



**Mandates of the Special Rapporteur on extreme poverty and human rights and the Special Rapporteur on the right to food**

REFERENCE: AL Poverty (1998-11) Food (2000-9)  
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Excellency,

We have the honour to address you in our capacities as Special Rapporteur on extreme poverty and human rights and Special Rapporteur on the right to food pursuant to Human Rights Council resolutions 17/13 and 22/9.

In this context, we would like to bring to your Excellency's Government's attention information we have received regarding **alleged policies and practices which are negatively impacting the enjoyment of several economic, social, civil and political rights of those living in the Gaza Strip resulting in conditions of extreme poverty, deprivation of livelihood, inadequate standards of living and food insecurity.**

According to information received:

Since June 2007, Israel's tightened control of access to the Gaza strip (by land, air and sea) along with alleged travel bans, import restrictions and a near total ban on exports has had a disproportionate impact on the principal industries which provide the main sources of income for those living within the Gaza Strip, including farming, fishing and the manufacturing industry. As a result those working in these industries, along with their families, are struggling to make ends meet with approximately 80% of the population living in poverty, and over 75% dependent on food aid.

### *Fishing industry*

Under the Oslo Agreements, the fishing range off the coast of Gaza was set at 20 nautical miles, but this range has allegedly been gradually restricted by Israel's military. Reports indicate that from December 2008 until November 2012 a fishing limit of 3 nautical miles was levied by the Israeli Navy. The limit was allegedly enforced through the use of live ammunition, arrests and other methods of intimidation resulting in injuries to fishermen, and damage and destruction of fishing boats and equipment. In November 2012, in accordance with the ceasefire and an agreement at that time, fishermen were to be permitted to sail up to 6 nautical miles.

However since 21 March 2013 it is reported that the fishing area has been reduced again to 3 nautical miles thus limiting the waters in which fishermen are allowed to fish. Alleged Naval attacks within 3 nautical miles off the Gaza coast have resulted in the destruction of fishing boats, nets, and other fishing equipment which has had a significant impact on the fishing community with the number of working fishermen reportedly falling from 10,000 in 1999 to 3,500 in 2013. This has had a profound impact on families who depend on fishing as a source of income. The fishing zone was again increased to 6 nautical miles on 21 May 2013. Despite the expansion of the fishing zone, Israeli Naval Forces reportedly continued to open live fire at the Palestinian fisherman on an almost daily basis and to pour water into their fishing boats, which in many cases resulted in the damage of boats and the loss of fish.

According to reported estimates, the livelihood of some 3,500 families in Gaza, comprising some 19,500 people, depends directly on the fishing industry, and another 2,000 families make a living from affiliated industries, such as building and maintenance of boats and equipment. According to the UN Office for the Coordination of Humanitarian Affairs (OCHA), at least 95% of Gaza fishermen receive international aid. The restrictions also reportedly raise the cost of fish, preventing many families from obtaining an important source of protein.

According to reports received, in the early morning of 31 August 2009, Mr. ██████████'s trawler was destroyed when it was shelled by an Israeli Navy vessel stationed opposite el-Waha Tourist Resort, in the west of Beit Lahiya in the northern Gaza Strip. Reports indicate that Mr. ██████████ sons, Mr. ██████████ and Mr. ██████████, together with their cousin Mr. ██████████ and colleague Mr. ██████████ took the trawler out after their father had offloaded his first catch of the morning shortly after 6:00 a.m. While at sea the boat was reportedly intercepted by Israeli Navy and subjected to gunfire and shelling. Although all men onboard Mr. ██████████ trawler were able to reach the shore safely, Mr. ██████████ would appear to have sustained minor burns on his arms and legs when trying to put out the fire.

According to our information, in the period immediately after the alleged attack the family reportedly survived on humanitarian aid but was eventually able to borrow money to buy a new boat in late 2010. However on 29 November 2011, Mr. ██████████

son [REDACTED] was arrested and his new fishing boat was reportedly confiscated by Israeli Naval forces. The alleged incident took place at around 10:30 a.m., approximately 3 nautical miles off the coast of Khan Yunis, in the southern Gaza Strip. Three Israeli gunboats and two smaller vessels reportedly approached a group of six trawlers, including the trawler belonging to Mr. [REDACTED]. His son and other workers were onboard at the time. Reports suggest that the Navy ordered three of the six trawlers to leave the area. Officers allegedly then began randomly shooting rubber bullets at the three remaining trawlers.

