

From Prison to Zoo: Israel's "Humanitarian" Control of Gaza

By Darryl Li¹

The metaphor of the Gaza Strip as the world's largest prison is unfortunately outdated. Israel now treats the Strip more like a zoo. For running a prison is about constraining or repressing freedom; in a zoo, the question is rather how to keep those held inside alive, with an eye to how outsiders might see them. The question of freedom is never raised. The ongoing electricity crisis helps to illuminate this shift, so to speak.

Nearly all of Gaza's energy is supplied by Israel, both directly, from its electric grid, paid for by tax revenues collected by Israel on behalf of the Palestinian National Authority (PNA), and indirectly, through fuel supplied by the Israeli company Dor Alon to Gaza's only electrical power plant, and paid for by the European Union.

Gaza has been experiencing a power crisis since June 2006, when Israeli helicopter gunships fired rockets at the power plant's transformers following the capture of an Israeli soldier, rendering it inoperable.² Israel has subsequently hobbled repair efforts by blocking or delaying the entry of replacement parts and equipment into the Strip. The power plant now operates at a fraction of its former capacity, meeting less than a third of Gaza's electricity needs. Even before the plant's fuel supply ran out on 20 January 2008, most Gazans were enduring frequent power cuts of up to eight hours per day.³

Compounding this problem, the Israeli security cabinet announced its intention on 19 September to slash supplies of electricity and fuel to Gaza. On 29 November 2007, the Supreme Court agreed that cutting fuel supplies was permissible, deciding that the state's decision to cut the amount of fuel transferred to Gaza would not harm the "essential humanitarian needs" of the population.⁴ The court allowed fuel cuts to go ahead but reserved judgment on the planned electricity cuts, in the meantime demanding extensive data from the state to help it to make its decision.

The interaction between the state and the court is telling as regards the post-disengagement management of Gaza and the mentality of zoo-keeping. In 2006, Israel decided that the best way to punish Gazans for the capture of one of its soldiers was a one-off, spectacular act of violence that would lead to widespread

¹ Darryl Li is a PhD Candidate in Anthropology & Middle Eastern Studies at Harvard University and a JD Candidate at Yale Law School. He is also a consultant for Trócaire, the Irish Catholic overseas development charity. Most of this piece was written in Gaza between power outages; the views expressed in this essay reflect only his own. The article was written before the Supreme Court's decision in HCJ 9132/07, *Jaber al-Basyouni Ahmed v. The Prime Minister* of 30 January 2008.

² For an overview of the effects of the strike and an assessment of its legality, see *Act of Vengeance: Israel's Bombing of the Gaza Power Plant and its Effects* (B'Tselem, September 2006).

³ "Gaza Humanitarian Situation Report: Power shortages in the Gaza Strip" (OCHA-oPt, 8 January 2008).

⁴ HCJ 9132/07, *Jaber al-Basyouni Ahmed v. The Prime Minister*. The petitioners in the case are Adalah – The Legal Center for Arab Minority Rights in Israel, Gisha - Legal Center for Freedom of Movement, HaMoked: Center for the Defence of the Individual, Physicians for Human Rights-Israel, The Palestinian Centre for Human Rights, The Public Committee Against Torture in Israel, Gaza Community Mental Health Programme, B'Tselem – The Israeli Information Center for Human Rights in the Occupied Territories, Al-Haq and Al Mezan Center for Human Rights .

deprivation.⁵ Now it seeks similar results – the loss of electricity and the resulting disruption of everyday life – through more calibrated, long-term means. This shift in approach is akin to the difference between clubbing an unruly prisoner over the head to subdue him and taming an animal through careful regulation of leash and diet.

This reorientation first required a clearing of the legal slate, hence the lack of any reference in the decision of 29 November to legal precedents, treaties, or statutes, thus mirroring the state's view of post-disengagement Gaza as a zone devoid of any legal obligations on its part. The international law of occupation, which the Court used to apply to Gaza, at least theoretically – minus the prohibitions against colonization – is absent, including the absolute prohibition on collective punishment (Art. 33 of the Fourth Geneva Conventions). The decision reads purely as a kind of hypothetical exercise in utilitarian calculation; the court is acting more as administrator than as adjudicator, a partner in the calibration of how much pain Gazans are to be made to feel.

