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DISCUSSION PAPER

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Assessment of Norwegian Support to Democratization and Strengthened Political Legitimacy in Palestine

By Petter Skjæveland and Petter Bauck, Norad



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Executive Summary

Challenges for Democracy, Human Rights and Political Legitimacy in Palestine

The main challenges for democracy and human rights in Palestine today is the Israeli occupation and lack of sovereignty, and varied international interest in changing the present situation. It leaves Palestinians and their political system with weak legitimacy, authority and capacity. Other main internal Palestinian challenges are the political split between Palestinian Liberation Organization (PLO)/Fatah/The Palestinian Authority (PA) on the West Bank and Hamas in Gaza, weak representation, concentration of powers and lack of accountability and transparency structures, complex and non-unified laws, clientelism, weak democratic political party structures and a disconnect to Palestinian constituencies, especially women and youth, and the diaspora. Another challenge is the lack of a common Palestinian strategy to end the occupation, including disagreements on the use of violence.

Background

The Representative Office of Norway to Palestine (NRO) has requested the assistance of The Norwegian Agency for Development Cooperation (Norad) to make an assessment of Norwegian support to **democratization** and strengthened **political legitimacy** in Palestine, and of ways to improve them, including **human rights**. This report is neither about issues related to recognition of Palestine as a state¹ nor Hamas².

Approach

The report frames these issues within both a **nation** (chapter 2) and **state building** (Chapter 3) approach. State legitimacy has four main **sources**; shared beliefs or **collective identity** (chapter 2), agreed rules of procedure or **process legitimacy** (chapter 4), the effectiveness and quality of public goods and services or **performance legitimacy** (chapter 5), and **international legitimacy** (chapter 6), being the recognition of the state's external sovereignty and legitimacy by external actors, which in turn has an impact on its internal legitimacy. Findings, recommendations and advices are theory-led.

Conclusions and Findings

The report concludes that development assistance will not by itself solve the Israeli-Palestinian conflict, end the occupation, remove the biggest hindrances for development or secure a strengthened democracy and political legitimacy in Palestine. Development assistance could however improve the conditions for reaching a negotiated solution, strengthened democratization and the realization of human rights. Without complementary support from other relevant foreign policy measures, many development interventions will not be sustainable and at worst only remain emergency relief.

Even though difficult to determine exactly, the **main sources of political legitimacy** in Palestine are assessed to be, in a prioritized order: (1) liberation and resistance against the occupation, (2) religion, and (3) Palestinian national unity, including the Palestinian diaspora. Liberal democratic and human rights values also have high support, but do not create the same degree of legitimacy. Provision of social services are furthermore important sources of performance legitimacy.

¹ For information about Norway's position, refer to Innst. 273 S (2014-2015), Innstilling til Stortinget fra utenriks- og forsvarskomiteen, Dokument 8:19 S (2014-2015):

<https://www.stortinget.no/globalassets/pdf/innstillinger/stortinget/2014-2015/inns-201415-273.pdf>

² Facts about Norway's position with regard to Hamas: https://www.regjeringen.no/en/aktuelt/norway_hamas/id542566/ published 01.12.2009

The Palestinian political system has weak legitimacy due to low levels of performance legitimacy related to ending the occupation and providing security, low levels of democratic legitimacy, encompassing weak democratic processes for Palestinians in Palestine and almost non-existent for Palestinians living outside Palestine, and weak international legitimacy. Low levels of political legitimacy also relates to security coordination with Israel and perceptions of the Palestinian Authority (PA) supplanting Israel's obligations under the Geneva Conventions, and the political split between Palestinian factions and their shortcoming of a unified strategy to end occupation.

International legitimacy varies. It is low according to the international law criterion for statehood concerning the Palestinian political system's authority in the political, security and economic domain. Furthermore, it is low among Western countries related to the recognition of Palestine as a state, and varied international acceptance of major political parties.

There are many sources of legitimacy in Palestine and the interaction between them is complex and unpredictable. It is not possible to tell exactly how international development aid or Norwegian development aid influence political legitimacy. However, a clear finding is that Norwegian aid is strengthening PA and The United Nations Relief and Works Agency for Palestine Refugees in the Near East's (UNRWA's) performance legitimacy. Another finding is that international legitimacy impacts on political legitimacy in Palestine.

Palestine lacks a basic agreement among the elites – the political settlement - about how to obtain and exercise power. Palestine thus lacks ability to exercise authority, which also relates to lack of capacity to enforce its decisions, and a threatening low legitimacy among the broader population, which is necessary to reinforce elite agreement. The transformation from a liberation movement to a state building entity poses numerous challenges for the PLO and the different political parties. They draw on a tradition of clientelism and an autocratic leadership culture. The introduction of liberal democratic institutions with the Oslo Accords has resulted in a hybrid political order with a mixed political culture of liberal democratic values, patron-client relations and religious affiliations.

There might be tensions, at least in the short term, between the most effective means for achieving the goals of a sovereign Palestinian state, and strengthened democracy and human rights for Palestinians. An example is that stronger inclusion of the diaspora in political decision-making (strengthened democracy) might reduce likelihood for a negotiated peace agreement and sovereignty for Palestine.

Democratic development for Palestinians today can be addressed mainly along two paths; one by focusing on the Palestinians living in Palestine and the PA institutions, and the other, by also focusing on the Palestinians living outside Palestine and the national institutions like PLO and Palestinian National Congress (PNC). With the current situation, even though difficult, it seems easier to make democratic advancements only for the Palestinians living in Palestine, due to the complicated situation in neighboring countries and the sensitivity of the refugee question for the Israeli-Palestinian relations. However, as long as the Palestinian diaspora is not included in any democratic developments, or their situation addressed or solved somehow, it will continue to pose challenges for the legitimacy of democratic developments in Palestine, both among the diaspora and the Palestinians in Palestine who sympathize with the diaspora. This, in turn, represents a risk for the sustainability of any democratic developments in Palestine.

State building and democratic development are long-term processes and not linear. To improve democratic development and human rights, however not necessarily the likelihood for a negotiated peace agreement or a sovereign state, there is need for a series of changes and reforms:

- Increased authority in the political and security domain.
- Palestinian national dialogue and reconciliation, including the diaspora.
- Institutional reform to allow for democratic decision-making:
 - National and international agreement on clear criteria for acceptance of an election process and the outcome.
 - Reconnection of the Palestinian political system to its constituencies, especially Palestinian refugees, women, civil society organizations, independent youth movements and leadership, prisoners
- Improved transparency and accountability within the PA and the PLO.
- Reduced clientelism, in general, and in particular, strengthened civil service reorganization and reorientation, including meritocratic recruitment.
- Strengthened gender equality and reformation of laws discriminating women.

Development Cooperation

Palestine is highly aid dependent and receives aid from a high number of countries. Since 1993, Palestine has been one of Norway's main recipients of development aid. Norway has been politically and financially involved in continuous support for peace negotiations between the parties, and a firm supporter of the establishment of Palestine as an independent and sovereign state side by side with Israel. Over the years this has resulted in a wide variety of Norwegian funded projects, programs and sectors. As chair of the Ad Hoc Liaison Committee (AHLC), Norway has played a pivotal role in coordinating all the donors and facilitating the relations with the Palestinians and the Israelis. Central goals for Norwegian development aid has been to contribute to building the institutional foundation for a sustainable and sovereign state, and to support realization of democracy and human rights.

Lack of information and transparency on aid flows, donors' pursuit of various political agendas, conflict of interest among donors, and between donors and PA regarding aid coordination, all pose challenges for effective development cooperation in Palestine.

Norwegian development cooperation in Palestine today is in general assessed to be relevant for strengthening democracy and human rights as capacity needs are very high. However, to reach *sustainable* results from Norwegian development aid, there is need to also take factors hampering the achievements of sustainable results into consideration.

Recommendations

In order to strengthen democratization, political legitimacy and human rights in Palestine through development cooperation, we recommend:

for international development aid donors:

- Increased efforts to improve aid coordination and division of labor among donors focused on donors' special advantages.
- Continued high level of development aid to Palestine due to high needs.
- High and continued support for Gaza reconstruction and development due to high needs.
- Continued high support to UNRWA due to high needs and its important role.
- Supporting elections when relevant, as well as national and international agreement on clear criteria for an election process and the outcome.
- In face of a possible PA collapse, focusing on strengthening local governments' authority and capacity for service delivery.

for Norwegian development aid:

- Complementing development engagement with other foreign policy measures, as well as ensuring policy coherence, to increase likelihood of sustainable development aid results.
- Not engaging in new sectors or increasing the number of agreements, and over time consolidating efforts focused on strategic interventions.

More specific recommendations are given in chapter 9.

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Abbreviations and Acronyms

AHLC	Ad Hoc Liaison Committee
AMAN	Coalition for Accountability and Integrity
CSO	Civil Society Organization
EC	European Commission
ECFR	European Council of Foreign Relations
FATAH	Harakat al-Tahrir al-Watani al-Filastini («Fatah» also means conquering in Arabic)
GDP	Gross Domestic Product
GPC	General Personnel council
HAMAS	Harakat al-Muqawamah al-Islamiyyah
IBRD	International Bank of Reconstruction and Development (Part of the World Bank Group)
ICG	International Crisis Group
IMF	International Monetary Fund
MADA	Palestinian Center for Development and Media
MFA	Ministry of Foreign Affairs
MOF	Ministry of Finance
NDP	National Development Plan
NGO	Non-Governmental Organization
NIS	Israeli Shekel (NIS 1 = approx.. NOK 2, May 2015)
NOK	Norwegian <i>kroner</i>
Norad	Norwegian Agency for Development Cooperation
NRO	Norwegian Representative Office (Al Ram)
ODA	Official Development Assistance
OECD	Organisation for Economic Co-operation and Development
PCBS	Palestinian Central Bureau of Statistics
PCPSR	Palestinian Center for Policy and Survey Research
PLC	Palestinian Legislative Council
PLO	Palestinian Liberation Organization
P(N)A	Palestinian (National) Authority
PNC	Palestinian National Council
SAACB	State Audit and Administrative Control Bureau
TOR	Terms of Reference
ULF	Unified Leadership Framework
UNDP	United Nation Development Programme
UNRWA	United Nations Relief and Works Agency for Palestine Refugees
UNSCR	United Nations Security Council Resolution
USD	United States Dollar
YMCA/YWCA	Young Men's Christian Association/Young Women's Christian Association

1 Introduction

1.1 Background and Assignment

Norway has a long engagement with Palestine aimed at supporting the establishment of an independent Palestinian state as part of a negotiated two-state solution with Israel, exemplified with its central role in facilitating the Oslo Accords. Through political and financial support to the Palestinian Liberation Organization (PLO) and Palestinian Authority (PA), the aim is to build the institutional foundation for a sustainable and viable state. Norway is engaged in mobilizing aid to Palestine internationally as Chair of AHLC and in facilitating dialogue and negotiation between Israel and the PLO, representing the Palestinians.

This report is neither about issues related to recognition of Palestine as a state³ nor Hamas⁴.

The Representative Office of Norway to Palestine (NRO) has requested the assistance of Norad to make an assessment of Norwegian support to democratization and strengthened political legitimacy in Palestine. The Terms of Reference for the assessment has been worked out in dialogue between NRO, the Norwegian Ministry of Foreign Affairs and Norad, and is attached in annex 1.

1.2 Purpose and Constraints

The purpose of the assessment is to contribute to the strengthening of Norwegian efforts in supporting democratic development and the realization of human rights in Palestine. The purpose is not to assess the whole conflict situation or all the involved actors, nor how best to contribute to peace and the establishment of a Palestinian state. The assessment should give special emphasis on legitimacy, political participation and public policy development in Palestine. Legitimacy is fundamentally a subjective concept and we thus try to assess it from a Palestinian's point of view. It is important to note that our conclusions and recommendations are theory-led.

1.3 Methodology

The methodology used for the report is a qualitative approach based on both primary and secondary data sources. Secondary data has consisted of various reports about Palestine and the governance situation by researchers, donors, international and local CSOs, journalists and in-house assessments, as well as theoretical literature. The secondary data is supplemented by primary data derived from a scoping mission in Palestine in February 2015 by the team from Norad. Due to time limitations, several passages from secondary data are included in its entirety, while crosschecked for accuracy as part of an iterative process during the mission.

A number of stakeholders in Palestine (West Bank and Gaza), Norway, and US (by phone), were interviewed in January-February 2015. The field visit to Palestine included interviews with senior political figures, representatives from Government institutions, youth and students, independent experts and researchers, and several representatives from oversight bodies, civil society, media and academic institutions.

1.4 Theoretical Framework and Clarifications

Political legitimacy, democracy and human rights are complex issues. There is a range of theoretical schools and plenty disagreements among scholars on these issues. While there are important overlaps and inter-linkages between these issues, there are also important differences. For instance,

³ For information about Norway's position, refer to Innst. 273 S (2014-2015), Innstilling til Stortinget fra utenriks- og forsvarskomiteen, Dokument 8:19 S (2014-2015):

<https://www.stortinget.no/globalassets/pdf/innstillinger/stortinget/2014-2015/inns-201415-273.pdf>

⁴ Facts about Norway's position with regard to Hamas: https://www.regjeringen.no/en/aktuelt/norway_hamas/id542566/ published 01.12.2009

democratic decisions can be in contradictions to human rights, and not everyone agrees that democracy is necessary for political legitimacy. Legitimacy is closely linked to authority, and authority depends to some degree on capacity. We also need to address these issues. We will base our assessment on the following theoretical approaches and reflections.

1.4.1 Legitimacy

The concept of legitimacy is an attempt to find an answer to the question of why people who live in a territory should let someone rule over them⁵. “Legitimacy represents a broadly shared perception that certain social arrangements are just. Ideas regarding legitimacy evolve over time. This evolution is sometimes a by-product of changes in the economy or society.”⁶

Regarding political and state legitimacy we will mainly use the theoretical approach laid out in the OECD report *The State’s Legitimacy in Fragile Situations - Unpacking Complexity* (2010), as we assess this approach to be useful looking at the Palestinian polity and special situation.

A political order, institution or actor is legitimate to the extent that people regard it as satisfactory and believe that no available alternative would be vastly superior.⁷ Political legitimacy of a state, a regime and its institutions or its leaders are important because it provides the basis for rule by consent rather than by coercion. Lack of legitimacy is a major contributor to state fragility because it undermines state authority, and therefore capacity.

This report takes an empirical approach to legitimacy. “It is concerned with people’s perceptions and beliefs, rather than with observance of normative rules: whether, how and why people accept a particular form of rule as being legitimate. Power or dominion that is seen as legitimate by those subject to it constitutes authority.”⁸ The report identifies four main sources of legitimacy⁹:

- Input or **process legitimacy**, which is tied to agreed rules of procedure;
- Output or **performance legitimacy**, defined in relation to the effectiveness and quality of public goods and services (in fragile situations, security will play a central role);
- **Shared beliefs**, including a sense of political community, and beliefs shaped by religion, traditions and “charismatic” leaders; and
- **International legitimacy**, i.e. recognition of the state’s external sovereignty and legitimacy by external actors, which in turn has an impact on its internal legitimacy.

“Understanding legitimacy in fragile states poses two challenges. First, legitimacy is essentially a *subjective* feature. Even if „performance“ can be measured objectively, for it to translate into legitimacy, it has to be perceived as such by the population. What constitutes a „fair process“ is even more culturally embedded and subjective. [...] Second, perceptions of legitimacy are also likely to differ among groups of citizens and elites, especially in fragile states. In other words, akin to authority, legitimacy in fragile states is often fragmented, reflecting fault lines that drive conflict and fragility in state and society.”¹⁰

⁵ Aarebrot, Frank and Kjetil Evjen (2014). *Land, makt og følelser. Stats- og nasjonsbygging*, Fagbokforlaget, p. 43

⁶ Fukuyama, Francis (2014). *Political Order and Political Decay. From the Industrial Revolution to the Globalization of Democracy*.

⁷ OECD (2010). *The State’s Legitimacy in Fragile Situations. Unpacking Complexity*.

⁸ Ibid. p. 15

⁹ Ibid. p. 8

¹⁰ World Bank (2012). Teskey, G, Schnell, S and Poole, A. *Beyond Capacity – addressing authority and legitimacy in fragile states*, Washington DC. World Bank, p. 11.

1.4.2 Democracy and Human Rights

Democracy, understood in a very general way, means rule by the people. A polity must enjoy some degree of self-government in order for democracy to be realized.¹¹ However, sovereignty is a condition for full realization of democracy. More specifically, democracy is understood as a process for decision-making with popular control of public affairs and political equality to participate in the process.¹² With this approach, democracy is not about the specific outcome of a democratic process, but rather about the process itself for reaching political decisions.¹³

Human rights can create a normative basis for perceiving what is satisfactory and legitimate. The international human rights framework include these instruments:

- The Universal Declaration of Human Rights,
- The seven core human rights treaties:
 - The International Covenant on Civil and Political Rights;
 - The International Covenant on Economic, Social and Cultural Rights;
 - The Convention on the Rights of the Child;
 - The Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment;
 - The International Convention on the Elimination of All Forms of Racial Discrimination;
 - The Convention on the Elimination of All Forms of Discrimination against Women;
 - The Convention on the Rights of Persons with Disabilities

A human rights based approach, which is based on the principles of participation, accountability, non-discrimination, transparency, human dignity, empowerment and the rule of law, (the so-called PANTHER-principles), creates norms for procedures, which enhances the respect, protection and fulfilment of human rights, and can be perceived as legitimate.

1.4.3 Linking Authority, Capacity and Legitimacy¹⁴

Max Weber formulate that a state is “an organization deploying a legitimate monopoly of violence over a defined territory”[...] “*Legitimacy* in Weber’s description is a claim that justifies the state’s authority, and which is shared among and internalized by its citizens.”

“Historically, European nation-states emerged as the result of warfare where state agents eliminated internal and external rivals and set up the administrative structure – or the *capacity* – to extract the necessary resources to maintain the control they gained over a certain territory.” [...] “Yet, for states to become resilient, the initial consolidation of power has to be transformed into a set of depersonalized rules – or institutions – able “to transform that raw power into authority by regularizing institutions and processes of government”.

“Consequently, to maintain a monopoly of force, a state has to be based on a basic agreement among the elites about how power is obtained and exercised – the political settlement. It also needs an administrative structure able to enforce this agreement and to prevent the (re-)emergence of violence. In other words, to exercise its *authority*, the state needs both to enjoy *legitimacy* among its

¹¹ Varieties of Democracy (2012). Global Standards, Local Knowledge: The Varieties of Democracy. Version 1.0 (October 22, 2012). Michael Coppedge; John Gerring; and Staffan I. Lindberg.

¹² Østerud, Øyvind (2002). *Statsvitenskap. Innføring i politisk analyse*, and International IDEA (2008). *Assessing the Quality of Democracy. A Practical Guide*. David Beethem, Edzia Carvalho, Todd Landman and Stuart Weir.

¹³ Østerud, Øyvind (2002), p. 140.

¹⁴ World Bank (2012). Teskey, G, Schnell, S and Poole, A. *Beyond Capacity – addressing authority and legitimacy in fragile states*, Washington DC. World Bank, quotes from p. 3-4 and 9-11. For more details, see annex 11.

elites and have the *capacity* to enforce its decisions. Furthermore, a minimum of legitimacy among the broader population is necessary to reinforce the elite agreement.”

1.4.4 State building vs. Nation building¹⁵

«State building refers to the creation of tangible institutions – armies, police, bureaucracies, ministries, and the like. It is accomplished by hiring staff, training officials, providing them with budgets, and passing laws and directives. Nation building, by contrast, is the creation of a sense of national identity to which individuals will be loyal, an identity that will supersede their loyalty to tribes, villages, regions, or ethnic groups. Nation building in contrast to state building requires the creation of intangible things like national traditions, symbols, shared historical memories, and common cultural points of reference. National identities can be created by states through their policies on language, religion, and education. But they are just as often established from the bottom up by poets, philosophers, religious leaders, novelists, musicians, and other individuals with no direct access to political power.”

“Nation building sometimes bubbles up from the grass roots, but it can also be the product of power politics – indeed, of terrible violence, as different groups are annexed, expelled, merged, moved, or “ethnically cleansed”. [...] Fortunately, violence is not the only route to national unity; identities can also be altered to fit the realities of power politics, or established around expansive ideas like that of power politics, or established around expansive ideas like that of democracy itself that minimize exclusion of minorities from the national community.”

“The creation and development of a state is primarily shaped by its elites and citizens, how they interact, how a ‘social compact’ is formed and how it evolves. However, external influences can have a constructive or debilitating impact on state building, depending on the circumstances.”

So how do we get to a stable, peaceful and democratic society, with the respect, protection and fulfilment of human rights? Unfortunately, research does not provide us with a clear answer, even less so for a country under occupation. The very idea that it is possible to, or desirable, to sequence areas for reforms is contested. “Political development – the evolution of the state, rule of law, and democratic accountability – is only one aspect of the broader human socioeconomic development. Changes in political institutions must be understood in the context of economic growth, social mobilization, and the power of ideas concerning justice and legitimacy”.

¹⁵ Fukuyama (2014), quotes from p. 185, p. 30 and p. 40.

2 Nation building – Shared Beliefs and Collective Identity

State and nation building are historically contingent: no country can copy or repeat the experience of another. In order to understand and analyze the current political situation in Palestine it is necessary to have a historical perspective as part of the contextualization. For a brief outline of some important historical events and experiences, decisive for the formation of Palestine as a nation and as a foundation for attitudes and aspirations of its people, see Brief History of Palestine in Annex 10.

“One of the most fundamental aspects of state formation is the importance of a collective identity”.¹⁶ “Nation building is the creation of a sense of national identity to which individuals will be loyal, an identity that will supersede their loyalty to tribes, villages, regions, or ethnic groups”.¹⁷ Shared beliefs and a collective identity are thus crucial sources of legitimacy in every nation state.

Political scientist Karl W. Deutsch mordantly observed that a nation “is a group of people united by a mistaken view about the past and a hatred of their neighbors”¹⁸. In other words, the essence of a nation is that people have many things in common, but have also forgotten much together.¹⁹ In the following, we highlight some relevant aspects of the Palestinian nation building, but, importantly, do not attempt to give a comprehensive picture of this process.

2.1 Class and Clan Struggle - Fragmentation and Distrust²⁰

Historical Palestine was mainly an agricultural area, and in the 1920s, more than 80% of Palestinians had worked as farmers. The society organized itself along family and clan relations, with personal loyalty and “wasta” (connections or influence)²¹ as key mechanisms. Some prominent families emerged as landowners and traders, settling in the cities. Under Ottoman rule as well as the British Mandate, close relations to the prominent families ensured the control within a rather decentralized state structure. In the 19th and early 20th century, land reforms including privatization, registration and selling of land resulted in big social class divisions between small-scale Palestinian farmers and the urban landed elite.

A growing anger among the Palestinian peasants was directed against the Jews, and the Christians, which were thought to sell land to the Jews, as well as the Palestinian Muslim urban elite. Antipathy from the countryside against the urban elite had grown over generations. From 1936 to 1939, Palestinian rebels conducted thousands of raids and attacks against the British military and the Jews. A result of the revolt was an increasing Palestinian fragmentation and social distrust. Different Palestinian families made alliances on each side of the conflict and many Palestinians were killed by their own people. The Palestinian elites focused on protecting self-interests and did not manage to unite in a national movement across conflict lines. There was thus a lacking ability to build a democratic representative national leadership. The families and clans came to play an important role in the Palestinian society, which is visible up until today.

2.2 War, External Shocks and Refugee Diaspora²²

Strictly speaking, Palestine was never a separate geopolitical, administrative unit during the 1300 years long Muslim rule in the region, from the 7th century up until 1922, when it was established as a so-called British mandate. Rather than growing organically over time, Palestinians’ national

¹⁶ OECD (2010), p. 27.

¹⁷ Fukuyama (2014), p. 185

¹⁸ <http://foreignpolicy.com/2014/01/14/national-stupidity/>

¹⁹ Aarebrot, Frank and Kjetil Evjen (2014). *Land, makt og følelser. Stats- og nasjonsbygging*, Fagbokforlaget.

²⁰ Chapter based on Tuastad (2014)

²¹ <http://www.nardelloandco.com/wasta-connections-corruption-arab-world/>

²² Chapter based on Tuastad (2014), p. 13

consciousness was formed through a series of external shocks. First, the Balfour Declaration in 1917 with subsequent increased Jewish immigration, the British Mandate period, the UN decision dividing the British Mandate in 1947, the creation of Israel in 1948 (Al-nakba), and finally the Israeli occupation of the West Bank and Gaza in 1967 (Al-naksa).

Several hundred thousand Palestinians became refugees²³, both within Palestine and Israel, as well as in neighboring countries. Many of the refugees outside the occupied territories and Israel, now counting over 3 million, are born in refugee camps and have never been in Palestine. With regard to keeping a collective identity, the geographical spreading of Palestinians, is posing a series of challenges. It is a challenge to agree and decide on who shall count as the Demos – the People, important when assessing legitimacy, democracy and human rights. Whose views shall count?²⁴ The answer to this question varies, if you include the refugee diaspora or not. The right of return²⁵ is one of the most important goals for many Palestinians and also an important source of legitimacy.

2.3 Liberation and Resistance

Together with the agrarian culture, the above-mentioned historical events have created national traditions, symbols, shared historical memories, and common cultural points of reference. One main culturally important signifier of Palestinian national identity is the idea of resistance and liberation from these external shocks. Resistance have thus become the most important source of legitimacy for many Palestinians.

In the 1950s and 60s resistance and liberation movements were established in the diaspora, mainly in refugee camps in the neighboring countries. Founded in 1959, Fatah became the main faction in the liberation movement. In 1964, the Arab League established the PLO, umbrella for a number of different movements. The Six-Day war in 1967 radicalized the Palestinian resistance movement. Fatah, as the largest faction, dominated PLO from 1969.

“For much of its history, Fatah was the embodiment of Palestinian national aspirations, virtually synonymous with the Palestinian cause itself. [...] In its] early period, Fatah’s legitimacy and popularity were intimately tied to its resort to armed struggle – to its having, in effect, “fired the first shot”. Even after revolutionary fervour faded and Fatah gradually moved toward diplomatic engagement [...] armed struggle remained central to the movement’s ethos and image. [...] Arafat said: He didn’t need the legitimacy of elections, since he had the legitimacy of the gun.”²⁶ As resistance against Israeli occupation is so important to understand the Palestinian political landscape, we will briefly take a closer look at some active and passive aspects of the resistance.

2.3.1 Passive Resistance – The Peasant, Steadfastness and Patience²⁷

“Of all signifiers of passive heroic resistance, perhaps the most evocative and ideologically powerful is that of the fellah, i.e. the peasant [...]. The peasant in Palestinian discourse symbolises an intimate and timeless connection to the soil and thus represents the Palestinian peoples’ historic ties to the land. The fellah therefore, not only symbolically underscores the legitimacy of a distinct Palestinian

²³ UNRWA’s operational definition of a Palestine refugee is any person whose “normal place of residence was Palestine during the period 1 June 1946 to 15 May 1948 and who lost both home and means of livelihood as a result of the 1948 conflict.” Palestine refugees are persons who fulfil the above definition and descendants of fathers fulfilling the definition. Source: <http://www.unrwa.org/who-we-are/frequently-asked-questions>

²⁴ Jarstad, Anna (2008) *From War to Democracy. Dilemmas of Peacebuilding*.

²⁵ This report uses the expression “right of return” in a political sense – to denote Palestinian understandings of the term, of which there are several – and not in a legal sense to endorse any particular conception of what Palestinians may or may not be entitled to.

²⁶ International Crisis Group (2009), p. 1

²⁷ Quote from Singh, Rashmi (2012). *The Discourse and Practice of ‘Heroic Resistance’ in the Israeli- Palestinian Conflict: The Case of Hamas*. In Politics, Religion and Ideology. Routledge.

national identity but also serves as a vehicle of passive resistance against the Israeli practice of conquering, confiscating and settling Palestinian lands. [...]

The significance of the fellah thus lies in the fact that it allowed Palestinians from all social strata to share in a collective sense of 'peasant-ness'. In short, the peasant functioned to unify all Palestinians by cutting across differences of class, sect, region and kinship.

Closely associated with the fellah is yet another central signifier of passive resistance, i.e. sumud. Sumud, which literally translates as steadfastness, underscores the importance of preserving a Palestinian presence on the land despite the pressures of occupation and expropriation. Hence, as a political strategy, sumud is a response to Zionist policies that seek to 'deny or erase Palestinian presence whether by physical and violent measures, social fragmentation or cultural obliteration'.

Thus, sumud references an unyielding resistance and defiance towards these pressures and takes the form 'of daily coping, of carrying on one's life, and a refusal to be cowed... [of] intifada, evading checkpoints, tax revolts [and] even just posing a "demographic threat". [...] As such, sumud becomes resistance through the sheer fact of continued Palestinian political, social and cultural presence and existence on the land. Thus, while it may be a signifier of passive resistance, sumud by no means lacks agency and indeed has often been described as a strategy.

A third and final signifier of passive resistance [...] is that of sabr. Sabr, i.e. patience, is framed as a necessary quality for all Palestinians for it is believed that it is this quality alone that enables them to bear the torment of occupation without capitulating. Sabr also references the fellah, as it is rooted in the image of the hardy peasant who patiently tills his land to make it blossom."

During the 1970s and 1980s, steadfastness informed the movement of nonviolent resistance, led largely by women and young people, facilitating the mobilization, organization and creation of socio-economic and protective support systems including the delivery of services ranging from day-care centres to income generation projects.²⁸

Many interlocutors, from both the elite, grassroots and youth, emphasized the importance of, and belief in, steadfastness as a coping strategy. As one put it: "Even though everything around us collapses, we will stay on the land".

2.3.2 Active Resistance – Armed Violence²⁹

Many Palestinians see violent resistance as legitimate in the fight against occupation. This is reflected in the December 2014 poll from Palestinian Center for Policy and Survey Research (PCPSR), which states that 42% of Palestinians believe that armed confrontation is the most effective means to end occupation; 26% believe negotiation is the best means, and 28% believe that popular non-violent resistance is the most effective route to statehood. From the September 2014 poll, figures show that when asked about the 2014 Gaza War an overwhelming majority of 80% supports the launching of rockets from the Gaza Strip at Israel if the siege and blockade are not ended.

Different Palestinian factions up until today have used armed resistance against occupation and external powers (at least) since the 1930s. The use of violence is thus an important source of legitimacy. "The signifiers of passive resistance, i.e. the fellah, sumud, sabr [...] form the very foundations upon which active resistance has been historically constructed within Palestinian society. In fact, many signifiers of active resistance, such as the act of active resistance (muqawama) itself and the shabab and shahid can be seen as direct counterpoints to these symbols of passive

²⁸ UNDP (2009/10)

²⁹ Quote from Singh (2012)

resistance. Thus, armed groups within Palestine have historically drawn upon and referenced both passive and active signifiers of heroic resistance. Hamas, in its own turn, has done exactly the same. [...]

A signifier of active resistance is that of the martyr [...] (i.e. shahid) [...] Shahid literally means one who bears witness or one who has died for God and, in that sense, references a vibrant Islamic history and tradition. In Islamic tradition, the shahid fights for Muslim lands, honour, property and family and if he dies whilst doing so, he is by virtue of fulfilling his religious duties guaranteed a place in paradise.”

2.3.3 Charismatic Legitimacy

Yasser Arafat had charismatic legitimacy by virtue of heroic actions and history, perceived as a man of the people not living in luxury and thereby not evoking the historical antipathy towards the Palestinian landed elite. After Arafat’s death in 2004, his successor Abbas, has not enjoyed the same degree of charismatic legitimacy. Abbas was by some interlocutors perceived as a corrupt man living in luxury and not being truly committed to the Palestinian case. However, when Abbas departs “an era will end for the national movement; he is the last leader, of national stature and possessed of historical legitimacy.”³⁰ A new PLO leader will face challenges getting the same kind of legitimacy as his/her predecessors.

2.3.4 Political Prisoners³¹

“According to the Palestinian Prisoner Support and Human Rights Association, Addameer, Israel has detained more than 800,000 Palestinians since 1967. This figure accounts for as much as 40 percent of the total male population of the OPTs and includes approximately 10,000 women arrested since 1967 and 8,000 Palestinian children (below 18 years old) arrested since 2000. As of June 2013, 4,979 Palestinians were being detained in Israeli prisons.

Beyond the sheer numbers involved, Palestinians clearly see those detained by Israel as political prisoners unjustly incarcerated under an occupation intent on denying all Palestinians their basic rights and freedoms. Prisoners are seen as embodying the Palestinian will to resist. [...] This political dimension to the prisoners issue explains its extraordinary symbolic power and capacity to mobilise Palestinians en masse. Celebrated for their principled opposition and personal sacrifice, prisoners are invested with precisely the type of legitimacy that continues to elude the Palestinian leadership. [...]

