



# FROM FAILED TO FAIR

Learning from the Oslo Accords to foster a new rights-based approach to peace for Palestinians and Israelis

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A quarter of a century since the signing of the first of the Oslo Accords, the 'peace process' has seen a crippled Palestinian economy, a quadrupling of the number of settlers in illegal Israeli settlements, entrenchment of the 52-year Occupation and no genuine prospects for peace for Palestinians, Israelis or the entire region. Young Palestinians – and especially women – are carrying the burden of these failures.

As the international community reflects on the 26 years of the Oslo process, there is an opportunity to develop a new, inclusive, principled and rights-based approach to build peace for Palestinians and Israelis.

Clear and concrete steps must be urgently taken by key actors to end the stalemate and foster peace under new and clear paradigms. Toward this forward-looking objective, confidential interviews were conducted over the past months with a broad range of Palestinian, Israeli and other front-row observers of the past 26 years of the Oslo process.

This paper was written by Oxfam, based on research undertaken by Diana Buttu (former advisor to the PLO negotiations team) and Thomas Dallal (Director of the Association of International Development Agencies). It is not an examination of all of the historical events of the past 26 years but is rather focused on the process: when Palestinians and Israeli were engaged in negotiations, as well as the impact of the Accords as experienced today. In carrying out this study, the authors interviewed a number of key players – Palestinian, Israeli and international – as well as observers to the negotiations. Where possible, the authors have cited their words directly; where this is not possible, due to the interviewee wishing to remain anonymous, the authors have summarized their interviews.

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Cover photo: West Bank, Occupied Palestinian Territory. Credit: Lorenzo Tugnoli/Oxfam.

# SUMMARY

With a new US-led peace initiative looming, it is critical to look back over the last 26 years and the legacy of the Oslo Accords to bring insight and understanding and to learn vital lessons from the past.

The signing of the *Declaration of Principles on Interim Self-Government Arrangements*, Oslo I (1993) in Washington DC on 13 September 1993 launched the bilateral Israel–Palestine Liberation Organization (PLO) negotiations process, often referred to as the ‘peace process’. During the interim period of negotiations, Israel would grant increasing authority to the Palestinian Authority (PA) to help build up the institutions, while the two sides would commence negotiations related to *final status issues*. In the *Israeli–Palestinian Interim Agreement on the West Bank and the Gaza Strip*, Oslo II (1995), Israel and the PLO agreed on the temporary arrangements for a large number of civil and security issues that would govern during the interim period.

Palestinians entered into the negotiations process with two major expectations: first, by May 1999, Israel would completely end its occupation of all Palestinian territory occupied since 1967 with internationally recognized legal and political rights fulfilled; and second, the peace process would put an end to Israel’s settlement construction in the West Bank (including East Jerusalem) and the Gaza Strip.

Many Israelis expected that the ‘peace process’ would ensure: first, that Israel finally would be ‘recognized’ by the Palestinians, as represented by the PLO and the Arab world; and second, improved security for Israel and its citizens.

Although the parties agreed that the arrangements they established would be transitional, the Oslo Accords said little about what the parties were making a transition to and from. Today, Israel has more than quadrupled its settler population, from 115,600 in 1993 to more than 600,000 today. Israel has also precluded genuine economic development by intensifying the economically crippling movement and access restrictions on Palestinians, goods and commerce since the outset of the Oslo process.

Young Palestinians, Palestinian women, and Israeli and Palestinian victims of violence are carrying the burden of these failures. This policy briefing outlines why **Israeli and Palestinian youth and women** are concerned by the failure of the peace process and the risks they face if the stalemate continues and the international community does not push for a new rights-based path to peace.

The strong focus of the PA on security came at a high price for Palestinians, who were now under the rule of the PA’s security apparatus while also remaining under Israeli military control: systems that did not ensure safety for Palestinians. The lasting legacy of the failure to progress peace has had devastating consequences for Palestinians, which have been assessed in this briefing:

- settlement expansion has exploded exponentially;
- internal Palestinian political divisions and repression breeding disenchantment;

- a crippled economy under occupation;
- extraordinary impacts on Palestinian women; and
- shrinking horizons for Palestinian youth.

Based on this analysis and conversations with key participants and analysts of the Oslo process, the following recommendations are offered to guide future engagement between the parties; all other actors purporting to act in support of a just, stable and permanent peace, and any future envisioned peace process.

- 1. Clear terms of reference with clearly articulated grounding in international law, including international humanitarian and human rights law;**
- 2. A specifically enumerated third-party engagement, with mechanisms for monitoring and accountability;**
- 3. Clear timelines with specified consequences and accountability for non-implementation of obligations by the parties to the conflict;**
- 4. Flexibility/adaptability/adjustment mechanisms built into any future interim period arrangements to ensure continuous, and scrupulous, adherence to international law;**
- 5. Inclusiveness: establishing a genuinely inclusive peace process that includes women, youth and civil society, and reflects the international community's commitments to women.**

## 1 INTRODUCTION

The Oslo Accords carried with them well-founded expectations for both Palestinians and Israelis. Both expected that the process would be temporary and would end in peace. Beyond this common hope, both sides also had fundamentally different expectations. The Oslo Accords were conceived of as a five-year-long negotiation involving a number of steps which, if properly implemented, would create confidence between the parties so that in future they would be able to address the larger issues or *final status issues* that stood in the way of a peaceful resolution. These included the fate of more than five million Palestine refugees, Israeli settlements, security, borders, and the status of Jerusalem. The time-frame is important, as it envisioned a temporary situation – a temporary government, a temporary arrangement for the economy and for security – and it created expectations that the process would be short term.

However, what was expected to be short term has become the norm. The lingering legacy of the Oslo process has been the entrenchment of the now 52-year military occupation of the Palestinian Territory, with breaches of international law continuing with impunity, human rights violations by both Palestinians and Israelis, shrinking civil space in Israel and the Occupied Palestinian Territory (OPT), and dire costs for both Israeli and Palestinian civilians.

Since the Accords were signed, there have been multiple outbreaks of military escalation and confrontation between Israelis and Palestinians, as well as a conflict between the Hamas and Fatah factions following the 2006 Hamas election victory. In the same period, civic space has decreased, with Palestinian politicians from the Oslo era fighting to hold on to their positions in the absence of genuine democratic processes. The division between Hamas and Fatah has deepened, forestalling access to democracy for Palestinians. The period has also been marked by Israel's imposition of an unlawful blockade on the Gaza Strip, the construction of hundreds of kilometres of walls and the massive expansion of settlements, cutting people off from work, opportunities and family.<sup>1</sup>

Meanwhile, the Trump administration in the US has taken unprecedented unilateral steps that dangerously undermine the outcome of many of the final status issues, including the status of Jerusalem, determination of borders, water and the return of refugees. The Palestinian leadership has stated that it no longer views the US as an 'honest broker' and will not resume negotiations under its auspices, in response to the Trump recognition of Jerusalem as Israel's capital. Before it has even been released, the US-led plan risks further undermining human rights and destabilizing an already fractured and deeply fragile context.

