

## Report Series (26)

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# International Charitable Associations and Non Governmental Organizations in Palestine

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## Introduction

Charitable organizations, private social institutions and non-governmental organizations play a leading role in meeting the various needs of the community in providing social, humanitarian, cultural and health services. In several countries, these organizations voluntarily share with the state the duty of meeting the citizens' needs for the various social services.

Until recently, the state has undertaken the burden of providing the different social, cultural, health and other services to their citizens without the help of individuals and private institutions. Individuals refrained from intervening and contributing, either because they were preoccupied in profitable economic activities, or because of lack of financial and other resources.

Hence, citizens expected the state to intervene and meet their needs, and keep abreast with their changing needs, through creating and establishing the necessary public utilities and institutions.

For centuries, such a relationship between the citizen and the state prevailed. However, various global political, economic and social developments have led to radical changes towards the end of the twentieth century. Scientific development and knowledge in industry, telecommunications, transportation and other sectors have had an impact on the evolution of social and human relations, leading to the emergence of new needs and necessary services for individuals and communities. This consequently led to the emergence of new public needs that require serious interventions by states and governments.

The pace at which the need for public and social services is expanding and diversifying has multiplied the burdens of governments challenging their capacity to keep abreast with changing needs and services.

At another level, as states became more occupied in meeting public needs, they did not give enough attention to micro or secondary needs of specific groups within society whose interests may not be part of the general public welfare. This led some individuals to re-examine the nature of their relationship with the state in this respect. Individuals from several communities decided that they must take action in order to meet their needs by relying on themselves, or voluntarily participate in states' efforts, and/or contribute to the provision of various forms of public services to fulfill such needs.

The diversity in the forms and fields of non-governmental action necessitated regulating their activity by law. Such laws regulate the nature, content and form of these legal bodies by which individuals may provide community services. They include individual charitable institutions, non-profit companies, philanthropic associations, non-governmental organizations, endowments and other legal forms.

Legislations also aimed at providing a legal framework for the various pertinent activities that individuals may embark on, as well as protecting the rights, and regulating the duties of these institutions, including their legal status. Furthermore, in recognition of the importance of their positive role as partners with the state in service provision to society, and as monitoring bodies over government institutions, many states have granted non-governmental organizations an equal legal status to state public institutions. Such status provides these organizations with protection and immunity against impediments that may disrupt their activities or prevent them from performing their role in the community.

As international human and social relations became more sophisticated and interdependent, non-governmental actions are no longer restricted to service-provision within national borders. Several non-governmental organizations provide services and assistance across national borders to citizens of other countries. This necessitated state intervention to regulate the activities of international organizations operating on its land, as is the case with local organizations. This action was taken to protect their citizens and maintain their sovereignty.

In Palestine, the inception of the Palestinian National Authority (PNA) following the Oslo Agreement

had a clear impact on the nature of the roles of existing local associations and community organizations and their activists. Their role shifted from resistance, struggle and confrontation with foreign presence in Palestine<sup>(1)</sup>, to that of a voluntary partner in laying the foundations of the Palestinian state. These organizations utilized all their resources to prepare Palestinian society for the transition from occupation to statehood. They played a leading role in building this society by preparing national cadres and identifying development priorities. They also sought to enhance principles of democracy and values of integrity and transparency in the PNA's administrative conduct and performance given that their assistance was often sought to establish and run PNA institutions.

Dozens of international non-governmental organizations (NGOs) set up in the Palestinian Territories cooperated with Palestinian civil society organizations to provide relief services and contribute to the institution-building of the PNA. These civil society organizations benefited from the influx of financial support for various development and construction activities. The Palestinian Territories currently host tens, even hundreds of international governmental and non-governmental institutions and organizations that operate in various PNA sectors such as health, education, labor, judiciary, public works and security, and even in the Presidential and the Cabinet Offices. These organizations influenced the formation of the aforementioned institutions by training of their staff, the organization and composition of administrations as well as their organizational structure.

This study does not address the controversy over the significance of the role of international NGOs and their negative or positive impact on various aspects in Palestine. The Coalition for Integrity and Accountability AMAN conducted this study to examine the work environment of these organizations and the level of transparency and accountability as decisive factors in determining the efficiency of their integrity systems. This is the core mission of AMAN as an organization for transparency and accountability. The study does not aim at evaluating the impact, significance and nature of the role of these organizations but rather covers the following issues:

1. The compliance of these organizations with the enacted legal framework that regulates their activities in the Palestinian Territories.
2. The compliance of these organizations with the rules and values of integrity and transparency in their activities.
3. The compliance of Palestinian local authorities with the rules and procedures enacted in local legislation, which regulate these organizations, without discrimination, preferential treatment or favoritism.

As such, the report has been divided into three main themes. The first theme identifies the legal framework that regulates the work of international organizations; the second theme addresses the conditions and environment that surround the presence of international organizations in Palestine; and the third addresses transparency and accountability in the performance of international organizations operating in Palestine.

(1)The emergence of community organizations in Greater Syria, including Palestine, historically dates back to the Ottoman period, as the Palestinian people, as well as other peoples of Greater Syria established associations of a national and political nature to confront the ottoman national trend and in response to the Ottomans' neglect of Arab regions. These associations shifted towards the struggle for the independence of Arab states from the Ottoman State.

**See:**

- Abdul Aziz Addouri, The historic Formation of the Arab Nation- A study of Identity and Consciousness, Center for Arab Unity Studies, First Edition 1984, Beirut; p258 and on.
- Waleed Salem, Voluntary Community Organizations and the Palestinian National Authority, The Forum for Social and Economic Policy Research in Palestine, MAS, Jerusalem\Ramallah, Palestine, June 1999, pp. 44 and on.
- Samih Shbeib, The Economic and Social Roots of the Political Movement in Palestine, 1920-1948, Al-Aswar, Akko, in cooperation with the Palestinian Ministry of Culture, first Edition, Ramallah, Palestine, pp. 75 and on.



## I. The Legal Framework of International Associations and Non-Governmental Organizations Operating in the Palestinian Territories.

The Palestinian Basic Law, Article (26) of Chapter Two, regarding public freedoms and rights, stipulates that<sup>(2)</sup>, “Palestinians shall have the right to participate in political life, both individually and in groups. They shall have the following rights in particular... 2- To form and establish unions, associations, societies, clubs and popular institutions in accordance with the law”.

The recognition and assertion of Palestinian lawmakers of this right constitutes a clear indication of their compliance with the International Bill of Human Rights, particularly the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights\*. These affirm freedom of association as part of basic human freedoms and rights that states must grant to individuals.

Constitutions or basic laws set down general principles pertaining only to the legal framework on human rights. Thus, freedoms and means of protection of these rights, including interpreting and clarifying details of these rights and freedoms and their implementation

(2) On the concept of public freedoms and states obligations see:

Suad Sharqawi, The Relativity of Freedoms and its Impact on the Legal Framework, Dar Annahda Al-Arabiya, Cairo, 1979, pp 6, 7, and pp 72 and on.

Mohammad Said Majzoub, Public Freedoms and Human Rights, Jarrous Press, Tripoli, Lebanon, p. 8 and on.

Ahmad Fathi Srour, Constitutional Protection of Rights and Freedoms, Asshourouq, Cairo-Beirut, First Edition, 1999, pp. 47 and on.

\* Art. (20) of the Universal Declaration of Human Rights and Art. (22) of the International Covenant for Social and Political Rights. The first states that “ Everyone has the right to freedom of peaceful assembly and association”, while the second states that “ Everyone shall have the right to freedom of association with others, including the right to form and join trade unions for the protection of his interest”

are left to legislations enacted by the Palestinian Legislative Council (PLC). To this end, the PLC has enacted a law that identifies and regulates all aspects of these rights, entitled, The Law of Charitable Associations and Community Organizations. This law regulates the formation, rights, obligations, meetings, general assemblies and dissolution of these organizations.