Another example of their importance can be found in the release of the National Reconciliation Document, or “prisoners’ document”, in 2006. Negotiated in prison by the major Palestinian political factions and signed by representatives from Fatah, Hamas, Islamic Jihad, the Popular Front for the Liberation of Palestine (PFLP), and the Democratic Front for the Liberation of Palestine (DFLP), the document lays out a common platform for national reconciliation and unity. Invested with the legitimacy that prisoners command in Palestinian society, it is seen as a missed opportunity ignored by the Palestinian leadership. That it was ignored is seen by some as evidence of the leadership’s willingness to prioritise self-interest over the national interest. Perhaps more importantly, it demonstrates that any attempt to pursue a new Palestinian political strategy/platform would be more likely to gain public legitimacy were it to be driven by or draw on prisoner leadership support.”

2.3.5 PA and the Israeli Occupation

Palestinians are divided about their view of the existence of PA. PCPSR December 2014 Poll shows that 40 % think that PA is an accomplishment for the Palestinian people (West Bank 39% and Gaza

³⁰ International Crisis Group (2013)

³¹ Quote from European Council on Foreign Relations (2014) pp. 5-6

42%), while 55 % think the PA is a burden on the Palestinian people (West Bank 56% and Gaza 53%). Interlocutors confirmed these findings, and various reasons were given to explain PA's low legitimacy. Going more into detail in subsequent chapters, we will here briefly highlight one argument directly linked to the occupation emphasized by several interlocutors, both young and old.

As long as the occupation continues, PA is by many Palestinians perceived as an administrator of the occupation. PA is seen as doing Israel's job in managing the occupation, and as well paying for it with Palestinian tax revenues and foreign aid. Some interlocutors also continued the argument by pointing to Israeli obligations under international law as an occupying power, to pay for security and social services in the occupied territories. By establishing PA, PA is perceived as relieving Israel from huge expenses. This makes it "the cheapest occupation in history", and reduces Israeli incentives for ending or easing the occupation, as it is not seen as financially or politically costly enough. Following this argument, the share existence of PA is seen as slowing down and even preventing the end of the occupation. Some interlocutors therefore argued that PA should be abolished altogether to put pressure on Israel to pay for the occupation and increase incentives for ending it.

PCPSR's poll from December 2014 shows that Palestinians are evenly split regarding support for the dissolution of PA, with about 49 % supporting and 49% opposing. Differences between West Bank and Gaza are quite small, with about 47 % supporting it in the West Bank and 52% supporting in Gaza. We assess that parts of the dissatisfaction can be explained from a resistance point of view explained above, while other parts can be explained by for instance the lack of democratic institutions and jobs, corruption and poor service delivery.

2.4 Religion

About 95 % of Palestinians see themselves as religious³², and over 90% are Muslims. Religious beliefs and religious institutions play a central role in defining what is considered morally right, appropriate, sinful, wrong, etc. in a society and in shaping people's political expectations and ideas about authority.³³ Incorporated into and made part of state institutions and policies, religious beliefs may actively promote legitimacy, but may be at odds with modern liberal ideas.

Religious themes have been central to both Islamist and nationalist parties in Palestine. Since the 1970s, Palestinian society as a whole appears to have undergone a process of Islamization. Mosques have more than doubled since then while surveys have shown increasing levels of religiosity.³⁴

Hamas springs out of the Egyptian Muslim Brotherhood based on a religious foundation. For Hamas both religion and violence play a crucial role in generating legitimacy and authority.³⁵ "Religion provides the discursive framework within which the conflict with Israel is framed. It provides justifications for Hamas' political positions – including its adoption of certain democratic principles [...]. But, beyond that, much of Hamas' political behaviour cannot be explained solely with reference to religion. The bulk of its election manifesto is shaped by non-religious concerns or by its socio-economic or political position. [... However] in other ways, religion undermines Hamas' democratic potential. Religious symbolism and arguments are at times used to foreclose debate and create taboos. Religion can also be a source for justifying inequalities, for instance between men and women or between Muslims and non-Muslims."³⁶

³² Palestinian Center for Policy and Survey Research, Poll Number 54, 15 January 2015.

³³ OECD (2010)

³⁴ Gunning, Jeoren (2008). Hamas in Politics. Democracy, Religion and Violence, p. 117

³⁵ Singh (2012) p. 532-534

³⁶ Gunning (2008) p. 266-267

In East Jerusalem, Haram al-Sharif (the Noble Sanctuary) plays an important religious and political role.³⁷ Its centrality to Jerusalem's politics has increased over the past decade, remaining one of few venues where Arabs can gather and still exert some measure of control. With the Israeli-Palestinian conflict turned toward the religious and Temple Mount activism among Jews increasing, Arab and Islamic reactions to perceived aggression have sharpened. Individual politicians have exploited the Holy Esplanade for political gain.

With the deteriorating situation in Palestine and the growing number of armed conflicts in the region, spearheaded by radical religious groups like IS/ISIL, interlocutors expressed concern about the risk of religious radicalization and a turning of the political conflict into a religious conflict. One interlocutor explained that the tolerance, characterizing Palestinian society up through history, currently was under threat: "The Palestinian society has always been pluralistic, but now we see a deteriorating discourse about the role of religion in our society. There is a pressing need for more and better religious dialogue in Palestine". Interlocutors from Gaza also expressed similar concerns. Tolerance for differences is furthermore essential for democracy, as democracy is dependent on a pluralistic society with political actors having different opinions and interests.

2.5 Tradition, Gender Inequality and Discrimination

In general the Palestinian society has been, and still is, male-dominated in the political, clan and family domain. Women do not have the same legal rights as men and are discriminated in the complex legal system. Violence against women, especially in the family, is a big and increasing problem. Less women than men work and participate in political processes. Gender inequality attitudes are also reflected in findings from the 2013 World Values Survey³⁸. Out of 1000 respondents, 73 % female respondents and 86 % male respondents agree to the statement that men make better political leaders than women do.

On the question: How essential do you think it is as a characteristic of democracy that women have the same rights as men on a scale from 1-10, where 1 means "not at all an essential characteristic of democracy" and 10 means it definitely is "an essential characteristic of democracy". Totally, 43 % of respondents give it a score from 1-5 and, 54 % score it from 6-10. By female respondents, 39 % give it a score of 1-5 and 57% a score from 6-10. These figures show that by a substantial part of Palestinians, including women, gender equality is not seen as an essential part of democracy. It is thus important to be aware of the different understandings of what is meant with democracy in Palestine today. These attitudes could imply that increased gender equality might not necessarily be perceived as a strengthened democracy and they might impact on what is seen as democratic legitimacy. However, most importantly it points to the significance of working for strengthened gender equality in Palestine and for raising the awareness and understanding of gender equality as a fundamentally important democratic principle related to political equality.

2.6 Liberal Democratic and Human Rights Values³⁹

Up until the end of the British mandate, the urban Palestinian elite was inclined towards democratic processes, however not to the value of equality. It was unthinkable that a peasant's vote should count as much as a vote from a member of the elite, and that all citizens had equal rights to participate in democratic processes. Among the peasants, the situation was almost opposite. The rural society built on strict egalitarian values, which are important democratic and human rights values, but they lacked a culture of democratic processes for decision-making. The culture was

³⁷ International Crises Group (2012)

³⁸ World Value Survey – Wave 6: 2010-2014, conducted 2013

³⁹ Chapter based on Tuastad (2014)

dominated by male leaders, and the political system was characterized by a vertically exploiting and clientelistic organization. On this basis, we would argue that some democratic values and attitudes have been present in Palestine for a long time.

Human rights violations in Palestine is mainly understood as Israeli violations. With the outbreak of the Second Intifada in 2000, one witnessed an increasing criticism also towards Palestinian authorities, security organizations and political factions, and their abuses. Since the Oslo Accords, a democratic tradition has been developing, but the legitimacy of democracy as such is assessed to have been damaged after the 2006-election and the successive international reaction.

2.7 Culture

Sources of legitimacy have also influenced and been influenced by Palestinian poets, philosophers, religious leaders, novelists, musicians, artists, dancers and other individuals creating intangible things like national traditions, symbols, shared historical memories, and common cultural points of reference. Two important Palestinians are Mahmoud Darwish (1941-2008) and Edward Said (1935-2003).⁴⁰ Darwish was one of the most famous Palestinian poets and widely perceived as a symbol of opposition to Israel. A central theme in his poetry is the concept of watan or homeland. Darwish wrote the Palestinian Declaration of Independence, proclaimed by Yasser Arafat in 1988. Darwish was also critical to the factional violence between Fatah and Hamas, and called it a "suicide attempt in the streets". Edward Said was an academic and author of among others "Orientalism". He was heavily involved in the fight for the right of national self-determination of the Palestinian people. Darwish and Said were both political active in PLO and PNC, respectively, however, both resigned from their positions as a protest to the politics that led to the signing of the Oslo Accords.

Many interlocutors asserted that it is not possible to have democracy under occupation. However, a telling statement from an interlocutor working in the cultural sector was that there is plenty of opportunities to advance democracy under occupation, as democracy is much more than elections. As we have highlighted above, shared beliefs and collective identity create sources for values and norms, from the bottom up. Cultural activities can also challenge undemocratic religious or traditional values and norms, such as gender inequality and individual freedoms.

Summing up

Palestinians' collective identity is strong. However, geographical separations, within Palestine as well as with the diaspora, results in a regression. Resistance against the occupation is the main source of political legitimacy, while religion is the second most important source, with an increasing important role. Resistance is violent and non-violent, with steadfastness as one of the most important non-violent strategies. Political prisoners play an important role as a source of political legitimacy, by representing resistance against occupation and self-sacrifice. Culture creates shared beliefs and national identity, as sources for legitimacy, from the bottom up.

Some of these findings are reflected in the December 2014 PCPSR poll on Palestinian attitudes to vital issues in Palestine: 43 % believe the most vital task is to end Israeli occupation and build a Palestinian state in the West Bank and the Gaza Strip with East Jerusalem as its capital. 31 % believe the most vital task is the right of return of refugees to their 1948 towns and villages. Only 16% believe it should be to build a religious society applying all Islamic teachings. And 9% believe the first and most vital goal should be to establish a democratic political system that respects freedoms and rights of Palestinians.

⁴⁰ Sources: http://en.wikipedia.org/wiki/Mahmoud_Darwish and http://en.wikipedia.org/wiki/Edward_Said

3 State⁴¹ building – Governance after the Oslo Accords

3.1 Territory and Fragmentation

A defining characteristic for a state is having sovereignty over a defined territory. The Israeli occupation with all its consequences leaves Palestine with no real sovereignty over its territory.

Israel is dividing up the territory through settler activity and the infrastructure that supports it, and it retains control over internal security, external borders, airspace, trade and macro-economic issues, livelihoods, health care and a range of other vital issues. The territorial fragmentation of Palestine, with the West Bank being carved into small, disconnected enclaves, and with an almost total separation between West Bank, East-Jerusalem and Gaza, has severely weakened the central authority of the PA. In addition to the Israeli occupation and the closure regime, Palestine's actual geographical split between the West Bank and Gaza also poses an extra challenge on Palestinians' authority over their own land, as they are dependent on access through Israel to connect the West Bank and Gaza.

3.2 Security, Violence and Democracy

The provision of security is a *raison d'être* of the state, and providing security is central to establishing or re-establishing an entity as a *de facto* state, and for successful democratization. Recalling Max Weber's definition of a state as an organization deploying a legitimate monopoly of violence over a defined territory, we should not forget that many of today's Western liberal democratic states have come about by the use of violence and armed struggle. Looking at tensions between democracy and the use of violence, there is no guarantee for less violence by displaying greater sensitivity to the popular will.⁴²

Tensions between the use of violence and democracy also depend on whether violence is directed internally towards your own people or externally towards another country or people. A non-state actor's use of violence against its own people, such as the Palestinian factions' violent power struggle, cannot be in line with democracy, as it at least breaches the important democratic principle of equal opportunity for every citizen to influence political decision-making. But a state's violent aggression against another country or people do not necessarily have to be in contradiction with democracy. As long as the electorate is in favor of armed struggle, political leaders and organisations will be encouraged to act accordingly.⁴³

In this regard, it should be noted that there is a widespread view that there have been actions in violation of international law on both the Palestinian and Israeli side over the years. Lately this was highlighted in the Report of the independent commission of inquiry on the 2014 Gaza conflict, where "the commission was able to gather substantial information pointing to serious violations of international humanitarian law and international human rights law by Israel and by Palestinian armed groups. In some cases, these violations may amount to war crimes."⁴⁴

⁴¹ The word "state" in relation to Palestine in this assessment refers to the territory within the pre-1967 borders, PA institutions and partly PLO institutions.

⁴² Gunning (2008) p. 239-240

⁴³ Ibid.

⁴⁴ UN Human Rights Council (2015). Report of the independent commission of inquiry established pursuant to Human Rights Council resolution S-21/1, page 19, 15 June 2015.

3.3 Political Leadership Culture

To maintain a monopoly of force, a state has to be based on a basic agreement among the elites about how power is obtained and exercised – the political settlement. In any polity the political culture among the elite will thus be a defining feature for sources of legitimacy.

During the 1960s, when Fatah and Yasser Arafat took over as Chair of PLO, the democratization process of the organization was abandoned, and the organization developed in an autocratic direction.⁴⁵ Fatah dominated PLO and Fatah's organizational structure was extremely hierarchical. It was modelled after the Leninist principle about democratic centralism and supplied with principles of internal discipline and loyalty. Power goes from the top and down. This gives room for mid-level leadership to create alliances and a clientelistic governance system. Clientelism as governance principle was consolidated in the Middle East during the Ottoman hegemony in the region. This involved a person based politics with patrons and clients. An important feature of the clientelistic system was the *wasta*, which are go-between persons. The clientelistic organizational culture in Palestine was thus further reinforced by Fatah, when they returned from exile in 1994.

Apart from violent resistance and “the legitimacy of the gun”, Fatah's source of strength was its broad inclusiveness. “Eschewing a clear ideological program, Fatah was never a party with a clearly defined philosophy. Rather, it was a movement, even a broad umbrella; Arab nationalists, Ba'athists and Marxists of various sorts found their home, as did Islamists, all united by little more than belief in national liberation and the conviction that it would come through armed struggle. Inclusive of the full gamut of Palestinian society, Fatah was, in its very construction, representative. Inside and outside, rich and poor, old and young, secular and religious – the overwhelming majority of Palestinians saw Fatah as theirs.”⁴⁶ However, “[Arafat's] rule was a study in authoritarian style and patronage networks that, especially from the early 1980s on, frustrated the emergence of challengers or of a successor generation of leaders and progressively weakened the movement's institutions”.⁴⁷

3.4 Oslo Accords and Democratic Institutions

The P(N)A was the interim self-government body established to govern parts of the West Bank and the Gaza Strip as a consequence of the 1993 Oslo Accords. The PA was formed in 1994 as a five-year interim body. Further negotiations were meant to take place between the two parties regarding its final status. The institutional set up of PA was to establish an executive with ministries, a legislative and judicial body, as well as local governments, and to conduct regular elections, much based on the idea of a liberal democratic state.

Another outcome of the Oslo Accords was the division of the occupied territories in A, B and C-areas⁴⁸. A-areas were densely populated areas where PA should have responsibility for social services and security. In B-areas, surrounding the A-areas, PA should have responsibility for social services while Israel should cater for the security. In C-areas, covering among others most of the Jordan Valley, and more than 60 % of the territory, Israel should have full control and responsibility. As part of the interim-agreement, PA authority and responsibility were supposed to expand over time. This has not happened.

The Paris protocol, incorporated in the Oslo II Accords, stipulated regulations regarding Israeli collection of Palestinian tax and custom revenues (clearance revenue), as well as regular transfer of

⁴⁵ Tuastad (2014) - Paragraph

⁴⁶ International Crises Group (2009)

⁴⁷ Ibid. p. 2

⁴⁸ For map of the areas, see annex 9.

these revenues from Israel to PA. With this arrangement, PA does not have authority over tax and custom collection.

PA was formally an organ subject to PLO. However, since the leadership of PLO and the PA was the same, the separation of the two institutions became unclear. From Yassir Arafat (1994-2004) to Mahmoud Abbas (2004 – present), the PLOs chairperson was at the same time President of PA and the leader of Fatah. This situation blurred the separation of powers and weakened democratic accountability structures.

3.5 Hybrid Political Governance System

With the Oslo process, Palestinians, “led by Fatah and the newly-established Palestinian Authority, embarked on an uneasy and incomplete transition from national liberation to state-building. The movement’s administrative structures weakened as the PA’s strengthened. [...] Mobilisation of the population through Fatah seemed unnecessary – indeed to some extent undesirable – in an era when the Palestinian leadership was intent on centralising authority and consolidating its power through the PA. As a result, the movement’s clandestine hierarchy never made the transition to open organising, and recruitment was neglected. [...] Other factors were at play. Within a relatively short period of time, the PA had acquired a reputation for inefficiency and corruption, and the diplomatic process stalled. The two pillars of Fatah’s legitimacy – that it could govern through the PA and could achieve political progress through negotiations – were gravely undermined.”⁴⁹

“Forms of corruption that had characterised the PLO as an underground resistance movement such as nepotism, favoritism and political allegiance have persisted in the PNA and still pervade governmental and non-governmental institutions. According to a 2010 opinion poll conducted by AMAN, the Coalition for Accountability and Integrity, *wasta* (favoritism) and nepotism in public positions appointments are perceived by more than half of the respondent as the most widespread forms of corruption. Such practices date back to the PNA post-formation, where governmental recruitment lacked professionalism and were linked to political affiliation, kinship and personal connections. In the absence of adequate control and oversight by the General Personnel Council, this had led to the inflation of the number of civil servants beyond needs and resources available.”⁵⁰

The combination of clientelism in PLO and Fatah, and the establishment of democratic institutions⁵¹ resulted in a hybrid political order, where state-society relations were partly based on personal ties of kin and community; public goods were partly provided to one’s own social reference group or supporters rather than on the basis of universal rights. Access to resources partly depended on exclusive personal ties, and not on open economic and political competition, which resulted in blurred distinctions between public and private spheres.

3.6 Clientelism, Democracy and Legitimacy

Clientelism as phenomenon is often identified as corruption⁵², together with the phenomenon of extraction of rents, which includes stealing and misuse of public resources. “In a clientelistic system, politicians provide individualized benefits to political supporters in exchange for their votes. These benefits can include jobs in the public sector, cash payments, political favors, or even public goods like schools and clinics that are selectively given only to political supporters”.⁵³

⁴⁹ International Crises Group (2009), p. 2.

⁵⁰ U4 Anti-Corruption Resource Centre (2012). *Overview of corruption and anti-corruption in Palestine*. U4 Expert Answer.

⁵¹ Confer chapter 3.5.

⁵² Most definitions of corruption center around the appropriation of public resources for private gain. This definition depends on a distinction between public and private, which is a central underpinning of modern(-izing) societies.

⁵³ Fukuyama (2014), p. 87

“Patronage⁵⁴ and clientelism are sometimes treated as if they were highly deviant forms of political behavior that exist only in developing countries due to peculiarities of those societies. In fact, the political patronage relationship, whether involving family or friends, is one of the most basic forms of human social organization in existence. It is universal because it is natural to human beings.”⁵⁵ “Two reasons for thinking that clientelism should be viewed as an early form of democracy rather than a form of corruption: it is based on a relationship of reciprocity and creates a degree of democratic accountability between the politician and those who vote for him or her.”⁵⁶

However, as clientelism contradicts the democratic and human right principle of equal rights for every citizen by favoring some citizens, assessing political legitimacy in a hybrid political order like Palestine poses extra challenges.

First, people’s perceptions of what constitutes legitimate public authority are often closely linked to their perceptions of individual material interests⁵⁷. The propensity to follow a given rule is likely to be strongest when norms and interests coincide. This fact has most likely contributed to a split view among Palestinians on whether the Palestinian political regime and its institutions are legitimate or not.

The legitimacy of PLO, PA and its institutions is, on a general level, assessed to have been, and to be strong among a small, influential ruling elite of elected and non-elected officials whose power, status and personal wealth depend on their position in the bureaucracy or executive.⁵⁸ Their views on legitimacy have then probably also been influenced by their ability to access state resources that can be redistributed through clientelistic networks.

By contrast, the PA is assessed to have weak legitimacy among the population at large who benefit less from the political order. A fundamental problem may thus be that political and economic elites may have little interest in building more effective and legitimate state capacity, and indeed have personal interests in undermining it. However, even though some of the Palestinian elite might prefer status quo, we assess that the majority of the elite is genuinely interested in developing and liberating Palestine from occupation. Disagreements are assessed to be more about in which direction and by which means, where religion, negotiations and violence play important parts.

Another point is that people holding democratic values high will obviously find a clientelistic system illegitimate. More interestingly, people’s view about the legitimacy of a particular regime or leader can be ambivalent. They may see them as crooked (for example, if favors are given to loyal clans or an election has been rigged), while also according them legitimacy (in the sense of believing that they represent the best available alternative) if they deliver on other aspects of legitimacy.⁵⁹ In a Palestinian context, political leaders having high resistance legitimacy might then be “excused” for practicing clientelism. Liberation movements’ clientelistic practices might in this way be tolerated as a legitimate cost to maintain necessary secrecy and loyalty in the fight against occupation.

⁵⁴ “Patronage is sometimes distinguished from clientelism by scale; patronage relationships are typically face-to-face ones between patrons and clients and exist in all regimes whether authoritarian or democratic, whereas clientelism involves larger-scale exchanges of favors between patrons and client, often requiring a hierarchy of intermediaries.” Fukuyama (2014) p. 86.

⁵⁵ Fukuyama (2014) p. 88

⁵⁶ Fukuyama (2014) p. 91

⁵⁷ OECD (2010)

⁵⁸ Ibid. p. 32

⁵⁹ OECD (2010)

Hamas and Fatah are quite similarly organized (Tuastad 2014), and we assume that clientelism is also widespread in Hamas. However, according to interlocutors, there is less clientelism in Hamas, due to a stronger democratic intra-party culture.

3.7 State⁶⁰ Capacity and Authority

Capacity and legitimacy are mutually reinforcing, and can create virtuous or vicious circles, where lack of capacity undermines legitimacy. A state will also need some degree of capacity to operate and to exercise its authority. Before assessing Palestinian democracy and political legitimacy in detail in chapter 4, we will start by addressing some important issues of capacity and authority.

For analytical purposes, we briefly introduce the concept of “national capacity”, here understood as the capacity of PLO and the PNC. In short, PLO and PNC’s national capacity have been severely reduced over the years and especially after the establishment of PA. Prior to the Oslo Accords, PLO had tax income from the Palestinian diaspora and other actors in the Middle East. Revenues came from a fixed tax on the wages earned by all Palestinians living in Arab countries and collected by those respective governments and from financial contributions by Arab states and people.⁶¹ Tax transfers were installed in the Palestinian National Fund and about 60 % of PLO’s revenues came from the national fund. According to ECFR (2014), a possible reform to the PLO “could include the establishment of new funding arrangements (such as the possibility of the PLO being allocated set funds via the Arab League) and the relocation of its headquarters outside the OPTs (possibly to Cairo, where the Arab League is located) to minimise the degree to which the occupation can be used to pressure PLO decision-making.”⁶²

3.7.1 PLO and PA’s Restricted Authority

As a result of the Israeli occupation, the Oslo Accords, the failure to reach a negotiated solution, settlement expansion and confiscation of land, and the Palestinian development in general, PLO and PA have restricted authority in the security, economic and social service delivery domain within the pre-1967 borders. Authority in the security domain is restricted to A-areas, which however frequently is violated by Israel security forces. Lack of authority results in lack of access to land, water and energy sources, to mention a few issues. Due to lack of authority in the security domain, PA is not able to properly deliver social services in East-Jerusalem and C-Areas, as well as other areas. In Gaza, PA lacks authority in the security domain as security is under the control of Hamas.

In the economic domain, PA does not control their most important source of revenue, which is the tax and customs clearance revenue collected by Israel on behalf of the Palestinian Authority. These revenues account for about 60 to 70 per cent of total Palestinian revenue. PA further lacks authority in the economic domain in Gaza. Taxation has since the Hamas takeover been under Hamas control, and the tunnel⁶³ economy has been central for Hamas revenue collection.

3.7.2 State Capacity and Building of PA Institutions

The actual building of PA capacity and the establishment of PA institutions started with the Oslo Accords. In the 2011 AHLC-statement, the WB and IMF stated that the PA had been remarkably

⁶⁰ The word “state” in relation to Palestine in this assessment refers to the territory within the pre-1967 borders, PA institutions and partly PLO institutions.

⁶¹ <http://www.passia.org/diary/Palestinian-Dictionary-Terms.htm#p>

⁶² European Council of Foreign Relations (2013).

⁶³ The Gaza Strip smuggling tunnels are passages that have been dug under the Philadelphi Corridor, a narrow strip of land, 14 km in length, situated along the border between Gaza Strip and Egypt. For more information: https://en.wikipedia.org/wiki/Gaza_Strip_smuggling_tunnels and <http://unispal.un.org/UNISPAL.NSF/0/E69044C1FD5BD1E485257C770050C8C2>

successful in building Palestinian public institutions. The World Bank affirmed that Palestinian institutions had achieved a level above the threshold for a functioning state in key sectors, such as revenue and expenditure management, economic development, service delivery and security and justice. Salam Fayyad was especially instrumental in this process. In the 2006 legislative elections, he ran as founder and leader of the new Third Way party and received meagre two percent of the votes. In 2007, he was appointed Prime Minister on the basis of “national emergency”, but however not acknowledged by the PLC. He was reappointed in 2009 and resigned in 2013.

The building of PA has by some been named Fayyadism, as Fayyad played such a crucial role. He has by many, and especially donors, been seen as an effective and performing technocratic politician. However, concerning Fayyad’s political legitimacy in Palestine, a well-informed interlocutor explained that Fayyad had performance legitimacy, but that he lacked the crucially important legitimacy stemming from resistance and from religion. As these sources of legitimacy, according to the interlocutor, were far more important than performing as a politician, Fayyad had not succeeded as a Palestinian politician.⁶⁴

3.7.3 PA’s Economic and Fiscal Situation⁶⁵

PA’s financial capacity is weak. “The Palestinian economy has been struggling for years, owing to the conflict with Israel and the consequent closure policies [...] Gaza and the West Bank each undergo periodic cycles of collapse and recovery, usually driven by Israeli invasions or trends in aid flows. The West Bank (which comprises near three-quarters of the combined GDP of the Palestinian Territories) saw a steady recovery in 2007-12, owing to an easing in some Israeli restrictions, a pick-up in donor aid flows and some private-sector investment from Gulf companies in construction and services. This has finally pushed real GDP per head slightly above its 1999 level, before the 2000 intifada, although this growth is in large part the result of a recycling of aid rather than the development of real productive capacity.

Since 2008 the PA has been implementing a set of policies grouped under the Palestinian Reform and Development Plan/Palestinian National Development Plan. This aims to consolidate the public finances by increasing tax collection and limiting spending, so as to reduce the PA's structural dependence on donors. It also looks to stimulate growth through private-sector investment. However, the PA has struggled to make cuts in politically sensitive areas such as the public-sector payroll. In addition, the unreliability of donor aid, which generally accounts for more than one-third of budgeted income, complicates the task of managing the PA's fragile public-sector finances. External budgetary support fell sharply, by 19%, in 2014—to NIS 3.7bn (US\$1bn), 23% below budget, largely because of a 70% drop in aid from the US. An extra element of uncertainty arises from Israel's ability to withhold the clearance revenue.” “The [Government of Israel] withheld clearance revenues for December (2014), January, February and March (2015), and on April 21 it released these funds after deducting USD167 million to clear debt owed by the PA for electricity, water, sewage and health referrals to Israeli hospitals. The PA contests these deductions.”⁶⁶

“Net lending, which mainly represents payments to Israel for electricity, continues to form a major drag on the PA’s budget. In 2014, it was 35 percent higher than the previous year and ran 70 percent above its budget target [totaling about USD 260 million]⁶⁷. The major cause of net lending is that funds collected from consumers through electricity bills are used by Local Government Units to finance expenditures rather than pay bills to the Israeli Electricity Company (IEC) – the main

⁶⁴ This argument is also emphasized by Tuastad (2014).

⁶⁵ Economist Intelligence Unit (2015).

⁶⁶ World Bank (2015). Economic Monitoring Report to the Ad Hoc Liaison Committee. May 27, 2015, p. 11.

⁶⁷ State of Palestine (2015). Ministry of Finance. 20 January, 2015 (own calculations).

electricity supplier. A share of the unpaid amount is deducted by Israel from the PA's clearance revenues, and is called net lending. The rest accumulates as debt which, according to IEC, stood at about USD 0.5 billion as of March 2015.”⁶⁸

A longer-term fiscal concern is donor fatigue. With little prospect of an end to the occupation—which would give the Palestinians the opportunity potentially to become self-sufficient over time—the question remains whether international donors will be willing to finance the PA indefinitely, in effect paying for social services that would otherwise be the legal responsibility of Israel, as the occupying power. Another risk is that if Hamas's role becomes more prominent in the unity government, or if it wins elections outright, this could lead to a donor boycott, as happened in 2006. A regional conference hosted by Egypt in October 2014 saw pledges totaling US\$5.4bn aimed at supporting reconstruction in Gaza”.

Regarding economic prospects for PA, IMF highlights that there is a “high degree of uncertainty and various headwinds will likely prevent a strong economic recovery in 2015. Most notable is the non-transfer to the PA of clearance revenues collected by Israel on goods imported into the West Bank and Gaza. [...] Reduced wage payments and other public spending cuts necessitated by the suspension of clearance revenues in the presence of financing constraints will likely cause a sharp reduction in private consumption and investment. In addition, Gaza reconstruction after the war is proceeding more slowly than expected, reflecting insufficient progress on national reconciliation and unfulfilled donor pledges. Real GDP in 2015 is therefore set to rise only modestly, with a pickup in Gaza from a low base and a drop of nearly 2 percent in the West Bank, although the sharp fall in oil prices provides some relief to energy consumers. Medium-term growth will remain modest, unless there is an improvement in the political climate that would lead to a lifting of restrictions in the West Bank and the blockade in Gaza.”⁶⁹ From these observations, we see that future prospects for a substantially strengthened financial capacity for PA are meagre and uncertain.

“Restrictions on economic activity in Area C of the West Bank have been particularly detrimental to the Palestinian economy” (World Bank 2014, p. 1). “Since Area C is where the majority of the West Bank's natural resources lie, the impact of these restrictions on the Palestinian economy has been considerable. Thus, the key to Palestinian prosperity continues to lie in the removal of these restrictions with due regard for Israel's security” (World Bank 2014, p. 2). To illustrate the importance of Area C, the World Bank estimates that “the total potential value added from alleviating today's restrictions on access to, and activity and production in Area C is likely to amount to some USD 3.4 billion—or 35 percent of Palestinian GDP in 2011” (World Bank 2014, p. 5).

“The impact on Palestinian livelihoods would be impressive. An increase in GDP equivalent to 35 percent would be expected to create substantial employment, sufficient to put a significant dent in the currently high rate of unemployment. If an earlier-estimated one-to-one relationship between growth and employment was to hold, this increase in GDP would lead to a 35 percent increase in employment. This level of growth in employment would also put a large dent in poverty, as recent estimates show that unemployed Palestinians are twice as likely to be poor as their employed counterparts” (WB 2014, p. 6).

3.7.4 Taxation, Aid and Legitimacy⁷⁰

If states are forced to rely on domestic taxation, such as personal-income tax, property tax and taxes on corporate profits, they are compelled to develop their administrative capacity including capacity

⁶⁸ World Bank (2015). Economic Monitoring Report to the Ad Hoc Liaison Committee. May 27, 2015, p. 10.

⁶⁹ IMF (2015)

⁷⁰ Chapter based on OECD (2010), p. 48

for tax collection. This in turn normally leads to enhanced government penetration of the territory, bureaucratic reform and institutionalised bargaining with citizens over the conditions of taxation and the government budget, and more broadly over the type of state they may accept. However, in Palestine this dynamic is being hampered by occupation policies and the Paris protocol⁷¹, which do not allow for collection of all taxes. Yet, there is scope for improvements in tax collection, as described in the World Bank Development Policy Grant IV for 2014, which is the budget support mechanism used by Norway.

States that have access to unearned income, or rents (mineral exports, oil and gas, customs duties) are less compelled to create strong institutions for the purposes of taxation. Access to rents does not depend on the state's actual ability to control its territory or to be supported by its people. For Palestine, foreign aid is such a source of rents. High aid dependency can thus be problematic for state building in Palestine as it might weaken the need or interest to bargain with citizens over taxation and develop the state's reach and administrative capacity. A narrow domestic tax base and weak public expenditure management contribute to weak state capacity and to perceptions of unfairness, which can in turn undermine legitimacy and the willingness to pay tax.

