



The Palestinian Centre for Human Rights

5 Years and Counting:

**International Organizations and Donors Continue to Fund
Israel's Illegal Closure on the Gaza Strip.**



13 June 2012



The Palestinian Centre for Human Rights

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The Palestinian Centre for Human Rights is an independent non-profit legal agency based in Gaza city. The Centre was established in April 1995 by a group of Palestinian lawyers and human rights activists in order to protect human rights and promote the rule of law in accordance with international standards, create and develop democratic institutions and an active civil society in Palestine in accordance with internationally accepted standards and practices and support all efforts aimed at enabling the Palestinian people to exercise their inalienable rights according to international law.

The Centre enjoys Consultative Status with the ECOSOC of the United Nations. It was granted three international prominent awards for its efforts in the field of human rights:

1. The 1996 French Republic Award on Human Rights; and
2. The 2002 Bruno Kreisky Award for Outstanding Achievements in the Area of Human Rights; and
3. The 2003 International Service Human Rights Award (UNAIS).

The Centre has wide relationships with human rights and civil society organizations throughout the world. It is an affiliate of five international and Arab human rights organizations, which are active in the international arena:

International Commission of Jurists

The International Commission of Jurists (ICJ), headquartered in Geneva, is a non-governmental organisation in consultative status with the United Nations Economic and Social Council, UNESCO, and the Council of Europe and the OAU. Founded in 1952, its task is to defend the rule of law throughout the world and to work towards the full observance of the provisions in the Universal Declaration of Human Rights. its membership is composed of sixty eminent jurists who are representatives of the different legal systems of the world.

Federation Internationale des Ligues des Droits de l'Homme

The Federation Internationale des Ligues des Droits de l'Homme (FIDH) is an international non-governmental organisation dedicated to the world-wide defence of human rights as defined by the Universal Declaration of Human Rights of 1948. Founded in 1922, FIDH has eighty-nine national affiliates in all regions.

Euro-Mediterranean Human Rights Network

The Euro-Mediterranean Human Rights Network (Euro-Med Network) is a network of human rights organisations and individuals from the Middle East, North Africa and the European Union, established in 1997. The overall objective of the Network is to contribute to the protection of the human rights principles embodied in the Barcelona Declaration of 1995.

International Legal Assistance Consortium (ILAC)

The International Legal Assistance Consortium (ILAC) is one of the most important international legal bodies. It is specialized in legal and judicial training. It includes more than 30 members of distinguished legal organizations throughout the world, including American Bar Association; Arab Lawyers Union; and Bar Council of England and Wales.

The Arab Organization for Human Rights

It is an NGO founded in 1983. It calls for respect and promotion of human and people rights and fundamental freedoms in the Arab World for all individuals on its land in accordance with international human rights instruments. The Organization signed an agreement with Egypt in May 2000, according to which its headquarter was moved from Limassol in Cyprus to Cairo.



The Palestinian Centre for Human Rights

The Palestinian Centre for Human Rights is an independent non-profit non-governmental organisation dedicated to the protection and promotion of human rights, the rule of law, and democratic principles in the Occupied Palestinian Territories.

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Introduction

1. In mid-June 2007, Israel tightened their closure policy on the Gaza Strip, as part of a decade's long effort to control the economy of Gaza and the movement of its people. It must be emphasized that this was just the latest effort by Israel to issue a form of collective punishment against the Gaza Strip.
2. In 2006, in spite of the Agreement on Movement and Access, which entered into force on 25 November 2005,¹ Israel continued to tighten its restrictions on the movement of people and goods from and to the Gaza Strip, further pursuing a policy begun in 1991. This included closing the border crossing to Egypt. Their efforts escalated further into a total closure in mid-June 2007, so, for five years, this most extreme form of closure has been applied to the so-called 'hostile entity' that is the Gaza Strip, cutting off 1.7 million individuals from the outside world.
3. As part of the closure policy, Palestinians are, as a rule, prevented from entering or leaving the Gaza Strip, while severe restrictions have been placed on the import and export of goods, including fuel, food, construction materials, and medical supplies. The results include: severe shortages of essential items and materials; increasing unemployment, poverty, and aid dependency; and the de-development of the Gaza Strip.
4. The purpose of this briefing paper is to show the continued effects of the closure. The effects of Israel's closure of the Gaza Strip will not abate unless the institutionalization of the closure is stopped. As the situation currently stands, it is international organizations provide the assistance necessary for the Palestinian people to survive, despite Israel's obligations as an Occupying Power.
5. On the fifth anniversary of the illegal closure of the Gaza Strip, it is clear that Israel cannot be allowed to continue to place restrictions on the movement of goods and individuals. It is clear that the humanitarian crisis has not abated in the Gaza Strip, despite the work of many international and non-governmental organizations. Unless the closure is lifted, it will be impossible for the people of the Gaza Strip to rebuild their lives, and to secure their fundamental human rights. As a result, it is an unfortunate truth that donors will continue to fund the closure, alleviating Israel of its responsibility as the Occupying Power, and allowing the institutionalization and perpetuation of a regime of collective punishment.

