

المركز الفلسطيني لحقوق الإنسان

PALESTINIAN CENTRE FOR HUMAN RIGHTS

1 July 2010

PCHR Position Paper on the Easing of the Closure of the Gaza Strip

The Palestinian Centre for Human Rights (PCHR) wishes to express its position regarding the recent announcement of an 'easing' of the closure imposed by Israel on the Gaza Strip. The closure is illegal and constitutes a form of collective punishment of the civilian population

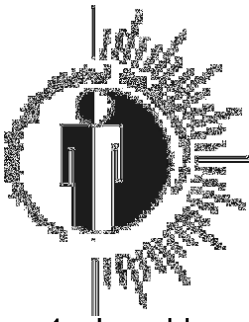
One month after the deadly attack on the humanitarian flotilla on its way to Gaza, which has focused the world's attention on the suffering of the Palestinian population of Gaza, nothing has changed.

PCHR emphasizes that in order to put an end to the severe crisis that is affecting Gaza a dramatic change in Israeli policy is needed. The illegal closure has caused not only a humanitarian crisis but a crisis of human rights and human dignity of the population of the Gaza Strip. Measures announced recently to ease the blockade are vague, purely cosmetic and fail to deal with the root causes of the crisis, which can only be addressed by an immediate complete lifting of the closure, including lifting the travel ban into and out of the Gaza Strip and the ban on exports.

PCHR is concerned that the new Israeli policy is simply shifting Gaza to another form of illegal blockade, one that may become internationally accepted and institutionalized. Palestinians in Gaza may no longer suffer from the same shortage of goods, but they will remain economically dependent and unable to care for themselves as well as socially, culturally and academically isolated from the rest of the world.

PCHR emphasizes that the closure itself constitutes a violation of international law. Expanding the list of items allowed into Gaza does not change the illegality of this policy, which is inconsistent with Israel's legal obligations both as an Occupying Power and under international human rights treaties to which it is party, such as the International Covenant on Civil and Political Rights.

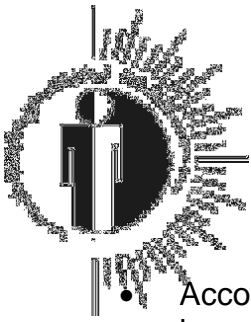
The Quartet have noted that the situation of the civilian population of Gaza is unsustainable, unacceptable and cannot be resolved by providing increased humanitarian aid; therefore, as confirmed by the International Committee of the Red Cross (ICRC), there is no other sustainable solution other than the complete, immediate lifting of the closure.



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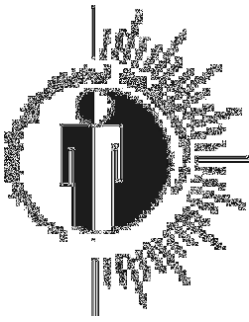
1. Israel has subjected the occupied Palestinian territory, including the Gaza Strip, to a policy of closure for more than two decades. In particular, Israel has continued to tighten the closure on the Gaza Strip, which was enacted following the Hamas takeover in June 2007. For more than three years now, Gaza - declared to be a "hostile entity" - has been continuously subjected to the most extreme form of closure, and its 1.5 million inhabitants have been effectively cut off from the outside world. Palestinian civilians are deliberately and systematically denied access to the most basic needs, such as food, medicine, electricity and other necessary commodities. Palestinians are not allowed to leave or visit Gaza, and only a miniscule number of foreigners are permitted entry into Gaza. Goods are not allowed to be exported, and imports have been reduced to a very limited number of items, totally incapable of fulfilling the population's needs. Civilians in Gaza are deliberately deprived of their fundamental human rights, such as the freedom of movement and the right to health, education, and access to work.
2. While the economic effects of the crisis are obvious to anyone visiting Gaza and can be easily measured, the toll the siege is taking on a human level is more difficult to quantify. Years of socio-economic strangulation as well as cultural and academic isolation have left their marks on Gaza's society.
3. The economic impact of the closure is manifest; it has paralyzed entire economic sectors, resulting in the emergence of a man-made, and completely preventable, humanitarian crisis. Some indicators of the economic effects of the closure are as follows:
 - 55% of the workforce are unemployed
 - 65% of the population live below the poverty line and 80% are aid-dependent
 - 45% decrease in household income per annum
 - The Palestinian GDP has fallen 8% below 1999 level, despite a 25% increase in population during that period.
 - 86,000 homes need to be constructed to meet the need of the Gaza population, due to both destruction caused by military offensive and population growth.
 - 3,750 industrial establishments are closed, 90% of the total number
 - The Gaza Strip is currently facing an electricity deficit of 43%, and 30% of Gaza is without power at any given time.
4. The severe destruction sustained during the military offensive on the Gaza Strip from December 2008 to January 2009 has been exacerbated by the illegal policy of strict closure. Violating UN Security Council Resolution 1860(2009) Israel has continued to tighten the closure and failed to open the border crossing for people and goods. The people of Gaza have not been able to rebuild their homes and resume their lives as they continue to be denied the material needed to do so.



