

THE EU AND THE GAZA BLOCKADE: Dismantling collective punishment; reviving representative peacemaking

The 31 May 2010 flotilla incident whereby Israeli armed forces raided an international convoy of ships seeking to break the blockade on the Gaza Strip, killing 9 foreign nationals, has once again shifted attention to the fate of the Palestinian enclave of 1.5 million people. The incident has provoked widespread outcry over the boarding of the ships and Israeli use of force on the one hand, and Israeli assertions of the right to self-defence on the other. Given the radically divergent views on the incident, an impartial international investigation into all its aspects is essential. Yet this cannot be a substitute for concerted efforts to address the underlying causes, rather than simply the consequences, of the incident. The tragic events have served to highlight the continuing closure of the Gaza Strip, uniting almost all involved in the view that the current situation is unsustainable. Yet Israelis, Palestinians, Egyptians and third parties, including the EU, still remain divided as to how to move forward.

The EU has a crucial role to play in coupling bold action regarding the Gaza closure with a sound strategy to support legitimate peacemaking. EU policy-makers face a basic choice between dealing with the consequences of this most recent crisis and addressing the root causes of it. With the time ripe for a reconsideration of policy options, the EU should champion a long overdue review of the flawed logic that has led to this crisis. It should be clear that the only alternative to such a fundamental rethink is to bandage over smarting wounds and insecurities just enough to slightly



A Palestinian family returns from Egypt to Gaza strip through Rafah crossing, southern Gaza Strip on 7 June 2010.

delay the next crisis, but in doing so further – and perhaps fatally – poison prospects for a negotiated two-state solution. Allotting more humanitarian aid to the Gaza Strip, or supporting minor or temporary easing of the blockade by Israelis and Egyptians, are understandable but unsustainable ‘band-aid’ tactics.

What is urgently required is a dismantling of a problematic linkage between the Gazan population and Hamas, which has resulted in collective punishment. This should be replaced by diplomatic and political efforts to re-establish another, much more fundamental, linkage between the Palestinian population and those negotiating for peace on their behalf that will result in representative, and therefore at least potentially

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sustainable, peacemaking. The EU has declared the policy of closure 'unacceptable and politically counter-productive' and called for proximity talks to continue 'with a view to the resumption of direct negotiations which should lead to a settlement negotiated between the parties within 24 months'.¹ Foreign Ministers meeting on 14 June also stressed the importance of Palestinian reconciliation efforts. While the EU has again highlighted a number of important challenges, it must work hard to help provide adequate policy responses to them.

A conflict resolution strategy premised on the idea that negotiations between a democratically-elected Israeli government and a Palestinian leadership bereft of democratic, legal and symbolic legitimacy can lead to durable peace is inherently fragile and potentially futile. An alternative idea would be to offer all Palestinians a stake in peace by providing them with the opportunity to help shape a sustainable arrangement for a two-state solution. Relinking the Palestinian population with its representatives is the clear alternative to a series of failed policies connected to the blockade. By lifting the blockade and simultaneously promoting a clear strategy to support intra-Palestinian reconciliation on the basis of commitment to peaceful means and pluralism, the EU would offer a credible, constructive and legitimate alternative to the current impasse over Hamas. Indeed, as Israeli writer Amos Oz argues: 'Hamas is an idea, a desperate and fanatical idea that grew out of the desolation and frustration of many Palestinians. No idea has ever been defeated by force — not by siege, not by bombardment, not by being flattened with tank treads and not by marine commandos. To defeat an idea, you have to offer a better idea, a more attractive and acceptable one.'²

In order to help create the context for better ideas, the EU must help lay to rest the inaccurate, unlawful and counter-productive linkage between Hamas and the blockade on, and closure of, the Gaza Strip. If the (deeply misguided) idea was in part to punish Palestinians for electing Hamas in 2006, then the punishment has been meted out to the wrong people. When factors such as the high number of people under voting age, voter turnout and the distribution of votes across Hamas' Change and Reform Movement, Fatah and Independent candidates in the 2006 legislative elections are considered, it becomes clear that Gazans are being punished for an electoral choice that only one sixth of them, along with similar numbers

in the West Bank, actually made. Furthermore, any chance that Palestinians could have adjusted their electoral choices in reaction to Israeli and Quartet rejection of dealings with the government they had elected, was quickly overtaken by factional violence resulting in two de facto governments in the West Bank and Gaza Strip. Gazans certainly did not vote for this end result, and the role a number of outside states played in contributing to the spiral of intra-Palestinian violence in 2006-2007, renders their targeting even more disingenuous. This collective punishment also violates basic legal obligations to guarantee freedom of movement to residents of the Gaza Strip, ensure normal civilian life and public order, and uphold basic human rights.

