



MA'AN Development Center

Position Paper:

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**Towards a just model of
Palestinian development:**
*reassessing international aid
conditions"*



Ramallah-Palestine
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In 2013, the Israeli occupation of the Palestinian territories is as entrenched as ever before. Two decades of institution- and state-building have brought little progress towards the achievement of Palestinian human rights and self-determination. The international community continues to pour billions of dollars into the now aid-dependent Palestinian territories, yet has not effectively challenged the legitimacy of the State of Israel's colonial enterprise.¹

Although international NGOs and donor agencies cannot change the politics of the Palestinian-Israeli conflict alone, it is the responsibility of third party states to take the diplomatic actions necessary to hold Israel accountable to occupation policies that are illegal under international law and to the discriminatory legal system it imposes on Jews and Arabs in the occupied Palestinian territories (oPt).² Accountability on the diplomatic level, however, must coincide with responsible donor practices, which should not legitimize or cooperate with the Israeli Civil Administration (ICA), as the authoritative institutional body that enforces such policies.

Within the post-Oslo Accords framework, international organizations work in the oPt under the broad mandate to support the peace process and the state-building project. However, the existing aid framework imposes restrictions and conditions on Palestinian local development that impede Palestinian

decision-making. In other cases, this framework also empowers the State of Israel's control over land, resources, and overall local development. Specifically, informal and formal cooperation between the Israeli Civil Administration and international organizations has become an immediate concern of Palestinian NGOs that see certain donor practices of aid conditionality undermining the Palestinian right to self-determination and the ability to exercise the right to resist occupation. Although various donors working in the oPt actively support important projects to reform and change traditional development approaches, these efforts remain marginal.

This paper will seek to examine how the current international development framework functions to actively perpetuate and exacerbate the de-development³ of Palestinian communities in the oPt and ultimately empower Israel's occupation. It will first review facts on the ground in the oPt, will review the basic terms of the Oslo Accords and the Paris Protocols, and will proceed to briefly describe aid conditions related to the anti-terrorist clause and vetting procedures, as well as address normalization. The paper will go on to more deeply assess permit and ICA coordination requirements in Area C of the West Bank and finally, will put forth broad recommendations to ensure greater accountability among international development stakeholders working in the oPt.

1- Nadia Hijab, "Rethinking Aid to Palestine," *Foreign Policy* (August 3 2012). http://mideast.foreignpolicy.com/posts/2012/08/03/rethinking_aid_to_palestine.

2- UN OCHA, *Occupied Palestinian Territory: Overview map*, December 2011, Published on 25 January 2012. http://www.ochaopt.org/documents/ochaopt_atlas_opt_general_december2011.pdf.

3- Roy, Sarah, "De-development revisited: Palestinian economy and society since Oslo," *Journal of Palestine Studies* 28.3 (Spring 1999), p. 64-82.

A Glimpse: Facts on the Ground

The quickly changing landscape of the oPt paints a stark picture of the State of Israel's effective expansion into Palestinian land beyond the 1967 borders.⁴ In November 2012, after the Palestinian National Authority's successful bid for "non-member observer state" status at the United Nations, the Israeli government announced plans to authorize 3,000 settlement housing units in the West Bank, including in East Jerusalem, and to expedite plans for new large-scale construction in the strategic 'E1' area between the Ma'ale Adumim settlement and East Jerusalem.⁵ As of 2012, the settler population in the West Bank and East Jerusalem was estimated to be over 552,000 with an annual average growth rate of 5.3% over the past decade, compared to a 1.8% growth rate among the Israeli population as whole.⁶ As of 28 November 2012, there has been a threefold increase in the number of new settler housing units tendered for 2012, compared to 2011. There are around 540 internal checkpoints, roadblocks, and other physical obstacles to Palestinian movement in the West Bank, which not only impede Palestinian movement but actively facilitate settler movement to and from Israel proper.⁷ Settlement regional councils control 43% of the entire West Bank, and

4- UN OCHA, "The Humanitarian Impact of Israeli Settlement Policies: Fast Facts," (Update for December 2012). http://www.ochaopt.org/documents/ocha_opt_settlements_FactSheet_December_2012_english.pdf.

5- UN OCHA, "East Jerusalem and Settlements: Humanitarian Update." <http://www.ochaopt.org/eastjerusalem>.

6- Israeli Ministry of the Interior, Population Statistics for Judea and Samaria (2012).

7- UN OCHA, "The Humanitarian Impact of Israeli Settlement Policies..." http://www.ochaopt.org/documents/ocha_opt_settlements_FactSheet_December_2012_english.pdf.

the settler population constitutes 19% of the population of East Jerusalem and the West Bank combined.

