

# Israel's Use of Torture and CIDT against Palestinians in the Gaza Strip<sup>1</sup>

Al Mezan Center for Human Rights

## Introduction

Between May 2009 and April 2011, Al Mezan Center for Human Rights conducted research on human rights violations in the Gaza Strip. This data collected indicates that the Israeli Occupation Forces (IOF), including the Israeli military and the Israel Security Agency (ISA or Shabak), continue to use torture and cruel, inhuman or degrading treatment or punishment (CIDT) against the Palestinians of Gaza. Moreover, the perpetrators of these acts are not held accountable, but are protected by a culture of impunity that has developed in Israel towards those who commit torture against Palestinians.

Numerous Israeli practices and policies violate the absolute prohibition of torture and CIDT enshrined in international law. Such practices and policies are particularly prevalent against Palestinians from the Gaza Strip, where Israel continues to exercise a very high level of effective control and to implement a blockade of the territory. To enforce this closure, Israel pursues practices that allow for the arrest and detention of Palestinians, including medical patients and fishermen, and permits the use of torture and CIDT against them.

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<sup>1</sup> The data for this report comes from Al Mezan, *Torture and other Forms of Cruel, Inhumane and Degrading Treatment against the Palestinian Population in Gaza Strip by the IOF*, July 2011, available at: [http://www.mezan.org/en/details.php?id=12381&ddname=Torture&id2=7&id\\_dept=22&p=center\\_more](http://www.mezan.org/en/details.php?id=12381&ddname=Torture&id2=7&id_dept=22&p=center_more)

This paper presents the latest data on these acts, gathered by Al Mezan. It demonstrates and explains how the Israeli-imposed blockade of Gaza is being enforced through policies and practices that violate the absolute prohibition of torture and CIDT. In identifying incidents and/or practices that fall within the definitions of torture and CIDT, Al Mezan has been guided by the jurisprudence of the UN Committee Against Torture (CAT) and the UN Human Rights Committee (HRC).

This chapter first describes the current situation in the Gaza Strip, particularly the effects of the policy of blockade on the population and how this makes Palestinians vulnerable to torture and CIDT. The next sections present the data collected by Al Mezan's field monitors between May 2009 and April 2011, and explain how Israel uses torture and CIDT against certain groups as a means of exerting its control over the Gaza Strip. The chapter then concludes with a brief analysis of how the continued use and threat of torture and CIDT has had an impact on the entire population of the Gaza Strip.

### **The blockade and other measures used by Israel to maintain control**

Over the last decade, the Israeli government has implemented a series of measures that constitute collective punishment against the population of Gaza. By controlling the land crossing points between Gaza and Israel, it has imposed severe restrictions on the movement of people and goods. Israel has significantly reduced the quantities of consumer goods, basic commodities, fuel, and medical supplies and equipment allowed to enter the Gaza Strip. Construction materials have been completely banned, leaving the housing sector in crisis and many families homeless, including large numbers who lost their homes during Operation Cast Lead (December 2008-January 2009) and as a result of Israel's continuing policy of house demolitions. Another outcome of the ban on building materials has been the rise in the numbers of scrap and rubble collectors, especially in areas close to the border fence, where many home demolitions have taken place.

Israel has also prevented the movement of Palestinians within the Gaza Strip's land and sea territory. Since February 2009, Palestinian fishermen have only been permitted to fish within a zone of three nautical miles, despite a previous agreement over a 20-nautical mile limit under the Oslo Accords. The Oslo Accords also stipulated a buffer zone of 50 meters from the border fence and into the territory of the Gaza Strip. However, in January 2009, the IOF dropped leaflets on various areas of the Strip declaring that it would fire at Palestinians who came within 300 meters of the border fence between Gaza and Israel. In practice, Palestinians have been shot at up to two kilometers from the border as part of the enforcement of the buffer zone.<sup>2</sup>

