



Reflections One Year Later and Charting a New Course for Gaza

**UN Security Council Arria-formula Meeting
20 July 2015**

A publication of the Israel-Palestine Non-governmental Organization Working
Group at the United Nations



Photos: Doug Hostetter

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Arria-formula meetings of the United Nations Security Council

Arria-formula meetings are informal, confidential gatherings that allow Security Council members to meet on a specific topic and hear from people who normally would not have the opportunity to speak at regular meetings or consultations of the Council. In regular meetings of the Security Council, under long-standing practice, the only ones who may speak are government officials of Security Council members, invited delegations of UN member states involved in the issue at hand, and UN officials.

An Arria-formula meeting, first initiated in 1992 by Ambassador Diego Arria of Venezuela, allows a Council member or members to hold an informal meeting using a flexible procedural framework and held outside the Council chamber. The Council member or members calling the meeting invite persons they believe it would be beneficial for the Council to hear address the issue in question. This allows Council members to engage in direct dialogue with representatives of international organizations and experts from civil society on matters of concern that fall within the Security Council's responsibility. The inviting member(s) chair the meeting; the president of the Security Council must support the meeting taking place during said presidency.

Arria-formula meetings are off the record to allow frank and informal discussion. Such gatherings do not constitute a formal activity of the Council and are convened at the initiative of a member or members of the Council. Individual Council members determine if they will participate in Arria-formula meetings and at what level.

Arria-formula meetings represent a significant expansion of the sources of information for the Security Council. They allow voices of civil society experts to be heard and hopefully influence the debate and decisions of the Security Council's discussions in regular meetings.

Representatives of UN member states not serving on the Security Council and accredited nongovernmental organizations are often invited to attend Arria-formula meetings. Some UN member states view Arria-formula meetings as an appropriate and timely alternative mechanism that provides a better read on situations before the Security Council.

While the discussions in Arria-formula meetings of the Security Council are off the record, speakers or diplomats who wish to share the information that they presented in an Arria meeting are free to do so in a press conference or publication after the meeting, and in this spirit we are making this information available.

About the Israel-Palestine Non-governmental Organization (NGO) Working Group at the United Nations (UN)

The Israel-Palestine Non-governmental Organization (NGO) Working Group at the United Nations (UN) is a coalition of 15 active organizations that have met since 1999 to share information and advocate within the United Nations community for a just peace in Israel-Palestine.

The group is a unique body whose individual member organizations are accredited to the United Nations through the Economic and Social Council or the Department of Public Information. Each member organization has a link to Israel-Palestine, be it humanitarian, policy, or faith-based work. This dual commitment enables the working group to serve as a dynamic bridge between Israel-Palestine and the United Nations community while advocating for a just and lasting peace.

Disclaimer:

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Foreword

On Monday, July 20, 2015, the United Nations Security Council met in an Arria-formula meeting entitled, “Reflections One Year Later and Charting a New Course for Gaza.” The Permanent Missions of Malaysia and the Hashemite Kingdom of Jordan to the UN co-chaired the meeting, the first ever Arria-formula Security Council Meeting to focus on Gaza, and the first on the Occupied Palestinian Territory since 1997.

In the 18 years since the previous Arria-formula, we have seen the Second Intifada, numerous failed peace processes, countless acts of aggression, violence, and terror throughout the region, and three military assaults on the Gaza Strip.

One year on from the most recent of these assaults, Operation Protective Edge, the 2014 Israeli military offensive against the Gaza Strip, no substantial reconstruction has taken place, and the region remains a tinderbox. This latest military offensive exacerbated an already dire humanitarian crisis due to the ongoing blockade imposed since 2007 by Israel, the Occupying Power, which has sealed off Gaza by land, sea, and air and separated and isolated it territorially, economically, socially, and politically from the rest of the Occupied Palestinian Territory.

The Arria-formula Security Council Meeting on Gaza was organized in part to highlight the inaction that has engulfed the Security Council when it comes to the Middle East Peace Process. It is an important foundation to build upon and encourage future constructive and sustained engagement on behalf of the Council and United Nations as a whole.

The Israel-Palestine NGO Working Group at the United Nations is grateful to the Permanent Missions of Malaysia and the Hashemite Kingdom of Jordan to the UN for organizing the meeting. The constructive and compassionate interventions from members of the Security Council during the meeting, and during the subsequent Middle East Quarterly Open Debate on Thursday, July 23, 2015, were also welcomed.

The Israel-Palestine NGO Working Group at the United Nations was pleased to help bring new voices to the Security Council for this historic event, which interrupted the status quo of “business as usual.” This booklet includes the presentations of the four civil society speakers at the Arria-formula meeting. We are grateful to Mr. Vance Culbert, Country Director for the Norwegian Refugee Council, Mr. Ardi Imseis of Cambridge University, Ms. Tania Hary, Deputy Director of Gisha—Legal Center for Freedom of Movement, and Dr. Sara Roy, Senior Research Scholar, Center for Middle Eastern Studies, Harvard University, for their permission to include their words within this publication.

As a stakeholder for peace and justice for Israelis and Palestinians since 1999, the Israel-Palestine NGO Working Group hopes this meeting can help turn a new page in the long history of addressing the Question of Palestine at the UN. The ideas raised in the Arria-formula meeting will, hopefully, encourage the Security Council to engage in renewed negotiation to end the blockade and the current unsustainable situation in Gaza and catalyze a new course of action that leads to an end to the occupation and a peaceful future for the people of Gaza, and, indeed, for all Palestinians and Israelis.

But action must match rhetoric.

It is time for the members of the Security Council to overcome the current inertia and work toward new approaches and solutions that pursue a peace founded on justice for Palestinians and Israelis. Concerted and sustained engagement by a wide array of dedicated actors, state and non-state alike, has the potential to transform the unacceptable condition that currently exists. The fate of the Palestinian people in Gaza is intertwined with that of all the Palestinian people who live daily under occupation. The desperate situation in Gaza decreases the likelihood of creating a just and secure peace for Palestinians and Israelis alike.

As the United Nations moves into its 70th anniversary year, many concerned communities harbor renewed hope that progress can and will be made. For this to transpire, the Security Council and the international community will need to take bold and creative action to chart a new course that leads to a just peace for Gaza, and all of Palestine and Israel.

Israel-Palestine NGO Working Group

September 2015

Vance Culbert

Norwegian Refugee Council, Palestine

Excellencies,

Distinguished guests,

On behalf of the Norwegian Refugee Council (NRC) please allow me to express my sincere thanks and appreciation to the Permanent Missions of Malaysia and the Hashemite Kingdom of Jordan for this opportunity to address the Members of the Security Council. Allow me to also thank the Israel-Palestine NGO Working Group for its assistance and support in preparation for this meeting.

Today marks the anniversary of one of the most disturbing and dramatic events that occurred during last summer's escalation, when Israel made use of heavy aerial bombardment and artillery fire in the densely populated neighbourhood of Shujaiya, east of Gaza City.

