



Palestinian Centre for Human Rights

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THE **ILLEGAL CLOSURE** OF THE GAZA STRIP:

**COLLECTIVE
PUNISHMENT
OF THE CIVILIAN
POPULATION**

10 December 2010



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THE PALESTINIAN CENTRE FOR HUMAN RIGHTS

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:
- The 1996 French Republic Award on Human Rights; and
- The 2002 Bruno Kreisky Award for Outstanding Achievements in the Area of Human Rights; and
- 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:

(1) 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.

(2) Federation Internationale des Liges des Droits de l'Homme

The Federation Internationale des Liges 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.

(3) 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.

(4) 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.

(5) 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.

(6) World Coalition against the Death Penalty

The World Coalition against the Death Penalty is an alliance of about 48 NGOs, bar associations, local bodies and unions, including the Palestinian Centre for Human Rights. It was created in Rome in May 2002. Since 2003, the Coalition has made 10 October the World Day against the Death Penalty.

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The Palestinian Centre for Human Rights is an independent legal body dedicated to the protection of human rights, the promotion of the rule of law, and the upholding of democratic principles in the Occupied Territories. Most of the Centre's activities and interests concentrate on the Gaza Strip due to the restriction on movement between the West Bank and Gaza Strip imposed by the Israeli government and its military apparatus.

FUNDING OF THE CENTRE

The Centre is funded by the generous contributions of a number of international non-governmental organizations in the fields of human rights, democracy, and social justice and a number of Governments which has friendly relationships with the Palestinian people. PCHR highly appreciates the contributions of funding organizations, especially:

Oxfam NOVIB – Holland

Royal Danish Representative Office – Rammallah

Swiss Agency for Development and Cooperation – SDC

Swedish International Development Cooperation Agency – SIDA

Representative Office of the Kingdom of the Netherlands to the Palestinian Authority

European Union

Open Society Institute – U.S.A

Christian Aid – U.K

Dan Church Aid – Denmark

Grassroots International – U.S.A

Representative Office of Norway

Irish Aid

Kvinna Till Kvinna – Sweden

Al Quds Association Malaga – Spain

Trocaire – Ireland

Denis O'Brien – Ireland

CARE International – West Bank and Gaza

ACSUR

Welfare Association

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EXECUTIVE SUMMARY

In June 2007, following the Hamas takeover, Israel imposed an absolute closure on the Gaza Strip. For more than three years, this most extreme form of closure has been continuously applied to the so-called “hostile entity” that is the Gaza Strip, cutting off 1.7 million individuals from the outside world.

Palestinian civilians are illegally denied access to their basic needs, including food, medicine, fuel, electricity and other necessary commodities.

As a rule Palestinians are not allowed to travel in and out of Gaza, with few exceptions mainly for humanitarian reasons (mostly patients needing life saving medical treatments). Students are not allowed to attend university programs abroad, or in the West Bank; families are divided and unable to visit each other even within the Palestinian territory; traders and businessmen are prevented from doing their business. Only a small, tightly regulated, number of internationals are allowed into Gaza under a strict system of permits.

For the past three and half years the import of goods into Gaza has been prohibited by the Israeli authorities, with only limited quantities of basic goods, mainly food, allowed entry for ‘humanitarian’ reasons. Israel has also imposed a total ban on the exports of the Gaza Strip’s products, destroying the economic sector and generating dependency. Only limited quantities of two goods, flowers and strawberries, were allowed to be sporadically exported thanks to specific international mediation.

The effects of the current absolute closure of Gaza have been exacerbated by Israel’s 27 December 2008-18 January 2009 military operation (codenamed “operation Cast Lead” by the Israeli military). The offensive caused the death of 1,419 Palestinians, 1,167 of whom (82%) were civilians not taking part in hostilities and the injury of a further 5,300 and resulted in the extensive destruction of houses and civilian infrastructure, including schools, hospitals, and industry.

Since the offensive, in violation of UN Security Council Resolution 1860 (2009), Israel has failed to open the borders of Gaza, thus impeding the passage of goods necessary for recovery and reconstruction. By imposing this draconian closure policy – and not lifting it in the aftermath of the military operation - Israel has manufactured a chronic and profound humanitarian crisis.

By denying a people their ability to work and their right to move; by depriving families of the ability to rebuild their homes which have been reduced to rubble; and by forcing individuals to give up generations-old family traditions, an entire population is being reduced to a 'humanitarian problem'. To this end, the most profound impact of the closure cannot be described by figures or statistics. The systematic humiliation, intimidation and general degradation that are the result of Israel's measures and restrictions erode the very fabric of life for the people of Gaza and deprive them of their very human dignity.

95% of the 3,900 industrial establishments in the Gaza Strip have closed or suspended their work due to the restrictions placed on the import of raw materials and as a result of the inability to export their products. The remaining 5% work at 20-50% of their capacity.

The decimation of Gaza's industry has resulted in the loss of between 100,000-120,000 jobs. After the military offensive of December 2008-January 2009, only 1,878 individuals, of 65,000 employed prior to the current closure, continue to be employed in the industrial sector in Gaza.

Israel's unilateral imposition of a growing "buffer zone" all along the Gaza borders, as a "no-go area" implemented with open fire, currently renders 17% of Gaza territory or 35% of its agricultural land not accessible or accessible only under high risk of being shot by Israeli military forces. At sea, Israel allows fishing only out to 3 nautical miles, despite the limit of 20 nautical miles established under the Oslo Accords. This has further drastically negatively impacted upon the agricultural and fishing sector on which thousands of families depend economically.

This report focuses on the Gaza Strip and on the exceptionally strict conditions of closure imposed by Israel over the past three and half years. However the situation in Gaza cannot be isolated from the overall context of the occupation of the Palestinian territory. Equally, the closure policy is not a new phenomenon or one that is limited to the Gaza Strip. Israel has subjected the occupied Palestinian territory (oPt) to an illegal policy of harsh restrictions for almost two decades.

For many years, Palestinians have not been allowed to travel within the oPt. Residents of Gaza have not been allowed to travel to the West Bank and residents of the West Bank are not allowed to travel to Gaza. Even members

of the Palestinian Legislative Council have been restricted from traveling in and out of Gaza. The vast majority of Palestinians living in the West Bank have never visited the Gaza Strip, as they are prevented from doing so. An entire generation of Gazans has never visited the rest of the Palestinian territory, let alone the world beyond the Palestinian territory.

PCHR believes that Israel has pursued numerous aims through the imposition of these closures on the occupied Palestinian territory, which are one of the tools used by the occupying power to implement a policy of separation, fragmentation and isolation of the occupied territory and of its inhabitants.

An evident direct implication of Israel's closure policy is the growing separation inside the Palestinian territory and among the Palestinian people. The internal political implications of this separation, forced closure and isolation are evident today. Ultimately, PCHR finds that the closure perpetuates the long-standing denial of self-determination of the Palestinian people.

Most of all Israeli policy of closure exhibits a strongly punitive and repressive character: the closure is imposed collectively as a means of 'economic warfare', violating international law which unequivocally prohibits collective punishment and reprisals against civilians (Art. 33 IV Geneva Convention). The International Committee of the Red Cross clearly stated that:

"The whole of Gaza's civilian population is being punished for acts for which they bear no responsibility. The closure therefore constitutes a collective punishment imposed in clear violation of Israel's obligations under international humanitarian law."

This report details the Israeli authorities' responsibilities for the implementation of this illegal closure policy, which violates fundamental principles of international humanitarian law and the most basic human rights of the Palestinian population of Gaza. In the words of the UN Fact Finding Mission on the Gaza Conflict, led by Justice Richard Goldstone:

"The conditions of life in Gaza, resulting from deliberate actions of the Israeli armed forces and the declared policies of the Government of Israel – as they were presented by its authorized and legitimate representatives – with regard to the Gaza Strip before, during and

after the military operation, cumulatively indicate the intention to inflict collective punishment on the people of the Gaza Strip in violation of international humanitarian law”.

The closure is prohibited as a form of collective punishment and results in the infliction of great suffering on the civilian population, which is a grave breach of the Geneva Conventions. It is a crime that entails individual criminal responsibility for those involved in this policy at various levels, especially at the level of planning, organization, and active implementation of the closure. Ultimately, the closure may amount to persecution, which is a crime against humanity.

PCHR reiterates that nothing has substantially changed after the alleged “easing” of the closure, announced by Israel in June 2010 (after the deadly Flotilla attack). As a very recent independent report co-signed by a number of international NGOs has thoroughly detailed, the measures taken by Israeli to allegedly ease the closure are not effective and Israel failed to address the root causes of the socio-economic crisis of Gaza.

Moreover PCHR highlights that the partial easing of the restrictions implemented by Israel does not deal with the most important aspect, which is the freedom of movement – also as a precondition for the enjoyment of many other fundamental rights - of the imprisoned population of Gaza and the restoration of their human dignity.

The International Fact Finding Mission mandated by the UN to investigate the 31 May 2010 Israeli attack on the flotilla carrying humanitarian assistance to Gaza, concluded that the situation in the Gaza Strip is “deplorable”, “unsustainable” and “totally intolerable and unacceptable in the 21st Century”. The closure is “unlawful and cannot be sustained in law. This is so regardless of the grounds on which it is sought to justify the legality of the blockade”.

The International community has the duty to take measures to put an end to the illegal closure of Gaza, which is inherently illegal and criminal in its nature. The High Contracting Parties to the Geneva Conventions have the duty to respect and ensure respect for the Conventions. This entails a duty to investigate and prosecute those responsible for grave breaches of the Conventions and to bring the perpetrators to justice before their own national courts (Art. 147 IV GC).

By failing to do so the international community bears responsibility for the intentionally manufactured socio-economical crisis that is progressively destroying Gaza, and depriving its people of their most fundamental human rights and dignity.

INTRODUCTION

Structure of the Report

The present report is divided into three sections:

- (i) The first section, on the 'Reality of the Closure', provides an overview of the situation in the Gaza Strip, which is still under Israeli military occupation and completely dependent upon Israel. It describes the closure practices implemented by Israel against the local population.
- (ii) The second section, on the 'Illegality of the Closure', analyses the restrictions imposed by Israel in the light of international humanitarian law and human rights law.
- (iii) Finally, the third section, on the 'Socio-economic impact of the Closure' details the worsening of the socio-economic situation as a result of the closure, and its disastrous impact on the fundamental human rights of the entire population of Gaza. Indeed, the most profound impact of the Israeli-imposed restrictions is on the human dignity of the Palestinian population. This impact, although difficult to calculate, is apparent and affects every aspect of life in Gaza.

Israel has subjected the occupied Palestinian territory (oPt), including the Gaza Strip, to an illegal policy of closure for almost two decades.

In June 2007, following the Hamas takeover of the Gaza Strip, Israel imposed the current total closure on the Strip. For more than three years, this most extreme form of closure has been continuously applied to the so-declared "hostile entity"¹ that is the Gaza Strip, cutting off its inhabitants from the outside world. Palestinian civilians are illegally denied access to their basic needs, including food, medicine, fuel, electricity and other necessary commodities.

¹ Security Cabinet Declares Gaza Hostile Territory, Israeli Ministry of Foreign Affairs, of 19 September, 2007, available at: <http://www.mfa.gov.il/MFA/Government/Communiques/2007/Security+Cabinet+declares+Gaza+hostile+territory+19-Sep-2007.htm>.

The effects of the closure have been exacerbated by Israel's 27 December 2008-18 January 2009 military operation (codenamed "operation Cast Lead" by the Israeli military). The offensive caused the death of 1,419 Palestinians, 1,167 of whom were civilians not taking part in hostilities² (including 111 women, 318 children) and the injury of a further 5,300 (1,600 children and 830 women) and resulted in the extensive destruction of houses and civilian infrastructure, including schools, hospitals, and industry. Since the offensive, and in violation of UN Security Council Resolution 1860 (2009)³, Israel has failed to open the borders of Gaza, thus impeding the passage of goods necessary for reconstruction.

Palestinian residents in Gaza are not allowed to leave the territory, goods are not allowed to be exported and imports have been reduced to an excessively limited category of items in quantities dramatically insufficient to fulfill the needs of the approximately 1.7 million population of the Strip.⁴ In imposing this draconian closure policy Israel has manufactured a chronic humanitarian crisis, for which Israeli authorities must be held accountable.

As stated by the International Fact Finding Mission mandated by the UN to investigate the 31 May 2010 Israeli attack on the flotilla carrying humanitarian assistance to Gaza⁵, the situation in the Strip is "deplorable", "unsustainable" and "totally intolerable and unacceptable in the 21st Century".⁶ The closure is "unlawful and cannot be sustained in law. This is so regardless of the grounds on which it is sought to justify the legality of the blockade".⁷

Indeed Israeli authorities are responsible for the implementation of the

² These figures include the 251 non-combatant police officers who were killed during the offensive.

³ S/RES/1860 (2009) of 8 January 2009, available at: <http://daccess-ods.un.org/TMP/2524654.html>.

⁴ Figures about the population of the Gaza Strip are not available: statistics indicated 1.5 million almost three years ago, with a grow-rate of 3.4%.

⁵ See the "Report of the International fact-finding mission to investigate violations of international law, including international humanitarian and human rights law, resulting from the Israeli attacks on the flotilla of ships carrying humanitarian assistance" (hereinafter: the UN Fact Finding Mission on the Flotilla incident), A/HRC/15/21 of 27 September 2010. The Mission was decided on 2 June 2010 by the UN Human Rights Council (Res. 14/1) and its members appointed on 23 July 2010. The full report is available at: http://www2.ohchr.org/english/bodies/hrcouncil/docs/15session/A.HRC.15.21_en.pdf.

⁶ Report of the UN Fact Finding Mission on the Flotilla incident, A/HRC/15/21, par. 275.

⁷ Ibid, par. 261.

illegal closure policy which violates fundamental principles of international humanitarian law and the most basic human rights of the Palestinian population of Gaza. The UN Fact Finding Mission on the Gaza Conflict, led by Justice Richard Goldstone,⁸ concluded that:

“The conditions of life in Gaza, resulting from deliberate actions of the Israeli armed forces and the declared policies of the Government of Israel – as they were presented by its authorized and legitimate representatives – with regard to the Gaza Strip before, during and after the military operation, cumulatively indicate the intention to inflict collective punishment on the people of the Gaza Strip in violation of international humanitarian law”.⁹

Similarly, the UN fact-finding mission on the Flotilla incident pointed out that:

“...The blockade amounts to collective punishment in violation of Israel’s legal obligations under international humanitarian law”.¹⁰

This report focuses on the Gaza Strip and on the exceptionally strict conditions of closure imposed by Israel on this territory over the past three years. However the situation in Gaza cannot be isolated from the overall context of the occupation of the Palestinian territory and the policy of closures can by no means be considered a new phenomenon or one that is limited to the Gaza Strip.

⁸ The Mission (hereinafter: the UN Fact Finding Mission on the Gaza Conflict), was appointed by the UN Human Rights Council with the mandate “to investigate all violations of international human rights law and humanitarian law” committed in the context of the military operations in Gaza during the period from 27 December 2008 and 18 January 2009 “whether before, during or after”, A/HRC/12/48 of 25 September 2009.

⁹ Report of the UN Fact Finding Mission on the Gaza Conflict, A/HRC/12/48, par. 74.

¹⁰ Report of the UN Fact Finding Mission on the Flotilla incident, A/HRC/15/21, par. 54.

I. THE REALITY OF THE CLOSURE

1.1 The longstanding closure policy as imposed by Israel on the oPt

The ongoing closure imposed on the Gaza Strip since June 2007 attracts significant international attention as a result of its extreme severity. However, closures are not a new feature of Israel's policy towards the oPt. Closures have been imposed to varying degrees since the beginning of the military occupation in 1967.¹¹ Following a series of strict closures imposed by Israel on the Gaza Strip in 1996, the Palestinian Centre for Human Rights (PCHR) established a Closure Monitoring Team which has monitored and reported on the effects of these closures in regular Closure Updates.¹²

Closure refers to Israel's imposition of border restrictions around the oPt as a whole, or restricted areas, such as the current closure of the Gaza Strip; this policy is enforced by Israel's armed forces. Closures encompass varying degrees of control on the movement of all goods, people and vehicles, particularly – but not limited to – across the Green Line, i.e. the armistice line of 1949. Israel's closure policy is applied at three levels with varying degrees of severity:

- i. **General closure:** is the least restrictive, imposed at the outset of the occupation it has been in place ever since on the occupied Palestinian territory. It allows Israel to control the movement of Palestinians living in the occupied territory;
- ii. **Strict closure:** a restrictive tightening of the closure which allows very little movement, usually only that of a humanitarian nature. It has been applied more frequently since 1989, and in particular since the re-deployment of Israeli troops in the Gaza Strip in May 1994;
- iii. **Absolute closure:** the most restrictive form of closure which was first imposed in 1996 for limited periods of time.¹³ An absolute closure has been imposed continuously on the Gaza Strip since June 2007.

¹¹ See PCHR Study, The Israeli Policy of Closure. Legal, Political and Humanitarian Evaluation, 1996, available at: www.pchrgaza.org

¹² The reports are available at: www.pchrgaza.org.

¹³ See PCHR Study, The Israeli Policy of Closure. Legal, Political and Humanitarian Evaluation, p. 5, available at: www.pchrgaza.org.

Israel ostensibly justifies its closure policy on the basis of military considerations and national security. However, it is apparent that in many cases – and specifically with regard to the ongoing closure imposed on Gaza – this argument is used as a pretext and, as will be shown in this report, restrictions on the movement of persons and goods do not effectively respond to security requirements but rather constitute a form of collective punishment (*see infra* section 5).

In the past closures were imposed as acts of retribution or retaliation in response to specific incidents or attacks carried out by Palestinian military and resistance groups and lasted for a limited period of time.¹⁴ The restrictions on the freedom of movement became more stringent with the outbreak of the second Intifada in September 2000. Israel drastically restricted the access of Palestinians from Gaza to Israel and the West Bank by canceling existing permits and halting the issuance of new ones. The number of workers entering Israel daily through Erez crossing dropped from more than 20,000 in September 1999, to less than 900 in December 2000, and virtually 0 in 2006.¹⁵

The situation deteriorated further after the Israeli military disengagement from the Gaza Strip in September 2005. As noted by the UN Office for the Coordination of Humanitarian Affairs (OCHA) “Coinciding with the Israeli disengagement from the Gaza Strip, movement through Erez crossing was severely restricted since 13 August [2005] with only a very limited number of Palestinian workers and traders allowed access into Israel and only a small number of factory owners allowed access into the Erez Industrial Zone (EIZ).”¹⁶ Moreover, following an attack on 24 September 2005, when Palestinian militants fired homemade rockets from the Gaza Strip into Israel, injuring six Israelis, another absolute closure was imposed on all Palestinians in Gaza.

The restrictions on Palestinians’ freedom of movement will be addressed in more detail in the section of this report addressing the illegality of the closure

¹⁴ Israel imposed the first absolute closure on the Gaza Strip on 25 February 1996 in response to two suicide bomb attacks in Ashkelon and Jerusalem carried out by resistance activists. Other absolute closures were imposed later the same year following other bomb attacks in Tel Aviv and West Jerusalem and the bloody clashes of September-October 1996, *Ibid.*, p. 5.

¹⁵ These figures are taken from the UN Office for the Coordination of Humanitarian Affairs (OCHA) reports, which are available at: www.ochaopt.org. See also the diagram included in the Report by GISHA, “The Rafah Crossing: Who holds the keys?”, March 2009, p. 32, available at: www.gisha.org/UserFiles/File/publications/Rafah_Report_Eng.pdf.

¹⁶ See OCHA, “The Gaza Strip, Access Report”, September 2005, available at: <http://unispal.un.org/UNISPAL.NSF/0/73D80B9E47740D79852570A400651CC1>.

and the violation of fundamental human rights (see *infra* section 6). Suffice to note that for many years Israel's prohibition on the movement of people across the borders of the Gaza Strip has been consistently applied, with limited exceptions, (predominantly relating to those patients suffering from life threatening diseases who require medical treatment abroad (*see infra* BOX 5). However, even in these cases, delays in the issuance of the necessary permits are often reported and have resulted in the death of several patients, the last being a two-year-old child suffering from leukemia who died while waiting for an urgent referral to an Israeli hospital. In this regard, the World Health Organization (WHO) reported that since January 2009 a total of 33 patients have died while waiting to access hospitals outside Gaza¹⁷.

For many years Palestinians from Gaza have not been allowed to travel to the West Bank and Palestinians from the West Bank are not allowed to travel to Gaza. Paradoxically, it is easier (despite being exceptional and very complicated) for a Palestinian from Gaza to travel to Europe or the USA than to Jerusalem, Ramallah or the rest of the occupied Palestinian territory. Even members of the Palestinian Legislative Council have been restricted from traveling in and out of Gaza. The vast majority of Palestinians living in the West Bank have never visited the Gaza Strip, since they are not allowed access. Even members of the Palestinian Legislative Council have been restricted from traveling in and out of Gaza. An entire generation of Gazans has never visited the rest of the Palestinian territory, let alone the rest of the world.

Israel has pursued different aims through the imposition of these closures on the Palestinian territory: in particular, the closures have been one of the tools used by the occupying power to implement a policy of separation, fragmentation and isolation of the occupied territory and of its inhabitants. Indeed it is clear that one of the direct implications of the closure policy imposed by Israel is a growing separation inside the oPt itself and among the Palestinian people (see *infra* section 5.3). The internal political implications of this separation, forced closure and isolation are evident today. Ultimately, the closure perpetuates the long-standing denial of self-determination of the Palestinian population.

