



مركز الميزان لحقوق الإنسان
AL MEZAN CENTER FOR HUMAN RIGHTS

**The Implications of Closure and the Use of
Force on Children in Gaza**
30 March - 31 October 2018

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Contents

Introduction	4
The Context of Closure and Blockade	6
International Law	8
Arrest and Detention of Children	13
The Impact of Closure and Blockade on Children’s Lives	13
Denial of Medical Care: Rejection and Delay of Children’s Requests for Permits	15
Denial of Access to Medical Care for Children Wounded at Demonstrations	18
Conclusion	20

Introduction

This report addresses the Israeli military's violation of child rights in the Gaza Strip in the context of closure and blockade and the Great March of Return (GMR). The demonstrations started on 30 March 2018 and stress the right of return of Palestinian refugees, as enshrined in international law, and call for an end to Israel's 12-year closure and blockade imposed on the Gaza Strip.

Between 30 March and 31 October 2018, the period covered by this report, Israeli military attacks killed 33 children, wounded 1,213 children with live fire, permanently disabled at least 12 children, and caused hundreds of children to be hospitalized for injuries from tear gas and rubber-coated bullets. Taking place in the context of closure and blockade, movement restrictions also led to the denial of access to urgent medical care for children participating in the protests—a stark example of the impact that the closure and blockade policy has on all aspects of children's lives in Gaza.

The documentation conducted by Al Mezan Center for Human Rights (Al Mezan) indicates that during the weekly demonstrations—usually taking place on Fridays near the fence in the eastern parts of the Gaza Strip—Israeli forces perpetuated systematic breaches of their obligations under international law, in particular regarding children. The military's use of force and denial of medical care resulted in the violation of the provisions of the UN Convention on the Rights of the Child (UN CRC) and other international human rights law (IHRL) provisions and international humanitarian law (IHL) obligations.

The access restricted areas (ARA) in which the protests take place are a unilaterally declared buffer-zone on Palestinian territory that forms part of Israel's closure and blockade policy. The Israeli military has for years used violent, often lethal, means to enforce its movement restrictions in the ARA, in ways that directly affect the lives of children. The force used on children often leads to loss of life, injury, detention and abuse, and ultimately the loss of childhoods.

The closure and blockade policy has had other broader, but also more widespread, impacts on children in Gaza. For example, the chronic lack

of electricity, sometimes causing over 20 hours of power outage per day, exacerbates the public health crisis. This policy also hinders the provision of basic services across such crucial sectors as water and sanitation, which harms *inter alia* the environment, and the education sector. The impacts of these crises affect children disproportionately, for example by preventing children from fully enjoying their right to education.

The collapse of Gaza's economy adds to the challenges that Gaza's children face. The rates of poverty, unemployment, and food-insecurity remain high and Palestinian children struggle to access their rights to health, food, housing and an adequate standard of living, because the local economy is unable to support the lives of two million residents in the Gaza Strip.

It is in—and from—this complex reality that the GMR demonstrations began. Following a call from groups of young activists in Gaza, the protesters directed criticism at the Israeli policies that created and support a situation of stagnant humanitarian suffering, and at the failed efforts of the international community to alter the status quo. Meanwhile, the Israeli forces have dealt with the demonstrations in a way that demonstrates disregard for human rights, including children's rights.

This report provides statistics and basic analysis of the effects of Israel's use of lethal, excessive military force on children attending demonstrations and of the Israeli authorities' restrictions on children's access to medical care outside Gaza. This report concludes with a reiteration of Al Mezan's calls for the full respect of children's rights and for improved protection of children in-line with international law. Further, this report calls for free and unimpeded access to healthcare as well as the full range of vital services that are necessary for children's growth and development in the Gaza Strip.

The Context of Closure and Blockade

A root cause of the human rights and humanitarian crisis in the Gaza Strip stems from Israel's imposition of a general closure of the occupied Palestinian territory (oPt) on 29 October 2000.¹ Under this policy, the Israeli military closed crossing points, restricted access to fishing grounds, and imposed other restrictions on the movement and access of persons and goods.