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<sup>2</sup> Save the Children UK, *Research Report: Life on the Edge: The struggle to survive and the impact of forced displacement in high risk areas of the occupied Palestinian territory*, October 2009, p. 47, available at: [http://www.savethechildren.org.uk/sites/default/files/docs/English\\_Research\\_Report\\_with\\_Cover\\_low\\_res\\_1.pdf](http://www.savethechildren.org.uk/sites/default/files/docs/English_Research_Report_with_Cover_low_res_1.pdf)

The combination of the blockade and other policies to restrict movement allow the IOF to arrest and employ torture and CIDT against Palestinians with whom it comes into contact. The following sections will identify those groups who are most at risk of torture and CIDT and present the latest figures on the use of torture and CIDT collected by AI Mezan's field and data management staff from 1 May 2009 to 30 April 2011.

## Who is Israel arresting?

From May 2009 to April 2011, AI Mezan documented the following cases of arrests and detentions:

- 140 Palestinians from the Gaza Strip arrested by the IOF;
- At least 15 Palestinians from Gaza detained by Israel as 'unlawful combatants,' 6 of whom remain in detention;<sup>3</sup>
- 85 Palestinian detainees subjected to torture in Israeli prisons;
- At least 65 fishermen arrested by the IOF, including 4 minors, most of whom were subjected to torture and/or CIDT;
- 12 medical patients or their escorting relatives arrested by the IOF at Erez crossing;
- 38 rubble and scrap collectors, including 4 minors, arrested during limited incursions by Israel into the Gaza Strip; most of those arrested were subjected to torture and/or CIDT;
- No detainee from the Gaza Strip was permitted a visit from a family member from the Gaza Strip.

Those persons most vulnerable to arrest and therefore torture and/or CIDT are medical patients and their escorting relatives trying to leave Gaza through the Erez crossing, fishermen, and rubble and scrap-collectors. Israel arrests and detains members of these groups in order to maintain its blockade of Gaza and its effective control of the area, and the land and sea borders in particular.

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<sup>3</sup>Information obtained by AI Mezan's lawyers, who have represented several alleged "unlawful combatants," and from the Palestinian Ministry of Prisoners Affairs in May 2011. For more information see, AI Mezan *Unlawful Combatants: The Violation of Gazan Detainees' Rights in Israeli Prisons*, April 2009, available at: [http://www.mezan.org/en/details.php?id=8619&ddname=detention&id\\_dept=22&id2=9&p=center](http://www.mezan.org/en/details.php?id=8619&ddname=detention&id_dept=22&id2=9&p=center); and AI Mezan, "AI Mezan Calls for Release of All Detainees Held by Israel and Especially those Categorized as 'Unlawful Combatants' in Contravention of International Law and Human Rights Principles," 26 March 2009, available at: [http://www.mezan.org/en/details.php?id=8596&ddname=detention&id\\_dept=9&id2=9&p=center](http://www.mezan.org/en/details.php?id=8596&ddname=detention&id_dept=9&id2=9&p=center)

## Patients' access to medical care outside Gaza

In 2009 and 2010, the Palestinian Ministry of Health (MoH) referred a total of 30,127 patients for treatment outside the Gaza Strip.<sup>4</sup> Of these, 6,538 patients in 2009 and 9,585 in 2010 went to receive treatment in the West Bank (including East Jerusalem), Israel, and Jordan, for which they required Israeli permits to exit Gaza through the Erez crossing.<sup>5</sup>

From May 2009 to April 2011, Al Mezan documented the following cases of the denial of access of patients to medical care outside Gaza:

- 856 cases of patients whose applications for permits to cross Erez were delayed;
- 242 cases of patients whose applications for permits to cross Erez were delayed;
- 553 cases of patients who were asked to appear at Erez for an interview and interrogation by ISA;<sup>6</sup>
- 6 cases of patients who died while waiting for their permits to be issued, including 3 children and 1 woman;
- 12 cases of patients or their escorting relatives who were arrested at the Erez crossing;<sup>7</sup>
- 7 reports from patients who were coerced into giving information about relatives and/or friends in exchange for a permit.<sup>8</sup>

Due in large part to the closure and blockade of Gaza, there is a lack of trained staff and advanced, specialized medical equipment that is needed for certain complex conditions, including heart, nerve and eye-related conditions. Medical professionals face severe restrictions on their movement and, in most cases, cannot leave Gaza to receive training, including to other parts of the occupied Palestinian territory (oPt). Israel does not allow essential medical equipment, including X-ray machines, for example, to enter Gaza as a matter of policy.<sup>9</sup> As a result, the Palestinian health authorities have had to refer more than a thousand patients to hospitals outside the Gaza Strip every month to receive treatment.