Shujaiya is an area that covers approximately 6 square kilometres and is inhabited by around 92,000 people, which is comparable to Williamsburg in Brooklyn. The IDF intervention, which reportedly included the dropping of over 100 one-ton bombs, led to the complete destruction of 670 buildings, and damaged an additional 1184, making a total of over 1,800 houses affected just in this one neighbourhood. The UN Secretary-General Ban Ki-moon, on 20 July 2014, a year ago today, called the attack "an atrocious action."

NRC is a humanitarian agency, and I want to give you today an overview of the humanitarian situation that we face from last year. NRC leads the shelter cluster in Palestine. Our reports show that 12,580 housing units were completely destroyed during the conflict and an additional 157,000 housing units were damaged. At the rate of imports of construction materials through the UN - brokered Gaza Reconstruction Mechanism over the past year, it will take 19 years to reconstruct this damage. One hundred thousand people remain displaced from last summer's war, and very, very few are receiving any form of temporary shelter assistance. Nineteen years is a long time to wait for new shelter.

Nineteen years is also a long time to expect to go without a return to the cycle of war in Gaza, and last summer's confrontation is just the start of a host of challenges. First-grade children in Gaza have now gone through three wars in their lifetime. Houses have still not been completely rebuilt from the conflict of 2009, when I first went to work in the Gaza Strip.

Other sectors are as badly affected. Gaza used to have a strong education system. In 2009 we were pushing to increase the number of schools so that children would not have reduced access to their

schools, due the necessity for many schools to run “double shifts.” Today we face the same issue but with triple shifts.

Despite these figures, I believe the largest humanitarian challenges facing Gaza today are water and electricity.

The main source of water in Gaza is the Gaza aquifer. Ninety-six percent of water taken today from this aquifer is not potable. After years of negotiations Israel has now agreed to double the amount of water imports via the Mekorot pipeline. This could account for up to 10 percent of Gaza City’s water needs – however the Al Muntar water reservoir that was required to make full intake possible was destroyed during the conflict, along with other key components of Gaza’s water infrastructure. More than 120,000 people are still disconnected to the municipal water due to the massive destruction sustained to water networks.

This vital infrastructure will take years to rebuild. In addition, the power supply is only able to meet 30 percent of demand, affecting the functioning of health services, preventing the delivery of basic services and proper economic recovery.

The economy also deserves particular mention. After eight years of blockade and three wars, the unemployment rate stands at 44 percent, higher than any nation in the world. According to the World Bank, real per capita income is 31 percent lower in Gaza than it was 20 years ago. Gaza’s manufacturing sector—once significant—has shrunk by as much as 60 percent, while exports have virtually disappeared since the imposition of the 2007 blockade.

The World Bank further estimates that GDP losses caused by the blockade are above 50 percent. Gaza is in a state of de-development and one can only try to slow it down.

While I have outlined some of the humanitarian challenges in Gaza due to recurrent conflict, the real barrier that people in Gaza face is the blockade. After eight years of siege, the housing stock has fallen hopelessly behind population growth. While it would take 19 years to address the destruction from last year’s conflict at current import rates, it would take 76 years to address the accumulated housing needs. The ability to provide education, water, health care and electricity are all equally effected. This is in nobody’s interests, including in nobody’s security interests.

Things are changing, and it is important to take stock of these to push for change in the right direction. Most reconstruction in the past took place from materials imported through the tunnels from Egypt. These no longer exist on any scale.

The UN brokered GRM which I mentioned offers new import possibilities, and has already seen the delivery of some building materials to 90,000 affected families.

However, while we do not have accurate figures on previous imports, this amount is a fraction of previous market driven levels and a fraction of what is needed. The GRM has only just activated a mechanism for the building of new houses. Lacking this, not a single destroyed house has been rebuilt since last year, and 12,580 housing units are still awaiting full construction. Pre-conflict import mechanisms through Israel, which still make up 75 percent of construction imports, have often faced delays of months or years in the past.

It is important that multiple mechanisms for entry of goods into Gaza are maintained. When one approach is blocked we need back-ups, and therefore we encourage UN and diplomatic counterparts not to put all their eggs in one basket but to support a diversity of options to give the greatest chance for materials to be allowed in.

There are other challenges with reconstruction. There has been too great of a focus on imports, to the neglect of preparatory urban planning, addressing land and property rights, and other pre-conditions for rebuilding densely populated urban areas.

As of today, less than 30 percent of donor pledges from the Cairo conference have not been met. However, at the same time we are aware that some major donors have not been able to expend their donations as they have been unable to access the current mechanisms for bringing reconstruction materials into Gaza. Political considerations, such as the desire by some parties to tie reconstruction to the form of governance in Gaza, are a primary obstacle to reconstruction efforts.

NRC's Secretary-General, Jan Egeland, former Under-Secretary-General for humanitarian affairs, stated in the wake of the announcement of the GRM: "Past experience indicates that without a real paradigm shift in the way materials and people can enter and exit Gaza, this mechanism is not likely to succeed in securing reconstruction at a rate necessary to meet the staggering needs."

A paradigm shift would start with the opening of the crossings from Israel and Egypt and the lifting of the blockade imposed by the occupying power. The German Minister of Foreign Affairs made a clear statement in that direction on the occasion of his recent visit to the Strip.

Secondly, for Gaza to breathe and to heal, it needs reinvigorating trade and economic development. This means improving the ability to transfer goods out of Gaza for sale in the West Bank, Europe, and the rest of the world. Recent Israeli easing measures symbolise a first positive step, but Gaza needs more.

We therefore urge the Members of the Security Council to show leadership, in line with past resolutions, and press Israel to facilitate the unimpeded movements of people and goods in and out of Gaza as foreseen in the November 2012 ceasefire agreement.

We call on the Security Council to press for an immediate easing of restrictions on Gaza. These include removal from dual use lists of all equipment required in the medical sectors, and other essential humanitarian material as well as items essential for reconstruction. It also includes the further easing of movement restrictions for people in and out of Gaza.

We also call on the Security Council to support a coordinated reconstruction process in Gaza and invite the Member States of the United Nations to support it politically and financially. This includes maintaining a variety of mechanisms for the import of crucial infrastructure material.

In the case of a new escalation of conflict, we call on the Security Council to press for a strict protection of key infrastructure, particularly related to water, energy, and schools.

Lastly, while welcoming the repeated calls of support by Secretary-General Ban Ki-moon in favour of Palestinian unity, allow me to reiterate the importance of not conditioning reconstruction efforts to intra-Palestinian reconciliation nor making them contingent to the return of the Palestinian Authority to the Gaza Strip. In line with the humanitarian imperative, we call on the Security Council to protect the provision of aid from political considerations and avoid its instrumentalization.

Thank you Mr. President for the privilege of addressing this important session.

Ardi Imseis

Cambridge University¹

Your Excellencies, Ladies and Gentlemen.