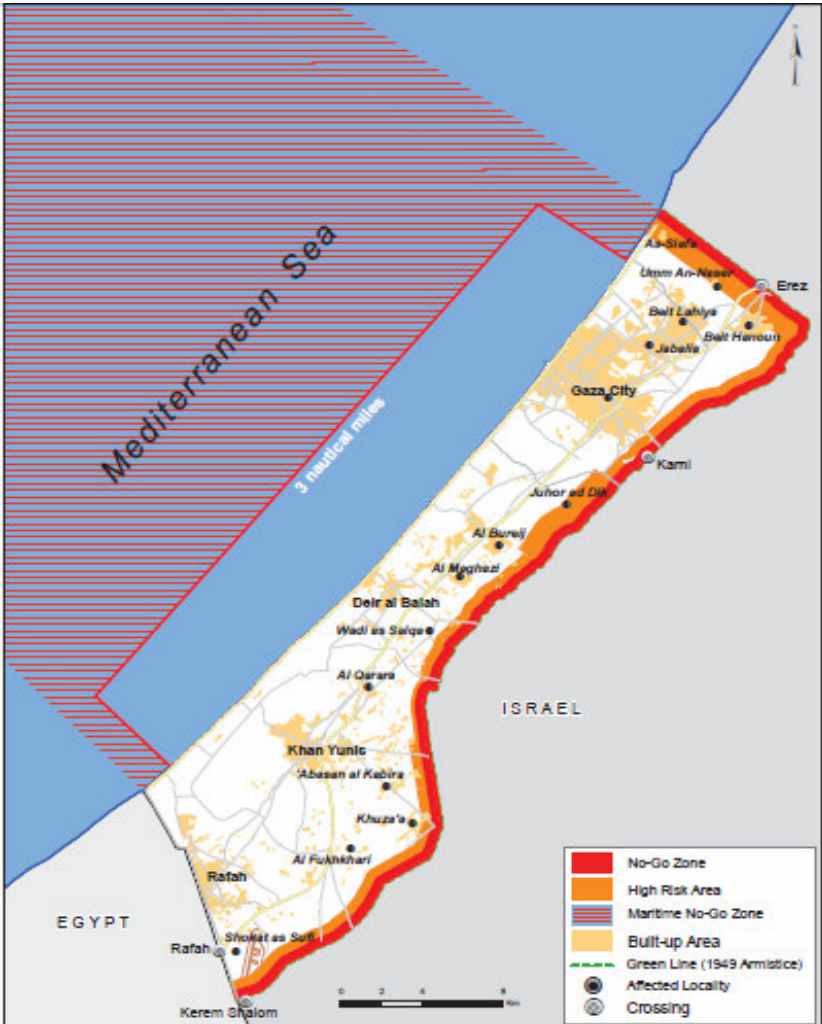
The Israeli policy of imposing closures on the occupied Palestinian territory exhibits a strongly punitive and repressive character; the closures are imposed

¹⁷ WHO, "Referral of Patients from the Gaza Strip", Monthly Report, October 2010, available at: http://www.issuu.com/who-opt/docs/update_rad_october_2010.

collectively, violating international law which unequivocally prohibits collective punishment and reprisal against civilians (*see infra* sections 5.2 and 6).

2. The absolute closure of the Gaza Strip

2.1 Gaza Border Crossings: Overview¹⁸



¹⁸ Map by OCHA, available at www.ochaopt.org.

2.2 Israel's total control of the Gaza borders

Israel directly controls the 5 border crossings between its territory and the Gaza Strip:

- » Erez (Beit Hanoun) crossing: Pedestrian traffic.
- » Nahal Oz (El Shij'ia) crossing: Industrial fuel/gas.
- » Karni (Al-Mentar) crossing: Conveyor belt for grains.
- » Sufa (Sofa) crossing: Humanitarian goods/construction materials.
- » Karem Shalom (Karm Abu Salem) crossing: All authorized goods.

Israel also indirectly controls the Egyptian-Palestinian border in the South of the Gaza Strip:

- » Rafah International crossing point: Pedestrian traffic.

Under the terms of the Agreement on Movement and Access,¹⁹ Israel exerts ultimate control over the opening of Rafah crossing (*see infra*, Box 1 “**The closure of the Rafah crossing and the Agreement on Movement and Access of 2005**”).

Finally, Israel retains exclusive control on the aerial and the naval space of the Gaza Strip. As stated in the Israeli disengagement plan, “Israel will hold sole control of Gaza airspace and will continue to carry out military activity in the waters of the Gaza Strip.”²⁰

2.3 More than three years of absolute closure

For the past three years, following Hamas' takeover of the Strip in June 2007, Israel has imposed very severe restrictions on all of the Gaza Strip's crossings. As a rule Palestinians are not allowed to travel in and out of Gaza, with few exceptions mainly for humanitarian reasons (mostly patients needing life saving medical treatments), and only a small, tightly regulated, number of internationals are allowed into Gaza to work as employees of humanitarian organizations registered in Israel, international NGOs, or the UN. Diplomats and limited numbers of foreign journalists are also allowed to travel to Gaza under a strict system of permits.

¹⁹ Agreement on Movement and Access and Agreed Principles for Rafah Crossing, Israel-PA, November 15, 2005, available at: <http://www.mfa.gov.il>

²⁰ Israel's Revised Disengagement Plan of 2004, Article 3(1). See also the Agreement on the Gaza Strip and the Jerico Area, Cairo, May 1994, Annex I, Article 12

For the past three years the import of goods into Gaza has been prohibited by the Israeli authorities, with only limited quantities of basic goods, mainly food, allowed for 'humanitarian' reasons (*see infra* section 2.3.3). Israel has also imposed a total ban on the exports of Gaza Strip's products or manufactures. Only sporadically limited quantities of two goods, flowers and strawberries, were allowed to be exported thanks to an agreement brokered by the Dutch government; however, even on those occasions when permission was granted, the actual exports did not exceed 20% and 4% respectively of the quantities prepared for transport.

The following is a brief overview of Gaza's border crossings in the past years²¹:

- » Erez crossing, which is the only pedestrian crossing point between Israel and the Gaza Strip, has been completely and continuously closed to Gazan civilians wishing to travel to the West Bank, Israel or abroad, since 15 June 2007, immediately following Hamas' takeover of the Gaza Strip. Since then, Israeli authorities have permitted only specific categories of people to travel out of Gaza via Erez crossing, under very complicated procedures which often involve degrading treatment. These categories include medical patients suffering from life threatening illnesses.²² The access to Gaza via Israel has been restricted essentially to a selected number of employees of international humanitarian organizations registered in Israel, UN officials, diplomats and foreign journalists, who have to go through a strict system of permits
- » Nahal Oz and Karni crossings are gradually being closed, making Karem Shalom the main crossing for goods into Gaza, although its capacity is not sufficient to support even the passage of the limited goods currently allowed for import.
- » Sufa crossing which had been used for the delivery of construction materials was closed after 15 June 2007. Some humanitarian aid consignments were allowed into the Gaza Strip through the Sofa crossing until November 2008, when the crossing was completely closed.
- » Rafah International Crossing Point, connecting the Gaza Strip with Egypt, has been almost continuously closed since June 2007, opening only sporadically for humanitarian reasons. For instance, in May 2010

²¹ For more detailed info see OCHA and PCHR weekly reports.

²² Not every patient in need for medical treatment is allowed to exit the Gaza Strip and even those who are granted a permit are often allowed to travel through Erez following extensive life threatening delays and very complicated procedures, which include interviews for obtaining a medical referral to travel abroad and often further interrogations at the Erez crossing: see PCHR, "The Health Sector in the Gaza Strip", Fact Sheet, 2 June 2010, available at: www.pchrgaza.org

the crossing opened for 6 days after a continuous closure of 78 days which impeded even the patients referred for medical treatment abroad from reaching hospitals in Egypt.²³ From 12 June 2007 to May 2010 the crossing was closed for a total of 1018 days.²⁴ Since June 2010²⁵ the Rafah crossing is ostensibly open; however, travel is limited to those same restricted categories of people that were allowed before. As a result of the ongoing closure of the crossing point, thousands of Palestinians wishing to travel to and from the Gaza Strip are prevented from doing so. When Rafah crossing was partially open, it witnessed congestion due to the high number of travelers, especially medical patients, who endure long hours' wait at the crossing gates.²⁶ The Palestinian Crossing and Border authorities in Gaza have recently informed that the opening days of the crossing will be reduced from 7 to 5 days a week.²⁷

²³ Ibid.

²⁴ See PCHR's periodic report, "State of the Border Crossings", available at www.pchrgaza.org.

²⁵ The decision to open the Rafah crossing was taken following the May 2010 Israel's deadly attack on the humanitarian flotilla en route to Gaza.

²⁶ See PCHR, "The Health Sector in the Gaza Strip", Fact Sheet, of 2 June 2010 and of 7 February 2010, available at: www.pchrgaza.org. See also Gisha, "Rafah Crossing: Who holds the keys?", p. 110-111.

²⁷ Reported by OCHA-oPt, "Protection of Civilians", 10-23 November 2010, p. 3, available at: www.ochaopt.org.

BOX 1

The closure of the Rafah crossing and the Agreement on Movement and Access of 2005

From 1949¹ until 1967 the Gaza Strip was under Egyptian rule. During those years it was possible to travel by train or by car from Cairo to Gaza through the Sinai Peninsula; traveling to and from Gaza was subject to a permit issued by the Egyptian security authorities. The Gaza Strip was declared a closed military area in 1967, following the Israeli military occupation, and travel out of the Strip became dependent on the approval of the Israeli military commander. In 1982, when Israeli troops withdrew from the Sinai peninsula, the Rafah crossing was opened under Israeli control.² Over time it became increasingly difficult to obtain a permit to cross Erez, and since 2000 it has been virtually impossible for the overwhelming majority of Palestinians to obtain a permit to cross the Israeli border.³ Thus the Rafah border with Egypt has long been the only practicable – if remote – possibility to travel out of Gaza.

Following the September 2005 disengagement of Israeli forces from the Gaza Strip – which also removed the Israeli military presence from the Egyptian-Palestinian border – on 15 November 2005 Israel and the Palestinian Authority (PA) signed the Agreement on Movement and Access (AMA). The agreement was mediated by the US and the EU. Egypt is not a party to agreement nor was it an official party to the negotiations (although it participated in the works). According to the AMA: “Rafah will be operated by the Palestinian Authority on its side and Egypt on its side, according to international standards”. The PA’s work, on the Palestinian side of the border, is placed under the supervision of the EU.

On paper, the AMA was intended to “give the Palestinian people freedom to move, trade, live normal lives” and to grant the PA control over entry and exit from its territory.⁴ However, contrary to the declarations, the agreement was never properly implemented, and the PA was not allowed control over exit and entry from and into the Gaza Strip. Israel continued to exert its control over the operation of the Rafah crossing in a number of ways:

* Please note that the footnotes of the Box are at page 102

- i. The crossing was frequently closed by Israel due to incidents unrelated to the crossing itself; following the capture of the Israeli soldier Shalit, on 25 June 2006 Israel closed the Rafah border. In that year, until June 2007 when the agreement was indefinitely suspended, Rafah was closed for 265 days.
- ii. Crossing through Rafah is only permitted for holders of Palestinian IDs, i.e. individuals registered in the Palestinian population registry.
- iii. Through its control of the Palestinian population registry, Israel continues to indirectly determine who is allowed to cross Rafah (many residents of Gaza have been unable to obtain IDs and so cannot travel);
- iv. Israel retained the power to prevent the passage of Palestinians on the basis of “security grounds” and to veto the passage of foreigners.⁵ In principle foreigners (i.e. not carrying Palestinian ID or passport) are not allowed to enter Gaza through Egypt but need to obtain an Israeli entrance visa and Israeli permit to cross Erez. The agreement lists exceptional categories of foreign nationals allowed to enter the Gaza Strip through Rafah: diplomats, foreign investors, employees of international organizations, humanitarian workers and foreign journalists. With regard to such travelers, according to the terms of the AMA, the PA must inform Israel in advance: it is Israel that de facto makes the final decision on the entry to Gaza through the Rafah crossing of these categories of persons.

In June 2007 Israel announced the freezing of the crossing agreement. Since June 2007 the people of Gaza have been effectively denied access to the outside world both from Erez and Rafah crossings. Although since June 2010 the Egyptian authority has declared the opening of the Rafah crossing, traveling to and from Egypt remains an exceptional case for the local population. In fact the coordination with the Egyptian authorities, which was already difficult in the past, became de facto impossible after 2007 and it continues to be almost impossible to travel without some sort of “special coordination” (i.e. personal connection). Cars are not allowed to cross the Rafah border. This affects patients traveling for medical reasons, who are often in very serious health conditions, as all travelers have to cross as pedestrians organised in a complex and inconvenient system of collective buses.

2.3.1 Restrictions on the movement of persons

As noted, the current regime of absolute closure is only the latest measure in the longstanding policy of closures and fragmentation of the oPt. Despite the fact that the Oslo agreements expressly considered the West Bank and the Gaza Strip to be a single territorial entity which Israel was bound to respect²⁸, (a position confirmed, inter alia, by the UN Security Council) the policy of closures imposed by the Israeli military government has resulted in the de facto complete separation of the oPt.

Following the cancellation in 1991 of the general exit permit from the oPt which had been in use since 1972, an individual exit permit, to be issued by the Israeli Security Agency, was required for Palestinians to exit the Gaza Strip, to move between the occupied territory (Gaza - West Bank, including occupied East Jerusalem) or to enter Israel. Following the outbreak of the second Intifada in 2000, this permit became even more difficult to obtain.²⁹ As a consequence, traveling from Gaza to the West Bank (and vice-versa) has been rendered virtually impossible for Palestinians and entire families are now separated. The forced separation of families is in violation, inter alia, of Article 16 of the 1948 Universal Declaration of Human Rights (UDHR) and Article 23 of the 1966 International Covenant on Civil and Political Rights (ICCPR) which obliges States to protect the right to marry and found a family (*see infra* section 6.8).

Moreover, the right to “safe passage” for Palestinians wishing to move within the oPt, provided for by the 1995 Israeli-Palestinian Interim Agreements on the West Bank and Gaza Strip³⁰, was de facto never implemented other than for a year, between October 1999 and September 2000. According to Israeli figures, almost 12,000 permits per month were issued to Gaza residents each month during that year³¹. Even during the only year of operations of the passage, Israel failed to comply with the terms of the agreement. The safe passage turned out to be an “unsafe road”³², due to the restrictions imposed that ultimately neglected the very content of the right to safe passage for the Palestinians within their territory. With the outbreak of the second Intifada

²⁸ Art. IV of the Declaration of Principles on Interim Self-Government Arrangements.

²⁹ B’Tselem, “Freedom of Movement and Closure”, available at: www.btselem.org/English/Freedom_of_Movement/Closure.asp.

³⁰ The so-called Oslo Agreements, See Interim Agreement of 1995, appendix I, Section 10.

³¹ Gisha, “Rafah Crossing: Who holds the keys?”, p. 33, at: www.gisha.org.

³² See PCHR, An Unsafe Road, Special Report on the Safe Passage, available at: www.pchrgaza.org.

Israel closed the passage indefinitely. From the end of 2000 until 2006 only in exceptional cases were Palestinians allowed to travel from Gaza to the West Bank. In the end the safe passage was never a reality, in spite of its inclusion in the 2005 Israeli-Palestinian Agreement of Movement and Access (AMA) which was never properly implemented (see supra Box 1).

2.3.2 A difficult journey: traveling abroad from Gaza

Since at least 1995, traveling abroad for Gazans has been virtually impossible.³³

Moreover, even in those exceptional cases where a travel permit is issued (mostly for the Rafah crossing), the crossing of the border and the journey to Cairo airport in Egypt, is inevitably an extremely difficult and humiliating experience. On the other hand, crossing the Erez border to enter Israel often results in long interrogations and even detention by the Israeli Security Agency. Many cases have been reported of Palestinian patients, referred for medical treatment abroad, who have been summoned by the Israeli military forces in order to 'get information' (see infra section 6.2). This practice has been reported as far back as 2008 by the UN Special Rapporteur on the oPt.³⁴

³³ See PCHR, The Israeli Policy of Closure. Legal, Political and Humanitarian Evaluation, , 1996, p. 22-23, available at: www.pchrgaza.org.

³⁴ A/63/326, par. 46, available at www.ohchr.org.

BOX 2

When Gaza had an Airport

While giving full control over Gaza's airspace to Israel, the Oslo Accords allowed for the construction of a Palestinian airport. Inaugurated in 1998, the Arafat International airport provided a limited number of weekly flights to Arab countries. Transported by bus to the Rafah Crossing, passengers were checked alongside those leaving for Egypt by land (i.e. under the supervision and control of the Israeli authorities). On 8 October 2000 Israel closed down the airport after the outbreak of the Second Intifada and it has not reopened since. Israel has repeatedly bombed the airport since December 2001 and used it as a military base until the completion of the disengagement plan in 2005, when Israeli soldiers reportedly vandalized the building. Although not in use anymore Israeli forces still frequently bomb the airport premises, which are completely abandoned.



Gaza International Airport, 1998



Gaza International Airport©, 2010

Apart from the short life-span of Arafat international airport, the land crossings have been the only means through which to enter or leave the Gaza Strip. A project existed for the construction of an international port, which was also included in the Agreement on Movement and Access of 2005, however Israel never genuinely supported its construction. In the end the worsening of the political situation and Israeli attacks on the existing port infrastructure blocked the project.

The only possibility for external travel is therefore across the land borders, either via Erez crossing to Israel (and then to Jordan), or via the Rafah crossing to Egypt.

- » **Via Erez:** Gazans wishing to travel abroad, need to obtain a permit from the Israeli authorities, allowing them to cross through Erez and then directly to Jordan. Another possibility would be to reach the Ben-Gurion airport in Israel (approximately 40 km from Gaza) but this has become only a theoretical option, since Palestinians are generally denied entry into Israel.
- » **Via Rafah:** The process of obtaining a permit to leave Gaza via Rafah, is complicated, and only in exceptional cases is a permit issued. In the event that a Gazan is successful in crossing via Rafah, they are often escorted directly to Cairo Airport, where they are forced to wait in holding cells until their flight departs.

As a result of this the number of Palestinians from Gaza which have been able to travel abroad in the past 15 years is miniscule. Even smaller is the

number of persons, including people holding international passports, who have been allowed to visit Gaza, for any reason. The Gaza Strip has been effectively sealed off from the outside world.

2.3.3 Restrictions on the movement of goods

As one of the main features of the illegal closure policy imposed since June 2007, the import of goods into Gaza has been prohibited. Until June 2010 only exceptionally limited quantities of imports were allowed, specifically those deemed by the Israeli authorities as ‘humanitarian’ goods. Indeed it is unclear how the Israeli authorities determined the list of limited items which are allowed into Gaza; the existence itself of such a list has been actually put in serious doubt (see *infra* section 5).

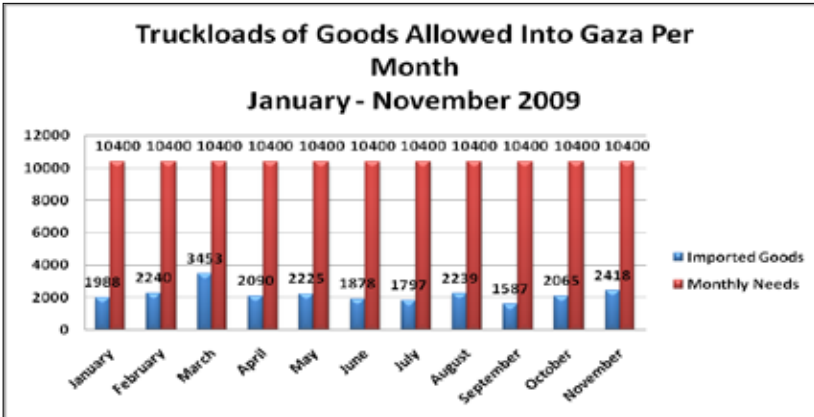
On 17 June 2010, consequent to international pressure following Israel’s deadly attack on the “Gaza Freedom Flotilla”, the Israeli Security Cabinet³⁵ claimed to have begun easing the closure, by enlarging the list of goods allowed to get into Gaza and by creating a list of prohibited items to replace the previous list of permitted items. At the time of writing, however, no significant steps have been taken by Israel in order to ease the closure and it is still unclear what concrete measures will be taken by Israel (see *infra* section 2.4)

The original list of permitted items apparently consisted of an extremely restricted category of goods, approximately 40, mostly foodstuffs and other basic items. As documented by the Israeli organization Gisha, the list was gradually expanded over time and, prior to June 2010, it seemed to include approximately 100 goods which were allowed into Gaza (see *infra* section 5.1).

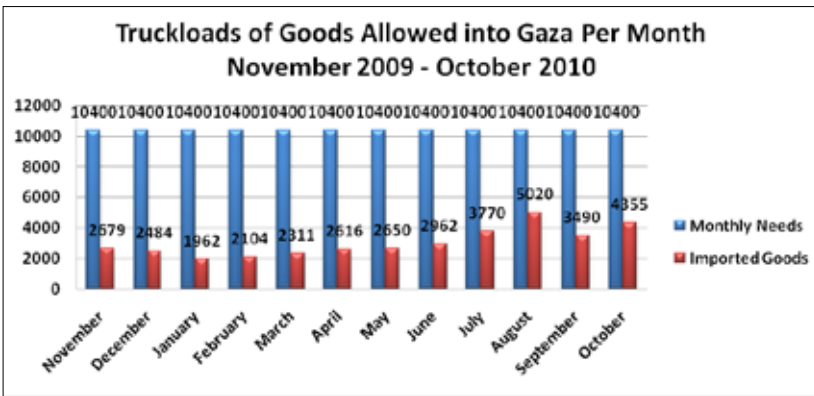
What is clear is that the type and amount of goods allowed into Gaza over the past years has been wholly insufficient with respect to the needs of the population of the Gaza Strip. As shown by the graphics below, over 2009 in average only 2,180 truckloads of goods have been allowed into Gaza each month, compared to an average of 10,400 truckloads which entered Gaza before the imposition of the absolute closure³⁶.

³⁵ Security Cabinet Decision, Prime Ministers Office, of 17 June 2010, available at: <http://www.pmo.gov.il/PMOEng/Communication/Spokesman/2010/06/spokemediniyut170610.htm>.

³⁶ However, it is noted that these figures, which date back to 2006 are outdated, and that even before the imposition of the absolute closure in 2007, the limited capacity of the Gaza crossings created a shortage of goods (and in particular of fuel) vis-à-vis the actual needs of the population.