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<sup>4</sup> See World Health Organization, *Referral of Patients from Gaza, Data and Commentary for 2010*, July 2011, available at: [http://issuu.com/who-opt/docs/who\\_referral\\_abroad\\_report\\_gaza](http://issuu.com/who-opt/docs/who_referral_abroad_report_gaza); and Palestinian Ministry of Health, *Health Annual Report, Palestine 2009*, April 2010, p. 134, available at: <http://www.moh.ps/attach/19.pdf>

<sup>5</sup> See also, Palestinian Ministry of Health, *Health Annual Report, Palestine 2009*, April 2010, p. 134. A monthly breakdown of permit requests is not available from the Palestinian Ministry of Health.

<sup>6</sup> According to information obtained by the Coordination Office at the Ministry of Health, which is responsible for coordinating with the Israelis to facilitate the access of medical patients to hospitals outside the Gaza Strip.

<sup>7</sup> See Joint Press Release, "Human rights organizations: The ISA (Shabak) summons sick patients to the Erez Crossing and detains them, preventing them from receiving medical treatment," 1 March 2010, available at: [http://www.mezan.org/en/details.php?id=9776&ddname=torture&id\\_dept=31&id2=9&p=center](http://www.mezan.org/en/details.php?id=9776&ddname=torture&id_dept=31&id2=9&p=center). See also, Al Mezan, "Al Mezan Condemns Israeli Court Sentencing Palestinian Patient to 30 Months Imprisonment," 21 September 2010, available at: [http://www.mezan.org/en/details.php?id=10768&ddname=detention%20treatment%20abroad&id\\_dept=9&p=center](http://www.mezan.org/en/details.php?id=10768&ddname=detention%20treatment%20abroad&id_dept=9&p=center)

<sup>8</sup> Cases of coercion may go unreported because Palestinians are often afraid to talk about their experiences, since their lives may be put in danger if others find out that they have spoken to Israelis and been asked to collaborate with Israel.

<sup>9</sup> Physicians for Human Rights-Israel *Israel has Pledged to Ease the Closure, What Now? A Situation Report on Obstacles Facing Gaza Residents in Need of Medical Treatment*, July 2010, available at: [http://reliefweb.int/sites/reliefweb.int/files/resources/EC30718EA3DA7CE8C1257758004C4163-Full\\_Report.pdf](http://reliefweb.int/sites/reliefweb.int/files/resources/EC30718EA3DA7CE8C1257758004C4163-Full_Report.pdf)

Patients are mainly referred to hospitals in the West Bank (including East Jerusalem) and Israel. Others are referred to Egypt and Jordan. Patients who are referred to hospitals in the West Bank, Israel or Jordan have to pass through the Erez crossing to reach these hospitals. To do so, they require permission from the ISA, which has the authority and discretion to grant or refuse to issue the permits.

The ISA's processing of patients' requests for permits is lengthy and often causes patients to miss their hospital appointments, which in turn forces them to go through the referral mechanism again, sometimes repeatedly. The Israeli authorities do not provide any detailed reasons for the long delays other than vague 'security' concerns. As most of the referred patients require life-saving medical treatment, patients have died while waiting for a response to their requests for permits (six died between May 2009 and April 2011). In addition to the long delays in the permit procedure, Israel has created a distinction between life-threatening and non-life-threatening, or 'quality of life', medical treatment. This distinction between a life-threatening medical state and one that merely hinders quality of life is arbitrary, but is the main criterion for determining whether a patient is granted a travel permit to cross Erez or not.<sup>10</sup>

