

Creeping Punishment

May 2013



Kerem Shalom Crossing. Photo: Oren Ziv/Activestills.org

Factual background

Starting on February 26, 2013, the Israeli Defense Ministry began imposing restrictions on civilian movement in response to rocket fire from Gaza toward Israel. On the following four occasions, Kerem Shalom Crossing was closed to movement of commercial goods and travel by individuals through the Erez crossing was further restricted:

- February 27 to March 3
- March 21 to March 27
- April 8 to April 11
- April 28 to April 30

During February, March and April, the crossings operated according to schedule on 43 days – 25% less time than expected.

Total number of days	89
Friday and Saturday (weekend)	-25
Holidays	-7
Total number of planned work days	57
Days crossings restricted by Israel	-13
Days crossings restricted by Hamas	-1
Total number of work days	43

This graph charts the closings by week, showing also routine closures on the weekends:

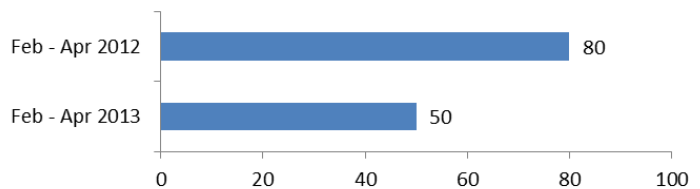


Due to reduced activity at the crossings, the volume of goods which entered and exited the Strip, as well as the number of people who were able to travel, was significantly less than in other periods. As illustrated in the graphs, the entrance of goods to the Strip during these three months was 17.5% lower than the previous three months. In terms of exit of goods, there was a 37.5% reduction compared to the comparable period last season and there were 44% fewer exits of people in April than in January.

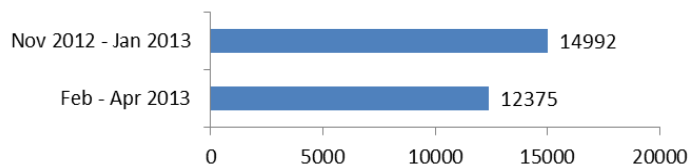
In addition to closing the crossings, on March 21, the security establishment announced that the fishing zone off the Gaza coast would be reduced from six to three nautical miles from shore until further notice.

During this period, the Israeli media reported that between 19-25 rockets and mortars were fired from Gaza toward Israel. The Israeli Air Force launched three strikes against the Strip which, according to Israel, were aimed at military targets. One man, described by Israel as having been involved in firing rockets, was killed in an airstrike.

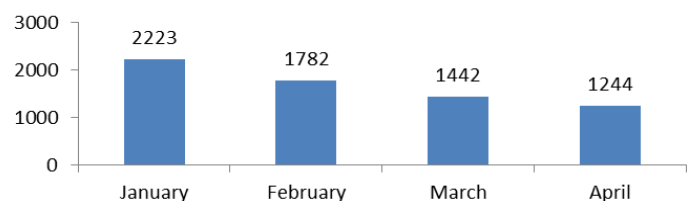
Exit of goods via Israel (trucks)



Entry of goods via Israel (trucks)



Entry of traders from Gaza to Israel - 2013



Over the past few months, there were also incidents of rocket fire in response to which the operation of the crossings was not restricted (according to media reports, the crossings did not close after rocket fire on the following dates: April 3, April 18, April 21, and May 2). If so, the policy would appear to be unpredictable and inconsistent. In any case, serious consideration about the lawfulness of these actions and their impact is in order. Without it, the positive trend of easings of restrictions on movement which have been seen in the past three years is likely to unravel.

Statements by Israeli security officials

During the first few days in which the crossings were closed, security officials were quoted as saying that the travel restrictions had been imposed “[in response to rocket launching](#)” (Hebrew).

In later instances, the closure of Kerem Shalom was explained as a response to unspecified “[security concerns](#)”. An explanation was not given for the connection between these security concerns and restrictions on travel at Erez or the narrowing of the permitted fishing zone.

While the military followed the government’s instructions to reduce movement through the crossings, a few senior officials within the military expressed reservations about the policy. On February 20, outgoing GOC Southern Command Major General Tal Russo [recommended](#) (Hebrew) that Gaza’s crossings be opened and to allow movement of commercial goods without restriction.

On April 4, top security officials [called](#) (Hebrew) to “refrain from using the border crossings as a means for pressuring Hamas because they are not used for smuggling weapons. Therefore, closing them only increases feelings of isolation and frustration among Gaza’s residents, rather than among senior members of terrorist organizations who profit from the smuggling originating in the tunnels under the Philadelphi route”.

On April 10, a top security official was [quoted](#) (Hebrew) as saying, in reference to the closure of the crossings: “This decision hurts the common people, not Hamas. Israel is achieving the opposite, ineffective, result”.

These statements are in line with the position taken by the Coordinator of Government Activities in the Territories over the past few years, as part of which he [declared time](#) (Hebrew) and [time again](#) that Israel is committed to distinguishing between the civilian population in the Gaza Strip and militants. It is also in line with the [July 1, 2010 Security Cabinet resolution](#) to remove the “civilian closure” from the Gaza Strip.