3.7.5 PA's Individual Capacity and Clientelism

According to the WB⁷², the PA had in 2013 about 155 000 employees on their wage bill, constituting about 50% of PA's total expenditure. According to PA's National Development Plan, PA employs about 153 000 civil servants, including 89 000 in the West Bank and 64 000 in Gaza.⁷³

As discussed above, the hiring of PA staff has over the years, partly been characterized by clientelistic practices. This has resulted at times both in a blown up civil service staff and in situations where the most qualified staff was not hired. An interlocutor raised concerns about recent changes in hiring practice by the PA. It was explained that top leader positions in public institutions were now mostly given to loyal Fatah representatives and not according to merit. A non-functioning General Personnel council (GPC), which is in charge of overseeing all civil service issues in the PA, was given as the main explanation for the current negative development. Similar concerns were also recently (Feb 2015) raised by the Coalition for Accountability and Integrity (AMAN) in a letter to GPC, where the organization called for "the necessity to carry out an inventory of employees exceeding the needs of ministries and official organizations."⁷⁴ This development can also be understood in light of Fatah's political culture of pursuing political power as a dominant goal over any clear ideological goals in face of Hamas' high popularity.

Clientelism has negative effects on government's capacity. "First and perhaps most importantly is the impact of patronage and clientelism on the quality of government. Modern bureaucracies are built on a foundation of merit, technical competence, and impersonality. When they are staffed by politician's political supporters or cronies, they almost inevitably perform much more poorly. Stuffing a bureaucracy with political appointees also inflates the wage bill and is a major source of fiscal deficits."⁷⁵ Concerning PA's high wage bill, the World Bank asserted in an interview that the problem with the high wage bill was not the number of employees, which were assessed to be fairly reasonable, but rather the public employees' high wages.

⁷¹ For information about the Paris protocol refer to chapter 3.4.

⁷² World Bank (2014)

⁷³ State of Palestine (2014). National Development Plan 2014-2016, State building to Sovereignty, p. 55

⁷⁴ AMAN: <http://www.aman-palestine.org/en/activities/2319.html>

⁷⁵ Fukuyama (2014), p. 87.

3.7.6 Political Split and Capacity

The political split between Hamas in Gaza and PA/Fatah in the West Bank since 2007, has severely reduced PA's capacity in Gaza. Since the split, PA has been paying salaries for about 64 000 civil servants in Gaza who have been instructed not to work.⁷⁶ Hamas on their side has employed about 34 000 civil servants to replace the PA employees, however, some state that the number is higher.⁷⁷ Yet, in vital public services of health, education and social affairs many of the PA staff remained in their positions at lower levels, while Hamas replaced all key personnel at the management level.⁷⁸ The quality of services in all fields suffered from the large-scale evacuation of qualified staff from their offices.⁷⁹

Historically, Hamas has received funding from a number of Gulf countries and donations from Palestinian expatriates around the world through its charities.⁸⁰ Some countries, like Iran, has also provided weapon and training. After the overthrow of the Muslim Brotherhood government, efforts by the Egyptian military to destroy tunnels connecting Gaza with the Sinai severely limited Hamas' access to weapons, smuggled goods, and construction materials. "According to Shin Bet, by 2010 [...Hamas'] budget consists of three major parts: 1) USD 200 million annually for government operating expenses; 2) USD 50 million each year to support the Hamas movement's civilian side and organization; and, 3) USD 40 million annually for its military wing and security apparatus." ⁸¹

⁷⁶ State of Palestine (2015), p. 55

⁷⁷ <http://www.globalsecurity.org/military/world/para/hamas-funds.htm>

⁷⁸ Hovdenak, Are (2010). The Public Services under Hamas in Gaza: Islamic Revolution or Crisis Management? PRIO Report 03/2010. PRIO, p. 72.

⁷⁹ Ibid.

⁸⁰ Paragraph based on <http://www.globalsecurity.org/military/world/para/hamas-funds.htm>

⁸¹ <http://www.globalsecurity.org/military/world/para/hamas-funds.htm>.

4 Democracy and Process Legitimacy

Democracy understood as a process for decision-making with popular control of public affairs and political equality to participate, has a lot of overlap with the principles for a human rights based approach, focusing on participation, accountability, non-discrimination, transparency, human dignity, empowerment and rule of law. Civil and political human rights furthermore outline central democratic principles, like for example the right to vote and to be elected, freedom of expression, assembly and association.

It should be noted that, according to the UN Office of the High Commissioner for Human Rights, as long as Palestine remains under occupation, Israel remains ultimately responsible for ensuring that human rights are respected in Palestine, in accordance with Israel's obligations under international human rights law.⁸² However, Palestinians also have responsibility to ensure the respect for human rights law due to PLO's accession to 18 key international treaties and conventions and the Rome Statute of the International Criminal Court in 2014.

4.1 Rule of Law, Accountability and Transparency

The concentration of power with lack of accountability mechanisms runs the risk of arbitrary abuse of power. Important democratic principles are the division of powers between the executive, the legislative and the judiciary and the principle of rule of law. In a Palestinian context, the first challenge when assessing accountability and legitimacy is to define 'the demos'.

4.1.1 National level – PLO and PNC

In order to achieve liberal democratic process legitimacy (hereafter: democratic legitimacy) among Palestinians, including the diaspora, a determining factor is the right to participate in electing their legislators and political leaders. To achieve this the PNC needs to be reactivated and elections conducted.

PNC was established in 1964 as the legislative body of PLO, representing the highest political body for all Palestinians, which also elects the PLO Central Committee. Members were appointed to the parliament's first meeting in Jerusalem in 1964 from all Palestinian groups, including the diaspora and refugees. At the conference were representatives from Palestinian communities in Jordan, West Bank, the Gaza strip, Syria, Lebanon, Kuwait, Iraq, Egypt, Qatar, Libya, and Algeria. Subsequent sessions were held in Cairo (1965), Gaza (1966), Cairo (1968 – 1977), Damascus (1979 – 1981), Algiers (1983), Amman (1984), Algiers (1988), Gaza (1996 and 1998), Ramallah (2009). However, in the latest session few representatives could attend, due to travel restrictions. There has never been elections to PNC and today it is not able to function properly due to travel restrictions for PNC-members. No functional accountability mechanism is thus in place between PNC and PLO Central Committee.

PLO has a special governance system, where consensus replaces majority rule.⁸³ Together with persuasion, the governance system is partly preventing the development of institutionalized transparent and democratic decision-making processes. The consensus rule system means that the organization has to find the least common denominator in every matter. This in turn contributes to a disproportionate big influence in decision-making processes for small factions.

⁸² "The Consistency of Applicable Palestinian Legislation with International Human Rights Law. The International Covenant on Civil and Political Rights, The International Covenant on Economic, Social and Cultural Rights", by the UN Office of the High Commissioner for Human Rights – Source: <http://pwrdc.ps/en/content/consistency-applicable-palestinian-legislation-international-human-rights-law-two>

⁸³ Paragraph based on Tuastad (2014), p. 44

In general, PLO is assessed to have medium legitimacy among Palestinians. This is a combination of high legitimacy stemming from resistance legitimacy, as well as historical and charismatic sources of legitimacy, and low democratic legitimacy due to lack of democratic processes. Some important missing democratic processes and principles are lack of elections, proper accountability mechanisms, especially with a non-functioning PNC, lack of transparency on decisions, lack of majority rule principles and lack of representation from the political spectrum in Palestine, especially by not representing Hamas and Islamic Jihad. The separation of powers and functions between PLO and the PA are unclear today as the President of PLO at the same time is the President of the PA and leader of Fatah, and therefore assessed to reduce their democratic legitimacy.

At a national level, PLO and PNC enjoy some democratic legitimacy as the sole legitimate representative of all Palestinians. PNC elections, if conducted, would significantly increase democratic legitimacy among Palestinians. However, since PNC is not able to convene properly and to hold elections, this leaves PLO and PNC in practice with low democratic legitimacy in the eyes of many, a point confirmed by several interlocutors.

According to the European Council of Foreign Relations “the separation of powers and functions between the PA and the PLO is an important prerequisite for any meaningful [democratic] institutional reform. This includes resuscitating the PLO as the sole legitimate representative of all Palestinians. Given its limited mandate and the nature of its powers, the PA is singularly unsuited to serve as a representative organisation for Palestinians, particularly those living outside the OPTs. Indeed, a strong argument can be made in favour of reducing the PA’s political role given its heightened vulnerability to punitive Israeli measures, such as the withholding of VAT transfers. While the PA will continue to play an important technical role in terms of service provision and administration, clarified arrangements should be introduced to avoid any doubt that the PLO remains the primary address for all political decision-making, including decisions directly related to any future “State of Palestine”. Such a clarification is particularly important within the context of recent Palestinian efforts to achieve UN recognition of a Palestinian state. The creation of a Palestinian state does, after all, remain a central pillar of the PLO’s political programme. The PLO Executive Committee could become something akin to a Palestinian government in-exile, without its role as the representative of all Palestinians being jeopardized.”⁸⁴

“The inclusion of Hamas and other Islamist factions into the PLO is also another important [democratic] reform. This should be accompanied by a review of the PLO Charter to more clearly define PLO internal procedures, including respect for democratic principles and clear guidelines in the event of internal disagreements.”⁸⁵

United Nations Relief and Works Agency for Palestine Refugees (UNRWA) is an important international organization recognizing and granting five million Palestinians status as refugees. In the absence of a solution to the Palestine refugee problem, the General Assembly has repeatedly renewed UNRWA's mandate, most recently extending it until 30 June 2017. The role of UNRWA as a guarantor of the refugee status has potential important implications for democratic legitimacy of the Palestinian political system. Being registered as a refugee imply that they would be eligible to vote and take part in political processes concerning Palestine’s future. UNRWA is thus assessed as important for democratic legitimacy in the Palestinian political system.

⁸⁴ European Council of Foreign Relations (2013)

⁸⁵ Ibid.

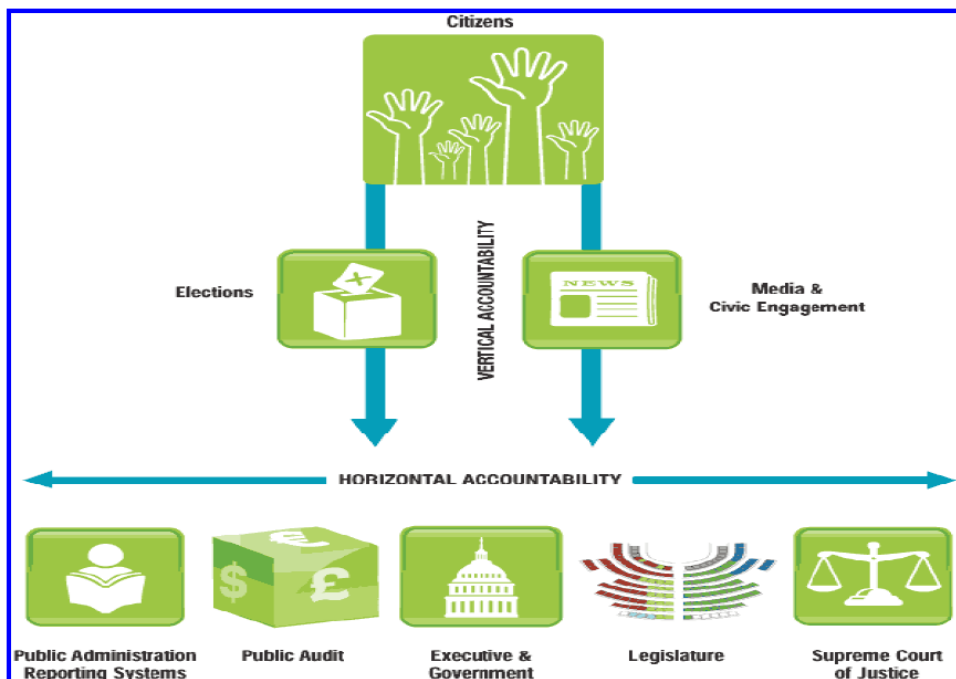
4.1.2 State Level – PA and Hamas - West Bank and Gaza - Concentration of Power and Weak Horizontal Accountability

As discussed above the Palestinian governance system is of a hybrid character, with both formal democratic institutions⁸⁶ and informal clientelistic governance institutions. Clientelism constitutes a serious challenge for democracy as it undermines democratic practices by strengthening existing elites and blocking democratic accountability.⁸⁷

Simply defined, accountability is the obligation of power-holders to take responsibility for their actions.⁸⁸ It describes the rights and responsibilities that exist between people and the institutions that have an impact on their lives. In democratic states, accountability relationships help to ensure that decision-makers adhere to publicly agreed standards, norms and goals: citizens grant their government powers to tax, to spend, and to enact and enforce laws and policies. In return, they expect the government to explain and justify its use of power and to take corrective measures when needed.

In this view, accountability has a political purpose [to check the abuse of power by the political executive] and an operational purpose [ensure the effective functioning of governments]. Accountability can be vertical - imposed externally on governments, formally through electoral processes or indirectly through civic engagement, and it can be horizontal - imposed by governments internally through institutional mechanisms for oversight and checks and balances. Examples of these different types of mechanisms are illustrated in figure 1 below.

Figure 1. Vertical and horizontal accountability mechanisms of state accountability



Source: FOSTERING SOCIAL ACCOUNTABILITY. A GUIDANCE NOTE. 2010. UNDP

⁸⁶ Refer to chapter 3.4.

⁸⁷ Fukuyama (2014) p. 88

⁸⁸ Paragraph based on UNDP (2010). *Fostering social accountability. A guidance note.*
<http://www.undp.org/content/dam/undp/library/Democratic%20Governance/OGC/dg-ogc-Fostering%20Social%20Accountability-Guidance%20Note.pdf>

Rule of Law and Human Rights

Rule of law is a main accountability function for a society. In Palestine, there is a highly complex legal setting with Customary Law, Ottoman Law, British Law, Jordanian Law, Egyptian Law and Israeli Law, as well as the Palestinian Basic Law from 2002, which make the legal environment fragmented. After the political split in 2007, the fragmentation increased even further with Presidential decrees being adopted in the West Bank and laws being adopted in Gaza by Hamas PLC-members. This situation weakens the rule of law in Palestine and constitute a serious challenge for democracy and realization of human rights.

However, the Palestinian Basic law is assessed to represent liberal democratic values to a far greater extent than neighbouring countries in the region. Looking at the laws from a human rights perspective, a study by the UN Office of the High Commissioner for Human Rights (*The Consistency of Applicable Palestinian Legislation with International Human Rights Law. The International Covenant on Civil and Political Rights, The International Covenant on Economic, Social and Cultural Rights*) concludes that: "Palestinian legislation is largely in conformity with the two Covenants. Palestine is thus in many respects far advanced compared with many other countries, including countries in the region. There are two major exceptions to the above: One relates to women's rights and the other to security-related legislation".⁸⁹

The Palestinian laws⁹⁰ are thus in general, with the important exception for rights related to women and to security-related legislation, assessed to constitute a sound foundation for accountability and democratic processes in Palestine.

Division and concentration of powers

Political power becomes legitimate through division of power, as it prevents abuse and concentration of power. Formally, PA has a division of powers between the executive, judiciary and the legislative. However, with a non-functioning PLC since 2007, the horizontal accountability mechanisms between the powers have been absent, and resulted in the concentration of power in the executive. The concentration of power has further increased by the lack of separation of powers between PA and PLO.

In 2002, due to US pressure, PA changed its governance system.⁹¹ The President's power was then restricted, while the PLC's power was strengthened. It was a demand that the executive/government had to be accepted, and could be removed, by the PLC. However, after Hamas 2006 elections, the Quartet and others demanded that Hamas rejected violence, recognized earlier agreements between PLO and Israel, and explicitly recognized Israel. As Hamas could find ways to accept the two first demands, by joining the PLO and thereby recognizing the organization and its earlier agreements – including recognizing Israel – Hamas would not explicitly recognize Israel.⁹² The Quartet would also not recognize a coalition government between Hamas and Fatah. This resulted in a reverse of the 2002 reforms. The President was given back the authority, away from the Parliament, which Hamas now controlled, and aid was channeled directly to the President.⁹³ This was done in order to

⁸⁹ The Consistency of Applicable Palestinian Legislation with International Human Rights Law. The International Covenant on Civil and Political Rights, The International Covenant on Economic, Social and Cultural Rights, p. 64

<http://pwrdc.ps/en/content/consistency-applicable-palestinian-legislation-international-human-rights-law-two>

⁹⁰ With the exception of PLC-adopted law since 2007, which we have no information about.

⁹¹ Economist Intelligence Unit (2015) p. 11

⁹² Tuastad (2014).

⁹³ <http://www.haaretz.com/news/u-s-to-allow-pa-funds-to-be-channeled-through-abbas-office-1.186926>

undermine Hamas capacity and authority to govern, which resulted in the political split. This situation weakened PLO and PA's democratic legitimacy.

Palestinian public administration and reporting systems are important for accountability as they facilitate power holders' ability to take responsibility for their obligations as well as providing important information to the public, which makes it possible to keep the power holders accountable. The Palestinian Bureau of Statistic (PCBS) is especially important in this regard. PCBS statistics and analyses provide important information to the public, which makes Palestinians able to keep their leaders and power holders to account. PCBS has been given good scores for quality and performance.

Furthermore, public debate and public policy development based on arguments and facts are important principles for a (deliberative) democracy, and PCBS is thus assessed to have contributed to increased democratic legitimacy in the Palestinian society.

A supreme audit bureau is another important accountability institution, which is supposed to keep the executive accountable. Audit bureaus can be important for democratic legitimacy and for increasing government's performance. In Palestine the State Audit and Administrative Control Bureau (SAACB) is functioning and contributing to democratic legitimacy. However, without a functioning PLC, which is supposed to use SAACB's findings to hold the executive accountable, this accountability mechanism has less impact on democratic processes in Palestine today.

4.1.3 Local Government and Decentralization⁹⁴

Decentralization and devolution are essential for the division of powers in a governance system. Decentralization also relates to a democratic principle (subsidiarity principle), emphasizing that decisions should be taken at the lowest level consistent with effective action within a political system. In Palestine, local governments have some responsibilities, but in general are quite restricted.

Under Israeli occupation and before the creation of PA, Palestinian local government enjoyed a limited role in service delivery. Legal and administrative restrictions and absence of financial autonomy restricted that role to areas of service delivery related mainly to water, electricity, road paving, and garbage collection. The creation of the PA did little to change the role of local councils in Palestinian politics and society. The Ministry of local government assumed significant responsibilities over the functioning of local government. The ministry made little progress in expanding the authority and functions of local councils leaving them with limited jurisdiction.

Today, functions of local councils are limited by law to areas of construction, markets, traffic regulations and public parks. They do not enjoy actual authority over education, social affairs, or health. Most local councils also remain dependent on central government for financial and administrative support. Without funding, they will not be able to continue to provide the little services they do provide today, let alone be able to extend their mandate to cover new areas such as education or health. To play a more significant role, not only in service delivery but also in the political realm, it is necessary to amend local government law.

Elected local councils are important sources for democratic legitimacy in Palestinian politics and society today. The elected councils have, (at least in the West Bank with the 2012 local elections), higher democratic legitimacy than the PA. Local councils could thus be an important platform for increasing democratic legitimacy in Palestine at large, by including and working more closely with

⁹⁴ Chapter based on Shikaki, Khalil (2014). *The Likelihood, Consequences and Policy Implications of PA Collapse or Dissolution: The "Day After"*, Final Report, Palestinian Center for Policy and Survey Research (PCPSR), p 22 -23.

civil society and other local actors. However, further decentralization of powers and promotion of a stronger local governance will include the strengthening of local government over the central authority of the PA, which might risk more fragmentation. The PA National Development Plan lays out a number of interesting measures, which might contribute to increased legitimacy (both process and performance) if implemented (Refer page 54-55 in the NDP). The Norwegian Association of Disabled has some very good experiences with decentralization of service delivery through their support to the Community Based Rehabilitation Programme in Palestine over the last years, which could be relevant for to learn from⁹⁵. About 190 communities have signed agreements with the programme and statistics reveal major achievements with regards to results and financial sustainability.

4.1.4 The Political Split – Good or Bad for Democratization?

The political split since 2007 resulted in a loss of de facto power and authority for PA in Gaza to Hamas. On the West Bank, it resulted in concentration of powers in the executive and towards the President's office. The political split has obviously damaged the democracy and legitimacy of the political system in Palestine, at least in the short run. How the political split will affect a possible democratic development in Palestine in the longer run is, however, not clear.

As we have explored above, Fatah has over the years, to a large extent pursued political power as a dominant goal over any clear ideological goals. With Fatah's dominance of PLO and PA, one could argue that the political party has been pursuing the goal of becoming a dominant hegemonic power in Palestine, including the ousting of Hamas in Gaza over the years. This might arguably have been the tactic from the beginning of the Oslo Accords era. However, as Hamas' popularity has remained and grown strong over the years, an alternative interpretation of the likelihood for democratic development could be relevant. Jeroen Gunning (2008) argues that, in the short term, there is no doubt that the aftermath of the 2006 elections was damaging for democracy in Palestine. However, in a long-term perspective, it might look different: "Failure to resolve the stalemate between Hamas and Fatah may [...] impede economic and state development – although in the long-term it may facilitate democratization if the continuing stalemate convinces both factions that neither can obliterate the other, and both continue to believe that legitimacy is dependent on maintaining popular support. [However,] resolution of this stalemate does not necessarily increase prospects of democratization if it replicates the logic of the Oslo process and uses one faction, Fatah, to impose a 'hegemonic peace'." ⁹⁶

However, on the other side, the impediments to economic and state development, which have continued since Gunning's argument in 2008, might cause serious problems and contribute to unforeseen consequences, which might reduce prospects for democracy in the long-run.

4.1.5 Reconciliation and Democratic Representation

Reconciliation between Hamas and Fatah is by a majority of Palestinians seen as the most important domestic step for bringing Palestine forwards. Several interlocutors emphasized this point. The lack of a united and representative Palestinian leadership is a serious impediment for democracy, human rights, legitimacy and the fight against occupation. As an interlocutor put it: "We need one leadership after PLO is reformed, we cannot have a situation where Hamas is making war and Abbas is negotiating". Most Palestinians emphasize that reconciliation needs to take place before a possible

⁹⁵ Evaluation of the Diakonia/NAD supported rehabilitation programme in Palestine (2014).

⁹⁶ Gunning (2008), p. 270-271.

election. In PCPSR's December 2014 poll, optimism about the success of reconciliation and the end of the political split drops from 53% three months ago to 40%, and pessimism rises from 43% to 58%.⁹⁷

Several attempts of reconciliation between the factions have been made since the 2008 Sanaa agreement. In April 2014, Fatah and Hamas agreed on forming a unity government, and in June 2014 President Abbas swore in the new technocratic unity government, headed by Prime Minister Rami Hamdallah. Palestinians do however not perceive the government as a real reconciliation government. There are still many contentious issues for achieving reconciliation between the two factions. One major contested issue related to democratic representation and legitimacy is discussions about the inclusion of Hamas and Islamic Jihad in PLO, which might involve reform of PLO, reform of the political parties, or both.

An interesting proposal to solve the stalemate is presented by Salam Fayyad (2014): "Palestinians should not continue to be hamstrung in their effort to achieve national unity by an insistence, on the part of the international community, on a rigid application of "the Quartet principles". As they require any Palestinian government to fully accept the Letters of Mutual Recognition, those conditions obviously derive their validity from a framework whose premises no longer are valid. [...] Until such time as it becomes possible to expand the membership of the PLO, whether through elections or some other objective mechanism that may be agreed upon, I would propose that the PLO, together with its platform, be left alone, while permitting it to retain the title of "sole legitimate representative of the Palestinian people." The Unified Leadership Framework (ULF), which includes all PLO factions and those not affiliated with it, should be tasked with collectively informing the decisions of the executive committee of the PLO on matters of high national interest. Membership in the ULF by non-PLO factions does not require acceptance on their part of the PLO's platform."⁹⁸ "However, by tasking the ULF with collectively informing PLO decisions on matters of high national interest, non-PLO factions, including Hamas and Islamic Jihad, are assured of genuine partnership in the Palestinians' pursuit of their national aspirations, while still enabling the PLO to retain its platform and speak on behalf of all Palestinians."⁹⁹

Fayyad's proposal for reforming the Palestinian governance system could substantially improve democratic processes and legitimacy in Palestine today by creating more representative political institutions, and contribute to reconciliation between the factions.

4.1.6 Corruption and Democratic Legitimacy

Perceptions of corruption in public institutions decreases democratic legitimacy. The PCPSR December 2014 poll indicates that 81 % of Palestinians think there is corruption in PA institutions. However, according to U4 "suspicions of corruption that cast a shadow on the PNA's early years of existence continue to influence perceptions of official corruption which remain strong across the population, in spite of reforms and progress made in recent years, partly due to the failure to prosecute most senior officials suspected of wrongdoing".¹⁰⁰

This picture is confirmed in a more thorough study from PCBS 2013, *Survey on the reality of corruption and its prevalence in Palestine 2013*,¹⁰¹ giving a more nuanced picture. In general, the study finds that most respondents have little knowledge of anti-corruption laws and that the vast

⁹⁷ Palestinian Center for Policy and Survey Research, Poll Number 54, 15 January 2015

⁹⁸ Fayyad, Salam (2014). "Oslo is Dead. How to fix the Israeli-Palestinian Peace Process", Foreign Affairs, Oct 2 2014.

⁹⁹ Fayyad, Salam (2015). Article in The Elders. Source <http://theelders.org/article/what-palestinians-need-do-fulfil-their-quest-statehood>

¹⁰⁰ U4 Anti-Corruption Resource Centre (2012). *Overview of corruption and anti-corruption in Palestine*. U4 Expert Answer.

¹⁰¹ Palestinian Central Bureau of Statistics (2013).

majority of individuals define negative behaviors as corruption even if they are outside the legal definition of corruption. There is a clear gap between individuals' perceptions and their personal experiences about the prevalence of nepotism, where 93% of individuals believed there was nepotism in public sector, while 3% actually used nepotism. About one out of five reported that they had been subjected to an act of corruption or were witnesses during the past two years. Among public civil servants in the West Bank the study found that 88% of the respondents believed that there was nepotism/favoritism in the public sector. About 18% of the civil service respondents had been subjected to an incident of corruption during the past two years.

The study further describes that a clear majority of public official respondents think that the Anti-Corruption Commission and the police are of the most effective agencies in combating corruption. Other important anti-corruption institutions are:

- Legal framework, policies and strategies (Anti-Corruption Strategy 2012-2014)
- Institutional framework – PLC, the judiciary, the attorney General Office, the Corruption Crimes Court, the Public Auditor, The State Audit and Administrative Control Bureau (SAACB), General Personnel Council (GPC), The Independent Commission for Human Rights (ICHR)
- Civil society, media and schools.

Actual corruption is undermining democracy, government capacity and performance. The perception of high levels of corruption in PA institutions and civil society is furthermore substantially decreasing democratic legitimacy in Palestine.

4.2 Political Participation, Equality and Elections

Political participation and civic engagement are prerequisites for a functioning democracy. They have intrinsic value by empowering individuals, and they have instrumental value by creating political pluralism, political parties, public policy, participation in elections, holding governments to account, providing services and giving political legitimacy to institutions and leaders. Political participation creates the basis for democracy, i.e. rule by the people.

The respect, protection and fulfilment of human rights are essential for political participation. Some fundamentally important human rights in this regard are freedom of expression, freedom of assembly and freedom of association. To achieve political equality for every citizen, non-discrimination of vulnerable persons and minority groups are essential.

4.2.1 Civil society¹⁰²

An effect of the 1967-occupation was the development of a strong and autonomous civil society. Prior to 1993, Palestinian political parties affiliated with PLO were forbidden, the parties operated in disguise through mass-based civil society organizations – including professional associations, trade unions, women's associations, CSOs, youth groups, and charitable organisations. With the lack of a state, CSOs got an important role in health, education, agriculture and employment in general. At the same time, CSOs were political arenas in the absence of direct political representation. Leadership of these organisations tended to be decentralised, while decision-making was collective, with priority given to sustaining the goal of national liberation and providing services to help local communities remain steadfast in the face of occupation. Elections of leaders were held, where CSO members knew the candidates' party affiliation, but not the occupying power. In this manner, civil society activists worked together across political division lines, while at the same time fought for positions through elections to student organisations, labour unions and the like. Compared to Fatah in exile,

¹⁰² Chapter based on Tuastad (2014), p. 62-63, and quotes from European Council of Foreign Relations (2013) p.4-5 and European Union (2014). EU Country Roadmap for Engagement with Civil Society. 2014-2017. July 2014.

the civil society and the political parties in the occupied territories represented a much stronger democratic political culture. When the first Intifada broke out in 1987, civil society proved to be of invaluable importance for maintaining social services and organizing civil resistance.

“For many years, civil society organisations in the OPTs relied on funding from wealthier Arab states channeled through the Arab League and distributed via a joint PLO–Jordanian committee. From the early 1990s onwards, however, this funding began to dry up [...] The gap was filled by European donors whose funding arrangements had a profound effect on the structure and operation of Palestinian civil society organisations. In particular, lengthy application processes, reporting requirements, and complex accounting procedures all meant that many local organisations needed to professionalise and reform if they were to have any chance of survival. This led to what some have called the “NGOisation” of Palestinian civil society or the creation of a new brand of Palestinian NGO far removed from the mass-based grassroots organisations they began to replace.

Leadership and decision-making became concentrated in the hands of a few, while funding was often conditional on having no political affiliations or involvement in national politics. Donor projects themselves were often open to accusations of being imposed from the top down according to the funding priorities of donors and advocating technical solutions to essentially political problems created by Israel’s occupation. Furthermore, many have argued that these projects serve to disempower Palestinians as decision makers and agents of their own destiny, reconfiguring them as passive “recipients” and “beneficiaries” of aid, thereby contributing to their de-politicisation, demobilisation, and fragmentation. Likewise, the arrival of the PA, and its attempt to control the sources of funding for civil society organisations, had a similar effect.

Nevertheless, in recent years a number of other civil society initiatives and campaigns have emerged. These include a number of weekly protests that are largely localised, and herald the (re)emergence of new political actors on the ground who adopt often new and inventive methods to make their voices heard. Organised by popular committees, and filling what they see as a vacuum left by a disengaged Palestinian leadership, they all confront Israel’s occupation where it most impacts Palestinian life (for example, the construction of Israel’s wall, or continued land confiscation).”

“In East Jerusalem (illegally annexed by the Israel Government in 1980), Palestinian organisations are bound by the "Israeli Law of Association" under the Israeli Ministry of Justice and organisations have to register with and report to two authorities to be considered legal by each. In Area C, the Israeli control poses challenges to the organisations, which are often constraint by Israeli imposed measures, such as movement restrictions or reporting requests on projects and activities. [...] In Gaza, organisations have been subject to special requirements imposed by the Hamas de facto authority, which are restricting their activities for example by requesting them to obtain permits from the General Police Command for organising public activities or events, or by pressuring for more detailed information on the organisation under threat of a dissolution. [...]

The obligation of civil society actors to register has produced a proliferation of registered organisations¹⁰³ and increased difficulty in distinguishing and identifying different kinds of associations. [...] The proliferation of registered organisations weakens the possibility to verify the quality of actions and internal governance.

Over the years, the division between the West Bank dominated by Fatah and the Gaza Strip ruled by Hamas has created further burdens for the civil society sector, as CSOs associated with one or the other political movement can be subject to retaliatory measures by the authorities. The civil society

¹⁰³ According to an interlocutor, the number of registered organizations are above 2300.

claims an increasing tendency of both authorities, in the West Bank and the Gaza Strip, to control/limit CSOs activities. The independence and impartiality of the civil society sector is compromised where the authorities are successful in instrumentalising them politically in one way or another. Authorities' restrictions on CSOs and some abuse in the law implementation (e.g. application of security clearance to members for registration, confiscation of assets in case of forced closure; new requirements in Gaza as for instance on exit permits for staff) continue to restrict their capacities and effectiveness.”

Participation in public policy formulation

“Civil society in Palestine is increasingly called on to play a role as policy actor, participating in the setting of policies and assuming a special function in monitoring and assessing the implementation of laws and policies by the Palestinian Authority. Although modalities for CSOs participation in national planning process are in place (e.g. workshops, consultations and meetings), they are deemed as ‘superficial’ by the civil society, which considers limited and moderate its influence on policy formulation, legislation and budgeting. There is no legislation to regulate national decision-making and planning processes. [...]