The data gathered by Al Mezan also indicates that the IOF exploits Gaza patients' need to access medical treatment outside the Gaza Strip to obtain intelligence information. In some cases, patients applying for permission to exit Gaza through Erez are summoned for an interview/interrogation by the ISA at Erez. During these interviews, patients are usually interrogated and coerced into giving information about people in their acquaintance. Even patients who have not been called for an interview may be arrested and interrogated by the ISA once they reach Erez.<sup>11</sup>

According to Al Mezan's documentation, medical patients who are interviewed at Erez by the ISA are subjected to CIDT. Firstly, they are forced to walk approximately one kilometer to reach the main gate at the crossing. They are then subjected to complicated search procedures that many find exhausting and difficult, particularly the disabled. All patients are strip searched. They are then kept waiting for hours at a time in a hall inside the crossing before being interviewed/interrogated. During this period they are denied access to food and water.<sup>12</sup>

Patients who refuse to provide information run the risk of being denied a permit to cross Erez and therefore of accessing vital, usually life-saving, medical treatment. Al Mezan's research also shows that many patients and/or their escorting relatives have been arrested and taken to prison, where they are interrogated and frequently exposed to torture and/or CIDT.<sup>13</sup>

<sup>10</sup> See Adalah, Physicians for Human Right-Israel and Al Mezan, *Who Gets to Go?*, June 2010, available at: <http://www.mezan.org/upload/10401.pdf>

<sup>11</sup> Information from affidavits taken by Al Mezan's lawyers and field workers.

<sup>12</sup> Information from affidavits taken by Al Mezan's lawyers and field workers.

<sup>13</sup> See Al Mezan, *Fact Sheet: Gaza Patients Access to Medical Treatment Abroad*, 27 December 2010, available at: <http://www.mezan.org/upload/11211.pdf>. For more information about the conditions under which Gaza patients apply for permits to cross Erez, see Adalah, Physicians for Human Right-Israel and Al Mezan, *Who Gets to Go?*, June 2010.

Affidavits collected by Al Mezan show that patients who are arrested and detained have been subjected to torture without consideration for their health during detention. They are treated no differently from other detainees. They are also victims of medical negligence resulting from the poor medical services in prison, and the fact that they are rarely referred to hospitals that have specialized medical equipment or services.

## **CIDT of Palestinian fishermen**

From May 2009 to April 2011, Al Mezan documented the following incidents involving Palestinian fishermen:

- 92 incidents involving attacks, including shootings and arrests, on fishermen off the coast of the Gaza Strip, both within the three-nautical mile zone and outside it;<sup>14</sup>
- 75 cases of attacks committed against fishermen by Israel, resulting in 2 killings and 8 injuries;
- 59 fishermen were arrested, including three minors. All reported being subjected to CIDT during their arrest.

As a result of the Israeli-imposed fishing limit of three nautical miles, fishermen are now among the most vulnerable and poor population groups in the Gaza Strip. There are about 4,400 fishermen in Gaza, of whom 3,700 are registered with the Palestinian Fishermen's Syndicate. Approximately 65,000 people rely on fishing for their living.<sup>15</sup>

The Israeli navy chases and opens fire on fishermen on an almost daily basis, forcing them to leave the sea. On many occasions, the Israeli navy also arrests fishermen, subjects them to CIDT, and/or confiscates their fishing equipment and boats. Al Mezan's documentation indicates that the Israeli navy followed a repeated pattern of procedures that suggests that specific security protocols are in place for the arrest of fishermen from Gaza. In all the documented cases, Israeli naval soldiers ordered the fishermen to stop fishing and to turn off the engines of their boats. They then ordered the fishermen to remove their clothes and swim towards the Israeli naval boats, even in winter, where they were handcuffed, arrested and taken to Israel. In their affidavits to Al Mezan, fishermen stated that Israeli naval officers left them without clothing for several hours, even during the winter. During their detention, usually at the Israeli port of Ashdod, Palestinian fishermen also stated that they were forced to wait handcuffed with plastic ties, blindfolded for many hours and left without food. In all cases the IOF interrogated the detained fishermen and applied pressure on them, through harsh interrogation techniques including shouting,

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<sup>14</sup> Al Mezan does not distinguish between incidents that take place within the permitted zone and those that take place outside it. The three-nautical mile limit was unilaterally imposed by Israel and fishermen's lives are at risk anywhere in the sea because the limit is not respected by the Israeli navy.

