



مركز مساواة  
لحقوق المواطنين  
العرب في إسرائيل  
(م.ج)

מרכז מוסאווה  
לזכויות האזרחים  
הערבים בישראל  
(ע-ר)

Mossawa Center  
The Advocacy  
Center for Arab  
Citizens of Israel

## Mossawa Position Paper

# **Mossawa Position Paper on the current Offensive in Gaza and the Arab Community inside Israel**

January 14, 2009

### **Official Position of the Mossawa Center on the War in Gaza**

The Mossawa Center calls upon the government of Israel to bring about an immediate cessation of violence, ending the excessive and disproportionate force in Gaza including bringing an end to the ground offensive launched by Israel on January 3, 2009 and to resist deploying thousands of IDF reservists to the field. Mossawa calls upon Israel to facilitate increased flows of humanitarian assistance to enter the declared military zone and to give effect to the work of the UNRWA. Mossawa calls upon the international community to withdraw both implicit and explicit endorsement and tolerance of Israel's military offensive and to facilitate an end to the humanitarian crisis which has characterized Gaza, especially in the last year.

### **The Humanitarian Reality on the Ground**

As of Wednesday January 14<sup>th</sup>, 2009, the UN reports 975 dead in Gaza over the past 18 days, with over a quarter of them civilians, including 311 children and 100 women. 4418 others have been injured in retaliation for a number of Qassum rockets fired against southern Israeli towns after the end of the six month ceasefire in December. In comparison, there have been eleven Israeli casualties thus far, of which one civilian was an Arab citizen of southern Israel and another was a Druze soldier. Hospitals and medical supplies inside Gaza lack capacity to respond to the overwhelming pressure caused by the humanitarian crisis.

The depth of the humanitarian crisis has accelerated in correlation with the length of Israel's engagement. The UNRWA is overwhelmed by the pressure to provide shelter, drinking water and food for those fleeing the violence and in the second week of the operation a UNRWA school sheltering over 40 civilians was shelled, even though the IDF have been given the coordinates for all UNRWA locations in Gaza.

Between 9-10<sup>th</sup> January the European Gaza Hospital, El Nasser Paediatric Hospital, Sabha Al Harazin and Hala Al Shawa PHC centers sustained damage due to shelling and artillery. According to CMWU, Gaza's water utility, approximately 500,000 people have no access to running water, 500,000 people receive water for 4-6 hours a day every 5-7 days a week and the remaining population receives water for 4-6 hours every 2-3 days. Aid organisations have faced difficulty in distributing depleting food supplies due to the security situation. The 18 month blockade of Gaza prevented humanitarian organisations from pre-positioning supplies.

According to the Al Mezan Center for Human Rights, an estimated 80,000 – 90,000 people have been internally displaced including 50,000 children. Just 30% of Gaza is receiving electricity because of the damage to power lines and the local network. The long-term psychological affect on children, which make up 56% of Gaza's population, is a great humanitarian concern, the affects of which will reverberate for decades.



### **International Humanitarian and Human Rights Law**

Under definitions of international humanitarian conventions and international human rights standards, Israel's seismic and disproportionate response to the escalation of rocket fire coming from Gaza over the last few days must be concluded as a war crime, breaching fundamental international norms including the Fourth Geneva Convention, which entrenches obligations to protect the civilian population in zones of conflict and limits the methods used in wartime to minimize civilian loss.

Under the light of international humanitarian law, Israel's action casts vast shadows of gross international law violations and highlights the impotency of legal instruments of which the Palestinian claim to international protection rests. This conclusion must be reached even under the lens of those balancing exceptions to protection which afford the occupying power room to derogate from its obligations under the doctrines of legitimate self-defense and national security.

The Gaza Strip has been awarded specific legal status in international law since its 1967 occupation by Israel. This status is referred to as the legal regime of belligerent occupation and therefore activates both the Fourth Hague Convention Respecting the Laws and Customs of War on Land and the Fourth Geneva Convention Relative to the Protection of Civilian Persons in Time of War<sup>1</sup>. Gazans, who are locked in a zone of conflict and subject to occupation from an occupying power of which they are not nationals, have legal status as a protected population in international law<sup>2</sup>. Article 27 of the Fourth Geneva Convention obligates the occupying power to ensure humane treatment, respect for their persons and family rights in conjunction with Article 32 which prohibits actions causing 'physical suffering or extermination of protected persons'. Article 50 provides that children benefit from preferential protection against the effects of war.

All forms of collective punishment against the Gazan population of 1.5 million are a fundamental breach of the Fourth Geneva Convention. Targeting political buildings, symbols and police officers, who have quasi-civilian status under international law, is considered also war crime.

Mossawa submits that the killing of hundreds of Palestinian civilians, including many children, offends these provisions of international law and emphasizes the rhetoric of the UN Secretary General Ban Ki Moon; these principles must be rigorously applied by Israel, which denies and ignores their content despite the overwhelming reiteration of the responsibility of Israel under international law by the international community and legal scholars.