¹ Agreement on Movement and Access, 15 November 2005.



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Background on the Closure

6. Israel has enclosed the Gaza Strip behind a security apparatus consisting of a fence, concrete wall, and military installations, which runs the length of its border. Prior to the imposition of the current closure regime in 2007, there were 5 border crossings operating: Erez; Nahal Oz; Karni;

Sufa; and Karm abu Salem. Although numbers on the combined capacity of all four border crossings for goods are not available, the Karni crossing, which used to provide 75% of the Gaza Strip's needs through imports, alone had a daily capacity for 600 trucks carrying goods for import and 400 trucks carrying goods for export. As of the end of May 2012, only 2 of these border crossings are operating – one for goods (Karm abu Salem) and one for pedestrians (Erez).² The closing of 3 crossings has seriously restricted the potential amount of goods that can cross the border in a single day. Israeli authorities have further restricted the number of trucks allowed to cross through Karm abu Salem, meaning that it operates at only a fraction of its already limited capacity.

7. Approximately 570 truckloads carrying materials were needed per day to meet the basic needs of the population before the closure, including raw materials for reconstruction of Gaza's infrastructure, or approximately 10,400 per month. In April 2012, only 149 trucks per day were allowed to pass through the border crossing, bringing, overall, approximately 26% of necessary goods. This is also approximately 20% of the number of trucks carrying goods that were allowed to enter the Gaza Strip prior to June 2007.³ Some goods are smuggled into Gaza through the tunnels at the Rafah crossing between Egypt and the Gaza Strip.⁴

Israel also restricts the number of exports that are allowed to leave the Gaza Strip. The numbers of exports allowed fluctuates from month to month, but remains at miniscule levels. In January 2012, the number of trucks allowed to export goods from the Gaza Strip was approximately 2.26 per day, approximately 3% of the 70 truckloads allowed to exit prior to June 2007. This number was reduced in February 2012, where approximately 0.93 trucks were allowed to export per day, only 1.32% of the pre-closure numbers. Similarly, in March 2012, 0.90 trucks on average were allowed to export per day, or 1.28% of pre-closure numbers. In April 2012, there was another drop, with only 0.60 trucks on average, or 0.85% of the pre-closure numbers.⁵ The slight increase in exports in January 2012 can be attributed to a temporary increase in the number of flowers and strawberries allowed for export.⁶

2 PCHR, State of the Gaza Strip's Border Crossings – 01-30 April 2012.

3 PCHR, Closure Fact Sheet – April 2012.

4 No official records are kept of the number and type of goods that travel through the tunnels at the Rafah Crossing. Despite the number of operating tunnels, estimated at being between 300 and 800, there are still significant gaps in the needs of the Gazan people. It can also be quite dangerous for individuals operating the tunnels, as they are often subject to collapse from poor construction or attack by Israel.

5 PCHR, Closure Fact Sheet – April 2012.

6 PCHR, State of the Gaza Strip's Border Crossings – 01-30 January 2012.



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Impact of the Closure on Humanitarian Projects

8. Although it can be difficult to make a direct correlation between the illegal closure of the Gaza Strip and the projects of international and non-governmental organizations, there are certain indicators which show a consistent detrimental impact. Specifically, an analysis of different organizations shows, inter alia, that there are longer waiting times at the border for both persons and goods, resulting in potential degradation of goods, and increased expenses;

increased expenses for staff to negotiate with the State of Israel for their approval of projects or the transport of goods; an increase in the number of additional humanitarian projects required to address the current reality in the Gaza Strip; and other miscellaneous expenses that can be attributed to Israel's closure policy.

