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Time to Promote Sovereignty in Gaza

Geoffrey Aronson



ABSTRACT

Significant elements of Israel's foreign and defence policy system are considering how to win international support for a second disengagement from Gaza that will end Israel's status as an occupying power in the Gaza Strip, occupied by Israel since June 1967. Israel's continuing control over Gaza's sea and air corridors are recognized as sufficient to invest Israel with de facto control over the territory in question, thus meeting the international standard for the continuing characterization of Israel's role as an occupying power. The "Lieberman Plan" aims at removing Israel's "effective control" over Gaza, without compromising Israeli security or intruding upon its own sovereignty. Under a post-occupation regime, Gaza should be able to trade and interact freely with the world. Israel should be encouraged by the international community to pursue this effort, even as US-led diplomacy continues. Turkey is well-placed to play a leading role in this effort. The international community must, however, establish its own benchmarks so that Israel will truly end its control over Gaza, enabling Palestinians there to recover from the draconian trade restrictions now in place and establishing the vital principals of Palestinian independence and sovereignty.



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TIME TO PROMOTE SOVEREIGNTY IN GAZA

Geoffrey Aronson*

Introduction

Significant elements of Israel's foreign and defence policy system are seriously considering how to win international support for a second disengagement from Gaza that will end Israel's status as an occupying power, at least in Gaza, and "force" Gaza to become sovereign.

The Gaza Strip is a 360 sq.km. sliver of land 6-12km wide with a growing population of 1.6 million squeezed between Israel and Egypt and hugging a 40 km stretch of the Mediterranean coast. The area has been under the uncontested rule of the Islamic Resistance Movement – Hamas – since June 2007. It is still suffering the effects of Operation Cast Lead, an Israeli military incursion in January 2009 as well as long running and draconian restrictions on the Gaza economy implemented by Israel.

On July 16, 2010, the Israeli newspaper *Yediot Aharonot* revealed that "A confidential document sent to [Foreign Minister Avigdor] Lieberman recently states that 'we must discreetly approach the US, UN Secretary-General Ban Ki-moon and renowned international law experts to examine their terms for international recognition of an end to the occupation.'"

A "sovereignty in Gaza first" scenario is anathema to almost all the major diplomatic players, but increasingly less so for Israel and Hamas. Their relationship is at the heart of the major developments in Israel-Palestine affairs during the last decade, beginning with the second intifada, including Israel's 2005 disengagement from Gaza and its 2009 incursion, and continuing with the seemingly endless siege on Gaza. While diplomacy between Israel and the PLO, represented by chairman Mahmoud Abbas, has been stalemated for

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a decade, Israel and Hamas have had arguably greater success in fashioning different “rules of the game” – principally in and around Gaza – that could well define the future of relations between Israelis and Palestinians.

The “Lieberman Plan” was outlined in a document prepared by Israel’s foreign ministry, which Lieberman heads.¹ The object of the ministry’s attention was not the West Bank, the focus of current diplomatic efforts lead by the Obama administration, but rather the Gaza Strip.

The status of the Gaza Strip, as a consequence of Israel’s relations with Hamas, has been at the top of Israel’s agenda since February 2004 when Prime Minister Ariel Sharon declared Israel’s intention to “disengage” unilaterally from the area. One of the strategic objectives declared by the Sharon government was to end its role and responsibility as occupying power in the Gaza Strip *and to be certified by the international community as having done so.* (author’s emphasis)

As then acting foreign minister Tzipi Livni explained, “I really would like to have the technical, legal international declaration that Israel is no longer responsible [in Gaza].”²

Israel was unable to achieve this objective. Israeli policymakers were made aware by their own international legal team that Israel could not claim to end its occupation in Gaza as long as it exercises “effective control” over the area. Sharon, as much as he desired to make a clean break with past practice, reduced key elements of the oppressive footprint of occupation – removing all settlers, destroying settlements, and withdrawing all permanently stationed military forces -- but failed to meet his own test for ending Israel’s responsibilities as an occupying power.

Israel’s continuing formal status as the sovereign address on the Gaza side of the Gaza-Egypt border, and its control over Gaza’s sea and air corridors are recognized, even by Israel, as sufficient to invest Israel with de facto control over the territory in question, thus meeting the international standard for the continuing characterization of Israel’s role as the Occupying Power.