As for the increasingly prominent question of political prisoners, international human rights organizations have remained virtually silent. Today, nineteen years after the beginning of the Oslo Peace Process, Israel still holds a total of 111 Palestinian political prisoners who were arrested for alleged offenses occurring before 13 September 1993, the cutoff date for prisoners who were supposed to be included in subsequent releases. Approximately 66 prisoners have spent more than 20 consecutive years in Israeli prisons.⁸ The limited hard data on the situation surrounding Palestinian prisoners in Israeli detention makes organization on the issue far more difficult. Nevertheless, the lack of action on the part of international organizations in demanding prisoners' rights has further undermined the legitimacy of the donor community on the streets of the oPt, especially among politically active young people, who increasingly view the international donor community as not supporting the long-term welfare of the Palestinian people.⁹

The international donor community is well aware of this trend. Illegal settlements, outposts, military roadblocks, and soldiers clutter the landscape of East Jerusalem and the West Bank. For those lucky enough

8- Addameer, "Political Prisoners Detained Prior to the Oslo Agreements," *Factsheet*. <http://www.addameer.org/etemplate.php?id=521>.

9- Elena Viola, "One Year to 15 March youth demonstrations: Where now?" *Alternative News* (18 March 2012). <http://www.alternativenews.org/english/index.php/component/content/article/28-news/4219-one-year-to-15-march-unity-demonstrations-where-now>. Also see: *The Revolution Will Not be Funded: Beyond the Non-Profit Industrial Complex*, Edited by Incite! Women of Color against Violence (Cambridge, Mass: South End Press, 2007).

to enter Gaza, years of blockade have left its agricultural land completely decimated and Gazans have been forced to rely on a growing tunnel industry. By 2010, the tunnel industry was estimated to employ around one hundred and fifty thousand “dependents,” or 10% of Gaza’s population, many of whom are young men and school dropouts who contribute to the livelihood of their own families. In a Hamas police patrol in December 2011, it was found that children were being used for work in tunnels because of their “nimble bodies,” similar to work done in Victorian-era coal mines. Hamas officials report that at least 160 children have been killed in the tunnels.¹⁰ Ultimately, despite the quickly-changing geographic and demographic landscape of the occupied territories, many of the major international development stakeholders have not reworked the Oslo state- and institution-building model to meet the real needs of Palestinians.

A Flawed Political Framework

The Oslo Accords

Since the signing of the Oslo Accords in 1993, the oPt has experienced systemic de-development and an expansion of the State of Israel’s colonial enterprise. The interim agreement was premised on the need for a final settlement based on the 1967 UN Resolution 242, which calls for the

“termination of all claims or states of belligerency and respect for an acknowledgement of the sovereignty, territorial integrity, and political

10- Nicholas Pelham, “Gaza’s Tunnel Phenomenon: The Unintended Dynamics of Israel’s Siege,” *Journal of Palestine Studies* 41.4 (Summer 2012), p.6. <http://www.palestine-studies.org/journals.aspx?id=11424&jid=1&href=fulltext>.

independence of every State in the area and their right to live in peace within secure and recognized boundaries free from threats or acts of force; guaranteeing the territorial inviolability and political independence of every State in the area”

The resolution also called for the “withdrawal of Israeli armed forces from territories occupied in the recent conflict.” Therefore, Israel’s lack of regard for Palestinian territorial integrity and sovereignty are especially important to understand the aid dilemma in the oPt, in which international donors must implement projects and programs within a system of territorial control that ultimately facilitates the occupying power’s authority over planning, building, and land ownership at the expense of Palestinians’ rights. The State of Israel regards the Palestinian territories as “disputed” territories, not “occupied” territories. However, official international policy unanimously refers to the territories now in control by Israel since 1967 as indeed occupied, and Areas A, B, and C fall within these territories according to the Oslo Accords II.

The 1995 Oslo Accords II officially divided the West Bank into Areas A, B, and C. Area A is made up of the West Bank’s major Palestinian population centers, and falls under the Palestinian National Authority’s civil and security jurisdiction. In Area B, Palestinians have control over civil affairs only. Finally, Area C falls under full Israeli control, and makes up 61-62% of the occupied West Bank.¹¹ Area C is the only contiguous territory in the West Bank and contains the bulk of Palestinian agricultural and grazing land as well as land

11- UN OCHA, “Area C Humanitarian Response Plan Factsheet,” (August 2010). <http://unispal.un.org/UNISPAL.NSF/0/59AE27FDECB034BD85257793004D5541>.

reserves that could be used for future economic development. Yet, Palestinians are forbidden from creating permanent structures in Area C without a permit from the Israeli Civil Administration.¹² Thus, around 150,000 Palestinians are forced to reside in informal and non-permanent encampments.¹³

The physical fragmentation alone, along with settlement expansion, has shown the territorial divisions outlined in the Oslo Accords to be completely ineffective in empowering Palestinian rights. Above all, this existing political arrangement, in which Palestinian communities exist in mere enclaves of villages and cities, makes economic, political, and social development for a future state extremely difficult.