9. The closure-related increase in the amount of time that must be spent waiting to enter or exit at the borders, for persons and goods, has three distinct effects. First, it takes a longer amount of time to coordinate permits for international staff to cross through Erez, which has an effect on the ability of organizations to operate.⁷ Second, it is now considerably more expensive to get goods into the Gaza Strip since the additional border crossings were closed. For example, United Nations Office for Project Services (UNOPS) reports that UN agencies are paying at least an additional USD 4 million annually due to the increased distance to reach Karm abu Salem, as opposed to Karni, the previous crossing point. In addition, goods have to be placed on pallets instead of containers, which results in less goods being transported in each shipment, further increasing costs. Finally, Israel's closure policy means that goods that do cross are considerably more expensive than before, due to the increased cost of transportation fees. This is a very real problem for UN agencies, who must wait for approved goods to enter through the sole border crossing.⁸
10. The increased time and money spent negotiating with the State of Israel for their approval of projects or the transport of goods is another expense that can be directly linked with Israel's border closure. An additional USD 2.3 million is required annually by two of the largest UN agencies in the Gaza Strip, due to the lengthy approval process required by Israel and the teams of staff needed to coordinate with Israel to get both projects and goods permitted for the Gaza Strip. Prior to the imposition of Israel's closure policy, these expenses did not arise. In the event of an emergency project, organizations are limited in their ability to respond, as individual project approvals take, on average, 6 months. 19% of UN projects submitted to Coordinator of Government Activities in the Territories (COGAT),⁹ with an estimated value of USD 95.7 million, have been waiting for approval

⁷ Communication with UNOPS, 24 May 2012.

⁸ Communication with UNOPS, 23 May 2012.

⁹ A unit in the Israeli Ministry of Defense which coordinates civilian issues between the State of Israel, international organizations and the Palestinian Authority



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for approximately 17 months. Moreover, since September 2011, no projects have been approved under the umbrella of UNOPS, making it difficult to meet the humanitarian challenges of the Gaza Strip.¹⁰ The World Food Programme also notes that the difficulties facing its organization in meeting the needs of the people of Gaza are solely the logistical restrictions placed upon it by Israel's closure of the Gaza Strip.¹¹

11. Although many agencies do not keep records on whether their increased budget or the increased number of projects over the years has a link to the border closure, the increase in their budgets can, at the very least, be attributed in part to Israel's closure of Gaza's borders. UNRWA is one such organization, which saw its budget for emergency appeal funding increase from approximately USD 190 million in 2006 to approximately USD 300 million in 2012, a significant increase that corresponds to Israel's closure of the Gaza Strip and Operation Cast Lead.¹² Similarly, the ICRC saw their budget for the occupied Palestinian territories increase from approximately USD 52 million in 2006¹³ to approximately USD 64 million in 2010.¹⁴ OCHA saw their budget for the occupied Palestinian territories go from USD 2.8 million in 2006¹⁵ to USD 7 million in 2011.¹⁶
12. Aid dependency levels in the Gaza Strip remain above 70%,¹⁷ despite the fact that Gaza has the infrastructure and human resources to support a sustainable economy. It is estimated that 42% of the population of the Gaza Strip are currently living below the poverty line,¹⁸ and 63% of refugees in Gaza, who constitute 83% of the population, are reliant on humanitarian aid.¹⁹ The fact that 83% of Gazan factories are closed or working on less than half of their capacity, due to no market existing for exports or infrastructure difficulties, is also evidence of the enormous impact that Israel's closure regime has on the Gaza Strip.²⁰ In fact, the World Food Programme links the food insecurity of people in the occupied Palestinian territories directly to Israel's closure.²¹

¹⁰ Communication with UNOPS, 23 & 24 May 2012.

¹¹ World Food Programme, Annual Report 2010, pg. 23.

¹² UNRWA, Emergency Appeal oPt, 2012 (Emergency Appeal oPt), pg. 17.

¹³ ICRC, Annual Report 2006, pg. 326 (ICRC Annual Report 2006).

¹⁴ ICRC, Annual Report 2010, pg. 433 (ICRC Annual Report 2010).

¹⁵ OCHA, Annual Report 2006, Table 6.

¹⁶ OCHA, Annual Report 2006, Funding and Financial Analysis, OCHA Expenditure in 2011.

¹⁷ Communication with UNOPS, 24 May 2012.

¹⁸ UNRWA, Farming without Land, Fishing without Water: Gaza Agriculture Sector Struggles to Survive, May 2010 (Farming without Land, Fishing without Water).

¹⁹ Emergency Appeal oPt, pgs. 10, 13.

²⁰ Emergency Appeal oPt, pg. 13.

²¹ World Food Programme, Occupied Palestinian Territories – WFP Activities, available at: <<http://www.wfp.org/countries/occupied-Palestinian-territory-/Operations>>.



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13. Without the possibility to import and export goods, the economy of the Gaza Strip has suffocated. It is noted that the economic situation in the Gaza Strip is exacerbated by Israel's policy in relation to the so-called 'buffer zone', an area of land adjacent to the land border with Israel which is illegally denied to Palestinians. This has resulted in 29% of the total agricultural land in Gaza being inaccessible, making it increasingly difficult for families to support themselves, or the food needs of the Gaza Strip.²²

Israel's Obligations under International Humanitarian Law and International Human Rights Law

14. As the Occupying Power in the Gaza Strip, the State of Israel has specific obligations with respect to the care and protection of the occupied Palestinian population. This responsibility is consequent to the degree of control exercised by Israel, and the fundamental impact this has on the lives of the civilian population.

