

SHUR Policy Brief



Human Rights and Civil Society in Gaza: A New Role for the EU

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**SIXTH FRAMEWORK
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Human rights violations

Between the truce agreement lasting from June 19th to December 19th 2008, the humanitarian crisis generated by the lack of food, water, sanitation, gas, fuel, and electricity in Gaza reached unprecedented levels. Truckloads of food and medical aid allowed into the Strip in December 2008 were a mere 16 per day, down from 123 in October 2008, and 475 in May 2007. Of Gaza's total population of 1.5 million people, over 1.1 million are now dependent on food aid for survival. In this way, Israel has persistently violated its basic duty under International Humanitarian Law to allow and facilitate rapid and unimpeded access of relief.

During Israel's war on Gaza in December 2008-January 2009 the situation precipitated further. The scale of military force applied by Israel during the operation Cast Lead is unprecedented in the more than four decades of Israeli occupation of the Gaza Strip. During the three-week assault, densely populated neighbourhoods were bombarded with heavy shells from air, sea and land. The combination of lack of medical care and shortage of basic commodities made the population dramatically vulnerable to the war situation that evolved. When Israeli forces completed their military withdrawal, the operation had cost more than 1,300 Palestinian lives, more than 4,000 buildings were destroyed and another 20,000 severely damaged, leaving 50,000 Gazans homeless and 400,000, i.e., one third of the population, without running water.

Throughout the operation, the Israeli Defence Forces failed to differentiate between military and civilian targets as obliged to according to customary international law. This was not only an issue of collateral damage, as civilian targets such as schools, mosques, medical premises, and personnel were deliberately targeted by the IDF on the grounds of presumed links to Hamas. Such indiscriminate and disproportionate attacks are serious breaches of the Geneva Conventions and may constitute war crimes.

Furthermore, the fact that neither Israel nor Egypt opened their borders for refugees fleeing from violence, created a situation in which the 1,5 million inhabitants of the Gaza Strip were trapped into this tiny territory without any safe place to seek refuge. International customary law requires the military to consider the withdrawal of the civilian population to safe places to avoid unnecessary harm, an obligation that has been blatantly ignored in this case.

Civil society factor

Like in previous periods of violence, local civil society organisations have been active collecting documentation and voicing awareness about the human rights violations in the latest Israeli assault. While in other moments this has been true of human rights organisations in Israel, the West Bank and the Gaza Strip, in view of the restricted access to the Gaza Strip both prior to and during the war, in what follows we shall concentrate particularly in Gaza-based organizations including both Palestinian and international civil society groups. The Gaza-based human rights associations Palestinian Center for Human Rights and Al Mezan Center for Human Rights have been registering information and posting regular updates online on cases of military attacks against civilians and damage to private property. The Islamic Relief and the Palestinian NGO Network (PNGO) are in the process of making need assessments in the wake of the Gaza War, pointing at the huge damages done to water supply lines, sanitation and other basic infrastructure. PNGO is also preparing medical physical and psychological rehabilitation programs for the thousands of injured people, including those who will be chronically disabled.

The information provided by Palestinian civil society organisations may contribute information to the post-war damage assessment that is being conducted by UNDP and UNRWA. Local and international organisations may also cooperate in gathering documentation on illegal use of certain types of weaponry. Both Amnesty International and UNRWA claim to have found evidence for the use of the highly flammable white phosphorus against civilians. Importantly, a number of Israeli human rights organisations have also protested against breaches of international law during the Gaza War.

Although the local civil society organisations at this stage focus mainly on the immediate humanitarian crisis in the wake of the war, they will probably soon re-evolve their long-time campaigning against the border restrictions, closures and the embargo that have caused the economic collapse and poverty to spread in Gaza. The PNGO and other organisations have for years argued that the closure policy constitute an act of collective punishment of the whole population which is a violation of humanitarian law.

