

Gaza: The Imperative of a Just Peace for Palestine

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The Context

Since October, a war of deplorable magnitude has been raging in the Gaza Strip, an area of land that is 41 km long and roughly 10 km wide. Between 2007 and late 2023, Gaza was subjected to several Israeli military operations and had been under a land, sea and air closure. Inhabitants needed permits to move in and out of Gaza through two checkpoints controlled by Israel. The Israeli government restricted all movement of people and goods. Living in Gaza meant confinement in one of the most densely populated spaces in the world. Productive assets, such as farms, factories and shops were frequently destroyed by military operations. Imports of key technologies and production inputs for many industries were banned. Electricity cuts were frequent. Access to clean water and proper sewage systems was limited or non-existent. Gaza's economy was not permitted to grow. Around 65% of the population was living in poverty, and 45% of job seekers faced long-term unemployment. Even for the 41% of people who had work, not all jobs were stable (UNCTAD, 2023).

Israel ordered a total siege of Gaza following the brutal October 7 attacks by Hamas inside Israel across the borders with Gaza. Since the start of the conflict, 1,200 Israelis and foreign nationals have been killed in Israel, according to Israeli authorities, with the vast majority of these killings having happened on October 7. As of January 19, 2024, 191 Israeli soldiers had been killed, and 1,178 had been injured in Gaza, according to the Israeli military. At the same time, 24,762 Palestinians had been killed in Gaza and 62,108 had been injured (OCHA, 2024). Many more are missing under the rubble. Nearly 1.9 million people, over 85% of the enclave's population, have been displaced across the Gaza since October 7, and almost 1.2 million internally displaced persons were sheltering in 156 installations operated by the UN Refugee and Works Agency (UNRWA) for Palestinian Refugees. The average number of displaced persons per UNRWA shelter is 10,326, which is more than four times the facilities' capacity. In total, at least 130

Since October 2023, a war of deplorable magnitude has been waging in Gaza. This war has already metastasized into violence in the West Bank, conflict on the Israeli-Lebanese border, and attacks in the Red Sea, Iraq, and Syria. The catastrophic conditions that Palestinians are facing today, and the ensuing conflict in the region, reveal the failures of Western leadership and of the international system. Any hope of just and sustainable peace will require immense imagination on both the Israeli and the Palestinian front, as well as the correction of Western foreign policies. Fixing the global order is an overdue imperative.

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UNRWA employees have been killed since October 7. As of December 27, 2023, the WHO estimated that of the 36 health centers and hospitals in Gaza, 21 were not functioning at all, 13 were partially functioning and 2 were minimally functioning (WHO, 2023).

The situation is also growing worse in the West Bank. Citing the UN Office for the Coordination of Humanitarian Affairs (UNOCHA), the UNRWA reported that since October 7, 244 Palestinians, including 65 children, have been killed by Israeli Forces in the West Bank. An additional eight people, including one child, have been killed by Israeli settlers (UNRWA, 2023).

Understanding the war in Gaza and the failure of the international order

Failure of leadership

The situation has uncovered failures of leadership. The war on Gaza erupted exactly 50 years after the 6th of October War of 1973 and 75 years after the first massive displacement of Palestinians in 1948. The current war on Gaza also comes in the wake of heightened US efforts made by both the Trump and Biden administrations to normalize diplomatic relations between Israel and the Arab Gulf states, Sudan and Morocco. Backers of this effort assumed that this normalization of relations would create a regional security regime and encourage economic ties that would reduce tensions around the Palestinian-Israeli conflict. US National Security Advisor Jake Sullivan declared in September 2023 that the Middle East was more stable than ever before (Carlstrom, 2023).

A few days after he uttered these words, the stability in the region deteriorated rapidly. Already, fighting has begun to expand beyond the Gaza Strip, as Israel has launched attacks on Hamas operatives within Lebanon, and Houthi militants in Yemen have targeted international trade in the Red Sea. Israel's war in Gaza has also deepened a split between Western governments and governments in other parts of the world, as illustrated by voting patterns on UN resolutions related to the conflict.

The US and many European governments have no clear strategy regarding the Palestinian-Israeli conflict. In the 30 years since the Oslo Accords were signed between Israel and the Palestine Liberation Organization (PLO), the Israeli government has assumed that Israel's security would be better served by ignoring this agreement, and many Western countries have accepted or condoned this assumption.

