



**Synthesis of the Existing
Assessments of the Legal
Environment for Civil Society
Organizations including
Philanthropic Support
Organizations in Mozambique**

APN 2021.



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ABOUT US

Africa Philanthropy Network (APN) is the continent-wide network of African owned and African-led organization which promote the culture of individual and community philanthropy and acts as a space for indigenous institutions in Africa to interrogate and intervene in the power dynamics that shape how resources mobilization, distribution and spending impact the possibilities of transformation change. APN envision a strong and effective philanthropic community, striving to build equitable and just societies in Africa. Its Mission seeks to reclaim the power and elevate practices of African philanthropy. In achieving this mission, APN is working in collaboration with its members and other philanthropy support organizations to promote voice and action of African philanthropy through building of solidarity and coordinated response in African philanthropy landscape; rethinking and build the case for the potential for African (individual and community) philanthropy to drive social and systems change.

ABOUT THE REPORT

APN in collaboration with the Dalia Communication in 2021 engaged the services of Bisan Center for Research and development to conduct a study on Synthesis of the Existing Assessments of the Legal Environment for Civil Society Organizations including Philanthropic Support Organizations in Palestine to thrive.

The report forms part of the body of work of the Giving for Change (GfC) program. This synthesis provides a baseline data for influencing in-country national state and societal actors to support the development of community philanthropy by creating favorable conditions to promote the power of domestic philanthropic giving as a form and driver of social and systems change.

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ONE: INTRODUCTION AND METHODOLOGY

This research focuses on the legal environment for Civil Society Actors (CSAs) in the West Bank and Gaza Strip. This research was conducted in a period of great repression against Palestinian civil society organizations and the rights to peaceful gathering and freedom of speech which are a prerequisite for a strong and vibrant civil society. Bisan center which is conducting this research has been targeted by these attacks as in early Thursday 07/29/2021, Israeli occupation forces raided the headquarters of Bisan Center for Research and development, vandalizing offices, breaking the main entrance door, and shattering the doors of offices inside the center, they also rummaged the center and stole office owned equipment and devices. The occupation's increasing shrinking space for Palestinian CSOs and disregard for CSO rights and jurisdictions has become a routine, and with no official protection of CSOs, the entirety of the Palestinian civil society has become permissible for occupation forces to harass and delegitimize.

Unfortunately, the Palestinian Authority is also playing an increasing negative role in repressing freedom of speech, freedom of assembly and freedom of forming and working within CSOs. Recently, the PA has arrested, attacked and tortured many Palestinians during the peaceful protests demanding justice for Nizar Banat. This has also caused increased scrutiny on Palestinian CSOs, specifically those working on human rights and socio-economic justice in Palestine. Two employees in Bisan were also arrested by the P.A in the months of July and August and are currently awaiting trial on charges relating to freedom of assembly and freedom of speech.

Thus the need for concrete knowledge on how to create an enabling environment for Civil Society Organizations (CSOs) to tackle such grave violations of human rights.

Palestine has a long history of civil society and philanthropy dating back to the 19th century. The first registered civil society organizations were the Christian-Islamic associations in the ottoman era, the first one registered was the Young women's Christian association which was established in 1893 (Young Womens Christian Asssocation (YWCA), 2021), in Jerusalem. These associations played a major role in the Palestinian national identity and the formation of local philanthropy work in historic Palestine. The aim of this research is to contribute to the enabling environment for civil society organizations; through the identification of the legal environment for civil society actors including Philanthropic support organizations in the West Bank and Gaza Strip.

The research seeks to identify factors that affect or contribute to the enabling environment of civil society with special focus on the legal environment of civil society, which includes the laws, procedures and practices, which are employed by duty bearers' especially governing authorities that relate to the work of civil society organizations.

Although there has been a lot of literature focusing on the shrinking space for civil society organizations in Palestine, most of this literature has focused on the ability of civil society organizations to mobilize external funding from foreign governments or international donors. Nevertheless, little focus was given to the potential and ability to mobilize local Palestinian resources for philanthropic work in Palestine.

This research will employ qualitative analysis using human rights-based approach and the ICNL tool to

assess the legal environment for civil society organizations. The research will look into existing Palestinian laws to assess the legal environment in both Gaza and the West Bank by taking into consideration the different contexts in both areas. As the Palestinian Authority governs the West Bank, while the De facto Hamas government governs Gaza, even though laws are equivalent in both areas, each government adopts different procedures and policies in relation to CSOs. This research will analyze both areas within laws, but will also analyze the different procedures and policies adopted by both governments to pinpoint key issues within each legal environment.

The ICNL tool used in this research aims to help organizations think critically about the variety of relevant factors and weigh different considerations and pursues to lay out the most important considerations and guide organizations to analyze them both individually and in relation with each other. The tool was created for countries with a different context than that in Palestine. This means that the research will not only use the ICNL tool, but will also attempt to adapt the tool to fit within the Palestinian context.

The ICNL tool focuses the analysis on seven main areas which are: (i) Registration, (ii) Taxation, (iii) Fundraising, (iv) Oversight and Accountability, (v) Policy engagement, (vi) Competition on funding versus complementarity of roles and services delivery between government and CSOs, (vii) Restrictions on banking system and funding flows. The research will examine all of these areas in relevance to the Palestinian context.

In addition, the research focuses on three main actors playing a role within the legal environment for civil society and philanthropic support organizations in Palestine. The first being the Palestinian Authority in the West Bank, the second the de facto Hamas government, and the third is the Israeli occupation. As each actor has significant impact on the Palestinian legal environment, this research assess the effects, implications and opportunities for engagement for each component.

Thus, the research employs a three level analysis in this approach, in the first level of analysis the research will analyze the seven main areas of: Registration, Taxation, Fundraising, Oversight and Accountability, Policy engagement, Competition on funding versus complementarity of roles and services delivery between government and CSOs and Restrictions on banking system and funding flows. This analysis is carried out on the laws that are governing the West Bank and Gaza. Then a deeper level analysis of the procedures and policies that are practiced by the P.A in the West Bank and Hamas in the Gaza strip that might contribute to or put restrictions on the CSOs' work in the West Bank and Gaza especially for local Philanthropy.