Success and Failure of Israel’s Security Model

Not surprisingly, security considerations were the foundation for Sharon’s choice to “disengage” from Gaza. The security model of occupation as practiced for decades in the West Bank and Gaza Strip rested upon an ever-expanding infrastructure of civilian settlement protected by permanently stationed Israeli forces providing both internal and strategic security. Sharon’s move signaled a radical revision of this deployment, conceptually similar to the pre-1967 era and the tense standoff on the Lebanese border after Israel’s retreat from its “security zone” in 2000. The model of deterrence as a strategy for preventing missile attacks was adopted by Israel as an integral part of its withdrawal from Gaza.

1. “FM Presents Second Disengagement from Gaza,” *Yediot Aharonot*, 16 July 2010.

2. *Ma’ariv*, October 23, 2004.

At the time, it was written that, “Disengagement represented a new, and from Israel’s perspective, often more comfortable foundation for its conduct in the security realm. If Gaza becomes a foreign country, Israel’s military actions against could either be defended as consistent with the internationally recognized right to self-defense (Article 51 of the UN Charter) and governed by the law of proportionality and international humanitarian law, or condemned as armed aggression. One prominent Israeli politician believes that after disengagement Israel will enjoy *greater* freedom of military action, based upon the former rationale, against attacks originating in the Gaza Strip. And just as the context for defining Israeli military actions changes as a consequence of disengagement, so too will Palestinian armed actions from Gaza against Israel. These acts may no longer be viewed in the international community as part of the fight against occupation but rather as aggression or legitimate acts of self-defense across a border.

To the extent that the international community recognizes an end to Israeli occupation in the Gaza Strip, it implicitly acknowledges a change in the “rules of the game” defining both Israeli and Palestinian armed actions.”³

Israel’s expectations were only partially realized. Israel’s December 27, 2008- January 18, 2009 assault on Gaza -- Operation Cast Lead -- was conducted under the new rules of the game after the deterrent model in place since 2005 failed, and indeed Israel was able to employ far more lethal firepower and tactics against Gaza than it ever had before. Nevertheless, despite support for Israel’s conduct of the war in the US and elsewhere, the September 2009 “Report of the United Nations Fact Finding Mission on the Gaza Conflict,” headed by South African Justice Richard Goldstone, reflected the refusal of the international community to recognize that disengagement had materially changed Israel’s responsibilities as occupying power in Gaza. And it reflected the international community’s intention to continue application of this standard in its assessment of Israel’s fulfillment of its international obligations towards Gaza and its inhabitants.

The Mavi Marmara Flotilla Fiasco Sparks an Israeli Reappraisal

As an Occupying Power, Israel has three principal responsibilities:

1. Maintaining the security of the territories
2. Insuring public order and safety
3. Acting for the welfare of the local population

Israel initially hoped that disengagement from Gaza would result in a recognized end to its humanitarian responsibilities associated with Gaza’s occupation. A draconian quarantine has been imposed on Gaza by Israel and Egypt since Hamas prevailed in its short-lived confrontation with Fatah-dominated security forces of the Palestinian Authority in June 2007. Since Hamas’ assumption of power, the international community

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3. “Issues Arising From Implementation of Disengagement and the End of Israeli Occupation in the Gaza Strip, Geoffrey Aronson, International Development Research Centre (IDRC), Canada, 15 January 2005.

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set the bar for Israel's residual obligations for the welfare of Gazans quite low. The failure of the international community to establish conditions in Gaza that enabled reconstruction, trade, and economic revival prompted third parties, such as the May 2010 relief flotilla lead by the Mavi Marmara, to break the siege, and in doing so to attempt to reduce if not remove Israel's power to exercise effective control over Gaza's links with the world.

The Lieberman Plan

International opposition to Israel's assault on the Mavi Marmara has prompted an Israeli reconsideration of the need to address its role in Gaza. The latest version of Israel's foreign ministry continuing interest in ending Israel's [diminished] responsibilities in Gaza "calls to fully lift the siege and allow ships to dock in the Strip without being inspected in Israel first. Ships that will undergo inspection in Cyprus or Greece will be allowed to continue towards Gaza. According to the proposal, Israel will also allow European countries to implement plans aimed at improving the lives of the coastal enclave's residents. Israel's border with the Hamas-ruled territory will be hermetically sealed."⁴

These measures are aimed at removing Israel's "effective control" over Gaza, without compromising Israeli security or intruding upon its own sovereignty. Under a post-occupation regime, Gaza should be able to trade and interact freely with the world, initially via a seaport which would operate according to internationally acceptable standards, including agreed upon offshore security and inspection provisions conducted by a third party. Trade bound for Gaza could be inspected and bonded at any number of Egyptian, Cypriot, or Turkish ports before proceeding to a "roll on roll off" facility at Gaza's port. Israel would be under no obligation to trade with Gaza, but in the event of progress on the diplomatic front, could agree to establish a safe passage for commerce and movement to and from the West Bank. Egypt too could choose to close its border with Gaza, although Egypt would be hard put to justify such a policy in domestic, Arab, and Islamic circles.

