

Flygtningenævnets baggrundsmateriale

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Fråga-svar

Palestinska områdena – möjlighet för Hamasanhängare att flytta från Västbanken till Gaza?

Fråga

Vad gäller vid återförande till Västbanken/Gaza, israeliska myndigheternas krav på registrering på respektive område samt förflyttningar mellan desamma?

1. Inresa till Gaza via Rafah?
2. Kan den som är registrerad på Västbanken registrera sig på Gaza, accepterar de israeliska myndigheterna det?
3. Hur behandlas en Hamasanhängare på Västbanken?

1. Inresa till Gaza via Rafah

Al-Jazeera (april 2014):

“For months, Egypt’s border city of Rafah has been the target of an intense military campaign carried out in response to a spike in attacks by armed groups.”

“As Egypt grapples with its worst violence in decades, civilians in northern Sinai have found themselves caught in the crossfire between the army and radical fighters, who have killed about 300 members of the Egyptian security forces since July and carried out a series of bomb attacks and assassinations. Many speak of a raging war in which ordinary residents are bearing the biggest brunt of the damage.”

“The historically neglected Sinai peninsula fell into lawlessness following Egypt's 2011 revolt and the security vacuum that accompanied it. The situation in Sinai grew still more chaotic after Egyptian President Mohamed Morsi was deposed”

“Military operations in Sinai region began in July 2013, after Morsi's ousting. The army has vowed to eradicate drug dealers, human traffickers and a web of border-crossing tunnels, which the government claims are used to smuggle weapons from Hamas-led Gaza. [...] Very little attention, however, has been paid to the plight of Sinai's civilians.”

"The state is widening the circle of violence, not containing it, through the arrest and killing of many innocent people as well as destroying their homes," argued one Sinai resident who asked to remain unnamed.”

Al-Jazeera (mars 2014):

“Egypt has reopened its land border with the Gaza Strip after a 50-day closure, but only for three days and then just for special cases, Gaza's governing group Hamas has said.

Passage to Egypt will be limited to those seeking medical treatment, students going to their places of study, foreigners and in cases deemed as humanitarian, according to Hamas's interior ministry.”

BBC (mars 2014):

“Since July, the Egyptian authorities have also limited movement through the Rafah border crossing with the Gaza Strip and destroyed dozens of tunnels, which were dug under the border and used to smuggle food, fuel and weapons.”

BBC (mars 2014):

“The Rafah border crossing is Gaza's main gateway to the world but recently Egypt has kept it shut for months at a time.”

Human Rights Watch (2014):

“In July, Egypt's new military-backed government significantly tightened restrictions on the movement of Palestinians at the Rafah crossing between Gaza and Sinai, citing attacks by armed groups in the Sinai against Egyptian security forces.”

International Crisis Group, ICG (2014):

“The subsequent military-led regime [Egypten] has acted with unprecedented hostility toward Hamas and the Muslim Brotherhood: both groups have been banned in the country; a senior Hamas leader has been prevented from leaving Egypt; Cairo has closed nearly all the tunnels connecting with Gaza and has cut the number of persons entering and exiting through the Rafah crossing to approximately 14 per cent of what it was in the first half of 2013.” (s.13)

“Egypt is unlikely near-term to reopen Rafah and so lessen dissatisfaction in Gaza, as it seeks to cut Hamas down to size.” (s. 23)

2. Kan den som är registrerad på Västbanken registrera sig på Gaza, accepterar de israeliska myndigheterna det?

B'Tselem (2014):

“C. Passage from the West Bank to the Gaza Strip

While Israel makes every effort to prevent Palestinians who live in the Gaza Strip from moving to the West Bank and settling there, as far as the reverse direction is concerned – moving from the West Bank to the Gaza Strip – its policy is quite the opposite. The procedure for relocating from the West Bank to Gaza states that “the basic assumption is that a resident of the West Bank may submit a request to permanently settle in the Gaza Strip for any need that is considered humanitarian (usually family unification)”. This markedly contrasts the procedure for relocating from Gaza to the West Bank, which states that marriage does not constitute a humanitarian criterion. According to the first procedure, requests will be granted on condition that the applicant sign a document that includes a declaration of intent to settle in Gaza permanently and the applicant's understanding that there is no possibility of returning to the West Bank, even for visits, except in unusual humanitarian circumstances.⁵⁷” (s. 25-26)

