

## Gaza: Israel's obligations

Issues arising under the Agreement on Movement and Access



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## Executive Summary

Notwithstanding its “disengagement” from Gaza in August 2005, Israel is still the Occupying Power in Gaza within the meaning of the Fourth Geneva Convention. As such, under the Convention, it is responsible for the welfare of the 1.5 million Palestinians living there. Article 55 of the Convention states:

“ To the fullest extent of the means available to it the Occupying Power has the duty of ensuring the food and medical supplies of the population; it should, in particular, bring in the necessary foodstuffs, medical stores and other articles if the resources of the occupied territory are inadequate. ”

Far from fulfilling this international law obligation, Israel has imposed a brutal economic blockade on Gaza that has led to a humanitarian crisis, which is the worst since Israeli occupation began in 1967.

The blockade also flies in the face of Israel' s obligations under the Quartet-sponsored Agreement on Movement and Access, which it signed in November 2005. The Agreement set out the arrangements that were to operate for the passage of people and goods in and out of Gaza, in order to maintain its economic life, in the wake of Israel 's “ disengagement ” . The arrangements included the crossings between Israel and Gaza operating continuously and not closing due to a security incident unconnected with the crossing itself.

Israel 's brutal blockade of Gaza appears to be to put pressure on Egypt to take responsibility for the welfare of the 1.5 million Palestinians in Gaza. Of late, Israel has been pointing out that Egypt has also got a border with Gaza, through which it could supply the needs of its fellow Arabs in Gaza. This is in marked contrast with the demands that Israel used to make that Egypt seal its border with Gaza (in particular, close down the tunnels ) through which arms were allegedly being smuggled into Gaza.

The humanitarian crisis in Gaza is a consequence of Israel' s failure to honour its obligations under the Fourth Geneva Convention and the Agreement on Movement and Access. It is time that the US and the EU, the chief sponsors of the Agreement, forced Israel to comply with its obligations.

The EU is in position to do so, because it has granted Israel privileged access to the EU market, under the Euro-Med Agreement. That provides the EU with powerful leverage. It should use it.

For the sake of the people of Gaza, the Euro-Med Agreement should be suspended, until Israel fulfils its obligations under international law and the Agreement on Movement and Access and, by so doing, ends the humanitarian crisis in Gaza.

That would be a laudable foreign policy achievement for the post-Lisbon EU.

## The blockade

For many years, long before its “disengagement” in August 2005, Israel has arbitrarily restricted the movement of people and goods in and out of Gaza. However, since Hamas took control in Gaza in June 2007, it has imposed an extremely restrictive regime, under which Gaza is akin to an open prison, as Foreign Minister, Micheál Martin, described it recently [\[1\]](#).

A group of 16 European NGOs, including [Trócaire](#), has recently (December 2009) published a report on the blockade, and the awful conditions of life in Gaza that it has brought about. The report is aptly entitled *Failing Gaza: No rebuilding, no recovery, no more excuses* [\[2\]](#) and should be read by everybody concerned with the welfare of the people of Gaza.

It summarises the impact of the blockade as follows:

“ The Israeli government ’ s blockade, imposed in 2007 after Hamas took control of Gaza ( though long preceded by regular closures and restrictions ), not only forbids most Gazans from leaving or exporting anything to the outside world, but also only permits the import of a narrowly-restricted number of basic humanitarian goods. Desperately-needed reconstruction materials are not counted amongst these. ” ( p3 )

The volume of imports and exports has declined dramatically since Israel imposed the blockade began in June 2007. According to the NGOs ’ report:

“ In the period before the blockade, an average of 70 truckloads of exports left Gaza a day, and 583 truckloads of goods and humanitarian supplies came in. ...

“ In the first two years of the blockade, an average of just 112 truckloads per day – one-fifth of previous levels – were allowed into Gaza. Exports have been entirely banned with the exception of several small shipments, for example of carnations for the Dutch market. ” ( p5 )

( According to the UN Office for the Coordination of Humanitarian Affairs, on 10 December 2009, one truckload of 30,000 carnations exited Gaza via the Kerem Shalom Crossing; this is the first export from Gaza since 27 April 2009 [\[3\]](#). )

Israel has also severely reduced the range of goods it allows into Gaza:

“ Currently Israel only regularly allows about 35 categories of items entry into Gaza. In contrast, some 4,000 items were imported before the blockade began. ... There is no published list of permitted items and there appears to be no consistency in what is, and is not, permitted. For instance, particular fruits allowed in one day as ‘ essentials ’ can easily be branded ‘ luxuries ’ and turned away on another day. ” ( p5 )



