

TALKING TO HAMMAS



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CHRISTI**



On The Politic of Isolation and its Failure

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IKV Pax Christi

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Summary

This report was originally drafted before the ceasefire ended, before Palestinian extremists resumed rocket fire and before the Israeli military launched operation Cast Lead in Gaza. However, these new and dramatic turns in the Israeli-Palestinian conflict were not totally unexpected. They do not detract from this report's conclusion. On the contrary. More violence in Gaza does nothing to increase prospects for peace. In the long term, exclusion of Hamas serves neither the Palestinians' national aspirations nor Israel's desire for security.

Hamas cannot be ignored as political factor in the Palestinian-Israeli conflict. That had been the case even in the years prior to the 2006 Palestinian elections. Since the elections, however, it has become evident that Hamas enjoys the support of a substantial segment of the population and that the movement has laid claim to power, or at least some of the power in the Palestinian territories. In one sense, the claim to power has diminished since the coup in Gaza in 2007. However, Hamas remains de facto ruler in a substantial part of the Palestinian territories, the Gaza strip, and remains popular in a large part of the Palestinian population.

Attempts by the Israeli government, the Palestinian Authority (PA) and the international community to exclude Hamas from political participation have proven fruitless. Isolating Hamas, isolating the Gaza strip and negotiating with Palestinian president Abbas without Hamas have not turned the Palestinian population against Hamas or reduced Hamas' hold on power in the Gaza strip. Each time Hamas has been shunted aside, it has been able to disrupt political activity. It has also proven impossible to reduce the violence in and around the Gaza strip without involving Hamas.

An analysis of the statements and actions of Hamas' political and ideological leadership shows that the movement always appears in two ways. First, there is an ideological discourse in which peace with Israel is rejected out of hand, violence is lauded and compromise appears impossible. Anyone looking only at Hamas' ideological line will always be able to find arguments for relegating all hope of normal political discussion with Hamas to the realm of the impossible. On the other hand,

Hamas has shown itself to be a political movement that can act in a calculated manner to retain and strengthen its political position and, in doing so, has shown itself sensitive to the needs and wants of the Palestinian population. This last attitude is not necessarily a sign of moderation; it can even result in violence if that offers a political advantage. However, a calculated political attitude can also lead to pragmatic behaviour that does not exclude power sharing within Palestinian society and some type of political arrangement with Israel.

The conditions that the Quartet (the United States, Russia, European Union and the United Nations) have put to the Hamas government have done little other than strengthen Hamas' ideological line at the expense of its rational political line. Recognising Israel and renouncing violence, which are certainly the logical and necessary outcomes of political negotiations, seems to become obstacles when made preconditions for these negotiations. Moreover, there is too little attention for Hamas' implicit recognition of the existence of Israel in its acceptance of the Mecca agreement. The strategy of isolating and attacking Gaza after the 2007 only bolstered Hamas ideological line. In the end, this weakened President Abbas' government, not Hamas' position.

The continuous shelling of Israel from the Gaza strip showed Hamas' destructive power. But even from the early days of its participation in the political process Hamas sent out signals that it would not be averse to an armistice. In addition, Hamas' assumption of power in Gaza and the control it subsequently developed over the other military factions demonstrated that any cease-fire agreed upon could be enforced.

In the summer of 2008, Hamas' rational political wing seemed to have been ascendant when Egypt mediated a new ceasefire during negotiations. However, support for this pragmatic approach eroded within Hamas as a result of the Israel's blockade of Gaza and its refusal to release even one of the thousands of imprisoned Hamas members. Yet Fatah was allowed to arrest dozens of Hamas supporters at will and to prevent some 400 teachers who supported Hamas from working on the West Bank. In November 2008 Israel killed 5 armed Hamas members who it alleges were involved in digging tunnels for firing rockets into

Israel. When the ceasefire agreement ended, Hamas' leadership observed that it had brought no benefit either to it or to the population of Gaza and that it was not in its interest to extend it. The ideological wing once again holds sway within Hamas.

The elaboration of three scenarios for the future (West Bank First, More Violence in Gaza, an Permanently Postponing the Peace Process) shows that a decrease in the violence between Israel and the Palestinians and within Palestinian society and progress toward peace are very unlikely when Hamas is excluded from the political arrangement. A new start toward peace is only feasible when there is some kind of reconciliation and power sharing between Hamas and Fatah.

The international community's strategy should be aimed at appealing to Hamas' political pragmatism and not its ideology. In addition, it is important that external factors should encourage and support, not frustrate, attempts at reconciliation and power sharing within Palestinian politics and society. Hamas' recognition of Israel and its renunciation of violence should be the outcome of political dialogue, not its prerequisites. The Quartet's, and especially the EU's and European countries', boycott of a potential Palestinian government of unity and the isolation of Hamas members within such a government has now proven unproductive. Thus far the strategy applied by the Quartet, and the EU and its member states has led only to a situation in which Israel and the PA are rewarded for not negotiating with Hamas, while it should, instead, be doing all it can to bring about negotiations with Hamas. Moreover, boycotting Hamas has eroded rather than strengthened President Abbas' legitimacy.

The Quartet has thus far failed to exert any meaningful influence that would either bring peace closer or improve the quality of life for the Palestinian people. Meanwhile, the clock is ticking. The continuing occupation of the West Bank and Gaza, the Palestinians' disastrous humanitarian situation in Gaza and the serious internal divisions among Palestinians are doing little to contribute to a solution within a 'two states for two peoples' paradigm. There has never been a more suitable moment for the European Union and its member countries to follow their own political path to bring about reconciliation and power sharing among Palestinians.

A political process that includes Hamas will be far from easy. There will be a lot of resistance from the PA, Israel and Western countries. Yet, all efforts should target including Hamas in the pursuit of power sharing and further steps on the path to peace. If Hamas is excluded from the political process, it is practically certain that violence between Israel and the Palestinians and among Palestinians will continue, that the humanitarian emergency in Gaza will continue and that peace will remain a distant dream. It is impossible that this could be in any way benefit Israel's security.



Introduction

"The notion that the Israeli government leaders and our own government have that it is possible to exclude Hamas from peace talks and have a successful result from those talks is a fantasy"¹

This report analyses what can happen when Israel, the Palestinian Authority and the international community isolate the Palestinian Islamic movement Hamas rather than involving it in the Israeli-Palestinian peace process. Various sides in various media have noted that Hamas should be included in some way or other, that avoiding talking to Hamas is unproductive. In this report IKV and Pax Christi want to estimate the chances and feasibility of including Hamas in the political process. We will do so by describing the Hamas movement and analysing its discourse and actions. In describing a few future scenarios, we will present a sketch of the consequences that continuing to isolate Hamas will bring about. At the end, we paint a picture in which Hamas is involved in a solution to the Israeli-Palestinian conflict and in power sharing in Palestinian society.

Much of the work to involve Hamas falls beyond the direct influence of the international community, the EU or the Dutch government. Yet the EU and the Netherlands are able to stimulate a policy that can frustrate Hamas' participation in power sharing and peace talks. That is why this report ends with several recommendations addressed directly to the Dutch government and the EU. The Quartet (the United States, Russia, European Union and the United Nations) has thus far failed to exert any meaningful influence that would either bring peace closer or improve the quality of life for the Palestinian people. A recent report by various aid and peace organisations entitled *Middle East Quartet: A Progress Report* concluded that all the Quartet's attempts to improve the situation on the ground have either

failed or been only marginally successful.² It is still very uncertain whether the new administration in

the United States will be willing and able to breach the current deadlock. Meanwhile, the clock is ticking. The continuing occupation of the West Bank and Gaza, the Palestinians' disastrous humanitarian situation in Gaza and the serious internal divisions among Palestinians are doing little to contribute to a solution within a 'two states for two peoples' paradigm. There has never been a more suitable moment for the European Union and its member countries to follow their own political path to bring about reconciliation and power sharing among Palestinians.

The report in no way seeks to justify Hamas' behaviour; it seeks only to contribute to understanding Hamas' motives and the consequences of excluding Hamas. This report also does not intend to describe in detail how talks and negotiations with Hamas should be carried out and what benchmarks they should have. That would be a very speculative undertaking. It should be clear that this process would require careful monitoring, since the objective is not merely to make Hamas socially acceptable.

¹Bernard Gwertzman, Siegman: *No Peace Possible Between Israel and Palestinians without Hamas*, Council on Foreign Affairs, March 7, 2008.
<http://www.cfr.org/publication/15683/siegman.html>

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<http://www.reliefweb.int/rw/rwb.nsf/db900sid/VDUX-7JSSZD?OpenDocument> report published on 25 September 2008 by Care, Oxfam, Save the Children and United Civilians for Peace, of which IKV Pax Christi is also a member.

IKV's and Pax Christi's Position in the Israeli-Palestinian Conflict

IKV and Pax Christi are working to bring about a political solution to the Israeli-Palestinian conflict that does justice to, and offers security for, all the peoples and countries concerned. Justice and peace are not exclusive goods available only at the expense of other's rights and security. However, there is a real clash between the interests of the parties to the conflict that can only be resolved in compromises reached through political negotiations.