UD (2011):

”Rörelsefriheten är kraftigt inskränkt på de ockuperade områdena på Västbanken och begränsas av separationsbarriären, vägspärrar, söndergrävda vägar, betongklumpar, jordhögar, så kallade bosättarvägar på vilka palestinier endast får färdas med särskilt tillstånd, samt utgångsförbud och olika tillståndskrav. En av följderna är att Västbanken fragmenteras till separata områden. Det är i princip inte heller möjligt att resa mellan Västbanken och Gaza. Tillträdet till Jerusalem är kraftigt begränsat för de palestinier som inte innehar ett ID-kort utfärdat i staden. Vid sidan av IDF sköts checkpoints även av privata säkerhetsföretag, vilket försvårar ansvarsutkrävande.” (s. 8)

”Palestinier betraktas som statslösa av israeliska myndigheter även om de innehar medborgarskap i ett tredje land. De vägras normalt resa via flygplatsen Ben Gurion i Tel Aviv (utresa kräver särskilt tillstånd) samt återresa till Västbanken eller Gaza om de har vistats utomlands under tre till fem år utan att ha besökt sin hemtrakt. De israeliska myndigheterna har successivt inskränkt möjligheterna för familjeåterförening och besökstillstånd till de ockuperade palestinska områdena. Icke folkbokförda palestinier eller utländska medborgare som är gifta med en palestinier/palestinska, som är bosatt på de ockuperade områdena, kan normalt inte bosätta sig där.” (s. 9)

Landinfo (2010):

”Ifølge representanter for Hamoked, er det i dag i praksis umulig for palestinere fra Gaza å få tillatelse til å flytte til Vestbredden. Ekteskap med palestinere fra Vestbredden er ikke lenger et godkjent kriterium (samtale i Jerusalem, juni 2009).² Derimot ser det ut til at israelske myndigheter tillater at Vestbredden-registrerte palestinere flytter til Gaza (B’Tselem & Hamoked 2008, s. 3).” (s. 2)

3. Hur behandlas en Hamasanhängare på Västbanken?

Home office (2013):

“3.12.2 Treatment: At the end of 2010, the US Congressional Research Service noted that there were reports of ill-treatment by the Palestinian Authority of Hamas members and sympathisers in the West Bank.¹³⁵ In August 2010, it was reported that, in a similar manner to Hamas’ treatment of Fatah activists and sympathisers in Gaza, the PA in the West Bank prevented suspected and actual Hamas members from leaving the West Bank by confiscating their passports.¹³⁶ Freedom House reported that protests against the PA’s policies are generally disallowed and forcibly dispersed, and Hamas has been effectively banned from holding demonstrations in the West Bank.¹³⁷

3.12.4 In February 2011, Human Rights Watch reported that the PA was responsible for deaths in custody of prisoners believed to be Hamas supporters or activists. They particularly requested an independent investigation into the death of Haitham Amer, a suspected Hamas member who died on 15 June 2009, reportedly by torture at the hands of the General Intelligence Service (GIS) in Hebron. They reported that the trial of officers involved in the death of Amer is the only known instance in which Palestinian security officials in the West Bank have been criminally prosecuted for torture, despite hundreds of allegations of torture. Subsequently, all five officers accused of causing his death were acquitted. This was despite eye witness testimonies and an official autopsy report stating the cause of death to be torture.¹⁴⁰

3.12.5 The PA has been criticised for banning pro-Hamas publications in the West Bank. Journalists who are perceived to be pro-Hamas have been sentenced to months in prison, including for “resisting the policies of the authorities”. The media are not free in the West Bank. Journalists may be fined and jailed, and newspapers closed, for publishing “secret information” on PA security forces or news that might harm national unity or incite violence. Small media outlets are routinely pressured to provide favourable coverage of the PA and Fatah. Journalists who are critical of the PA or Fatah face arbitrary arrest, threats, and physical abuse. Most Hamas affiliated radio and television stations in the West Bank have been shut down by the PA authorities.¹⁴¹

3.12.6 Conclusion: Individuals who are known or perceived by the Fatah-controlled PA to be involved in anti-Fatah activities or affiliated with Hamas are likely to be of current interest to the PA authorities in the West Bank.” (s. 28-30)

Migrationsverket (2013):