### 1-1 Charitable Associations Law

The Law of Charitable Associations and Community Organizations No. (1) of 2000 includes nine chapters comprising 45 articles, which address various legal aspects related to local and foreign associations and NGOs. It also addresses the legal relationship between these organizations and the executive power in Palestine.

Chapter 1 of the law addresses the legitimate right of Palestinians to form associations, and exercise their right to conduct social, cultural, professional, scientific and other activities. It also includes definitions of legal terms used in the law.

Chapter 2 comprises six articles that address registration of charitable associations and NGOs. These articles address the formal and objective conditions for application at the Department of Associations and NGO Affairs at the Ministry of Interior, including deadlines for making decisions on filed applications, the legal status of associations between the dates of filing the application and approval, and the legal status of filed applications at the end of the Ministry's deadline for making a decision.

Chapter 3 is divided into seven articles that set down the rights and obligations of charitable associations and NGOs. These provisions address the rights and privileges of local associations, non-governmental organizations, and foreign institutions and non-governmental organizations

operating in Palestine. The articles identify their duties and obligations, including keeping financial records, documenting incoming and outgoing correspondence and maintaining a record of minutes of board and general assembly meetings at their headquarters. It also specifies the obligation of these bodies to submit periodic and regular reports to the corresponding authority, namely the Ministry of Interior.

Chapters 4 and 5 identify the structure of associations and organizations, whereby each shall have its own board and general assembly. The law also specifies the means of formation, legal mandate and tasks of each body.

Chapter 6 addresses the various legal aspects of unification, the merger of one or more associations or organizations and establishment of new bodies.

Chapter 7 addresses finances of associations and non-governmental organizations. In this regard, the Law obligates associations and organizations whose annual expenditures exceed 1000 Jordanian Dinars to prepare an annual budget under the supervision of a certified accountant. Provisions of this Chapter also stipulate that associations and organizations do not keep cash funds at their premises, except for regular expenses of a one month maximum. The Law also obligates associations and organizations to keep their funds at accredited bank\s and to notify the Ministry of the name\s of the bank\s.

Moreover, this Chapter permits associations and organizations to receive unconditional financial assistance from other sources. It allows them to address the public directly for financial contributions or to collect proceeds of fund raising activities and events.

Chapter 8 addresses international associations and organizations that intend to operate in the Palestinian Territory. It includes registration procedures and information required to apply such as: name of the association or organization, main purpose, main headquarters, address, names of the founding members and board of

directors, and the names and nationalities of individuals in charge of the proposed branch operating in Palestine.

Chapter 8 also addresses the dismantlement of associations and organizations, either as a voluntary option of the general assembly or as a mandatory measure upon an administrative decision of the Minister of Interior and under circumstances identified by the law. This Chapter defines legal procedures for optional or mandatory dismantlement of associations and organizations and the dispensing of funds and assets.

Finally, chapter 9 provisions dealt with many of the general and transitional provisions. Where it also discussed the legal relationship that ought to exist between professional associations and competent ministries. Namely those associations and NGOs that implement activities fall within the competence and areas of work of the competent ministry.

The provisions of this Chapter also addresses the legal effect upon the enforcement and validity of this Law, and asserts the need to honor and respecting the immunity of these associations and organizations, by refraining from shutting down, confiscating funds or searching their headquarters or branches except by virtue of judicial decision issued by the competent ministry.

In addition to Charitable Associations and Community Organizations law, Upon the council of ministries No(9) of 2003, the Prime minister office issued the Law of Charitable Associations and Community Organizations regulations No. (1) Of 2000. The Regulations comprise 70 articles that guide and interpret the provisions of the Law. They define administrative procedures required to register and operate as a local or international organization.

## 1-2 International Associations

Article (2) of the Charitable Associations and Community Organizations Law and article (24) Of the Regulations define a foreign/international association or organization as “any international

charitable Association or Community Organization which has its main headquarters or center of activities outside Palestinian territory, or the majority of its members are foreigners". This definition reveals that Palestinian lawmakers consider any association or NGO foreign if its administrative, financial and legal headquarters are located outside Palestinian Territory, which means the associations and NGOs that are officially registered in countries other than Palestine. According to this definition, associations and organizations that apply for registration at the Palestinian Ministry of Interior are considered foreign if the majority of their founding members or board of trustees is foreign i.e. non Palestinian ID holders.

International profit and non-profit organizations, registered as companies, are not considered associations according to the Palestinian law, irrespective of the nature of their activities. These institutions are subject to the Companies Law and accordingly cannot resort to the Associations Law. Non-profit companies have the same obligations as for profit companies, including membership and board. The capital of a non-profit company is owned by its members, as is the entire company. The difference lies in the bylaws which, unlike for profit companies, stipulate that it is inadmissible for non-profit companies to seek profit and distribute income generated from the company's activities to their members.

The Charitable Associations and Community Organizations Law is also not applicable to international institutions that belong to governmental, diplomatic and consular bodies. Nor is it applicable to international organizations such as the United Nations agencies and offices including the United Nations Relief and Works Agency UNRWA; or other international agencies such as the International Labor Organization (ILO). Activities of these organizations in the Palestinian Territory are subject to bilateral agreements between the PNA and the organizations themselves or states of origin

## 1-2-1 Registration of international associations

Since the Palestinian Charitable Associations and Community Organizations Law does not stipulate conditions for registering international organizations in Palestine, certain legal problems and uncertainties arise on whether foreigners are eligible to register and form associations on Palestinian Territory, or whether they are merely eligible to open branches of existing associations that are registered abroad.

In its definition of international associations and NGOs, the Law includes the phrase "...or whose majority of members is foreign", suggesting that foreigners are entitled to form associations and NGOs in the Palestinian Territory. Nevertheless subsequent provisions, particularly Chapter 8 of Law (Articles 34-36), as well as the Regulations (Articles 24-38), assert that non-governmental activities for non-Palestinians is only legitimate through opening branches of their associations or organizations in Palestine. Article (21) of the Regulations in particular considers that a request to form an association whose founders are predominantly non-Palestinian is a legitimate reason for dismissing the application by the Minister.

### Interpretation of Article 34<sup>(3)\*</sup> of Chapter 8

(3)\* Article 34 of the Law stipulates:

1- Any foreign association or organization may submit an application to the Minister to open one or more branches of the Association or Organization in the Palestinian territory to carry out any social services provided these services are compatible with the developmental priorities of Palestinian society, and provided the request includes the name of the foreign Association or Organization, its main headquarters, address, names of founders and members of its Board of Directors, its main purposes, and the names of the persons in charge of the proposed branch and their nationalities, and the manner in which the funds of the branch will be disposed of upon the dissolution of the branch or the liquidation of its operations or its withdrawal, and this will not exceed a period of two months from the date of the submission of the application.

2- The Competent Ministry must take into consideration the opinion of the Ministry of Planning and International Co-operation regarding the registration request of foreign associations and organizations.

states that, "it is the only legal foundation that regulates non-governmental presence in the Palestinian Territory".

Hence, in our opinion, the Palestinian Charitable Associations and Non Governmental Organizations Law has restricted the establishment of international non-governmental institutions in the Palestinian Territory to solely the establishment of branches of already existing international associations. Consequently, the only legal framework for their existence in the Palestinian Territory is through setting up branches of foreign associations and organizations that are already registered and operating in their original countries.

