



CJPME

## **Position Paper: Israel's unacceptable war on Gaza**

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“Canada must call for an immediate and unconditional ceasefire, and use its diplomatic influence in the UN to help bring this about. The ongoing violence makes a mockery of UN mechanisms to promote peace.”

“Canada must condemn all violence between Israel and Hamas in Gaza. Canada will not condone the use of violence by either party, and asks that each party respect its obligations under international law.”

“Canada must make every effort to bring humanitarian succour to the population of Gaza. Canada must help address the humanitarian crisis wrought on civilians by the current assault on Gaza and the 18-month siege which preceded it.”

“Canada must take another look at the root causes of conflict between Israel and the Palestinians, and reconsider its policies according to these origins. The war did not begin on Dec. 27<sup>th</sup>, but has its roots in events dating back to 1947. Within this context, Canada must try to help address the legitimate grievances of both sides, and make its contribution to regional peace.”

### **Policy Recommendations for Canada**

- A. Canada must demand an immediate cease-fire. The UN Security Council's unwillingness to push for a ceasefire – primarily because of the US' ability to block action – is immoral, and contrary to the intent of UN mechanisms. In delaying a ceasefire, the US presumably seeks to give Israel a chance to work its will in Gaza. Nevertheless, such manoeuvres undermine the UN mechanisms against violent resolution of tensions, and demonstrate to the world that the US has little concern for human and humanitarian rights. Those countries, including Canada, who line up behind the US also demonstrate their lack of sincere concern for the rights of the peoples of Gaza.
- B. Canada must denounce Israel's disproportionate violence, and its disregard for civilian lives. Two principles of self-defence are long-standing, and have been repeatedly confirmed in legal history: those of necessity and proportionality.<sup>1</sup> As one legal expert expressed it, “It's always a subjective test, but if someone punches you in the nose, you don't burn their house down.”<sup>2</sup> As of Jan. 7<sup>th</sup>, 700 Palestinians, including 219 children have died in Gaza since Dec. 27<sup>th</sup>. Since the rocket attacks from Gaza began in 2001, less than 20 Israelis have been killed. International law, as embodied in the Fourth Geneva Convention, also prohibits the use of force which endangers non-combatants – a precept which has been repeatedly and flippantly disregarded by Israel.
- C. Canada must address itself to a serious improvement in the human and humanitarian needs of the people of Gaza. Canada must acknowledge the hypocrisy of a) doing nothing to prevent or even critique Israel's assault on Gaza, and then b) offering handouts to the war-stricken population of Gaza. While Canada's promise of \$4 million in humanitarian aid to Gaza on Jan. 7<sup>th</sup> is “nice,” in the current context it appears cynical and inhumane. Canada must look at the context of the assault and preceding siege of Gaza by Israel, and devise ways to bring long-term improvements for the well-being and future of the people of Gaza.
- D. Canada must develop a distinct approach with Hamas. Canada must recognize that Hamas is not a monolithic organization but a Palestinian national religious/political movement including people of many views, as well as a militant wing. Despite Israel's current assault, Hamas will not disappear because it embodies the resistance and hopes of Palestinians living under occupation.

## **A: Canada must call for an immediate cease-fire**

1. Canada must support UN principles against the use of force. As mentioned above, Israel's war against Gaza that began on Dec. 27<sup>th</sup> stands contrary to UN principles opposing war. Article 2 (4) of the UN Charter states, "All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state..." While the Canadian government has given lip service to "calm" and "a durable ceasefire," there is little on the diplomatic front to indicate that the government is serious about pushing for a ceasefire.
2. Canada must not use "durable ceasefire" double-speak. The catchphrase of late has been "durable ceasefire," which apes the "sustainable ceasefire" language that was used by the Canadian government during Israel's Destruction of Lebanon in 2006. Nevertheless, a ceasefire is meaningless if it is imposed only after one party has brought its violent enterprise to fulfillment. And until there is a just resolution to the Israel-Palestine conflict – one which addresses the legitimate grievances of both sides – any ceasefire can only be temporary. As Martin Luther King, Jr. said, "Peace is not the absence of violence, but the presence of justice."
3. Canada must contextualize any statement on the conflict regarding "self defence." All peoples have the right to self-defence. By any objective measure, the people of Gaza have a much more pressing need to defend themselves than do the Israelis, as over 2000 Gazans have been killed by Israel since 2005, versus the 20 Israeli deaths from rocket attacks since 2001. One must also point out that Israel has launched a ground invasion of Gaza, and not the other way around. And finally, the UN Charter-defined "right to self-defence" in Article 51 only applies "...until the Security Council has taken measures necessary to maintain international peace and security..." Thus, according to UN principles, the right to self-defence is short lived, and limited in scope.