”Det förekommer kontinuerligt godtyckliga gripanden av Hamassympatisörer och andra islamister på Västbanken.⁶² [...] De allra flesta som grips överhuvudtaget på Västbanken tillhör dock Hamas. Det förekommer anklagelser om tortyr i arrester och fängelser, och anklagelserna utreds sällan.⁶⁴ Situationen ser för närvarande värst ut i Hebron och Nablus, men kränkningar förekommer hos utredningsavdelningar på hela Västbanken.⁶⁵” (s. 15-16)

Landinfo (2011):

”HAMAS-MEDLEMMER OG ISLAMISTER PÅ VESTBREDDEN

Landinfos samtalepartnere under informasjonsinnhentingsreisene til de palestinske områdene i juni 2009 og oktober – november 2010 forklarte at en lang rekke Hamas medlemmer hadde blitt arrestert for kortere eller lengre tidsrom. Shawan Jabarin i Al-Haq hevdet at alle medlemmer av Hamas var utsatt uavhengig av rang og posisjon innad i organisasjonen. Arrest og tortur foregikk til en viss grad vilkårlig. Mange hadde blitt arrestert gjentatte ganger av ulike palestinske sikkerhetsstyrker og av israelske sikkerhetsstyrker. Palestinske myndigheter hevdet selv at de kun arresterte militante, men dette var ikke tilfelle ifølge Jabarin. Medlemmer av Hamas som ikke hadde tilknytning til den militante grenen av organisasjonen, ble også arrestert. Det samme var tilfelle for enkelte journalister som sympatiserte med Hamas, eksempelvis journalisten Khaled Amayreh i Hebron (ICHR 2009, s. 137). Stadig flere arrestanter ble fremstilt for militære domstoler i stedet for det sivile domstolsapparatet, noe som brøt med selvstyremyndighetenes eget lovverk. Representanter for ICHR (samtale med Landinfo i oktober 2010) forklarte at alle som var i besittelse av våpen ble fremstilt for militære domstoler.”

”Ifølge Jessica Montell i B’Tselem (samtale med Landinfo i november 2010) foretok israelske sikkerhetsstyrker arrestasjoner i palestinske byer på Vestbredden (A-områder) nattetid. De arresterte var mistenkt for tilknytning til Hamas, Islamsk Jihad etc. Riza Zoll i B’Tselem (samtale i Jerusalem i juni 2009) har uttalt at alle palestinere som israelske politi- og sikkerhetsstyrker pågrep på Vestbredden ble fremstilt for den israelske militærdomstolen. Anklagene var ofte vage. En hyppig benyttet bestemmelse var “medlemskap i en ulovlig organisasjon”. Slike anklager ble også fremsatt mot personer som var en del av Hamas’ nettverk for sosiale tjenester og som ikke hadde tilknytning til militant virksomhet. Rettsprosessene var ikke rettferdige. Bevismaterialet ble ofte holdt

hemmelig. De fleste sakene endte med forlik, noe som skyldtes at mange forsvarere manglet kompetanse.” (s. 14-15)

Palestinian Center for Human Rights, PCHR (2013):

“In the West Bank, the Security Services (the General Intelligence Service, the Preventive Security Service and the Military Intelligence Service) have continued to illegally arrest and summon Hamas and Islamic Jihad activists, including academics. In a number of cases, security service members unjustifiably used force when cruelly attacking families of wanted persons. Security members also searched civilian houses and confiscated personal belongings before arresting the wanted persons. Some of the persons who were arrested and then released stated that they were subject to torture during investigation by different security services. This year has also witnessed the security services’ refusal to apply court rulings to release political detainees.” (s. 18)

Denna sammanställning av information/länkar är baserad på informationssökningar gjorda under en begränsad tid. Den är sammanställd utifrån noggrant utvalda och allmänt tillgängliga informationskällor. Alla använda källor refereras. All information som presenteras, med undantag av obestridda/uppenbara fakta, har dubbelkontrollerats om inget annat anges. Sammanställningen gör inte anspråk på att vara uttömmande och bör inte tillmätas exklusivt bevisvärde i samband med avgörandet av ett enskilt ärende. Informationen i sammanställningen återspeglar inte nödvändigtvis Migrationsverkets officiella ståndpunkt i en viss fråga och det finns ingen avsikt att genom sammanställningen göra politiska ställningstaganden. Refererade dokument bör läsas i sitt sammanhang.

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