

DISCRIMINATION BY DEFAULT

A gender analysis of Israel's criteria for travel through Erez Crossing

December 2020



2 Introduction

To this day, Israel maintains control over most movement of people and goods into and out of Gaza, as well as over the Strip's air and sea space. This control gives Israel a great deal of influence over every aspect of life in the Strip. **Through the permit regime, a system used to manage the Palestinian population living under its control, Israel blocks most Palestinians living in the Strip from applying for a permit to travel via Erez Crossing between Gaza, Israel, the West Bank, and abroad.**

Well before the outbreak of the coronavirus pandemic in March 2020, stringent criteria set by Israel defined who was eligible to submit an application for a permit. The criteria appear in a document entitled [Unclassified Status of Authorizations for the Entry of Palestinians into Israel, their Passage between Judea and Samaria and the Gaza Strip and their Travel Abroad](#) (hereinafter: the Status of Authorizations, or Status document). Since 2014, and thanks to Gisha's work, this document has been [published](#) on the website of the Coordination of Government Activities in the Territories (COGAT). It constitutes Israel's official policy on travel by Palestinians to and from both Gaza and the West Bank. The Status document is [updated by COGAT from time to time](#), sometimes introducing minor changes to the criteria it lists, but its essence remains the same: **Severe, systematic restrictions on Palestinian freedom of movement that reflect a policy choice to maintain [the isolation of the Gaza Strip](#) and [separate the Palestinian population living in Gaza and the West Bank](#).**

Women in Gaza, like women all over the world, have diverse personal, professional, and familial aspirations, with a shared experience of life in a patriarchal society. In Gaza, where residents have been living under a stifling closure imposed by Israel for years and undergone three devastating military operations, women contend not only with societal challenges, but also with the [implications](#) of Israel's ongoing control over countless aspects of everyday life. Gisha has referred to this as women struggling not just with the "glass ceiling," but also [the concrete ceiling](#) of Israel's restrictions.



Participants of a workshop on reproductive health and gender-based violence. Photo by Asmaa Elkhaldi

