

## **End of Responsibility in Gaza<sup>1</sup>**

### **Systemic Overview**

#### **Executive Summary**

1. This document was written following a meeting held at the Re'ut Institute, between government officials, other experts and the Re'ut team, on the issue of ending Israel's responsibility over Gaza (8/31/05). However, **the Re'ut Institute is solely accountable for the content of this document.**
2. The official goal of the Disengagement Plan is to end Israel's responsibility over the "Gaza Strip".
3. However, the Disengagement Plan does not entail full withdrawal from the external perimeter of the Gaza Strip, including sea ports, air space and control over passage of people and goods.
4. Therefore, Israel may not be able to achieve the political goal of the Disengagement Plan, i.e. formal international recognition of the end of Israel's responsibility over Gaza.
5. The position of the international community towards Israel's responsibility over Gaza will be affected by the reality on the ground following the disengagement.
6. The purpose of this document is to present those spheres likely to influence this new reality , and the issue of Israel's responsibility over Gaza:
  - a. **The Status of Gaza and the West Bank** – The Disengagement differentiates between the status of Gaza and that of the West Bank and seemingly contradicts the principle of a "Single Territorial Unit", which is one of the foundation principles of the Oslo Process;
  - b. **The Identity of the Palestinian Interlocutor** – The issue of ending the responsibility raises the question of who has responsibility in Gaza: the PLO or the Palestinian Authority (PA)?
  - c. **The Political Process and the Roadmap** – Israel could create a linkage between the issue of responsibility and its willingness to follow the Roadmap;
  - d. **Safe Passage** – The Safe Passage arrangements will determine the relations between Gaza and the West Bank and will affect all further civil, economic, political and military arrangements;

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<sup>1</sup> Translation Draft: is a draft version of the English translation. The final version of the original document is available in Hebrew.

- e. **Customs Envelope** – The Palestinians base their claims regarding Israel's lingering responsibility over Gaza on the Israeli presence on the border between Gaza and Egypt;
- f. **International Intervention** – International intervention will diminish Israel's responsibility over Gaza. However, it will allow the Palestinians to avoid taking the responsibility themselves.
- g. **The Civil Sphere** – In principle, Israel could cut off supply of utilities and services to Gaza, in order to reinforce its claim regarding ending its responsibility.
- h. **IDF Activity following the Disengagement Plan** – Should Israel need to employ military force in Gaza, it may weaken its claim regarding ending its responsibility.
- i. **Symbols and Declarations** – Israel's claim regarding ending its responsibility should be systematically and consistently accompanied by symbolic and declarative measures.

## End of Responsibility in Gaza

### Systemic Overview

#### Acknowledgements

The Re'ut Institute would like to thank the following experts for their contribution to this policy-effort:

[Prof. Ruth Lapidot](#), Greenblatt Professor Emeritus at the Hebrew University of Jerusalem, and Senior Researcher at the Jerusalem Institute for Israel Studies. Prof. Lapidot is a world leading expert on international law.

[Dr. Yuval Shany](#), senior international law lecturer at the school of law, College of Management Academic Studies and at the law faculty, Hebrew University.

[Mr. Moty Cristal](#), Former Deputy Head of the Negotiation Management Center in PM Barak's office; Mr. Cristal attended the Camp David and Taba Summits (2000-2001).

#### Intorduction

1. This document was written following a meeting held at the Re'ut Institute between government officials, other experts and the Re'ut team on the issue of Israel's "[End of Responsibility](#)" over Gaza (8/31/05). However, **the Re'ut Institute is solely accountable for the content of this document.**
2. The official goal of the "[Disengagement Plan](#)" is to end Israel's responsibility over the "[Gaza Strip](#)", both **practically and formally**,<sup>2</sup> so that consequently, "*... there will be no basis for claiming that the Gaza Strip is occupied territory*".<sup>3</sup>
3. The Disengagement Plan does not entail **full** withdrawal from the external perimeter of the Gaza Strip, including sea ports, air space and control over passage of people and goods.
4. Furthermore, the status of the Gaza Strip is linked to other considerations, such as its linkage to the West Bank and the status of the "[Palestinian Authority](#)".
5. Therefore, under the current situation, Israel will probably *not* receive **formal international recognition** of ending occupation and responsibility over Gaza (see the concept of "[End of Occupation](#)"). A political struggle between Israel and the Palestinians over the status of Gaza is likely to follow.
6. **In the absence of formal recognition**, the position of the international community regarding Israel's responsibility over Gaza will be **formulated based on the reality on the ground**.<sup>4</sup>

