

## »Hamastan vs. Fatahland«

A Chance for Progress in the Middle East?

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In mid-June 2007, the »Islamic Resistance Movement« Hamas gained the upper hand in the Gaza Strip after a series of bloody conflicts. After seizing control of security facilities, Hamas announced the beginning of »Islamic rule« in the Strip. Palestinian President and Fatah leader, Mahmoud Abbas, responded by dissolving the government of national unity and declaring a state of emergency. He appointed an emergency government headed by Salam Fayyad, the previous minister of finance, declared the military wing of Hamas and its security forces to be illegal and ordered their disarmament. He has since rejected any cooperation with Hamas in unusually strong terms. Israel and the international community have regarded this split as an opportunity to resume support for the Palestinian Authority (PA) and return to the diplomatic process.

As of mid-June 2007, there have been two governments in the Palestinian territories. While Hamas controls the Gaza Strip, the West Bank is ruled by the emergency (since mid-July 2007 the care taker or transition) government under Salam Fayyad in cooperation with President Mahmoud Abbas. The Hamas leadership rejects the Fayyad government as illegal, arguing that the Palestinian basic law requires any government to be ratified by the Palestinian Legislative Council (PLC). Hamas thus insists that the government of the previous Prime Minister, Ismail Haniyeh, remains the legitimate caretaker until ratification has taken place. It also calls for the restoration of the government of national unity and the implementation of the Mecca Agreement of February 2007.

In particular, Hamas calls for all security forces to be placed under the control of the Interior Ministry and for effective power sharing in the institutions of the Palestinian Authority (PA) and the PLO. Hamas claims that its actions in the Gaza Strip were not directed against Fatah as such, but rather against those people in Fatah and the Fatah-dominated security forces who were harassing the local population, engaging in criminal activities, and preventing the unity government from working efficiently. And it is true that the atrocities committed by Hamas were primarily directed against the Fatah militias established under the leadership of the National Security Adviser, Mohammed Dahlan, with the intention of defeating Hamas by military means.

## Efforts at stabilisation by Hamas and by Fatah

Ever since the violent enforcement of its claim to power in the Gaza Strip, Hamas has made fostering public order a priority, relying on the broad presence of its Executive Force. It has also sought to break up criminal networks and to disarm Fatah militias. As a consequence, the Strip's population has already witnessed significant improvements in personal safety. While Hamas has been careful not to turn off ordinary Gazans through repressive measures, threats against media outlets have been reported and members of the press have been afraid to speak their mind. In early July, Hamas succeeded in liberating the BBC reporter Alan Johnston, who had been abducted in mid-March by the Doghmush Clan (Jaish al-Islam). Hamas has also begun to post security forces along the border between the Gaza Strip and Egypt (the Philadelphi Line) in order to control the area and bring about the reopening of the Rafah border crossing.

At the same time, however, the Hamas leadership has failed to stop the launching of Qassam missiles against Israel from the Gaza Strip. After a lengthy respite, its *Izz al-Din al-Qassam Brigades* resumed their missile attacks in response to Israeli military operations and the murder of Hamas cadres in air strikes, albeit initially at a low intensity. Apparently this was done against the will of the political leadership, who clearly expressed their interest in calming the situation and achieving a long-term cease-fire with Israel. However, the leadership is unlikely to have much success in containing radicals in their ranks as long as Israel uses military force to combat these groups.

In the West Bank members of Fatah and the *Al-Aqsa Martyrs' Brigades* responded to the public executions and humiliation of Fatah militias in the Gaza Strip with excesses against Hamas institutions and acts of revenge. For the time being, at least, a further escalation of violence has been prevented, even as Fatah-dominated security forces have begun to target Hamas structures and institutions in the West Bank. The President has

also prohibited carrying weapons in public – a measure that first met with rejection from the *Al-Aqsa Martyrs' Brigades*. Yet after a mid-July 2007 Israeli goodwill gesture, some of its members have voluntarily disarmed. Under the terms of the agreement, some 180 Fatah-affiliated militants in the West Bank wanted by the Shin Bet security services are granted immunity from arrest or assassination for a trial period of three months on the condition that they hand in their weapons and pledge to abandon armed activities. In an attempt to curb Hamas' influence on society, President Abbas has ordered by decree that all NGOs must apply for new licensing with the ministry of the interior and he has given the ministry a free hand with regards to »closure, correction of status, or other measures« – effectively revoking the law on non governmental organisations and thereby further restricting the political space for civil society.

