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ACRONYMS

AMA	The Palestinian-Israeli Agreement on Movement and Access
CSDP/ESDP	The EU Common Security and Defence Policy/(prior to the Lisbon Treaty) the European Security and Defence Policy
CSO	civil society organisation
DFID	The UK Department for International Development
DFLP	Democratic Front for the Liberation of Palestine
EC	The European Community
EEAS	European External Action Service
EMP	European Mediterranean Program
ENP	European Neighbourhood Policy
EUBAM	The European Union Border Assistance Mission
EU COPPS	EU Coordinating Office for Palestinian Police Support
EUPOL	The European Union Police Mission
GAPC	Palestinian General Administration for Borders and Crossings
GI	Palestinian General Intelligence
GMI	Global Militarisation Index
IDF	The Israeli Defence Forces
INL	The United States Department for International Narcotics Control and Law Enforcement
JSR	justice sector reform
MI	Palestinian Military Intelligence
NGO	non-governmental organisation
NSF	Palestinian National Security Force
OECD DAC	Development Cooperation Directorate of OECD
OHCHR	The UN Office of the High Commissioner for Human Rights
OPTs	The occupied Palestinian territories
PA (PNA)	The Palestinian Authority
PAD	The PA Ministry of Planning and Administrative Development
PAPP	UNDP Programme of Assistance to the Palestinian People
PCP	The Palestinian Civil Police
PCPDP	Palestinian Civil Police Development Program
PEGASE	Direct Financial Support to the Palestinian Government
PFLP	Popular Front for the Liberation of Palestine
PLC	The Palestinian Legislative Council
PLO	The Palestine Liberation Organisation
PG	Palestinian Presidential Guard
PSO	Palestinian Preventive Security Organisation
RCP	Rafah Crossing Point
SSR	security sector reform
TIM	Temporary International Mechanism for Assistance to the Palestinian People
TIPH	Temporary International Presence in the City of Hebron
UNC	PLO-led Unified National Command of the Uprising



UNDP	The United Nations Development Programme
UN OCHA	The United Nations Office for the Coordination of Humanitarian Affairs
UNSCO	The United Nations Special Coordinator for the Middle East Peace Process
UNSCR	The United Nations Security Council Resolution
UNWRA	The United Nations Relief and Works Agency for Palestinian Refugees in the Near East
USAID	The United States Agency for International Development
USSC	The United States Security Coordinator's office



INFORMATION ON THE OCCUPIED PALESTINIAN TERRITORIES

Official Name:	State of Palestine
Date of formation:	The Palestine Liberation Organisation (PLO) declared independence on 15 November 1988; bilateral recognitions by 137 states; the United Nations granted Palestine a non-member observer state status in 2012, which can be seen as <i>de facto</i> recognition of statehood. There are diverse opinions about the UN status.
Capital:	East Jerusalem (declared)
Population:	4,7 million (2015), in the West Bank, Jerusalem and Gaza, 12,3 million (2015) including Palestinians in Israel, Arab countries and other foreign countries ¹
Total Area (km²):	6,020. (5,655 the West Bank, 365 Gaza). ² This refers to the areas that have been occupied by Israel since 1967. The Palestinian Authority controls only some parts of it.
Languages:	Arab, English
Religious groups:	Muslims, Christians, Jews
Head of State:	President Mr. Mahmoud Abbas
Legislative:	The Palestinian Legislative Council, no election since 2006
Government(s):	The Palestinian Authority Government in the West Bank: Prime Minister Dr. Rami Hamdallah Hamas-led Government in Gaza: Prime Minister Mr. Ismail Haniyeh
GDP per capita:	1.261
Poverty rate:	34,5%

¹ The Palestinian Central Bureau of Statistics (PCBS). *Palestine in Figures 2015*. <http://www.pcbs.gov.ps/Downloads/book2188.pdf>. The PCBS population numbers are disputed by Israeli sources.

² Ibid.



ABOUT THE AUTHOR

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EXECUTIVE SUMMARY

This report examines two European Union CSDP operations in the occupied Palestinian territories (OPTs): the European Union Police Mission for the Palestinian Territories (EUPOL COPPS) and the European Union Border Assistance Mission at the Rafah Crossing Point (EUBAM Rafah). This desk review provides background information for an upcoming IECEU report on the OPTs that will be based on primary research material.

The last seven decades of Palestinian history has consisted of wars and violence, displacements, Palestinian uprisings (*intifada*) against Israeli occupation, as well as efforts to rebuild lives in a protracted and precarious conflict situation. The Arab-Israeli war in 1948 left some 700,000 Palestinians displaced, mostly in Jordan, Lebanon, Syria and Egypt. Since then, the number of displaced Palestinians has been estimated to have increased close to five million people. Israeli occupation of the West Bank and the Gaza Strip started after the 1967 Six-Day-War between Israel and the Arab States. Since the UN Security Council Resolutions 242 and 338 in the 1970s, there have been several internationally supported, but until now unsuccessful efforts to find a solution to one of the world's longest conflicts. Key issues that need to be resolved include the right to return of Palestinian refugees, the withdrawal of Israeli armed forces from the territories it has occupied in the wars, and the guarantee of territorial inviolability and political independence of every state in the region.

An important part of the EU's assistance to Palestinians has been the support to security and justice sector reforms. Two decades of Israeli occupation and the chaotic period of first *intifada* had left Palestinian security and justice sectors in disarray in the early 1990s. Rebuilding, and in many ways establishing security and justice systems under Yasser Arafat's authoritarian rule in the 1990s turned out to be highly problematic. Much international support to the two fields became wasted due to corrupt practices within the Palestinian authority, as well as due to destruction caused by the Israeli military response to the second Palestinian *intifada* that started in 2000. In 2003 the US-led Roadmap to Peace was agreed between the Palestinian Authority and the Government of Israel. As a member of the Roadmap Quartet the EU adopted a more active role in supporting the Palestinian state-building process that was widely seen as a way to move forward and towards a final two-state-solution to the Middle East conflict.

Instead of a negotiated solution to the Palestinian-Israeli conflict, the developments within the last decade have led into emerging intra-Palestinian conflict. After the surprise victory of Hamas over Fatah in the Palestinian parliamentary election in 2006, the EU and other international donors refused to provide support to the Palestinian Authority led by Hamas that they have categorised as a terrorist organisation. International aid was channelled through special mechanism to the Palestinian President Abbas's office. Unsuccessful efforts to form a Fatah-Hamas coalition government have led to the split between the West Bank and Gaza. The former is led by Fatah-dominated Palestinian Authority (PA) and the latter led by Hamas. International assistance to Palestinians is predominantly targeted to the West Bank, while Gazans only receive humanitarian assistance.

The EU border assistance mission EUBAM Rafah was established in late 2005 to support the implementation of Palestinian-Israeli Agreement on Movement and Access (AMA) that aimed to



improve Palestinian freedom of movement and open the international Rafah border crossing point between Gaza and Egypt. EUBAM Rafah's work was praised by the conflict parties and internationally for having significantly increased the number of border crossings and for having enhanced the skills and capacity of the PA border and customs officers working in Rafah. However, violent incidents in Gaza in 2006 led to closures of Rafah crossing point, and together with the Hamas takeover of Gaza in 2007 changed the situation so drastically that the EU decided to put EUBAM Rafah on hold. Since 2007 the operation has been on standby with minimum staff, waiting for political situation to change that would enable reactivation of its operations.

The EU police support operation EUPOL COPPS also had to cease its activities in Gaza due to Hamas takeover, and since 2007 it has focused its activities to support the Palestinian Civil Police in the West Bank. Having existed for a decade, the work of EUPOL COPPS has moved from material assistance and training towards mentoring and strategic advisory work. Since 2009 EUPOL COPPS also has also supported Palestinian justice sector reform through its Rule of Law Section. The mandate change that allowed EUPOL COPPS to expand its work to justice sector illustrates the EU CSDP operation's ability to respond to emerging needs and challenges in the field. However, it also pinpointed that the EU needed to improve coherence amongst the agencies working under the European Commission and the EEAS.

Material and technical assistance that EUPOL COPPS and EUBAM Rafah have provided to Palestinians has received positive assessments from aid recipients, Israel, other international donors and outside observers alike. The Palestinian Civil Police performance nowadays compares positively with other Palestinian security forces, and security situation in the West Bank has improved remarkably during the last decade. But there continues to be reports on human rights violations by the PA security forces, including PCP officers. These include the use of excessive force against peaceful demonstrators, arbitrary arrests and ill-treatment of detainees. Observers have criticised the EU for providing assistance to increasingly authoritarian PA, the rule of which over the West Bank lacks democratic and legal base, and for increasing technical skills of the PA security forces that use them against their own people. Critics also point out that the EU's decision not to engage with Hamas while providing assistance to the Fatah-led PA in the West Bank has contributed to the deepening intra-Palestinian division.

Palestinians and outside observers have also raised the question whether international aid in its current form is actually maintaining the Israeli occupation of Palestinian territories rather than working towards sustainable two-state-solution to the conflict. The EU and other aid providers tend to treat the Palestinian situation as if it was a post-conflict state. In fact, Palestinians have no control of their territorial borders, the sovereignty is undermined by Israel's control over economic resources, the Israeli Defence Forces frequently interfere in security matters, and Palestinian authorities have no judicial power to act on crimes committed by Israeli citizens against Palestinians. According to the critics building Palestinian state institutions that can only function to the extent Israel so allows maintains the current status quo. Observers have grown increasingly critical over whether the EU's focus on technical assistance has been appropriate to address the current political and security situation of continuing occupation and intra-Palestinian divisions. The EU, while it has over decades managed to introduce important issues and concepts on the peace agenda, is not seen to have used its full potential to push forward the peace process. Due to this, also the EU CSDP operations' good achievements have dimmed.



1 INTRODUCTION

This desk review is the first of IECEU-project reports that discusses the European Union civilian crisis management operations in the occupied Palestinian territories. The report at hand is based on earlier literature on the protracted Israeli-Palestinian conflict and the EU's involvement in the area. The report is divided into two parts. The first part outlines the conflict setting, including its main events, key actors, core conflict issues, and its humanitarian consequences. It also looks into international aid efforts, paying particular attention to four major agencies: the US, the EU, the UN and the World Bank. The second part of report focuses on two fields of assistance that the EU has had a particular focus: the security sector reform and the justice sector reform. The report first describes major developments in these two fields since the early 1990s, pointing out what have been the major problems in security sector and justice sector and what kind of assistance has been made available to address them. The following section focuses on the EU civilian crisis management operations in the occupied Palestinian territories. The European Union Police Mission for the Palestinian Territories (EUPOL COPPS) and the European Union Border Assistance Mission in Rafah (EUBAM Rafah) are introduced, and their work and key achievements over the last decade described. Finally, the report takes a look at previous assessments on the two EU CSDP operations and on the EU's other actions in the occupied Palestinian territories.

2 CONFLICT CONTEXT IN THE OCCUPIED PALESTINIAN TERRITORIES

2.1 Outline of main events

This section outlines the significant developments that illustrate the complex dynamics of protracted Palestinian-Israeli conflict. Among the first such developments is the Arab-Israeli war in 1948 that left some 700.000 Palestinians as refugees or internally displaced that still, almost seventy years later, are prevented from returning home. In 1967 the Six-Day-War between Israel and Arab states of Egypt, Syria and Jordan brought the West Bank for the first time under Israeli control. In response, the Palestine Liberation Organisation (PLO), under the leadership of Yasser Arafat, adopted the liberation of Palestine as its ultimate goal. Israel had also captured the Gaza Strip, Sinai Peninsula and Golan Heights, which led to growing anger in the neighbouring Arab states towards it, and the launch of Yom Kippur War against Israel in October 1973 by Egypt and Syria.

The Yom Kippur War, in which the United States supported Israel and the Soviet Union the Arab states, made it clear that an armed conflict in the Middle East could potentially trigger nuclear powers against each other and have disastrous consequences to the whole world. This activated the UN to search for a solution to the Middle East conflict. The UN facilitated a ceasefire in late October 1973 that brought UN peacekeepers to areas highly affected by the fighting. In the aftermath of the two wars the UN Security Council passed two resolutions (UNSCR 242 and 338) that focused on three issues: the withdrawal of Israeli armed forces from the territories it had occupied in the wars, a sustainable solution to the Palestinian refugee problem, and the guarantee



of territorial inviolability and political independence of every state in the region. However, these questions remain unresolved, and the views of the conflict parties on them remain far from each other. These root causes of conflict that will be discussed in more detail below.