The second part of the research has used the ICNL tool to map the issues that civil society is facing based on the priority in addressing them, as well as how long it will take to resolve the issue and the complexity of the required solution, this will help guide the necessary interventions where they are needed.

The third part identifies allies and openings for engagement and how to reach decision makers to successfully influence policies.

The research will produce a set of policy engagement recommendations for CSO in order to tackle the governing authorities to increase space for civil society organizations work and contribute to an enabling environment for civil society.

The research employed a number of data collection methods including desk review of secondary sources on shrinking space, four interviews with actors from the civil society and a focus group discussion with a number of youth activists from the civil society.

TWO: CONTEXT ANALYSIS

There are two legal systems in the Palestinian territories which is due to the history and development of the political context. As after 1948 ethnic cleansing of Palestine the West Bank came under the Jordanian rule and the Gaza Strip came under the Egyptian rule, with each regime enforcing its own legal context. After 1967 Israel occupied the West Bank and Gaza but did little to consolidate the legal context between both regions. When the P.A was established in 1994 and took control over the West Bank and Gaza strip it did try to consolidate the laws between both regions and actually did achieve some level of conformity which ended after the 2007 Political divide as the West Bank came under the autocratic rule of Mahmoud Abbas who rules by presidential decrees and Gaza came under the rule of Hamas which imposed a certain form of theocracy in the Gaza strip.

The West Bank and Gaza Strip have been occupied by Israel since 1967. Before that both areas were administered by the Kingdom of Jordan and Egypt respectively. This led to complex legal situation of three interacting legal systems with different laws that were in effect in the West Bank and Gaza.

After the establishment of the P.A according to the Oslo accords between the Palestinian Liberation Organization (P.L.O) and Israel, the P.A tried to consolidate the laws and establish a coherent legal system by going through a process of solidifying the laws according to the newly issued Palestinian Basic Law. The Palestinian Basic Law in article 26 sub article 2 guaranteed the right of individuals to form organizations, which was detailed in the Charitable Associations and Civil Society law number 1 for the year 2000[1]. In 2014 Palestinian Central Bureau of Statistics

(PCBS) census there were 3,729 Active Palestinian non-governmental organizations in the West Bank and Gaza Strip (2,419 and 1,310 respectively)(PCBS, 2013).

Civil society organizations (CSOs) are defined by the United Nations Guiding Principles as “Non-state, not-for-profit, voluntary entities formed by people in the social sphere that are separate from the State and the market. CSOs represent a wide range of interests and ties. They can include community-based organizations as well as non-governmental organization (NGOs).[2]” The most prominent legal forms of CSOs are charitable organizations and not-for-profit companies, the first is affiliated and supervised by the Ministry of Interior and the second is affiliated and supervised by the Ministry of Economy.

CSOs are the backbone of any society, as they are an integral part of the democratization of all

[1]<http://muqtafi.birzeit.edu/pg/getleg.asp?id=13431#:~:text=%D9%84%D9%84%D9%81%D9%84%D8%B3%D8%B7%D9%8A%D9%86%D9%8A%D9%8A%D9%86%20%D8%A7%D9%84%D8%AD%D9%82%20%D9%81%D9%8A%20%D9%85%D9%85%D8%A7%D8%B1%D8%B3%D8%A9%20%D8%A7%D9%84%D9%86%D8%B4%D8%A7%D8%B7,%D8%A7%D9%84%D8%A3%D9%87%D9%84%D9%8A%D8%A9%20%D9%88%D9%81%D9%82%D8%A7%D9%8B%20%D9%84%D8%A3%D8%AD%D9%83%D8%A7%D9%85%20%D9%87%D8%B0%D8%A7%20%D8%A7%D9%84%D9%82%D8%A7%D9%86%D9%88%D9%86.>

[2]<https://www.ungpreporting.org/resources/glossary/>

communities and exist to benefit their societies. The Palestinian basic law of 2003, amended in 2005, and according to article (26), ensures the right to form and establish associations.[3] The Palestinian law governing civil society organizations is considered one of the best between Arab countries in terms of ease and clarity. This law defines CSOs as “*Any charitable Association or Community Organization with an independent judicial personality, established upon an agreement concluded among no less than seven persons to achieve legitimate objectives of public concern, without aiming at attaining financial profits to be shared among the members or achieving any personal benefits.*”(SOGES, 2011).

The distribution of CSOs according to a mapping done by MAS in 2007 is as follows:

Sector Distribution of NGOs in 2006	
Intervention Sector	%
Education and Culture	22.1
Charity & Relief	18.3
Youth and sports	13.0
Children	9.8
Women	8.8
Health	7.1
Agriculture, Rural Development, Water and Environment	6.0
Social Development and Assistance to Vulnerable Groups	5.8
Governance, Human Rights and Democracy	3.5
Research + Scientific Education	4.9

Table1

Source: MAS 2007

It is worth noting that the previous table only describes 2,126 registered organizations in 2007, thus providing a general overview of sector distribution of CSOs in Palestine.

[3]<https://www.palestinianbasiclaw.org/basic-law/2003-amended-basic-law>

THREE: ANALYSIS OF THE AREAS WORKING ACCORDING TO THE ICNL TOOL

3.1 REGISTRATION

The Charitable Associations and Civil Society Organization's law, article (4) states that founders of the association should present a written application, fully meeting the conditions, and signed by at least three authorized to sign founders, attached with three copies of the association's basic law to the specialized unit in the Ministry of Interior.[4]

The law states that if in 60 days the Ministry does not give an answer to the application, the association is automatically approved and registered. Rejection to any application is usually due to unanswered requirements given by the Ministry to the association; this causes delays to the registration of the association and deems it unregistered by the Ministry. Many associations claim that delays happen due to extreme bureaucracy and back and forth communication between directorates and specialized units within the Ministry of Interior[5]. Nevertheless, In Gaza, banks do not allow associations to open bank accounts without an official acceptance letter from the Ministry of Interior, even if 60 days have passed since the submission of the application[6]. No donor organizations or government entity will cooperate with CSOs before registration is complete and bank accounts are opened. This leads to delays in starting work and applying for funding and many donor set deadlines that might pass leading to CSOs losing funding opportunities.

