

Reader: "Food Consumption in the Gaza Strip - Red Lines"

October 2012



Executive Summary

A three-and-a-half-year long legal battle waged by Gisha has led the Israeli Ministry of Defense to reveal the document entitled "Food Consumption in the Gaza Strip – Red Lines". The document includes information about the policy of restricting the entrance of food to the Gaza Strip, which was in effect between 2007 and 2010. Two versions of this document, in the format of PowerPoint presentations, were provided to Gisha over the Sukkot holiday, after the Israeli Supreme Court rejected the state's appeal against disclosing the document on September 5, 2012. The following position paper provides a general background for the presentation, an analysis of its content and a description of the legal proceedings that resulted in its publication. We also wish to raise a few important points that we think emerge from the presentation.

[Click here to view Gisha's unofficial translation of the full presentation](#)

The sharp decrease in the incoming quantities of food products caused supply to be unpredictable and contributed to a significant rise in food prices in Gaza. Nonetheless, Israel's policy during the period in question

did not result in widespread hunger or ongoing shortages of basic food products in the Gaza Strip. According to World Food Programme reports from those years, Gaza merchants reported isolated shortages and difficulties maintaining supplies of basic products such as flour, sugar, dairy products and oil. In addition, the severe economic crisis caused by the closure, particularly by restrictions on the entrance of raw materials and the marketing of goods outside the Strip which led to a rise in the unemployment rate, resulted in increased dependence on aid. Between the second quarter of 2007 and the second quarter of 2008, the rate of unemployment soared by 72% (from 26.4% to 45.4%). A report by the United Nations' Office for the Coordination of Humanitarian Affairs (OCHA) found that the number of Gaza residents receiving humanitarian aid rose from 63% of the population in 2006 to 80% in 2007. The main repercussions of the closure at the time were, as they largely continue to be today, increased poverty, increased dependence on aid and denial of opportunities for economic development, higher education and access to dignified work.

The red lines presentation, prepared in January 2008, summarizes work conducted by the security establishment in cooperation with the Israeli Ministry of Health which analyzed ordinary food consumption by Gaza Strip residents. Throughout the legal battle for publication of the presentation, and in the cover letter sent to Gisha along with the presentations, the Coordinator of Government Activities in the Territories (COGAT) claimed that: "the aforementioned presentations are drafts and have never been used as a basis for implementing civilian policy toward the Gaza Strip". The statement is perplexing considering the fact that the quotas that were set for bringing in goods at the time precisely match some of the quantities evidently calculated over the course of the work done by security and health ministry officials (see details below).

A look at the data on goods that entered Gaza from Israel immediately after Hamas seized control of the Strip and Israel's tightening of the closure reveals that the quantities that were cleared for entry did not reflect the "red lines" set in the presentation (see table 1), and were in fact smaller. The calculations made in the presentation led to the conclusion that the "daily humanitarian portion" Gaza's residents needed would require bringing in 106 trucks from Israel five days per week, this in addition to wheat and grains which entered via a conveyor belt at Karni Crossing. In the first year following Hamas' takeover of the Strip and the tightening of the closure (July 2007 to June 2008), an average of 65 trucks entered each scheduled working day (not including Karni).

In his testimony before the Turkel Commission, COGAT, Major General Eitan Dangot, explained that the quantity of goods brought into the Gaza Strip was restricted also as a result of the firing of rockets at Israel, particularly at the crossings. Without disputing that, we would like to remind that [previous documents](#) that were published as a result of Gisha's work demonstrate that the official policy included restrictions on food that had nothing to do with any direct and immediate security need. One of Gisha's main arguments at the time was that because of periodic closures resulting from escalations in violence, Israel should have increased access for supply of goods on the days the crossings operated normally. This argument was rejected by the Israeli Supreme Court.

The presentation describes a monitoring mechanism for a policy that, in effect, deliberately reduced the standard of living in Gaza. Statements made by politicians and top security officials at the time indicate that the

policy was meant to put pressure on Hamas. It had two fundamental tenets: the legal position that after the disengagement and Hamas's takeover of the Strip, Israel had only minimal humanitarian obligations toward Gaza's residents, and a political-security rationale that indiscriminate pressure on the entire population is a legitimate and effective measure to be implemented in the context of the armed conflict with Hamas.

