

Gaza Prison: Freedom of Movement to and from the Gaza Strip on the Eve of the Disengagement Plan

Summary

For the past four and a half years, Israel has severely restricted freedom of movement to and from the Gaza Strip. These restrictions further strangled the Gaza Strip, so much so that the area resembles one gigantic prison. Israel's policies have reduced many human rights – among them the right to freedom of movement, family life, health, education, and work – to “humanitarian gestures” that Israel sparingly provides.

Following the Sharm el-Sheikh summit, in February 2005, Israel took measures that significantly improve the human rights situation of Palestinians. However, there was little change in movement to and from the Gaza Strip, including the import and export of goods.

This report documents the ongoing breach of human rights and international law inherent in Israel's restrictions on the movement of people and goods between the Gaza Strip and the rest of the World, including to Israel or the West Bank. The report warns against Israel's attempt to disavow its responsibility for the residents of the Gaza Strip following disengagement.

The Gaza Strip and the West Bank: Are they really “a single territorial unit”?

The closing of the “safe passage” between the Gaza Strip and the West Bank, in October 2000, marked the beginning of a new separation regime between the two areas, unprecedented in its severity in the course of Israel's occupation. In the Oslo Agreements, Israel undertook to treat the Gaza Strip and the West Bank as a “single territorial unit.” In closing Gaza, Israel flagrantly breached this commitment.

The manner in which Israel decides to grant or deny permits to move between Gaza and the West Bank is completely arbitrary and non-transparent, and has harsh effects on all areas of life relating to reciprocal relations and mutual dependence among residents of the two areas. For example,

Israel's policy impairs family life, and the ability of residents of Gaza to gain an education and receive medical treatment.

Contrary to the state's contention that every request is examined "on its merits," many requests are summarily rejected, based on sweeping criteria of age and family status, though the defense establishment has no actual suspicions against the individual applicant. Since the beginning of the intifada, travel from the Gaza Strip to the West Bank declined by ninety-eight percent. In most cases, where the authorities deny a permit, and a lawyer or human rights organization later intervenes, the authorities reverse their decision. This fact clearly indicates that most of the rejections are made arbitrarily.

One of the gravest manifestations of the separation policy is the practice of expelling Palestinians who have moved from Gaza to the West Bank, based on their claim that they residing illegally in the West Bank. Israel has no authority to take this action, and does so in violation of the Oslo Agreements. Palestinians are removed from their homes, families, and jobs in the West Bank, without warning and without being given the opportunity to appeal the expulsion.

Rafah Crossing and preventing residents to go abroad

Since September 2000, Israel has placed heavy restrictions on residents of Gaza wanting to travel abroad. Israel only allows Palestinians to exit Gaza through the Rafah Crossing. As a result, whenever Israel decides to close the Crossing, it literally seals Gaza off from the outside world. In 2004, operations at Rafah Crossing were suspended for a total of sixty-six days.

Israel also prohibits individuals and entire age groups from leaving Gaza. In April 2004, Israel prohibited all residents of Gaza aged 16-35 from going abroad. This blanket restriction was cancelled following the Sharm el-Sheikh summit. However, tens of thousands of Gazans are labeled "denied exit abroad for security reasons." An individual receives notice that he or she is so labeled orally and with no explanation. Here, too, the "security reasons" disappear in most cases following the intervention of an attorney or a human rights organization.

Among the many implications of this policy, preventing Gazans from going abroad restricts their ability to obtain proper medical treatment. The Palestinian health system in Gaza is substandard and depends on external medical services that are unavailable in Gaza. The long waits combined with the nerve-wracking uncertainty as to whether a person will be able to leave increase the suffering of the sick and their families. Many Palestinians who required urgent treatment abroad

had to petition the High Court of Justice to get Israel to admit that it does not, in fact, object to their going abroad.

Families torn apart: Travel between Gaza and Israel

From the beginning of the occupation until 2000, there was regular traffic between the Gaza Strip and Israel. One reason is the extensive family ties between residents of Gaza and Arab citizens and residents of Israel.

In September 2000, Israel imposed an almost complete prohibition on Gazans from entering Israel for family visits. It also drastically restricted Israelis' ability to enter the Palestinian Authority-controlled areas of Gaza; permits to enter Gaza fell by ninety-eight percent.

The permit system for Israelis wanting to visit family in Gaza manifests disregard and unreasonableness, and blatantly violates the right to family life.

In addition, since the beginning of the intifada, Israel has made it difficult for couples, one of whom is Israeli and the other a resident of Gaza, to live together under one roof, and consequently for their children to live with both parents.