President Mahmoud Abbas and the Fayyad government have governed by decree, as the emergency government was unable to win the absolute majority in the PLC that the basic law demands. Indeed, the Palestinian Parliament has been paralyzed since Hamas boycotted its first session under emergency rule and prevented other factions' representatives from attending the session in Gaza. In reaction, a PLC session called for by Hamas was boycotted by Fatah. Both attempts failed to reach quorum. Hence, neither the state of emergency nor the Fayyad government have parliamentary approval. As the period of 30 days expired, Abbas dissolved the emergency government and immediately reinstated Prime Minister Fayyad at the head of an enlarged cabinet as caretaker or transition government. As the President may not dissolve the PLC during a state of emergency, he will go on ruling by decree and has made it clear that in the future he intends to rely on the institutions of the PLO rather than the legislative branch of the PA, the PLC. To bolster his rule, Abbas has also called for the Fatah-dominated PLO Central Council, which in his view represents the higher authority, to meet in Ramallah.

## **Background of the confrontations**

The violent confrontations in the Gaza Strip did not come as a surprise. Rather, they were a consequence of developments since the Palestinian parliamentary elections of January 2006. In particular, the conflict has its roots in the reaction of the erstwhile governing party, Fatah, and of the international community, to Hamas' electoral victory. The January 2006 elections, judged »free and fair« by the international community, gave Hamas an absolute majority in the PLC, with 74 of 132 seats, compared to Fatah's 45 seats. As the Hamas leadership did not succeed in integrating Fatah into a government of national unity, they formed a government in mid-March 2006 headed by Prime Minister Ismail Haniyeh which consisted of some technocrats and independent forces alongside Hamas representatives.

Subsequently there were several rounds of violent clashes between parts of the Fatah-dominated security forces and Fatah militias on the one side and Hamas militias on the other. Over 200 Palestinians died in these confrontations between March 2006 and May 2007. Violence among Palestinians escalated primarily because Fatah was unwilling to concede its defeat at the polls and hand over power to the victors. Instead, the Palestinian President, with the support of the international community, reversed the reforms which had been initiated between 2002 and 2004. These reforms aimed to create greater transparency in Palestinian finances, to strengthen the office of the prime minister against that of the president, and to unify the security forces under the authority of the Interior Ministry. As a consequence, the Hamas government could rely neither on the security forces nor on the administration, both dominated by Fatah.

At the same time, the policy of isolation pursued by Israel and the West – no dialogue or cooperation with the government, Israel withholding transfers of VAT and customs payments, cessation of European budgetary aid for the PA, financial sanctions by the USA – achieved its aim of starving the

Haniyeh government of funds. Directly after Hamas' election victory, the Middle East Quartet (the USA, the EU, the Russian Federation, and the UN) formulated three conditions for continued cooperation with the PA: recognition of Israel's right to exist, recognition of all prior agreements between Israel and the PLO, and a general renunciation of violence. As the Hamas leadership was unwilling to submit to the Quartet's demands, the Haniyeh government was obliged to find other sources of funding – for example, Iran. Additionally, the government established with the so-called Executive Force a powerful militia of its own.

Israel and Egypt also share responsibility for the massive armament of the Hamas militias, as both chose not to agree on effective control of the Philadelphi Line after Israel's withdrawal from the Gaza Strip in 2005. They rejected the suggestion of posting international monitors there and in recent months failed to make serious efforts to prevent the smuggling of weapons through tunnels underneath the border. Only in July 2007 did Egypt begin to deploy a greater contingent of security forces along its side of the Philadelphi Line.