Even humanitarian supplies are subject to arbitrary delays:

“ Humanitarian goods that are in theory let in are also often subject to unpredictable delays and restrictions – such as shelter kits ( average delay 85 days ), health and paediatric kits ( average delay 68 days and household items such as bedding and kitchen utensils ( average delay 39 days ). ” ( p5 )

The imposition of the blockade also drastically reduced the importation of construction materials:

“ In the five months running up to its [the blockade 's] imposition 7,400 truckloads a month containing construction materials were entering Gaza; in the six months after, this shrunk to a trickle of 31 a month on average. ” ( p6 )

Moreover, in the past year since Operation Cast Lead, which did such appalling damage to Gaza 's infrastructure, Israel has imposed even tighter restrictions on the importation of construction materials:

“ Barely four trucks of construction materials a month have entered Gaza during this period, just 0.05% of pre-blockade monthly flows [of 7,400 trucks on average]. As a result, all kinds of construction materials – cement, gravel, wood, pipes, glass, steel bars, aluminium, tar – and spare parts are in desperately short supply or completely unavailable, with little or no capacity to produce them locally given both the destruction of local industry and the lack of raw materials, which were also banned under the blockade. ” ( p6 )

On health, the NGOs ' report says:

“ The blockade inflicts other enormous difficulties on the health system including a chronic shortage of specialised medical personnel and access to training, together with difficulties due to prohibition on entry of spare parts and repairs services for damaged or malfunctioning equipment.

“ The worsening situation has increased dependence on medical assistance outside Gaza; but here again the blockade bites. The Israeli authorities at Erez Crossing often deny even seriously ill patients permission to exit Gaza for treatment in medical centres in the West Bank, East Jerusalem, Israel, or Jordan. ” ( p11 )

According to a Gaza Health Fact Sheet [\[4\]](#) by the World Health Organisation ( dated 20 January 2010 ) :

“ 1 103 applications for permits for patients to cross Erez were submitted to the Israeli Authorities in December 2009. 21% had their applications denied or delayed as a result of which they missed their hospital appointments and had to restart the referral process.

“ Two patients died recently while awaiting referral - one in November and one in December. 27 patients have died while awaiting referral since the beginning of the year. ”

According to the Fact Sheet, 39 died while awaiting referral in 2008.

## Israel is the Occupying Power

Notwithstanding its “disengagement” from Gaza in August 2005, Israel is still the Occupying Power in Gaza within the meaning of the Fourth Geneva Convention. As such, it is responsible for the welfare of the 1.5 million Palestinians in Gaza.

The test in international law for the existence of a state of occupation is “effective control”. Israel is in “effective control” of Gaza, since it continues to exercise:

- Substantial control of Gaza’s land crossings;
  - Control on the ground through incursions and sporadic ground troop presence, and ground fire from Israel into Gaza;
  - Complete control of Gaza’s airspace;
  - Complete control of Gaza’s territorial waters;
  - Control of the Palestinian population registry (including who is a “resi-dent” of Gaza);
- Control of tax policy and transfer of tax revenues;

(For a discussion of this, see *Disengaged Occupiers: The Legal Status of Gaza* [\[5\]](#), by the Israeli human rights organisation, *Gisha*).

As the Occupying Power, Israel has important obligations under the Convention to the 1.5 million Palestinians living there. First and foremost, it is unequivocally responsible for their welfare, under Article 55 of the Convention, which states:

“To the fullest extent of the means available to it the Occupying Power has the duty of ensuring the food and medical supplies of the population; it should, in particular, bring in the necessary foodstuffs, medical stores and other articles if the resources of the occupied territory are inadequate.” [\[6\]](#)

Is there any doubt that, for many years, Israel has been in breach of this obligation to provide adequate food and medical supplies for the people of Gaza?

## Collective punishment

Israel has other obligations under the Fourth Geneva Convention. For example, Article 33 of the Convention forbids the “collective punishment” of people under occupation. Article 33 states:

“No protected person may be punished for an offence he or she has not personally committed. Collective penalties and likewise all measures of intimidation or of terrorism are prohibited.”

Israel has made no secret of the fact that the objective of its blockade on Gaza is to put pressure on Hamas and undermine support for it by imposing economic sanctions on the people of Gaza as a whole, including its political opponents.