After the Yom Kippur War the European Community (EC) also emerged for the first time as an independent voice in the Middle East. The EC's interest was not detached from the oil crisis that pushed European countries to seek new alliances in the Arab world. The EC issued two statements in 1973, in which it called for a ceasefire and initiation of negotiations based on the two UN resolutions. The EC also condemned Israel's acquisition of land through force and called for taking into account the rights of Palestinian people. The initiation of so-called Euro-Arab dialogue alerted the United States that was not keen to see independent European actions in the Middle East. A negotiated result was that in 1974 the EC assured that any action by European states would be taken only after consultations with the US (Bouris 2014: 48-49; Persson 2013: 128-131).

The PLO gained international recognition, and in 1975 its leader Arafat addressed the UN. The EC acknowledged Palestinians as a nation, and called for 'a homeland for the Palestinian people' igniting furious reactions from Israel (Persson 2013: 132). At the same time, the PLO was carrying out attacks against Israel from its base in southern Lebanon. Israel responded through air raids to Palestinian refugee camps and PLO bases, and in 1978 the Israeli Defence Force (IDF) invaded southern Lebanon. After the UN interference the IDF withdrew from the Lebanese territory. Mutual attacks and violence nevertheless continued, and escalated again in 1982 when Israeli military operation led into invasion of Lebanese capital Beirut. The military operation left thousands of civilians killed, and pushed the PLO to move from Lebanon to Tunisia. In 1985 Israel carried out a bombing raid on the Palestinian headquarters in the vicinity of Tunis. In the 1980s the PLO moved from military approach towards diplomacy, and Arafat tried for the first time to initiate talks about the Palestinian state, which was not only rejected by Israel but also caused divisions amongst Palestinians.

Growing grievances of Palestinian population under Israeli occupation in the West Bank and Gaza led in 1987 to the outbreak of the first Palestinian *intifada* (uprising). The first *intifada* was a mixture of violent and non-violent protests that targeted both the IDF and Israeli civilians. Images of stone-throwing youth confronting armed Israeli soldiers became a worldwide symbol of Palestinian uprising. It was during the first *intifada* that Islamic groups including Hamas emerged as a part of Palestinian resistance to Israeli occupation. The Palestinian militant groups' activities soon triggered an armed Israeli response: Israeli troops in the West Bank and Gaza were multiplied, and Israel used collective punishments and imprisonment of Palestinian activists and militants to suppress the uprising.

After various efforts to find a solution the first Oslo Accord was signed in 1993. This is the first document in which the PLO and Israel mutually recognised each other as parties to the conflict. The Oslo peace process tried to solve a wide range of issues. The ban on the PLO and Fatah movement was lifted, and the PLO leadership in exile was allowed to return from Tunis to the West Bank. The Palestinian National Authority (PNA, or PA) was established and tasked to control a number of population centres and to carry responsibility over several service sectors including health, education, social services and security (Bouris 2014: 52). However, the Oslo Accords did not include the key questions over the permanent status such as the Palestine-Israeli borders, the



Israeli settlements, and the status of Jerusalem. While state-building was offered as a key approach to the Middle East conflict after the Oslo Accords it was only in 1999 that the EU in the Berlin Declaration endorsed for the first time the idea of a Palestinian state. The declaration created a base for a two-state solution that was recognised by the US in 2001 and by the UN in 2002 (Persson 2013: 140-141).

Breakout of second *intifada* in 2000 put state-building and development work on hold. Prior to the second uprising, Israel had withdrawn from Southern Lebanon after two decades of occupation, and peace talks in Camp David had failed. This Al-Aqsa *intifada* was far more violent than its predecessor. Israel destroyed a large part of the PA's infrastructure that had been built with international donor funds. The EU and other international actors had to turn their focus on providing humanitarian aid. In 2003, with the launching of Roadmap to Peace, state-building in the occupied Palestinian territories could be taken up again. The Quartet, consisting of the United States, the European Union, Russia and the United Nations, took up coordination efforts that aimed to support state-building in the OPTs. Despite repeated negotiations the Roadmap has never been fully implemented, and violence escalated again by 2005, this time primarily between the IDF and Hamas.

The outbreak of second *intifada* also marked a shift inside Palestinian political field. The 'Old Guard,' or the PLO exiles who had returned in 1994 and taken hold of main positions in the PA, witnessed a shift in the balance of power towards the 'Young Guard' consisting of local leaders who had played roles in the first *intifada* as well as the Islamist opposition. There was a rise in popular support for the Islamic political parties and violent forms of resistance (Turner 2011: 7-8, quoting Shikaki 2002). In 2005, Israel had unilaterally withdrawn from Gaza. In January 2006, to a surprise to the international community, Hamas won the Palestinian parliamentary election. Despite praising the Palestinian election having been open and well-run, the EU, like other international donors, refused to cooperate with or provide assistance to a Palestinian government led by Hamas that was enlisted as a terrorist organisation.

In 2007, after a violent clash between Hamas and Fatah supporters, Hamas took over political control in Gaza and thereafter two Palestinian governments have existed - Hamas government in Gaza and Fatah-led Palestinian Authority in the West Bank. The sections below will discuss the consequences of internal Palestinian division to building security and justice sectors in the OPTs. Throughout the years, Israel has allowed construction of Jewish settlements in the Palestinian territories, and carried out several military operations in the OPTs. Violence has continued particularly in Gaza. In December 2008 - January 2009 Israel attacked Gaza through military Operation Cast Lead. In 2010 there was a US-led effort to restart direct talks between Israel and Fatah-led Palestinians, but once again the efforts failed. The conflict continued to be active in 2011-2012 with Hamas and Palestinian Islamic Jihad rocket attacks from Gaza to Israel and Israeli airstrikes to Gaza.

In 2012 there was a new political development as the UN General Assembly recognised Palestine as a non-Member Observer State. In 2013 the conflict was inactive and there were again efforts to hold talks between Israel and the Fatah-led PA, but these talks collapsed in mid-2014. Israel attacked Gaza again in 2014 in Operation Protective Edge that killed over two thousand, mostly civilian Palestinians. Since late 2015 a new type of Palestinian attacks against Israeli has emerged:



particularly young Palestinian men who have no affiliation to any Palestinian groups have attacked against Israeli soldiers and civilians with knives, or cars have crushed on Israeli troops or pedestrians. These incidents have taken place in East Jerusalem, in the West Bank and in Gaza. Some observers have seen in these an escalation of violence that may mark a start of third *intifada*.

2.2 The key actors in Israel-Palestine conflict

This section describes the two main sides of the Middle East conflict, Palestine and Israel, including their main factions. While many foreign states have played important roles in the Palestinian-Israeli conflict the scope of this report does not allow a detailed discussion of them.

2.2.1. PALESTINIAN ACTORS

There are numerous interest groups and factions amongst the estimated nine million Palestinians worldwide. However, the politically most powerful factions are the PLO and its largest faction Fatah, and the non-PLO group Hamas. The Palestine Liberation Organisation PLO was established in 1964 on the foundation of Arab Higher Committee that officially represented Palestinians during the British mandatory period. It functions as an umbrella organisation of Palestinian groups, and has represented Palestinians in the UN since 1974. When the UN General Assembly accorded Palestine a non-Member Observer State status in the UN in 2012, it was assured that the PLO will continue to hold its position as the representative organisation of Palestinians.³ Yasser Arafat led the PLO from 1968 until his death in 2004. Under Arafat's leadership the PLO transformed from an organisation engaged in violent attacks against Israeli armed forces and civilians to an organisation acknowledged as Palestinian negotiator for peace. Members of its armed wing were largely integrated in the Palestinian Authority security forces after the signing of Oslo Peace Accords in the early 1990s. The PLO is currently led by Mahmoud Abbas, who also serves as President of PA. Abbas is a moderate politician who was an acceptable choice to take over the role of PA President after Arafat. He has been criticised among Palestinians for being too willing to compromise and adapt to the security requests by Israel.

The PLO's major member organisation is Fatah that was established in the late 1950s by Yasser Arafat and Khalil al-Wazir (known also as Abu Jihad) as a commando-style military organisation. During the second *intifada* in 2000 a Fatah-affiliated militant group called Al-Aqsa Martyrs' Brigade became known for its attacks against Israel. As a part of implementation of Roadmap to Peace the militant group was banned. Fatah is nowadays largely identified as a Palestinian political party that held majority in the Palestinian Legislative Council (PLC) until 2006 when it lost majority to Hamas.

³ The UN General Assembly meetings coverage <http://www.un.org/press/en/2012/ga11317.doc.htm>. Accessed on 24 March 2016.



Even though Fatah has lost its majority in the PLC its members and supporters are dominant in the key positions of PA, including its security forces.

Fatah's main rival is Hamas, an organisation that was founded in 1987 by the Muslim Brotherhood and the PLO's Islamist groups. Its founding member was Sheikh Ahmed Yassin who was assassinated by Israel in 2004. Hamas is not a member organisation of PLO. Hamas, particularly through its armed wing Izz al-Din al-Qassam Brigades, is connoted with suicide attacks and rocket attacks against Israeli Defence Forces and civilians particularly during the Palestinian uprising. But it is also known for its social work particularly in its stronghold Gaza. Israel, the US, the EU, Canada and Japan have enlisted Hamas as a terrorist organisation. Due to this, even though Hamas won majority in the PLC in 2006 parliamentary election and consequently took over key positions in the PA, the international community has by and large refused to cooperate with the Hamas-led PA, and sought alternative ways to continue supporting Palestinians through its Fatah-affiliated President's office. Since the 2006 election the internal Palestinian division between Fatah-led West Bank and Hamas-led Gaza has led into formation of two parallel administrative, political and security structures. Despite several efforts to form a coalition government and reconcile, the internal Palestinian division remains at place. Most recently Qatar and Egypt have actively tried to reconcile the internal Palestinian conflict. In addition to Hamas there are also other Islamist groups active in Gaza, the most well-known is perhaps Palestinian Islamic Jihad or Al-Quds that is involved in rocket attacks against Israeli villages close to Gaza.

Palestinian civil society has long and active history and civil society organisations play important roles in peacebuilding and state-building efforts in Palestine. Some Palestinian civil society organisations were established already in the 1920s. In addition to community-based groups there are modern NGOs working locally or nationally, with diverse focus areas. According to the Palestinian Ministry of Interior the number of registered CSOs in the Palestinian territories in 2009 was 2,126. A vast majority of Palestinian CSOs work on education, youth, charity and relief, or social services. Only around twenty percent of organisations work on policy issues or issues that are 'policy-sensitive' (such as women, agriculture, environment and governance). Annual external aid to Palestinian civil society organisations has been estimated to be between 100 to 210 million euros, The EU as well as European state and non-state donors are amongst the most significant sources of funding for Palestinian CSOs (Costantini et.al: 2011).

2.2.2. ISRAELI ACTORS

The key players on Israeli side are the Israeli parliament Knesset and the government, the Israeli Defence Forces (IDF), and the settlers that represent right-wing, orthodox views of the society. Israeli civil society organisations with more reconciliatory roles are also represented in Israeli-Palestine relations.

For the first decades since its establishment in 1948 Israel was led by the Labour Party. In 2003 the Labour Party lost its majority in the Israeli parliament Knesset. The last two decades have



illustrated growing conservatism in Israeli politics, as the symbols of Israeli nationalism - the military and the settlements (originally identified with *kibbutz* movement) - that once were intrinsically identified with the state-building by the Labour party have been taken over by the conservative and right wing parties. Furthermore, the 'peace movement' in Israeli politics that had been led by the Labour party became discredited due to repeated failures to settle the conflict with the Palestinians ever since the Oslo talks in the early 1990s (Inbar 2010). Since 2009 Israeli government has been led by Benjamin Netanyahu from the conservative Likud-party. Netanyahu's hardliner views insisting that a precondition to any peace talks - rather than a possible or aimed result of such talks - must be the PA's formal recognition of Israel as a Jewish state have diminished the prospects of any settlement to Israeli-Palestinian conflict even further (Slater 2012).

A key Israeli actor in the conflict is the Israeli Defence Force (IDF). Israel scores highest in the Global Militarisation Index (GMI), which measures the resources allocated to the military in comparison with the wider society. Israel spent 5.2 per cent of its GDP on military in 2015. The compulsory three-year military service to almost all citizens provides the country with a vast military reserve (Grebe and Mutschler 2015: 6).⁴ As Michael (2010) has pointed out, during the protracted low intensity conflict the military echelon has gained a reputation in the Israeli public as a source of certified knowledge that is professional, reliable and impartial, and compares positively to the weak and blurred political echelon of the country. Due to this, military knowledge affects societal judgement over how the Israel-Palestine conflict should be managed. But the IDF is not without its own internal divisions. Within its ranks there are for example national-religious (so-called *kippot serugot*) officers that at times, such as the disengagement from Gaza in 2005 and the dismantlement of Jewish settlements in Palestinian territories, have been feared to be more loyal to the instructions of their Rabbis than to their military commanders (Cohen 2010).