I would like to begin my presentation by expressing my gratitude to the Permanent Missions to the United Nations of Malaysia and the Hashemite Kingdom of Jordan for extending an invitation to me to address you on the occasion of the one year anniversary of Israel's 2014 offensive against the Gaza Strip. While I would have much preferred to have joined you in person in New York, circumstances beyond my control rendered that an impossibility. Technology permitting, it is my hope that I will be able to join you via telephone immediately following this address.

It would be an understatement to say that the theme of this meeting, "Reflections One Year Later and Charting a New Course for Gaza", is wholly a propos the prevailing situation there.

As you will already have been briefed, the humanitarian impact of the 2014 hostilities on the people of Gaza was immense by any measure: over 2,250 Palestinians killed, including at least 1,462 civilians, of which more than 550 were children; close to 500,000 people displaced at the height of the hostilities, with approximately 100,000 remaining internally displaced, their homes destroyed or severely damaged and uninhabitable.

Public infrastructure, including schools and hospitals, suffered heavy damage, affecting nearly every aspect of daily life. Alarming, this included the bombardment and abuse of United Nations premises, inviolable as a matter of international law, resulting in the death of at least 42 Palestinians, including 16 children, and the injury of 230 others who had taken shelter there. While far less in scope and scale, Israelis too suffered, with 72 killed, among them five civilians, including one child.

While much more can and has been said about the humanitarian impact of the 2014 hostilities on Gaza, I will not be focusing on this today. Rather, I have chosen to focus on the matter of accountability under international law, and what the Council and its members can do to address the root causes of what is, by now, one of the longest running conflicts on the agenda of the United Nations.

1 Department of Politics and International Studies, Fitzwilliam College, University of Cambridge (PhD Candidate). Visiting Research Scholar, Faculty of Law, American University of Cairo (2015-2016). United Nations Relief and Works Agency for Palestine Refugees in the Near East (HQ Gaza, 2002-2007; West Bank Field Office, 2007-2014).

In choosing the topic of accountability, I do not do so with a view to counsel the adoption of punitive measures over conciliatory ones, certainly not in a conflict so desperately in need of the latter. Rather, I do so knowing that after almost 68 years since the General Assembly recommended partition of Palestine, followed by the ethnic cleansing of roughly 80 percent of that country's indigenous inhabitants and almost half a century of Israeli foreign military occupation of its remnants in the West Bank, Gaza Strip and East Jerusalem, peace surely must also require that elemental justice be done. Where there is a right, there must be a remedy, so the legal maxim goes.²

In this regard, the conclusions and recommendations of the latest Independent Commission of Inquiry on Gaza are a good reference point. After documenting “substantial information pointing to serious violations” of international humanitarian law and human rights law by Israel and, to a much lesser extent, Palestinian armed groups, including possible war crimes, the Commission urged “all those concerned to take immediate steps to ensure accountability, including the right to an effective remedy for victims.”³ In this context, the Commission recommended that “the parties should cooperate fully with the preliminary examination of the International Criminal Court and with any subsequent investigation that may be opened.”⁴ It also called upon the parties to promptly establish “credible, effective, transparent and independent accountability mechanisms.”⁵

The Commission made further recommendations directed towards each of Israel, the Palestinians, and the international community.

For Israel, the Commission urged it to ensure, among other things, that its own investigations “comply with international human rights standards and that allegations of international crimes, where substantiated, are met with indictments, prosecutions and convictions, with sentences commensurate to the crime.” It further urged Israel “to take all measures necessary to ensure that such investigations will not be confined to individual soldiers alone, but will also encompass members of the political and military establishment, including at the senior level, where appropriate.”⁶ It recommended that Israel accede to the Rome Statute of the International Criminal Court. Most importantly, it also urged Israel “to address structural issues that fuel the conflict and have a negative impact on a wide range of human rights, including the right to self-determination”; “to lift, immediately and unconditionally, the

2 *Marbury v. Madison*, 5 U.S. 137 (1803) at 163.

3 Report of the Independent Commission of Inquiry established pursuant to Human Rights Council resolution S-21/1, 24 June 2015, UN Doc. A/HRC/29/52, para. 74 [hereinafter “CoI Report”].

4 *Id.* at para. 82.

5 *Id.* at para. 83.

6 *Id.* at para. 86.

blockade on Gaza”; “to cease all settlement-related activity”; and to implement the 2004 advisory opinion of the International Court of Justice.⁷

The Commission urged the State of Palestine to, among other things, “ensure that investigations into violations of international humanitarian law and international human rights law, including international crimes...where substantiated, comply with international human rights standards and that full accountability is achieved, including through criminal proceedings.”⁸ Likewise, the Commission called upon the authorities in Gaza and Palestinian armed groups to cease “all attacks on Israeli civilians and civilian objects, and stop all rocket attacks.”⁹

Finally, the commission called upon the international community “to promote compliance with human rights obligations, and to respect, and to ensure respect for, international humanitarian law in the Occupied Palestinian Territory and Israel, in accordance with article 1 common to the Geneva Conventions.” Importantly, it urged the international community “to support actively the work of the International Criminal Court in relation to the Occupied Palestinian Territory; to exercise universal jurisdiction to try international crimes in national courts; and to comply with extradition requests pertaining to suspects of such crimes to countries where they would face a fair trial.”¹⁰

While much can be said of the obligations of Israel and the Palestinians vis a vis the 2014 Gaza conflict and its aftermath, matters of economy along with the nature of this occasion compel me to focus on some of those of the international community, including as raised by the Commission of Inquiry.

It is trite to point out that the Council is fully empowered to address the situation in Gaza through any number of measures, including through the adoption of binding decisions under the Charter. This could conceivably include in a decision requiring Member States to cooperate to bring Israel’s blockade of Gaza to an end, or indeed, its prolonged military occupation of Palestine altogether. At the very least, this would trigger obligations of Member States not to recognize as lawful the situation created by Israel’s internationally wrongful acts in occupied Palestine, nor render aid or assistance in maintaining that situation. In addition, the Council could also take decisions requiring Member States to sever economic, diplomatic, and other relations with Israel until it complies with its decisions. The Council could also take a decision requiring all Member States, including Israel, to appropriately prosecute or

7 *Id.*

8 *Id. at para. 87.*

9 *Id. at para. 88.*

10 *Id. at para. 89.*

extradite persons alleged to have perpetrated war crimes arising out of the 2014 Gaza conflict or to otherwise cooperate with the work of the International Criminal Court in that respect.

These are but a few examples of what the Council could theoretically do to address the appalling situation in Gaza, the facts of which speak for themselves. Of course, what is required is neither new law nor new facts, but rather the existence of sufficient will among Council members to act in unison in line with the purposes and principles of the Charter. And despite differences of opinion that may exist within the Council, there is ample precedent to go on. Take for example the Council's consistent pronouncements on the applicability of the Fourth Geneva Convention to the Occupied Palestinian Territory, or the illegality of Israeli settlements in the OPT, or the illegality of Israel's annexation of East Jerusalem. Each of these are contained to varying degrees in Security Council resolutions 252 (1968),¹¹ 298 (1971),¹² 446 (1979),¹³ 452 (1979)¹⁴ and 465 (1980)¹⁵, among others. What some of these resolutions demonstrate is that even where a Council member may disagree with the majority of the Council, use of an abstention (and in the case of a permanent member, an abstention over a veto) can offer an effective means of registering such disagreement without frustrating the will of the Council as it seeks to discharge its solemn legal obligations under the Charter.