While hawkish decision-makers might dismiss concerns over responsibility and rights as irrelevant in a violent region, it is puzzling that they should continue to support policies that are so counter-productive. If the aim has been to weaken, isolate and delegitimise Hamas through isolation of the Gaza Strip, the closure seems to have had the opposite effect. The political, economic, social and physical abnormalities that both the closure, and the violence and destruction of 2009 Operation Cast Lead, have imposed on life in the Strip have largely shielded Hamas from scrutiny of its actual governing performance. Meanwhile Palestinian President Mahmoud Abbas has been exposed to mounting criticism at home and abroad that he is powerless to protect Palestinian interests.

The blockade has tangibly altered the balance of power both in the Gaza Strip and beyond. The disintegration of the private sector as a result of the massive disruption to the import, and almost complete halt to the export, of goods and services, coupled with the burgeoning tunnel-based economy which Hamas taxes, has left Hamas in control of a society that has been progressively stripped of all alternative sources of socioeconomic power. Far from halting or delegitimising smuggling, the intensity of the blockade has transformed it into an activity widely perceived as legitimate, further complicating attempts to control the flow of weapons into Gaza. The active cooperation of the Egyptian state in maintaining the blockade appears to have further drained domestic and regional support for that government's policy towards the conflict. The fact that Egypt's regional role and commitment to a peaceful resolution of the conflict has been undermined in this way, and the potential medium- and long-term repercussions of this, should be a cause for concern.

The policy has also been a failure in terms of delegitimising and isolating Hamas. In the West Bank, in the

1. Declaration of HR Catherine Ashton on behalf of the EU on the Israeli military operation against the Flotilla, Brussels 3 June 2010; Council Conclusions on Gaza, Foreign Affairs Council Meeting, Luxembourg, 14 June 2010.

2. Amos Oz, 'Israeli Force, Adrift on the Sea', *New York Times*, 1 June 2010.

Middle East, but crucially also in Europe, and increasingly the US, the blockade, combined with Operation Cast Lead and now the flotilla incident, have served to divert attention away from Hamas's violent record and rhetoric and put the spotlight on Israeli state violence and harm to civilians. As the focus has shifted onto alleged Israeli war crimes and human rights violations, Hamas has been able to avoid hard questions about its conduct in the Gaza Strip, in particular a large number of documented, often brutal, human rights violations against Palestinians, as well as alleged war crimes.

Finally, the devastating impact of isolation and violence has had a disproportionate impact on children and young people. It is difficult to predict precisely the effect that leaving around nearly a million young people and children subject to conditions under which many are malnourished, undereducated, indoctrinated, isolated, psychologically scarred by conflict – and living in surroundings that are still unreconstructed after the 2009 conflict – will ultimately have on prospects for sustainable peace. But we do know that high levels of deprivation and a strong sense of victimisation contribute to societies' propensity to opt for radical ideologies and mobilise for violence. In not acting more decisively regarding the Israeli government's targeting of Hamas via policies harming the welfare of the entire population of Gaza, Europeans appear to be contributing to a potentially self-fulfilling assertion that the Gaza Strip is 'hostile territory,' and for at least another generation to come.

The EU itself has repeatedly called for an end to the closure. It has called for 'an immediate, sustained and unconditional opening of crossings for the flow of humanitarian aid, commercial goods and persons to and from Gaza'.³ The flotilla incident provides an opportunity to act decisively with concrete proposals to this effect.⁴ Proposals for an EU mission to monitor and inspect supplies arriving by sea have so far been rebuffed. The key would be to have a clear mandate that allows for the EU to act independently and efficiently; operational and political lessons from the Lebanese context and beyond are valuable. Yet a naval mission without a definitive end to the closure of the Gaza Strip would leave the EU complicit in an illegal and counter-productive policy.

The EU is in a unique position to push forcefully for the continuous opening of the Rafah border crossing through Palestinian, EU, Israeli and Egyptian cooperation. The EU's border assistance mission, EUBAM Rafah, could be relaunched along the lines already explored informally in previous years, whereby an

arrangement would be found to allow EU observers to work with Palestinian Authority border forces while allowing for the de facto Gazan authorities to also be present. The EU has expressed willingness to contribute to a mechanism based on the 2005 Agreement on Movement and Access that would facilitate full and regular access via land crossings, and possibly by sea, on the basis of a list of prohibited goods. Clearly lessons from the EU's previous involvement in the Rafah border crossing between 2005 and 2007 must be carefully revisited in order to ensure that the EU is part of a process of access and movement, rather than conditional closure. Concerted, publicised pressure on Hamas to cooperate in an arrangement would hopefully produce a workable solution, and put the onus on Hamas to show it is willing to compromise for the benefit of the Gazan population.

Yet the political difficulties relating to the crossings point to the need to deal head on with the deeply political causes of the current situation. At the heart of this complex situation lies the political reality of Hamas. The pressing need to end the blockade also requires a decisive, intelligent and clear strategy towards Hamas.