With the new US-led peace initiative looming, it is critical to look back over the last 26 years and the legacy of the Oslo Accords, to bring insight and understanding and to learn vital lessons from the past. With the foundations for a new and successful process weak, it is necessary to understand the mechanisms that may assist in future negotiations or attempts to bring peace and justice for Palestinians and Israelis. Any new proposed process or initiative must be fully cognizant of previous efforts and should be measured against the basic benchmarks and principles laid out in this paper, building on the experience of women, youth and other particularly vulnerable groups which have largely been sidelined by reportedly tightly controlled and exclusive US-led talks.

A new, rights-based, human-centred and principled approach, grounded in international law, is still possible and must be urgently progressed.

## 2 BACKGROUND

The signing of the *Declaration of Principles on Interim Self-Government Arrangements* in Washington DC on 13 September 1993 launched the bilateral Israel–PLO negotiations process, often referred to as the ‘peace process’. Although signed in the US, the first agreement was concluded in Oslo, Norway, following nearly three years of negotiations. Israel and the PLO later signed numerous additional agreements between 1994 and 2000, which were meant to remain in effect for a temporary period – five years – and which dealt with interim issues such as the establishment of the Palestinian Authority, Palestinian economy and trade issues, movement of people, and security, among others. The Oslo Accords were conceived of as a five-year-long negotiation involving a number of steps which, if properly implemented, would create confidence between the parties so that in future they would be able address the *final status issues*.

Redeployment by Israel from large parts of the West Bank and the Gaza Strip was a core feature of the Oslo Accords. However, 26 years later, the PA exercises only limited control over less than half of the West Bank, and Israel continues to maintain its overall military occupation of the Palestinian Territory, including East Jerusalem.

Palestinians entered into the negotiations process with two major aspirations: first, by May 1999, Israel would completely end its occupation of all Palestinian territory occupied since 1967 with internationally recognized legal and political rights fulfilled; and second, the peace process would put an end to Israel’s settlement construction in the West Bank (including East Jerusalem) and the Gaza Strip. Since the signing of the Oslo Accords, Israel has more than quadrupled its settler population, from 115,600 in 1993 to more than 600,000 today.

Many Israelis expected that the peace process would ensure: first, that Israel would be finally recognized by the Palestinians as represented by the PLO, and the Arab world; and second, improved security for Israel and its citizens. The fulfilment of these expectations has been uneven: despite an increase in Palestinian attacks on Israelis that took place during the second *intifada* (2000–2005) and the ongoing threat of rocket attacks from militants in the Gaza Strip, the renunciation of violence by the Palestinian leadership has resulted in an improvement in Israel’s security. Israeli expectations of recognition also remain partly realized. The Oslo Agreements themselves recognized Israel and remain in place to date; and 45 countries established diplomatic ties with Israel following their conclusion, although some Arab states and some Palestinian parties have refused.

The Oslo Accords entrenched the system of dual laws in a single jurisdiction, wherein different laws are applied to people based on their ethnicity and religion. The 1994 Paris Protocol on Economic Relations stipulated that Israel would collect taxes on behalf of the PA for Palestinian imports and control the clearing of Palestinian imports transiting through Israel. This process provides for 3% handling fees to be deducted by Israel before this revenue – which accounts for approximately 75% of all PA revenue – is transferred to the PA by

Israel. Israel's control of this clearance revenue has enabled it to exercise considerable control over PA fiscal affairs. The IMF, World Bank and UN have all highlighted the negative economic consequences of Israel's recurrent withholding of this Palestinian revenue and the leakage of hundreds of millions of dollars of Palestinian fiscal revenue to Israel annually.<sup>2</sup>

## COSTS AND IMPACTS

The lasting legacy of failure to progress peace has had devastating impacts on Palestinian civilians, with insecurity, de-facto annexation of land (the Golan Heights and East Jerusalem are formally annexed) and high levels of aid dependency in the OPT, fuelled by an entrenched military occupation and settlement expansion that together destroy livelihoods and drive poverty and de-development. All of these factors have contributed to the failure of the democratic institutions Oslo was intended to develop.

### **Settlement expansion has exploded exponentially**

In 1995, as part of the Oslo Accords, the West Bank was divided into Areas A, B and C, fragmenting the West Bank and limiting Palestinian sovereignty. Today, those boundaries remain. In Area A, the PA has maximum, though still not full, civilian and security control; in Area B, the PA has civilian control, but security is maintained by the Government of Israel. In Area C, which constitutes over 60% of the territory of the West Bank and the only contiguous area, Israel maintains full civilian and security control.<sup>3</sup>

Between 1967 and 2017, the Government of Israel constructed more than 200 settlements in the West Bank (including East Jerusalem), which are now home to more than 600,000 settlers.<sup>4</sup> Although the West Bank has not yet been legally annexed, Israel has extended most of its domestic laws to the settlements and settlers, while Palestinians in Area C are subject to Israeli military law.<sup>5</sup>

Settlement expansion and the associated movement restrictions and demolition of homes and infrastructure continue to destroy the livelihoods of Palestinians. They are a major cause of Palestinian poverty and the denial of rights and freedom, with unequal access to land and resources and unfair advantages geared towards the settler population. As the World Bank has noted, removing Israeli restrictions on access to Area C is one prerequisite that would greatly contribute to uplifting investment and growth.<sup>6</sup>

### **Improved security situation in Israel**

Owing in part to the establishment of the PA, the security situation in Israel has improved. During the early years of the establishment of the PA, and under the guise that a temporary security arrangement would lead to Palestinian freedom, there was an overall sense of insecurity for both Palestinian and Israeli civilians.

Security cooperation between Israel and the PA offered the prospect of improved security for Israel and a guarantee of public order for the PA through the establishment of the Palestinian National Security Forces. Research conducted by the EU Institute for Security Studies notes:

'Today, with over 44% of public sector employees in the PA working in the security sector (over 80,000 people), it remains a major provider of income to the Palestinian population. It also accounts for the lion's share of the PA's annual budget, with 30–45% allocated to this sector. Israeli army officials estimate that the Palestinian security forces are responsible for thwarting 30–40% of attacks conducted in the West Bank. According to Majid Faraj, the head of the Palestinian intelligence service, during a four-month period of increased violence between October 2015 and January 2016 alone, the Palestinian security apparatus prevented around 200 violent attacks on Israelis and arrested over 100 Palestinians on suspicion of planning such acts. However, the statistics, while encouraging for the Israelis, have been met with little enthusiasm by the Palestinian public, which feels no tangible effects of the cooperation for its own security.'<sup>7</sup>