But where the Council is unable to act due to lack of a sufficient majority unimpeded by the veto of a permanent member, the recommendations of the Commission of Inquiry remind us that that does not signal an end of the matter. As High Contracting Parties to the Geneva Conventions of 1949, all Members of the Council, indeed all Member States of the UN, are under independent legal obligations to not only respect, but to ensure respect, for the terms of those Conventions. This includes the legal obligation, under article 146 of the Fourth Geneva Convention, to pass laws at the domestic level that criminalize the commission of grave breaches of the Convention (all war crimes under international law), and also to locate and try persons suspected of having committed or ordered the commission of such offences. Under article 147 of the Convention, these include willful killing, torture or inhuman treatment; willfully causing great suffering or serious injury to body or health; unlawful deportation or transfer or unlawful confinement of a protected person; willfully depriving a protected person

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- 11 S.C. Res. 252, U.N. SCOR, 23d Sess., 1421st mtg., U.N. Doc. S/8590 (1968), available at: <http://unispal.un.org/UNISPAL.NSF/0/46F2803D78A0488E852560C3006023A8>
 - 12 S.C. Res. 298, U.N. SCOR, 34th Sess., U.N. Doc. S/10338/Rev.1 (1971), available at: <http://unispal.un.org/UNISPAL.NSF/0/441329A958089EAA852560C4004EE74D>
 - 13 S.C. Res. 446, U.N. SCOR, 34th Sess., 2134th mtg., U.N. Doc. S/RES/35 (1979), available at: <http://unispal.un.org/UNISPAL.NSF/0/BA123CDED3EA84A5852560E50077C2DC>
 - 14 S.C. Res. 452, U.N. SCOR, 34th Sess., 2159th mtg., U.N. Doc. S/RES/35 (1979), available at: <http://unispal.un.org/UNISPAL.NSF/0/0B7116ABB4B7E3E9852560E5007688A0>
 - 15 S.C. Res. 465, U.N. SCOR, 35th Sess., 2203d mtg. at 5, U.N. Doc. S/RES/36 (1980), available at: <http://unispal.un.org/UNISPAL.NSF/0/5AA254A1C8F8B1CB852560E50075D7D5>

of the rights of a fair and regular trial; the taking of hostages; and the extensive destruction and appropriation of property, not justified by military necessity and carried out unlawfully and wantonly.

This is, in part, what the Commission of Inquiry intimated when it recommended that members of the international community “exercise universal jurisdiction to try international crimes in national courts,” and “comply with extradition requests pertaining to suspects of such crimes to countries where they would face a fair trial.”¹⁶ Universal jurisdiction “refers to the authority of domestic courts and international tribunals to prosecute certain crimes, regardless of where the offense occurred, the nationality of the perpetrator, or the nationality of the victim.”¹⁷ The concept rests upon the rationale that some crimes – such as war crimes – are so universally condemned, they warrant the exercise by any competent national or international judicial authority of criminal jurisdiction over those alleged to have perpetrated them, without regard to the traditional factors upon which such jurisdiction is usually based.¹⁸ It is well to recall that the principle of universal jurisdiction was first used by the Supreme Court of Israel in litigation involving Israel’s prosecution of Nazi war criminal Adolf Eichmann in 1961. Today, a growing number of High Contracting Parties, including a number of Council members, have enacted or begun to enact domestic legislation empowering their courts to invoke universal jurisdiction, in some degree or another, in accordance with their obligations under the Fourth Geneva Convention. These mechanisms should be examined closely with a view to employing them to ensure a measure of accountability for war crimes committed during the 2014 Gaza conflict.

I began my presentation by affirming the appropriateness of the theme of this meeting, “Reflections One Year Later and Charting a New Course for Gaza.” I should like to conclude it on a somewhat contrarian note.

Since at least the imposition of Israel’s blockade in 2007, the issue of Gaza has attracted a great deal of attention, all of it warranted. Nevertheless, one cannot discuss the issue of Gaza in isolation from the rest of what is unfolding in the remainder of occupied Palestine. This was a

16 *Id. at para. 89.*

17 Michael P. Scharf & Thomas C. Fischer, Forward to Symposium, Universal Jurisdiction: Myths, Realities, and Prospects, 35 *New Eng. L. Rev.* 227, 227 (2001).

18 These traditional factors include the principles of (1) territoriality (where the state assumes jurisdiction over crimes committed in its territory); (2) protection (where the state assumes jurisdiction over crimes prejudicial to its national security, even if committed by non-nationals extra-territorially); (3) active personality (where the state assumes jurisdiction over crimes committed by its nationals, even if committed extra-territorially); and (4) passive personality (where the state assumes jurisdiction over extra-territorial crimes committed by non-nationals against its nationals). See *Research in International Law of Harvard Law School, Jurisdiction with Respect to Crime*, 29 *Am. J. Int’l L.* 435 (Supp. 1935).

matter not lost on the Commission of Inquiry in its consideration of the issues before it. Nor should it be a matter lost on any of us today.

Israel's occupation of the West Bank, including East Jerusalem, and the Gaza Strip has presented some of the most considerable challenges to the international system in the post-1945 era. The advent of the UN Charter was meant to herald a new world order based on peaceful resolution of disputes, suppression of acts of aggression, and development of friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples. Nevertheless, whether in breach of the general prohibition on the use of force, the unlawful acquisition of territory through the threat or use of force, the prolonged violation of a peoples' right to self-determination, or the systematic settler colonialism at its root, the illegality of Israeli practices in occupied Palestine – of which these are but a representative sample – demonstrate that the question of Palestine triggers legal principles that go well beyond the relatively narrow positions of each of its immediate protagonists. Rather, the principles at play are of such fundamental import to the maintenance the international system as such that each State has an interest in ensuring against their violation. Put simply, the situation in occupied Palestine is about more than merely the place and its people; it is about the maintenance of the international rule of law as we know it.

