

THE MIDDLE EAST QUARTET: A PROGRESS REPORT

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EXECUTIVE SUMMARY

The humanitarian crisis in the occupied Palestinian territory (oPt) continues (see ‘The Gaza Strip: A Humanitarian Implosion’).¹ Its population of 3.7 million people, 52 per cent of whom are children, struggle for their basic needs.² Palestinian women, children, and men are increasingly dependent on aid as their livelihoods are destroyed. The only sustainable solution to the crisis is a comprehensive peace settlement between Israelis and Palestinians based on international law. As humanitarian and development agencies, we believe that immediate steps can and must be taken to relieve suffering, as well as to ensure that a peace agreement is eventually reached.

As this report demonstrates, the lack of progress on key goals calls the Quartet’s current approach into question. In its Berlin statement, the Quartet expressed the *“urgent need for more visible progress on the ground in order to build confidence and support progress in the negotiations launched in Annapolis”*. This “visible progress” has not materialised. Analysis of the reality on the ground demonstrates that in five of the ten areas in which the Quartet has laid down clear recommendations, there has been either no progress or an actual deterioration in the situation. Clearly, a new approach is warranted. Moreover, the Quartet’s capacity to encourage positive developments has been weakest in the three areas where progress is now most urgent: settlements, lifting obstacles to movement and access, and bringing an end to the blockade of Gaza. The Middle East Quartet, comprising Russia, USA, EU, and UN, identified 2008 as a crucial year for the Middle East Peace Process (MEPP) and the period in which to realise agreements made at the Annapolis Conference on 22 November 2007.³ Quartet members committed to assisting parties to meet their specific obligations and to promoting a just, comprehensive, and lasting settlement of the conflict in the Middle East.⁴ The deadline for an agreement by the end of 2008 is now looming and seems unlikely to be met. Indeed, the Palestinian President, Mahmoud Abbas, stated: ‘so far there has been no achievement in the negotiations... I cannot say that there has been an agreement on a single issue. The gap between the sides is very large.’⁵ The Quartet’s meeting in New York comes at

¹ Available at www.oxfam.org.uk/resources/downloads/oxfam_gaza_lowres.pdf.

² See www.unicef.org/infobycountry/oPt_statistics.html.

³ See Quartet Statements of 24 June 2008, 2 May 2008, and 17 December 2007 at www.state.gov/r/pa/prs/ps/2008/jun/106215.htm, www.state.gov/r/pa/prs/ps/2008/may/104319.htm, and www.state.gov/r/pa/prs/ps/2007/dec/97671.htm.

⁴ See Quartet Statement at Annapolis Conference on 27 November 2007 at www.state.gov/r/pa/prs/ps/2007/nov/95667.htm and President Bush, ‘Joint Understanding read by President Bush at the Annapolis Conference’ 27 November 2007 and speech at www.state.gov/p/nea/rls/rm/2007/95695.htm.

⁵ Mahmoud Abbas quoted in Haaretz, Sunday 14 September 2008 at www.haaretz.com.

a critical moment for the Quartet to demonstrate that it can play an effective role in bringing peace to the Middle East.

This report outlines the Quartet's own recommendations across six areas that it considered to be of vital importance for the broader peace process. It assesses the impact that limited progress has had on the daily lives of Palestinians and Israelis. The Quartet's Berlin statement provides a clear picture of the progress needed and, as the most recent declaration of the Quartet, will be used as a basis for this report.⁶ The statement, like this report, focuses on **settlements, access and movement, Gaza, Palestinian security sector reform, donor pledges, and the revival of private sector activity in the oPt.**

The Quartet has rightly emphasised that progress in key areas is the only way to prevent further deterioration in the everyday lives of Palestinians and Israelis and in the overall political process itself. The Quartet's meeting in New York provides an opportunity to regroup, recommit, and decide on additional steps that can be taken to ensure that parties comply with their obligations under the roadmap and international law.

This report provides recommendations to Quartet members on how best to respond to ensure urgently needed progress. Unless there is a swift and dramatic improvement, it will be necessary to question what the future is for the Middle East Quartet.

Settlements: Despite efforts by Quartet members to signal strong opposition to continued settlement expansion in the West Bank and East Jerusalem, there has been a marked acceleration in construction, and no serious attempts by the Israeli authorities to dismantle outposts. Settlements, outposts, and the infrastructure that serves them, illegal in international law, devastate the Palestinian economy and the daily lives of ordinary Palestinians. While the Quartet can be commended for raising the issue of settlements and outposts, there has been a marked failure to hold the Israeli authorities to their obligations under the roadmap and international law. This highlights the urgent need to go beyond rhetoric and adopt concrete measures to ensure that Israeli authorities comply with their obligations under international law.

Access and Movement: The Quartet has failed in its efforts to secure the removal of checkpoints and other obstacles to access and movement for people and goods that would enable Palestinians to see a tangible improvement in their daily lives. There is no 'new reality' in the West Bank; the economy continues to stagnate, and the blockade of Gaza continues. The failure of the Quartet in this area will lead to further impoverishment and economic decline. It may also constitute a fatal threat to the broader peace process.

Gaza: Despite violations on both sides, the agreement on cessation of violence endures and there have been marked improvements in security for Israelis and Gazans alike.⁷ However, normal civilian life in Gaza has not resumed. The Quartet has been unable to end Gaza's isolation and facilitate adequate flows of humanitarian and commercial goods (consistent with the Agreement on Movement and Access (AMA)). There have been increased supplies of fuel to Gaza, but these supplies are not yet steady or sufficient. Despite their efforts, the Quartet has failed to prompt the immediate resumption of stalled UN and other donor projects. Overall, progress in Gaza falls far short of the Quartet's own stated recommendations. Despite its recognition of the urgency of the situation, the actions taken by the Quartet have been insufficient to kick-start meaningful changes on the ground.

⁶ See Quartet Statements of 24 June 2008, 2 May 2008, and 17 December 2007 at www.state.gov/r/pa/prs/ps/2008/jun/106215.htm, www.state.gov/r/pa/prs/ps/2008/may/104319.htm, and www.state.gov/r/pa/prs/ps/2007/dec/97671.htm.

⁷ The terminology 'cessation of violence' is used in this report as the generally accepted wording of the agreement by the UN.

Comprehensive Palestinian Security Sector Reform: The introduction of an EU-trained Palestinian police force across the West Bank is reported to be beginning to deliver tangible and much-needed improvements in the stability of life across the West Bank. Nonetheless, concerns among Palestinian civilians about their personal security are said to remain. The focus on the rule of law for Palestinians, while welcome, has paid inadequate attention to human rights in the reform process.

Donor Pledges: The Quartet Representative has been successful in securing substantial funding pledges. This impressive aptitude for fundraising has not yet led to the prompt delivery of projects, nor improved the lives of Palestinian women, children, and men for the better. The Quartet has not ensured that all donors make good on their pledges, in large part because the absence of demonstrable progress and real change in key areas – particularly settlements, access and movement, and Palestinian reconciliation – has made greater financial assistance ineffective. By adopting a twin-track approach, the Quartet has committed itself to achieving success in both promoting removal of obstacles to Palestinian economic development and increasing investment in Palestinian growth. Failure on one track, particularly the first, seriously undermines prospects for the other.

Private Sector Progress: The Quartet Representative has had isolated successes in implementing a small number of the agreed projects aimed at boosting the private sector. Most notable are his efforts to enable the allocation of frequencies to the second Palestinian mobile telephone operator in the oPt. However, a holistic approach to private sector development is required. There has been almost no progress in alleviating obstacles to access and movement needed to stimulate private sector activity and invigorate the Palestinian economy. Without this, the Quartet Representative will continue to be frustrated in his efforts to improve the daily lives of Palestinians while de-development of the Palestinian economy will continue to increase.

1. ASSESSMENT OF THE QUARTET'S PERFORMANCE

a) SETTLEMENTS

Objective

“Refraining from any steps that undermine the confidence or could prejudice the outcome of negotiations. In particular, the Quartet reiterated its deep concern at continued settlement activity and called on Israel to freeze all settlement activity including natural growth and to dismantle outposts erected since March 2001.”

Verdict: Failed

Despite coordinated efforts by Quartet members to signal strong opposition to the continued expansion of illegal settlements in the West Bank, including in East Jerusalem, there has been a marked acceleration in construction and no serious efforts to dismantle outposts, let alone withdraw.

While the Quartet should be commended for channelling diplomatic energy into confronting the scale of the problem and the potential consequences of it not being addressed, there has been a marked failure to hold the Israeli authorities to account for failing to meet their obligations in this regard. As the Quartet recognises⁸, failure to attain progress in this area constitutes a real threat to the prospects of peace for Palestinians and Israelis.

Evidence

⁸ See Quartet Statement, 17 December 2007 at www.state.gov/r/pa/prs/ps/2007/dec/97671.htm.

