



July 14, 2020

To
Mr. Benny Gantz
Minister of Defense

By fax: 03-6962757

To
Dr. Avichai Mandelblit
Attorney General

By fax: 02-6467001

To
Mr. Kamil Abu Rukun
Coordinator of Government
Activities in the Territories

By fax: 03-6976306

- Extremely Urgent -

Dear Sirs,

Re: Israel's obligation to ensure immediate exit and entry by Palestinians

Ref: Our letter dated June 18, 2020; COGAT response dated July 7, 2020.

We hereby contact you once more on behalf of human rights organizations Physicians for Human Rights - Israel (PHRI), Adalah - Legal Center for Arab Minority Rights in Israel, HaMoked: Center for the Defence of the Individual, The Association for Civil Rights in Israel, and Gisha - Legal Center for Freedom of Movement, following the partial, unsatisfactory response provided by the Coordinator of Government Activities in the Territories (COGAT) to our demand to enable Palestinian travel out of Gaza via Erez Crossing beyond urgent **medical cases** and regardless of Palestinian coordination bodies, as detailed below:

1. In COGAT's response in reference, you informed us that our demand to issue permits for entry into Israel and the West Bank via Erez Crossing has been met partially in that permit applications for urgent medical treatment may currently be submitted directly to the Gaza Coordination and Liaison Administration (CLA) and not through the Palestinian Civil Affairs Committee.
2. However, COGAT's response, which relies on a flawed legal basis, **fails to provide a solution for other important cases**. Your position, as presented in paragraph 2 of your letter, is partly erroneous and irrelevant to the issue discussed in its other section. The implementation of the Disengagement Plan in 2005 has absolutely no relevance. Your attempt to portray the implementation of the plan as absolving Israel of **any** obligation towards Gaza residents fails as it not only defies international law, but also Israeli law and HCJ jurisprudence.¹

¹ For instance, in HCJ 1169/09 **Legal Forum for the Land of Israel v Prime Minister**, paragraph 21 (June 15, 2009), the court ruled: "The **obligation** of the Israeli administration to see that the basic humanitarian needs of residents of the West Bank and Gaza Strip are met has often been emphasized by this court in its judgments. Although the Gaza Strip is currently controlled by the Hamas movement, which was declared as a terrorist organization, it also has residents who need essential services to maintain reasonable and humane quality and standard of living. **Israel is required to provide assistance that would allow meeting the basic needs of the local population, without which they will not be met.**"

3. As is known, the Disengagement Plan did not result in the State of Israel pulling out of the crossings between its territory and the Gaza Strip. The State of Israel has sole control over the crossings, including over travel between Gaza and the West Bank. As a result of this control, among other reasons, Israel has an obligation to allow continued travel in a variety of cases. This issue has been clearly and unequivocally settled in the jurisprudence of the High Court of Justice (see paragraph 8 of our letter in reference). This obligation remains even if, at this moment, the mechanism that had assisted in fulfilling it is not operating.
4. Ignoring cases that are not critical medical cases simply because the Palestinian Authority has frozen coordination is extremely unreasonable and disproportionately infringes on the rights of Gaza residents. We recall that the permit regime you enforce already reduces Gaza residents' freedom of movement to a minimum and harms every aspect of their lives.
5. Using the decision made by the Palestinian Authority to halt coordination in order to evade your responsibilities towards Gaza's residents and impose further restrictions on them is a complete abdication of Israel's legal responsibilities and obligations. The cessation of the bureaucratic mechanism you have thus far used to execute these obligations cannot justify your decision to deny Gaza residents access to their homes in the West Bank, participation in funerals, mourning rituals or weddings, travel for business and more.
6. We reiterate that coordination agreements between the State of Israel and the Palestinian Authority are not unique to the Gaza Strip, nor is the cessation of coordination. The distinction you wish to draw between the two parts of the Palestinian territory in this context is both artificial and wrongful, as there is no relevant difference on which to rely. COGAT flaunts the tens of thousands of Israeli entry permits it issues West Bank residents (almost 100,000 in the week beginning July 5, 2020, for different purposes and without coordination, <https://twitter.com/cogatonline/status/1282289895495606274>), even taking the trouble to post this information on social media. Given this, your claim that tightening access restrictions on Gaza residents and failing to fulfill your obligations toward them is the result of the lack of coordination raises grave concern over possible wrongful discrimination and extraneous considerations.
7. Beyond necessity, and despite the fact that you are well aware of this fact, we note that the "Palestinian side" of the crossing does not restrict travel into and out of Gaza, as you alleged. The Palestinian Authority does not prevent Gaza residents from exercising their right to freedom of movement. Hamas does not prevent Gaza residents from exercising their right to freedom of movement. The State of Israel alone, based on a decision made independently and exclusively, denies this right.
8. **The State of Israel must ensure travel between Gaza, the West Bank and Israel and vice versa is renewed for various needs, beyond just medical needs, in keeping with its obligations and regardless of the operation of the Palestinian Civil Affairs Committee or the decisions of the Palestinian Authority. In light of all the above, we demand that the Gaza CLA effectively resume its work and prepare to process any application submitted to it, whether directly by a Gaza resident or through power**

of attorney. We request that you clarify how applications for non-medical related permits may be submitted, and make the information available to the public. We request your response no later than July 26, 2020.

Sincerely,

_____ [signed]

_____ [signed]

Osnat Cohen Lifshitz, Adv. Adi Lustigman, Adv.

_____ [signed]

Sawsan Zaher, Adv.

_____ [signed]

**Danny Shenhar, Adv.
Adv.**

_____ [signed]

Abir Joubran Dakwar,