The blockade stems from a decision by the Israeli Security Cabinet on 19 September 2007, which classified Gaza as “ hostile territory ” because of rocket fire from it into Israel and stated:

“ Additional sanctions will be placed on the Hamas regime in order to restrict the passage of various goods to the Gaza Strip and reduce the supply of fuel and electricity. Restrictions will also be placed on the movement of people to and from the Gaza Strip. ” [\[7\]](#)

Imposing sanctions upon the people of Gaza as a whole for the actions of Hamas is “ collective punishment ” contrary to Article 33 of the Convention.

That is not our opinion alone. It is the opinion of, for example:

\* John Holmes, UN Under-Secretary-General for Humanitarian Affairs and Emergency Relief Coordinator, who told the Security Council on 26 February 2008:

“ ... the effective Israeli isolation of Gaza is not justified, given Israel 's continuing obligations to the people of Gaza. It amounts to collective punishment and is contrary to international humanitarian law. ” [\[8\]](#)

\* EU External Relations Commissioner Benita Ferrero-Waldner, who said on 21 January 2008:

“ I am against this collective punishment of the people of Gaza. I urge the Israeli authorities to restart fuel supplies and open the crossings for the passage of humanitarian and commercial supplies. ” [\[9\]](#)

\* Irish Foreign Minister, Dermot Ahern, told Dáil Éireann on 11 March 2008:

“ I remain deeply concerned about the worsening humanitarian situation in Gaza. It is unacceptable that Israel should isolate the people of Gaza and cut off essential supplies in order to exert pressure on them to reject Hamas. I agree with the United Nations that this constitutes collective punishment and is illegal under international humanitarian law. ” [\[10\]](#)

\* His successor, Micheál Martin agreed, telling Dáil Éireann on 5 November 2008:

“ The Government agrees with those who state that the effective isolation of Gaza constitutes collective punishment and is illegal under international humanitarian law. ” [\[11\]](#)

## The Agreement on Movement and Access

By maintaining the blockade, Israel is also in breach of its obligations under the Agreement on Movement and Access, which it signed in November 2005. This Agreement was drawn up by the US and formally sponsored by the Middle East Quartet ( US, EU, Russia and the UN Secretary-General ).

The Agreement set out, amongst other things, the arrangements that were supposed to operate for the passage of people and goods in and out of Gaza, in order to maintain its economic life, in the wake of Israel' s “ disengagement ”.

Condoleezza Rice (US Secretary of State) and Javier Solana (EU High Representative for the Common Foreign and Security Policy) launched the Agreement at a press conference in Jerusalem on 15 November 2005. She said the Agreement was “intended to give the Palestinian people freedom to move, to trade, to live ordinary lives” [\[12\]](#) and covered six topics, which she described in the following terms:

“ First, for the first time since 1967, Palestinians will gain control over entry and exit from their territory. This will be through an international crossing at Rafah, whose target opening date is November 25th.

“ Second, Israel and the Palestinians will upgrade and expand other crossings for people and cargo between Israel, Gaza and the West Bank. This is especially important now because Israel has committed itself to allow the urgent export of this season's agricultural produce from Gaza.

“ Third, Palestinians will be able to move between Gaza and the West Bank; specifically, bus convoys are to begin about a month from now and truck convoys are to start a month after that.

“ Fourth, the parties will reduce obstacles to movement within the West Bank. It has been agreed that by the end of the year the United States and Israel will complete work to lift these obstacles and develop a plan to reduce them.

“ Fifth, construction of a Palestinian seaport can begin. The Rafah model will provide a basis for planned operations.

” Sixth, the parties agree on the importance of the airport. Israel recognizes that the Palestinian Authority will want to resume construction on the airport. ”

The Agreement can be found on the Israeli Ministry of Foreign Affairs website [\[13\]](#). A technical elaboration of the Agreement by the World Bank team that assisted in its negotiation is available on a World Bank website [\[14\]](#).

We will return to the first topic – the Rafah crossing – below.

On the others:

The crossings between Israel and Gaza (and the West Bank)

Here, the Agreement states clearly that “the passages [crossings] will operate continuously”. You can read that today on the Israeli Ministry of Foreign Affairs website. The technical elaboration explains that the “GOI

[Government of Israel] has clarified that it will not close a passage due to a security incident unconnected with the passage itself” (p2). Plainly, Israel has failed to live up to these obligations.

Israel's compliance with the other elements of the Agreement has also been less than satisfactory, to say the least. The UN Office for the Coordination of Humanitarian Affairs (OCHA) in the Occupied Palestinian Territory compiles fortnightly reports on the implementation of the Agreement. Its report for the period ending 1 September 2009 [\[15\]](#) gives the following account of progress on the other topics:



Obstacles to movement on the West Bank

These numbered 619 on 1 September 2009, representing an increase of 243 ( 64.6% ) over the baseline figure ( 376 ) in August 2005.