The Paris Protocols

The Paris Protocols, an interim agreement signed in 1994 as part of Oslo I, established the economic relations between the State of Israel and the occupied Palestinian territories.¹⁴ These economic conditions created more obstacles for Palestinians in the West Bank and Gaza Strip than before Oslo, particularly because the protocols structure the Palestinian economy to be dependent on Israel's. Further, the protocols, like Oslo, were theoretically

12- The World Bank, "The Economic Effects of Restricted Access to Land in the West Bank," Social and Economic Development Group Finance and Private Sector Development Middle East and North Africa Region, (21 October 2008), p.iv. <http://siteresources.worldbank.org/INTWESTBANKGAZA/Resources/EconomicEffectsofRestrictedAccessToLandintheWestBankOct.21.08.pdf>.

13- UN OCHA, "Area C of the West Bank: Key Humanitarian Concerns," (January 2013). <http://unispal.un.org/UNISPAL.NSF/0/CCEC730492-AD8A9785257AFC004AEFA1>.

14- B'Tselem, "Restriction of Movement: the Paris Protocol," (Published 1 January 2011, Updated 19 September 2012). http://www.btselem.org/freedom_of_movement/paris_protocol.

configured to eventually liberate the Palestinian territories and allow for the free movement of labor and products between the countries' respective borders.

Today, the State of Israel maintains full control over Palestinian exports and imports, including international aid money. According to the protocols, not only is the question of political security subject to joint Israeli-Palestinian committees but economic issues must also be subject to such review. Of course, in the context of an imbalanced power structure, these joint committees have proven to simply act as an extension of the quiet control exerted by the Israeli Civil Administration.

Therefore, the Paris Protocols, as part of the Oslo Accords, further punctuate the problematic nature of the state-building model and the terms of international development in the oPt. Without the ability to prioritize Palestinian economic self-sufficiency, as well as social and political rights and control over local development, the State of Israel remains the ultimate decision-maker over every facet of Palestinian life.

How the International Aid Framework is Harmful

Ultimately, the de-development of the territories is a political question, partly rooted in the unwillingness of the international community to confront Israel's intransigence in regards to the occupation of the Palestinian people. UN Secretary General Ban Ki-Moon's statement, released on 11 December 2012, exemplifies the complete ineptitude of current approaches to diplomacy within the international community. Ban Ki-Moon, in one of his many statements regarding the elusive future of a Palestinian state, expressed his "deep

concern” for the future of the Palestinian National Authority, the expansion of settlements, and the well-being of Palestinian prisoners, among other issues. Nowhere in his statement did he articulate a demand to end Israel’s occupation, nor did he mention its illegality.¹⁵ The Secretary General’s “expression of concern” therefore, puts forth no viable diplomatic action to address the question of Israeli human rights violations and assigns no accountability to the international community to ensure and protect Palestinian rights. This press release is just one example of a larger, systemic problem that is reflected in the donor community’s approach to development in the oPt. Ultimately, there are no diplomatic consequences for simply paying lip service to Palestinian human rights. On the level of international aid, foreign donors remain stuck between their mandate to respect international law and ensure the protection of Palestinians’ rights, and the reality of dealing with the Israeli government’s authority on the ground in the occupied territories.

The international donor community, however, has not sufficiently dealt with this challenge. In fact, the system of donor aid in the oPt has systematically violated development principles put forth by the international community itself, such as the Declarations on the Right to Development, the Principles of Good International Engagement in Fragile States, and the International Non-Governmental Organizations Accountability Charter.¹⁶ These principles include

15- UN Secretary General Ban Ki-Moon, “Secretary General Expresses Concern Over Human Rights of Detained Palestinians,” Department of Public Information News and Media Division SG/SM/14713 (New York: 11 December 2012). <http://www.un.org/News/Press/docs/2012/sgsm14713.doc.htm>.

16- “Palestinians have a right to development and rights in relation to international aid,” The Dalia Association. <http://www.dalia.ps/files/RightsinAidBrochure.pdf>.

obligations and responsibilities such as the right to development as “an inalienable human right” in which “all peoples are entitled to participate in, contribute to, and enjoy economic, social, cultural, and political development.”¹⁷ It also includes the obligation of aid donors to “do no harm” in aid programs¹⁸ and to “respect partner country leadership and help strengthen their capacity to exercise it.”¹⁹

The “do no harm” principle, for example, is premised on the notion that aid must adapt to local circumstances. More specifically, aid actors must remain highly cognizant that in regions of conflict, aid immediately becomes politicized, entangled within complex social, political, and economic realities on the ground. Aid can easily be misused or mismanaged to prolong conflict or exacerbate existing tensions and divisions within a society. The relevance of “do no harm” to donor conditions in Area C of the oPt will be described in further detail in this paper.

