

BICOM Briefing

# Hamas, Israel and the Gaza border

April 2018



## What has happened?

On two consecutive Fridays, 30 March and 6 April, large numbers of Palestinians gathered close to the fence that separates the Gaza Strip from Israel under the banner of the “Great March of Return” (hereinafter “March”). Five large camps were set up near the border by the Palestinians, from the northern to the southern Gaza Strip, with the aim of remaining in the area until mid-May.

The vast majority of those involved in the “March” stayed 500m from the fence, at a distance from the 30-150m “no go zone” established by the IDF after Operation Protective Edge in 2014.

However, in several cases, the demonstrations turned violent. Hamas operatives approached the fence and fired at IDF soldiers; other Hamas operatives threw a grenade at soldiers near the

Karni crossing; pipe bombs and fire bombs were thrown at the fence and at Israeli soldiers; a number of attempts were made to cut the border fence; two improvised explosive devices were planted on the border in the northern part of the Strip by three Palestinians caught crossing the fence; and four explosives were found alongside the fence. In one case made public by the IDF, a seven-year-old girl was sent across the border by Hamas before being identified by troops and returned to her family.

The Hamas run health ministry said that 32 people have been killed and approximately 1,500 wounded by Israeli tear gas, rubber bullets and live fire.

While the IDF has not reported the circumstances behind the death of each individual, it has released the names of 12 of those killed, detailing that they



*were members of Hamas or jihadi organisations.* According to the IDF, most of the casualties on both Fridays took place when small groups of young men tried to break through the border fence. A report by the Meir Amit Intelligence and Terrorism Information Centre concluded that 26 of the 32 fatalities were known Hamas operatives or active in other military groups in Gaza engaging in terrorist activity against Israel .

*Most of the international responses have been critical of Israel.* UN Secretary-General Antonio Guterres called for an independent and transparent investigation into the deaths and injuries, while the Chief Prosecutor of the International Criminal Court (ICC), Fatou Bensouda, expressed “grave concern [over the] violence and deteriorating situation in the Gaza Strip”. The EU said the deaths of Palestinians along the Gaza border “raise serious questions about proportionate use of force” by Israel.

*The UK government has sought to take a balanced line.* Foreign Office Minister Alastair Burt said there was an “urgent need to establish the facts, including why such a volume of live fire was used and what role Hamas played in the violence. But the most important thing is to ensure that there is no repeat of what happened, with all sides committing to peaceful protest, restraint and international law.” Britain was criticised by Palestinian figures for its role at the Security Council (UNSC) on 30 March, where it reportedly helped block a statement calling for an independent investigation into the incidents. Palestinian Authority (PA) spokesman Yusef al-Mahmoud said the US and UK had “turned them into accomplices in the horrific massacre committed by the Israeli occupation army against our defenceless people,” and PA President Mahmoud Abbas said both countries had demonstrated blatant “bias in favour of oppression and suppression”.

UK Labour Party leader Jeremy Corbyn said that “the killing and wounding of yet more unarmed Palestinian protesters is an outrage,” adding that “firing live ammunition into crowds of unarmed civilians is illegal and inhumane and cannot be tolerated”. Corbyn also said that Gazans “have a right to protest against their appalling conditions

and the continuing blockade and occupation of Palestinian land, and in support of their right to return to their homes and their right to self-determination”.

*The US has been broadly supportive of Israel.* In addition to blocking two UNSC statements, the US has placed the blame on Hamas. Jason Greenblatt, the Assistant to the President and Special Representative for International Negotiations said: “The United States strongly urges protest leaders to communicate loudly and clearly that protestors should march peacefully... and should not approach the border fence in any way or any location. We condemn leaders and protestors who call for violence or who send protestors – including children – to the fence, knowing that they may be injured or killed. Instead, we call for a renewed focus by all parties on finding solutions to the dire humanitarian challenges facing Gazans.”

## *The March’s aim and Hamas’s role*

*The “March” was initially organised by the Higher National Commission for the March of Return and Breaking the Siege,* an umbrella organisation comprised of national and Islamist factions. Its original plan was for a series of educational and folklore activities aimed at uniting the marchers who would then walk in the direction of the border only on Nakba Day (15 May).

*However, the “March” was ultimately hijacked by Hamas* whose leader, Yahya Sinwar, attended the demonstrations and gave speeches emphasising that the “March of Return affirms that our people can’t give up one inch of the land of Palestine”. Hamas organised and paid for buses to bring people to the border and in the lead up to 6 April, it also tried to boost participation by promising financial incentives to those who took part, including paying the families of anyone killed \$3,000, the seriously injured \$500 and the moderately injured \$200. Despite all these incentives, the numbers of attendees – 40,000 on 30 March and 20,000 on 6 April were well below Hamas’s expectations of 80,000 to 100,000.

