithstanding the deterioration in the situation since AB and Others was decided, the conclusion of the Tribunal in that case that the general situation is not such that it can be said that all Palestinian Arabs are at real risk of persecution holds good, as does its conclusion that young Palestinian Arab males are not at real risk of persecution. In our view, these conclusions hold good with regard to an individual's claim to humanitarian protection or Article 3.
131. Although the conclusions in AB & others summarised at paragraph 55 above remain valid, this Determination replaces it as country guidance because we have had the benefit of considering more up-to-date and detailed background evidence.

Our assessment of the Appellant's individual case

132. We turn now to assess the Appellant's case.
133. The only aspects of the Determination of the Adjudicator which have been challenged concern his assessment of the risk facing the Appellant of ill-treatment amounting to persecution or in breach of his rights under Article 3 of the ECHR at the hands of the Israeli authorities, including the Israeli security forces. Accordingly, and pursuant to paragraph 26 of the Tribunal's Determination in AH (Scope of s103A reconsideration) Sudan [2006] UKAIT 00038, we adopt the Adjudicator's assessment at paragraph 17 of the Determination of the credibility of the Appellant's claim as advanced to him. The general guidance in AH Sudan was approved by the Court of Appeal in its judgment in DK (Serbia) and others v. The Secretary of State for the Home Department [2006] EWCA Civ 1747. We also adopt the Adjudicator's assessment of the risk to the Appellant of ill-treatment by Fatah or the Palestine authority at paragraphs 17 and 26 of the Determination. Finally, we adopt his assessment of the Appellant's Article 8 claim at paragraphs 27 to 30 of the Determination.
134. In his witness statement dated 29 May 2006, the Appellant gave evidence of matters which he did not previously mention at the hearing before the Adjudicator. The only credibility issue which is taken on the Respondent's behalf concerns the alleged event in or around spring 2003 at which time the Appellant says the Israeli security forces surrounded his area and picked out anyone up to a specific age i.e. anyone who was male and over 16. The Appellant says that he and the older of his two younger brothers (i.e. the brother referred to in paragraph 13 (e) above, who was then 16 years old) were picked up. In his statement, the Appellant says that, as soon as the Israeli soldiers saw their ages on their identity cards, bags were put on their heads and they were sworn at and pushed. Their hands were tied behind their backs and they were forced to kneel outside their house. They were forced to stay like this for about 6 hours. They were questioned individually and separately. After they were allowed to go, their neighbours told them that the Israeli soldiers had told the neighbours that they (the Israeli soldiers) knew which mosque he (the Appellant) prayed at and would be watching him. In his statement, the Appellant says that he was targeted simply because he is a Palestinian Arab and because of his age and that the Israeli soldiers knew that he had not done anything. At the hearing, he added that his information had been taken by the soldiers and that he did not know whether this would cause a problem for him on return.
135. When asked at the hearing to explain why he had not previously mentioned this incident, the Appellant said that it was because his claim was previously based on his ill-treatment by Fatah. In his written submissions (paragraph 6 of the Respondent's skeleton argument), Mr. Norton argues that the Appellant's evidence about this alleged incident should not be accepted as a fresh claim and, in this regard, he relied on the Court of Appeal's judgment in WM (DRC) v. The Secretary of State for the Home Department and The Secretary of State for the Home Department v. AR (Afghanistan) [2006] EWCA Civ 1495. We are of the view that Mr. Norton's reliance on the WM (DRC) and AR (Afghanistan) case in this regard is misconceived. The judgment in that case relates to a fresh asylum claim made to the Respondent, whereas we are here considering new evidence being introduced at a late-stage in the same proceedings. The proceedings are the same because we are reconsidering the same appeal as was considered by the Adjudicator. Pursuant to the Tribunal's guidance in the AH case, it would be wrong for us to refuse to consider this evidence notwithstanding the fact that it is introduced at a late stage. That is not to say that we are precluded from assessing the credibility of

the Appellant's claim. Indeed, we must assess the credibility of his evidence including the fact that it was introduced late and his explanation for the delay in mentioning this evidence.