First and foremost, we note that preventing the transfer of basic items to a civilian population as a means of exerting pressure on political or military actors violates international humanitarian law. Israel, which exercises significant control over the civilian population's access to food, thus bears obligations toward that population. The fact that Egypt did not open a regular and reliable channel for supply of food to Gaza does not detract from Israel's obligations (for a complete analysis of Gisha's position about the legal status of Gaza, see [Scale of Control](#)).

These days, it is difficult to find a politician or security expert in Israel who would say that the closure policy of 2007-2010 benefitted Israel politically or in terms of security. For more than two years now, Israel has not imposed any restrictions on the entrance of food to the Gaza Strip. Yet, the two fundamental tenets of the policy, the legal position and the political-security rationale, remain the basis for the current policy, which the security establishment calls "the separation policy". As part of this policy, sweeping and indiscriminate restrictions are placed on the movement of goods and people between Gaza and the West Bank. Once again, some of the restrictions are imposed devoid of a concrete security necessity. The restrictions cause severe damage to the economy and are accompanied by [declarations](#) that one of the goals of the policy is to put pressure on the Hamas regime and bolster the Palestinian Authority in the West Bank.

While the security establishment has been forced to disclose documents that bring an old policy up for critical discussion, the current policy remains shrouded in secrecy. It is unclear which political or military actors formulated the "separation policy", what its objectives are and how it is monitored. Misguided policies are destined to fail and to be exposed. The question is whether this time, policy-makers will choose to come out and explain to the public whom they purport to serve how the restrictions on movement currently imposed on Gaza's residents are determined and how they conform to the legal and moral norms to which Israel considers itself bound.

Gisha's position is that Israel must refrain from imposing restrictions on movement which are not necessary for maintaining security and which disproportionately harm the ability of the civilian population to lead normal lives and engage in economic development.

Background

On September 19, 2007, after Hamas took over internal control of the Gaza Strip, Israel's Security-Political Cabinet [decided](#) to "restrict the passage of various goods to the Gaza Strip and reduce the supply of fuel and electricity", and to "restrict the movement of people to and from the Gaza Strip". It was further decided that the restrictions would be implemented with "the intention to avoid a humanitarian crisis".

The details of the decision were revealed only in the months and years that followed, largely as a result of legal advocacy by Gisha and other human rights organizations that demanded accountability for the policy. A coalition of human rights organizations, led by Gisha, challenged the restrictive policy in the Supreme Court ([HCJ 9132/07 al-Bassiouni v. The Prime Minister](#)). In the course of the proceedings, state attorneys Dana Briskman and Gilad Sherman (deceased) , backed by the affidavit of Col. Shlomi Mukhtar, [declared](#) (Hebrew) that the State of Israel was employing a policy of "[economic warfare](#)" designed to shut down Gaza's economy with the objective of weakening the Hamas regime. Later, in responses to requests made by Gisha under the Freedom of Information Act, the state disclosed detailed lists of the [goods](#) and [people](#) (Hebrew) that were permitted or prohibited from entering and leaving the Gaza Strip. The lists indicated that materials that could be used in manufacturing and industry were banned – for example, fabric, packaging material and industrial salt. Also banned were foods defined as luxuries, such as hummus with sesame paste or mushrooms. In October 2010, the state disclosed [three procedures](#) that had guided the policy on which goods were allowed into the Gaza Strip. These procedures included mathematical formulas for calculating the quantities of food and the basic products Israel would allow into the Gaza Strip.

In June 2010, following the flotilla incident, [the policy was changed](#), and most of the restrictions on the entry of goods into the Gaza Strip were lifted, with the exception of building materials and goods defined as having a "dual use". The restrictions on travel between Gaza and the West Bank and on the sale of Gaza-made goods in Israel and the West Bank have remained in place.