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<sup>2</sup> "The process of disengagement will serve to dispel claims regarding Israel's responsibility for the Palestinians in the Gaza Strip", Disengagement Plan (6/6/04), par. 1-vi.

<sup>3</sup> Disengagement Plan (6/6/04), par.

<sup>4</sup> See also "[End of Responsibility in Gaza: Policy Options](#)".

7. Ending Israeli responsibility is an inter-disciplinary and inter-institutional systemic issue. The purpose of this document is to present those aspects that affect this issue and are affected by it. The document *does not* elaborate on all the systemic links between these issues.

### **Systemic Overview**

8. **The Conundrum of End of Responsibility** – Israel will probably not receive formal recognition of ending its responsibility over Gaza. Measures taken unilaterally by Israel, in order to create a de-facto end of responsibility, may present Israel with a conundrum:
- a. The more determined Israel would be in taking unilateral steps to disengage from Gaza, the more it would damage the governing and economic capacities of the PA. Thus, Israel is likely to face increasing pressure to retain "**Responsibility**" over the Gaza Strip.
  - b. Ending Israel's responsibility in Gaza will necessarily create a gap between the status of the Gaza Strip and that of the "**West Bank**". As this gap widens, Israel would face increasing international criticism, objection to the end of responsibility *or* pressure for further withdrawal from the West Bank.
9. **The Status of Gaza and the West Bank** –
- a. The concept of "Gaza and the West Bank as a Single Territorial Unit" is one of the fundamental principles of the "**Oslo Process**", according to which, all civil, economic and political arrangements have applied equally in Gaza and the West Bank (even if implemented differently by Israel);
  - b. Israel's claim to ending its responsibility over Gaza – in addition to ending all military and civilian presence, withdrawal from parts of the external perimeter, the establishment of a border between Gaza and Egypt and the expansion of the PA's powers and jurisdiction in Gaza – differentiate the political status of Gaza from that of the West Bank;
  - c. This differentiation changes the relations between Israel and the Palestinians dramatically and may affect all the civil, economic and political arrangements concerning Gaza.
10. **The Questions of the Palestinian Interlocutor** –
- a. The "**Interim Agreement**" (9/95) determines the status of the PA, and profoundly limits its sovereign powers. Although the PA is the governing authority elected by the residents of Gaza and the West Bank, it lacks **formal** representative authority and international status;
  - b. The aftermath of the Disengagement is characterized by a political turmoil on the Palestinian side: Lack of clarity regarding the authority of the PA, compared to that of the PLO, and increasing influence of Hamas threatens to undermine the control of the PA.
  - c. Within its efforts to end responsibility over Gaza, Israel must decide "who's the boss" in Gaza, and what are their powers and jurisdiction. This decision

will affect Israel's position on the questions: "who to talk to?" and "who to shoot at?"

#### 11. The Political Process and the Roadmap –

- a. Following the Disengagement, the "Roadmap" will once again be the center of the political discourse. "The First Phase of the Roadmap" includes a list of Israeli undertakings (such as freezing all settlement activities and dismantling illegal outposts) and Palestinian undertakings (confiscation of illegal weapons and dismantling of terror organizations);
- b. The entry point to the Roadmap, in the aftermath of the Disengagement, is unclear. Israel can argue that following the withdrawal from Gaza, it is now up to the Palestinians to fulfill their obligations within the First Phase. The Palestinians may reject this claim.
- c. Therefore, Israel may create a linkage *between* the American position regarding the end of responsibility in Gaza *and* its willingness to move forward in the Roadmap.