136. We turn therefore to assess the credibility of the Appellant's evidence with regard to this alleged incident. The Appellant's explanation for not mentioning this alleged incident sooner must be assessed within the context of the background evidence. Whilst we accept that this shows that the security situation in the West Bank has deteriorated significantly since the Appellant's asylum claim in June 2003, it is also clear that "search and arrest" operations by the Israeli security forces of the type described by the Appellant were taking place at that time – indeed, to that extent, the Appellant's evidence about the alleged incident is consistent with the background evidence. The mere fact that the Appellant's evidence is consistent with the background evidence does not mean that it is reasonably likely to be true, although such consistency goes in his favour. The Appellant's explanation for the delay in mentioning this incident is that his asylum claim before the Adjudicator was based on the problems he had experienced from the Al-Fatah organisation and had nothing to do with this incident. We do not find this explanation credible. If the Appellant had been rounded up and had his details taken (as he claimed at the hearing) and if he had been told by his neighbours that the Israeli soldiers had told them that they knew which mosque he prayed in and would be watching him, it is not reasonably likely that he would have omitted to mention these facts at the hearing before the Adjudicator. It is not reasonably likely that he would have based his asylum claim solely on his alleged problems with Al-Fateh and considered that the alleged incident in spring 2003 had no relevance to an assessment of the risk he faced. We also bear in mind that the Adjudicator rejected the Appellant's credibility concerning his alleged problems with Fatah. On the whole of the evidence before us and bearing in mind the burden and low standard of proof, we reject the Appellant's evidence about the alleged incident in spring 2003. It is not reasonably likely that that incident occurred. It is not reasonably likely that the Appellant and/or his brother were detained.
137. On our findings and those of the Adjudicator, there is nothing in the personal history of the Appellant which makes it reasonably likely that he would be of adverse interest to the Israeli security forces. We have rejected the credibility of his evidence concerning the only incident he has claimed to have brought him and his brother to the attention of the Israeli security forces. He has not claimed that his family members in Tulkarm have come to the adverse attention of the Israeli authorities on any other occasion. Accordingly, any potential risk to the Appellant would be on account of general matters – i.e. his age, gender, ethnic origin and place of origin. In other words, any risk which he faces is the same as the risk which is faced by young Palestinian Arab males (the Appellant is aged 24 years) from Tulkarm in the northern part of the West Bank.
138. The Appellant arrived in the United Kingdom with a Green crossing card (the original of which was shown to us at the hearing and is now with the Respondent, a copy of which is at page 12 of the Respondent's supplementary bundle). He also arrived with a travel document issued by the Palestinian Authority with a stated expiry date of 27 July 2004 (pages 14A to 14E of the Respondent's supplementary bundle). This travel document has expired. These are the documents he would be returning with. We have said above that the possession of valid travel documents does not ensure re-entry into the West Bank through the Israeli checkpoint at the King Hussein Bridge. If the Appellant is refused re-entry, this would not in itself amount to persecution. He would have to return to Jordan where it is not reasonably likely he would be subjected to persecution or serious harm or Article 3 ill-treatment.