A common obstacle that Israel places on divided families is to suspend the permits of Israelis to enter Gaza, generally following Palestinian attacks or during extensive military operations. Israel suspends the permits in a wholesale manner with no notice of the decision or how long it will be in effect. The vast majority of those holding such permits are women with Israeli citizenship or residency who are married to Gazans. Women who left Gaza for a brief visit in Israel, become "stuck," and are unable to return to their homes, husbands, and children. In January 2002, Israel decided to shorten the period of the entry permits for divided families, from three months to one month. In January 2002, Israel decided to shorten the validity of the entry permits for divided families, from three months to one month. Women who wish to obey the law must travel to the Erez checkpoint, during military operations and other harsh conditions, twelve times a year to renew their permits. Owing to these conditions, many women do not reach Erez to renew their permits on time. When they later try to get a new permit, their application is rejected on the grounds that they had "stayed illegally in the territory of the Palestinian Authority."

The economic siege on the Gaza Strip

Israel's almost complete control over the economy of the Gaza Strip is reflected in two primary areas: control of the movement of Palestinian workers employed in Israel, and control over the movement of goods to and from the Gaza Strip.

To obtain a permit to work in Israel, Palestinians have to pass certain conditions established for security reasons. However, Israel also places quotas on the number of permits it issues to those who pass the security checks. These quotas are set by the political echelon, for reasons unrelated to security. As a result of the quotas and the closures, since the beginning of the intifada, there has been a sharp drop in the number of workers from the Gaza Strip who were employed in Israel. Whereas on the eve of the intifada (the third quarter of 2000), some 26,500 residents of the Gaza Strip entered Israel to work every day, the average number in the third quarter of 2004 was one thousand, a drop of ninety-six percent.

With the outbreak of the intifada, Israel prohibited the movement of goods through the Erez Checkpoint, directing all exports and most imports to the Karni Crossing. This decision results in the almost complete paralysis of foreign trade whenever Israel decides to close the Karni Crossing. In addition, the procedures and methods for checking goods and transporting them in and out of Gaza impair the ability of Palestinian merchants to keep to a reasonable schedule even when the Karni Crossing is open. Some of these procedures and methods are patently unreasonable and needlessly harm the movement of goods.

Goods are unloaded and go through security checks that cause damage. Most of the goods that originate in Gaza or are destined for it are checked more than once until they get to their final destination. Even if the security check is necessary, there are technologies to make such a check possible without causing damage and delays. As a result of the range of obstacles Israel places on the movement of goods, Palestinian manufacturers find it difficult to compete for both existing and potential customers. This has drastically reduced the scope of economic activity in the Gaza Strip.

The cumulative effect of the restrictions on the movement of goods, and on the entry of workers into Israel, brought about a sharp increase in unemployment and poverty in the Gaza Strip. In September 2000, unemployment was 26.9 percent (71,000 persons). At the end of 2004, the number stood at 39.4 percent (115,000 persons). The Palestinian Central Bureau of Statistics sets the poverty line for a family of two parents and four children at net expenditures of less than NIS 1,850 a month. By this definition, at the end of 2004, 82.7 percent of Gaza's population was living in poverty, a total of 1,307,000 persons. Prior to the intifada, the figure was 42 percent. According to a research project of the PCBS and the World Bank, 23 percent of the residents of Gaza, 323,000 persons, suffer from "deep poverty," and do not reach the minimum subsistence level, (NIS 205 per person per month), even after calculating aid they receive from international organizations is taken into account.

The Disengagement Plan: Does it really end Israel's responsibility?

Following disengagement, Israel is expected to retain control of key areas that directly affect the residents' ability to exercise their rights, particularly in the areas discussed in this report. Despite this, the government declared in its decision on the disengagement that, "completion of the plan will invalidate claims against Israel on its responsibility for Palestinians in the Gaza Strip," and that as a result of implementation of the plan, "there will be no basis for the contention that the Gaza Strip is occupied territory." These statements are baseless, according to international law.

According to international humanitarian law, a situation of occupation is created when, as a result of an armed conflict, one state acquires "effective control" of territory beyond its sovereign borders. Effective control does not require a permanent military presence in all parts of the area.

Even after redeployment of its armed forces and evacuation of its settlements, Israel will maintain complete control of all of Gaza's land borders, its air space, its coastline, and its territorial waters. Israel's control directly and clearly affects the local population's ability to conduct many central aspects of their lives. In addition, the government declared its readiness to conduct military operations in the Gaza Strip, not only in response to attack, but as a "preventive measure." So long as these methods of control remain in Israeli hands, Israel's claim of an "end of the occupation" is called into question.

Israel's responsibility for residents of the Gaza Strip after disengagement derives also from its obligations under international human rights law. Contrary to Israel's traditional position, this law applies not only in its sovereign territory, but in every place in which it exercises its authority. Israel will continue to bear legal responsibility for its acts and omissions that violate the rights of residents of the Gaza Strip even after disengagement. It bears such responsibility regardless of whether its control over Gaza amounts to "effective control" and continued occupation.