Implementation of bus/truck convoys between Gaza and the West Bank

43/44 months overdue,

Construction of a seaport

Awaiting Israel' s assurance of non-interference with the seaport operation

Airport reconstruction

No discussions as yet.

The Agreement was meant to allow the economic life of Gaza to continue after Israel 's "disengagement". But, as we have seen, Israel hasn 't honoured any of the obligations in the Agreement and, as a result, there is a humanitarian crisis in Gaza. Despite this, the US and the EU, the chief sponsors of the Agreement, haven 't forced Israel to comply with it.

## Blaming Egypt

Of late, Israel has been attempting to put the blame on Egypt for the awful conditions of life in Gaza. Why is Israel always blamed when Egypt also has a border with Gaza, it has been asking? Why doesn' t Egypt open its border and allow its Arab brothers in Gaza to be supplied with the necessities of life from Egypt?

This is in marked contrast to the complaints that used to come from Israel about Egypt 's failure to seal its border with Gaza – in particular, to destroy the tunnels under the border – through which Hamas and other Palestinian groups have allegedly been able to smuggle arms into Gaza.

Tunnels have been a feature of life along this border, since it became a border in 1982 when Israel withdrew from Sinai after the Camp David Agreement. Tunnels are a very big feature today, simply because Israel refuses to allow even the bare essentials of life into Gaza from its territory.

If Israel allowed free movement of goods and people in and out of Gaza, as promised under that Agreement on Movement and Access, then market forces would drive most of the tunnellers out of business very quickly. There is no doubt that, up to now at least, Egypt has turned a blind eye to these tunnels for humanitarian reasons.

Israel has frequently complained to the US about Egypt 's failure to seal this border. It has gone so far as to demand that the US make its annual \$1.3 billion in military aid conditional on Egypt making greater efforts to seal the border. In 2008, Israel succeeded in the latter to the extent of persuading the US Congress to make \$100 million of it conditional on the US Secretary of State certifying, among other things, that Egypt had taken concrete steps to "detect and destroy the smuggling network and tunnels that lead from Egypt to Gaza". See, for example, Congress Research Service Report *The Egypt-Gaza Border and its Effect on Israeli-Egyptian Relations* dated 1 February 2008 [\[16\]](#) (p1 ).



In late 2007, teams from the US Army Corps of Engineers visited the border to compile technical advice about preventing tunnelling (ibid, p8). Recently, there have been reports (for example, by the BBC [\[17\]](#)) that, with the assistance of US Army engineers, Egypt has begun the construction of a metal wall along the border, which will extend 18 metres below the surface. It remains to be seen if this is a serious attempt by Egypt to prevent the importation of goods into Gaza via tunnels.

## Unseal the border

As we have said, of late, there has been a dramatic reversal in Israel's stance with regard to the Egypt-Gaza border. The demand to "seal the border" has become "unseal the border". This seems to be part of a campaign to persuade the world that Egypt, and not just Israel, is to blame for the awful conditions in Gaza.

Listen to this from Ron Prosor, the Israeli Ambassador in London, when he was interviewed on BBC Radio 4's *Today* programme on 22 December 2009, about the NGOs' report on the effects of the blockade:

"I want to emphasise something. I know it doesn't sound good. But, Israel will not normalise relations with Gaza as long as Hamas regime is committed to destroy Israel and kill Israelis, which is the reason that the whole operation started. And one more thing. You know, it's always Israel's blockade on Gaza. It's true Israel controls two-thirds but one-third is completely open to Egypt. Basically, you can have cement through the Rafah crossing. It's open to Egypt. No-one ... I don't hear anyone talk to Egypt and say: why don't you pass everything through the Rafah crossing? For example, you can pass cement. You can pass ... You can even bring belly dancers from ( ? ) in Egypt. Everything is open. ... The whole Arab world can help out. Don't expect Israel, who's at war with Hamas, where Hamas doesn't recognise Israel's right to exist, when Hamas bombards Israel with missiles." [\[18\]](#)

The message there is that Israel has an excuse for its blockade – it doesn't want to give succour to Hamas – but Egypt has no excuse for refusing to supply its Arab brothers in Gaza with the goods they need.