International donors employ various standards, policies, or conditions for local development projects. Analyzing such policies is complex because of the very project-specific nature of many donors’ policies and the various laws and institutions that govern Palestinian communities in the region. Although there are a number of international organizations that have advocated for and implemented programs and projects for Palestinian self-sufficiency and greater accountability on the part of the international community for an end to the occupation, this donor approach remains an exception to the rule.

17- Declaration on the Right to Development, 1986

18- Principles of Good International Engagement in Fragile States, 2005

19- International Non-Governmental Organizations Accountability Chapter, 2005

Examples of Conditions on Funding in the oPt

The Anti-Terrorism Clause

In 2002, the United States Agency for International Development (USAID) included the Anti-Terrorism Clause (ATC) in their contracts with potential partners due to concern that funds may be funneled to local institutions or individuals with ties to designated terrorist organizations. The ATC was initially issued in the Acquisition and Assistance Policy Directive (AAPD) 02-19 and is necessary for US and non-US organizations to guarantee, before awarded a grant or agreement, that their organization does not provide material support or resources for terrorism. Grant recipients are told that their organization's key staff, board members, and direct beneficiaries must undergo a vetting procedure. In this process, the names of individuals are screened against the US Department of Treasury's Office of Foreign Assets Control list and the UN Security Council's Al-Qaeda and Taliban Sanctions Committee Consolidated List (UN 1267 list) before a project begins.²⁰ While the ATC was originally applied only to programs associated with USAID, a similar clause has since been adopted by other large donor organizations such as the Ford Foundation. UN agencies will also employ this clause if the donor of a project requires such conditions.

The Palestinian NGO Network (PNGO) position, issued in 2003 and reaffirmed in 2011, called for the halting of conditional support. However, the number of donors that include the ATC in their grants has

increased. Such conditions obstruct NGO independence and more importantly, impose sweeping definitions of appropriate and inappropriate terms of political engagement for the Palestinian people, while not upholding the same standards to the State of Israel, especially in regards to the practices of its military and settlers. Ultimately, PNGO rejects the ATC for political reasons but also due to the fact that the PNGO Law Chapter 7-Article 32 explicitly states that PNGOs are to only accept unconditional funding.²¹ For more information on the ATC and its implications, please see MA'AN's publication, "Matrix of Control: The Impact of Conditional Funding on Palestinian NGOs."

Vetting Procedures

Vetting, or screening, procedures vary across each donor body functioning in the oPt. While many organizations do not formally use political vetting, Palestinian organizations and governing bodies remain largely excluded from this process.

As per US law, the USAID Mission to the West Bank and Gaza must vet certain non-US recipients of USAID funding. The vetting procedure was substantially amended in 2007 and is currently an extensive exercise, that involves inspecting recipients' names and other identification information against databases and other information sources to determine if they are involved with terrorism. The Program Support Unit (PSU) at the USAID Mission coordinates the vetting process for those requiring vetting. The procedures, which were expanded in 2007, now require additional information from first and second tier NGO recipients. In fact, US aid is forbidden from contributing to any

20- United States Government Accountability Office, "Foreign Assistance: Measures to Prevent Inadvertent Payments to Terrorists under Palestinian Aid Programs Have Been Strengthened, but Some Weaknesses Remain," *Report to Congressional Committees* GAO-09-622 (19 May 2009). <http://www.gao.gov/new.items/d09622.pdf>.

21- Law of Charitable Associations and Community Organizations, Law No 1, 2000, Chapter 7 Article 32.

power-sharing government that includes Hamas as a member, or that “results from an agreement with Hamas...unless the President certifies that the PA government, including all ministries, recognizes “the Jewish state of Israel’s right to exist” and “acceptance of previous Israeli-Palestinian agreements.”²²

Vetting policies assume Palestinian beneficiaries are guilty until proven innocent. The process subjects them to arbitrary review and approval before they can receive services that should be provided regardless of political affiliation, location of residence, or religious affiliation. Many Palestinians do not qualify for various trainings, services, or socioeconomic support. Such a policy is divisive in Palestinian communities, in which certain families and individuals are favored for donor services, while others are excluded from these benefits. International donors who use such a policy also force local organizations to police the communities that they are supposed to serve by scanning beneficiaries for political affiliations. This is not only outside of the mandate of local organizations, but also creates deep divisions between Palestinian civil society and the communities they support.