Hamas – Israel's Palestinian Partner

Hamas has been the principal Palestinian beneficiary of the post-Oslo model of Israeli action symbolized by the disengagement, and there is no reason to believe that it would not take advantage of any Israeli future decision to reduce its power over Gaza's destiny. Hamas' Sheikh Ahmad Yassin was the first Palestinian to take seriously Sharon's intention to withdraw from Gaza at a time when Fatah leaders distinguished themselves by a refusal to believe the Israeli leader.

Today Gaza's Hamas leadership, for all of its travails and shortcomings, exercises attributes of sovereignty that leaders in the West Bank can only dream about. Gaza enjoys territorial contiguity and travel within the enclave unobstructed by settlers or IDF checkpoints. Palestinian soldiers and police exercise a monopoly of force over territory they control.

For the first time in modern Palestinian history a nascent Palestinian army exists, featuring a unified system of command and control, deployed on its own territory, and able to survive a punishing Israeli assault and incursion.

The establishment of trade and communication independent of direct Israeli control is understood by Gaza's leaders as a strategic objective that would only enhance its sovereign identity. And, as with the first disengagement, Israel's intention not to negotiate such a move suits Hamas perfectly. Far better to inherit and take advantage of the consequences of an Israeli policy decision even as Hamas leaders denounce the move in public. As one Hamas politician explained to the author, "This is an opportunity. Part of our land will be free. Several times we have lost opportunities and if Israel wants to leave Gaza, it is our national responsibility to take advantage of it." There are elements in Fatah itself, including executive committee member Nabil Sha'ath, himself from Gaza, who support a new trade regime for the area.

Recommendation

The international community has refrained from considering any solution that results in official recognition of the differing fortunes of Gaza and the West Bank even as it supports policies on a variety of fronts that reflect, and in some respects reinforce, the current split. Turkey is well-placed to exercise leadership by supporting a new policy towards Gaza that Israel itself has placed on the policy agenda.

Gaza, which has been the source of unprecedented tension in bilateral relations, could also provide an opportunity for resolving such tensions. There are serious indications that Israel is trying to define for itself clear benchmarks to buttress a claim that it no longer exercises effective control over Gaza's security envelope and, therefore, that it should be relieved of any residual humanitarian responsibilities for Gaza's population. But any solution dictated by Israel is bound to compromise Palestinian interests in general, and in this case, Gaza's interests in particular. Israel should be encouraged by the international community to pursue this effort, even as US-led diplomacy continues. The international community must, however, establish its own "to do" list for Israel in order to hasten the end of occupation and the creation of enhanced conditions for the exercise of Palestinian sovereignty in Gaza. Enunciation of such benchmarks will encourage Israel, if it is to achieve its strategic objective of winning recognition that its status and responsibilities as Occupying Power – if only in the Gaza Strip – have ended, to meet this test of truly ending its control over Gaza. Palestinians need no encouragement to support an end to occupation in part of historic Palestine. The Arab League should encourage implementation of measures that will signify growing Palestinian control, if only in Gaza, over their own destiny. The end of Israel's occupation in part of Palestine, made manifest by the removal of settlements, the creation of independent Palestinian trade and travel links with the world, and an end to effective Israeli control over borders, can only have a positive impact on those Palestinian areas remaining under occupation.

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Significant elements of Israel's foreign and defence policy system are considering how to win international support for a second disengagement from Gaza that will end Israel's status as an occupying power in the Gaza Strip, occupied by Israel since June 1967. Israel's continuing control over Gaza's sea and air corridors are recognized as sufficient to invest Israel with de facto control over the territory in question, thus meeting the international standard for the continuing characterization of Israel's role as an occupying power. The "Lieberman Plan" aims at removing Israel's "effective control" over Gaza, without compromising Israeli security or intruding upon its own sovereignty. Under a post-occupation regime, Gaza should be able to trade and interact freely with the world. Israel should be encouraged by the international community to pursue this effort, even as US-led diplomacy continues. Turkey is well-placed to play a leading role in this effort. The international community must, however, establish its own benchmarks so that Israel will truly end its control over Gaza, enabling Palestinians there to recover from the draconian trade restrictions now in place and establishing the vital principals of Palestinian independence and sovereignty.

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