15. International law considers the Occupying Power to be responsible for all branches of public order and civil life. This requirement, first codified in Article 43 of the Hague Regulations, places a specific obligation on the Occupying Power with respect to, inter alia, the maintenance and provision of infrastructure, health, education, quality of life, shelter, and public works (including sewage treatment, power and water); in other words, the material conditions under which the population of the occupied territory live. Articles 55 and 56 of the Fourth Geneva Convention explicitly require that the Occupying Power should – to the fullest extent of the means available to it – ensure the supply of food and medicines, while ensuring and maintaining the health system. This requirement places the Occupying Power under a definite obligation to maintain at a reasonable level the material conditions of the occupied population. Though the phrase 'to the fullest extent of the means available to it' recognises that such obligations may be difficult to achieve, particularly in the context of ongoing hostilities, the Occupying Power should nevertheless utilize all means at its disposal. The requirement that the provision of material should be limited to food and medicine is now widely regarded as too restrictive, given the humanitarian purpose underlying the obligation. Consequently, Article 69 of Additional Protocol I additionally mentions the provision of clothing, bedding and shelter.

16. An Occupying Power is also required to progressively develop, inter alia, a territory's educational and health systems, road network, and power or telecommunications infrastructure. It is evident that human rights law places a positive obligation on Israel to safeguard the human rights of the population under its control. Israel has extensively destroyed homes, factories, industries, and other infrastructure within the occupied Gaza Strip. This has evident implications for such fundamental human rights as the right to life

²² Farming without Land, Fishing without Water.



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(Article 6, ICCPR), the right to health (Article 12, ICESCR), and the right to adequate food, clothing, and housing (Article 11, ICESCR). It must be noted that the right to health includes both physical and mental well-being. In the aftermath of the offensive, Palestinian's mental health is of paramount importance. Without appropriate attention it is an issue that may affect the psychological structure and profile of Gaza's population for decades to come.

17. As a Member State of the United Nations, and in accordance with Articles 55 and 56 of the UN Charter, the State of Israel has pledged to promote higher standards of living, and conditions of economic and social progress and development. Israel is under an obligation to protect the rights of the citizens of the Gaza Strip.



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Conclusion

18. As upheld by the International Court of Justice in its Advisory Opinion on The Wall, as the Occupying Power in the Gaza Strip, Israel is subject to specific obligations arising from international humanitarian law and international human rights law. Israel must ensure the maintenance of normal life in the occupied territory. Israel's closure of the Gaza Strip directly violates this obligation. The consequences of this illegal policy are dramatically evidenced by the reality of life in the Gaza Strip.
19. The Government of Israel has stated that it is enacting the closure the Gaza Strip as a form of economic warfare: "damaging the enemy's economy is in and of itself a legitimate means in warfare and a relevant consideration even while deciding to allow the entry of relief consignments."²³ This collective punishment of the civilian population is clearly, and unambiguously, illegal. The International Committee of the Red Cross has publicly stated that Israel's policy "constitutes a collective punishment imposed in clear violation of Israel's obligations under international humanitarian law."²⁴
20. The illegal closure of the Gaza Strip has become institutionalized. Through the provision of aid, international organizations are underwriting the cost of the occupation and this illegal policy.
21. As stated by the ICRC, "the dire situation in Gaza cannot be resolved by providing humanitarian aid."²⁵ In order to facilitate long-term development and recovery, political will and political action are required. All potential avenues that accord with humanitarian and human rights law must be pursued in order to ensure the State of Israel's compliance with international law. We call on the taxpayers of the international community to pressurize their governments, to lobby on behalf of the Palestinian people, and to ensure that their money is no longer wasted by governments willing to fund a school, but not willing to take action in response to that school's destruction, or willing to provide food aid, but not to take action to allow for the development of a sustainable economy.
22. International aid is currently being used to finance the consequences of an illegal occupation, and accompanying serious violations of international humanitarian law and international human rights law.

²³ *Al-Bassiouni v. The Prime Minister*, HCJ 9132/07 (not published), 30 January 2008, from the State's response from 1 November 2007, para. 44.

²⁴ ICRC, Gaza closure: not another year! , News Release 10/103, 14 June 2010 (ICRC, Gaza closure: not another year!).

²⁵ ICRC, Gaza closure: not another year!.



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