Table 2 below provides a general description of the registration issue for CSO in the West Bank and Gaza Strip according to the ICNL tool.

Priority and Possible Responses:

This issue impacts the operation of CSOs. Thus can be mitigated in the short term through training for CSOs administration staff in the ministry of interior as well as CSOs to clarify registration requirements so that the process is better understood and transparent, implemented more predictably, and takes less time. But in the medium run CSOs can conduct an evaluation of registration guidelines and requirements and advocate for a more inclusive registration process that does not put a lot of financial burden and time on people willing to start philanthropic activities. This of course needs an elected Palestinian legislative council in order to improve the law for registering and provide oversight on the executive branch of the P.A especially the ministry of interior in their compliance with the laws and providing an enabling environment for civil society organizations.

[4]<http://muqtafi.birzeit.edu/pg/getleg.asp?id=13431>

[5] Palestinian NGO Network, Report on the enabling environment for civil society organizations in Palestine, 2020. P14

[6] وحدة الأبحاث والمساعدات الفنية، ضغوط وقيود متزايدة: تقليص فضاء عمل المنظمات الأهلية في قطاع غزة (مركز الميزان لحقوق الإنسان: آب 2019) ص 17

Table 2 describes the issue of registration according to the ICNL tool

Registration	
Describe the issue.	CSO registration takes a long time due to bureaucracy and the need for security background checks on board and general assembly members, which hinders the CSOs' ability to open bank accounts, receive funding, and start work with any donor or partner.
Is the root of the issue in the text of the law or in the way the law is implemented?	The way the law is implemented: The bureaucracy and disorganization between Ministry officials, legal departments, and registration units, as well as the security background checks on members of CSOs which is not required by law cause the registration period to get delayed.
Describe the impact, including the severity of the impact, of this issue.	CSOs are unable to open bank accounts before their registration is complete, no donor organization or government entity will cooperate with CSOs before registration is complete and bank accounts are opened. This leads to delays in starting work and applying for funding and many donor set deadlines might pass leading to CSOs losing funding opportunities.
How does this issue affect philanthropy organizations? Does this overlap with the interests of other CSOs?	This issue affects all philanthropy organizations and CSOs as registration requirements are the same for both types of organizations.
Who might be interested or invested in addressing this issue?	CSOs (grassroots organizations, umbrella organizations, service provider organizations, advocacy organizations, and philanthropy organizations) and the registration authorities within the Ministry of Interior.
Is this issue linked to other types of repression in the overall environment?	This issue might sometimes link to shrinking space caused by the PA on organizations critical of the PA and its laws and regulations. As well as the political environment and the running of background checks on founding members of CSOs to check for their political affiliation, which can become a reason for the acceptance or denial of the registration.
Have there been previous efforts to address this? If so, what happened? Has anything changed?	In 2009, a decision was issued by the higher court in Gaza to stop security background checks for CSOs. This decision was not carried out and security background checks are still required for registration.
Are there particular features of the local or national environment to consider?	Even if an organization is registered by the P.A in the West Bank and Gaza Strip, this does not mean that they can operate legally as the case of Union of Agricultural Work Committees (UAWC) and Health Work Committees (HWC), these two organizations were declared illegal by the Israeli Ministry of Defense in 2020, and in 2021 their main offices in Ramallah were closed the Several staff from HWC were arrested by the Israeli Occupation forces relating to their work with HWC. Although UAWC and HWC operate according and in compliance with Palestinian laws. (interview Shatha Odeh, 2021)

Source: *Bisan Analysis*

3.2 BANK REGULATIONS

The Palestinian government, since its establishment, put forth regulations to monitor financial transactions. They have also adopted international monetary principles to engage with the international economic sphere. These includes the signing and implementation of anti-money laundry recommendations from the Basel Accords and recommendations from the Financial Action Taskforce (FATF)[7] (Aboudi, 2018, P:12). These policies and regulations have enforced more scrutiny on monetary transfers and bank registration for CSOs in both the West Bank and Gaza Strip, executed by Banks and monitored by the Monetary Authority in accordance with the Anti-Money Laundering and Terrorism Financing Decree Law No(20) of 2015 and its amendments (Aboudi, 2018, P:13). This increased scrutiny has restricted CSOs freedom. Especially after the Palestinian Monetary Authority (PMA) put regulations that in fact categorized most Palestinian CSOs as a high risk for money laundering (PNGO, fact sheet on PMA circulation No. (128/2020) Factsheet).

In 2014, the United State of America filed a lawsuit against the Arab Bank over claims that the Bank was complicit in “terrorist” attacks executed by Hamas against the state of “Israel” and was later found liable by the court[8]. The lawsuit caused civil society organizations to face more obstacles managing their bank accounts and even opening bank account out of Banks’ increased fear of facing legal ramifications due to any financial transfer that they might approve, even after associations meet all monetary requirements and regulations.

Banks have also adopted regulations requiring them to vet associations and the members associated with the association through the blacklists. Even though these blacklists containing Palestinian entities or persons are compiled in cooperation with the apartheid and occupation state of Israel and private companies that don’t have any strict criteria and are actually illegal under Palestinian and international law. Bank regulations causes CSOs to face hindrances transferring and receiving money, which strains their abilities to undergodonor funded projects, and on the longer run to lose funds and restrict their development and sustainability. This is also in part due to the designation of the Palestinian Monetary Authority of CSOs as high risk for money laundering. Although Palestinian CSOs have a number of internal and external monitoring procedures over their finances and activities.