International law and international humanitarian law must serve as basis for a solution to the conflict. States and non-state parties to the conflict must at all times respect the rules for the conduct of war and the Geneva conventions. The UN Security Council resolutions regarding the conflict, including resolutions dealing with the cessation of the Israeli occupation of Palestinian territory (resolution 242) and on Palestinian refugees' right of return (resolution 194), offer a basis for finding a political solution.

The Israeli-Palestinian conflict has a very asymmetric character. Over against Israel, a well-organised and heavily armed state, stands a poorly organised and heavily fragmented Palestinian population without a true state structure. Neither the Palestinian Authority nor the PLO has the status or resources of a state. International law should serve here as counterweight to the conflict's very asymmetric character. No just solution to the conflict is possible without this counterweight. However, the asymmetric character does not imply that only the strongest party, Israel, bears responsibility for the conflict or for finding a solution to it; nor does it imply that the weakest party, the Palestinians, is not bound by international law and humanitarian law.

In seeking a solution, both parties and the international community think first of a two-state solution in which a sovereign state Palestine exists side-by-side with a sovereign state Israel and that both live in peace. This solution would offer the best guarantee for the Israeli desire to be a democratic state with a Jewish character.

However, many Palestinians believe that a two-state solution can never be sustainable or just, in part because it offers no solution to the issue of Palestinian refugees. Any solution to which Israel and the Palestinians can agree in equality and that the majority on both sides considers acceptable and viable must, in principle, be accepted. For how, however, there is no clear, readily available alternative for the two-state solution. The large degree of asymmetry and the continuing occupation of East Jerusalem, the West Bank and Gaza make a solution with two states of equal standing very difficult to bring about; its prospect seems to be receding ever further over the horizon.

IKV Pax Christi's work organisation works with a variety of local organisations in Israel, Palestine and surrounding Arab countries. The issues treated in this report have been discussed with various representatives of these organisations. These partners share a concern about the great internal divisions and rupture within the Palestinian population and the repercussions that these can have on peace. Although many of them are repelled by Hamas' ideology, and the way Hamas is currently governing Gaza, most partners agree that a political solution is unthinkable without Hamas. However, responsibility for this report's conclusion and the thinking that underpins it is borne by IKV and Pax Christi alone. In recent years, IKV Pax Christi's staff has had discussions with Hamas operatives and intellectuals in the immediate vicinity of Hamas' leadership. The picture of Hamas that we present below is based partly on these talks even though the latter may not be cited verbatim.

1. Hamas

Establishment

Hamas (*Harakat al-Muqawama al-Islamiyya* or the Islamic resistance movement) was established in 1987 at the start of the first intifada. At that time it was an alternative for and a challenge to the PLO, which had assumed leadership of this first uprising against Israeli occupation. Hamas was also a sign of resistance against the PLO's secular character and a criticism of the PLO's political course. Since 1985, the PLO had increasingly aimed at international and national recognition, at renouncing terrorism, at involvement in a political process³ that (ultimately) should lead to a national Palestinian state alongside the state of Israel⁴.

Hamas adopted the PLO's original strategy and endeavoured to liberate the entire territory of Palestine through armed struggle;⁵ it used violence and attacks to thwart Israeli-Palestinian peace negotiations. As of 1994, after the Oslo agreement, Hamas staged suicide attacks in Israel.

Background

Hamas is part of the Muslim Brotherhood, a movement that arose in Egypt in 1928. The Muslim brothers espouse strict observance of the Koran and the establishment of an Islamic state in accordance with the Prophet's ideas. Since the 1970s the Muslim Brotherhood and Hamas have been a manifestation of political Islam, which tries to formulate a political answer to globalisation and to modernity, which they see as a threat to Islamic values and culture and to Islam's public role. It is a trans-national movement that is making attempts to play a role in national politics in various Arab countries.

Initially, i.e. since the 1970s, the Palestinian Muslim Brotherhood, led by Sheikh Ahmad Yassin, kept busy with Islamising society the Palestinian territories by giving sermons and providing social

³ Cairo Declaration, 7 November 1985.

<http://www.al-bab.com/arab/docs/pal/pal1.htm>

⁴ Arafat's speech to UN the Assembly, accepting UNSCR 242. 13 December 1988. <http://www.al-bab.com/arab/docs/pal/pal5.htm>

⁵ Hamas Charter, 1988.

<http://www.palestinecenter.org/cpap/documents/charter.html>

services for the poor. The key idea was that just Muslims would set up a just government. Caring for the poor, taking charge of *waqf* (religious) institutions and preaching in the mosques increased the Muslim Brotherhood's influence. Palestinian Muslim brothers were individually involved in the struggle to free historical Palestine. They only formed their own military movement within Palestinian society as of 1987.

Ideology

According to the movement's charter, Hamas aspires to establish an Islamic state throughout the entire territory of Palestine. This territory is viewed as an Islamic waqf, an Islamic territory granted to all (future) Muslim generations⁶. Hamas' nationalism is thus a part of its religious ideology⁷. Peace projects and political solutions that lead to relinquishing parts of Palestine are unacceptable from this ideological perspective. Jihad is the only way to liberate Palestine. Article 8 of the Charter summarises it this way: "Allah is its goal, the Prophet its model, the Qur'an its Constitution, jihad its path and death for the case of Allah its most sublime belief."⁸ This sentence is also the justification for the suicide attacks that, seen from this perspective, are martyrdom operations.

However, the need to survive as political movement and to continue to exert influence has led to compromises between the higher ideological objective and the national political aspirations of the Palestinian people, an increasing proportion of which is willing to accept a two-state solution. One result is that political and social reality has led Hamas to adopt a more pragmatic political stance in the recent past. "Adjustment had become the

⁶ Art. 11 Hamas Charter

<http://www.palestinecenter.org/cpap/documents/charter.html>

⁷ 'Hamas regards Nationalism (Wataniyya) as part and parcel of the religious faith.' Hamas Charter. Art. 12

<http://www.palestinecenter.org/cpap/documents/charter.html>

⁸ Shaul Mishal & Avraham Sela. *The Palestinian Hamas*. 2000. p. 180. English quote taken from <http://www.palestinecenter.org/cpap/documents/charter.html>

*main feature of Hamas' political conduct. Its strategies of controlled violence, negotiated coexistence, and calculated participation all reflected Hamas' effort to avoid making a decision about its conflicting commitments to an all-Islamic vision and a Palestinian nation, on the one hand, and to communal interests, on the other".*⁹

Starting in 1993 that led to (discussions on) participating in elections, accepting political responsibility and adopting political strategies aimed at achieving Palestinian national ambitions. However, as a matter of principle Hamas remains extremely critical of the two-state solution. It is predictable that Hamas' ideology will become more attractive as the Palestinian population loses hope in prospects for a two-state solution.

Working method: Da'awa and Jihad

Hamas emerged as a social movement, a political party and an armed resistance movement. The Islamic Centre that carries on the activities once performed by the Muslim Brotherhood in the 1970s is responsible for *da'awa*. This is socio-religious mobilisation via education, health care, welfare work, religious education and the construction of mosques.

Da'awa concentrates on adopting a lifestyle that is suitable for a good Muslim. Jihad is the struggle against what is perceived to be the enemies of Islam. In Palestine, Israel is the political translation of the 'enemy of Islam'. In jihad terms, Hamas is an openly operating resistance movement that, since 1991, has an underground militant arm called the 'Al Qassam brigade' after Sheik `Iz Al-Din Al-Qassam who preached and organised jihad in the 1920s against French colonists in Syria. British troops killed him after he fled to the British mandate of Palestine.

Hamas' strategy was to amass support in its own society. One important point when it came to mobilising supporters was its refusal to negotiate with Israel when the PLO, with Fatah as its most important member, was also involved.

In 1996, after vigorous internal discussions, Hamas decided not to participate in elections for the Palestinian Legislative Council¹⁰. The decisive argument was that the elections legitimated the

Oslo peace process that, according to Hamas, did not guarantee Palestinian rights and a Palestinian state.¹¹ Yet since its establishment, Hamas did participate in elections in Palestinian professional organisations and institutions (e.g. universities).

The first municipal elections in 30 years were held in 2004-2005. Hamas took part gaining an exceptional election victory. Hamas was the big winner in all major cities on the West Bank except for Ramallah. The 'professional' and municipal elections gave Hamas an opportunity to turn its support within the Palestinian society into political power. That led once again to the challenge to take part in national elections.



⁹ Ibid., p. 147.

¹⁰ Shaul Mishal & Avraham Sela. *The Palestinian Hamas*. 2000. pp. 163-166.

¹¹ Ibid. p. 144.

2. Brief Chronology since the Palestinian Elections

In 2006, Hamas ran on a platform called the 'Forum for change and reform'. In its election programme, Hamas indicated that it could now participate because the 2nd intifada contributed to the end of the Oslo Accords.¹² Hamas won the election and obtained an absolute majority of 76 seats in the 132-seat parliament. Many people attributed this win to a power struggle within Fatah, which led to separate lists and competition between Fatah candidates.