The impact of the policy

1. Movement of goods

The closure of the Kerem Shalom crossing blocked what little was expected to exit the Strip in export of goods from Gaza to Europe. When Kerem Shalom was closed between February 27 and March 3, for instance, a Gaza herb exporter lost 2.5 tons out of three tons of mint to rot. In addition, 100,000 stems of flowers due for export during this time were destroyed.

Following the April 8 closure of Kerem Shalom, Palestinian farmers were forced to destroy [three tons of herbs](#), mint, sage, basil and tarragon, which had been grown specifically for export to Europe in quantities exceeding

the demand of the local market. In addition, six tons of cherry tomatoes and 120,000 flowers that were scheduled for export that week remained in Gaza, resulting in losses for the farmers.

The closure of the crossings also impacted Israeli farmers. On March 4, Ilan Eshel, chairman of the Israel Fruit Growers' Association, [called](#) (Hebrew) on the Israeli government to “refrain, as much as possible, from dragging agriculture and food into the hostilities between both sides”. On April 30, Eshel [said](#) (Hebrew) that the banana and loquat growing sectors in Israel were on the verge of collapse due to the closure of Kerem Shalom Crossing and that “if there isn't an immediate change, some of the farmers won't survive this difficult season and will face financial ruin”. Eshel noted that the closures had also dealt a heavy financial blow to apple and pear growers. In a conversation with Gisha, Eshel estimated that the losses to Israeli farmers each day Kerem Shalom was closed amounted to between 300-600,000 shekels.

In a [letter to Haaretz](#) (Hebrew), Avshalom Herzog, an Israeli farmer who sells produce in Gaza, said that “the cost of shipping a trailer of fruit from Israel to the Gaza Strip is about 6,500 shekels per truck. Returning and cooling such a truck triples shipping costs and sometimes, we have to do it a few times [...] At this point, the quality of the fruit deteriorates and it sometimes rots and must be destroyed”.

On April 10, James Rawley, the UN Humanitarian Coordinator, [said](#) that the closure of Kerem Shalom was leading to “the depletion of stocks of essential supplies, including basic foodstuffs and cooking gas, and undermine[s] the livelihoods and rights of many vulnerable Gazan families”.

2. Cooking gas

There is an ongoing shortage of cooking gas in Gaza. The Association of Gas Station Owners in the Strip estimates that the demand for cooking gas is about 1,750 tons per week. In practice, on average, only 825 tons are brought in from Israel per week.

The pipe which is used for transporting gas at Kerem Shalom can transfer 22 tons per hour. In routine conditions, when gas is transferred between 8am and 4pm, about 170 tons can be brought into the Strip per day. According to Palestinian sources, Israel has been asked to extend the hours of operation at the crossing in order to allow for more gas to enter, but the request was denied. According to the same sources, Israel has also refused to allow a reserve tank to be set up on the Palestinian side of the crossing. The additional closures of Kerem Shalom over the past months have aggravated existing shortages.

3. Travel of people

While Kerem Shalom Crossing was entirely shut down after rockets were launched, travel through Erez was not stopped but was rather restricted more than usual. Only medical patients and their companions, Israeli citizens, foreigners and a few exceptional humanitarian cases were allowed to cross. Travel for the purpose of family visits, mourning visits, and attending trainings, meetings and conferences was not allowed. As noted above, since February, the number of entries into Israel from Gaza during April fell by 44% compared to the month of January.

For example, Mr. Jaber, a Gaza merchant and Gisha client, who was supposed to exit the Gaza Strip on Sunday, April 28, had to postpone his planned trip to Israel for business meetings. It had taken him [10 months](#) to obtain a permit.

Gisha's position

Deliberate or indiscriminate rocket fire on civilian population centers are a war crime and a breach of international law. However, the imposition of punitive measures against the civilian population of the Gaza Strip as a response also constitutes a serious violation of international law. Gisha contacted the Defense Minister on three different occasions over the past three months (see [here](#), [here](#) and [here](#) (Hebrew) though we have yet to receive a response), calling on him to refrain from subjecting Gaza's residents to collective punishment. Gisha Executive Director, Adv. Sari Bashi, wrote two op-eds on the topic published in [Haaretz](#) and [Maariv](#) (Hebrew).

Our position is that Israel's control over the vast majority of access routes into and out of the Gaza Strip – by sea, air and land – gives rise to a responsibility on its part to facilitate normal life for Palestinian residents of Gaza, including by allowing entry and exit of goods and regular travel between Gaza and the West Bank, which are recognized as a single territorial unit. Imposing access restrictions which are not directly necessary for security, do not distinguish between civilians and combatants and disproportionately disrupt civilian life, constitutes a breach of Israel's obligations toward Gaza's residents under international law.

Some might consider the imposition of movement restrictions to be a reasonable measure Israeli decision-makers would take in response to rocket fire, preferable to the risk of military escalation and loss of life. This is why, despite the fact that applying pressure on the civilian population is neither lawful, nor, as the security officials quoted above say, is it useful, it is still often seen as an attractive option on the spectrum between restraint and a military assault.

International law provides Israel with a wide range of lawful actions, military and diplomatic, that can be used to counter the threat of rockets. Restrictions on movement of people and civilians goods as a means of punishment fall outside this range.