*Hamas has also been explicit that the aim of the “March” should be “return” of Palestinians*

*in Gaza to Israel.* Sinwar claimed that the protest “marked the beginning of a new phase in the Palestinian national struggle on the road to liberation and return [of Palestinian refugees and their descendants to their former homes inside Israel],” adding that “the protests will continue until the Palestinians return to the lands they were expelled from 70 years ago”.

*Hamas has been criticised by one of the original organisers of the March,* Ahmed Abu Rteima, who expressed his opposition to the so-called “tyre Friday” on 6 April, when Hamas set alight thousands of tyres along the border. Writing on Facebook, Rteima claimed there is no need to approach the fence at all at this stage of the struggle and said he was fiercely opposed to violence, adding that the *shahids* (martyrs) were victims for nothing. He also said that if it were impossible to ensure the safety of the participants, they should not attend.

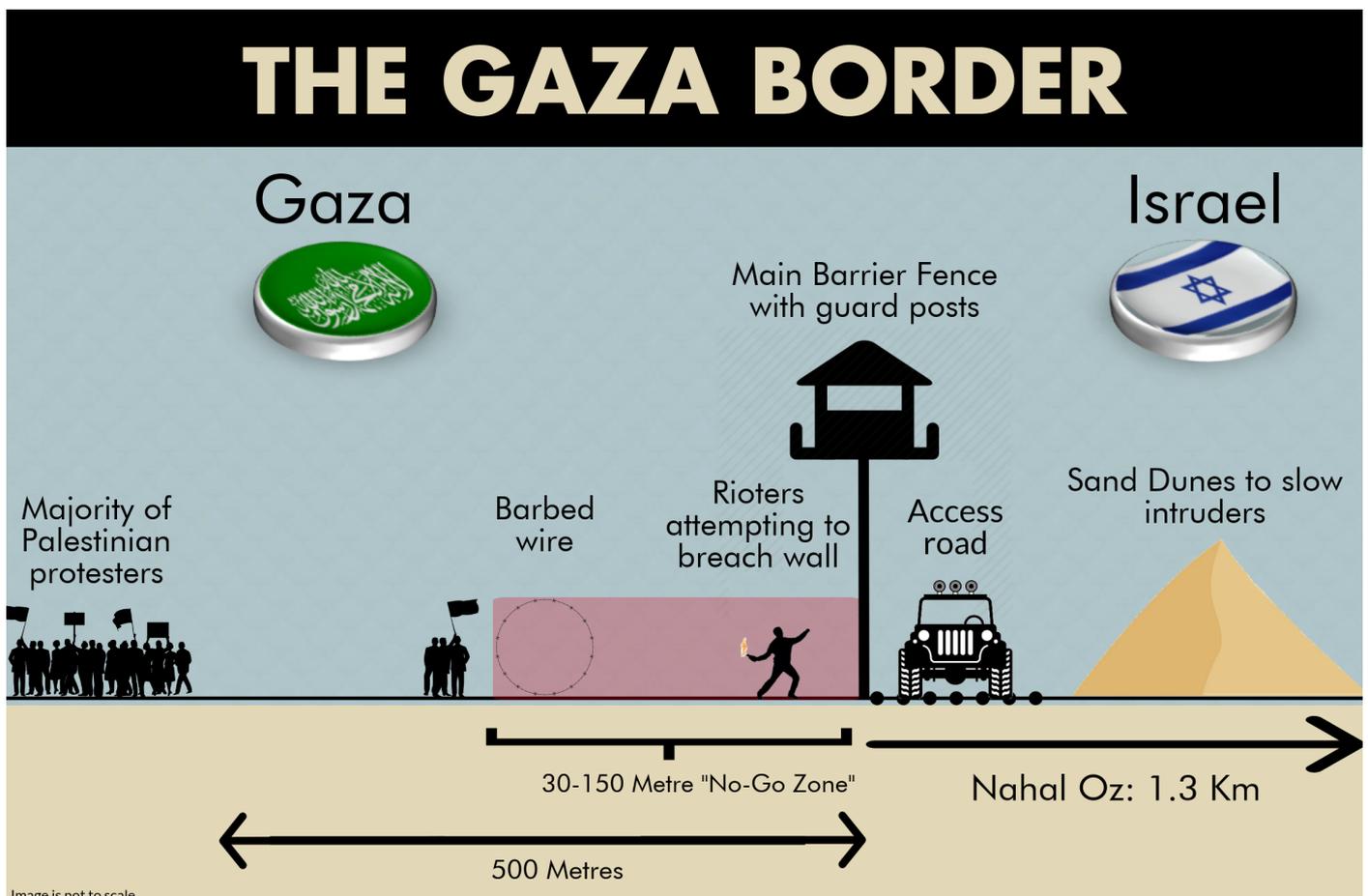
### Hamas’s motivations

*The “March” comes against the background of strategic distress being suffered by Hamas from*