The striking aspect of this message is that there is no mention of the danger of arms importation into Gaza, which would be likely to increase if large volumes of goods were entering Gaza from Egypt, even if this was done through crossings controlled by Egypt and not through unregulated tunnels.

## The Rafah crossing

It is worth noting that, if Egypt opened its border with Gaza for the importation of goods into Gaza, it would be acting contrary to the Agreement on Movement and Access.

This provided for the opening of a crossing at Rafah to allow people to move in a controlled manner from Gaza to Egypt and vice versa, but not for the importation of goods into Gaza. The crossing functioned intermittently for this purpose until June 2007, when Hamas took control in Gaza, after which it was closed at Israel's insistence.

It was supposed to cater for the export of goods from Gaza as well, but it never did. It was never supposed to allow for the import of goods into Gaza, presumably because, at that time, Israel feared that it would be used to import arms.



Under the agreement, no Israeli forces were to be present at the crossing to control its operation. However, while it was open, EU monitors manned the crossing and Israeli forces observed its operation remotely via CCTV links.

At the outset, the Quartet advertised Rafah as an international crossing not controlled by Israel. When Condoleezza Rice announced the Agreement, she said that “for the first time since 1967, Palestinians will gain control over entry and exit from their territory”. In practice, however, the opening of the crossing remained under Israeli control, because the EU refused to man the crossing, if Israel didn 't want it open – which has always been the case since June 2007 ( and was often the case before then ).

The above describes the official arrangements set out in the Agreement for the operation of Rafah. From time to time, Egypt has opened the crossing without these arrangements being in place and allowed the passage of people and goods for humanitarian reasons. For Rafah to become a major conduit for goods into Gaza, Egypt would have to act outside the terms of the Agreement and make this humanitarian exception the norm.

## Israel wants Gaza off its hands

Why is Israel now calling upon Egypt to “unseal its border” with Gaza? The reason is that Israel 's ultimate objective is to get Egypt to take Gaza and its 1.5 million Palestinians off its hands.

Israel wants to hold on to as much as possible of mandate Palestine ( Israel plus the West Bank and Gaza ) with as few Palestinians as possible. Currently, in this area, there are roughly equal numbers of Jews and Palestinians ( around 5 million of each ) in this area, with the Palestinian population growing much faster. Getting rid of 1.5 million Palestinians to Egypt would restore a Jewish majority in mandate Palestine less Gaza. Unlike the West Bank, Gaza was not part of biblical Israel and the modern Israeli state is prepared to give it up along with its 1.5 million Palestinians.

As a means to this ultimate objective – and to divert attention from its failure to fulfil its obligations under international law towards Gaza – Israel is now attempting to convince the world that Egypt is equally responsible for the awful conditions in Gaza.

And it is having success. On 22 December 2009, in an article in *The Guardian*, Nick Clegg, leader of the Liberal Democrats in Britain, blamed Israel and Egypt in equal measure for the awful conditions in Gaza, writing:

“ And as Israel and Egypt maintain a near total blockade against Gaza, the misery deepens by the day. ...

“ Shame on Israel and Egypt and all those who tacitly or otherwise support the imprisonment of 1.5million people. ”

[\[19\]](#)

Two days later, Sky News Foreign Affairs Editor, Tim Marshall, took up the theme in an article, entitled *The Egyptian/Israeli Blockade of Gaza*.

“ For years now almost all media when writing about the 'siege' of Gaza has referred to it as the Israeli blockade. This term is misleading, not because there is no Israeli blockade, but because it gives the impression that it is only Israel which prevents the free flow of goods in and out of the territory. ...

“ However, there are no Israeli's inside Gaza, nor along the border with Egypt, nor at the Rafah crossing into Egypt which is controlled by the Egyptians. ” [\[20\]](#)

## The disengagement plan

Israel 's “ disengagement ” from Gaza in August 2005 was the first step on the road to shedding responsibility for Gaza. The disengagement plan drawn up by Ariel Sharon' s National Security Advisor, Giora Eiland, states:

“ The purpose of the plan is to lead to a better security, political, economic and demographic situation. ...

“ The disengagement move will obviate the claims about Israel with regard to its responsibility for the Palestinians in the Gaza Strip.” [\[21\]](#)

Giora Eiland told Ha 'aretz in March 2004 that as Israel withdraws from the Gaza Strip, “it would no longer be responsible for what happened there. ' Let the world worry about them ', he said. ' I will no longer be the occupier in Gaza, so it will be as much Egyptians ' and Europeans ' business as mine. ' ” ( quoted in Tanya Reinhart ' s book *The Road Map to Nowhere*, p47 ).