Policy recommendations

At the time of writing, EU activity is focused on trying to consolidate the ceasefire through a number of different channels and it continues to supply much of the humanitarian aid received by the Palestinians. This is necessary but grossly insufficient.

The EU now has to restructure its failed strategy, beginning with an appreciation that its past policies contributed directly to the existing realities. It must be recognised that the notion, endorsed and pursued by Israel, the US as well as the EU, of ‘defeating Hamas’ in Gaza while pursuing peace talks with a Fatah-controlled West Bank has made the situation worse. It is not a road to peace; it makes sustainable peace less likely. This is *cul de sac* in that it does not take into account the social and political relevance of Hamas and the impact that the Western-induced political separation between the West Bank and Gaza has had on the nature and functioning of civil society in the occupied territories. Indeed both in the West Bank and the Gaza Strip the two regimes in power have clamped-down on all forms associational life which were directly or indirectly tied to their political opponents (be this Hamas-tied organisations in the West Bank or Fateh-linked organisations in Gaza), leading in both cases of a significant reduction in political pluralism and an asphyxiation of associational life. With the exception of local and international human rights organisations in both the West Bank and Gaza, civil society organisations have increasingly become politically aligned with their respective regimes in power.

In Gaza this has meant an increasing prominence of Islamic organisations, alongside the existing human rights organisations. Especially in conflict situations, individuals tend to mobilise and gather around existing civil and political organisations. In view of the transformation of Gazan civil society outlined above, today the intense mobilisation through civil and political organisations in the Gaza Strip is taking place primarily through Hamas and the many Islamic organizations acting in the Gaza Strip. Western actors may not like this reality despite having directly contributed to it. Yet their current policies, be these through the delivery of humanitarian aid, through the monitoring of borders and border crossings, or through an eventual resumption in the political process, cannot avoid accounting for these crucial political actors. They cannot be excluded or ostracised, if a long term, stable arrangement is sought.

The danger is that once the immediate crisis has calmed down the EU will return to the same set of failed policies of ostracization of Islamic organizations and Hamas in the Gaza Strip and

emphatic support for the Fateh regime in the West Bank. A new approach should be adopted by the EU comprising the following elements.

- First, beyond responding immediately to the mounting humanitarian needs in Gaza, the EU should also follow up on the Palestinian demand to have the siege and boycott of Gaza lifted. This is a most timely move not only for humanitarian reasons, but even more so for political considerations. The act of punishing 1,5 million Gazans for their political opinions is illegal and has not contributed to the stated aim of moderating Hamas. The effect has been the opposite; the policy of isolation, carried out within the wider context of the Israeli siege, the Egyptian closure and the American and European boycott, has only pushed the movement to lose confidence in political dialogue, seek international ties elsewhere (e.g., Iran) and return to militancy. The EU's boycott has not, alone, triggered Hamas' re-radicalization; yet it has evidently been an integral element of a set of international and Israeli policies that have led precisely to this result.
- Second, Hamas and Islamic civil society organisations must be engaged. Not because Europe should acquiesce in the organisation's more radical formal positions. If the EU does not engage, it cannot hope to positively influence the well-known divisions within the Hamas leadership that have been on display over the last year. Again, its lack of engagement has only strengthened the more hard-line elements within Hamas since the electoral victory of January 2006. If the EU wants to mediate it has to deal directly with both parties. Civil society in Gaza, currently dominated by Islamic and human rights and humanitarian organizations, represents one of several channels for rehabilitating and re-engaging the people of Gaza in any political process.
- Third, the EU must give a longer-term and different political orientation to its aid to the Palestinian Territories. This aid has been channelled specifically to avoid the democratically elected Hamas administration whilst bolstering the unelected Fatah administration in the West Bank. A different political approach to aid delivery should involve respect for Palestinian democracy and thus include Islamic organizations. Furthermore, particularly at the current juncture in which Hamas and affiliated associations dominate the political and civil society scene in Gaza, there is not way of effectively disbursing humanitarian and reconstruction aid without engagement with these groups.