*which it is seeking to extricate itself.* Firstly, Israel has nullified Hamas’s missile threat with the development of the Iron Dome system and has developed new methods to detect and destroy Hamas offensive tunnels, in which the group invested tens of millions of pounds a year. Secondly, Palestinian reconciliation between Hamas and the PA, which Sinwar prioritised after his election last year in the hope it would alleviate the humanitarian crises in Gaza, has failed to materialise. This has left Gaza’s humanitarian crisis unresolved, unemployment of more than 40 per cent, basic infrastructure problems relating to water, energy, and sewage, and only four to eight hours of electricity a day.

In light of this, Hamas sees the “March” as an opportunity to *redirect much of the anger and frustration within Gaza towards the border with Israel.*

Moreover, while this may not have been an initial aim of the “March,” *the protest has also prevented Abbas from implementing his threats of new sanctions against Hamas.* Abbas announced a series of “punitive measures” including stopping the transfer of \$100m a month from the



PA to Gaza and termed the Strip as a “rebellious enclave”. Ghaith al-Omari, a senior fellow at the Washington Institute for Near East Policy, has argued that the “March” has also helped Hamas reclaim the “leadership” of the Palestinian struggle.

## Israel’s dilemmas

The composition of, and rationale behind, the “March” poses several dilemmas for Israel.

Because the official rationale of the “March” is the right of Palestinian “return” to Israel, *Israel is faced with securing its border against the possibility of tens of thousands of demonstrators entering Israeli territory*. The threat is heightened by the fact that over the last month, Palestinians have successfully infiltrated into Israel on a number of occasions. In one case, three armed Gazans broke through the fence and succeeded in encroaching 20km inside Israel before being apprehended.

*Israel also worries that not preventing Palestinians approaching the fence from the Gaza side of the border* will entail it using significantly more force and causing far greater casualties if they break through the fence and enter Israel. This rationale was reflected in an opinion piece in *Yediot Ahronot* by Nachum Barnea, who quotes an IDF officer stationed along the border: “Let’s assume that 400 people had broken through the border fence. We would have had to stop them with fire. At least 50 of them would have been killed ... they would have had to retaliate. We would have had to retaliate. In fact, we are preventing war through our surgical activity.”

*Israel’s is also concerned that terrorists will use the demonstrators as cover to infiltrate into Israel and carry out attacks*. Some communities, such as Kibbutzim Erez, Kfar Aza and Nahal Oz, lie only a few hundred metres from the border. Israel has identified members of Hamas’s elite “Nukhba” force among the crowd hiding guns, knives and explosives under their clothes.

*What makes the threat of the “March” more acute is the lack of effective options to deal with mass crowds*. Amos Harel in *Haaretz* argues that

“the number of fatalities yet again underscores Israel’s long-standing failure – commented on by the State Comptroller in 2003 and 2017 – to develop nonlethal measures which would be effective in dispersing demonstrations and marches from a relatively large distance”. Military affairs correspondent for *Yediot Ahronot* Alex Fishman takes a different tack, arguing that “tear gas, pyrotechnic measures and stun grenades are ineffective against people running amock ... to stop people who are charging at the fence, there is no choice but to shoot, and people also get killed”.

## IDF protocol and Palestinian casualties

*The IDF General Staff gave orders that permitted soldiers to shoot in three specific situations*: if their life is in danger; if they see critical border security infrastructure being damaged; and if they identify main instigators or a rush by a number of people towards the border. In all cases soldiers need authorisation from their commander before shooting and have been instructed to first shoot in the air, then at the lower body, before shooting at the chest as a last resort.

On 8 April, after consulting Military Advocate General Sharon Afek, *IDF Chief of Staff Gadi Eisenkot announced that the IDF will launch an inquiry into the conduct of troops*. The military has not yet decided how many of the deaths are to be examined, although it appears that it will focus on incidents in which the casualties were civilians, including the death of Palestinian photographer Yaser Murtaja on 6 April. The protocol used to launch the investigation is the same as that used after Operation Protective Edge in the summer of 2014. The investigation is operational rather than criminal and findings will be presented to the military Advocate General, who can decide whether to open a criminal investigation.

*The domestic political debate in Israel about the military response to the “March” has been broadly supportive* within both the Government and parts of the opposition, including Zionist Union and Yesh Atid. However, Meretz Chairperson Tamar Zandberg called for an independent Israeli investigation to examine the rules of engagement

and military and diplomatic preparedness for the events. NGO B'tselem called for Israeli soldiers to refuse to fire at unarmed Palestinian protesters.