Normalization

As the occupation continues unabated, various donor organizations, with the cooperation of some Palestinian NGOs, implement joint programs and activities with Israeli organizations. One example is a recent call for proposals from the European Union under the “Partnership for Peace” program, which seeks to “promote peace and build confidence.” The call holds the specific objective to “strengthen civil society actions aimed at promoting peace and confidence

22- Jim Zanotti, “US Foreign Aid to the Palestinians,” *Congressional Research Service* (15 July 2012), p. 8-9.

building in order to broaden the base of support to a negotiated solution of the conflict.” The project can grant up to Euro 5 million within a maximum, 36-month time period. Under Priority 1 of the call: “ ‘Peace’ as viability of the Two State Solution: joint concrete actions for socio-economic development of communities directly affected by the conflict (especially Area C, Seam zone, East Jerusalem, Gaza Strip), ” the EU mandates that “Actions under this priority must involve Jews and Arabs either in a formal partnership or at the level of joint work.”²³ Such a requirement not only undermines official policies of Palestinian civil society (detailed below), but also imposes a “partnership” framework that assumes equality between Jews and Palestinians despite the extreme power disparities that continue to exist between these populations throughout Israel and the oPt. This serves to *normalize* the existing unequal power structure that favors Israeli rights above those of Palestinians.

In the “EU Partnership for Peace Programme: Open letter to the EU delegation and diplomatic missions occupied Palestine,” the Palestinian NGO Network, The Civic National Commission in Jerusalem, and The Palestinian BDS National Committee (BNC) collectively express their

“protest in the strongest terms against the unethical manner in which the call for this EU program conditions that eligible projects of humanitarian and development

23- European Commission, “The EU Partnership for Peace Programme,” Link: Guidelines for Grant Applicants, *Development and Cooperation: EuropeAid – Calls for proposals and procurement notices*, Reference: EuropeAid/133831/L/ACT/Multi (Published: 17 December 2012, Updated: 7 February 2013). <https://webgate.ec.europa.eu/europeaid/online-services/index.cfm?do=publi.welcome&nbPubliList=15&orderby=upd&orderbyad=Desc&searchtype=RS&aofr=133831&userlanguage=en>.

aid ‘must involve Jews and Arabs,’ and suggests that aid to the most vulnerable Palestinian communities should be instrumentalized for a ‘peace’ defined as maintaining ‘the viability of the Two State solution.’”

Signatories further affirm that

“Palestinian civil society concurs with the assessment of the EU that peace based on a two-state solution has become deeply undermined...” however, “no peace will be achieved, unless the international diplomatic community is willing to create the political framework required for ending Israel’s prolonged occupation and oppression of the Palestinian people, and that the required political framework must, more than anything else, ensure respect of international humanitarian and human rights law by Israel, other States and interstate organizations such as the EU.”²⁴

The Palestinian NGO Network released a broad call related to the issue of normalization in the early 2000s. It has explicitly called on the Palestinian government and non-governmental organizations to end current and future projects that involve cooperation with Israeli institutions and organizations that do not explicitly express “support of the Palestinian people’s rights to establish its independent state on its land occupied in 1967 (West Bank and Gaza Strip) with Jerusalem as its capital, in addition to the

24- Palestinian NGO Network, “EU Partnership for Peace Programme: Unethical abuse of Palestinian vulnerability for dubious political objectives,” *Open letter to the EU delegation and diplomatic missions in occupied Palestine* (occupied Jerusalem: 29 January 2013).

Palestinian refugees’ right to return to their original homes and properties.” This call, of course, does not apply to cooperation and solidarity projects launched by Israeli human rights organizations that support the Palestinian right to freedom, statehood, and a peace that meets Palestinian national rights.²⁵ Despite this call on the part of major Palestinian civil society players, a number of international donors continue to violate this by cooperating with Israeli institutions that do not acknowledge the existing power disparity between Israelis and Palestinians.

The ATC, vetting procedures, and normalization are by no means an exhaustive list of conditions on aid in the oPt. Each of these conditions should be further analyzed and studied to examine the impact of such policies on the rights of Palestinian NGOs and communities, and to put forth specific policy recommendations to reform or eliminate such conditions and hold all development stakeholders accountable to their work in the region. This paper will proceed to outline the specific requirements for and implications of permits and coordination with the ICA in Area C as well as broad policy recommendations moving forward.