Since 1967 Israel has established over 150 settlements in the West Bank and East Jerusalem that are violating the Geneva Convention regarding the situations of occupation. In addition to these settlements, over one hundred 'outposts' have been erected by Israeli settlers that in addition to international law are also in contravention with Israeli law though often built with some kind of government assistance. The Office of the United Nations High Commissioner for Human Rights estimated in 2013 that the Israeli settler population in the West Bank and East Jerusalem can be as high as 650,000 people (UN OHCHR 2013). According to Mahler (2016: 311-312), there are two types of motivation for settlers to move to the occupied territories: the first is religious motivation with an aim to form *Eretz Israel* (Greater Israel), and the second is self-interest as Israeli government offers inexpensive housing in the settlements for those who cannot afford the high living costs elsewhere. It is particularly the former, ideologically motivated settlers that have advanced their own goals also through violent means ever since this type of settler movement emerged in the 1970s (Ben-Elizer 2015: 177-178). The UN Protection Cluster has in recent years noted a drastic increase both in the number of settlers and also in settlers' violent acts against Palestinian community members in the West Bank and East Jerusalem. Settler violence includes direct attacks against Palestinian individuals that lead to casualties or injuries, attacks against

⁴ The military reserve in Israel comprises of 465.000 soldiers. Compared with the country's total population of eight million the reserve is almost six percent.



public property (schools) and private property (houses and sources of livelihood). Settler violence goes unpunished as the Palestinian police has no authority to detain Israeli citizens and Israeli security forces treat Israeli settler perpetrators with impunity (UN Human Rights Council 2015, Turner 2011: 3).

Just like on the Palestinian side there are many civil society organisations in Israel that work in the fields of reconciliation and peacebuilding, often together with their Palestinian counterparts. Israeli civil society peace movement emerged in the 1980s, protesting the Israeli war in Lebanon (Ben-Eliezer 2015: 175). These track 2 civil society initiatives receive funding from international donors, including the European Union Peacebuilding Initiative instrument. Cooperation of Palestinian and Israeli CSOs is burdened by travel restrictions that Israel sets both on its own citizens travelling to the West Bank or Gaza and on Palestinians wanting to travel to Israel. There are also several Israeli human rights organisations, such as B'tselem and GISHA that monitor human rights violations taking place in the occupied Palestinian territories.

There are multiple ways of understanding and analyzing the Israeli response and strategy in the Israel-Palestine-conflict. The purpose of this deliverable, however, is not to give a definitive understanding to the logic, or the lack of it, by any of the conflicting partners. However, some remarks concerning the foundations of the Israeli policy are in order.

In overall people who live in a particular society, share its central beliefs and also its fears in term of existential survival. When the latter is heightened, like in an almost continuous fear of danger and annihilation, like in the case of Israel and the Jewish people, the matters related to survival and security can become central in the collective psyche, politics and politics of the particular community. It is hard to imagine any other community, with the same kind of feeling of under siege, which also has been fed by the Israeli unitary culture, which tends to intensify and pick up examples from the history, coconstitutionalising the conflict in the present and thus living again and again the glorious battles. Collective fear in such societies is so strong that it becomes relevant to every society member and everything is portrayed through that lens. In general Israel has lot in common with communities living in similar situation, or rather in a particularly understood situation, that is that they communally feel of being under siege. (Bar-Tal, Daniel: 2001)

One particular aspect of the conflict is the Israeli fear towards the international fora and the internationalization of conflict, of which the EU CSDP missions are potentially a part of, in the collective mind of the Israelis. It has been a long policy of the Israeli state to prevent the internalization of the conflict, which they see, depending on the perceived agent of internalization to be politically harmful because the Israelis do not believe that the international community would treat them fairly, or in the case of the Palestinian led internalization, some Israelis see that as a steps towards the destruction of the state of Israel. Instead of internalization the Israeli policy is building on bilateral negotiations. This makes the entry of any international organisations to the field very difficult as can be seen in the case of EU CSDP missions as well. From this perspective the Israeli policy and politics is actually fairly straightforward. It wants to keep control of the issue of the Palestinian state whether that is a two-state solution or not, so that it would not find itself in the situation in which it would be forced to yield under international pressure. In this case the contextual Israeli policy follows a standard under siege -communal mentality. In a situation like this reconciliation and steps toward peace are difficult, because they are easily interpreted as act of



betrayal by the in-group. Also, as it is the understanding of the Israelis that the existence of their state requires a the state to remain Jewish, creating a secular polity in a fashion of Northern Ireland, for instance is not an option, but the sustainable peace will require a state with Jewish majority and from the Israeli point of view the questions that need to be dealt with are the questions of the security of that state. (ibid.)

2.3 The key issues in Israel-Palestine conflict

2.3.1. PALESTINIAN REFUGEES

The question of return of Palestinian refugees is amongst the sensitive and difficult issues in the Israel-Palestine relations (Brynen 2008). The Arab-Israeli war in 1948, known to Palestinians as *Nakbah* (the Catastrophe), displaced over 700,000 people who at the time resided in the region internationally known as Palestine. For Zionist history-writing and Israeli political leadership the events in 1948 represent the return to the "Promised Land" and the establishment of a Jewish State, while Palestinians and many international scholars describe the events as ethnic cleansing (Pappe 2011: 134). The United Nations Relief and Works Agency for Palestinian Refugees in the Near East (UNRWA) started its work in 1950, and has since then - for well over half a century - provided assistance and protection to the Palestinians displaced by the 1948 war and the later conflict events. Currently the UNRWA assists 4,700,000 Palestinian refugees, and supports 58 refugee/displacement camps of Palestinians in Jordan, Lebanon, Syria, the West Bank and the Gaza Strip.⁵ The number of displaced Palestinians continues to rise as new generations inherit refugee status from their parents, but also because of new displacements by home demolitions of Palestinians in the West Bank and Jerusalem by Israel.

The plight of Palestinian refugees has become a core issue to the peace negotiations. Israeli officials perceive the return of Palestinian refugees as a threat that they have repeatedly rejected in any peace talks. Israel perceives that the return would lead to Arabization of the territory. The former Israeli Ambassador phrased this fear during the Oslo talks as follows: "The Palestinians have made a secret of their intention to try to bring down the Jewish state by flooding it with hundreds of thousands of Arabs from abroad" (Anderson 2014/2015: 7). Israel insists that Palestinians left willingly, and as a result of war, and have no right to return. Israel also denies that the UN General Assembly resolution 194 recognising the right of repatriation of Palestinian refugees would have force under international law.

The Palestinian side, however, insists that the refugee question must be addressed in any peace settlement. The definition of Palestinian refugee used by UNRWA differs from the political definition of Palestinian refugees, and according to the latter the total number of refugees is remarkably

⁵ 42 % of displaced Palestinians live in Jordan, 23 % in Gaza, 16 % in the West Bank, 9 % in Lebanon and 10 % in Syria (Bocco 2010: 238; UNRWA website) <http://www.unrwa.org/what-we-do/infrastructure-camp-improvement>. Accessed on 29 December 2015.



higher. The fate of Palestinian refugees has also become an issue that divides Palestinians, particularly the 'Palestinians of interior' (those in Gaza and the West Bank) and 'returnees.' The refugee camps became over decades a fora for building Palestinian nationalism. The 'returnees' have feared that the focus on state-building and the increasing powers given to the Palestinian Authority since the Oslo Accords has pushed the refugee question off the agenda, and might threaten their right to return. The representatives of refugee communities have rarely been involved in peace negotiations (Bocco 2010). In a number of Israeli-Palestinian negotiations Palestinian leaders, including Arafat and Abbas, have indicated their willingness to find a creative solution to the right-of-return issue, if the Israelis would acknowledge their responsibilities for the expulsion of Palestinians in 1948 and 1967 wars (Slater 2012: 618-619).

2.3.2. PALESTINIAN TERRITORIES

What is included in the Palestinian territories is another key question in the Israeli-Palestinian conflict. A solution, first presented in the UN Security Council resolution 242, is the return to the 1967 borders (so-called Green Line). The 1967 borders refer to the lines where Israeli, Jordanian, Egyptian and Syrian military forces were deployed prior to the Six-Day-War and the Israeli occupation of Palestinian territories. This solution would provide 78 % of the disputed land area to Israel and 22 % to Palestine. East Jerusalem would be within the territory of Palestinians. The Oslo Accords did not explicitly mention the 1967 borders, but the borderline of Palestinian territory as indicated on its maps follows the Green Line. A decade later the Roadmap stated that the resolution to the conflict should "end the occupation that began in 1967" but the agreement did not outline details of the border question. Despite the talks no solution has been found to the border question and Israel has continued to build new Jewish settlements in the Palestinian territory.

Israel's reactions to the EU and the US statements illustrate how strongly it opposes the idea of returning to the 1967 borders. In 2011 President Barack Obama as the first United States President formally endorsed the policy of return to the 1967 borders as a way to find a sustainable solution to the conflict. Expectedly, the Israeli government led by Benjamin Netanyahu criticised this view by stating that returning to 1967 borders would leave major Israeli population centres inside the Palestinian territory. On the Palestinian side, Hamas also rejected Obama's speech, but changed its view in 2014 when as a part of reconciliation agreement between Fatah and Hamas it agreed to recognise the 1967 borders.

Since the 1990s Israel has built a wall in the occupied Palestinian territories that has had serious impact on the lives of Palestinians. The wall diverts remarkably from the 1967 borders, taking over wide land areas from Palestinian side in Jerusalem and the West Bank and annexing them with Israel. The wall annexes those Jewish settlements that have been built since 1977 in the OPTs. Israel's justification for building the wall - that it calls Security Barrier - is to prevent Palestinian suicide bombers from entering Israeli territory. The International Court of Justice (ICJ 2004) has in its advisory opinion concluded that the building of wall was not a military necessity, and that the action gravely infringes a number of rights of Palestinian residents, including freedom of movement, right to work and property rights. The European Commission has recently taken a decision that the commercial products from the Israeli settlements in the occupied territories must



be labelled to indicate the place of origin. The Interpretative Notice (European Commission 2015b) refers to the areas occupied by Israel in June 1967, and the interpretation is based on international law. Israeli reaction to the European Commission decision was harsh: Israeli Prime Minister Benjamin Netanyahu accused the EU of double standards and discriminative action against a country that was targeted by terrorists (Foster and Sanchez 2015). In response, Israel temporarily suspended all diplomatic dialogue with the EU on the Middle East Peace Process (Deitch 2015).

2.3.3. PALESTINIAN SOVEREIGNTY

Respect for and acknowledgement of the political independence of every state in the area was called for in the UN Security Council resolution 242. The Oslo Accords launched state-building process of Palestine by creating the conditions for setting up the Palestinian Authority as an interim administration. The formation of the Palestinian Authority was a preparation towards full Palestinian sovereignty that was to be agreed after a five-year period in full peace agreement. This never happened, and Oslo Accords failed to bring peace or create democratically led Palestinian state. Later on, a two-state-solution, first suggested by the EU in 1999, has become a key focus in efforts to find a permanent solution to the Israeli-Palestinian conflict. Yet, this solution has also failed to realise, forming nowadays a major blockade to the peace process.

Scholars have pointed out a number of reasons for this. First, from the start the aim to establish the PA was not so much to deliver democracy to the Palestinians, but rather to deliver security to Israel. The PA was given full jurisdiction only over 29 % of the West Bank, 70 % of Gaza and none in East Jerusalem, while the remaining areas remained under Israeli control. The PA design was a highly centralised rule that concentrated the power to PLO i.e. Arafat and Fatah, and excluded those groups that had boycotted the talks in Oslo such as Hamas, PFLP and Islamic Jihad. Since the 2006 parliamentary election the divide between Fatah-led West Bank and Hamas-led Gaza has further contributed to the malfunctions of the state-building process. Second, economically Palestinian territories have remained fully dependent on Israel: two-thirds of the PA's budget comes from revenues collected by Israel, over 90 % of OPT's exports and imports are with or via Israel; and hundreds of Israeli checkpoints are controlling Palestinian business transportations. The third reason for failing state-building was the high level of corruption in the PA, and the authoritarian style it has been led. Palestinians have over years grown increasingly disappointed to the PA, which was eventually shown in the 2006 parliamentary election that raised Hamas to largest party in the PLC (Turner 2006: 744-745). While the two-state-solution to the question of Palestinian sovereignty seems to have lost its credence over the last years, no feasible alternative to it has been presented as yet.