Immediately following the Quartet's meeting in Berlin in June 2008, Israel announced new settlement building or tendering in Neve Yaacov, Beitar Illit, Har Homa, Pisgat Ze'ev, Ariel, and Maskiot. Two thousand five hundred and fifty homes were announced on the eve of US Secretary of State Rice's visit to the region in June.⁹ In direct contravention of the Quartet's recommendations, Israel declared that settlers living in Migron – referred to as an 'outpost' by Israeli authorities and therefore illegal under *Israeli* law – would not be withdrawn but will move elsewhere in the oPt.¹⁰ In reaction to each announcement, the EU Presidency, currently held by France, issued strong statements.¹¹ Several world leaders have reiterated their staunch opposition to settlement expansion over recent months. Some even did so publicly in the Israeli Knesset.¹²

International law and Israeli settlements*

The establishment and expansion of Israeli settlements, settlement outposts, and associated infrastructure in occupied Palestinian territory is expressly prohibited in international humanitarian law.^[1] International humanitarian and human rights law also requires that in all circumstances civilians are ensured respect of their persons, their honour, their family rights, religious convictions and practices, and their manners and custom.^[2] Israel is also obligated to ensure that civilians living in Gaza, the West Bank, and East Jerusalem are not discriminated against according to race, nationality, religion, or political opinion.^[3] This is violated through, for example, the application of Israeli law to its illegal settler population. International law also places specific obligations on third states in relation to illegal acts carried out by other states, such as settlement activity, in addition to their duty to ensure respect of the Fourth Geneva Convention. These obligations, most recently detailed in the 2004 International Court of Justice advisory opinion on Israel's construction of a wall in occupied Palestinian territory^[4], include not recognising the illegal situation created by settlements, ensuring that they are not aiding or assisting the maintenance of these settlements and related infrastructure, and to ensure that any impediment to the exercise of Palestinians right to self-determination resulting from this illegal situation is ended. In the case of Israeli settlements and their related infrastructure, this would include, for example, not recognising, cooperating, or assisting in the exploitation of the resources of the occupied territory, or activities to effect any changes in the demographic composition or geographic character or institutional structure of the territory.^[5]

* For footnotes in this section see the end of the document.

As the French Presidency highlighted, Israel's refusal to stop settlement building 'signal[s] a worrying indifference to repeated calls from the international community.'¹³ Since its inception, the Quartet has issued at least 18 statements expressing its collective opposition to settlements, and has warned repeatedly of the dangers posed to the peace process by continued expansion¹⁴. However, the Quartet has not addressed the severe impact of illegal settlement activity in the West Bank, including East Jerusalem, on the daily lives of Palestinians and Israelis.

⁹ Reuters, 'Israeli settlement building hurting talks – Rice', 15 June 2008 at www.reuters.com/article/homepageCrisis/idUSL15471463.CH_2400; also see the Peace Now Report 'Eliminating the Green Line', August 2008 at <http://www.peacenow.org.il/site/en/peace.asp?pi=61&dodid=3380>.

¹⁰ See Reuters, 'Government to move illegal outpost Migron to existing settlement', Haaretz, 12 August 2008, www.haaretz.com/hasen/spages/1010861.html.

¹¹ See statements from 15, 17, 25 July 2008 and 8 August 2008 at www.delisr.ec.europa.eu/english/whatsnew.asp.

¹² See President Nicolas Sarkozy's speech to the Knesset on 23 June 08 at www.ambafrance-il.org/spip.php?article5737; and Prime Minister Gordon Brown's speech to the Knesset on 21 July 2008 at www.labour.org.uk/gordon_brown_speech_to_the_knesset.

¹³ Government of France, 'Presidency Statement on Construction of New Housing Units in Maskiot', 25 July 2008 at www.delisr.ec.europa.eu/english/whatsnew.asp?id=1023.

¹⁴ Read all Quartet statements at <http://www.state.gov/p/nea/rt/c9963.htm>.

[GRAPHIC 1: SETTLEMENTS]

Consequences

The continued expansion of illegal settlements in the West Bank including East Jerusalem authorised by the Israeli government on occupied Palestinian territory breaks both Israel's roadmap obligations and international law and defies UN Security Council Resolution 242. Palestinian and international confidence in the Government of Israel's commitment to peace or the peace process is significantly undermined by this approach. Peace negotiations have reportedly been close to collapse because of it. At this critical juncture, it is important that the Quartet ensures that the creation of settlements and related roads, fences, barriers and other obstacles – the so-called facts on the ground – do not prejudice the Quartet's aim of creating a viable Palestinian state.

Illegal settlements, the Wall, and associated policies, alongside these direct threats to peace, have left thousands of Palestinians unable to access nearly 40 per cent of the West Bank. Road blocks, barriers, fences, ditches, restricted roads, and the Wall itself stop Palestinian farmers getting to their fields and wells, children getting to school, and people getting to clinics and hospitals, shops and markets, jobs and recreation. Social and family interaction is curtailed, and the fabric of life unravels. This prevents self-reliance, and renders communities dependent on welfare and aid because of the loss of land and freedom of movement.¹⁵ Agricultural losses from the confiscation of land and water resources, uprooting of trees, and the destruction of buildings and infrastructure were estimated at over \$1 billion in the five years to 2005.¹⁶ Over 10,122 hectares of farming land has been taken by Israeli settlers in the Jordan Valley outside of already established settlement boundaries.¹⁷ According to the Negotiation Support Unit (PLO), the domestic water consumption of Palestinians in the oPt is 70 litres/per capita/per day, versus 320 litres for Israelis, which makes it 4 times higher than Palestinians.¹⁸ The 320 agricultural wells in the West Bank, that provided 45 million cubic meters (MCM) of water in 1967, now provide only 24 MCM.¹⁹

Case Study 1: The human impact of settlement expansion

The Palestinian village of Jayyus is encircled by the Israeli Wall, effectively cutting farmers off from two-thirds of their land. On the other side of the Wall is Zufin settlement. The Wall has effectively annexed ten times the area of land that the current built-up area of Zufin covers, providing plenty of room for expansion which has resulted in Jayyus farmers losing six out of seven wells and having 6000 of their olive trees uprooted. This has destroyed the livelihoods of hundreds of Palestinian farmers in this one village alone. In July 2008, Jayyus resident Shareef Omar, whose home and land had been separated by the wall in 2006, told *The Guardian* "If we lose this land ... How can we survive? How can we go on? And they talk about peace?"

Some Israeli settlers have used violence, threats and destruction of property, crops, water sources and infrastructure as a means of intimidating Palestinians they live close to. Speaking at the Knesset's Internal Affairs Committee on violent behaviour from settlers, Israeli Deputy

¹⁵ UN OCHA, 'The humanitarian impact of settlements and other infrastructure in the West Bank', July 2007 at www.ochaopt.org (see featured items on home page).

¹⁶ Figures collected by Oxfam from The Palestinian Ministry of Agriculture, 2005 in Oxfam 'Farmers under Occupation: Palestinian Agriculture at the Crossroads', Unpublished Research Report, June 2006.

¹⁷ UN OCHA, 'The humanitarian impact of settlements and other infrastructure in the West Bank', Annex 2 Israeli presence in the West Bank geo-database, July 2007 at www.ochaopt.org (see featured items on home page).

¹⁸ Data extracted from the Negotiation Support Unit's Presentation 'Water for a Viable Palestinian State', May 2008.

¹⁹ Figures collected by Oxfam from The Palestinian Ministry of Agriculture, 2005 in Oxfam 'Farmers under Occupation: Palestinian Agriculture at the Crossroads', Unpublished Research Report, June 2006.

Defence Minister Matan Vilnai reported “a dramatic increase in riots in the territories against the Palestinians and IDF soldiers.”²⁰

In his August briefing to the UN Security Council, UN Under Secretary General, Lynn B Pascoe, reported 34 incidents of settler attack, resulting in 35 injuries, including 9 children. Settlers have attacked Palestinian schools eight times between January and July 2008.²¹ In areas close to settlements, school attendance and educational performance are dropping. In the centre of Hebron, where violence from settlers has been particularly acute, school attendance has dropped by 35 per cent.²² These attacks take place in a context of almost total impunity. An Israeli civil society organisation, Yesh Din, has documented a glaring failure of the Samaria and Judea District Police to investigate crimes by Israeli civilians against Palestinians and Palestinian property, with 90 per cent of cases being closed without filing an indictment.²³

Recommendations

The difficulties encountered by the Quartet highlight the urgent need to adopt concrete measures to follow up on any failure of Israeli authorities to meet their obligations under the roadmap and international law. In addition to the dire economic, social, and political costs of settlements to the Palestinians, fundamental principles of international law have been clearly violated by Israel’s settlement enterprise. As signatories to the Geneva Conventions, EU member states, USA, and Russia have a responsibility to ensure that the conventions are respected and that grave violations of international humanitarian law are brought to an end.²⁴

The Quartet and each Quartet member, including the USA, should state publicly that settlements – including in East Jerusalem - are illegal, and make efforts to frame statements referring to settlement activity by reference to international law. The Quartet should adopt a system of public reporting on Israeli and Palestinian efforts to meet their respective obligations under the roadmap and international law so that, in the absence of progress, further measures can be taken to ensure compliance.

The Quartet should make clear that its requirement that Israel freeze all settlement expansion and dismantle outposts applies to East Jerusalem, and should include cessation of construction, appropriation and confiscation of land, and the provision of incentives to settlers, including in East Jerusalem. Increasing acts of violence by settlers against Palestinian civilians should be addressed explicitly by Israeli authorities, and the Quartet should hold them accountable. Quartet members should support efforts to pass a resolution at the UN Security Council to address the impact of settlement expansion on Palestinian communities and the broader peace process.

b) ACCESS AND MOVEMENT (WEST BANK)

Objective

“While some positive steps had been taken to ease movement restrictions in the occupied Palestinian territory, greater efforts are now required to project a new reality, including through further urgent steps to improve access and movement”

Verdict: Failed

The Quartet has failed in its objective of securing the removal of significant restrictions on access and movement, despite limited changes, and to secure a tangible improvement in the

²⁰ See www.ynetnews.com/articles/0.7340.L-3596931.00.html.

²¹ B. Lynn Pascoe, Under Secretary-General for Political Affairs monthly briefing to UN Security Council, accessed at <http://domino.un.org/unispal.nsf/eed216406b50bf6485256ce10072f637/45fc09f442a5b060852574ab006da081!OpenDocument>.

²² UNICEF Children and Education Fact Sheet, 2008, quoting 1612 Working Group.

²³ Yesh Din, Law Enforcement upon Israeli Civilians in the OPT, data sheet, July 2008. Video footage illustrating such attacks can be seen at www.btselem.org/english/Video/.