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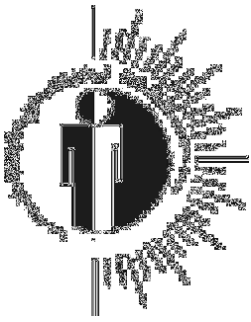
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- According to PCHR's documentation, during the 23 days of war 2,116 homes were completely destroyed displacing 19,592 individuals. Additionally, 3,277 houses were rendered uninhabitable displacing a further 32,250. In total 51,842 civilians were made homeless as a result of Israeli military offensive. The continued closure of border crossings and the ban imposed on the import of basic construction materials, especially cement and iron, have hindered all stages of the reconstruction process.
5. PCHR notes that there is no security rationale behind the list of prohibitions imposed by Israel on Gaza. Most of the items which have been banned, such as food products, notebooks, toys, fishing or farming tools, do not have any possible military use and do not constitute any security threat.
 - The list of permitted/prohibited items was never officially disclosed by the Israeli Authorities. However according to the calculation made by Gisha, The Legal Centre for Freedom of Movement in Israel, approximately 114 types of goods are now allowed in Gaza under the most recent Israeli policy. 9,000 were allowed during the mid-June 2006 period.
 6. The current situation is the direct result of Israel's long-standing violations of international law, in particular the State's disregard for its obligations as an Occupying Power. The closure regime violates a number of principles of international humanitarian law, *inter alia*, Article 43 of the Hague Regulations, and Articles 33, 55 and 56 of the Fourth Geneva Convention.
 7. This closure regime also violates international human rights law, infringing upon numerous 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. Ultimately, the closure violates the right of the people of Gaza to live in human dignity.
 8. As acknowledged by the ICRC report of 14 June 2010, "Gaza Closure: Not Another Year!" the closure is illegal under international law and constitutes a form of collective punishment of the civilian population, which is explicitly prohibited under Article 33 of the Fourth Geneva Convention. Israel has imposed this harsh and illegal policy to sanction the civilian population, destroy the economy, and in general degrade the living conditions of Gaza with the aim of putting pressure on the Hamas government.