[7]The Financial Action Task Force (FATF) is the global money laundering and terrorist financing watchdog. The inter-governmental body sets international standards that aim to prevent these illegal activities and the harm they cause to society. As a policy-making body, the FATF works to generate the necessary political will to bring about national legislative and regulatory reforms in these areas. For more information About - Financial Action Task Force (FATF) (fatf-gafi.org)

*The Basel Accords are a series of three sequential banking regulation agreements (Basel I, II, and III) set by the Basel Committee on Bank Supervision (BCBS). The Committee provides recommendations on banking and financial regulations, specifically, concerning capital risk, market risk, and operational risk. The accords ensure that financial institutions have enough capital on account to absorb unexpected losses. For more information see Basel Accord Definition (investopedia.com)

[8]<https://www.business-humanrights.org/en/latest-news/trial-starts-in-us-lawsuit-against-arab-bank-over-alleged-complicity-in-terrorist-attacks-in-israel/>

Table 3 describes the issue of banking regulations according to the ICNL tool

Banking Regulations	
Describe the issue.	CSOs face obstacles registering and managing their bank accounts even after fulfilling all requirements, leading to hindering money transfers in and out of Palestine and overwhelming scrutiny forced on CSOs.
Is the root of the issue in the text of the law or in the way the law is implemented?	The way the law is implemented: Individual bank policies and regulations impose obstacles to protect their interests and in fear of what is considered in the international regulations terror cases. And the categorization PMA as CSOs being high risk to money laundering.
Describe the impact, including the severity of the impact, of this issue.	CSOs are unable to conduct transfers without hindrances and scrutiny, causing delays in transfers, which puts a strain on donor-funded projects and causes issues with partners and donors. And electronic payments are greatly hindered by the PMA.
How does this issue affect philanthropy organizations? Does this overlap with the interests of other CSOs?	This issue affects all philanthropy organizations and CSOs as money transfers are hindered until approved by the banks.
Who might be interested or invested in addressing this issue?	CSOs (grassroots organizations, umbrella organizations, service provider organizations, advocacy organizations, and philanthropy organizations) and the Office of Administrative and Financial Supervision and Corruption Commission.
Is this issue linked to other types of repression in the overall environment?	The issue is linked to international policies restricting money transfer from international countries to Palestine. Palestinian banks are also linked to international regulations scrutinizing money transfers to and from CSOs that are linked to the political environment in Palestine.
Have there been previous efforts to address this? If so, what happened? Has anything changed?	CSOs and Charitable organizations developed audit and financial regulations to ensure financial transparency and reduce delays in their financial forms with financial corporations but this did not completely solve the issue of scrutiny and hindrances with financial transactions.
Are there particular features of the local or national environment to consider?	International financial regulations have a huge impact on local financial regulations as banks are trying to protect themselves from international law suits as the one against the Arab Bank in the United States.

Priority and Possible Responses:

This issue is of medium priority because it significantly impacts the operation of civil society organizations. This can be tackled in the short run through raising awareness among government officials on the problem as well as conducting dialogue with the Ministry of Finance and the Palestinian Monetary Authority (PMA). In the medium run CSOs can promote an evaluation of financial regulations and call for/recommend more CSO friendly regulations while promoting financial transparency.

3.3 FUNDING

Most CSOs in Palestine are dependent on international funding for financial sustainability. The issue with international funding is that it follows global trends in funding, which means that specialized CSOs are getting more funding from one trend than others and it creates a competitive atmosphere between CSOs that operate within the same area of work.

In recent years, and with Palestine no longer being a number one crisis area, many donor institutions differed funding for CSOs in Palestine to other countries. Through which, CSOs were suffering from the scarcity of funding as well as an increase in an already competitive environment enforced on them by funding links.

In addition, the apartheid and occupation state relentlessly attempt to drain funding on Palestine and specifically Palestinian CSOs organizations working on human rights, democracy, and socio-economic rights of Palestinians to hinder the development of the Palestinian society and the monitoring of Israeli infringements on Palestinian rights. The apartheid and occupation state has put tremendous financial resources for the creation of a number of NGO's such as NGO Monitor, UN Watch, UK lawyers for Israel, as well as other anti-Palestinian NGOs, and Israeli platforms created to keep tabs on Palestinian CSO organizations working in the West Bank, Gaza and Jerusalem and international donor organizations. The platform is used to intimidate International organizations from funding Palestinian CSOs especially working on human rights violations from the Israeli occupation.

Recently, CSOs faced a main issue regarding conditional funding imposed at first by the EU in December 2019^[9]. The counter-terrorism clause forces CSOs to not only define Palestinian political parties as terrorist organizations, but vet beneficiaries to ensure that they are not on any restrictive black list (sanctions list) imposed by the EU, which constitutes a violation of Palestinian Charitable Associations and Civil Society law number 1 for the year 2000. This has forced many CSOs refusing to sign on the conditions deemed by Palestinian CSOs as unfair and unjust, to lose millions of dollars in funding and put them in danger of shutting down. Many international donor institutions are increasingly adopting the anti-terror clause with terms that put Palestinian CSOs in direct contradiction with the Palestinian Law and forces them to put discriminatory measures in dealing with the Palestinian community, putting a strain on the already financially drained CSOs.

[9]<https://al-shabaka.org/commentaries/criminalizing-palestinian-resistance-the-eu-new-conditions-on-aid-to-palestine/>

Conditional funding has also divided CSOs with ones agreeing to sign on conditional funding and others refusing to sign, this has had a huge impact on how CSOs operate together through cooperation and partnerships and has created a negative atmosphere within the Palestinian CSO sphere. CSOs are still holding dialogue with the EU and international donor organizations to discuss the alteration of the anti-terror clause to contain a more acceptable condition in coherence with the Palestinian Law.

