

MIT/HARVARD GAZA SYMPOSIUM STATEMENT MARCH 30-31, 2009

This statement has been drafted by the organizers of the Gaza Symposium, based on key issues and policy recommendations emerging from the event. It represents the diverse views of participants, rather than a consensus opinion.



1. Political Situation in Israel and the Occupied Palestinian Territories

- 1.1. **Effective “Remote Control” Occupation of Gaza:** Despite its “disengagement” from Gaza in 2005, Israel continues its occupation of Gaza by remote but effective control through its policies of ongoing blockade of people and goods, control over all borders, airspace and sea ports, controlled supply of electric, heating and cooking oil, and control of the population registry. These factors support the argument that the Gaza territory remains under effective occupation, according to international law (while that interpretation may be questioned by other legal experts).
- 1.2. **Timeline of Events leading up to the recent Siege in Gaza:** On June 19, 2008, Hamas agreed to a ceasefire with Israel in a truce brokered by Egypt. The truce lasted about 5 months with both sides generally abstaining from violent actions, though Israel continued the blockade of Gaza (in contravention to the perceived terms of the truce). The truce was further eroded by Israel by its incursion into Gaza (killing seven Palestinians) on November 4, 2008, after which an escalation of violence occurred on both sides. On December 19, 2008, the 6-month truce officially ended, while both sides publicly signaled that they did not seek any escalation but to find ways to extend the truce. On December 27, 2008, Israel launched military airstrikes into the Gaza Strip. During the ensuing 23-day siege of Gaza, which ended on January 18, 2009, it is estimated that more than 1400 Palestinians were killed (two-thirds of whom were civilians) and over 5300 injured.
- 1.3. **Palestinian Movement of Resistance and Representation:** The situation in Gaza today can be seen as the outcome of ongoing attempts to eradicate both the Palestinian movement of resistance (to settlements and the occupation) and the attempt to construct political representation within its society. While Israel and the U.S. continue to treat Hamas as a terrorist group, it was elected by Palestinians through internationally monitored elections in 2006. Hamas ran on a campaign of mainstream issues critical for most Palestinians who felt disenfranchised by the corruption within Fatah and dissatisfied by lack of any political progress regarding an end to the occupation.
- 1.4. **Condemning Violent Actions by Armed Palestinian Factions:** The indiscriminate firing of rockets by armed Palestinian factions into Israeli civilian areas (like Sderot) is wrong and should be condemned. While the Palestinians have a legitimate right of resistance as an unlawfully occupied population (according to the U.N. charter), they are in contravention of international humanitarian law when targeting civilians.
- 1.5. **Recognizing Hamas as an Elected Representative:** While Hamas has been marginalized and isolated by the international community, it continues to be a legitimate representative of Palestinians particularly in Gaza, and must be recognized as such.

2. Role of U.S. Foreign Policy

- 2.1. **Negotiating Peace under a Power Imbalance:** One must ask why all previous peace initiatives between the Israelis and Palestinians have failed. One problem among others is that the parties are simply not balanced, with the Israeli side (being the occupying power) maintaining an overwhelming military, economic, and diplomatic advantage. The misguided notion that the parties involved should arrive at the solution themselves, rather than with international "persuasion," is therefore untenable, given such a power imbalance. In these circumstances, the US must seek to ensure balance in the relationship if it is to be an honest broker for both parties.
- 2.2. **U.S./Israeli Special Relationship:** The entire U.S. policy rests on a misguided “special relationship” between U.S. and Israel, which allows the U.S. to treat Israel as more favored than other nations and allies in the region. The U.S. must instead demonstrate consistent values and respect for international law in its relations with all nations to uphold its international reputation.

If this is not seriously addressed it undermines international law, setting a precedent for other nations to act in similar ways and harming both long-term U.S. interests and the viability of the international system.

- 2.3. **Recognizing Israel's Security Argument for the Occupation:** Israel's policies in the West Bank and Gaza are based on its "security argument" for keeping its own population safe from violent attacks. This appears to hold a strong sway among American-Israeli public opinion and U.S. foreign policy. Hence, any consensus regarding a change of U.S. policy towards the Palestinian position must necessarily address Israel's genuine security concerns. However, Israel must likewise deal with Palestinian concerns regarding ongoing settlements and checkpoints. The US must guarantee the resolution of these concerns in any agreement for it to be successful.
- 2.4. **Military Aid to Israel:** Israel has received over \$21 billion in military aid from the U.S. since 2002, meaning that Israel's actions in Gaza have been funded and facilitated in large part by the U.S. government. The military aid to Israel was increased 25% by the U.S. congress to \$3 billion per year in August 2008. Given the nature of Israeli actions in the occupied territories, this policy is in contravention of the U.S. Arms Export Control Act and section 502B of the Foreign Assistance Act, while continuing to fuel the Israeli occupation.
- 2.5. **Israeli Settlements:** The U.S. must make a clear and forceful public statement that Israeli settlement expansion should stop immediately and settlement outposts removed. This is already known U.S. policy; however, it must be made explicit by the current U.S. administration to leverage Israeli compliance if peace talks are to move forward.
- 2.6. **Two State vs. One State Solution:** The present situation of occupation and increasing settlements, if continued much longer, will make the viability of a two-state solution exceptionally problematic. Unless the U.S. takes a strong role in pursuing the Israeli-Palestinian peace process and imposing critical conditions on both parties within the coming year, the two-state solution may no longer be feasible. Recent statements by the new Israeli Prime Minister Benjamin Netanyahu and his foreign minister, Avigdor Lieberman, further suggest unwillingness by Israel to move towards a two-state solution, and an insistence on sustaining the ongoing occupation.