Immediately after the election, Fatah refused to participate in any government that Hamas led. However, Hamas chose to work on a government of national unity. This choice arose on one side from Hamas' being unprepared to fill all the political leadership positions to which its unexpectedly great election victory gave it a right; on another, this choice arose from Hamas long-held view on the need for national unity, albeit on Hamas' terms.¹³

In the end, all parties refused to cooperate within a government of national unity. Officially, Fatah's refusal was based on Hamas' failure to recognise the PLO's role and Hamas' refusal to endorse the UN resolutions on Palestine and the Israeli-PLO accords.¹⁴

Hamas and Fatah held talks in June 2006 based on what is known as the prisoners' initiative, an agreement signed by influential Fatah and Hamas members held in Israeli prisons. The 18-point document supported a two-state solution and in doing so implicitly recognised Israel. In the end, Hamas decided against participating in a unity government after President Abbas announced in a speech before the UN that every future Palestinian government would adhere to earlier agreements between the PLO and Israel, including each party's recognition of the other.¹⁵

Hamas accused Fatah of being the political cover up for the international community's demands. New negotiations on a national unity government were held at the end of December. Abbas put pressure on these talks by threatening to call new elections. Hamas said that early elections would be an unconstitutional coup.

On 10 June 2006, the Hamas government ended the 16-month cease-fire after the death of a Palestinian family on Gaza beach. Hamas claimed that they were killed by Israeli artillery fire. Israeli corporal Gilad Shalit was kidnapped on 25 June 2006. Three days later Israel entered Gaza. A period followed in which Israeli carried out operation in Gaza. In the meantime, war broke out between Israel and Hezbollah in Lebanon. In November 2006, an informal cease-fire took effect between Hamas and Israel.

After mediation by Saudi Arabia, a national unity government was finally formed in March 2007. Once again, this government did not satisfy the requirements to which the Quartet adhered without compromise. The new national unity government still had to work out the most important points, such as the political neutrality of the security troops and the integration of the militias.

As of May 2007, Hamas resumed the fight against Israel and as of June 2007, the Al-Qassam brigade has been responsible for most of the shelling on Israel from Gaza. President Abbas responded to internal Palestinian violence by threatening to call early elections or referendums. Several attempts to reach agreement on the security issue failed.

9 June 2007 marked the start of Hamas' violent attempt to seize power in Gaza. Within three days, Hamas defeated troops loyal to Fatah and appropriated the headquarters of the security services and the presidential buildings. Hamas alleges that the take-over was pre-emptive action intended to ensure that no groups linked to Fatah

¹² Khaleb Hroub. "A 'New Hamas' Through its Documents." in *Journal of Palestine Studies*. 140 (2006) pp. 6-27.

¹³ Ibid.

¹⁴ Ibid.

¹⁵ Full text UN Assembly speech President Abbas 21 September 2006. Jerusalem

Media&Communication Centre. See also <http://www.jmcc.org/documents/abbasspeechun06.htm>

could seize power. This assertion does not seem totally unfounded. Mohammed Dahlan, the head of the security services in Gaza, appears to have been preparing to use military means to eliminate the Hamas leadership. In 14 June, President Abbas declared a state of emergency, dissolved the national unity government and formed a new interim government under internationally respected economist and political leader Salam Fayad. Israel and the international community immediately recognised this government. Israel recommenced payment to the new government of previously withheld taxes.

Hamas restored order in Gaza. It quickly had a complete monopoly on violence and a nearly complete monopoly on public political activities. It modified the legal system. Fatah supporters felt threatened; oppositional media were closed down. An ill-defined system for health and educational services was set up in which the West Bank PA provided financing and Hamas claimed power to grant permissions and make decisions. Security and judiciary bureaucracy are made up of elements taken from Hamas militias and Hamas supporters.¹⁶ The PA paid its security forces and members of the judiciary to remain home. All this means that Hamas has placed its stamp ever more firmly on Gaza's society.

After the seizure of power in June 2007, the border was as good as totally sealed for passenger traffic. In response to the growing number of missiles and mortar grenades fired from Gaza into Israel, the Israeli government designated Gaza a hostile entity in 2007 and decided to enforce a total boycott. Since then, Israel has restricted supplies to strictly necessary humanitarian deliveries. The humanitarian situation in Gaza is assuming dramatic proportions. Although acute famine has been prevented by allowing in a minimum amount of relief supplies, the constant shortage of food, water and energy alongside the hopelessly broken economy and the constant threat of violence place a very heavy toll on the population of Gaza. However, this has not lead population to turn away from Hamas; rather, it has increased its animosity toward Israel and what the people of Gaza consider Abbas' powerless government.

¹⁶ Gareth Evens. 'Punishing Hamas has Backfired' in *Christian Science Monitor*, 27 March 2008. See: <http://www.csmonitor.com/2008/0327/p09s02-coop.html>

On 23 January 2008, armed militias mined the border between Gaza and Egypt. The militias used landmines to blow up the wall that formed the border between Raffah in Gaza and Raffah in Egypt. At first Hamas troops worked with Egyptian troops to prevent people from crossing the border. In the morning, however, tens of thousands of Palestinians took the opportunity to make purchases in Egypt. Although the open border posed a security problem to Israel and Egypt, the Egyptian government initially tolerated the massive influx of Palestinians in search of goods that were scarce (and thus expensive) or no longer available in Gaza.

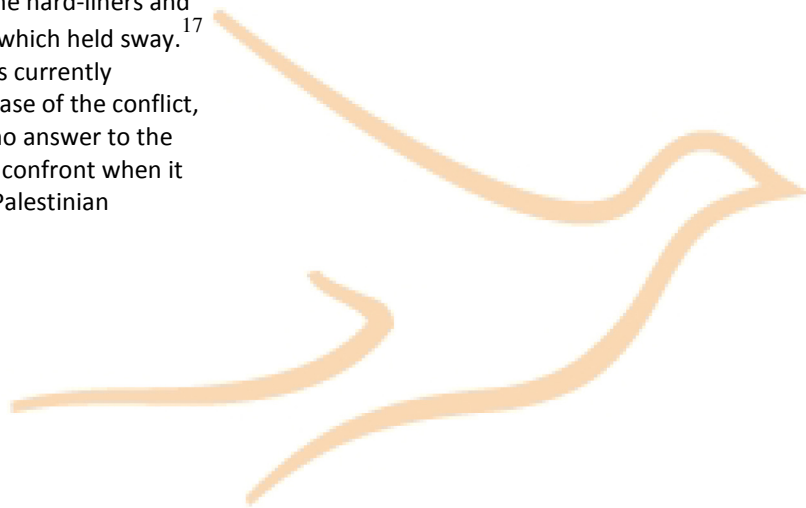
Not long thereafter, the border near Raffah was again closed at Egypt's insistence. However, Egypt had to find a solution for the growing tension in Gaza and urged all parties to agree to a cease-fire. A six-month cease-fire finally went into effect on Thursday morning, 19 June 2008. Israel agreed to expand gradually the number of products that it would permit to enter Gaza. It has been reasonably calm since the start of the cease-fire. Israel has also refrained from military operations, even after a mortar grenade was fired at the Karni border-crossing. However, Hamas has accused Israel of not keeping its part of the bargain when it came to lifting the boycott. Yet Fatah was allowed to arrest dozens of Hamas supporters at will and to prevent some 400 teachers who supported Hamas from working on the West Bank. In November 2008 Israel killed 5 armed Hamas members who it alleges were involved in digging tunnels for firing rockets into Israel.

When the ceasefire agreement ended, Hamas' leadership observed that it had brought no benefit either to it or to the population of Gaza and that it was not in its interest to extend it. The ideological wing once again held sway within Hamas. Shelling of Israeli cities began anew, which triggered Israel's new military action in Gaza.

As the foregoing shows, Hamas has a religious ideological disposition and a pragmatic political disposition. The ideological disposition refers in various wordings and gradations to the refusal to make peace with Israel as a matter of principle and even a refusal to share power within Palestinian society. Those who focus solely on Hamas' categorical ideological argumentation will always find reasons for positing that peace with Hamas is impossible.

This, however, presupposes a too narrow view of Hamas' motives. Hamas' other face is one of a movement that is a pragmatic political operator that wants to retain its power and that cannot ignore the plight of that part of the Palestinian population under its authority. This pragmatic political approach is not by definition moderate or peaceful. Rational considerations can also lead Hamas' leaders to conclude that violence is preferable to talks about power sharing within Palestinian society or above peace or cease-fire arrangements with Israel. Yet a pragmatic political attitude is not adamant and can, under some circumstances, also change.

Even as the conflict between Hamas and Israel escalated in December 2008 and January 2009, *The Economist* noted that Hamas was divided between the pragmatically inclined and the hard-liners and that circumstances determined which held sway.¹⁷ While the hard-liners' ideology is currently ascendant during this violent phase of the conflict, it remains so that ideology has no answer to the real dilemmas that Hamas must confront when it wants to exercise power in the Palestinian territories.



¹⁷ *The Economist*, 30 December 2008

3. The Quartet's Three Conditions

The Quartet – consisting of the United States, the European Union, the United Nations and Russia – was set up in 2002. Its initial objective was to organise a Middle East conference in that year. The conference never took place. But the Quartet has continued to operate and represents the international community's concern about the Israeli-Palestinian conflict.

On 30 January 2006, representatives of the Quartet held a meeting in London to discuss the elections in which Hamas' "Forum for Change and Reform" won 74 (56%) of the 132 seats in the Palestinian Legislative Council. The Quartet's representatives – UN Secretary-General Kofi Annan, Russian Foreign Minister Sergei Lavrov, Austrian Foreign Minister Ursula Plassnik and American Secretary of State Condoleezza Rice – congratulated the Palestinian people on their "free, fair and secure" elections.