Table 4 describes the issue of funding according to the ICNL tool

Fundraising	
Describe the issue.	Many donor organizations enforced conditional funding on Palestinian CSOs, forcing CSOs to sign an annex stating that almost all Palestinian political parties are terrorist organizations as a pre-condition to receive project funding and has required CSOs to violate Palestinian law and discriminate between Palestinian citizens based on political affiliation. Conditional funding has caused Palestinian CSOs to lose millions of dollars in funding and put them in danger of closing their doors.
Is the root of the issue in the text of the law or in the way the law is implemented?	The fear of prosecution and lawsuits for international donors and INGOS has forced them to take this step.
Describe the impact, including the severity of the impact, of this issue.	CSOs have difficulty of access to funding because of the conditions set forth by the donor organizations, which meant losing millions of dollars in funding for local organizations. Almost all CSOs are reliant on funding and are now in danger of closing their doors because of lack of financial means to sustain their organizations.
How does this issue affect philanthropy organizations? Does this overlap with the interests of other CSOs?	This issue affects all philanthropy and CSOs seeking funding from the donor organizations.
Who might be interested or invested in addressing this issue?	CSOs (grassroots organizations, umbrella organizations, service provider organizations, advocacy organizations, and philanthropy organizations), the EU commission, and donor organizations.
Is this issue linked to other types of repression in the overall environment?	The issue is linked to international policies scrutinizing Palestinian CSOs and enforcing conditional funding on Palestinian organizations.
Have there been previous efforts to address this? If so, what happened? Has anything changed?	CSOs and Charitable organizations have held dialogue with donor organizations to change the conditions to not include Palestinian political parties as terrorist organization but have not succeeded.
Are there particular features of the local or national environment to consider?	There is lack of support from the Palestinian government on the issue of conditional funding, and this absence of the government is characterized by the view of CSOs as a competitor to international funding as the P.A gets around 18% of its annual budget from international donors.

Priority and Possible Responses:

This issue has high priority to CSOs as it seriously impacts the operation and sustainability of civil society. In the short run a coalition between local CSOs with international CSOs to find alternative sources of progressive funding can be a practical step. In the medium term CSOs can affect donor organizations' funding conditions through advocacy work to change conditional funding. The long term goal would be that EU parliaments enact laws that are in coherence with UN charter and international law and international humanitarian law to enable civic space for CSOs. For example the German parliament law that equates BDS to anti-Semitism is a clear violation of Germany's obligations under international law.

3.4 GOVERNMENT AND CSO INTERNATIONAL FUNDING

Contrary to common belief, the allocation of international funding is divided into government funding and CSO funding, the two have no alteration and no funding allocated to the government can be re-allocated to CSOs and vice-versa, allocated funds from CSO's usually go to other similar CSOs in different countries around the world.

Government funding to CSOs is another issue facing Palestinian CSOs, on an international basis, governments are required to distribute funds for CSOs throughout the year, this causes an issue since most government funds to CSOs go to associations affiliated with the governing authority and in alignment with the government and its plans, thus, creating a negative impact on the relationship between CSOs and the Palestinian government instead of maintaining a complimentary relationship in terms of cooperation and partnership to develop the Palestinian society, the government and CSOs work each on their own.

Priority and Possible Responses:

CSOs need to start a dialogue among themselves and later with the government in order to unify positions among CSOs first as to the need for a coherent civic space that is distinguishable from the government. Although the competition between Palestinian CSOs will not end with dialogue but what can be hoped for is the ability of civil society to coordinate together in face of shrinking space from donor community and the Palestinian government. This issue is of the highest importance and can help foster a strong and vibrant Palestinian Civil Society. Dialog with the government is always important, but the problem is that the Palestinian authority has not had a general elections since 2006. Thus the rule of law has greatly weakened in the West Bank and Gaza Strip. In the long run civil society organizations cannot exist without having a democratic and free society, thus it becomes important to push for democratic elections as part of the overall reform of the relationship between CSOs and the Palestinian government.

Table 5 describes the issue of Government and CSO competition for funds according to the ICNL tool.

Competition on funding versus complementarity of roles	
Describe the issue.	International funding is usually divided between the government and CSOs. Government and CSO funding does not overlap and causes no competition between the government and CSOs. Nonetheless, international funding received by the PA to distribute to Palestinian CSOs is distributed unevenly and based on political affiliations with the PA.
Is the root of the issue in the text of the law or in the way the law is implemented?	The way the law is implemented: The issue lies within uneven distribution of international funding by the PA to CSOs.
Describe the impact, including the severity of the impact, of this issue.	Uneven distribution of international funding by the PA to Palestinian CSOs causes competition between CSOs and disrupts the complementarity of roles and service delivery between all CSOs and some semi-government organizations.
How does this issue affect philanthropy organizations? Does this overlap with the interests of other CSOs?	This issue affects all philanthropy and CSOs qualified to receive international funding from the PA.
Who might be interested or invested in addressing this issue?	CSOs (grassroots organizations, umbrella organizations, service provider organizations, advocacy organizations, and philanthropy organizations), and PA officials.
Is this issue linked to other types of repression in the overall environment?	This issue is linked to the domination of one political party in the Palestinian government. Which has caused unjust distribution of resources between CSOs based on political affiliations and political standpoints.
Have there been previous efforts to address this? If so, what happened? Has anything changed?	No efforts have been previously made to address this issue collectively.
Are there particular features of the local or national environment to consider?	The Palestinian government receives 18% of its annual budget from international donors (governments and institutions). Thus the government sees CSOs as competitors, this was evident in the issuance of the Law by Decree No (7) for 2021. Which put serious limitations on CSOs in order to limit their activity and funds. The Palestinian Civil society did a large advocacy campaign until it was able to suspend this law (PNGO, 2021) ¹ .

