

Date: April 1, 2020

To

Mr. Naftali Bennett
Minister of Defense

By Fax: 03-6962575

To

Mr. Kamil Abu Rukun
Coordinator of Government
Activities in the Territories

By Fax: 03-6976303

Dear Sirs,

**Re: Israel's obligation to take immediate steps to prevent economic collapse in
the Gaza Strip during the COVID-19 pandemic**

On behalf of Gisha - Legal Center for the Right to Freedom of Movement, we hereby urgently appeal to you to demand that you take immediate, forward-looking action to ensure protection of the economy and promote food security in the Gaza Strip:

Israel's responsibilities towards Gaza's civilian population

1. The civilian population in the Gaza Strip already experiences deep, daily distress due to the closure imposed on the Strip by Israel, the absence of freedom of movement, and severe restrictions on the movement of goods into and out of Gaza. Living conditions in Gaza are already marked by deficient infrastructure, the lack of regular supply of clean water and electricity, insufficient medical services, a high rate of unemployment, and a beleaguered economy on the brink of collapse. Fifty-three percent of Gaza's residents, more than a million children, elderly people, men and women, live below the poverty line and suffer from food insecurity; 34 percent of Gaza's residents live in abject poverty. Any further

economic distress threatens to further exacerbate the impact of the health crisis inherent in an outbreak of the virus in Gaza . The welcome fact that the commercial crossing Kerem Shalom continues to function as usual, while movement of people has been stopped almost completely due to public health concerns, points to the fact that measures can be implemented now to assist the economy and ensure supply of food for the local population.

2. **Israel has a standing obligation to protect the health of Gaza's residents, and all the more so in light of the COVID-19 pandemic and the discovery of first cases in Gaza. As such, Israel must take action promote food security in the Strip and prevent the collapse of the local economy. It must do so by lifting ongoing restrictions that are unnecessary even in ordinary times, and the removal of which is even more critical now.**
3. This obligation arises from the judgment given by the High Court of Justice, which found that given Israel's prolonged control over border crossings, and the dependency Gaza's residents have developed on Israel in many realms, Israel is obligated to provide for the essential humanitarian needs of Gaza's residents and see to it that their fundamental rights are upheld and basic needs are met (HCJ 9132/07 **al-Bassiouni v. Prime Minister** (January 30, 2008)).
4. This obligation also arises from international law. According to Article 43 of the Regulations annexed to the Hague Convention regarding the Laws and Customs of War on Land of 1907, Israel has an obligation to allow the civilian population to lead a normal life, which includes living in dignity and pursuing livelihoods. Article 27 of the Fourth Geneva Convention (1949) stipulates a duty to protect the dignity of local residents. According to these laws, Israel has a duty to refrain from harming the civilian population of the Gaza Strip, and a **positive duty to see to its humanitarian needs and uphold public order and safety** (see HCJ 4764/04 **Physicians for Human Rights Israel et al. v. Commander of the IDF Forces in Gaza**, IsrSC 58(5) 385, 393 (2004)). Israel is also bound by the International Convention on Civil and Political Rights and the International Convention on Economic, Social and Cultural Rights to respect the human rights of Gaza residents, including their right to dignity, health, and a decent standard of living. Protection of those rights applies in the areas where Israel continues to exercise control over the lives of residents of Gaza, including via its control over the movement of people and goods.

5. The restrictions Israel routinely imposes on the movement of goods harm essential services and normal living conditions for Gaza's residents and possibility of attaining a reasonable, humane standard of living. **As stated, insisting on these restrictions despite the immense challenge facing Gaza's population as the Novel Coronavirus potentially spreads could push Gaza's economy into complete collapse and leave hundreds of thousands in a state of food insecurity.**

The threat of an outbreak of COVID-19 and its expected economic impact to the Strip given current critical conditions