The Quartet, however, also stated that "all members of a future Palestinian government must be committed to nonviolence, recognition of Israel, and acceptance of previous agreements and obligations, including the Roadmap". It concludes its statement by saying that "it was inevitable that future assistance to any new government would be reviewed by donors against that government's commitment to the principles of nonviolence, recognition of Israel, and acceptance of previous agreements and obligations, including the Roadmap".

The declaration reminds "both parties ... to avoid unilateral actions which prejudice final status issues ... reiterated its view that settlement expansion must stop, reiterated its concern regarding the route of the barrier, and noted Acting Prime Minister Olmert's recent statements that Israel will continue the process of removing unauthorized outposts".¹⁸

¹⁸ Quartet statement, London, 30 January 2006. http://www.consilium.europa.eu/ueDocs/cms_Data/docs/pressdata/en/declarations/88201.pdf

The declaration clearly shows that the Quartet expected not just Hamas but all members of the future Palestinian government to fulfil the three conditions. The report also made painfully clear that demands would be made of the new Palestinian government that would not be made in the same way of the Israeli government, which is also obliged to follow the Roadmap. This cannot be explained only by referring to the Palestinian government's dependency on donors. Attempts by the special UN representative to welcome Hamas' participation in the elections and its respect for a cease-fire in the declaration were not honoured.¹⁹

Three months later, in a response to the new Palestinian government's programme, the Quartet concluded that the three conditions had not been met.²⁰ With that the boycott of the new Palestinian government became fact. The Office of the Presidency of the PA continues to receive international assistance.

For the EU this boycott implied suspension of all contacts with the new Palestinian government and a halt to all financial transactions with the single treasury account, the account into which all the Palestinian Authority's (PA) income arrives and from which all its expenditures are made under the IMF's direct supervision. Other types of EU assistance for the PA, including the EUPOLL Coordinating Office for Palestinian Police Support were suspended.

The EU followed the US in this, albeit more pragmatically by holding out the prospect of resuming support as soon as Hamas accepts the

¹⁹ *End of Mission Report*, Alvaro de Soto, Under-Secretary-General United Nations Special Coordinator for the Middle East Peace Process and Personal Representative of the Secretary-General to the PLO and the PA, Envoy to the Quartet, May 2007. See: <http://image.guardian.co.uk/sys-files/Guardian/documents/2007/06/12/DeSotoReport.pdf>

²⁰ Quartet statement, 30 March 2006 See: <http://domino.un.org/UNISPAL.NSF/0a2a053971ccb56885256cef0073c6d4/0cf4527604d404f985257141005a4b38!OpenDocument>

Quartet's conditions²¹. The US went much further than the EU by announcing that international banks that do business with the Palestinian government will be placed on a blacklist.

Renouncing Violence

It is clear that despite its unilateral cease-fire from March 2005 – April 2007, Hamas, as member of the new Palestinian government, considers violence, including violence against civilians, to be a legitimate means to resist Israeli occupation.

There are legitimate arguments for using violence as one manner of resisting military occupation; this is not by definition contrary to international law.²² Yet, even if not juridically, Hamas is morally and politically obliged to respect the discrimination and proportionality requirements of the international law of non-combatant immunity. Hamas' using violence against Israeli military personnel involved in operations that are part of the occupation of Palestinian territory is not in breach of the principle of non-combatant immunity, even when that takes the shape of suicide attacks. The situation is different when Israeli civilians are the intended targets.

Suspending hostility *on both sides* is a reasonable and customary precondition for starting peace negotiations. By refraining from hostilities, the parties taking part in negotiations inspire trust in one another and have a foretaste of the peace toward which they work. Given this background, it is unrealistic to expect that Hamas would be the only one to renounce violence. Hamas and all other parties to the conflict can, of course, be obliged to comply with international humanitarian law.

It is clear that firing Quassam and other missiles with the intention of killing civilians is immoral under any circumstances and is a breach of the 4th Geneva Convention. Firing these missiles at military objectives is also illegal because the missiles' inaccuracy prevents application of the

²¹ *The EU and the Middle East Peace Process*, EU Committee, 26th Report of Session 2006-7, Vol. I, House of Lords, UK, 24 July 2007.
<http://www.publications.parliament.uk/pa/ld200607/ldslect/ldcom/132/132i.pdf>

²² See: Diakonia:
<http://www.diakonia.se/sa/node.asp?node=1132>

principle of non-combatant immunity. Firing missiles from within or adjacent to populous areas is also a violation of international humanitarian law because the population then serves as human shield.²³ From June 2004 through December 2007, Qassam missiles caused 11 civilian deaths²⁴. The UN secretary general condemned the Palestinian missile attacks, which he called "terrorist acts" and Israeli punitive measures, which he called "disproportionate and excessive use of force".²⁵

There are clear signs of Hamas' interest in a cease-fire.²⁶ Thus far, however, Israel has not seen the cease-fire as a solution, but as a sign that Israel's punitive military measures achieve the desired results.²⁷ Moreover, Israel is afraid that a cease-fire will only give Hamas an opportunity to consolidate and strengthen its position. Under pressure from the population in the southern part of Israel and of Egypt and the international community's growing disapproval of the nearly total boycott of Gaza, Israel finally agreed to a six-month cease-fire. The indirect discussions via Egypt are now being pursued with a view to exchanging prisoners for the captured Israeli corporal Shalit.

Recognising Israel

There are also reservations regarding making recognition of Israel a condition. Analysis point out that recognising the state of Israel should be the result of, not the precondition for, negotiations; this makes it impossible for Hamas to announce this recognition before negotiations have started and made substantial progress.

²³ Attacks on Israeli civilians by Palestinians, Qassam rocket fire into Israel: See:
http://www.btselem.org/English/Israëli_Civilians/Qassam_missiles.asp

²⁴ B'Tselem statistics:
<http://www.btselem.org/english/Statistics/Index.asp>

²⁵ *Secretary-General's statement to the Security Council on the situation in the Middle East*, New York, 1 March 2008. www.un.org/apps/sg/sgstats.asp?nid=3026

²⁶ Nidal-al-Mughrabi, *Hamas Sets Terms for Cease-fire with Israel*, Reuters, March 12, 2008.
<http://www.reuters.com/article/newsMaps/idUSL1290175720080312>

²⁷ Nathan J. Brown, *The Road Out of Gaza*, Carnegie Endowment for International Peace Policy Outlook, February 2008.
http://www.carnegieendowment.org/files/brown_gaza_final.pdf

Efraim Halevy, the former head of the Israeli security services Mossad stated in an interview with the Dutch World Service Network that Israel must accept Hamas' offer for an unconditional, long-term truce. "It wasn't a problem when we negotiate with others in the region."²⁸ In the past, the US put heavy pressure on the PLO to accept resolution 242 before it could be a partner to the negotiations. The PLO accepted the resolution in 1988, which meant accepting Israel (peace) in exchange for land (the occupied territories); three years later it took part in the Madrid negotiations and later in those in the Washington and Oslo negotiations that were based on that position. However, in those days acceptance of Israel was the result of talks with the PLO not the precondition for them.

In other words, requiring Hamas to accept Israel is an unfortunate confusion of preconditions for, and results of, final status negotiations.

It is important to realise that the PA's origin lies in the Oslo peace accords in which Israel and the Palestinian Authority recognised one another. Hamas' participation in the elections on as a "Forum for Change and Reform" implies acceptance of the rules under which the PA was set up.

In the meantime, Hamas has given significant signals. By signing the Mecca Accord brokered by Saudi Arabia, Hamas committed itself to respect in a government of national unity those Arab and international resolutions and agreements that the PLO signed (as part of the Oslo negotiations).²⁹

This shows that Hamas can be a pragmatic organisation when this involves preserving or strengthening its power and position. In the Mecca Accord, Hamas distinguishes between the responsibilities of the PA, those of the government and those of the PLO, which makes it possible for President Abbas to negotiate with Israel while Hamas, as organisation, can formally persist in refusing to recognise Israel.

²⁸

www.wereldomroep.nl/actua/middenoosten/080222/mossaad_hamas

²⁹ *After Mecca: Engaging Hamas*, Middle East Report No. 62, International Crisis Group, 28 February 2007. <http://www.crisisgroup.org/home/index.cfm?id=4677>

That explains the accusation by Al-Qaida's second in command, Al-Zawahiri, that in signing the Mecca Accord Hamas served American interests by respecting prior agreements with Israel. It also explains Hamas' response, ""We will not betray promises we made to God to continue the path of Jihad and resistance until the liberation of Palestine, all of Palestine".³⁰

Other Hamas spokesmen indicate that that it accepts the state of Israel but that an official recognition can only take place after a Palestinian state has been established on the West Bank and in Gaza.³¹

Hamas declaration on the recognition of the state of Israel remains ambivalent at this stage. The ambivalence raises questions about the absolute character of the Hamas Charter.