Therefore, international organizations that wish to open branches in the Palestinian Territory have to abide by the law and as follow:

- services provided must be consistent with the interests and aspirations of the Palestinian people.
- registration application must include the following information:
  1. Name of the association or organization.
  2. Names and addresses of founders and board members.
  3. Main objectives of the branch.
  4. Names and nationalities of individuals in charge of the proposed branch.
  5. Means of dispersing funds and assets upon the suspension of activities, dismantlement or closure of the branch.
- Article 26 of the Regulations requires the following documents to be attached with the application:
  1. Proof of a registered association outside the Palestinian Territory.
  2. Three copies of the Bylaws in Arabic, signed by three members of the founding members.
  3. Copy of passports of the founding members.
  4. Brief explanation, by the founders, illustrating how the services intended to be provided meet the interest of the Palestinian people.

These conditions and required data are closely similar to the requirements demanded of Palestinian NGOs excluding differences emanating from the considerations related to foreign presence in Palestine, such as exempting foreign branches from conditions imposed on Palestinian NGOs relating to hierachal structure or identifying membership criteria and conditions.

The Minister of Interior approves the application for registration if it meets all legal requirements. Otherwise, the Minister dismisses the application whilst providing justification for dismissal. Applicants are entitled to contest the Minister's decision at the Palestinian Administrative Judiciary.

The Law and Regulations require that the Ministry of Interior publish decisions of registering international associations in the Palestinian Official Gazette (Al-Waqa'e'), as is the case with local associations.

## 1-2-2 Rights and Obligations of International Organizations

Palestinian lawmakers, through the Law and Regulations, require the following legal obligations from international charitable associations and non-governmental organizations that wish to operate in the Palestinian territories:

- Registration at the Ministry (Article 24).
- Branches of associations and organizations are not allowed to start operations prior to registration in accordance with the Law and Regulations (Article 7 of the Law and Article 3 of the Regulations).
- Individuals in charge of the branches must notify the Ministry of Interior of any changes regarding the branch they manage within a period that does not exceed one month from the date the change took place (Article 35 of the Law).
- Funds of the organization must be deposited at an accredited bank's and information must be submitted to the relevant ministry.

The association\organization must not keep any cash funds that exceed one month's expenditures (Article 31 of the Law).

- Annual activity reports must be submitted to the Ministry of Interior that include all funds spent to execute operations in the Palestinian territory (Article 36).
- The association\organization shall not own any immovable property except upon a permit from the Council of Ministers (Article 9 of the Law).
- The association\organization shall not dispose of any immovable property in its possession except with the approval of the Council of Ministers (Article 9).
- The association\organization shall adhere to all decisions of the competent ministry regarding financial control. Article (5) of the Law asserts this obligation as it stipulates that, "The Ministry will be responsible for monitoring the work of the Associations and the Organizations in accordance with the Provisions of this Law. The Ministry may scrutinise the activity of any Association or Organization upon a substantiated written order issued in each instance by the Minister to ascertain that its funds have been spent for the purposes for which they were allocated in accordance with the Provisions of this Law and the By-Laws of the Association or Organization. The Association or Organization should enable the Ministry to implement this order to ascertain that it is conducting its affairs in accordance with the Provisions of this Law and the By-Laws of the Association or Organization". Hence, the association\organization that is subject to a follow-up decision is under the obligation and bears responsibility of assisting the ministry to perform its pertinent duty.
- The association\organization shall keep certain records and documents at its premises. Article (11) of the Law stipulates that "The Association or Organization keeps at its main headquarters its official financial and administrative records that include the following financial transactions, administrative decisions and data:
  1. Incoming and outgoing correspondence, in special files and organized records.
  2. By-Laws [of the Association or Organization], names of the members of the Board of Directors in each electoral term and the date of their election.
  3. Names of all members of the Association, Organization or Institution, along with identification, age and date of the commenced membership.
  4. Minutes of the Board of Directors meetings, in chronological order.
  5. Minutes of meetings of the General Assembly.
  6. Record of revenues and expenditure, detailed according to financial rules.International associations \ organizations must keep these records and documents at their premises, i.e. at their headquarters at all times, to enable the competent administrative authorities to identify and assess conditions and activities of the association\organization and its compliance with the Law.
- International associations\organizations are subject to the oversight of the Palestinian State Audit and Administrative Control Bureau. Article (31) of the State Audit and Administrative Control Bureau Law No.(15) of 2004 stipulates that, "The following parties are subject to the Bureau's monitoring: all forms and levels of public and non-governmental institutions and bodies, trade unions, associations and federations and their equivalent..." Hence, all existing international associations are subject to the monitoring of the Bureau and must allow it to exercise its duty to inspect their activities, documents, reports, accounts amongst other things, in accordance with the Bureau's line of duty.

International associations operating in the Palestinian Territory enjoy the same rights and privileges granted explicitly by law to Palestinian associations and non-governmental organizations. These shared rights include tax and fee exemptions, the right to own movable and immovable property, immunity of premises and other.

The Palestinian Charitable Associations and Community Organizations Law stipulates certain conditions and procedures by which international associations must comply with in order to benefit from certain privileges and rights granted to local associations\organizations. Article (9), addressing the possession of immovable property in the Palestinian Territory restricts this right in particular, meaning that it originally grants international associations all other rights and privileges granted to local associations.

#### **a- The right to receive unconditional assistance from others.**

Article (32) stipulates that, “In a manner not contravening to the provisions of this Law, Associations or Organizations may receive unconditional assistance to carry out their work”. All operating associations and organizations are entitled to receive and accept financial or other form of assistance, such as appliances and basic equipment needed to conduct its operations, or any other form of support.

#### **b- The right to collect contributions from the public**

The Palestinian Charitable Associations and Community Organizations Law provide the right to collect financial contributions directly from the public. Article (33) of the Law provides that, “Associations or Organizations may collect contributions from the public for social purposes for which they were established. Associations may organize parties, charity bazaars, and sports competitions, after informing related Ministry”.

The Law stipulates a procedural condition, namely that organizations only notify the competent ministry, i.e. the ministry that has the competence over the activity of the association\organization.

There is no need for a prior approval or permit from the authorities but a notification, which is a mere formality. The fact that lawmakers did not specify means of notification indicates that associations\organizations may use any means, i.e. in writing or other means to provide evidence of notification. Moreover, the fact that no timeframe has been identified for notification means that associations are entitled to notify at any time prior to commencement of the activity.

#### **c- The right to establish income-generating projects**

Article (15) states, “Associations and Organizations are entitled to organize activities and establish income-generating projects provided that revenues are used to cover activities for the public good...”

Registered associations and non-governmental organizations are entitled to establish income-generating projects to finance their activities, such as workshops, owning and investing in real estate to utilize their proceeds, or other investments that aim at ensuring sustainable revenues to meet the needs and expenditures of their activities.

The Palestinian law evidently avoided identifying and or limiting areas for income-generating activities for associations\organizations. This allows leaving the matter of selecting the appropriate investment activities to the discretion of the associations\organizations themselves. The only restriction in this regard is that these associations\organizations must spend the revenues and proceeds of these projects on activities and specific objectives identified in their Bylaws.

#### **d- The right to own movable and immovable property**

Article (9) illustrates this right in the following manner:

1. “An association or organization may hold transferable or non-transferable funds for the attainment of its objectives;
2. An international association or organization may hold non-transferable funds on condition that it obtains permission to that effect from the Ministerial Council upon the recommendation of the Minister;
3. No international association or organization may dispense non-transferable funds without the agreement of the Ministerial Council”.

The above article establishes the right of associations and non-governmental organizations to own all kinds of movable property, such as equipment, machines, vehicles, communication and transportation equipment and other. Additionally, it establishes the right to own immovable property such as real-estate, buildings and their equivalent if they are relevant to achieving the associations' objectives and goals. It is noted that the Palestinian Law avoided restrictions and granted organizations open rights to movable property to meet their needs.