Palestinians living in the West Bank experience particular insecurity and lack of justice, with a mere 3% conviction rate for investigations regarding complaints by Palestinians hurt by Israeli citizens, according to Israeli human rights organization Yesh Din.<sup>8</sup>

Israel started building the Wall in 2002, justifying its construction on security grounds following a number of attacks by Palestinians against Israelis. Contrary to international law, 85% of the Wall runs inside the West Bank and has separated families, destroyed livelihoods, prevented Palestinians from accessing their land and resources, and paved the way for de facto annexation. The Wall splits the West Bank in two and traps Palestinian communities and land that are caught between the Wall and the Green Line (1967 borders).<sup>9</sup> The advisory opinion of the ICJ (adopted on 8 December 2003) found that 'the construction of the wall and its associated regime created a *fait accompli* on the ground that could well become permanent, and hence tantamount to a *de facto* annexation. The Court concluded that the construction of the wall, along with measures taken previously, severely impeded the exercise by the Palestinian people of its right to self-determination and was thus a breach of Israel's obligation to respect that right.'<sup>10</sup>

## **Internal political divisions and repression breeding disenchantment**

Intra-Palestinian political divisions have exacerbated poverty and insecurity in the OPT, leaving ordinary Palestinians bearing the double burden of the Israeli occupation and the lack of a coherent strategy to address it.

More than a decade of unresolved political discord between Fatah and Hamas, alongside broader perceived political inaction, have further entrenched the failures of the last peace accords. After Hamas' victory in the Palestinian legislative elections in 2006, a violent conflict followed between the factions. Since 2007, Hamas has been in control of the Gaza Strip, and attempts since then to form a unity government in Gaza and the West Bank have failed.



Along with the continued blockade, the division between the de facto Gaza authorities and the PA has had strong political, economic and social consequences and enlarged the economic gap between Gaza and the West Bank. Democratic institutions have stagnated, as noted by Human Rights Watch (HRW): 'Since the full PLC [Palestinian Legislative Council] has not convened since 2006, the Palestinian president has issued presidential decrees in accordance with article 43 of the Basic Law until the PLC reconvenes and can review all such legislation.' Decrees are issued by both President Abbas and by Hamas, resulting in a parallel regulatory framework. With no general elections held since 2006, the Palestinian Authority has become increasingly intolerant of dissent and eliminated mechanisms of accountability. Hamas also relies on a system of repression to maintain power and stability.

The political division has fuelled undemocratic measures and oppression of dissent in both the West Bank and the Gaza Strip, as noted by HRW in its 2018 study on arbitrary arrests and torture under the PA and Hamas:

'Both the Fatah-dominated Palestinian Authority (PA) in the West Bank and the Islamic Resistance Movement (Hamas) in Gaza have in recent years carried out scores of arbitrary arrests for peaceful criticism of the authorities, particularly on social media, among independent journalists, on university campuses, and at demonstrations. As the Fatah-Hamas feud deepened despite attempts at reconciliation, PA security services have targeted supporters of Hamas and vice versa. Relying primarily on overly broad laws that criminalize activity such as causing "sectarian strife" or insulting "higher authorities," the PA and Hamas use detention to punish critics and deter them and others from further activism. In detention, security forces routinely taunt, threaten, beat, and force detainees into painful stress positions for hours at a time. [...] PA security forces operate with significant support from the United States and Europe and in coordination with the Israeli army. Hamas receives financial aid from Iran, Qatar, and Turkey.'<sup>11</sup>

The formation of a Palestinian unity government is an important step within its democratization process, although still many steps away from actual progress on the ground.

## **A crippled economy under occupation**

The Palestinian Authority was established in 1994. However, the Palestinian people have never had sovereign control over their economy. The severe constraints and measures imposed by occupation have stifled the Palestinian economy, prior to and since the Oslo Accords. These constraints and measures have resulted in restrictions on the movement of people, labour and goods; systematic erosion of the productive base; the confiscation of land, water and other natural resources; separation from international markets; more than a decade of blockade and economic siege in the Gaza Strip; and the costly fragmentation of the Palestinian economy into three disjointed, disintegrated regions in the Gaza Strip and the West Bank, including East Jerusalem.

The IMF notes that OPT per capita output grew a mere 0.1% annually between 1994 and 2014. Most tellingly, the IMF calculates that had OPT per capita output continued to grow at the 4.4% trend rate observed between 1968 and 1987, real GDP per capita would have been 130% higher by 2014.<sup>12</sup> This has created a situation where the PA is strongly dependent on donor funding, which is significantly targeted to the security sector and institution building, backing a two-state solution and preserving the Oslo framework.

More than \$30bn in international assistance since the start of the Oslo process in 1993<sup>13</sup> has rendered the OPT among the world's highest per capita recipients of international aid,<sup>14</sup> with that dependency increasing over the years rather than decreasing.<sup>15</sup> The failure of the Palestinian economy to develop after Oslo and the continued dependence on donor support was highlighted by a World Bank study, which noted the 'distorted nature of the economy and its artificial reliance on donor-financed consumption'.<sup>16</sup>

Those interviewed for this research explained that the solution to the Palestinian economic crisis was not perpetual international aid, but a removal of the economically crippling movement and access restrictions imposed on Palestinians, goods and commerce since the outset of the Oslo process.<sup>17</sup> The creeping imposition of the blockade over the Gaza Strip and its now nearly two million inhabitants<sup>18</sup> since the early 1990s and its maintenance since 2007, has also hampered development, with Gaza's economic activity shrinking by 8% in 2018 and unemployment reaching 52%; 74.5% among women and 69% among youth.<sup>19</sup>

The settlement economy generates a strong footprint through its business activity. According to HRW:

'(T)here are approximately 20 Israeli-administered industrial zones in the West Bank covering about 1,365 hectares, and Israeli settlers oversee the cultivation of 9,300 hectares of agricultural land. In comparison, the built-up area of residential settlements covers 6,000 hectares (although their municipal borders encompass a much larger area).<sup>20</sup>

The World Bank estimates that discriminatory Israeli restrictions in Area C of the West Bank cost the Palestinian economy \$3.4bn a year.<sup>21</sup> These restrictions increase unemployment and drive down wages. The settlement economy sustains the presence and expansion of settlements, while many of the goods and products are sold to international markets. The European Union Association Agreement with Israel does not cover trade with settlements, and Israeli settlement goods should be labelled as such according to EU Guidelines in 2015 – however, settlement products still have access to European markets. The EU is Israel's main trading partner, and in 2015 the Israeli Ministry of Economy estimated the worth of settlement exports to the EU each year to be between \$200m and \$300m.<sup>22</sup>

Despite the financial gain of the settlement economy, the occupation adversely affects economic stability in Israel, particularly during extended periods of violence. Israeli research institute the Adva Center found that exerting military control over the OPT cost Israel 55 billion new Israeli shekels (NIS) between 1988 and 2015. According to the researchers of the Center, the high costs of

maintaining the occupation hinders socio-economic growth in Israel and has caused significant damage to its gross domestic product.<sup>23</sup>