Dialogue between political authorities and CSOs has been difficult, because of the lack of reciprocal trust and by the attempts of political authorities to control civil society activities and policies. [...] Gender, human rights and agriculture/rural development are the three policy areas, where civil society is most active. [...]

A focus on citizenship and on the representation of citizens' considerations in state-building could be a potential field of actions for the Palestinian civil society. This would imply a series of new competences, such as: increasing the participation both to policy setting (providing the PA with information and knowledge, facilitating the integration of citizens' perspectives in public policies); monitoring of public policies and services at the national and local levels while claiming for greater transparency and accountability of public authorities. This would imply an effort for civil society to cooperate with public authorities beyond service delivery, as well as the willingness of authorities to establish invited spaces for policy dialogue with civil society actors.”

Transparency and accountability: civilian oversight

In Palestine, the ability to hold those who govern to account is particularly important in the absence of the Parliament, in order to achieve an extent of accountability. “Civil society participation in budgeting processes (analysis, proposals, monitoring and tracking of public revenues and expenditures) is still very limited, with some improvements reached only during Fayyad government. In some cases, NGOs have been reluctant to play an active role in the setting and monitoring of public policies, because of the political division between the Fatah-ruled West Bank and the Hamas-ruled Gaza Strip”.

4.2.2 Political Parties and Pluralism

Political pluralism is the engine of every democracy. Democracy depends on competition between political alternatives and citizens choosing between them. Prior to the establishment of PA, there was significant political pluralism in Palestine. After the return of PLO from exile, and Fatah and Hamas' growing dominant positions, the political pluralism has decreased.

In this chapter, we will try to shed light on some aspects of Fatah and Hamas' internal organization which we find relevant for our assessments. We are not trying to give a balanced picture of the two organizations, but rather highlighting some aspects which might be less known.

Historically, Fatah and Hamas' internal organization have enjoyed little democratic legitimacy. They have been organized as militia-groups, upheld primarily by resistance legitimacy¹⁰⁴. Hamas is, however, assessed to have somewhat more democratic processes in the organization compared to Fatah. The political parties are very hierarchical, and modelled along the Leninist principle about a democratic centralism, which combine a hierarchical leadership structure with a broad, small cell-based local structure. This has been supplemented with principles about internal discipline and loyalty, inspired by the way Hassan al-Banna, the founder of the Muslim Brotherhood, had developed for the Brotherhood's internal organization, to work covertly. Seniority was necessary to rise in the internal ranks. Power was imposed from above, via multiple mid-level managers. This gave room for the mid-level managers to build power bases through support from lower level groups, and by alliances with other mid-level managers. Transparency on decision-making has been low for both organizations.

When Fatah established itself in Palestine, a strategy to gain foothold in the local community was to form alliances with local clans, especially so-called number two-clans, which were smaller and felt unfairly treated.¹⁰⁵ These clans were seen by Fatah as allied in internal conflicts. With the establishment and strengthening of PA, Fatah lost popular support and experienced institutional decay and were not able to mobilise supporters and maintaining discipline among members.¹⁰⁶

The pillars of Fatah's strength – which sustained its quasi-hegemonic position over nearly five decades, until Arafat's death – have largely disappeared¹⁰⁷. In its early days, these included the ethos of resistance, broad inclusiveness, social organisation and charismatic leadership. The ideological transition from being an armed resistance movement to becoming a responsible state party, has never been reflected in the way Fatah has organized itself.¹⁰⁸ Internally Fatah is still organized as if the movement was an armed underground group. Much secrecy is also characterizing Hamas' organization.

Hamas, Islam and Democracy

First, it should be noted that Hamas has carried out armed violence against fellow Palestinians and against Israelis, including civilians, which has been in breach of international law and of democratic principles.¹⁰⁹ However, according to Gunning (2008) Hamas has some aspects of internal democracy:

“Hamas' ideology is neither inherently anti-democratic, nor anti-modern nor wholly anti-Western. It is critical of Western foreign policy in the Middle East. It is equally critical of secular democracy and its associated practices, and of secular rationality. Nevertheless, Hamas draws heavily on Western democratic notions such as the popular will, the social contract and inalienable human rights. Its political theory is deeply contractual. Authority is derived from having a popular mandate – not piety, religious knowledge or divine appointment. An Islamic state can only come about if willed by the people. Law, even Islamic law, can only be legislated by an elected legislature – not by unelected religious scholars – and revolves around a rational interpretation of both public interest and revelation.

¹⁰⁴ Paragraph based on Tuastad (2014).

¹⁰⁵ Ibid.

¹⁰⁶ International Crisis Group (2009). Palestine: Salvaging Fatah. Middle East Report Number 91. 12 November 2009, p. 4.

¹⁰⁷ Ibid., p. 21.

¹⁰⁸ Paragraph based on Tuastad (2014), p. 69

¹⁰⁹ UN Human Rights Council (2015). Report of the independent commission of inquiry established pursuant to Human Rights Council resolution S-21/1, 15 June 2015. Refer also to chapter 3.2 Security, Violence and Democracy.

At the same time, Hamas insists that only God's law will free people from tyranny that only in an Islamic state will people be genuinely free. To bring this about without negating the principle of the popular will, Hamas proposes to educate society into willing an Islamic state through civic participation, consultation exercises and education. [...]

Hamas' internal practices exhibit a number of decidedly democratic principles. Formal authority is derived from regular elections – although these elections are more about conferring legitimacy and ensuring accountability than about open competition. Formal decisions are taken by elected representatives who are expected to consult the wider membership on important policy issues. Disagreement is expected to be resolved through debate, consultation and bargaining, until a majority of representatives agree on a compromise position. [...]

Where Hamas practices most differ from Western liberal democratic conceptions (though not necessarily actual practices) is in the role accorded to religion and violence in the creation of authority [or as sources of legitimacy]. Religion and violence play an important role in generating the symbolic capital from which Hamas and its leaders derive authority – but not as a central role as is often believed to be the case in Western circles. Religious knowledge, piety and involvement in one's local mosque all contribute to a Hamas leader's legitimacy. But formal authority within Hamas depends on whether one has been elected. The overwhelming majority of Hamas leaders and officials are secular professionals, rather than religious scholars or members of religious institutions.”

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Confidence and re-establishment of trust

The World Value Survey from 2013¹¹¹ shows that about 70% of Palestinians do not have very much confidence or none at all to the political parties, and the figures do not differ much across age groups. In order to re-establish trust in political or religious factions a 2009 UNDP survey¹¹² found that: the majority of 36% of the respondents, mean that the current parties and factions need to become more democratic and transparent, 20% think that the public need to be more involved in politics, while 16% think that stricter laws governing parties should be introduced, 8% of respondents say improving the educational system is the most important, and only 4% think there is a need for new parties. From these findings we conclude that in order to improve political parties' democratic legitimacy there is a need for internal democratic reforms.

4.2.3 Gender Inequality and Discrimination

As described above, the Palestinian society is characterized by gender inequality and discrimination against women. Women are not legally equal to men and are subject to different laws in the West Bank and Gaza. In general, men dominate in the political domain and in the clans and families. Women's political participation is still limited in different political bodies, and women have limited access to decision making processes. In general, the situation for women's rights in Palestine is grave, and also deteriorating, according to some interlocutors.

¹¹⁰ Gunning (2008) p. 265-266

¹¹¹ World Value Survey Wave 6: 2010-2014: Confidence: Political Parties, split on age groups

¹¹² UNDP (2009/10), Human Development Report, 2009/10. Occupied Palestinian Territory. Investing in Human Security for a Future State.

One of the most important sources of legitimacy in liberal democracies is the value of political equality and non-discrimination. With women being underrepresented in political decision making processes and discriminated by laws and traditions, the democratic and human rights situation in Palestine is weakened.

Concerning the gender inequality's impact on political legitimacy, we would argue that traditional, religious and liberal democratic attitudes and sources of legitimacy are co-existing in Palestine today. Indications of these attitudes are reflected in the 2013 World Value Survey¹¹³ examining attitudes on whether men make better political leaders than women do. The survey shows that about 73 percent of women agree to this statement, and somewhat more among men. These attitudes are furthermore quite similar over different age groups.¹¹⁴ These attitudes could reflect limited experience with women as political leaders, but probably also reflect a gender discriminating culture in Palestine.

In order to strengthen democracy and human rights in Palestine, and to increase democratic legitimacy, a stronger focus on women's political participation on all levels in Palestinian society is needed.

4.2.4 Youth¹¹⁵

"Burdened by high rates of poverty and unemployment, Palestinian youth in [Palestine...] have few opportunities to combat either. Many also feel unrepresented by the main political parties. More recently, several Palestinian youth movements have been formed in the OPTs, including some directly inspired by the popular protests in the Arab world. As yet small in number, they are far from forming a critical mass or potent force for social change. Perhaps best known is al-Hirak al-Shababi (Independent Youth Movement), comprising a network of youth activists from different political factions and civil society organisations. Openly critical of the Oslo Accords, al-Hirak's members instead support direct elections for the PNC, a move they claim will guarantee representation for all Palestinians, as well as unify Palestinians around a single political platform and national strategy.

In part inspired by events in Egypt, al-Hirak and other youth movements, such as Falastiniyyun Min Ajl al-Karamah (Palestinians for Dignity), played an important role in the establishment of the 15 March movement in 2011. They organised regular sit-ins at al-Manara, Ramallah's central square, and marches in front of the Muqata, Abbas's compound, to demand national reconciliation between Fatah and Hamas. Palestinian activists also staged rallies in Gaza. Youth groups were also behind simultaneous protests staged across several capital cities in the Arab world and beyond, to commemorate the 63rd anniversary of the Nakba in May 2011, which included scores of youth from Syria and Lebanon attempting to cross the border into the occupied Golan Heights.

Beyond this, however, youth engagement in politics is on the decline. According to a recent survey by Sharek Youth Forum, 27 percent of youth belong to a political party. Fatah and Hamas continue to dominate student politics, as routinely confirmed by student council elections held in West Bank universities. [For example, in a recent student election at Birzeit University, near Ramallah in the West Bank, 21 April 2015, a student list affiliated with Hamas won with 26 seats, while the Fatah-affiliated list won 19 seats.¹¹⁶ Four other parties won together the remaining six seats. The Hamas

¹¹³ World Values Survey Wave 6: 2010-2014: "On the whole, men make better political leaders than women do". Split on Sex.

¹¹⁴ Ibid. Split on Age.

¹¹⁵ Quotes from European Council of Foreign Relations (2013), p. 5

¹¹⁶ Maan News Agency, "Hamas student list victorious in Birzeit University elections" <http://www.maannews.com/Content.aspx?id=765030>, (24.4.2015)

victory came after a year in which the Fatah-affiliated list had won 23 seats compared to the Hamas list's 20 seats. Voter turnout was reported at 77 percent of all undergraduate students entitled to vote, who numbered around 9,000...] More generally, engagement in political affairs among youth in the OPTs tends to come a distant second to other concerns, particularly employment. [...]

In its report entitled “The Status of Youth in Palestine 2013”, the Sharek Youth Forum found that 42 percent of young people surveyed believed that none of the existing political parties represented Palestinians, while 60 percent believed that the two-state solution was no longer viable. Only 3 percent believed that negotiations alone could deliver Palestinians their rights.”

These views were also confirmed through youth focus group interviews conducted in both Gaza and East Jerusalem. Another interesting statement from a youth interlocutor, which can be seen in light of political engagement and resistance strategies, was that she saw herself as fighting the occupation merely by educating herself. To strengthen democracy and democratic legitimacy in Palestine, we find that a stronger focus on youth political participation and inclusion, combined with good education opportunities, is needed.

4.2.5 Media and Public Debate

The media, including TV, radio, newspapers, internet and social media, plays an essential role in democratic societies by reporting the news, channeling information between the government and the people, and involving people in society and politics to debate and develop public policy. It has even been suggested that the media represents the ‘fourth pillar of democracy’, next to the legislature, executive and judiciary, by having a crucial accountability or watchdog function.

Securing freedom of expression and the independence of media are critical to provide varied and uncensored information. Media owners and their interests might also influence the kind of available information. Some interlocutors emphasized that most newspapers were owned by Fatah supports, which contributed to a skewed media picture and self-censoring. It was explained that journalists were kept under surveillance, especially when being critical to the PA or Fatah.

According to the Palestinian Center for Development and Media Freedoms (MADA), 2014 was “the worst, the deadliest, and the hardest year for journalists and media freedoms in Palestine, in terms of the nature and degree of violence suffered by journalists and media, and in terms of the number of crimes and violations committed, which rose at a record pace”.¹¹⁷

The PCPSR poll from December 2014¹¹⁸ shows that about a third of Palestinians do not think they have press freedom, and about 40 percent think there is press freedom only to some extent.

Today, new methods of popular mobilization are being sought, for example (for those who have access) via the internet, through journalism, blogging and other forms of social networking. Through interviews with youth focus groups, several interlocutors expressed appreciation of the new opportunities with social media. As a girl put it in an interview: “On the internet I can be someone else and I don't need to think about other peoples’ views about my opinions, I can even pretend to be a man. This gives me opportunities to raise and discuss issues I otherwise would not dare”.

¹¹⁷ MADA (2014), <http://www.madacenter.org/news.php?lang=1&id=182>. According to MADA, the Israeli occupation forces committed a number of 351 crime and violation (112 in Gaza, 239 in the West Bank including Occupied Jerusalem), while the different Palestine sides committed 114 violation (24 in Gaza and 90 in the West Bank). 17 journalists and media workers were murdered by the Israeli occupation forces. In comparison to 2013, the number of Israeli violations in 2014 increased 132%, while the Palestinian violations increased 46%.

¹¹⁸ Palestinian Center for Policy and Survey Research, Poll Number 54, 15 January 2015.

To improve democracy and human rights in Palestine strengthened media freedom is needed.

4.2.6 Elections

Elections are necessary for a democracy. They function as an accountability mechanism and are one of the most important sources for democratic legitimacy. Elections should be based on free and fair competition between political parties, and demands that parties respect the “rules of the game” and the outcome of the elections.

Official Palestinian democratic elections are a relatively new and rare event. The first presidential and legislative elections were held 20 years ago in 1996 with Arafat and Fatah as winners. Hamas and other parties boycotted these elections, as they did not accept the Oslo Accords or the PA. As a result, the elections were largely a competition among Fatah leaders¹¹⁹ and not representative for the entire political spectrum. The next round of elections, starting out with local elections, were held in 2004-2005, with Hamas participating. In 2005, PA presidential election was held, with Mahmoud Abbas as the winner, and in 2006, PLC elections were held with Hamas winning a majority of the seats.

With the Hamas victory, international support and legitimacy were not given to the outcome of the elections. The election victory was not accepted by Israel, the Quartet (EU, US, Russia and United Nations), several Western and Arab states, and sanctions suspending all foreign aid to a Hamas-led PA were imposed. PA’s capacity was undermined, and funding was re-channeled to the President/PLO.

Tensions between Fatah and Hamas grew during 2006, and in March 2007 a unity government was formed. Soon Hamas took control of the Gaza Strip and removed Fatah officials, and the unity government was dissolved in June 2007. Prime Minister Ismail Haniyeh was dismissed, and Abbas began rule in the West Bank and Gaza by Presidential decree. Salam Fayyad was appointed PA prime minister by Abbas and Haniyeh continued as PA Prime Minister in Gaza. The political split was a fact and since then, only local elections, boycotted by Hamas, have been held in the West Bank in 2012.

“Palestinian democracy was seriously weakened by the refusal of Israel and the donor community to recognise the freely elected Hamas government in 2006 and by their efforts to undermine it, despite the US having put pressure on Mr Abbas to hold those elections. Israel further inhibited a democratic solution to the schism between Fatah and Hamas by jailing large numbers of Hamas elected representatives, preventing the Palestinian Legislative Council from functioning. [...] The failure, until last year, of Fatah and Hamas to resolve their differences, and the resort by both sides to violent means to assert control in their respective territories, has also had a pernicious effect on Palestinian democracy and has driven down the score for civil liberties.”¹²⁰

From the Oslo Accords up until the 2006 elections, democratic legitimacy of the Palestinian political system increased to a large extent. Hamas went from boycotting elections in 1996 to participate in the 2004-06 elections, and thereby increasing the representativeness of the political landscape, as well as accepting ‘the rules of the game’. The 2006 PLC elections were considered free and fair by the international community, which also contributed to a strengthened democratic legitimacy.

Several interlocutors pointed to the lack of democratic legitimacy for both the PLO and PA with a non-functioning PLC as a serious problem. They emphasized the need for a reconciliation agreement between Fatah and Hamas before elections could be held. Some questioned the need of having

¹¹⁹ National Democratic Institute for International Affairs (NDI) and The Carter Center, *Final Report: Observing the 1996 Palestine Elections*.

¹²⁰ Economist Intelligence Unit (2015), p.11

elections with the lack of fair opportunities to compete for Hamas in the West Bank and Fatah in Gaza. The unfair election environment is reflected in the 2013 World Value Survey¹²¹, showing that about 40 % thinks that opposition candidates are very often or fairly often prevented from running. This represent a serious challenge for a free and fair election campaign and political pluralism.

Some interlocutors questioned the use of having elections, when they doubted the international community's willingness to accept the outcome of the results. As one interlocutor put it: "Democracy only seems to be acceptable as long as Islamists don't win." Some interlocutors also appreciated the Norwegian approach in the aftermath of the 2006-election when Norway had talks with Hamas.

The December 2014 PSPCR poll shows that if new legislative elections were held today with the participation of all factions, 70% say they would participate. This relatively high number is most likely indicating that democratic elections still enjoys substantial legitimacy in Palestine.

Democratic free and fair elections are crucial for increasing democratic legitimacy in Palestine. To get a legitimate election process and outcome, there is need for an inclusive election process with all the main political parties represented. There is need for an agreement on clear criteria and code of conduct for the election process and the outcome, especially nationally, but also internationally. In order to reach agreement on such criteria, it is necessary to reach some sort of reconciliation agreement between Hamas and Fatah.

4.2.7 Political life in East Jerusalem¹²²

"Palestinian political life in Jerusalem has changed drastically since the Oslo Accords excluded the city from the temporary governing arrangements in the West Bank and Gaza. National institutions that sprung up in Ramallah competed for the spotlight with and eventually came to overshadow historic Palestine's traditional political, economic and social capital. The main political movements also have lost influence in the city. Fatah's Jerusalem branch, its prominent history notwithstanding, today is fractured [...]. Similarly, Hamas has been much weakened as a political force in Jerusalem since its strong showing in the 2006 legislative elections in which it won all four of the city's contested seats. After the results became public, Israel gave the four representatives an ultimatum to renounce their posts or lose their Jerusalem residency. They refused; Israel jailed them and revoked their residency.

Factions, of course, are not the only forms of political organisation. Extended family structures, of different and fluid types, long have been a mode not only of social but also political organisation in Jerusalem, as elsewhere in Palestinian and Arab society. Israel, like its predecessors, has sought to manipulate families to its advantage, hoping to prevent the establishment of a truly representative leadership. After 1967, one way it did so was to appoint dozens of mukhtars (local leaders), who were supposed to represent their families and neighbourhoods. They never gained legitimacy and were widely mistrusted for their connections with the state. [...]

[According to an interlocutor... the] urban elites today use their social advantage for professional advancement, not political organising. Even so, extended families continue to play a significant role in formal Jerusalem politics in at least one way. During PA elections, the hamula heads still mobilise voters within each clan in large numbers and therefore constitute a key address for political factions during campaigns. [...] All but a tiny fraction of East Jerusalemites boycott the city's municipal elections. This aligns with the PLO's view that participation would run counter to the Palestinian

¹²¹ World Value Survey Wave 6: 2010-2014. Palestine. - www.worldvaluessurvey.org

¹²² Quotes from International Crises Group (2012).

national interest, because it would legitimize Israeli rule. Many also refuse certain municipal services or to apply for housing permits.”

In the view of some, it is time for the Palestinian community to change course. Advocates of participating in municipal affairs, particularly elections, argue that in the absence of a diplomatic horizon and given accelerating Palestinian dispossession, East Jerusalemites need to use all means possible to fight for services and protect their place in the city. Others support lobbying the municipality without formally participating in elections or activities – a kind of compromise course that aims to engage with the municipality or government institutions on specific issues without accepting those bodies’ legitimacy.”

Summing up Democracy and Democratic Legitimacy

With the Palestinian people geographically fragmented both within and outside Palestine, almost non-functional national institutions, concentration of powers and lack of transparency and accountability mechanisms at both national and state-level, an absence of a political settlement between Hamas and Fatah, lack of international legitimacy for Hamas as a political party, prevalence of actual and perceived corruption, disconnect between state and society, discrimination of women and restricted freedom of expression, combined with the Israeli occupation with its closure regime, settlement activity and siege of Gaza, restricting Palestinian authority and capacity, all impede democratic processes and result in low democratic legitimacy in Palestine. Addressing these challenges will improve democracy and democratic legitimacy.

Democratic development for Palestinians today can be addressed mainly along two paths; one by focusing on the Palestinians living in Palestine and the PA institutions, and the other, by also focusing on the Palestinians living outside Palestine and the national institutions like PLO and PNC. With the current situation, even though difficult, it seems easier to make democratic advancements only for the Palestinians living in Palestine, due to the complicated situation in neighboring countries and the sensitivity of the refugee question for the Israeli-Palestinian relations. However, as long as the Palestinian diaspora is not included in any democratic developments, or their situation addressed or solved somehow, it will continue to pose challenges for the legitimacy of democratic developments in Palestine, both among the diaspora and the Palestinians in Palestine who sympathize with the diaspora. This, in turn, represents a risk for the sustainability of any democratic developments in Palestine.

On an overall level, democracy in Palestine is assessed by Economist Democracy Index to have gone down from a score of 6.01 out of 10 (1=lowest/10=highest) in 2006 to 4.72 in 2014, with a steady decline.¹²³ Palestine scores low on the indicators “functioning of government” and “civil liberties”, while scoring high on political participation with a score of 7.78 out of 10. This is the same score as Germany and Switzerland receive on the same dimension.

The 2013 World Value Survey¹²⁴, shows that a vast majority of the Palestinians view democracy as important, with about 80 percent giving it a score of 6 or more on a scale from 1 (lowest) to 10 (highest).

Process legitimacy relates to the procedures and mechanisms through which the state, or in this case the PLO and PA govern, notably the mechanisms by which those who appropriate and use public power are held accountable by their constituencies. As liberation and resistance are major source of political legitimacy, there is possibly a higher tolerance for lack of transparency and accountability

¹²³ Economist Intelligence Unit (2015)

¹²⁴ World Values Survey Wave 6: 2010-2014: Importance of democracy

mechanisms, which might be perceived as necessary to fight the occupation. Yet, if Palestinians see a leadership and its relatives getting richer while they stay poor, this tolerance is likely to dwindle.

Some main issues causing divisions among Palestinians concerning political processes and process legitimacy are attitudes towards non-violent vs violent resistance strategies, religious vs secular values, the importance of a collective identity including the diaspora, and clientelism vs democracy and human rights principles.

5 Service Delivery and Performance Legitimacy

In this chapter, we assess how the provision of human rights and service delivery are in some selected areas in Palestine and how citizens perceive this performance, with a focus on PA. Service delivery will relate to most of the human rights, including civil and political human rights, and economic, social and cultural human rights. We do however not cover some important fields of service delivery such as energy and culture in this chapter.

The Israeli occupation and the territorial fragmentation have severely weakened the central authority and capacity of the PA, which is decreasing PA’s ability to deliver security and social services to its citizens. This in turn is affecting peoples’ perceptions of PA’s performance legitimacy.

5.1 Peace and Sovereignty

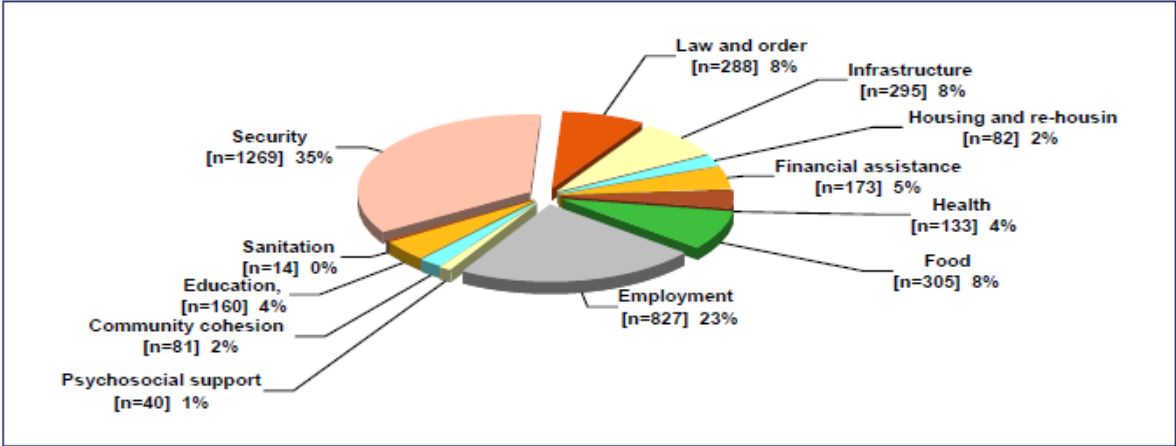
PLO’s performance over the years for reaching a negotiated peace agreement and a two state solution with Israel is by many Palestinians viewed as weak, resulting in weak performance legitimacy for the political leadership on this matter.

5.2 Security

Security is not just a service provided by the state as a public good, but a defining feature of statehood. Security is also central to state legitimacy because it makes possible the production of other sources of legitimacy including ensuring basic health and education services, sustaining livelihoods and economic activity, and establishing democratic elections and the rule of law.¹²⁵ Like other state services, it can be exclusive or inclusive.

In a 2009 UNDP survey, we see from figure 2 below that security is ranked as the most important need by most respondents (35%), clearly in front of employment (23%), and food, infrastructure, law and order (all three 8%).

Figure 2: What is the most important need of your community?



Source: UNDP, 2009

PLO/PA’s ability to provide security for Palestinians are severely restricted with limited authority and capacity. PA is not able to provide any security in Gaza, East-Jerusalem and C-areas. PA’s ability to provide security is in practice restricted to A-areas. However, Israeli security forces frequently breach into A-areas, leaving PA with no monopoly on the legitimate use of violence.

The poor security situation creates serious challenges for the respect, protection and fulfilment of human rights. Security is directly relevant for many of the civil and political human rights, and

¹²⁵ OECD (2010).

indirectly for many of the economic, social and cultural human rights. Violations of human rights are numerous in Palestine. Figures from The Independent Commission of Human Rights (ICHR) in their Annual Report 2013 - The Status of Human Rights in Palestine, give us an indication of the situation, based on complaints received by ICHR during 2013. Figures from the report, shown in table 2 below, display that violation of the right to physical safety is ranked second highest with 693 complaints, after 1731 complaints about violations of the right to fair trial guarantees.

Table 2: Patterns of violations based on complaints received by ICHR during 2013

Number	Violation	Total
1	Right to fair trial guarantees	1731
2	Right to physical safety	693
3	Right to hold public office	536
4	Right to social security	367
5	Rights of PWDs	344
6	Abuse of power	170
7	Right to litigation	150
8	Right to health	127

Source: The Independent Commission of Human Rights, annual report 2013: The Status of Human Rights in Palestine

Looking at complaints of torture distributed by year and different security agencies, the report shows that the numbers are increasing from 2011 to 2013, with a majority of complaints in the West Bank and a majority of complaints against the police in the Gaza Strip.¹²⁶ “Concerning the responses ICHR received from the security agencies and the Police Agency involving complaints of the right to physical safety, the complaints were largely dismissed as untrue. The responses of the General Intelligence and Preventive Security were typical, reflecting how these agencies do not address the complaints of ICHR seriously.”¹²⁷

From interlocutors, the most often mentioned and grave accusation of PA’s security performance, which also links to how PA is providing security, is PA’s security coordination with Israel. A common opinion was that PA’s performance was mainly resulting in security for Israelis and not for Palestinians. For these interlocutors, PA was seen as a collaborator or a marionette for Israeli interests. Some exemplified the situation by pointed to the crackdown on Hamas supporters and other activists, by both PA and Israeli security forces. Concrete examples were the arrest of about 1000 Hamas affiliated Palestinians in the run up to the 2014 Gaza War and the arrest of legally elected Hamas PLC-members in the aftermath of the 2006 elections. PA is thus having low performance legitimacy for the provision of security.

These findings are supported by the December 2014 PCPSR poll, which shows “that the overwhelming majority of the public (82%) are worried and 19% are not worried that they or members of their families would be hurt by Israelis or their land confiscated or homes demolished.

Interlocutors also criticized PA for the high public spending on security services. PA’s expenditure for security and public order was the single biggest expense for PA in 2014, both in terms of ‘wages and salaries’, ‘social contributions’ and ‘use of goods and services’.¹²⁸ According to the 2014 numbers, total expenditure for “Security and public order” by “Ministry of Interior and National Security”

¹²⁶ Independent Commission of Human Rights (2013). Annual report 2013: The Status of Human Rights in Palestine.

¹²⁷ Ibid. , p. 59

¹²⁸ State of Palestine (2015). Ministry of Finance, Fiscal operations. Table 5 b, ref Annex 7.

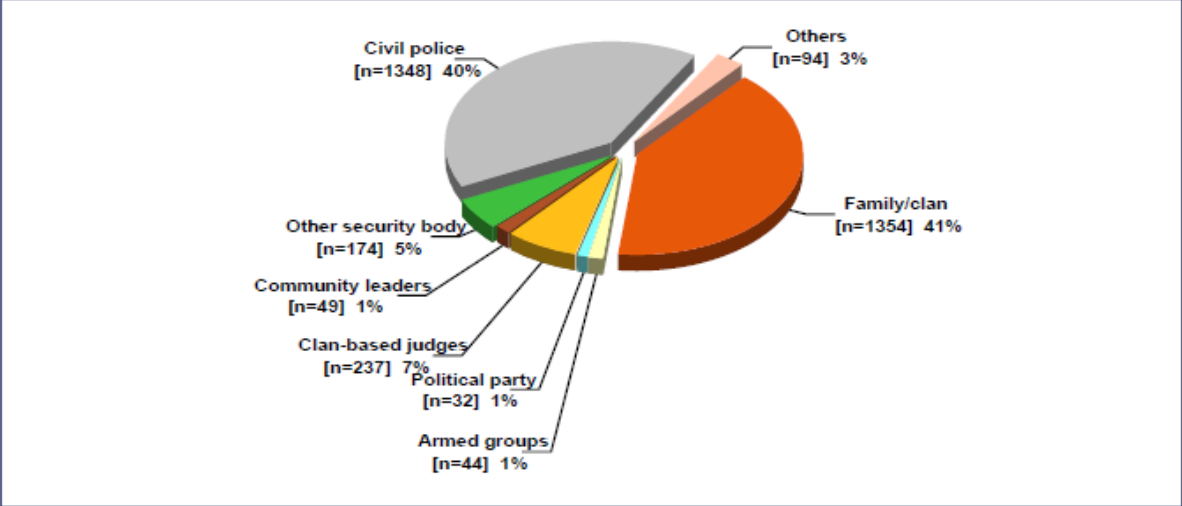
constituted 28 percent of PA’s total expenditure in 2014.¹²⁹ However, even though the security situation is difficult and citizens’ expectations are not met, it is most likely appreciated by Palestinians in the A-areas that Israeli security forces, most of the time, stay away from these areas, giving PA some security performance legitimacy.

“Another significant consequence of fragmentation, polarization and de-legitimization of the PA is that family and clan relations, not broader social ties or state institutions, have become the most significant site of Palestinian security. This has had the effect, particularly in Gaza, of increasing family/clan violence. [In a UNDP study,] more than 50% of survey respondents indicate that they would receive help from relatives if their family were in serious trouble, while only 29% stated that they would get assistance from the relevant authority. This response may partly reflect the fact that the PA has little jurisdiction over those issues that promote security for Palestinians in [Palestine].”¹³⁰

“Clans are thus assuming a key role, along with the civil police, in matters related to protection (see Figure [...3 below]) and the maintenance of stability through informal law enforcement and dispute resolution mechanisms. As mentioned above, while there are some positive aspects of this trend in the absence of a nation-State, clan-based institutions may increase social exclusions and weaken non-kinship forms of affiliation and solidarity. Because traditional cultural norms prescribe that it is a male duty to protect women and children, and there are few enforceable legal constraints on what a male head of household can do to his own wife and children, women are likely to suffer most from the tendency to resolve interpersonal conflicts within the family rather than through recourse to the rule of law.”¹³¹ Similar developments have taken place in in East Jerusalem as highlighted by ICG (2012).¹³²

Gender based violence in Palestine is increasing as a result of the amplified political tension and a weak legal system that is not capable of providing gender based victims adequate protection and support. The so-called “honour killing” crimes are on the rise due to lack of strict rules against the perpetrators who are usually male relatives of the victims.