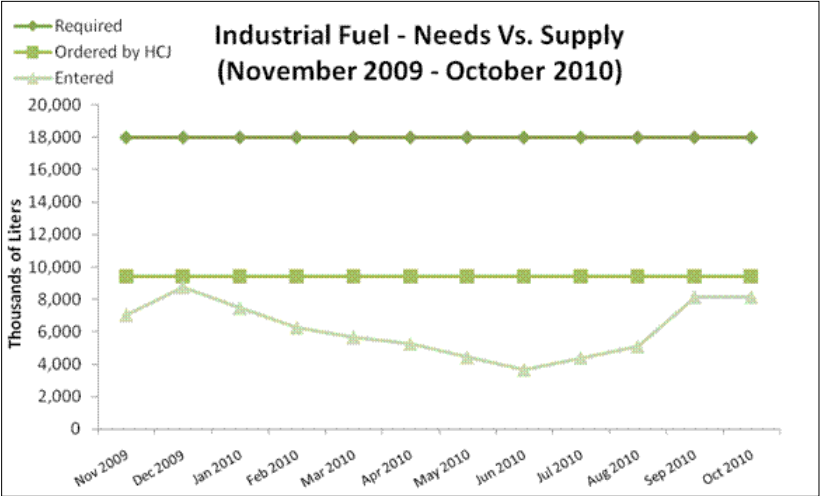
In 2010 the monthly average of truckloads was 3,034, far below the needs of the local population.³⁷



Following a decision of the Israeli government in September 2007, the supply of electricity and fuel into Gaza has been dramatically reduced, in blatant violation of Israel's obligations as an Occupying Power responsible for the well-being of the population in occupied territory. This illegal decision, which has been challenged by a group of Israeli and Palestinian organisations, including PCHR, has been endorsed by the Israeli High Court of Justice (see *infra* sections 5.1 and 6.1). On average, only 8,000 thousand litres of fuel (of 18,000 needed) are imported each month, well below both the actual quantity required and the "humanitarian minimum" of 10,000 indicated by the Israeli High Court of Justice in January 2008³⁸.

³⁷ <http://www.gazagateway.org/goods-entering-gaza/>

³⁸ HCJ 9132/07, issued January 30, 2008.



As detailed in this report, such restrictions on the entry of goods and of fuel, in particular, form part of an illegal policy of ‘economic warfare’ that the State of Israel is intentionally implementing against the Palestinian civilian population (see *infra* section 5.1).

This policy is contrary to Israel’s obligation as an occupying power under international humanitarian law, and also violates the fundamental human rights of the people of Gaza³⁹.

2.4 Gaza’s border crossings remain virtually sealed notwithstanding the alleged June 2010 easing of the closure

The 31 May 2010 Israeli attack on the “Gaza Freedom Flotilla” in international waters, which resulted in the killing of nine civilians (8 Turkish and 1 American) and the wounding of many more,⁴⁰ temporarily focused the world’s attention on the suffering of the Palestinian population in Gaza and the violation of their rights.

As an immediate reaction to this tragic event the Egyptian authorities announced the indefinite opening of the Rafah crossing. At the time of

³⁹ Economic, social and cultural rights of the people of Gaza as claimed from 2007 onwards by several reports of the UN Special Rapporteur on the OPT. See for instance A/HRC/7/17, A/HRC/10/20, A/HRC/13/53/Rev.1, available at: www.ohchr.org.

⁴⁰ See PCHR Press release, “PCHR Condemns Israeli Attack on Gaza Freedom Flotilla” of 31 May 2010, available at: www.pchrgaza.org. See the report of the UN Fact Finding Mission on the Flotilla Incident (A/HRC/15/21) of 27 September 2010.

writing (December 2010) the crossing is ostensibly open. However, it must be emphasized that the crossing cannot be considered actually open: people and goods are still not free to get in and out of Gaza. On the contrary, the crossing remains almost completely closed – with only a limited category of individuals allowed to use the pedestrian crossing – and is completely closed for goods and vehicles. It remains extremely complicated to get the necessary coordination to be allowed into and out of Gaza through the Rafah crossing and the reality is that for the overwhelming majority of Gazans nothing has changed.

Equally, new international pressure has been exerted on Israel in order to put an end to the closure. In line with a proposal put forward by the Quartet Representative to the Middle East, Tony Blair, Israel has announced an ostensible easing of Gaza's closure for humanitarian reasons. However, the diplomatic initiatives sponsored by the Quartet, which merely focus on the increase of the volume of goods' exchanges, fail to address the inherent illegality of the closure and the detrimental effects it has on the local populations' human rights. The alleged easing is in fact purely cosmetic and does not represent any substantial change to the intrinsic illegality of the closure. It merely consists in moving from a list of permitted items into Gaza to one of prohibited items. Gaza now receives more foodstuff and secondary goods at cheap prices from Israel, which paradoxically – given the ban on exports from the Strip – has worsened the weak local economy.⁴¹ In addition, the quantity of permitted goods remains wholly incapable of meeting the needs of the Gaza population.⁴²

The High Representative of the European Union for Foreign Affairs, Ms. Catherine Ashton, has recently pointed out that “at the present time, we think that what's happened with Gaza is unsatisfactory, the volume of goods is not increasing as significantly as it needs to.” Similar declarations have been made by every high foreign diplomat that visited Gaza in the past months⁴³. As stated in November 2010 by Mr. John Ging, in his capacity as the UNRWA Director in Gaza, “There is no tangible change for the people on the ground here with regard to their condition, dependence on aid, the

⁴¹ BBC, Gaza Business Boxed in by Israel's Exports Ban, 2 November 2010, available at: www.bbc.co.uk/news/world-middle-east-11668080.

⁴² For a detailed picture of the actual situation see the Report, “Dashed Hopes. Continuation of the Gaza Blockade”, November 2010, by Amnesty International UK and 14 other international organizations, also available at: www.pchrgaza.org.

⁴³ See for instance the German Foreign Minister Guido Westerwelle's declarations on occasion of his November 2010 visit to Israel and Palestine reported on November 17, 2010 at www.haaretz.com.

absence of any recovery or reconstruction. And there is no economy".⁴⁴

After the alleged easing of the closure, the borders of Gaza remain sealed, people are still unable to travel via Israel, and exports from Gaza remain banned.⁴⁵ Israel's proposal serves only to shift attention from the real problems; it does not deal with the root cause of the crisis and fails to allow measures necessary to restart the economy of Gaza, namely the import of fuel and construction materials or the export of products from the Gaza Strip. Most importantly the alleged easing of the closure does not change anything with respect to the freedom of movement of the imprisoned population of Gaza.

3. The devastating combined effect of the closure and Israel's military offensive on the Gaza Strip of 27 December 2008 – 18 January 2009

The combined impact of the absolute closure and the devastating military operation of 27 December 2008 - 18 January 2009 has multiplied the suffering of the population of Gaza and decimated the Gaza Strip's economy and infrastructure.

Detailed information regarding the grave violations of international human rights law in association with the "operation Cast Lead", are contained, inter alia, in the Report of the Special Rapporteur on the human rights situation on the oPt of March 2009, and in the report of the United Nations High Commissioner for Human Rights to the Human Rights Council of August 2009.⁴⁶

In addition, the cumulative impact of the illegal closure and of the violations of international humanitarian law and human rights law committed in the context of the military operation against Gaza have been thoroughly documented by the UN Fact Finding Mission on the Gaza Conflict led by justice Richard Goldstone⁴⁷. The Mission considered that:

⁴⁴ Conditions in Gaza have not changed since Israel declared it would ease the blockade, Middle East Monitor, 11 November 2010, at <http://www.middleeastmonitor.org.uk/news/middle-east/1738-john-ging-conditions-in-gaza-have-not-changed-since-israel-declared-it-would-ease-the-blockade>, accessed 8 December 2010.

⁴⁵ See *infra* sections 2.3 and 2.4.

⁴⁶ A/HRC/12/37, of 10 August 2009.

⁴⁷ Report of the UN Fact Finding Mission on the Gaza Conflict, A/HRC/12/48, par. 1213-1335.

“The closure of or the restrictions imposed on border crossings by Israel in the immediate period before the military operations subjected the local population to extreme hardship and deprivations that are inconsistent with their protected status. The restrictions on the entry of foodstuff, medical supplies, agricultural and industrial input, including industrial fuel, together with the restrictions on the use of land near the border and on fishing in the sea have resulted in widespread poverty, increased dependence on food and other assistance, increased unemployment and economic paralysis. The Mission can conclude only that Israel has and continues to violate its obligations as an occupying Power under the Fourth Geneva Convention”.⁴⁸

Significantly, despite heavy fighting, the closure of the Gaza Strip remained firmly in place during Operation Cast Lead. As noted by Richard Falk, the UN Special Rapporteur on the oPt, this was one of the only conflicts in the world where civilians were unable to flee, or to seek refugee status.⁴⁹ This denial of movement had significant implications for those injured and requiring advanced medical care.⁵⁰ Almost two years after the end of the military operation for most of the seriously injured victims, their situation, rather than being resolved, has been aggravated.

Moreover, construction materials have not been allowed into the Gaza Strip, completely preventing necessary recovery and reconstruction. As affirmed by Mr Filippo Grandi, in his capacity as the UNRWA Commissioner General: “Rehabilitation and construction requirements are enormous. In spite of this, crucial materials remain subject to severe restrictions, cumbersome import procedures and frequent delays”⁵¹. Therefore “we must call for the blockade to be lifted in full to enable Gaza to begin the process of recovery that its long-suffering people so urgently need”.⁵²

For example, according to PCHR figures, 7,878 housing units were completely or partially destroyed (rendered uninhabitable), affecting 51,842

⁴⁸ Ibid., par. 1305.

⁴⁹ See the 2010 report of the Special Rapporteur on the oPt, A/HRC/13/53/rev.1 par. 13.

⁵⁰ See *infra* section 6.2.

⁵¹ Statement to the Special Political and Decolonisation Committee of the UN General Assembly, 1 November 2010, available at <http://www.unrwa.org/etemplate.php?id=835>.

⁵² Ibid.

individuals. 20,000 individuals remained homeless after the war,⁵³ many of them, almost two years on, still live in temporary shelters or even in tents⁵⁴.

In March 2009, States gathered at a donor conference in Sharm el-Sheikh pledged USD 4.5 billion in funds for the reconstruction of Gaza. However because of the total closure imposed by Israel, which includes virtually all building materials, any possibility to rebuild and rectify the extensive damage brought by the last devastating military operation on Gaza has failed, and the money has not been used for its purpose.⁵⁵

⁵³ See PCHR Report, “23 Days of War, 928 Days of Closure, Life one year after Israel’s Latest Offensive on the Gaza Strip, 27 December 2008 – 18 January 2009”, available at www.pchrgaza.org.

⁵⁴ See *infra* section 6.6.

⁵⁵ See the report “Failing Gaza: no rebuilding, no recovery, no more excuses. A report one year after Operation Cast Lead”, December 2009, published by Amnesty International UK and other international organizations, available also at: www.oxfam.org.

II. THE ILLEGALITY OF THE CLOSURE

4. Recognition of the illegality of the current absolute closure

As acknowledged, *inter alia*, by the International Committee of the Red Cross (ICRC), the closure imposed by Israel on the Gaza Strip is straightforwardly illegal.⁵⁶ Such a conclusion has also been clearly affirmed by the International Fact Finding Mission mandated by the UN to investigate on the Flotilla incident of 31 May 2010: the closure is “unlawful and cannot be sustained in law. This is so regardless of the grounds on which it is sought to justify the legality of the blockade”.⁵⁷

Israel is the occupying power in the oPt, including the Gaza Strip, and as such it is subject to a number of pressing legal obligations, as codified primarily in the Hague Regulations of 1907 and the Fourth Geneva Convention of 1949 (see *infra* section 4.1). As confirmed by the International Court of Justice, Israel is also obliged to respect, and protect the rights of the occupied population in accordance with the requirements of international human rights law.

As the ICRC stated in 2000: “As an occupying power, Israel may restrict the freedom of movement of the resident population, but only when and in so far as military necessity so dictates. Restrictions on movement by means of curfews or the sealing off of areas may in no circumstances amount to collective penalties, nor should they severely hamper the daily life of the civilian population or have dire economic consequences. Moreover the occupying power has the duty to ensure an adequate level of health care, including access to hospitals and medical services, and may not obstruct the circulation of food supplies. All institutions devoted to the care and education of children must be allowed to function normally. Religious customs must be respected, which implies access to places of worship to the fullest extent possible”.⁵⁸

The current closure regime violates a number of principles of international

⁵⁶ ICRC, “Gaza Closure: not another year,” News Release, 14 June 2010, available at: www.icrc.org.

⁵⁷ Report of the UN Fact Finding Mission on the Flotilla incident, A/HRC/15/21, par. 261.

⁵⁸ ICRC, News release of 21 November 2000, available at: www.icrc.org.

humanitarian law, inter alia, Article 43 of the Hague Regulations, and Articles 33, 55 and 56 of the Fourth Geneva Conventions (see *infra* section 4.1). Moreover the closure violates international human rights law, infringing upon several fundamental human rights, including the right to life, the right to the highest attainable standard of health, the right to freedom of movement of persons and goods, the right to adequate shelter, and the right to live in human dignity (*see infra* section 6 *et seq.*). The closure regime ultimately infringes upon the right to self-determination of the Palestinian people as a manifestation of the occupation, and through the resultant process of severe de-development.

The members of the international community, including the High Contracting Parties to the 1949 Fourth Geneva Convention “Relative of the Protection of Civilian Persons in Time of War”, have shamefully failed to take the action necessary to ensure Israel’s respect for the Convention in the oPt, the fulfillment of which would include lifting the illegal closure and ending policies which violate the economic, social, civil and political rights of the Palestinian civilian population.

4.1 Legal Status of the Gaza Strip as occupied territory and applicability of occupation law

Since the beginning of the occupation in 1967, the international community – consisting of both governments and international organisations, including the United Nations Security Council and the ICRC⁵⁹ – has recognised Israel as the belligerent occupant, and the Palestinian territory, comprising the Gaza Strip and the West Bank (including East Jerusalem), as subjected to occupation by the military of a belligerent foreign country.⁶⁰

The Cairo Agreement of 1994 between the Government of Israel and the PLO “Interim Agreement on the Gaza Strip and West Bank” established the Palestinian National Authority (PNA, or PA) and transferred to it limited authority in Jericho and most of the Gaza Strip.⁶¹ The responsibility

⁵⁹ ICRC, “Fact and Figures: The ICRC in Israel and the occupied territories”, available at <http://www.icrc.org/eng/where-we-work/middle-east-north-africa/israel-occupied-territories/index.jsp>.

⁶⁰ See for instance the following UN Security Council Resolutions: SC/RES 446 of 22 of March, 1979, SC/RES 605 of 22 December, 1987; SC/RES 904 of 18 March, 1994; SC/RES 1322 of 7 October, 2000. This view was further embraced by the UN Special Rapporteur on the oPt in its 2010 report to the HRC: see A/HRC/13/53/Rev.1, par 1., available at: www.ohchr.org.

⁶¹ See Gisha, “Rafah Crossing: Who Hold the Keys?”, p. 18, available at: www.gisha.org

transferred to the PNA is essentially restricted to the sphere of internal civil affairs, and excludes responsibility in respect of overall security and foreign relations. Israel remains the occupying power, subjected to the provisions of the law of occupation, and the Palestinian civilian population is entitled to the protections afforded by occupation law.

In fact, notwithstanding the relocation of Israeli forces as a result of the Interim Agreement, Israel's occupation of these areas remained both a legal and a physical reality, as confirmed by the International Court of Justice in its Advisory Opinion on the "Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory"⁶² (see *infra* sections 4.1 and 4.2).

Under Article 42 of the Hague Regulations of 1907 a "Territory is considered occupied when it is actually placed under the authority of hostile army. The occupation extends only to the territory where such authority has been established and can be exercised".

Occupation is a factual state under international law, and its existence is subordinated to a test of "effective control" which depends on the ability of military adverse power to exercise its power on a foreign territory or country. What is required is that the occupying power has the capacity to exercise its power, which does not require that the power is exercised *de facto*. Moreover, it is recognized in the jurisprudence that military forces need not be placed throughout the entire territory.⁶³

In this regard nothing changed after the redeployment of the Israeli military forces from the Gaza Strip in 2005, and the Gaza Strip remains occupied territory. As thoroughly elaborated by Professor John Dugard, the former Special Rapporteur on situation of Human Rights in the oPt, Israel continues to be the Occupying Power given the effective control it exerts on the Gaza Strip, which substantiates itself through a number of elements.⁶⁴

The concept of effective control indeed encompasses both military and administrative control over the occupied territory. Following disengagement Israel continues to retain complete and effective control over the Gaza Strip:

⁶² International Court of Justice (ICJ), Advisory Opinion Concerning the Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, 9 July 2004 (hereinafter: ICJ Advisory Opinion), available at: www.icj-cij.org.

⁶³ Prosecutor v. Naletilic and Martinovic, Case No.IT-98-34-T, Judgment (31/3/2003), 217.

⁶⁴ Report of the Special Rapporteur on the oPt, A/63/326, of 25 August 2008, par. 5.

it retains exclusive control over Gaza's airspace,⁶⁵ territorial waters and land borders. In addition Israel has ultimate control over the administrative aspects of the civilian population in the Gaza Strip: it is the Israeli authorities that retain the control of the Palestinian population registry thus having the power to grant citizenship and issue Identity Cards to Palestinians in the oPt⁶⁶.

⁶⁵ Israel's exclusive control over the Gaza Strip's airspace was already stipulated in the Gaza-Jericho agreement, Annex I, Article 12, and reaffirmed in the Revised Disengagement plan of 2004, Article 3(1).

⁶⁶ See Gisha, "Rafah Crossing: Who Hold the Keys", p. 57, available at: www.gisha.org.

BOX 3

Israel's control of the Palestinian Population Registry

Following the Declaration of Principles on Interim Self-Government Arrangements (the Oslo Accords), the authority to issue identity cards was transferred to the Palestinian Authority (PA). However, Israel retained control over the Palestinian Population Registry, and thus ultimate control over the rights and status of all Palestinians living in the oPt. The registry lists the official address of each person. Under the Oslo Accords the PA must inform Israel of all changes to the registry: however since 2000 Israel has not updated its copy of the oPt's population registry.

As pointed out by the Israeli legal aid organisation Hamoked, this means that Palestinians living in the West Bank whose registered address is in the Gaza Strip or vice versa have been detained as “illegal aliens”, regardless of their actual residence.⁶ Moreover Palestinians whose identity card is from Gaza, but who are actually living in the West Bank may be deported to the Gaza Strip as Israel refuses to change their place of residence on the registry records. The situation was further worsened by two military orders, no. 1649 and 1650 issued in April 2010, which have defined as “infiltrators” any person in the oPt, who is not in possession of an Israeli issued permit, thus subjecting them to possible deportation, fine and imprisonment.⁷ Because of the Israeli authorities refusal to update the Population registry regarding the change of address and the high number of rejections of applications for family reunification, these new military orders force many Palestinians to live with the constant threat of being arrested and possibly deported. Gazan students studying at West Bank universities have been prohibited from returning to study after making brief visits home in the Gaza Strip. Israeli authorities also prevent Gazan students accepted for study at West Bank universities from even enrolling.⁸

In the end Israel not only decides who has the right to live within the Gaza Strip's territory and who doesn't, but also – through a complex system of permits – deprives the Palestinians of their right to choose their residency within the Palestinian territory.

* Please note that the footnotes of the Box are at page 102

This legal reality has been recognized by the international community, including the UN Security Council⁶⁷, the UN General Assembly⁶⁸, the UN Human Rights Council⁶⁹ and the ICRC⁷⁰. The redeployment of Israeli military forces from the Gaza Strip represented a change in the form of occupation but not of substance⁷¹.

In sum, despite the implementation of the unilateral Disengagement Plan in September 2005, Israel indeed remains the ultimate authority able to exercise effective control on the Gaza Strip, and thus is the occupying power.⁷² The physical presence in fact has been replaced by other means of effective control which are as pervasive and oppressive as the military presence on the ground, and that ensure that Israel retain authority over the Gaza Strip and its population. Moreover, as legally acknowledged by Article 43 of the Hague Regulations and Article 64 of the Fourth Geneva Convention, the existence of a local government is not incompatible with the persistence of the military occupation. The reality is that, notwithstanding the existence of a Palestinian Authority, nothing is possible both in the West Bank and in Gaza in the absence of a decision by the Israeli occupation forces.

The extent to which Israel remains in overall control of the Gaza Strip (as well as of the West Bank including East Jerusalem), is illustrated to some extent through its ability to impose closures as it has continued to do post redeployment. The Palestinian civilian population remains dependent upon the cooperation of Israel for basic necessities such as food, medical supplies, electricity, water, and in order to exercise basic freedoms and rights such

⁶⁷ UN Security Council, Resolution 1860 (2009) of 8 January 2009, S/RES/1860 (2009).

⁶⁸ UN General Assembly, Resolution 63/96 (2008) of 18 December 2008, A/RES/63/93 (2008).

⁶⁹ UN Human Rights Council, Resolution S-9/1 of 12 January 2009, A/HRC/S-9/L.1 (2009).

⁷⁰ ICRC, "Gaza Closure: not another year," News Release, 14 June 2010, and "Israel, the occupied Palestinian territories," ICRC Annual Report 2009, 19 May 2010, p. 365-369, both available at: www.icrc.org.

⁷¹ Full arguments in this sense are developed by S. Darcy and J. Reynold, "Otherwise Occupied": The Status of the Gaza Strip from the Perspective of International Humanitarian Law, *Journal of Conflict & Security Law*, Oxford University Press, 2010, p. 211-243.

⁷² See in this sense the authoritative position of Professor Yoram Dinstein, "The International Law of Belligerent Occupation", Cambridge 2009, p. 279. See also the study of Diakonia, "Does International Humanitarian Law Apply to the Gaza Strip after the withdrawal?", 14 January 2009, available at: www.diakonia.se/sa/node.asp?node=842.

as freedom of movement, health, education, and access to work.⁷³ Under international law Israel is obliged to fulfill its obligations as an occupying power and to cooperate in order to ensure the fundamental rights and needs of the civilian population of Gaza. However, in contradiction with the findings of international bodies and judicial organs the Israeli High Court of Justice (HCJ) in 2008 held that Israel is not in “effective control” over the Gaza Strip.⁷⁴ Thus the Israeli HCJ accepted the State’s arguments that Israel’s duties towards the population of Gaza are limited to the prevention of a humanitarian crisis.

The Israeli position tries to transform the State’s precise legal obligations towards the civilian Palestinian population to a matter of “goodwill” on the Israeli side.⁷⁵ This position, which aims at stripping the civilian population of the protection to which they are entitled under humanitarian and human rights law, is blatantly contrary to international law.