The Palestinian Law stipulates explicitly that international associations and organizations receive a prior permit from the executive authority (Council of Ministers), upon recommendation from the Minister of Interior in order to own immovable property in the Palestinian Territories. In this regard, the Law grants power to the Council of Ministers. Furthermore, the Law spares the Council of Ministers the obligation to justify their decision if a permit is denied hence granting conclusive legal value to this decision, since it does not give the right of appeal to international associations at Palestinian courts.

#### **e- Exemption of associations and non-governmental organizations from taxes and customs duties**

Article (14) states that, “associations and organizations are exempt from taxes and custom duties on transferable and non-transferable funds necessary for implementation of activities to achieve its objectives, provided that they are not disposed of within a period of less than five years for purposes incompatible with the purposes [of the Association or Organization] unless due taxes and customs duties are paid”.

The above article explicitly exempts all funds of charitable associations and non-governmental organizations, which are relevant to their objectives, from any tax claims and customs duties. Consequently, any association or organization that imports any movable property is entitled to claim, from the Ministry of Finance, deduction of all taxes and fees imposed on that property.

However, this right is conditional. The abovementioned property shall not be disposed of in a manner that contravenes the goals and objectives of the association before the end of five years stipulated by the law. If the association decides it no longer needs this property and wishes to dispose of it before the period mentioned, it must pay taxes and duties as the property is no more designated for serving the goals and objectives of the association.

The above condition expires in five years. Thereafter associations\organizations may dispose of this property in any manner they deem appropriate, in accordance with the law, without any tax or customs claims and regardless of its relevance to the goals and objectives of the association\organization.

#### **1-2-3 Penalties against international associations for violating the law**

Jordanian Criminal Law No. 16 of 1960, applicable in the West Bank, addresses in five articles violations of moral entities of laws

that regulate activity, and penalties against such violations. The principles that underlie provisions of this law are:

- Criminal liability: Article (74) of the Law states that “Moral entities are criminally liable for the actions of their directors, board members and staff when they commit actions in the name of the aforementioned entities or use any of its means in its capacity as a moral individual”.
- Dissolution of existing associations: Article (149) stipulates that, “...any association established with the aim of changing the economic or social structure of the state, or basic conditions of the association through one of the means identified in Article(147)- terrorism- is dissolved and its members shall be subject to temporary hard labor sentences. Article (151) also asserts that any association established to damage national unity will be dissolved.
- Article (159) of the law defines illegal associations as:
  1. Any group of people, registered or unregistered, that incites or encourages, through its bylaws or advocacy, or commits any of the following illegitimate acts:
    - Toppling the constitution of the kingdom through revolt or sabotage.
    - Toppling the existing government established in accordance with the constitution with force or violence.
    - Vandalizing or ruining the property of the Jordanian government inside the Kingdom.
  2. Any group that is required by law to notify the government of its bylaws but does not comply and continues to hold meetings after termination. This paragraph also includes any branch, center, committee, entity or section of an illegitimate association, and any institution or school run by an illegitimate association or under its authority.

Hence, any international association operating in Palestine that is not registered in accordance with the Charitable Associations and Community Organizations Law No. 1 of 2000 is considered illegitimate, as it has refrained from notifying the government of its bylaws. Such violation necessitates its termination and penalization of individuals in charge by imprisonment for a period that does not exceed two years, according to Article (160) of the criminal Law.

On another level, the Charitable Associations and Community Organizations Law No.1 of 2000, allows for the termination of international associations by an administrative decision taken by the Minister of Interior under the following circumstances:

1. If it does not commence its actual operations within the first year of the date of registration at the ministry:

We believe that this requirement is sensible. Any association or organization that does not conduct any activity or action within one year of its registration and there is legal evidence of a lack of seriousness and desire to work. Hence, the ministry is entitled to dissolve it and end its legal presence.

It should be noted that the Regulations explicitly stipulate that the minister, prior to taking the dissolution decision, must issue a written warning to notify the association\organization of the decision unless the association\organization rectifies its status. Although Article (37) does not explicitly specify a timeframe for rectifying the status of the association\organization prior to enforcing the minister's dissolution decision, based on various provisions of the Law, particularly Article (38), it is possible for the institution to rectify it within three months of receiving the written warning.

Consequently, if the association\organization does not embark on any activity identified in its bylaws, the minister is entitled to issue a warning of termination. If the association\organization does not address the warning and continues with its inactivity for three months

following the receipt of the warning, the minister's termination decision is enforced and the ministry is entitled to liquidate its assets.

However, the termination decision becomes inapplicable if an association fails to comply for unanticipated and external reasons and emergencies that are beyond the control of the association\organization<sup>(4)</sup>. Hence, if the association\organization fails to commence activity for reasons beyond its control, Paragraph 2 of Article (37) of the Law is no longer applicable.

## 2. Substantial violation of Bylaws of association\organization:

The second condition for terminating associations and organizations by the Minister of Interior is when an association violates its own bylaws. A substantial violation of the association's bylaws is a violation that infringes on the objective data required by law, which constituted a precondition for considering and approving the registration of the association.

Hence, any violation of the content of the basic data as identified in Articles (34, 35 and 36) of the Charitable Associations and Community Organizations Law, and Articles (24-38) of the Regulations constitutes a substantial violation that entitles Minister of Interior to terminate the association and cancel its registration.

In this case, the law stipulates that the minister is to issue a written warning that notifies the association\organization of the nature of the violation, and grants it a legal period of three months to rectify its status, i.e. to correct the wrong and restore normal conditions same as prior to committing the violation. Hence, if the association rectifies the violation of its bylaws, the ministry is no more entitled to dissolve it and annul its registration. Similarly, if the association continues its violation, the minister is entitled to dissolve it and end its legal entity.

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(4) About the state of emergency see:

Dr. Ahmad Medhat Ali, the theory of Exceptional circumstances, The Egyptian General Authority for Book, 1978, PP. 189 and on.

In order to ensure the absence of abuse of power vis-à-vis existing associations and organizations, the law asserts the right to contest the minister's decision at related courts. Article (38) of the Law states that, "In the event a decision was taken by the Minister to cancel the registration of any association or organization, the decision shall state the causes, and the association or organization shall have the right to appeal the decision before the court. If a decision to dissolve an association or organization is contested before the court, the association or organization may resume its work until a temporary or final decision is issued to halt its activities or to dissolve it".

The above article explicitly indicates that the administrative decision to dissolve an association\organization must be substantiated. Confirming such the decision constitutes an important guarantee against arbitrary administrative decisions or illegitimate abuse of power, particularly as the legitimacy and compliance to the law in the justification of the termination decision, and explanation of its physical and legal reasons, is subject to the review of the administrative judiciary<sup>(5)</sup>.

The association or organization subject to a termination decision enacted by the Minister of Interior, may contest the decision before the Administrative Judiciary. If the decision was in contravention of the Law, or was based on abuse of power, then it would be repealed.

The legal consequences of dissolving an association or organization

The decision to dissolve an association entails eliminating its legal entity. To this end, Article (39) of the Law defines steps that must be taken upon issuing a dissolution decision:

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(5) See:

Suleiman Attamawi, Principles of Administrative Law, Third Book, Adar Al-Fikr Al-Arabi, Tenth Edition, March 1977, PP. 140 and on.

See also:

Abdul Ghani Basyouni, The Administrative Judiciary, Addar Al-Jami'ya, Beirut, 192, PP. 335 and on.