¹<https://en.pngoportal.org/p/3307>

3.5 OVERSIGHT AND ACCOUNTABILITY

CSOs go through detailed administrative and financial monitoring from banks, the Ministry of Interior, specialized ministries, the Monetary Authority, Financial Follow-up Unit at the Monetary Authority, Anti-Corruption Commission, and the Office of Financial and Administrative Supervision. Not to mention the internal administrative and financial monitoring regulations and systems that each CSO has to follow within its basic and administrative regulations.

Table 6 below describes the issue of oversight and accountability for Palestinian CSOs according to the ICNL tool.

Oversight and accountability	
Describe the issue.	Palestinian CSOs are subjected to different internal and external supervisory entities. The PA has 5 supervisory entities working to supervise CSOs but lack coordination and work separately which has a negative effect on the work of Palestinian CSOs.
Is the root of the issue in the text of the law or in the way the law is implemented?	The way the law is implemented: The issue lies within the lack of coordination between PA supervisory committees.
Describe the impact, including the severity of the impact, of this issue.	By abiding by the regulations of PA supervisory committees, as well as donor supervision and internal supervision, the lack of PA supervisory committee coordination negatively affects the workflow of CSOs as they have to follow up with all supervisory entities.
How does this issue affect philanthropy organizations? Does this overlap with the interests of other CSOs?	This issue affects all philanthropy and CSOs as they are supervised by the same PA entities.
Who might be interested or invested in addressing this issue?	CSOs (grassroots organizations, umbrella organizations, service provider organizations, advocacy organizations, and philanthropy organizations), and PA supervisory entities. (Anti-Corruption Commission, Office of Financial and Administrative Supervision, Financial Follow-up Unit at the Monetary Authority, Ministry of interior, specialized ministry).
Is this issue linked to other types of repression in the overall environment?	No
Have there been previous efforts to address this? If so, what happened? Has anything changed?	No efforts have been previously made to address this issue collectively.
Are there particular features of the local or national environment to consider?	The Palestinian CSOs are one of the most scrutinized CSOs in the world, as they fall under several levels of scrutiny whether these were legally mandated government bodies or public scrutiny. This of course has created an atmosphere of self-censorship in Palestinian Civil society.

The Charitable Associations and Civil Society Organization's law obliges CSOs to present annual financial and administrative reports to the Ministry of Interior officially audited by an external audit company and approved by the CSO's general assembly to ensure that CSOs are working within proper and legal regulations and procedures. In addition, donor organizations have their own monitoring regulations and procedures that they implement on CSOs they fund, such as financial reporting, administrative reporting, and documentation. This poses a liability on CSOs because of the different monitoring procedures and regulations they have to follow and presents a hurdle in completing the work of CSOs and developing further within their programs.

Priority and Possible Responses:

The official oversight and accountability might be categorized as low priority as it might marginally affect the operation of CSOs. In the short run dialogue with PA supervisory entities should be made to request better coordination between all entities supervising CSOs so as to ease practices on CSOs. In the medium run an evaluation of supervisory regulations should be made to create better regulations to ease the work of CSOs as well as PA supervisory entities. With the long term aim of supervisory entities work to create new regulations in cooperation with CSOs to coordinate supervisory work to better enhance oversight and accountability.

Nonetheless the misuse of government oversight procedures have left many civil society actors afraid of government reprisals in forms of increased scrutiny, delayed processes and also the issue of self-censorship that is being practiced by some CSO actors, as was described by Tahreer Al-Araj the executive Director of Miftah a leading Palestinian CSO "The most dangerous phenomena of shrinking space for CSOs is the start of employees of CSOs in practicing self-censorship on themselves and their organizations discourse. Which means that CSOs are withdrawing from their oversight role on government." (Interview with Tahreer Araj, 2021).

3.6 TAXATION

By the Charitable Associations and Civil Society Organization's law, CSOs are exempt from paying taxes or custom fees for all imported and exported finances^[11]. This article in the law eases the work of CSOs and does not make them bear extra unnecessary expenditures. Non-the-less, CSOs have to obtain a tax exemption certificate from the Monitoring Authority to be able to present to vendors, beneficiaries, and donor organizations. The process of getting a tax exemption certificate is not an easy process and requires a considerable amount of time, effort, procedures, and meeting with the Monitoring Authority to clear all financial transactions and needs of the CSO. This constitutes a serious problem for CSOs since all donor organizations request this certificate before signing any contracts or they deduct a percentage of the total project or program budget from the CSO, causing CSOs to lose financial means that they could operate with within their respective work.

Although CSOs are exempt from paying taxes on their activities, none the less they are required to deduct different taxes from vendors, employees and different contractors including trainers. These tax regulations are sometimes ambiguous as to the amount or ratio that has to be deducted, which sometimes puts the CSOs

[11]<http://muqtafi.birzeit.edu/pg/getleg.asp?id=13431>

in a financial predicament as the P.A will hold CSOs accountable for collecting and transferring these different taxes, which puts extra costs on the CSOs.

Table 7 below describes the issue of taxation for Palestinian CSOs according to the ICNL tool.

Taxation	
Describe the issue.	Palestinian CSOs are required to act as tax collectors for the Ministry of Finance.
Is the root of the issue in the text of the law or in the way the law is implemented?	The way the law is implemented: The issue lies within the lack of ability of the P.A in following up on consultants and private businesses and making them pay taxes. Thus any taxes that are due to services provided to CSOs from private contractors becomes a liability on the CSOs not the private contractors.
Describe the impact, including the severity of the impact, of this issue.	This issue puts financial burdens on CSOs as they are required to dedicate time and money to cover the liabilities of private contractors.
How does this issue affect philanthropy organizations? Does this overlap with the interests of other CSOs?	This issue affects all philanthropy and CSOs as they are liable to these costs.
Who might be interested or invested in addressing this issue?	CSOs (grassroots organizations, umbrella organizations, service provider organizations, advocacy organizations, and philanthropy organizations).
Is this issue linked to other types of repression in the overall environment?	No
Have there been previous efforts to address this? If so, what happened? Has anything changed?	No efforts have been previously made to address this issue collectively.
Are there particular features of the local or national environment to consider?	The weakness of the P.A regulatory sector in terms of tax evasion from the private sector has made the Palestinian ministry of Finance take the easy way out by pressuring the Palestinian civil society.