Having regard to the reasons behind the very establishment of the UN Charter system, and the promulgation of the 1949 Geneva Conventions, helps bring this point into sharp relief. For centuries prior to the interwar years, the use of force in international relations was a perfectly legitimate tool of statecraft, “policy by other means,” as von Clausewitz put it. Likewise, the right of conquest of territories occupied as a result of such use of force was considered axiomatic. Of course, this all imploded during World War II, with consequences that need not be recalled in full. Suffice to say, as a result of these events, including the despicable treatment of civilian populations subject to foreign military occupation in central Europe during the war, the UN Charter was promulgated, affirming the prohibition of the use of force in international relations, along with its corollary prohibiting the acquisition of territory through the threat or use of force. Likewise, the Fourth Geneva Convention was promulgated prohibiting, among other things, collective penalties, forcible transfer of protected persons, and the transfer by an occupying power of its civilian population into the territory it occupies. Indeed, as a matter of international law, occupation is meant to be a temporary condition, with sovereignty never vesting in the occupant but rather in the people occupied. By all objective accounts, these were the principles that underscored the foundation of the UN Charter system. And by all objective accounts, including those of the United Nations, these are the principles that are under direct threat in occupied Palestine.

As we consider how to respond to the situation in occupied Palestine following Israel's 2014 offensive against the Gaza Strip, it is respectfully submitted that the Council keep these considerations foremost in mind.

Tania Hary

Gisha – Legal Center for Freedom of Movement

Introductory remarks

Thank you very much for offering me this opportunity to present today.

My name is Tania Hary and I'm deputy director of Gisha – Legal Center for Freedom of Movement.

Gisha, which means access or approach in Hebrew, is an Israeli organization founded 10 years ago which uses legal and public advocacy to promote the right to freedom of movement, particularly for residents of the Gaza Strip. We see freedom of movement as a precondition to the fulfillment of other rights and key to the pursuit of personal opportunities, well-being and regional stability.

Despite the disengagement, when Israel pulled its settlements and military installations from Gaza 10 years ago, Israel continues to control vast tracks of Gaza's arable land, its airspace, territorial waters, commercial access routes, the ability of much of its civilian infrastructure to function via its control of fuel and electricity supply, and all travel between Gaza and the West Bank.

Our position is that this control creates responsibility. Israel continues to bear responsibility for ensuring movement and access in a way that facilitates normal life. We believe Israel's legitimate security concerns can be addressed and aren't zero-sum with the rights and well-being of Palestinian residents of the occupied territory.

Summary

In my comments today, I'd like to argue that despite a positive shift in rhetoric and some corresponding changes in access policy following Operation Protective Edge, movement restrictions continue to be applied sweepingly and in a way that blocks true recovery. Senior Israeli security officials have publicly recognized that despair in Gaza undermines Israel's security, yet not enough is being done on the ground to bring about real change.

At the same time, I believe recent events create an opportunity for Israel and the international community to carve out a new path, reversing the closure of Gaza. This must be done in a way that reconnects Gaza to the West Bank in recognition that territorial integrity is vital for a

functioning economy, the fulfillment of rights and any hope of reaching a sustainable solution to the conflict.

I will address the current state of access policy and offer our recommendations for going forward.

Rhetorical shift post-operation

As I noted, after Operation Protective Edge, there was an important change in rhetoric on the part of senior Israeli security officials. Israel's defense minister, chief of staff and others noted that ongoing hardship in Gaza, of the kind that my colleagues have outlined, harms Israeli and regional security. They cited the need for reconstruction and an economic horizon for the territory.

The rhetoric was matched with slight changes in access policy, including an expansion of the quota of traders who can exit the Strip, allowing travel of elderly people to Jerusalem for Friday prayers, and allowing some goods to transit to the West Bank and Israel for the first time since 2007.

When Hamas forces gained control of Gaza in 2007, Israel imposed what it called economic warfare or sanctions against the territory. Since 2010 it has called its policy one of separation or distinction. Important restrictions were lifted in 2010 on the entrance of goods and slight changes have been made more recently, but items vital for industry and construction remain restricted. Sweeping limitations continue to block families from uniting, students from studying, farmers from getting their produce to market, and companies from doing business.

Aspects of the "separation policy" well-preceded Hamas rule of Gaza; in fact, over the past two decades, travel between Gaza and the West Bank has gradually been reduced so that the rule is that no one travels except those with exceptional permission.

Israeli officials have described, in court proceedings and via official correspondence with Gisha, that Israel's policy goals are both political and security-oriented in nature. The goals include, in their words, undermining support for the Hamas regime in the Strip and preventing the transfer of terrorist infrastructure between Gaza and the West Bank. But Israel also interprets its obligations towards residents of the Strip narrowly, saying that it only has to refrain from causing a humanitarian crisis and that any level of access it allows beyond that is charitable.

As of 2015 many, many restrictions cannot be justified by security needs but rather appear to continue to serve political goals and reflect Israel's narrow view of its obligations to residents of Gaza. There is ample space then to discuss how Israel's political goals impact on

its obligations to residents of Gaza, without denying Israel's right and obligation to protect its own citizens.

Recent changes in policy indicate a genuine realization among Israeli security officials that the policy of separating, isolating and closing Gaza has failed to achieve the political and security goals it ostensibly sought to achieve. The regime in Gaza has not fallen and in fact has only developed its military capabilities. Still more nefarious groups have an easy recruitment base, with youth unemployment nearing 60 percent, in large part due to restrictions on movement which devastated an already feeble economy.

The question is, what will replace the current policy and how? After all, the gap between rhetoric and reality remains alarmingly wide.

1. Movement of people is currently at the highest levels we've seen since 2007, yet, the rate of travel of Palestinians from Gaza remains less than 4% of what it was prior to September 2000. The criteria for who can travel remain exceedingly narrow.
2. Transfer of some goods has been allowed to the West Bank as well as a small quota of goods to Israel, once Gaza's primary markets. However, restrictions remain such that the rate of exit of goods is just over 8% of prior levels. An economy can hardly function without exit of goods.
3. Construction materials are entering via the complex reconstruction mechanism which my colleague from the NRC described, however only between 1-5 percent of the amount needed has entered.

Movement restrictions, especially those imposed on travel between Gaza and the West Bank, are particularly harmful for women and young people.

While travel restrictions were eased in part for traders over the past year, access for sectors where women and young people tend to work – for example civil society or small businesses – have been overlooked. Students from Gaza have been banned from traveling to study at West Bank universities since the year 2000. The ban impacts young women and those from disadvantaged families disproportionately, as they may be less likely or able to study abroad when their field of study isn't offered in Gaza.

In court proceedings we brought on behalf of students, young people were described as being part of a "risk group." Certainly, if that is Israel's point of departure, with over half of Gaza's population under the age of 18 and 70 percent under 30, Israel should do all in its power to enable hope. Israel sometimes justifies restrictions citing the presence of a "murderous regime in Gaza". I see that as more reason to offer a credible alternative, and facilitate access

to opportunities for young people in a way that makes a farce of the recruitment tactics of militant organizations and dries up their support.

I don't wish to underestimate the role of other factors in contributing to the situation on the ground, whether the Palestinian factional split, Palestinian actors, or Egypt. The factional split has exacerbated the divide between Gaza and the West Bank by splitting the Palestinian government and legal system. But restrictions on movement imposed by Israel undermine economic and social ties that provide a foundation for a healthy society and could bolster cooperation until unity is restored.