2.4 Humanitarian consequences of conflict

The occupation and violent conflict have had severe impact on civilian population both in the Palestinian territories and in Israel. According to UN OCHA, in 2014 the number of civilian



casualties was highest since the occupation started in 1967. After a calmer period there was an increase of the number of violent incidents and civilian victims in the West Bank in 2015.

Year	Palestinians dead	Palestinians injured	Israeli dead	Israeli injured
2015	170	14,000	24	350
2014	2,314	17,125	87	2,629
2013	39	3,964	5	151
2012	272	4,660	7	345

Table 1. Palestinian and Israeli casualties in 2012-2015.

Sources: UN OCHA (2015) for years 2012-2014; UN OCHA (2016) for 2015.

The table above illustrates that the number of Palestinian conflict-related deaths and injuries has been multiple when compared with the Israelis. This holds true not only for years when Israeli military operations have been carried out, but also for years with lower conflict intensity. A vast majority of Palestinian victims have been civilians. The UN has repeatedly noted that both sides of conflict have failed to distinguish between military and civilian targets in their attacks, thus violating the international humanitarian law. Israeli air raids have targeted civilian residential areas, while Palestinian Islamist groups have launched mortar attacks against southern Israeli villages. Israeli soldiers have also used violent means against Palestinians at Israeli military checkpoints and during demonstrations. Majority of Palestinian injuries in 2015 were caused by exposure to tear gas, rubber bullets and live ammunition. The UN Special Rapporteur (2016) has pointed out the disproportionate use of force by Israeli soldiers in numerous cases. Additional Palestinian victims have fallen from Israeli settler violence against Palestinian civilians. Since October 2015 individual Palestinians have again attacked against Israeli civilians in numerous incidents particularly in the West Bank (UN OCHA 2015). Further Palestinian casualties have resulted from internal Palestinian conflict, as Hamas-affiliated security forces have attacked alleged collaborators as well as Fatah supporters in Gaza (Amnesty International 2015). Use of violence against Hamas-supporters by security forces close to Fatah in the West Bank has also been reported.

Indiscriminate attacks and disproportionate measures taken by Israeli forces to counter violence have caused massive material damages, leading to human suffering and violating several civil and political as well as economic, social and cultural rights. During three recent Israeli military operations in Gaza in 2008/2009 (Cast Lead), 2012 (Pillar of Defence) and 2014 (Protective Edge) some 16,000 civilian houses were completely destroyed, another 16,000 seriously damaged, and nearly 200,000 houses were partially damaged (UN OCHA 2015: 10). Due to the attacks on civilian residential areas the number of displaced persons has multiplied in Gaza, while Gaza's long-standing blockade enforced by Israel hinders reconstruction of destroyed houses. In the West Bank and East Jerusalem the right to adequate standard of living has also been violated by destruction of private property as well as essential civilian infrastructure. Israel has used home demolition as a form of collective punishment against Palestinian perpetrators or alleged perpetrators of anti-Israeli violence. Palestinian houses have also been demolished and residents forcefully evicted to clear land for Israeli settlement schemes, military training zones and safety zones. Due to Israeli military actions as well as settler violence Palestinian civilians have also lost access to farming land and other sources of livelihood as well as to natural resources.



As UN OCHA (2015) outlines, Israel restricts the freedom of movement of Palestinians through a combination of physical obstacles (the wall and checkpoints), bureaucratic constraints (permit requests) and designation of some areas as restricted or closed. Freedom of movement is most severely restricted for Gaza residents. Since the start of Israel's blockade Gaza's 1,8 million residents have lived in isolation. Access to Gaza is limited to three land crossings, of which two are controlled by Israel (Erez and Kerem Shalom) and one by Egypt (Rafah). Gaza has no control of its airspace or water territorial waters. Israeli navy not only prevents outsiders to access Gaza through the sea, but also prevents Palestinian fishermen's access beyond six nautical miles from the shore, which delimits their possibilities to seek livelihood. The number of Palestinians permitted to pass through Erez crossing point has remained low, with far less than 100,000 people having been able to cross annually. Egypt has also severely restricted crossings through Rafah since 2013.⁶ In the West Bank and East Jerusalem Palestinian freedom of movement is restricted through the IDF military checkpoints, the wall with its gate and permit regime, and various permit requirements to enter some areas, including agricultural lands of Palestinians. Limitations by Israel enforced upon humanitarian organisations' personnel and material assistance have further negative impact on everyday lives of Palestinians. 70 % of people in Gaza rely on humanitarian aid (GISHA 2016).

Restrictions to freedom of movement also lead to detentions of Palestinian civilians. According to an Israeli human rights organisation B'tselem at the end of December 2015 there were 6,066 Palestinian security detainees and prisoners in Israeli prisons. The number had risen by five hundred people within twelve months.⁷ In December 2015 there were 422 Palestinian minors amongst detainees and prisoners. The UN Special Rapporteur (2016) brought up in his report a concern that the number of children in Israeli detention has been rising in 2015. As Knesset passed in 2015 a temporary law that set a minimum prison sentence of three years for stone-throwing it seems likely that the number of minors will continue to grow also in the future. The risk of being targeted by Israeli search-and-arrest actions and to be detained is considerably higher for Palestinian men and boys. Detention of men causes women to be forced to become breadwinners in the families (Sundin and Olsson 2013: 12).

3 INTERNATIONAL AID AND DONORS IN THE OPTS

Palestinian territories have been since the 1990s a target area of massive international aid, though in recent years the international assistance has been declining. The Palestinians receive annually worth of at least USD 1 billion in grants, though the real amount is likely to be higher (Turner 2011: 8; Le More 2005). International aid coordination structures were established in the early 1990s and over forty donor countries and thirty UN and other multilateral agencies have been involved in providing aid to the Palestinians. From the start the donor process was affected by the EU-US rivalry, with the US having a strong sense of ownership of the peace process and the EU's economic power in funding the PA (Lia 2007: 28). This section briefly outlines the assistance by

⁶ Developments at Rafah crossing point will be discussed in detail in the below section on EUBAM Rafah.

⁷ http://www.btselem.org/statistics/detainees_and_prisoners. Accessed on 24 February 2016.



four main actors: the US, the EU, the UN and the World Bank. Assistance to the Palestinians takes primarily forms of humanitarian aid, development assistance and state-building assistance. Aid coordination structure was established in 1993 after the Oslo Accords, and functions under the Ad Hoc Liaison Committee that is chaired by Norway and co-sponsored by the EU and the US.⁸ There are four strategy groups that are chaired by the respective Palestinian ministry and co-chaired by the key donors: infrastructure (the US), economic policy (the World Bank), governance (the EU), and social development (the UN). Each strategy group coordinates the work of a number of sectoral working groups. Governance Strategy Group is most relevant to the study at hand, as it includes working groups on security sector (co-chaired by PA Ministry of Interior and the UK) and on justice sector (co-chaired by PA Ministry of Justice, PA Ministry of PAD, the Netherlands, Attorney General's Office and High Judicial Council) (Turner 2011: 11-12; Bouris 2014: 74-75).

The EU has been and continues to be the biggest donor to the Palestinians. In addition to humanitarian and development aid the EU has European Mediterranean Program (EMP), European Neighbourhood Policy (ENP), support programs to civil society initiatives (such as European Peacebuilding Initiative and European Instrument for Human Rights and Democracy) and civilian crisis management tools in its toolbox. As Persson (2013: 189-190) has noted, it is not known how much the EU and its member states have given to the Palestinian people since the 1970s when the assistance started. The EU is estimated to have provided around half of all assistance to the Palestinians since the peace process was launched by the Oslo Accords in 1993. An EU official estimated in 2011 that since the starting of the peace process the EU, including its individual member states, would have spent over ten billion euros to the Palestinians. For the EU the economic assistance to the PA and the Palestinian people constitutes its highest per capita foreign aid program. The EU also channels assistance funds to the PEGASE mechanism that has since 2008 provided economic assistance to the Palestinian Authority (for example to cover the salary costs of PA civil servants) and to eligible companies and individuals. One of the EU's major forms of assistance has been to support Fayyad's state-building plan. Furthermore, the EU and its member states' assistance finance over 60 % of UNRWA General Fund.

The United States is another major donor to the PA. Since the mid-1990s the US government has committed over five billion US dollars in bilateral assistance to the Palestinians (Zanotti 2016). The US economic support to the Palestinians is divided to the USAID-funded aid programs (including humanitarian assistance, infrastructure and aid programs for education and health care), and budget support to the PA. The US also provides assistance to the PA security forces and criminal justice sector through the International Narcotics Control and Law Enforcement (INL). In addition to bilateral assistance the US has allocated some USD 250 million annually to humanitarian assistance through UNWRA (in 2014 the US contributed 24 % of the UNRWA General Budget).

The UN agencies are key providers of humanitarian assistance in the West Bank, Gaza, as well as in the Palestinian refugee camps in the region. Office of the United Nations Special Coordinator (UNSCO) coordinates the work of UN system in the OPTs. There are 21 UN agencies active in the OPTs. United Nations Relief and Works Agency (UNRWA) provides assistance in the field of

⁸ <http://www.lacs.ps/article.aspx?id=6>



education, healthcare and social services. It also provides microfinancing in the West Bank and Gaza. UNRWA's General Budget funds in 2015 were USD 744 million.⁹ United Nations Development Program UNDP is another UN agency that plays a key implementing agency role in the international support to the occupied Palestinian territories. In 1993-2012 the UNDP received USD 1,1 billion from donors to its assistance programs in the OPTs. The UNDP's Programme of Assistance to the Palestinian People (PAPP) is active in a number of fields, including poverty reduction, democratic governance (the rule of law and access to justice), crisis prevention and recovery, health, women's empowerment and environment. The World Bank had a portfolio of sixteen projects in the West Bank and Gaza in 2016, to which some USD 135 million were committed by donors. The World Bank projects focus on water and sanitation, social, urban development, energy, education, and private sector development.¹⁰

International assistance to state-building in the Palestinian territories has also triggered criticism. Scholars like Le More and Brynen have pointed out how international aid has played a role in the fragmentation of the PA and in maintaining Israeli occupation. Turner (2011: 8) has called this 'chequebook diplomacy' that keeps on pouring aid to the PA without taking into consideration the peculiarity of the PA's context that is characterised by the 'closure regime' and territorial division. Donor community regards ending aid to the Palestinians highly controversial, but at the same time aid leverage or economic pressure on Israel is not utilised to influence the situation of occupation (Bouris 2014: 71). As Turner (2011: 11-13) points out there are two ways to interpret the inefficiencies of external assistance to state-building. Some scholars hold that the problems with the international state-building agenda are an outcome of unintended and under-analysed consequences of interventions. According to them, state-building in Palestinian territories suffers from unpredicted problems related to aid dependency, lack of coherence, local ownership, duration of assistance and to the dilemma to what extent external actors should intrude into domestic affairs of the home state. Others, however, point out that the assistance and state-building structures were created as a part of Oslo process and thus were in no way unpredicted or unintended. These scholars build on the critique of the Oslo Accords by Edward Said, and conclude that the way state-building and 'good governance' has been structured in the Palestinian territories is an example of a liberal form of neo-colonialism upheld by powerful donors.

The critiques state that while it is clear that the Palestinian Authority would not have managed without external assistance, it is similarly evident that the centrality of US unconditional support for Israel has led to sacrificing the building a strong base for Palestinian state to the demands of the powerful security discourse of Israel. Donors' search for 'partners for peace' has led to concentration of assistance to Fatah-led PA, as after the 2006 election the donors refused to channel assistance to a PA led by the election winner Hamas. Israel also withheld the transfer of revenues that it was empowered to collect on behalf of the PA. Not accepting Hamas as 'partner for peace' led to deliberate policy of impoverishing Palestinians that was motivated by a belief that eventually Palestinians would remove Hamas from the office and vote for a 'more moderate'

⁹ Information from UNRWA website <http://www.unrwa.org/>. Accessed on 15 April 2016.

¹⁰ The World Bank website <http://www.worldbank.org/en/country/westbankandgaza/projects>. Accessed on 1 April 2016.



leadership. In fact, the policy led to civil war between Fatah and Hamas in 2007, and the split of PA in two (Turner 2011: 15-16). Since 2007 international assistance has been directed to the West Bank, while Gaza has been left without aid other than humanitarian assistance.