## Extraordinary impacts on women

Women continue to fare worse than men in the Palestinian labour market, despite their higher educational levels. Their overall employment situation remains among the worst for women in the region. Women's unemployment in the OPT rose by 3.1% in 2017, reaching 47.4% – the world's highest. Whereas unemployment among OPT men modestly improved in 2017, the soaring rate of joblessness among women ensured that Palestine's overall unemployment rate rose and remained the world's highest in 2017. Fewer than one-in-five Palestinian women participated in the labour market in 2017, compared with more than seven out of ten men. Women who work in the OPT earn significantly lower wages and work fewer hours, averaging 31 hours per week compared with 41 hours for men.<sup>24</sup> The high unemployment rate among women is a result of the social norms prevailing in Palestinian society and inadequate provision of social protection, in addition to the dire economic situation. This is exacerbated by restrictions of movement imposed by the Israeli government through geographic, physical and social barriers, affecting women's mobility. Legal and institutional factors also contribute to limiting women's participation in the labour market. Palestinian labour law currently excludes large segments of the Palestinian labour force including: self-employed workers, seasonal workers, unpaid family workers, domestic workers and those involved in unpaid care and domestic work at home. These segments have a high female representation.<sup>25</sup>

On the level of political participation and leadership, here too Palestinian women have not fared well. As previously noted, with the political process stalled and with neither PLO elections having been held since 1996 nor presidential or parliamentary elections since 2005 and 2006 respectively, the scope for women to enter the political leadership realm has remained virtually non-existent. This can be attributed to the lack of prioritization and connected policies to enable female political leadership by the Palestinian National Authority. Despite some significant achievements over the past years (including 20% quota representation in local councils and the Legislative Council), women experience unequal political opportunities and gender-based discrimination.<sup>26</sup> While more women hold ambassadorial positions and ministerial posts than at the start of the Oslo process, it must be noted that the percentage of female Palestinian ambassadors is low, with only 5.8% of women in 2016, in comparison with 94.2% men.

Telling examples of the dearth of women in the decision-making upper echelons of Palestinian political life are that only one woman is a member of the PLO's elected 18-member Executive Committee and only one woman is a member of the 18-member elected Fatah Central Committee. The very low presence of women at the voting leadership level of the two most important political bodies in the OPT attests to a wider, and severe, under-representation of women in the Palestinian body politic. A Palestinian interviewee who has worked intensively on OPT women's rights issues for decades summarized the state of affairs by stating that 'there must be more than lip service to political participation for women and girls – women have a fundamentally different

*'Forty to fifty percent [of the Palestinian labour force] working in the [pre-Oslo] Israeli economy was more productive in a way: people got to know each other, Palestinians spoke Hebrew, Israelis interacted with Palestinians. This could lead somewhere, while now, this is leading nowhere.'*

An economist interviewee who participated in the economic negotiations.

perspective on security, for example – this is an absolute must to change the current reality’.

The UN Special Rapporteur on violence against women, its causes and consequences, noted in 2017:

‘Decades of Israeli occupation in parallel with the continuation of patriarchal attitude in Palestinian society expose women to subordination and continuing violence and marginalization from playing an active role in political life, to engage in economic and social life and ultimately to make their own decisions... There is a limited legal framework on gender equality and the principles of non-discrimination and equality between women and men have not been embodied in national laws, hence, not extended to both the public and private sphere. The lack of gender sensitive legislation, outdated legal frameworks, discriminatory laws and inaccessible justice system are some of the main issues that women and girls face.’<sup>27</sup>

### **Box 1: Israel: unemployment low, wages rising, yet inequality high**

Unemployment in Israel is at a historic low, according to the Jerusalem-based research institute the Taub Center, with employment reaching slightly more than 78% in 2018 and the unemployment rate continuing to decline, reaching a low of 3.4%. Women’s employment has increased by 13 percentage points since 2003, while men’s employment has risen by 7 percentage points.

‘The upward trend in employment affects both men (83 percent) and women (74 percent) and is part of a long-term trend that has continued since 2003. (...) The continual rise in women’s employment follows a worldwide trend, but the degree of change in Israel, for both men and women, is large compared to other OECD countries.’<sup>28</sup> Wages in Israel also continued to rise in 2018, consistent with the increase in real wages since 2014 – 11% in total.<sup>29</sup>

Nevertheless, inequality is among the highest in the OECD, with the percentage of Israelis living under the poverty line higher in 2016 (18.6%) than in 2000 (17%).<sup>30</sup> Israeli think tank Adva Center found that growing employment has done little to address income inequality because those Israelis entering the workforce were taking low-skill and part-time jobs with poor pay and few opportunities for advancement.<sup>31</sup>



More than half of the population of the OPT has grown up under the conditions set by the Oslo Accords, yet have seen few benefits. Photo: Lorenzo Tugnoli/Oxfam

**Box 2: 'Israel determines our future': Oslo's broken promise of self-determination for Palestinians**

'There was a very important term in the Oslo agreement, which is guaranteeing the right of self-determination for Palestinians,' says 27-year-old Aya, an architect and designer from Al-Zaytoon neighbourhood, east of Gaza City. 'But until now that has never happened. Israel determines our future.'

With the ubiquitous unemployment caused by the blockade on Gaza and subsequent economic crisis, Aya has not been able to find a job. Instead she has had to find a way to use her skills and build a business, overcoming the challenges of accessing basic resources. She opened a carpentry workshop and began creating furniture by recycling used wood pallets. 'Even though I'm an architect and supposed to be designing buildings, I use my designing skills to show the people of Gaza that we can do something creative and create a lot of things from simple materials.'

Unemployment rates in Gaza have soared from less than 10% in the early 1990s to 52% today, among the highest in the world. A staggering 74.5% of women and 69% of young people are unemployed, and job prospects and other opportunities are severely curtailed by movement restrictions. The World Bank has estimated that easing the blockade and opening up Gaza for critical trade to rebuild its infrastructure and economy could lead to additional cumulative growth of around 32% by 2025.<sup>32</sup>

'I'm denied and forbidden any sense of security or safety. I lived through three wars, wars on Gaza in 2008, 2012 and 2014,' Aya says. 'I lost the biggest part of my youth suffering from the blockade and wars.'

**Box 3: 'It took me 15 years to understand Oslo was dead'**

Oren Cohen\* is a human rights advocate for an Israeli civil society organization in Tel Aviv. As the politics in Israel lurch further to the right, he wonders what place there is for him in the Israel of the future. With or without a peace process.

'It took me about 15 years from the beginning of the Accords to understand Oslo was dead.

'When the Oslo process began, I was in high school, about to join the army for compulsory service. I honestly thought it was the beginning of a two state solution and an independent Palestinian state. But the process was hijacked.