Accepting Prior Agreements and Obligations

The Quartet's conditions to accept all previous agreements and obligations, including the Roadmap was largely satisfied in the "letter of commission" from President Abbas that was part of the Mecca Accord of 8 February 2007 in which he wrote, "I call upon you as the head of the upcoming Palestinian government to commit to the higher interests of the Palestinian people, to preserve its rights and to preserve its achievements and to develop them, and to work in order to achieve its national goals as was approved by the Palestine National Council, the clauses of the Basic Law and the National Reconciliation Document. Based on this, I call upon you to respect international resolutions and the agreements signed by the Palestine Liberation Organization". Hamas' reservation echoes in the wording. Hamas believes that some agreements from the past are contrary to Palestinian interests and that these must be modified in negotiations with Israel.³²

³⁰ Reuters, 12 March 2007 http://zionism-israel.com/israel_news/2007/03/hamas-destruction-of-israel-is.html

³¹ Conal Urquhart, *Hamas Official Accepts Israel but Stops Short of Recognition*, Guardian, Tel Aviv, January 11, 2007

<http://www.guardian.co.uk/world/2007/jan/11/israel>

³² Ibid. See:

<http://www.haaretz.com/hasen/spages/823792.html> and

<http://www.iht.com/articles/2007/02/09/africa/web.0209mideasttext.php>

The Boycott's Effect

The effects of isolating Hamas and blockading Gaza have been disastrous. The intention of the isolation and blockading was clear. The purpose was to undermine support for Hamas in Gaza and to present the Palestinian Authority as an attractive alternative on the West Bank. Economic and political support for the Palestinian Authority, revitalising peace talks and easing the Israeli occupation were intended to make developments in the West Bank enticing for the Palestinian people in Gaza who bore the burden of a humanitarian crisis and continuous Israeli violence. For the time being, the ceasefire has provided some relief although the disastrous economic situation persists.

However, the sanctions and the violence against Hamas have strengthened not weakened the movement. Hamas "*has come close to establishing an effective monopoly on the use of force and has a near-monopoly on open political activity. It has refashioned the legal and legislative systems and enjoys freer rein to shape society through management of the health, education and religious sectors.*"³³ Moreover, the boycott has vaporised the Palestinian Authority's influence; Hamas could easily fill the vacuum it left behind.

Proponents of isolating Hamas point to the growing frustration of the population within Gaza that has resulted from the humanitarian crisis and the violence and hard-handedness with which Hamas put an end to violence, but also to freedom of the press and independent political activities. Undoubtedly some Palestinian will regret having voted for Hamas. However, the frustration is aimed primarily at Israel, certainly after the border between Gaza and Egypt was ruptured. On the other hand, Hamas "*gradually restored order as militiamen curbed gunfire and kinsmen reduced inter-clan blood feuds. Criminal activity and mafia feuding have been sharply curbed*"³⁴. If anyone else managed to do this in Gaza they would have received praise from the international community.

³³ *Ruling Palestine I, Gaza under Hamas*, Middle East report No. 73, International Crisis Group, 19 March 2008. See http://www.crisisgroup.org/library/documents/middle_east_north_africa/arab_israeli_conflict/73_ruling_palestine_gaza_under_hamas_web.doc

³⁴ Ibid.

Support for Hamas is increasing at the expense of support for the Palestinian Authority led by President Abbas, who seems equally unable to protect the interests of the population in Gaza. A recent survey showed that support for Hamas leader Haniyeh has grown on the West Bank from 37% to 47% since December 2007, and that support for President Abbas has fallen from 56% to 46%.³⁵

The Disastrous and Counter-productive results of Boycotting Hamas

The Quartet's three conditions initially applied as principles for deciding about granting aid to each new Palestinian government. Gradually these principles came to be used as conditions for supporting and maintaining contacts with the Palestinian government in which Hamas participates and as conditions for starting a search for peace in which Hamas would participate as democratically elected representative of the Palestinian people. American minister Rice sees the conditions as "*foundational principles for peace*". "*You cannot have a peace agreement or a peace process when one party does not recognize the right of the other party to exist or will not renounce violence*"³⁶.

³⁵ *Survey: Haniyeh more popular than Abbas after IDF Gaza raids*, Haaretz, 18 March 2008. See: <http://www.haaretz.com/hasen/spages/965204.html>

³⁶ Stephen Kaufman, *US, EU agree New Palestinian government does not accept Quartet principles*, US Department of State, 19 March 2007. See: <http://www.america.gov/st/washfile-english/2007/March/20070319182244esnamfuak0.6020929.html>

This observation is correct, but it ignores the heart of the problem. The principles for granting aid have been interpreted as conditions for diplomatic negotiation; that has made them obstacles to any attempt to achieve peace that could lead to recognising one another's right to exist and to relinquishing violence.

Perhaps the Quartet members did initially present their conditions in an attempt to moderate Hamas' posture or to undermine the population's support for Hamas and to strengthen President Abbas' position. In practice, the conditions have thus far been disastrously counter-productive.

- The Quartet's conditions have become part of a divide-and-conquer policy that has compromised the Quartet as "*honest broker*". This is particularly detrimental to the UN's credibility as the De Soto report notes. "(...) *our responsibilities toward the Palestinian people and the MEPP in general are compromised, if not sacrificed, on the altar of an improved relationship with certain member states, however important they may be.*"³⁷
- Boycotting Hamas has directed all political attention to the low level of Palestinian commitment, while drawing it away from Israel's refusal to satisfy important obligations and to respect international law³⁸.

- The Quartet's conditions have created ideal circumstances for extremists on both sides to hold the Middle East peace process hostage.³⁹ Boycotting Hamas has contributed to its requesting and obtaining support from Iran, which has increased Iran's influence on the conflict and in the region.
- There are no signs that Isolating Hamas has reduced the population's support of it, whereas the boycotting Hamas while giving political and economic support to the PA is undermining President Abbas credibility and is shrinking his political playing field. Graham Fuller, the former vice-chairman of the CIA's National Intelligence Council noted *The Western search for a "Palestinian Quisling" in effect, based on a one-sided reading of the problem, is doomed to failure. The West will have to engage in a much more measured and balanced approach with Hamas if any prospect of political progress is to take place*⁴⁰.
- The conditions are one factor in the bloodstained intra-Palestinian struggle that has helped further the decay of Palestinian institutions and capacities, one that can lead to a failing state. "*Palestinian institutions have been treated like yo-yos or perhaps as clay to be molded and remolded by the pressing diplomatic needs of the moment. So when diplomacy requires a viable Palestinian*

³⁷ *End of Mission Report*, Alvaro de Soto, Under-Secretary-General United Nations Special Coordinator for the Middle East Peace Process and Personal Representative of the Secretary-General to the PLO and the PA, Envoy to the Quartet, p. 34 (par. 90) May 2007. See: <http://image.guardian.co.uk/sys-files/Guardian/documents/2007/06/12/DeSotoReport.pdf> See also

<http://64.233.183.132/search?q=cache:DxGqPb9VwGoI:www.bojanbb.com/blogsr/media/EndofMission.pdf+text+%2B%22end+of+mission+report%22+De+soto&hl=en&t=clnk&cd=10&gl=uk>

³⁸ *The EU and the Middle East Peace Process*, EU Committee, 26th Report of Session 2006-7, Vol. I, House of Lords, UK, p. 24 24 July 2007. <http://www.publications.parliament.uk/pa/ld200607/ldslect/ldcom/132/132i.pdf>

³⁹ *Ibid* p. 20 (par. 46) http://www.caabu.org/resources/lords_select_committees/eu_peace_process/

⁴⁰ Graham E. Fuller, *Hamas Comes to Power: Breakthrough or Setback?* Strategic Insights, Volume V, Issue 2, Center for Contemporary Conflict, February 2006 See: <http://www.ccc.nps.navy.mil/si/2006/Feb/fullerFeb06.pdf>

*leadership — as it does now for both short-term and long-term reasons — there is none to be found.*⁴¹

- Boycotting Hamas after "free, fair and secure elections" has undermined support for a strategy of using elections to bring about political reform, a path that a growing number of Muslim movements seem willing to accept. This has damaged democracy as concept in the Muslim world. One illustration is the criticism Hamas received from a representative of Jamaat Islamiya in Lebanon who pointed to the failure of all Islamists that participate in national parliaments. "No MP or deputy, from Islamabad to Cairo, or anywhere in between, has succeeded in bringing any significant change to their society."⁴² Alastair Crooke made a sombre prediction, "*Over the middle term it is possible to predict that a greater number of Palestinian citizens of Israel will become radicalised, as well as members of the Palestinian population as a whole. Israel's 'moderate' friends among Arab leaders may disappear. It may also encounter Islamists not only in the Palestinian government, but at the Jordanian and Egyptian frontiers; ...*"⁴³

Politically boycotting Hamas has ended up a total failure; this has severely damaged the credibility of the peace process and of the Quartet. Champions of boycotting Hamas cut off all prospects of peace. "*The notion that the Israeli government leaders and our own government have that it is possible to exclude Hamas from peace talks and have a successful result from those talks is a fantasy*".⁴⁴

In civil society, a few prominent members of Hamas have meanwhile have set the machinery in motion for contacts with civil society in the West. HOW, the House of Wisdom, is trying to organise exchanges between Hamas members and representatives of the West. HOW wants to be a bridge between Hamas and the West.⁴⁵

⁴¹ Nathan J. Brown, *The Road Out of Gaza*, Carnegie Endowment for International Peace Policy Outlook, February 2008.

http://www.carnegieendowment.org/files/brown_gaza_final.pdf

⁴² The senior Hamas official present, Usamah Hamadan, was strongly criticised by Fathi Yakan, the leader of Jamaat Islamiyah in Lebanon, April 2007 See: <http://www.nazmi.org/Our.doc>

⁴³ Alastair Crooke, *Our Second Biggest Mistake in the Middle East*, London Review of Books, 28 June 2007 See: http://www.lrb.co.uk/v29/n13/croo01_.html

⁴⁴ Bernard Gwertzman, Siegman: *No Peace Possible Between Israel and Palestinians without Hamas*, Council on Foreign Affairs, March 7, 2008.