Priority and Possible Responses:

This issue is of medium importance for CSOs, as dealing with this issue will save time, personnel and financial costs on these organizations. The Palestinian CSOs need to coordinate together and push for a financial reform of the tax system thus shifting the responsibility of collecting government taxes from private sector contractors from CSOs to the ministry of finance.

3.7 POLICY ENGAGEMENT

Since the Palestinian political division in 2007, the Palestinian president Mahmoud Abbas has barred the Palestinian legislative council from convening, thus taking all the legislative council duties through the release of presidential decrees that have the power of law. Although the Palestinian basic law highly regulated the power of the president to use presidential decrees and stipulated that to issue a decree there should be two stipulations: necessity and urgency. But the president has abused this power and issued over 300 presidential decrees that have come into effect as laws.

This large number of presidential decrees has solidified an autocracy that has cancelled the Palestinian legislative council's mandate[1], made the judicial apparatus a follower of the executive branch[2] and cancelled all elections in fear of losing the control of the P.A.[3]

This attack of the executive branch of the P.A has also made attempts to coopt the civil society space, when publishing executive law number 7 for the year 2021. This law would have forced all organizations to have their interventions and activities coordinated with the respective ministry of the P.A and in coherence with their strategic plan. As Shatha Odeh the president of Palestinian Nongovernmental Organizations network which includes 135 CSOs described it "this law would turn civil society organizations into an annex to the executive branch of the P.A and any dissenters or critic of the policies of the P.A by the CSOs would endanger these CSOs of being closed and its assets confiscated."

Although this law was overturned through the advocacy and mobilization work of civil society and the creation of a coalition between major bodies of the CSOs to overturn this law, but this shows that the interaction between the P.A executive branch and CSOs is dominated by mistrust. Thus policy engagement, although it is present between the P.A ministries and CSOs, still needs more steps to build trust and hold the P.A accountable towards the community and CSOs especially in the absence of a legislative council. As Amjad Shawa the director of PNGO in Gaza stated "Undermining the space of civil society organizations is a violation of a fundamental right guaranteed by the declaration of independence, the Palestinian Basic Law and the system of rights and freedoms." (Interview with Amjad Shawa, 2021).

Priority and Possible Responses:

This issue is of high importance for CSOs, as dealing with this issue is of the upmost importance in maintaining a healthy and vibrant civic space and it is also an urgent issue that needs large community mobilization. The rights of assembly and free speech have been targeted by the Palestinian Authority systematically over the past years. Since the beginning of 2021 the P.A has repressed 11 public gatherings that fall under the freedom of peaceful assembly and freedom of speech rights (Interview with spokesman of the Palestinian Police, 2021). Thus policy engagement with the P.A remains a fragile one as long as the democratic mechanisms are absent.

Table 8 below describes the issue of policy engagement for Palestinian CSOs according to the ICNL tool.

Policy Engagement	
Describe the issue.	There is little ability of CSO to influence policies enacted by the P.A.
Is the root of the issue in the text of the law or in the way the law is implemented?	The absence of a legislative council is the foremost problem that faces Palestinian CSOs in influencing policies.
Describe the impact, including the severity of the impact, of this issue.	This issue puts the entire Civic space in danger as the executive branch of the P.A has no official oversight on it and has enacted laws to increase its powers and quell resent including cancelling the legislative council elections.
How does this issue affect philanthropy organizations? Does this overlap with the interests of other CSOs?	This issue affects all philanthropy organizations and CSOs as they are viewed from the executive branch of the P.A as dissident voices and there is a need to coopt them.
Who might be interested or invested in addressing this issue?	CSOs (grassroots organizations, umbrella organizations, service provider organizations, advocacy organizations, and philanthropy organizations).
Is this issue linked to other types of repression in the overall environment?	Yes this is linked with the canceling of general elections and not holding them for 16 years (Palestinian national elections should be held every 4 years)
Have there been previous efforts to address this? If so, what happened? Has anything changed?	No efforts have been previously made to address this issue collectively.
Are there particular features of the local or national environment to consider?	The Palestinian political divide and the Israeli occupation have contributed to the absence of general elections for the P.A. Which has contributed to the weak policy engagement by the P.A.

FOUR: RECOMMENDATIONS

- An evaluation of all governmental procedures and regulations concerning CSOs should be implemented in cooperation with CSOs to evaluate procedural difficulties and present recommendations on prospective changes, to enable a more supportive environment for the CSOs and their work.
- In cooperation with CSOs, new regulations regarding oversight and accountability, taxation, registration, bank regulations and government funding for CSOs should be created and implemented.
- International donor organizations should enter into dialogue with CSOs to alter the newly added contract conditions regarding counter-terrorism and reach a clause that maintains the rights of Palestinians and the rights of international donors.
- Palestinian CSOs, through the Palestinian NGO Network, should find more collective approaches to issues relating to CSO regulations and procedures to better tackle systemic problems.

FIVE: CONCLUSION

It is quite evident that the ICNL tool contributes to understanding the context of the work of Civil Society in the West Bank and Gaza Strip. But its contributions are limited by two factors that interact and contribute to the distortion of the environment of CSOs; the first being the presence of a settler colonial occupation that interacts as an occupation force with the entire Palestinian public sphere. The second being the continual degradation of the Palestinian political system since 2007 into a dictatorship that has systematically violated Palestinian laws and even changed laws to suit the interests of the executive branch of the P.A.

But none the less the recommendations that were made above according to the ICNL methodology are quite useful in pushing back the envelope and especially building the connections and alliances among different actors in order to create and enabling environment for CSA. These opportunities for connections and alliances are detailed in the Annex below.