The applicability *de jure* of the Convention was ultimately confirmed by the International Court of Justice (ICJ), the highest judicial body within the UN system. In the 9 July 2004 advisory opinion on the “Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory” the Court clearly stated that the Fourth Geneva Convention is legally applicable (i.e. *de jure* not only *de facto*) in the oPt, regardless of their precise prior status.⁷⁶

In particular, the instruments that contain relevant humanitarian provisions on the law of occupation are the Hague Regulations annexed to the Fourth Hague Convention of 1907,⁷⁷ and the Fourth Geneva Convention of 1949.⁷⁸ Israel ratified the Fourth Geneva Convention in January 1953, while the Hague regulations form part of customary law.⁷⁹

That Israel is legally obliged to apply the Fourth Geneva Convention to the

⁷³ See, the Report, “Between the fence and a hard place. The humanitarian impact of Israeli-imposed restrictions on access to land and sea in the Gaza Strip,” August 2010, available at: www.ochaopt.org, p. 31-33.

⁷⁴ Israeli High Supreme Court 9132/07, Jaber Al Basyouni v. the Prime Minister, 30 January 2008.

⁷⁵ See Gisha Report, “Disengaged occupiers”, at <http://www.gisha.org/index.php?intLanguage=2&intSiteSN=119&OldMenu=119>. See also, Darryl Lee, “The Gaza Strip as a Laboratory. Notes in the Wake of Disengagement,” *Journal of Palestine Studies*, vol. 35, 2006.

⁷⁶ See ICJ Advisory Opinion, par. 89-101.

⁷⁷ In particular, Sections III “military authority over the territory of the hostile State.”

⁷⁸ See PCHR Study, “IVth Geneva Convention and Israeli Occupation of Palestinian Territories, November 1998”, available at: www.pchrgaza.org.

⁷⁹ See ICJ Advisory Opinion, par. 89-101

whole occupied Palestinian territory was confirmed, *inter alia*, by the UN Security Council Resolution 681 of 20th December 1990, which demanded that Israel, as the occupying power, apply the Convention *de jure* in respect of the territories which it *de facto* occupies.⁸⁰ UNSC Resolution 681 also requested the High Contracting Parties to the Fourth Geneva Convention to fulfill their obligations under Article 1 therein with regard to the Palestinian territory. The High Contracting Parties must take all measures “to respect and to ensure respect for the present Convention in all circumstances”.

4.2 Israel’s obligation as an Occupying Power and the illegality of the closure under IHL

International humanitarian law places a number of precise duties on Israel as the occupying power *vis-à-vis* the Palestinian population. However, as was found, *inter alia*, by the UN Fact Finding Mission on the Gaza Conflict, “Israel has not fulfilled its duties as an occupying power in relation to the Gaza strip”.⁸¹ When focusing in particular on the closure regime imposed on Gaza over the last three and a half years, it is apparent that the restrictions imposed on the civilian population of the occupied territory, “the protected persons” of international humanitarian law, are in blatant violation of the State’s specific obligation under the same body of law.

Regulation 43 of the Hague Regulations, which has customary law status, imposes upon Israel, as the occupying power, the obligation to maintain public order and civil life, *i.e.* to guarantee normal conditions of life for the civilian population under occupation. This encompasses, *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. Israel is therefore obliged to ensure the conditions necessary for residents of Gaza to enjoy, as far as possible, ‘a normal life’. It is apparent that Israel’s absolute closure regime, by denying the freedom of movement in and out the Gaza Strip for persons and goods, fundamentally denies the possibility for Gazans to have a normal life, and is in violation of the basic principles of international humanitarian law.

Israel’s obligations as an occupying power are further defined in the Fourth Geneva Convention. In particular Article 50 imposes on the occupying

⁸⁰ See also Special Rapporteurs Report on the OPT, A/HRC/7/17 p. 2 (2008) and Special Rapporteurs Report on the oPt, A/HRC/13/53/Rev.1, par 1 (2010).

⁸¹ Report of the UN Fact Finding Mission on the Gaza Conflict, A/HRC/12/48, par. 1311.

power the duty to facilitate the working of care and education institutions; Article 55 requires the occupying power to ensure “to the fullest extent of the means available to it (...) the food and medical supplies of the population; it should in particular bring in the necessary foodstuffs, medical stores and other articles if the resources of the occupied territory are inadequate”.

Article 56 requires the occupying power to ensure “in cooperation with the national and local authorities, the medical and hospital establishments and services, public health and hygiene in the occupied territory (...) Medical personnel of all categories shall be allowed to carry out their duties”. While it is recognised that the occupying power is not solely responsible for the administration of health services and hospitals, it must to the fullest extent of the means available to it, ensure that hospitals and medical services can work properly and continue to do so.⁸²

In 2001 the ICRC expressly noted that Israel’s policy of closures is in violation of its obligations under international humanitarian law:

“The ICRC views the policy of isolating whole villages for an extended period of time as contrary to international humanitarian law (IHL), particularly with respect to those aspects of IHL, which protect civilians in time of occupation. Indeed, stringent closures frequently lead to breaches of Article 55 (free passage of medical assistance and foodstuffs), article 33 (prohibition on collective punishment), article 50 (children and education), article 56 (movement of medical transportation and public health facilities) and article 72 (access to lawyers for persons charged) of the Fourth Geneva Convention. While accepting that the State of Israel has legitimate security concerns, the ICRC stresses that measures taken to address these concerns must be in accordance with international humanitarian law. Furthermore, these security measures must allow for a quick return to normal civilian life. This, in essence, is the meaning of the Fourth Geneva Convention which is applicable to the Occupied Territories”⁸³.

Ultimately, as concluded by the Fact Finding Mission on the Gaza Conflict with respect to the closure:

⁸² J. Pictet, ICRC Commentary to the IV Geneva Convention, p. 314.

⁸³ ICRC Report of 26 February 2001, available at: www.icrc.org.

“The restrictions on the entry of foodstuffs, medical supplies, agricultural and industrial input, including industrial fuel, together with the restrictions on the use of land near the border and on fishing in the sea have resulted in widespread poverty, increased dependence on food and other assistance, increased unemployment and economic paralysis. The Mission can conclude only that Israel has and continues to violate its obligations as an occupying Power under the Fourth Geneva Convention.”⁸⁴

4.3 Israel’s violation of fundamental human rights of the civilian population

Under international human rights law, States are obliged to (i) respect and (ii) protect the fundamental human rights of the population and in doing so they must, *inter alia*, refrain from interfering directly or indirectly with the enjoyment of such rights.

By preventing the entry of necessary goods and by impeding the entire civilian population from leaving the territory, the closure regime imposed by Israel on Gaza blatantly violates not only the most basic principles of international humanitarian law, but also the fundamental human rights of the Palestinian civilian population (*see infra* section 4.3). As noted by the UN Fact Finding Mission on the Gaza Conflict with specific regard to the closure policy, in contrast with “Israel’s obligation to respect, protect, facilitate or provide, to the extent possible, for the enjoyment of the whole range of economic, social and cultural rights in the Gaza Strip (...) Israel’s actions have led to a severe deterioration and regression in the levels of realization of those rights.”⁸⁵

Indeed, in addition to the guarantees already provided for by international humanitarian law, the Palestinian people are inherently entitled to the guarantee of their fundamental rights, in accordance with internationally-accepted norms of human rights law. Israel is bound, *inter alia*, to the 1966 International Covenant on Civil and Political Rights and the 1966 International Covenant of Economic, Social and Cultural Rights (thereinafter ICCPR and ICESCR).⁸⁶

⁸⁴ Report of the UN Fact Finding Mission on the Gaza Conflict, A/HRC/12/48, par. 1305.

⁸⁵ *Ibid.*, par. 1312.

⁸⁶ Israel has ratified both Covenants and also the 1989 UN Convention on the Rights of the Child.

Thus, as long as Israel has control over the Palestinian territory, including Gaza, it has to respect and protect the fundamental human rights of the Palestinian population living under occupation. The Human Rights Committee, for instance, has consistently asserted that Israel's obligations pursuant to the ICCPR do apply to the Palestinian population both in the West Bank and in the Gaza Strip.⁸⁷

The applicability of human rights instruments to the oPt, despite Israel's claims to the contrary, was authoritatively confirmed by the International Court of Justice.⁸⁸ As the Court established: 1) the protection offered by human rights conventions does not cease in times of war; 2) those instruments are applicable in respect of acts done by a State in the exercise of its jurisdiction outside its own territory.

With regard to the first point, it must be noted that the proclamation of a "state of emergency"⁸⁹ under Article 4 ICCPR, does not relieve the State from its obligations under the Covenant. Article 4 clearly stipulates that derogations must be strictly required ("to the extent strictly required by the exigencies of the situation"), and measures taken under state of emergency shall not involve discrimination and shall not be inconsistent with other obligations under international law. Moreover, several fundamental rights are absolute in their nature, and therefore cannot be derogated even during a proclaimed "state of emergency".⁹⁰

With regard to the second point, the principle of extraterritorial scope of human rights has been clearly affirmed by the ICJ in the Case Concerning Armed Activities on the Territory of the Congo⁹¹. The extraterritoriality of the protection offered by human rights instruments has been reiterated on

⁸⁷ See Human Rights Committee, "Consideration of reports submitted by States parties under Article 40 of the Covenant, Concluding Observations", Israel, 18 August 1998, par. 10 (CCPR/C/79/Add.93) and Israel, 21 August 2003, par. 11 (CCPR/CO/78/ISR), available at: www.ohchr.org.

⁸⁸ See ICJ Advisory Opinion, par. 102-113.

⁸⁹ Israel has proclaimed State of emergency in 1948 and renewed it every year since. Concerns have been raised about the prolonged, maintained state of emergency by Israel, see Human Rights Committee, Consideration of reports submitted by States parties under Article 40 of the Covenant, Concluding observations, Israel, 21 August 2003, par. 12 (CCPR/CO/78/ISR), available at: www.ohchr.org.

⁹⁰ On the absolute character of the Human Rights norms in the ICCPR see Human Rights Committee, *Lopez Burgos vs. Uruguay*, *ibid.* Ref. Communication no. 052/1979, U.N. Doc. CCPR/C/OP/1 at 88 (1984), available at: www.ohchr.org.

⁹¹ ICJ, *Case Concerning Armed Activities on the Territory of the Congo (Democratic Republic of the Congo v. Uganda)*, 2005 I.C.J. Rep. (December 19), available at: www.icj-cij.org

several occasions by the UN Human Rights Committee, established by the ICCPR to monitor the implementation of its provisions. As pointed out by the Committee: “a State party must respect and ensure the rights laid down in the Covenant within the power or effective control of that State party, even if is not situated within the territory of the State party”.⁹² Furthermore, in *Lopez Burgos vs. Uruguay*⁹³, the Committee argued that under Article 2.1 of the ICCPR a State party can be held accountable for violations of the rights under the Covenant which its agents commit in the territory of another state.

This view is consistent with the object and purpose of human rights obligations: they aim to protect individuals against State arbitrariness, abuse, violence, regardless of the location where the conduct occurs. Any exercise of power by the State abroad, just as within its own territory, however limited in time, must be respectful of human rights obligations.

As the UN Fact Finding Mission on the Gaza Conflict recalled, “at the very least [...] Israel is under an obligation not to raise any obstacle to the exercise of such rights in those fields where competence has been transferred to the Palestinian Authority”⁹⁴. A position explicitly established by the ICJ with regard to the ICESCR.

However, in violation of its obligations arising directly from international law, Israel continues to deprive the Palestinian population of its legitimate and fundamental rights. This is well documented, *inter alia*, by the reports of the UN Special Rapporteur on the occupied Palestinian territory.⁹⁵ Therefore, on top of the responsibilities of Israel as an occupying power under the IHL regime, the widespread and well documented violations of IHR law committed by Israeli agents in the Gaza Strip imply the legal responsibility of the State vis-à-vis the human rights violations committed against the Palestinian population.

This report aims at detailing how the Israeli imposed policy of closures - and

⁹² Human Rights Committee, General Comment n. 31 (2004), CCPR/C/21/Rev.1/Add.13, par.10, available at: www.ohchr.org

⁹³ Communication no. 052/1979, U.N. Doc. CCPR/C/OP/1 at 88 (1984), available at: www.un.org.

⁹⁴ See ICJ Advisory Opinion, par. 112.

⁹⁵ Report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, UN Doc, A/HRC/7/17 (2008) and Report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, A/HRC/13/53/Rev. 1 (2010), available at: <http://www.ohchr.org/en/countries/menaregion/pages/psindex.aspx>, (accessed 8 December 2010).

especially the continuous absolute closure of Gaza since 2007 - severely impacts on a number of fundamental human rights and freedoms of the civilian population. The closure regime of the Gaza Strip constitutes in this sense only one of the several tools in the hand of the occupying power to prevent the Palestinians from the full enjoyment of their rights, starting with the denial of their freedom of movement and ending with the complete denial of their right to self determination.

4.3.1 The denial of the freedom of movement of persons and goods

The violation of the right to freedom of movement can be considered the 'umbrella violation' resulting from the illegal closure of the Gaza Strip: as freedom of movement of persons and goods is a necessary precondition for the exercise of a number of other fundamental rights, its violation also results in the violation of many other fundamental freedoms and rights, such as the right to health, to an adequate shelter, to education, to work, or to access economic opportunities.⁹⁶

Article 12 of ICCPR ensures the right to freedom of movement: "Everyone lawfully within the territory of a State shall, within that territory, have the right to liberty of movement and freedom to choose his residence and everyone shall be free to leave any country, including his own."⁹⁷ Limitations of such right are permitted only to the extent that they do not nullify the principle of liberty of movement and are governed by the requirement of necessity and consistency with the other rights laid down in the Covenant.⁹⁸

The enjoyment of the right to freedom of movement, including flows of goods and food supplies, is of paramount importance since it is inextricably tied to the economic development of a given territory and the social conditions of its inhabitants: the well-being of the community as a whole is affected when the freedom of movement is restricted. Moving in and out a territory is necessary, for instance, to attend education courses, for working reasons and medical needs. Arbitrary and prolonged restrictions of movements of persons and goods jeopardize the enjoyment of all fundamental human rights. Restrictions of such kind are thus to be regarded as unjustified hostile actions violating the ICESCR, article 1 of which states: "In no case may a

⁹⁶ See Human Rights Committee, CCPR/C/21/Rev.1/Add.9, General Comment 27, of 2 November 1999, available at: www.ohchr.org.

⁹⁷ See also Article 13 of the Universal Declarations of Human Rights (UDHR).

⁹⁸ See the Human Rights Committee, CCPR/C/21/Rev.1/Add.9, General Comment 27, of 2 November 1999, par. 2, available at: www.ohchr.org.

people be deprived of its own means of subsistence,” while article 5 provides that: “Nothing in the present Covenant may be interpreted as implying for any State, group or person any right to engage in any activity or to perform any act aimed at the destruction of any of the rights or freedoms recognized herein.”

5. No security-rationale behind the closure

As the present report will detail further, the closure of the Gaza Strip is imposed by Israel as a retaliatory and punitive act (*see infra* section 5.2). PCHR believe that the extreme restrictions on movement of goods and persons to and from the Gaza Strip are definitely not imposed for security reasons. Israel’s arguments in this respect are ambiguous and contradictory.

Israel has sought to present the imposition of closures as a security measure, claiming that their primary objective was to ensure its national security, and as a result this is often how the closures have been perceived by the international community and the general public. However, this is a misrepresentation of the reality. For many years PCHR has noted the spurious nature of the ‘security argument’.⁹⁹

It is apparent that closures have been always imposed in an arbitrary fashion and to target the generality of the Palestinian population rather than those specifically posing a security threat.¹⁰⁰ Moreover, it must be recalled that although States’ sovereign right to take all appropriate steps to protect their citizens is not disputed, security measures must be taken in accordance with internationally recognised legal norms and principles and must respect the fundamental human rights of the civilian population. This is absolutely not the case with regard to the closures, which have been imposed for decades on the Palestinian territory in general, and on the Gaza Strip in particular.

Following the 2007 Hamas-takeover of the Strip, Israel declared its intention to block the passage into Gaza of goods which could potentially have a military usage. Through the Defense Export Control Law 5766/2007, the Israeli government incorporated a list of goods considered to be of dual use

⁹⁹ See PCHR Study, “The Israeli Policy of Closure: Legal, Political, and Humanitarian Evaluation”, 1996, p. 6-7, available at www.pchrgaza.org.

¹⁰⁰ Ibid.

(civilian and military)¹⁰¹ into its legislation and subsequently prohibited by directive their import into the Palestinian territory.¹⁰² Such goods, however, constitute only a small part of the items that have been banned or restricted from entry in the Gaza Strip, which include, as already noted, foodstuffs, medicines, and basic materials such as paper.

As noted by the Israeli organization Gisha – Legal Centre for Freedom of Movement (Gisha), “Israel openly stated that it would restrict the movement of goods into and out of Gaza not in order to protect against security threats stemming from the transfer, but rather as part of a policy to apply ‘pressure’ or ‘sanctions’ on the Hamas regime”.¹⁰³

On 19 September 2007, Israel’s Security Cabinet declared Gaza a ‘hostile territory’ and decided that: “[...] further restrictions will be placed on the Hamas regime such as the passage of goods to the Gaza Strip will be limited, the supply of fuel and electricity will be reduced, and a limitation will be imposed on the movement of people from the Strip and to it. The restrictions will be implemented after a legal review, while taking into consideration the humanitarian aspects of the situation in the Gaza Strip and out of the intention to avoid a humanitarian crisis.”¹⁰⁴

At the time, several statements were made in the media by Israeli officials and cabinet members, according to which their intention was to cause suffering to the Gazan residents, so to exert “civilian leverage” on the Hamas regime in response to the firing of Kassam rockets from the Strip.¹⁰⁵ In the opinion of the Israeli deputy Prime Minister, Haim Ramon, “Israel should take punitive steps such as disconnection of electricity and water”¹⁰⁶

¹⁰¹ The Wassenaar Arrangement on Export Controls for Conventional Arms or Dual-Use Goods and Technologies, WA Secretariat, Vienna, 2004. Israel is not a party of the agreement.

¹⁰² See Gisha, “Restrictions on the transfer of goods to Gaza: Obstruction and obfuscation”, January 2010, available at: www.gisha.org.

¹⁰³ Ibid, p. 1. According to Gisha Director, Sari Bashi: “Instead of considering security concerns, on the one hand, and the rights and needs of civilians living in Gaza, on the other, Israel banned glucose for biscuits and the fuel needed for regular supply of electricity – paralyzing normal life in Gaza and impairing the moral character of the State of Israel. I am sorry to say that major elements of this policy are still in place”, 21 October 2010.

¹⁰⁴ English unofficial translation by Gisha, available at www.gisha.org.

¹⁰⁵ See the English translation of the Petition in the Al-Basyouni case, HCJ 9132/07, par. 79, available at www.gisha.org

¹⁰⁶ Ibid.

Commenting on the above mentioned cabinet decision, Defence Minister Ehud Barak also said, “our aim right now is the weakening of Hamas and the strengthening of [Palestinian Authority Prime Minister] Salam Fayyad”.¹⁰⁷

In addition, the Israeli government has sometimes linked the closure (and its lifting) to the release of the Israeli soldier Gilad Shalit, who was captured in June 2006 by Palestinian armed groups in Gaza.¹⁰⁸ Such a circumstance clearly undermines the security pretext behind the closure, which can only be defined as a form of collective punishment of the civilian population of Gaza.

As further shown below, following a petition filed by Gisha under the Freedom of Information Act, Israel was in the end forced to disclose its policy of “economic warfare” behind the closure, which aims at deliberately reducing the basic goods in the Gaza Strip, inflicting great suffering on the civilian population (*see infra* sections 5.1 and 7).

5.1 The ‘economic warfare’ rationale disclosed

It is difficult not only to identify a security rationale, but also logic, with respect to the prohibition of the entry of goods in Gaza. The restrictions are arbitrary and reveal the intention of Israel to inflict suffering on the civilian population, *inter alia*, by restricting the goods allowed into the Gaza Strip to a so-called “humanitarian minimum”, i.e. to what Israel deems is strictly essential for the survival of the civilian population.¹⁰⁹

Since 2007 Israel refused to provide details of what is allowed and what is prohibited into Gaza - and on which basis - claiming that revealing them would harm “state security and possibly even Israel’s foreign relations.”¹¹⁰ Nevertheless, a list of permitted/prohibited items was compiled, on the basis of information received from Palestinian traders and business persons, international organizations and the Palestinian Coordination Committee.

¹⁰⁷ Y Net, 19 September 2008, <http://www.ynet.co.il/articles/17340,L-3451070,00.htm>.

¹⁰⁸ Former Prime Minister Ehud Olmert, for example, declared ‘We will not allow the opening of the crossings to Gaza and outside of Gaza to the extent that it will help them bring back life into a completely normal pace. Certainly not before Gilad Shalit is back home’, Address by PM E. Olmert, Conference of Presidents of Major American Jewish Organizations, 15 February 2009, <http://www.pmo.gov.il/PMOEng/Archive/Speeches/2009/02/speechpre150209.htm>.

¹⁰⁹ See the Israeli Security Cabinet Decision of 19 September 2007.

¹¹⁰ An English translation of “Excerpts from the April 25, 2010 State of Israel’s response to Gisha’s petition pursuant to the freedom of Information Law”, along with the full documentation of the case (mostly in Hebrew) is available at: www.gisha.org.

Thanks to the documentation assembled by Gisha, it is possible to ‘deduce’ that an original list of approximately 40 permitted items existed, which list was progressively expanded, according to unknown criteria. The prohibited items comprised everything that was not expressly permitted, and included wood for construction, cement, iron, plastic/glass/metal containers.¹¹¹

Some of the prohibitions appeared to be lifted, following the alleged easing of the closure announced by Israel in June 2010 (*see supra* section 2.4): sage, cardamom, cumin, coriander, ginger, jam, ketchup, biscuits and potato chips appeared to be allowed again into Gaza during the 2010 summer. However, other seemingly innocuous goods, such as dried fruit, fresh meat, notebooks, toys, musical instruments, fishing nets, irrigation pipe systems, donkeys and goats continued to remain prohibited, along with potential ‘dual use goods’, which include virtually all construction materials.