<http://www.cfr.org/publication/15683/siegman.html>

⁴⁵ According to an article in the International Herald Tribune, "Sayed Abu Musameh is one of the founders of Hamas and now a member of the legislature. One of the old guard moderates, he is also on the board of Hamas's first research organization just opening here. It is called Beit al Hikma, the House of Wisdom, and seeks to build bridges with the West. ... He added that Hamas's rocket attacks on southern Israeli communities are a mistake and that the group's links to Iran are out of necessity, not desire. He said that while the top Hamas leadership did not agree on these last two points, he was not the only advocate to believe them and more would do so if there were encouragement."

<http://www.iht.com/articles/2008/06/14/africa/15gaza.php?page=2> Confronted later with this article, he reiterated his position.

4. The Role of the US

The American periodical *Vanity Fair* recently published an article entitled "The Gaza Bombshell".⁴⁶ It analysed the way in which the American Government seemed to be involved in the violence between Fatah and Hamas. *Vanity Fair* relied on information from David Wurmser, a neo-conservative who resigned as Vice-President Cheney's Middle East advisor in protest against America's *engaging in a dirty war in an effort to provide a corrupt dictatorship [led by Abbas] with victory*".

The article sketches a picture of an American government that, disconcerted by Hamas' election victory, put pressure on President Abbas to dissolve the newly elected government as quickly as possible. The US encouraged President Abbas to add Muhammad Dahlan to his team as Palestinian national security advisor. Dahlan would play a leading role along with Lt.-general Dayton, who was appointed American security coordinator for Palestine. There was a clear goal. "Do whatever it takes. We have to be in a position for Fatah to defeat Hamas militarily, ...".

In April 2007, the American congress approved a 59-million-dollar support bill intended to "dismantle the infrastructure of terrorism and establish law and order in the West Bank and Gaza". Parallel to this open support, there was a secret action plan⁴⁷ whose authenticity *Vanity Fair* said was confirmed. The plan foresees reinforcing the level and capacity of 15,000 of Fatah's existing security personnel while adding 4,700 troops that received specialised training in Jordan and Egypt, purchasing arms and paying the security troops' salaries Saudi Arabia, Egypt, Jordan and the United Arab Emirates all approved the action plan. Lt.-general Dayton confirmed the arrival of the first 500 new troops in testimony before the US House

⁴⁶ David Rose, *The Gaza Bombshell*, *Vanity Fair*, April 2008 See: <http://www.vanityfair.com/politics/features/2008/04/gaza200804>

⁴⁷ See: http://www.vanityfair.com/politics/features/2008/04/gaza_documents200804

Middle-East sub-committee.⁴⁸ Haaretz reported on 7 June 2007 the largest Egyptian arms delivery that Fatah ever received. It included dozens of armoured cars, hundreds of armour-piercing RPG rockets, thousands of hand grenades and millions of rounds of ammunition for small calibre weapons.⁴⁹ A few days later the 'coup' against Hamas started. On its side, Hamas had training and arms from Iran. Wurmser stated that the coup in Gaza was not Hamas' idea but a pre-emptive action to prevent Fatah's American-supported coup.

This reconstruction of American involvement in intra-Palestinian violence contains several alarming elements. Not only does it seem from this that the American government did not accept the results of the Palestinian elections right from the very start, the US was also involved in attempts to remove Hamas from the political stage and, via the secret action plan, was involved in the bloody battle between Fatah and Hamas. In itself, this is no unique way of operating in the Middle East; Iran was similarly involved with Hamas. However it is alarming to note that the US, as defender of democratisation and member of the Quartet operates on the same level as Iran. Against this background, the Hamas' coup was in part a response to the way the US encouraged and supported undermining of the Mecca Accord and in part to an attempt by Fatah's forces (centred on Dahlan) to take power.⁵⁰ The coup was neither planned nor desired. "In short, there is every reason to believe Hamas sought to improve its bargaining position in anticipation of new negotiations with Abbas and wanted to take pre-

⁴⁸ Hearing before the subcommittee on the Middle East and South Asia of the Committee on Foreign Affairs, House of Representatives, May 23, 2007, serial no. 110-70, p. 11. See: <http://www.internationalrelations.house.gov/110/35673.pdf>

⁴⁹ Amos Harel and Avi Issacharoff, *Fatah to Israel: Let us get arms to fight Hamas*, June 7, 2007.

<http://www.haaretz.com/hasen/spages/867987.html>
⁵⁰ See also: *After Gaza*, Middle East Report No. 68, International Crisis Group, 2 August 2007 <http://www.crisisgroup.org/home/index.cfm?id=4975&l=1>

emptive action against a reinforcing Fatah. But by overplaying its hand and ending up controlling Gaza, it found itself with a far more burdensome prize.”⁵¹



⁵¹ Ibid., p. 14.

5. Future Prospects

We have traced the way attempts to exclude Hamas from negotiations and to boycott it have been more disastrous than successful. In what follows we will present three possible outcomes, all of which persist in excluding Hamas:

- A. The West Bank First Scenario
- B. The More Violence in Gaza Scenario
- C. The Permanently Postponed Peace Process Scenario

West Bank First Scenario

"In a show of support for the PA president and his new government, Israel and other key figures in the donor community, mainly the United States and the European Union, undertook a number of policy measures that were intended to asymmetrically influence economic conditions in the newly politically-split Palestinian areas in a bid to influence the political orientation of their respective populations."⁵² Boycotting the Hamas-government, continuing the quarantine even after a Palestinian government of national unity had been set up and embracing President Abbas as ally are characteristic for EU and US policy. The crisis in Gaza and the new reality to which it gave rise is, according to some analysts, "an opportunity to contrast the horrors of Gaza with a new reality in the West Bank that could serve as an example and focal point for positive Palestinian energies."⁵³

The West Bank First scenario assumes that support for the PA and President Abbas will grow in proportion to the improvement to the quality of life on the West Bank and that support for Hamas will decline in proportion to the worsening of the humanitarian conditions and security in Gaza. In this scenario Hamas is unrelentingly isolated. This

⁵² Dr. Mohammed Samhuri, *The West Bank First strategy: a political-economy critical assessment*, Working paper 2, Brandeis University, Crown Center for Middle East Studies, Waltham, October 2007 See: <http://www.spme.net/cgi-bin/articles.cgi?ID=3080>

⁵³ Gershon Baskin, *The Fall of Gaza and the rise of Palestine*, Arabic Media Internet Network, 15 June 2007 See: <http://www.commongroundnews.org/article.php?id=21205&lan=en&sid=0&sp=0>

only exacerbates the struggle between Hamas and Fatah for power within Palestinian society; Fatah political leaders who are not prepared to share power are rewarded for their attitude.

However, the West Bank Scenario is unattainable, for the following reasons:

- The West Bank Scenario is based on the idea that President Abbas can grow stronger on the West Bank at Gaza's expense. That is not only morally unacceptable, it is also politically impossible. Accepting support for the West Bank that excludes Gaza irrevocably undermines President Abbas' position as symbol of the Palestinian state⁵⁴.
- The West Bank First Scenario is heavily dependent on Fatah's ability to act decisively. However, "unlike Hamas, Fatah has ceased to exist as an ideologically or organizationally coherent movement. Behind the brand name lie a multitude of offshoots, fiefdoms and personal interests".⁵⁵
- The West Bank First Scenario requires increased security for the Palestinian population. Although the Fayad government has made progress on that point in Nablus and is expanding this approach to Jenin, the Israeli army's security policy thwarts any respect it may have earned in this regard.
- The probability of continuous political instability and new confrontations restrict

⁵⁴ Robert Malley and Aaron Miller, *West Bank First: It won't work*, Washington Post, 19 July 2007 See <http://www.washingtonpost.com/wp-dyn/content/article/2007/06/18/AR2007061801365.htm>

⁵⁵ Ibid.

opportunities for economic recovery that are so essential to the West Bank First scenario.⁵⁶

- A critical condition for the West Bank's economic recovery is a substantial relaxation of Israel's restrictions on the freedom of movement and trade within the West Bank and over the border. Given the fragmentation of the West Bank, economic progress is impossible.⁵⁷
- The West Bank First scenario leads almost inevitably to violence. Hamas would sabotage any unexpected success the West Bank First scenario might have. If there is no rapid improvement in the quality of life, the population on the West Bank will shift their support from the West Bank First approach to other, more violent approaches.

For these reasons, the West Bank First strategy, which is closely related to that of isolating Hamas, shows little political and economic realism; it is doomed to failure, to the extent that this approach is not already politically bankrupt.