## **B: Canada must denounce Israel's disproportionate violence**

1. Israel's use of violence violates UN Charter law, and international humanitarian law. According to one long-standing interpretation on the use of force, any action made "in self-defence" must be only necessary "to adequately defend the threatened interests; and... the necessary defensive action must be proportionate to the danger."<sup>3</sup> Necessity implies that the use of force in self-defence must be limited to the attainment of legitimate military objectives. That is, the response in self-defence cannot be random in nature, or take the form of a reprisal. Proportionality implies that the retaliatory impact and/or civilian cost to the use of force in self-defence must be considered. Israel's violence in Gaza since Dec. 27<sup>th</sup> has been neither necessary nor proportionate.
2. Israel's disregard for civilian lives in Gaza is legally and morally inexcusable. International law, as defined by the Fourth Geneva Convention, prohibits the use of force against civilians, or against the use of force which may harm civilians. Even if Hamas were to use human shields (something which remains unproven) in Gaza, this would not give Israel the right to pursue its target. Even prior to Dec. 27<sup>th</sup>, Israel's 18-month long siege of Gaza was in violation of international humanitarian law: apart from other forms of collective punishment, Israel's reckless military strikes between Jan. 1 and Nov. 30, 2008 killed 403 Gazans; and its blockage of humanitarian and medical supplies to Gaza caused ongoing civilian misery and death, including dozens of Palestinians denied emergency medical leave from Gaza.

## **C: Canada must address itself to a serious improvement for Gaza**

1. Canada must make a long-term commitment to build and protect hope in Gaza. Hamas' rockets are a desperate act committed by desperate people living under siege and occupation in desperate conditions, with no hope for a better future. In the short-term, massive and sustained aid must be directed to Gaza to counteract years of military strikes and economic strangulation by Israel. CJPME believes, therefore, that the Government must ensure creative ways are found (such as working through the UNDP, the World Bank or responsible NGOs) to facilitate the flow of Canadian development assistance to Gaza.

2. Canada must demand that UN peacekeepers protect Gaza. As long as Israel continues to strike militarily at Gaza, any gains can easily be erased. As a result, direct approaches to protect Gaza and the well-being of its citizens are required. One way to provide this protection is to deploy peacekeepers on the border between Gaza and Israel. While peacekeepers are a temporary measure, Canada must try to encourage and facilitate longer-term diplomatic solutions to the conflict. Such solutions will inevitably need to address the underlying grievances of all parties.
3. Address the root causes of the Israel-Palestine conflict. In the long-term, the military occupation by Israel of Palestine must be addressed, such that normal economic activity and growth can take root.

## **D: Canada must engage with Hamas**

1. Canada must stop isolating Hamas and encourage it to evolve its positions and abjure violence. Hamas is not a monolithic organization. It is also a religious and social organization that has deep roots among the Palestinian people. Hamas devotes much of its estimated \$70 million or more annual budget to an extensive social services network. It funds schools, orphanages, mosques, healthcare clinics, soup kitchens, and sports leagues. Approximately 90 percent of Hamas' work is in social, welfare, cultural, and educational activities, according to Israeli scholar Reuven Paz.
2. Canada must recognize that there are significant differences between the external leadership of Hamas located in Damascus and the internal leadership in Gaza. There are members of Hamas who support a two state solution and members who do not. Canada's goal should be to strengthen the hand of the moderates within Hamas, especially those in the internal leadership who tend to be more pragmatic than hardliners in Damascus. Canada, despite pressure to declare the PLO a terrorist organization never did so and consequently was able to maintain contacts and moderating influence with that group in the years proceeding Israel's recognition of the PLO.
3. Canada must distance itself from the Bush position toward Hamas. Last year's attempted American sponsored coup against Hamas in Gaza not only backfired, leading to a Hamas takeover there but it also appears that the influence of Hamas in the West Bank is growing. It ill behooves Canada to lock itself into positions it will have to reverse when, as seems inevitable, Israel's leadership accepts that it has no option but to deal politically with Hamas (and indeed has already accepted to talk with Hamas.)

## **For more Information...**

For more information and background on Canadian foreign policy in the Middle East, the assault and siege of Gaza, and related topics, please consult the CJPME Website at <http://www.cjpme.org> or contact CJPME at (514) 745-8491.

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<sup>1</sup> The doctrine of proportionality originated with the 1907 Hague Conventions, was later codified in Article 49 of the Draft Articles on State Responsibility (1980) and is referred to in the Additional Protocols of the Geneva Conventions (1977)

<sup>2</sup> Lionel Beehner, "Israel and the Doctrine of Proportionality," Council on Foreign Relations, July 13, 2006

<sup>3</sup> E.g., see "Questions and Answers on Hostilities Between Israel and Hezbollah," Human Rights Watch, August 2nd, 2006