Proceedings under the Freedom of Information Act

In April 2009, Gisha began taking action to make publicly available the procedures that guided the policy on movement of goods into the Gaza Strip and the lists of restricted products. In June 2009, the *Haaretz* weekend magazine published an [investigative report by journalists Yotam Feldman and Uri Blau](#), who found, among other things, that the security establishment had calculated the number of calories consumed by Gaza residents and used it to establish a "humanitarian minimum", a bottom line to which it was possible to reduce food supply to Gaza without causing hunger or malnutrition. Following the report, Gisha requested the document containing the calculations, which was titled the "red lines" document. After the Ministry of Defense ignored the request for four months, Gisha petitioned the Tel Aviv District Court. Initially, in a letter from the Spokesperson for the Coordinator of Government Activities in the Territories (COGAT), Major Guy Inbar, the security establishment [denied](#) (Hebrew) the existence of protocols or lists that regulated the policy. After the court instructed the state to back this declaration with an affidavit, then head of COGAT, Major General Amos Gilad, admitted that the documents and protocols requested in the petition did, in fact, exist, but claimed that exposing them would put national security at risk and damage Israel's foreign policy. In reference to the red lines document, COGAT claimed that it was a draft and that there was no legal obligation to disclose it.

In October 2010, following the flotilla incident and the decision to ease the closure, the state changed its position and agreed to disclose the requested protocols and lists. However, it continued to refuse to disclose

the red lines document. In a [judgment](#) (Hebrew) delivered on March 22, 2011, the District Court held that even if the document was a draft, it should be disclosed to Gisha, because of, among other reasons, its impact on public health. The state appealed the ruling on April 28, 2011 before the Supreme Court, but on September 5, 2012 the appeal was rejected by the court. Gisha received the red lines document in October 2012.

The document in context

Two versions of the document in PowerPoint presentation format were delivered to Gisha: an earlier version, from January 1, 2008, which was submitted to the District Court and a later version, from January 27, 2008, which was submitted to the Supreme Court. The COGAT spokesperson's cover letter that came with the documents repeated the Ministry of Defense claim that this was a "draft" and that the two versions of the presentation "have never been used as a basis for implementing civilian policy toward the Gaza Strip". Details of the authors of the documents were not given.

The later version, from January 27, 2008, states that the document reflects work carried out by COGAT staff in cooperation with Ministry of Health officials in order to validate the "working assumption" that was in effect at the time: On the orders of Deputy Defense Minister Matan Vilnai, Israel was to approve the entry of 106 truckloads per business day, 77 of which were to be basic food products. The document explains that it analyzed "the food basket required by the population and, as a derivative, the scope of food that enters" and that the research "did not take into account distribution/division inside the area".

The presentation includes calculations made by the Ministry of Health in order to determine the number of calories and the weight of various basic food items Gaza residents require, according to age and gender. These figures are translated into the number of trucks needed daily and the specifics of their contents, taking into account local production of vegetables, milk and meat.

The connection between the presentation and the policy currently in place

Regardless of the question of whether or not this is indeed a draft, it seems that the presentation reflects calculations that guided policy that was actually implemented. According to the presentation, the calculations led to the conclusion that in order to allow Gaza residents to maintain their level of nutrition, Israel should allow 106 trucks to enter Gaza on a daily basis, five days per week. In addition, in the segment of the presentation describing the background to the work that was undertaken, it is noted that, "In order to allow for a basic fabric of life in the Gaza Strip, the deputy defense minister approved allowing 106 trucks carrying basic humanitarian products into the Gaza Strip". One can only wonder if Deputy Minister Matan Vilnai came up with the "106 Model" (as it is referred to in the presentation) based on the work that is summarized in the presentation and if so, whether it is possible to consider the presentation as nothing more than a "draft".

Another example: One of the recommendations made in the presentation was for setting a "minimum bar" for fresh meat (the recommendation is for 300 calves per week). In documents the state submitted to the Supreme Court in defense of restrictions it had placed on transporting calves into the Gaza Strip, attorneys Michal Tzuk-Shafir and Hila Gorny, backed by the affidavit of Mr. Uri Madar, said that COGAT officials had determined that the humanitarian needs of Gaza's residents could be met by supplying 300 calves per week and therefore, no calves in excess of this quota would be approved for transport:

"COGAT officials have formulated a basket of basic humanitarian food items, which will continue to be supplied to the Gaza Strip, **in the quantities required for maintaining humanitarian needs...**

In accordance with government policy, supplying Gaza with food items which are not of a humanitarian nature or products in quantities exceeding those necessary for humanitarian needs is not made possible.