In place of any legal framework the state has proposed – and the court has now endorsed – a seemingly simple standard for policy: once “essential humanitarian needs” are met, all other deprivation is permissible. If it is possible to ration fuel for hospitals and the sewage network, then Gaza's economy need not play a role: “We do not accept the petitioners' argument that ‘market forces’ should be allowed to play their role in Gaza with regard to fuel consumption.”⁶

This logic reflects the radical transformation of Israel's policy of blockade since the summer of 2007: from frequent and crippling closure to indefinite blockage of all but “essential humanitarian items.” Israel has shifted from trying to punish the Gazan economy to deciding that the economy is a dispensable luxury (though Israel still allows commercial goods to enter Gaza when Israeli producers need to dump surplus goods). This policy has forced 90% of private industries in Gaza to shut down, frozen all construction works, and driven unemployment to record highs.⁷ Approximately 80% of the population now relies on food aid and the other 20% lives mainly on the incomes of civil servants, NGO workers, or the employees of international organizations, i.e. people whose economic dependence on outside goodwill is indirect but nonetheless real.

In practice, the neat and simple distinction between vital needs and luxuries is often impossible to implement. Gaza's overstressed electrical grid can and does rotate distribution between areas, but hospitals and sewage pumps are too dispersed to be supplied with electricity separately from the rest of the population.⁸ Granting permits to seek medical treatment outside Gaza to those with “life-threatening” conditions – a standard endorsed by the Israeli Supreme Court last summer⁹ – has nevertheless

⁵ According to Yoav Gallant, head of the Israeli military's Southern Command, the alternative of cutting direct electricity supplies was also considered but rejected due to opposition from the Israel Electric Company, presumably for contractual or revenue-related reasons. *Act of Vengeance*, p. 27.

⁶ HCJ 9132/07, *Jaber al-Basyouni Ahmed v. The Prime Minister*, para. 1.4.

⁷ “The Closure of the Gaza Strip: The Economic and Humanitarian Consequences” (OCHA-oPt, 13 December 2007).

⁸ Attachment A to affidavit submitted by Usama Dabbour, director of external relations for the Gaza Electrical Distribution Company (GEDCO) to the Supreme Court in the case of HCJ 9132/07, *Jaber al-Basyouni Ahmed v. The Prime Minister*, 9 January 2008.

⁹ HCJ 5429/07, *Physicians for Human Rights-Israel v. The Minister of Defence*.

caused deaths through the denial of permits for mere "quality of life" procedures, including open-heart surgery.¹⁰

The notion of "essential humanitarianism" (it is unclear what would constitute the "inessentially" humanitarian) reduces the needs, aspirations, and rights of 1.4 million human beings to an exercise in counting calories, megawatts, and other abstract, one-dimensional units that measure distance from death. It distracts from, and even legitimizes, the destruction of Gaza's internal capacities and resources: its economy, institutions, and infrastructure. And even if implemented in good faith and with the best of intentions, it promises nothing more than turning Gazans one and all into beggars – or rather, into well-fed animals – dependent on international money and Israeli fiat.

If Israel's past efforts at narrowing the terms of debate are any indication, the international community, domestic litigants, Palestinian "leaders" and others may soon find themselves expending most of their energy on begging for an extra truckload of fuel here or a few extra megawatts of power there. Confronting the consolidation of the zoo regime, however, requires a broader approach.

Stepping back, Gaza seems less like a zoo and more like an animal pen in the backyard of a larger manor, namely the State of Israel. The Gaza Strip is not its own separate world, but rather a holding area for a quarter of the Palestinian population living under Israel's control. Gazans are on the lowest rung in a hierarchy of legal exclusion that encompasses the half of the population of Israel/Palestine that is not Jewish, and which is fragmented into citizens of Israel, residents of East Jerusalem, and West Bankers (whether living under PNA administration or direct Israeli military jurisdiction). Gaza's tomorrow is inextricably linked to that of Israel, and Gaza's today provides the most urgent example of the need to define a more just political dispensation and legal framework for the state that has de facto spanned the territory from the river to the sea for four decades.

¹⁰ "Israel: Government Blocks Medical Evacuations from Gaza" (Human Rights Watch press release, 20 October 2007).