Seven years later, when Hamas took over the Gaza Strip in June 2007, these restrictions were intensified and Israel labeled the Gaza Strip a "hostile entity" and suspended its customs code, thereby ending its right to receive imports from abroad.² In September of the same year, the Israeli authorities installed a set of strict measures on the movement of people and goods via crossing points between Gaza and Israel—measures that still drastically restrict the number of people and amount of goods allowed in and out of Gaza. The criteria in place requires that goods and people can only move if there is a "humanitarian imperative" to do so.

Later in 2007, the Israeli High Court of Justice approved the Israeli government's decision to cut fuel and electricity supplies to Gaza.³ In its reasoning, the Court determined that Israel owed the Gaza Strip a mere "minimum humanitarian standard". In 2009, the Israeli military declared the creation of the ARA along Gaza's eastern and northern fence and by sea. The ARA restrictions are part and parcel of Israel's closure policy and enforce, through the use of live fire, the movement restrictions imposed on residents.

The closure and blockade policy has crippled Gaza's institutions that are in charge of providing public services to residents, directly infringing on

¹ Al-Aqsa Uprising followed a provocative visit to Al-Aqsa Mosque on 28 September 2000 by Ariel Sharon, Israel's prime minister at the time, along with hundreds of Israeli policemen.

² Al Mezan Center for Human Rights (2007): "Report on Israel's Decision to Suspend Gaza Customs Code". Available at <http://www.mezan.org/en/uploads/files/2559.pdf>

³ Al Mezan Center for Human Rights (2007): "Israel's Supreme Court Approves Collective Punishment of Civilians in the Gaza Strip". Available at <http://mezan.org/post/595>

the economic and social rights of the population. The rates of poverty and unemployment have been rising dramatically for over a decade.

In 2017, the unemployment rate was estimated at 48.2%,⁴ with a rate of 61.2% among young people in Gaza.⁵ At least 53% of Palestinians in Gaza endure poverty, with 33.8% living in extreme poverty.⁶ Exacerbating the issue, in June 2017, the Palestinian Authority cut the salaries of 45,000 of its employees in Gaza by between 30% and 60%. The families of these employees lost a significant percentage of their income and were pushed into poverty, thereby increasing Gaza's poverty rate.

The continuous deterioration of the economic situation was dramatically accelerated in 2018 when the United States cut its contribution to the UN Relief and Works Agency for Palestine Refugees (UNRWA).⁷ The cuts caused a significant reduction in UNRWA's services to Palestinian refugees who comprise 70% of Gaza's population.

The pressure on the population from these conditions corroded the human rights and humanitarian situation in Gaza. Struggling to survive the dire conditions, young people and children feel a sense of abandonment and see no hope for a decent future for themselves. The GMR demonstrations started on the backdrop of this reality.⁸

⁴ Palestinian Central Bureau of Statistics (2018): "Preliminary Results of the Population, Housing and Establishments Census, 2017". Available at http://www.pcbs.gov.ps/portals/_pcbs/PressRelease/Press_En_Preliminary_Results_Report-en.pdf

⁵ Palestinian Central Bureau of Statistics (2018): "Situation of the Youth in the Palestinian Society". Available at <http://www.pcbs.gov.ps/post.aspx?lang=en&ItemID=3215>

⁶ Ibid

⁷ U.S. Department of State: "On U.S. Assistance to UNRWA". Available at <https://www.state.gov/r/pa/prs/ps/2018/08/285648.htm>

⁸ For more information about the Great Return March, visit Al Mezan's report (2018) "Civilians under Attack". Available in Arabic at <http://mezan.org/uploads/files/1532324598146.pdf>

International Law

Children's right to life and wellbeing continues to be undermined within the GMR protests, despite the severity of the Israeli military's targeting of the unarmed children legally and ethically. The obligation to respect life and the integrity of the person is paramount in IHRL and notably holds heavier weight in relation to the lives of children.