Three days after the completion of the “ disengagement ” on 12 September 2005, in a speech to the UN General Assembly, Israeli Prime Minister Ariel Sharon declared “ the end of Israeli control over and responsibility for the Gaza Strip ” [\[22\]](#).

## Open border – excellent opportunity

In January 2008, Hamas blew up stretches of the border wall between Gaza and Egypt and Palestinians poured out of Gaza into Sinai.

Commenting on this dramatic event, Israeli deputy defence minister, Matan Vilnai, said that Israel sees the prospect of continuing free passage between Egypt and Gaza as an opportunity to rid itself of the responsibility for Gaza ( see *The Independent*, 25 January 2008 [\[23\]](#) ). He indicated that Israel would like to hand over to Egypt the task of supplying Gaza with water, medicine and electricity, saying:

“ We need to understand that, when Gaza is open to the other side, we lose responsibility for it. So we want to disconnect from it. ”

Giora Eiland commented on this event in a similar vein, saying that it “ provides an excellent opportunity for Israel to rid itself of responsibility for Gaza ”, according to the Jewish Telegraphic Agency [\[24\]](#). This report of his remarks continued:



“ To cement the break, he proposes detaching Gaza from the customs union with Israel and the West Bank.

“ As part of the Oslo agreements, Gaza, the West Bank and Israel form a single customs entity: All goods coming into Gaza or the West Bank are subject to Israeli-level duties to keep prices in the three areas more or less equal. Moreover, all three use the Israeli shekel as legal tender.

“ Eiland 's proposal would cut off Gaza economically from Israel and the West Bank and force it to turn to Egypt for sustenance and trade.

“ With the breach of the border, Eiland says, Israel also could cut off all fuel and other supplies to Gaza and insist they instead come from Egypt. He says the huge Gazan shopping spree on Egyptian soil in the wake of the wall 's collapse demonstrates that Egypt can provide a realistic economic alternative. ...

“ Furthermore, pushing Gaza into Egypt 's hands would sever the connection between Gaza and the West Bank and weaken the Palestinian national movement – a development that Eiland believes would serve Israeli interests: Instead of looking to Israel or the West Bank, Gaza would look to its Arab neighbor. ”

Eiland acknowledged that an open border with Egypt would accelerate the flow of arms into Gaza, but said Israel should deal with that by defining Gaza as an “ enemy entity ” and establishing a deterrent balance with it, as it has done with “ enemy ” states such as Syria – by making it crystal clear to them that armed action against Israel from their territory would be met with a devastating response.

Israel probably reckons that, as a consequence of Operation Cast Lead, a deterrent balance has been established with Gaza and that, even if Hamas manages to expand its military capabilities, it will act with great restraint in future, lest Operation Cast Lead be repeated. In those circumstances, Israel doesn 't need to worry so much about Hamas importing arms via Egypt.

Israel is therefore in a better position to make progress towards its ultimate objective of handing over responsibility for Gaza to Egypt.

If Israel achieves this objective, Gaza will be disconnected from the West Bank and the creation a Palestinian state encompassing these two entities will be impossible.

## Egypt's problem

In these circumstances, Egypt faces a difficult problem. If it refuses to open its border with Gaza, it is accused of being callous to its fellow Arabs, who are living in such awful conditions. If it opens its border with Gaza for the entry/exit of people and goods in anything other than the most exceptional circumstances, it is impossible to counter the argument that it could, and should, allow all Gaza 's needs to be satisfied via Egypt, rather than Israel.

Currently, Egypt opens the Rafah crossing in exceptional circumstances outside the official arrangements and tolerates the importation of goods into Gaza through tunnels. There is a difficulty with this: the more Egypt permits this to happen, the less pressure there is on Israel to open its crossings with Gaza. If it threw open its border completely,



there would be no pressure at all – Israel would close its crossings completely and for good, and from then on Egypt would be responsible for the welfare of the people of Gaza.

Egypt is being widely criticised for planning to construct a steel wall along its border with Gaza to prevent tunnels operating. But, it has to be admitted that the only sure way for Egypt to thwart Israel 's ambition is to seal its border with Gaza completely and thereby place the responsibility firmly upon Israel to look after its people.

If that happens, in the short run at least, the people of Gaza are bound to suffer even more – unless effective pressure is mounted from outside to force Israel to open its crossings with Gaza, as it is supposed to do under the Agreement on Movement and Access. That should be the focus of action for Ireland and the EU.