#### 12. The Safe Passage

- a. In the Oslo Accords, Israel agreed to provide the Palestinians with a "Safe Passage" between Gaza and the West Bank, to reinforce the principle of Gaza and the West Bank as a single territorial unit. In reality, the Safe Passage was hardly ever operated;
- b. Israel's withdrawal from Gaza and its claim to end of responsibility, create a fundamental difference between the status of Gaza and that of the West Bank. The Palestinians perceive this differentiation as a strategic threat and strongly object to it. Therefore, Palestinians have stipulated the operation of the Safe Passage as an essential (albeit not sufficient) condition for ending Israel's responsibility in Gaza;<sup>5</sup>
- c. As a result, the issue of the Safe Passage becomes significant. The modalities of the Safe Passage will determine the extent of connections between Gaza and the West Bank and will thus affect all other civil, economic and political arrangements.

#### 13. Economy and Customs Envelope -

- a. The "Customs Envelope", which was established by the Paris Protocol (4/94), provides that the same customs and indirect taxes (with few exceptions) will be levied in Israel, Gaza and the West Bank.

The relevance of this arrangement is now in question, due to the construction of the "Security Fence", the deferment of the "Permanent Status Agreement", limitations on passage of people and goods and Israel's withdrawal from the Gaza-Egypt border.

Up until the Disengagement, the Customs Envelope was one of the principal attributes of Israel's responsibility over Gaza and the West Bank.

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<sup>5</sup> Saeb Erekat, "A Palestinian View: Gaza Remains Occupied", **Bitterlemons.org**, 22/8/05, <http://www.bitterlemons.org/issue/pal2.php>

- b. Following the disengagement, there has been an inversion of positions regarding the Customs Envelope. *Previously*, the Palestinians reluctantly agreed to the establishment of the customs envelope, *whereas now* they wish to maintain it for economic reasons;

Meanwhile, the Palestinians base their claims regarding Israel's lingering responsibility in Gaza on the Israeli presence at the border between Gaza and Egypt;

- c. Israel is facing two decisions: Should Gaza remain within the Customs Envelope? And then: Should the Customs Envelope be maintained **in the West Bank as well**? This would substantially influence the PA's income and its trade and development potential, as well as the Jordanian economy.

#### 14. International Intervention –

- a. The existing wide-scale international presence and involvement in Gaza and the West Bank mainly provides economic, civilian and humanitarian aid.
- b. Israel's attempt to end its responsibility over Gaza highlights the deliberation regarding international intervention. *On the one hand*, international intervention will diminish Israel's responsibility in Gaza; *on the other hand*, it will allow the Palestinians to avoid taking the responsibility themselves.

#### 15. The Civil Sphere –

- a. The Gaza Strip and Israel share interfaces in almost every civil aspect, e.g. water and sewage, trade, labor force etc. These interfaces have made Gaza dependent on Israel, in both civil and economic aspects.
- b. Following the Disengagement, Israel can, in principle, detach itself from Gaza, by gradually cutting off the supply of utilities and services, in addition to defining Gaza as "foreign land", and the different Gaza crossings as international border crossings (requiring the issuance of visas).

#### 16. IDF Activity Following the Disengagement –

- a. Israel might need to employ military force in Gaza following the Disengagement;
- b. The issue of responsibility is closely related to IDF's combat doctrine regarding the Gaza Strip and its external perimeter following the Disengagement. Returning into the Strip, or damaging infrastructure there, may detract from Israel's claim regarding ending its responsibility.

#### 17. Symbols and Declarations –

- a. Israel's control over Gaza is documented in numerous sources, such as maps, text books, institutional structures, speeches and declarations;
- b. Israel's claim to end its responsibility in Gaza should be systematically and consistently accompanied by symbolic and declarative measures.

End.