First, the end of the closure should be seized as an opportunity to formulate a proactive diplomatic strategy towards Hamas. By supporting and monitoring the 2006 elections without clarifying the terms to which Hamas and all other parties should agree within the democratic process the EU made a major strategic error. But this was greatly overshadowed by the further error of being seen to have rejected an outcome widely perceived as democratic and legitimate. This was compounded by the EU's failure to take a clear position on intra-Palestinian reconciliation after the 2007 Mecca agreement which foresaw the formation of a national unity government. The least the EU can now do is work to develop a diplomatic plan whose primary objective is to win Hamas and its supporters over to a peaceful and pluralist strategy within the Palestinian body politic through realistic policies.

Second, the end of the closure should be accompanied by an alternative, more targeted, strategy for resolving the question of rocket attacks from the Gaza Strip into Israel and the issue of kidnapped Israeli soldier Gilad Shalit. The principal solutions to both issues lie not in the maintaining or lifting of the siege, but in negotiations with Hamas. The rocket attacks can only be resolved, and have been resolved previously albeit temporarily, through a ceasefire between Israel and Hamas, coupled with targeted measures to stop the smuggling of weapons into the Gaza Strip. The fate of Israeli soldier Gilad Shalit is only likely to be resolved through negotiations on the release of Palestinian prisoners in Israeli prisons.

3. Council Conclusions on Gaza, Foreign Affairs Council Meeting, Luxembourg, 14 June 2010.

4. See Bernard Kouchner, Franco Frattini and Miguel Angel Moratinos, 'Averting another Gaza', *International Herald Tribune*, 10 June 2010.

Finally but fundamentally, the end of the closure must be accompanied by a concerted strategy regarding intra-Palestinian reconciliation. The separation of Hamas from the Palestinian Authority and wider Palestinian body politic perpetuates not only intra-Palestinian, but also Israeli-Palestinian conflict. Intra-Palestinian reconciliation is essential not as an end in itself, but in order to pursue a sustainable two-state solution to the conflict. By failing to draw Hamas into peace efforts, the Middle East Quartet is feeding the vicious circle of mutually reinforcing intra-Palestinian and Israeli-Palestinian strife. As long as Palestinians are unable to unite around the basic terms of negotiations with Israel, no Palestinian negotiator will be in a position to offer Israelis a Palestinian commitment to peace and the security Israelis need. As long as Israelis follow unilateral strategies at the expense of negotiated steps towards peace, Palestinians will remain divided over the utility of negotiations.

The EU must work closely with its partners to help break this vicious circle. At the very least, the EU should place stronger emphasis on how each and every relevant programme the EU is financing, coordinating or managing, from EU police and rule-of-law mission EUPOL COPPS to budgetary support, would be subject to revision and extension in the event of an intra-Palestinian power-sharing arrangement. While intra-Palestinian reconciliation is dependent on a number of factors, the EU could underline its commitment to this overriding objective by indicating at every opportunity that it seeks to resume its support to Palestinians across the entirety of the Occupied Palestinian Territory and that it has clear planning in place to adapt to this desired eventuality.

The current US strategy of pursuing negotiations without addressing the fundamental questions of who represents the Palestinians and with what mandate, will have a major impact on the legitimacy of any resulting peace deal. A deal not considered legitimate by its stakeholders is unlikely to stand the test of the hard implementation stage. The only way to deal intelligently with the challenge Hamas poses is to accept that isolation has not, and is unlikely to, make the group disappear, along

with the roots of its support among Palestinians. This requires a political and diplomatic strategy that allows us to resuscitate the possibility of the vast majority of Palestinians accepting a basic framework for negotiations for a two-state solution. The most realistic objective remains an intra-Palestinian power-sharing deal that provides President Mahmoud Abbas with a clear and legitimate mandate to negotiate on behalf of the Palestinian people, coupled with considered arrangements to ensure future Palestinian elections consolidate rather than undermine Palestinian unity. With this objective, the end to the blockade would not only allow but indeed require a diplomatic (and public diplomatic) offensive whereby Hamas could be presented with more targeted demands widely perceived as reasonable and constructive in order to strengthen prospects of a two-state solution.

In sum, at the heart of the flawed logic that has shaped Israel's behaviour towards Hamas and the Gaza Strip, with Quartet and Palestinian Authority acquiescence, lies an inaccurate, unlawful and counter-productive linkage between the population of the Gaza Strip and Hamas. This dysfunctional linkage must be exposed and challenged. A clear distinction should be made between the population of the Gaza Strip, and the de facto Hamas government ruling it. The civilian population of the Gaza Strip do not represent Hamas – and cannot be punished on its behalf. Making a clear distinction between Hamas and the Gaza population would allow for a two-pronged strategy, on the one hand to ensure an urgent and conclusive end to the blockade of the Gaza Strip, and on the other to ensure that the political reality of Hamas is adequately addressed. Furthermore, the dismantling of the collective punishment logic would open up space to tackle the challenges posed by a bond that Israeli and Euro-Atlantic policies have tried to deny or sidestep since 2006, namely the essential link of legitimacy between Palestinians and their representatives in the search for peace. Continued denial of this essential linkage in the current adverse conflict conditions carries the serious risk of delegitimising the search for peace, and those who have invested so much in it. This would constitute the ultimate self-defeat.