## Conclusions

The US and the EU have always insisted that Palestinians must stick to past agreements. They have been much less vocal in applying that principle to Israel, which hasn 't got a good record in this matter.

For example, Israel agreed to the Road Map in May 2003, which specifies pre-conditions for the start of negotiations about the creation of a Palestinian state. In particular, under the Road Map, Israel was supposed to freeze all settlement activity, including natural growth of settlements. But, today, it refuses point blank to fulfil this obligation – and, understandably, Palestinians have refused to begin negotiations, while the land which is supposed to belong to a Palestinian state continues to be eaten into by Israel. But, the US and the EU, the chief sponsors of the Road Map, have failed to force Israel to comply with its obligations.

Likewise, with the Agreement on Movement and Access, despite the fact there is a humanitarian crisis because of Israel 's failure to honour its obligations under this Agreement, which it signed in November 2005. If Israel was implementing this Agreement, there would not be a humanitarian crisis in Gaza. But, the US and the EU, the sponsors of the Agreement, have failed to force Israel to comply with its obligations.

It is true that the EU (and the Irish Government ) has called repeatedly on Israel to end its blockade of Gaza. For example, the European Council conclusions on 8 December 2009 stated:

“ The EU again reiterates its calls for an immediate, sustained and unconditional opening of crossings for the flow of humanitarian aid, commercial goods and persons to and from Gaza. In this context, the Council calls for the full implementation of the Agreement on Movement and Access. ” [\[25\]](#)

This is welcome. But, if the EU is serious about the Agreement being implemented any time soon, and the humanitarian crisis in Gaza being brought to an end, it will have to go beyond verbal appeals and bring other pressures to bear on Israel.

Happily, the EU is in position to do so, because it has granted Israel privileged access to the EU market, under the Euro -Med Agreement, and around a third of Israel' s exports are sold into that market. That provides the EU with powerful leverage. It should use it.

For the sake of the people of Gaza, the Euro-Med Agreement should be suspended, until Israel fulfils its obligations under international law and the Agreement on Movement and Access and, by so doing, ends the humanitarian crisis in Gaza.

That would be a laudable foreign policy achievement for the post-Lisbon EU.