Ultimately, the Hamas-led cabinet could neither govern effectively nor stabilise the security situation. With repeated outbreaks of violence, curbed only temporarily and with great effort, the situation careened towards civil war.

## **A missed opportunity: The government of national unity**

The Mecca Agreement, mediated by the Saudi King Abdullah in February 2007, provided for a power sharing arrangement between Fatah and Hamas which temporarily put a stop to the bloodshed. A government of national unity was formed, on the basis of this agreement, in mid-March 2007. Led by Prime Minister Haniyeh, this government included representatives of the two large parties as well as members of the smaller parliamentary groups (the Third Way, DFLP, PPP, and al-Mubadara).

However, it soon became clear that while the international community was ready to engage in dialogue with those representatives of the government who were not Hamas members, it remained reluctant, with very few exceptions, to cooperate with a coalition government that included Hamas – even though the government’s programme came close to fulfilling the Quartet criteria. The programme referred to documents which obliged the government to adhere to the Oslo framework, a two-state settlement, and the conditional recognition of Israel in accordance with the Arab League’s peace initiative of 2002. Though it was unrealistic to expect a Palestinian coalition government to explicitly submit to the Quartet criteria, the programme could have formed the starting point for dialogue.

As it happened, the ambition of Fatah cadres to return to power sooner or later – through the use of violence, if necessary – was bolstered by the continued isolation of Hamas. In spring 2007, the USA began to supply Fatah directly with money, training, and military supplies in order to bring the former regime party back into power through early elections or military means. By so doing, the USA – with explicit or implicit support from European governments – not only condoned violent confrontations between Palestinian groups, but fuelled them. The ultimate objective was not, as claimed, to encourage Hamas to change its behavior, but to push it out of the political process. In this way, the USA and the Europeans deliberately undermined the power sharing arrangement between the two parties. As new Fatah militias were formed and trained, Hamas came under increasing pressure. With Israel consenting to the delivery of heavy weapons to Fatah units in the Gaza Strip in early June 2007, and Fatah leaders and other representatives of the unity government outside the country, Hamas sought to eliminate the growing danger through a pre-emptive strike.

### »Hamastan vs. Fatahland«

Israel, the USA, and the EU swiftly agreed to put a positive spin on the split in the PA, arguing that the new situation created clarity and offered new approaches for constructive policies. The logic was that, with the Islamists in the Gaza Strip easier to isolate, the Fayyad government in the West Bank could restart cooperation, promoting economic development and returning to the diplomatic process. By quarantining Hamas in the Gaza Strip, Palestinians would come to understand that Hamas was the wrong choice. At the same time, »flourishing landscapes« and new freedom of movement in the West Bank would demonstrate to the Palestinian population that Fatah offered hope for the future. Early parliamentary and presidential elections could thus return a Fatah government to power. In the interim, the EU and the USA have sided unequivocally with Mahmoud Abbas and the Fayyad government – the legality of which is questionable from a constitutional perspective – and have begun cooperating with it.

However, the »Hamastan vs. Fatahland« approach is highly unrealistic. Firstly, the West Bank is not »Fatahland«. While Hamas has greater support in the Gaza Strip than in the West Bank, it still retains a powerful constituency there – in 2006, in personal elections in the constituencies, it won 30 seats to Fatah’s 11, for instance. The main difference between the strength of Hamas in the West Bank and the Gaza Strip owes to Israeli military presence. The presence of Israeli forces and their operations have weakened the military wing of Hamas, forcing it to operate underground, and similarly weakened its political wing through the arrest of 30 Hamas members of parliament and ministers, as well as other leading cadres and mayors, in reaction to the abduction of the soldier Gilad Shalit in late June 2006.