*Discussing the rules of engagement*, Daniel Reisner, former head of the Judge Advocate General's Office's Rules of Warfare Department, argued in *Yediot Ahronot* that *international law isn't clear in all details that pertain to attempts by a mass number of people to cross a border fence*. Whilst the law forbids shooting at a lone, unarmed individual attempting to cross the border fence, Reisner says that the situation in this case is different and that "when tens of thousands of people try to cross the border, the commander in the field has to take into account the possibility that if he doesn't permit the use of live gunfire, civilians communities are liable to be overrun by a large number of people and face-to-face clashes with soldiers are liable to ensue. In that case, there is the danger of a direct conflict between hostile populations, which is liable to result in far more extensive use of live gunfire". He concludes that Israel's line of argument that the use of live gunfire was to prevent thousands of people from crossing the border "is reinforced by the fact that Hamas announced that five of the people who were killed were members of Hamas. Under those circumstances, the legal grounds for opening fire become far firmer, but even then, the shots needed to be aimed at people who were making illegal use of civilians".

Tal Lev Ram in *Maariv* has argued that while *the IDF prevented Hamas from damaging the fence or infiltrating Israeli territory, some will say that the number of Palestinian wounded and killed is too high and disproportionate to the threat faced*. He adds that while "this claim requires a probe ... anyone who thinks that you can put an end to this kind of incident with no fatalities on the other side is mistaken. Israel and Gaza share a common border in a fundamental state of hostility and ongoing warfare that has continued for years ... the use of supervised and controlled fire by commanders on the ground is an unavoidable part of the rules of the game which the IDF did not dictate during demonstrations when terrorist activity is committed".

Ultimately, despite IDF successes in preventing Hamas from breaking through the border, *the structural challenges of Gaza remain as does the absence of an overarching Israeli strategy for the territory*. As Yossi Melman argues in *Maariv*: "The fundamental problem, however, remains unchanged. The Israeli government does not have a clear strategy for dealing with Gaza and the Hamas regime in the Gaza Strip."

## Where to now?

The "March" was originally intended to take place until 15 May. Yet it remains unclear to what extent the scenes of the past two weeks will continue or in what way they may evolve. Writing in the Institute for National Security Studies (INSS) former military intelligence chief Amos Yadlin warns that the fact both sides are claiming victory – which is possible because they are conducting parallel manoeuvres – could "intensify the hostilities on the Gaza border and perhaps even beyond".

There are three key questions that will influence the coming weeks:

- Can Hamas maintain the numbers of demonstrators? The military losses Hamas has suffered since the beginning of the "March" raise questions as to whether it can continue to bring thousands of families and military operatives to the border with Israel.
- Will missiles be fired at the Negev from Gaza? So far, both Hamas and Salafi Jihadist groups have refrained from this.
- Will protests spread to the West Bank? There is little sympathy within the PA for Hamas in Gaza – especially following the attempted assassination of PA Prime Minister Rami Hamdallah on a visit to Gaza last month. However, as Nakba Day approaches and the US Embassy moves to Jerusalem on 14 May, if casualties in Gaza increase, parts of the West Bank could be motivated to demonstrate or riot.

Looking ahead, one scenario is that *Israel seeks to change the "rules of the game"*. A senior IDF official told the Israeli press that "we have no

intention of turning the clashes on the border with the Gaza Strip into a weekly occurrence, as if it were a case of the confrontations in Naalin or Bilin [two locations in the West Bank where weekly protests took place against the building of the separation barrier]. Should the incidents continue, we will intensify our retaliation against Hamas not only in the area of the fence, but also against its targets deep in the Gaza Strip". With the Jewish Passover holiday over, (during which the IDF sought not to escalate the situation), Israel may begin to strike key Hamas military targets deep in the Gaza Strip in order to deter it from further provocations on the fence. Such strikes could include attacks on Hamas tunnels, or arms manufacturing plants and ammunition depots. It may even include targeted killings of some of the organisers of the riots.

Another scenario is that the *Arab world gets involved to calm the tensions*. Egypt is concerned that Palestinian rage in Gaza could ultimately be directed southwards, putting Egypt in an awkward situation. Pan Arab newspaper *Al-Hayat* reported that Egyptian Intelligence Director General Abbas Kamel will visit the Gaza Strip in order to "defuse the volatile situation between the Palestinian Authority and Hamas on the one hand, and between Hamas and Israel on the other". There have also been reports that Saudi Arabia and Egypt made Hamas an offer to permanently open the Rafah crossing at both ends in exchange for ending the "March of Return".

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