Figure 3: If you were to be a victim of a violent crime, who would you contact to seek protection?



Source: UNDP, 2009

¹²⁹ Ibid.
¹³⁰ UNDP (2009/10), Human Development Report, 2009/10. Occupied Palestinian Territory. Investing in Human Security for a Future State – Paragraph.
¹³¹ Ibid.
¹³² International Crises Group (2012)

5.3 Social Services – Health and Education

The provision of social services is another important source of performance legitimacy for a state. Pre-1994 Israel had control over public education and health services together with UNRWA. CSOs were also providing important services. Today, PA and UNRWA are the main service providers in these sectors. We will not go into a detailed description of all the services, but only highlight some main figures and issues related to service provision and performance legitimacy for these sectors.

According to PCPSR's "Day after"-report 2014, PA provide education services for about 1,145,000 students and 62,000 teachers working in 2751 schools and 214,000 students enrolled in 49 colleges and universities. In 2012, the PA education budget stood at 2,3 billion Shekels of which 80% was allocated for salaries. Generally, Palestinian women are achieving high enrolment in education, but still the rate of illiterate women is higher than men.

In the health sector, PA and UNRWA are currently the main service providers. The PA is also the main regulator of health service.¹³³ The total spending on health in 2011 reached USD 1.2 billion. PA share of spending stood at 35% while household spending stood at 43%, and that of the NGOs at 19%. The health ministry spent more than USD 0.35 billion, of which 47% went to salaries. Health ministry's staff reached about 14,000 employees, divided between doctors, pharmacists, nurses, technicians and administrators.

If we look at the actual expenditure in the social services in 2014, PA's figures¹³⁴ show that total expenditure constitutes about 45 percent of all PA expenditure.

Most interlocutors confirmed that they would prefer PA to provide for social services instead of Israel. Only a few interlocutors said that Israel should take over all service provision with reference to the argument about pushing Israel to pay for the cost of the occupation. We would thus argue that PA has medium performance legitimacy when it comes to social service provision.

East Jerusalem

In East Jerusalem PA "controls the educational curriculum in most schools, operates a Sharia (Islamic law) court and administers the Palestinian matriculation (tawjihi) exams. But in most other respects, the PA's and PLO's influence in the city is limited, particularly given that the restricted funds they have can only be deployed via third parties, mainly civil society organisations. The paucity of resources devoted to the city is a bone of contention between Arab Jerusalemites and Ramallah. [...The] dire state of the education system in East Jerusalem is a cause of particular concern. Many thousands of East Jerusalem children are denied a place in a municipal school each year, in violation of Israel's Compulsory Education Law. 40 per cent drop out of school by twelfth grade."¹³⁵

UNRWA¹³⁶

Today some 5 million Palestinian refugees are eligible for UNRWA services in total and about 2 millions are located in Palestine. UNRWA's human development and humanitarian services encompass primary and vocational education, primary health care, relief and social services, infrastructure and camp improvement, microfinance and emergency response, including in situations of armed conflict.

For the 1 260 000 registered refugees in the Gaza Strip, UNRWA provide education services for about 233 000 students and 245 schools, and in the health sector 22 primary health facilities and about

¹³³ Shikaki (2014)

¹³⁴ State of Palestine (2015). Ministry of Finance. Table 5-B: Expenditure by PA organizations, Jan-Dec 2014, ref Annex 7.

¹³⁵ International Crises Group (2012)

¹³⁶ Chapter based on <http://www.unrwa.org>

4 300 000 annual patient visits. UNRWA also provide for relief and social services, including social safety net programs, 62 women's programme centres and 38 community rehabilitation centres. For the 762 000 registered refugees in the West Bank, UNRWA provide education services for about 51 000 students in 97 schools, and in the health sector there are 42 primary health facilities with about 1 500 000 annual patient visits.

UNRWA has high performance legitimacy and is in practice supplanting PA's potential performance legitimacy in the provision of social services for many Palestinians. However, a main reason for not bringing UNRWA services under PA's responsibility and thereby potentially increasing PA's performance legitimacy, is that UNRWA represents the embodiment of their stated right of return, as outlined in a number of UN-resolutions. The sole existence of UNRWA and being registered as a refugee, is perceived as a kind of a guarantee for Palestinians' refugee status, which link to issues of process/democratic legitimacy. This makes UNRWA very important as long as no acceptable solution to the situation of the Palestinians have been concluded and implemented, and thus also constitute a stronger source of legitimacy than PA's performance legitimacy. UNRWA is however not responsible for security or law and order in the camps and has no police force, which is likely to give UNRWA less performance legitimacy compared to UNHCR refugees elsewhere.

5.4 Employment

The availability of jobs in a society depends on many factors, but important among them the macroeconomic situation. Governments can usually regulate the labour market somewhat and are often blamed when jobs are not available. PA's control over the macroeconomic situation and job opportunities are in general heavily restricted due to several aspects of the occupation and the closure regime.

To describe the job situation, we briefly highlight some statistics from PCBS Labour Force Study, first quarter of 2014¹³⁷:

- Labour force participation rate was 47% in the West Bank and 45% in the Gaza Strip,
- The gap in the participation rate between males and females is still very high reaching 72% for males compared with 20% for females.
- The unemployment rate in Gaza Strip was 41% and 18% in the West Bank,
- The unemployment rate for males in Palestine was 23% compared with 37% for females.
- The highest unemployment rate was 43% among youth aged 20-24 years.
- The highest unemployment rates in the West Bank governorates was in Jerusalem with 21%. In Gaza Strip, the highest unemployment rate was in Khan Younis with 46%.
- The public sector employed 23% of those in employment: 41% in Gaza Strip and 16% in the West Bank.

The gender gap is apparent in terms of participation in the labour force, wages and unemployment. The majority of working women are engaged in agriculture rather than in professional sector.

According to the World Bank, in 2015 the unemployment in Gaza is the highest in the world at 43 percent.¹³⁸ Even more alarming is the situation of youth unemployment in Gaza which soared to more than 60 percent by the end of 2014.

¹³⁷ Palestinian Central Bureau of Statistics (PCBS). Press Release on the Results of the Labour Force Survey. (January–March, 2014) (Percentages are rounded off).

¹³⁸ World Bank (2015).

Many interlocutors, especially youth, were frustrated about the lack of job opportunities. The concerns were especially strong in Gaza. Worrying stories from a youth interlocutor in the West Bank were given about a friend who had committed suicide due to lack of employment opportunities, lack of future prospects and feelings of dishonour for not being able to provide for his family as the male head of the family.

From PCPSR December 2014 poll, 23% of the respondents say that the “spread of unemployment and poverty” is the most fundamental problem, and “the one that must be on the top priority of the Palestinian Authority”. PA is in general assessed to achieve low performance legitimacy for the creation of jobs in the private sector.

Civil servants and public salaries

PA employs about 153 000 civil servants, including 89 000 in the West Bank and 64 000 in Gaza.¹³⁹ In 2014, salaries constituted about 45 percent of PA expenditure.¹⁴⁰ The PA is also still a source of employment and salaries for several thousand Jerusalemites. Providing public servants with work opportunities is important in itself and is most likely appreciated by employees in a tough labour market. The same goes for salaries, which benefit public servants’ families. PA’s role as a provider of jobs and salaries are thus assessed to be a source of PA performance legitimacy. PA’s ability to pay salaries for PA civil servants in Gaza in the time ahead will be important for PA’s performance legitimacy in Gaza, and for reconciliation efforts.

5.5 Corruption and performance

Corruption understood as clientelism indirectly reduces PA performance and service delivery through weaker capacity in the public sector. Corruption understood as the extraction of rents or misuse of public resources directly reduces PA performance, as less resources are spent on service delivery.

Taking a historical view on the prevalence of corruption in the management of public resources, U4 explains that “in the early days of the PNA for example, there have been some prominent cases of misappropriation of public funds such as in 1997, when a government audit revealed that US\$ 326 million of the PNA's budget— nearly 40%—has been wasted or misappropriated.¹⁴¹ More recently, in 2006, the public prosecutor launched investigations of 40 cases involving a number of public figures and former officials from across the PNA structure concerning the embezzlement of around US\$ 700 million. In 2009 alone, three high level officials were sentenced to imprisonment for embezzlement and misuse of public office.”

However, “according to the World Bank 2010 survey, in spite of being perceived as problematic, corruption is not regarded as the most serious problem in various public service delivery organisations, and bribe payments are seen as relatively unusual for the vast majority of public services.¹⁴² [...] Appointments and promotions are usually perceived as areas vulnerable to corruption, as well as the potential for conflicts of interest arising from the practice of changing positions between the public and private sectors without control and oversight.”

Summing up service delivery and performance legitimacy

Palestine is facing a wide range of challenges related to service delivery and to the respect, protection and fulfilment of human rights. A clientelistic political system operates in contradiction to, and undermines, performance legitimacy. The practice of clientelism runs counter to the universal

¹³⁹State of Palestine (2014), p. 55

¹⁴⁰ State of Palestine (2015)

¹⁴¹ U4 (2012), p. 3-4.

¹⁴² Ibid.

provision of public goods to citizens, and can result in inequalities between culturally defined groups that could also contribute to political instability. This might in turn result in lower performance legitimacy. For citizens benefiting from clientelism, it can however provide a source of performance legitimacy.

In general, PA has low performance legitimacy. It is especially low regarding security, which also relates to the security coordination between PA and Israel. The respect and protection of civil and political human rights are especially low. PA has medium performance legitimacy when it comes to the provision of social services like education and health. PA/Fatah's challenges and unwillingness to pay salaries for Hamas employed civil servants in Gaza is most likely decreasing PA's performance legitimacy in Gaza. Finally, PA has low performance legitimacy as many Palestinians think PA is only administrating the occupation, and thus not appreciating PA provided services.

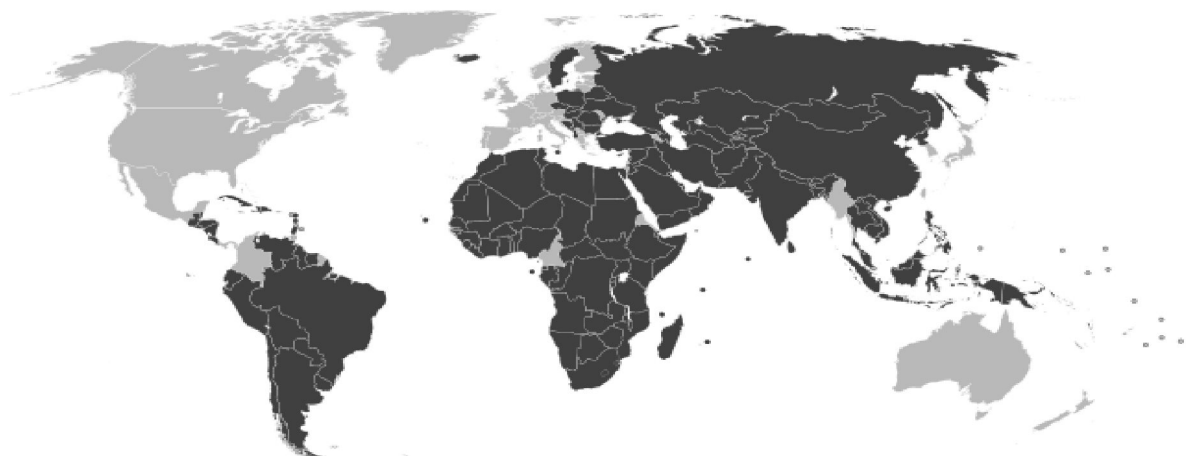
6 International legitimacy

“A state’s external sovereignty is dependent upon international recognition. Such recognition is also a source of legitimacy, not only externally but sometimes also internally. Regional and international actors and organisations, including donors, play a critical role in determining the extent to which particular states perceive themselves and are perceived by others as legitimate and operating within accepted international rules (including human rights). These external sources of legitimacy can modify behavior in negative and positive directions. To be effective and positive, external legitimation has to resonate with internal legitimating dynamics. When external and internal sources of legitimacy are deeply contradictory, the gap between them can have destabilising impacts on the state.”¹⁴³

6.1 Sovereignty and Recognition as a State

There is no globally accepted treaty framework that lays down the specific and detailed rules concerning the creation of states. However, there are two main theories in international law on the basic criteria for statehood. The first is the so-called “constitutive theory of statehood”. This theory holds that a state exists if and when other states recognizes it as such. The international community remains divided over the issue, and there is no rule as to how many states’ recognition is required. As of March 2015, 135 out of 193 member states of UN have recognized the State of Palestine. Most of the countries that have not recognized the State of Palestine are Western countries as shown in grey in the map in figure 4 below. Countries having recognized Palestine are depicted in black.

Figure 4: International Recognition of the State of Palestine (marked in black)



Source: Wikipedia - http://en.wikipedia.org/wiki/International_recognition_of_the_State_of_Palestine

Most legal scholars today consider the constitutive theory to be generally insufficient. The theory that has gradually become dominant among legal scholars is the so-called “declarative theory of statehood”. This holds that there are four general criteria of statehood, sometimes referred to as the “Montevideo criteria”. It is significant that the Montevideo criteria declares that statehood is independent of its recognition by other states. This means that if an entity fully meets the criteria, it should be regarded as a state regardless of other states’ recognition.

The first criterion is that of a defined territory. The second criterion is that of a permanent population. This basically means that the defined territory of the first criterion must be populated. It is not required that this population can be defined as a “nation” or as a “people”. The third criterion is that of a government that can maintain a certain control and rule of law within the territory and

¹⁴³ OECD (2010), p. 28-29

over the population. The government must actually function as the highest authority in the territory. It is not required that this government is democratic. The final criterion is that the state must have the “capacity to enter into relations with the other states”. This criterion deals with the *external* autonomy of the government, whereas the third criterion deals with its *internal* autonomy. The requirement is not for absolute autonomy. A state can be economically and politically dependent on another country, but it must have the capacity to independently enter into relations with other states.

At the time of the Palestinian National Council’s approval of the Palestinian Declaration of Independence in 1988, the Palestinian territory was rapidly becoming universally acknowledged as being based on the pre-1967-border between Israel and Jordan. The Security Council had confirmed the pre-1967 border in many resolutions, of which the most important were resolutions 242 and 338. Importantly, in 1988, Yasser Arafat confirmed that the PLO also regarded these borders as the basis for the state. That meant that there was a very broad consensus about the basis for the borders, which also stands today.

In regard to the population, the Palestinian case for statehood also seems to be a good one. In international law, the demand for size of population is modest, and there can be no doubt that the Palestinian population is large enough. The fact that many more Palestinians are living in other states, including about 700.000 in Israel, is not relevant for the Montevideo criterion. It would be a practical problem for the new state to define its own citizenship. The Palestinian state is thus meeting the criterion of population.

Before turning to the third criterion, we will briefly argue that PLO has the capacity to enter into relations with other states. This criterion is not one of general independence from other states, but of the ability to exercise a form of diplomatic independence. As the Palestinian state is recognized by a significant number of states, there can be little doubt that it in fact satisfy the fourth criterion.

The real problem has been and is the third criterion of government. One main obstacle is that Israel remains in control of substantial parts of the territory and continue to enlarge the Israeli settlements in the same area, and thus preventing Palestinian authority in a number of areas. The problem of a lack of government was addressed in the Oslo accords. The most important development of the Oslo accords was the establishment of a Palestinian state apparatus. Through the PA, the Palestinian cause was strengthened in terms of international law. In 2011, the World Bank and IMF affirmed that the PA have achieved a level above the threshold for a functioning state in key sectors such as revenue and expenditure management, economic development, service delivery and security and justice. In this way, Palestine and PA received important international legitimacy.

Other main obstacles, which developed in the aftermath of the Second Intifada and impacted negatively on the case for statehood, were the Israeli construction of the separation barrier in the West Bank and the de facto political split with the Hamas takeover of Gaza in 2007. Since the Hamas take-over of Gaza, the Palestinian territory has de facto been split into two completely separate political units. This means that the Palestinian case for statehood further declined. The PA claims authority over the whole Palestinian territory, but it has little actual say in what goes on in Gaza. This means that although the PA has a greater technical capacity for governance than before, its actual control over the Palestinian territory and population is smaller than before. The 2014-2015 unity government has not managed to solve this situation.

The continued expansion of settlements, the barrier and continued Israeli presence in the West Bank means that Palestinian statehood is dependent on Israeli action. Meanwhile, the division of Palestinian territory into two antagonistic political and territorial entities remains a major obstacle to

statehood. At the same time, there is a basis for future statehood, if political settlement can be found. There is a broad international consensus about the basis for borders and it is clear that the criteria for population and capacity for foreign relations are already met. In the PA, the Palestinians even have state institutions that already have the capacity for full statehood. But the realities on the ground paint a grim picture of the future for possible Palestinian statehood.

However, even though one day all the four criteria will be met by Palestine, the question of statehood is most likely to ultimately be a political decision resting with the powerful states. Palestine is thus in need of international recognition from more countries and especially Western powerful states, to be fully recognized as a state.

Several interlocutors emphasized the importance of international recognition of the State of Palestine and encouraged Norway to do the same as Sweden and others have done. Such recognition was seen as important for the strengthening of the internal political legitimacy in Palestine.

Regarding the international legitimacy of the Palestinian people, it seems to be a split between the political and legal dimensions, and also disagreements between different legal interpretations. We will only briefly touch upon some aspects here. First, international law does not provide a recognized legal definition of "peoples".¹⁴⁴ However, "the Palestinians have been recognized by different international actors as a self-determination unit, and are regarded as possessing the legal dimension of the right to self-determination. In 1969, United Nations General Assembly (UNGA) Resolution 2535 referred to the 'inalienable rights of the Palestinian people' [...] In 1972, United Nations General Assembly Resolution 2672 explicitly recognized the Palestinian right to self-determination."¹⁴⁵

"The legal dimension of self-determination is exercised through the formation of a state, integration in a state, or association with a third state. However, this legal right is not inherent, and therefore does not apply to all people. Its application is complex and selective due to its contention with other rules of the international society, particularly state sovereignty and territorial integrity. Crawford states that the right to self-determination is 'not applicable just to any group of people desiring political independence or self government, like sovereignty...it applies as matter of right only after a unit has been determined'. The determination of the right is presupposed by the recognition of a self-determination unit, which needs to comprise a people linked with a territory."¹⁴⁶

PLO is recognized as the "sole legitimate representative of the Palestinian people" by over 100 states with which it holds diplomatic relations.¹⁴⁷ In 1993, the PLO recognized Israel's right to exist in peace, and in response, Israel officially recognized the PLO as the representative of the Palestinian people. PLO thus has high international legitimacy, however slightly mixed as Israel and others only recognize PLO as "representative" and not "sole legitimate representative" of the Palestinian people.

PLO has enjoyed observer status at the United Nations since 1974.¹⁴⁸ In November 2012, the UN General Assembly passed a motion changing Palestine's "entity" status to "non-member observer state". This change is also representing increased international legitimacy for Palestine. A further strengthened recognition as a member of the UN, will increase Palestine's international legitimacy and most likely internal political legitimacy in Palestine.

¹⁴⁴ <http://en.wikipedia.org/wiki/Self-determination>

¹⁴⁵ International Centre for the Study of Radicalisation and Political Violence (2014). The Palestinians, the PLO, and Political Representation: the Search for Palestinian Self-Determination. Salem Barahmeh. The Atkin Paper Series. June 2014, p. 8.

¹⁴⁶ Ibid.

¹⁴⁷ Wikipedia: PLO. http://en.wikipedia.org/wiki/Palestine_Liberation_Organization

¹⁴⁸ Ibid.

6.2 Development Aid Donors

Regional actors in the Middle East are playing an important role concerning political and financial support to Fatah/PA/PLO, Hamas and other organizations. Other major political actors and donors are the EU and EU countries, multilateral organizations, the US and Norway.

International actors' political support, or lack of it, to Palestinian political actors and processes often directly impact on the process and performance legitimacy dynamic in Palestine. "Palestinian democracy was seriously weakened by the refusal of Israel and the donor community to recognise the freely elected Hamas government in 2006 and by their efforts to undermine it"¹⁴⁹. A common message from interlocutors was: "Why should we conduct elections when you, the West, don't accept the outcome of the election?" Another consequence has been that the notion "democracy", among some parts of the Palestinian society, has gotten negative connotations. For some Palestinians, democracy has increasingly become to mean Western democracy. In this regard, it is important to note that the spread of democracy depends on the legitimacy of the idea of democracy itself. International actors' political actions in multilateral settings, like for instance in the UN Security Council, also impact on the Palestinian internal political dynamic.

In general it can be pointed out that all "donor interventions have an impact on local power relations and political processes, and therefore potentially on state capacity and legitimacy. Whatever they do or fund, donors are likely to open up new opportunities for some actors and contribute to changing social practice, positively or negatively. Donors have an impact on capacity and legitimacy because:

- They come with financial and other resources. This can be positive or negative for legitimacy. [...]
- Donors come with normative values rooted in a Western state model. [...]
- Donors and donor governments have the ability to confer or withhold international legitimacy for states or political settlements.
- Donors are under pressure to show results, to find solutions, to spend money and account for it to their own taxpayers, all within relatively short time scales that are often at odds with internal dynamics (for example, the internally driven process of political settlements).
- Finally, donors have often not only failed to think about local sources of legitimacy – they have also failed to take account of local perceptions of their own legitimacy. This has weakened their ability to have a positive impact on state building.

Some difficult challenges for donors are:

1. The interests of "development partners" may not be well aligned with a donor agenda of promoting democratic governance, human rights and inclusive economic and social development,
2. Local perceptions of legitimacy may diverge fundamentally from international human-rights norms (for example, in relation to rights of women and minorities),
3. Given high levels of competition for power and legitimacy in many fragile situations, donor interventions are almost bound to enhance the position of one group of actors in relation to others."¹⁵⁰

¹⁴⁹ Economist Intelligence Unit (2015), p.11

¹⁵⁰ OECD (2010).

6.3 International Human Rights and Conventions¹⁵¹

The international human rights norms constitute a source of state legitimacy as they are hailed as a universal framework enshrined in the UN Declaration on Human Rights, within which all states should operate. Palestine's accession to 18 key international treaties and conventions and the Rome Statue of the International Criminal Court in 2014, is perceived by some Palestinians as a sense of recognition from the international community. This in turn positively influences internal political legitimacy. Several interlocutors showed appreciation for this multilateral move, which we ascribe to be a sign of strengthened political legitimacy. The accession to international treaties also improves the international legitimacy of Palestine from a judicial perspective, as entering into international treaties/relations with other states is a legal conditions for statehood in international law, mentioned above. However, unintended negative consequences of this political move might however backfire on PLO and PA's legitimacy if no improvements or retaliations are experienced by Palestinians, such as the withholding of clearance revenue and the reduced salaries for civil servants beginning of 2015.

The international human rights norms also represent a source of domestic legitimacy in Palestine "to the extent that they provide a moral purpose for the state and establish a link between the state and its subjects in such a way that the latter become recognized as citizens with rights that the state will defend and uphold."¹⁵² However, observance of human rights norms does not automatically increase state legitimacy. The impact on state legitimacy depends on how well international human rights norms resonate with groups whose trust, allegiance and support is needed to strengthen state capacity. It is therefore important for donors not to assume that promotion of, or support for, reform that is aligned with international norms will necessarily increase internal legitimacy. In order for the human rights to increase Palestinian political legitimacy, they have to resonate with the majority of Palestinians, and PLO and PA need to be able and willing to live up to the treaties.

Finally, it might be a challenge to balance human rights and democracy as sources of legitimacy. For instance, citizens might be radicalized in one way or the other and choose leaders who would implement decisions which might be in contradiction to human rights principles.

6.4 Ideological Movements in Israel Influence Palestinians

Israel's occupation of Palestine is the single most important act of not granting international legitimacy to Palestine, and thus blocking any profound state legitimacy in Palestine. Political developments in Israel with the consolidation of the occupation and increased settlement activity weakens Palestine's performance and process legitimacy in many ways. With PLO/PA continuing a non-violent negotiating track makes the PLO/PA weak in many peoples' opinion.

According to the Israeli researcher Ilan Pappé, the development of Zionism as an ideology in Israel is increasingly taking a New-Zionist direction¹⁵³. Roughly explained, the New-Zionist school of thought choose to be more Jewish and less democratic, compared to the Post-Zionism in 1990s, which was less Jewish and more democratic. The New-Zionist Israel is continuously moving faster to the right of the political spectrum.

This growing anti-democratic, and according to interlocutors, apartheid-like movement in Israel, is raising related feelings of hostility and anti-democratic sentiments among Palestinians against the Israelis. The ideological movement in Israel is thus thought to strengthen resistance as source of

¹⁵¹ Chapter based on OECD (2010).

¹⁵² OECD (2010)

¹⁵³ Klassekampen (2014). Interview with Ilan Pappé on his book «*The Idea of Israel: A History of Power and Knowledge*», 24.11.2014.

legitimacy in Palestine, and might also have contributed to weaken the importance of democratic legitimacy among Palestinians.

According to interlocutors, one option to strengthen democratization and human rights in Palestine seems to be a change in the international positions, focusing more on pressuring Israel to end occupation and the siege of Gaza. At the same time, they emphasized that Palestinians need to get increased authority in the security and economic domain.

7 Development and Humanitarian Assistance to Palestine

Like in other states, diverse sources of legitimacy co-exist and interact, compete and conflict.¹⁵⁴ No one source can itself legitimize political power, and no particular hierarchy is involved. People's perception of what is right and their material interests interact, and social structures shape people's perception of their interests. Political legitimacy is thus difficult to understand and to influence for an external donor. However, it may be possible to shift people's perceptions of their interests by changing the opportunities and incentives that they face. In this regard, development aid can play a role.

With the Oslo Accords and the PA, a unique international engagement developed, encouraged by the hope of a solution to the Israeli- Palestinian conflict and the establishment of a sovereign Palestinian state, living in peace side by side with Israel. Donors allocated huge funds to build and develop Palestinians institutions. The new authority took over and developed service delivery, previously provided by the occupier. In parallel, private capital, in particular from Palestinians in the diaspora, started flowing in for investment in housing as well as local industry.

7.1 Limitations of Development Assistance

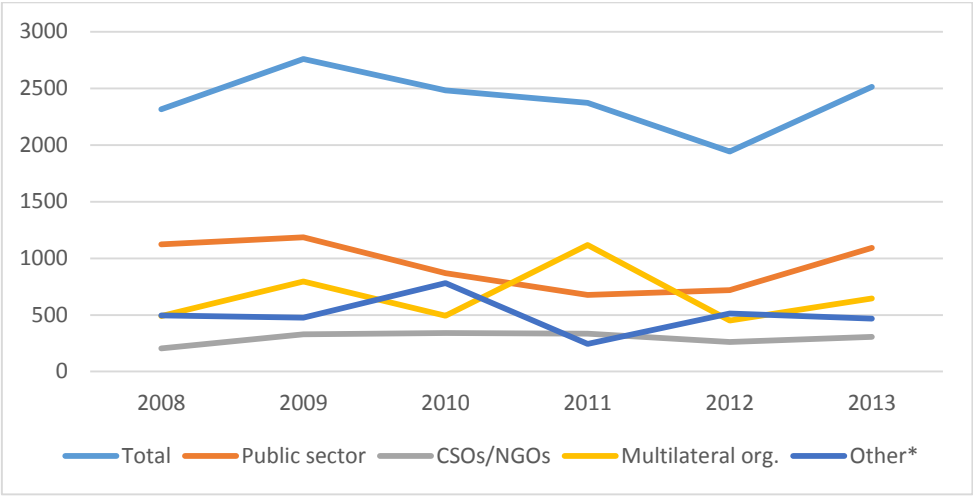
Development aid plays an important role; however, other sources of revenues are more important. Ending the occupation is a condition for bringing about sustainable economic growth. Development assistance and humanitarian allocations cannot alone prevent the negative consequences of continued occupation and conflict. Political changes with a strengthened international engagement for establishing a sovereign and independent Palestinian state within fixed borders is decisive for the achievement of sustainable development gains. 'National ownership' is a guiding principle in development cooperation, underlined in the Busan declaration. The principle is, however, often undermined in highly political charged situations like Palestine, where external actors, including the donor community, act in ways making national authorities less in control of their own future development, through economic and military hindrances, the establishment of parallel structures and the use of conditionality.

7.2 International Development Assistance

Donors from all over the world are active in Palestine; however, most of the development aid is coming from Arab and Western donors. The aid flows through different channels, not all registered in available statistics. According to OECD's statistics (end April 2015), displayed in figure 5 below, the total disbursed official development aid (ODA) to Palestine in 2013 was about USD 2,5 billion, of which USD 1,1 billion (44%) to public sector, USD 0,3 billion (12%) to CSOs, USD 0,6 billion (24%) through multilateral organizations, and USD 0,5 billion (19%) to other*. Over the period 2008-2013, we find that there is an average ratio of 39% of ODA going to public sector, 12% to CSOs, 28% to multilateral organizations, and 21% to other*. Some of the aid registered to multilateral organizations is however going to public sector.

¹⁵⁴ Based on OECD 2013 p. 35

Figure 5: Total disbursed official development aid to Palestine by recipient 2008-2013 in USD million (current prices)



*Other includes the OECD defined channels “Public-Private Partnership”, “Other” and “To be defined”
 Source: OECD QWIDS – <http://stats.oecd.org/qwids/>

Comparing with all other aid recipient countries, we find in 2013 that about 55% of total aid went to public sector, 13% to CSOs and 17% to multilateral organizations, and other constitutes 15%.¹⁵⁵ The ratio going to CSOs in Palestine is close to the average for all developing countries in 2013. The relatively higher ratio going through multilateral organizations in Palestine than elsewhere can be explained mainly by UNRWA providing services for about 5 million¹⁵⁶ refugees. Towards the refugees, UNRWA is replacing the PA in providing services, which in turn can explain the relatively low ratio of ODA going to public sector. Another explanation is the channeling of some of the budget support to PA through the World Bank, which is classified as a multilateral organization.

Budget support to PA constitute the biggest share of ODA to public sector. With about USD 1 billion in budget support in 2014, it made out about a quarter of PA’s total budget. Hence, PA is highly aid dependent. By just looking at PA’s financial figures, it is possible to argue that PA has become less aid dependent in recent years. However, taking the consolidation of the occupation over the same period, and its subsequent total costs for the Palestinian society, into consideration, we assess that PA’s aid dependency, in a bigger picture, has not gone down.

Coordination and division of labour among donors focused on donors’ special advantages and consolidation of donor engagements are all important for effective international development cooperation. However, lack of information and transparency on aid flows, donors’ pursuit of various political agendas, conflict of interest among donors, and between donors and PA regarding aid coordination, all pose great challenges for effective development cooperation in Palestine.

Aid coordination today is mainly done through the Local Aid Coordination Secretariat (LACS), which is an entity outside PA, supported by donors. In order to strengthen local ownership and internal Palestinian legitimacy, aid coordination should be handled by PA. However, according to an evaluation of LACS in 2012 “many donors were concerned that the present transparent and diplomatic way of providing information services would be lost if these services are transferred to PA” (COWI 2012: iii). In general, we recommend increased efforts to improve aid coordination and

¹⁵⁵ Own calculations based on statistics from Aid statistics : see OECD QWIDS – <http://stats.oecd.org/qwids/>
¹⁵⁶ UNRWA covers approximately 5 million Palestinian refugees globally, of which approximately 2 million lives in Palestine.

division of labour among donors with a focus on consolidation donors’ engagement focusing on their comparative advantages.