The indiscriminate firing of rockets on civilian population centers is a war crime and Israel undoubtedly faces serious challenges to meeting its obligation to protect its citizens. As an Israeli citizen, and a rather anxious one at that, I get it. But I have yet to understand how stopping a young woman from pursuing gender studies at Birzeit or a young man from attending a hi-tech expo in Ramallah protects my security.

Rafah Crossing is of course a vital link to the outside world and has been mostly closed since November, however, it could not meet Gaza's needs for access to the rest of the Palestinian territory or erase Gaza's dependence on and links to Israel. Some may say I am singling out Israel in these comments, and it's true that as a representative of an Israeli organization, the State of Israel is my main interlocutor and I'd like it to do the right thing. The violence and upheaval in the region should only impel us to try harder, not bury our heads in the sand.

In the absence of meaningful negotiations to resolve the Israeli-Palestinian conflict and perhaps little hope that these will commence soon, preserving human rights takes on new significance.

Gaza's devastation and the fragmentation of the Palestinian territory are just as much facts on the ground eroding the viability of a future Palestinian state as is the settlement enterprise in the West Bank. The concept that somehow Gaza can be punished while leaving the West Bank unscathed, has also been discredited.

A recent report noted that the Palestinian Authority receives 3 percent of its revenue from Gaza while accounting for 43 percent of its expenditure. The situation is as unsustainable for Palestine as it is for Israel.

Because senior Israeli security officials themselves have noted that despair in Gaza harms Israel's security and are ostensibly taking steps to bring about change, there is now an opportunity to carve out a different path that does away with punitive measures and recognizes the potential of Gaza to contribute to a better future for the region.

The international community can play a vital role in the following ways:

- By categorically rejecting the punitive tactic of closing crossings in response to rocket fire, unless there is a concrete, specific threat to the crossings themselves.
- By reinforcing that Israel's obligations to residents of Gaza are not limited to preventing a humanitarian crisis alone, but rather are more robust and include facilitating normal life, development and well-being.
- By demanding an explanation of the goals of the separation policy and judging whether these goals are in line with Israel's obligations under international humanitarian and human rights law.

Thank you.

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This presentation is drawn from Sara Roy, “Afterword: The Wars on Gaza—A Reflection” in The Gaza Strip: The Political Economy of De-development, Expanded 3rd Edition (Washington, DC: Institute for Palestine Studies, forthcoming in 2015).

I would like to begin by thanking the permanent missions to the UN of Malaysia and the Hashemite Kingdom of Jordan for the invitation to participate in the Arria-formula Security Council Meeting on Gaza.

In the 30 years that I have spent researching and writing about Gaza and her people, I can say without hesitation that I have never seen the kind of human, physical, and psychological destruction that I see there today. Nor is there any precedent for the extraordinarily dangerous situation in which Gaza has found itself since the 2014 Operation Protective Edge (OPE).

An UNRWA official I know recently told me about a conversation he had with a senior Israel Defense Forces (IDF) officer whose responsibilities include the Gaza Strip. In that conversation my UN colleague asked the IDF official to describe Israel’s policy toward Gaza. The answer was just seven words long: “No development, no prosperity, no humanitarian crisis.”

As shocking as this statement is, it fundamentally reflects Israel’s near 50-year policy in Gaza and the West Bank, which, from its beginning, aimed to prohibit any form of economic development (although a limited degree of prosperity was allowed in the early years of the occupation), thereby precluding the emergence of a Palestinian state – Israel’s primary goal. There should be no doubt that these policies of preclusion – deliberate and planned – have been enormously successful, particularly over the last decade, which has been especially ruinous for Gaza given an Israeli- imposed blockade, now in its ninth year. This blockade severed almost all of the territory’s ties to the outside world, ending all normal trade relations – so vital for Gaza’s small economy. According to the World Bank, the blockade alone resulted in a 50 percent decrease in Gaza’s GDP since 2007. When combined with the impact of OPE, the blockade was responsible for shrinking the manufacturing sector by as much as 60 percent. Consequently, the Gaza Strip – once considered a lower middle-income economy (together with the West Bank) – has been largely disabled.

The virtual termination of Gaza’s tunnel trade by Egypt – a vital albeit underground economic lifeline – dealt another economic blow. Israel’s last war on Gaza one year ago – the third in six years – exacerbated an already grave situation by reducing Gaza’s economy by

an additional \$460 million, setting in motion what one local analyst called a “dynamic of disintegration,” that has taken a number of forms, some of them completely unprecedented. I will focus the remaining minutes of my talk on some of these unprecedented changes.

A dramatic shift in popular attitudes

Everyone I have spoken to in Gaza over the past year has said the same thing: that this war has profoundly changed the way people think. Perhaps most significant is the sense of collective dread and desperation that permeates the Strip, more keenly felt in OPE’s aftermath than ever before.

While the classic symptoms of post-traumatic disorders are pervasive, what drives people to despair and desperation, said a Gazan friend, is less the war they endured than the inhuman conditions left unchanged after the war. “The shared experience of loss and pain during the war,” he told me, “acted to bring people together toward a common goal that was meant to bring about real change. But since the end of the hostilities, a new reality has set in. Nothing has changed after this great loss and sacrifice except a vastly expanded panorama of destruction.”

Psychologically, Gazans have never felt less safe and secure knowing the fighting will at some point resume. Meanwhile, the breathing space between episodes of terror seems to get shorter and shorter. What people fear most is that the truce will end and that their lives will deteriorate even further.

A Gazan colleague summed up the situation as follows: “Gaza is more devoid of hope than it has ever been in my experience here. [Gazans] are afraid of a war with Israel; they are afraid of internecine violence; they are afraid that that nothing will change. The main focus is day-to-day survival. The war has devastated conditions in Gaza, making a difficult life even more impossible. Although people expressed relief that they had survived, the relief was transient. For many, the task at hand is naked existence.”

Another striking point made to me by friends and colleagues in Gaza is that they now believe Israeli officials when they say that there are “no civilians in Gaza.” Gazans were truly shocked by the nature and extent of the destruction because they could see no justification for it. And if indeed Gaza’s people are no longer seen as civilians, what future can Gaza hold for them? Furthermore, says a friend in Gaza,

What has also struck me is the extent to which the war has created a different picture of Israel. Before, Gazans were surprisingly nuanced in their analysis. This was especially true among the generation that had experience working inside of Israel. Now, [this is changing]. I interviewed [people who] are Fatah. They lost everything. They no longer believe in the possibility of co-existence. The scale and the indiscriminate nature of the attack; the . . . calls from the Israeli public to “finish the job”: this destroyed any hope.

The economic impact of destruction

The disintegration of Gaza’s economy has many visible manifestations including the massive destruction of civilian infrastructure resulting from OPE, which resulted in around 170,000 homes damaged or destroyed and a homeless population of up to 100,000 people. If one adds the 5,000 homes destroyed in earlier assaults and not yet rebuilt (and assumes an average of six people per family), then over one million Gazans – nearly 60 percent of the population – have suffered some degree of damage to, or the destruction of, their homes over the last six years.