4 SECURITY SECTOR REFORM AND JUSTICE SECTOR REFORMS

Commonly accepted view since the 1990s has been that the recovery from a violent conflict requires reform processes in security and justice sectors. In the Palestinian case it was not only a question of reform, but also of establishment of security and justice institutions. This section looks into the most significant developments in the fields of security and justice in the Palestinian territories since the first *intifada*. Examination of justice sector is limited to criminal justice, as this is the area that the EU programs primarily focus on.

4.1 Self-policing, Vigilantism and Popular Courts - the First *Intifada*

Palestinian resistance to the security institutions functioning under Israel's occupational power, together with fragmentation of Palestinian resistance and nationalist movement made security situation in the OPTs chaotic at the time of first *intifada* (1987-1993). The PLO-led Unified National Command of the Uprising (UNC) pressured Palestinian police officers to resign from Israeli-controlled police forces. The UNC supported and coordinated establishment of Palestinian self-policing through a network of local popular committees (Lia 2006: 40-44). In 1988 half of the police forces resigned in the OPTs. Those remaining in the office were threatened and some were killed. In response, Israel criminalised the Palestinian popular committees. At this stage Palestinian popular committees started to change from neighbourhood watches to underground paramilitary groups. These 'strike squads' were linked to different factions of PLO, and had dual function in internal policing and in the struggle against Israeli occupation. The dominant paramilitary groups were Fatah-affiliated Fatah Hawks and Black Panthers, the PFLP's Red Eagle Group, the DFLP's Red Star Fighters and Hamas's 'Izz al-Din al Qassam's Brigades (Lia 2006:53).

Similarly to the police forces also the local civil courts and Islamic courts in the Palestinian territories that were under the control of Israeli military forces had become largely dysfunctional by the first *intifada* period. Administering justice was impossible due to lack of resources and corruption, but also due to failing law enforcement capacity caused by resigning police officers. Furthermore, Israeli military courts constantly interfered into civil justice system. A way of response to judicial crisis was the revival of customary law practice. Customary law that combined Islamic law with local traditions (*urf*) had been practiced in the Palestinian territories parallel with the formal justice system to mediate petty disputes. During the *intifada*, the customary law became, however, transformed and customary law arbitration was removed from traditional, often clan-based, community leaders to the hands of 'reconciliation committees' that were affiliated to politico-military organisations of Palestinians. Reconciliation committees in turn were linked to the paramilitary groups, the latter functioning as executive arms of the former. But paramilitary groups themselves also utilised customary law in settling inter-group disputes as well as for punishing



criminals or collaborators. Not atypically to conflict situations the paramilitary groups also started policing morality, targeting particularly women suspected of 'immoral behaviour' (Lia 2006: 45-51, 58).

Travesty of justice through vigilantism and 'popular courts' characterised the *intifada* period. Inter-factional competition that could be triggered to violent fighting was common. Israel moved from direct presence of its military towards utilising collaborator networks, which further fuelled inter-factional fights among Palestinians (Lia 2006:69). It was no surprise, considering the situation, that the pre-Oslo talks focused on security and policing. For the PLO, representing the Palestinians, an idea of Palestinian police forces was appealing, as it was linked to territorial sovereignty. Hamas was against any peace talks with Israel, and not participating. On the Israeli side, opinions varied from total rejection of Palestinian police by the IDF, to returning to previous system in which a few Palestinians served in Israeli-run police forces, and to allowing the formation of a moderate-size police force with limited powers.

4.2 Building Authoritarian Security and Justice Sectors after Oslo

The solution of the Oslo Accords to the perilous situation in the Palestinian territories was state-building through establishment of Palestinian National Authority (PNA or PA). However, the Oslo Accords also set serious limitations to Palestinian sovereignty and consequently to state-building efforts. The most visible limitation is territorial: the division of the West Bank into three zones that leave 60 per cent of Palestinian land under Israeli control.¹¹ The PA was to administer most areas of civilian lives; it controlled government institutions such as schools and courts, and built some new security institutions. But the PA's sovereign space was pressured by Israel's power to control movement as well as economy and fiscal policy (Brown 2003: 13). The way justice and security sectors developed in the post-Oslo period illustrates an imbalance between democracy and security. In the 1990s the newly-established PA developed into a nationalist institution led primarily by people whose experience came from working for the PLO government in exile. They were less than sympathetic to Palestinian voices in NGOs, popular and professional associations or even to the Palestinian elected legislative PLC that called for more pluralistic Palestinian politics and society (Brown 2003: 10).

Building Palestinian justice sector was in no way a simple task. Due to historical reasons, West Bank and Gazan legal traditions had developed to different directions, the former having been under Jordanian and the latter under Egyptian control prior to the Israeli occupation in 1967.

¹¹ In Oslo Accords a division to three areas was established that are still at place today. Area A, amounting to 17.7 per cent of West Bank, is fully controlled by the Palestinian Authority; in Area B, consisting of 21.3 per cent of West Bank or some 450 villages the PA has civil control while security remains under the control of Israeli forces; while the largest Area C (61 per cent of West Bank) is fully under Israeli control. Furthermore, the area of Hebron is divided into two security zones, the smaller of which is under the PA and the larger under Israeli control.



Furthermore, the PLO in exile had crafted its own laws. Israeli military courts had further complicated the existing legal systems and practices. And, as discussed in the previous section, the first *intifada* had pushed the whole justice sector into disarray. For the Palestinians a PA-controlled justice sector presented an opportunity to bring old, diverse laws and practices together and to make necessary reforms. But efforts to unify legal traditions and institutions soon led into quarrels and disputes between the West Bank and Gaza practitioners of law. Politicians also utilised mismatches in compiled laws for their own purposes. Arafat's authoritarianism affected the process of building justice sector, as he refused to sign reformist laws on judiciary or passed Presidential decrees with an aim to influence the judicial system (Brown 2003: 18-24, 27-28). Despite difficulties the Palestinian Legislative Council, which was established in 1996, prepared and passed a number of important laws, including the Basic Law in 2000 that serves as a temporary constitution.

At the same time there was pressure, not least by internationals, pushing the PA to create solutions that would provide security to Israel, but matched poorly with the principles of the rule of law. Perhaps the most shocking example on these was the establishment of Supreme State Security Court through a Presidential Decision in 1995. The court was created to try Palestinians accused of violence against Israeli targets, but it was also a way to avoid politically sensitive extraditions of those same Palestinians to Israeli authorities (as a person already in detention could not be extradited). However, once created, the State Security Court was also used by the PA to imprison human rights activists and political critics. Politically sensitive cases were pushed through the court within days or even hours without any procedural safeguards to guarantee the rights of the person on trial. The State Security Court was praised by the US, but heavily criticised by many others both internationally and domestically. In the late 1990s the State Security Court was brought more in line with regular legal practices (Brown 2003: 41-44).

Despite the difficulties Palestinians' confidence in the court system improved and by 2000 the number of cases brought into courts had multiplied in comparison to the pre-*intifada* years. But the capacity of courts was insufficient to deal with the growing caseload (Brown 2003: 29). Due to this, Palestinians continued to seek alternative ways to settle disputes. For example, the newly established security actors such as Palestinian civil police and security forces were approached by people in need of assistance, and came to offer alternative dispute resettlement mechanisms. But they also dealt with criminal cases that should have been handed to criminal prosecution. Israeli military courts continued to interfere in civilian justice, and during 1993-2000 some 124,000 Palestinians were prosecuted by these military courts (Weill 2007: 396). The outbreak of second *intifada* in 2000 again further increased the demand for such alternative mechanisms as it hindered the functioning of regular courts (Brown 2003: 36-37).

Palestinian security sector also started to be built after the Oslo Accords. Despite calls for a non-politicised police force, officers for security services were predominantly recruited from Fatah supporters with preference given to those who had served sentences in Israeli prisons. Fatah members in exile were recruited too, as this provided a convenient way of repatriation (Lia 2006: 133-139). The situation was not made easier by a multitude of Palestinian security forces that were established under Arafat's rule. At least twelve security services were established, including special police forces that formed a sort of army-in-waiting, as well as several intelligence units and civil police branches. The security forces were kept directly under President Arafat's control



through the Supreme Council for National Security that was formed in 1994. The Ministry of Interior was side-lined in the process, and the Council itself remained inefficient and unable to coordinate and command the twelve security services that had overlapping tasks (Lia 2006: 307-309).¹²

The legal and political framework for Palestinian policing was outlined in the Palestinian-Israeli agreements that implemented the Oslo Declaration of Principles. These agreements promoted Palestinian policing responsibility without sovereignty and territorial control, recognising Israel as de facto legal source of authority even after its withdrawal from the occupied territories. At the same time the PA had no jurisdiction over any Israeli citizen, while Israel retained its right to arrest, detain and prosecute any PA-resident. The Oslo process grew increasingly focused on Israeli security needs, and the later agreements outlined more and more responsibilities to Palestinians to 'combat terror.' Palestinian-Israeli intelligence cooperation and joined patrols of Palestinian Police with the IDF and Israeli Police were part of implementation agreements. (Lia 2006: 272-276, 290).¹³

Initially international donors were reluctant to channel funds to the Palestinian police: prior to 1994 Egypt and Jordan provided some trainings to the Palestinian police, the US gave very limited VIP body guard training and the ICRC provided training on humanitarian law (Lia 2007: 35, 45-46).¹⁴ The United States showed much reluctance in cooperating with the EU or the UN during this period. Individual EU member states such as Germany, the Netherlands and France called for more coordinated aid efforts by the EU in order not to be side-lined by the US-Israeli talks. By 1994-95 the EU became the largest donor for assistance to Palestinian police, covering around one third of the total funding (Ibid. 147). Majority of donor funds were used to cover salaries, and funds were allocated also to equipment and training. The US assistance focused on a CIA-led anti-terrorism program for the Palestinian police (Ibid. 288-300). Compared with the security sector, relatively little international assistance targeted judicial sector in the 1990s. The most significant aid project was the World Bank Legal Development Project that helped Palestinians to draft codes of law. USAID aid efforts to legal system like some others failed due to rivalries between the Palestinian Ministry of Justice and the Palestinian Judiciary. During the 1990s European countries were only involved in some minor aid projects in judicial sector (Brown 2003: 32-35). In the 1990s assistance efforts suffered from corruption in the PA, and came to a halt at the outbreak of second *intifada* in 2000.

4.3 Second *Intifada* and its Aftermath

The second Palestinian uprising is also called Al-Aqsa *intifada*, referring to the holiest site of Islam where the events started to unravel. The second Palestinian *intifada* started in September 2000, triggered by Ariel Sharon's provocative appearance with Israeli police to Al-Aqsa mosque

¹² Palestinian police units in the 1990s are enlisted and described in detail by Lia (2006: 310-321).

¹³ For a full list of Palestinian-Israeli agreements in 1993-1999 see Lia (2006: 270).

¹⁴ Lia (2007) gives a detailed analysis on donor politics, lack of experience in police assistance, and other reasons for donors' reluctance to fund the Palestinian security sector.



compound in Jerusalem's Old City. Palestinian protests to the provocation were confronted by Israeli military response across the occupied territories. The second uprising lasted for five years and was more violent by character than the first *intifada*. On the Palestinian side new militant groups like Al-Aqsa Martyrs' Brigades emerged that carried out armed attacks against Israeli soldiers and settlers. Al-Aqsa *intifada* cost lives of 4,147 Palestinians and 1,023 Israelis, most of which were civilians. The Israeli Parliament publicised a hit list of Palestinian leaders and activists that were to be assassinated. The assassinations were played down by particularly the US, and largely ignored by the international media that instead made headlines of Palestinian suicide bombers targeting Israeli soldiers as well as civilians (Baroud 2006: 26).

Two Israeli military operations, Defensive Shield and Determined Path, targeted Palestinian security infrastructure that as a result lay in ruins by the end of 2002 (ICG 2010). Israel reoccupied those parts of the West Bank it had handed over to the PA on the basis of the Oslo Accords. Palestinian civil police infrastructure was heavily hit by the Israeli attacks: 45 police buildings and complexes in the West Bank and in Gaza were destroyed, including a forensic laboratory at the Police Headquarters in Gaza City and the police complex in Ramallah. Israel also targeted the communication system by destroying all repeater stations, and leaving only extremely limited areas within radio communication system. Communications system and the forensic laboratory were amongst the destroyed infrastructure that had been built with EU funding in the 1990, which made the EU relations with Israel tense (Kerkkäinen et.al. 2010: 10-11; Lia 2007).