Furthermore, the strategy that has combined incidental criticisms of Israel's use of violence with turning a blind eye to systematic Israeli government policies that have amounted to a 30-year-old settler-colonial project has not ensured stability. The strategy of providing development aid to Palestinians while continuously accepting Israel's devastating destruction of lives and livelihoods in the name of "self-defense" has become increasingly immoral and operationally non-viable.

Failure of international law

The raging war on Gaza also uncovers serious failures of international law. South Africa filed a case at the International Court of Justice (ICJ) on December 29, 2023 accusing Israel of committing acts of genocide (Finucane, 2023; Manea, 2023).¹ The accusation comes at the end of 75 years of occupation as well as intentional disregard by the Israeli government of UN resolutions and the rules-based international order. The Israeli government has consistently violated the Oslo Accords by, among other actions, expanding settlements onto

¹Proving the case either way will be a complex legal exercise as Andrea Manea of the *Economist* and Brian Finucane of *Foreign Affairs* argue.

Palestinian land. Since 1993, the number of settlements in the West Bank has risen from 128 to 300 and the number of settlers from 110,000 to 465,000. In East Jerusalem alone, the number of settlers increased from 140,000 to 230,000, according to the Israeli Peace Now movement. Peace Now states, on its website, that “*the Oslo Accords ... were supposed to lead to a peace agreement between Israel and a sovereign Palestinian state by 1999. ... In practice, ... the settlement enterprise has thrived over the past 30 years, primarily due to five different factors: the expansion of existing settlements, the establishment of hundreds of outposts, the construction of bypass roads, the ‘import’ of ultra-Orthodox populations to settlements, and the creation of settlements within Palestinian neighborhoods in East Jerusalem.*” (Peace Now, 2023).

This history of Israel’s persistent violation of international law, domestic laws and bilateral accords is a reason why context is important. It helps us appreciate the extent of the damage done to the rules-based international order during the course of this decades-long conflict.

A fractured international community

The term “international community” is often understood to be the member states of the United Nations. The term usually invokes a certain degree of collective agreement or resolve around a set of principles and values. But the reality is more complex. The international community is a set of governments, resolutions and conventions. In addition to this international community that exists at the level of the nation state, there are global networks of institutionalized civil society actors, well as non-institutionalized, national organizations that often either act in unison or converge around an issue.

Collectively, the “official” international community’s resolve is brought about through binding UN Security Council (UNSC) resolutions, non-binding UN General Assembly (UNGA) resolutions and conventions agreed to by UN member states. Operational mechanisms for enforcement are often institutionalized in treaty bodies.

The UNSC website shows 295 entries for council resolutions on Palestine. Since 1948, the council has called for or ordered ceasefires whenever fighting has broken out. It has also sent military observers and UN peace-keeping forces. Resolutions 242 of 1967 and 338 of 1973 established the principle of “land for peace” which affirmed that achieving a lasting and just peace in the Middle East should include withdrawal of Israeli forces from occupied land, the termination of all acts of belligerency, and respect for and acknowledgement of the sovereignty, independence and territorial integrity of all states. The UNSC has repeatedly declared null and void measures taken by the Israeli government to change the status of Jerusalem by calling it solely the capital of Israel and called for the cessation of the construction of Israeli settlements on Palestinian land. The latest demand for the cessation of settlement construction is Resolution 2334 issued in 2016. The council has repeatedly affirmed the need for a two-state solution and has continued to receive monthly briefings and hold open debates on Palestine. Yet all of the UNSC’s efforts are yet to produce a lasting peace. The UNGA, too, has issued over 100 non-binding resolutions on Palestine since 1948. On the whole, these resolutions have affirmed Palestinian rights, though they are non-binding.

International rules exist for regulating conduct during war, including responsibilities of the warring parties towards civilian populations and for the provision of humanitarian aid. There are two international bodies, the ICJ and the International Criminal Court (ICC), tasked with considering cases where these rules have allegedly been violated. The literature on international law has commented repeatedly on the impunity enjoyed by some countries and the politicization of these courts’ procedures and verdicts.

Global civil society performs two functions: knowledge production and lobbying. Global civil society reports document violations of international standards regarding poverty, inequality or human rights. The findings of such reports allow these entities to lobby for UN values and principles and to criticize international mechanisms that fail to uphold international standards. The UNSC, ICC, ICJ, World Bank and IMF have all been targets of criticism by global civil society organizations.