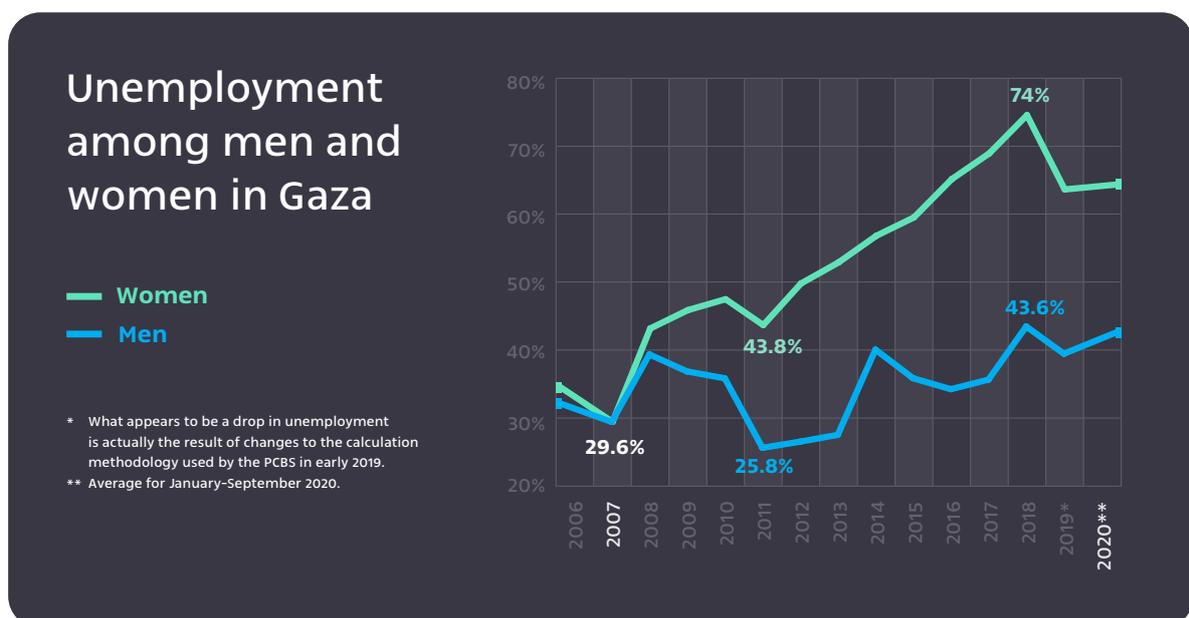
3

In a job market with [unemployment rates](#) of more than 44 percent among men and 65 percent among women, the restrictions Israel enforces on travel for work, commerce, academic studies, and personal development [undermine women's livelihoods](#), denying them professional opportunities inside the Strip as well.

In this report, Gisha offers a gender analysis of the Status of Authorizations, the criteria it contains and those it omits, as well as the ways in which the permit regime based on these criteria impacts the lived realities of women in Gaza, particularly in regard to economic access and access to family. The criteria overlook women's needs, reinforce their exclusion from the job market, block opportunities for personal and professional development, and constantly disrupt, if not fracture, family life.

The destructive effect of [Israel's policy](#) on Gaza's two million residents is [apparent](#) and [well-documented](#). Here, we aim to describe how **Israel's narrow criteria for travel through Erez Crossing results in effective discrimination against Palestinian women in Gaza by ignoring their needs for travel and their right to freedom of movement.** Movement and access restrictions must be removed by Israel to enable both men and women to exercise their fundamental right to freedom of movement and other rights that are conditional on it.

Since March 2020, Israel has further [tightened the closure](#) on Gaza. Under the cover of the coronavirus pandemic, Israel is blocking virtually all travel to and from the Strip. As of today, only very few people, mainly urgent medical cases, are allowed to travel via Erez Crossing. This means the Status of Authorizations is not currently in effect and is not serving as the basis on which Israel makes decisions regarding travel by Palestinians. **Our analysis of the Status document adds to the overwhelming body of evidence that in a post-pandemic reality, there is no moral or logical justification for the closure of Gaza, including because of the harm it inflicts on women.**



4 Harm to family life

[A survey](#) conducted by Gisha in 2013 found that 31 percent of Gaza residents have relatives in the West Bank, including East Jerusalem, or in Israel. Israel's ongoing control over the Palestinian population registry allows it to dictate which changes can be made to it, including [changes of address](#). Israel ultimately [defines](#) who is registered as a "resident of Gaza" and who as a "resident of the West Bank," which in turn determines where Palestinians may live, marry and start a family. **Israel's sweeping travel restrictions also prevent members of families split across Gaza, Israel, and the West Bank**

}} **Israel ultimately determines where Palestinians may live, marry and start a family**

(including East Jerusalem) from meeting each other. The only circumstances in which a permit application can be filed for the purpose of visiting family are when a first-degree relative is getting married, has contracted a fatal illness, or has died.

The labyrinthine bureaucracy involved in acquiring a permit (even in the narrow circumstances defined by Israel), as well as the lack of transparency surrounding the processing of permit applications, the inordinately long time Israeli authorities take to respond to applications, and the [tendency](#) to arbitrarily bar people from travel based on vague "[security reasons](#)," means that even when people [do meet Israeli criteria](#), they are often denied a permit in practice.

It is often customary in Palestinian society for women to move to live near their husband's **family after marriage. When one of the spouses is a resident of Gaza, Palestinian couples have no choice but to live in the Strip; Israeli restrictions prevent family reunification in Israel or the West Bank.** For this reason, there are many women living in Gaza who moved there from the West Bank or Israel (where they are either residents or citizens) following their marriage to a Gaza resident. Many women in Gaza are [cut off from their families](#) by the travel restrictions imposed by Israel due to the narrow circumstances in which residents of Gaza can request, let alone receive, a permit.