“In the event an association or organization is dissolved, a paid liquidator is appointed who prepares an inventory of its funds and assets so that they may be dispensed in accordance with procedures specified in its By-Laws and the provisions of this law. In the event, the by-laws make no reference to the manner in which the funds of the association or organization are to be dispensed, the Ministry will transfer the funds of the dissolved association or organization to an association and or organization with a similar purpose, taking into account the pensions, allowances and entitlements of the employees of the dissolved association, which would be exempt from the transfer.

In the event an association or organization is dissolved, all its monetary and in-kind funds and assets will be transferred to a Palestinian association similar in its objectives, which is selected by the dissolved association or organization.

Under all circumstances, the funds and assets of the dissolved association or organization should be spent in accordance with its purposes within the borders of the Palestinian territory”.

The afore-mentioned article stipulates that upon taking a dissolution decision, liquidation of the association constitutes a major step. Liquidation means a set of measures taken to settle the legal and financial relations that emanated from the legal presence of the association\organization. This means making an inventory of the association’s assets and

identifying its financial rights and obligations towards others.

During its legal presence, an association\organization enters into several legal and financial relations with others, the result of which is either certain financial or other rights or obligations. Consequently, there is a need for identifying these rights and obligations in order to adhere to and fulfill them.

The Palestinian law provides for these measures, which shall start by appointing a liquidator, whose task is to make an inventory of the association\organization’s assets and funds. Salaries, allowances and rights of the association’s staff, as well as financial claims of others are deducted. After which the liquidator disposes of the funds and assets in accordance with the association’s bylaws, transferring all remaining funds and assets to the party identified in the association\organization’s bylaws.

However, it is possible that the association has not identified a party to which the funds and assets are to be transferred in case of dissolution, nor has the general assembly convened to take a dissolution decision. If the bylaws of the association\organization do not identify the recipient party, the law designates the Ministry of Interior to undertake this task. Consequently, Paragraph (3) of Article (39) of the Law stipulates that the Ministry of Interior transfers these funds and assets to Palestinian associations or organizations that have similar activities and objectives as the dissolved association.





## II. The status of international associations in Palestine

International associations operating in Palestine are active in various fields such as humanitarian relief, education as well as church activities. Others are active in fields such as awareness raising and education on public rights and freedoms, development and construction services. An example is the United States Agency for International Development (USAID), whose branches and contracting companies implement construction projects for roads, governmental buildings, courts and other public buildings. Some associations play an administrative role through assisting PNA institutions in their organizational structures and technical and administrative training and capacity building of staff.

International organizations have been operating in Palestine for many years, particularly churches that have been active since the beginning of the twentieth century setting up their own service institutions, including schools and providing some humanitarian aid services.

Following the establishment of the state of Israel in 1948, several foreign organizations played an active humanitarian aid role, providing relief, food, healthcare, rehabilitation and other services.

Following the 1967 Israeli occupation of the West Bank and Gaza Strip, international organizations increased their humanitarian relief activities. Their role expanded further during the seventies and eighties of the twentieth century to include legal counseling and support to Palestinian victims of various Israeli violations, such as land confiscations, arrests, torture, home demolitions, travel bans, deprivation of citizenship and other.

Following the establishment of the PNA, there was an influx of international organizations and associations into the Palestinian Territory. These organizations aimed at providing different services, either through partnerships with existing local institutions, or through opening and registering independent branches, or even through conducting direct operations

without registration. Hundreds of organizations operated in Palestine, providing healthcare, education, as well as agricultural, humanitarian, legal, administrative, developmental, judicial, security and other services. The aim of this report is only to address the integrity and transparency of international non-governmental organizations, and not the nature and forms of these organizations or their activities.

### 2-1 Registered International Organizations in Palestine

The Palestinian authorities in charge of registering NGOs and profit organizations are the Ministry of Interior and the Ministry of National Economy. These ministries do not have an accurate registry of international associations operating in the Palestinian Territory. Data at the Ministry of Interior indicate that there are 117 branches of international associations registered<sup>(6)</sup> (110 in the West Bank and seven in Gaza).

However, following the political takeover of the Gaza Strip by the Islamic Resistance Movement-Hamas in mid June 2007, no data from Gaza has been available at the ministry in Ramallah. Consequently, there is no updated information about the actual number of neither local nor international associations in Gaza Strip.

Registered branches of international associations at the Ministry of Interior are distributed as follows:

According to Mr. Hilaneh, official responsible for registering international institutions at the Ministry of Interior, the number of these organizations has increased to become 146 institution as of April 11, 2010. This increase is due to the Ministry's guidance and legal notifications sent to non-registered international institutions operating in Palestine. In addition, the Ministry addressed all banks as well as the Monetary Authority preventing them from opening any bank account for any international institution that is not registered at the Ministry. Furthermore, a formal request was sent by the Ministry to all government institution stressing not to deal with any non- registered international organization.

- 57 branches of European organizations.
- 37 branches of American organizations.
- 8 branches of Arab organizations.
- 4 branches of Asian organizations.
- 3 branches of Canadian organizations.
- 1 branch of an Australian organization.
- No data is available on the number or affiliation of international organizations registered in the Gaza Strip due to the political split.

Geographic distribution of branches registered in the West Bank is as follows:

- 49 branches in Ramallah.
- 32 branches in Jerusalem.
- 17 branches in Bethlehem.
- 6 branches in Nablus.
- 2 branches in Jenin.
- 1 branch in Tulkarem.
- 2 branches in Hebron.
- 1 branch in Jericho.

62 branches have been registered under Palestinian citizens (i.e., holders of a Palestinian ID), while the rest have been registered by foreigners or Palestinians with dual nationalities.

A review of the list reveals that the majority of organizations registered as branches under international organizations are small institutions with a small number of staff and small budgets. They rely mostly on external funding either from their own organization or from other external parties. More than 85% of these organizations work in the fields of culture, art, children, women, youth and healthcare.

Furthermore, the number of organizations operating in Palestine is inaccurate. The Ministry of Interior points out that the number of international organizations registered at the ministry does not exceed 40% of the actual number of international organizations operating in Palestine<sup>(7)</sup>. This means that more than half

(7) Data provided in an interview with Mr. Israr Hilana, Director for Registration of Foreign Organizations at the Palestinian Ministry of Interior.

of these organizations actually operate without any legal terms of reference.

This research, according to the websites of these organizations and PASSIA directory, revealed that there are 20 American organizations operating in Palestine with only 10 registered. 45% only are registered. Fifty four European organizations are operating, of which 13% only are registered; only one Canadian organization is registered<sup>(8)</sup>.

A study of the reasons for the high number of operating unregistered international organizations revealed the following:

1. Exemption from Registrations: All USAID institutions, branches, bodies and companies operating in the PNA area received an exemption from registering at any PNA ministry.

Our information revealed that the decision was issued by the late PNA President Yasser Arafat and his prime minister in 2005. Decisions such as these gave USAID institutions immunity against any intervention that may obstruct its activities in the Palestinian Territory. Moreover, these institutions use these decisions as premises to refuse any attempt or request by the Ministry of Interior to register their branches and institutions.

2. Many USAID branches are granted registration permits from the Ministry of National Economy as non-profit companies without submitting any official documents. Their names are not even on the list of registered companies at the Companies' Controller at the Ministry. According to our data, the relation between USAID and the Ministry of National Economy is based on undeclared decisions of the Prime Minister's office and the President requiring nominal registration of these institutions as companies, in order to facilitate banking transactions<sup>(9)</sup>.

(8) See the Annex.

(9) This information was obtained in an interview with Mr. Nezam Ayyoub, the Companies' Controller at the Ministry of National Economy, and an interview with Mr. Israr Hilana, Director for Registration of Foreign Organizations at the Palestinian Ministry of Interior.