SIX: ANNEXES

Issue: Registration

Description of issue: CSO registration takes a long time due to bureaucracy and the need for security background checks on board and general assembly members, which hinders the CSOs' ability to open bank accounts, receive funding, and start work with any donor or partner.

Potential Changemaker or Ally	Power to Influence	Degree of Interest	Extent of Knowledge	Possible Actions to Increase Interest or Knowledge	Resources Available for Advocacy	Resources Needed for Advocacy	Strength of Opportunity
Donor Countries	High	Medium	Low	Holding workshops and Meetings with them	Current relations with CSOs	Hard Data and Concrete Stories	5
Grassroots and informal organizations	Medium	High	Medium	Holding discussion sessions in local communities	Established relations with Grassroots and informal organizations	Easy to understand data and clear actions that can be taken on the grassroots level	6

Issue: Banking Regulations

Description of issue: CSOs face obstacles registering and managing their bank accounts even after fulfilling all requirements, leading to hindering money transfers in and out of Palestine and overwhelming scrutiny forced on CSOs.

Potential Changemaker or Ally	Power to Influence	Degree of Interest	Extent of Knowledge	Possible Actions to Increase Interest or Knowledge	Resources Available for Advocacy	Resources Needed for Advocacy	Strength of Opportunity
Palestinian Monetary Authority	High	Low	medium	Engaging it in public workshops and bilateral meeting with CSOs	Research on effect of this categorization on CSO work	Contacts with PMA, Contacts with Palestinian ministry of Interior	6
Palestinian Ministry of Interior	Medium	Low	Medium	Meeting with Ministry of interior officials in order to pressure banks to ease unnecessary restrictions	Contacts with ministry of interior, Data on subject	Political pressure on ministry to act to defend CSOs work	5

Issue : Funding

Description of issue: Many donor organizations enforced conditional funding on Palestinian CSOs, forcing CSOs to sign an annex stating that almost all Palestinian political parties are terrorist organizations as a pre-condition to receive project funding and has required CSOs to violate Palestinian law and discriminate between Palestinian citizens based on political affiliation. Conditional funding has caused Palestinian CSOs to lose millions of dollars in funding and put them in danger of closing their doors.

Potential Changemaker or Ally	Power to Influence	Degree of Interest	Extent of Knowledge	Possible Actions to Increase Interest or Knowledge	Resources Available for Advocacy	Resources Needed for Advocacy	Strength of Opportunity
International NGOs	Medium	High	Low	Advocacy campaign	Data, position papers	contacts	7
Palestinian Ministry of Interior	Medium	Medium	Medium	Meeting with Ministry of interior officials in order to communicate to donors that CSOs are compliant with the Highest Standards	Contacts with ministry of interior, Data on subject	Political pressure on ministry to act to defend CSOs work	6
Parliaments in Donor Countries	High	Low	Low	International Advocacy campaign, Meeting with Parliamentarians	Reports, Data and position papers	Contacts with Parliamentarians	8

Issue : Government and CSO international funding

Description of issue: International funding is usually divided between the government and CSOs. Government and CSO funding does not overlap and causes no competition between the government and CSOs. Nonetheless, international funding received by the PA to distribute to Palestinian CSOs is distributed unevenly and based on political affiliations with the PA.

Potential Changemaker or Ally	Power to Influence	Degree of Interest	Extent of Knowledge	Possible Actions to Increase Interest or Knowledge	Resources Available for Advocacy	Resources Needed for Advocacy	Strength of Opportunity
International Donors	High	High	Medium	More engagement in Bilateral meetings	Contacts with international donors	Fact sheet on the issue	8
Political Parties	Medium	Medium	Low	Workshops and meeting between parties and CSOs	Contacts with representatives of Parties	Fact sheet on the issue	6

Issue: Oversight and accountability

Description of issue: Palestinian CSOs are subjected to different internal and external supervisory entities. The PA has 5 supervisory entities working to supervise CSOs but lack coordination and work separately which has a negative effect on the work of Palestinian CSOs.

Potential Changemaker or Ally	Power to Influence	Degree of Interest	Extent of Knowledge	Possible Actions to Increase Interest or Knowledge	Resources Available for Advocacy	Resources Needed for Advocacy	Strength of Opportunity
Palestinian and international Human rights Organizations	Medium	High	High	Working with HRO to coordinate joint action	Position Papers, Connections with HRO	Agreement between all actors on joint action	7
Grassroots Organizations	High	Low	Low	Public awareness sessions, workshops with grassroots organizations	Position Papers, Connections with GRO	Transportation, Printed materials, and staff	7

Issue: Taxation

Description of issue: Palestinian CSOs are required to act as tax collectors for the Ministry of Finance.

Potential Changemaker or Ally	Power to Influence	Degree of Interest	Extent of Knowledge	Possible Actions to Increase Interest or Knowledge	Resources Available for Advocacy	Resources Needed for Advocacy	Strength of Opportunity
Palestinian Social Movement	Medium	Low	Medium	Dialogue with Palestinian Social Movement Representatives	Analysis on the Nature of Taxation in the P.A	Connections with Representatives of Palestinian Social Movement	6
Palestinian Private Sector	Medium	Medium	Medium	Dialogue with representatives of Palestinian Private Sector	Analysis on the Nature of Taxation in the P.A	Connections with representatives of the Private Sector	6

Issue : Policy engagement

Description of issue: There is little ability of CSO to influence policies enacted by the P.A.

Potential Changemaker or Ally	Power to Influence	Degree of Interest	Extent of Knowledge	Possible Actions to Increase Interest or Knowledge	Resources Available for Advocacy	Resources Needed for Advocacy	Strength of Opportunity
Palestinian Social Movement	High	High	Medium	Dialogue with Palestinian Social Movement Representatives	The importance of general elections to preserve space for policy engagement	Connections with Representatives of Palestinian Social Movement	8
Political Parties	Medium	High	High	Discussion on Joint action with Political Parties	The importance of general elections for policy change	Agreement with Political parties representatives on the need for joint action	8