



مركز الميزان لحقوق الإنسان

RIGHTS AL-MEZAN CENTER FOR HUMAN

Report on Israeli Violation in the Access-Restricted Area and Violations against Fishermen and Patients

Reporting Period: 1 January – 31 March 2012



Erez Crossing – Peaceful demonstration on Land Day, 30 March 2012 – Photo by Al Mezan's field worker Hussein Hammad

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Introduction

The Israeli Occupation Forces (IOF) continue to systematically commit violations of international human rights law (IHRL) and international humanitarian law (IHL) against the population of the Gaza Strip. The IOF kills, arrests, and attacks civilians without any effective intervention from the international community, particularly the High Contracting Parties to the Fourth Geneva Convention.

As part of its efforts to protect human rights principles, the Al Mezan Center for Human Rights continues to monitor and document Israeli violations against Palestinians in order to bring the perpetrators to justice and provide redress for the victims.

This report summarizes IOF violations in areas near the borders (the Access-Restricted Areas (ARA) or the so-called “buffer zone”) and against fishermen in the Gazan sea or near the maritime borders. It also covers movement of patients via the Erez crossing, including the suffering they are subjected to and cases of arrests at the crossing.

The ARA is more than one kilometer wide and extends along the northern and eastern borders of the Gaza Strip. This report documents IOF abuses in these border areas against residents, farmers, peaceful demonstrators who gather weekly to protest the buffer zone, rubble collectors, bird hunters, shepherds, and wood collectors.

The report also details the ongoing Israeli attacks against Palestinian fishermen. The IOF prevents fishermen from working by various means and tactics, in flagrant violation of IHL and human rights principles. Israel has imposed restrictions prohibiting fishing more than three nautical miles off the coast of the Strip. It is common for the IOF navy to open fire on fishermen, pursue them in Gazan waters, and destroy and confiscate their equipment, including their nets and boats.

This report also covers the situation of patients on their way to hospitals in the West Bank, East Jerusalem, or Israel via the Erez crossing, summarizing their movements, and describing the suffering of Palestinian patients and their subjection to inhumane treatment and interrogation by Israel. It also highlights Israeli control over the number of patients who are allowed to travel via Erez. Al Mezan documents the number of patients whose permission to travel via Erez is denied or delayed by Israeli authorities.

The report covers the period beginning in January and ending March 2012, and is supported with numbers and statistics.

Background

There are different opinions on the appropriate terminology for and legality of the “buffer” area that Israeli authorities are seeking impose near the separation fence. The legal views on this area will be reviewed after defining the ARA. The Gaza Strip’s borders are demarcated in accordance with the Green Line fixed following the Israeli occupation of Palestine and the establishment of Israel in 1948–49, during the ceasefire talks on the island of Rhodes between the belligerent countries: Egypt, Jordan, Syria, Lebanon, and Israel. These borders intersect with occupied 1948 Palestinian territory to the north and east, and to the south with Egypt.¹

The term “buffer zone” began to be used following the Israeli evacuation of its settlements in the Gaza Strip and the unilateral disengagement on 12 September 2005, through the ceasefire announced on 19 June 2008, and throughout this time in connection with IOF abuses in the border areas. The IOF gradually made public its intent to create such a zone in 2008. In 2008, 2009, and 2012, Israeli aircraft dropped leaflets tens of times warning people against approaching to within 300 meters of the separation fence, announcing that those who did so put their lives in danger. The leaflets included maps of the eastern and northern borders of the Gaza Strip.

The buffer zone covers approximately 62.6 square kilometers, starting from the northern outskirts of Beit Lahiya and Um An-Naser village, continuing across the northern and eastern quarters of Beit Hanoun, where the Green Line veers south and the delimitation of Gaza’s eastern border begins, and then crosses the eastern edges of Jabaliya. This is in North Gaza district. The ARA also includes lands in the eastern parts of the Al Ijdaida area, the At-Turkman area, Wadi Gaza village, and eastern and southeastern Gaza district. It passes residential communities located east Deir Al Balah as follows: Al Bureij refugee camp, Al Maghazi refugee camp, Al Msadar village, Deir Al Balah, and Wadi As-Salqa village. It also runs through another six communities in eastern Khan Younis district: Al Qarrara, Bani Suhaila, Khuza’a, Absan Al Kabeera, Abasan As-Sagheera, and Al Fukhari. The eastern border (and hence the ARA) ends at As-Shoka village east of Rafah.