²⁴ Common Article 1 of The Fourth Geneva Convention. This was most recently stated in the advisory opinion of the ICJ.

daily lives of Palestinians. No ‘new reality’ has been projected within the West Bank, and the failure of the Quartet to achieve progress in this area may constitute a fatal threat to the broader peace process.

Evidence

From November 2007, when the Annapolis process began, until July 2008, Israeli authorities added an additional 48 obstacles in the West Bank, taking the total number from 561 to 609.²⁵ Over the three-year period since the Agreement on Movement and Access (AMA) was negotiated – an agreement designed to promote peaceful economic development and improve the humanitarian situation on the ground by facilitating access and movement – physical obstacles in the West Bank have increased by 62 per cent (an additional 233 obstacles).²⁶ The minimal progress made on implementation of the AMA – a requirement repeatedly stressed by the Quartet – suggests that current approaches to improving access and movement are not working, largely because the Quartet has failed to address the comprehensive closure policy implemented by Israeli authorities.²⁷

On 13 May 2008, Tony Blair identified in his package of measures to boost the Palestinian economy the removal of four Israeli checkpoints, ‘improvements’ to six others, and the relocation of another.²⁸ As of August 2008, one checkpoint was removed²⁹ and another partially opened,³⁰ leading to a significant improvement in access *in those particular areas*.³¹ In April 2008, Israeli authorities announced the removal of 61 of over 600 obstacles to Palestinian access and movement in the West Bank, not including those related to the Wall or checkpoints located near the ‘Green Line’. Of the 61 announced, 44 have been removed as of May 2008, but as noted by the UN this has failed to have a significant and widespread impact on the lives of Palestinians.³² While these are welcome improvements, changes have largely focused on opening checkpoints – rather than their agreed removal – while the remaining obstacles have either been entrenched and expanded or closed for increased amounts of time.³³ More recently, Israeli authorities have increased opening hours at a number of checkpoints during the month of Ramadan; however, long delays were still reported in many

²⁵ Data collated from the last year of reports produced by OCHA: Implementation of the Agreement on Movement and Access and Update on Gaza Crossings, available on the OCHA website at

www.ochaopt.org/?module=displaysection§ion_id=143&static=0&format=html.

²⁶ Updated figures from Report No. 69, Implementation of the Agreement on Movement and Access and Update on Gaza Crossing (25 June – 08 July 2008), OCHA, 22 August 2008, available at

www.ochaopt.org/?module=displaysection§ion_id=119&static=0&format=html.

²⁷ For further information on monitoring of the AMA and the impact of the closure policy, see reports : Implementation of the Agreement on Movement and Access and Update on Gaza Crossings, available at

www.ochaopt.org/?module=displaysection§ion_id=143&static=0&format=html, as well as the monthly movement and access monitoring reports for the West Bank and Gaza, available on the World Bank website at <http://web.worldbank.org/WBSITE/EXTERNAL/COUNTRIES/MENAEXT/WESTBANKGAZAEXTN/0..contentMDK:21052069~pagePK:141137~piPK:141127~theSitePK:294365.00.html>.

²⁸ ‘Towards a Palestinian State’, launched by Quartet Representative Tony Blair on 13 May 2008, full text available at <http://tonyblairoffice.org/2008/05/towards-a-palestinian-state.html>.

²⁹ Humanitarian Monitor-August 2008, available at

www.ochaopt.org/documents/ocha_opt_humanitarian_monitor_08_2008_english.pdf. Also see the reference from the Israeli Ministry of Foreign Affairs website: ‘Bir Nebala crossing opened for free passage’, Israeli Ministry of Foreign Affairs website, 21 Aug 2008, accessed at:

www.mfa.gov.il/MFA/Government/Communiques/2008/Bir+Nebala+crossing+opened+for+free+passage+21-Aug-2008.htm.

³⁰ ‘Shave Shomron’ was partially opened to Palestinian traffic in the northern West Bank, OCHA-oPt data, Personal communication 1 September 2008. Also see OCHA’s Humanitarian Monitor-August 2008, available at:

www.ochaopt.org/documents/ocha_opt_humanitarian_monitor_08_2008_english.pdf.

³¹ B. Lynn Pascoe, Under Secretary-General for Political Affairs monthly briefing to UN Security Council, accessed at www.reliefweb.int/rw/rwb.nsf/db900sid/EGUA-7HPRLX?OpenDocument&rc=3&cc=pse.

³² See OCHA Closure Update, May 2008, p.2, accessed at www.ochaopt.org/documents/UpdateMay2008.pdf.

³³ OCHA-oPt data on West Bank obstacles, August 2008.

of these areas.³⁴ Israeli authorities also reported the opening of Ras Aljoura / Halhul Bridge checkpoint to trucks in early September.³⁵

Consequences

As a result of the Quartet's failure to engender any significant progress in easing the Israeli policy of closure in the West Bank and East Jerusalem, Palestinian people have continued to suffer loss of their human rights. The aggregate impact of the Israeli policy of closure has had a profound effect on the lives of Palestinians in the West Bank. It has devastated the ability of Palestinians to make a living and access basic services, and has weakened and fragmented the Palestinian economy, creating further de-development.³⁶ The closure policy encompasses about 600 physical obstacles; a restrictive and haphazardly implemented permit regime regulating Palestinians' movement in the oPt; 1661km of restricted bypass roads,³⁷ connecting illegal Israeli settlements and usurping Palestinian land; construction of over half of the Wall, which will isolate 9.8 per cent of the West Bank and will cut off approximately 436,000 Palestinians from one another, from their land and water, and from the provision of basic services.³⁸ The closure policy has also resulted in the annexation of land and water supplies, and the forced displacement of Palestinians, primarily those living along the route of the Wall, in East Jerusalem, the Jordan Valley, and southern Hebron.

Given the collective impact of these policies, addressing individual checkpoints will make very little overall difference to the daily lives of ordinary Palestinians. The inability of Palestinians to move freely, to access their land, or find economic opportunities has significantly contributed to the fact that over half the population (57.2 per cent) is living in poverty (79.4 % in Gaza, 45.7% WB),³⁹ with one of the highest unemployment rates in the world, at nearly 29 per cent.⁴⁰ Israeli authorities have repeatedly stated that checkpoints and the Wall are necessary to ensure the security of its citizens, a legitimate and indisputable obligation. However, this does not necessitate the illegal construction of the Wall on occupied Palestinian territory. The relationship between restrictions imposed on Palestinians and the expansion and protection of illegal Israeli settlement activity, as well as the construction of the Wall on occupied Palestinian land, has been well documented.⁴¹ The Quartet should be clear that protection of illegal settlements and the movement of settlers in the West Bank do not provide legitimate grounds on which to impose severe restrictions to Palestinian access and movement.

³⁴ These include Huwwara, Beit Iba, 'Asira ash Shamaliya, 'Awarta checkpoints (Nablus), Jalama checkpoint (Jenin), and the 'Azzun 'Atma and Ras 'Atiya Barrier checkpoints (Qalqiliya). See OCHA, Protection of Civilians Weekly Report No. 275, 27 August – 2 September 2008, p. 2, accessed at

www.ochaopt.org/documents/ocha_opt_protection_of_civilians_weekly_2008_09_02_english.pdf.

³⁵ Personal communication with UN OCHA, 17 September 2008, , also see the Israeli Ministry of Foreign Affairs Newsletter at http://www.mfa.gov.il/MFA/Government/Communiques/2008/Halhul_Bridge_Crossing_open_for_passage_11-Sep-2008.htm.

³⁶ See for example Implementing the Palestinian Reform and Development Agenda: Economic Monitoring Report to the Ad Hoc Liaison Committee', World Bank, 2 May 2008, 'Movement and Access Restrictions in the West Bank: Uncertainty and Inefficiency in the Palestinian Economy', May 2007, World Bank.

³⁷ 'The Humanitarian Impact on Palestinians of Israeli Settlements and other Infrastructure in the West Bank', July 2007, p. 58; available at www.ochaopt.org/documents/TheHumanitarianImpactOfIsraeliInfrastructureTheWestBank_full.pdf.

³⁸ 'The Humanitarian Impact of the Barrier: Four Years After the Advisory Opinion of the International Court of Justice on the Barrier', July 2008, Update No. 8, available at www.ochaopt.org/documents/Barrier_Report_July_2008.pdf, page 6; 57 per cent of the Wall has now been completed, with nine per cent currently under construction, despite the ICJ advisory opinion finding that construction of the Wall in the oPt was in violation of international law: ICJ, Legal Consequences of the Construction of a Wall in the occupied Palestinian territory, Advisory Opinion of 9 July 2004.

³⁹ These poverty rates were published by the Palestinian Central Bureau of Statistics; the figures do not factor in food aid, see www.pcbs.pna.org/Portals/_pcbs/PressRelease/worldpopday_e.pdf.

⁴⁰ Ibid.

⁴¹ Including UN agencies and the World Bank; see for example OCHA's Wall update No. 8, 2008, The Humanitarian Impact on Palestinians of Israeli settlements and other Infrastructure within the West Bank, July 2007, Office for the Coordination of Humanitarian Affairs (OCHA), Implementing the Palestinian Reform and Development Agenda: Economic Monitoring Report to the Ad Hoc Liaison Committee, World Bank, 2 May 2008, Movement and Access Restrictions in the West Bank: Uncertainty and Inefficiency in the Palestinian Economy, May 2007, World Bank.