6. As is well known, COVID-19 pandemic is leading to a global economic and financial crisis and to the paralysis of manufacturing, service and industry sectors. Unlike other places in the world, Gaza's economy and industries are already on the brink of collapse, primarily due to the Israeli closure of the Strip.
7. Multiple international reports have addressed the dire economic and humanitarian situation in the Gaza Strip and Israel's responsibility for it. For instance, a World Bank report from September 2018 about the state of the economy in the West Bank and Gaza included an assessment of the situation in Gaza and warned of an economic collapse that threatens essential social services in the Strip. The report clearly stated that the Palestinian economy must be allowed to recover and develop, and that this depends in part on **the extent to which the private sector was able to manufacture and operate in a manner that would enable it to compete in regional and global markets and increase exports, goods and services.** This assessment is all the more pertinent at this time.

<http://documents.worldbank.org/curated/en/413851537281565349/pdf/129986-REVISED-World-Bank-Sept-2018-AHLC-Report-final.pdf>

8. The International Labour Organization (ILO) is currently warning that the spread of the Novel Coronavirus may produce a global economic crisis if governments fail to take action to protect workers from the effects of the market. The ILO says states must take immediate, broad-scale measures, adapted to local needs, in order to protect workers and workplaces.

<https://www.ilo.org/global/topics/coronavirus/impacts-and-responses/lang--en/index.htm>

9. Regarding the particular threat to the Gaza Strip, experts and professionals in various fields have expressed concern that given the critical state of civilian infrastructure in the Gaza

Strip, the pandemic would bring about **the collapse of the economy and healthcare sector as well as harm the provision of humanitarian aid.**

10. As is known, on March 21, 2020, the authorities in Gaza reported that the first two verified COVID-19 patients, and seven more were reported on March 25. The news has obviously caused panic among the public and has prompted local authorities to take measures to prevent the spread of the virus.
11. Before it is too late, Israel must take immediate action, **by whatever means possible**, to make sure Gaza's food production industry can continue to function and even increase its capacity for production. To meet local needs, it is necessary to maintain the broadest possible scope of economic activity and focus on sectors that will ensure food supply for the local population: fishing, agriculture and processed food manufacturing. Although Israel is undoubtedly fully aware of the steps it can take to boost Gaza's economy, we address several below.

Agriculture

12. **The agriculture sector is one of the Gaza Strip's main sources of employment thanks to climate and environmental conditions that are hospitable to growing quality produce. Some 15,000 residents are directly employed in this sector, along with thousands of others whose livelihoods are found in ancillary occupations (packing, transportation, supplying, etc.) Part of the agriculture sector's critical importance lies in the vital role it plays in ensuring supply of fresh produce to local markets.**
13. Even if shipping Gaza produce for sale in the West Bank is not the focus of the discussion at the moment, in order to ensure farming in Gaza continues, Israel must allow the entry of fertilizers and soil disinfectants which are currently listed in the Defense Export Control Order 2008 (Controlled Dual-Use Goods Transferred to Areas under Palestinian Civilian Control 5769-2008) (hereinafter: **Control Order**). As is known, Gaza farmers have been asking for years that Israel allow the entry of these farming products, which could increase yield by 25%, improve crop quality and extend its shelf life, all of which directly impact profitability.
14. Representatives of the Gaza CLA have often convened meetings with representatives of the Ministry of Agriculture and farming associations from the Gaza Strip in order to "study the needs of the sector." In July 2019, Israel announced through various media outlets that

it would relax restrictions on the entry of goods it defines as dual-use into Gaza, including fertilizers and disinfectants for farming.

15. Despite its declarations, not only has there been no relaxation of restrictions, but sources in the Gaza Strip say that Israel has, in fact, been putting up barriers even in cases in which prior approval had been given. So, for example, it was reported to Gisha that suppliers who imported fertilizers after receiving prior approval from Israel encountered a sudden refusal to let the items through when they reached Kerem Shalom Crossing. Though COGAT officials said, after the fact, that there was no reason to stop the fertilizers from entering Gaza, Kerem Shalom staff refused to let it through even when a second attempt was made.
16. Allowing and expediting the entry of fertilizers and disinfectants for farming is a necessity in the current reality of a growing economic crisis. The prolonged ban on the entry of these essential products has caused ongoing, severe damage to the farming sector. Given the current situation, we call on Israel to approve the immediate entry of all materials required for the farming sector and to remove them from the dual-use list. This would ensure continued production and supply of agricultural produce for Gaza's residents.