<sup>15</sup> See the Office for the Coordination of Humanitarian Affairs (OCHA) and the World Food Programme (WFP), *Between the Fence and a Hard Place: The Humanitarian Impact of Israeli-imposed restrictions on Access to Land and Sea in the Gaza Strip*, August 2010, pp. 10, 11, available at: [http://www.ochaopt.org/documents/ocha\\_opt\\_special\\_focus\\_2010\\_08\\_19\\_english.pdf](http://www.ochaopt.org/documents/ocha_opt_special_focus_2010_08_19_english.pdf)



offering monetary payment for information, or threatening further detention, in order to extract information.<sup>16</sup>

Despite having radios onboard their boats, the fishermen reported never having received warning from the Israeli navy before being attacked. This is despite the fact that the Israeli navy possesses advanced communications technology that enables it to warn Palestinian fishermen if they have strayed out of the permitted area. Instead, however, the navy uses violent and degrading methods to enforce the restrictions and prevent fishermen from earning their livelihood.

### **CIDT of civilians in the buffer zone**

From May 2009 to April 2011, Al Mezan documented the following cases of CIDT of civilians in the buffer zone by Israel:

- 252 cases of shooting in the buffer zone, involving rubble and scrap collectors, farmers, peaceful protestors, residents of the buffer zone and other civilians present close to the border;
- 26 cases of people, including 6 children and 2 women, who were killed;
- 142 cases of people who sustained injuries, including 39 children and 2 women;
- 38 cases of arrests of rubble and scrap collectors during limited Israeli incursions into Gaza, including 4 children;
- 22 out of the 38 arrested were subjected to CIDT.

The IOF has carried out continuous attacks on farmers, students, schools, and other civilians who undertake economic activities or have property in the buffer zone. The imposition of the buffer zone has deprived hundreds of Palestinian families of their source of living as the land, which accounts for approximately 17 percent of Gaza's total area and 35 percent of the Strip's cultivated land, is too dangerous to farm.<sup>17</sup>

With the continuation of the blockade of Gaza continues, the need for construction materials to rebuild destroyed houses has increased, particularly in the aftermath of Operation Cast Lead, and to meet the demands of natural population growth. Rubble and scrap collecting in order to extract gravel and iron from destroyed structures near the northern and eastern border fence between Gaza and Israel has flourished, providing a significant source of income for many families.<sup>18</sup> Many of these workers come close to, and sometimes even enter, the IOF-imposed security buffer zone. The IOF routinely opens direct fire at these collectors in order to intimidate them and deter them from approaching the buffer zone.<sup>19</sup>

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<sup>16</sup> Information from affidavits taken by Al Mezan's lawyers and field workers.

<sup>17</sup> OCHA and WFP, *Between the Fence and a Hard Place*, August 2010, p. 5.

<sup>18</sup> Al Haq, *Shifting Paradigms: Israel's Enforcement of the Buffer Zone in the Gaza Strip*, 2011, p. 7, available at: [http://www.ochaopt.org/documents/ocha\\_opt\\_special\\_focus\\_2010\\_08\\_19\\_english.pdf](http://www.ochaopt.org/documents/ocha_opt_special_focus_2010_08_19_english.pdf)

<sup>19</sup> OCHA, *Easing the Blockade: Assessing the Humanitarian Impact on the Population of the Gaza Strip*, March 2011, p. 2, available at: [http://www.ochaopt.org/documents/ocha\\_opt\\_special\\_easing\\_the\\_blockade\\_2011\\_03\\_english.pdf](http://www.ochaopt.org/documents/ocha_opt_special_easing_the_blockade_2011_03_english.pdf)

