

## ELECTIONS AND WAR: ISRAEL AND GAZA

It is difficult to believe that the timing of the attacks on Gaza at the end of last December was simply a consequence of intolerable provocation. After all, only a few days after the violence ended, a new president was inaugurated in the United States and, three weeks after that, Israel itself held legislative elections in which two of the three political figures – Kadima's Tzipi Livni and Labour's Ehud Barak – who had guided the hostilities were leading contenders. And the third, Ehud Olmert, whose resignation as prime minister had sparked off the electoral contest, had every interest in a successful military campaign to absolve his reputation of calamity in the war in Lebanon in 2006. Perhaps the question of the election and of Barack Obama's coming inauguration may also have played a role in deciding the timing.

### The war itself

Of course, there had certainly been provocation, in the form of Hamas's rockets raining down on Sderot and Ashkelon. Nor can there be much doubt that such attacks breached international law in that they were indiscriminate attacks on civilians. At the same time, however, the coincidence of the violence with a series of events that have a direct relevance to the political choices Israel had to make shortly afterwards is difficult to ignore.

In addition, the Gaza war needs to be set against a context, particularly the fact that Hamas's missile attacks, ostensibly the reason for the war, were not unprovoked, nor did they initiate the round of violence, as Israeli spokesmen have repeatedly claimed. The initial incident that sparked off the violence was an unprovoked Israeli attack that killed six Hamas militants on 4 November 2008. It was that event which unleashed the missile attacks in return, particularly as Israel had made no serious attempt to negotiate an extension to the ceasefire.

\* George Joffé is a lecturer in the Faculty of Politics and International Studies at the University of Cambridge.



Palestinians use sledgehammers to salvage materials from a house that was destroyed in Israel's offensive in Gaza last month, in the devastated area of east Jebaliya, northern Gaza, 2 March 2009.

And there is a further context to that event as well, namely that there had been a ceasefire for the previous six months during which Hamas had largely prevented such attacks but Israel had not fulfilled its side of the bargain, to avoid attacks on the Gaza Strip, as the events of 4 November demonstrated. Hamas had also expected that Israel would remove the economic blockade on the Gaza Strip so that, since this had not occurred, it refused to renew the ceasefire once it had expired. In these circumstances, Hamas's decision to unleash its rockets and to refuse to renew the truce makes rather better sense.

Then there was the war itself, waged with such massive force against a poorly-armed adversary that many observers felt impelled to describe it as unnecessary, disproportionate and indiscriminate, charges that many in Israel rejected as offensive nonsense. Unfortunately, these charges cannot be dismissed so easily. Iain Scobbie, a law professor at London University, has pointed out that the argument that Israel acted in self-defence is legally unsustainable



because the Gaza war is part of a continuum of violence between Israel and the Palestinians going back to 1987 and the First Intifada, a statement with which the Israeli supreme court had concurred in 2005.

Furthermore, self-defence can only be invoked as a justification at the start of a conflict, not as part of a continuum of violence – the situation in Gaza since 2001. Nor did Israeli unilaterally end its conflict in Gaza by the simple act of military withdrawal in 2005. Its forces, after all, retained the potential to intervene – as, indeed, they did last December. This meant that Gaza was, in effect, still ‘occupied’ despite the withdrawal, a legal stance that goes back to Nuremberg.

Nonetheless, even if this were wrong, Israel could only claim to be the injured party by demonstrating that its actions were necessary and proportionate. ‘Proportionate’, in legal terms, is generally based on an equivalence of damage and, on that basis, Israel’s case seems very weak. Since 2001, when rocket attacks from Gaza to Israel began, 23 Israelis have been killed, eight of them last year. Compared to the thousands of Palestinians – 5,000 by some estimates – who have died in Gaza since 2001, not least the at least 1,300 persons who died during the most recent violence, it seems difficult to argue that this was proportionate. The case looks even worse, given the fact that it would be extremely difficult to consider Israel’s actions ‘discriminate’ in that they distinguished effectively between civilians and armed militants – according to the United Nations Office for the Coordination of Humanitarian Affairs, just under 40 per cent of those who died were women and children, a figure that was corroborated by the Palestinian Center for Human Rights. Then there was the nature of the tactics and weaponry used, none of which lent themselves to discriminate action.

Finally, there is the question of necessity; was this the only way in which the evidently indiscriminate attacks on Israeli civilians could be stopped? In other words, was Hamas an organisation so wedded to the terrorist option, so intransigent and innately antagonistic to Israel that violence of the kind that was used was the only available response? Despite the apparent consensus amongst European and American statesmen, not to speak of Israeli politicians and military leaders, that this was so, the evidence does not suggest that it was.