3. Based on the afore-mentioned decisions<sup>(10)</sup>, after registration, USAID non-profit companies do not report or submit budgets, and are not subject to the oversight of the Palestinian Companies Controller.
4. Employment contracts of USAID with Palestinians stipulate that conflicts which may occur at work are subject to the United states judiciary system. This clause deprives the local staff from the possibility of prosecuting these companies for violation committed against them or breach of contracts at local courts.
5. Some organizations register in Israel and operate in the Palestinian Territory based on this registration, as in the case with Diakonia<sup>(11)</sup>.
6. Most local and international organizations registered in the Gaza Strip since 1996 (data available prior to the political split) are registered as non-profit companies<sup>(12)</sup>.
7. The Ministry of National Economy in Gaza did not stop registering companies that operate as charitable associations and require that they register at the Ministry of Interior, despite the enactment of the Palestinian Charitable Associations and Community Organizations Law No. 1 of 2000.

At another level, the Ministry of Interior should have enforced the Charitable Associations and Community Organizations Law No. 1 of 2000, and obliged all registered non-profit companies to rectify their status and register as charitable associations and NGOs, but it did not. All non-profit companies continued to operate without rectifying their status.

8. Despite the fact that tens of unregistered

(10) This information was obtained in an interview with the staff of the companies department at the Ministry of National Economy.

(11) This information was obtained through contacts with Diakonia.

(12) This data was obtained from the list of non-profit companies registered in Gaza Strip

organizations operate in Palestine, and the fact that the Ministry of Interior had addressed some organizations and requested registration, the Ministry did not use its authority to hold these organizations accountable; neither did it take any steps to force them to adhere to the law. The most notable unregistered international organizations known to the Ministry of Interior are<sup>(13)</sup>:

1. CISS-Cooperazione Internazionale Sud Sud
2. Comitato Internazionale per lo Sviluppo Dei Popoli –CISP
3. Forum Ziviler Friedens Dients (Forum ZFD)
4. Friedrich-Ebert- Stiftung (FES)
5. Friedrich – Naumann Foundation for Liberty (FNF)
6. Hager Center
7. Hammer Forum EV
8. International Christian Committee for the Relief of Arab Refugees
9. Italian Consortium of Solidarity
10. Lutheran World Federation World Service –LWF
11. Kvinna till kvinna foundation (Woman to Woman –Sweden)
12. CHF International
13. Swedish International Relief Association – SIRA
14. International Women's Peace Service
15. Handicap International
16. Konrad – Adenauer- Stiftung(KAS)
17. Diakonia
18. Association for Peace

9. Data at the Ministry of Interior indicate that 80% of registered branches of international organizations, working in Palestine, submit periodic financial and administrative reports

(13) The names of these organizations were obtained from the Department of registration of foreign organizations at the Ministry of Interior.

on their activities. The number of branches of international organizations that have opened bank accounts in the PNA territory amounts to 80% of the total number of registered organizations. This means that the activities of many organizations inside the Palestinian Territory are not monitored or controlled<sup>(14)</sup>.

10. According to its annual reports, the State Audit and Administrative Control Bureau has not exercised its role in monitoring international organizations operating in Palestine. The Bureau monitors local organizations but not branches of foreign organizations<sup>(15)</sup>.

11. Some unregistered international organizations finance activities implemented by Palestinian institutions. Several joint projects, such as training, workshops, conferences, and other activities, are implemented with various PNA institutions (the Judicial, Executive and Legislative powers), which practically means that PNA institutions themselves are not keen on compliance of international organizations to the legal requirements for operating in the Palestinian Territory.

## 2-2 Transparency and integrity in the performance of international organizations operating in Palestine

Transparency and accountability constitute the foundation for good governance, rule of law hence in combating corruption. Transparency is a pre-requisite for human resource development as well. Transparency and accountability are interrelated and work to reinforce one another. Therefore, lack of transparency leads to the absence of accountability and visa versa.

Transparency is an approach, and a philosophy.

(14) This data was obtained in an interview with Mr. Israr Hilana, Director for Registration of Foreign Organizations at the Palestinian Ministry of Interior.

(15) Dr. Mahmoud Abu Rub, the President of the State Audit and Administrative Control Bureau, said in a seminar conducted by AMAN on 4 January 2010 that the Bureau audited three foreign organizations only.

It is a performance that requires state authorities, private sector and civil society organizations to act in an open and clear manner, through adopting clear procedures and measures that ensure free flow of information and public access to information on all affairs. Moreover, stakeholders in particular, and the public in general should have easy access hence enabling them to exercise their legitimate right of holding officials accountable for their actions and decisions.

The following principles underlie transparency:

- The principle of free flow of information, which enables interested parties, the public and stakeholders to have direct access to information.
- Ensure that the public and stakeholders are aware of the mechanisms and courses of action adopted by decision makers and their reasoning.

The most important aim for transparency is prevention of governmental and private sector errors, corruption, mismanagement and other forms of misconduct that may afflict the performance of the three powers, private sector institutions and civil society organizations. Open access of individuals and stakeholders to information on decision making processes and other information on financial and administrative activities enhances the oversight role of the society on the performance of these institutions and ensures that they adhere to their mandates and to the legal framework that regulates their activity and performance.

Accountability means that officials in the various institutions provide stakeholders and the public with the necessary explanation of how they exercise their powers and perform their tasks. This includes bearing responsibility for failure, incompetence or corruption which has taken place in their institutions. Accountability requires the implementation of a system to control the performance of governmental and non-governmental institutions.

In order to identify the level of compliance of international organizations operating in

Palestine to principles of transparency and accountability, we selected a random sample of registered organizations comprising around 15% of registered organizations in the West Bank. The process of sample selection considered the following:

- The geographic distribution of the sample on the West Bank governorates, including East Jerusalem.
- The diversity of the sample to include relief, health, legal, developmental and church organizations.
- Combining between grant-making and financing organizations and recipients of grants and funds.

Organizations selected:

1. Qattan Foundation, Ramallah.
2. Handicap International, Ramallah.
3. Assembly for Cooperation and Peace, Ramallah.
4. Portland Trust, Ramallah.
5. Save the Children-Sweden, Ramallah.
6. Medico International, Ramallah.
7. Oxfam-UK, Jerusalem.
8. Orthodox Association, Jerusalem.
9. Islamic Relief, Jerusalem.
10. SOS Children Village, Bethlehem.
11. International Catholic Peace Movement, Pax Christi International, Bethlehem.
12. Project Hope, Nablus.
13. Global Village: the Institute for Appropriate Technology, Nablus.
14. One Voice - Ramallah.
15. The International Cooperation, Coopi, Jenin.

We also selected Konrad Adenauer and Diakonia as unregistered operating organizations. We asked the above-mentioned organizations a set of questions, most importantly:

- a. Does your organization have a code of conduct?

- b. Does it submit periodic financial and administrative reports to the Palestinian competent authorities?
- c. Does it publish its reports and information about decisions taken and activities on its website?
- d. Is it subject to monitoring and control by the Palestinian competent authorities?
- e. What legal framework regulates its activities in the Palestinian Territory?
- f. What criteria does it use in recruiting staff?
- g. What criteria does it use in financing activities of other organizations?

The following points sum up the findings of the survey based on the responses:

#### **1. The availability of a code of conduct that regulates the organization's work**

The responses indicated that only four organizations, i.e. 20% of sample organizations have codes of conduct that are accessible to the public and are published on their websites. These are:

- Oxfam-UK, whose code of conduct is published on its website in four languages, Arabic, English, French and Spanish.
- Save the Children-Sweden, whose code of conduct is published on the web site. It also has a code of ethics addressing the staff conduct, which is signed by staff and the organization's project partners.
- Orthodox Association
- Islamic Relief

Qattan Foundation, Handicap International, Project Peace and Global Village, and Institute for Appropriate Technology do not have codes of conduct, although Qattan Foundation had signed a code of conduct prepared by AMAN.