## References

- [1] [www.rte.ie/news/2009/1221/mideast.html](http://www.rte.ie/news/2009/1221/mideast.html)
- [2] [www.reliefweb.int/rw/RWB.NSF/retrieveattachments?openagent&shortid=SKEA-7YYDWN&file=Full\\_Report.pdf](http://www.reliefweb.int/rw/RWB.NSF/retrieveattachments?openagent&shortid=SKEA-7YYDWN&file=Full_Report.pdf)
- [3] [www.ochaopt.org/documents/ocha\\_opt\\_protection\\_of\\_civilians\\_weekly\\_report\\_2009\\_12\\_17\\_english.pdf](http://www.ochaopt.org/documents/ocha_opt_protection_of_civilians_weekly_report_2009_12_17_english.pdf)
- [4] [www.ochaopt.org/documents/ochaopt\\_who\\_gaza\\_health\\_fact\\_sheet\\_20100120\\_english.pdf](http://www.ochaopt.org/documents/ochaopt_who_gaza_health_fact_sheet_20100120_english.pdf)
- [5] [www.gisha.org/UserFiles/File/Report%20for%20the%20website.pdf](http://www.gisha.org/UserFiles/File/Report%20for%20the%20website.pdf)
- [6] [www.icrc.org/ihl.nsf/7c4d08d9b287a42141256739003e636b/6756482d86146898c125641e004aa3c5](http://www.icrc.org/ihl.nsf/7c4d08d9b287a42141256739003e636b/6756482d86146898c125641e004aa3c5)
- [7] [www.mfa.gov.il/MFA/Terrorism+Obstacle+to+Peace/Hamas+war+against+Israel/Security+Cabinet+declares+Gaza+hostile+territory+19-Sep-2007.htm](http://www.mfa.gov.il/MFA/Terrorism+Obstacle+to+Peace/Hamas+war+against+Israel/Security+Cabinet+declares+Gaza+hostile+territory+19-Sep-2007.htm)
- [8] [unispal.un.org/unispal.nsf/e872be638a09135185256ed100546ae4/f3ad297a95a48816852573fc005764a0](http://unispal.un.org/unispal.nsf/e872be638a09135185256ed100546ae4/f3ad297a95a48816852573fc005764a0)
- [9] [www.eubusiness.com/news-eu/1200916924.77/](http://www.eubusiness.com/news-eu/1200916924.77/)
- [10] [debates.oireachtas.ie/DDebate.aspx?F=DAL20080311.xml&Node=H3-2#H3-2](http://debates.oireachtas.ie/DDebate.aspx?F=DAL20080311.xml&Node=H3-2#H3-2)
- [11] [debates.oireachtas.ie/DDebate.aspx?F=DAL20081105.xml&Page=1&Ex=738#N738](http://debates.oireachtas.ie/DDebate.aspx?F=DAL20081105.xml&Page=1&Ex=738#N738)
- [12] [unispal.un.org/UNISPAL.NSF/0/C73B42AA9C864783852570BA0064EF7E](http://unispal.un.org/UNISPAL.NSF/0/C73B42AA9C864783852570BA0064EF7E)
- [13] [www.mfa.gov.il/MFA/Peace+Process/Reference+Documents/Agreed+documents+on+movement+and+access+from+and+to+Gaza+15-Nov-2005.htm](http://www.mfa.gov.il/MFA/Peace+Process/Reference+Documents/Agreed+documents+on+movement+and+access+from+and+to+Gaza+15-Nov-2005.htm)
- [14] [siteresources.worldbank.org/INTWESTBANKGAZA/Resources/AgreementMovementAccess.pdf](http://siteresources.worldbank.org/INTWESTBANKGAZA/Resources/AgreementMovementAccess.pdf)
- [15] [www.ochaopt.org/documents/ocha\\_opt\\_access\\_movement\\_report\\_no99\\_english.pdf](http://www.ochaopt.org/documents/ocha_opt_access_movement_report_no99_english.pdf)
- [16] [www.fas.org/sgp/crs/mideast/RL34346.pdf](http://www.fas.org/sgp/crs/mideast/RL34346.pdf)
- [17] [news.bbc.co.uk/1/hi/8405020.stm](http://news.bbc.co.uk/1/hi/8405020.stm)
- [18] [news.bbc.co.uk/today/hi/today/newsid\\_8425000/8425742.stm](http://news.bbc.co.uk/today/hi/today/newsid_8425000/8425742.stm)
- [19] [www.guardian.co.uk/commentisfree/2009/dec/22/lift-the-gaza-blocade-nick-clegg](http://www.guardian.co.uk/commentisfree/2009/dec/22/lift-the-gaza-blocade-nick-clegg)
- [20] [blogs.news.sky.com/foreignmatters/Post:077f7e56-cb03-414e-9683-82158cd57f8d](http://blogs.news.sky.com/foreignmatters/Post:077f7e56-cb03-414e-9683-82158cd57f8d)
- [21] [www.mfa.gov.il/MFA/Peace+Process/Reference+Documents/Revised+Disengagement+Plan+6-June-2004.htm](http://www.mfa.gov.il/MFA/Peace+Process/Reference+Documents/Revised+Disengagement+Plan+6-June-2004.htm)
- [22] [www.mfa.gov.il/MFA/Peace+Process/Key+Speeches/PM+Sharon+addresses+the+UN+General+Assembly+15-Sep-2005.htm](http://www.mfa.gov.il/MFA/Peace+Process/Key+Speeches/PM+Sharon+addresses+the+UN+General+Assembly+15-Sep-2005.htm)
- [23] [www.independent.co.uk/news/world/middle-east/open-border-is-israels-chance-to-lose-responsibility-for-gaza-says-minister-773884.html](http://www.independent.co.uk/news/world/middle-east/open-border-is-israels-chance-to-lose-responsibility-for-gaza-says-minister-773884.html)
- [24] [jta.org/news/article/2008/01/28/106663/gazabreach](http://jta.org/news/article/2008/01/28/106663/gazabreach)
- [25] [domino.un.org/unispal.nsf/0/ec5fa6e2821e510d85257686005072e0](http://domino.un.org/unispal.nsf/0/ec5fa6e2821e510d85257686005072e0)



Sadaka - an Arabic term meaning "friendship" - is an Association established in Ireland in 2009 to promote the cause of Palestine throughout Ireland,, raising public awareness and engaging in political dialogue. It aims is to persuade those in Government to champion the cause of justice for the Palestinian people.

The Steering Group of Sadaka consists of: Marie Crawley (Chair), Noreen Byrne (Secretary), Adnan Shabab (Treasurer), Dr. David Morrison, Philip O'Connor, Des McGuinness, Alan Lonergan and Elaine Murtagh.

**If you would like to join Sadaka or to donate to its campaign, contact us at:**

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## Issues arising under the Agreement on Movement and Access

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