The Western and Israeli case has always been that, until Hamas accepted the reality of Israel, whatever its

charter said, renounced terrorism and acknowledged existing agreements, it could not be regarded as a valid interlocutor, despite its democratic legitimacy. It was a view that was reinforced after Hamas swiftly and bloodily expelled its rival, Fatah, from the Gaza Strip in June 2007, even though its actions were undertaken to forestall a coup against it, led by Mohamed Dahlan, originally the Fatah security commander in Gaza, and materially supported by the United States. And if that were not enough, there was always the claim that Hamas, like Hizbullah in Lebanon, was merely an Iranian catspaw and, for that reason alone, unacceptable.

## The timing

Yet, in reality, the situation was always far more complex, nuanced and potentially hopeful in terms of compromise and peaceful outcomes. Hamas had made it clear that, even though its charter precluded a formal recognition of the Israeli state, it was prepared to conclude a long-term truce arrangement. This, in turn, could eventually evolve into a more formal process of recognition. Furthermore, it was quite clear after Hamas’s victory in the 2006 elections that its ideas had evolved, despite the tensions between its internal and external leadership, such that it informally recognised political realities in the Levant – and that included the fact of Israel.

Yet it was equally clear that Western and Israeli demands for its compliance with their three demands for formal political engagement could not be formally endorsed without discrediting the movement with its electorate. In short, it was Western and Israeli intransigence that created the conditions for conflict, particularly after the population of Gaza had been starved and brutalised for almost three years because of their demands. And, of course, one of the consequences of the economic blockade had been to force Palestinians there to increasingly rely on contraband to keep alive, a process that Hamas legitimised by levying taxes on smuggled goods and by creating its own tunnels, no doubt for more military purposes since it knew that conflict would be inevitable.

Set against this background, it is difficult to avoid the conclusion that the Gaza war was a conflict that Israel had actively sought to wage, although its motives for waging it when it did are far less clear. After all, it could have renewed the six-month truce and it could even have taken up the challenge of converting a truce into recognition over time. Instead it worsened the negotiating environment by the blockade and by increasingly



insisting that Hamas was merely an Iranian creature and part of the new arc of extremism linked to terrorism that Iran was creating in the Middle East.

Yet, even if negotiation was not on the table, it is still not clear why warfare based on the principles of 'shock and awe' was the only available response and why it had to occur when it did. Israel had, after all, used graduated responses over past rocket attacks, even when faced with similar provocation. The answer seems to lie in the nature of the end of the Olmert government which coincided with the end of the Bush administration in the United States. Quite apart from Mr Olmert's difficulties over allegations of corruption – the proximate cause of his resignation – it seems that he was anxious to wipe away the obloquy cast upon him as a result of the debacle in Lebanon in 2006.

Even though some Israeli commentators have argued that the war there was not the failure it was portrayed to be because it has ensured that Hizbullah has launched no missiles at Israel since it ended, the general consensus in Israel is that the prime minister had failed and that he had been let down by his generals. A short war in Gaza to crush Hamas seemed like a suitable antidote to such sentiment, allowing him to leave office with honour. In addition, his resignation also revealed the political problems facing his party, Kadima, as his successor, Tzipi Livni, was unable to gather sufficient support within Israel's fragmented political environment to cobble together a new governing coalition without an election.

She, therefore, needed dramatic action to demonstrate political decisiveness ahead of the inevitable election, in order to prepare the ground for successful coalition-building and to ensure that Kadima could maintain its lead over other parties, particularly Labour and Likud. And, ironically enough, the then defence minister, Ehud Barak – also leader of the Labour party but unpopular with the electorate, not least after his prime ministerial failures at the end of the 1990s – shared with the prime minister and his successor a desire for vindication through military action as part of his challenge to the new Kadima leader and as a counterweight to the recycled Likud leader – also a former premier – Binyamin Netanyahu.

Electoral politics, then, provides us with a large part of the explanation for the timing of military action as it had to take place well before the election process itself. Those exploiting it for such purposes, however, might have reminded themselves of the fate of Shimon Peres in 1996, when he tried similar tactics

in Lebanon after the assassination of Yitzak Rabin – and lost! Another element, of course, was the need to ensure that the United States would not attempt to interfere with military action. That, of course, meant that the tried and tested Bush administration would be far more reliable than the incoming Obama administration, whose attitudes towards such extreme military action were unknown, even if its pronouncements and personnel seemed likely to be favourable to Israel.

## Outcomes

What does seem clear is that the stated aim – of formally seeking to force Hamas to desist from more rocket attacks and, hopefully, of destroying the movement itself – was not the real objective. The reasons for such a conclusion are simple; Lebanon had demonstrated that even Israel's military might cannot easily demolish opponents skilled in asymmetric warfare. Hamas merely had to survive and then fire off a single rocket – as it did and as it has continued to do on an almost daily basis – to allow it to claim that it had won the confrontation, even if Israeli public opinion believed the opposite to be true. The Arab world certainly accepted Hamas's claims, to the discomfort of moderate Arab states, such as Saudi Arabia, Jordan and, especially, Egypt, which covertly wished the Israelis well in their declared objective of destroying it.

