

Hamas in Gaza: Preparing for Long-term Control?

On 14 June 2007, after five days of heavy fighting, armed forces of the Islamic Resistance Movement Hamas overran the barracks and headquarters of the security forces of the Palestinian Authority (PA) in the Gaza Strip. More than three years later, Hamas remains in firm control in Gaza, seemingly self-confident, having survived in power despite a tight Israeli–Egyptian blockade, international sanctions and a major Israeli military assault. Its transformation of PA institutions and handling of the task of providing public services indicate that Hamas has both the ability and the will to rule Gaza on a long-term basis.

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Hamas's military takeover was preceded by a year of infighting between Hamas and its long-time rival Fatah, following a landslide victory by Hamas in the January 2006 elections for the Palestinian Legislative Council (PLC). The electoral success enabled Hamas to establish a majority government, while its ability to rule was severely hampered by a range of factors: economically by international sanctions, politically by Israel's arrest of a majority of Hamas's legislators, and militarily by the refusal of the Fatah-dominated security forces to comply with the instructions of the Hamas government. Hamas leader Ismail Haniyeh, who at the time of the takeover led a national unity government, defied President Mahmoud Abbas's orders to resign as prime minister, setting the stage for the subsequent political-territorial divide between a Hamas government in control of the Gaza Strip and a Fatah-backed government appointed by President Abbas and in control of parts of the West Bank. Several rounds of negotiations have failed to bring about a reconciliation between Hamas and Fatah.

The crisis between Hamas and Fatah represents the lapse of constitutional rule not only in Gaza but also in the West Bank. Owing to the paralysis of the PLC, neither the restructured cabinet of deposed Prime Minister Haniyeh in Gaza nor the emergency cabinet of Prime Minister Salam Fayyad in Ramallah has received the parliamentary approval required for a government to be considered legitimate according to the Palestinian Basic Law. The internal Palestinian division also has regional implications, as the crisis has weakened President Abbas's ability to conduct serious peace negotiations with Israel.

Ruling through PA institutions

Within weeks of the military takeover, Hamas had secured complete control on the ground in Gaza and began a systematic process aimed at fortifying its hold over the public institutions inherited from the PA. The self-governance bodies that were set up in 1994 as a result of the Oslo Accords resembled state institutions. They consisted of a legislative council; a president's office; a cabinet of ministers headed by a prime minister; 24 ministries; a judiciary; a police force divided into several security branches; a number of public agencies – for monetary affairs, energy, industry, etc.; and a local government administration organized in terms of governorates and

local councils. Through its control over the Gaza branches of most of these institutions, Hamas was on top of a relatively complete governing apparatus.

Hamas implemented a strategy of ruling through the institutions of the PA rather than replacing those institutions with alternative structures of government. Facing allegations that it had conducted a military coup, the Hamas government strove to present itself as a legitimate government, arguing that its source of legitimacy lay in its victory in a democratic election and that it would continue to respect Palestinian law in its conduct of governance. Any restructuring of institutions that did take place was justified by reference to the legal framework and regulations of the PA. Hamas seems to hope that its governance of Gaza will be considered successful and thus create a new political reality.

Ministries

The Gaza government replaced nearly all of the staff members of most of Gaza's ministries. This seems to have been largely a reactive measure following prolonged strikes in the public sector in protest at Hamas's takeover and in response to direct orders from the Ramallah government, which threatened to cut the salaries of employees who went to work in Gaza. One of the main obstacles to Hamas's effective governance between the 2006 elections and the June 2007 takeover was the non-compliance of the predominantly Fatah-loyal staff in the ministries, who largely ignored policy decisions and directives issued by Hamas ministers. Although the strike paralysed the public sector for a period, it also relieved Hamas of the burden of dealing with the previous, non-cooperative staff and offered an opportunity to fill Gaza's ministries with Hamas loyalists.

In the health and education sectors, the strikes were limited in time and scope, and employees were generally allowed to return to work when Ramallah declared an end to the strikes. However, many returning employees, especially at the management level, were transferred to positions that were inferior to the posts they had previously held. Administrative measures that included the demotion of former directors and the appointment of Hamas loyalists at all levels of management were systematically applied to ensure full political control. In relation to the other min-

istries, Ramallah ordered all former employees to remain at home. The Gaza government responded by appointing its own staff to re-open the ministries, though in a downsized capacity owing to the limited funds available to Hamas for the payment of salaries.

The Palestinian Legislative Council

The parliamentary body of the PA, the 132-member Palestinian Legislative Council, has not met since the Gaza takeover and has remained inactive as a unified body. In reality, the legislative body was paralysed already in June 2006, when Israel detained 45 of Hamas's 74 legislators, depriving Hamas of its majority in the PLC.