Secondly, it is doubtful that the enfeebled and fragmented Fatah movement, still dominated by the old Tunis leadership, can play the role envisioned for it by the West in bringing about a new beginning. Fatah

lost the elections in January 2006 precisely because of internal divisions and incompetence that culminated in a disastrously managed election campaign. Nothing that has happened since has changed the public's perception that a Fatah government would once again bring corruption and misrule. Fatah's strategy of achieving independence through negotiations and cooperation with Israel has also failed. Even though opinion polls show a decline in popular support for Hamas since the elections, Fatah's gains have been marginal at best. The party has failed to use the last year and a half to initiate overdue reforms, build consensus between the different trends, and modernise its apparatus. More important still, even if Fatah leaders were to succeed in launching a new peace process with Israel or even negotiating a final status agreement, they would still require Hamas's implicit support to implement it.

### Israeli gestures

Thirdly, much depends on Israel. The legitimacy of Fatah and the Palestinian President could only be strengthened and a new dynamic generated if the Israeli government were to take dramatic steps towards ending the occupation. However, it is unrealistic to expect more than symbolic gestures from Israel on this matter. While the Israeli Prime Minister, Ehud Olmert, has affirmed his willingness to resume regular talks with President Abbas, he has refused to draw up a blueprint for a final status settlement which could be implemented as soon as the security situation improves (in accordance with a suggestion from the American Secretary of State, Condoleezza Rice).

At the summit in Sharm al-Sheikh on 25 June 2007, Israel, Egypt, and Jordan explicitly aimed to bolster Abbas. For his part, Olmert announced the gradual transfer of withheld Palestinian customs and VAT funds totalling some 700 million US dollars (about 118 million US dollars were transferred to the PA in an initial payment in early July 2007), the release of about 250 Fatah pri-

soners (including some from other leftist PLO factions) from Israeli jails, the introduction of VIP status for members of the Fayyad government, and the resumption of security cooperation. Additionally, Israel intends to lift individual roadblocks in the West Bank, dismantle some settlement outposts, grant entry permits to veteran PLO leaders for the Central Council session in Ramallah and permit weapons deliveries such as shipments of armoured vehicles to strengthen Fatah. At the same time, Israel and President Abbas have also floated the idea of using the so-called *Badr Brigades* (Palestinian units of the Jordanian army), or even the *Al-Aqsa Martyrs' Brigades*, in the battle against Hamas. It is in this context that Israel has granted conditional immunity to some of the Fatah-affiliated militants.

However, the only measure that will actually strengthen Abbas and the Fayyad government is the transfer of the withheld funds. This step enables the government to finally pay the salaries of the public servants, who have not been paid or paid fully for 15 months. The other measures, rather than strengthening Abbas as the President of all Palestinians, are more likely to have the opposite effect: Abbas looks like a collaborator, the Fayyad government nothing more than puppets, and the Fatah-dominated security forces resemble a militia of the occupation – all the more so as the Israeli army continues to arrest and kill Palestinians in the Gaza Strip and the West Bank.

Most importantly, however, none of the measures recently announced will foster a new dynamic and bring about a lasting and tangible improvement of the situation in the West Bank. The Palestinian economy will be unable to make a lasting recovery while the system of roadblocks and permits remains in force – currently there are about 550 such roadblocks and checkpoints in place in the West Bank. Additionally, an approach which banks on continued military confrontations between Fatah and Hamas cannot contribute to stabilising the situation; rather, it runs the risk of fuelling internal violence that could ultimately esca-

late into a civil war. In such an environment, the prospect of investing money in the Palestinian territories remains unattractive.

### **Additional dangers**

Fourthly, it is impossible to increase the pressure on the population of the Gaza Strip without causing a humanitarian disaster. Even before the latest round of violence, the official unemployment rate in the Gaza Strip was around 35 percent, while the poverty rate was over 75 percent, and about two-thirds of the population were dependent on international aid shipments. In this situation, Abbas and the Fayyad government may be able to insist on the political isolation of the Haniyeh government, but they cannot join in efforts to economically isolate the Gaza Strip. In early July 2007, therefore, they paid the wages and salaries of public servants in both the West Bank and the Gaza Strip. Following Hamas' assumption of power, Israel has permitted the import of humanitarian goods only while blocking imports and exports of all commercial goods. As a consequence, some 80 percent of Gaza's private sector manufacturing industries, with their near to complete dependency on imports of raw materials, machinery and maintenance parts, have been forced to temporarily shut down. Agricultural exports have come to a complete standstill.