CASE STUDY: Tamam and Um Al'a are two Palestinian women that CARE International has supported through past programmes to support women's employment and income generation. Tamam is 33 years old and disabled. She lives in a small village between Jenin and Nablus. Um Al'a is a widow who lives in an enclave sandwiched between the Wall and the Green Line – a no-man's-land where Palestinians are unable to live, trade, or travel without a permit. Both women have challenged social mores and traditions by working outside the home. Tamam is a hardworking and committed social worker. From 2003 to 2005 she was also a pioneering entrepreneur, until movement and access restrictions in the West Bank forced her and a group of 39 other rural women to close down their cooperative selling goods they made. Since then, she and other women like her have tried to earn a meagre income through donor-supported women's centres, but they've run into the same problem: movement and access restrictions as well as patchy funding commitments. Um Al'a runs a kiosk selling snacks and small goods in the Barta'a enclave. She is forced to operate in the informal economy as there is no legal way for a small trader in a seam zone to trade and make a profit.

Recommendations

In order to ensure tangible improvements to Palestinians' daily lives, the Quartet should focus its efforts on a reversal of the Israeli administration's closure and settlement policy. Proposals that focus on removing individual obstacles to enhance short-term economic recovery do not address the underlying policy that violates Palestinians' human rights or ensure that Israeli authorities comply with their obligations under international humanitarian law.⁴² Concrete measures should be taken by the Quartet to address the overall closure policy, including the removal of all physical barriers, beginning with the removal of all internal checkpoints, in tandem with the permit regime restricting Palestinian access, and addressing the link between the Israeli authorities' closure policy and the existence of illegal settlements and the Wall. Quartet members should exercise strong diplomatic pressure, at the highest levels, and use effective legal measures to confront companies involved in settlements. Reinstating the AMA, and developing the sections relating to the West Bank and East Jerusalem, could be a first step towards dealing with the aggregate impact of the various obstacles to access and movement and, working with the Israeli and Palestinian authorities to ensure that security concerns are addressed, reversing the policy of closure.

c) GAZA

Since publication of the joint agency report, 'Gaza: A Humanitarian Implosion', in March 2008, and despite the cessation of violence brokered between Israel and Hamas on 19 June 2008, the humanitarian situation in Gaza remains dire.⁴³ In May, the Quartet called for a 'new approach' to Gaza. Five priority areas for action were detailed in the Quartet's June statement and are considered below.

Does Israel still occupy Gaza?*

Despite its unilateral disengagement from the territory in 2005, Israel continues to maintain effective control over Gaza and, as such, continues to hold an obligation as the occupying power to ensure the welfare of civilians.^[6] A territory is no longer considered occupied when the occupying power ceases to exercise effective military control over it and its government and administrative functions. In addition to the re-entry of its military forces in the summer of 2006, Israel has continued to maintain effective control of the Gaza Strip, including control of exit and entry of the territory, airspace, and sea-space, and maintains administrative control through, for example, the population registry and the collection of taxes, and the provision of water, fuel, and electricity. As the occupying power, Israel has a duty under the Fourth Geneva Convention to ensure to the fullest extent available food, medical stores, and other articles; public health and hygiene; and to agree and facilitate relief schemes if the population of the occupied territory is inadequately supplied.^[7] However, the provision of humanitarian assistance from relief agencies does not relieve the occupying power from its responsibility to supply the basic necessities of life.^[8] The UN and EU have repeatedly stated that the blockade of Gaza, including the restrictions in supply of electricity and fuel, constitutes collective punishment of a civilian population, which is prohibited in international humanitarian law under Article 33 of the Fourth Geneva Convention.^[9] Footnotes at end of document.

Objective 1: That the calm or truce be respected in full, that it endures, and that it leads to improved security for Palestinians and Israelis alike and a return to normal civilian life in Gaza.

Verdict – Partial Success

Despite violations on both sides, the cessation of violence endures and there are marked improvements in security for Israelis and Gazans alike. However, normal civilian life in Gaza has not resumed and ordinary people are experiencing few benefits from the cessation of violence.

Evidence

Since the cessation of violence, deaths and injuries as a result of the conflict have plummeted to zero on the Israeli side and to single figures in Gaza.⁴⁴ From 2005 to 19 June 2008, the date on which the agreement on cessation of violence began, some 6000 rockets were fired from Gaza, killing 11 Israeli civilians. During the same period 1333 Palestinians died in Gaza as a result of direct Israeli-Palestinian conflict.⁴⁵ It is estimated that almost half of these were civilians and 233 were children.⁴⁶ However, despite this improvement in security, normal civilian life has not returned to Gaza and ordinary people remain unable to work, move freely, or live with dignity.

Consequences

If the agreement on cessation of violence breaks down, a return to fighting would result in a steep rise in civilian deaths and injuries on both sides.⁴⁷ Given its high population density, collapsing public health system, and impeded humanitarian access, the humanitarian consequences in Gaza could be disastrous. The failure of the cessation of violence could destroy efforts to find a negotiated solution to the conflict, hopes of restoring normal civilian life for the people of Gaza, and the prospects of peace for ordinary people on both sides.

Objective 2: Increased humanitarian and commercial flows through the Gaza crossings under the management of the Palestinian Authority, consistent with the November 2005 Agreement on Movement and Access.

Verdict - failure

While Israel has stated it has security concerns about certain items that could be used for weapons construction, the limitation of humanitarian goods and commercial items is part of the ongoing Israeli government policy of blockading Gaza. Neither the quantity nor the flow of humanitarian and commercial goods, both into and out of Gaza, as prescribed by the AMA, has been achieved. Although there has been a slight increase in imports into Gaza since the cessation of violence was agreed, goods entering remain limited in quantity and diversity, and are failing to meet the basic needs of Gaza's population. There has been no relaxation of the total ban on exports, without which there can be no regeneration of the Gazan economy, the critical factor needed to reverse the current trend of deepening poverty.

Evidence

Humanitarian goods entering Gaza have increased since the cessation of violence started in mid June to twice the pre-truce levels experienced this year. However they are still less than

⁴⁴ United Nations OCHA-oPt Protection of Civilians 2005 – 2008 Tables 1 and 3.

⁴⁵ Ibid.

⁴⁶ Ibid. Tables 1 and 10.

⁴⁷ According to al-Mezan, the number of Palestinians killed by Israeli forces in Gaza between 1 January 2005 and 19 June 2008 is 1498 of which records show that 1262 were civilians. Al Mezan Centre for Human Rights Gaza, June 2008.

half the amounts of goods entering Gaza in 2007 before the blockade was imposed, and remain insufficient in quantity or variety to meet basic humanitarian needs.

[GRAPHIC 2 – HUMANITARIAN GOODS INTO GAZA JUNE –AUGUST 08]

Consequences

Gazan civilians have felt little benefit from the slight increase in imports, which has had no bearing on soaring unemployment rates (28.9 per cent) and the ability of Gazans to provide for themselves and their families.⁴⁸ The result is that over 80 per cent of Gaza's 1.5 million population is partially or totally dependent on aid to survive.⁴⁹ In large part, this situation is maintained as a result of 95 per cent of Gaza's local industry being forced to close due to the lack of raw materials and export opportunities.⁵⁰ The people we serve in Gaza - people from all walks of life - bear testament to the lack of benefits provided by the cessation of violence. Politically, the blockade also appears to have increased the divide between the Ramallah caretaker government and the Hamas authorities, jeopardising the whole of Palestinian civil society. As a hotel manager in Gaza told us, 'it is not all about shopping and a few more goods on display. It's about giving us some fundamental rights.'

The Quartet is right that humanitarian and commercial flows must increase, but they should also encompass more than commodities. Only 651 patients received permits to leave Gaza for medical treatment in July.⁵¹ Indeed, according to the WHO, only 8798 out of 12,715 (69.2 per cent), of patients who applied for permits during the period July 2007–July 2008 were granted permits, representing a decline of 22 per cent when compared to the same period last year. Most disturbingly, the WHO reports that at least 51 people have died from October 2007–July 2008 as a result of not being able to access medical care outside Gaza, including 11 children.⁵² Students continue to suffer: more than 100 students who have secured places to study abroad, and others who wish to study in the West Bank, remain stranded in Gaza, and fewer than 70 have been able to leave so far.⁵³ The mother of Azahar, a 24 year old student with a place to study architectural conservation in Germany, told us, 'it is hard to watch your child's dreams shatter before your eyes.' The provision of education has also been compromised by the internal Palestinian divide: as of early September, 50 per cent of PA school teachers were on strike for the second consecutive week, and Hamas authorities are recruiting new ones to replace them⁵⁴.

Objective 3: Steady and sufficient supplies of fuel for Gaza.

Verdict: Partial success

The EU has played an important role in securing increased supplies of fuel to the power plant in Gaza. However, these supplies are not yet steady or sufficient.

Evidence

In August, 25 per cent of the required amount of petrol was imported, as was 55 per cent of cooking gas and 75 per cent of diesel, together with 78 per cent of the required amount of industrial diesel for the Gaza power plant, all fuel supplies continue to be limited by the

⁴⁸ UNCTAD, Report on UNCTAD Assistance to the Palestinian People, 15 July 2008 (published September 2008) at www.reliefweb.int/rw/rwb.nsf/db900sid/KLMT-7JB9TT?OpenDocument&rc=3&cc=pse.

⁴⁹ OCHA-oPt Special Focus. 'The Closure of the Gaza Strip: The Economic and Humanitarian Consequences' December 2007 states that 80% of families in Gaza rely on humanitarian aid compared to 63% in 2004.

⁵⁰ OCHA-oPt. Humanitarian Monitor-July 2008.

⁵¹ OCHA-oPt. Humanitarian Monitor-July 2008.

⁵² WHO, Access of Patients to Specialized Medical Services, Summary situation, July 2007- July 2008.

⁵³ UN OCHA-oPt. Protection of Civilians Weekly Report No 275, 27 August – 2 September 2008.

⁵⁴ Ibid.

Israeli government.⁵⁵ Gaza's power plant has increased its output from 55MW to 65MW and, while EU efforts to achieve this are welcome, it is still running below its current capacity of 80MW.