139. The Appellant is not reasonably likely to be subjected to such treatment at the border - i.e. at the Israeli checkpoint on the King Hussein Bridge. We have already given our reasons above for concluding that a Palestinian male aged between 16 and 35 from Tulkarm in the northern part of the West Bank who is being forcibly returned and who has lived abroad for some time is not reasonably likely to be persecuted or subjected to serious harm (or treatment in breach of Article 3) when seeking re-entry to the West Bank at the border with Jordan on the King Hussein Bridge, or thereafter. The Appellant's circumstances are no different.
140. Accordingly, we find that, if he is successful in re-gaining re-entry into the West Bank when he presents himself at the border on the King Hussein Bridge, he would be able to travel to Tulkarm in northern West Bank albeit that he would have to pass through a large number of checkpoints. Whether the number of checkpoints are several or whether they are numerous, the risk of the Appellant being picked up or stopped and subjected to persecutory ill-treatment remains speculative, although we cannot exclude it altogether.
141. Once the Appellant reaches Tulkarm, the risk to him is of being an arbitrary victim in the conflict between the Israeli authorities and the Palestinians. He does not face a real risk of persecution or serious harm as a Palestinian or as a young Palestinian male. He has not claimed to have lost any land due to the building of the separation wall, nor has he given evidence to suggest that he would need to pass through the restrictions in crossing the separation wall. Furthermore, we can see from our colour copy of the map of the West Bank that, for a large part of the Tulkarm's western frontier with Israel, the Green Line actually coincides with the separation wall. This fact further underlines the necessity of examining whether the separation wall has any real significance to the situation which an individual would face. We concluded that the separation wall is not relevant to the outcome of this appeal.
142. In the very unlikely event of the Appellant being unable to travel to Tulkarm and having to remain in Jericho, the general situation there is not such that the minimum level of severity for serious harm would be reached, albeit that we recognise that he would not have family support in Jericho and that Jericho is in one of the worst areas in terms of food insecurity (see paragraph 116 above). In oral evidence, the Appellant said that he would not be able to rent accommodation in Jericho because no one in Jericho is prepared to let a place to someone like him who is considered to be a stranger there. We did not find the Appellant credible and are not prepared to accept his evidence without supporting evidence. In any event, any difficulties in obtaining accommodation would not lead us to take a different view.
143. The Adjudicator allowed the Appellant's appeal on human rights grounds because he found that travel restrictions which would be imposed on the Appellant and which would restrict his freedom of movement are degrading. His reasons for reaching this finding are set out in paragraph 25 of the Determination. In essence, he considered that Israel has no right to occupy the West Bank and that her treatment of Palestinians generally - whether or not they are terrorists or suspected terrorists - is treatment which is degrading to the Palestinian people within their own territory. Whether or not Israel is in lawful occupation, our focus must be on the real consequences for the individual before us. The fact that an individual Palestinian Arab will face severe restrictions on his freedom of movement is not, per se, degrading. The Appellant gave oral evidence to the effect that he has a right to visit his family members. However, his own evidence is that his family members live in, around or near Tulkarm. Furthermore, there is no evidence of any dependency on any family members. At any rate, there is no evidence of any dependency on any

family members that would suggest that any lack of personal contact between the Appellant and his family members would add to his difficulties in Tulkarm.

DECISION

The original Tribunal made a material error of law. The following decision is substituted.

The appeal is dismissed on asylum grounds.

The Appellant is not entitled to humanitarian protection under paragraph 339C of the Immigration Rules.

The appeal is dismissed on human rights grounds.

Ms. D. K. Gill
Senior Immigration Judge

Date: 8 February 2007

Approved for electronic distribution

Background materials considered by the Tribunal (In chronological order)	
BBC News: "The Palestinians under closure."	20/01/02
Palestinian Centre for Human Rights: Press release: "Palestinian prisoner deprived attorney visit by Israel authorities".	28/01/02
The Israeli Centre for Human Rights in the occupied Territories; "Israel's Policy of House Demolitions and Destruction of Agricultural Land in the Gaza Strip."	02/02
Palestinian Centre for Human Rights: Fact Sheet: "Siege and Closure."	18/03/02
Palestinian Centre for Human Rights: Press release: "Israeli occupying forces place Gazan in administrative detention."	24/03/02
Palestinian Centre for Human Rights: Press release: "Fear of Torture and Ill-Treatment of Thousands of Palestinians detained by Israeli Occupying Forces."	09/04/02
Palestinian Prisoners Day Announcement: "International community must ensure Israel's respect for rights of detainees"	17/04/02
Journal of Palestine Studies Vol XXXI No3: "Israel's Closure policy: An Ineffective Strategy of Containment and Repression."	Spring 2002
Palestinian Centre for Human Rights; "Fact Sheet: Crimes against Housing and Agriculture."	02/06/02
Ha'Aretz: "Long-term sieges."	13/06/02
Palestinian Centre for Human Rights: Statistics: "Settlements"	28/06/02
Palestinian Centre for Human Rights: Statistics: "Closures, Unemployment and Poverty."	28/06/02
Palestinian Centre for Human Rights: Statistics: "General Statistics on the Occupied Palestinian Territory."	28/06/02
Palestinian Centre for Human Rights: Statistics: "Settlements"	28/06/02
Ha'Aretz: "A million people under curfew."	01/07/02
Ha'Aretz; "The IDF shuts away the sea at Rafah."	15/07/02
Palestinian Centre for Human Rights: Statistics: "Arrests, imprisonment and torture."	04/10/02
Ha'Aretz: "Every soldier's a chief of staff."	03/11/02
Ha' Aretz: "A land of roadblocks and barriers."	03/11/02
Palestinian Centre for Human Rights: Statistics: "Attacks and restrictions on medical personnel and the right to health care."	12/03/03
Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, International Court of Justice, General List No 131	09/07/04
Palestinian Centre for Human Rights: Statistics: "Destruction of Land and Property."	31/01/05
Palestinian Centre for Human Rights: Statistics: "Killings and Injuries."	31/01/05
Palestinian Centre for Human Rights: Statistics: "Destruction of Land property"	31/01/05
Palestinian Red Crescent Society: Photograph gallery, separation wall. 79 Images dated 14/08/03-10/05/05, date of download 29/05/06.	14/08/03- 10/05/05
Human Rights Watch: "Promoting Impunity. The Israeli Military's	06/05