3. International Human Rights and Humanitarian Law

- 3.1. **Framing Peace Negotiations around Rights:** Palestinians have been unable to frame the negotiations in the context of rights instead of bargaining to affect facts on the ground, due to their comparative weakness politically and militarily. Key issues including refugees' right of return, removal of forces from their territory, settlements, status of East Jerusalem, and right to water, are clear statements of Palestinian rights unambiguously recognized by international law. While there can be compromises, a genuine peace process cannot proceed without an acknowledgement of international law and the rights of both parties. The experience of Gaza is a direct consequence of disrespecting these rights of the Palestinians and a disregard for international law.
- 3.2. **Complex of Violations and Intentions:** The wholesale attacks on civilian and UN infrastructure during the recent onslaught must be legally understood as a "complex of violations" since the blockade/closure of Gaza in 2005. There is an undisputed consensus on the pattern of human rights violations by Israel among the international human rights community. These violations include willful enclosure and blockade of the civilian population, lack of medical access and food, launching of a massive military assault, and hindering reconstruction and development. In these situations, recognizing the notion of "intentions" for the purpose of law is very important and intentional targeting of populated civilian areas becomes doubly problematic. Recognizing the strategic nature and intent of the blockade and attacks to punish a population for its political choices, civilian deaths in such cases cannot be considered merely as "collateral damage."
- 3.3. **Response of Human Rights Groups:** During the recent onslaught, Israeli, Palestinian and International human rights organizations such as Adalah, Amnesty, B'Tselem, Gisha, Human Rights Watch and the Palestinian Center for Human Rights, acted in a professional and well-coordinated manner. There was a clear understanding to work together to get crucial information out quickly with regular press releases, civilian testimonies, and investigative reporting. It was the first time Israeli organizations called for international investigations of war crimes.

3.4. Shifting from Impunity to Accountability: There is a need to shift from the phenomenon of impunity that Israel enjoys to one of accountability. State security must not trump human security.

4. Relief, Reconstruction and Development

4.1. Humanitarian Situation in Gaza: There is a dire situation in Gaza, resulting from both the years of blockade and the recent onslaught: nearly all food needs to be imported into Gaza (which is arbitrarily rationed by Israel), medical supplies coming in are insufficient, fuel and electricity provided is only addressing 50% of the needs, water is heavily polluted and sewage system damaged, and only 135 relief trucks are being allowed in per day (out of 500 expected by U.N.). One central problem is that of family separation, as Palestinians are largely not permitted to get in or out of Gaza at the moment. As a consequence of the siege, there have been massive increases in depression, domestic abuse, child malnutrition, home robbery, etc., which cannot be dealt with by NGOs. The education system has also been eroded by the siege. Over 22,000 buildings have been destroyed or severely damaged during the December-January attacks, while all of the eight cement factories were also destroyed, making local rebuilding impossible. The industrial and agricultural infrastructure has been decimated with most factories, irrigation, and water wells destroyed. Over 100,000 made homeless during the siege are internally displaced in 58 U.N. shelters in Gaza. As a result of all of these, there is a large rehabilitative burden on Palestinians.

4.2. Ending the Blockade of Gaza and Engaging with Hamas: The border checkpoints into Gaza must facilitate unimpeded movement of people and goods, particularly for medical/humanitarian relief but also to address critical socio-economic needs. Aid cannot be distributed without some degree of cooperation between Hamas and the Palestinian Authority; isolating and stipulating conditions on Hamas is counterproductive and will adversely continue to affect the residents of Gaza. The United Nations Relief and Works Agency (UNRWA) remains the primary vehicle for governmental aid efforts in Gaza, but Hamas must be engaged for these efforts to work.

4.3. U.N. Reconstruction Efforts and Responsibility vs. Israeli/Palestinian Authorities: The U.N. in 2005 had initiated several major projects in health, housing and vocational training (totaling \$240 million). Even then there were many challenging practical constraints encountered to seeing them through including: 1) Absorptive Capacity of Gaza – trucks, fuel, storage and manpower (without political affiliations deemed unsuitable to donors), 2) Crippled Private Sector – factories, workshops, machinery, cash and business relations, 3) Israeli Blockade of Gaza. Furthermore, the U.N. cannot assume the main responsibility for reconstruction efforts as this undermines the legitimate authorities established since the Oslo accords. Under international law, Israel as the occupying power owes compensation for damage to the civilian infrastructure and UN installations attacked in Gaza. Reconstruction of Gaza should not be limited to the infrastructure, but rather should encompass economic revitalization. UNRWA serves over 1.1 million Gazans registered as refugees (99% of whom rely on it for assistance) or two-thirds of the population (60% under age 18) and would like to shift from its emergency mode of operations to resume developmental work, but it cannot do so in the current political situation.

4.4. Prescriptions for Reconstruction: A number of key steps and issues must be considered: 1) Emergency response aid must be delivered expeditiously, 2) There should be a greater emphasis on project funding for the longer term, 3) There needs to be better quality donor staff on the ground with stronger intellectual and cultural knowledge, and 4) There must be a restoration of the entrepreneurial spirit and human dignity of Gazans.

4.5. Planning Development under Occupation: All the above situational descriptions and prescriptions, however, cannot proceed without addressing the following, essential question: Is it possible to build sustainable institutions that can withstand the shocks of violent conflict? There needs to be a shift in political discourse from state building to ending the occupation. The donor community must do more to link continued economic assistance programs to ending the Israeli occupation. Otherwise the project will implicitly support occupation and compensate for the damage caused by Israel. Development should be considered as a long-term process of structural change, which is currently impossible under Israeli Occupation and U.S. priorities.