It is a conclusion that seems to be bolstered by developments since the violence ended. One of Israel's ancillary objectives during the conflict seems to have been the release of its soldier, Gilad Shalit, seized by a Hamas commando in late June 2006. Military action was unsuccessful in achieving this but the outgoing prime minister, Ehud Olmert, sees his release as essential to bolstering his sagging reputation. Now, through the agency of Egypt (as Israel and Hamas cannot negotiate face-to-face) a deal seemed to be in the making to achieve the same outcome through negotiation until Mr Olmert, for reasons that are still not clear, sacked his official negotiator. Yet, with reluctant Egyptian help, the deal may still work before he leaves office.

It seems that Israel and Hamas were to agree on an eighteen-month-long truce, in return for which, Israel would allow 80 per cent of the commercial traffic that Gaza needs to resume, provided the cross-border tunnels are closed. Hamas was to return Gilad Shalit in return for the freeing by Israel of between 1,250 and 375 named prisoners (the figures vary, depending on the source) including Marwan Barghouti. Then the remaining 20 per cent of commercial traffic would also be restored. It is, without doubt, a substantial and com-

prehensive agreement but it is also hardly the kind of agreement that the victor signs with the vanquished – and there, perhaps, lie the reasons for the delay. Furthermore, it granted Hamas what it always wanted – the removal of the blockade – and would allow it to claim that it, rather than the threadbare administration of Mahmoud Abbas in the West Bank was able to free prisoners from Israeli jails. And Mr Barghouti would be certain to stand in the Palestinian presidential elections, due soon since Mr Abbas's presidential term ran out at the start of January.

In short, outside the issue of impressing public opinion in Israel in the run-up to legislative elections, it is extremely difficult to see Israel's actions last January as anything other than a strategic defeat in terms of both the peace process and in the battle for international opinion. And, even in terms of the elections, Kadima and Labour appear to have been worsted. It is true that Kadima just managed to pip Likud at the post, gaining 28 seats for Tzipi Livni, compared to Binyamin Netanyahu's 27 seats. But Labour was pushed into fourth place with 13 seats, two less than the extreme rightwing Israel Beiteinu, led by Avigdor Liebermann. Since Israeli politics have always been dominated by coalitions, the key to electoral success now is, as ever, success in coalition-building.

Here Tzipi Livni had some unpalatable choices for only by embracing Likud and either Labour or Israel Beiteinu could a viable coalition be stitched together. No other arrangement would really be tenable but neither were acceptable to her! She has already rejected the Likud option, not least because it would involve embracing Mr Liebermann as well. Almost inevitably, therefore, Mr Netanyahu can now look with increasing confidence towards being Israel's next premier, in coalition with Mr Liebermann and smaller religious parties – despite the fact that some object to Mr Liebermann

as well. And that has spelt an end for any meaningful peace process for a very long time.

Where, then, does this leave outside players, such as the United States and the European Union? It has to be said that the outlook is bleak; unless Mr Abbas and his Fatah movement can bring themselves to accept a national unity government with their arch-enemy, Hamas, the latter is likely to dominate Palestinian politics after the presidential and legislative elections later this year, perhaps in coalition with Marwan Barghouti and his Fatah Tanzim movement if, indeed, he is released. And both will then be beholden to Hamas for its success in freeing him from a sentence of five life terms in prison. Israel will have been forced to abandon its isolationist policies towards the Gaza Strip, having abandoned the blockade and having indirectly negotiated with Hamas, even if it refuses to institute negotiations for a future two-state solution.

The European and American policy of isolating and marginalising Hamas appears, now, to be in tatters. The only sensible way forward, therefore, would be to engage with Hamas, in order to modify its behaviour and, through negotiation, to bring it towards an acceptance of the reality of Israel. Israel, in its turn, must be encouraged to accept that policies of main force achieve no permanent solution and that it, too, must accept compromise and, eventually, a Palestinian state. That is an outcome that Mr Netanyahu will resist and for which Mr Liebermann will demand territorial exchange to preserve the ethnic integrity of the Israeli state. It has to be hoped, therefore, that the Obama administration truly wants change in the Middle East and will have sufficient commitment to really engage with Israel to achieve such outcomes. But, despite Secretary-of-State Hilary Clinton's recent tough words about renewed settlement building, don't hold your breath!

The opinions expressed in this article are those of the author and do not necessarily represent the views of the EUISS