

Reconstructing Gaza: Five Principles for Transformative Change

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Operation Protective Edge caused the most acute humanitarian crisis in Gaza in at least the past 50 years, with the scale of displacement and destruction unprecedented since the beginning of the Israeli occupation in 1967. In its aftermath, the Palestinian Government of National Consensus (GNC) has estimated the cost of relief, recovery, and reconstruction for Gaza to be USD 4 billion. However, the state Gaza is in today is not just a humanitarian crisis; it is the culmination of political failure that money alone cannot fix.

While people in Gaza are in urgent need of housing, water, electricity and other public infrastructure, donors must not pour endless money into reconstructing Gaza without the prospect of a fundamental change in the status quo that would allow for their interventions to be sustainable. As long as Palestinians in Gaza remain isolated from the rest of the occupied Palestinian territory (OPT) and the restrictions on the movement of people and goods remain, any reconstruction efforts will be unable to deliver what Palestinians in Gaza desperately need. International interventions must be consistent with international legal and humanitarian principles; at best, they would promote aid effectiveness and reduce aid dependence.

It must be noted that as both the Gaza Strip and the West Bank, including East Jerusalem, remain occupied, the government of Israel, as the occupying power, is responsible under international law for ensuring the welfare of the Palestinian civilian population and has the primary duty and obligation to provide for basic needs. Where the government of Israel is unwilling or unable to meet needs, it has a secondary obligation to facilitate aid schemes to address the population's right to adequate housing, to water, to health, to education, and to livelihood.

Instead, international humanitarian and development intervention efforts in Gaza are severely restricted by the Israeli government's blockade of the Gaza Strip. Today, the United Nations (UN) estimates that Gaza needs 89,000 housing units. This figure includes the 18,000 housing units that were destroyed or rendered unliveable during Operation Protective Edge and the pre-crisis deficit of 71,000 housing units. At the current rate of entry for construction materials, it would take 18 years to import the materials needed for reconstructing these 89,000 houses alone. It is estimated that from 2010-2014, UN donor-sponsored projects rebuilt or repaired just 1,810 housing units- a mere two percent of current housing needs in Gaza.

The construction materials monitoring scheme agreed upon by the government of Israel, the GNC, and the UN is unlikely to expedite reconstruction at a rate necessary to build the homes, schools, hospitals and other public infrastructure, such as water and energy networks, desperately needed in Gaza.

Most importantly, the monitoring scheme does not work to address the ongoing denial of rights that drive poverty and conflict, namely the restrictions on the movement of people and goods out of the Gaza Strip and between Gaza and the West Bank.

Without a full lifting of the blockade, reconstruction could be likened to rebuilding a prison, where Palestinians in Gaza will be condemned to live under blockade at best, and military conflict at worst. A viable Palestinian state is further and further away as the separation of Gaza from the rest of the OPT remains the norm.

This paper lays out five principles which must govern the actions of the international community in the aftermath of what caused Peter Maurer, the President of the International Committee of the Red Cross (ICRC), to say on Twitter 'I've never seen such massive destruction ever before.' The international community cannot fund, approve of, or allow itself to be bound by mechanisms which undermine these principles, as without adherence to them, transformative and lasting change in Gaza will be impossible.

If the two state solution—of which Gaza remains an essential component—is to remain the political goal of the international community, this must truly be the last time Gaza is rebuilt.

1. Territorial integrity:

Gaza and the West Bank, including East Jerusalem, are legally one territorial entity. As Gaza is an integral part of the Palestinian territory, donors must prioritize a national development plan that includes the Gaza Strip. Working on the basis of such a comprehensive national development plan would allow reconstruction efforts to address longer-term water, energy, health, and housing needs, among others, across the West Bank and the Gaza Strip. Opening, securing, and staffing crossings and safe passage routes for the movement of people and goods between Gaza and the West Bank are central elements to achieving positive outcomes in the four sectors of the current Palestinian National Development Plan (PNDP 2014- 2016) and are therefore critical components of a successful reconstruction plan.

Under a national development plan, the reconstruction of Gaza should be conducted within a framework of achieving Palestinian sovereignty, self-determination and the realization of the two-state solution. As part of this effort, the government of Israel and the international community must empower the GNC to complete the process of reunification in Gaza. The GNC has identified movement for GNC personnel between the West Bank and Gaza and finding practical solutions to the payment of salaries in Gaza as positive enablers towards reinforcing reunification and donors should support them in these endeavors.

2. Non-recognition of the illegal blockade:

Over the past seven years, the blockade has crippled Gaza's economy, kept Palestinians separated from each other, and enabled the competing and oftentimes divisive dual political, social, and legal structures in the West Bank and Gaza to develop. For reconstruction to succeed the Israeli blockade on the Gaza Strip must be fully lifted. The blockade is considered by many in the international community as amounting to collective punishment on the entire Palestinian civilian population in Gaza. Third state responsibility obligates the international donor community to insist on the termination of the blockade prior to providing further aid. Anything less is not only unproductive, but inconsistent with international law.