'At a certain point, before Rabin was assassinated, he admitted for the first time the Zionist dream had come at the expense of someone else, and broke one of the tenets of Zionism: that we came into a country without people – an empty space. For the first time it was uttered that when we came here, this land was not, in fact, empty. It was a powerful and symbolic moment and I felt that it would lead in a very short time to an inevitable two state solution. I never thought that decades after that day Jerusalem would stay within Israeli control.

'The decision to freeze the process was the best option for Israel, while the interim agreement was bad for the Palestinians. By not withdrawing it has become a never-ending peace process.

'For me now, I'm not sure about the future of this place. I don't believe in this "la la land" of one democratic state. There are too many fundamentalists on each side and that is going to lead to one state with unequal rights, which is what we've already had for the last 52 years. If I stay, I would fight for Palestinian full civil rights, but I'm not sure I can stay. I don't think it will be a good place.

'I have more than one identity, I am not just Jewish, I am also gay. I don't see a country, where the majority on both sides are increasingly religiously conservative, that there will be a future for me with the freedoms I have now.'

\*name has been changed



Israeli settlers use large quantities of water to grow agricultural produce for export, while Palestinian farmers such as Suhaib Aref struggle to irrigate their crops. Photo: Lorenzo Tugnoli/Oxfam

#### **Box 4: 'We get scraps': Palestinian land and water taken over by Israel**

Suhaib Aref, 23, is a farmer from the village of Bardallah in the Jordan Valley. He is farming rented land because Israel confiscated his family's own land in the Jordan Valley. Most water resources were redirected to a nearby settlement, and agricultural production declines every year.

'The situation in general is getting worse and worse in regard to the water supply. The Israelis are supplying the majority of the water to the settlements, and we get scraps.'

Israel controls 80% of Palestinian water resources, and Israeli settlers use approximately six times the amount of water used by the 2.6 million Palestinians in the West Bank. Most settlements are located close to water resources, which Palestinians are restricted from accessing. Israeli settlers in the Jordan Valley use large quantities of water to grow agricultural produce for export, while Palestinian farmers struggle to irrigate their crops.

The land where Suhaib works is close to a checkpoint and a settlement, making travel to and from his fields potentially dangerous. 'We get harassed by the Israeli settlers and soldiers. Some of the incidents are life-threatening,' Suhaib says. He describes one occasion when he saw a settler stealing from his greenhouse:

'I didn't have the chance to say one word. He pointed a gun to my head and made me leave my greenhouse.'

Israel has rapidly expanded settlements across the West Bank, including East Jerusalem, de facto annexing Palestinian land to Israel, demolishing homes, taking over Palestinians' resources and fuelling poverty. The number of Israeli settlers in the West Bank including East Jerusalem has more than doubled, from 262,500 settlers in 1993 to more than 600,000 today.

## Shrinking horizons for youth

Children and youth under the age of 29 comprise more than 50% of the population in the OPT. Youth aged between 15 and 29 comprise 30% of the population.<sup>33</sup> These young people frequently feel that their voices and concerns go unheard, that they lack a voice in political decision making at any level and are under-represented politically in proportion to their numbers. According to the UNFPA report *Youth in Palestine*, many young people in the OPT express disenchantment at being disempowered and disenfranchised.<sup>34</sup>

For example, youth between the ages of 18 and 25, whether in the West Bank or Gaza Strip, have participated in neither presidential nor in parliamentary elections because the last such elections took place in 2005 and 2006 respectively. In addition, the last PLO elections took place in 1996, more than 22 years ago. For Palestinian youth, the Oslo process effectively froze time, with no changes taking place in leadership, strategy or vision since 1993.<sup>35</sup> Finally, as regards Palestinian youth participation in the Oslo process, here too young people have been excluded owing to the fact that the last round of informal negotiations took place nearly a decade ago, and the last round of substantive direct negotiations took place in 2001.

Polls indicate that over one-third of Palestinian youth wish to migrate abroad permanently (37% in the Gaza Strip, 15% in the West Bank).<sup>36</sup> Another poll indicates that 67% of Palestinian youth believe that Palestine is heading in the wrong direction, while 73% state that they view their future as bleak. Their greatest concerns are securing employment, obtaining an education, personal freedom, and corruption in public life.<sup>37</sup>

More than a decade of unresolved political division between Fatah and Hamas, alongside broader perceived political stagnation, have further fuelled disenchantment, and many young Palestinians have withdrawn from political participation. The vast majority of Palestinian youth are not registered to vote. A recent survey reported that only 40% of young Palestinians expressed interest in participating in an election event (29% in the West Bank versus 57% in the Gaza Strip).<sup>38</sup> Political disengagement appears to be linked to Fatah-led PA rule over the West Bank, which has continued without an electoral mandate or a functioning legislature since 2006. Moreover, PA President Mahmoud Abbas had his term indefinitely extended in 2009. He and the PA have increasingly been perceived as, and criticized for, imposing authoritarian rule in recent years. The dominance of Hamas over the Gaza Strip has similarly been perceived as unrepresentative and authoritarian by many Palestinians, including youth.<sup>39</sup>

The OPT enjoys 96% overall literacy and nearly 100% youth literacy. Ninety-five percent of OPT children attend primary school, and dropout rates are approximately 34%. Thirty-eight percent of youth aged 15 to 29 are enrolled in some form of education. However, the OPT unemployment rate for recent graduates stands at 53%, underlining that education does not correlate with economic prosperity.<sup>40</sup>

Unemployment for the OPT's young people aged 15 to 29 stood at 43.3% in 2017 (30.1% in the West Bank and 64.6% in the Gaza Strip), the region's highest youth unemployment rate.<sup>41</sup> Nearly two-thirds of the OPT population in this age group no longer seek employment and 1.44 million, nearly one-third, no longer seek work or attend school (39% of young women and 28% of young men).<sup>42</sup>

Thirty-eight percent of employed OPT youth in the 15 to 24 age group worked in the informal sector according to 2016 ILO data, while 57% were employed only informally in the formal sector, thereby depriving 95% of working OPT youth of social security, medical insurance, and sick and vacation leave entitlements. Thus, an extraordinarily high proportion of OPT youth were employed only informally and more than 50% of young OPT workers earned less than the OPT's marginal minimum wage.<sup>43</sup>

Very high numbers of idle OPT youth represent an enormous, and potentially destabilizing, waste of human potential.<sup>44</sup> Disenfranchised Palestinian youth do not build key skills, as they ordinarily would during their first years in the workforce. According to the United Nations Conference on Trade and Development (UNCTAD), this in turn:

'discourages investment in education, lowers the accumulation of human capital and deprives the economy of the new thinking, creativity, technological awareness and transformative innovations that are naturally associated with the young'.<sup>45</sup>

The skills atrophy induced by extreme youth unemployment in the OPT threatens to create long-term unemployability and economic marginalization. A 2015 Palestinian Youth Survey found that the average period of unemployment for youth aged 15 to 29 was more than two years.<sup>46</sup> Ultimately, in this scenario, young Palestinians are threatened by the prospects of endemic poverty, despair and deteriorating public health.<sup>47</sup>

Extreme youth unemployment reflects overall OPT deindustrialization and steady agriculture sector decline,<sup>48</sup> trends that augur badly for the long-term economic growth, fiscal sustainability, productivity and global competitiveness of the OPT economy.