... The relevant officials in the security establishment have found that... a weekly supply of 300 calves is sufficient for meeting humanitarian needs in the Gaza Strip" (HCJ 4250/08 **Afaneh Brothers LTD. et al. v. Ministry of Agriculture**, Paragraphs 12-13 of the [response of the state](#), dated September 18, 2008) (Hebrew) (emphasis in original).

By way of explanation for the refusal to increase the quota and in view of the high demand ahead of the Muslim holiday of Eid al-Fitr that was approaching at the time, the Ministry of Defense clarified that the policy did not allow goods to enter in quantities that exceed humanitarian necessity, as determined by COGAT:

In the past, the quantity of calves supplied to the Gaza Strip was determined by the **demand** for calves in the Gaza Strip. However, at the present time, according to government policy, in view of the fact that Gaza is ruled by a terrorist organization hostile to the State of Israel, restrictions have been placed on the transport of goods into the Gaza Strip and **commercial demand** for a product no longer determines the volume of supply of said product to the Gaza Strip. Supply volumes are determined only by the real need for direct consumption of the product (as opposed to amassing reserves)" (Paragraph 14 of the state's response, emphasis in original).

This is just one example of how the calculations in the presentation match the restrictions that were actually placed on the entry of food. Ministry of Defense representatives repeatedly claimed that they were monitoring the situation in the Gaza Strip and making sure that there was no shortage of basic products. In this context, it should be noted that the mathematical formulas used for calculating the supply of food approved for Gaza residents, which were disclosed to Gisha in 2010, were "empty" formulas that did not include numbers reflecting the quantity Israel had determined to be "sufficient". Inasmuch as the red lines presentation reflects calculations that were made in order to determine what was "sufficient", it is relevant for understanding the policy.

Damage to local food production

The presentation describes a number of facts that were known to its authors, including the fact that the restrictions placed on the entry of agricultural inputs and eggs for breeding damaged local production of vegetables and chicken for consumption. Page 6 of the later presentation explains that "the quantity of vegetables produced in the Gaza Strip is declining in view of the absence of inputs and lowered expectations for the development of agricultural marketing to Israel (production is expected to drop from 1,000 tons per day to 500 tons within a few months). This means that in a few months, only 30% of fruit consumption will be met" (emphasis in original). A similar assessment was made regarding chicken for consumption "given the difficulty of bringing in eggs for breeding". One of the recommendations made in the presentation is for setting a "minimum bar" for the quantity of agricultural input and eggs for breeding.

The connection between the economic situation and food availability

The document shows that COGAT officials understood that blocking access to the Israeli market, where 70% of the goods shipped out of Gaza were sold until June 2007, would also harm local vegetable farming. According to the authors of the document, as stated, the prohibition on transferring goods out of Gaza for sale in Israel was expected to contribute to a decline in local production by half. The same was true for Gaza's food industry, which was reliant on the one hand on raw materials that were banned from being transferred to Gaza and, on the other, on external markets and on the local market's purchasing power for profitability. Between June and October of 2007, half the food production plants that belonged to the Palestinian Federation of Industries in Gaza ceased operating. The rest operated at 30% of their capacity. The Palestinian Central Bureau of Statistics documented a 26.6% drop in the rate of employment in the agriculture and fishing sectors.