The separation fence on the border, also known as the “security fence,” consists of electric barbed wire, specifically three parallel wires, each spaced a few meters apart, one of which has an electric current running through it. In addition, there are cement walls barricading the border north of Beit Lahiya and Beit Hanoun. On the Israeli side, there are several military sites and a number of watchtowers. There are also iron gates, big and small, used by infantry troops and Israeli tanks during limited incursions.

The buffer zone is in contravention of IHL for the basic reason that it fails to differentiate between civilians and combatants. The bedrock principle of IHL is that of distinction between combatants, who by virtue of their choice to participate in

¹ See Al Mezan’s report, “Occupation Violates all Rules, the Suffering of Civilians Continues,” http://www.mezan.org/ar/details.php?id=10006&ddname=buffer%20zone&id_dept=22&id2=9&p=center.

lethal violence may be killed without the censure of law, and civilians, who cannot be attacked under any lawful circumstances. The only possible configuration of facts justifying physical harm to civilians under the law is a proportionate and selective attack on a military target that causes unintended civilian casualties.

The two essential characteristics of the buffer zone are that a) it is imposed without discrimination, and b) it is implemented by use of force, often lethal. The long-term goal appears to be depopulation of large swathes of the northern and eastern borders, the intention being to keep these areas free of any human presence, regardless of civilian or military character; and this goal is frequently carried out by live fire against those who pass the perimeters imposed by Israel. It is similar in certain respects to a free-fire zone. Leaflets dropped over Gaza frequently proclaim that, having warned the population, Israel considers itself free to fire on anyone entering or passing through the “buffer” areas, and in practice residents and other civilians are regularly fired at and sometimes injured or killed. The idea that warning civilians they are subject to danger obviates the requirement of military-civilian distinction is quite unknown under IHL.

The violence that has been used to create the buffer zone is, therefore, unlawful; but what about the creation of a depopulated zone in itself? Israel has resort to one possible legal claim under IHL, the concept of civilian “evacuation” in occupied territories—but this defense is by definition only available in situations of occupation. Israel claims that Gaza is no longer occupied. If this claim were correct, then there could be no possible legally permissible basis for evacuation of the population. Regardless of what Gaza is, according to Israel’s preferred legal position—plainly not an independent state, but also not occupied territory—a state has no claim to forcible movement of populations beyond its sovereign borders. What legal basis Israel claims for creation of a buffer zone, with attendant evacuation of residents, on land it neither owns nor recognizes as under its occupation, therefore remains a mystery.

In point of fact, of course, Gaza is still occupied to the extent that it remains under effective Israeli control. Occupation law does make limited allowance for civilian evacuations by an occupying power. The relevant legal provision is Geneva Convention IV, Art. 49, paragraphs two and three. Paragraph two states, in pertinent part, that “the Occupying Power may undertake total or partial evacuation of a given area if the security of the population or imperative military reasons so demand.” The “population” referred to is that of the occupied territory, which Israel makes no claims to be protecting via the buffer zone; its declared concern is for its own population, which cannot justify evacuation of foreign populations under IHL. Evacuation for military reasons is strictly limited by the term “imperative,” which plainly alludes to a state of military exigency—the raging of an uncontrollable war, for example—which does not exist on the Gaza-Israel border. In terms of military activity—other than Israel’s firing on civilians and regular incursions to demolish structures or raze lands—the perimeters of Gaza see frequent but not intensive launching of rockets (or mortars) towards Israel, which typically cause no casualties, and Israeli strikes on the combatants carrying out these small-scale attacks. Though these exchanges of fire may on some occasions have lethal results, from a military standpoint they are trifling and scarcely rise to the level of combat, let alone battles or warfare on a scale creating an “imperative” military need to clear the area of all inhabitants. The final sentence of Art. 49, paragraph two, requires escort of evacuees “back to their homes as soon as

hostilities in the area in question have ceased,” while paragraph three requires that the occupying power “ensure, to the greatest practicable extent,” various criteria for the humane treatment of evacuated communities: “proper accommodation [...] to receive the protected persons,” and movement under “satisfactory conditions of hygiene, health, safety and nutrition,” with measures to ensure “that members of the same family are not separated.” Israel has never lifted a finger to see that a single one of these requirements is complied with. As such, it cannot even raise the claim that its policy of depopulation comes within the purview of evacuation under IHL.