Fifthly, this approach runs the risk of pushing Hamas to abandon its current policies, which are in principle geared towards cooperation. At the moment, Hamas still has an interest in maintaining the cease-fire with Israel and extending it to the West Bank. However, if international isolation and Israel's military operations continue, it is unlikely that Hamas will remain interested in the cease-fire. Also, increased pressure bears the danger of further radicalising the Strip's population, increasing the popularity of Salafist and Jihadist groups, which – contrary to Hamas, – are not pursuing a national agenda and are not interested in stabilising the situation.

Additionally, under the new (and old) approach of the international community the vision of a two-state solution appears increasingly unrealistic. The approach has sacrificed the development of functional, democratic Palestinian institutions to the exigencies of short-term stability. It has also failed to counter the ever-greater fragmentation of West Bank territory – where the construction of the separation barrier and the expansion of settlements, together with their road networks, do not leave any contiguous territory for a Palestinian state. Alternative approaches, propagated by some Israelis and pundits in the international community as a possible way out, such as the Jordanian option, or a Jordanian-Egyptian option, will not solve the Israeli-Palestinian sticking points and therefore cannot replace final status negotiations.

German and European policies should therefore concentrate on 1) preventing a humanitarian disaster in the Gaza Strip; 2) creating the preconditions there and in the West Bank for an economic recovery; 3) supporting Palestinian reconciliation; 4) improving governance within Palestinian institutions; and 5) taking serious steps together with the partners of the Middle East Quartet and the Arab Peace Initiative to bring about a two-state settlement.

### **Dealing with the Gaza Strip**

European policies should first and foremost focus on stabilising the situation in the Gaza Strip – even under Hamas rule – and preventing a humanitarian disaster. In particular, this requires:

- ▶ providing emergency relief in cooperation with international aid organisations;
- ▶ obliging Israel, which continues to control all the borders of the Gaza Strip, to keep border crossings open for humanitarian aid and to refrain from implementing its threat to cut supplies of water, fuel, and electricity;
- ▶ rejecting the notion that the Gaza Strip now represent a »terrorist entity« and

that therefore agreements such as the customs union do no longer apply;

- ▶ insisting on the compliance with international humanitarian law and the protection of the civilian population.

At the same time, Israel's legitimate concerns about the arming of Hamas need to be addressed. This, however, should not be done by means of military operations. Instead, weapons smuggling should be prevented by tightening the border controls along the Philadelphi Line. This could be achieved by extending the mandate of the *EU Border Assistance Mission in Rafah* (EU-BAM) or the *Multinational Force and Observers* (MFO) stationed in the Sinai peninsula. This will, however, require the consent not only of Israel, Egypt, and the Palestinian President, but also of the *de facto* government in the Gaza Strip.

### **Long-term economic development**

Regardless of who controls the Gaza Strip, it is in the interest of both the Palestinians and the EU for the population not to remain permanently dependent on international aid shipments. For any kind of economic and commercial activities to take place, the border crossings must be permanently and reliably open for people and goods.

In view of the atrocities committed by Hamas in the Gaza Strip, the current moment is certainly not suitable for the EU to begin high-level talks with the Hamas leadership. On a technical level, however, it is unavoidable, for example by representatives of EU-BAM, to open contacts with Hamas security personnel in order to ensure the opening of the Rafah border crossing and the smooth functioning of border controls.

To avoid making a two-state settlement completely impossible, the territorial unity between the Gaza Strip and the West Bank must be preserved. It is therefore necessary to apply the benchmarks submitted by General Dayton in April 2007 for implementing the agreement of November 2005 on movement and access. An economic reco-

very in the West Bank will be possible only if the rigid checkpoint and permit system is dismantled to allow significantly greater freedom of movement.