# 3 KEY FAILURES OF THE OSLO PEACE PROCESS

Given that the Oslo Accords were never fully implemented, it is difficult to ascertain to what extent the results over the past 26 years of that process stem from the agreements themselves or from how they were realized. What can be said, however, is that the Oslo Accords contained flaws that made the lack of implementation, in a certain way, possible to sustain.

The Accords' jurisdictional scheme left Israel in full control of most of the West Bank during the interim period – without an enforceable timeline or guarantees, and without a cost and monitoring mechanism in case of failure to comply. Instead, agreements were renegotiated rather than implemented, leading to distrust among Palestinians, Israelis and their respective negotiators. In the context of ongoing occupation, the Palestinian position is inherently limited by the asymmetry of power between the parties; without strong external support, the occupied people have very little ability to press the occupier to comply. While Israel has largely been able to use economic and military pressure to enforce compliance by Palestinians, in the case of Israel's lack of compliance with the Oslo Accords – such as the failure to withdraw troops or to dissolve the Israeli Civil Administration – Palestinians were forced to plead their case before an international community that evidently saw no clear mandate from the Accords to hold Israel accountable.

## **Ambiguity of the text**

Interviewees noted that one of the main problems with the Oslo Accords was the vagueness of the texts of all of the signed agreements, and the need for clear terms of reference and grounding in international law. While some agreement provisions were spelled out in excessive detail, such as the provisions relating to the number and types of weapons to be held by the PA, other provisions were deliberately kept vague, leading to different interpretations of the text. Examples of ambiguous texts include those relating to the number of Palestinian prisoners to be released, transfers of territory to PA jurisdiction and whether settlement expansion would be ceased during the interim period. This allowed Israeli leaders flexibility in interpreting their commitments.<sup>49</sup>

Israel also did not acknowledge in the Oslo Accords that the West Bank and Gaza Strip were occupied territory, though that had long been the view of its courts and the entire international community. Nor did it explicitly recognize the Palestinians' right to self-determination or statehood – limiting itself to an oblique acknowledgement of the 'legitimate rights of the Palestinian people'.<sup>50</sup>

## **No third-party engagement, monitoring and accountability**

The failure of the Oslo Accords to include references to international law has meant that the conflict is viewed as a bilateral one, rather than a conflict where third parties can and should play a role. Despite being themselves the product of international intervention, the Oslo Accords did not make provisions for

further third-party involvement, or for mechanisms for third-party monitoring and accountability or dispute resolution. Without international actors to mediate and address breaches, stalemates led to recriminations with the resultant effect that many Israelis and Palestinians did not, and do not, believe that either leadership is serious about wanting peace. Moreover, the bilateral Oslo process never should have been allowed to diminish the clear responsibilities of the parties for international law violations, and the requirement for responsible parties to be held to account for all such transgressions.

Moreover, the Oslo Accords lack any reference to the law of occupation or International Humanitarian Law (IHL), including the Geneva Conventions, and the overall primacy and application of international law. It is worth noting that Israel has never recognized the applicability of the Geneva Conventions to the OPT, despite otherwise universal international recognition of IHL's applicability. Without these needed references, the negotiations, the intervening period and the outcome of negotiations remain subject to political power and will, rather than legal obligations as the clear terms of reference; allowing for a continuation of the conflict rather than its resolution.

## **Rights were forgotten**

Interviewees consistently noted that one of the primary drawbacks of the Oslo Accords was their failure to acknowledge and adhere to human rights standards. Whether on the part of the PA security forces or due to the maze of movement restrictions imposed by Israel, for the past 26 years rights have been viewed as secondary in the push for a final status agreement.

The failure to put human rights at the centre of the bilateral process may well have undermined long-term support for a bilateral negotiations process or its outcome, as has been evidenced by reactions to the crackdowns on rights. Current international assistance efforts in the security sector may be seen as one of the last remaining and robust legacies of the Oslo process.

The repressive measures (including punishment of dissidents and ill treatment of civilians) began with the signing of the Oslo Accords and have pressed the PA into a position where it must both preserve its own security and act to ensure the security of Israel. It has regularly been criticized for directly violating the rights of Palestinians, and also for failing to react sufficiently when Palestinian human rights are violated by Israel – even in areas that Oslo placed under its partial control.

These measures continue to the present day, even without the peace process in place. In the words of Mamdouh Aker, former Commissioner-General of the Palestinian Independent Commission for Human Rights (2011):

'For three years I have been warning that certain characteristics will drag us toward becoming a police state, unless we pay attention: arbitrary, illegal arrests. Torture of detainees – due to our complaints, there has been an improvement for several months, but now there appears to be a return to this miserable procedure. Screening of candidates for public posts by the intelligence and preventive security apparatus. Arrests of civilians by the security apparatus – there was a promise that this would

end, but we will still wait for an explicit guarantee from the high political level. A lack of compliance with court rulings.<sup>51</sup>

This decoupling of rights from the negotiations process may have been one of the reasons for the instability of the temporary system put into place under the Oslo Accords to progress to a sustainable permanent status agreement within the Oslo-specified five-year transition period.

## Timelines without consequences

Almost all interviewees noted that a central flaw of the Oslo Accords was its failure to set out, or adhere to, clear timelines with consequences for failing to implement agreed terms of successive Oslo agreements. Rather than holding parties accountable, agreements had to be renegotiated over time, with the resultant effect that, to date, the 1995 Interim Agreement's specifications for Israeli redeployment from the West Bank remain unfulfilled. As a result, Area C of the West Bank remains trapped in time – unable to be developed by Palestinians, while remaining the site of land confiscation, settlement expansion and creeping de facto annexation by Israel. Timelines with consequences may have created greater support among the Palestinian and Israeli publics, while also effectively ensuring that opposition to the various agreements could be quelled or at least contained.

## Inadaptability

Interviewees noted that the Oslo Accords lacked the adaptability to render the process sustainable. The impacts of this flaw have multiplied in the years since Oslo, as selective parts of the agreements have held while progress towards a final agreement has faltered if not frozen altogether. For example, the 1995 Paris Protocol provisions remain in place to the present day, despite the multitude of changes in the Palestinian economy and its needs. In an especially glaring example, the water allocations stipulated in the 1995 Interim Agreement – which provide a set amount of water for Palestinians – remain in place despite the fact that the West Bank population has nearly doubled since 1995. This was intended to be revised within a five-year period, but the agreement did not include flexibility or consequences in the event that the revisions did not take place. In another example, the Palestinian population registry remains under Israeli control, with the PA unable to process entry permits for those not already listed in the registry. According to some estimates, more than 75,000 applications for entry permits remain in limbo, with Israel refusing to process them.