Significantly, the assault eliminated most signs of Gaza’s living economy, in other words, those economic factors that were still viable after the previous attacks were largely wiped out by this one. Thus, states the UN, an “estimated 1,000 small factories and workshops and over 4,100 establishments in the retail, wholesale, restaurant and hotel industries were destroyed or damaged.” Many of these factories were critical for food and pharmaceutical production, rebuilding, and other productive activities.

This points to another unprecedented feature, the virtual destruction of Gaza’s middle class. The devastation of al-Shuja`iyya, an area on the eastern side of Gaza City, has been covered extensively. But al-Shuja`iyya’s ruination has economic and social implications, which are not well understood but are extremely important. Many relatively well-off Gazans lived in al-Shuja`iyya. This was a center of Gaza’s middle class, home to people who, through their businesses and commercial activities, provided the backbone of the Strip’s local economy. They constituted not only a source of employment but also a financial resource for people in need of loans or some sort of economic assistance. Now, many if not most of these people who had been so essential to maintaining some level of economic activity in Gaza prior to OPE have themselves become needy and destitute, their homes and businesses destroyed. The loss of Gaza’s middle class in this way is profoundly damaging and has contributed to the emergence of a broad new class of “poor.”

The attack on Gaza’s middle class can also be seen in the systematic destruction, during the final days of the 2014 fighting, of some of Gaza’s most impressive high-rise buildings where

many of them resided and owned commercial enterprises. These include: the 15-story Basha Tower, Gaza's oldest high-rise, which in addition to residences housed medical and dental clinics, media organizations including radio stations, and NGOs; the Italian Compound, a 13-story residential tower; the Zafir 4, a 14-story residential tower where 44 mostly middle class families lived; and the Zurab building, a seven-story commercial center in Rafah. According to a colleague, a political analyst in Gaza:

Stepping into this war, people were either poor or were quickly getting there. The only thing many had left for them is the ceiling on top of their heads. With [the] substantial and nearly blind destruction of entire towns and parts of large cities – particularly along the northern, eastern, and southern borders of Gaza – those people now have nothing. These were people who had worked a lifetime to gradually build multiple story buildings for themselves and for their sons and daughters. Now, they've lost it all and have no way to re-develop even if they wanted to. This is because they have aged, have no economic opportunity, are poor because they've lost their savings and have no jobs, or all of these things combined. In Gaza, it often doesn't matter what age one is; almost everyone is "retired."

My colleague's remarks point to an economic leveling of society, again without precedent. Socioeconomic divisions have disappeared to a degree not seen before: almost everyone has been impoverished, reduced to basic survival. A Gazan friend of mine calls this "the culture of the coupon." Many if not most people literally have no money other than cash and food handouts, and certain areas of Gaza have reportedly been reduced to a barter economy. Productive activity is largely at a standstill. There is little to sustain people economically except aid. Nobody has the means to rebuild homes and livelihoods. To date not one of Gaza's destroyed homes has been rebuilt. Another colleague, a Gazan economist, commented: "The U.S. and EU are taking us back to 1948 when Palestinians were totally dependent on aid. Why? How will Gaza's destruction ensure Israel's security?"

These losses, combined with many others I do not have the time to discuss, have resulted in extremely high (but not unprecedented) levels of unemployment and impoverishment. The unemployment rate in Gaza now stands at 43 percent (over 60 percent for Gaza's youth), the highest in the world according to the World Bank. With present unemployment so high, Gaza is nearing a point where, as economist Omar Shaban argues, it is more appropriate to speak of Gaza's level of employment, rather than of its unemployment level. Clean water is a rarity with at least 90 percent of Gaza's supply unfit for human consumption. Electricity is sporadic, available only 4-6 hours per day, and a properly functioning sewage treatment system no longer exists.

Beyond *sumud*: Fleeing Gaza

As a consequence of these and other factors, another new but relatively underreported phenomenon has emerged in Gaza: boat people. While young Gazans have for years wanted to leave for a better life, the situation after Operation Protective Edge became such that, according to a poll, 43 percent of Gazans want to emigrate. People cannot live without hope, which is why so many are now talking about leaving.

According to the *Economist*, “Palestinians have not produced boat people since the war that created Israel in 1948.” In fact, “people smuggling” has become one of Gaza’s few growing industries. It is also important to emphasize that the Gazans who are leaving by such means include children from conservative families connected to Hamas and Islamic Jihad.

Among those presumed drowned off the coast of Alexandria in September 2014 was the son of a well-known professor of *shari`a* law at the Islamic University of Gaza. Leaving Gaza is no longer seen as the behavior of secular or “decadent” people. Palestine was always defined by *sumud* or steadfastness, a commitment to remain on the land. This can no longer be taken for granted, at least not in Gaza.

A note on reconstruction and the role of donors

In the present context, what does it mean to “reconstruct Gaza”? Despite the magnitude and urgency of the task at hand, efforts to “reconstruct” or “rebuild” Gaza have long been deeply problematic. Although billions of dollars have been pledged by donors, reconstruction is always planned or implemented within an unchanged (and unchallenged) political framework of continued Israeli occupation, assault, and blockade.

The various reconstruction projects planned for Gaza over the years have never been part of a larger political program meant to alleviate Palestinian suffering or improve conditions. Rather, the projects have always been treated as ends in and of themselves. Meanwhile, Gaza’s vulnerability to Israeli military attacks and economic sanctions is at best ignored and at worst endorsed by key forces in the West, notably the United States and the EU.

Even against such a background, however, the current plan for Gaza’s reconstruction – presented to and accepted by the donors soon after OPE – represents a new low point. Never mind that Gaza’s recent devastation, met largely with *laissez-faire* silence from Western states, is completely unprecedented; the agreed-upon plan for addressing the situation clearly prioritizes limited short-term gains at the cost of a long-term entrenchment of Israel’s destructive blockade.

There are now several documents describing the reconstruction and recovery plan for Gaza. Of these, the most important and the most shocking is the *Gaza Reconstruction Mechanism* (GRM), which was brokered by the UN envoy Robert Serry, the Palestinian Authority, and the Government of Israel. The first priority of the GRM is to “Provide security assurances to the [Government of Israel].” Another key document concerning the plan, the *Materials Monitoring Unit Project, Project Initiation Document* (MMUP), is available, but has not been widely distributed outside the donor community. The MMUP, led by UNSCO, describes the mechanism for monitoring “approvals, entry, supply and use of dual use items in Gaza. . . [More specifically] it “essentially seeks to mobilize a multi-disciplined team located in Gaza that will monitor the supply chain of dual use items in efforts to ensure they are used for the purpose approved.”

Both documents, which I have read in their entirety, do not include actual projects but detail the administrative and bureaucratic mechanisms for implementing projects. They read more like security plans, carefully laying out Israeli concerns and the ways in which the United Nations will accommodate them. They do not speak to the comprehensive recovery of the Gaza Strip.