The blockade system is obstructive and entrenched; past experience has demonstrated that promised improvements to the current system will not enable a sustainable, proper reconstruction process. Even current proposed improvements such as expanding the capacity of the Kerem Shalom crossing or re-opening the conveyor belt at Karni would be limited in impact. That is because other key elements of the blockade continue to obstruct the development of a regular functioning import and export system, most notably: the linking of opening times to Israeli political, security and religious discretion and interests; the lack of transparency, standardization and consistency in the Israeli-controlled system for merchants and goods; the prolonged approval processes; and the ban on goods from Gaza to the West Bank.

Following the October reconstruction conference, a timeline with indicators should be established, which will guide the international community to determine within two months whether significant progress in lifting the blockade has been made.

If reconstruction is halted by the blockade, or if there is lack of progress in acceptable monitoring mechanisms for the import of construction materials, the international community cannot remain paralyzed. It must not repeat the experience post Cast Lead in 2009, where despite the large donor pledges and commitments to Gaza reconstruction, most programs were not implemented because they were blocked by Israeli crossing restrictions.

3. Protection of civilians:

The security of Palestinian and Israeli civilians is critical to ensuring a permanent end to hostilities. The rights of Palestinian civilians in Gaza cannot continue to be subjugated and their right to life and protection must be respected. Israeli civilians cannot continue to have their lives threatened by indiscriminate rocket attacks. Donor countries must hold all parties to the conflict accountable for war crimes, crimes against humanity, and violations of international humanitarian law. Commitment to reconstruction should be accompanied by donor countries' support for the work of the Independent Commission of Inquiry. Similarly, donor countries should support the full implementation of a protection monitoring and enforcement apparatus, mandated by the Security Council, to address violations with the aim of ending impunity.

This could include support for monitors deployed along the Gaza border, to ensure that parties to the conflict respect the ceasefire agreement and that Israel respects the rights of Palestinians to access and exit the Gaza Strip. This protection monitoring operation should be part of a wider Security Council mandate calling for the protection of Palestinians, and should enhance systematic reporting on and accountability for the rights violations affecting Palestinian civilians in Gaza and in the West Bank, including East Jerusalem.

4. Engaging local resources:

Reconstruction projects must make use of local resources and the Palestinian local economy in order to contribute to a viable, sustainable Palestinian workforce that would become less dependent on aid. In line with UN Security Council Resolution 1325, the GNC, the UN, and supporting donors must ensure that the reconstruction plan for Gaza promotes the equal participation and full involvement of women in all efforts for the maintenance and promotion of

peace and security including peacebuilding, peacekeeping, humanitarian response and in post conflict reconstruction.

Reconstruction efforts should include all Palestinians and all of the OPT, working strategically towards building a socially conscious and economically competitive private sector that can mobilize markets across Gaza and the West Bank, including East Jerusalem. Reconstruction efforts should drive local employment and empower the Palestinian work force- men and women- to rebuild their communities and local and national economies, with emphasis on removing barriers to inter-Palestinian trade and opening safe passage routes to facilitate transfers of goods between Gaza and the West Bank, including East Jerusalem.

The OPT has the resources and human capacity to lead reconstruction efforts, and locally available expertise should be leveraged. As a first step towards Palestinian ownership over reconstruction efforts, East Jerusalem and West Bank ID holding national staff and local experts, particularly doctors, nurses, .psychologists, architects, engineers, and private sector investors must be granted rapid and unimpeded access to Gaza.

5. Accountability:

Mechanisms must be established to deter future destruction of the civilian and donor-funded infrastructure, e.g. the repeated attacks on the Gaza power plant. Based on international legal obligations of ensuring accountability and preventing impunity, mechanisms could include: conducting assessments, recording damages, and holding Israel accountable for violations that resulted in destroyed property or destruction to projects; linking the costs for the destruction or rebuilding to existing financial benefits and/or arrangements (i.e. loan guarantees, fees, tax exemptions); or taxing/assessing/applying a fee on Israeli imports that would be transmitted to a "Gaza reconstruction fund." It is important to note that accountability for violations is not limited to criminal investigations and prosecutions, but also includes reparations, compensation and restitution.

The principle of "no-profit" for violators of international law should be applied. As a first step towards building the environment necessary to reach guarantees of non-repetition, the economic incentives in the cycle of destruction and reconstruction in Gaza must be removed. Donors must maintain the right to choose the companies providing materials and services for Gaza reconstruction efforts and should apply due-diligence measures to ensure they are not procuring from companies engaged in rights violations, such as Israeli companies actively building settlements, the Wall, or quarrying within the occupied West Bank.

The Association of International Development Agencies (AIDA) is a coordinating body of international humanitarian, development, and human rights agencies working in the occupied Palestinian territory (OPT). This policy paper was endorsed by at least 1/3 of AIDA members.