More generally, and once the current conflict subsides, Mossawa endorses the scrupulous application of international human rights law in Gaza, including adherence by both the current leadership in Gaza and especially Israel, as the superior power, in

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<sup>1</sup> Article 42: comprehensive definition of occupation under international law: Territory is considered occupied when it is actually placed under the authority of the hostile army. The occupation extends only to territory where such authority has been established and can be exercised.

<sup>2</sup> Article 4(1) Fourth Geneva Convention



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coordination with the international community, to the International Covenant on Economic, Social and Cultural Rights (ICESCR) which guarantees minimum rights to health, food, water and education, which are conducive to the normalization of the dire and enduring humanitarian crisis in Gaza. The cutting of electricity across the Gaza Strip during the ceasefire, for example, offends these norms and contributes to a mentality that people have nothing further to lose from resorting to violence. Furthermore the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and Convention on the Rights of the Child (CRC) must be applied to govern the special vulnerabilities of children and women in Gaza.

Mossawa acknowledges and supports the applications of these same legal instruments to those citizens of Israel but seeks to highlight the massive and disproportionate ratio of violations suffered between those in Israel and occupied Gaza — for example, the ratio of fatalities between Israeli citizens and Palestinians in Gaza in the last 18 days alone stands roughly at 1:100.

### **Failure of the International Community and Arab States**

Article 1 of the Fourth Geneva Convention has two limbs; the first anchors primary responsibility for the enforcement of the convention on the occupying power, *i.e.* Israel, and the second limb places the onus of a diagonal responsibility on other states to ensure that the occupying power fulfils its convention responsibilities. Mossawa submits that the international community has failed this Article 1 duty.

The international community failed to mobilize during the Egyptian brokered ceasefire to push for improvements on the ground that would change the dismal socioeconomic and political reality endured by Gaza's population during the previous six months' relative calm and 18 month economic blockade. This inaction has contributed to rendering the ceasefire a temporary and superficial episode of non-peace.

This failure to act can be partially attributed to the dangerous normalization of death and destruction in Gaza. The humanitarian crisis is portrayed frequently throughout the international media, which, through desensitization, has devalued the lives of Gazans or at least the 'shock factor' of their humanitarian plight.

Failure of the international community to enforce the prescriptions of international law applicable to occupied territories and to tolerate (and be perceived by the Arab world to tolerate) the institutionalized infraction of the laws that are intended to safeguard civilian populations from occupying powers, fuels the escalations of violence in the Middle East. The conflict consumes millions of dollars of foreign aid annually with no or little return for international security of peace sustainability.

### **Context of the Conflict**

Although in no way does the Mossawa Center endorse the violence permeating Gaza's border with Israel and the Qassam rockets fired indiscriminately at Israeli civilians and urban areas, Mossawa urges the domestic and international community



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to understand that these acts of violence do not occur in a vacuum and are symptomatic of the wider socioeconomic and political reality in Gaza, which is almost exclusively conditioned by Israel. Mossawa condemns the indiscriminate attacks from Hamas against civilian residents in the south of Israel which have killed five Israeli civilians, hit by Qassam rockets in the last 18 days and Mossawa condemns use of crude rockets which have targeted Israel since 2001.

Since 1967, the Gaza Strip has been occupied by Israel; in recent years this occupation has stagnated into a spiraling humanitarian crisis with conditions on the ground cumulating in an all-time low throughout 2008 and the Egyptian-brokered ceasefire. Israel was the first to violate the conditions of the ceasefire by destroying tunnels in the south of the Strip. More significantly however, Israel must be held accountable for the deteriorating humanitarian situation in Gaza as a result of failing to exploit the opportune six-month ceasefire with Hamas to improve standards of living for the population in Gaza by lifting its siege and economic blockade. This move could have played a key role in achieving a sustainable peace; Israel's failure to do so instead fertilized ground for extremist action that is counterproductive both for Israel's own security and for any future peace process.

The failure to reward the break in violence from Gaza with an alleviation of Gaza's poverty — more than 60 percent of Gazans currently live under the poverty line and the average wage in Gaza totals \$416 a month according to UN sources — has crucially been perceived as an unwillingness of Israel to be serious about peace beyond paying lip-service to any agreement.

Furthermore, the efforts of the Palestinian Authority in the current peace process have not been matched by the actions of the Israeli government, which in refusing to reduce checkpoints, curb settlement expansion, end construction of the Wall and take action against settler attacks on Palestinian civilians, have further indicated Israel's shallow and insubstantial commitment to the peace process. There was no coordination between the Palestinian Authority and Israel on the attacks on Gaza.

The last six months have been characterized by unchecked settler violence across the West Bank, particularly concentrated around the greater Hebron area. Settler violence in 2008 was the worst in the last decade making life impossible for residents in the territory. Mossawa seeks to highlight the link between Israel's complicity in the face of settler violence and the frustration and sense of hopelessness felt by occupied Palestinians. Mossawa seeks to highlight that it is this sense of hopelessness and abandonment which provokes the use of violence. This logic is true also of the situation in Gaza since the 2005 unilateral disengagement where reality on the ground has changed little since Israeli withdrawal in material terms. Instead it has provoked the use of Gaza as a launch pad for rocket fire as a crude expression of extreme poverty and hopelessness. Violent activity correlates with the depth of poverty and sense of hopelessness on the ground.