The criteria for visiting a family member in the West Bank or Israel exclude a variety of situations in women's life cycles. The Status of Authorizations document does not recognize pregnancy or childbirth, for instance, even when specific medical conditions or needs arise, as warranting travel by family members.¹ Women living in Gaza whose families live in the West Bank or Israel give birth without the support and assistance of their immediate relatives, even their mothers. **The failure to recognize childbirth as grounds for requesting the presence of family adds pressure and sorrow to the momentous and sometimes difficult experience of pregnancy and childbirth.**

¹ Following a September 2019 letter by Gisha demanding that Israel enable people to travel in order to visit a woman due to give birth, the Status of Authorizations released by COGAT in August 2020 included, for the first time, a criterion for childbirth. However, the criterion applies only to the parents of the expectant mother and sets conditions for "exit to visit an expectant mother," namely pregnancy, delivery or postpartum complications. Additionally, the criterion was added to the Status document at a time when the criteria are not being implemented due to the pandemic. As such, no permits have been issued under the newly added criterion, and it is too early to tell how the Israeli authorities will interpret it in practice.

5

Women in the narrow circumstances mentioned above who do receive a permit to visit family are not necessarily allowed to travel out of Gaza with their children, or may only be allowed to travel with some of their children, due to arbitrary restrictions imposed by Israel, including on the age of children who can accompany their parents. This forces women to make impossible choices. The very real possibility that Israel will prevent their return to the Strip once they exit, for whatever reason, keeping them away from their home, spouse and children for prolonged periods of time, is a source of pressure and distress for many women.

Families living in Gaza in which one of the spouses has Israeli citizenship and the other is a Gaza resident are defined by

}} **Many women in Gaza are cut off from their families by the travel restrictions imposed by Israel**

Israel as “split families.” In Gisha’s experience, it is almost always the woman who has [Israeli citizenship](#). Women in this situation are required by Israel to obtain a “stay permit” to be inside the Gaza Strip, which is issued by Israel under the [Split Families Procedure](#) (Hebrew). The permit must be renewed every six months (in the past, these permits were valid for three months, and before that for one month only). The procedure also stipulates that children of Israeli citizens can reside in Gaza under their “Israeli” parent’s permit, until the age of 18. **Children of a Palestinian woman with Israeli citizenship living in Gaza will only be able to continue living in the Strip if they themselves marry a resident of Gaza and request stay permits.** If they choose to live in Israel, they will only be eligible for a permit to visit their relatives in Gaza in one of the narrow circumstances for visiting first-degree relatives according to Israel’s criteria, as listed above.

Under Israel’s “[separation policy](#),” Palestinian women whose registered address is in the West Bank living in Gaza following marriage to a Gaza resident are not only separated from their families in the West Bank, but are also at risk of losing their status as West Bank residents. In recent years, Gisha has witnessed [an uptick](#) in Israel’s practice of [demanding](#) that Palestinian West Bank [residents](#) sign forms that it treats as [official waivers](#) of basic rights, including one of the most fundamental rights of protected persons - the right to return to their home in an occupied territory.



Students on their way to class at the Islamic University of Gaza. Photo by Asmaa Elkhaldi

6 In many cases, when a woman moves to Gaza following marriage to a Gaza resident, Israeli authorities make her sign a form for "[Settlement in the Gaza Strip](#)" (Hebrew), often as a condition for moving to live in the Strip in the first place. From Israel's perspective, by signing this document, Palestinian women officially waive not only their right to visit the West Bank other than in "exceptional and humanitarian" circumstances, but also the right to return to live in the West Bank at any point in the future. **In cases where a woman with a West Bank address who lives in the Strip hasn't yet been compelled to sign the "settlement" form, Israel will often [exploit her application](#) for a travel permit to visit her family in the West Bank, or her [basic need to return to her home in Gaza](#) after a visit, as an opportunity to force her to sign the form.**

Gisha's position is that the "settlement" form, which women are essentially coerced into signing against their will, has no legal validity. **Israel's conduct in a variety of cases handled by Gisha, aimed entirely at stripping people of their right to return to live in the West Bank in the future, constitutes forcible transfer of protected persons, which is prohibited under international law and considered a war crime.**

In all of these cases, Israeli policy appears to apply to both men and women equally, but given that women tend to move to live with their husband's families, the movement restrictions encoded in the policies [impact women](#) disproportionately.

