

GAZA

Under Article 42 of the 1907 The Hague Regulations, which are generally recognized as reflecting customary international law, a territory is occupied when a foreign entity exerts “effective control” over it in terms of military and administrative matters. The actual presence of an army inside the territory is thus not necessarily required to be recognized an occupying power. In the case of Gaza, Israel retains control of all land borders, air space and sea access (revised Disengagement Plan of 6 June 2004, Art. 3.1) and reserves the right to prevent the PA from re-opening its airport or building a seaport (Art. 6).

Moreover, Israel controls the population registry (including decisions on who is a “resident” of Gaza) and the supply of electricity, fuel, gas, medicines, merchandise and water as well as the entry and exit of goods and people to and from the Strip (Art. 8, Art. 10). Even with regard to the border with Egypt, Israel - according to the Rafah Agreement signed on 16 Nov. 2005 - still retains some power and has been able to order the crossing points’ closure on several occasions.

Full and exclusive sovereignty of the PA over the Gaza Strip is further violated by the self-proclaimed Israeli right to use force against Palestinians on the pretext of security (Art. 3.3). In addition, the ongoing applicability of the 1994 Paris Economic Protocol allows Israel to continue to control revenues from taxes and customs, including withholding their transfer as it pleases (Art. 10).

Another important issue addressed by international law is the targeting of civilians. “Collective punishment” - enacting punitive measures against a population because of the actions of a few - is expressly forbidden by international law and is prohibited by Israel’s own laws, as well. Additionally, the ‘general welfare’ of the civilian population is a responsibility of the occupying power. In both cases, Israel has abandoned and ignored their obligations.

Moreover, Israel has even adjusted their rules of engagement in a move that makes civilian casualties even more likely: before 2006, artillery shells could not be targeted within 300 meters of residential areas, but the ‘safety zone’ has now been reduced to 100 meters, which happens to fall within the kill radius of the shells.



The destroyed Airport

The opening of **Yasser Arafat International Airport** near Rafah in November 1998 signaled the optimism among Palestinians for the future of a Palestinian state. The terminals were busy 364 days out of the next

year – closing only for the Jewish holiday of Yom Kippur – and US President Bill Clinton was among the first passengers that came through. More than half a million Palestinians per year took advantage of the \$86-million facilities and the opportunity of international travel, but that freedom proved to be short lived: the airport was open for a mere 23 months before Israeli authorities ordered it to be closed following the outbreak of the Al-Aqsa Intifada in September 2000. The radar station and control tower were destroyed by Israeli aircraft in 2001, and in January 2002 bulldozers cut the runway apart. Appeals for the Israelis to compensate the Palestinian people for the damage and allow the airport to be repaired have so far gone unheeded.

What are the implications of Israel’s declaring Gaza a “hostile entity”?

The Israeli government declared the entire Gaza Strip a “hostile entity” on 19 September 2007, citing the threats posed by Hamas rule and continued Palestinian rocket attacks. Israel’s goal in using such terminology was to reduce their responsibility for the safety and well-being of Gaza’s civilian population, though this assertion was promptly rejected by the UN and others in the international community. Yet additional restrictions on Gaza followed, including the complete closure of all border crossings, de facto sealing the strip from the rest of the world, disruption of power supplies and fuel shipments, increased monitoring of funds, a cessation of visits to prisoners, and the allowing of only essential food and medicine to be brought into Gaza.

These measure are meant to further erode the quality of life and make it harder for Hamas to effectively govern. A humanitarian crisis has been the result, with many considering the Israeli actions to be collective punishment and even crimes against humanity. Even so, the international community has stayed relatively silent and done little to bring about change.

“I call for Israel to reconsider this decision. Such a step would be contrary to Israel’s obligations toward the civilian population under international humanitarian and human rights law.”

Ban Ki-Moon, UN Secretary-General, on Israel’s decision to declare Gaza a “hostile entity”, 20 September 2007

Are there any legal actions that can be taken?

As of now, Israeli aggression in Gaza continues unabated. In January 2008, Israel’s Supreme Court upheld the government’s decision to reduce the amount of fuel and electricity being supplied to Gaza. The judges deemed the actions to be a form of “economic warfare” and agreed with government assertions that the measures were appropriate retaliation for rocket attacks on southern Israel. So far, Gazans have found little solace in the international courts and have had to rely on civil society and the outcomes of individual cases, which have provided few successes. Palestinians cannot bring their concerns to the International Criminal Court without a state, and since Israel has refused to ratify the ICC treaty, they are also outside of the court’s sovereignty.

The Israeli courts have thus far managed to find ways around condemning the actions of their government, and the international community has been able to do even less. Though the UN, EU, and international judicial bodies acknowledge the actions of Israel as contrary to international law, their hollow condemnations have had no effect on the situation. The Israeli stranglehold on the civilian population of Gaza continues, and the rocket attacks on southern Israel - which are also illegal and must be stopped - do not show signs of abating. This much is clear: there will be no resolution for the civilians of Gaza as long as political struggles continue to usurp legal considerations.



Israeli occupation shows no signs of easing

To sum up, “disengaged” Gaza remains an open-air prison under Israeli control. The Palestinians living there are denied their right to security, freedom of movement, economic opportunity, and a connection with their West Bank brethren.