Hamas coped with the paralysis in the Palestinian legislative body by reviving the Gaza part of the PLC as an exclusively Hamas-run institution. This incomplete PLC has been joined by 26 Hamas members and one independent lawmaker in Gaza. In addition, there is a mechanism that allows imprisoned PLC members to be represented and vote via authorized legislators present in the sessions. Since its first session in September 2007, the Gaza PLC has voted to cancel all the decrees issued by President Abbas and has passed several legislative bills, as well as approving the yearly budgets of the Gaza government.

The Judiciary

The judiciary was in a different position than the ministries, since its independence from the executive branch of authority placed it beyond the direct reach of Haniyeh's cabinet. When the judiciary in Gaza refused to deal with the new Hamas police, the Gaza government forcibly closed down the courts. However, it could not formally dismiss existing judges or appoint new ones within the existing legal framework, as such activities fall under the mandate of the High Judiciary Council, whose headquarters are in Ramallah. Given its limited ability to impose its will on the High Judiciary Council, the Gaza government set up its own institution, the High Justice Council, to oversee the re-establishment of the courts and to appoint new judges, prosecutors and an attorney general. In this case, Hamas established a parallel institution outside the constitutional framework of the PA. Hamas emphasized that the new courts mirrored the previous judiciary in all aspects and insisted that decisions made by the new judges were in accor-

dance with established Palestinian law, although the new Gaza courts also enforced the terms of legislative amendments passed by the sessions of the incomplete PLC held in Gaza. In addition, the Gaza government set up a military court that from 2009 began issuing death sentences in accordance with the terms of the 1969 PLO Revolutionary Penal Code.

The Hamas police

The core of the new Hamas police in Gaza was recruited from Hamas's armed wing (the Izzedin al-Qassam Brigades) and the Executive Force (Tanfithiya), which was a police unit set up by the first Hamas government already in April 2006 in response to the PA security forces' refusal to cooperate with the Ministry of Interior under Hamas. Four months after the takeover, in October 2007, the Executive Force was officially dissolved and subsequently integrated into the pre-existing PA Civil Police structures, a move that seemed to signify Hamas's efforts to adapt their rule to the existing political structures.

Hamas has been credited even by its opponents for improving internal security within the Gaza Strip after the takeover, ending months of security chaos throughout the area. However, human rights organizations have documented grave and widespread violations of the law and the commission of excessive human rights abuses against political opponents by the Hamas police, targeting Fatah members in particular.

The Hamas movement

It is unlikely that Hamas would have been able to achieve the level of effective government it has were it not for its close interaction between governmental institutions and the Hamas movement, its affiliated charities and other NGOs, which together provided the government with a pool of employees, volunteers and political backing. Furthermore, the Shura Council – an advisory body of Hamas – in Gaza has acted as a shadow government, ensuring that Haniyeh's policies are consonant with Hamas's broader agenda. Factions within Hamas have actively lobbied to pressure the government to engage in a more active Islamization campaign at all levels of society.

At the local level, Hamas fortified its control by replacing the members of a number of Fatah-controlled municipal councils with Hamas loyalists. Hamas also took control over the local zakat committees that distribute alms to the needy and poor.

Responding to economic isolation

Gaza's long-time dependency on external funding reached a new peak after Israel responded to the Hamas takeover by imposing a full embargo on Gaza, barring the import of all raw materials and bringing local industry almost to a complete standstill. The impact of the embargo has been devastating, with 80% of Gaza's population receiving food rations from the UN and levels of unemployment reaching 40%.

The PA in Ramallah remained the biggest source of capital influx to Gaza even after the takeover, as it continued to pay the salaries of around 77,000 public employees there, although most of these refrained from going to work. Other key employers are the UN and other international organizations.

The two main components of Hamas's economic response to the embargo have been, first, to establish control over – and expand – the smuggling business through underground tunnels at the town of Rafah at the Egyptian border; and, second, to levy taxes on imported and smuggled goods as well as on domestic economic activity. The Hamas-controlled municipality of Rafah began licensing the construction of new tunnels. World Bank officials have estimated that by 2009, 80% of Gaza's imports came through the tunnels, which provided employment for some 15,000 Palestinians involved in digging and operating the tunnels and related transportation activity. When traders are included, the estimated figures for the numbers of Gazans involved in the tunnel economy exceeds 40,000. As the largest source of employment in the private sector, the tunnel business absorbed presumably a considerable portion of those who had lost their employment as a result of the embargo.