7.3 Norwegian Engagement

Norway’s engagement with Palestine aims toward support of the establishment of an independent Palestinian state as part of a negotiated two-state solution with Israel. Through political and financial support to the PA, the aim is to build the institutional foundation for a sustainable and viable state. Over the years this has resulted in a wide variety of Norwegian funded projects, programs and sectors¹⁵⁷. Norway is engaged in mobilizing aid to Palestine internationally as Chair of AHLC and in facilitating dialogue and negotiation between Israel and the PLO, representing the Palestinians. NRO works, according to the Activity Plan for 2015, on four overall strategic goals:

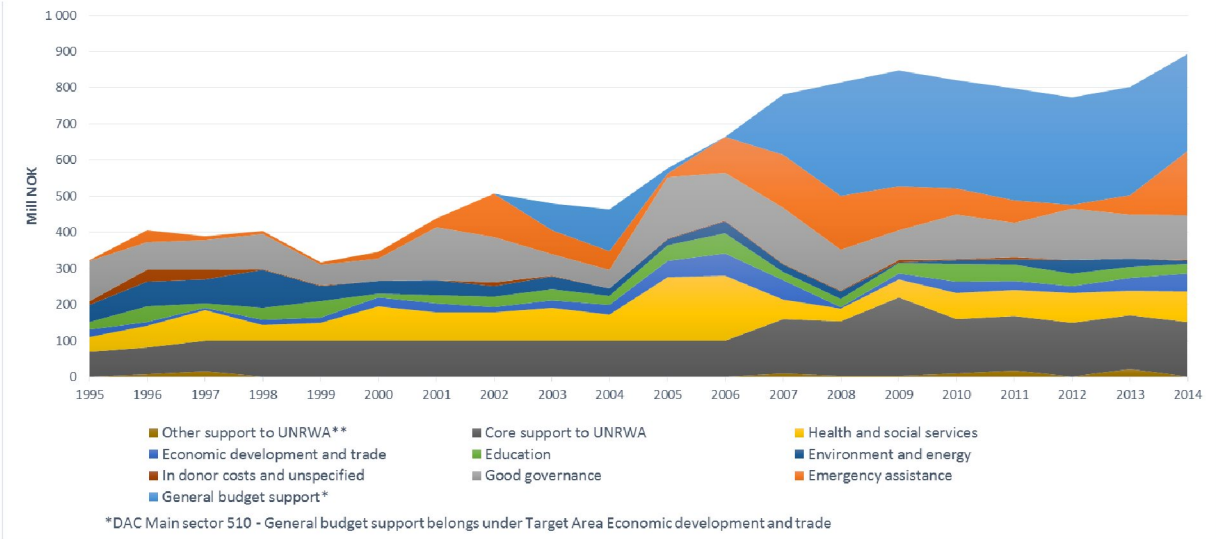
1. The establishment of a sustainable and sovereign Palestinian state,
2. Consolidation of a sustainable Palestinian government/state apparatus,
3. Democracy and Human Rights,
4. Effective multilateral and humanitarian organizations.

The Ministry of Foreign Affairs, supported by NRO and other embassies, is responsible for Norway’s political dialogue towards Palestine and Israel, and other international stakeholders. Norway as Chair of the AHLC occupy a central position for high-level political dialogue between Palestinian politicians and relevant international stakeholders. Norway is in addition having political dialogue on working level with Hamas in Gaza.

7.4 Norway’s Development Cooperation

Norwegian development aid has since the signing of the Oslo Accords been at a high level and increasing, as shown in figure 6 below. Over the years support to education, health and social services, and good governance¹⁵⁸ have been stable, while budget support has increased since 2002. Support to environment and energy was in particular substantial until 1999 and since then at a lower, but stable level. Emergency assistance has varied due to changing realities on the ground.

Figure 6: Norwegian development aid to Palestine and through UNRWA (NOK millions)



Source: Norad statistics

¹⁵⁷ For an overview, see Annex 5.
¹⁵⁸ Covering OECD DAC CRS code 150 – “Government and civil society”

Over the last four years, the NRO has managed more than half of the Norwegian development aid to Palestine and through UNRWA, as shown in table 3 below. The MFA in Oslo has managed about 40%, of which UNRWA core support constitutes a large part, and about 5 % has been managed by Norad.

Table 3: Norwegian development aid (NOK mill) to Palestine and through UNRWA, 2011-2014, by extending agency

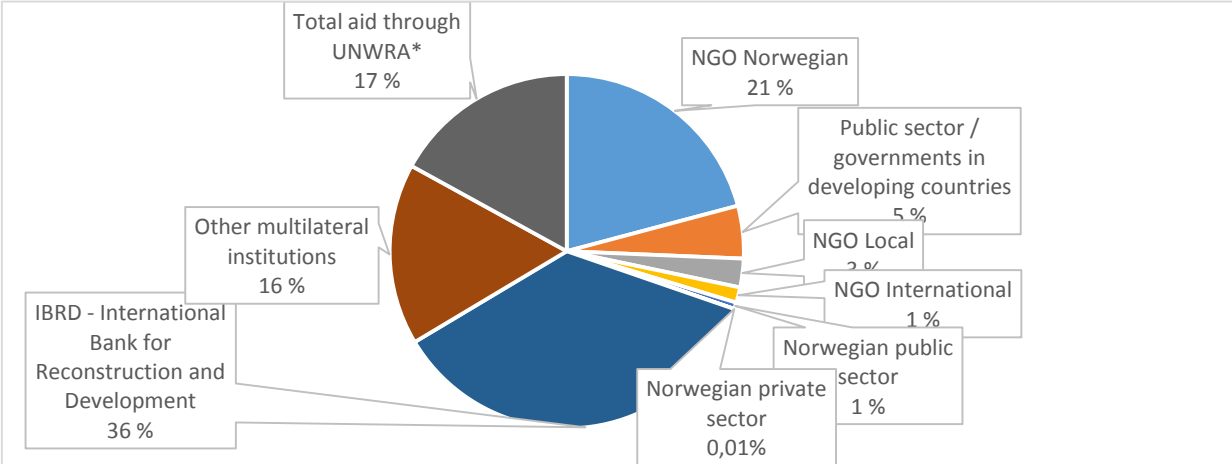
Extending agency	2011		2012		2013		2014	
	NOK mill	%	NOK mill	%	NOK mill	%	NOK mill	%
MFA – NRO	414	52 %	430	56 %	445	55 %	474	53 %
MFA – Oslo	341	43 %	297	38 %	311	39 %	372	42 %
Norad	41	5 %	46	6 %	45	6 %	45	5 %
Fredskorpset	0	0 %	0	0 %	1	0 %	1	0 %
Grand Total	797	100 %	774	100 %	803	100 %	892	100 %

Source: Norad Statistics

Looking at the Norwegian agreement partners for 2014, we see from the figure 7 below, that about 70% of Norwegian development aid is channeled through multilateral institutions, 21% through Norwegian NGOs, 5% through public sector/government and 3% through local NGOs. However, a substantial part of funds channeled through multilateral institutions is going directly to Palestinian public sector/government. In 2014, NOK 269 million channeled through IBRD was budget support to PA. By including this support, development aid to public sector/government increases to 35% and aid to multilateral institutions drop to 40%. In addition, support through UNRWA supports approximately 5 million refugees, of whom 3 million live outside Palestine.

Even though the OECD statistics above is uncertain with 21% categorized as “Other”, we will make a brief comparison between the distribution of Norwegian aid in 2014 (classifying budget support as going to public sector) and that of all ODA going to Palestine, based on average ratio in the period 2008-2013. We then find that Norway has a slightly lower ratio going to public sector/government of 35% compared to 39%, substantially and three times as high ratio of 26% going to CSOs compared to 12%, and a higher ratio going to multilateral organizations with 40% compared to 28%. The OECD category “Other” will however most likely level these findings somewhat. The most striking finding from this comparison is the strong Norwegian support for CSOs working in Palestine. However, almost 90% of this support is going to Norwegian CSOs working in Palestine.

Figure 7: Norwegian development aid to Palestine and UNRWA 2014 - Group of Agreement Partner



*Support through UNRWA include other countries in the Middle East
Source: Norad Statistics

7.5 Norwegian Representative Office's Development Aid Portfolio

The NRO's development aid portfolio by type of assistance and group of agreement partner for the last four years, is displayed in table 4 below. The overall picture has remained quite similar over the last four years, with a slight shift in 2012. The bilateral support has decreased slightly with NOK 10 million, while the multi-bilateral support has increased with about NOK 70 million.

Table 4: Norwegian development aid (NOK 1000) administered by Representative Office in Al Ram/Palestine, 2011-2014, by type of assistance and group of agreement partner

Type of assistance	Group of Agreement Partner	2011	2012	2013	2014
Bilateral	NGO Local	27 736	24 994	24 669	22 958
	Public sector /Government	43 948	71 087	38 785	38 464
	NGO International		152	4 000	2 168
	Norwegian private sector		22		
	Other countries private sector	-38			
	Consultants	1 134	622	0	
	NGO Norwegian		2 000	-449	
Bilateral total		72 779	98 876	67 005	63 590
Multi-bilateral	Multilateral / IBRD	240 950	298 495	300 000	322 500
	Other multilateral institutions	99 398	32 641	72 860	86 410
Multi-bilateral total		340 348	331 136	372 860	408 910
Grand Total		413 127	430 013	439 864	472 500

Source: Norad Statistics

It is difficult to get an accurate picture of the actual distribution of NROs aid to different partners as part of the aid to NROs agreement partners is channeled on to local government or NGOs. To get a rough picture of the actual distribution for 2014, we will include the Norwegian budget support (NOK 269 million) as support to public sector/government. For 2014, we then find that about 65% went to public sector and government, 30% to other multilateral institutions (including IBRD's Gaza PID-MDTF), 5% to local NGOs and 0,5% to international NGOs.

Thematic Distribution

To get an overview to which target areas or sectors NRO's development aid is distributed is not straightforward. As the budget support is spreading out on different sectors according to PA's priorities, and Norad's statistics do not take this into account, by classifying it all as economic development and trade, we developed our own method to get a clearer picture.

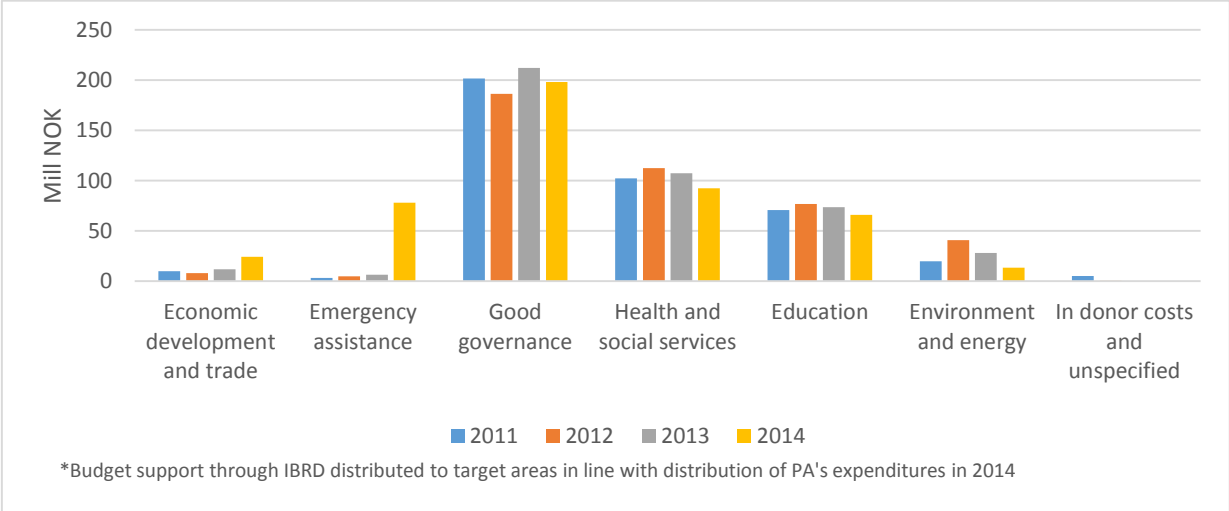
Given Norad's statistical categories, we have identified PA's corresponding expenditure categories. Based on PA's total actual expenditure figures for 2014 from the Palestinian Ministry of Finance¹⁵⁹, we have calculated that 26 % went to health and social services, 19 % to education, 2 % to environment and energy and 2 % to economic development and trade. We found it most correct to categorize the rest as good governance, constituting 51%. The good governance category¹⁶⁰ includes support to democracy, human rights, civil society, and public sector administration and financial management to mention a few. PA's expenditure varies somewhat from year to year, but we have used PA's 2014 ratio to estimate the thematic distribution of the Norwegian budget support for the preceding three years. (See Annex 6 for more detailed calculations).

¹⁵⁹ State of Palestine (2015). Ministry of Finance. Table 5-B: Expenditure by PA organizations, Jan-Dec 2014 (thousand NIS), 20, January 2015, ref Annex 7.

¹⁶⁰ Covering OECD DAC CRS code 150 – Government and civil society

Accordingly, we find that the thematic distribution of NROs portfolio to different target areas is as shown in figure 8 below¹⁶¹. We see that over the last four years most of NRO’s assistance has gone to good governance, followed by health and social services, and education. A small and decreasing amount of aid is going to environment and energy, while support to economic development and trade has remained small over the years. Emergency assistance rose sharply in 2014 as a result of the Gaza war.

Figure 8: Representation Office in Al Ram/Palestine – Target Area*



Source: Own calculations based on Norad statistics, see annex 6.

In accordance with our analytical framework, we consider public sector administration and financial management to correspond to state capacity. It is not easy to separate clearly between state capacity and democracy/human rights. The two are interdependent. Democracy and human rights are broad sectors encompassing several different institutions and actors. One could argue that almost all development aid to Palestine is directly or indirectly relevant for democracy and human rights.

Norwegian development aid, together with other international aid, is influencing different sources of legitimacy in the Palestinian context. It is not possible to say which projects have the most impact on different sources of legitimacy, as legitimacy is fundamentally a subjective issue and different sources co-exist, interact, compete and conflict. However, there is no doubt that Norwegian aid strengthens PA and UNRWAs performance legitimacy for social service delivery.

One issue related to international legitimacy is worth mentioning. Due to the political developments in Palestine after the Second Intifada, and in particular after the PLC elections in 2006, Norway, together with most other donors, moved from channeling substantial aid bilaterally to multilateral Trust Funds. For Norway the World Bank administered Trust Fund was most convenient. This move represent weakened international legitimacy and might have reduced internal political legitimacy.

Geographic distribution

Data showing Norwegian development aid distribution to Gaza, East Jerusalem and the West Bank is not available. However, Gaza receives substantial parts of the budget support. UNRWA spends substantial funds in Gaza, and some CSOs receive support. For more statistics, see annex 5 and 6.

¹⁶¹ For distribution of all Norwegian aid to different target areas based on the same method, refer to annex 5.

8 Options for Norwegian Development Cooperation

Given the difficult situation in Palestine, and little prospects for change in the short term, the overall theme of this chapter is the importance of complementing the transfer of financial resources with other foreign policy measures.

8.1 Policy Coherence for development

“The concept of policy coherence for development (PCD) aims to exploit positive synergies and spillovers across public policies to foster development. A meaningful working definition of PCD goes well beyond minimizing the adverse impact that public policies can have in developing countries; it entails the systematic application of mutually reinforcing policies and integration of development concerns across government departments to achieve development goals along with national policy objectives.”¹⁶²

It might be relevant to look at how Norwegian public policies towards Palestine and other actors affecting the Palestinian situation influences the development in Palestine. Policies on imports and export, opportunities for education and studying in Norway, visa regulations, and investment regulations for the Norwegian Government Pension Fund Global, are some examples which might influence development in Palestine. Norway should strive to have a coherent policy for development towards Palestine.

8.2 Comprehensive Foreign Policy

In addition to the transfer of financial resources and technical knowledge, development cooperation usually involves political dialogue. As the overall goal for cooperation with Palestine is the establishment of a sustainable and sovereign Palestinian state, development cooperation needs complementation by other foreign policy measures.

Norway’s role as Chair of the AHLC has the potential to influence and mobilize international actors and donors’ in a preferred direction, both regarding policy and development cooperation. As AHLC’s goal is to build a well-functioning state apparatus for Palestine, as a prerequisite for a two state solution, a focus on sustainable revenue solutions for Palestine is relevant. According to the Budget proposal for 2016, Norway has a special commitment to still keep a high funding level to Palestine as a Chair of the AHLC.¹⁶³

8.2.1 Thinking and working politically¹⁶⁴

Evidence from research and practitioners tells that domestic political factors are usually much more important in determining developmental impact than the scale of aid funding or the technical quality of programming. Successful implementation usually happens when aligning programs with a domestic support base that is influential enough to generate reform momentum, and overcome the resistance of those benefitting from the status quo. This demonstrates that an understanding of political dynamics is frequently the critical missing ingredient in project design and implementation.

Three core principles for development cooperation address these challenges: 1) strong political analysis, insight and understanding; 2) detailed appreciation of, and response to, the local context;

¹⁶² OECD (2012). *Policy Framework For Policy Coherence For Development*, Working Paper no 1, 2012 OECD Office of the Secretary-General, Unit for Policy Coherence for Development.

¹⁶³ Utenriksdepartementet, Prop. 1 S 2015-2016, s. 175.

¹⁶⁴ Chapter based on Thinking and Working Politically (2014).

and, 3) flexibility and adaptability in program design and implementation. For an elaboration of these principles, refer to annex 4.

8.2.2 Policy Level and Political Dialogue¹⁶⁵

The Israeli occupation, including the siege of Gaza are the main obstacles for Palestinian development. Work towards Palestinian sovereignty, easing and ending the occupation are key for achieving sustainable results for development cooperation. This demands working with external actors affecting the conflict, including Israel, regional actors, EU and EU countries, US and the UN.

The European Council on Foreign Relations concludes to focus on some important policy areas to achieve sustainable results from development cooperation. “a) internal reconciliation, including the reunification of the Palestinian body politic around a commonly agreed and inclusive set of national goals; b) the development of a new national strategy or strategies to achieve these goals; and c) the renewal of Palestinian national institutions”. They state that “few believe that a return to bilateral negotiations, at least as long as the current imbalance of power on the ground remains intact and is reflected in the negotiations themselves, offers a viable option. [...] No less important than drafting a broadly inclusive national programme capable of re-engaging Palestinians and reunifying the Palestinian body politic is the need to establish institutional mechanisms capable of facilitating greater public participation and democratic decision-making.”¹⁶⁶

Several options are available. Building on European Council of Foreign Relations (2013), important measures are assessed to be:

- Support a Palestinian national dialogue and reconciliation, including the diaspora.
- Support institutional reform to allow for democratic decision-making. Strengthening accountability and facilitating transparency within the PA.
- Providing legal assistance to those whose rights have been violated either by the occupation or factional fighting.
- Supporting the foundations of a future political system that includes an appropriate mechanism which separates the three main powers and regulates the relationship between them.
- Supporting the foundations of a political system that includes an independent judiciary, the rule of law, and the protection of civil liberties.
- Fighting clientelism, in general, through focus on democratization, decentralization and economic liberalization. In particular, civil service reorganization and reorientation, including meritocratic recruitment.

We will elaborate on two issues in particular:

Hold new elections to the PLC.¹⁶⁷ This remains the favored response of the US, and the EU and its members to the lack of legitimacy facing the Palestinian leadership, as assessed by European Council on Foreign Relations. They warn that this will “require no small amount of international muscle (particularly European and American) to ensure that Israel allows voting and election campaigning to take place throughout the West Bank, including East Jerusalem, and in the Gaza Strip.” They also underline that such elections will “not allow for the inclusion of Palestinians living outside the OPTs (undermining the argument that PA elections would (re)empower the Palestinian leadership to make broad decisions on behalf of all Palestinians), nor would they likely provide any real dividends in

¹⁶⁵ Quotes from European Council of Foreign Relations (2013)

¹⁶⁶ European Council of Foreign Relations (2013), p. 7

¹⁶⁷ Chapter based on European Council of Foreign Relations (2013)

terms of expanding sovereignty or control of Palestinians over their daily lives". Their clear warning is that "elections run the risk of consolidating and prolonging the political status quo and further exacerbating existing political divisions, particularly those between Fatah and Hamas".

Any push for elections needs support by a national and international agreement on criteria for the election process and acceptance of the results in line with established international principles.

Party reform within Fatah and Hamas. The European Council on Foreign Relations states: "for both Fatah and Hamas, the uneasy transition from resistance movement to governing party has been further complicated by the challenges associated with "self-rule" under occupation. Fatah's capacity to rule in the West Bank is severely curtailed by the occupation and interim agreements, while European and American focus on security reform and ensuring Fatah's political primacy at virtually all costs has done little to enhance the party's democratic credentials. For its part, Hamas has sought to consolidate its iron grip in Gaza in response to its continued isolation and Israel's blockade, while internal decision-making and leadership processes remain secretive and subterranean. This is not unexpected given Israel's policy of extrajudicial assassinations and routine harassment and arrests of Hamas members by Fatah in the West Bank. As long as Hamas remains isolated and its leadership targeted, this is likely to remain the case." Attempts by Fatah to mend these weaknesses through its Sixth General Congress, held in Bethlehem in 2009, got little credibility.

8.3 Development Projects and Programs

In general, most Norwegian development projects are assessed to be relevant for Palestinian socio-economic and political development. However, the long-term results and consequences of Norwegian aid prioritizations are impossible to foresee. Norwegian aid inevitably influences different elements of political legitimacy in Palestine by favoring some over others. The choice of partner is fundamentally a political choice. With a fragmented Palestinian polity and society, and a variety of sources of legitimacy, the choice of partners and their geographical location is especially important for Norwegian development aid's contribution to strengthened democratization, human rights and political legitimacy.

8.3.1 Strengthened Democratization and Realization of Human Rights

Development aid will not end the occupation. Both Palestinians and donors indicate more frequently that development aid today indirectly finances continued occupation. Development aid can strengthen the conditions for future democratization and human rights. The occupation will however hinder the full realization. Experiences over more than 20 years since the Oslo Accords are telling evidence in this regard. With the current political situation in Israel, there are no signs of easing up the closure regime or the siege of Gaza. Development financing alone do not create its own exit or a more sustainable Palestine.

There is urgent need to focus on more sustainable financial solutions to maintain important democratic institutions and securing human rights. Without an increased economic growth and a better public revenue collection situation, including revision of the Paris protocol-mechanism¹⁶⁸, all dependent on end of occupation, Palestine will remain aid dependent indefinite.

¹⁶⁸ For information about the Paris protocol refer to chapter 3.4.

There are no clear answers or evidence from research on how best to support democratization and realization of human rights, and especially not for a country being under occupation. There are three broad common perspectives in the research literature¹⁶⁹:

1. Focus first on democracy, then state building,
2. Focus first on state-building then democracy, and
3. Do it all – focus simultaneously on democracy and state building.

Palestine has made important progress on both state building and democracy in a 20 years perspective, but important shortcomings and challenges remain. Our assessment of the current situation is that there is a need for a simultaneous focus on both democracy and state building.

Palestine is facing challenges related to severely restricted authority and lack of capacity. These factors influence each other and severely reduces PA's ability to provide human security, socioeconomic development and the realization of democracy and human rights. Without capacity, it is difficult to uphold authority. With a weak authority, it is difficult to get legitimacy, and weak legitimacy reduces capacity. A vicious circle.

Opportunities and possible refocusing of NRO's development aid portfolio

Due to PA's financial crises and risks for partial or full PA collapse and worsened social and political crises, **Budget Support** is still highly relevant. As a large part of the budget support is for salaries, a related and urgent issue is the settling of the payment of salaries for civil servants in Gaza. This is paramount for reconciliation and the strengthening of political legitimacy. In dialogue with the World Bank, donors and the PA should discuss how prior actions better could serve the ambition of strengthening political legitimacy. Sustainable solutions is important, and ameliorating the environment for private sector development, both to create job opportunities and to focus on C-areas, is paramount. Addressing taxation and renegotiation of the Paris protocol¹⁷⁰ when appropriate could limit Palestinian vulnerability. However, at present it is most important that Israel comply with the protocol and do not disregard it for political purposes. Addressing technical and political challenges related to net lending expenditures and meritocratic hiring practices for civil servants are also relevant in discussions on the budget support prior actions.

Research evidence tells education is highly relevant for democratic development.¹⁷¹ There are thus good reasons for continuing **education** support. Particular emphasis should be on following up on the participatory curriculum development process, and making sure it supports the strengthening of the national identity, including a focus on democratic and human rights principles.

The engagement in **Health** has been mainly through NGOs, and in addition a quite recent engagement for supporting the establishment of a national institute for Public Health. The development aid is supporting PA's performance legitimacy and fulfilment of health related rights, but is less relevant for democratization. In order to consolidate the development portfolio, additional support to health projects is not recommended, and a phase-out should be considered after the planned evaluation of the institute. Health is also a sector where other donors usually are willing to support.

¹⁶⁹ Norris, Pippa (2012). *Making Democratic Governance Work. How Regimes Shape Prosperity, Welfare, and Peace*, Cambridge University Press

¹⁷⁰ For information about the Paris protocol refer to chapter 3.4.

¹⁷¹ Larry Diamond in Gunning (2008).

Continued support to **Negotiations Affairs Department** remains important as long as a negotiated settlement is on the agenda. Better use of local Palestinian expertise is important to further strengthening the political legitimacy. Inclusion of qualified women should also be a priority in light of UNSCR 1325 Women, Peace and Security.

Challenges on **Gender equality and Women's rights** are serious in Palestine and remains an important part of Norwegian development policy. Palestine is one of the priority countries for the follow up of UNSCR 1325 Women, Peace and Security. Palestinian challenges and policies on gender equality are further relevant for Norway with its:

- Action plan for women's rights and gender equality entitled "Equal Rights – Equal Opportunities" (2013-2015)
- White Paper on human rights "Opportunities for All. Human rights in Norway's Foreign Policy and Development Cooperation" (2014).

To follow up on these policies Norway should align to the Palestinian initiatives around its CEDAW¹⁷² commitments and particularly the National Action Plan for UNSCR 1325¹⁷³. Norwegian support to this Action Plan should to the extent possible be implemented by integrating relevant women, peace and security measures in one or several of the four overall strategic goals of the NRO. In order to identify the most relevant and effective areas of support, an in-depth analysis may be undertaken of the dynamics that prevent or give opportunities to engage women actively in politics generally, and more specifically in the peace process and state building.

Efforts to strengthen **Democracy and Human rights** has limitations given the particular political situation, highlighted in the report. Continued support to a number of Human Rights organizations in the West Bank and Gaza is important, as well as coordination with Human Rights organization in Israel supported by Norway. Channeling funds through the established Human Rights and International Humanitarian Law Secretariat could facilitate a strengthened coordination between the organizations. We recommend NRO conducting a due diligence analysis of the Secretariat, if no such analysis is available from other donors, and to consider channeling funds through the Secretariat. See more detailed assessment of the Secretariat and possible advantages and challenges below.

Norway has been a reliant supporter of building up the **Energy** sector in Palestine since 1993. Energy is crucial for economic development and underpins performance legitimacy. However, given capacity constraints at NRO, and the sector's less direct relevance for democratic development, Norway could consider phasing out development cooperation in the sector, or possibly reorient cooperation after more detailed assessments.

Norway contributes to **statistical** capacity building, a support assessed to be highly relevant for political legitimacy, democracy, gender equality and human rights. Sound statistical information is fundamentally important for planning and public policy development. A transparent and open PCBS also provides other actors with information, important to hold government to account. PCBS' work on governance statistics can be relevant for follow up on topics addressed in this assessment. However, as PCBS has been given good scores for both quality and performance, an exit-strategy for the support could be considered. This should be done in close dialogue with PCBS, MoF and other donors in order to minimize negative consequences.

¹⁷² Convention on the Elimination of all Forms of Discrimination Against Women

¹⁷³YWCA (2015). Young Women's Christian Association. The international conference on Women's Freedom, Peace and Dignity in Palestine: UN Security Council Resolution 1325 for Accountability. Conference Report: 13 February 2015.

Widespread corruption and nepotism have corroded the legitimacy of the PA over decades. Continued support to measures strengthening accountability and transparency within public institutions and the development of effective and trustworthy **Anticorruption** work within the government as well as among NGOs is important. One should advocate meritocratic hiring practices for civil servants. Consultation with AMAN on the issue could be relevant to develop a feasible approach.

National culture is crucial to strengthen national identity, at present under severe stress. **Cultural support** should continue and have a focus on the national project, including strengthening the national unity across barriers and borders, established by the occupation, while at the same time contributing to democratic dialogue and processes, and realizing cultural human rights.

Multilateral support should by no means strengthen parallel structures to the authorities in service delivery, but rather aim at strengthening the capacity and quality of national institutions. UNRWA is however a special case relating to the important Palestinian refugee question.

8.3.2 Geographic Considerations for Norwegian Development Aid

Gaza

A substantial amount of Norwegian development aid goes indirectly or directly to Gaza. PA pays wages to a substantial number of public servants.¹⁷⁴ Outstanding issues related to staff hired after 2006 is important to facilitate national reconciliation.

The reconstruction of Gaza needs urgent attention. Without tangible progress, national reconciliation will remain elusive and radicalization among youth and unemployed expected.

The opening up of Gaza for freedom of movement of people and goods, towards East Jerusalem and the West Bank as well as the outside world is a precondition for renewed economic and social development, the best measures to counter radicalization and despair.

Continued support to UNRWA is important. At the same time, UNRWA could strengthen its cooperation with local and central authorities.

Norwegian support to Human rights organizations and cultural initiatives as well as Gaza Community Mental Health is assessed to be important.

Initiatives to revitalize private sector and create much needed job opportunities, is urgent, especially to prevent increased hopelessness and potential radicalization.

East-Jerusalem

Apart from Wakf, no official Palestinian institutions are present in East Jerusalem. Channels for funds for relevant projects are limited. Available Civil Society Organizations remain important, including cultural initiatives. A particular focus on youth is urgent, like the important work of YMCA/YWCA. Private Sector engagement to establish jobs will mitigate an increasing economic stress and social unrest. Legal assistance to counter attempts to evict Palestinians from their homes in East Jerusalem links closely to the core of the Palestinian issue. Support to their rights against external pressure is important. Haram al Sharif is a key symbol for Palestinians and Muslims, and constitute an important source of legitimacy, and is thus assessed to be important to preserve.

¹⁷⁴ Norwegian aid is however not going to the payment of civil servants in Gaza who are not working.

The West Bank and the C-Areas

The West Bank is a patchwork, with the A, B and C-areas and due to illegal settlements and closures, including the “Security Wall”. Freedom of movement is a particular concern, important for the individuals as well as any economic activity. In particular, the C-areas, making up over 60 % of the territory, remaining under Israeli security and administrative responsibility, is under severe stress. Admission is restricted and people forced to move. Continued support to maintain a living in these areas, with focus on agriculture as well as social services is important. Assistance to document land rights for the people living in the areas will help strengthen their legal status.

Given the great potential for economic growth in both the West Bank, Gaza and East Jerusalem, conditions hampering Palestinian economic growth could also be addressed. To illustrate the importance of Area C, the World Bank estimates that “the total potential value added from alleviating today’s restrictions on access to, and activity and production in Area C is likely to amount to some USD 3.4 billion—or 35 percent of Palestinian GDP in 2011” (World Bank 2014, p. 5).

Stronger efforts could be made to increase engagement in Area C by building on EU and World Bank studies on Area C¹⁷⁵ and ongoing projects¹⁷⁶. In face of possible Israeli reactions and threats to destroy development projects, a guiding principle could be to focus on supporting education measures, focusing on ideas and knowledge, which cannot be taken away from the Palestinians in Area C, rather than concrete infrastructural materials, like for example wells and roads, which easily can be demolished or closed. A good example of the former is the Norwegian supported midwife-project in Area C. A separate study on opportunities and ongoing projects could be initiated.

According to EU Heads of Mission (2011), “implementation of the following would improve the situation in Area C [...]:

- A. Encourage Israel to change its policy and planning system for Area C and engage the Palestinian communities in access and development.
- B. Reduce land and population vulnerability and facilitate better coordination of basic needs deliveries in Area C.
- C. Promote economic development in Area C.
- D. Increase visibility and accountability for the delivery of aid in Area C.”

More detailed recommendations from EU Heads of Mission (2011) are included in Annex 8.

8.3.3 Strengthened Political Legitimacy¹⁷⁷

It is challenging to understand exactly what constitutes political legitimacy and how it works in fragile situations like Palestine. Donors should be modest about their ability to influence political legitimacy by development financing, and aware how their interventions affect local power relations and sources of legitimacy, often in unintended ways. Support for increased Palestinian political legitimacy could thus sometimes be more effective with other foreign policy measures than development aid.

8.3.4 Civil Society and Public Policy Development¹⁷⁸

With lack of accountability mechanisms, such as a functioning PLC and democratic elections, civil society plays a key role in increasing democratic legitimacy in Palestine. Civil society organizations

¹⁷⁵ EU Heads of Mission Report “Area C and Palestinian State-building” (July 2011) and World Bank (2014) “Area C and the Future of the Palestinian Economy. A World Bank Study”.

¹⁷⁶ European Union (2012). Action Fiche for the West Bank and Gaza Strip. Land development and basic infrastructure in Area C.

¹⁷⁷ Chapter based on OECD (2010)

¹⁷⁸ Chapter based on European Council of Foreign Relations (2013), p. 7.

have a crucial role to play in re-engaging core Palestinian constituencies. Based on our previous analysis, Norway could prioritize the following in their civil society support programs:

- i. Invest in programs targeting **youth participation and youth unemployment**. This includes providing employment skills and training, including the establishment of youth co-operatives that help young people pool their skills. Resources to increase their income-generating opportunities and purchasing power should be included, as should greater youth **involvement in political decision-making**, especially at the local council level.
- ii. Support initiatives for **greater public policy dialogue and debate** in Palestine aimed at raising public awareness and understanding of key policy issues. This includes support for public policy think tanks, like House of Wisdom in Gaza, and intra- and inter-religious dialogue.