Fishing

17. Gaza's fishing sector is a crucial source of **income and food** for local residents. There are about 3,700 registered fishermen for whom fishing is the sole source of income and about 18,000 more who rely on it as a main source of income. Many more work in ancillary services, such as building and maintaining boats and fishing equipment.
18. Gaza's fishing industry has been hard hit by the closure and the inclusion of products used by the sector in the dual-use list under the Control Order, primarily **fiberglass products, cables, engines, boat parts and fish detection devices**. This has left many boats out of commission.
19. According to Gaza's Fishermen's Union, the relevant Israeli authorities are well aware of the acute need for fiberglass products and boat engines, and yet, applications made by suppliers to bring in these products have been processed slowly, remained unanswered or seemingly disappeared within the bureaucratic quagmire of the approval process for applications to bring in "controlled dual-use equipment."
20. Allowing and expediting the entry of "dual-use" equipment needed for the fishing industry is a necessity in the current reality of a growing economic crisis. This equipment would

enable repairs to out-of-commission boats and the return of fishermen and others employed in the sector to work. In addition, the catch would contribute to food security in Gaza during this time.

Processed food

21. The restrictions Israel imposes on the sale of Gaza-made processed foods in the West Bank and their harmful impact on Gaza's economy are well known. Gisha has been advocating for Israel to allow the sale of processed foods outside Gaza for more than two years, including the submission of a High Court petition on this matter (HCJ 5137/18 **Wael al Wadia v. Minister of Defense et al.**). Contradictory responses from state authorities indicate Israel has failed to address the issue, and despite assurances that steps would be taken, **nothing has been done**. The great delay in the implementation of arrangements for such sales and your disregard for the repeated queries sent in the matter may have grave repercussions, particularly given the COVID-19 crisis.
22. A needs assessment conducted with respect to business owners in Gaza's processed food sector and Gaza's Food Industry Association by Gisha clearly indicates that **selling Gaza-made processed food items in the West Bank is an acute, immediate need for Gaza's local market**. Relevant actors in the Gaza Strip are certain that sales in the West Bank will help **mitigate the economic crisis that is expected to grow deeper, provide an immediate solution for the urgent need for jobs in Gaza, and improve the ability of those employed to provide for the most basic needs of their families**.
23. The canned food industry is a prime example of this. Now more than ever, it is a critical industry. Many factories in Gaza have the capacity to manufacture and sell their products in the West Bank and to increase production to meet demand, thus generating more jobs. Some of these companies have been awarded the international ISO standard, attesting to the quality of their products, and they maintain good business relations with business owners in the West Bank who are interested in purchasing their products immediately. For example, if Israel were to allow the sale of canned tomato paste, it would help increase the number of jobs in these plants and indirectly help tomato growers as well.
24. Needless to say, before Israel imposed the closure on the Gaza Strip, processed food manufacturers in Gaza sold most of their goods in the West Bank and Israel. Restoring sales from Gaza to the West Bank would dramatically increase these manufacturers' ability to

employ more workers, some of whom have lost their jobs because of the COVID-19 crisis, thus supporting many families.

- 25. Given all the above, we ask you to take immediate action, by whatever means possible, to ensure the maintenance of a functioning economy and food security in the Gaza Strip. Among other measures, we ask that you take immediate action to remove restrictions on the entry of “dual-use” materials needed for the farming and fishing sectors and to allow the marketing of processed foods in the West Bank.**

Sincerely,

Signature

Tania Hary

Executive Director

Signature

Kenneth Mann

Board Chair