To Hamas's advantage, the Israeli embargo caused particular harm to Gaza's existing private sector, chiefly composed of businessmen who had fostered constructive contact with Israel through trade over many years. The rising smuggling business created a new

Hamas-affiliated economic elite that built up its market shares at the direct expense of the previous business elite. In that sense, the embargo contributed to Hamas's speedy takeover of the economy. Furthermore, a large part of all taxes on goods are collected by Hamas and thus accrue to the movement rather than to the government's own treasury. Gaza's nouveau riche class of tunnel traders and the Hamas people involved would have little to gain from political normalization between Gaza and Ramallah. Notably, this may imply a possible conflict of interest between the Hamas movement and the Hamas government.

Public services suffer under Gaza–Ramallah rivalry

In spite of the lack of contact at the political level between the Gaza government and the Ramallah government, the two rivaling authorities have established mechanisms of coordination at the technical level that ensure the provision of basic public services for the people in Gaza. It has been Hamas's experience that certain services can only be obtained with the help of Ramallah, such as obtaining Israeli permits for the import of goods and aid. In the health and education sectors, mechanisms are in place to enable a minimum level of information sharing, including communication of needs assessments. The channels of communication facilitating such coordination include lower-level ministry officials, third-party involvement and personal relationships.

Education

The education sector has undergone dramatic changes. Thousands of veteran teachers who went on strike in 2008 were replaced by inexperienced people appointed by the Gaza government to avoid a complete breakdown in the educational system in Gaza. The Gaza government succeeded in filling vacancies through close collaboration with the Hamas movement, including the students' Islamic Block, the teachers' union and the security apparatus. After the strike ended in 2009, not all teachers and administrative staff were allowed to return to their previous positions, and many returning staff were demoted or offered alternative posts. The strike presented the government with an opportunity to change Fatah-affiliated school principals and educational supervisors. The new teachers employed by the Gaza government were gen-

erally less qualified, which had a negative effect on levels of professionalism within the schools. There has furthermore been a trend within Gaza's schools for girls to be required to wear Islamic hijab, along with increased emphasis on adherence to Islamic norms. It is not always clear to students whether these rules originate from the school principal, from the Hamas movement or from the government.

In spite of signs of Islamization, Hamas has made no moves to change the curriculum in Gaza, and annual examinations for pupils who have completed 12 years of schooling have been organized in coordination with Ramallah.

The education sector remains economically dependent on Ramallah, as the latter has continued to pay the salaries of most of Gaza's teachers as well as of staff at the Ministry of Education and Higher Education since the Hamas takeover. The Gaza government hired several thousands of replacement teachers during the strikes, but most of these were hired on short-term contracts that were not renewed after the strike ended.

Health

The health sector has experienced many of the same problems as the educational sector: a strike in 2008 led to the replacement of many experienced medical staff members by less experienced or unqualified staff. In the health sector, too, administrative managers of the old administration were systematically replaced with less experienced personnel in a bid to secure political control. When the strike ended, many previous leaders were denied the option of returning to their original posts and were offered lower positions.

The health sector, too, has largely been funded by the PA in Ramallah. In addition,

the Gaza and Ramallah governments have agreed to keep channels of communication open at the technical level for the sake of crucial health services, such as medical supplies and referral of patients for treatment abroad.

The health sector has also been affected by a campaign for adherence to more conservative cultural-religious norms, including increased segregation of males and females and pressure to respect the Islamic dress code. However, this seems to be more an activist-driven campaign advocating 'good Islamic behaviour' as understood by conservative segments of society than based on directives from the government.

Policy recommendations

- Support the return to constitutional rule: The problem of Hamas's takeover in Gaza should not be treated separately from the fact that the PA itself is experiencing a constitutional crisis. Normalization of Palestinian politics can only be achieved through a reactivation of the PA's democratic institutions. The political composition of the democratically elected PLC should be respected.
- Preserve PA institutions: Hamas has largely ruled through the PA institutions that existed prior to its takeover rather than by establishing its own structure of government. Hamas should be encouraged to adhere to the PA institutions as the framework of governance, as this may ease the return to constitutional rule whenever that option may appear feasible.
- Support reconciliation: The Gaza government has engaged in contact with the Ramallah government at the technical level in order to ensure the provision of essential public

services. This contact should be encouraged and developed further, as it can be instrumental in facilitating the reconciliation process between Hamas and Fatah that will be essential for a normalization of Palestinian politics.

- Terminate sanctions: The Israeli embargo and international sanctions against the Gaza government have failed to bring Hamas to its knees. To the contrary, the embargo has weakened the traditional business sector in Gaza, while the emerging smuggling business has created a new Hamas-affiliated economic elite of traders and tunnel owners. The sanctions have been a failure and should be terminated.

- Acknowledge Hamas's political role: Hamas has established firm control of the Gaza Strip and appears capable of staying in power on a long-term basis. Hamas's status as a key player on the Palestinian political scene must be acknowledged rather than ignored in any viable diplomatic initiatives aiming at either intra-Palestinian reconciliation or Israeli-Palestinian negotiations.

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THE PROJECT

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