## The role of women was ignored

Globally, conflict is inextricably linked to gender (in)equality in a variety of ways. A high level of gender equality gives a lower propensity for conflict,<sup>52</sup> and inequality and gender-based violence in societies affect vulnerability to civil and interstate war. Furthermore, when women participate in peace processes, the resulting agreement is 35% more likely to last at least 15 years.<sup>53</sup> Despite the leading role that both Palestinian and Israeli women had previously played in political life and socio-economic spheres, there were no women in the talks at Oslo.

*'Do no harm and do not accept International Humanitarian Law violations; dividing the West Bank into Areas A, B and C and then granting Israel the right to work in Area C, the master plans farce, where 114 [master plans] were submitted to Israel, but only one approved, while settlements are approved on an ongoing basis.'*

*'This was all wrong and violated international law. Settlements are illegal. Period. Clinton Parameters and "preserving settlement blocs"? "By-pass roads" for settlers? Don't play games with core principles. Stick to them, and do not allow any compromises.'*

A prominent Palestinian planning expert who has worked on territory-related aspects of the conflict and negotiations process for decades.

'The Oslo agreements... were negotiated predominantly by those PLO members, sidelining the grass-roots Intifada activists who had effectively pressured Israel to the negotiating table in the first place. While female activists were arguably more connected to the needs and realities of Palestinians on the ground, the accords were ultimately negotiated entirely by men, excluding women not just from discussions, but also the process of government formation and eventually their central roles in civil society. [...] Although women in both societies are participating in nonviolent activism and efforts to push their political leaders toward a peaceful settlement, these organizations will have to confront a hostile political environment, build legitimacy while navigating a deeply asymmetrical conflict, scale up while maintaining internal discipline and rally for equal rights in their own societies and in relations with their neighbors.'<sup>54</sup>

According to UN Women, lasting and positive peace requires women's participation in mediation, economic recovery, social cohesion and political legitimacy. The credibility of peace processes can be achieved by increasing diversity and improving local ownership.<sup>55</sup>

## 4 WHAT MUST A NEW APPROACH TO PEACE LOOK LIKE?

Despite the long history of significant international assistance, the Palestinian economy has failed to prosper and appears to have declined over the course of the Oslo process era, with no prospect for change without severe economic costs imposed on the PA and, in turn, the Palestinian people. Passing the 26-year anniversary of the signing of the first of the Oslo Agreements, one would have hoped that peace would have been achieved. With no positive progress in sight, lessons must be learned from the process.

### **1. Clear terms of reference with clearly articulated grounding in international law, including international humanitarian and human rights law.**

There need to be concrete parameters and clear formulations of the agreed negotiations process, eliminating the potential for different interpretations of the text; binding references to International Humanitarian Law, including the Geneva Conventions, and the overall application of international law; and clear responsibilities of the parties for international law violations, and the requirement for responsible parties to be held to account for all such transgressions. This should include clear reference to human rights principles in future agreements, and a means of holding parties accountable for rights violations.

### **2. A specifically enumerated third-party engagement, with mechanisms for monitoring and accountability**

If and when peace talks resume, provisions should be made for fortified third-party engagement, and for third-party monitoring to ensure that all parties comply to the agreed processes and to monitor any violations of agreed provisions. Third-party monitoring has long been used to provide 'trust mechanisms' for international peace processes.

States must also hold themselves and each other to account and enforce their own repeated condemnations of violations of international law.

### **3. Clear timelines with specified consequences and accountability for non-implementation of obligations by the parties to the conflict.**

Timelines with consequences could have created greater support among the Palestinian and Israeli publics, while also effectively ensuring that opposition to the various agreements could be quelled. Timelines are also important to avoid the current situation where parts of the agreement are frozen in time, with serious consequences for the people affected by them.

### **4. Flexibility/adaptability/adjustment mechanisms built into any future interim period arrangements to ensure continuous, and scrupulous, adherence to international law.**

While clear timelines remain essential, where interim measures are used, flexibility and adaptability must be worked into the texts while simultaneously ensuring that rights are respected. Here too human rights can form the essential baseline. For example, by making reference to international

*'We worked backwards: we assumed that trust would lead to agreements, while we should have focused on agreements that lead to trust.'*

Israeli politician Yossi Beilin

standards in the realm of water – rather than maintaining gross allocations agreed in 1995 – rights to adequate levels of water could have been ensured.

**5. Inclusiveness: establish a genuinely inclusive peace process that includes women, youth and civil society and reflects the international community's commitments to women.**

The lack of inclusiveness in the talks jeopardized the sustainability of the process from the beginning. Any new process must be inclusive of women's voices – both Palestinian and Israeli – and responsive to the needs and rights of all, including youth and any marginalized groups, not just the respective elites. Without the meaningful participation of those who are most impacted, any new initiative is doomed to fail. Successful peace processes include female and youth leaders, bringing a diversity of perspectives, an extra dimension of analysis and improved conflict resolution.<sup>56</sup>

## RECOMMENDATIONS

### The Government of Israel should:

- Ensure that it **adopts and maintains internal polices, standards and operations, as well as external positions, that are fully consistent with international law**, including International Humanitarian Law and International Human Rights Law.
- Implement a new pro-peace foreign policy, giving high priority to advancing Israeli–Palestinian peace based on negotiations with the Palestinian leadership and internationally agreed parameters.
- **Halt all settlement activity** and restrictions on Palestinian access to and development of Area C and East Jerusalem. Permit Palestinian social and political institutions in East Jerusalem to function.
- Recognize its obligation as an occupying power for **ensuring living conditions and a standard of good governance** for the Palestinian population.
- **End the blockade of the Gaza Strip** and ensure that the needs of the occupied population there are met as required by international law. The full range of movement and access restrictions imposed on the entirety of the OPT, including East Jerusalem, must also be lifted.
- Welcome and respect a European role in the peace process.

### The PLO, Palestinian Authority and other Palestinian authorities should:

- Ensure strict adherence to internal polices, standards and operations, as well as external positions, to come into compliance with **international law**, including International Humanitarian Law and International Human Rights Law, and actively work to prevent and condemn violence against civilians.
- **Reverse the shrinking civil space in Palestine and the consolidation of governance and control in the hands of the PA Presidency** to the exclusion of an elected legislative branch, which is in violation of the Palestinian Basic Law.

*In 2015, the UN Security Council adopted [UNSCR 2250](#), the first resolution entirely dedicated to recognizing the importance of engaging young women and men in shaping and sustaining peace. UNSCR 2250 calls on Member States to include young people in their institutions and mechanisms to prevent violent conflict and to support the work already being performed by youth in peace and security.*

- Ensure **strong judicial and legislative oversight and accountability** for all security services, holding perpetrators accountable for arbitrary arrests and torture, and ending impunity for security forces.
- Work towards reconciliation of all Palestinian factions in order to provide Palestinians with the opportunity of democratic representation and leadership in the peace process.