Specific Challenges in Area C

Area C makes up 61-62% of the West Bank, yet Palestinians have almost no planning or building authority in the most continuous area of land in the entirety of the West Bank. In fact, less than 1% of Area C is planned for Palestinian development. Most of Area C is closed off for Israeli military purposes or for settlements. Seventy percent of Area C is restricted from Palestinian construction, and 29% is heavily restricted. Israeli authorities also employ

25- Badil Resource Center for Palestinian Residency and Refugee Rights, “Palestinian NGO Network Conditions Cooperation with Israeli Organization,” *Press Release* (2000). <http://www.badil.org/en/press-releases/53-press-releases-2000/191-press134-00>.

methods of forced displacement on the 150,000 Palestinians living in the region. In 2012, 600 Palestinian structures were destroyed in the West Bank including 189 residential structures. These demolitions directly displaced 880 Palestinians, more than half of whom were children. Eighty nine percent, or 540, of these demolitions took place in Area C and displaced 809 people including 441 children.²⁶

Israeli laws that legislated large swaths of West Bank land as “state land” as well as the Absentee Property Law of 1950 have served to expropriate individually and communally owned Palestinian land, transfer title to Israel or agencies affiliated with the World Zionist Organization/Jewish Agency, and to establish a land regime which reserves the right to the land for Jewish nationals as defined by the 1950 Law of Return.²⁷

For Palestinians to build any structures in Area C, they must submit requests to the Israeli Civil Administration for building permits. The World Bank notes that “in the majority of Palestinian villages in Area C, building permits are almost unattainable and the application process for building permits has been characterized by ambiguity, complexity, and cost.”²⁸ Palestinian communities therefore often build structures “illegally,” and consequently face the potential for demolition orders.

26- The Israeli Committee Against House Demolitions, “Forced Evictions, Demolitions and Displacement in the West Bank in 2012 (Publication date: 9 February 2013). <http://www.icahd.org/node/473> http://www.ochaopt.org/documents/ocha_opt_Area_C_Fact_Sheet_July_2011.pdf.

27- Badil Resource Center for Palestinian Residency and Refugee Rights, Human Rights Council Nineteenth Session Item 7 (27 February-23 March 2012).

28- World Bank, “Fiscal Crisis, Economic Prospects: The Imperative for Economic Cohesion in the Palestinian Territories,” *Economic Monitoring Report for Ad Hoc Liaison Committee* (23 September 2012). <http://siteresources.worldbank.org/INTWESTBANK-GAZA/Resources/AHLCReportFinal.pdf>.

International donor policies further normalize Israel’s illegal jurisdiction over planning and building in the area through a range of formal and informal requirements for coordination with the Israeli Civil Administration. Donors employ various conditions or policies on aid in Area C—few, however, work to strengthen Palestinian ownership rights or presence in the region. Some large international donors, such as the Japanese government, enforce a strict policy of aid conditionality in Area C, which requires permits from Israeli authorities to construct any Palestinian infrastructure. Requiring Israeli permits effectively weakens Palestinian ownership right to land by normalizing Israel’s illegal authority over planning and building. Other organizations avoid the controversial question of permits completely, opting for humanitarian aid or emergency-aid projects that do not require permits at all. This includes aid for the distribution of food packages, animal feed, school supplies or first aid kits; it can also provide larger items like portable sanitation units, agricultural supplies for farmers, portable water tanks, or shallow agricultural ponds for irrigation. However, the goal of these projects to provide “food aid, free shelter, and handouts” do not provide the permanent infrastructure needed to assert Palestinian ownership of land or livelihoods.²⁹ Further, Palestinians in this area do not need isolated, short-term projects. Area C requires Palestinian-owned, village-level and regional-level planning, including the installation of water networks, sewage networks, power grids, roads, and agricultural roads. Therefore, requiring the approval of such plans by the Israeli Civil Administration is also a direct violation of Palestinian self-determination and undermines genuine efforts to achieve Palestinian rights.

29- The Dalia Association, “Does the international aid system violate Palestinians’ human rights?” <http://www.dalia.ps/node/123>.

There are other organizations that do build in Area C without permits; however, close to none choose to directly confront Israeli authorities if that infrastructure is demolished. Twenty-five percent of demolished Palestinian structures in 2011 were created through donor-funded projects, yet most, albeit not all, organizations will not demand accountability on the part of the Israeli Civil Administration through reparations or other forms of compensation.³⁰ The unwillingness to directly confront Israeli crimes does little to sustainably develop Palestinian communities in Area C, despite choosing to build in contravention of Israeli law.

In 2011 alone, the Israeli military destroyed over 10 donor-funded water cisterns in Area C. For many communities, water cisterns are a sole source of water for both their communities and livestock. This does not include the additional confiscation of water tanks, wells, agricultural ponds, or the cisterns that have received demolition orders but have not yet been destroyed.