failure to Investigate Wrongdoing.”	
International Crisis Group: “The Jerusalem Powder Keg”	02/08/05
Al Mubadara Palestinian National Institute: “IDF Cantonises West Bank, sealing in Palestinians.”	16/01/06
US Department of State: Israel and the Occupied Territories – Country Report on Human Rights Practices 2005	08/03/06
Palestinian Centre for Human Rights: “Israeli Occupation Forces (IOF) Completely isolate the Northern West Bank from the South.”	23/04/06
Palestinian Centre for Human Rights: “Security Chaos and Proliferation of Small Arms. Use of Weapons in Clan and Personal Disputes.”	24/04/06
Palestinian Centre for Human Rights: Statistics: “Statistics related to Al Aqsa Intifada 29 September 2000-updated 01 May 2006.”	01/05/06
Palestinian Centre for Human Rights: “Weekly Report: On Israeli Human Rights Violations in the Occupied Palestinian Territory” for period from 04 – 01/05/06 (No. 18/2006)	01/05/06
Palestinian Centre for Human Rights: “As a Form of Collective Punishment, IOF Continued to Harass and Arrest Mothers of Allegedly Wanted Palestinians.”	02/05/06
Palestinian Centre for Human Rights: “Weekly Report: On Israeli Human Rights Violations in the Occupied Palestinian Territory” for period from 27/04/06 to 03/05/06 (No. 17/2006)	03/05/06
Ma’an News Agency: “Barriers in Tulakrem area blocking the citizens from going to their work and universities.”	06/05/06
Ma’an News Agency: “Israeli soldiers close Beit Iba Barrier, stop residents.”	06/05/06
Ma’an News Agency: “Three Palestinian citizens arrested in At’til.”	07/05/06
Ma’an News Agency: “Yet more arrests in Tulkarem.”	07/05/06
Ma’an News Agency: “Three Palestinians arrested in Tulkarem area.”	10/05/06
Expert report of Dr A George.	15/05/06
Ma’an News Agency: “3 arrested in Tulkarem (19, 20 and 24 years old)”	15/05/06
Ma’an News Agency: “Families of prisoners demand their release.”	16/05/06
General Union of Palestinian Students: “Israeli Occupation Forces Escalate Attacks on Palestinian Civilians and Property in the Occupied Palestinian Territory” for period 11/05/06 to 17/05/06	17/05/06
CAABU (Council for the Advancement of British-Arab Understanding): Report.	18/05/06
Ma’an News Agency: “One prisoner from Tulkarem released; another three receive arrest warrants.”	19/05/06
IMEMC news article: “Settlers attack schoolchildren”.	21/05/06
IMEMC news article: “Israeli forces fire tear gas at Nablus market.”	21/05/06
Internet posting by J Matthew: “Palestinians, Israelis, horrified at Hebron “jungle.”	21/05/06
Palestinian Centre for Human Rights: “British Human Rights Lawyer Denied Entry to Israel.”	26/05/06
Ma’an News Agency: “Sport and Social Club in Tulkarem raided by Israeli forces, its contents destroyed and computers	26/05/06