In October 2010, due to the petition filed by Gisha before the Tel Aviv District Court under the Freedom of Information Act, the State of Israel had to release some documents outlining its policy regarding the restrictions of good into Gaza until June 2010. Israel still refuses to release the new documents regarding the current closure policy as allegedly amended after the Flotilla incident of 31 May 2010.¹¹² However, the disclosed documents reveal that Israel decided to implement a “policy of deliberate reduction” of basic goods, including the supply of fuel, and therefore electricity and water, foodstuff and goods of “rehabilitative character”, which required a special permission for approval, irrespective of any security consideration. According to this policy, even humanitarian items could be blocked and international organizations or foreign governments did not receive permission to transfer building materials into Gaza for the (re)construction of schools or homes¹¹³.

In applying the closure, Israel has declared its intention to wage ‘economic warfare’ i.e. to target and weaken Hamas by exerting pressure on the civilian population of Gaza. The details of such an illegal policy of economic warfare had already emerged during the ‘Al-Basyouni case’, which was brought

¹¹¹ See Gisha, “Restrictions on the transfer of goods to Gaza: Obstruction and obfuscation” and “Partial List of Items prohibited/permited into the Gaza Strip, May 2010, available at: www.gisha.org.

¹¹² All the documentation is available, partly translated into English, available at: www.gisha.org.

¹¹³ See Gisha, “Due to Gisha’s Petition: Israel Reveals Documents related to the Gaza Closure Policy”, 21 October 2010, available at: www.gisha.org.

before the Israeli High Court of Justice in 2007 by a number of Israeli and Palestinian organisations, including PCHR, following the decision to restrict the supply of energy to Gaza taken by the Security Cabinet of the Government of Israel on 19 September 2007 (*see supra* section 2.3.3)¹¹⁴. The Israeli government, argued before the Supreme Court that: “Targeting the economy itself is a legitimate means of warfare and a relevant consideration, even when deciding on the transfer of aid consignment”.¹¹⁵

Israeli Military Advocate General, Brig. Gen. Avichai Mendelblit, has recently explicitly confirmed that the closure of Gaza is part of the economic warfare that Israel is inflicting on the civilian population in retaliation to Hamas’ actions:

“Every step taken, be it part of classical warfare or economic warfare, aims to bring the other side to do what we want it to do. We want Hamas to stop launching rockets at our citizens. We have no desire to punish the civilian population [in Gaza],” he said. “As an indirect result, the civilian population does suffer, and that is why we have checked the legality [of the blockade]. We’ve consulted with the attorney general and with the Supreme Court, and found that it is legal and permitted.”¹¹⁶

PCHR strongly reaffirms that inflicting suffering upon the civilian population to obtain political goals is contrary to basic law principles, and in fact constitutes a form of collective punishment. The UN Fact finding Mission on the Gaza Conflict rejected the argument put forward by Israel that the closure constitutes a legitimate sanction noting that blanket sanctions are not permitted under international law, *inter alia*: “it is essential to distinguish between the basic objective of applying political and economic pressure upon the governing elite of the country to persuade them to conform to international law, and the collateral infliction of suffering upon the most vulnerable groups within the targeted country.”¹¹⁷ PCHR further stress the illegitimacy of ‘economic warfare’. The principle of distinction

¹¹⁴ See the Petition to the Israeli High Court of Justice: HCJ 9132/07, Al-Basyouni v. Prime Minister, which was filed jointly by a number of Israeli and Palestinian human rights organisations, including PCHR, available at: www.gisha.org.

¹¹⁵ See the State response of November 1, 2007 to HCJ petition 9132/07 Al-Bassyouni vs Prime Minister, sections 44 and 25, available at: www.gisha.org.

¹¹⁶ <http://www.haaretz.com/news/diplomacy-defense/military-advocate-general-gaza-blockade-entirely-legal-1.310346>

¹¹⁷ Report of the UN Fact Finding Mission on the Gaza Conflict, A/HRC/12/48, par. 74, 78, 91, 1309, 1320, 1331, 1344, 1457, 1878, 1934 and 1943.

is a core component of both treaty-based and customary international humanitarian law, it explicitly holds that attacks may not be directed against non-combatants and the civilian population.

5.2 A form of collective punishment

Regardless of Israel's claims to the contrary, the current restrictions on movement of goods and persons into and out of the Gaza Strip are clearly not imposed for security reasons or military necessity. The inherent nature of the closure imposed by Israel on the Gaza Strip is punitive, retaliatory and collective, and it dramatically impacts on the fundamental human rights of the protected civilian population living under occupation in Gaza.

PCHR, along with other Palestinian, Israeli and International Human Rights organisations, have repeatedly denounced the illegal policy of closure imposed on the oPt, and on Gaza in particular, as a form of collective punishment of the Palestinian civilian population¹¹⁸.

This conclusion was recently acknowledged also by the International Committee of the Red Cross, in its report of 14 June 2010.¹¹⁹ The authoritative position of the ICRC clearly states that the closure is illegal, is a form of collective punishment and there is no other sustainable solution than its complete cessation. The International community, and especially the High Contracting Parties to the Geneva Conventions, must cooperate to put an end to the illegal closure of the Gaza Strip and take every possible measure to this end.

The closure constitutes a form of collective punishment of the civilian population which is absolutely prohibited under Article 33 of the Fourth Geneva Convention:

“No protected person may be punished for an offense he or she has not personally committed. Collective penalties and likewise all measures of intimidation or of terrorism are prohibited”.

This provision is absolute and mandatory in character and cannot be derogated even in case of military necessity, as noted in the ICRC

¹¹⁸ See the Petition to the Israeli High Court of Justice HCJ 9132/07 in the Al-Basyouni case, which was filed jointly by a number of Israeli and Palestinian organisations, including PCHR.

¹¹⁹ ICRC, “Gaza Closure: not another year”, June 2010, available at: www.icrc.org

commentary on the Convention¹²⁰.

The prohibition of collective punishment under international humanitarian law was already affirmed by Article 50 of The Hague Regulations of 1907 which states that “No general penalty, pecuniary or otherwise, shall be inflicted upon the population on account of the acts of individuals for which they cannot be regarded as jointly and severally responsible”. The principle is also enshrined in the First Additional Protocol to the Geneva Conventions of 1977¹²¹, which is considered to have acquired customary status.¹²²

Moreover, it is a general principle of criminal law that no one shall be punished for a (criminal) offence committed by others, thus confirming the illegality of collective punishments under international customary law (more extensively *infra* section 5.3).

5.3 The ultimate political aims of the illegal policy of closures imposed by Israel

As noted from the outset of this report, PCHR emphasizes that it is necessary to analyse the closure imposed on the Gaza Strip since 2007 as part of the overall closure policy and not as an isolated case. The absolute closure of Gaza is just the latest and the most extreme of a series of closures which have been progressively imposed by Israel on the occupied Palestinian territory since at least 1991. For almost 20 years Israel has heavily restricted the freedom of movement of all Palestinians, and especially those in Gaza. It is self evident that the closure policy is persecutory in its nature: rather than alleged ‘terrorists’, the closure targets instead the common people, those who wish to have a normal life in Gaza or to travel abroad for different reasons, including students, workers seeking employment abroad, families wishing to be reunified, and even patients in need of medical treatment.

Israel has pursued different aims through the imposition of these closures on the oPt; in particular, the closures have been one of the tools used by the Occupying Power to implement a policy of separation and fragmentation of the occupied territory and of its inhabitants. The driving impulse of the closure policy imposed by Israel is the growing separation between the Palestinian territory itself and among the Palestinian people. The internal

¹²⁰ See J. Pictet, *Commentary IV Geneva Convention* (1958), p. 225-228.

¹²¹ See Article 75(2)(d).

¹²² See G. von Glahn, “Law Among Nations: an Introduction to Public International Law”, Boston, 1996, p. 622.

Palestinian political implications resulting from the separation, forced closure and isolation of the territory and its inhabitants are particularly evident today.

For many years Palestinians from Gaza have not been allowed to travel to the West Bank and Palestinians from the West Bank are not allowed to travel to Gaza. As a paradox, it is easier - although always extremely complicated and exceptional - for a Palestinian from Gaza to travel for instance to Europe than to the rest of the Palestinian territory. The vast majority (and virtually no one among those younger than 20 year old) of the Palestinians living in the West Bank have never seen the Gaza Strip, since they are not allowed a permit to get in. Even the members of the Palestinian Legislative Council have been subject to access restrictions.

Ultimately the policy of closures imposed on the occupied Palestinian territory by Israel, and especially the absolute closure of the Gaza Strip, causes hardship not only at the economic-social-humanitarian level but also at the political level. PCHR believes that the illegal closure policy imposed by Israel, rather than aiming at protecting the national security of the country from concrete security threats, has two main objectives. By increasing fragmentation and isolation, and generating economic dependence the policy aims to:

1. Disrupt the emergence of a Palestinian State, preventing Palestinians' from achieving self-determination;
2. Deprive the Palestinian population of their human dignity, also by manufacturing a humanitarian crisis.

In this regard it can be said that the Israeli government's illegal policy has been successful.

III THE EFFECTS OF THE CLOSURE AND THE VIOLATION OF FUNDAMENTAL HUMAN RIGHTS.

6. Socio-economic effects of the closure

The economic impact of the prolonged, illegal closure of Gaza is pervasive: it has paralyzed all economic sectors and resulted in the emergence of a man-made, completely preventable, humanitarian crisis. The restrictions on the movement of goods into and out of the Gaza Strip has meant that the industrial sector in Gaza is no longer able to obtain raw materials needed to make its products, and producers can no longer export their goods to markets in the rest of the oPt, or abroad. The restrictions on the movement of people has meant that the thousands of Palestinians who once worked alongside Israelis in Israel can no longer access their jobs and have since become unemployed, with evident implications for poverty and dependency rates. The fishing industry, for which Gaza is famous and which previously employed a large segment of the population, is being wiped out as it is forced into an increasingly small fishing area by Israeli gunships which frequently fire at—and wound—Palestinian fisherman, and confiscate fishing boats and equipment.

The unilateral Israeli imposition of a buffer zone all around the borders between the Gaza Strip and Israel, which is a “no-go zone” area that extends at least 300 and up to 2000 meters¹²³ onto Palestinian land, is cutting off access to more than 35% of agricultural lands.¹²⁴

¹²³ See PCHR, “The Buffer Zone in the Gaza Strip”, Fact Sheet, October 2010 Update, available at: www.pchrgaza.org.

¹²⁴ See OCHA/WFT Report, “The Humanitarian Impact of Israeli-imposed restrictions on Access to Land and Sea in the Gaza Strip, August 2010, available at: www.ochaopt.org.

BOX 4

The Buffer Zone in the Gaza Strip

Israel imposes a so-called “buffer-zone” along the whole border between the Gaza Strip and Israel. Residents are prevented from entering these “no-go areas” which extend up to 2,000 meters from the border. Estimates indicate that the buffer-zone⁹ constitutes about 17,000 dunums of land, which equals 17% of Gaza’s territory and 35% of Gaza’s agricultural land.¹⁰ This renders 35% of agricultural land accessible only under high risk of being shot by Israeli border patrols. Between 1 January and 30 September 2010, PCHR reported 47 deaths and 114 injuries as outcome of attacks in the buffer-zone.¹¹ The imposition of such an illegally restricted area aggravates food security issues and increases dependence on external aid. At sea, the buffer-zone is enforced by Israel with live fire¹² and allows fishing only out to 3 nautical miles, despite the limit of 20 nautical miles established under the Oslo Accords. This has negatively impacted upon the fishing sector on which approximately 3,600 families depend economically.

Overall, an estimated 178,000 people are directly affected by the imposition of the illegal buffer-zone by Israel.¹³

The socio-economic effects of the last three years of absolute closure cannot be understated: between 45%-50% of Palestinians in Gaza are now unemployed, at least 60% live below the poverty line (US \$594/month), and more than 66.7% live in deep poverty.¹²⁵ It is undeniable that the situation suggested by these worrying statistics is a direct consequence of the closure: the World Bank has estimated that the rate of those living below the poverty line increased from 35% at the end of 2006 to more than 67% at the end of October 2007;¹²⁶ this rate has continued to climb in the interim. Nearly 1.1 million Palestinians continue to rely on food assistance from the UN in

¹²⁵ PCHR, “Price Increases in the Gaza Strip: A Report on the Impact of the Price Increases on the Economic and Social Rights of the Civilian Population of the Gaza Strip”, June 2008, Closure Report available at: www.pchrgaza.org. See also, According to the Palestinian Central Bureau of Statistics, between the first and the second quarter of 2010, the unemployment rate increased from 39.7 to 44.3 percent, which is one of the highest rates in the world, cf. OCHA, Humanitarian Monitor, September 2010, p.9, available at: www.ochaopt.org.

¹²⁶ <http://siteresources.worldbank.org/intwestbankgazainarabic/resources/arwbupdateoct07.pdf>.

* Please note that the footnotes of the Box are at page 102

order to meet their basic caloric needs.¹²⁷

Meanwhile, the cost of living in Gaza has skyrocketed as the closure causes a severe shortage in essential goods: the reduced quantities of goods in local markets are available at inflated prices that often reach 500% of the market value (*see infra* sections 6 and 6.9).

A population of proud and independent individuals is being reduced to relying on handouts from international aid agencies. To this end the most profound impact of the closure cannot be described by figures or statistics: the closure has transformed the entire territory into an open air prison, depriving a whole people of its human rights, including the most fundamental right to live in dignity. The youth of Gaza are deprived of their present and left with little or no hope for the future. The Israeli-imposed closure is destroying generations-old traditions and the way of life for families in Gaza.

This section of the report will explore the impact of the closure—beginning with the shortage of fuel and electricity, which deeply affects every economic sector and aspect of daily life in Gaza—and how the social and economic effects have combined to erode the very fabric of life for Palestinians in Gaza.

6.1 Fuel and electricity crisis

The Gaza Strip is heavily dependent on electricity from Israel: approximately 93% of the electricity comes directly or indirectly – through the provision of fuel for the Gaza Power Plant – from Israel. Of the 240 MW required, 120 MW are provided directly by Israel, and 17 MW are provided by Egypt to the Rafah area, in the southern part of Gaza. The remaining 107 MW are intended to be supplied locally by the Gaza Power Plant.¹²⁸ However, because the Gaza Power Plant depends on industrial fuel provided by Israel—which has been sharply restricted as part of the absolute closure since 2007—the Plant was able to produce only 65 MW in 2009, a deficit of 42MW.¹²⁹ The deficit is exacerbated by the poor connectivity of the Plant's power grid, which is largely a consequence of the Israeli bombing of the plant in 2006

¹²⁷ OCHA, Humanitarian Monitor, September 2010, p. 1, available at: www.ochaopt.org.

¹²⁸ PCHR, "State of the Gaza Strip's Border Crossing 16-30 June 2010", available at: www.pchrgaza.org. According to OCHA sources, the total provision of electricity throughout the Gaza Strip stands at about 40 percent below the estimated daily demand of 280 MW, see OCHA, "Protection of Civilians Weekly Report, 10 - 23 November 2010", available at: www.ochaopt.org.

¹²⁹ *Ibid.*

and the subsequent Israeli restrictions on the entry of materials needed to repair and rehabilitate the plant.

Following a decision in September 2007, the Israeli Government has sharply restricted the amount of fuel permitted into the Gaza Strip, allowing the entry of only 2.2 million liters each week, less than half of the minimum fuel requirements of the civilian population in Gaza.

The Gaza Power Plant has been restricted to 45% of its operational capacity as a direct result of the lack of fuel.¹³⁰ During the first week of November 2010, the Power Plant was forced to reduce its electricity production by about half (30 MW vs. 60 MW), triggering daily power cuts of 8 to 12 hours.¹³¹

Subsequently, the Gaza Strip is experiencing a 30% electricity deficit, with scheduled power outages now lasting between eight and twelve hours a day; this, too, has had far reaching effects. PCHR has highlighted the difficult conditions now confronting Gaza's healthcare sector, as surgeons in hospital cardiac units work in constant trepidation of power outages, as do patients receiving care, particularly those seeking dialysis treatment.¹³²

The chronic lack of fuel has affected every aspect of life in Gaza: 90% of private cars are off the road and only 15% of public services are operating. PCHR has documented a number of cases illustrating the wide range of impact of the fuel crisis: for example, medical patients seeking urgent care are forced to be transported to the hospital via donkey cart due to the lack of operational ambulances, and some schools have been forced to close because they cannot provide transportation to their students.¹³³

The decision to reduce the supply of fuel and electricity to the Gaza Strip is illegal as a blatant violation of Israel's obligation under international law as an occupying power.

Moreover, such a decision is also illegal because in violation of the

¹³⁰ PCHR, "State of the Gaza Strip's Border Crossing 16-30 June 2010 and 1-15 September 2010, available at: www.pchrgaza.org.

¹³¹ OCHA, "Protection of Civilians Weekly Report, 3 - 9 November 2010", available at: www.ochaopt.org.

¹³² PCHR, "Dialysis in Paralysis," Narratives Under Siege, 6 July 2010, available at: www.pchrgaza.org.

¹³³ PCHR, "Special Needs Children Denied Their Education Because of Chronic Fuel Shortage," Narratives Under Siege, 20 May 2008, available at: www.pchrgaza.org.

fundamental human rights of the local population. As it will be shown in the next part of the report, indeed, not only the freedom of movement but all fundamental human rights of the 1.7 million inhabitants of the Gaza Strip are violated daily as a consequence of the pervasive negative socio-economic effects of the Israeli-imposed illegal closure, the lack of electricity - and its consequences - being one of the most blatant of them.

6.2 Deterioration of the healthcare sector and the violation of the right to health

As a direct result of the prolonged illegal closure of the Gaza Strip the local healthcare sector has sharply deteriorated, affected by the lack of both equipment and medicines. As a consequence many patients suffering from serious injuries and illnesses cannot receive adequate medical treatment in Gaza and are forced to seek transfers to hospitals outside. However, hundreds of patients are prevented from traveling due to the complete closure of border crossings for the movement of Palestinian civilians. PCHR documented several cases of patients that died since 2007 because they could not obtain the necessary treatment in Gaza and were denied a permit to seek medical treatment abroad (see *infra* Box 5 Application Procedure to cross Erez for Medical Treatment).

In this regard the closure blatantly violates Palestinians fundamental human right to health. The right to the highest attainable standard of health is guaranteed, *inter alia*, by Article 12 of the ICESCR: “States Parties recognise the right to the enjoyment of the highest attainable standard of physical and mental health”, the realization of which includes an obligation on states to provide and facilitate the attainment of such standards.¹³⁴

Similar to the right to freedom of movement, the right to health is fundamental to the enjoyment of other human rights, as noted by the Human Rights Committee in General Comment 14.¹³⁵ Indeed, as noted by the Human Rights Committee in the same General Comment, this right is not restricted to the right to health care. On the contrary, “it embraces a wide range of socio-economic factors that promote conditions in which people can lead a healthy life, and extends to the underlying determinants of health, such as food and nutrition, housing, access to safe and potable water and adequate sanitation,

¹³⁴ See also art.25 UDHR. It is further contained in other Human Rights treaties, such as the ICERD under at. 5, the ICEDAW under at. 12, and the CRC under art.24.

¹³⁵ E/C.12/2000/4 par 3, available at: www.ohchr.org.

safe and healthy working conditions, and a healthy environment”¹³⁶.

Under HR law, States are obliged to both respect and ensure the right to health and in doing so they must, *inter alia*, refrain from interfering directly or indirectly with the enjoyment of the right to health.¹³⁷ According to the extraterritoriality of the human rights provisions enshrined in both UN Covenants (see *supra*, section 4.3). States are responsible for violations they commit outside their own territory (on the basis of control). Clearly, Israel is violating Gazans right to the highest attainable standard of health, primarily as a consequence of the strict restrictions on the passage of goods and people in and out of the Strip.

In 2008, hundreds of Gazan patients were denied access to medical treatment at hospitals in Israel and the West Bank, including East Jerusalem. According to PCHR’s documentation, in 2008, 29 patients died as they were denied access to advanced medical treatment outside the Gaza Strip; pursuant to that report, the number of patients who died between 10 June 2007 and the end of 2008 amounted to 50, including 17 women and 10 children¹³⁸.

Moreover, the World Health Organization (WHO) reported that since January 2009 a total of 33 patients have died while waiting to access hospitals outside Gaza¹³⁹.

On several occasions the UN Special Rapporteur on the oPt has condemned the closure of the Gaza crossings and highlighted the often deadly consequences on the Palestinian people. For instance, from mid-June to early August 2007 over 30 Palestinians reportedly died while waiting at the Rafah crossing, whose closure is – as noted above – indirectly controlled by Israel.¹⁴⁰

Gazans traveling through Erez for medical reasons are subject to a prolonged and complicated procedure which greatly affects their inherent right to health. The application procedure is quite protracted and can take months, often causing severe, life-threatening, delays. The steps the patient must take

¹³⁶ Ibid., par. 4.

¹³⁷ Ibid. par. 33.

¹³⁸ PCHR, “2008 annual report”, p. 49, available at: www.pchrgaza.org.

¹³⁹ WHO, Referral of Patients from the Gaza Strip, Monthly Report, October 2010, available at: http://www.issuu.com/who-opt/docs/update_rad_october_2010.

¹⁴⁰ A/HRC/7/17 par 15, available at: www.ohchr.org.

to secure a permit to cross Erez are outlined in the Box below¹⁴¹.

Moreover Israel has prohibited the import of medical equipment, including new dialysis machines and spare parts needed to repair those machines which are no longer functioning.

As a direct result of the Israeli-imposed closure, the health sector in the Gaza Strip has deteriorated sharply and suffers from an acute shortage in medicine and medical equipment. According to the Palestinian Ministry of Health, 110 types of medicine and 123 types of medical equipment have run out in the Gaza Strip during the first six months of 2010 and another 76 types of medicine are expected to run out in the coming months.¹⁴²

According to Dr. Mohammad Shatat, the Deputy Director of the Dialysis Unit at Al-Shifa hospital in Gaza City, the healthcare sector in Gaza has “witnessed a shortage of almost fifty percent in the medicine and machines we need to run this unit at its capacity due to the Israeli occupation and closure.” The consequences, he says, have been a visible decline in the health and prospects for recovery and survival of the patients.