The remaining organizations in the sample said that they had unpublished internal codes of conduct for internal use only.

## 2. Submitting periodic financial and administrative reports to the competent authorities

30% of the sampled organizations said that they submit regular financial and administrative reports to the Ministry of Interior annually.

These are:

- Association for humanitarian peace and education
- Project Peace
- Save the Children-Sweden
- Portland Trust
- International Catholic Peace Movement, Pax Christi International
- Medico International

“One Voice - Palestine” submits monthly and annual financial and administrative reports to the Ministry of Interior and the Ministry of Finance. However it has not submitted reports for the years 2007 and 2008.

Some organizations indicated that they have not submitted any administrative and financial reports, such as the Qattan Foundation, which had submitted a report once upon the implementation of a World Bank project. The Orthodox Association and Association for Peace indicated that they have never submitted any reports. Handicap International, SOS children village and International Cooperation Coopi said that they sometimes submit administrative and financial reports, while Oxfam U.K said that it would submit reports to Palestinian parties upon request, and that it submits financial reports to the Ministry of Finance every four months.

Regarding publishing reports on websites for the public, Oxfam U.K., Medico International and Save the Children Sweden said that their financial reports are accessible on their websites and are regularly published. Hence, the rate of organizations that are compliant to public release of financial and administrative information does not exceed 20% of the sampled organizations.

## 3. Monitoring and control over organizations

All interviewed organizations indicated that no control body has contacted them (Ministry of Interior or State Audit and Administrative Control Bureau).

## 4. Legal framework regulating organizations' activities

Almost all organizations indicated that they are subject to the Palestinian law since they operate in PNA territory, including Konrad Stiftung. However, Diakonia is subject to the Israeli law as it indicated, since it is registered in Israel, although it operates in PNA areas.

## 5. Criteria for recruitment of staff

All sampled organizations indicated that they advertise job vacancies in the local newspapers; interview qualified candidates whose qualifications commensurate with the job description; notify candidates whether their applications have been approved or declined indicating reasons for decisions taken.

The Orthodox Association indicated that it conducts an entrance exam for qualified candidates before selecting the most qualified. Applicants are notified by phone whether their applications have been approved or declined and the reasons for the decision.

## 6. Criteria for financing activities of other organizations

60% of the sampled organizations receive external funding, while 40 % make grants and provide funding, including Oxfam U.K., Konrad Adenauer, Save the Children-Sweden, Medico International, Diakonia and Association for Peace.

The question on criteria used in grant-making decisions revealed that all organizations build their funding decisions on conformity of objectives and vision of the requesting organization with those of the funding agency.

Medico International and Association for Peace said that the selection process includes a

comparison between project proposals through internal discussions of the financing team.

Oxfam said that it has an internal procedure for approving and funding projects, which normally includes a study of targeted areas, surveys and visits of residents, collecting data on feasibility and expected benefit of the project. A project is funded if the survey findings were found to be favorable.

Apparently, there is no clear and conclusive criteria followed. The process is subject to the inclination and conviction of the funders and their own discretion.

#### **Adherence of international NGOs operating in Palestine to principles of transparency and accountability:**

1. Most organizations operating in Palestine are not compliant to the provisions of the Charitable Associations and Community Organizations Law No. 1 of 2000, which stipulates that it is inadmissible to operate prior to completion of registration at the Palestinian competent authorities.
2. Most organizations do not issue periodic administrative and financial reports; grant citizens and beneficiaries the right of access to information about their services, budgets, and means of dispensing of funds. They also do not make public criteria for selection of beneficiaries. A random check of websites of some international NGOs operating in Palestine revealed that:
  - Organizations do not provide sufficient information about their operations, but merely overviews.
  - Organizations provide comprehensive information about their achievements, but not about obstacles or failures.
  - Organizations do not provide feedback on the feasibility or the development component of their projects<sup>(16)</sup>.

(16) This was the conclusion of a study of a random sample of 25 websites of foreign organizations operating in Palestine.

- Reports on budgets are not sufficient, and are restricted to general expenditures over long periods. This is particularly true for USAID, whose website summarizes its performance since the signing of the Declaration of Principles and Oslo Agreement in September 1993 until 2007. It had disbursed 1.7 billion U.S. dollars to implement a development program in the West Bank and Gaza in the following manner:

Economic Development	256,299,136
Democracy and Governance	229,055,235
Health and Humanitarian Aid	160,930,738
Education and Youth	64,068,708
Water, Wastewater and Infrastructure	733,592,744
Other (cash transfers to PNA, UNRWA and program support)	294,994,331
Total (West Bank and Gaza)	1,738,940,892

Many websites do not have any information on their criteria for providing assistance, grants or loans, particularly the following organizations:

- USAID - Palestine Humanitarian assistance for Palestine. Providing personnel and expertise to assist in disasters or complex emergency situations that may occur in Palestine. Domain: usaid.gov
- Canadian Palestinian Foundation of Quebec Website of the Canadian Palestinian Foundation of Quebec. Domain: cpfq.org
- Near East Foundation (NEF) - Palestine Helping people to reduce poverty and conflict in Palestine. Domain: neareast.org
- American Friends Service Committee (AFSC), Palestine Website of the American Friends Service Committee (AFSC) regional office in Palestine. Domain: afsc.org

## Conclusion and Recommendations

The most important gaps and shortcomings which study revealed are as follows:

1. Many organizations are not registered at the Palestinian competent authorities.
2. Palestinian officials are overlooking their mandate to obligate organizations operating in Palestine to adhere to Palestinian laws that regulate their operations.
3. Absence of any real oversight by the Ministry of Interior, the competent authority on activities of registered international organizations.
4. Lack of monitoring and control by the State Audit and Administrative Control Bureau on operations of international organizations.
5. Lack of coordination and integration among Palestinian institutions, particularly between the Ministry of National Economy and the Ministry of Interior. Despite the legislation on charitable associations and non-governmental organizations, tens of international organizations continue to be registered as non-profit companies.
6. Absence of clear and accurate documentation at the Ministry of Interior on international organizations operating in Palestine.
7. Absence of accountability and penalties against non-compliant and illegally operating organizations.
8. Violation of official Palestinian parties of the principle of the rule of law hence contributing to undermine legislations by permitting some international organizations to operate in contravention of the law. Furthermore, they cover up these violations for political and or financial considerations.

### Recommendations:

1. The Ministry of Interior must issue legal warnings in the local newspapers and the media that provide deadlines for all international organizations operating in Palestine to rectify their status by registering branches, or else they will face legal prosecution.
2. Obligate PNA institutions, local associations, and private sector institutions to refrain from working with unregistered international organizations.
3. Establish a committee consisting of representatives from the Ministry of Interior, the State Audit and Administrative Control Bureau and civil society organizations to formulate solutions and mechanisms to rectify the status of foreign organizations.
4. The State Audit and Administrative Control Bureau must exercise its control function over international organizations operating in Palestine and compel them to meet their legal obligations.
5. Palestinian officials must respect each others' mandates. They must not provide facilities to any unregistered organization. They also must implement Palestinian laws that grant the Ministry of Interior and the State Audit and Administrative Control Bureau the mandate to monitor and control these organizations.
6. The Ministry of National Economy must not register associations as non-profit companies. They must compel these companies to rectify their status and register as international organizations at the Ministry of Interior.
7. PNA must review its policy towards some international organizations operating in Palestine, and examine and assess their impact on development in Palestine.
8. The Palestinian executive power must issue regulations to regulate the operations of foreign organizations in Palestine.
9. The Ministry of Interior must seriously address the issue of international organizations operating in Palestine by establishing a special department for that purpose complete with the necessary staff.
10. Activation of the Palestinian Authorities components responsible for accountability measures of institutions that are not bound by the requirements of the Palestinian law and its conditions of registration ensuring that no activities take place prior to completing the required measures mentioned.