The GRM and MMUP call for a cumbersome administrative and bureaucratic apparatus for project selection and implementation, monitoring, and compliance that transfers risk to Palestinian beneficiaries and suppliers (who will be blamed and penalized for any implementation failure). Furthermore, Palestinian participants must provide a body of personal and business information – ID card numbers, address, family status, for example – that will be entered into a central IT database to which the Israeli government has access. The documents totally ignore the power asymmetries and security realities that unquestionably affect outcomes. In fact, what is being created is a permanent and complex permit and planning system, similar to the one Israel uses in Area C of the West Bank, which is under total Israeli control. Perhaps most important, Israel must approve all projects and their locations, and will be able to veto any aspect of the process on security grounds.

Furthermore, there is no mention of reviving Gaza’s export trade or private sector development (other than in relation to specific private sector companies vetted by the Palestinian Authority and Israel for individually approved projects). Both these elements are essential for rehabilitating Gaza’s moribund economy. Similarly, there is no reference to the free movement of people, another urgent need. There is no mechanism for accountability or transparency with regard to Israel. Nor will there be any mechanism for resolving disputes, which under the plan can only be decided through consensus: the occupier must agree with the occupied. In essence, the reconstruction plan as structured serves mainly to legitimize Israel’s preferred security preferences.

As a colleague, an analyst in Jerusalem, succinctly put it, “Israel retains the power, the UN assumes the responsibility, and the Palestinians bear the risk.”

Assuming, for the sake of argument, that the reconstruction plan is successfully implemented, its intended outcome is still completely unclear. Nothing in the documents explains what kind of economy is supposed to result, or what exactly is to be rebuilt. Is it what was lost in 2000, 2006, 2007, 2008–2009, 2012, or 2014?

After all, reconstruction is not simply about buildings and public works: it’s about securing a real future, and creating a sense of place, possibility, and security. Life in Gaza cannot be rebuilt with cement and cash handouts. Without doubt, people desperately need assistance. But what is at issue are the terms on which that assistance will be provided, and what political ends it will serve. Gaza does not need just aid; it needs freedom and the right to interact normally with the world. Anything short of this is unsustainable.

Yet another point needs to be made here. In my decades of studying the political economy of the occupied territories, the international economic and development institutions involved have consistently embraced the same fundamental approach (which is repeated in the current reconstruction effort): restoring Gaza (and the West Bank) to a less compromised position of the past, rather than moving Gaza forward into the future. By this I mean returning Gaza to a relatively better – but still highly diminished – economic position it held historically rather than catalyze a process of meaningful economic change that would propel Gaza (and the West Bank) forward to a new level of economic development. This approach, symptomatic of Gaza’s – and Palestine’s – marginalized status, is a repeated and dangerous failure of the donor community, which has consistently refused to challenge Israeli occupation policy, perniciously enabling the occupation and its most damaging effects.

Consequently, Gaza and the West Bank are condemned to relief not progress. Within this context, writes a UN colleague, assistance has increasingly become “the management of troublesome populations at the edge of perpetual conflicts . . . [W]ith Palestinians we have reached a policy of *not* solving, a policy of agreeing *not* to envision solutions. This does feel like an oversight, it seems like a choice. The management of inconvenient populations with no vision of anything but further management – no vision even of reconstructing the homes lost last summer.”

The truth is that as long as humanitarian aid is used to address political problems, as long as it is intended to serve as a substitute for human rights, all “reconstruction” will mean for Gaza is continuing ruination.

About the speakers



Vance Culbert is the Country Director for the Norwegian Refugee Council (NRC) in Palestine. NRC has programs across Gaza and the West Bank, chairs the shelter cluster and leads the West Bank NGO consortium. NRC programs in Gaza include shelter, WASH, education, urban displacement outside of camps (IDPs), GBV and child protection, and legal assistance. Mr. Culbert has headed multi-sectoral INGO country programs in a range of countries in conflict across Africa and the Middle East, including Syria, Iraq, and Cote D'Ivoire, as well as various UN roles, including starting up the Leogane sub-office in Haiti for MINUSTAH following the earthquake. NRC coordinates the shelter cluster for Gaza, so is perfectly placed to talk about the lack of reconstruction in Gaza, the reasons for it, and what needs to be done to bring about adequate reconstruction. Mr. Culbert is regularly asked to brief visiting international officials on reconstruction as well as the situation in Area C of the West Bank.



Ardi Imseis is a former Policy Officer (Gaza) and Legal Officer (West Bank), UNRWA, who is now at Cambridge University. Mr. Imseis joined the Cambridge community in 2014 after having served in senior policy and legal capacities for 12 years with the United Nations in the Middle East. He is admitted to the practice of law in Canada (Ontario 2001; Alberta 2010), and has served as Senior Legal Counsel to the Chief Justice of Alberta. Mr. Imseis is former Harlan Fiske Stone Scholar and Human Rights Fellow, Columbia University, and is the current Editor-in-Chief of the Palestine Yearbook of International Law. He holds an LL.M. (Columbia), an LL.B. (Dalhousie), and a B.A. (Hons.) (Toronto).



Tania Hary is the Deputy Director of Gisha. Gisha is an Israeli not-for-profit organization, founded in 2005, whose goal is to protect the freedom of movement of Palestinians, especially Gaza residents. Gisha promotes rights guaranteed by international and Israeli law. Ms. Hary received her B.A. in modern literature at the University of California, Santa Cruz, and an M.A. in international affairs, with a focus on socioeconomic development, from the New School in New York. Prior to joining Gisha, Ms. Hary worked on advocacy and fundraising initiatives for not-for-profit organizations promoting human rights in Iran, children's rights in Argentina, and the rights of refugees. Ms. Hary regularly travels to the United States and Europe, giving lectures and presentations about access in Gaza. She is relied upon as a source

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Sara Roy (Ed.D. Harvard University) is a senior research scholar at the Center for Middle Eastern Studies specializing in the Palestinian economy, Palestinian Islamism and the Israeli-Palestinian conflict. Dr. Roy is also co-chair of the Middle East Seminar, jointly sponsored by the Weatherhead Center for International Affairs and the Center for Middle Eastern Studies, and co-chair of the Middle East Forum at the Center for Middle Eastern Studies. Dr. Roy is the author of “The Gaza Strip: The Political Economy of De-development” (Institute for Palestine Studies, 1995, 2001, third edition forthcoming); “The Gaza Strip Survey” (The West Bank Data Base Project, 1986); “Failing Peace: Gaza and the Palestinian-Israeli Conflict” (Pluto Press, 2007); and editor, “The Economics of Middle East Peace: A Reassessment, Research in Middle East Economics, Volume 3” (Middle East Economic Association and JAI Press, 1999). Her most recent book, “ Hamas and Civil Society in Gaza: Engaging the Islamist Social Sector” (Princeton University Press, 2011), was a winner of a 2012 British-Kuwait Friendship Society Prize in Middle Eastern Studies.