Consequences

The lack of fuel exposes people to unnecessary risk: 600 tonnes of rubbish is lying in the streets because, without fuel, trucks cannot collect it.⁵⁶ Each day, 77,000 cubic meters of raw and partially treated sewage is dumped in the sea because it cannot be processed. Fuel for cars is rationed. Farmers are still unable to run 70 per cent of their agricultural wells and irrigate their crops, so there are fewer fruit and vegetables on the market and prices are beyond the reach of many families.⁵⁷ Insufficient fuel means power cuts continue: hospitals, water pumps, sewage treatment plants, and other facilities have to rely on back-up diesel generators, but diesel is also in short supply.⁵⁸ Bakeries still do not have enough fuel, and low- to middle-income families struggle to cook and to run their fridges.

Objective 4: Immediate resumption of stalled UN and other donor projects in Gaza.

Verdict - failure

Despite recent efforts, the Quartet has been unable to prompt the immediate resumption of stalled UN and other donor projects.

Evidence

At present, \$157 million worth of infrastructure projects for Gaza are stalled.⁵⁹ The UN has further prioritized six of its own projects for immediate resumption and they are hopeful of a positive outcome.

UN Projects

1. UNRWA/UAE Housing Programme, providing shelter for refugees living in sub-standard housing. If materials are made available the project could be completed in 1 month.
2. UNWRA/Italy Conveyance Pressure Main, final phase of a project to prevent sewage flowing into a storm water basin in Khan Younis which will protect 200,000 people and would take 1 month to complete.
3. UNWRA/European Commission Sewage and Drainage System in Deir el-Balah will prevent sewage flooding the streets and will protect work already completed. The project will protect 17,000 people and could be completed in 1 month.
4. UNDP/Saudi Arabia Committee Project to construct a secondary school for girls in Tal al Sultan. This project is 40% complete and could be finished in 2 months.
5. UNDP/Japan. Construction of water networks in Tal al Sultan Phase 1 which would supply all residents and could be completed in 2 months
6. UNDP/Saudi Arabia. House construction for non refugees who have lost their homes in Rafah. The project is 67% complete and 37 out of 300 residential units need to be completed.⁶⁰

Consequences

The stalled infrastructure projects are for both emergency relief (for example, shelters, water and sewage construction, and rehabilitation) and longer-term development measures to

⁵⁵ UN OCHA-oPt. Humanitarian Monitor-July 2008.

⁵⁶ Ibid.

⁵⁷ Private communication with the Coastal Municipality Water Utilities, July 2008.

⁵⁸ Coastal Municipality Water Utilities, July 2008.

⁵⁹ Personal communication with UNSCO, Jerusalem 16 September 2008.

⁶⁰ Personal Communication with UNSCO, Jerusalem 16 September 2008.

regenerate business, create jobs, and kick-start the economy. The current levels of humanitarian assistance alone can never resolve the situation in Gaza. Longer-term development initiatives are necessary to trigger steps towards rebuilding ordinary lives and underpin prospects for a longer-term solution. These projects cannot be successfully delivered unless the blockade is brought to an end.

Objective 5: Quartet Representative to develop and promote implementation of measures, in coordination with Israel and the Palestinian Authority, to improve conditions in Gaza as a matter of urgency.

Verdict - failure

Progress in Gaza falls far short of the Quartet's own stated objectives. Despite its recognition of the urgency of the situation, the Quartet has failed to kick-start the level of activity necessary to bring about meaningful changes on the ground.

Evidence

The Quartet Representative, under the umbrella of the 'friends of Karni', defined a precise list of priority measures for the Israeli authorities to implement in order to ease the conditions of ordinary people in Gaza.⁶¹ As indicated above, scant progress has been made in the majority of these areas. There are some notable but modest exceptions. On 7 August, Israeli Defence Minister Ehud Barak agreed to allow an injection of NIS 72 million (approximately \$20.4 million) in new currency into Gaza. The Palestine Monetary Authority welcomed this action as it allowed the urgent payment of salaries and benefited approximately 400,000 civil servants and their families. There have also been signs that the first phase of the North Gaza sewage project may be completed (this is contingent on Israel permitting 70 trucks of iron pipes through before the rains start). Travel permits were provided to 198 out of 10,000 businessmen – that is 2 per cent of Gaza's business or traders – but this has not accrued significant benefits for Gaza's economy or the population at large.⁶² A member of the Gazan Chamber of Commerce told us: *'We have told many consular people from Europe and the USA who have visited about the enormous difficulties traders face. Many now have huge debts through no fault of their own.'*

Consequences

The humanitarian consequences of the embargo are that the humanitarian situation for 1.5 million people is worse than it has ever been since the beginning of the Israeli occupation in 1967, as detailed comprehensively in 'Gaza: A Humanitarian Implosion'.⁶³ Despite the Quartet's stated commitment to ensure an improvement in daily life in Gaza, little progress has emerged. The ability of Gazans to find work, to earn an adequate living to feed their families, to provide their children with an education, and to live a life of basic human dignity continues to be dramatically impaired. The Quartet's failure in this regard undermines and weakens the influence of each member, and may have serious implications for the ability of the UN, EU, USA, Russia and others to ensure that international humanitarian law and human rights law is respected elsewhere.

Recommendations

There is an urgent need to secure an improvement in conditions in Gaza and signal that the Quartet's desire to see a return to normal civilian life is genuine, both in statement and intent. Improvements on the ground are also needed to support the pivotal efforts of regional players

⁶¹ The Friends of Karni includes: the governments of USA, Norway, and Netherlands, DfID, EC, UNOPs, the World Bank, USSC, and others.

⁶² Personal communication with the General Director, Gaza Chamber of Commerce, 3 September 2008.

⁶³ 'Gaza: A humanitarian implosion', joint agency report by Amnesty International, CAFOD, CARE International, Christian Aid, Oxfam, Medecins du Monde, Save the Children UK, and Trocaire, March 2008.

to sustain the cessation of violence and end the isolation of Gaza. The Quartet should reiterate that Gaza must be part of any future Palestinian state.

If the cessation of violence ends, the consequences for civilians – both in terms of violent attacks against civilians and the humanitarian situation – will be dire. To this end, all Quartet members should demonstrate robust, public support for the cessation of violence and take further steps to deepen it.

Recognising the need for a negotiated settlement in Gaza, Quartet members, particularly the EU and USA, should provide greater political support and practical assistance to regional efforts to encourage reconciliation between Palestinian parties. Increasing collaboration with regional players should include greater consideration of the Arab Peace Initiative as a basis for broader discussions. At the direction of regional partners, the Quartet may wish to identify a representative of regional governments with whom to coordinate joint efforts.

Quartet members should channel greater efforts into bringing a swift end to the blockade of Gaza and reinstating the AMA. As initial and temporary steps towards reinstating the AMA, the Quartet should establish a clear timeline and associated benchmarks to support relevant parties' efforts. This should include widening the definition of humanitarian needs and ensuring flows of people and goods are consistent with the principles of the AMA, including allowing exports out of Gaza and reactivating all stalled humanitarian and development projects (rather than solely focusing on the UN's six priority projects). Quartet members should increase diplomatic pressure and political support for an agreement to open the Rafah and Karni crossings and signal their willingness to back an agreement.

d) COMPREHENSIVE PALESTINIAN SECURITY STRATEGY

Objective

“Continued Palestinian efforts to fight terrorism and to implement a more comprehensive security strategy are necessary... Speedy implementation of projects agreed and robust donor support in order to build the capacity of the Palestinian Police and Justice Sector. The Quartet urged Israeli-Palestinian cooperation in that respect, and emphasized the importance of unobstructed delivery of security assistance to the Palestinian Authority.”

Verdict – partial success

The introduction of an EU-trained Palestinian police force across the West Bank is reported to be beginning to deliver tangible and much-needed improvements in the stability of life across the West Bank.⁶⁴ Nonetheless, Palestinian civilians say that concerns about their personal security remain. The Quartet's focus on the rule of law for Palestinians, while welcome, has not addressed Palestinians' own security concerns and has paid inadequate attention to incorporating human rights components into security reform.

Evidence

As humanitarian agencies, we are looking from a human security perspective and basing our analysis on the perceptions of civil society organisations regarding the general security situation on the ground. We leave analysis of the inner workings of the Palestinian security apparatus to those with the detailed technical expertise to do so. But the goal of protecting civilians is as important to us as it is to the Quartet. While some Palestinians report a significant drop in the number of criminal incidents taking place in Jenin and Nablus and a marked improvement in law and order overall, there are other reports about fear of heavy-handed policing. Serious worries have arisen over documented human rights abuses. Human Rights Watch reports that “the latest spike in internal Palestinian conflict comes after a year

⁶⁴ Media have positively reported on this issue, see ‘Palestinian police make a difference in Hebron’, www.reuters.com/article/worldNews/idUSLA6406820080911.

of politically motivated arrests, torture and ill-treatment by various Palestinian security services or military agencies on both sides. Security forces from both sides have targeted activists and organisations of the other party. Their abusive behaviour has victimised Palestinians from all walks of life and weakened the rule of law.”⁶⁵

The number of Israeli casualties from Palestinian violence emanating from the West Bank has also declined since the Annapolis agreement. So far this year, there have been three deaths. At the same time, 43 Palestinian civilians in the West Bank have died as a result of Israeli army and settler violence since Annapolis.⁶⁶

Although we are focusing on the Palestinian security apparatus, it is important to note the broader dimensions to security issues. Tragically, violence against Israeli civilians continues and, this year, East Jerusalem residents perpetrated three violent attacks on Israeli civilians in Jerusalem, killing twelve Israeli civilians in the eight months to August, these added to three other civilian deaths from violent attacks within Israel this year.⁶⁷ This underscores the need to reach a comprehensive peace settlement as soon as possible.