According to reports, twelve fishermen, including Mr. [REDACTED], were arrested and escorted, handcuffed and blindfolded, to Ashdod Port where they were detained and interrogated separately before being released at Erez checkpoint at around 02:00 a.m. the following morning. Two of the trawlers and the fishing equipment onboard were allegedly confiscated. Mr. [REDACTED] boat was eventually returned on 4 January, with some parts reportedly missing.

#### *Agricultural sector*

The movement of farmers has also allegedly been restricted with a ‘buffer zone’ officially extending 300 metres into the Gaza Strip. Reports suggest that in reality, the ‘buffer zone’ can extend up to 1,500 metres and the Israeli military enforcement of the access restrictions has continued to result in killings, injuries, shooting, incursions, detention and property destruction and damage, as well as uncertainty about access to the area which had a devastating impact on the livelihoods of many farmers and their families.

According to reports, on 12 and 17 June 2012, Israeli Defence Forces (IDF) bulldozers and tanks razed 43 dunums of private land used for agricultural purposes on the eastern side of Deir al Balah, in the central Gaza Strip situated just over 300 metres from the Gaza-Israeli border. As a result, crops would appear to have been destroyed, leading farmers to lose their main source of income for the year. Among those farmers is Mr. [REDACTED], who allegedly lost 10 dunums of crops and an irrigation network.

Reports indicate that at around 8:30 a.m. on 12 June 2012, approximately eight IDF army bulldozers and four or five tanks entered the farmlands east of Deir al Balah, central Gaza Strip, through ‘Kissufim gate’ in the border fence, east of the town. The army vehicles reportedly moved approximately 700 metres into the central Gaza Strip and reportedly fired several incendiary bombs, which burned a number of wheat fields. At approximately 16:15 p.m. on the same day, IDF tanks returned to the area and reportedly destroyed irrigation networks, agricultural pools and lands.

On 17 June 2012 at around 05:00 a.m., approximately twelve IDF bulldozers and four or five tanks entered the farmlands east of Deir al Balah, central Gaza Strip, through Bab al Nimr (‘Tiger Gate’) in the border fence, east of the town. The bulldozers allegedly conducted leveling operations, flattening what was left of the farmlands that had been

previously destroyed on 12 June 2012. The value of Mr. [REDACTED] destroyed land and equipment is estimated to be 20,000 USD and this loss has reportedly plunged his family into financial hardship whereby he is struggling to provide his family with an adequate standard of living.

The reported ban on exports has also reportedly caused great financial hardship for farmers living in the Gaza Strip. Only limited quantities of two goods, flowers and strawberries, are reportedly allowed to be sporadically exported.

It is reported that among farmers affected is Mr. [REDACTED], a farmer in Beit Lahiya, in the northern Gaza Strip. In 2007, Mr. [REDACTED] and a number of his colleagues became accredited to farm under the Good Agricultural Practice (GAP) scheme, an internationally recognized standard of farming that, in theory, allows access to the markets of Europe and Israel. In 2012, 260 farmers in Gaza, including Mr. [REDACTED], were reportedly told they could export 1,200 tonnes in 2013 as they met the requirements in terms of quality produce. However after harvesting their crops they were informed that only 80 tonnes were allowed to be exported with Mr. [REDACTED] allegedly only being permitted to export 20 kilos out of the 20 tonnes he had planted. As a result Mr. [REDACTED] along with many other farmers involved in the scheme lost much of their produce as well as suffering considerable financial loss leading to severe difficulties in providing for their families.

#### *Manufacturing industry*

According to reports the limited access to export markets, along with the unpredictable availability of raw materials created significant challenges for businesses based in the Gaza Strip with 95% of the 3,900 industrial establishments having closed or forced to suspend their work due to restrictions by December 2012. The remaining 5% of industrial establishments that continue to operate reportedly work at 20-50% of their pre-closure capacity. Allegedly tens of thousands of persons have lost their jobs. Many families and individuals who depend on the work offered through these industries are reportedly facing unemployment and unable to provide an adequate standard of living for their dependents.