**Key donor states should:**

- In line with Common Article 1 to the Geneva Conventions, **take all necessary measures to respect and ensure all parties respect** their obligations under International Humanitarian Law, including the **prohibitions on settlement expansion, transfer of population, annexation, attacks on civilians, use of indiscriminate weapons and torture.**
- **Support long-term economic development and enhanced production,** with a determined focus on fostering a sustainable and independent Palestinian economy going forward, that will serve to counteract the current economic dependence that arguably stands among the most negative impacts of the Oslo process.
- Oppose attempts by Israel and the Palestinian Authority to isolate and decouple the Gaza Strip from the rest of the OPT and stress the need for the reactivation of inclusive Palestinian governance structures. **To bridge the political, economic and technical gaps, it is critical to maintain and restore the connection between the Gaza Strip and the West Bank (including East Jerusalem).**
- Take steps to **mitigate aid dependency,** including by empowering and promoting Palestinian civil society and self-governance, taking steps to fight corruption, and funding greater participation and leadership by local NGOs in the design and delivery of assistance.

**The European Union and its Member States, together with all other relevant third states should:**

- Collectively agree to **assume multilateral responsibility that ensures effective monitoring of, and accountability for, the actions taken by the parties to the conflict,** including in any future envisioned peace process. This should include collectively and individually demanding that all parties adhere to international law, and using all political or economic means, instruments and relations to incentivize full compliance by the parties and the **realization of the right to self-determination for the Palestinian people.**
- States must take **concrete and impactful action in line with their obligations to respect and ensure respect for International Humanitarian Law and human rights, to protect civilians from violations.** This should include, but not be limited to, consistent pursuit of differentiation based on EU Council decisions and in line with United Nations Security Council Resolution 2334.
- Ensure **full accountability of Israeli and Palestinian leaders and military commanders** who may be responsible for grave breaches of international law in the OPT and other human rights abuses, including torture and ill treatment of civilians.

- **The EU** under the leadership of its new High Representative for Foreign Affairs and Security Policy should take a **leading role in the Quartet**, ensure periodic review of the progress made toward the resolution of the conflict, and take adequate measures to incentivize the parties and ensure they comply with the negotiation framework. This includes **taking tangible measures to support Israeli-Palestinian dialogue and provide building blocks for future peace making**.
- **The EU should support a unified Palestinian structure as one of the conditions for the democratic process and have an open dialogue with all parties, including Hamas**. This includes providing support to a prospective Palestinian unity government committed to non-violence by all players and offering political and logistical support for next steps in reaching a consensus government, followed by elections.

**The United Nations Special Coordination for the Middle East Peace Process, as well as other UN agencies and relevant international organizations, should:**

- Focus their collective efforts on **protecting and ensuring human rights and adherence by all parties to international law**, consistent, at a bare minimum, with International Humanitarian Law requirements and the law governing occupation.
- The UN in particular should: critically **assess its engagement in political negotiations over the past 25 years** – including its role in the Quartet and the Gaza Reconstruction Mechanism, for example – to determine whether these more political roles have proven constructive, on balance, and consistent with the UN Charter. Consideration should be given to **whether adopting a political role may have distracted from, or otherwise diluted, core UN, human rights and International Humanitarian Law protection principles**. Based on this critical assessment, the UN should evaluate whether to fundamentally reconceive its overall role in the OPT and whether other means may exist to more effectively promote the rights and principles that stand at the UN Charter's core, including ensuring realization of the right to self-determination for all peoples.

**International NGOs should:**

- Continue to demand **full adherence to international law** from the parties to the conflict and from third parties, including both state and individual accountability for violations.
- Consistently highlight to all donors that **assistance provided to the OPT cannot substitute for full compliance with international law**.
- Take steps to **mitigate aid dependency, including by empowering and promoting Palestinian civil society** and self-governance, and funding greater participation by Palestinian NGOs in the design and delivery of assistance.
- **Ensure conflict-sensitive approaches to development** in the design and implementation of all humanitarian and development interventions, prioritizing conflict analysis and conflict sensitivity. Aid should be conceptualized and delivered in a manner that both addresses needs and directly challenges unlawful restrictions as opposed to accommodating or working around them (Area C permits, blockade, etc.).



# NOTES

- 1 Collective punishment is prohibited under Article 33 of the Fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War of 1949 (GCIV). In October 2016, the UN Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, Michael Lynk, stated that: 'Israel's continued occupation of Gaza is maintained through an extensive military, economic and social blockade of the territory, which reinforces its separation from the world and the rest of the Occupied Palestinian Territory. As a form of collective punishment imposed upon an entire population, the blockade is contrary to international law'. Report to the UN General Assembly, A/71/554, 19 October 2016, para.45, [http://www.ohchr.org/Documents/Countries/PS/A\\_71\\_554\\_en.pdf](http://www.ohchr.org/Documents/Countries/PS/A_71_554_en.pdf). In August 2013, UN Secretary General Ban Ki Moon stated that: 'While parties to an armed conflict may take security measures, such measures must comply with international law and should be necessary and proportional. Numerous statements made by Israeli officials in their professional capacities have made clear that the blockade is being imposed to apply pressure to the de facto authorities, and in response to acts committed by various groups in Gaza, including Palestinian armed groups, towards or in relation to Israel. However, the blockade and related restrictions target and impose hardship on the civilian population, effectively penalizing them for acts they have not committed. As such, these measures contravene article 33 of the Geneva Convention relative to the Protection of Civilian Persons in Time of War (Convention IV) prohibiting collective penalties'. Report to the Human Rights Council, A/HRC/24/30, 22 August 2013, para.22, [http://www.un.org/ga/search/view\\_doc.asp?symbol=A/HRC/24/30](http://www.un.org/ga/search/view_doc.asp?symbol=A/HRC/24/30).
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- 13 Norwegian Agency for Development Cooperation (NORAD) (2017). *Palestine Country Evaluation Brief*. June 2017, p. 8 ('more than USD 30 billion in aid has been spent on the West Bank and Gaza Strip (1993–2014)'). <https://norad.no/en/toolspublications/publications/2017/country-evaluation-brief-palestine/>
- 14 Ibid., p. 7 ('Despite overall levels of aid falling since 2009, the Territories remain one of the world's largest per capita recipients of foreign aid.').
- 15 See, for example, UNCTAD (2017). *Report on UNCTAD Assistance to the Palestinian People: Developments in the Economy of the Occupied Palestinian Territory*. September 2017. [https://unctad.org/en/PublicationsLibrary/tdb64d4\\_embargoed\\_en.pdf](https://unctad.org/en/PublicationsLibrary/tdb64d4_embargoed_en.pdf)
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