



مركز الميزان لحقوق الإنسان  
AL MEZAN CENTER FOR HUMAN RIGHTS



Adalah The Legal Center for Arab Minority Rights in Israel  
عدالة المركز القانوني لحقوق الاقلية العربية في اسرائيل  
עזאלה המרכז המשפטי לזכויות המיעוט הערבי בישראל



Gisha - Legal Center for Freedom of Movement  
גישא - מרכז לשמירה על הזכות לנוע (ע"ר)  
مسلك - مركز للدفاع عن حرية الحركة

November 8, 2020

To  
Mr. Benjamin Gantz  
Minister of Defense  
**By fax: 03-6976711**

To  
Mr. Sharon Afek  
Military Advocate General  
**By email**

To  
Adv. Avichai Mandelblit  
Attorney General  
**By fax: 02-6467001**

Dear Sirs,

**Re: Demand to cease operations designed to flatten and destroy farmland in the  
Gaza Strip and launch an immediate investigation into the land destruction  
carried out on October 13, 2020**

We hereby contact you with a request to order the cessation of operations designed to flatten and destroy farmland inside the Gaza Strip, to open an investigation into the incidents of October 13, 2020, and to compensate farmers for the heavy losses they sustained, as detailed below:

1. In the morning hours of October 13, 2020, Israeli military bulldozers entered the Gaza Strip, reaching up to about 300 meters from the perimeter fence in the Khan Younis area and proceeded to destroy dozens of dunams of farmland in the area. Local farmers reported that the military bulldozers entered their lands, caused extensive damage to the land itself and destroyed vast amounts of crops, which are the source of their livelihoods. The bulldozers also damaged farming equipment, including mainly irrigation systems.
2. The Israeli military has been sending bulldozers and tanks into the Gaza Strip for years in circumstances that do not involve active warfare, partly in order to dig up and flatten lands in the area near the border. According to data collected by the UN Office for the Coordination of Humanitarian Affairs (OCHA), as of October 19, 2020, the military carried out 42 ground incursions into the Gaza Strip over the course of 2020, and 225 between 2017 and 2019.

*Link to report: <https://www.ochaopt.org/poc/6-19-october-2020>*

3. According to reports we received from farmers, the events of October 13, 2020 are among the most egregious in recent years. Farmers noted that the lands and crops damaged by the military's actions are located in an area that is 300 meters away from the Israeli fence and that the damaged crops were mostly eggplant, zucchini and parsley, which do not grow tall and do not impede field of vision. One farmer, a married father of five, informed us that the military destroyed four dunams of eggplant and the irrigation system on his land. He estimates the damage he sustained at more than 5,000 USD. Another farmer, a married father of seven, said that the military destroyed 15 dunams of his land, along with parsley and zucchini crops and a centralized watering system. He estimates the losses he incurred because of the operation at 8,200 USD.
4. According to the Gaza Ministry of Agriculture, military operations that day impacted lands belonging to at least ten farmers in the Khan Younis area, causing extensive damage estimated at 32,000 USD at least.
5. Farmers in the area live in constant fear of severe damage to their crops, which are the source of their livelihoods, due to military activities in the area. Most alarmingly, these activities also put their lives at constant risk. Farmers in the area are under increased pressure, especially now, amidst the spread of the coronavirus, as their financial situation worsens. This has now been exacerbated by the heavy damage caused by Israeli bulldozers, which, as noted, is estimated at at least tens of thousands of dollars.
6. In a communication dated December 15, 2019, sent in response to a Freedom of Information application filed by Gisha, the military stated that the destruction of farmland as well as other "infrastructure operations beyond the fence between the State of Israel and the Gaza Strip, are carried out for operational purposes designed to protect the security of Israel's citizens and armed forces" (paragraph 2 of the response).
7. We note that these purposes cannot justify damaging land inside the Gaza Strip. These destructive operations contravene Israeli and international law, and the Israeli military has no authority to carry them out. These operations endanger farmers' lives, bodily integrity and property, and as such, disproportionately and grievously violate

their most fundamental rights, including the rights to dignity, private property and livelihood.

8. The aforementioned actions are a brazen violation of the duty the State of Israel has to ensure the well-being of protected persons living in the Gaza Strip, as stipulated in Article 43 of the Hague Regulations. It is also a violation of the duty to respect private property, as set forth in Article 46 of the Hague Regulations and Article 27 of the Fourth Geneva Convention of 1949, which requires Israel to respect the “persons, honour, family rights, religious convictions and practices and the manners and customs” of Gaza’s residents. The article also protects Gaza residents from any act of violence.
9. Article 23(g) of the Hague Regulations establishes an explicit prohibition on damaging “enemy” property, allowing it, as an exception, only when “such destruction or seizure be imperatively demanded by the necessities of war.” Such necessities were not present in the cases described above, particularly given that these military actions are carried out routinely and as a matter of policy.
10. Article 53 of the Fourth Geneva Convention also prohibits the destruction of property belonging to the civilian population, with one very limited exception, “where such destruction is rendered absolutely necessary by military operations.” This exclusion also fails to apply in the case herein.
11. Thus, according to international law, claims of military necessity alone are insufficient to allow damage to private property, nor does such necessity grant the state the power to take over an area inside the Gaza Strip and destroy farmland in it. According to the exclusions listed above, the military necessity in question must be **immediate and absolutely necessary at a time of active combat.**
12. As noted, in its response to the Freedom of Information application, the military clarified that land destruction in the Gaza Strip is carried out “for operational purposes designed to protect the security of Israel’s citizens and armed forces.” These grounds are vague and general and do not fall within the scope of the exclusions enumerated above. These incursions are performed as a matter of policy, in the absence of any immediate, concrete danger to Israeli citizens. As such, it is an illegal policy that violates the provisions of international law.

13. These operations also contradict the declaration given by the state in HCJ 4969/04 **Adalah v. GOC Southern Command** (judgment dated July 7, 2005). That case concerned the destruction of civilian structures by military ground forces, including in the Gaza border area. Responding to the petitioners' claims that these were patently illegal actions, the state said it would cease destructive operations in the Gaza Strip. Despite this statement, military bulldozers continue to enter the Gaza Strip and destroy farmland there.
14. It follows that operations designed to flatten and destroy farmland, while severely violating the fundamental rights of the farmers, chiefly the right to private property, are unlawful and fail to meet the tests of proportionality.

Given the aforesaid, we request that you refrain from any "infrastructure" operations inside the Gaza Strip and that you employ, **exclusively within the territory of the State of Israel**, alternative, proportionate measures that do not harm farmland and crops inside the Gaza Strip. Additionally, and given the severe damage to farmland, you are hereby requested to launch an investigation into the events of October 13, 2020, described above, and compensate the farmers for the heavy losses they sustained.

Sincerely,

[signed]

Muna Haddad, Adv.