"Holidays are sad days"

Huda Wahidi, 46, is a Palestinian who was born in Israel and has Israeli citizenship. Twenty-six years ago, she married her husband, a resident of Gaza, and moved to the Strip to live with him. Particularly since Israel tightened the closure on the Strip in 2007, Wahidi has had difficulties maintaining continuous contact with her family in Israel because the occasions she has seen her parents and siblings over the years have been so rare. Visiting family inside Israel also means leaving her spouse, and sometimes her children, behind. Some of her children haven't seen her side of the family in years.

"Holidays are sad days for me," says Wahidi, **"full of longing for my parents, my sisters and brothers."** The same is true for weddings and other family events. Wahidi speaks sorrowfully of how she was prevented from attending her nephew's wedding, and when her own son was married, only her mother received a permit to enter Gaza from Israel and take part in celebrations. In October, her daughter got married, but Wahidi lost hope that any of her

relatives would be allowed to attend the wedding given Israel's further tightening of restrictions on travel to and from Gaza since the first days of the COVID-19 outbreak in March 2020.

The Wahidis have six children. Huda gave birth to her eldest children in Ramle, inside Israel, meaning her husband could not be by her side. Israel's criteria for travel by Palestinians do not include childbirth - even for the child's father. The couple's other children were born in Gaza, without the support of her family members. **"It was very difficult. I really needed my mother and sisters beside me."**

According to Wahidi, even when she did receive a permit to visit her family in Israel, the permit stipulated that she would be required to stay in Israel for at least a month, which, being a mother of six, was no small feat. **"I had to leave some of my children in the Strip, and some came with me. It's extremely complicated planning for such a long period of separation."**

Harm to education, livelihoods, and professional development

» Education

Since the year 2000, Israel has [banned travel](#) from Gaza to the West Bank for the purpose of academic studies at West Bank universities. Other than the limited number of advanced degrees offered by universities in Gaza, the only avenue for acquiring higher education outside the Strip is therefore to receive a travel permit for academic studies abroad. **The restriction on study in the West Bank ostensibly applies to both men and women equally, but de facto impacts women disproportionately.** Women students, for various societal reasons, are less likely to travel abroad when the subject of their choice is not offered in Gaza, but according to Gisha's experience, might consider travel to the West Bank if that option were available.

» Livelihoods

Severe restrictions on access which limit economic activity, a central and openly acknowledged goal of the closure tightened by Israel in 2007, have greatly reduced employment options available to Gaza residents, exacerbating women's exclusion from the local job market. A high percentage of university graduates [cannot find work](#) in their fields of study. In the third quarter of 2020, the unemployment rate among women under 30 reached a staggering 88.4 percent. In the years since it was tightened, the closure on Gaza has led to a dramatic drop in the percentage of women employed in the farming and fishing sectors, amongst others.²

² Before 2007, women accounted for about 36% of those employed in [fishing and farming](#). That rate dropped to less than 4% by 2018 due to ongoing Israeli restrictions on access to land and sea spaces in Gaza as well as restrictions on access to necessary materials. True to the second quarter of 2020, only 723 women worked in fishing and farming in Gaza, compared to 9,890 women registered as working in these sectors in 2014.

8 According to the Palestinian Central Bureau of Statistics, as of [September 2020](#) (Arabic), as many as 94 percent of the women employed in Gaza work in service-related professions such as teaching and nursing, or in the third sector. **Israel's consistently minimalistic interpretation of the criteria it formulated does not recognize the need of people working in these sectors for work-related travel.**

» Professional development

One of the main obstacles facing working women in Gaza is the lack of access to training programs, professional seminars and conferences held outside the Strip. The inability to meet colleagues, attend trainings, or promote their businesses outside Gaza stymies the development of [small businesses](#), impedes networking, and prevents professional cooperation, including between [civil society](#) organizations. **Israel's policy thus creates an additional ceiling that limits growth prospects for women and their businesses.**

The Status of Authorizations contains a criterion for "attending a conference," apparently intended to allow professionals to attend conferences in Israel and the West Bank, but only in certain fields (agriculture, medicine, water, waste management, energy, high-tech, and finance). **By limiting the fields recognized for this purpose to mostly male-dominated ones, Israel de facto blocks women from accessing countless opportunities.**³