Prior to the start of the protests, Al Mezan took note of reports that the Israeli military was preparing for the demonstrations by deploying dozens of snipers with orders to shoot protesters entering the ARA, which extends hundreds of meters into Palestinian territory along the fence in the east and north of the Gaza Strip. The scale of child fatalities and injuries and the way children are targeted suggests a wanton use of force during the reporting period.

The use of force within the protests is governed by the IHRL standards set out in the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials. According to these standards, shooting live ammunition at the unarmed child protesters participating in the GMR is prohibited because the child does not pose an imminent threat of death or serious injury.⁹

UN CRC protects the inherent right to life of all children and calls on "States Parties to ensure to the maximum extent possible the survival [...] of the child".¹⁰ The International Covenant on Civil and Political Rights stipulates the protection for all people against arbitrary deprivation of life and in its related General Comment No. 36 (2018), the UN Human Rights Committee defined the obligations of states as being three-pronged: 1) taking effective measures to protect persons from arbitrary deprivation of life, 2) penalizing perpetrators of actions that cause the arbitrary deprivation of life, and 3) preventing state agents

⁹ Article 9, UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, 1990. Available at: <https://www.ohchr.org/EN/ProfessionalInterest/Pages/UseOfForceAndFirearms.aspx>

¹⁰ Available at <https://www.ohchr.org/en/professionalinterest/pages/crc.aspx>

from committing arbitrary killing.¹¹ The arbitrary deprivation of life constitutes an extremely serious act, and as such, requires strict legislation to regulate its use.

Al Mezan's joint petition to the Israeli High Court of Justice, pursued with four human rights organizations in Israel and Palestine, called for an injunction on the Israeli military's use of force resulting in the arbitrary killing of unarmed protesters and persons attending the demonstrations who posed no imminent threat to life or safety.¹² The protection of children from killing and injury was emphasized in the petition. Nevertheless, the Court failed to uphold the rules of international law¹³ and instead sanctioned a policy that has led to the deliberate killing of 171 protesters, including 33 children, and the injury of 6946 persons from live fire and shrapnel, of them 1,213 children during the reporting period. Taking full responsibility for each shot fired, the Israeli military Tweeted that "Nothing was carried out uncontrolled; everything was accurate and measured" and that the forces "know where every bullet landed".¹⁴

The following diagrams present Al Mezan's figures of child fatalities and injuries at demonstrations during the reporting period:¹⁵

¹¹ UN Human Rights Committee, "General comment No. 36 (2018) on article 6 of the International Covenant on Civil and Political Rights, on the right to life". Available at https://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/1_Global/CCPR_C_GC_36_8785_E.pdf

¹² Read joined PR on the following link: <https://www.adalah.org/en/content/view/9511>

¹³ Briefing paper which includes the State's response to the petition: https://www.adalah.org/uploads/uploads/Summary_Snipers_petition_and_state's_response_15_May_2018_FINAL.pdf

¹⁴ Electronic Intifada, "Israel admits, then deletes, responsibility for Gaza killings", 31 March 2018. Available at: <https://electronicintifada.net/blogs/ali-abunimah/israel-admits-then-deletes-responsibility-gaza-killings>

¹⁵ Al Mezan uses a district division that follows the PA administrative guide, which divides Gaza into five districts.

Diagram (1): Numbers of Children Killed in the Demonstrations by District of Residence

District	No. of Children Killed	%
North Gaza	4	12%
Gaza	6	18%
Middle Area	9	27%
Khan Younis	5	15%
Rafah	9	27%
Total	33	100%

Diagram (2): Number of Children Killed in the Demonstrations by Gender

Gender	No. of Children Killed
Boy	32
Girl	1
Total	33

Diagram (3): Distribution of Children Killed in the Demonstrations by Refugee Status

State of Refuge	No. of Children Killed	%
Refugee	27	82%
Non-Refugee	6	18%
Total	33	100%

**Diagram (4): Distribution of Children Killed in the Demonstrations
by Type of Weapon Used**

Type of Weapon	No. of Children Killed
Live bullets	29
Tear gas	3
Other ¹⁶	1
Total	33

**Diagram (5): Distribution of Children Killed in the Demonstrations
by Location of Injury in the Body**

Place of Injury	No. of Children Killed
Upper part of the body	32
Lower part of the body	1
Total	33

Diagram (6): Distribution of Children Killed by Age

Age Category	No. of Children Killed	Percentage
0-6	0	0
7-12	4	12%
13-15	9	27%
16-17	20	61%
Total	33	100%

¹⁶ The forensic report stated that an “unidentified object” struck the child’s head.