## Annexes (1)

### **Annex (1)**

**Select articles: Charitable Associations and Community Organizations Law No (1) of 2000 and Regulations regarding the registration of international organizations**

**1. Articles of the Law of Charitable Associations and Community Organizations No.(1) of 2000/international charitable associations and non-governmental organizations:**

#### **Article (34): Application for opening branches**

In accordance with the Provisions of the Law:

Any foreign Association or Organization may submit an application to the Minister to open one or more branches of the Association or Organization in the Palestinian territory to carry out any social services provided that these services are compatible with the developmental priorities of Palestinian society. The request must include the name of the Association or Organization, its main headquarters, address, names of founders and members of its Board of Directors, its main purposes, names and nationalities of the persons in charge of the proposed branch, description of disbursement funds if and when the branch closes as well as the liquidation of its operations or its withdrawal, within a period of two months from the date of the submission of the application. The Competent Ministry must discuss with the Ministry of Planning and International Co-operation any registration request of international Associations and Organizations.

#### **Article (35): Notification of changes of information on branches**

Individuals responsible for any of the branches of an international Association or Organization should inform the Ministry of any changes involving specific information relating to the branch they are managing within a period not exceeding one month of the date of the change.

#### **Article (36): Annual reports of branches**

A periodic report covering all activities of the branch, including funds spent to achieve objectives must be submitted to the Ministry.

**2. Regulations of the Law of Charitable Associations and Community Organizations Law No. (1) Of 2000 (Council of Ministers Decision No. (9) Of 2003.**

#### **Article (24) International Associations**

1. Any association whose headquarters lie outside the Palestinian Territory, or whose majority of members are foreigners.

2. Any international association that provides any social services inside the Palestinian territory must register its branches at the Ministry of Interior.
3. International associations must fill out special application forms for registration at the ministry.
4. Provisions of this article do not apply on diplomatic bodies that conduct social activities.

### **Article (25) Content of the Application**

Applications for registration of international associations must include the following information:

1. Name of association.
2. Address of headquarters (if applicable).
3. Addresses and names of founders of the branch or association.
4. Nationalities of founders.
5. Addresses and names of members of board of directors.
6. Objectives of the association.
7. Main activity of the association.
8. Names and nationalities of persons in charge of the proposed branch.
9. Means of dispensing with funds upon dissolution, liquidation or withdrawal of the branch or association.

### **Article (26) Attachments to application**

The following documents must be attached to the application:

1. Proof of registration of the association outside the Palestinian Territory.
2. Three copies of the Bylaws in Arabic, signed by three members of the founding members.
3. Copies of passports of the founding members.
4. Brief explanation, by the founders, of the services the organization provides, stating how they meet the interests of the Palestinian people.

### **Article (27) Proof of foreign citizenship**

For the purposes of these regulations, a foreign passport and/or a photocopy of it is considered sufficient proof of foreign citizenship.

## Chapter Five

### Records kept at the Department

#### **Article (36) Records kept at the Department**

The department shall keep the following records:

1. documentation of all registered local and international organizations to include the following information:
  - a. Names of associations.
  - b. Main activities.
  - c. Objectives.
  - d. Any other information deemed necessary for the information of concerned bodies.
2. A record of rejected applications that include names of the associations, their founders, objectives, reasons and date of rejection.
3. A record of all applications for registration recorded with serial numbers according to date of application.

#### **Article (37) Access to records**

1. Access to records is granted through filling a special form.
2. Administrative procedures adopted by the Department to organize access to records shall not impede or obstruct this right.
3. The Minister may impose nominal fees in return for access to records.

## Annex (2)

### Some unregistered foreign associations

No.	Name of Association/Organization	Name of Representative	Address of branch
1	CISS-Cooperazione Internazionale Sud Sud	Valeria Moro	Jerusalem
2	Comitato Internazionale Per Lo Sviluppo Dei Popoli -CISP	Louiza Rouida	Jerusalem/Wadi Al-Joz
3	Forum Ziviler Friedens Dents (forum ZFD)	Suzanne Drack	Jerusalem
4	Friedrich-Ebert- Stiftung (FES)		Jerusalem
5	Friedrich – Naumann Foundation for Liberty (FNF)		Jerusalem
6	Hager Center		Nablus
7	Hammer Forum EV	Bassem Halek	Jerusalem
8	International Christian Committee for the Relief of Arab Rrefugees	Ramzi Zananiri	Jerusalem
9	Italian Consortium of Solidarity		Ramallah/ Jerusalem
10	Kvinna till Kvinna Foundation (woman to woman –sweden)		Jerusalem
11	Lutheran World Federation World Service -LWF		Jerusalem
12	Mundubat		Jerusalem
13	Norwegian Peoples Aid-NPA		Gaza\Arrimal
14	Les Oeuvres Hospitaliers Francaise de lorde de Malte (OHFOM)		Bethlehem
15	Le Reseau de Cooperation Decentralisee Pour La Palestine	Yasser Abed	Ramallah
16	Solidaridad Internacional		Jerusalem
17	Sternberg – Star Mountain Rehabilitation Center , Moravian Church	Ruwaida M. Khoury	Ramallah
18	Swedish International Relief Association – SIRA	Salwa Hameeda	Bethlehem\ Jericho
19	UCODEP-Unity and Cooperation for Development of Peoples		Jerusalem
20	Volontariato Internazionale Per Lo Sviluppo-VIS		Bethlehem

No.	Name of Association/Organization	Name of Representative	Address of branch
21	CHFinternational	Lana Abu Hijleh	Nablus Office
22	The Ford Foundation		Middle East Regional Office
23	National Democratic institute-NDI		Jerusalem
24	The Palestine Children Relief Fund	Suhad Samara	Ramallah Office
25	Search for Common Ground	Suhail Rasoul	Jerusalem Office
26	Agency for Relief , Development and Conflict Resolution (ARDCR)		Jerusalem
27	Arab Student Aid International	Adnan Obeidat	Hebron
28	Human Appeal International	Ibrahim Rashed	West Bank
29	International Planned Parenthood Federation (IPPF)	Arafat Al-Hidmi	Jerusalem
30	International Solidarity Movement		Ramallah
31	International Women's Peace Service		Nablus
32	Friedrich Naumann Stiftung	Suleiman Abu Dayyeh	Jerusalem

**Names of international organizations addressed by the Ministry of Interior**

No.	Name of association	Association's response	Telephone No.
1	Handicap International	Did not respond after being notified	02-6261691 02-2299973
2	Konrad – Adenauer-Stiftung(KAS)	They were not responsive	02-2404305/6
3	Centro Regionale D'intervento Per La Cooperazione(CRIC)	They were not responsive	08-2866753 02-6284418
4	Hann Seidel Stiftung	They took the application for registration four months ago and have not replied so far	04-2502040
5	Mennonite Central Committee(MCC)	They were not responsive	02-6276931
6	Comitato Internazionale Per Lo Sviluppo Dei(CISP)	They were not responsive	02-6273920
7	Gruppo Di Volontariato Civile(GVC)	They were not responsive	02-6289235 02-2290396
8	Association for Peace	They were not responsive; were contacted more than once	02-6260275
9	Diakonia	They were not responsive	02-5322972
10	Pontifical Mission	Since they did not respond to calls, notifications were sent by facsimile regarding the need to register	02-6272126
11	Deir Yassin Remembered	Since they did not respond to calls, notifications were sent by facsimile regarding the need to register	0544906457 0546565631
12	Merlen	They were not responsive	02-2957846



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