In 2018, Gisha invited some twenty men and women from Gaza to take part in a large forum, the aim of which was to distill policy recommendations for improving living conditions in Gaza, attended by Palestinian, Israeli and international stakeholders. Only four of the applicants received a permit from Israel, all of them men. Not one of the nine women invited to the forum received

approval. At the hearing on the petition filed by Gisha in response to this

Israel's policy creates an additional ceiling that limits growth prospects for women and their businesses

decision, counsel for the state [said of the women's applications](#): "The authorized officials have found no argument or substantiation was provided regarding an occupation that directly contributes to improving basic physical needs in the Gaza Strip, including from the fields of finance and infrastructure, or any contribution to these aspects derived from the requested entry into Israel."

Israeli officials thus decided what was needed for Gaza rather than allowing Palestinians to decide themselves – improving infrastructure was deemed worthy, while boosting women's employment or reducing domestic violence was not. The consequence of the decision was that organizations run by and for women were excluded, and the women leaders of these organizations, by all means active and important figures in their communities, were unable to lend their voices to a dialogue about improving conditions in Gaza more broadly.

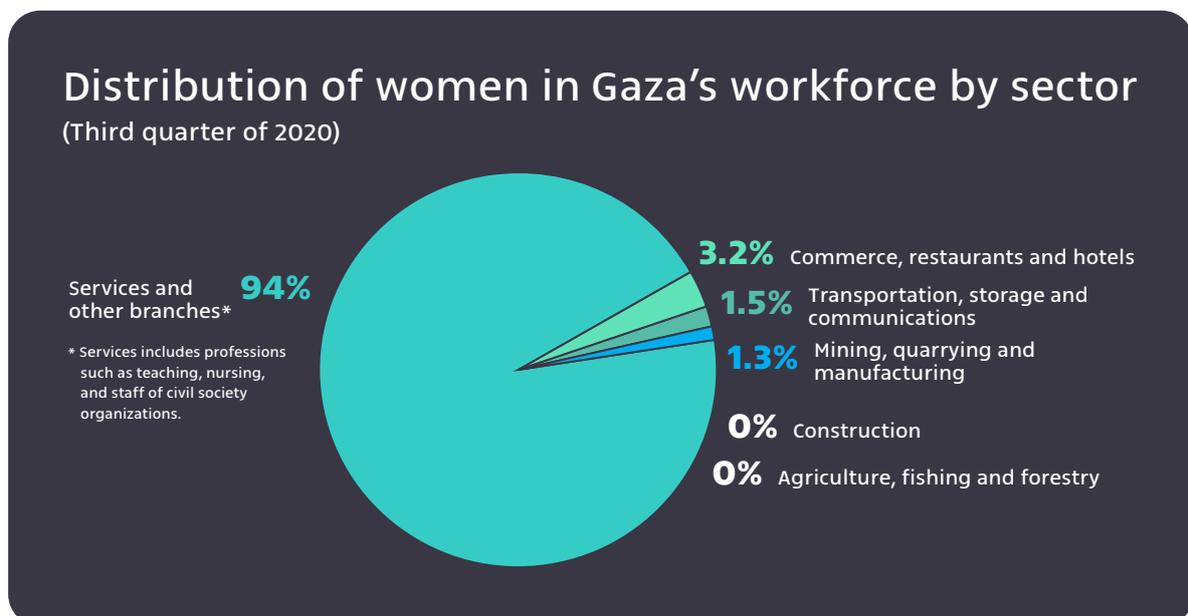
³ According to the Palestinian Civil Affairs Committee in the Gaza Strip, in 2019, Israel approved only 39 out of 249 permit applications submitted by women for the purpose of attending professional conferences and workshops. In 2018, Israel approved only 22 of 618 permit applications filed by women living in Gaza for this purpose.