Military attacks are another factor reportedly limiting industrial capacity and destroying livelihoods. Factory owner Mr. [REDACTED], lost his business in Gaza City's Tuffah neighbourhood, on 9 February 2011, when shortly after midnight, an Israeli F16 reportedly dropped a missile on his factory, destroying the new building, which was a month away from being fully operational. Mr. [REDACTED] had invested heavily in the factory and despite managing to partially reconstruct part of the building, until now, he is struggling to deal with the financial losses he experienced and is unable to operate the factory at full capacity, which has negative consequences for all those who work there.

Concern is expressed that the reported continual bombardment of agricultural lands, fishing ports and manufacturing industries is having a profound and negative

impact on the sources of income for the people living in the Gaza Strip. Further concern is expressed that the high and rising level of unemployment in the Gaza Strip is directly related to the tightened blockade since 2007, which is strangling the local economy and plunging people into situations of extreme poverty, aid dependency and food insecurity.

In addition, the alleged victims of the cases described above, are reportedly unable to seek remedy or accountability from the State of Israel due to legal and procedural obstacles in place. In particular, information received indicates that responses are rarely received to complaints filed with the Israeli Military Prosecutor, and cases filed in Israel's civil court system require a guarantee payment of on average \$8,000 before the case is reviewed by the court. If the case is lost, this payment is retained to offset the State's 'defense costs'. This in effect prevents people living in poverty from filing claims. In addition, due to the closure of the Gaza strip's borders, lawyers based in Gaza are reportedly unable to represent clients in the Israeli courts, and lawyers based in Israel are unable to meet with claimants as the former cannot enter Gaza and the latter cannot leave. Therefore, the residents of the Gaza strip are allegedly denied their right to access to justice and their right to a remedy.

While we do not wish to prejudge the accuracy of these allegations, we would appreciate information from your Excellency's Government on the steps taken by the competent authorities to protect the economic, social and cultural rights of persons living in poverty in Gaza. These rights are enshrined, inter alia, in the International Covenant on Economic, Social and Cultural Rights (ratified by Israel on 3 October 1991, hereafter ICESCR), and the Convention on the Rights of the Child (ratified by Israel on 3 October 1991, hereafter CRC), as well as in the Universal Declaration of Human Rights (hereafter UDHR),

We would particularly like to draw your attention to the following applicable human rights norms and standards.

Under human rights law and international humanitarian law the people of Gaza, even while living under occupation, have the right to enjoy all human rights including economic, social and cultural rights. As a State party to the above mentioned international human rights treaties Israel is duty bound to implement its human rights conventional obligations in the Occupied Palestinian Territory, to the extent that it continues to exercise jurisdiction there. In its 2004 Advisory Opinion on the Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territories, the International Court of Justice has noted that the obligations of Israel under the International Covenant on Economic, Social and Cultural Rights included an obligation not to raise any obstacle to the exercise of such rights in those fields where competence has been transferred to Palestinian authorities. As it has been stated in previous reports, the unilateral disengagement from the Gaza Strip by Israel, which was formally completed on 12 September 2005, does not dispense Israel from complying with its human rights obligations towards the population of that territory; as underlined in the joint report prepared pursuant to Human Rights Council resolution S-9/1 on the grave violations of human rights in the Occupied Palestinian Territory, particularly due to the recent Israeli

military attacks against the occupied Gaza strip. Israel remains bound to the extent that the measures it adopts affect the enjoyment of human rights of the residents of the Gaza Strip (A/HRC/10/22 p. 7).

Consistent with the position adopted authoritatively by the International Court of Justice, the United Nations human rights treaty bodies, special procedures of the Human Rights Council, and successive High Commissioners for Human Rights have consistently confirmed that international human rights law and international humanitarian law apply concurrently in all of the West Bank and the Gaza Strip.

We would like to remind your Excellency's Government of article 11.1 of the ICESCR, which holds that "the States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions." The CRC also enshrines the right to an adequate standard of living for all children (art. 27).

In its General Comment No. 12, the Committee on Economic, Social and Cultural Rights (CESCR) underlines that States have a core obligation to take the necessary action to mitigate and alleviate hunger (para. 6). The right to adequate food requires that food for an adequate diet should be economically accessible, meaning that the "personal or household financial costs associated with the acquisition of food for an adequate diet should be at a level such that the attainment and satisfaction of other basic needs are not threatened or compromised" (para. 13).