A general remark is that support to Norwegian CSOs operating in Palestine should be channeled through the Norad civil society grant management scheme if possible.

Assessment of the Human Rights and International Humanitarian Law Secretariat

As capacity at NRO is limited, an option for reducing the number of agreements is to channel funding for some CSOs through the Human Rights and International Humanitarian Law Secretariat, (hereafter “Secretariat”), a joint donor program sponsored by Denmark, the Netherlands, Sweden (lead donor) and Switzerland. The overall objective of the Secretariat is to contribute to the effective realization of and adherence to human rights and international humanitarian law in the occupied Palestinian territory and to influence the behavior of the relevant duty bearers including Israel, the Palestinian Authority and the governing bodies/authorities in Gaza. The Secretariat supports relevant CSOs in both Palestine and Israel.

The Secretariat works with Birzeit University and the Consultancy firm NIRAS as managing partners. Its role is fund management primarily carried out through the provision of core, project and emergency funding, to provide needs based capacity building, and to provide opportunities for policy dialogue among all stakeholders of the HR sector.

Choosing to work through the secretariat will reduce the number of agreements directly managed by the Representative Office and the Norwegian Embassy in Tel Aviv. In a joint operation with several like-minded donors, Norway could join a mechanism for management of funds focused on transparency and accountability, countering corruption. This could strengthen the coordination among key donors in the sector. It could likewise establish a space for strengthened cooperation between CSOs in Palestine and Israel. The Secretariat could represent a stable partner for vital support to these CSOs over several years, and might reach out to more organizations than covered today.

Among the targeted CSOs in Palestine, the views differ. There is a fear that the Secretariat will represent a barrier between the CSO and the diplomats. Support through the Secretariat involves a diversification of support to several CSOs, and by also including the running costs of the Secretariat, this will reduce the allocations to the human rights organizations currently being supported, if no additional support is provided. There might also be a risk that the Secretariat will be a quite powerful actor among the CSOs. Ensuring professionalism and non-clientelistic practices will be important.

Given the need for long term and predictable support for the CSOs, working through the Secretariat demand an active partnership from Norway with the other donors. The aim should be to avoid sudden changes due to reduced funding or political changes within individual donor countries. The direct diplomatic contact with the CSOs should continue since they represent important sources of

information. A phasing-out approach of bilateral agreements should be done in close dialogue with concerned CSOs in order to avoid unnecessary harm. In conclusion, Norwegian support to human rights organizations through the Secretariat could represent a professional and effective management of funds, while releasing resources that can be used to strengthen the contact with the CSOs and the donor group. We recommend exploring the option of channeling funds to CSOs through the Secretariat. Conducting a due diligence analysis of the Secretariat's procedures and capacity is recommended ahead of a final decision to enter into an agreement, if no such analysis is already available from other donors. Norad could support NRO with the analysis if capacity is available.

9 Conclusions and Recommendations

The main challenge for democracy and human rights in Palestine today is the Israeli occupation and lack of sovereignty. It leaves Palestinians and their political system with weak legitimacy, authority and capacity. Other main internal Palestinian challenges are the political split between PLO/Fatah/PA on the West Bank and Hamas in Gaza, weak representation, concentration of powers and lack of accountability and transparency structures, complex and non-unified laws, clientelism, undemocratic political parties and a disconnect to Palestinian constituencies, especially women and youth, and the diaspora. Another challenge is the lack of a common Palestinian strategy to end the occupation, including disagreements on the use of violence. Palestine is highly aid dependent.

International development assistance will not by itself solve the Israeli-Palestinian conflict, end the occupation nor remove the biggest hindrances for development. Development assistance could however improve the conditions for reaching a negotiated solution, strengthened democratization and the realization of human rights. Without complementary support from other relevant foreign policy measures, political will and efforts from the recipient, many development interventions will not be sustainable and at worst only remain emergency relief.

The main sources of political legitimacy in Palestine are liberation and resistance against the occupation, religion and Palestinian national unity, including the Palestinian diaspora. Liberal democratic and human rights values also have high support, but do not create the same degree of legitimacy. Provision of social services are furthermore important sources of performance legitimacy.

The Palestinian political system has weak legitimacy due to low levels of performance legitimacy related to ending the occupation and providing security, low levels of democratic legitimacy, encompassing weak democratic processes for Palestinians in Palestine and almost non-existent for Palestinians living outside Palestine, and weak international legitimacy.

Low levels of political legitimacy also relates to security coordination with Israel and perceptions of the Palestinian Authority (PA) supplanting Israel's obligations under the Geneva Conventions, and the Palestinian political split between Palestinian factions and their shortcoming of a unified strategy to end occupation.

International legitimacy varies. It is low according to the international law criterion for statehood concerning the Palestinian political system's authority in the political, security and economic domain. Furthermore, it is low among Western countries related to the recognition of Palestine as a state and varied international recognition of major political parties. "Palestinian democracy was seriously weakened by the refusal of Israel and the donor community to recognise the freely elected Hamas government in 2006 and by their efforts to undermine it"¹⁷⁹.

Democratic legitimacy is low due to weak degree of representativeness, lack of elections, and weak degree of transparency and accountability structures within both the Palestinian Liberation Organization (PLO) and the Palestinian National Congress (PNC), and the PA and Palestinian Legislative Council (PLC).

Political parties have weak democratic structures and institutions. Hamas internal governance organization display some democratic structures with a focus on intra-party elections and consultations, but religious aspects have some negative impact on liberal values related to gender equality. The use of violence gives Hamas domestic legitimacy.

¹⁷⁹ Economist Intelligence Unit (2015), p.11

In general, PA has medium degree of performance legitimacy related to the provision of social services, restricted authority and capacity taken into consideration. However, PA has weak legitimacy in the security domain, mainly due to lack of authority and ability to provide protection for Palestinians, and the security coordination with Israel.

UNRWA is a big provider of social services to about 5 million refugees in Palestine and the diaspora and receives high performance legitimacy, however arguably crowding out PA's performance legitimacy among the refugees. UNRWA is however, an important source of legitimacy related to guaranteeing refugee status, the right of return and upholding the idea of a Palestinian nation.

There are many sources of legitimacy in Palestine and the interaction between them is complex and unpredictable. It is not possible to tell exactly how international development aid or Norwegian development aid influence political legitimacy. However, a clear finding is that Norwegian aid is strengthening PA and UNRWA's performance legitimacy. Another finding is that international legitimacy impacts on political legitimacy in Palestine¹⁸⁰.

Palestine lacks a basic agreement among the elites – the political settlement - about how to obtain and exercise power. Palestine thus lacks ability to exercise authority, which also relates to lack of capacity to enforce its decisions, and a threatening low legitimacy among the broader population, which is necessary to reinforce elite agreement.

Palestinians' collective identity is strong. However, geographical separations, within Palestine as well as with the diaspora, results in a regression.

The dispute over territory and the fragmentation with the West Bank, East Jerusalem and Gaza has great importance for Palestinian state building. The same goes for difference of opinion regarding the possibility of democracy under occupation and ways of ending the occupation.

The transformation from a liberation movement to a state building entity poses numerous challenges for the Palestinian Liberation Organization (PLO) and the different political parties. They draw on a tradition of clientelism and an autocratic leadership culture. The introduction of liberal democratic institutions with the Oslo Accords has resulted in a hybrid political order with a mixed political culture of liberal democratic values, patron-client relations and religious affiliations.

There might be tensions, at least in the short term, between the most effective means for achieving the goals of a sovereign Palestinian state, and strengthened democracy and human rights for Palestinians. An example is that stronger inclusion of the diaspora in political decision-making (strengthened democracy) might reduce likelihood for a negotiated peace agreement and sovereignty for Palestine.

Democratic development for Palestinians today can be addressed mainly along two paths; one by focusing on the Palestinians living in Palestine and the PA institutions, and the other, by also focusing on the Palestinians living outside Palestine and the national institutions like PLO and PNC. With the current situation, even though difficult, it seems easier to make democratic advancements only for the Palestinians living in Palestine, due to the complicated situation in neighboring countries and the sensitivity of the refugee question for the Israeli-Palestinian relations. However, as long as the Palestinian diaspora is not included in any democratic developments, or their situation addressed or solved somehow, it will continue to pose challenges for the legitimacy of democratic developments in Palestine, both among the diaspora and the Palestinians in Palestine who sympathize with the

¹⁸⁰ Ref. introduction in chapter 6, based on OECD (2010).

diaspora. This, in turn, represents a risk for the sustainability of any democratic developments in Palestine.

State building and democratic development are long-term processes and not linear. To improve democratic development and human rights, however not necessarily the likelihood for a negotiated peace agreement or a sovereign state, there is need for a series of changes and reforms:

- Palestinian national dialogue and reconciliation, including the diaspora.
- Institutional reform to allow for democratic decision-making. Strengthening accountability and facilitating transparency within the PA.
- Strengthened legal assistance to those whose rights have been violated either by the occupation or factional fighting.
- Supporting the foundations of a future political system that includes an appropriate mechanism which separates the three main powers and regulates the relationship between them, including an independent judiciary, the rule of law, and the protection of civil liberties.
- Fighting clientelism, in general, through focus on democratization, decentralization and economic liberalization. In particular, civil service reorganization and reorientation, including meritocratic recruitment.
- Strengthened gender equality and reforming laws discriminating women.
- Strengthened public debate and access to information by increasing media freedom.
- Improve public policy development by democratizing political parties.

Development Cooperation

Norway has been politically involved in continuous support for peace negotiations between the parties, and a firm supporter of the establishment of Palestine as an independent and sovereign state side by side with Israel. As chair of the Ad Hoc Liaison Committee (AHLC), Norway has played a pivotal role in coordinating all the donors and facilitating the relations with the Palestinians and the Israelis. Palestine, in the current situation, is highly aid dependent and receives aid from a high number of countries. Since 1993, Palestine has been one of Norway's main recipients of development aid.

Central goals for Norwegian development aid has been to contribute to building the state and strengthen service delivery, in particular within education, electricity, water and statistics, and strengthen democratization and the realization of human rights and gender equality.

Lack of information and transparency on aid flows, donors' pursuit of various political agendas, conflict of interest among donors, and between donors and PA regarding aid coordination, all pose challenges for effective development cooperation in Palestine.

Norwegian development cooperation in Palestine today is in general relevant for strengthening democracy and human rights as capacity needs are very high. However, to reach *sustainable* results from Norwegian development aid, there is need to also take factors hampering the achievements of sustainable results into consideration. Even though many factors are internal, many factors also relate to Israeli actions in Palestine. The latter cannot be amended by development aid. In order to address these actions there is need for relevant policy measures.

To change the perception among some Palestinians that the PA government is an administrator of the occupation, a possible strategy could be a stronger emphasis on branding the PA government in the Palestinian public discourse as an act of “steadfastness”¹⁸¹.

Recommendations

In order to strengthen democratization, political legitimacy and human rights in Palestine with development aid we recommend:

for international development aid donors:

- Increased efforts to improve aid coordination and division of labor focused on donors’ special advantages.
- Continued high level of development aid to Palestine due to high needs.
- High and continued support for Gaza reconstruction and development due to high needs.
- Continued high support to UNRWA due to high needs and its important role.
- Supporting elections when relevant, as well as national and international agreement on clear criteria for an election process and the outcome.
- In face of a possible PA collapse, focusing on strengthening local governments’ authority and capacity for service delivery.

for Norwegian development aid:

- Complementing development engagement with other foreign policy measures, as well as ensuring policy coherence, to increase likelihood of sustainable development aid results.
- Not engaging in new sectors or increasing the number of agreements, and over time consolidating efforts focused on strategic interventions.
- Focusing on legitimacy, local ownership and the principle of ‘do no harm’.
- Taking into consideration possible tensions between the goals of achieving strengthened democracy and the establishment of a Palestinian state.
- Considering “effective multilateral and humanitarian organizations” as important for channeling development aid and as an intermediate goal, rather than a strategic goal in itself in the NRO operational plan (Virksomhetsplan).

for NRO, given limited capacity:

- Continued high level of budget support and the use of the World Bank mechanism, until resuming direct transfer to the PA Ministry of Finance. Challenges related to taxation, net lending and meritocratic hiring practices for public employees should also be addressed through this mechanism.
- Continuation of education support with a particular focus on the quality of the curriculum, possibly in cooperation with relevant CSOs.
- Support to local NGO working on human rights and anticorruption.
- Appraising the Human Rights and Humanitarian Law Secretariat by conducting a due diligence analysis, if not already available from other donors, and to consider channeling funds through the Secretariat to the extent possible.
- Integrating gender equality and human rights into one or several of the four overall strategic goals of the NRO by identifying effective and realistic entry points within the ongoing support and cooperation, in terms of both dialogue and financial support. NRO can seek Norad’s assistance to develop a focused and strategic way to work with women, peace and security.

¹⁸¹ Refer to chapter 2.3.1.

- Support to youth focusing on political participation and inclusion, and employment.
- Continued support to cultural activities, which are important for nation building.
- Continued support to Palestinian Central Bureau of Statistics, focusing on dissemination and access to the bureau's information, while start considering an exit strategy and possible reduction of support.
- Continued support to East-Jerusalem, prioritizing in particular: Education, youth with focus on mobilization and employment, culture, important religious institutions, and human rights
- Considering phasing out or reorienting support in the energy sector as current engagement is assessed to be less relevant for democratization.
- Considering phasing out support in the health sector as current engagement is assessed to be less relevant for democratization and a sector where other donors usually are willing to support.

Finally, it should be noted that the total sum of current Norwegian engagements in Palestine is probably too broad for Norway as a donor, given Norwegian efforts to concentrate development cooperation.

10 Annexes

Annex 1 - Terms of Reference

Assessment of Norwegian Support to Democratization and strengthened Political Legitimacy in Palestine

Background

Norway's engagement in development cooperation with the Middle East is primarily directed toward support of the establishment of an independent Palestinian state as part of a two-state solution agreed with Israel. Through political and financial support to The Palestinian Authority (PA) the aim is to build the institutional foundation for a sustainable and viable state. The development cooperation with Palestine should support good governance and human rights, including gender equality and democracy.¹⁸²

Norway shall have a strong focus on supporting the strengthening of human rights, democracy and good governance. These concerns are closely interlinked and interdependent. A particular focus should be on the freedom of speech as a fundamental human right, access to information and a free press, and the rule of law. Effective, accountable and transparent institutions, such as oversight institutions, the Auditor General, the Central Bank, and the Financial Supervisory Authorities, are all important parts of a state ruled by law.¹⁸³

There are numerous challenges for Palestine to achieve sovereignty, peace and development. These relate to factors that are international, regional, and internal to Palestine, which interact with each other. Attempts from the United States to revitalise bilateral negotiations were suspended in April 2014. The Israeli occupation, the division of Palestine geographically as well as politically, the continued closure of Gaza and lack of success in reengaging the parties in negotiations, undermines the moderate forces in the country. Seen from a Palestinian perspective the huge number of Palestinian refugees living outside Palestine and Israel is an additional challenge.

In order to address these challenges the Norwegian Representative Office (NRO) works on four overall strategic goals:

1. The establishment of a sustainable and sovereign Palestinian state,
2. Consolidation of a sustainable Palestinian government/state apparatus,
3. Democracy and Human Rights,
4. Effective multilateral and humanitarian organisations.

Efforts under the four strategic goals are all influencing each other.

Recent events like the latest war and destructions in Gaza, plans to rebuild Gaza, the Unity Government established in June 2014, including the agreement to hold presidential and

¹⁸² Paragraph based on Utenriksdepartementet, Proposisjon til Stortinget, Prop. 1S (2014-2015), p. 160-161

¹⁸³ Paragraph based on Ibid. p. 48

parliamentary elections, have caused both new challenges and opportunities for progress in Palestine. Obviously, the timetable for holding elections is unrealistic.

1.1 Palestinian domestic and national situation

Norway has supported Palestinian state building with development aid and mobilisation of aid through Norway's role as chair of Ad Hoc Liaison Committee (AHLC). The focus has been mainly to get PA's government agencies to function effectively and to get the basic state functions, including financial management, to work. The NRO has also had a human rights (HR) strategy and supported several organisations working on HR.

According to the World Bank and the IMF in an AHLC-statement in 2011, the Palestinian Authority has been remarkably successful in building Palestinian public institutions. The World Bank affirms that Palestinian institutions have achieved a level above the threshold for a functioning state in key sectors, such as revenue and expenditure management, economic development, service delivery and security and justice.

However, even though the PA has been successful in building Palestinian public institutions, there are challenges to ensure Palestinian institutions function for all Palestinians. Some of these challenges relate to the legitimacy of the institutions, political participation and public policy development. In order to get Palestinian public institutions to work in a more inclusive way, there is now an increased focus on democratization and political legitimacy in Palestine. A key issue here is how to work to strengthen the legitimacy of public institutions, which also will influence their capacity and effectiveness.

Given a difficult political and constitutional situation, with a non-functioning Palestinian Legislative Council (PLC) in Palestine, and a non-functioning Palestinian National Council (PNC) within the Palestinian Liberation Organisation (PLO), embracing Palestinians both in Palestine and in the diaspora, democracy in Palestine and among Palestinians faces challenges. Domestic challenges also include lack of confidence in Palestinian politics, lack of confidence in political leaders, and the rising frustration and pessimism about the political situation. There is also a need for strengthening Palestinian reconciliation, including reunification of the Palestinian body politic around a commonly agreed and inclusive set of national goals.

Due to the current situation in Palestine and Norwegian engagement for development cooperation, there is an interest to assess more in-depth the democracy and human rights situation in Palestine and possibly strengthen Norwegian efforts in supporting democratic development and the realization of human rights in Palestine.

Purpose

The overall purpose of the Assessment is to contribute to the strengthening of Norwegian efforts in supporting democratic development and the realization of human rights in Palestine.

Approach

The approach for the Assessment will be three-layered:

1. To assess the present situation and identify challenges in Palestine regarding democratization and political legitimacy, including human rights with an emphasis on civil and political rights.
2. To assess and outline alternative approaches to follow in the future for Norwegian engagement to support Palestinian aspirations for democratization and realization of human rights in a comprehensive and strategic manner, given the overall goals for Norway's engagement in Palestine.
3. To propose a possible refocusing of existing engagements and/or propose new approaches to support democratic development and the realization of human rights in Palestine.

Scope

The Assessment should give special emphasis on legitimacy, political participation and public policy development in Palestine (Gaza, the West Bank and East Jerusalem).

Other relevant themes for the Assessment might be:

- a) Palestinian aspiration for a sovereign and independent state built on democratic traditions with broad public participation. From Palestinian struggle for independence, to a state built on democracy, inclusion and equal rights, including the right to vote. The importance of Palestinian national dialogue and national reconciliation.
- b) The importance of political legitimacy for state building and political processes, as well as the importance of state building and public service delivery for political legitimacy. Possible competing interests between traditional power structures and the new emerging state.
- c) Institutional reform to strengthen democratic decision-making:
 - i. The Palestinian Authority (PA) and the Palestinian Legislative Council (PLC). The agreed presidential and parliamentary elections, to be held as a follow up of the agreed reconciliation between Fatah and Hamas.
 - ii. The political parties: The role of political parties within a democratic system. The need for party reform within political parties. How to strengthen political parties, including other relevant organizations?
 - iii. The role of youth in Palestine: The post-Oslo generation. What are their opinions on democratisation and political legitimacy? How are they engaged and how could they be engaged?
 - iv. PLO and the Palestinian National Council – including Palestinians in the diaspora: How to approach this challenge within the two-state solution?
 - v. The role of civil society in public policy development.
 - vi. The role of media in promoting democratization and political legitimacy.
 - vii. The role of the international community and donors.

- d) Women empowerment and gender equality as connected to democratisation – the link between stronger political participation from women and increased legitimacy.
- e) Possible synergies and links between NRO's different development engagements in Palestine and a strengthening of democratization and political legitimacy. Relevant examples are ongoing budget support and education sector support and possible new initiatives related to mobilizing youth and public policy development.

Norad should assess relevant aid instruments available for the NRO based on: country need and capacity; the perceived urgency of the activity; evaluation of existing delivery channels; the level of consensus on policy priorities (between the donors and the host government); and donor preferences and capacity. Concerning capacity restraints in regard to grant management, Norad should assess the possible use of existing pool funding mechanisms as a modality for NRO's support to democracy and human rights. The choice of aid modality both affects, and is affected by, sequencing and prioritisation decisions.

Recommendations should take into account the political framework for Norwegian engagement in Palestine as well as the restrictions posed by the limited capacity at the NRO to manage new projects, as well as the need for follow up of new projects by Norad.

Methodology and documentation

Norad should conduct a desk study which will be followed up by fieldwork in Palestine, before the final Assessment is completed. The Assessment should preferably be publicly available.

The use of a local consultant in Gaza and the West Bank might be needed.

The fieldwork will include meetings and interviews with key informants. Possible relevant institutions and interlocutors in Israel will also be consulted.

- Relevant institutions within the PA
- Elected bodies in Palestine, on the national (PLC) and local level (governorates and municipalities)
- The Independent Election Commission
- Political parties (Fatah, Hamas, Al Mubadara, The third road)
- Media (in the West Bank and Gaza)
- Civil society organisations (Women organisations, Labour Unions, interest organisations for minority groups (LGBT))
- Human Rights Organisations (Al Haq (West Bank), Palestinian Center for Human rights (Gaza), Al Mezan (Gaza), ICHR (Palestine) and the Human Rights Secretariat (Palestine)).
- Academic institutions/universities (Bir Zeit (Ramallah), Bethlehem University (Bethlehem), Al Najah University (Nablus))
- Student Unions (Bir Zeit (Ramallah), An Najah (Nablus), Islamic University (Gaza))
- Think Tanks (MADAR (Ramallah), The House of Wisdom (Gaza))
- Research Institutions (Palestinian Center for Policy and Survey Research (Ramallah), The Israel Democracy Institute (Jerusalem))
- TIPH Policy Advisor

- Selected Norwegian NGOs engaged in Palestine (NPA (Gaza), Norwegian Church Aid (Palestine))
- Norwegian researchers engaged with the Middle East

Conducting Focus Group discussion will be a useful tool, in particular to reach sections of the population not having their voice heard through the institutionalized interlocutors. The post Oslo generation, with equal focus on both genders, is a segment of concern and interest.

A comparative study on possible differences in approach to governance and legitimacy between different cities and areas in Palestine could be useful. Ramallah, Hebron, Nablus and Gaza could be used as a test case.

Process, reporting and language

The Assessment will be undertaken in close cooperation between Norad, the NRO and the MFA. The contact person at NRO is Stian Nordengen Christensen

Tentative process:

- November – Follow up with NRO on the draft ToR
- December – Finalization of Terms of reference
- January – Desk study
- 2 – 13 February 2015 – Fieldwork in Palestine, meetings and interviews
- February – follow-up from fieldwork
- March/April 2015: Finalization of Assessment report

Security considerations will have to be taken continuously and might have impact on the organization of the assignment.

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Annex 3 - List of Interlocutors

Prime Minister's Office, Ramallah	Mazen Jadallah, Advisor
Minister of Justice, Gaza	Saleem Mustafa Al Saqqa
Minister of Women Affairs, Gaza	Haifa F. ElAgha
Minister of Labour, Gaza	Mamoun A. Abushahla
Ministry of Education, Curriculum issues	Ali Sh- Manassra, D.G. of Humanities and Social Studies, Jihad Dreidi et al.
Palestinian Central Bureau of Statistics	Afif Abdul-Aziz, President's Assistant for Complementary Affairs, et al.
Palestinian Energy Authority, Ramallah	Dr. Omar Kittaneh, Chairman
PLC-member (Hamas), Gaza	Houda Naim
Governorate Gaza North, Gaza	Salah Abu-Warda Governor
Governorate Rafah, Gaza	Ahmad Naser, Governor
Hebron Governorate	Kamel Hemeid, Governor
Fatah, Hebron	Mohammed Al Bakri et al.
Hamas, Gaza	Bassam Naim, former Health Minister Ghazi Hamad, former Foreign Minister
Fatah, Gaza	Abdul Rahman Hamad, Chairman Board of Trustees, Al-Azhar University, Gaza. Former Minister of Housing and Chairman of Palestinian Energy Authority
Palestinian Center for Policy and Survey Research, Ramallah	Khalil Shikaki, Director
Women's Centre for Legal Aid and Counselling, Ramallah	Sawsan Zaher, Director Amal Abusrour, Director of Programs
Miftah, Ramallah	Hanan Kaoud, Director Shadi Zeidat, Program Coordinator
The Independent Commission for Human Rights, Ramallah	Randa Siniora, Executive Director
Al Haq, Ramallah	Shawan Jabarin. General Director Majed Abbadi, Program Officer
Al Mezan Center for Human rights, Gaza	Issam Younis, Director General
Palestinian Centre for Human Rights, Gaza	Hamdi Shaqqura, Deputy Director
Gaza Community Mental Health Programme, Gaza	Dr. Yasser Abu-Jamie, Director

AMAN, Ramallah	Issam Haj Hussein, Program & Project Director
Addameer, Ramallah	Sahar Francis, Director
AlQaws, East Jerusalem	Haneen Maikey, Director
Central Election Commission, Ramallah	Hisham Kuhail, Chief Electoral Officer
Future for Palestine, Ramallah	Salam Fayyad, Chairman (Former Prime Minister) Mohammad Shilleh, Office Manager
MA'AN Development Center, Ramallah	Sami Khader, Director General
Palestinian Bar Association, Gaza	Siama Omar Bissiso, Vice Chairman
Husseini & Husseini Attorney and Counsellors-at-law Ramallah	Hiba Husseini
The World Bank, Al Ram	Steen Jørgensen, Country Director Pierre Messali, Senior Public Sector Specialist
Consulate General of Sweden, East Jerusalem	Fredrik Westerholm, Consul Development Cooperation
Office of the European Union, Representative, East Jerusalem	Olga Bauss Gibert, Head of Governance Sector
UNDP, Governance Program, HQ, East Jerusalem	Abderrahmane El Yessa, Team Leader and Advisor, Governance and Social Development Unit
UNDP, Access to Justice Program, Gaza	Ibrahim Abu-Shammalah, Deputy Program Manager
UNWRA, Gaza	Siobhan Parnell, Field Program Support officer
UNWOMEN, Gaza	Heba Zayyan, Program analyst
Norwegian People Aid, Gaza	Jenny Oscarsson, Country Director, Mahmoud A. Hamada, Project Coordinator et al.
YMCA/YWCA, East Jerusalem	Naheel Bazbazat, Women Program Coordinator 6 youth members, 3 girls and 3 boys
Institute for Development Studies (IDS), Gaza	7 youth members, 4 boys and 3 girls
Bayan Youth Group, Gaza (Part of Partner for Peace Association)	7 youth members, 4 boys and 3 girls
Hebron Rehabilitation Committee, Hebron	Dr. Ali Qawasmi, Chairman Eng. Ghassan Idrees, Acting General Manager, et al.
The Palestinian Non-Governmental Organizations Network (PNGO)	Amjad Y. Shawa, Director of Gaza Office
Hebron University, Hebron	Dr. Nabil El-Jabari, Chairman Board of Trustees Dr. Sami Adwan, Academic vice President Naim Daour Tamimi, Director President's Office
Press House – Palestine, Gaza	Belal JadAllah, Chairman of the Board

House of Wisdom, Gaza	Dr. Ahmed Yousef, former political advisor to Prime Minister Haniye
Palestinian Journalist, Hebron	Khaled Amayreh
Journalist in Haaretz, East Jerusalem	Amira Hass
PADICO Holding, Ramallah	Munir R. Masri, Chairman Samir O. Hulileh, Chief Executive Officer Amal Daraghmeah Masri, Chief Executive Officer
Middle East Business – Ougarit	Omar M. Masri, Vice Chairman
The National Bank	Hazem Kawasmi, general Director of Operations
Municipal Development & Lending Fund	Ahmed AbuMarzouq, Gaza Chief Officer
Paltel, Gaza	Jon Pedersen, Research Director Åge A. Tiltnes, Research Director
Institute for Applied International Studies (Fafo), Oslo	Bjørn Olav Utvik, Professor Dag Tuastad, Senior Lecturer, Middle East and Africa
University of Oslo Department of Culture Studies and Oriental Languages	
The Norwegian Country of Origin Information Centre (Landinfo), Oslo	Are Hovdenak, Country Advisor Middle East
Norwegian People's Aid, Oslo	Idunn Myklebust and Trude Falck, Advisors Middle East and North Africa., Syria and Iraq
Ministry of Foreign Affairs, Oslo	Jon Hanssen-Bauer, Special Representative Anne Ødegaard Røtzer, Deputy Director
Peace Research Institute Oslo	Jacob Høigilt, Senior Researcher

Annex 4 - Thinking and Working Politically

Three core principles for development cooperation to address challenges:

- strong political analysis, insight and understanding;
- detailed appreciation of, and response to, the local context; and,
- flexibility and adaptability in program design and implementation.

Principle	Characteristics
1. ANALYSIS: Political insight and understanding	<ul style="list-style-type: none"> • Interrogate the project, and the sector with a relentless focus on power dynamics, interests, incentives, and institutions. • Be frank about where power resides and on whose behalf it is being used. • Move away from idealised models of development change, and start with contextual realities. • Recognise the multiple (and potentially contradictory) nature of interests at play. • Focus on problems identified and articulated by local actors, not outsiders. • Ensure (as far as possible) that locally-defined problems and proposed solutions are accepted as legitimate by all relevant stakeholders, thereby ensuring ownership.
2. CONTEXT: Responsiveness to domestic environment	<ul style="list-style-type: none"> • Work with and through domestic stakeholders, convenors and power-brokers (also referred to as 'arm's length' aid). • Understand the network of stakeholders involved and facilitate coalitions of different interests, rather than relying on a 'principal-agent' relationship with one Ministry / Minister.
3. DESIGN: Flexibility and adaptability in design and implementation	<ul style="list-style-type: none"> • Be guided by the program goal, and do not be overly prescriptive in how to achieve it. Strategy should set a clear goal, allowing for significant flexibility and iteration in the day-to-day efforts to make progress towards these goals. Clear goals should not translate into rigid project frameworks – they represent an understanding of what changes you are hoping to promote. • Recognise that politics are not static – continue to assess the local context, test original assumptions, and adapt programs based on new information and opportunities. • Merge design and implementation with a focus on a series of small 'experimental' or 'incremental' steps and monitor results. In this way, implementation and monitoring & evaluation become one concurrent process. • Periodically engage in 'review and reflection' exercises to critique and understand what is working and what is not – and stop doing what does not work. • Understand your own agency's political-economy – which issues can be negotiated and which ones cannot.

Annex 5 - Norwegian Development Assistance to Palestine - Statistics

Norwegian development aid (NOK 1000) to Palestine or through UNRWA, 2011-2014, by type of assistance and group of agreement partner.

Type of assistance	Group of Agreement Partner	2011	2012	2013	2014
Bilateral	NGO Norwegian	105 072	118 738	139 055	186 183
	Public sector / governments	46 001	73 199	40 681	42 891
	NGO Local	29 293	24 994	24 669	23 358
	NGO International	31 000	7 152	15 282	12 530
	Norwegian public sector	11 936	13 407	8 104	5 304
	Norwegian private sector		22		84
	Other countries private sector	-38			
	Consultants	3 682	1 466	0	
Bilateral Total		226 945	238 977	227 792	270 349
Multi-bilateral	IBRD	240 950	298 495	300 000	322 500
	Other multilateral institutions	160 513	85 860	104 060	147 872
Multi-bilateral Total		401 463	384 355	404 060	470 372
Palestine total		628 409	623 332	631 851	740 722
Multilateral aid through UNWRA	Multilateral institutions	150 000	150 000	150 000	150 000
Multi-bilateral through UNWRA*	Multilateral institutions	18 380	400	20 800	1 750
Total aid through UNWRA*		168 380	150 400	170 800	151 750
Total Palestine and UNWRA		796 789	773 732	802 651	892 472
*Support through UNRWA to other countries in the Middle East					

Source: Norad Statistics

Norwegian development aid (NOK 1000) to Palestine, 2011-2014, by group of agreement partner and agreement partner.