» Trade and “trader” permits

According to the Status of Authorizations, the only people entitled to file permit applications for work-related travel are “traders,” “BMG” (Business Man Gaza - defined as “senior Palestinian traders and businesspeople”) and “companions to a BMG” (meaning immediate relatives of BMG permit holders). In order to submit an application for a “trader” permit, [applicants must provide proof](#) that their business cycles exceed 20,000 ILS per year (roughly 5,900 USD), and be “a senior trader whose entry stands to contribute to improving the Gaza Strip’s economy, and who trades in goods permitted under the civilian policy in place at the time the application is made.” To file an application for a [BMG permit](#) (Hebrew), applicants must also prove they employ at least five people.

Most women in Gaza’s workforce do not meet Israel’s minimum requirements for a trader permit, let alone a BMG permit. A [response from COGAT](#) to a Freedom of Information request filed by Gisha indicates that women applying for trader permits were more likely than men to be denied a permit by Israeli authorities on the grounds that their application had “failed to meet criteria.”⁴

Restrictions imposed by Israel on movement of goods via Gaza’s only commercial crossing, Kerem Shalom, which Israel controls, do not allow for [trade](#) in [small](#) quantities. Israel also prohibits commercial mail from Gaza, as well as limiting [luggage](#) at Erez Crossing. **Its policy effectively blocks all small and mid-sized businesses, [where women are more likely to work](#), from selling goods outside Gaza.**



⁴ According to COGAT’s response to Gisha’s Freedom of Information request, in the past three years (2017-2019), refusals to issue trader permits due to “failure to meet criteria” was a more prevalent grounds with respect to women applicants in comparison to men. In 2017, 34.5% of all refusals for trader permit applications filed by women cited “failure to meet criteria,” compared to 18% for men. In 2018, the rate of refusals on these grounds was 13.5% among women, compared to 6.1% among men. In 2019 (January-August), the rate of refusals reached 19% among women, compared to 11% among men.

"If only they'd let me do my work"

H.J. was the first person to import a certain, sought-after type of fresh mushroom to Gaza, selling them to local restaurants. She made contact with an Israeli supplier, took care of all the required paperwork for coordinating the entrance of the product, and had started making a name for herself in the Strip. Demand was low, so in order to cover the high shipping costs and turn a profit, H.J. had to start importing other types of goods. She filed applications for a permit to exit the Strip, hoping to develop her professional knowledge, meet with suppliers and make connections that would allow her to grow her business. All of her permit applications were denied by Israel on the grounds that she **"failed to meet the criteria."** Her application for a "trader" permit was denied because she was under 30 years old at the time. These days, another trader – a man – imports the mushrooms into Gaza. **"I had big dreams,"** says H.J., **"if only they'd let me do my work."**

Muna Khader is a journalist. She works for a feminist organization in Gaza, Filastiniyat, which also has an office in Ramallah. Khader describes the difficulties the organization faces when it comes to communicating with colleagues in the other part of the occupied Palestinian territory. Staff meetings rely on a weak, [erratic internet connection](#) and are frequently interrupted by power outages in Gaza. Countless meetings are either severely disrupted or canceled altogether. **"We are one organization, but we are rarely able to meet for a workshop, conference or planning session,"** she says. In 2019, some of the staff members, all women, filed permit applications to attend training in the West Bank. Some of the women who applied were summoned to Erez Crossing for security questioning, but never received an answer to their permit requests. Others received no response whatsoever from Israeli authorities. In these ways, the permit regime effectively blocks feminist organizations and other civil society [organizations](#), where a large portion of employees are women, from convening; an ongoing impediment to their crucial work.

Legal analysis

The Status of Authorizations document is the pillar of Israel's policy of restricting travel by Palestinians. It is the principal document listing the narrow criteria for obtaining permits to travel to and from the Gaza Strip. In this sense, it is a legally binding document, with far-reaching implications for all aspects of life in Gaza: family life, education, employment, medical services, economic activity, and more. Women seeking to exercise their right to freedom of movement must meet the stringent criteria it sets forth and follow the complex bureaucratic mechanisms instituted by Israel in the Status of Authorizations and its multiple ancillary procedures. **Our years of experience promoting and protecting freedom of movement to and from Gaza indicate that Israel's criteria often result in**

de facto preference of men, who are also greatly harmed by the policy of closure, with disproportionate impact on women.

