

Turning a new page:

The end of the civilian closure and the possibilities it offers

August 2014



Introduction

The magnitude of the destruction, the high death toll and trauma caused by the recent round of fighting in Gaza and Israel serve as a painful reminder that the Gaza closure, beyond its moral failings, has failed to achieve its goals. Up until the fighting began, Israel imposed restrictions on civilian movement to and from Gaza, including restrictions on travel between Gaza and the West Bank, a ban on marketing of goods from Gaza to their primary markets in Israel and the West Bank and [restrictions on the entry of construction materials](#). These restrictions were ostensibly predicated on security needs and threats Israel faces from Hamas and other armed groups in Gaza, but they have far exceeded what was required for security, violating the rights of the civilian population and damaging Gaza's economy.

Israel has a right and indeed an obligation to protect its citizens from security threats originating in Gaza and, for this purpose, may impose restrictions on access through the border crossings under its control. However, not every restriction is permitted. The Gaza closure does not distinguish between civilians and combatants and violates the rights and needs of 1.76 million Palestinian residents of the Strip, most of whom are children. The civilian closure is incompatible with Israel's obligations under international law and does not contribute to the security of its citizens. It is time for it to end.

Lifting the closure would make normal life possible: students from Gaza would be able to study in universities in the West Bank; construction workers would be able to make a living and rehabilitate Gaza; individuals would be able to reunite with relatives they have not seen for years, businessmen and women would be able to develop their businesses and access professional opportunities; farmers would be able to sell their produce and provide for their families. Improving conditions for the civilian population in Gaza does not necessitate compromising Israel's security needs. On the contrary, in the long run, it is the only way to achieve sustainable security in the region.

Israel must abandon the "[separation policy](#)", which splits Gaza and the West Bank and denies travel between the two parts of the Palestinian territory. Subject to suitable security arrangements, it must once again permit the transit of Gaza-made and grown goods to their markets in Israel and in the West Bank, and must allow Gaza residents, in the public and private sectors alike, to purchase construction materials.

Over the last few weeks, both foreign and senior Israeli officials, [including Israel's Chief of Staff Benny Gantz](#) (Hebrew), have agreed that Israel has an obligation to allow rehabilitation in Gaza. This will require allowing transit of more than just humanitarian aid. Gaza's economy will also need to be rehabilitated and its residents must be permitted to exercise their rights to earn a living and pursue their professional, educational, cultural and familial aspirations. Israel's control over travel to and from Gaza creates dependence and translates into a distinct responsibility – to allow civilian movement to and from Gaza, thereby contributing to prosperity and security on both sides of the border.

The closure policy

Even after the “disengagement” in 2005, Israel has continued to control significant aspects of life in Gaza, and therefore, has [obligations](#) toward the civilian population under international humanitarian and human rights law. International law allows Israel to impose access restrictions on Gaza if such restrictions are necessary for Israel's security. However, Israel must consider the needs and rights of Gaza's residents and do everything it can to ensure they are able to lead normal lives.

For more than two decades, and more so since 2007, Israel has restricted the movement of people and goods to and from Gaza. The closure includes, inter alia, the “[separation policy](#)”, under which stringent restrictions are imposed on travel between Gaza and the West Bank, with the official purpose of distinguishing between and separating the two parts of the Palestinian territory, based on [ill-defined security and political considerations](#).

Some of the restrictions imposed as part of the closure serve no security purpose and are therefore illegitimate. Other restrictions are disproportionate as the harm they cause exceeds any security benefit. These failures manifest themselves with particular clarity in the three main restrictions imposed as part of the closure. Gisha calls for the removal of these restrictions:

1. The prohibition on travel of Palestinians from Gaza to the West Bank and Israel, and vice versa. Travel through Erez Crossing is restricted to “exceptional humanitarian cases”, mostly medical patients and the people accompanying them, and senior merchants. For the first six months of 2014, the rate of travel was [less than one percent](#) (1%) of what it was in September 2000.
2. The prohibition on selling goods from Gaza in Israel and the West Bank. Prior to 2007, 85% of Gaza's outgoing goods were marketed in Israel and the West Bank. As a result of the prohibition, Gaza exports [less than two percent \(2%\)](#) of what it did prior to the closure.
3. Restrictions on the entrance of construction materials, particularly for the private sector. International organizations have been permitted to bring in construction materials subject to a [complicated, lengthy and expensive](#) approval process. Entry of construction materials [for the private sector is prohibited](#).

In addition to these three restrictions, Israel denies all access to Gaza via sea or air. It prohibits Gaza fishermen from fishing farther than three to six nautical miles off the Gaza shoreline. Since 2005, Israel has also barred access to a buffer zone [stretching between 300 and 1500 meters into the Gaza Strip along the border fence](#), where about 35% of Gaza's agricultural land is located. The restrictions on movement inside Gaza as well as in its sea and air spaces must also be minimized as much as possible, or lifted entirely when they are unnecessary for Israel's security or when the harm they cause exceeds the security benefit they yield.

The importance of the Israeli-controlled crossings is further highlighted by the situation at the Rafah border crossing between the Gaza Strip and Egypt. The crossing is open, but since the fall of Mohamed Morsi's regime

in July 2013, [travel through the crossing has been severely limited](#), mostly to medical patients, pilgrims and individuals who have foreign passports or residency status. Egypt has also mostly shut down the tunnels that ran under its border with Gaza, which had been a supply route for many civilian goods entering Gaza, including construction materials and fuel.