It is not possible to attribute causes to the decrease in violence against Israelis. However, we note that the Israeli authorities have credited an improvement in the Palestinian security forces.⁶⁸ We also note that the Quartet – in partnership with General Dayton and the EU Police Coordinating Office for Palestinian Police Support (EUPOL COPPS) – has played a central role in securing support needed – in terms of finance, training, and equipment – for the PA to undertake much-needed reform. The US Security Coordinator sponsored a \$25 million programme, and the EU office has trained over 600 public order police.⁶⁹ A persistent problem has been delays in the supply of equipment. Furthermore, Israel has refused permits for important items – such as bullet-proof vests and surveillance equipment – that it considers to be of security concern.

Consequences

The improvement in Palestinian law and order in the West Bank is one of the few areas in which the Quartet’s efforts have led to some progress. At the same time, human rights groups report that, over the past 12 months, Fatah-run security forces have arrested, without warrants, hundreds of Hamas members and supporters. A similar pattern has emerged in Gaza, with Hamas taking action against those suspected to have links with Fatah.⁷⁰ It has been reported that Palestinian security forces in the West Bank and Gaza have been involved in widespread arbitrary arrests and detentions, torture, and ill-treatment of those in detention and have largely failed to hold to account those responsible for grave human rights abuses. The Palestinian human rights organisation, Al Haq, has reported that widespread human rights abuses have had “a horrific physical and psychological effect on hundreds of Palestinian citizens and the society at large.”⁷¹

⁶⁵ ‘Occupied Palestinian Territories: New arrests highlight abuses by Hamas and Fatah’, HRW, press release, 30 July 2008.

⁶⁶ For more information consult the Incident Tracking Report at:
www.ochaopt.org/?module=displaysection§ion_id=127&static=0&format=html.

⁶⁷ These include one suicide attack in Dimona (South) in February, see http://news.bbc.co.uk/1/hi/world/middle_east/7225775.stm; one attack on a religious school in March see www.ihf.com/articles/2008/03/07/africa/07mideast.3.php; and another attack conducted with a bulldozer in July, see: http://news.bbc.co.uk/1/hi/world/middle_east/7485022.stm.

⁶⁸ See ‘A West Bank Ruin, Reborn as a Peace Beacon’, www.nytimes.com/2008/09/12/world/middleeast/12jenin.html?_r=1&scp=1&sq=palestinian%20police&st=cse&oref=slogin.

⁶⁹ See International Crisis Group Report, ‘Ruling Palestine II: The West Bank Model?’, 17 July 2008, p. 10.

⁷⁰ ‘Torturing Each Other: The Widespread Practices of Arbitrary Detention and Torture in the Palestinian Territory’, Al Haq, July 2008.

⁷¹ *Ibid.*

Recommendations

The Quartet should support efforts to challenge the climate of impunity regardless of the perpetrator. In order to signal a more holistic approach to security, the Quartet should report publicly on violent incidents by Israeli and Palestinian actors and on steps they are taking to address violence and bring those responsible to account. The Quartet should establish schemes to ensure that all parties are educated about their responsibilities, including incorporating human rights components into capacity-building projects.

The humanitarian imperative of protecting civilians from violence underlines the need for the Quartet to intensify its work towards Palestinian reconciliation, with a view to improving security for Palestinian civilians suffering from the ramifications of factional violence. At the same time, improvements in Palestinian law and order can contribute to reducing the security threat towards all civilians, Palestinians and Israelis, a critical factor on the road to peace.

e) DONOR PLEDGES

Objective

“Key regional players to fulfil their pledges from the December 2007 Paris Donors Conference”

Verdict – partial success

The Quartet Representative has been very successful in securing funding pledges around key events such as the Paris conference, the Bethlehem Investors conference, and the Berlin security conference. This impressive aptitude for fundraising has not yet been translated into an ability to secure a consistent disbursement of funds, and it has not succeeded in driving the prompt delivery of projects nor improved the lives of Palestinian women, children, and men. The Quartet has not been able to ensure that all donors make good on their pledges. By adopting a twin track approach, the Quartet has committed itself to achieving success in both promoting removal of obstacles to Palestinian economic development and increasing investment in Palestinian growth. Failure on one track, particularly the first, seriously undermines prospects for the other.

Evidence

In December 2007, international donors pledged \$7.7 billion aimed to fund the Palestinian Reform and Development Plan (PRDP) for 2008–10. Information about all donor pledges and payments are not made public. Palestinian Prime Minister Salam Fayyad and his cabinet are reliant on financial assistance to meet their governmental obligations across all sectors, including in education and health, and to ensure the survival of the economy. As the World Bank notes, “aid remains critical to ensure the survival of Palestinian institutions that underpin the peace process”.⁷²

However, time and again money raised and spent is unable to deliver potential benefits due to a lack of progress on three key issues, namely access and movement, continued settlement expansion, and the divided Palestinian polity. In September 2007, the World Bank argued that, “the impact of donor aid is highest when accompanied by concrete and parallel PA and Israeli actions”.⁷³ The PRDP was developed on the twin assumptions of economic growth and the revival of private sector activity, neither of which has happened.

Consequences

⁷² World Bank ‘Implementing the Palestinian Reform and Development Agenda: Economic Monitoring Report to the Ad Hoc Liaison Committee May 2008’ published 29 April 2008
<http://siteresources.worldbank.org/INTWESTBANKGAZA/Resources/WorldBankAHLCMay2,08.pdf>.

⁷³ Ibid.

In its report for the Donor Pledging Conference in Paris on 17 December 2007, the World Bank warned of the critical importance of donor pledges to the Palestinian economy, emphasising that ‘the successful implementation of Palestinian commitments alone, with partial donor funding and continued movement and trade restrictions, will fall well short of the intended targets’, which at that time were five per cent growth.⁷⁴

The Bank went on to say that ‘achieving five per cent growth rates will depend critically on the commitment of the international community to fill the total fiscal gap over the next three years, as well as the revival of the private sector as a result of concrete steps by Israel on settlement growth, and movement and access restrictions’. However, the Bank noted that ‘even with full funding but no relaxation in the closure regime (Gaza and West Bank), growth will be slightly negative, at around minus two per cent per year’. The Bank concluded that ‘if the required aid also fails to materialize, income will decline more, and the already high and growing poverty levels will rise dramatically.’

As the Bank predicted, movement and access restrictions are undermining the effectiveness of financial assistance. In its report in 2008 on the PRDP, the caretaker government states that, of \$492 million pledges for development projects in 2008, only \$300 million is likely to be spent, largely because of closures.⁷⁵

In August 2008, Prime Minister Fayyad announced that his budget did not contain sufficient funds to allow him to cover salary payments. After pledge payments from Saudi Arabia and Kuwait, and ad hoc unplanned payments from the UK and the European Commission⁷⁶, and funding from a Palestinian telecoms company, salary payments were eventually made in August to tens of thousands of public sector workers.⁷⁷ If this situation continues, the caretaker government will be unable to plan effectively and, without further efforts to enable Palestinian development across the West Bank, will not be able to reach out to areas not under its direct control, notably Area C, which constitutes 60 per cent of the West Bank.

The West Bank-Gaza divide has also constrained the delivery of international assistance. The blockade on Gaza has obstructed much development assistance from being delivered in this densely populated area, and forced many international donors to resort to emergency humanitarian assistance. Additionally, the internal dispute between Fatah and Hamas has interfered in the delivery of essential services, in particular health and education; for example, precipitating a health and education strike in Gaza.

Recommendations

To prevent the process of reform from being irreparably undermined, the Quartet should set up a transparent register of all pledges and disbursements to enable all actors, particularly the Palestinian authorities, to budget effectively by going beyond annual assistance and giving grants over a longer timeframe. Quartet members should ensure that humanitarian assistance is provided on the basis of need, and that development aid is distributed according to effective poverty reduction strategies. Donors and the Palestinian authorities are encouraged to establish independent budget monitoring with civil society organisations to increase accountability and effectiveness of funds spent.

⁷⁴ The World Bank, ‘Investing in Palestinian Economic Reform and Development’, Paris 17 December 2007, p. 4.

⁷⁵ ‘Ministry of Finance Report on Fiscal Developments - Situation through to June 2008’ 27 June 2008 at: <http://siteresources.worldbank.org/INTWESTBANKGAZA/Resources/SemiAnnualPAProgressReportJune08.pdf>.

⁷⁶ The Portland Trust, ‘Palestinian Economic Bulletin’ August 2008 at: <http://portlandtrust.org/Bulletin%20Issue%2023%20Aug%202008.pdf>.

⁷⁷ The exact number of workers is unclear given divisions between Gaza and the West Bank, but UNCTAD says 159,000. See UNCTAD, Report on UNCTAD Assistance to the Palestinian People, 15 July 2008 (published September 2008) at www.reliefweb.int/rw/rwb.nsf/db900sid/KLMT-7JB9TT?OpenDocument&rc=3&cc=pse.

Members of the Quartet should review and publish details of the additional costs created by the policies of Israeli authorities with respect to the West Bank and Gaza, and take steps to ensure that obstacles to the provision of international aid are removed and losses recovered.

f) PRIVATE SECTOR PROGRESS

Objective

Reaffirming its support for Quartet Representative Tony Blair's efforts, the Quartet encouraged "progress in private sector activities that will create jobs for Palestinians and help change the conditions of life."

Verdict – partial success

The Quartet Representative has had isolated successes in implementing agreed projects aimed to boost the private sector. These have not set precedents for a more holistic approach and, to date, there has been little demonstrable progress in alleviating obstacles to access and movement or invigorating the Palestinian economy. Without this, the Quartet Representative will continue to be frustrated in his efforts to improve the daily lives of Palestinians.