When medicines are not available in the hospitals patients must often purchase their medications in pharmacies outside, paying out of their own pockets - and at artificially high prices - for medicines they used to receive free of charge. For example, the price of Solian, an antipsychotic, increased to 213 NIS compared to 113 NIS prior to the siege, while in Israel its costs is 143 NIS. For many patients who already face difficult economic circumstances, paying these prices is not an option. The consequences of going without the required treatment are obvious and deleterious:

Ahmed Zourob suffers from chronic kidney failure and has been receiving treatment at Gaza City's Al-Shifa hospital for the last two years: “Three months ago the hospital told me that my medicine was no longer available in the hospital pharmacy, but without a job I cannot afford the medication on my own. I don't know what I can do. Now, because I haven't taken the medication, the doctors tell me

¹⁴¹ Much of this information was obtained with the help of Physicians for Human Rights – Israel.

¹⁴² PCHR, “Health Sector in the Gaza Strip”, Fact Sheets, 2 June 2010, available at: www.pchrgaza.org.

that I have anemia as well.”¹⁴³



For dialysis patients like Ahmed Zourob, the electricity crisis creates a situation in which treatment is both life-saving and life-threatening: if the power goes out during his treatment, he can lose up to 300cc of blood.

Exacerbating the shortage in medicine, medical equipment and human expertise, the healthcare sector in Gaza suffers also from the shortage of electricity resulting from the Israeli-imposed closure (*see supra* section 6.1). Sudden and frequent outages which come in addition to the regular electricity cuts place the patients' lives and the medical machines at great risk.

The fuel crisis, also severely undermines the delivery of humanitarian aid and emergency medical services. Less than 15% of local public services are operating in Gaza, and basic emergency services such as ambulances are stretched far beyond their capacity: Emirates Hospital in Rafah receives 1,800 patients a month and has one operating ambulance, which runs only part time as the fuel supply allows. Emergency patients regularly resort to using donkey carts to access hospitals, as PCHR documented.¹⁴⁴

As a consequence of the conditions described above, many patients suffering from serious injuries and illnesses cannot be treated in the Gaza

¹⁴³ PCHR, “Dialysis in Paralysis,” Narratives Under Siege, of 6 July 2010, available at: www.pchrgaza.org.

¹⁴⁴ PCHR, “Rafah Ambulance Drivers Struggle Amidst “Miserable” Work Conditions,” Narratives Under Siege, of 13 May 2008, available at: www.pchrgaza.org.

Strip's hospitals. Patients are thus forced to seek transfers to hospitals outside of Gaza to receive adequate medical treatment; however, in most cases, these patients cannot do so due to the ongoing and complete closure of border crossings for the movement of Palestinian civilians. Hundreds of patients—including women and children—are denied exit from Gaza each month by Israel under the guise of “security concerns.” Since 2007, PCHR has documented 67 cases in which patients have died because they could not obtain the necessary treatment in Gaza and were denied a permit to seek medical treatment abroad¹⁴⁵.

¹⁴⁵ Physicians for Human Rights – Israel, “Holding Health to Ransom”, August 2008, available at: www.phr.org.il.

BOX 5

Application Procedure to Cross Erez for Medical Treatment

1. **Referral Report:** The patient must obtain a document with the words “Referral Report” from a government hospital in Gaza. Regular medical documents will not suffice and the referral report will only be considered valid if it is stamped by the attending physician, the department director, and the hospital director.
2. **Securing Financial Undertaking:** The patient must deliver the Referral Report to the Referral Abroad Department (RAD) at the Ministry of Health (MoH) in Gaza. The officials of this department are appointed by and accountable to the PA Ministry of Health in Ramallah, which funds medical referrals abroad. The RAD makes a recommendation as to where the patient should be referred to and forwards this to the MoH in Ramallah for approval. If patients are not approved for funding by the RAD and the MoH in Ramallah and wish to self-finance their treatment outside of Gaza, they will not receive permits to leave Gaza.
3. **Obtaining Hospital Appointment:** After receiving the Financial Undertaking, the patient contacts the RAD again in order to obtain a hospital appointment, which depends on the next available date of the hospital and its willingness to receive the patient.
4. **Application to Leave Gaza for Medical Treatment:** The application materials are submitted to the Palestinian Civilian Committee, which forwards them to the Israeli army’s District Coordination Office (DCO). The DCO sends the materials to the Israeli General Security Services (GSS), which makes the final decision on whether to approve or reject applications.
5. **Response:** The GSS may provide the patient with a permit, refuse a permit (on ‘security grounds’), or make the decision dependent on questioning of the patient by the GSS. While not all summoned patients appear for questioning, generally very few applications are approved after questioning by the GSS (In November 2009, none of the 64 applicants who appeared for questioning were approved after the interview).
6. In case of a rejected permit application, the patient may choose to re-apply with the help of a non-governmental organization, usually Physicians for Human Rights – Israel. The NGO facilitates the

process through direct contact with the responsible Israeli officials.

Overview of Application Procedure for Permit to cross Erez for medical treatment outside Gaza.

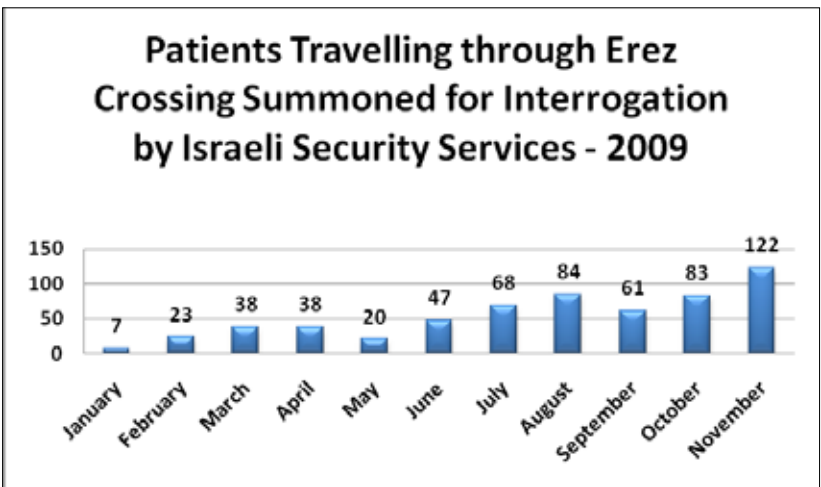
There are a large number of potential obstacles the patient may encounter during in the permit application process, each of which can abort or prolong the application process:

- » The Referral Report from the government hospital in Gaza may have been issued or signed by someone whom the Israeli side does not accept, either because they suspect him of document forgery or because he is associated with Hamas. In this case, a new Referral Report must be obtained and the application procedure repeated.
- » If the patient does not receive funding from the MoH in Ramallah, self-funding of medical treatment is not permitted.
- » If medical documents are deemed to be out-of-date, the application procedure must be repeated.
- » Delays because the designated escort, who must be a first-degree relative, is not approved by Israeli army and GSS and someone must replace him or her. The application must then be re-submitted to the Palestinian Civilian Committee.
- » Applications can be rejected outright on “security” grounds, although this policy has been replaced by extended “review” periods¹⁴⁶.
- » Hamas police near the Erez crossing do not allow individuals who state they are travelling to Erez crossing for questioning to proceed, and occasionally threaten these patients with arrest.
- » The government in Gaza has recently required that all Palestinians wishing to leave the Gaza Strip obtain permission from the Ministry of the Interior 3 days in advance. This practice, which is illegal under Palestinian law, often means that patients are denied permission to travel by the government in Gaza. For example, the Israeli authorities typically only inform patients they can travel the night before, making it impossible to notify the Ministry of the Interior.
- » Prolonged GSS reviews often lead to delays weeks beyond the scheduled hospital appointment. Around 25% of all permit applications are delayed

¹⁴⁶ According to the ICRC, pending referral requests for patients needing authorization from Israel to travel outside Gaza make up about 30 to 40 per cent of referral requests. This creates havoc in hospitals expecting the patients, most of which are in East Jerusalem and elsewhere in the West Bank. ICRC, “Gaza: ailing health-care system puts lives at risk 01-07-2010 Interview with Eileen Daly, ICRC’s health coordinator, available at: www.icrc.org

beyond the hospital appointment date, forcing the patient to schedule a new appointment and apply for a new permit.

Moreover a number of Palestinian patients are interrogated by the GSS at Erez crossing each month. Further, interrogations can also take place at Erez if they are not announced in advance and the patient already holds a permit, leading to long delays and potentially also leading to a missed hospital appointment, in which case the application process begins anew. Many of these patients are pressured to collaborate with the Israeli intelligence. If they refuse, they are often returned to Gaza.



Ahmed Abu Shawish, of Gaza City, is one of hundreds of Palestinians in Gaza whose lives are suspended because they cannot access the medical treatment they urgently need. According to figures from the Palestinian Ministry of Health, approximately 1,000 Palestinians from Gaza apply to Israel each month for permits to exit the Gaza Strip via Erez Crossing in order to access urgent medical treatment outside of the Gaza Strip. Like many of those who apply, his application was denied many times over, and he has been confined to his home, where he lives and waits in pain, discomfort and uncertainty:



Abu Shawish is confined to his house in Gaza City, waiting for a permit to enter Israel in order to receive the medical treatment he desperately needs.

“I have been sick for more than a year now. Five months ago I was finally diagnosed with cancer of my bladder. The [Palestinian] Ministry of Health referred me to Echelon Hospital in Tel Aviv for specialist treatment. But of course I need a permit to leave Gaza, and my permit was denied. I am frightened at the prospect of having surgery for my cancer here. How do you think I feel when even my own doctors are telling me that, for my own sake, I need to go and have my surgery in hospital in Israel?”¹⁴⁷

In the aftermath of the Israeli military operation on the Gaza Strip of December 2008-January 2009, the Special Rapporteur clearly attributed responsibility to Israel for the worsening of the health-conditions of the civilian population: “one year after the Operation Cast Lead, the humanitarian situation in Gaza not only remains deplorable but has also worsened. The total blockade of the Gaza Strip remains in full effect, having lasted now for nearly three years, contributing to deteriorating the physical and mental health for 1.5 million persons”.¹⁴⁸ Similarly, in his 2009 report on the situation of human rights in the oPt, the UN Special Rapporteur pointed out that “96% of the Gaza population suffer from depression and that such mental deterioration is itself an indication of a failure by the occupying power to discharge its basic duty to

¹⁴⁷ See PCHR, “Gaza patients continue painful wait for urgent medical treatment, Narratives Under Siege, of 22 August 2008, available at: www.pchrgaza.org.

¹⁴⁸ A/HRC/13/53/Rev.1 par. 30.

safeguard the health of civilians living under the occupation”¹⁴⁹.

By subjecting the entire population of Gaza, including patients seeking medical treatment and individuals with emergency humanitarian needs, to what is in practice an unlawful regime of permits in order to cross the borders of Gaza, Israel is intentionally inflicting great suffering to the civilian population, which is a grave breach of the Fourth Geneva Convention can amount to a crime against humanity (see *infra* section 7).

6.3 Not an adequate standard of living

The right to an adequate standard of living in the Gaza Strip has been violated by the illegal closure imposed by Israel.

The right to an adequate standard of living is affirmed in Article 25(1) of the UDHR. As specified by Article 11 of the ICESCR: “The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions. The States Parties will take appropriate realisation of this right, recognising to this effect the essential importance of international co-operation based on free consent”.

The severe restrictions on the flow of goods, including foodstuff, resulted in the unprecedented deterioration alimentary conditions, which also impacts on the health of the civilian population, whose poor situation was described above (see *supra* section 6.2). Severe restrictions are imposed, inter alia, on supplies of meat, fish, wheat, flour, rice, oil, fruits and dairy products. Those foodstuffs allowed to enter are restricted to limited quantities, resulting in increased prices (see *infra* section 6).

The following paragraphs will show how the illegal closure policy imposed by Israel on the Gaza Strip is intentionally preventing the population to attain an adequate standard of living in particular by violating their access to food, and at affordable prices, to safe water and to housing, which are all necessary preconditions to the right to an adequate standard of living.

¹⁴⁹ A/HRC/10/20, par. 8, footnote 2.

6.4 Food insecurity and the increased cost of living

The right to food, as part of the right to an adequate standard of living, is codified in Article 11 of the ICESCR. The long standing occupation of the Gaza Strip and its progressive closure over the years, which resulted in the absolute closure since June 2007, has made the population dependent on the import of Israeli products.

Israel's current absolute closure of the Gaza Strip has severely undermined the civilian populations' right to food, which entails the right to access safe foodstuff in sufficient quantities and at affordable prices. Today more than 1,1 million people, approximately 75% of Gaza's population, lack food security according to UN estimations¹⁵⁰.

The Israeli-imposed closure has resulted in an acute shortage of essential goods and supplies, which has subsequently caused a sharp increase in the costs of the vastly reduced quantities that are available in Gaza, exacerbating the poor economic circumstances confronting most families in Gaza. Many food items have disappeared, or became too expensive, affecting civilians' ability to access an appropriate nutritional balance: this greatly affects children as the first victims of malnutrition¹⁵¹. As noted but the UN Special Rapporteur to the oPt, the severe Israel-imposed blockade, by restricting "the flows of food to sub-subsistence levels" also has been "responsible for a serious overall decline in the health of the population and of the health system", in violation of the Fourth Geneva Convention.¹⁵²

Indeed as a direct consequence of the closure and the shortages of goods, prices increased in an uncontrolled manner reaching levels out of reach for most of the population. The price of meat, for instance, increased by 76% after June 2007, making the consumption of meat a luxury that only a small minority of families can afford¹⁵³. Shortages have also affected other basic food items such as fish, wheat, flour, rice, oil, fruits and other dairy products.

¹⁵⁰ OCHA, "Impeding Assistance: Challenges to meet the humanitarian needs of the Palestinians", Special Focus, May 2010, p.2, available at: www.ochaopt.org.

¹⁵¹ See OCHA/WFP Report, The Humanitarian impact of Israeli-imposed restrictions on access to Land and sea in the Gaza Strip, August 2010, p. 27, available at: www.ochaopt.org.

¹⁵² A/HRC/10/20 par 9. As noted by the UN Fact Finding Mission on the Flotilla incident, "Since the imposition of the blockade [...] there has been a shift in diet (from protein rich to low cost and high carbohydrate foods), triggering concerns over mineral and vitamin deficiencies, A/HRC/15/21, par. 41.

¹⁵³ See PCHR, "Price Increase in the Gaza Strip. A Report on the Impact of the Price Increases on the Economic and Social Rights of the Civilian Population in the Gaza Strip", June 2008, available at: www.pchrgaza.org.

The prices of some supplies, such as petroleum products and cooking gas has increased since 2007 by 300%, and the price of local agricultural products has risen by as much as 500%. In addition, transportation costs and the price of educational supplies and medicine have increased by at least 200%.¹⁵⁴

Anwar Abu Alkass owns a popular mini-market in central Gaza. “We used to have a lot of fresh goods on sale, but now the majority of our goods are dry products” he explains. “Every business has been affected by the closure – we used to sell lots of fresh milk and different kinds of cheese – but now we are forced to depend on two Israeli companies for our dairy imports. Their products are expensive for us, but we have no choice. There have been rapid price increases because of the closure. Before the closure, for instance, a liter of corn oil cost 19 shekels. Now it costs 29 shekels. The price of flour has also doubled; three months ago a kilo of flour was 2 shekels. Now our customers have to pay 4 shekels.”¹⁵⁵

Anwar Abu Alkass displays one of the empty refrigerators in his central Gaza store. The products which are available are so only at artificially high prices.



The incredible increase in the cost of living has coincided with the deteriorating economic conditions which this report has attempted to illustrate, and this combination has had a deep and negative impact on the living conditions for families in Gaza. As a consequence families have been

¹⁵⁴ <http://siteresources.worldbank.org/intwestbankgazainarabic/resources/arwbupdateoct07.pdf>.

¹⁵⁵ See PCHR, “Abu Alkass Mini-Market, Gaza city”, Narratives under Siege, April 2008, available at: www.pchrgaza.org.

forced to completely alter the way in which they live:

H.B. 75, Beach Camp in Gaza City. She is a widow and has a family of twenty-one members:

“I live with my three sons and their children. One of my sons was working in plastering and his work was terminated due to the closure. Two months ago, we ran out of cooking gas. We bought an electric heater and we suffer a lot when the electricity goes out. We mainly rely on aid from UNRWA. We don’t buy fruits; we only buy basic needs due to the price increase. We don’t buy fresh meats, but if we have some money we buy frozen low-quality meat. One of my sons suffers from hepatitis and we can’t afford to buy him the required treatment because the medicine prices are very high.”

F.A., 67, Gaza City. She lives with an eight-member family:

“My husband has a cardiac condition and is unemployed. We rely on aid from UNRWA. We only buy a small amount of frozen meat. Before [the closure] we used to buy some fruit, but today we never buy fruit because it is very expensive. My husband needs medicine, but we can’t afford the high prices.”

According to the 2010 report of the UN Special Rapporteur on the Right to Food, food insecurity had already risen from 34 % in 2006 to 38 % in 2008 due to the shortages of basic essential items.¹⁵⁶ The severe impact on Gazan people provoked by insufficient food supplies has been also reported on several occasions by the UN Special Rapporteur on the OPT¹⁵⁷.

The UN Fact Finding Mission on the Gaza conflict found that “Israel violated its duty to respect the right of the Gaza population to an adequate standard of living, including access to adequate food, water and housing”.¹⁵⁸ Moreover, the Mission found that “the conditions of life in Gaza, during and after the military operations, [...] indicate the intention to inflict collective

¹⁵⁶ Report of the Special Rapporteur on the right to food, Olivier De Schutter -Addendum - Summary of communications sent and replies received from Governments and other actors, UNDocs A/HRC/13/33/Add.1 (2010), 26 February 2010, par 49.

¹⁵⁷ Situation of human rights in the Palestinian territories occupied since 1967 - Note by the Secretary-General, UNDocs A/63/326 (2008), 25 August 2008, par. 11.

¹⁵⁸ See *supra* note 5, par. 73.

punishment on the people of Gaza Strip in violation of international humanitarian law”¹⁵⁹ and that this might lead a competent court to conclude that “crimes against humanity have been committed”.¹⁶⁰

6.5 Water pollution

One of most dangerous consequences of the illegal closure imposed by Israel on the Gaza Strip is the deterioration of the water supply.¹⁶¹ The aquifer is polluted, poisoned by sewage and depleted by the rising population which it can no longer support. Only 10% of the aquifer’s water now meets international standards for consumption. Generally, water in Gaza is now undrinkable, and nitrate and chloride levels reach six and seven times the international safety standards put forward by the World Health Organization (WHO). The latter has further estimated that nowadays 26% of disease in Gaza is water-related and that the chance of an outbreak of water-borne and food-borne diseases, such as cholera, is high.¹⁶²

As noted by the UN Fact Finding Mission on the Gaza Conflict “even before the military operations, 80% of the water supplied in Gaza did not meet the World Health Organization’s standards for drinking water.”¹⁶³

Wastewater treatment facilities are inadequate and unable to deal with the needs of the growing population, and untreated sewage is often dumped into the sea or on land areas surrounding highly populated cities such as Rafah, Beit Lahia and Khan Younis. Ultimately, this ends up contaminating the quality of water as 90% of the water available in Gaza comes from only one source, the coastal aquifer.

The right to water is considered part of the right to an adequate standard of living. According to the Committee on Economic Social and Cultural Rights “the right to water clearly falls within the category of guarantees essential for securing an adequate standard of living, particularly since it is

¹⁵⁹ Ibid., par. 74.

¹⁶⁰ Ibid., par. 75.

¹⁶¹ See PCHR “There’s Something in the Water: The Poisoning of Life in the Gaza Strip”, Narratives Under Siege, of 5 August 2010, available at: www.pchrgaza.org

¹⁶² Reported by UNICEF oPt, Monthly Update, March 2010, available at: www.unicef.org/opt

¹⁶³ See also the Report of the UN Fact Finding Mission on the Gaza Conflict, A/HRC/12/48, par. 67

one of the most fundamental conditions for survival”¹⁶⁴. Moreover, the right to water is clearly linked to the right to the highest attainable standard of health, with availability, affordability, accessibility and quality of water being some of the principal components of the right.

According to the same Committee the right to water, like any other human right, imposes three types of obligations on States parties: obligations to respect, obligations to protect and obligations to fulfill¹⁶⁵. States parties have further international obligations and have to respect the enjoyment of the right in other countries. The Committee underlined that “International cooperation requires States parties to refrain from actions that interfere, directly or indirectly, with the enjoyment of the right to water in other countries. Any activities undertaken within the State party’s jurisdiction should not deprive another country of the ability to realize the right to water for persons in its jurisdiction”¹⁶⁶. States parties should refrain at all times from imposing embargoes or similar measures, that prevent the supply of water, as well as goods and services essential for securing the right to water. Water should never be used as an instrument of political and economic pressure.¹⁶⁷

The illegal Israel-imposed closure, by preventing the entry of basic building materials and adequate levels of fuel and electricity, impedes the reconstruction of wastewater treatment facilities and their ability to adapt to the needs of the rising Gazan population.¹⁶⁸ Approximately 80,000 cubic meters of sewage are pumped into the Mediterranean Sea everyday due to the lack of steady electricity supply in Gaza needed to adequately process the waste.¹⁶⁹

“This sewage cannot be treated due to the lack of a steady electricity supply within the Gaza Strip” says an OCHA report on Gaza sanitation. Hamada Al-Bayari works for the Gaza OCHA office. “We’re very concerned that the sea is becoming dirtier and more

¹⁶⁴ See E/C.12/2002/11, General Comment 15 (2002), of 20 January 2003, par. 3, available at: www.ohchr.org.

¹⁶⁵ Ibid., par. 20.

¹⁶⁶ Ibid., par. 31.

¹⁶⁷ Ibid., par. 32.

¹⁶⁸ See also the 2010 report of the UN Special Rapporteur on the OPT, A/HRC/13/53/Rev.1, par. 30 and the Report of the UN Fact Finding Mission on the Gaza Conflict, A/HRC/12/48, par. 65.

¹⁶⁹ See PCHR, “There’s Something in the Water: The Poisoning of Life in the Gaza Strip”, Narratives Under Siege, of 5 August 2010, available at: www.pchrgaza.org.

contaminated because of the chronic shortages of fuel and spare parts. “Gaza’s sewage treatment plants urgently need fourteen days of uninterrupted power in order to run a proper sewage treatment cycle, for the sake of Gaza’s public health.”



