



مركز الميزان لحقوق الإنسان
AL MEZAN CENTER FOR HUMAN RIGHTS



Adalah The Legal Center for Arab Minority Rights in Israel
مركز الميزان القانوني لحقوق الأقليات العربية في إسرائيل
מרכז המרכז القانونי לזכויות החרוזים הערבי בישראל



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

June 1, 2021

To
Mr. Benny Gantz
Minister of Defense

By fax: 03-6962757

To
Mr. Ghassan Alyan
Coordinator of Government Activities
in the Territories

By fax: 03-6976306

To
Mr. Sharon Afek
Military Advocate General

By fax: 03-5694526

Dear Sirs,

- U r g e n t -

Re: Revocation of decision to restrict fishermen's access to the sea in Gaza and cessation of navy violence against fishermen

On behalf of Al Mezan Center for Human Rights, Adalah - The Legal Center for Arab Minority Rights in Israel, and Gisha - Legal Center for Freedom of Movement, we hereby **urgently** demand the revocation of restrictions imposed on fishermen's access to the sea and the cessation of violence against fishermen in the Gaza Strip, as detailed below:

1. On May 9, 2021, the Coordinator of Government Activities in the Territories announced Israel's decision to close Gaza's sea space and deny fishermen access to the sea "until further notice."
2. Between May 10 and 21, fighting took place in the Gaza Strip in what is known as "Operation Guardian of the Walls," during which many civilians were killed and injured, and many civilian targets were attacked. Civilian structures and facilities, including fishermen's warehouses, boats and equipment, were severely damaged.
3. Despite an end to the hostilities and the announcement of a ceasefire on May 21, 2021, Israel continued to deny fishermen access to the sea. It was not until May 25, 2021, that you announced sea space would be reopened, allowing fishermen to reach up to six nautical miles off shore in place of the 15-nautical-mile restriction that previously existed.

4. As a result of the hostilities and the decision to close the sea space for 15 consecutive days, Gaza's fishing sector was significantly damaged, which has, in turn, harmed more than 50,000 individuals who rely on this sector (see update from the UN Office for the Coordination of Humanitarian Affairs dated May 27, 2021, <https://www.ochaopt.org/content/response-escalation-opt-situation-report-no-1-21-27-may-2021>).
5. Moreover, ever since the sea space was opened on May 25, 2021, the navy's violent actions against fishermen have intensified, and multiple incidents have been reported in which navy soldiers fired flares and live ammunition at fishermen and their boats, even when they had not come near the six-nautical-mile line. For instance, on May 25, 2021, the navy opened fire at a fishing boat at 10:30 P.M. off the coast south of Al-Sudaniya, resulting in damage to a boat and the loss of nine fishing nets. In the following days, the navy attacked fishing vessels located three and four miles offshore in the same area.
6. The 15-day ban on access to the sea, and the current fishing zone restrictions, constitute **prohibited collective punishment** of the civilian population of the Gaza Strip (See Art. 50 of The Hague Regulations; Art. 33 of the Fourth Geneva Convention (1949), and Art. 75(2) of the First Additional Protocol of the Geneva Conventions).
7. These measures are also a breach of Israel's duty to facilitate normal life for the civilian population, which is enshrined in the provisions of Art. 43 of the Regulations annexed to The Hague Convention respecting the Laws and Customs of War on Land of 1907. Normal life includes living in dignity and the ability to earn a living. Additionally, 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 obligation to see to its humanitarian needs and uphold public order and safety, and normal life** (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)). In the case at hand, the restrictions on access to the sea harm essential services and normal living conditions for Gaza's residents, and impede their ability to attain a reasonable, decent standard of living.
8. We note that the violation of Gaza fishermen's most basic rights by the use of live fire would be disproportionate, even if we were to assume that the fishermen in question had exceeded the restrictions imposed by Israel on the fishing zone. The army's policy of permitting the use of force and live fire against fishermen in the absence of an immediate threat to human life fails to meet the tests of proportionality.
9. Moreover, Article 3 of the Hague Convention of 1907, which forms part of customary international law, sets forth a prohibition on harming vessels being used for fishing:

Vessels used exclusively for fishing, along the coast or small boats employed in local trade are exempt from capture, as well as their appliances, rigging, tackle, and cargo.

10. The aim of this article is to ensure that as long as fishing boats engage in fishing activities, and do not take part in hostilities, they must be permitted to engage in their activities without interference.

11. It should be noted that the United Nations Convention on the Law of the Sea, the provisions of which form part of customary international law, grants sovereign rights for the purpose of exploring and exploiting, conserving, and managing the natural resources of the waters superjacent to the seabed and its subsoil in the exclusive economic zone (Article 56 of the Convention). The exclusive economic zone extends 200 nautical miles from the shore (Article 57 of the Convention). This, according to the Convention, is the area that Gaza fishermen, inter alia, should be free to use without interference.

Given the above, we ask that you order the cancelation of restrictions on access to the sea space, as well as the cancelation of regulations allowing the use of live fire and the harm to fishermen and their property; and that you immediately put a stop to the ongoing harassment of Gaza's fishermen, whose livelihoods depend on their ability to fish.

Sincerely,
[signed]
Muna Hadad, Adv.