Evidence

On 13 May 2008, Quartet Representative Tony Blair presented a package of measures designed to boost the Palestinian economy, the majority of which focus on the West Bank. The plan identifies the lifting of access and movement restrictions as a key area to be addressed and also offers a variety of proposals focusing on three other key areas: economic and social development;⁷⁸ developing area C, and improving Palestinian security capability and performance.⁷⁹ It incorporates projects the Quartet Representative unveiled in November 2007, intended to revive the Palestinian economy and improve living standards.⁸⁰

Despite significant effort, achievements in this area have been modest. The lack of progress made on easing restrictions on Palestinian movement and access has meant that any private sector improvements cannot flourish so long as the economy remains constricted as a whole.⁸¹ The lack of publicly available information on progress of identified projects has also contributed to a lack of confidence in these initiatives being able to provide short-term economic revival. Based on consultations with agencies working in the oPt, little or no progress has been made on these projects. One achievement has been the recent agreement on frequency allocations that will enable the beginning of operations of *Wataniya*, the second mobile telephone operator in the occupied Palestinian territory. The deal will involve an investment of funds to the caretaker government of over \$254 million, with long-term investments over ten years estimated at \$700 million, the hiring of 750 Palestinians, and the generation of at least 1,500 jobs in indirect employment.⁸²

Quartet Representative Tony Blair was also central to the Palestine Investment Conference, which took place in Bethlehem in May 2008, to promote increased investment in the Palestinian economy. The conference succeeded in securing \$1.4 billion to support the over

⁷⁸ This includes establishing industrial estates in Jenin and Tarqumiya and an agro-industrial project in Jericho, establishment of a new telephone company, developing tourism to Bethlehem, water and sanitation projects in the West Bank and Gaza, and housing projects.

⁷⁹ 'Towards a Palestinian State', launched by Quartet Representative Tony Blair on 13 May 2008, full text available at <http://tonyblairoffice.org/2008/05/towards-a-palestinian-state.html>.

⁸⁰ 'Blair reveals key projects for the Palestinian economy', 19 November 2007, The Office of Tony Blair, accessed at <http://tonyblairoffice.org/2007/11/blair-reveals-key-projects-for.html>.

⁸¹ The World Bank Group, 'Supporting the Palestinian Private Sector', June 2008, accessed at <http://web.worldbank.org/WBSITE/EXTERNAL/NEWS/0,,contentMDK:21829579~pagePK:34370~piPK:34424~theSitePK:4607,00.html>.

⁸² 'Wataniya mobile deal provides jobs, funds for Palestinians', The Office of Tony Blair, accessed at <http://tonyblairoffice.org/2008/07/wataniya-mobile-deal-provides.html>.

100 projects presented at the conference. However, progress towards meeting these pledges has been slow, as has been the case for the 2007 Paris Donor Conference, highlighted earlier. Despite the inability to secure monies already pledged, current efforts are underway to hold two similar conferences later this year, including in the West Bank city of Nablus in October and another in London.⁸³

Consequences

Criticism surrounding these short-term proposals has drawn attention to the fact that many of the projects were established some time ago, as far back as 1999, and have not taken into consideration long-term economic planning, negotiated agreements (such as the Oslo Accords and the Interim Agreement), or the stark new realities in the oPt, such as construction of the Wall, an increasingly restrictive closure regime, settlement expansion, unprecedented levels of poverty, and the increasing divide between the West Bank and Gaza.⁸⁴ Gaza represents 44 per cent of the Palestinian economy.⁸⁵ The absence of proposals to address access to and the development of the private sector in Gaza – and the minimal progress on identified water and sanitation projects – reflect a narrow approach to economic development and contribute to widening this divide. Given the new reality on the ground, particularly in relation to the construction of the Wall, it is unclear whether proposed projects would violate international humanitarian and human rights law, the bodies of law by which both Israeli and Palestinian governments are bound.

The Quartet Representative's approach to focus on short-term economic solutions, while the long-term problems of closure and settlement expansion remain, dooms these types of projects to failure. Short term bursts of donor aid, for economic projects providing jobs for a small proportion of the Palestinian population, disregards the potential of the private sector. Taking into account the full amount of anticipated aid from pledges, but anticipating no changes in the closure regime in the oPt, total real economic growth will continue to be negative, averaging around minus two per cent annually, during the period 2008–12.⁸⁶

Recommendations

Individual projects cannot adequately address the deteriorating economic situation of Palestinians, nor create the conditions needed to build confidence in a political solution. Given the existence of technical frameworks to monitor progress on commitments already made, such as the roadmap and the Agreement on Movement and Access, the Quartet could use more of its resources to ensure that the political will to change things on the ground is created and concrete follow-up is undertaken. The Quartet should provide regular, public information on progress it has made to date on projects to help build confidence in private sector initiatives. The Quartet Representative should commission and publicise legal analysis of any proposed project to ensure that such interventions do not violate international law.

3. CONCLUSION AND RECOMMENDATIONS

This report has outlined the Quartet's objectives across six areas considered to be of vital importance for the broader peace process: the cessation of settlement expansion, significant improvements in access and movement in accordance with the AMA, five objectives related to the delivery of a new approach to Gaza, Palestinian security sector reform, the fulfilment of

⁸³ Reuters, 'Two conferences planned to boost Palestinian economy', 4 September 2008, accessed at www.reuters.com/article/homepageCrisis/idUSL4223470._CH_.2400.

⁸⁴ See for example, 'Palestine Investment Conference – Realities and Prospects', The Palestinian NGO Network, 20 May 2008, accessed at <http://www.pngo.net/english/news.asp?i=23>.

⁸⁵ Gaza provided 44 per cent of GDP in 2003, the latest figures available. See World Bank, 'Two years after London: restarting the Palestinian economic recovery' 24 Sept 2007 at: <http://go.worldbank.org/W89K7P6QR0>.

⁸⁶ The World Bank Group, 'Investing in Palestinian Economic Reform and Development: Report for the Pladging Conference', Paris, 17 December 2007, p. 6, accessed at: <http://siteresources.worldbank.org/INTWESTBANKGAZA/Resources/294264-1166525851073/ParisconferencepaperDec17.pdf/>.

donor pledges, and the revival of private sector activity. It has also illustrated their importance to resolving the immediate humanitarian crisis.

Consideration of Quartet statements against prevailing facts on the ground indicates that, at present, the Quartet is failing to successfully execute its role. In five of the ten areas there has been either no significant progress or an actual deterioration in the situation. With respect to the other five areas – the cessation of violence in Gaza, reinvigoration of the private sector, the fulfilment of donor pledges, and Palestinian security sector reform and increasing fuel to Gaza – there have been specific achievements but not approaching the scale demanded by the Quartet. This report illustrates that there are three key areas in which effective action is needed to cope with the humanitarian crisis and sustain prospects for peace: access and movement, settlements, and returning normal civilian life in Gaza. So far, the Quartet has failed in its efforts to address them.

The Quartet's meeting in September presents the opportunity to reassess performance to date, to acknowledge shortcomings, and recalibrate policy accordingly. Putting the prospects of an agreement by the end of the year aside, the Quartet has failed to deliver progress in its own priority areas. With no agreement by the end of the year in sight, it is increasingly important that the Quartet ensures that developments on the ground do not prejudice further options for a political agreement. The Quartet should urgently consider means by which it can (either collectively or through the coordinated efforts of individual members) go beyond repeated public censure and start holding parties to their obligations under the roadmap and international law. Without a real improvement on the ground, it will become necessary to consider what the future is for the Middle East Quartet.

A. General recommendations to all Quartet Members:

1. Use the opportunity presented by the Quartet's meeting in September to review the current approach, address shortcomings, and identify means by which the Quartet can go beyond rhetoric and take concrete steps to ensure that parties comply with their obligations.
2. Adopt a system of public reporting on Palestinian and Israeli efforts to meet their respective obligations under the roadmap and international law so that, in the absence of progress, parties can be held accountable. This should include Quartet members reporting on how they are ensuring that parties respect international humanitarian law.
3. Hold all parties accountable to their obligations under international law through the implementation of tangible measures to ensure accountability and prevent impunity.

B. Recommendations on settlements to all Quartet Members, particularly USA, EU, and Russia

4. Support efforts to pass a resolution at the UN Security Council to address the humanitarian and economic impact of settlement expansion on Palestinian communities and the broader peace process.
5. State publicly that settlements are illegal, and frame future statements on settlement activity with reference to their illegality under international law.
6. Make clear that the Quartet's requirement that Israel freeze all settlement expansion, including dismantling outposts, applies to East Jerusalem, and should include cessation of construction, appropriation and confiscation of land, and the provision of incentives to settlers, including in East Jerusalem.

C. Recommendations on access and movement to all Quartet Members and the Quartet Representative:

7. Adopt a new approach to improving access and movement that tackles the Israeli administration's policy of closure as a whole. Reinstating the AMA should be the first step towards dealing with the aggregate impact of obstacles to access and movement, and, working with the Israeli and Palestinian authorities to ensure that security concerns are addressed, reversing the policy of closure.
8. Commit greater efforts to securing a swift end to the blockade of Gaza and the policy of collective punishment and the reinstatement of the AMA. As interim steps towards this, the Quartet should work concertedly with relevant parties to agree a timeline to:
 - Widen the definition of humanitarian needs
 - Provide greater support for Egypt to negotiate an opening to the Rafah crossing
 - Work with relevant parties to secure the opening of Karni crossing
 - Reactivate all stalled humanitarian and development projects, rather than focusing negotiations on the UN's six priority projects

D. Recommendations on Gaza to all Quartet Members

9. Reiterate that Gaza must be part of any future Palestinian state.
10. Demonstrate robust public support for the cessation of violence, take concerted steps to develop it further in terms of lifting the blockade of people and goods, and provide greater encouragement for Egypt to lead efforts to sustain it.
11. Intensify its work towards Palestinian reconciliation, with a view to improving security for Palestinian civilians suffering from the ramifications of factional violence.
12. Undertake greater collaboration with key regional partners, in particular with regard to their efforts to encourage Palestinian reconciliation, working closely with efforts led by Egypt and recently endorsed by the Arab League. At the direction of regional partners, the Quartet may wish to identify a representative of regional governments with whom to coordinate joint efforts. It may also take into account the Arab Peace Initiative.