Diagram (7): Children Wounded in the Demonstrations by District of Incident

City	No. of Children Wounded	Percentage
North Gaza	610	26%
Gaza	582	25%
Middle Area	332	14%
Khan Younis	311	13%
Rafah	529	22%
Total	2,364	100%

Diagram (8): Children Wounded by Live Fire and/or Bullet Shrapnel by District of Incident

City	No. of Children Wounded	Percentage
North Gaza	340	28%
Gaza	324	27%
Middle Area	215	18%
Khan Younis	156	13%
Rafah	178	15%
Total	1,213	100%

Al Mezan's documentation shows that at least 20 of the wounded children now have a permanent disability as a result of their injuries; 12 of them have lost one of their limbs, and most of the others now suffer from paralysis. Many of the other child casualties now face the fear of permanent or temporary disability, to be assessed by doctors after a period of six months from the time of the incident.

Arrest and Detention of Children

Palestinian children and young men are routinely subjected to arrest and interrogation by Israeli forces. They are arrested during ground incursions into the Gaza Strip; fishermen are arrested while at work in the sea; farmers are arrested while working on farmlands; and arrests of rubble/gravel collectors near the fence are also routine. Children are also arrested when they approach or cross the fence during demonstrations or when they try to cross into Israel in search of work or for other reasons.

Past documentation has shown that children have been exposed to torture and other forms of cruel, inhuman or degrading treatment or punishment while in detention, including beatings and attacks by dogs, and extinguishing of cigarettes on their bodies.¹⁷ Such practices indicate a continued vulnerability of children who are arrested.

During the reporting period, Israeli forces arrested 14 children from the Gaza Strip, showing a slight increase from 2017, which saw 13 child arrests. Among the arrested children were seven demonstrators—six of whom were approaching the fence. Another six children were arrested while approaching the fence outside of the GMR demonstrations. One child was arrested while he was fishing with his father. Al Mezan’s documentation shows that two children are still being detained in Israeli prisons.

The Impact of Closure and Blockade on Children’s Lives

The duty of states to ensure a child’s development means that the state is responsible for creating an environment where children are able to access and enjoy the full spectrum of their human rights. The context of severe humanitarian suffering created by the closure and blockade of Gaza directly affects children’s ability to develop dignified, healthy lives. Equally, as the Occupying Power and a duty bearer, Israel is obliged to refrain from measures that would prevent the creation of an

¹⁷ For more details, read press release by Al Mezan on Israeli forces’ ill-treatment of detained child: <http://mezan.org/post/20879>

environment in which children's lives and wellbeing are protected. The closure and blockade policy is a serious affront to these obligations, as is Israel's response to demonstrators protesting the catastrophic living conditions.

In its General Comments, the Committee on Economic, Social and Cultural Rights stresses that the inherent nature of the right to life should not be understood in a restrictive manner, and called on States Parties to the Covenant to take positive measures to ensure the protection of people's lives.¹⁸ In this regard, the Committee urged states to take all possible measures to reduce the rate of child mortality and to increase life expectancy, particularly by taking action to eliminate malnutrition and epidemics.

While the report presents some indicators of the humanitarian conditions in Gaza, it attempts to show the context in which Palestinian children in Gaza are constantly deprived of their rights. One example, which relates to the everyday lives of children and also to the lives of children participating in the protests, is the healthcare sector. This sector is under extreme pressure after 12 years of closure. As a result, the limited health services available are not able to cope with the volume of patients or the types of injuries and illnesses presented.