The impact of access restrictions

In the framework of the closure, access of goods and people is allowed in order to ensure the basic subsistence of Gaza's population, but possibilities for economic, educational and personal development are blocked:

- The prohibition on marketing goods in Israel and in the West Bank – Gaza's primary markets – has debilitated the industrial and agricultural sectors, which are unable to reach their potential without access to outside markets.
- Travel restrictions preclude opportunities for growth and development, such as access to professional training opportunities and courses, academic studies, business ventures and more.
- The restrictions on entrance of construction materials, which were more heavily felt following the closure of the tunnels running under the Egyptian border, contributed to a spike in the [unemployment](#) rate during the second quarter of 2014 – now up to 45%. The lack of access to construction materials perpetuated a situation where Gaza was short at least 75,000 housing units and 259 schools. These figures represent the situation before the fighting began and have spiked dramatically since.
- At least 70% of Gaza's residents rely on humanitarian aid. With unemployment and reliance on aid running so high, Gaza's young population – 73% of the residents are under age 30 – feel they have no prospects. The closure has also undermined family ties and wider social and cultural connections between Palestinians. Though 31% of Gaza's residents have [relatives](#) in Israel, East Jerusalem and the West Bank, Israel allows family visits only in exceptional humanitarian cases. Families are not permitted to unite in the West Bank.

The civilian closure does not serve security needs

Under international law, Israel is obligated to distinguish between militants and civilians and to do everything in its power to ensure that the security measures in employs target militants and do not harm civilians. Restrictions that harm civilians without serving a security purpose are unacceptable.

The blanket restrictions on movement to and from Gaza are incompatible with Israel's obligations under international law because they mostly harm civilians, and, in Gaza's case, these are mainly children, who make up 53% of the population.

It often seems that the restrictions yield no security benefit or that this benefit is minor and fails to justify the harm caused to civilians.

It is no coincidence that top Israeli security officials have [concluded](#) that impeding economic development in Gaza also harms Israel's interests. Prime Minister Binyamin Netanyahu himself [said](#) (Hebrew), after the 2010 flotilla incident, that "the civilian closure has harmed the security closure". These officials explain that economic development in Gaza contributes to stability and ultimately, to ensuring the security of Israel's citizens.

Recommendations – the need to lift restrictions on civilian movement

The Gaza closure harms Palestinian society in general and prevents Palestinians living in Gaza from leading normal lives. As such, the closure eliminates prospects for prosperity and stability which would benefit Palestinians and Israelis alike. The solution is to adopt a policy that complies with the requirements of international law and the recommendations of leading Israeli figures: to distinguish between civilians and militants and to immediately lift restrictions on civilian movement. Gisha calls on the Government of Israel to adopt a policy of expanding access to and from Gaza to the [maximum possible degree](#), with an emphasis on:

1. Allowing travel through Erez Crossing subject to individual security checks.
2. Allowing the transit of goods from Gaza to Israel and the West Bank, subject to security checks on the goods and reasonable security arrangements at the crossing point.
3. Allowing the entry of construction materials into Gaza subject to suitable security arrangements.

Appendix: Construction materials and the threat of tunnels



Photo: Eman Mohammed

Between July 2010 and December 2012, Israel allowed only small quantities of construction materials destined for international organizations to enter Gaza, subject to a cumbersome approvals process. During this time, construction materials entered Gaza more or less freely through tunnels that ran under its border with Egypt. The tunnel trade was operated by the Hamas government, which collected taxes on the products that entered and user fees for each tunnel. Between October 2012 and April 2013, a monthly average of almost 300,000 tons of cement, gravel and steel entered Gaza through the tunnels. In December 2012, Israel began allowing [gravel](#), and later also cement and steel, destined for the private sector, to enter Gaza. However, Israel [withdrew approval](#) for this after discovering a tunnel that had been dug from Gaza under Israeli territory.

Up to just prior to the start of the military operation, only international organizations were able to bring in construction materials through Kerem Shalom Crossing, again, subject to an expensive and complicated approvals process. The restrictions on entrance of construction materials have had tremendous impact on Palestinian civilians in Gaza. More than 70,000 people who relied on the construction sector for their livelihoods were impacted and the Strip was short some 75,000 housing units and 259 schools before the fighting began. Unemployment had soared to 45% in the second quarter of 2014, compared to 28% in the same quarter in 2013.

Given the magnitude of the destruction in the wake of the hostilities, construction materials have become all the more essential for rehabilitating vital civilian infrastructure and for building hospitals, schools, factories and thousands of homes that have been damaged or destroyed. The UN estimates that if Israel continues the slow trickle of approvals for international organizations only, it would take more than a decade to rehabilitate Gaza – an unacceptable timeframe.

The attempt to manage a security threat by restricting goods used mostly for civilian purposes has failed in the past, and there is no reason to believe it will succeed in the future. Between 2007 and 2010, Israel's Ministry of Defense restricted the entrance of fuel into the Gaza Strip, claiming that fuel was needed for launching rockets. The restrictions failed to prevent rocket fire, but clearly undermined the economy and civilian life, and so, in 2010, the previous Netanyahu government canceled them. During this recent military operation, Gaza residents were able to buy fuel transported through Kerem Shalom without restriction.

The architects of the closure policy must take responsibility for its failure instead of insisting on maintaining it.

Top security officials understand that keeping Israelis safe involves taking certain risks. They also understand Israel's interest in allowing movement of both people and goods in order to contribute to economic development in Gaza. Last year, then Coordinator of Government Activities in the Territories, Eitan Dangoth, [publicly criticized](#) (Hebrew) the defense minister's decision not to renew the entry of construction materials into Gaza. Major General Dangoth noted the damaging effect the prohibition has on Gaza's economy, grasping that economic development in Gaza is also in Israel's interest from a security standpoint.