Group of Agreement Partner	Agreement partner	2011	2012	2013	2014
Multilateral institutions	IBRD - International Bank for Reconstruction and Development	240 950	298 495	300 000	322 500
	UNRWA - UN Relief and Works Agency	31 475	32 587	27 965	64 180
	UNDP - UN Development Programme	8 248	8 750	26 277	21 427
	WHO - World Health Organization	6 000	20 899	14 500	21 069
	UNOPS - UN Office for Project Services	1 500	0	-61	17 069
	World Bank	69 955	1 800	1 645	7 052
	UN Women	5 600	2 942	3 158	5 500
	TIPH - Temporary International Presence In The City Of Hebron	5 740	5 882	4 655	5 475
	UNOCHA - UN Office of Co-ordination of Humanitarian Affairs	20 000	4 000	13 000	5 000
	UNESCO - UN Educational, Scientific and Cultural Organisation	6 395		6 340	1 100
	UNV - UN Volunteers			581	
	OECD	1 600	1 000	1 500	
	UNRoD - United Nations Register of Damage		3 000		
	UNICEF- United Nations Children's Fund	4 000	5 000	4 500	
Multilateral institutions Total		401 463	384 355	404 060	470 372
NGO Norwegian	Norwac - Norwegian Aid Committee	18 000	14 842	12 267	42 340
	Norges Røde Kors	6 705	6 646	32 859	38 935
	Flyktninghjelpen	10 110	25 855	26 336	27 500
	Norsk Folkehjelp	24 436	25 426	25 128	24 238
	Kirkens Nødhjelp	14 279	13 761	13 760	22 137
	Redd Barna Norge	5 356	4 276	5 537	17 554
	Atlas-alliansen	6 013	5 640	5 962	4 969
	KFUK-KFUM Global	2 326	2 150	4 010	3 200
	Digni - tidl. Bistandsnemnda	3 078	2 303	2 942	2 909
	LO - Landsorganisasjonen i Norge	1 069	1 061	1 147	1 200
	Kvekerhjelpen	1 182	1 182	1 140	1 200
	Forskningsstiftelsen FAFO		131		
	Industri Energi (fagforbundet)	170			
	Utdanningsforbundet	577	479		
	Palestinakomiteen i Norge	3 700			
	CAW - Children and War Foundation	121			
	Stiftelsen Oljeberget	5 500	12 696	8 000	
	Norsk ergoterapeutforbund		-17		
	Det norske Arbeiderparti		558	-32	
	CMI - Chr Michelsen Institute	2 450	1 750		
NGO Norwegian Total		105 072	118 738	139 055	186 183
Public sector	PEA - Palestine Energy Authority	13 745	35 000	22 000	8 000
	PCBS - Palestinian Central Bureau of Statistics	7 000	7 000	7 000	7 000
	PLO - Palestine Liberation Organization	1 759	1 974	1 920	2 741

	ICHR - The Independent Commission for Human Rights	2 790	2 406	2 586	2 555
	Central Election Commission (PAL)				1 950
	PLO - NAD - Negotiation Affairs Department	3 573	2 650	3 600	1 800
	Birzeit University				1 686
	Hebron Rehabilitation Committee	300	846	900	900
	Palestinian Water Authority	1 050	-8		
	An-Najah National University		139	-24	
	EU COPPS - European Union Co-ordination Office for Palestinian Police Support	-278	-202		
	Al-Quds University	1 500	1 000	1 701	
Public sector Total		31 439	50 805	39 683	26 632
NGO Local	Sabreen, Palestine	5 141	4 000	3 769	3 793
	WLAC - Women Legal Aid Center	2 600	2 600	2 600	2 600
	PACA - Palestinian Association Contemporary Art				2 500
	MADAR - Palestinian Center for Israel Studies	2 000	2 043	2 200	2 200
	PFPPA - Palestinian Family Planning and Protection Association	1 733	2 057	2 000	1 988
	AMAN Coalition	2 300	1 352	2 121	1 219
	TAMER- Tamer Institute for Community Education	776	1 828	2 224	1 172
	Maan - Maan Development Centre	1 150	1 063	1 137	1 143
	Al Haq	900	900	1 000	1 000
	AL MEZAN CENTRE FOR HUMAN RIGHTS	700	700	700	1 000
	Palestinian Centre for Human Rights	700	700	700	1 000
	MIFTAH - Palestinian Initiative for Promotion of Global Dialogue & Democracy	750	750	750	1 000
	Sareyyet Ramallah - First Ramallah Group				700
	Gaza Community Mental Health Program	700	700	700	550
	Press House Palestine				406
	Addameer - Prisoner Support and Human Rights Association			400	405
	Terrestrial Jerusalem				400
	Al-Qaws for sexual and gender diversity in the Palestinian society		150	150	150
	IPCRI - Israel Palestine Center for Research and Information			400	100
	ESNCM - Edward Said National Conservatory of Music		421	279	76
	MUSAWA - Palestinian Center for the independance of the Judiciary and the Legal Profession	-58			
	Yabous Cultural Center	3 000	2 270	730	
	Association of Women Committees for Social Work, Palestine	2 558	1 031	-48	
	HDIP - Health, Development, Information and Policy Institute	1 557			
	Center for Democracy and Community Development			360	
	TIDA			55	
	Arab Thought Forum	552	448	250	
	PCC - Palestinian Counselling Center	27			
	Juzoor Foundation for Health and Social Development	587	396	650	
	PCFR - Palestinian Council on Foreign Relations	1 118	1 200	543	
PalTrade	500	385	1 000	-44	
NGO Local Total		29 293	24 994	24 669	23 358

Governments/ Ministries	Palestinian Ministry of Finance	12 000	19 244		15 000
	Palestinian Ministry of Culture			1 000	1 259
	Palestinian Prime Minister's Office	176			
	Palestinian National Authority	2 136	2 750	-2	
	Palestinian Ministry of Education	250	400		
	Palestinian Ministry of Planning and International Cooperation			0	
Governments/ Ministries Total		14 562	22 394	998	16 259
NGO International	MEII - Middle East Investment Initiative	6 000		3 100	5 100
	Save the Children International Alliance		5 000	5 000	5 000
	Right to Play	2 000	2 000	3 182	2 262
	YWCA/YMCA				168
	The Order of St. John			4 000	
	ICRC - International Committee of the Red Cross	23 000			
	MUSAWAH		152		
NGO International Total		31 000	7 152	15 282	12 530
Norwegian public sector	Politidirektoratet	3 950	6 362	6 270	5 150
	Tvibit	535	475	537	492
	UiO - Universitetet i Oslo		250	-8	
	UiB - Universitetet i Bergen		150	-110	
	UNIVERSITETSSYKEHUSET NORD-NORGE HF	1 650	1 400	550	
	Kunsthøgskolen i Oslo	3 322	1 778		
	UiA - Universitetet i Agder	-77			
	SIU - Senter for internasjonalisering av utdanning	2 556	2 991	865	-338
Norwegian public sector Total		11 936	13 407	8 104	5 304
Norwegian private sector	Gyro AS				84
	Mus Invest		22		
Norwegian private sector Total			22		84
Consultants	Samir Baidoun	48	12		
	Norplan AS		460		
	Yuval Piurko	23			
	Beverley Milton-Edwards	540	500		
	Paal Holst		38		
	COE - Center for Organizational Excellence	42			
	Varsen Aghabician	53			
	COWI AS		346		
	NCG - Nordic Consulting Group	210	0		
	Deloitte		47		
	OPTIMUM for Consultancy and Training			0	
	Dimensions Consulting	49			
	Salah Elayan	40			
	Hassan Jabareen	54	64		
	Technical Engineering Consulting Company	120			
KPMG	2 349				

	Yaser Shalabi	58			
	Mike Kiernan	45			
	Arntzen de Besche	32			
	Nadira Sansour	18			
Consultants Total		3 682	1 466	0	
Other countries private sector	Notre Dame of Jerusalem Center	-38			
Other countries private sector Total		-38			
Grand Total		628 409	623 332	631 851	740 722

Source: Norad Statistics

**Annex 6 - Norwegian Representative Office Development Assistance to Palestine –
Statistics**

**Norwegian development aid (NOK 1000) administered by Rep.office in AI
Ram/Palestine, 2011-2014, by group of agreement partner and agreement partner.**

Group of Agreement Partner	Agreement partner	2011	2012	2013	2014
Multilateral institutions	IBRD - International Bank for Reconstruction and Development	240 950	298 495	300 000	322 500
	UNRWA - UN Relief and Works Agency	7 700	8 000	27 000	32 192
	UNDP - UN Development Programme	8 248	5 000	26 277	17 427
	UNOPS - UN Office for Project Services	1 500	0	-61	17 069
	World Bank	69 955	1 800	1 645	7 052
	WHO - World Health Organization		14 899	8 500	6 069
	UN Women	5 600	2 942	3 158	5 500
	UNESCO - UN Educational, Scientific and Cultural Organisation	6 395		6 340	1 100
Multilateral institutions Total		340 348	331 136	372 860	408 910
NGO Local	Sabreen, Palestine	5 141	4 000	3 769	3 793
	WLAC - Women Legal Aid Center	2 600	2 600	2 600	2 600
	PACA - Palestinian Association Contemporary Art				2 500
	MADAR - Palestinian Center for Israel Studies	2 000	2 043	2 200	2 200
	PFPPA - Palestinian Family Planning and Protection Association	1 733	2 057	2 000	1 988
	AMAN Coalition	2 300	1 352	2 121	1 219
	TAMER- Tamer Institute for Community Education	776	1 828	2 224	1 172
	Maan - Maan Development Centre	1 150	1 063	1 137	1 143
	Al Haq	900	900	1 000	1 000
	AL MEZAN CENTRE FOR HUMAN RIGHTS	700	700	700	1 000
	Palestinian Centre for Human Rights	700	700	700	1 000
	MIFTAH - Palestinian Initiative for Promotion of Global Dialogue & Democracy	750	750	750	1 000
	Sareyyet Ramallah - First Ramallah Group				700
	Gaza Community Mental Health Program	700	700	700	550
	Press House Palestine				406
	Addameer - Prisoner Support and Human Rights Association			400	405
	Al-Qaws for sexual and gender diversity in the Palestinian society		150	150	150
	IPCRI - Israel Palestine Center for Research and Information			400	100
	ESNCM - Edward Said National Conservatory of Music		421	279	76
	MUSAWA - Palestinian Center for the	-58			

	independence of the Judiciary and the Legal Profession				
	PCC - Palestinian Counselling Center	27			
	Association of Women Committees for Social Work, Palestine	2 558	1 031	-48	
	TIDA			55	
	Yabous Cultural Center	3 000	2 270	730	
	Juzoor Foundation for Health and Social Development	587	396	650	
	Center for Democracy and Community Development			360	
	Arab Thought Forum	552	448	250	
	PCFR - Palestinian Council on Foreign Relations	1 118	1 200	543	
	PalTrade	500	385	1 000	-44
NGO Local Total		27 736	24 994	24 669	22 958
Public sector in developing countries	PEA - Palestine Energy Authority	13 745	35 000	22 000	8 000
	PCBS - Palestinian Central Bureau of Statistics	7 000	7 000	7 000	7 000
	ICHR - The Independent Commission for Human Rights	2 496	2 406	2 586	2 555
	Central Election Commission (PAL)				1 950
	PLO - NAD - Negotiation Affairs Department	3 573	2 650	3 600	1 800
	Hebron Rehabilitation Committee	300	846	900	900
	EU COPPS	-278	-202		
	Al-Quds University	1 500	1 000	1 701	
	Palestinian Water Authority	1 050	-8		
Public sector in developing countries Total		29 386	48 692	37 787	22 205
Governments/ Ministries in developing countries	Palestinian Ministry of Finance	12 000	19 244		15 000
	Palestinian Ministry of Culture			1 000	1 259
	Palestinian Prime Minister's Office	176			
	Palestinian National Authority	2 136	2 750	-2	
	Palestinian Ministry of Education	250	400		
	Palestinian Ministry of Planning and International Cooperation			0	
Governments/ Ministries in developing countries Total		14 562	22 394	998	16 259
NGO International	MEII - Middle East Investment Initiative				2 000
	YWCA/YMCA				168
	The Order of St. John			4 000	
	MUSAWAH		152		
NGO International Total			152	4 000	2 168
Norwegian private sector	Mus Invest		22		
Norwegian private sector Total			22		
Other countries	Notre Dame of Jerusalem Center	-38			

private sector					
Other countries					
private sector Total		-38			
Consultants	Beverley Milton-Edwards	540	500		
	Technical Engineering Consulting Company	120			
	Salah Elayan	40			
	COE - Center for Organizational Excellence	42			
	Yaser Shalabi	58			
	Deloitte		47		
	OPTIMUM for Consultancy and Training			0	
	Dimensions Consulting	49			
	Samir Baidoun	48	12		
	Hassan Jabareen	54	64		
	Varsen Aghabician	53			
	Mike Kiernan	45			
	Yuval Piurko	23			
	Nadira Sansour	18			
	NCG - Nordic Consulting Group	44			
Consultants Total		1 134	622	0	
NGO Norwegian	Norwac - Norwegian Aid Committee		2 000	-973	
	Flyktninghjelpen			524	
NGO Norwegian Total			2 000	-449	
Grand Total		413 127	430 013	439 864	472 500

Source: Norad Statistics

Own Calculations of Distribution of Budget Support

Norwegian development aid (NOK mill) administered by Rep.office in AI Ram/Palestine, 2011-2014, by target area*								
Target area	2011		2012		2013		2014	
	NOK mill	%	NOK mill	%	NOK mill	%	NOK mill	%
Economic development and trade	10	2 %	8	2 %	12	3 %	24	5 %
Emergency assistance	3	1 %	5	1 %	7	1 %	78	17 %
Good governance	202	49 %	186	43 %	212	48 %	198	42 %
Health and social services	102	25 %	113	26 %	107	24 %	93	20 %
Education	71	17 %	77	18 %	74	17 %	66	14 %
Environment and energy	20	5 %	41	10 %	28	6 %	13	3 %
In donor costs and unspecified	5	1 %	0	0 %		0 %		0 %
Grand Total	413	100 %	430	100 %	440	100 %	473	100 %
*Budget support through IBRD distributed to target areas in line with distribution of PA's expenditure in 2014, ref. State of Palestine (2015).								

Norwegian development aid (NOK mill) administered by Rep.office in Al Ram/Palestine, 2011-2014, by target area.								
Target area	2011		2012		2013		2014	
	NOK mill	%	NOK mill	%	NOK mill	%	NOK mill	%
510 - General budget support*	308	75 %	298	69 %	300	68 %	269	57 %
Economic development and trade	4	1 %	2	1 %	6	1 %	19	4 %
Emergency assistance	3	1 %	5	1 %	7	1 %	78	17 %
Good governance	45	11 %	35	8 %	59	13 %	61	13 %
Health and social services	22	5 %	35	8 %	29	7 %	23	5 %
Education	12	3 %	20	5 %	17	4 %	15	3 %
Environment and energy	14	3 %	35	8 %	22	5 %	8	2 %
In donor costs and unspecified	5	1 %	0	0 %		0 %		0 %
Grand Total	413	100 %	430	100 %	440	100 %	473	100 %
*DAC Main sector 510 - General budget support belongs under Target Area Economic development and trade								
Distribution of Budget Support:								
Budget support* (NOK mill) to Palestine administered by Rep.office in Al Ram/Palestine, 2011-2014 - estimate distribution* between target areas.								
Budget support to Palestine through IBRD distributed to target areas in line with distribution of Palestine budget.	2011		2012		2013		2014	
	NOK mill	New total, respective target area	NOK mill	New total, respective target area	NOK mill	New total, respective target area	NOK mill	New total, respective target area
General budget support, of which	308		298		300		269	
- 51 % - Good governance	157	202	152	186	153	212	137	198
- 26 % - Health and social services	80	102	77	113	78	107	70	93
- 19 % - Education	59	71	57	77	57	74	51	66
- 2 % - Environment and energy	6	20	6	41	6	28	5	13
- 2% - Economic development and trade	6	10	6	8	6		5	24
*DAC Main sector 510 - General budget support								
**Budget support through IBRD distributed to target areas in line with distribution of PA's expenditure in 2014.								

Annex 7 - Expenditure by PA organizations, Jan-Dec 2014

Table 5-B: Expenditure by PA organizations, Jan-Dec 2014 (thousand NIS) (1).										
	Total Expenditure	Wages and Salaries	Social Contributions	Use of goods and services	Interest Payments	Transfer Expenditure	Minor Capital Expenditure	Development Expenditure		
Central Administration										
President's Office	289,591	111,216	10,410	103,373	-	-	2,237	62,354		
P.L.O. Institutions	328,663	119,814	4,280	105,895	-	90,475	193	8,007		
Legislative Council	44,181	18,386	2,052	8,353	-	15,391	-	-		
Ministers' Council	50,453	18,423	1,474	7,298	-	-	360	22,899		
Financial and Administrative Control Department	13,402	9,442	1,063	2,872	-	-	24	-		
General Personnel Office	102,232	88,290	9,208	3,894	-	-	416	424		
Palestinian Central Bureau of Statistics	28,777	12,474	1,355	4,263	-	-	20	10,666		
Central Election Committee	10,300	-	-	9,300	-	-	-	1,000		
Ministry of Jerusalem Affairs	47,965	7,404	153	15,583	-	15,407	76	9,342		
Total	915,564	385,448	29,994	260,831	-	121,273	3,326	114,693		
Security and Public Order										
Ministry of Interior and National Security	3,850,482	3,067,360	300,303	319,305	-	-	14,861	148,654		
Ministry of Justice	47,998	38,029	4,179	4,736	-	-	135	919		
Supreme Judicial Council	109,642	65,137	6,700	12,797	-	-	474	24,534		
Land Authority	27,788	18,918	1,683	3,605	-	-	312	3,271		
Ministry of Local Government	223,635	23,429	2,103	37,885	-	75,397	36	84,786		
The Higher Judicial Council	24,508	19,929	1,613	2,597	-	-	133	236		
Dar AlFatwa and Islamic Research	6,240	4,008	322	1,758	-	-	151	-		
Total	4,290,294	3,236,809	316,903	382,683	-	75,397	16,102	262,399		
Financial Affairs										
Ministry of Finance	179,578	101,573	9,763	20,602	-	3,530	329	43,781		
The Ministry of Awqaf and Religious Affairs	127,062	111,656	10,078	5,329	-	-	-	-		
Non Governmental Organization	19,542	-	-	-	-	17,333	-	2,209		
Palestinian Water Authority	47,417	15,077	1,205	22,740	-	-	248	8,148		
Retirees Pension Allowances	952,634	595	132	-	-	951,907	-	-		
Public Debt Interest Payments	85,778	-	-	-	85,778	-	-	-		
General Expenditures	11,313	-	-	-	-	11,304	9	-		
Financial Reserves	73,643	-	-	149	-	73,793	-	-		
Total	1,496,968	228,901	21,177	48,522	85,778	1,057,867	585	54,138		
Foreign Affairs										
Negotiations Affairs Department	2,311	1,125	114	961	-	-	111	-		
Embassies	184,380	92,244	-	76,455	-	11,687	3,993	-		
Ministry of Foreign Affairs	48,879	42,390	2,944	3,004	-	-	43	498		
Total	235,570	135,760	3,058	80,420	-	11,687	4,147	498		

Annex 8 - Recommendations from EU Heads of Mission 2011 Report on Area C

“Implementation of the following would improve the situation in Area C.”¹⁸⁴

A. Encourage Israel to change its policy and planning system for Area C and engage the Palestinian communities in access and development by:

- Calling for an immediately cease in Israeli demolitions of Palestinian-owned structures in Area C, until Palestinians have access to fair and non-discriminatory zoning and planning.
- Supporting a PLO/PA dialogue with relevant Israeli authorities to transfer planning authority and empower local government units including by reinstalling local/district planning committees in Area C.
- Supporting PLO/PA in the development of Palestinian master plans and local plans for the entire West Bank - including Area C, seam-zones and East Jerusalem.
- Supporting work to improve Palestinian statistics on population movements and a Palestinian land ownership survey in Area C.

B. Reduce land and population vulnerability and facilitate better coordination of basic needs deliveries in Area C by:

- Supporting the Palestinian people to sustain their presence by for example support to tanked water, fodder, psycho-social support etc.
- Monitoring Palestinian planning applications and Israeli destructions and more systematically voice objections to involuntary population movements, displacements, evictions, demolitions and internal migration in coordination with other international actors.
- Mapping of EU interventions in Area C with the view to better coordinate support to civil society and UN organizations and to discuss future interventions with the PLO/PA.
- Supporting development projects in Area C including by for example building new schools, community centers, clinics, municipal buildings, roads, irrigation, water and other infrastructural projects.

C. Promote economic development in Area C by:

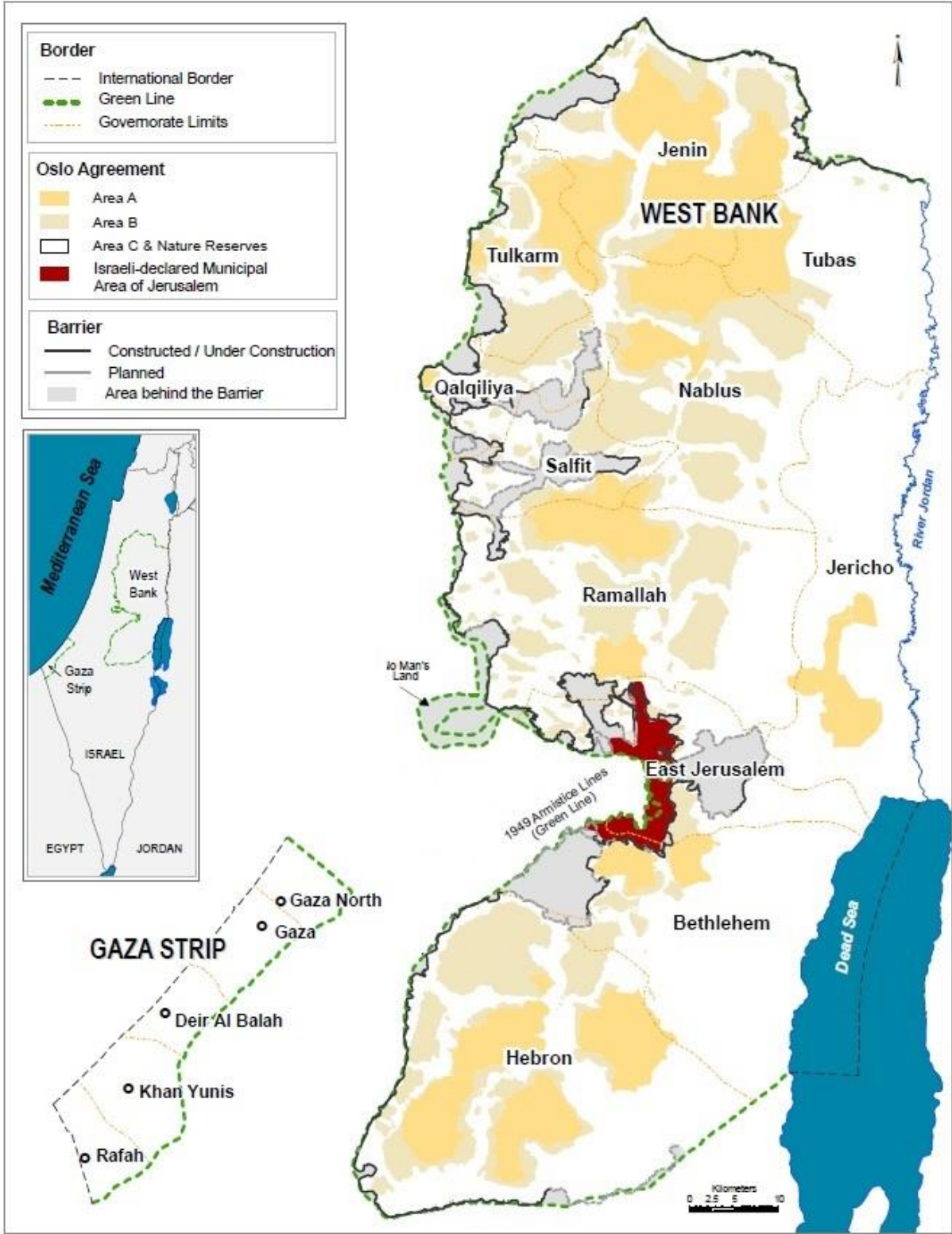
- Supporting Palestinian private sector development in Area C in areas such as tourism, site protection, industrial parks, wastewater treatment, solid waste, landfills, water pipelines, electricity infrastructures etc.
- Enabling the PLO/PA to plan and develop programs in Area C.
- Facilitating access to currently closed areas for Palestinian agricultural development in the Jordan Valley and in obtaining necessary permissions to establish greenhouses, irrigation systems and management of livestock.
- Encouraging Israel to open the gates to the seam zone on a more regular basis without prior coordination and allowing agricultural vehicles and tools to be brought into the closed areas.

D. Increase visibility and accountability for the delivery of aid in Area C by:

- Regular follow up on the situation in Area C in accordance with the EU IHL guidelines and report on obstacles and impediments for development of Area C to the relevant Israeli authorities.
- Raising public awareness about the humanitarian and development needs through information briefings, films, tours etc. about Area C.
- IHL to be adequately reflected in programming, planning, implementation, monitoring and evaluation of funded activities in Area C and support provision of IHL training for field staff in Area C.”

¹⁸⁴ Source: Annex 1 from EU Heads of Mission Report “Area C and Palestinian State-building”. July 2011.

Annex 9 - Map of Palestine with Restrictions on Palestinian Access in the West Bank



Source: Our own presentation based on a combination of the two maps: United Nations Office for the Coordination of Humanitarian Affairs. The occupied Palestinian territory: Overview map. June 2010, and United Nations Office for the Coordination of Humanitarian Affairs. The occupied Palestinian territory and Restrictions on Palestinian Access in the West Bank. June 2010.

Annex 10 - A Brief History of Palestine and the Palestinians

1500 – 1917: Ottoman Empire

1916: United Kingdom and France sign the Sykes-Picot agreement, dividing the Arab territories controlled by the Ottoman Empire.

1917: The British Foreign Secretary issues the Balfour Declaration supporting the establishment of a Jewish homeland in Palestine.

1923-48: The British Mandate Palestine

1947: UN General Assembly decides to divide the British Mandate Palestine in a Jewish (52%) and an Arab (48 %) state.

1948-49: Israel is declared as a state. War between Arab neighboring states and what should become Israel. Ceasefire Agreement allocate 78 % of territory to Israel and 22 % (West Bank and Gaza), which is occupied by Jordan and Egypt.

1949: United Nations Relief and Works Agency (UNRWA) for Palestinian refugees established, to provide assistance for Palestinian refugees.

1959: Fatah established in Damascus as an organization for the liberation of Palestine. Joined the PLO in 1967-68.

1964: PLO established in East Jerusalem, as an umbrella for the different resistance groups. Fatah has led PLO since 1969. Considered a terrorist organization by US and Israel until 1991.

1967: The Six-Day War. Israeli annexation and occupation of the West Bank and Gaza, in addition to Egypt's Sinai, and parts of South Lebanon and Golan Heights in Syria.

1974: PLO get observer status in the UN.

1987: Hamas established as an Islamist Resistance and political organization aiming for a sovereign Palestinian state in historical Palestine. By Israel seen as a useful competitor to the secular Fatah, until then dominating the Palestinian resistance. Hamas listed as a terrorist organization by US, EU and Israel, not by UN and Norway.

1987-1992: The First intifada. Palestinian uprising against the Israeli occupation.

1993: The Oslo Accords (Oslo I) signed. Israel recognize PLO as the representative of the

Palestinians while PLO recognizes the right of Israel to exist as a state.

1994: Palestinian National Authority (PNA) established. Yassir Arafat returns from Tunis to Gaza. Signing of the Paris Protocol or the Protocol on Economic Relations between Israel and PLO.

1996: Palestinian elections. Election for President and members of Palestinian Legislative Council (PLC). Hamas refused to participate, not viewing PNA as legitimate.

2000-2005: The Second Intifada. Palestinian uprising against the Israeli occupation, but also against lack of progress in peace process and nepotism and corruption within PNA.

2004: Death of Yasser Arafat.

2005: Presidential and municipal elections. Mahmoud Abbas (Abu Mazen) elected president.

2006: Parliamentary elections to PLCs 132 seats. Hamas won 74 and Fatah 45. Economic sanctions against PNA imposed by Israel and the Quartet (UN, EU, US and Russia).

2007: Unity government headed by Ismail Haniyeh from March to June. Disagreements between President Abbas and the Hamas led government resulted in open armed conflict between Fatah and Hamas. Hamas takeover of Gaza. Siege of Gaza enforced by Israel.

2008-09: Gaza war – three weeks conflict between Gaza and Israel.

2011: Cairo agreement – Reconciliation between Fatah and Hamas.

2012: Municipal elections in the West Bank. Gaza war – eight days Israeli operation.

2012: Palestine accorded “Non-Member Observer State” status in the UN.

2014: Gaza War. Most damaging of the recent Gaza wars. Continued siege of Gaza. Lack of progress in reconstruction of destroyed houses, factories and infrastructure.

2014-2015: Palestinian accession to 18 international treaties and conventions, and International Criminal Court.

Annex 11 - Elaboration on Theoretical Framework - Authority, Capacity and Legitimacy

“**Authority** is the ability of the state to project its political power over all its territory, to reach all citizens regardless of their location, to maintain law and order and protect citizens from predation and violence. It is the ability of the laws and rules of the state to trump all other laws and rules. To exercise its authority, the state will need some degree of capacity to operate, and some support from the population for what it is doing, i.e. some legitimacy. However, the concept of authority is not merely an equation of capacity and legitimacy: instead, it reflects the extent to which the state can exercise its legitimate power over its *entire territory and the people* within it.”

“**Capacity** is the ability of the state to deliver or procure goods and services, design and implement policies, build infrastructure, collect revenue, dispense justice, and maintain a conducive environment for the private sector. Capacity is a latent concept: it is different from effectiveness or performance, which is the extent to which the government actually achieves its objectives. Capacity constraints can arise at different levels, caused by:

- Lack of physical resources to carry out key tasks („functional capacity”);
- Lack of individual skills and competencies („individual capacity”);
- Lack of appropriate processes, structures and incentives for making and implementing decisions and reaching organizational goals („organizational capacity”).

As the experience with capacity building has progressed, donors have increasingly recognized that turning individual competence into organizational capacity requires institutional change. In other words, organizational capacity development is about ensuring the right people are in the right posts at the right time facing the right incentives, in organizations that are „fit for purpose” and which operate in an environment with appropriate formal and informal incentives.

State capacity, however, is more than the sum of the capacity of individual organizations – it depends on how a broader set of institutions interact and how they align with existing power relations and the goals of the ruling elites. The ability to solve societal conflicts and struggles for power is thus a core element of state capacity. The conclusion is that creating state capacity, including through civil service reform, depends less on formal or „technical” institutional or organizational design than it does on creating alliances and coalitions that are able to agree how state institutions and capacity can be built – i.e. creating a durable political settlement among elites.”

“Capacity and legitimacy are distinct but interdependent. Legitimacy strengthens capacity because the state can rely mainly on non-coercive authority: citizens contribute willingly and actively, and are motivated to mobilize and engage in collective action *vis-à-vis* the state. This in turn allows states better to manage competing interests and to design and implement policies that are responsive to citizens’ needs. Capacity is likely to improve legitimacy and further stimulate collective action that effectively aggregates and channels citizen demands. So capacity and legitimacy are mutually reinforcing, and can create virtuous or (in fragile situations) vicious circles (where lack of capacity undermines legitimacy).”¹⁸⁵

To illustrate relevant questions and topics for assessing state authority, legitimacy and capacity performance, we include table 1 below with relevant questions for different domains.

¹⁸⁵ OECD (2010), p. 20

Table 1: Questions for assessing state authority, legitimacy and capacity performance by domain

		Authority	Capacity/ Effectiveness	Legitimacy
Constitutive domains/ survival functions	Security	Does the state's monopoly of force extend over the entire territory/ all people living within its borders?	Does the state have a monopoly of force to the extent that there is limited crime or armed conflict?	Is the way in which the state delivers security perceived as legitimate? Is the state perceived as the only legitimate source of security?
	Political/ Govt	Are people loyal to the state over other groups? Is this loyalty based on a shared sense of national identity? Do people recognize the authority of the government currently in power?	How effective are core government systems (executive/ the legislative or similar/ the judiciary) at making and enforcing decisions?	Is the way government makes and enforces decisions perceived as legitimate?
Output domains/ expected functions	Economic	Is there a de facto framework for a market-based economy? Is there a substantial illicit and/or informal economy that is beyond the legal market framework?	Does economic policy deliver economic growth, macro-economic stability, and job-creation?	Are the economic outcomes and their distribution perceived as legitimate? Is the nature and the degree of state intervention in the economy perceived as legitimate?
	Social/ Service delivery domain	Is the government/ state responsible for service delivery (even if these services are delivered by other actors – e.g. NGOs, churches etc.)?	How effective is the state at delivering services or ensuring that these are delivered to the population?	How is the performance of the state with regard to service delivery perceived by the population both in terms of level and of distribution of services?

Source: World Bank. (2012b). Guidance for Supporting State building in Fragile and Conflict- Affected States: A Tool-Kit. Washington, DC: World Bank, p. 22.