Because the health sector lacks vital diagnostic and specialized surgery and treatment capacities, thousands of patients, including children, have to be referred to hospitals outside of Gaza, mostly to the West Bank, including East Jerusalem, and Israel. In order to access the hospitals, patients must first obtain referrals from the Palestinian Authority and security permits from the Israeli authorities.

This complex permit regime severely restricts access to hospitals, as requests for permits are rejected or excessively delayed by the Israeli authorities.

¹⁸ Ibid 11

Denial of Medical Care: Rejection and Delay of Children’s Requests for Permits

The Israeli authorities continue to delay and deny Palestinian children’s requests for permits necessary for their access to medical care outside Gaza. Permit requests are kept “under security review” for excessively long periods of time. The permit requests by children are also flat out rejected. Additionally, there are many cases where children’s requests are approved, while those of their family members are denied, which means that despite holding the requisite permits, the children cannot make it to the hospitals.

According to the WHO, the number of requests submitted for children (under 18) during the period from January 2018 until 30 September 2018 reached 5,365¹⁹. The Israeli authorities approved 4,032 requests, i.e. approximately 75% of the submitted requests. Approximately 25% of the requests were either rejected or kept with no response: 83 requests were rejected, and 1,250 requests were delayed beyond the time of the hospital appointments.

The delays and ignored requests—whereby patients do not receive information on the status of their applications—serve to frustrate patients and their families, exacerbating their health conditions and causing physical and psychological pain.

To improve the chances of obtaining permits for the children’s accompanying family members, the Palestinian General Authority for Civil Affairs, which is a branch of the Palestinian Authority that coordinates the permit system with the Israeli authorities, recommends that family members accompanying children be at least 55 years old for men and 45 years old for women. This recommendation is prompted by the pattern observed by officials that indicates that Israeli authorities tend to take more time to conduct security reviews when the accompanying persons are below these age groups.

¹⁹ WHO, unpublished data obtained by Al Mezan’s researcher Bassem Abu Jrai on 15 October 2018.

In practice, many children are prevented from having their parents with them during their medical treatment outside Gaza. Often, grandparents fill the gap, even though they themselves are vulnerable and often unable to cope with the situation effectively.

As per the criteria applied to medical referrals, the child patients who are referred to hospitals outside Gaza are necessarily children who suffer serious health conditions which cannot be treated in Gaza's health system. If this were not the case, the permit system would dictate that their permit requests are denied and that the children be treated in Gaza.

Diagram (9): Complaints Concerning Children's Access to Medical Treatment outside Gaza as Processed and Tracked by Al Mezan

Number of Children's Complaints	98
No. of children wounded in demonstrations	5
No. of successful complaints overall (children receive exit permits)	57
No. of successful complaints of children wounded in demonstrations	2
No. of individual child applicants ²⁰	73

Diagram (10): Gender Breakdown of Children's Complaints

Gender	No.
Male	39
Female	34
Total	73

²⁰ There are cases where the same child is denied access more than once, resulting in multiple complaints. This row shows the total number of individual applicants, without the repetition of multiple complaints.

Diagram (11): Distribution of Children Beneficiaries by Age

Age Category	No.
0-2	12
3-5	17
6-10	17
11-14	12
15-17	15
Total	73

The way the Israeli authorities handle patients' permits is complex, not transparent, and very problematic. There are no clear criteria that a patient or supporting organization can reference to ascertain why a given permit has been granted, delayed or denied. The documentation shows that in many cases a child has been denied an exit permit when according to previous trends, he or she would have been granted one. This reality makes the medical treatment process unproductive and worsens the patient's health condition, especially of a cancer patient, who must follow a strict medical regime, or of patients who need follow-up surgery that is time-sensitive.

The diagrams above also show that the vast majority of children denied access to hospitals are under the age of 15, and therefore even more vulnerable.

Denial of Access to Medical Care for Children Wounded at Demonstrations

Towards the start of the GMR, the Israeli authorities pursued a punitive policy of denying children wounded at demonstrations permits to transfer to hospitals in the West Bank and Israel for urgent medical care. After Gaza's hospitals could not provide the necessary treatment that the critical injuries required and the children were denied exit permits, the doctors in Gaza's hospitals reported having no choice but to amputate the limbs—the calculation being that without conducting the amputation the child was at grave risk of losing their life.