### **Intra-Palestinian reconciliation**

Defeating Hamas by military means is an illusion, especially in light of its deep social roots. Rather, policies based on confrontation and attempts to oust the parliamentary majority from the political system have a high probability of resulting in further escalation and radicalisation. Even though it might seem inconceivable now, in the medium term, only a renewed power sharing agreement between Fatah and Hamas will provide a basis for a legitimate Palestinian leadership. Only such a government will give the Palestinian President the necessary backing to conduct peace negotiations and implement a final status agreement.

Instead of taking sides in the intra-Palestinian conflict, Germany and the EU should support a process of reconciliation. Should Fatah and Hamas reach a new power sharing agreement, it must not be undermined again. On no account should Germany and the EU support the arming of militias. It is particularly important to bring the USA aboard on this issue as well.

### **Governance and institution building**

The mandate of the newly appointed Quartet envoy, Tony Blair, rightly focuses not only on coordinating international aid and economic development, but also on institution building, governance, and the rule of law. The primary objective must be to enable PA institutions to govern effectively. As a principle, in order to improve governance, institutional support should not follow the dictate of political opportunism, but should rather be oriented towards transparency, adherence to the rules of democracy, and the strengthening of government structures rather than individual persons. Only in such a context, and after a minimum of reconciliation between the

main factions has taken root, will early elections not be perceived as a farce.

The Temporary International Mechanism (TIM) should not be prolonged beyond its current duration, which ends on 30 September 2007. Rather, the PA should swiftly return to an orderly budgetary process. The TIM has been used since June 2006 to bypass the PA and pay out monies directly to Palestinians to alleviate hardship and maintain basic infrastructure and vital services. The TIM has not only proved inefficient and vulnerable to corruption, but also contradicts the objective of institution building. Instead, a central account of the finance ministry should again be used to process all revenues and expenditures, and parliamentary control over the budget should be restored. Also, the EU should impress upon the Fayyad government that it is both undesirable and counterproductive for the stability of government institutions if the security forces in the Gaza Strip receive salary payments only when they are *not* working.

Additionally, the EU should aim at

- ▶ a speedy end to the state of emergency and a return to political process based on the basic law;
- ▶ a clarification of competences and responsibilities of president and prime minister as well as those of the PA and PLO institutions;
- ▶ in the medium term disarming all militia or incorporating them into non-partisan, non-competing security forces controlled by the interior ministry; this should be a focal point of EU efforts as Europeans already support the civilian police through their EUCOPPS mission. Without a comprehensive restructuring of the security apparatus, however, these efforts will have little effect.

### **A two-state settlement**

The EU should be aware, and should make its partners in the Quartet aware, that the continuation of mere conflict management is not in the interest of Israel, the Palestinians, and the international community

because a) it does not lead to lasting stability; b) it consumes more and more resources without creating an economic recovery; and c) it reduces the chances of reaching an agreement because it goes hand in hand with the progressive fragmentation of the West Bank and the danger that the PA might collapse entirely.

With the Arab Peace Initiative and the declared interest of the Bush administration in reaching an agreement on final status before the end of its term of office, the chances for international cooperation are relatively good. The EU should act on its responsibility, seize the opportunity and submit a plan to the Quartet for achieving stability through confidence building measures in the short term and a two-state settlement in the medium term. To this end, the EU should present a blueprint for final status on the basis of the results of negotiations to date. The Quartet should then oblige the parties to the conflict to implement the plan. This also means that the Quartet must be ready to back up negotiations on the details of a final status agreement as well as its implementation with serious and sustained engagement, including a commitment to mediation, conflict resolution, and in all likelihood a long-term military presence. It is only in this context that an international peace enforcement or peace-keeping force makes sense: its mission should be to provide security guarantees to safeguard the implementation of a final status agreement.

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