Finally, despite potentially good intentions of ensuring the short-term protection of Palestinian communities in matters related to Palestinian rights of movement, education, housing, water, etc., reliance on humanitarian and emergency mechanisms engrain a false sense of security within Palestinian communities by emphasizing the need to survive and simply “get by,” instead of demanding solutions to the causes of their systematic disenfranchisement.

30- Oxfam, “Israel’s demolition of EU-funded aid projects on the rise as EU Ministers prepare to discuss West Bank policy,” Background Briefing CET 00.01 (Monday 14 May 2012).

New Statements, Old Logic

Important attempts to reform aid policies can be observed among various international donors. Unfortunately, these new statements and policies will not lay the foundations for sustainable development in the oPt because the donor community has not taken a consistent and forward stance on the need to confront Israel’s occupation, whether it be through pressuring home governments to take tougher diplomatic stands with the Israeli government, or by actively encouraging grassroots-level resistance-building against the occupation.

For instance, the Association of International Development Agencies – Jerusalem (AIDA) is a body of various international non-governmental and non-profit organizations that seeks to “support the Palestinian people’s self-development.” In a strategic document regarding national development plans in Area C, however, the viability of this mission statement remains obscure.

The document recognizes that “humanitarian and development aid interventions should be based on locally determined priorities to encourage Palestinian engagement in Area C,” and that “construction plans in Area C should follow Palestinian initiated plans and construction schemes.” These sentences indeed look encouraging. Palestinian communities should ultimately have decision-making power in the planning and construction schemes of their own towns and villages.

AIDA makes another important point that sheds light on its attempt to reform donor policies in the region. The document states that “donors and aid agencies should advocate for the transfer of planning authority to Palestinians including to local village councils and municipalities...” Here, AIDA is emphasizing that development in

Area C must be under official Palestinian administration in order to truly develop sustainably.

This explanation is hopeful because it does indeed show donor awareness of the lack of Palestinian-owned development in this strategic area. However, the statement does very little to ensure positive change on the ground in Area C in regards to these issues, as AIDA then goes on to stipulate “coordination with the Israeli authorities for development projects in Area C.” Whether AIDA intends for this to ultimately mean informal or formal coordination with Israeli authorities, it still capitulates to Israeli occupation by accepting its illegal, extra-territorial jurisdiction in the Palestinian territories.

While AIDA acknowledges the need to “collectively review...current modalities of engagement with the Israeli planning regime in order to avoid legitimizing illegal policies of practices,” it still requires that project plans be “submitted to the Israelis... and at minimum avoiding engaging with the unlawful permit regime.” This language of the document therefore remains obscure in that AIDA requires project plans be submitted to the Israeli Civil Administration yet encourages its members to avoid “engaging” with the “unlawful permit regime.” Further, it explains that AIDA should respect “any objections from the occupying power,” that are “limited to genuine security concerns and technical arrangement conducive to the effective delivery of aid, as prescribed by international law.” Again, it remains unclear what “genuine security concerns” actually constitute, and such statements continue to validate Israel’s authority over planning and building. While AIDA undoubtedly faces serious consequences if it blatantly undermines the authority of the Israeli Civil Administration through the denial of future entry to the oPt or similar actions, it is incumbent on

such bodies to demand that their respective home governments ultimately defend and support their work in the region.

The precarious position of organizations such as AIDA paints a picture of the reality of development work in the oPt for international donors, who, in order to continue implementing projects, must also cater to the stipulations put forth by the occupying power. Looking forward, AIDA, which is made up of around 85 out of the 140 international organizations working in the oPt, is in a powerful position to take a unified and consistent stance against cooperation with the ICA. If it was willing to take a stand towards a more just development approach in Area C, this would be a profound and greatly needed move in support of Palestinian rights.

The European Commission (EC) is another international donor attempting to improve approaches to aid in Area C. The EC, like AIDA, is focusing on Area C as a strategic area for development in the oPt. In fact, it recently put forth plans for a seven million Euro grant to “support Palestinian presence in and development of Area C with the view to accomplish the creation of a viable contiguous Palestinian state.” The document explains the EC’s commitment to “help the relevant PA ministries to plan and build new infrastructure and enable people to reclaim and rebuild their land there.”³¹ Similar to AIDA’s strategic document, the project gives a good impression.

However, the EC then explains that it must undertake a financial risk of 10-20% for demolition orders from Israeli authorities. Given this, it must “ensure coordination and information vis-à-vis the Israeli authorities” and “extend the implementation period of

31- European Commission, “The European Commission Announce New Large Scale Support for the Occupied Palestinian Territory,” Press Release (Brussels: 14 September 2012). <http://unispal.un.org/UNISPAL.nsf/47D4E277B48D9D3685256DDC00612265/B0B52B6B08D450A585257A790055D617>.

all infrastructure projects after provisional acceptance from the Israeli authorities has been obtained.”³² Therefore, considering the risk of building in Area C due to the possibility of Israeli demolition, the EC must coordinate its project with the Israeli authorities in order to continue plans for building.