IOF Human Rights Violations in the ARA

Following is a statistical summary of IOF human rights violations in the ARA during the reporting period.

Type of Violation	# of incidents	# of persons killed	# of children killed	# of injured	# of children injured	# of women injured
Limited incursion	9	0	0	0	0	0
Attacks on civilians and residents of civil areas	23	6	0	49	17	1
Attacks on farmers	10	0	0	0	0	0
Attacks on peaceful demonstrations	6	0	0	0	0	0
Attacks on civilians collecting rubble and scrap	1	0	0	0	0	0
Attacks on fishermen	15	0	0	0	0	0
Arrest near borders, at Erez crossing, or of fishermen at sea	42	<i>Six of the detainees were children; none were women. Nine of the detainees were released within a few hours of detention.</i>				

Attacks on Civilians and Residential Areas near Borders

During the reporting period, the IOF continued to open fire on areas near the eastern and northern borders of Gaza Strip, and to injure persons moving in the area. Tens of Palestinians were denied access to their lands along the borders in this period. The IOF attacks people even when they are from 1,000 to 1,500 meters away from the separation fence. Most IOF attacks have been concentrated on civilians and civilian objects. During the reporting period, the IOF carried out 23 attacks in the form of gunfire from watchtowers against Palestinians. As a result, six persons were killed and 49 persons were injured, including 17 children and one woman. Three residential houses were damaged in these attacks.

Table illustrating number of victims near the border					
# of incidents	# of persons killed	# of injured	# of children injured	# of women injured	# of houses damaged
23	6	49	17	1	3

Attacks on farmers in their fields near the border

The IOF continues to attack Palestinian farmers and bird hunters working near the separation fence in its attempts to impose the buffer zone. The IOF attacks people

even when they are 1,000 or 1,500 meters away from the separation fence. According to Al Mezan’s documentation, during the reporting period the IOF carried out 10 attacks, involving gunfire from watchtowers and/or use of heavier munitions, as follows:

Table illustrating Israeli attacks on Palestinian farmers in border areas				
# of incidents	Gunfire	Artillery shells	Missile attacks	Damages
10	4	9	4	Two camels were killed

Israeli Attacks on Peaceful Demonstrations

The IOF units positioned along the separation fence open direct and indirect fire on Palestinians participating in popular actions protesting the enforcement of the buffer zone to prevent them from reaching the area. However, the popular actions continue. According to Al Mezan’s documentation, the IOF opened fire at peaceful demonstrators with guns and gas canisters from watchtowers on six occasions during the reporting period.

Limited IOF Incursions near the Borders

The IOF continued its limited incursions into the northern and eastern parts of the Gaza Strip. During the reporting period, the IOF carried out eight limited incursions during which it razed and leveled agricultural lands. The frequent incursions deter Palestinian farmers from planting their lands, as they are afraid that their crops will simply be razed and leveled again. The limited incursions are usually carried out under sporadic heavy covering fire.

Arrest of Palestinians in the ARA

The IOF continued its policy of arbitrary arrest, detaining Palestinians during its limited land incursions and at sea. The IOF also used the Erez crossing as a kind of “trap” for Palestinians, exploiting the need of patients to travel for treatment in order to blackmail them into collaboration. In this context, the IOF arrested 32 persons, including five children, two patients, and one businessman.

Table illustrating number of detainees in areas near border and at Erez crossing				
# of incidents	# of detainees	# of children	# of patients	# of businessmen
15	32	5	2	1

Attacks on Fishermen in the Gazan Sea

The IOF continued its systematic attacks on fishermen during the current reporting period. The IOF carried out 15 attacks against fishermen; arrested nine, including a child, though they were released within a few hours of detention; and confiscated four fishing boats and five fishing nets. Israel has imposed restrictions prohibiting Gazan fishermen from working more than three nautical miles off the coast of the Strip. It is common for IOF soldiers to open fire on fishermen, pursue them in the waters where they work, and destroy and confiscate their equipment, including their nets and boats. Such acts constitute flagrant violations of Israel's legal obligations as an occupying power under international law, and violate the fishermen's rights to life and work.