E. Comprehensive Palestinian Security Sector Reform

13. Support efforts to challenge the climate of impunity regardless of the perpetrator of the crime, and report publicly on violent incidents by Israeli and Palestinian actors and on steps that they are taking to address violence and bring those responsible to account.
14. Establish schemes to ensure that all parties are educated about their responsibilities, including the integration of human rights components in capacity-building projects.

F. Donor Pledges

15. Establish a transparent register of all donor pledges and disbursements to enable all actors, particularly the Palestinian authorities, to budget effectively.
16. 12. Ensure that humanitarian assistance and development is provided on the basis of need. Donors and the Palestinian authorities are encouraged to establish independent budget

monitoring with civil society organisations to increase accountability and effectiveness of funds spent.

17. Review and publish details of the additional costs created by the policies of Israeli authorities with respect to the West Bank and Gaza, and take steps to ensure that obstacles to the provision of international aid are removed and losses recovered.

G. Private Sector Progress

18. Provide regular, public information on progress made in projects to help build confidence in private sector initiatives.
19. The Quartet Representative should commission and publicise legal analysis of any proposed project to ensure that activities do not violate international law.

4. APPENDIX 1 – QUARTET’S BERLIN STATEMENT 24 JUNE 2008

Quartet Statement

Following is the text of a statement issued by the Quartet (United Nations, Russian Federation, the United States and European Union):

Representatives of the Quartet – U.N. Secretary General Ban Ki-moon, Russian Foreign Minister Sergei Lavrov, U.S. Secretary of State Condoleezza Rice, High Representative for European Common Foreign and Security Policy Javier Solana, European Commissioner for External Relations Benita Ferrero-Waldner, and Slovenian Foreign Minister Dimitrij Rupel – met today in Berlin to discuss the situation in the Middle East. They were joined by Quartet Representative Tony Blair.

The Quartet reaffirmed its support for ongoing Israeli-Palestinian negotiations and stressed the urgent need for tangible progress towards the shared goal of an agreement by the end of 2008 on the establishment of an independent and viable Palestinian state in the West Bank and Gaza, and an end to the conflict. The Quartet expressed its commitment to support the parties in taking and implementing the difficult decisions required in order to achieve these outcomes.

The Quartet underscored the urgent need for more visible progress on the ground in order to build confidence and support progress in the negotiations launched at Annapolis. Israel's removal of some significant West Bank checkpoints and the opening of a number of Palestinian police stations in Area B represent good steps. Greater efforts are required now to project a new reality, including through further urgent steps to improve access and movement. Likewise, Palestinian security performance has improved, including recent efforts in Jenin. Continued Palestinian efforts to fight terrorism and to implement a more comprehensive security strategy are necessary for sustainable long-term improvement. The Quartet urged the parties to build upon these efforts, fulfilling all of their obligations under the Roadmap and refraining from any steps that undermine confidence or could prejudice the outcome of negotiations. In particular, the Quartet reiterated its deep concern at continuing settlement activity and called on Israel to freeze all settlement activity including natural growth, and to dismantle outposts erected since March 2001.

The Quartet voiced its support for the outcomes of the "Berlin Conference in Support of Palestinian Civil Security and the Rule of Law." With its focus on the Palestinian police and justice sector the conference provided a timely forum to re-focus and direct international

support efforts towards two key sectors of Palestinian state-building. The Quartet called for speedy implementation of projects agreed and robust donor support in order to build the capacity of the Palestinian police and justice sector. The Quartet urged Israeli-Palestinian cooperation in that respect, and emphasized the importance of unobstructed delivery of security assistance to the Palestinian Authority.

Noting the dire budget situation facing the caretaker government, the Quartet urged all donors who have not fulfilled their pledges, especially the key regional partners, to fulfil their pledges from the December 2007 Paris donors' conference and to urgently provide budgetary support to meet the requirements of the caretaker government. It looked to the next AHLC meeting on September 22 to take stock of progress.

Recalling the centrality of economic development and institutional reform to the success of a future Palestinian state, the Quartet reaffirmed its support for Quartet Representative Tony Blair's efforts, and congratulated the Caretaker government on the success of the May 21-23 Palestine Investment Conference in Bethlehem. Commending the close cooperation between Israel and the caretaker government on this initiative, the Quartet encouraged similar cooperation to break ground on short and medium term projects and to make progress in private sector activities that will create jobs for Palestinians and help change the conditions of life. The Quartet underscored the importance of uninterrupted transfers of Palestinian tax and customs revenues to the caretaker government.

The Quartet noted that a lasting solution to the situation in Gaza can only be achieved through peaceful means. The Quartet expressed its continuing support for Egyptian efforts to restore calm to Gaza and southern Israel and welcomed the period of calm that began on June 19. The Quartet urged that the calm be respected in full and expressed the hope that it would endure, and lead to improved security for Palestinians and Israelis alike, and a return to normal civilian life in Gaza. In this respect, the Quartet looked forward to increased humanitarian and commercial flows through the Gaza crossings under the management of the caretaker government, consistent with the November 2005 Agreement on Movement and Access, and welcomed the European Union's offer to resume its monitoring mission at the Rafah crossing point. The Quartet expressed its strong support for the steady and sufficient supplies of fuel to Gaza and for the immediate resumption of stalled UN and other donor projects there. It further tasked the Quartet Representative to develop and promote implementation of measures, in coordination with Israel and the Palestinian Authority, to improve conditions in Gaza, as a matter of urgency.

The Quartet welcomed the May 21 announcement by Syria, Israel and Turkey that indirect talks have been launched, with Turkey's facilitation, aimed at achieving peace in accordance with the Madrid terms of reference, and hopes that progress is made in this direction.

The Quartet principals looked forward to meeting again in September at the United Nations General Assembly. On that occasion the Quartet will consider, after further consultations with the parties, the timing and agenda of an international meeting in Moscow to lend support to the process launched in Annapolis. Quartet Principals will also continue their dialogue with members of the Arab League Follow-Up Committee.

The Quartet reaffirmed its commitment to a just, lasting, and comprehensive peace in the Middle East based on UNSCRs 242, 338, 1397 and 1515.

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Footnotes for Box 1: International Law and Israeli Settlements;

[1*] Article 49, paragraph 6, of the Fourth Geneva Convention (part 3) states that "the occupying power shall not deport or transfer parts of its own civilian population into the territory it occupies".

[2] Article 27, paragraph 1, of the Fourth Geneva Convention (part 3) states that "protected persons are entitled, in all circumstances, to respect for their persons, their honour, their family rights, their religious convictions and practices, and their manners and customs."

[3] Article 27, paragraph 3, of the Fourth Geneva Convention (part 3) states that "without prejudice to the provisions relating to their state of health, age and sex, all protected persons shall be treated with the same consideration by the Party to the conflict in whose power they are, without any adverse distinction based, in particular, on race, religion or political opinion."

[4] International Court of Justice, Advisory Opinion, "Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory", 9 July 2004. Paragraph 163 of the Advisory Opinion states that "all States are under an obligation not to recognize the illegal situation resulting from the construction of the wall and not to render aid or assistance in maintaining the situation created by such construction; all States parties to the Fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War of 12 August 1949 have in addition the obligation, while respecting the United Nations Charter and international law, to ensure compliance by Israel with international humanitarian law as embodied in that Convention; The United Nations, and especially the General Assembly and the Security Council, should consider what further action is required to bring to an end the illegal situation resulting from the construction of the wall and the associated regime, taking due account of the present Advisory Opinion." For a summary of the Advisory Opinion see <http://www.icj-cij.org/docket/files/131/1677.pdf>.

[5] See footnote 1* and United Nations Security Council Resolution 446 of 22 March 1979 which calls on Israel "to rescind its previous measures and to desist from taking any action which would result in changing the legal status and geographical nature and materially affecting the demographic composition of the Arab territories occupied since 1967, including Jerusalem and, in particular, not to transfer parts of its own civilian population into the occupied Arab territories". The Security Council reaffirmed its position in resolutions 452 (1979) of 20 July 1979 and 465 (1980) of 1 March 1980.

Footnotes for Box 2: Does Israel still occupy Gaza?

[6] On the issue of effective control, see Article 42 of Hague Convention (IV) respecting the Laws and Customs of War on Land and its annex: Regulations concerning the Laws and Customs of War on Land, 18 October 1907 [Hague Regulations], and Article 6 of the Fourth Geneva Convention; on the obligation to ensure the welfare of the civilian population, see for example Articles 43 and 46 of the Hague Regulations, and the relevant provisions of the Fourth Geneva Convention listed below.

[7] Articles 55, 56, and 59, respectively, of the Fourth Geneva Convention.

[8] Article 60, Fourth Geneva Convention

[9] See for example, UN says collective punishment for Gaza is wrong, Reuters, 18 January 2008, on statement by John Holmes, Undersecretary-General for Humanitarian Affairs accessed at <http://uk.reuters.com/article/latestCrisis/idUKN1834308320080118/>, and EU Presidency Statement on further escalation of violence in Gaza and Southern Israel, 2 March 2008, accessed at <http://domino.un.org/UNISPAL.NSF/fd807e46661e3689852570d00069e918/25d22cbc70ead218852574010056004b!OpenDocument/>.