Million of liters of raw sewage leak into the sea in Gaza due to, among other things, the lack of fuel and electricity needed to treat it. This sewage pipe is adjacent to a Gaza City seafront restaurant and less than 100m from a popular beach. On some beaches, bathers are now, literally, swimming in sewage.

In this regard, the Israeli-imposed closure clearly violates the universal right to health and a healthy living environment for the Palestinian population of Gaza. Under international humanitarian law, Israel, as an occupying power, is obliged to facilitate access to all amenities. Clean drinking water and sea water are in this sense nothing more than basic human rights.

Moreover, the UN Fact Finding Mission on the Gaza Conflict found that Israel clearly violated international law, inter alia, by deliberately targeting water installations without any military advantage.¹⁷⁰

¹⁷⁰ Report of the UN Fact Finding Mission on the Gaza Conflict, A/HRC/12/48, par. 52. The offensive damaged more than 30 kilometers of water networks, 11 groundwater wells, 6,000 roof tanks and 840 household connections.

6.6 Urgent Housing Concerns and the violation of the right to adequate housing

As noted by the Committee on Economic Social and Cultural Rights in its General Comment to Art. 11: “the human right to adequate housing, derived from the right to an adequate standard of living, is of central importance to the enjoyment of all economic, social and cultural rights.”¹⁷¹ The right to adequate housing is directly linked with the inherent dignity of the human being; thus all people, regardless of their economic and social situation, shall be entitled to it without discrimination. The adequacy of housing, is measured in relation to the availability of infrastructure, services and materials, economic affordability and habitability.¹⁷²

The right to adequate housing implies the sustainable access to natural and common resources, safe drinking water, energy for cooking, heating and lighting, sanitation and washing facilities, means of food storage, refuse disposal, site drainage and emergency services¹⁷³. These essential-requirements are all undermined in the Gaza Strip and the progressive worsening of the situation is directly linked to the Israeli closure policy and the destruction of civilian property and infrastructures.

The Gaza Strip suffers from a chronic overpopulation and lack of sufficient housing to cover the needs of the growing local population, confined within the narrow boundaries of the Strip. The situation has been deeply worsened by the longstanding practice of extensive destruction of houses carried out by Israeli military forces, particularly in the border regions (the so-called “buffer-zone”).¹⁷⁴

The unprecedented destruction caused by the Israeli military operation of December 2008-January 2009 seriously exacerbated an already precarious situation, leaving more than 50,000 individuals homeless. In this regard, the UN Fact Finding Mission on the Gaza Conflict clearly stated that “the Israeli armed forces violated the right to adequate housing of the families concerned”¹⁷⁵.

¹⁷¹ ICESCR General Comment 4. (Art. 11), of 13 December 1991, par. 1, available at: www.unhchr.ch.

¹⁷² *Ibid.*, par. 8.

¹⁷³ *Ibid.*, par. 8(b).

¹⁷⁴ See PCHR, “The Buffer-zone in the Gaza Strip”, *Facts Sheet*, available at: www.pchrgaza.org.

¹⁷⁵ See *supra* note 5, par. 53.

According to PCHR's figures, 86,000 houses urgently need to be constructed to provide adequate shelter for those left homeless by Israel's latest military offensive and to account for natural growth. 2,400 homes were completely destroyed during the three weeks long attack, in which 3,253 families once lived. Additionally, 3,277 houses were partially destroyed (rendered uninhabitable), in which 5,483 families used to live; at least 12,000 homes were damaged in total. Thousands of civilians were displaced as a result of the destruction, most of whom moved in with family members, adding to the already highly congested living conditions in the Gaza Strip.

The absolute closure affects, *inter alia*, the import of concrete and other construction materials, and providing safe and decent housing continues to be a serious concern (and a denied right) for many families in Gaza. As stated by the UN Special Rapporteur on the oPt "the blockade include virtually all building materials, thereby preventing efforts to rectify the extensive damage brought by the Operation Cast Lead".¹⁷⁶

The continued closure of border crossings and the ban imposed on the import of basic construction materials, especially cement and iron, have hindered, and in most cases completely halted, all stages of the reconstruction process of these homes. Amnesty International reports that only forty-one truckloads of construction materials were allowed to enter Gaza between the end of the Israeli offensive in mid-January 2009 and December 2009.¹⁷⁷ It is estimated that to rebuild only the houses destroyed, over 670,000 truckloads of construction material would be required.¹⁷⁸ Although the number of truckloads has increased marginally under the new closure arrangement announced by Israel in July 2010, the import of construction materials remains unchanged.¹⁷⁹ Compared to 10,500 truckloads allowed into the Gaza Strip by Israel monthly before 2007, it is clear that the current supply of building materials is woefully inadequate to address even the minimum needs of Gaza's civilian population.

Accordingly, the humanitarian crisis of the Palestinian civilian population

¹⁷⁶ 2010 Report, A/HRC/13/53/Rev.1, par 30.

¹⁷⁷ Amnesty International, "Gaza's Civilians Still Unable to Rebuild One Year After 'Operation Cast Lead,'" 22 December 2009, available at: http://www.amnesty.org.uk/news_details.asp?NewsID=18552.

¹⁷⁸ See the Report, "Dashed Hopes: Continuation of the Gaza Blockade", p. 7, also available at: www.pchrgaza.org.

¹⁷⁹ "Since the 'easing' of the blockade, only 715 truckloads of construction materials for all uses have entered Gaza since June 2010, a mere 11% of pre-closure levels." *Ibid.*, p. 7.

in the Gaza Strip has been greatly worsened as a result of the lack of construction materials needed to rebuild homes destroyed in the latest offensive, and many families continue to live temporary shelters, or even in tents, unable to return to their normal lives.

Salah Jalal Abu Leila lives in a crowded tent with his family of twelve beside a dusty main street in the Northern Gaza town of Beit Lahia: “Our home was completely destroyed in the war. I worked for sixteen years in Israel to build my home, and in one attack they destroyed it all. Since 2002 I have not been able to go to Israel to work, and I have been unemployed. I have no money to buy a new home. I have twelve children, and we have been living in a tent for over a year. I asked the government to help me, but they said there is nothing they can do because they cannot get the material to build new houses. I am a Palestinian civilian. I am not political. What did I do to deserve this?”¹⁸⁰



Salah Jalal Abu Leila has been living in a tent for over a year, since his home was destroyed in the latest Israeli military offensive. Unemployed since he was barred access from his job in Israel, he cannot afford to rent a new apartment, and there is no material to rebuild his former home.

Salah is far from alone in his difficult situation. Just across the street in Beit Lahia, in an empty office above a semi-operational gas station, lives Sabah al-Attar and her family: “Our home was completely destroyed on the first day of

¹⁸⁰ See PCHR, “Life Put on Hold as Construction Materials Continue to be Restricted”, Narratives Under Siege, of 27 July 2010, available at: www.pchrgaza.org.

the war [December 27, 2009].



For over a year Sabah al-Attar and her family have been living in an empty office on the second floor of this gas station. Their home was destroyed and the tent provided to them was confiscated. Because of the dangerous living conditions, Sabah's family is being forced to leave, although they have nowhere to go.

"After the attack, we had nowhere to go" Sabah explains, "we stayed in a tent for fifteen days, but then the government took the tent from us to give it to security forces. Since then we have been living in an empty office above a petrol station nearby, but the government discovered us here and is forcing us to leave because it is very dangerous to live here due to the large gas tank directly below us. They say if we don't leave by the end of the month, we will have to pay a 10,000 NIS fine. We don't have anywhere to go. We have no home, no work, nothing."

The Israeli-imposed absolute closure violates the basic human right to housing or shelter, inter alia, by denying Palestinian civilians their right to reconstruct the thousands of homes and buildings destroyed during Israeli military operations in the Gaza Strip over the past 10 years. This clearly violates Gazans' fundamental right to adequate shelter, rendering Israel accountable in accordance with its international human rights law obligations.

6.7 Education denied

Every person has the right to education and “higher education shall be equally accessible to all on the basis of merit” according to article 26 of the Universal Declaration of Human Rights, a right codified in Article 13 ICESCR. Israel is a State Party to ICESCR, and as confirmed by the ICJ, is legally bound to ensure its implementation and application in the oPt.

Israel’s violation of Palestinian’s right to education, in particular in the Gaza Strip, manifests itself in many ways. In the first place, because of the restrictions on the freedom of movement and the general ban on travels, the illegal absolute closure of the Gaza Strip continues to prevent thousands of young Palestinians from Gaza willing to study in the West Bank or abroad from doing so¹⁸¹.

Students at all levels have been a target of the Israeli-imposed closure. Students in the Gaza Strip are systematically deprived of their right to enroll and/or continue their education outside of the Gaza Strip, whether in the West Bank, neighboring Arab countries or elsewhere abroad. As a result, the educational future of these students is in jeopardy: hundreds of students live with the stress of being cut off from their education and missing part or all of their academic year, or are forced to go years without visiting their families as a result of these fears. As recent as May 2010, hundreds of students remain trapped in the Gaza Strip, unable to rejoin their educational institutions abroad¹⁸².

Nevin Abu Taima is from the Brazil Refugee Camp in southern Rafah. Her home was destroyed in 2005, and she and the thirteen other members of her family spent more than six months living in an UNRWA school classroom. Nevertheless, Nevin earned a United World College Scholarship to study in Italy. While studying in Italy, Nevin traveled to Egypt each summer, to try to see her family in Gaza. “I traveled to Rafah on the Egyptian side of the border twice, and waited for almost three months each time, to see if the border would open. All my family is inside Gaza and I badly wanted to see them. But I never managed to get across the border and had to return to Italy without seeing them. On her last attempt, Nevin was

¹⁸¹ See PCHR, “An Education Denied: Report on the Impact of the Closure of Border Crossings on Students from the Gaza Strip Studying Abroad”, November 2009, available at: www.pchrgaza.org.

¹⁸² Ibid, p. 1.

finally able to cross into Gaza and visit with her family after three years.

Now, however, Nevin faces the sadly ironic dilemma of not being able to leave. Unable to get permission to travel via the Rafah border crossing, Nevin's new school, St. Lawrence University in New York, has informed her that her scholarship is too expensive to maintain in her absence and so it will be canceled. "My university doesn't understand about life in Gaza. My family lives in a refugee camp, and they can't afford to send me to university in Gaza."



Like hundreds of other students in the Gaza Strip, Nevin Abu Taima has had her education and her future hijacked by the closure.

In addition to denying Palestinians the opportunity to develop human capital and technical expertise, Israel has denied the young generation in Gaza an opportunity for cultural exchange and intellectual stimulation through its restriction on the movement of people. Students in Gaza are isolated from the outside world and forced to pursue their studies with the vastly inadequate resources locally available to them: the result has been an increasingly narrow world-view among the students in Gaza.

The Israeli-imposed closure has deepened the intellectual and cultural divide within the Palestinian territory itself. Before 1994 more than 3,000 Gazan students were studying in West Bank universities. In March 1996, Israeli military forces issued an order expelling all

Palestinian students from Gaza who were in the West Bank. Due to these measures, more than 1,200 students from Gaza were arbitrarily deprived of the right to continue their education at universities and institutions in the West Bank. Due to escalated restrictions on movement between the Gaza Strip and the West Bank imposed by Israel after 2000, the number of students from Gaza registered in the West Bank universities decreased even further. Now, under the policy of complete closure imposed since June 2007, Palestinians from Gaza -who once constituted approximately 35% of the student body at universities in the West Bank- are virtually absent from West Bank education institutions.

According to the Israeli Supreme Court Palestinian students are a “dangerous category” and universities in the West Bank are “greenhouses for growing terrorists”.¹⁸³ Instead of examining the individual cases and the requests for travelling of Gazan students individually, the Israeli military authorities systematically deny any study-permit for the West Bank to young people from Gaza, claiming generic and ill-founded reasons.¹⁸⁴

Along with those Palestinian students prevented from traveling outside Gaza for educational purposes, students in the local universities are also seriously affected by the unlawful Israel-imposed closure. During the military operation of December 2008-January 2009 several schools, including UNRWA schools and the American school, were targeted

¹⁸³ On March 2005, a petition was submitted to the Israeli Supreme Court, on behalf of ten students from the Gaza Strip for enabling them to travel to the West Bank to study at the Bethlehem University (Hamdan's case and others, appeal no. 11120/50). Par. 8 of the Israeli High Court decision regarding appeal no. 11120/50 states: “travel from Gaza to Judea and Samaria, the West Bank, is allowed for senior Palestinian Authority employees, who are not affiliate to Hamas, senior businessmen, senior employees who work for international organizations, residents of the West Bank who want to return to their places, and humanitarian exceptional case but not for those who are between 16 and 35 years old including university students as they are of high danger degree. In the ‘danger criteria’ and upon Israeli intelligence information, it is alleged that terrorist activities are taken by persons who are between 16 and 35 years old and particularly university students. It is also alleged that the West Bank universities form greenhouses for growing terrorist and students who study there and have no intent to carry out terrorist acts will be affected by the surrounding environment.” available at: www.gisha.org.

¹⁸⁴ In the recent Petition no 10/4609, “Miss Fatma Al Sharif against the Commander of the Southern Command”, the Israeli HCJ refused to allow her to travel to the West Bank in order to attend to the Master's degree program in human rights and democracy at Birzeit University of Ramallah. During the hearing, the Israeli Military Attorney General admitted that the Israeli military has not allowed any students from the Gaza Strip to travel to the West Bank to study there. In its response to the petition, the Court supported the military's decision and accepted that there were no new policies concerning the easing of restrictions imposed on the movement of people as a result of the government decision of 20 June 2010. The full documentation is available at: www.gisha.org.

and many educational institutions were damaged or destroyed. Both the UN Fact Finding Mission on the Gaza Conflict¹⁸⁵ and the UN Special Rapporteur in the oPt¹⁸⁶ asked for effective investigations into this damage and destruction.

The absolute closure with the ban on the import of the needed construction materials has made extremely difficult and costly – if not impossible – the rebuilding or building of new schools and other educational institutions. As reported by Filippo Grandi, the head of UNRWA, the Gaza Strip urgently needs an additional 100 schools. So far Israel has only given permits to UNRWA for the construction of six. According to the same source, approximately 40.000 children are already prevented from enrolling in UNRWA schools of Gaza, although possessing the formal requisites to do so, due to the physical lack of places. The classes are overcrowded, counting in the average 50 scholars each, and the schools are currently run on triple daily shifts.¹⁸⁷

In this already compromised scenario an additional negative impact on the access to education of Gazan students is represented by the Israeli-unilateral imposition of the “buffer zone” along the Strip’s borders (see *supra* Box 4), as some schools are located within 1500 meters from the border and therefore exposed to frequent “Israeli fire targeting people present in the restricted areas, farmers or armed militants”.¹⁸⁸ As noted by UN sources, both the safety of the approximately 4.400 students and 250 teachers and employees is affected by this situation, and the quality of education provided in these institutions has been seriously undermined due to classes interruptions, or even entire evacuations, and damages to the school facilities¹⁸⁹.

As a result of the Israeli-imposed closure students’ fundamental right to education in Gaza is neglected. Depriving Palestinian students of their right

¹⁸⁵ Report of the UN Fact Finding Mission on the Gaza Conflict, A/HRC/12/48, par. 1268-1274.

¹⁸⁶ Report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, UNDocs A/HRC/10/20 (2009), 11 February 2009, par 33.

¹⁸⁷ Interview given by Mr. Grandi in the UNRWA school of Beit Lahia on 24 November 2010. For more details on the impact of the closure on UNRWA activities see the Report, “Dashed Hopes. Continuation of the Gaza Blockade”, November 2010, by Amnesty International UK and 14 other international organizations, also available at: www.pchrgaza.org.

¹⁸⁸ OCHA-WFP Report, “The Humanitarian Impact of Israeli-imposed restrictions on access to land and sea in the Gaza Strip”, August 2010, p. 28.

¹⁸⁹ *Ibid.*

to education constitutes a serious violation of both humanitarian and human rights law. As pointed out by the Committee on Economic, Social and Cultural Rights “As an empowerment right, education is the primary vehicle by which economically and socially marginalized adults and children can lift themselves out of poverty and obtain the means to participate fully in their communities.”¹⁹⁰

6.8 Palestinian families forcibly divided

The right to family is affirmed by Article 16 of the 1948 Universal Declaration of Human Rights and Article 23 of the 166 ICCPR, which obliges States to protect the right to marry and found a family. Moreover Article 10 ICESCR states that “the widest possible protection and assistance should be accorded to the family, which is the natural and fundamental group unit of society (...)”.

The right to family of the Palestinian population is violated in many ways by Israel: by denying family reunification, by controlling residency rights of every Palestinian and ultimately through the illegal policy of closure, which restricts the freedom of movement of every Palestinian residing in Gaza or wishing to travel in or out of it¹⁹¹.

Nisreem Karam has not been able to visit her sick, 70 year-old father for more than ten years. Nisreem was born in 1977 in Bir Sheiva and had an Israeli ID. After she got married to a Palestinian man of Gaza in 1994, and given the impossibility for the man to get the permit to reside in Israel, she decided to move to Gaza. In order to do so she had to give up her Israeli ID and after all kind of difficulties, delays and obstacles she finally got a Palestinian ID in 2004 as a resident of Gaza. Since now more than ten years she is prevented from visiting her family and relatives, and in particular her father, who is living in Bir Sheiva, Israel. The last application, submitted on her behalf by PCHR last June, was rejected one month after by the Israeli competent authority (the ‘Humanitarian Center for daily applications’) for alleged, generic “political and security reasons”. On 23 August PCHR appealed the rejection in front of

¹⁹⁰ Implementation of International Covenant on Economic, Social and Cultural Rights, E/C.12/1999/10, General Comment n. 13 of 8 December 1999, par. 1., available at: www.ohchr.org.

¹⁹¹ See PCHR, “Alternative Report Submitted to the UN Committee on Economic, Social and Cultural Rights in Response to Israel’s Third Periodic report” (E/C.12/ISR/3), 18 October 2010, p.15-20, at www.pchrgaza.org,

the Israeli Attorney General, again thoroughly documenting the state of illness of Nisreem's father and asking for an urgent permit in order for her to visit him. On 26 September – given the lack of responses – PCHR sent a reminder to the Attorney General, who responded only on 10 November 2010 rejecting the appeal, once again denying Nisreem the permit to visit her father claiming that his “health conditions are not serious enough”. The decision came notwithstanding the fact that the seriousness of the health conditions had been certified by Israeli doctors.

Cases such as Nirmeen's unfortunately are not isolated. The strict regime of closure of the Strip results in situations such as that of A.B. from Gaza, who cannot live together with his wife and family in Jafa or even visit them. Since 2007, when he was sent back to Gaza, he is forcefully separated from his family, notwithstanding an Israeli Court decision granting him a permit to live in Israel. This decision was never implemented by the Israeli security authorities. His wife has been allowed to visit him in Gaza once a year for five days.

Indeed one of the most blatantly negative social effects of the prolonged isolation and illegal closure of the Gaza Strip is the forced separation of thousands of Palestinian families whose members are not only prevented from living in the same place, but are often unable to visit each other in the West Bank and Gaza (and of course in Israel). Due to the illegal Israeli restrictions on the freedom of movement of the Palestinian population, the West Bank and Gaza have progressively become two virtually separate entities, in violation of international laws and agreements (see *supra* section 2.3. and following).

This situation is not just a new effect of the last three year's absolute closure of the Gaza Strip; rather it is the intentional product of a much longer policy, which Israel implemented at least over the past 20 years on the occupied Palestinian territory. Under the policy of closure and strict confinement, the Palestinian population are subjected to an incredibly complicated and arbitrary system of permits - to be granted by the Israeli military commanders – in order to do even the most basic things, including visiting one's parents, spouse, children, living on the “other side” of the Palestinian territory or in Israel.

BOX 6

Family visits denied for Gazan prisoners in Israeli jails

International law clearly recognizes the right of prisoners to meet with their family members in detention facilities. HRL provide for a clear regime of family visits which applies to prisoners.¹⁴ However as a consequence of Israel's absolute closure of the Gaza Strip, Gazan prisoners detained in Israeli jails have been deprived of their right to family visits on the basis of alleged security reasons. There are approximately 800 Palestinians from the Gaza Strip detained in Israeli jails¹⁵. Upon re-deployment from the Gaza Strip in May 1994, Palestinian prisoners detained by the Israeli occupying authorities in prisons inside the Gaza Strip were illegally transferred to prisons inside Israel. This transfer was in violation of Article 76 of the Fourth Geneva Convention, which states that: "Protected persons accused of offences shall be detained in the occupied country, and if convicted they shall serve their sentences therein". Family members from Gaza were already prevented from regularly visiting their relatives inside Israeli jails due to the numerous obstructions of the visiting program caused by the Israeli closures over the years, in particular starting from 1996¹⁶. The prison visitation program had been facilitated by the International Committee of the Red Cross (ICRC) until it was suspended by Israel following the absolute closure of the Gaza Strip and the consequent general travel ban imposed on the Gazan population. For more than 3 years now, Israel has banned family visits for Palestinians from the Gaza Strip who are detained in Israeli jails. The current policy of forbidding family visits has been upheld by the Israeli Supreme Court: on 9 December 2009, the Court decided that the State has no obligation to allow family visits for Gazans detained in Israel, thus rejecting several petitions submitted by detainees, their relatives and several HR organizations¹⁷. The transfer of Palestinian prisoners to Israeli prisons, which implies the denial of family visits, constitutes a violation of international humanitarian law¹⁸ and human rights law. This policy is a grave violation of prisoners' rights under international law which may give rise to criminal responsibility as a crime against humanity¹⁹.

* Please note that the footnotes of the Box are at page 102

6.9 Economic Strangulation and the violation of the right to work

Article 23(1) of the Universal Declaration of Human Rights stipulates that: “Everyone has the right to work, to free choice of employment, to just and favorable conditions of work and to protection against unemployment.” The ICESCR elaborates the right to work in the context of individual freedoms and economic, social and cultural development. Article 6(1) affirms that “States recognize the right to work, which includes the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts, and will take appropriate steps to safeguard this right”. The Covenant also elaborates the role of the state in realizing this human right through appropriate steps which shall ensure just and favorable conditions of work (Article 7), such as fair wages and a safe and healthy working environment. Furthermore, the International Labour Organization (ILO) has contributed to the understanding of this right by means of international conventions and recommendations on the adoption of international labour standards.¹⁹²

The effects of the closure are pervasive and have deeply and adversely influenced every sector of the economy in the Gaza Strip. In particular, the relationship between closure and unemployment in the Gaza Strip was denounced, *inter alia*, by the UN Special Rapporteur in the oPt in his 2010 report.¹⁹³ Staple industries in the Gaza Strip, like fishing and farming, have been decimated by the closure. Manufacturers cannot import the raw materials they need to produce and farmers cannot export their goods to markets in Israel, the West Bank, and Europe.