Global civil society also helps shift narratives. For example, until 2021, incidents of discrimination, violence and oppression committed against Palestinians by various Israeli governments were excused by many as revenge against terror. An April 2021 Human Rights Watch (HRW) report on Israeli practices in the occupied Palestinian territories (OPT) and inside Israel demonstrated the existence of systemic discrimination by an occupying force and helped shift the global narrative. The report examined multiple Israeli policies and practices towards Palestinians in the OPT and compared them to the treatment of Jewish Israelis living in the same territories. It assessed whether specific acts and policies implemented by Israeli authorities amounted to crimes of apartheid and persecution as defined under international law.² Former US President Jimmy Carter's 2007 New York Times bestseller *Palestine: Peace Not Apartheid* raised concerns about Israeli practices that could, in aggregate and if continued, culminate in consolidated apartheid. The HRW report took this argument one step further and claimed that the threshold to an apartheid system had been crossed (Human Rights Watch, 2021).

Throughout the duration of the Palestinian-Israeli conflict, numerous country-level civil society organizations have also taken action. For example, when Israeli defense forces conducted an assault inside the West Bank and Gaza in 2021, killing 247 Gaza residents, including 66 children, more than 350 academic departments, programs and centers worldwide endorsed statements supporting Palestinian rights and recognizing the power asymmetry between Israeli forces and Palestinians.³ The current war in Gaza has triggered a similar global movement. Some of the largest demonstrations concerning Palestine in recent decades have taken place in London, Paris, Berlin, Brussels and many other capitals around the world⁴ (El Shorbagy, 2023).

Various global civil society organizations and nationally based human rights organizations have repeatedly put the international community's legal resolve to the test by petitioning to hold key Israeli officials to account via the international legal system. For example, on October 31, 2023, Reporters Without Borders (RSF) submitted a petition calling upon the ICC to investigate the deaths of 11 journalists killed while covering the current war in Gaza and rising tensions in the OPT. According to RSF, this is the third petition condemning Israel in relation to the deaths of 34 journalists covering the conflict since 2018. According to RSF Secretary General Christophe Deloire, "*the scale, seriousness and recurring nature of international crimes targeting journalists, particularly in Gaza, calls for a priority investigation by the ICC prosecutor. We have been calling for this since 2018.*" (ANF News, November 1, 2023). Three Palestinian human rights organizations have also filed a petition to the ICC accusing the Israeli president, minister of defense and prime minister of committing war crimes and crimes against humanity.

²The acts and policies reviewed in the report included discriminatory restrictions on residency and nationality for Palestinians and Israeli narratives that justify such policies.

³Faculty at Harvard, Yale, Princeton, Brown, Georgetown, the City University of New York, and the Universities of California in Berkeley and Davis issued statements. The United Educators of San Francisco, representing 6,200 teachers and staff, endorsed the boycott, divest, and sanction movement in support of Palestine. Among the endorsers were 120 gender studies programs in the US. In the Netherlands, 40 academic departments, programs and centers affirmed their responsibility to speak out against human rights violations by the Israeli government. In Belgium, 24 academic departments, unions and student associations supported boycott measures, and 630 academics in Australia spoke against their government's "collusion" with Israeli government practices. In South Africa, 600 healthcare professionals denounced Israel's medical apartheid against Palestinians and endorsed calls for boycotts, divestments or sanctions.

⁴In the US, over 100 writers signed a statement urging their colleagues to distinguish between Judaism as a religion and Zionism as a political movement. The statement also called for a distinction between violence committed by Palestinians and that of Israel as a settler regime and occupying force. A total of 1,800 Jewish- American public figures cosigned a statement insisting that criticism of the Israeli government not be equated with antisemitism.

The way forward

International law

International law alone will not guarantee sustainable peace. Like all laws, it requires an institutional machinery for enforcement. The reform of the international community's legal machinery is an imperative. Evidence of this machinery's politicization and ineffectiveness in the face of the power imbalance in the UNSC abounds. It is imperative to take this problem seriously in order to be able to uphold the principles of universal human rights and stop the erosion of the legitimacy of the rules-based international order.