The right to adequate food also implies availability – the possibilities for "feeding oneself directly from productive land or other natural resources", or for "well-functioning distribution, processing or market systems" (para. 12).

States are obligated to respect existing access to adequate food, by not taking measures that result in preventing such access (para. 15). Violations of the right to food can occur through the direct action of States, including "denial of access to food to particular individuals or groups" or the "adoption of legislation or policies which are manifestly incompatible with pre-existing legal obligations relating to the right to food" (para. 19). Furthermore, "any discrimination in access to food, as well as to means and entitlements for its procurement, on the grounds of race, colour, sex, language, age, religion, political or other opinion, national or social origin, property, birth or other status that has the purpose or effect of nullifying or impairing the equal enjoyment or exercise of economic, social and cultural rights" constitutes a violation of the ICESCR (para. 18).

Article 6.1 of the ICESCR recognizes the right to work, "which includes the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts, and will take appropriate steps to safeguard this right". Article 7 recognizes the right of everyone to the enjoyment of "just and favourable conditions of work" which ensure, inter alia, a "decent living for themselves and their families" and "safe and healthy working conditions".

Article 2.2 of the ICESCR recognizes the obligation of States parties to guarantee that the rights enunciated in the Covenant “will be exercised without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.”

General Comment No. 18 of the Committee on Economic, Social and Cultural Rights clearly states that the right to work as enshrined in the ICESCR includes “the right not to be deprived of work unfairly” (para 4). It also outlines States’ immediate obligations in relation to the right to work, such as the obligation to “guarantee” that it will be exercised “without discrimination of any kind” (para. 19). In addition, “[t]he obligation to respect the right to work requires States parties to refrain from interfering directly or indirectly with the enjoyment of that right” (para. 22). The exercise of the right to work requires accessibility, meaning that the labour market must be physically and practically open to everyone under the jurisdiction of the State party, without discrimination (para.12).

In the context of the right to work, the ‘core obligation’ of the State encompasses “the obligation to ensure non-discrimination and equal protection of employment”. Accordingly, these core obligations include, inter alia, at least the requirements to: ensure the right of access to employment, especially for disadvantaged and marginalized individuals and groups, permitting them to live a life of dignity; and to avoid any measure that results in discrimination and unequal treatment (para. 31).

Article 2 of the ICESCR requires States to devote the maximum available resources to the progressive realization of the rights in the Covenant. While ‘progressive realization’ of economic, social and cultural rights is dependent on the specific circumstances of the State concerned, article 2.1 also imposes obligations that considerably limit the discretion of States with regard to the implementation of the Covenant and require immediate implementation. States Parties are obliged to *take steps* to achieve progressively the full realization of the rights recognised in the Covenant. This obligation is immediately applicable and is not subject to limitation. Hence, it is not an obligation to take action in the future. States, regardless of their level of development, must take steps immediately to achieve the full realization of the rights enshrined in the Covenant (General Comment No. 13 para 43).

Similarly, State parties to the ICESCR have an immediate minimum core obligation to ensure the satisfaction of, at the very least, minimum essential levels of all economic, social and cultural rights (see CESCR, General Comment No. 3, para. 10).

Moreover, article 2.1 imposes a prohibition of taking deliberately retrogressive measures. As stated by the Committee on Economic, Social and Cultural Rights, ‘any deliberately retrogressive measures [...] would require the most careful consideration and would need to be fully justified by reference to the totality of the rights provided for in the Covenant and in the context of the full use of the maximum available resources’ (General Comment No. 3 para. 9). There is a strong presumption that deliberately

retrogressive measures that affect the level of enjoyment of economic, social and cultural rights are in violation of human rights standards (see for example General Comment No. 3 of the Committee on Economic, Social and Cultural Rights, para. 9 and 10 and General Comment No. 4, para. 11). As explained by the Committee, an example of a ‘deliberately retrogressive measure’ would be a general decline in living conditions, “*directly attributable* to policy and legislative decisions by States Parties, and in the absence of accompanying compensatory measures” (General Comment No. 4 para. 11).

The Committee on Economic, Social and Cultural Rights noted that, in adopting retrogressive measures, States must demonstrate that they have been introduced after the most careful consideration of all alternatives and that they are duly justified by reference to the totality of the rights provided for in the Covenant, in the context of the full use of the maximum available resources (CESCR General comments No. 3, para. 9, No. 13, para. 45, No. 14, para. 32, No. 15, para. 19, No. 17, para. 27, No. 18, para. 34, No. 19, para. 42 and No. 21, para. 65).