confiscated.”	
Ma'an News Agency: "Countdown to Apartheid" by Jeff Harper.	28/05/06
Ma'an News Agency: "Israeli Forces shoot 21 year-old walking in town"	28/05/06
Bitterlemons.org edition 21: "Palestinian-Israeli Crossfire."	29/05/06
Introduction on Ma'an Images	30/05/06
New York Times: "At Checkpoint in Gaza, Travellers wait and Wait."	05/06/06
MIFTAH: Palestinian public opinion poll – Living Conditions / National Dialogue and the Referendum / Evaluation of Institutions.	07/06/06
MIFTAH: "Checkpoint witnesses."	08/06/06
MIFTAH: Interview with PLC member Dr Hanan Ashrawi.	10/06/06
Reuters Foundation: Palestinian shot dead in West Bank car."	11/06/06
Reuters Foundation Alert Net: "Palestinians on verge of total chaos-report."	13/06/06
Reuters Foundation Alert Net: "Fatah gunmen torch Hamas offices in the West Bank."	13/06/06
Palestinian Centre for Human Rights: press release: "Israeli Occupation Forces (IOF) Carry Out Reprisals against Palestinian Civilians in the West Bank."	29/06/06
Wikipedia; "Allenby Bridge."	07/07/06
Palestinian Centre for Human Rights: press release: "Bloody Day of Violence: 24 Palestinians killed by Israeli Occupation Forces in the Gaza Strip and 2 killed in the West Bank, 115 others injured."	07/07/06
Palestinian Centre for Human Rights: press release: "IOF Attack El-Maghazi Refugee Camp in Gaza and Nablus in the West Bank."	19/07/06
Reuters Foundation Alert Net: "Israel kills 3 gunmen in West Bank raid-medics."	19/07/06
Il pane e le Rose: " Denied the approval of return to Gaza to the Palestinian musical group."	30/07/06
Reuters Foundation Alert Net: "Record Hizbollah rocket barrage kills 1; West Bank hit."	02/08/06
Reuters Foundation Alert Net: "Palestinian killed in West Bank shooting."	06/08/06
Palestinian Centre for Human Rights: weekly report for period from 03/08/06 to 09/08/06.	09/08/06
Palestinian Centre for Human Rights: weekly report for period from 10/08/06 to 16/08/06	16/08/06
Palestinian Centre for Human Rights: press release: "3 Palestinian Civilians Killed by IOF in the West Bank."	20/08/06
Reuters Foundation Alert Net: "Israeli troops kill Palestinian in West Bank-radio."	20/08/06
Reuters Foundation Alert Net: "Israeli troops detain Hamas lawmaker in West Bank."	20/08/06
Reuters Foundation Alert Net: "Israeli troops kill West Bank militant-security."	31/08/06
Reuters Foundation Alert Net: "Israelis arrest suspected West Bank rocket squad."	03/09/06
United Nations: OCHA Humanitarian Update: "Access and Protection"	09/06
International Solidarity Movement: Archive for the "Tulkarem Region" Category.	03/11/06

International Solidarity Movement: "Travel Information and Tips."	13/11/06
www.kinghussein.gov.jo : "Getting to Jordan"	13/11/06
www.kinghussein.gov.jo : "Entry and visa requirements."	13/11/06
www.forcedmigration.org : "Palestinian refugees in Jordan"	13/11/06
Checkpoint Watch: "Testimonies from Occupied Palestine" by Yehudit Kirstein Keshet	2006
Palestinian Centre for Human Rights: "Destruction of Land and Property." (downloaded 13/06/06)	Undated
Palestinian Centre for Human Rights: "Violations of Children's Rights." (downloaded 13/06/06)	Undated
Palestinian centre for Human Rights: "Closures." (downloaded 13/06/06)	Undated
Palestinian Centre for Human Rights: "Arbitrary detention, Ill-treatment and Torture." (downloaded 13/06/06)	Undated
Palestinian Centre for Human Rights: "Fact Sheet: Prisoners and Torture." (downloaded 13/06/06)	Undated
Palestinian Centre for Human Rights: Closure Convention	Undated
Palestinian Centre for Human Rights: "International Covenant on Civil and political Rights" (downloaded 13/06/06)	Undated
12 Various photographs.	Undated
Large coloured map of Israel and Occupied Territories.	Undated
Christian Aid maps: "Facts on the Ground. The end of the two-state solution?"	Undated
Palestinian Economic Council for Development and Reconstruction; Map.	Undated