More Violence in Gaza Scenario

The second scenario presupposes more violence. This expectation became reality in December 2008. Israel still sees Hamas's presence in Gaza as a security risk that has to be neutralised. Missiles fired from Gaza would not be the only source of this perception. The contribution of smuggled weapons and local manufacturer to the continuing reinforcement of Hamas' arsenal is also an element. Israel cannot be expected to put up with more missile attacks launched from Gaza. Hamas cannot be expected to sit by while it is being

isolated politically and Gaza is being strangled economically.

Israel and Gaza are both under great pressure in the More Violence in Gaza scenario. The Israeli army will carry out missions in Gaza varying from neutralising military assets, or to use Israel's terminology, 'knocking out terrorist infrastructure' up to eliminating Hamas' leaders. Israel could also act more robustly and set up buffer zones to gain control over the routes used to smuggle in weaponry. Israel had already set up buffer zones along the Gaza-Israel border in the past. This scenario expects Hamas to continue its missile attacks and that their range and accuracy will increase. Ground operations are expected to develop into urban guerrilla warfare.

However, it is highly doubtful whether this scenario can be sustained over the medium term.

- A large-scale Israeli military operation in Gaza would require Israeli troops to re-occupy Gaza. Ground operations of that type would produce many casualties.⁵⁸ That cannot be in Israel's interest; there is no political or social support in Israel for such action.
- Moreover, a large-scale military operation would compel Israel to accept once again responsibility for the 1.5 million Palestinians; this, seen from an Israeli perspective, means losing the benefits gained from the disengagement from Gaza. The prospect that Israel would have to govern its own country and the occupied territories brings uncomfortably closer the Israeli nightmare of having to govern a population that is for the most

⁵⁶ Dr. Mohammed Samhuri, *The West Bank First strategy: a political-economy critical assessment*, Working paper 2, Brandeis University, Crown Center for Middle East Studies, p. 13 See: <http://www.spme.net/cgi-bin/articles.cgi?ID=3080>

⁵⁷ *Movement and Access Restrictions in the West Bank: Uncertainty and Inefficiency in the Palestinian Economy*, World Bank, May 9, 2007. See: <http://siteresources.worldbank.org/INTWESTBANKGAZA/Resources/WestBankrestrictions9Mayfinal.pdf>

⁵⁸ In its report entitled *Ruling Palestine I: Gaza under Hamas*, the International Crisis Group referred to statements by a spokesperson for the Israeli Defence forces that assume that a 3 km buffer zone would cost 5,000 Gazan casualties. See http://www.crisisgroup.org/library/documents/middle_east__north_africa/arab_israeli_conflict/73_ruling_palestine_gaza_under_hamas_web.doc

part Palestinian. Moreover, the short term offers no hope for a realistic exit strategy.

- A total elimination of Hamas would leave a total vacuum in Gaza. *"If the policy is to destroy Hamas as a viable political force, you will get warlords. Without Hamas, Gaza will become a no-man's land".*⁵⁹ Even during the struggle for power between Hamas and Fatah in 2006 it was evident that some clans and warlords sought contact with Al-Qaida.
- Continuous violence would consolidate, not reduce, support for Hamas among the Palestinian population in Gaza; it would also increase support for Hamas on the West Bank and among the public in various Arab countries. At the same time, a large-scale military operation and the unavoidable civilian casualties would undermine President Abbas' position even further.
- Moreover, it is doubtful whether there are conventional military options that would effectively halt the smuggling and local manufacture of weapons for Gaza and put a definitive end to the missile fire. It is probable that more missiles would be fired from Gaza. Thus far, hard military reprisals from Israel against missile fire have not done more than produce a temporary and partial reduction in the number of missiles fired.
- In the end, a scenario assuming more violence in Gaza is also morally intolerable. The Israeli army seems unable to act in Gaza without causing civilian casualties and without violating

⁵⁹ *Ruling Palestine I, Gaza under Hamas*, Middle East report No. 73, International Crisis Group, 19 March 2008. See http://www.crisisgroup.org/library/documents/middle_east__north_africa/arab_israeli_conflict/73_ruling_palestine_gaza_under_hamas_web.doc

humanitarian law and the law of war, while Israeli civilian casualties are unavoidable when missiles are fired.

There is a great risk that the continuing humanitarian crisis in Gaza will erode political support for Israel in European countries and within the EU.⁶⁰

In other words, more violence in Gaza is not a realistic long-term policy. In this case, too, the political boycott of Hamas is maintained without result. By accepting the Egyptian proposal for a cease-fire around Gaza between Hamas and the Israeli army (June 2008), the Israeli government gave evidence that it, too, recognized that this scenario is undesirable or unrealistic, at least for the time being.

End to the Peace Process

A rather radical scenario that arose after Hamas took power in Gaza is permanent postponement of the peace process. The logic behind this scenario is that the Israeli-Palestinian conflict simply cannot be resolved. Hamas is an enemy with which no compromise can be reached. When Hamas took power, *"Palestinian politics have clearly returned to a pre-1993 status; so must Western and U.S. policy. This means no Western aid and no diplomatic support until their leaders change policies."*⁶¹

In this scenario, the US and its allies would have to support Israel unconditionally because Hamas' influence and the support that the movement receives from Iran and Syria endangers Western interests and values now more than ever before. In this scenario, the Israeli-Palestinian conflict is the *"third great battle with totalitarianism in living memory. As with the struggles against fascism and communism, this conflict can only be won by a mobilization of Western resources and resolve."*⁶²

⁶⁰ Reuters. *EU Resolution Lambastes Israel over Gaza Strip Isolation Policy*, Haaretz, 22 February 2008. See: <http://www.haaretz.com/hasen/spages/956817.html>

⁶¹ Barry Rubin (of the Global Research in International Affairs), 'Hamastan', an article published in the *Wall Street Journal* on 15 June 2007. See: http://online.wsj.com/article/SB118186922078136232.html?mod=opinion_main_commentaries

⁶² Ibid.

Part of Israeli society and the political establishment certainly supports this approach. For a large part of the Israeli population there is simply no "partner for peace" on the Palestinian side, not Abbas and the PA because they have too little power and cannot deliver what they promise and not Hamas because it is no way prepared to talk about peace. This fits with the idea now spreading among part of the Israeli population that there are no more modalities for a two-state solution. Even within Hamas there is resistance as a matter of principle against the two-state solution, albeit for totally different reasons. (See section 1.3)

Support in the international community for confrontation is weak and declining, partly due to the American stalemate in Iraq. Not only the EU and most Arab states, but also the US are now banking on the two-state solution. The present American president, George W. Bush, is even the first to speak plainly about the Palestinian's right to their own state alongside Israel. In the long term, other solutions than the two-state solution may arise, but in the short term there does not seem to be any realistic scenario for any other model.

As long as there is no reconciliation and power sharing between Hamas and Fatah there is little other option than a cease-fire around Gaza and ultimately doomed peace negotiations between Israel and the PA on the West Bank. This is the cease-fire to which Hamas and Israel have agreed after Egyptian mediation. Certainly from an ethical perspective, a cease-fire is preferable to continuing violence. In 2005-2006, Hamas complied with a unilateral cease-fire. Moreover, a cease-fire without political solution remains fully dependent on the goodwill of one of the parties. A negotiated cease-fire also offers the possibility for some form of international involvement to guarantee security on both sides.

6. Power Sharing in Palestine and a New Start toward Peace as one Alternative

The scenarios provided above offer no way toward a sustainable and just solution to the Palestinian-Israeli conflict. They all have one common characteristic. None are willing to deal with Hamas. As this report has shown, boycotting Hamas has done nothing to bring a political solution to the conflict any closer. On the contrary. The boycott has made Hamas stronger and has undermined the legitimacy of the Palestinian Authority.

The international community's – and especially the EU's – political starting point has always been to support the Palestinian Authority and to build a viable Palestinian state with operating institutions as first steps toward the two-state solution. This political strategy is still valid, but it is at odds with the Quartet's political starting point which is to eliminate, not influence, Hamas. A report by the British House of Lords notes: *"The real division in EU policy, however, lies not so much in the articulation of commonly agreed positions, as in the 'clear disconnect between the political diplomatic level and the on-the-ground initiatives and presence of the EU and various EU governments", according to Dr Richard Youngs.*⁶³

The Quartet's political fixation on the three conditions and the resulting predictable boycott of Hamas block off every avenue to peace that seeks a sustainable and just solution to the Israeli-Palestinian conflict. Without Hamas, a sustainable political solution is inconceivable. In the long term, this exclusion does nothing to bring about either Palestinian national aspirations or Israel's justifiable desire for security.

The three conditions that the Quartet is trying to impose on Hamas have become an ideological mantra. The longer this mantra is recited, the more

difficult it is to get rid of it and to repair the damage it has done. Political leaders that maintain

the taboo against recognising Hamas must be judged on the consequences not the consistency of their policy. This applies in particular to political leaders – among them the EU Ministers of Foreign Affairs – who believe that boycotting Hamas contributes to the Middle East peace process or is in Israel's interest.