Table illustrating number of attacks on fishermen						
# of incidents	# involving gunfire	# involving arrests	# of detainees	# of children detained	# of fishing nets confiscated	# of fishing boats confiscated
15	15	4	9	1	5	4

Movement at the Erez Crossing

Palestinian patients suffer greatly at Erez crossing. The IOF controls the number of patients allowed to pass through Erez to receive medical treatment at Palestinian hospitals in the West Bank and East Jerusalem, or in Israeli hospitals. In many cases Israeli authorities refuse to allow patients to travel for unknown reasons. Moreover, the Israeli Security Agency (ISA) interrogates a number of patients, and detains and blackmails some of them. It also prevents patients from travelling. In addition, patients spend long hours waiting at the crossing for the IOF to allow them to pass.

Following below are statistics on the number of patients, patient escorts, ambulances carrying patients in critical condition, and ISA interviews of people seeking permission to cross Erez. The IOF imposes harsh restrictions on the movement of patients and their escorts, including patients with critical conditions. It also implements strict procedures in its dealings with Arab and international workers, international journalists, diplomats, and travelers via the Allenby Bridge to Jordan. Although the crossing has been partially opened, the IOF totally closes it on Saturdays, or at any time for other reasons. According to Al Mezan's documentation, in the first three months of 2012, the IOF totally closed the crossing on 13 Saturdays, and sometimes suspended work for hours for unknown reasons. The IOF usually makes it difficult to obtain permission to travel via Erez. It should also be noted that the number of people allowed to enter the crossing varies from one week to another.

Month	Working days	Patients	Escorts	Ambulances to Israeli hospitals	Int'l employees	Diplomats	Journalists	Businessmen	Palestinians citizens of Israel visiting relatives in Gaza	Travelers holding VIP cards	Via Allenby Bridge
Jan.	27	766	755	52	548	93	40	2318	413	17	5

Month	Working days	Patients	Escorts	Ambulances to Israeli hospitals	Int'l employees	Diplomats	Journalists	Businessmen	Palestinians citizens of Israel visiting relatives in Gaza	Travelers holding VIP cards	Via Allenby Bridge	Security interviews
Feb.	25	645	632	47	693	108	43	2146	277	8	2	24

Month	Working days	Patients	Escorts	Ambulances to Israeli hospitals	Int'l employees	Diplomats	Journalists	Businessmen	Palestinians citizens of Israel visiting relatives in Gaza	Travelers holding VIP cards	Via Allenby Bridge	Security interviews
Mar.	25	658	669	50	665	91	54	1817	142	5	19	27

Month	Working days	Patients	Escorts	Ambulances to Israeli hospitals	Int'l employees	Diplomats	Journalists	Businessmen	Palestinians citizens of Israel visiting relatives in Gaza	Travelers holding VIP cards	Via Allenby Bridge	Security interviews
Apr.	19	669	630	45	528	71	31	1654	246	4	15	34

Conclusion

The information presented in this report covers Israeli human rights violations carried out against Palestinian fishermen and patients at Erez crossing. It also illustrates the suffering of Palestinians due to the IOF's attacks against them and against their lands and properties. These Israeli acts amount to systematic violations of IHL and IHRL, particularly the Fourth Geneva Convention.

Al Mezan believes that the failure on the part of the international community, particularly the high contracting parties to the Fourth Geneva Convention, to take an active role is one of the main causes of the ongoing Israeli aggression and crimes committed against Palestinians in the occupied Palestinian territory (oPt) and the Gaza Strip in particular. Al Mezan stresses that Israel, as an occupying power, is obliged to respect its obligations under international law.

Therefore, Al Mezan calls on the international community, particularly the high contracting parties to the Fourth Geneva Convention, to ensure Israeli respect of and commitment to the Convention.

Al Mezan believes that Israel's escalation of abuses and violations of the Fourth Geneva Convention should push the high contracting parties to the Convention to hold a conference on the oPt to examine what procedures should be taken. These parties should observe and respect the Convention in all situations. Al Mezan re-emphasizes that any intervention by the international community should focus on providing international protection for civilians, immediately lifting the harsh siege, given that it is a form of collective punishment, and halting Israeli aggression against the oPt.

In this context, Al Mezan recalls the Thousands of Palestinians who have been displaced from their homes and lands, the hundreds of houses that have been demolished and razed to the ground and the thousands of dunams leveled on security pretexts in order, to expand the buffer zone, and warns of the continuation of violations of the right of Palestinians, particularly residents of the border areas, to live in security and dignity.