Under international human rights law, States have a legal obligation to ensure that all individuals are able to access competent and impartial judicial and adjudicatory mechanisms equally and without discrimination. Israel has assumed obligations in this regard.

Any person or group who is a victim of a violation of the rights enshrined in the ICESCR should have access to effective judicial or other appropriate remedies at the national and international level, and reparations (see e.g. CESCR General Comment No. 12 para. 32).

The right to equal protection of the law and non-discrimination in this context are enshrined, inter alia, in articles 2 and 7 of the Universal Declaration of Human Rights and article 26 of the International Covenant on Civil and Political Rights (ICCPR), which Israel is party to since 3 October 1991. The latter states “[a]ll persons are equal before the law and are entitled without any discrimination to the equal protection of the law.” All persons must be guaranteed equal and effective protection against discrimination in this regard, on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

In its General Comment No. 18, the Human Rights Committee stated that article 26 prohibits discrimination in law or in fact in any field regulated and protected by public authorities, and is not limited to those rights which are provided for in the Covenant (HRI/GEN/1/Rev.1 at 26, para. 12). The Human Rights Committee further noted in its General Comment No. 31 that the enjoyment of Covenant rights is not limited to citizens of States Parties but must also be available to all individuals, regardless of nationality or statelessness, such as asylum seekers, refugees, migrant workers and other persons, who may find themselves in the territory or subject to the jurisdiction of the State Party (CCPR/C/21/Rev.1/Add. 13, para. 10).

We would further like to draw the attention of your Excellency’s Government to the existence of the Guiding Principles on extreme poverty and human rights (contained



in document A/HRC/21/39), adopted by the Human Rights Council by consensus at its 21<sup>st</sup> session (resolution 21/11).

It is our responsibility under the mandates provided by the Human Rights Council, to seek and to clarify all cases brought to our attention. Since we are expected to report on these cases to the Council, we would be grateful for your cooperation and your observations on the following matters:

1. Is the information outlined above accurate?
2. Please outline what steps have been taken to investigate the allegations highlighted in this letter, in particular with reference to the cases of Mr. ██████████, Mr. ██████████, Mr. ██████████, Mr. ██████████ and Mr. ██████████? If investigations have taken place please provide details.
3. What is your assessment of the manner in which the blockade of the Gaza Strip/restricted movement of goods and persons into or out of Gaza, enforced by the State of Israel, has affected the economic, social and cultural rights of Gaza's residents, including the right to food and the right to work?
4. What measures have been taken to ensure that those living within the Gaza Strip are afforded the right to an adequate standard of living, including adequate food, clothing and housing, and to the continuous improvement of living conditions in accordance with article 11 of the ICESCR and article 24(2)(c) of the Convention on the Rights of the Child?
5. Are residents of Gaza able to access justice, remedy and accountability mechanisms if they feel their rights have been violated by Israel as the occupying power? Please describe any such mechanisms, and explain if/how they are accessible to people living in poverty in the Gaza strip.
6. Has any compensation or reparation been awarded to residents of the Gaza strip whose means of livelihood (e.g. boat, fishing equipment, land, factory) has been destroyed or removed by the action of Israeli authorities? If so, please describe.
7. Before Israeli forces undertake operations or actions in Gaza or affecting Gaza, is an assessment made of the potential or likely impact on the rights of people living in poverty in the Gaza strip, including their rights to food, work and an adequate standard of living? If so, please describe the nature of these assessments.
8. What domestic monitoring mechanisms and safeguards are in place to ensure that the State of Israel is allocating the maximum of its available resources to the realization of social and economic rights, in particular of the most vulnerable persons,

and that minimum essential levels of these rights, at least, are being upheld in the Gaza Strip?

We would be most grateful to receive an answer within 60 days. We undertake to ensure that the response of your Excellency's Government to each of these questions is accurately reflected in our next steps such as reports we submit to the Human Rights Council for its consideration or information we provide to the general public through press releases.

Please accept, Excellency, the assurances of our highest consideration.

Maria Magdalena Sepúlveda Carmona  
Special Rapporteur on extreme poverty and human rights

Olivier De Schutter  
Special Rapporteur on the right to food