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9. The members of the international community, especially the High Contracting Parties to the 1949 Fourth Geneva Convention, 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 closure and ending those policies which violate the economic, social, civil and political rights of the Palestinian civilian population. In its report of 14 June 2010, the ICRC called upon the international community to uphold its obligation to "ensure that repeated appeals by States and international organizations to lift the closure are finally heeded."
10. The attack on the 'Gaza Freedom Flotilla' on 31 May 2010, which resulted in the killing of nine civilians in international waters, has focused the world's attention on the suffering of the Palestinian population in Gaza. As a reaction to this tragic recent event, new international pressure has been exerted on Israel in order to put an end to the closure and its fatal consequences. According to media reports - and in line with a proposal put forward by the Quartet Representative to the Middle East, Tony Blair - Israel is planning to expand the list of permitted goods into Gaza moving from a list of permitted items to one of prohibited items; PCHR believes that this measure is not adequate and does not represent any substantial change to the current illegal policy. Israel's proposal is only shifting attention from the real problems and does not deal with the root causes of the crisis.
11. Israel's proposed easing of the blockade fails to address the necessary measures to restart the economy of Gaza, such as the import of fuel and construction materials or the export of products from the Strip, none of which have been available in nearly sufficient quantities in the past years. Merely permitting more secondary goods to enter Gaza without allowing the local economy to produce on its own will only increase dependency on outside aid and imports, thus exacerbating the crisis of self-determination and dignity that Palestinians in Gaza find themselves in today.
 - The amount of raw materials permitted is dramatically insufficient: approximately 60 tons of cement are allowed in on a monthly basis compared to the 900,000 tons needed.
 - Markets in the Gaza Strip do not demand the types of goods which Israel has now promised to allow in, as what is needed are above all raw materials, fuel and construction materials.
 - Before the closure, 70 trucks with exported goods used to leave Gaza daily. Since June 2007 only 259 trucks in total have left Gaza with export goods.



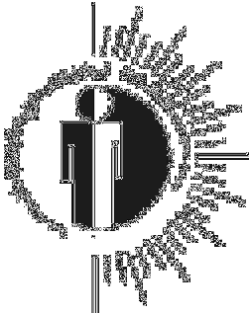
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12. Expanding the list of permitted items alone will not improve the situation unless it is accompanied by the unconditional opening of all border crossings of the Gaza Strip. This opening must also apply to the export of goods.

13. PCHR stresses that the alleged easing of the closure fails to address the most important issue: the freedom of movement of the imprisoned Palestinian population of Gaza.

- Travel via Erez crossing has been closed for Palestinians for more than a decade, with exceptional cases; in particular a small number of people, mostly patients with severe medical conditions, are allowed to pass for urgent medical purposes.
- From June 2007 to June 2010, Rafah border crossing was closed except for exceptional openings, which addressed only 8% of the need of the population in Gaza. During the first half of 2010, 3,092 people have traveled via the crossing a month, compared to 40,000 a month prior to the closure.
- Notwithstanding the fact that the Rafah border crossing has been open since 1 of June 2010 (as a consequence of the attack of 31 May on the humanitarian flotilla), only restricted categories of people are allowed to travel through it, i.e. holders of foreign passports, medical patients and students studying abroad. Even persons falling in these categories, though, travel under difficult conditions, including being subjected to arbitrary detentions of several days.

14. Israel has declared that its illegal policy is enacted with the aim of applying pressure on, and sanctioning, the Hamas movement. This policy is explicitly a form of collective punishment, and clearly results in the infliction of “great suffering” on the civilian population. PCHR notes 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 (Article 147 of the Fourth Geneva Convention). It entails individual criminal responsibility for those involved in this policy at various levels, especially for planning, organizing, and actively implementing the closure.



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Recommendations:

- The International Community must act decisively to ensure the full lifting of the illegal closure. As High Contracting Parties to the Four Geneva Conventions of 1949, individual States are under an obligation to 'ensure respect' for the Geneva Conventions 'in all circumstances'. The closure policy itself is illegal: any proposal must be based solely on the requirements of international law.
- The root cause of Israel's illegal closure is the impunity which it has been granted by the International Community. Israel cannot continue to be allowed to act as a state above the law. All those responsible for the commission of international crimes must be held accountable. In this regard it is essential that the recommendations contained in the Report of the UN Fact Finding Mission on the Gaza Conflict (the Goldstone Report) are implemented; they offer a concrete procedure through which the rule of law can be restored.



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