## Demolition of homes and displacement

From September 2000 to the present, Al Mezan's data shows destruction by the IOF to 19,027 homes in Gaza, 5,694 of which were completely destroyed. 183,509 residents, including 91,007 children, have been directly affected. During Operation Cast Lead alone, Al Mezan documented destruction or damage to 11,149 homes as a result of attacks by the IOF, of which 2,652 homes were destroyed completely. These houses accommodated 108,748 people, including 53,217 children.<sup>20</sup>

From May 2009 to April 2011, Al Mezan documented the following cases of home demolitions and displacement:

- 162 cases of houses that sustained damage, including 13 that were demolished entirely;
- 1,790 people who were displaced, including 846 children.

Many homes in Gaza are demolished, some by aerial bombardment, in a policy aimed at punishing members of Palestinian resistance groups and their families, and residents of areas from where rockets have been launched into Israel. The IOF has frequently demolished homes near the border fence between the Gaza Strip and Israel, especially following Palestinian attacks from the border area. Others homes have been demolished on the vague pretext of 'strategic' military reasons. Yet other home demolitions have followed the pattern of pre-emptive attacks, as part of a strategy to evacuate the border areas of all persons.<sup>21</sup>

Whatever the reasons given for these home demolitions, they are illegal under international law in the absence of absolute military necessity and proper consideration to the principles of distinction and proportionality. The UN Committee Against Torture has indicated that such home demolitions may constitute CIDT.<sup>22</sup> They further constitute collective punishment.

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<sup>20</sup> For more details, see Al Mezan, *Cast Lead Offensive in Numbers*, 2 August 2009, available at: [http://www.mezan.org/en/details.php?id=8944&ddname=Gaza%20destruction&id\\_dept=14&p=center](http://www.mezan.org/en/details.php?id=8944&ddname=Gaza%20destruction&id_dept=14&p=center)

<sup>21</sup> Home demolitions in the buffer zone have been ongoing since 2000. OCHA states that most land up to 300 meters has been leveled and most structures within this area (including houses) demolished. Land-leveling and demolitions are now concentrated within the areas from 300 meters to 1.5 kilometers from the border fence. See OCHA and WFP, *Between the Fence and a Hard Place*, August 2010, p. 16.

<sup>22</sup> Conclusions and Recommendations of the Committee against Torture: Israel, CAT/C/XVII/Concl.5, 23 November 2001, paras. 6(j) and 7(g), available at: <http://www.unhchr.ch/tbs/doc.nsf/0/60df85db0169438ac1256b110052aac5?Opendocument>; and Concluding observations of the Committee against Torture: Israel, CAT/C/SR/CO/4, 23 June 2009, para. 33, available at: <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G09/431/65/PDF/G0943165.pdf?OpenElement>

## Conclusion

The data in this paper reveals that Israel continues to use various forms of torture and CIDT against Palestinians from the Gaza Strip. Israel not only uses methods of physical and psychological abuse against Palestinians in their detention, but also employs such practices in maintaining the blockade of Gaza, and in restricting movement and access to resources within the Strip. Palestinian fishermen, people who live or work in the buffer zone, and patients crossing through Erez risk being arrested and subjected to torture and CIDT by the Israeli military and security services. Palestinians present in the sea off Gaza's coast and in the up to two kilometer buffer zone along the border with Israel also risk coming under fire and/or having their houses demolished or damaged.

Israel continues to pursue policies that lead to violations of the absolute prohibition of torture and CIDT in international law with impunity, and carries out acts that constitute torture and CIDT in order to maintain its effective control over the population of the Gaza Strip as a whole. The continued threat of torture and CIDT that faces large parts of Gaza's population, the blockade, and other policies that have increased food insecurity, poverty, unemployment and inadequate health care, are pushing Gazans further into a state of vulnerability and submission and hindering their economic and social development. By bringing an end to its use of torture and CIDT against the population of Gaza, and guaranteeing accountability for the victims, Israel will begin to provide the proper protection and redress that the people of Gaza are entitled to under international law.