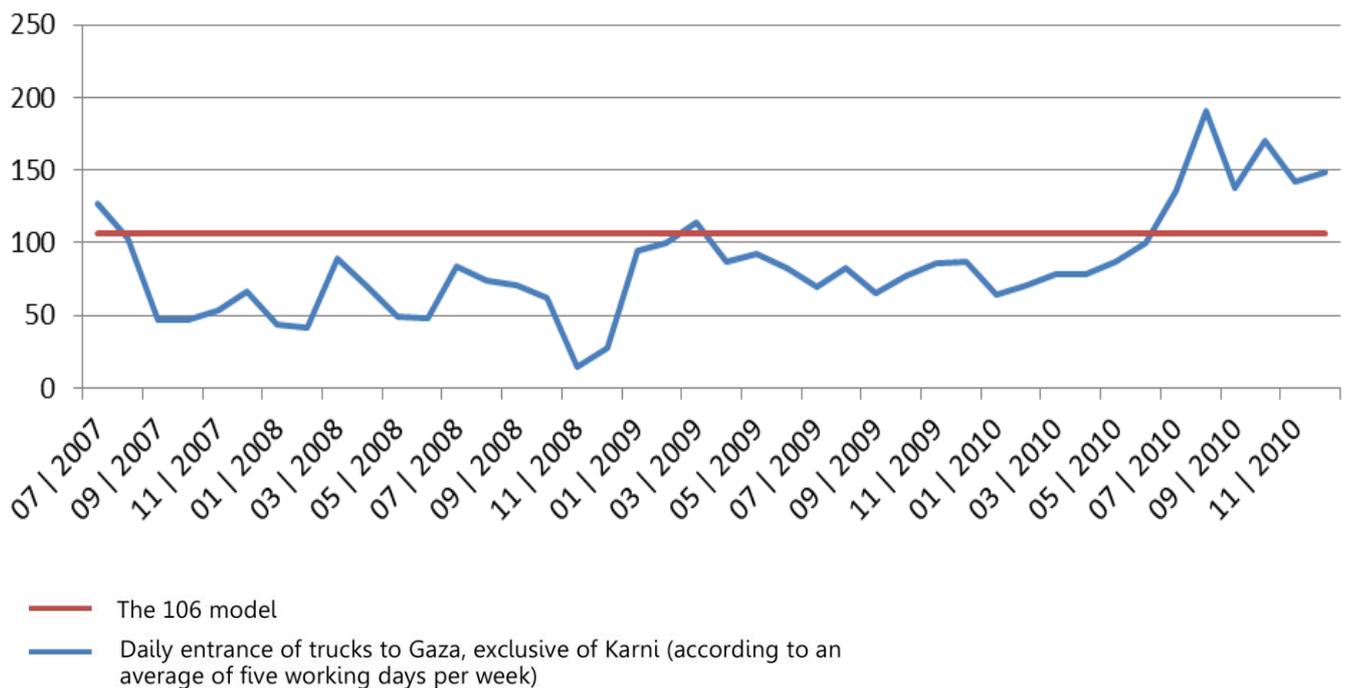
It appears that the policy of economic warfare achieved its goal, inasmuch as the goal was to cripple Gaza's economy. In the second quarter of 2008, unemployment soared by 72% compared to the second quarter of 2007, just before the closure was tightened, reaching a level of 45.5%. The number of people receiving humanitarian aid rose from 63% in 2006 to 80% by December 2007.

Actual entry of food (in truckloads) compared to calculations in the red lines document

Despite the fact that at different times between July 2007 and June 2010 the number of trucks entering the Gaza Strip was lower than the number cited in the presentation, as indicated in the graph above and also by figures [published](#) by COGAT (Hebrew), Gisha is not aware of chronic shortages of the basic food products approved for entry by Israel. At certain times, as indicated in a [survey](#) conducted by the World Food Programme, the supply of basic items such as flour, rice, oil and dairy products ran out. Merchants attributed this to the restrictions on import. In addition, during the first year of the closure, there were occasional reports of decreased availability of basic food products on the market, meaning that the available supply of these

products would not have met demand in an emergency or at times when the crossings were closed for a prolonged periods . Other products that Israel did not allow into the Gaza Strip were unavailable on the market. So, for example, at various periods from June 2007-June 2010, Gaza experienced shortages of products such as baby formula, olive oil, fresh meat, chocolate, nuts, spices and soft drinks.

Table 1. Entrance of trucks into Gaza



Sources: OCHA, UNSCO

We note that neither the presentation nor the graph presented above refer to the quantities of food brought in through the tunnels located under the border between the Gaza Strip and Egypt. Israel’s tightening of the closure policy in those years resulted in the growth of an elaborate tunnel industry which was increasingly used for bringing in consumer products, fuel and building materials. In 2008, this industry was still in its early phase. It boomed in 2009 and the first six months of 2010.