Production in Gaza has almost completely ceased due to lack of the needed raw materials and the inability to export the products to markets in the West Bank, Israel or abroad. This has meant millions of dollars in losses for a wide variety of producers in Gaza, including farmers and textile workers.

Today, compared to the pre-closure period, only 35% of the industrial establishments are operating in the Gaza Strip while the number of

¹⁹² ILO is the UN specialized agency entrusted with upholding labour rights and decent working conditions worldwide. All adopted ILO conventions are considered international labour standards regardless of how many governments have ratified them. For an exhaustive list of all the ILO Conventions and recommendations see www.ilo.org.

¹⁹³ Report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, UN Docs A/HRC/13/53/Rev.1 (2010), 7 June 2010, par. 31.

employees (6,000), constitutes a mere 17% of the number of employed prior to June 2007.¹⁹⁴ Paradoxically, under these conditions, the increased quantity of foodstuff from Israel since June 2010 is killing the residual economy of Gaza: the Al Awda factory of biscuits, for instance, which was one of the biggest factories in Gaza and normally employed 300 people and used to export 60% of its products, is now virtually closed after the local market being flooded with cheap biscuits from Israel, a situation compounded by the fact that exports from Gaza are still completely banned.¹⁹⁵

A completely man-made humanitarian disaster currently confronts Gaza as a direct result of Israel's policy of complete closure of the Gaza Strip: unemployment rates in the Gaza Strip are now about 45%¹⁹⁶, and poverty rates exceeded 60%.¹⁹⁷

Furthermore, the restriction on the movement of people has denied thousands of Palestinians of their jobs in Israel or abroad, forcing unemployment to its highest recorded rate and increasing the number of families who are incapable of ensuring their basic needs of food, medicine and other essential goods. In 2000, for example, 26,000 Palestinian workers commuted into Israel everyday via the Israeli-controlled Erez crossing, while in July 2010 the number had dropped dramatically to an average of 95 workers traveling to Israel per day¹⁹⁸.

Through the illegal closure policy Israel negatively affects the right of Palestinians to work, in violation of its obligations under international human rights law.

¹⁹⁴ OCHA, "The Humanitarian Monitor", October 2010, p. 10, available at: http://www.ochaopt.org/documents/ocha_opt_the_humanitarian_monitor_2010_11_12_english.pdf

¹⁹⁵ BBC, Gaza Businesses Boxed in by Israeli Export Ban, 2 November 2010, available at: <http://www.bbc.co.uk/news/world-middle-east-11668080>.

¹⁹⁶ According to the Palestinian Central Bureau of Statistics, between the first and the second quarter of 2010, the unemployment rate increased from 39.7 to 44.3 percent, which is one of the highest rates in the world, cf. OCHA, Humanitarian Monitor, September 2010, p.9, available at: www.ochaopt.org.

¹⁹⁷ Filippo Grandi, UNRWA Commissioner General, pointed out that over 60% of the Gaza population live below the poverty line; see PCHR, "State of the Border Crossings, 16-30 September 2010", available at: www.pchrgaza.org.

¹⁹⁸ See Gisha, "Unraveling the Closure of Gaza. What has and hasn't changed since the cabinet decision and what are the implications", 7 July 2010, available at: www.gisha.org.

6.9.1 Agricultural sector cut off from export markets abroad

The closure has caused a total shortage of agricultural products including fertilizers, pesticides, plastic sheets used for covering strawberries, spare parts for irrigation water pumps, and green house frames. More pressing, however, is the inability of farmers in Gaza to export their products: before the imposition of the total closure in 2007, the Gaza Strip produced almost 400,000 tons of agricultural products annually, one third of which was intended for export. Despite the 2005 Agreement on Movement and Access between Israel and the Palestinian Authority, which set a target for exports from Gaza at 400 trucks per day, only 259 trucks have left the Gaza Strip with goods over the last three years. As a direct result of no longer being able to export their products to markets in the West Bank, Israel and Europe, farmers in Gaza Strip have reported a 40% decrease in income. In 2008 alone, they lost an estimate US\$6.8 million¹⁹⁹.

Without the ability to export, farmers in Gaza face a domestic market for agricultural goods characterized by artificially inflated supply, which in turn drives prices so low that most farmers cannot survive on the basis of them:



Abdulfattah Al - Khateeb struggles to farm strawberries under the Israeli-imposed closure. His business and his way of life are threatened by the increasing restrictions despite the recent “easing” of the blockade.

¹⁹⁹ PCHR, “The Economy of Occupation”, Narratives Under Siege, of 20 July 2010, available at: www.pchrgaza.org.

Abdulfattah Al-Khateeb, 46, strawberry farmer from Beit Lahia: “Before 2007, one kilogram of strawberries used to cost twenty-four shekels on the Gaza market, now it only costs three. I can hardly continue my life with prices so low. Now I am forced to live on handouts and aid. Even though we follow all the specifications the Israelis give to us, they don’t let our strawberries pass through the border. When we do what [the Israelis] want, they just create another problem.”

The consequences of the closure for farmers like Abdulfattah are more than just tough economic times: the closure threatens their livelihoods and way of life. Approximately 2,500 dunums of land were planted with strawberry fields before 2007; this year some 1,500 remain unplanted, representing at least 300 families who will be without an income for the year. More than likely, these families will be forced to give up strawberry cultivation; half of all strawberry farmers in Gaza have already done so. Some of them will find other work, but—with unemployment in the Gaza Strip approaching 55%—others will surely not.

Making matters significantly worse for farmers in the Gaza Strip are the consequences of the latest Israeli military offensive, which destroyed approximately 46% of all agricultural lands in the Gaza Strip, estimated at approximately US\$269,000,000 in damages, and over US\$84,000,000 in damages to plant production, specifically. Not only have farmers received no compensation from the perpetrators of the damage, but Israel prevents the entry of farming equipment and machinery needed in order to rehabilitate the land.

6.9.2 Fishing industry confronted with shrinking sea

As a result of the closure, fishermen are unable to access fishing nets, rope, twine, spare parts and new motors. From the end of 2008 the area in which they are permitted to fish was unilaterally restricted by Israel to three nautical miles, despite the internationally recognized limit of twenty nautical miles fixed by the 1994 Gaza-Jericho agreement. Currently Gazan fishermen are also prevented from fishing in areas extending up to 1.5 nautical miles bordering the northern (Israeli) and the southern (Egyptian) border of the Strip, which are completely inaccessible.²⁰⁰

²⁰⁰ See OCHA-WFP Report, “The humanitarian impact of Israeli-imposed restrictions on access to Land and sea in the Gaza Strip”, August 2010, p. 10-11.

The latest extreme restrictions are just the ultimate step of a much longer policy of limitations imposed by Israel on Gazan fishermen's access to the sea. Since 2000 the area has progressively been reduced, passing from twenty to twelve nautical miles from the coast²⁰¹. In fact, the fishing area specified in Oslo was never adhered to, as Israel consistently imposed much stricter conditions, making entire areas totally inaccessible. In 2006 the Israeli authorities officially imposed the prohibition of fishing activities beyond six nautical miles from Gaza's coast, which were further illegally reduced by half, resulting in the today's tiny three mile limit. Going beyond these strict limits means for the fishermen being attacked by Israeli military naval forces, which target and/or confiscate the boats and open fire on the fisherman²⁰².

During the latest offensive on the Gaza Strip (from 27 December 2008 to 18 January 2009), Israeli army imposed a complete sea closure on the Gaza Strip whereby Palestinian fishermen were prevented from reaching seaports, sailing or fishing. The period following the offensive witnessed a partial sea closure which prevented fishermen from performing their work freely²⁰³.

As documented by PCHR, incidents related to fisherman occur almost on a daily basis. Between January and April 2010 there have been 10 cases of shooting, resulting in the wounding of 2 fishermen, 3 arrests, 4 confiscations of boats and/or nets, 2 cases of destruction of fishing tools.²⁰⁴ Moreover, from January to September 2010 three fishermen have been killed and five others have been injured in similar incidents.²⁰⁵ Over 300 incidents of confiscation of fishing boats and equipment have been recorded since Israeli military operation against Gaza of December 2008-January 2009.²⁰⁶

Fishing in Gaza constitutes for many a generations-old way of life. Yet, in attempting to carry on this tradition, fisherman in Gaza now risk their lives on a daily basis as Israelis gunships attack them frequently: Saber Al-Hissie is a fisherman from Gaza City: "I've been a fisherman for fifteen years now, ever since I was fifteen years old. My father was a fisherman and so was my

²⁰¹ The twelve nautical miles were fixed in 2002 so-called "Bertini Commitment".

²⁰² See PCHR, "Israeli Attacks on Palestinian Fishers in the Gaza Strip (1 June 2008 – 31 August 2009)", available at: www.pchrgaza.org.

²⁰³ Ibid.

²⁰⁴ PCHR, "The Buffer Zone in the Gaza Strip", Fact Sheet, October 2010, available at: www.pchrgaza.org.

²⁰⁵ OCHA, "Humanitarian Monitor", September 2010, available at: www.ochaopt.org

²⁰⁶ Report by OCHA/FAO, "Farming without Land, fishing without water: Gaza agriculture sector struggles to survive", May 2010.

grandfather. I have spent half my life at sea. But everyday we face problems from the Israeli gunships: they follow us and then they start shooting at us because they want to force us to stop working.” The three-mile limit imposed by the gunships makes it very difficult for Palestinian fisherman to haul in an adequate catch: ten years ago, fishermen in Gaza were hauling approximately 3,000 tons of fresh fish a year, but now the fishermen are bringing in less than 500 tons of fresh fish per year, and they are being forced to over-fish the shallow waters in close proximity to Gaza. “But if we go any further out to sea, the Israelis always harass us,” Saber explains. “They circle the boats, they shoot towards us, and recently they started using water cannons to attack us.”²⁰⁷

“The Israelis attack us every day,” adds Abu Mahmoud, one of the crew members on Saber’s boat. “Until you see it for yourself, you cannot believe the situation we are facing.”

Saber Al-Hissie has been fishing in Gaza for fifteen years. His boat is scarred with bullet holes from Israeli gunships, which attack Palestinian fisherman on a daily basis while imposing an ever-shrinking fishing area.

The impact of the closure and the restrictions imposed on the sea areas in front of the Gaza Strip have been disastrous for the fishing industry, which is a traditional centerpiece of Gaza economy and society: more than 6,500 of the approximate 10,000 employed in the fishing industry are now unemployed.

6.9.3 Industry/construction sectors without raw materials

95% of the 3,900 industrial establishments in the Gaza Strip have closed or suspended their work due to the restrictions placed on the import of raw materials and as a result of the inability to export their products. The remaining 5% work at 20-50% of their capacity.

The decimation of Gaza’s industry has resulted in the loss of between 100,000-120,000 jobs. After the latest Israeli offensive in December 2008/January 2009, only 1,878 employees of 65,000 employed prior to the current closure continued to be employed in the industrial sector in Gaza.

According to the Palestinian Trade Centre, the number of workers employed

²⁰⁷ See PCHR “The Israelis Attack Us Every Day”, Narratives Under Siege, November 2008, available at: www.pchrgaza.org.

in the industry before the closure, which was 35,000 dropped to a mere 6,000, as of September 2010.²⁰⁸

The construction and infrastructure sector, too, has been completely halted due to the comprehensive ban placed on raw materials, such as cement, iron, construction materials and paint. The number of workers in the construction sector as of September 2010 was 1,500 (including small maintenance works and rubble vis-à-vis the 50,000, who were employed before the closure.²⁰⁹

All factories producing construction materials have closed, including: 13 floor tile factories, 30 concrete factories, 145 marble factories and 250 brick factories. 3,500 workers have been laid off as a result. All construction projects, estimated at US\$350 million, have been suspended. UNDP terminated all its contracts for infrastructure projects, valued at US\$60 million, including the rehabilitation of roads and water and sewage networks.

6.10 Human dignity deprived

The worsening socio-economic situation, as detailed in the previous sections, illustrates a man-made humanitarian disaster which deprives a whole population of its most basic human right: to live in dignity. Indeed, this is the most profound impact of the Israeli-imposed closure. Such an impact, although difficult to calculate, is apparent in and affects every aspect of life in Gaza. By denying a people their ability to work and their right to move; by depriving families of the ability to rebuild their homes which have been reduced to rubble, consequently forcing them to live in tents; and by forcing individuals to give up generations-old family traditions and spend their days waiting in lines to pick up food and clothing packages, a population of proud and independent individuals are being reduced to being 'victims' of a man-made humanitarian crisis.

To this end, the most profound impact of the closure cannot be described by figures or statistics. The systematic humiliation, intimidation, and general degradation that are the aim of the closure policy erodes the very fabric of life for Palestinians in Gaza and seeks to deprive them of their human qualities and rights. By manufacturing a humanitarian crisis in the Gaza Strip, Israel has effectively diverted attention from the illegality of the closure policy

²⁰⁸ Palestinian Trade Center, Crossing Annual Monitoring Report, October 2010, p. 8, available at: www.paltrade.org.

²⁰⁹ Ibid.

itself. The international community, instead of addressing the root cause of the problem, is now dealing with the immediate effects of the closure, through the provision of humanitarian assistance.

The closure has transformed the entire Gaza Strip into an open air prison and has condemned the 1.7 million Palestinians living there as prisoners, serving indefinite sentences. In this sense, it is clear that the closure is a form of collective punishment, illegal under international law, the social and economic effects of which work in tandem to deprive a whole people of its fundamental rights. At its core, the closure aims to deny Palestinians their humanity by denying them the right to determine their own existence and reality.

CONCLUSIONS

7. The criminal responsibility of the Israeli authorities for implementing the illegal closure

As PCHR have highlighted throughout this report, the closure constitutes a form of collective punishment of the civilian population which is absolutely prohibited under international humanitarian law, as enshrined in Article 50 of The Hague Regulations of 1907; Article 33 of the Fourth Geneva Convention of 1949; and Article 75(2)(d) of the First Additional Protocol to the Geneva Conventions of 1977.

Moreover, it is a general principle of criminal law that no one shall be punished for a (criminal) offence committed by others, thus confirming the illegality of collective punishments under international customary law.

Taking measures in contravention of the prohibition of collective punishment is a grave breach of fundamental principles of humanitarian law, which can amount to a war crime under Article 8(2)(b) of the Rome Statute of the International Criminal Court. As such, the decision to impose the closure on Gaza entails individual criminal responsibility for those involved in the planning, organizing, and active implementing such illegal policy.

Moreover, as concluded by UN Fact Finding Mission on the Gaza Conflict, there are sufficient elements to consider Israel's policy of closure not only illegal, but also criminal, and possibly amounting to persecution as a crime against humanity.²¹⁰

The harsh policy of closure imposed on Gaza is declared by Israel to be part of a plan aimed at applying pressure or sanctioning the Hamas regime. The UN Fact Finding Mission on the Gaza Conflict found that:

“The cumulative effect of the blockade policies, with the consequent hardship and deprivation among the whole population, and of the military operations coupled with statements by Israel made to the effect that the whole of the Gaza Strip was a ‘hostile territory’ strongly suggest that there was an intent to subject the Gaza population to conditions such that they would be induced into withdrawing their

²¹⁰ Report of the UN Fact Finding Mission on the Gaza Conflict, A/HRC/12/48, par. 1335.

support for Hamas.” And it goes on by noting that: “This was apparently confirmed by then Minister of Foreign Affairs of Israel commenting on the decision by the Supreme Court to uphold the fuel cuts: ‘The Palestinians need to understand that business is not usual, I mean there is no equation in which Israeli children will be under attacks by Kassam rockets on a daily basis and life in the Gaza Strip can be as usual’”²¹¹.

The policy clearly results in the infliction of great suffering on the civilian population. It should be noted that “willfully causing great suffering or serious injuries to body or health” to the civilian population of an occupied territory is criminalized according to the grave breaches regime of the Geneva Conventions. It entails individual criminal responsibility for those involved in this policy at various levels, especially at the level of planning, organization, and active implementation of the closure.

The States parties to the Geneva conventions have the duty to respect and ensure respect for the Conventions. All State-parties have the duty to investigate and prosecute grave breaches of the Conventions and bring the perpetrators to trial before their own national courts (art. 147 IV GC).

The closure also violates international human rights law, infringing upon several fundamental human rights, including the right to life, the right to the highest attainable standard of health, the right to freedom of movement of persons and goods, the right to adequate shelter, and the right to live in human dignity.

The systematic and widespread violation of fundamental human rights of the Palestinian population may amount to a form of crime against humanity. In particular Israel’s policy inflicted against the population of Gaza appears to integrate the crime of persecution, which is defined as “the intentional and severe deprivation of fundamental rights contrary to international law by reason of the identity of the group or collectivity”²¹².

It is recognized in international law that “the crime of persecution encompasses a variety of acts, including, inter alia, those of physical, economic or judicial nature that violate an individual’s right to the equal enjoyment of

²¹¹ Report of the UN Fact Finding Mission on the Gaza Conflict, A/HRC/12/48, par. 1329.

²¹² Article 8(2)(g) Statute of the International Criminal Court.

his basic rights”.²¹³ Acts of persecution must not be considered in isolation but be regarded in their context “and weighted for their cumulative effect”. In fact the single acts will usually form part of a policy or at least of a patterned practice.²¹⁴

As noted by the UN Fact Finding Mission on the Gaza Conflict, the series of acts that deprive the Palestinians in the Gaza Strip from their means of subsistence, employment, housing and water, as well as their freedom of movement, and other fundamental rights, “might justify a competent Court finding that crimes against humanity have been committed”.²¹⁵

Persecution, as a crime against humanity with customary status under international law, entails individual criminal responsibility. Individuals allegedly responsible of the crime of persecution can be investigated and, if appropriate, prosecuted by third States under the principle of universal jurisdiction.²¹⁶

²¹³ ICTY, *Prosecutor v. Tadic*, Trial Chamber, case no. IT-94-1-T, Judgment of 7 May 1997, par. 710.

²¹⁴ ICTY, *Prosecutor v. Kupresiskic et al.*, Trial Chamber, case no. IT-95-16-T, Judgment of 14 January 2000, par. 615.

²¹⁵ Report of the UN Fact Finding Mission on the Gaza Conflict, A/HRC/12/48, par. 1335.

²¹⁶ See PCHR, “The Principle and Practice of Universal Jurisdiction: PCHR’s Work in the occupied Palestinian territory”, January 2010, available at: www.pchrgaza.org.

(BOXES Footnotes)

- ¹ The Gaza Strip was created following the 1948 war, as a result of the armistice agreement between Israel and Egypt.
- ² The crossing border was operated by the Israeli Airports Authority. From 25 April 1982 until the outbreak of the second Intifada in September 2000 the crossing point of Rafah was regularly open, registering a passage of between 1200 to 1500 Palestinians every day in both directions, see Gisha, Rafah crossing: Who holds the keys?, p. 18, available at: www.gisha.org
- ³ See B'tselem, "Gaza Prison: freedom of Movement to and from the Gaza Strip on the Eve of the Disengagement Plan", March 2005, available at: www.btselem.org
- ⁴ Joint Press conference by Condoleezza Rice (US Secretary of State, who led the negotiations), Javier Solana (EU representative in the negotiation team) and Jim Wolfensohn, on the Rafah AMA, of 15 November 2005, Jerusalem, available at: <http://2001-2009.state.gov/secretary/rm/2005/56890.htm>.
- ⁵ See, with full details, Gisha, "Rafah Crossing: Who holds the keys?", at www.gisha.org.
- ⁶ Hamoked, "Movement between the West Bank and Gaza", available at: http://www.hamoked.org/topic.aspx?tid=sub_30.
- ⁷ See PCHR press release, "PCHR Condemn New Israeli Military Order aimed at expelling West Bank Palestinians", of 12 April 2010, available at: www.pchrgaza.org.
- ⁸ Hamoked, "Movement between the West Bank and Gaza", available at: http://www.hamoked.org/topic.aspx?tid=sub_30.
- ⁹ PCHR, "The Buffer-zone in the Gaza Strip", October 2010, Facts Sheet section, available at: www.pchrgaza.org.
- ¹⁰ OCHA, "Between the Fence and a Hard Place", August 2010, p. 19, available at: www.ochaopt.org.
- ¹¹ PCHR, "The Buffer-zone in the Gaza Strip", October 2010, Facts Sheet section, p. 3, available at: www.pchrgaza.org.
- ¹² Ibid. See also infra section 6.9.2.
- ¹³ See the Report "Dashed Hopes, Continuation of the Gaza Blockade", p. 5, also available at www.pchrgaza.org.
- ¹⁴ The prohibition of family visits is in violation both of International Humanitarian Law principles and Human Rights norms. See in particular Article 116 of Fourth Geneva Convention (which applies to "internees"); Articles 36 and 38 of the UN Minimum Standards for the Treatment of Prisoners; article 19 of the UN Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment. Moreover, the right to family life, as recognised by Articles 17 and 23 ICCPR and Article 10 ICESCR, is applicable also to all imprisoned person, notwithstanding the objective restrictions posed by the detention status.
- ¹⁵ PCHR's Weekly Report on "Israeli Human Rights Violations in the Occupied Palestinian Territory", 12-18 August 2010, available at: www.pchrgaza.org
- ¹⁶ See B'Tselem report "Barred from contact: Violation of the Right to Visit Palestinians Held in Israeli Prisons", September 2006, available at: www.btselem.org.
- ¹⁷ See Grietje Baars, "Palestinian Political Prisoners: Unfair Game for Israel's Persecution Israel's Supreme Court decides that the state has no obligation to allow family visits for Gazans detained in Israel", Adalah's Newsletters, January 2010, available at: www.adalah.org.
- ¹⁸ See B'tselm report "Barred from contact: Violation of the Right to Visit Palestinians Held in Israeli Prisons", September 2006, available at: www.btselem.org.
- ¹⁹ Grietje Baars, "Palestinian Political Prisoners", available at: www.adalah.org.