Mohammed Al-‘Ajouri, 17, is one such case, and lost a leg as a result of this policy. Al-‘Ajouri, from Gaza City, was shot and wounded by the Israeli military during the first protests on 30 March 2018. Shortly afterward, his request for transfer to the West Bank, and that of another young man, Yousef Al-Kronz, who had been wounded the same day, were denied on the aforementioned punitive grounds.²¹

Gaza's Shifa Hospital, which had no means to save the wounded men's legs, had referred them to Al Istishari Hospital in Ramallah on 1 April 2018 and a request to exit Gaza and transfer to Ramallah was submitted to the Israeli Coordination and Liaison Administration (CLA) that same day. However, CLA did not respond and Al Mezan, with partner organization Adalah – The Legal Center for Arab Minority Rights in Israel, sent an urgent letter on 4 April requesting authorization for immediate passage for the wounded men from Gaza to Ramallah. On 5 April, the organizations were informed that CLA refused the wounded men's requests.²²

Al Mezan and Adalah filed a petition to the High Court of Justice on Sunday, 8 April 2018, demanding that Israel allow the seriously wounded child and young man to leave Gaza for urgent medical

²¹ Al Mezan and Adalah, “Doctors amputate legs of 2 wounded Gaza youth after Israel refuses to allow their transfer to West Bank hospital”, 12 April 2018. Available at: <http://mezan.org/en/post/22655>

²² Ibid footnote 23

treatment in Ramallah’s Al Istishari Arab Hospital. The Court delayed its decision on the matter and—despite the urgent nature of the situation—allowed the state attorneys three days to respond to the petition.²³

On 11 April 2018, doctors amputated the legs of Al-‘Ajouri and Al-Kronz.²⁴

In order to save Al-Kronz’s second leg, Al Mezan and Adalah continued to pursue the petition, in which the Court eventually decided in favor of the wounded youth.²⁵ However, while the Court ordered the travel of Al-Kronz, it did not manifestly declare the punitive policy of denying care to protesters to be unlawful or demand its revocation.

Had the straightforward humanitarian decision been made in-line with international law obligations of Israel at the time the request was made, Al-‘Ajouri would have possibly been able to avoid the amputation of his leg. The act of denying urgent medical care in these circumstances may constitute cruel, inhuman and degrading treatment and/or torture under the UN Convention Against Torture, ratified by Israel. The policy seriously violates the child’s right to health and the UN CRC concerning the best interests of the child.

²³ Ibid footnote 23

²⁴ Ibid footnote 23

²⁵ For more information on the Israeli Supreme Court’s decision on the case of Al-Kronz, see Al Mezan’s press release: <http://www.mezan.org/en/post/22751>

Conclusion

In the context of the GMR demonstrations, Israeli forces have perpetuated violations of Palestinian children's human rights. The documentation of these violations reveals that in the reporting period, the incidents of killing and irreversible harm to children have gravely affected a large number of children, while the practices of denying children access to urgent medical treatment has become more widespread and better protected by Israel's judicial system.

The ongoing humanitarian suffering in the Gaza Strip, worsening as Israel keeps its closure and blockade in place, has manifestly affected children's enjoyment of their fundamental rights and created an environment where their lives and integrity are in constant threat. From poverty to environmental pollution and lack of clean water, to deteriorating healthcare services, the overall indicators for children's health, safety, and development remain substantially undermined.

Mindful of Israel's obligations under international law and recalling the duty to protect Palestinians in Gaza, Al Mezan urges the international community to take prompt and effective action to ensure respect for international law obligations and to provide meaningful protection for children throughout Gaza. Al Mezan stresses that any such action must involve efforts both to end Israel's closure and blockade imposed on Gaza, including by stopping the arbitrary denial and delay of access to urgent healthcare, and to provide aid to service sectors that ensure children's lives are protected, their safety guaranteed, and their development supported.