Addressing this problem would mean strengthening the power of the ICC and ICJ as institutions mandated to investigate systemic discrimination and repression, establish facts, and analyze evidence of incidents that could amount to international crimes. The international community would accordingly be able to hold those responsible to account, no matter who they are. This change would also lay the foundations to require all businesses and states to uphold principles of ethical conduct in their transactions.

Reimagining Israel

The US under Biden has affirmed its resolve to support a two-state solution as well as its unwillingness to accept either an occupation of Gaza by Israel or the forced displacement of Gazans. A two-state solution will not be easy to operationalize in the current environment. Members of the Israeli government, including the incumbent prime minister, have repeatedly stated in public that they would prevent the creation of a Palestinian state. Moreover, various Israeli governments have persistently sabotaged the two-state solution for over 30 years by extending settlements in the West Bank and East Jerusalem, in violation of the Oslo Accords and other international resolutions. On a practical level, accepting the creation of a Palestinian state bordering Israel would require removing thousands of settlers and closing down hundreds of illegal settlements. Such a solution would heighten tensions between secular democratic forces within Israel on the one hand and the settlers and their religious ultra-right supporters on the other.

Embracing a just and sustainable peace would require Israelis to turn away from the path of a settler-colonial apartheid state, a path which various right-wing Israeli governments have chosen to travel further down over the past three decades. Many voices within Israel and across the global Jewish diaspora are calling for such a shift, and they should be empowered to reimagine a new Israel. Any other future will only perpetuate the ongoing state of war and tension between Israel and its neighbors.

Reimagining Palestinian governance

While a two-state solution would require a newly imagined Israeli state, it would also require a newly imagined Palestinian diplomatic and governing body. The Arab Peace Initiative endorsed at the 2002 Arab League Summit and restated at the Arab-Islamic Summit hosted by Saudi Arabia in November 2023 affirms that a just and comprehensive peace is the strategic choice under international law. Multiple international resolutions also affirm the need for a viable Palestinian state on the territories occupied since June 1967, with a capital in East Jerusalem. To realize this vision, there must be a revival of Palestinian politics.

As Elgindy (2023) explains in *Foreign Affairs*, “any discussion of the ‘day after’ should therefore be predicated on encouraging the emergence of a unitary and cohesive Palestinian political leadership. Palestinian leaders will have to set aside their factional commitments, and Israel and the United States will have to relinquish the wholly

unrealistic idea that Hamas can be permanently excluded from Palestinian politics.” This change will require the revitalization of the PLO and the Palestinian Authority as a technical executive government. It will also require new leadership that captures the imagination of Palestinians and a party machinery that has well-formulated positions on policy and peace.

Convincing either Palestinians or Israel and its US allies to take the necessary action will not be easy. However, if these steps are not taken, humanitarian and security conditions in Gaza are unlikely to improve, the situation in the West Bank may deteriorate and a diplomatic settlement will remain far out of reach.

Reimagining US and European foreign policies

It should be glaringly obvious by now that quiet is not the same as stable. US National Security Advisor Jake Sullivan said in a speech on September 29, 2023 that “the Middle East region is quieter today than it has been in two decades.” Fewer than 10 days later, the seeming quiet turned into hell. US and European policies that define stability as quiet will only work until disaster breaks out, at the cost of thousands of lives. Policies predicated on normalizing discrimination and death can only breed more radicalism.

US policies regarding Israel and Palestine have relied on a patchwork of normalization agreements coupled with economic assistance and diplomatic outreach to Iran. These policies seem now to be lacking a fundamental element, namely, a durable and just peace predicated on ending the last standing settler-colonial project in this century (Carlstrom, 2023).

It is also time for the European Union to redefine stability and resilience, two cornerstones of its Southern Neighborhood policy (Badarin & Schumacher, 2019). For the longest time, European policies towards the Southern Neighborhood, including the OPT, have aimed to reduce conflict without addressing the root causes of the conflict. European Union policies have assisted Palestinians under occupation with aid packages for social services and economic empowerment but failed to support the creation of a viable Palestinian state. In fact, this approach has amounted to the squandering of taxpayers’ money because Israel’s actions have continued to weaken the social and economic infrastructure of the OPT, rendering aid packages largely ineffective. The European Union has not spoken with one voice in the past, and the lack of a unified EU voice has remained a main feature of its foreign policy since the war on Gaza erupted in October 2023.

It is time for the EU and other key international players to adopt a strategy that helps transform the conflict into a just and sustainable peace.

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