The events of second *intifada* made the EU to revise its assistance to the PA, and Palestinian Civil Police in particular. Efforts to coordinate aid and to increase accountability of aid recipients needed to be enhanced. In the aftermath of second *intifada* and Israeli reoccupation of OPTs, the international Roadmap Quartet, consisting of the US, the EU, Russia and the UN, brought in 2003 the Palestinian security sector at the centre of international attention and assistance to the PA (Bulut 2009: 288-289). Gradually Palestinian security services started to function again, in tight coordination with the IDF and at first only dealing with minor matters such as traffic policing and petty crimes investigation (ICG 2010: 2). Death of Yasser Arafat in 2004 and Mahmud Abbas taking over the PA Presidency made the international community to realise that a window of opportunity for security sector reform in the Palestinian territories had emerged. The US dispatched a senior security coordinator to the region to supervise the security reform. The EU established a UK-led coordination office for Palestinian police, EU COPPS in 2005 that was followed by the EU CSDP mission EUPOL COPPS. These two agencies were to become fundamental to the SSR in the coming years.

4.4 Divided Palestinian territories

The 2006 Palestinian parliamentary election demarcated a start of new period to the occupied Palestinian territories. After the surprise election victory by Hamas, enlisted as a terrorist organisation both in the US and in the EU, there were futile attempts to form a unity government of Hamas and Fatah. A Hamas-led PA was not acceptable to the international donors supporting the security and justice sectors' development. After 2007 clashes between Fatah and Hamas, Hamas took over the PA governmental structures in Gaza. Thereafter, at least partially separate



administrations and security and justice sectors have developed in the West Bank and Gaza.¹⁵ By 2007 security situation in the West Bank had improved, and Fatah leaders took steps to convince the West and Israel that returning order and restoration of central authority was possible. A part of this process was a campaign to arrest Hamas-affiliated activists and rid the PA structures of Hamas sympathisers. Fatah-related Al-Aqsa Martyrs' Brigade and other militant groups were demobilised, partly through amnesty and by reintegrating them to the PA security forces. The security sector reform was drafted under the PA-appointed Prime Minister Salam Fayyad. The so-called Fayyad plan, strongly supported by Western donors, aimed to establish a professional, de-factionalised national security force, while countering Hamas's influence. The plan aimed to build modern state institutions, including a strong security sector that has monopoly over the use of force, would bring the Palestinians international community's and Israel's confidence and counter the arguments against Palestinian statehood (ICG 2010: 3-7).

In 2007 the Fayyad government moved swiftly to reorganise the PA security forces in the West Bank. Today the PA Security Forces consists of 35,000 personnel in seven agencies, four of which report to the Ministry of Interior. The largest agency is the Palestinian Civil Police (PCP) that has 8,000 police officers and is in charge of internal crime prevention, daily police control, traffic policing and ordinary crime. The Preventive Security Organisation (PSO) is charged with internal counter-terrorism as well as monitoring and policing opposition groups. It has 4,000 staff members. The National Security Force (NSF) with its 7,000 staff is a gendarmerie-type civil police unit with some military skills. In the Palestinian context the NSF is closest to an army. The Civil Defence deals with fire prevention, serious traffic accidents and natural disasters. The three remaining security agencies are the Military Intelligence (MI) that with its 2,000 personnel is countering internal security threats to the PA; the Presidential Guard (PG, 2,500 staff) protects important PA officials and infrastructure; and finally, there is General Intelligence (GI, 4,000 staff) that is charged with collecting intelligence from outside the West Bank but that in practice has overlapping tasks with the PSO. There is no police law in force in Palestine, and many tasks and responsibilities of the above-mentioned agencies overlap, causing confusion and duplications (ICG 2010: 3-4).¹⁶

Performance of Palestinian security forces in the West Bank has been praised internationally (Persson 2013: 166). It is also widely acknowledged that since Fayyad government started its work in 2007 human rights situation improved in the West Bank though serious violations still occur (ibid. 169). By 2010 even Israel made positive remarks over how improving security situation allowed the IDF to allocate its resources for other purposes. Israel has nevertheless remained reluctant to expand the area of operation of PA security forces, and has ignored the territorial division of Oslo Accords. At the same time, Palestinian views on the PA security forces performance have been more mixed. A UNDP (2012) survey brought up that 91 % of Palestinians would call a police if in

¹⁵ There is officially a no-contact policy, but the situation varies from one sector to another. For example in social services, health and education sectors a 'delicate division of labour' has been crafted between Hamas and Ramallah governments, in which the latter covers the salaries of basic staff while Hamas government pays for the extra staff. On the other hand, in the justice sector in Gaza most staff was replaced by Hamas loyalists and all staff costs are fully covered by Hamas government (Hovdenak 2010).

¹⁶ A draft police law has been finalised with EUPOL COPPS assistance.



danger, and 63 % was confident that they would receive prompt police assistance.¹⁷ Two years later, in 2014, another survey indicated that some 52 % of the West Bankers were confident of the PCP's capacity to perform its tasks (UNDP and EUPOL COPPS 2015). However, the Arab Security Sector Index indicated in 2014 that Palestinians rated the overall performance of security and justice sectors as 'poor' (Shikaki et.al. 2015). Key issues that have lessened confidence in police performance are corruption and the PCP's lacking capability to provide security against the Israeli occupation (UNDP and EUPOL COPPS 2015). Perceptions of personal safety and security in the West Bank were also highly correlating with political affiliation: 62 % of supporters of Fatah and independent nationalists feel personally safe, while among the supporters of Hamas, Islamic Jihad and other independent Islamists the safety and security rate does not exceed 46% (Shikaki et.al. 2015).

International donors' influence can be detected in the development of security sector in the West Bank. A division of labour between the two major donors, the EU and the US was set up through assistance programs. The EU has focused to support the PCP, while the US assistance targets the 'green wing' of the PA security forces. The EU has funded rebuilding of police stations and other facilities, and provided training and mentoring to the Palestinian Civil Police in the West Bank. The EU's key forms of assistance have been the two CSDP operations, EUPOL COPPS and EUBAM Rafah that will be discussed in detail below. The EU has also provided financial assistance to cover the salaries of Palestinian police officers through PEGASE mechanism since 2008. The United States has, through the Security Coordinator's office (USSC) and the INL, trained some 6,000 members of the National Security Force and the Presidential Guard in the Jordan International Police Training Centre in 2007-2012, and provided technical and financial support (Zanotti 2016: 15). The USSC has played a strong role in many key decisions over security sector, and its role and policies have been received controversially by the Palestinians due to the US's close relation with Israel.

The EU and other international donors have also been instrumental in the development of justice sector in the Palestinian territories within the last fifteen years. As the rule of law institutions were mostly based in Gaza, Hamas' seizure of control of Gaza in 2007 led into a situation that the Fatah-led PA had to rebuild legal institutions in the West Bank from scratch. In the early 2000s several laws were passed and amended to ensure independence of judiciary, and more judges and prosecutors were hired by the PA. Justice sector reform has been a high priority of PA's development plans. There have been numerous international assistance programs to support the rule of law in the West Bank, by at least the UNDP, USAID, Sweden, Canada, Japan, the Netherlands and the EU. The number of judges and prosecutors has increased as well as the capacity of courts to adjudicate cases. European Commission's Seyada program has been essential in building the capacity of Palestinian courts to adjudicate cases and dealing with the high caseload that was blocking the judicial system. Legal training has been improved through

¹⁷ These numbers cover both the West Bank and Gaza. The survey did not point out any remarkable differences between the two regions in these questions. In comparison, a survey conducted in 2005 indicated that only 21 % of Palestinians had great trust in the Civil Police (Tartir 2015: 7).



establishment of Palestinian Judicial Training Institute with assistance from the EU and the US.

Despite all support ineffective implementation of regulations remains a problem in this field.

Unclear division of responsibilities between the Ministry of Justice and Higher Judicial Council that the European Neighbourhood Policy report raised as a key concern in 2004 still remained a point of concern in a similar report in 2015 (Bouris 2014: 140-145, 149; European Commission 2015b).

In Gaza, security and justice sectors went through thorough changes after Hamas' takeover in 2007, even though in other governmental sectors the changes were limited to replacement of higher administrative staff with Hamas loyalists. The PA security forces refused to work under Hamas government, which led to Hamas establishing a completely new police force *Tanfithiya* (Executive Force). Later on the Executive Force was integrated into already existing civil police structures that were now under the control of Hamas. Hamas' military wing Izz al-Din al-Qassam Brigades personnel formed an integral part of the police forces. Palestinian and international human rights organisations have reported on widespread violation of law and serious human rights abuses by Hamas police forces. In inter-factional political violence Gaza is a mirror image of the West Bank: Hamas-dominated security forces target known Fatah supporters (Hovdenak 2010). In the justice sector the situation in Gaza is similar to security sector: it has developed without international support to a different direction under Hamas rule. All judges, prosecutors and Attorney General have been replaced by new people, and a completely new body High Judicial Council has been established. Consequently, the courts lack experienced staff. In order to address the difficult situation in the justice sector the traditional *sulha* committees were revitalised in Gaza. *Sulha* is a traditional Islamic arbitration body. There is no cooperation between Gaza and the West Bank judicial systems (Albasoos 2010).

5 EU CRISIS MANAGEMENT OPERATIONS SUPPORTING SSR AND JSR

The EU has since the 2000s taken security sector reform (SSR), and the areas of justice sector reforms that are closely related to it, as one of its key areas in conflict prevention. The EU Concept for ESDP Support to Security Sector Reform (2005) defines SSR and the EU's possible role in such processes, and outlines the key principles, objectives and modalities of EU's involvement in the field. The EU follows OECD DAC definition in SSR, stressing the linkage between security and development as well as democracy. The concept note stresses the importance of local ownership, holistic approach that is tailored to the specific needs of the host state, coordination with other actors, and the need to measure progress throughout the long SSR programs. The relevant areas of activities related to SSR brought up in the concept note include support to police reform, support in strengthening justice/rule of law elements as well as support in strengthening the border and customs sector, and support to defence sector reform. The division of labour between the EU Commission and the Council in supporting justice and security sector reforms in third countries has been unclear, as development projects falling under the Commission and crisis management programs under the Council have both addressed the same issues. The creation of European External Action Service by the Treaty of Lisbon in 2009 was expected to ensure a more consistent and coherent approach (ADE 2011).



As discussed above, the EU became involved in the security sector in the OPTs after the Oslo Accords in the 1990s, but the outburst of second *intifada* in 2000, and the destruction of European-funded facilities by the Israeli armed forces put the EU support of the SSR in the OPTs on hold. In 2005, the EU became again actively involved and launched two civilian crisis management operations in the OPTs: the European Union Police Coordination Office for Palestinian Police Support (EUPOL COPPS) and the European Union Border Assistance Mission in Rafah (EUBAM Rafah). There were a number of reasons for the EU's active involvement in the justice and security sector reform in the OPTs: the EU was then, and still is, the largest international donor to the Palestinian territories; the EU's role as one of the four members of the Roadmap Quartet; both Israel and Palestinian territories falling under the European Neighbourhood Partnership program; and, related to the last, the EU's interest in promoting peace and stability in its strategic neighbouring region in the Middle East (Kerkkäinen et.al 2008: 2).

5.1 EUPOL COPPS

The European Union Police Mission for the Palestinian Territories EUPOL COPPS¹⁸ was built on a DFID-funded UK police assistance project that had been launched after the Roadmap was signed in 2003.¹⁹ As a member of Roadmap Quartet the EU was obliged to support the implementation of Roadmap. European Commission's the EU Coordinating Office for Palestinian Police Support (EU COPPS), placed within the office of the EU Special Representative to the Middle East Peace Process Marc Otte, served in 2005 as a bridging phase between the bilateral UK project and the EU ESDP mission. The EU COPPS comprised of four senior police advisors based in the Ministry of Interior of PA. The EU COPPS aimed to support both immediate operational capacities of Palestinian police forces and more long term reforms. To this end EU COPPS and the PA Ministry of Interior jointly developed a Palestinian Civil Police Development Program (PCPDP), which became a blueprint for police development in the OPTs. The UK, holding the EU Presidency in 2005, called for a more coordinated approach by the European countries. In July 2005 the European Council decided to convert the EU COPPS into an ESDP mission. Continuation from one project to another was also guaranteed by the fact that Jonathan Mclvor became the first Head of Mission of EUPOL COPPS, after having both served as Police Advisor in the DFID project and headed EU COPPS.

EUPOL COPPS was launched on 1 January 2006. Its first mandate period was three years. The Council of the EU Joint Action outlined its mandate as: "to contribute to the establishment of sustainable and effective policing arrangements under Palestinian ownership in accordance with best international standards, in cooperation with the Community's institution building programs as well as other international efforts in the wider context of Security Sector including Criminal Justice

¹⁸ The original name of the operation was the European Union Police Coordination Office for Palestinian Police Support. Despite the name change the acronym has remained the same.