The obligation to ensure equality between men and women has been enshrined in Israeli law in both statute and case law. The Women’s Equal Rights Law from 1951 stipulates that women must not be discriminated against in any legal act, and any legal provision that discriminates against women must not be upheld. The law further stipulates that it is possible to establish that discrimination is taking place even when it is the outcome of an act

}} **Israeli policy displays alarming disregard for women in the Gaza Strip**

not designed to discriminate (Section 1a). **The duty to refrain from discrimination against women applies to the State of Israel in relation to the permit regime it instituted in the Status of Authorizations as well.** This means that if the document is found to give Palestinian women less access to travel permits than it gives Palestinian men, Israel would be held as unlawfully discriminating against women, regardless of whether it had any intention to do so.

The prohibition on discrimination between men and women is also enshrined in international law. The [Convention on the Elimination of All Forms of Discrimination against Women](#), adopted by the United Nations in 1979 and ratified by Israel just a year later, in 1980, binds Israel to protecting the principle of equality between men and women and the prohibition on discrimination against women. According to the convention’s first article, discrimination is “any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of” harming women “[...] in the political, economic, social, cultural, civil or any other field.” **State parties to the convention commit to refrain from discrimination against women, to take positive action against such discrimination, and to implement measures to ensure the full development and advancement of women** (Article 2d-3 of the convention).



Women working at Al Majd clothing company. Photo by Asmaa Elkhaldi

Over the past two decades, discourse on women’s right to equality developed particularly around the disproportionate impact of armed conflict on women. In October 2000, the UN Security Council [passed Resolution No. 1325](#), the first of seven resolutions that would go on to be passed by 2013. These resolutions were designed to provide guidelines for international institutions and UN member states with respect to the protection of women, their participation in peace processes and the assimilation of [gender mainstreaming](#) in actions designed to prevent, manage, and resolve international conflicts. The State of Israel has acknowledged its obligation to take action to implement this resolution, and was the first country to enact legislation on the matter (an amendment to the Women’s Equal Rights Law in 2005).

Adopting and assimilating gender mainstreaming in accordance with the UN Security Council resolutions would have enabled Israel to design a permit policy that does not discriminate against women, but as this paper shows, Israeli policy displays alarming disregard for their predicament. Israel does not deny it has been locked in armed conflict with Gaza for many years. On the contrary, it constantly touts this as justification for the permit regime it imposes on Gaza and the severe violation of the right to freedom of movement this entails. **Still, despite its alleged commitment to the UN’s “Women, Peace and Security” agenda, Israel fails to recognize Palestinian women’s need for travel and to protect their fundamental right to freedom of movement.**



A workshop on health and gender-based violence run by Aisha Association for Woman and Child Protection.
Photo by Asmaa Elkhaldi

Conclusion

Israel’s official policy on movement of Palestinians between Gaza, Israel, the West Bank, and abroad, shapes the lives of both men and women, infringing on the fundamental right to freedom of movement as well as a host of other human rights dependent on movement. As

13 described in this policy paper, **the specific criteria detailed in the Status of Authorizations document have unique implications for Palestinian women living in Gaza, affecting them disproportionately.**

Because it is often women who move to live near their husband's families, in a reality where Israel prevents family unification anywhere but Gaza, it is mostly women who are separated from their parents and siblings in Israel and the West Bank by Israel's narrow policy. **It is therefore women who are most exposed to the bureaucratic violence inherent to Israel's permit regime when it comes to access to family. In an economy severely stifled by years of closure, women in Gaza are forced to contend not only with an ever-shrinking job market, but with stringent criteria that de facto give preference to men, and limit their access to education, employment and professional development outside the Strip.**

In these ways, Israel's criteria put women at a disadvantage, and ultimately lead to greater infringement of their rights. **To reverse the disproportionate harm to women in Gaza, and to meet its obligation to protect the rights of Gaza's population as a whole, Israel must remove the closure and allow Palestinians, both men and women, to travel and access family, livelihoods, education, and medical care.**

Photography: Asmaa Elkhaldi | Design: Dana Weingart

As required by law, Gisha is proud to share that as a result of our partnerships with countries and international organizations that support our work to promote human rights, the majority of our funding comes from "foreign governmental entities."