A growing number of analysts and politicians argue for engaging Hamas in a political process that must ultimately lead to peace. It is significant that these include important personages in the army and security services among whom are former Israeli National Security Advisor Gioia Eiland, former IDF chief of staff and present minister of Transport and former minister of defence Shaul Mofaz and the former Mossad chief Efraim Halevy. Halevy said,

"Hamas has, unfortunately, demonstrated that they are more credible and effective as a political force inside Palestinian society than Fatah, the movement founded by [former Palestinian Authority president] Yassir Arafat, which is now more than ever discredited as weak, enormously corrupt and politically inept. [Hamas has] pulled off three 'feats' in recent years in conditions of great adversity. They won the general elections to the Palestinian Legislative Council in 2006; they pre-empted a Fatah design to wrest control of Gaza from them in 2007; and they broke out of a virtual siege that Israel imposed upon them in January 2008. In each case, they affected a strategic surprise upon all other players in the region and upon the United States, and in each case, no effective counter strategy mounted by the US and Israel proved effective. (...) It makes sense to approach a possible initial understanding including Hamas—but not exclusively Hamas—at a time when they are still asking for one. No side will gain from a flare up leading to Israel re-entering the

⁶³ *The EU and the Middle East Peace Process*, EU Committee, 26th Report of Session 2006-7, Vol. I, House of Lords, UK, 24 July 2007. <http://www.publications.parliament.uk/pa/ld200607/ldslect/ldcom/132/132i.pdf>

*Gaza strip in strength to undo the ill-fated unilateral disengagement of 2005.*⁶⁴

Israeli intellectuals, including authors Amos Oz, A. B. Yehoshua, David Grossman, Meir Shalev, Judith Katzir, Eli Amir, Savyon Liebrecht, Yehoshua Sobol and Dorit Rabinya addressed the following message to the Israeli government: *"Israel has in the past negotiated with its worst enemies ... Now, the appropriate course of action is to negotiate with Hamas to reach a general cease-fire to prevent further suffering for both sides ... We believe Israel is facing an opportunity to promote the peace process ahead of the regional peace summit planned for November ..."*⁶⁵

Even within the EU, voices are raised for engagement with Hamas. *"Without engaging in dialogue with the Palestinians who govern Gaza, the peace process will have difficulties in moving ahead"*⁶⁶ Italian Foreign Minister Massimo D'Alema said Monday at a meeting with foreign media in Rome

Engaging Hamas presupposes reconciliation between Hamas and Fatah and a degree of power sharing. It makes little sense to talk with Hamas only about peace arrangements. A Gaza Only approach must not simply replace a West Bank First approach. Arab countries, and possibly also Turkey, will have to play a key role in the attempt to reconcile Hamas and Fatah. It is essential that any agreement between Hamas and Fatah provide for power sharing and reform within political and security institutions as well as a mandate for President Abbas to negotiate with Israel. The Mecca Accord did not contain a power-sharing

⁶⁴ Laura Rozen, *Israel's Mossad out of the Shadows*, Mother Jones Smart, Fearless Journalism, San Francisco, February 19, 2008. See: http://www.motherjones.com/washington_dispatch/2008/02/israel-mossad-out-of-the-shadows.html

⁶⁵ Shiri Lev Ari, Mazal Mualem, 'Authors call for truce with Hamas', in *Haaretz*, 24 September 2007 See: http://www.haaretz.co.il/hasen/pages/ShArtStEngPE.jhtml?itemNo=906484&contrassID=2&subContrassID=1&title='Authors%20call%20for%20truce%20with%20Hamas%20'&dyn_server=172.20.5.5

⁶⁶ Lisa Palmieri-Billig, "Italian FM: Negotiate with Hamas" *Jerusalem Post* March 4, 2008. See: <http://www.jpost.com/servlet/Satellite?pagename=JPPost/JPArticle/ShowFull&cid=1204546390877>

arrangement; this restricted its life span from the start.

Reconciliation between Hamas on one side and Fatah and President Abbas on the other will only grow more difficult as time passes. President Abbas incorrectly believes that the West Bank First approach will strengthen his position as time goes on. Hamas believes that the West Bank First approach will strengthen its position as time goes on. In any case, it will grow increasingly difficult for Hamas to share power with Fatah.

As long as the US, the EU, Russia and/or the UN remain glued to their West Bank First approach, neither Fatah nor Hamas will have much reason to rush ahead toward political reconciliation. It is therefore important that the international community speak up unambiguously for reconciliation. That also implies that the taboo on political dialogue with Hamas must be broken.

Only then can confidence-building measures be used to create a political climate in which there is a real chance of reaching peace. These confidence-building measures include:

- Reaching agreement on, and international monitoring of, cessation of hostilities and a cease-fire between the PA, with Hamas as member, and Israel
- Opening borders with Gaza and putting them under international supervision
- Exchanging prisoners.

Of course, this presupposes that Israel is prepared to comply with its Roadmap obligations, which it has thus far not done.

Negotiations between Israel and the Palestinians that exclude Hamas, as did those that started at the end of 2007 with a conference in Annapolis in the USA, is a political fiction. It is not likely that the present American government would be willing to alter its attitude toward Hamas or that it still has sufficient political credibility in the Middle East to force a change of course. That is why the EU has a key role to play in breaking the taboo on recognising Hamas as partner in talks intended to lead to peace and security in the Middle East. That presupposes a political debate on the disastrous effects of the present policy of isolating Hamas

politically and blockading Gaza and on a way to

bring about Hamas' political involvement.

7. Conclusions and Recommendations

Conclusions

Israel's, the Quartet's and, to a certain degree, the Palestinian Authority's systematic exclusion of Hamas and of the Palestinian government that took office after the 2006 elections has not led to any real chance for a peace agreement nor has it weakened Hamas' position. In the end, -the exclusion and boycott have had a disastrous effect on humanitarian circumstances in Gaza and on any chance for peace, power sharing and stability within Palestinian society. Excluding Hamas has also been detrimental to the very laborious work of political reform in the Middle East. The elaboration of three possible scenarios shows that future stability without Hamas is highly unlikely. The end of the ceasefire and the renewed fighting between Hamas and Israel in December 2008 and January 2009 show that the isolation, the containment of Hamas in Gaza has failed.

If we conclude that peace *without* Hamas is impossible, we must ask whether peace *with* Hamas is conceivable. It is evident that this will be far from easy. Hamas' history shows that the movement considers violence, even against civilians, to be a legitimate weapon in its struggle against Israel. Yet it is impossible to rule out all possibility of political dialogue with Hamas. The movement exhibits a bifurcated ideological and politically pragmatic character. Whoever focuses solely on Hamas' ideological side will always find reasons to believe that a compromise with Hamas is impossible; but to do this is to ignore the openings that Hamas' politically pragmatic side offers. While the hard-liners' ideology has been ascendant since the current violent phase of the conflict started in December 2008, it remains so that ideology has no answer to the real dilemmas that Hamas must confront when it wants to exercise power in the Palestinian territories.

The Quartet's strategy should be aimed at appealing to Hamas political pragmatism and not its ideology. This has not happened since the 2006 elections; because it has insisted on viewing recognition of Israel and renunciation of violence as *preconditions* rather than *results* of talks,

because it has boycotted the Hamas-led government and the government of national unity, and because it has blockaded Gaza, it has done no more than to push Hamas further along its ideological path. Essentially, the Quartet, including the EU and thus the Dutch government, has become a *spoiler* in the Middle East political process. It is clear that part of Hamas' leadership has no problem with emphasising the ideological side. The negative evaluation of the Quartet's performance and the uncertainty regarding whether anything can be expected from the new US administration have led IKV and Pax Christi to argue that the European Union should adopt an independent position, one that stresses promoting dialogue and power sharing among the various Palestinian political currents rather than isolating Hamas. The European Union may not become the spoiler when attempts are made to achieve reconciliation and power sharing.

Negotiating with Hamas while leaving out the Palestinian Authority and Fatah is equally undesirable. This would exclude another substantial part of Palestinian society and would give rise to additional ruptures within Palestinian society. Moreover, it would lose all that had been gained in recent years, including acceptance in principle of a two-state solution. That is why it is important to encourage Fatah and Hamas to share power in Palestine.

Recommendations

IKV and Pax Christi will treat only recommendations aimed at Dutch and European political leaders.

IKV and Pax Christi argue for a new EU policy and petition the Dutch government to use its influence within Europe to bring this about. The European Union should exhibit leadership rather than allowing itself to be paralysed by the Quartet's ineffectiveness, or to wait until the US comes up with some new plan. IKV and Pax Christi believe it desirable that the European Union

1. replace its isolation strategy with one of influencing Hamas, with the objective of reinforcing this organisation's politically pragmatic current
2. take practical steps toward a critical dialogue with Hamas on renouncing violence, with as objective opening up a possibility that Hamas would be removed from the list of terrorist organisations
3. turn its *preconditions* for a dialogue with Hamas into *objectives* of dialogue and negotiations
4. encourage Israel to do the same
5. foster internal Palestinian dialogue between Hamas and the Palestinian Authority on power sharing and, at the same time, hold out the prospect of restoring financial relations with a restored government of national unity in Gaza
6. support and, where possible, facilitate Arab countries, as well as Turkey, when they are willing and able to mediate between the Palestinian Authority and Hamas
7. support and give impetus to attempts that others undertake to bring about a critical dialogue with Hamas
8. and, finally, do whatever is possible to bring about an immediate ceasefire between Israel and Hamas, to ameliorate the humanitarian situation in the Palestinian territories, especially by opening border crossings into Gaza and placing them under international supervision.

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