¹⁹ For a detailed description of DFID needs and risks assessment, see Kerkkäinen et.al (2010: 12-16).



Reform" (Council Joint Action 2005/797/CSFP). In the document the mission's explicit mandated tasks are the following:

- 1) assist the Palestinian Civil Police (PCP) in implementation of the Police Development Programme, by advising and closely mentoring PCP, and specifically senior officials at District, Headquarters and Ministerial level;
- 2) coordinate and facilitate EU and Member State assistance, and where requested, international assistance to PCP;
- 3) advise on police related Criminal Justice elements.

Initially, the mission focused on police reform, but in 2008 the EU PSC decided to expand its activities to cover also the rule of law area. Later, in 2009, the Council of the EU added a fourth mandated task to EUPOL COPPS mandate (Council Decision 2009/955/CFSP):

- 4) have a project cell for identifying and implementing projects. The Mission shall, as appropriate, coordinate, facilitate and provide advice on projects implemented by Member States and third States under their responsibility, in areas related to the Mission and in support of its objectives.

The number of EUPOL COPPS staff has increased over the years: in 2006 it started with 33 international staff members; the number of international staff dropped down to 16 in 2007, but increased again to around fifty internationals during 2008-2011, and has since 2012 been at the level of approximately 70 international staff members. The number of local staff is around forty (Bouris 2014: 110). According to the EUPOL COPPS website the mission had in 2015 an annual budget of around nine million euros from 24 contributing states (in addition to 21 EU Member States Canada, Norway and Turkey amongst them).²⁰ The mission budget has fluctuated over the years between six and nine million euros, with an exception in 2007 when the budget remained in less than three million euros.

EUPOL COPPS mission headquarters is in Ramallah in the West Bank. The mission consists of Head of Mission's Office²¹ and two main program units: Police Advisory Section and Rule of Law Section. The two program units have Special, Field and Training Advisors. Special Advisors work in specific areas such as crime investigation or crime scene management, public order or community policing; Field Advisors work in different West Bank districts; and Training Advisors primarily support the Jericho Police Training School's training efforts and help to build curriculum (Bouris 2014: 113). EUPOL COPPS also utilises short term experts for specific tasks and projects. The work of Head of Mission/Deputy Head of Mission is supported by a Planning and Evaluation section, under which there are Programme Managers, two Human Rights Advisers, and Gender

²⁰ <http://eupolcopps.eu/en/node/4770> Accessed on 27 January 2016.

²¹ EUPOL COPPS has had six Heads of Mission: Jonathan McIvor (2006), Colin Smith (2007-2008), Paul Kernaghan (2009-2010), Henrik Malmqvist (2011-2010), Kenneth Deane (2012-2014), Rodolphe Mauget (current).



Adviser. Planning and Evaluation section ensures that the mission activities fall within the framework of Mission Implementation Plan, and are in line with strategic planning of Palestinian security and justice sectors. Furthermore, the mission has Political Adviser and Legal Adviser, as well as Security office, Reporting office, and Press and Public Information office. Finally, the Mission Support Office takes care of finances, logistics and administration of the mission.²²

5.1.1. EARLY YEARS (2006 - 2008)

Launching of EUPOL COPPS was a process paved with difficulties. Initially, Israel did not approve the mission, and obstructed the work of its staff. EU Member States had to accredit their seconded personnel individually in order for them to work in Israel. However, more severe was the political obstacle introduced by Hamas's victory of the Palestinian parliamentary election just one month after the mission had started its work. With Hamas in power, the Palestinian Ministry of Interior including the PCP became to be under an organisation that was enlisted as 'terrorist organisation' by the EU. International donors, including the EU, were unwilling to provide assistance to the PA under Hamas leadership. To bypass the Hamas-led PA a Temporary International Mechanism for Assistance to the Palestinian People (TIM) was established that channelled direct assistance to Palestinians as well as to President Abbas's office. The US insisted that TIM funds could not be allocated to support security sector that was under the PA, due to which Palestinian civilian police officers salary payments and the funds reserved to refurbish Jericho Training Centre were blocked. EUPOL COPPS assistance to the Centre was reduced to sporadic stationary deliveries (CITPax 2006: 19-21; Collantes et.al. 2008: 17). EUPOL COPPS could only fully take up its work in July 2007, after the transitory government of Mohammed Abbas and Salam Fayyad was formed in the aftermath of Fatah-Hamas clashes in Gaza that led into formation of de facto two Palestinian governments (Sabote 2010: 185-6). In practice, EUPOL COPPS has since then only worked in the West Bank.

Despite the difficulties EUPOL COPPS started some work already in 2006, or continued projects that had been started by EU COPPS. During the initial period, in 2006, EUPOL COPPS focused on refurbishing the Jericho Police Training Centre. In 2006 it also provided anti-riot equipment as material assistance to the Temporary International Presence in the City of Hebron (TIPH), a mission that had been established to observe security situation in Hebron area in the aftermath of a massacre in 1994.²³ Another technical assistance project that EUPOL COPPS worked on during the first two years was the improvement of PCP's communications system. Israeli attacks had largely destroyed the communications system during the second *intifada*, and even prior to that it had functioned poorly with inadequate and outdated equipment. The Communication Project was a

²² <http://eupolcopps.eu/en/node/1064>

²³ In February 1994 an American Jewish settler Baruch Goldstein opened fire during Muslim prayers in the Ibrahim Mosque in Hebron, leaving 29 men and boys dead. TIPH presence in Hebron was agreed in the Oslo Accords. The TIPH participating states are Norway, Italy, Denmark, Sweden, Switzerland and Turkey. www.tiph.org



part of a larger assistance program, and based on an audit of communication infrastructure of PCP that had been conducted under EU COPPS. The project included building PCP radio communication system in the West Bank and Gaza, training the system users and maintenance of the infrastructure and equipment. However, after Hamas takeover the project was discontinued in Gaza. The end of project assessment concluded that the project had increased the radio communication capacity by 100 % in the West Bank and by 60-70 % in Gaza, but that the project had also brought up further needs for training and more advanced and up-to-date technology. Kerkkäinen et.al. (2008) assessed that the Communication Project was the most significant task of EUPOL COPPS during its first years that provided security not only to ordinary Palestinians but also to Israelis by improving the capacities of Palestinian civilian policing.

During its early phase EUPOL COPPS also confronted EU-internal challenges. EU bureaucracy turned out to be slow, and administrative and logistical processes caused delays for starting up operations in the OPTs. Slowness of procurement processes that were based on EU requirements on accountability and transparency did not fit well with the requirement to act fast in a crisis situation. Rigidity in staff selection process provided EUPOL COPPS with staff members who while having competence in police work did not possess the technical skills needed in the projects the mission was implementing at the time. EUPOL COPPS also had difficulties in cooperation and coordination with other EU actors in the region. According to an early assessment EUPOL COPPS's engagement with the civil society also left space for improvement (Kerkkäinen et.al 2008: 29-32).

Bulut's (2009a: 293-296) assessment of EUPOL COPPS in its early years also pointed out on a positive note that the mission had succeeded in providing necessary technical assistance and training to the Palestinian civil police that had brought tangible results. The mission also had been successful in working with PCP counterparts in a manner that enabled developing bottom-up solutions to issues at hand. However, he also brought up points of criticism that have later been repeated by many other observers. EUPOL COPPS' quick impact and project-based approach has raised criticism that it limits the policy impact of assistance, while the mission mandate is actually based on the PCPDP's long-term transformational plan. Some have perceived that there has been lack of political will to engage strategically, while others have perceived that the mission personnel lacks capacity to interact with policymakers (Kristoff 2012: 6-7). According to Bulut (2009a) the West Bank - Gaza split and marginalisation of Hamas government while focusing aid to the PA in the West Bank has turned the EU away from a 'reformist' approach that would aim to transform security institutions into democratically accountable institutions serving the security of Palestinians. Instead, a 'restructurist' approach that aims to reorganise security forces to address Israeli security concerns and to suppress inter-Palestinian violence has become predominant. The latter approach has been forcefully pushed forward by the US Security Coordinator's Office and Israel. In Bulut's view while EUPOL COPPS may have as a mission worked in reformist spirit, its work and projects have been implemented in a restructurist framework.

5.1.2.

EUPOL COPPS SINCE 2008 EXPANSION



Some challenges of the first mandate period were addressed in 2008-2009 through amendments to EUPOL COPPS mandate. EU Council Joint Action 2008/958/CSFP on 16 December 2008 extended the mission mandate by two years, and added the Rule of Law Section in the mission structure. The mission hired twenty Rule of Law Advisors. This move by the PSC was criticised by European Commission officials, as justice sector had traditionally fallen under the Commission's work area (Sabiote 2010: 187). A year later, on 15 December 2009, EUPOL COPPS was mandated to establish a project cell. The mission now could also coordinate, facilitate and provide advice on projects implemented by EU Member States and third states in areas related to the mission's work (Council Decision 955/2009). An assessment on how EU missions have 'learned lessons' pointed out that EUPOL COPPS had been able to respond to criticism towards it having focused too much on equipping the counterparts by shifting its work on a more strategic level through institutional and capacity-building (Directorate-General for External Policies of the Union 2012: 70). All in all, EUPOL COPPS has over the years moved from initial by and large material assistance to PCP to capacity-building and strategic advisory work. These changes reflect more widely development in EU civilian crisis management from monitoring approach to advisory work, mentoring and project-based approach.

Following examples illustrate the wide range of activities of EUPOL COPPS since its expansion. In 2013, the mission advised and mentored Palestinian Criminal Investigation Department regarding interrogation techniques and collection of evidence; organised trainings to uniformed police officers as well as to Special Police Force; and it also mentored the Palestinian Civil Police Gender Advisor. The Rule of Law Experts of EUPOL COPPS in turn advised Palestinians in legislative drafting process, supported the Ministry of Justice in institutional development and Attorney General's Office in public prosecution. The mission also advised and trained the PA regarding programming and project development, and facilitated the EU and other international assistance to the Palestinian Civil Police. EUPOL COPPS carried out projects in cooperation with other actors, for example it implemented a Palestinian Civil Police Anti-Corruption and Accountability Program with the UNDP (Sundin and Olsson 2013: 9-10).

Two years later a EUPOL COPPS factsheet (2015) brings up highlights in the mission's achievements, including: ongoing advice and technical support to the Palestine College of Police Sciences in Jericho; assistance to the PCP Family Protection Unit; support to the creation of the Programme Steering Committee that enables the PCP and the Ministry of Interior to improve coordination of project-based assistance in accordance with the relevant strategic plans; support to the Palestinian Anti-Corruption Commission and the specialised Crimes Corruption Court; promoting effectiveness of legislation drafting; promoting police-prosecution cooperation, and through a joint program with the UNDP strengthening within the PA the respect for rule of law and human rights, internal police accountability, anti-corruption efforts, gender equality and the oversight role of civil society in democratic governance and preparation for statehood.

Some assessments on EUPOL COPPS's work have brought up criticism over the mission's ability to cooperate with other actors. Bouris (2014: 150-154) states that EUPOL COPPS Rule of Law section had a bad start in terms of cooperation. The Rule of Law section started its work in 2009 by preparing an assessment of the status of Palestinian criminal justice system and identified gaps that needed to be addressed. It started to advise police and prosecutors on criminal investigation and was to work together with the European Commission's Seyada program to organise training to



judges. It also started to support the Attorney General's office, the High Judicial Council and the Palestinian Bar Association. It turned out that the cooperation between the EUPOL COPPS Rule of Law section and Seyada program was not running smoothly, as their mandates were perceived to be unclear and tensions between the Commission and the Council in Brussels were transferred to the field level. EUPOL COPPS Rule of Law section became an active player in the field of rule of law through numerous small quick impact projects, but it lacked budget and expertise of local staff. The cooperation with Seyada program started to improve after a change in key personnel in the EUPOL COPPS Rule of Law section in 2010.

Another weakness in EUPOL COPPS's cooperation with others relates to Palestinian civil society. Palm (2010: 19-26) concluded that Palestinian civil society organisations had very limited awareness of EUPOL COPPS and its work in the OPTs. The mission had little visibility and for example at the time of assessment it did not even have its own website and its contact details were not available in the Internet (this has changed since then). The mission's active efforts to meet and cooperate with civil society organisations also seemed very limited. There was no official civil society contact point in EUPOL COPPS; instead, one mission member in the Rule of Law section had taken an initiative to keep a list of contact details of relevant CSOs and cooperation with civil society took place on ad hoc basis. While Rule of Law section held some meetings with civil society organisations the Police Advisory section had no contact. Neither did the mission's Human Rights Expert keep contact with local human rights organisations. Lack of contacts with civil society is quite surprising, considering that there is a flourishing civil society in the Palestinian territories that also works in areas relevant to EUPOL COPPS' mandated tasks (Costantini et.al. 2011). A few years later, Sundin and Olsson (2013: 24-25) also remarked that EUPOL COPPS contacts and cooperation with women's organisations and other civil society organisations were not systematic. However, the mission had used human rights trainers from CSOs, and taken part in a joint program with the UNDP that aimed at furthering cooperation between Palestinian police and civil society organisations.