The policy today

Despite the easing of the closure policy, significant elements of it have remained unchanged. The current policy is still founded on the concept that Israel’s obligations toward the residents of the Gaza Strip are "minimal" and therefore allow the continued restricting of movement of people and goods in order to advance political goals, rather than just security goals. Unfortunately, the current policy, which the security establishment calls "[the separation policy](#)", also remains shrouded in mystery.

As part of this policy, Israel continues to limit travel between the Gaza Strip and the West Bank to "exceptional humanitarian cases with an emphasis on urgent medical cases" and to prohibit the sale of Gaza-made goods in Israel and the West Bank, which are home to most of the demand for these products. At present, while Israel allows food to enter the Gaza Strip without restriction, it denies industrialists and farmers' access to external markets which, in turn, continues to paralyze Gaza's manufacturing sector. Some 70% of Gaza's residents receive food aid from organizations. Major General Eitan Dangoth has [explained](#) that the separation policy is designed to achieve security and political goals, but refrained from specifying what these goals are, who decided on them and how the policy is monitored.

Legal obligations

Gisha holds the position that the deliberate restriction on transporting civilian goods into and out of the Gaza Strip contradicts Israel's obligations under international humanitarian law.

Despite the significant reduction in Israel's control over the Gaza Strip following the implementation of the disengagement plan in 2005, it continues to control major spheres of life in Gaza, and therefore, [its obligations toward the population have not ceased](#). A glance at the presentation is enough to understand the extent to which Israel controls the lives of Gaza residents – including what kinds of food and how much of it will be available on the market. Because Israel continues to control the passage of goods to and from the Gaza Strip, it has an obligation to facilitate this movement and may restrict it only for specific military needs and while taking the needs of the civilian population into consideration. Under Article 43 of the Hague Regulations, Israel has an obligation to enable normal life in Gaza to the extent possible. This includes proper commerce and consumption. International law prohibits the use of Gaza's civilian population as a means of pressuring armed groups or retaliating against the actions of political or military officials – this is the significance of the prohibition on collective punishment.

As far as access to food is concerned, Israel has special obligations, both under the law of occupation and under the law of armed conflict, to allow the supply of goods that are essential for the survival of the population. There is an express prohibition against attacking, destroying, removing or rendering useless objects that are essential for the survival of the civilian population, including food reserves and agricultural areas (Article 54 of Protocol I to the Geneva Conventions). The Supreme Court (Justices Dorit Beinisch, Esther Hayut and Yosef Eilon) [accepted](#) the state's position that such installations can be harmed, as long as they continue to operate at the level required for survival (see paragraph 48 of the [state's response](#) (Hebrew) in **al-Bassiouni**). Gisha rejects this narrow interpretation and emphasizes the fundamental principle of humanitarian law that harm to the civilian population should be avoided as much as possible.

Appendix: Additional statements by government officials and judges about restrictions on food supply to Gaza

1. [State response](#) (Hebrew) in HCJ 2650/09 Mitrial Ltd. V. Minister of Agriculture, 31/3/2009 (Hebrew, paras. 8-9, 16, 22-23): According to an assessment undertaken by COGAT, frozen meat and other food items in the humanitarian basket were alternatives which met the needs of Gaza residents and therefore Israel could cancel the permission that had been given for 300 calves to enter Gaza weekly (submitted by state attorney Hila Gomey, backed by affidavits of Cabinet Secretary Oved Yehezkel and Col. Alex Rosenzweig).
2. [Verdict](#) (Hebrew) in HCJ 2650/09 (Supreme Court, Justices Ayala Procaccia, Edna Arbel, and Yoram Danziger) accepting the state's position that a March 2009 governmental cabinet decision to cancel restrictions on transfer of food to Gaza would be " given a restrictive interpretation by the authorized government officials and in any case it does not reflect an obligation on the part of the government to supply the Strip with a specific kind of food".
3. [Letter from COGAT](#) (Husam Dagash), 18.5.2009: Despite the governmental decision from March 2009, transfer of food into Gaza would continue to be restricted.