The first clause of the Council of the European Union’s (EU) May 2012 report regarding the “Council conclusions on the Middle East Peace Process,” articulates the EU’s explicit “commitment to a two-state solution.” Yet, regarding Area C infrastructure development, the EU mandates that it must “engage with the Government of Israel to work out improved mechanisms for the implementation of the donor funded projects.”³³ Although the EU does state that it will continue funding projects in Area C and expects these projects to be “protected for future use,” it directly legitimizes the ICA’s decision-making power and consequently maintains the need to assert Palestinian rights as a secondary priority.

Ultimately, international organizations should strive to create a united and consistent stand in regards to the terms of engagement with the State of Israel for development in the oPt, premised on a refusal to cooperate with the ICA, its permit regime, or any other form of illegal, bureaucratic control over resources, governance, and development that it imposes on the Palestinian civilian population.

32- European Commission, “Action Fiche for the West Bank and Gaza Strip: Land development and basic infrastructure in Area C, ENPI/2012/023-776.” http://ec.europa.eu/europeaid/documents/aap/2012/af_aap_2012_pse.pdf.

33- Council of the European Union, “Council conclusions on the Middle East Peace Process,” 3166th Foreign Affairs Council meeting (Brussels: 14 May 2012), p. 2. http://www.consilium.europa.eu/uedocs/cms_Data/docs/pressdata/EN/foraff/130195.pdf.

Conclusion

Moving forward, the terms of international aid to Palestinians in the oPt must immediately and unequivocally change to prioritize Palestinian rights and self-determination over flawed models of statehood and institution building.

The Oslo Accords, along with the Paris Protocols, provide a fundamentally unfavorable and destructive political and economic framework for the achievement of Palestinian self-sufficiency and Palestinian-owned local development, agenda-setting, and decision-making.

International donors exacerbate this power disparity by either avoiding the political reality of Palestinian de-development at best, or by actively facilitating Palestinian communities’ oppression and marginalization through direct coordination with Israeli authorities at worst. Any informal or formal recognition of Israeli jurisdiction in Area C, or regions like Area C such as the seam zone or Gaza’s buffer zone³⁴,

34- The buffer zone is a ½-1km military no-go area that runs along the entire Gaza Strip’s border with Israel. While this area was formally lessened in the most recent agreement between Hamas and Israel, the definite limitations of the buffer zone are generally unknown. Therefore, it still constitutes up to 17% of the Gaza Strip itself, and holds 35% of fertile agricultural land. The nautical limits has been moved from 3 to 6 nautical miles at sea in the most recent agreement between Hamas and Israel. For information on the traditional buffer zone and nautical limit before the recent ceasefire agreement See Mercedes Melon, “Shifting Paradigms – Israel’s Enforcement of the Buffer Zone in the Gaza Strip,” Al-Haq (June 2011). ; The seam zone makes up various sections of Palestinian land within the occupied Palestinian territories, that have been isolated as a result of the

undercut Palestinian ownership rights of both land and development.

International donors must not only act to fulfill their obligations under the Geneva Conventions to “respect and ensure respect” of Palestinian rights, but must also live up to international development principles that strive to “do no harm” to local populations, especially in areas of ongoing occupation such as the Palestinian territories.

Towards this goal, the international donor community can assume real action towards the protection and achievement of Palestinian rights by:

1. *Putting direct pressure on third party states to take immediate diplomatic measures to challenge Israeli impunity in regards to the occupation*
2. *Raising awareness among the international community of the importance of advancing projects for increased economic self-sufficiency as well as youth and women’s political engagement*
3. *Ensuring true partnerships, based on mutual respect and cooperation between Palestinian NGOs and international organizations in line with national priorities*
4. *Circumventing and rejecting the authority of the ICA over*

planning and building, or any local development; this includes demands for compensation for destroyed projects and a rejection of the ICA permit regime

5. *Approaching local development projects through the framework of Palestinian rights and self-determination, instead of the Oslo state-building model*

While this list is by no means exhaustive, it provides a starting point through which to rethink and restructure the aid framework in the oPt. Without genuine steps forward in this regard, the foundations needed to credibly ensure Palestinian rights and self-determination may remain out of reach.

Israeli Separation Wall, falling between the Wall itself and the 1949 Armistice Line (Green Line). Citation: “Seam Zones,” Badil Resource Center for Palestinian Residency and Refugee Rights, Badil Occasional Bulletin 25 (August 2012), p.3.



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