Israel has both directly and indirectly conditioned a social perception that the Palestinian people have nothing further to lose from resorting to violence. Israel must provide its' occupied people with 'something to lose' as a more sustainable alternative



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solution to the mutually reinforcing nature of exchange of hostilities and destruction which has embedded a cycle of violence which continues to characterize the Middle East conflict.

### **The Context of Domestic and International Political Realities**

It is likely that this Gaza offensive is politically motivated to demonstrate the strength of Israel's leaders, who are willing to use disproportionate violence to attract votes in the February 2009 elections from an electorate with memories of the widely perceived failure of Israel in the 2006 Lebanese war. In addition, Israel's political leaders are taking timely advantage of the outgoing Bush administration's uninhibited support of Israeli action before the change of US leadership.

As President Bush winds down his presidency before formally departing on January 20 to be succeeded by President-elect Barack Obama, and the French presidency of the EU over and a lower-key Czech Republic now holding the EU reins, there appears a leadership gap in the international community which has served to puncture its diplomatic effectiveness and ability to secure a ceasefire. Unfortunately, this incursion into Gaza has further generated hatred and extremism, exacerbating the conflict and limiting the political space for the incoming US administration to manoeuvre.

### **Position of the Arab Community inside Israel**

While the international community focuses its attention on the two levels of the Middle East conflict (i.e. the external conflict between Israel and certain Arab states, and the quasi-external conflict between Israel and the Palestinians under occupation in the West Bank, Gaza and East Jerusalem), a third level of the conflict — the internal confrontation between the Jewish majority and the Palestinian Arab minority within Israel — remains largely neglected on the international scene, even as it grows more severe. 1.4 million citizens of Israel are Palestinian Arabs who remained within the borders of Israel after 1948 and their direct descendants, which make up 20 percent of Israel's population. The status of this population, their relations with the Jewish majority, and their treatment by the government of Israel are issues central to peace and stability in Israel and throughout the region.

The recent offensive in Gaza has the potential to exacerbate tensions and hostilities between the minority and majority community inside Israel. Violence penetrating the Occupied Territories has mobilized Palestinians inside Israel to demonstrate against the War in Gaza in a series of demonstrations concentrated in the North of the country.

Any escalation of internal tensions can illustrate the severity of the situation in Israel and internal confrontations have the potential to complicate regional stability. Each of the conflicts in the Middle East can directly and incrementally affect one another. Internal tension and instability inside Israel have the potential to derail the peace process. Peace must therefore be cemented at the grassroots level, between



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Israel's Arab and Jewish communities, to provide the foundation for wider, sustainable peace.

Recently, there appears to be an increase in media incitement against Arab citizens of Israel, portraying Arabs as a threat to state security in light of the operation in Gaza and providing an additional platform for racism and marginalization of the increasingly alienated Arab community. This incitement is being used as a political capital to arouse support for extreme right-wing platforms such as population transfer and institutionalized discrimination of the Arab community. Since December 27 2008, over 200 Arab citizens have been arrested by police in different villages and cities for their participation in peaceful demonstrations. University students have been arrested during their peaceful and legitimate demonstrates. The Mossawa Center calls on all public and civil institutions in Israel to ensure the protection of the basic rights of freedom of expression and the right to demonstrate, which are both enshrined in national and international law.

As citizens of both Israel and part of the wider nation of Palestinian people, the Arab citizens of Israel are uniquely positioned linguistically, culturally and economically to contribute to a just, sustainable human rights-based resolution between Israel, the Palestinians and the wider Arab world. The potential of the Arab community in Israel as a tool for peace has been thus far been greatly ignored in media and political discourses and should be recognized both nationally and internationally as a community with a role to play in the peace process. The current situation in Gaza has fed and legitimised incitement by the media and political parties against the Arab community which has in turn led to significant erosions of civil liberties and democracy. On January 12<sup>th</sup>, Israel's Central Elections Committee (CEC) banned the Knesset's two Arab political parties, the United Arab List-Ta'al and Balad, from participating in the February 2009 elections in the context of the Gaza offensive. This move to disenfranchise the Arab minority in Israel was supported by right wing parties Yisrael Beiteinu and the National Union-National Religious Party, securing the alliance of centralists Kadima and Labor. The CEC decision will be challenged in the Supreme Court.

### **Reiteration of Mossawa's position**

The Mossawa Center calls on the Jewish majority and the international community to act immediately to implement a ceasefire, supply urgently needed humanitarian aid and to end the siege on Gaza. The incremental effects of this conflict on civil liberties, including freedom of expression and democratic participation of the Arab minority inside Israel, as well as incitement against the community must be stopped. Both nations deserve a defined future ensuring peace and security, as all parties have already endured six decades of cycles of violence and human rights abuses.