Sundin and Olsson (2013) examined how EUPOL COPPS has applied gender mainstreaming and EU's Gender Policy in its work. They noted that while the mission mandate does not mention gender perspective, gender mainstreaming and gender specific measures are mentioned in the operation's key planning documents such as Operation Plan and Mission Implementation Plan. These, however, remain at an abstract level and at the time of their research the mission did not have internal guidelines how to effectively undertake gender specific measures in the operational work. According to the mission members interviewed for the study, gender mainstreaming of operation's mentoring and advisory work with Palestinian counterparts in the PCP and the Ministry of Justice was ad hoc rather than systematic. Sundin and Olsson (2013: 20) nevertheless found several examples on how gender mainstreaming and gender specific measures were reflected in its work. For example, Police Gender Adviser of EUPOL COPPS provided specialist support to Palestinian Civil Police Gender Adviser, and the operation assists PCP departments as well as Prosecutor's office in their work towards gender equality and gender balance and developing gender-sensitive services. The operation was also involved in a UN Women-led project that supported the institutional development of the Family Protection Unit of PCP. EUPOL COPPS staff members hoped for more concrete guidelines on how to mainstream gender in practice. Since 2015 EUPOL COPPS has had a Gender Expert in its organisation to help with gender



mainstreaming. These examples above indicate that while EUPOL COPPS has had some weaknesses in its work over the years it has also made efforts to address them.

5.2 EUBAM RAFAH

The EU decided to establish another CSDP mission in the OPTs in November 2005, after Israel's unilateral troop withdrawal from the Gaza Strip. The US-brokered Agreement on Movement and Access (AMA) between the Government of Israel and the Palestinian Authority agreed to reopen the Rafah crossing point. The crossing point was agreed to be operated by the PA on the Palestinian side and Egyptian authorities on the Egyptian side. Rafah is the only international border crossing point in Gaza. AMA also outlined the principles based on which the Rafah crossing point would function, as well as the EU's involvement as a Third Party authority to monitor compliance with the agreed rules. In November 2005 both PA and Gol invited the EU to establish a European Union Border Assistance Mission at the Rafah Crossing Point (EUBAM Rafah). However, as both Israeli and European sources told Bouris (2014: 114), Israel was even during the signing of AMA reluctant to allow the EU to play a role in its implementation, and was even hoping it to fail in its given task.

Through the Council Joint Action 2005/889/CFSP the European Union decided to launch EUBAM Rafah that was to function as the EU's tool to implement its third party role in the AMA. The operational stage of the mission started on 25 November 2005. EUBAM Rafah's three mandated tasks are:

- 1) to monitor, verify and evaluate the PA's performance with regard to the implementation of agreement on the operation of the Rafah terminal,
- 2) to mentor capacity-building of Palestinian capacity in border management at Rafah, and
- 3) to contribute to the liaison between the Palestinian, Israeli and Egyptian authorities regarding the management of the Rafah crossing point.

Italian Major General Pietro Pistolese was appointed as the first Head of Mission,²⁴ and by June 2006 the number of international staff of EUBAM Rafah was 81 from 16 EU countries. In July 2007 the EU decided to suspend EUBAM Rafah's activities at the Rafah crossing point. Due to suspension, the number of international staff has gradually decreased. In 2015 EUBAM Rafah had four international and five national staff members. Together with decreasing number of staff the annual operation budget has also been cut down from almost six million euros in the mandate period 2006-2007 to less than one million euros since 2013. In addition to EU-budgeted funds the operation in its functional years also received additional contributions from several EU member

²⁴ After Pistolese the EUBAM Rafah has been led by Alain Faugeras (2008-2011), Davide Palmigiani (2012), Francesco Bruzzese del Pozzo (2012-2013), and Gerhard Schlaudraff (2013-2014). Since July 2014 the mission has been led by Natalina Cea.



states that were earmarked for leasing armoured vehicles, communication equipment and for medical and security services.²⁵

Due to the dramatic changes in the mission's working environment that led to suspension of all its activities, it is worthwhile to examine effectiveness of EUBAM Rafah's work separately before and after June 2007 decision to suspend the activities.

5.2.1. PRE-SUSPENSION PERIOD (2005 - JUNE 2007)

EUBAM Rafah's work at the Rafah Crossing Point during the time it was fully operational and the crossing point was operated by the Palestinian authorities - from November 2005 until June 2006 - has been assessed positively by several observers, though many have also pointed out weaknesses that at hindsight have led to the current protracted standby situation.²⁶ In Bulut's (2009b: 307) words, EUBAM Rafah brought high visibility to the EU efforts with low administrative costs.

Positive remarks on EUBAM Rafah include the fast launching of operation (Bulut 2009b: 302; Asseburg 2009: 89; Directorate-General for External Policies of the Union 2012: 64), EUBAM Rafah was operational on the ground on the very day the Rafah Crossing Point was to be opened, and only after three weeks of preparation period (Bulut 2009b: 302). Fast deployment of EU observers contributed positively to enable regular opening hours of the crossing point. As Bulut (2009b: 306) points out, the fast deployment of EUBAM Rafah also had its downside. A longer interim period might have allowed more time to explore the details on which conditions the operation was deployed, and to ensure an agreement with the parties that would have strengthened the operation in its interactions with parties and established mechanisms to deal with cases of non-compliance. The EU observers had the right to order persons and luggage to be rechecked if they suspected non-compliance, but the PA held authority in making decisions regarding the cases. EUBAM Rafah ran a liaison office in Kerem Shalom where Israeli authorities could watch live stream video transmission from the Rafah Crossing Point and register any concerns to be discussed with the Palestinian Authority. Due to lack of clear guidelines on cases of non-compliance EUBAM Rafah staff had to come up with ad hoc arrangements on the ground to solve any emerging issues, which led to dissatisfaction amongst the parties (Asseburg 2009: 88-89, 94). Israel, having demanded executive powers to EUBAM Rafah during the negotiations, repeatedly accused the operation for not taking serious action against smuggling in the border

²⁵ The biggest EU contributor has been Germany with half a million euros. Other member states that have contributed to mission budget include: France, Ireland, Netherlands, Belgium, Austria, Denmark, Finland, Malta, Estonia, Poland and Cyprus (Bouris 2014: 115).

²⁶ Over the years there have been numerous EU internal assessments of EUBAM Rafah. These assessments, as well as mission's regular reports to the CPCC are classified information, and have not been available for this study. Due to this, all assessments referred to in this report are conducted by outside observers.



area. The EUBAM responded that the issue of smuggling tunnels fell out of its mandate and thus it had no power to act on them (Sabote 2010: 189).

Observers have also noted that EUBAM Rafah had a positive impact on the freedom of movement of Palestinian civilian population through effectively implementing its monitoring and capacity-building mandate (Bulut 2009b: 302; Asseburg 2009: 94; Directorate-General for External Policies of the Union 2012: 64). Bulut (2009b: 302) mentions that according to UN OCHA the number of passengers crossing monthly doubled in spring 2006 from what it had been when the Rafah crossing point was operated by the Israeli authorities. Between November 2005 and June 2006 the crossing point held regular opening hours. The EU operation staff monitored and advised the Palestinian border control of passengers and luggage. Through effective trainings on security and customs, as well as through equipment provided by the European Commission, EUBAM Rafah was able to speed up Palestinian border controls, and opening hours of the crossing point were extended (Asseburg 2009: 94). The trainings were organised at the Rafah Crossing Point, while the efforts of EUBAM Rafah to expand its training activities to other locations was hampered by Israeli insistence that the mission should limit its activities only to RCP (Bulut 2009b: 304). A EUBAM Rafah employee told Bouris (2014: 116) that "until its suspension EUBAM Rafah was the most successful ESDP mission" that had high visibility and contributed positively to human rights situation in Gaza by helping people to cross.

The reasons for EUBAM Rafah to suspend its activities were related to Hamas's victory in the Palestinian parliamentary election in January 2006, and its takeover of Gaza in June 2007. After Hamas's electoral victory Israel started to request closing of Rafah Crossing Point by appealing to security reasons. The situation grew tense towards the summer of 2006. On 25 June 2006 Israeli Corporal Gilad Shalit was abducted by Gaza-based militants. From late June 2006 until June 2007 the crossing point was open only irregularly. EUBAM Rafah staff that was based in the Israeli town Ashkelon at that time and had to cross to Gaza through an Israeli-operated crossing point Kerem Shalom, was only able to take up its monitoring positions irregularly. Either information on opening of the Rafah Crossing Point came at too short notice, or Israeli authorities blocked the operation members' access to Gaza on the basis of security concerns (GISHA 2009: 138). Exceptionally, EUBAM Rafah managed to obtain a temporary re-opening of the RCP in July 2006 to enable over five thousand Palestinians to return from Egypt to Gaza over a two-day period (CITPax 2006: 25). After inter-factional fighting between Hamas and Fatah, and the takeover of Gaza by Hamas in June 2007 that ousted all Fatah-affiliated security forces including the PA Presidential Guard operating the RCP, EUBAM Rafah's operations were suspended. In addition to security concerns the reason for the suspension was also EU's policy of not engaging with Hamas that the EU has designated a terrorist organisation (Bulut 2009b: 303, GISHA 2009: 138).

5.2.2. POST-SUSPENSION PERIOD SINCE 2007

Since the suspension of EUBAM Rafah's activities in Gaza in June 2007 the situation has been radically different, and the operation has been unable to fulfil its mandated tasks. The only activity that it has been at least to some extent execute is related to training. EUBAM Rafah members



have assisted EUPOL COPPS to prepare and hold training courses for border management and customs, and in auditing for civilian police (Asseburg 2009: 95).

Not surprisingly, all assessments on the operation point out that the changes in political and security conditions have been the key challenge to the EUBAM Rafah's ability to work effectively. As a consequence, the operation has failed to fulfil its mandate ever since mid-2007. Commitment of the parties to implement AMA dropped since Hamas's electoral victory. Neither EUBAM Rafah nor the PA had power to keep the Rafah Crossing Point open, as this decision laid with Israel and Egypt. As the operation was dependent on Israeli authorities in accessing the RCP to conduct its daily activities its work was affected by Israeli restrictions. Israel was frustrated at the operation's reluctance to take up a more executive role to address the requests the Israeli authorities had. The low trust Israeli authorities had on EUBAM Rafah during this period was illustrated by their reluctance to share information on when the RCP was open, limitations and delays in enabling the operation members to move in and out of Gaza, as well as in authorisation processes of procurements necessary to the operation (Bulut 2009b: 305).

Despite lack of access the EU has not been willing to close the operation, but kept it on hold with minimum staffing waiting the situation in Gaza to change. According to the operation website since mid-2007 the operation has maintained its preparedness to be deployed to the Rafah Crossing Point at a short notice, developed concepts to help the PA to develop its border control operations, and since October 2014 through a PA Preparedness Project provided the PA with enhanced capabilities through workshops, training sessions and study trips that focus on customs, border police and security.²⁷ In 2015 EUBAM Rafah formalised its cooperation with the PA General Administration for Borders and Crossings (GABC) that aims to continue capacity-building of Palestinian border control authorities and to prepare the two counterparts for a swift and effective joint redeployment to the Rafah Crossing Point, should the possibility to do so arise.²⁸

Reactivation of EUBAM Rafah has been discussed several times. The EU brought this option up in December 2008-January 2009 period when the conflict in Gaza escalated due to the Israeli military operation Cast Lead (Bulut 2009b: 303). In 2009 the operation increased its number of international observers to prepare for reopening of the crossing point that, however, never happened (Lazaroff 2009). Since 2007 the Rafah Crossing Point has been open only randomly to allow humanitarian cases to go through, but there are no regular opening hours and EUBAM Rafah remains on stand-by. Since the June 2010 flotilla incident international criticism condemning Israel's blockade policy on Gaza has grown stronger. EU High Representative Catherine Ashton tried in 2010 and in 2011 to convince Israel to reopen Gaza crossing points. Israel's response was that it was not going to allow ineffective EUBAM Rafah to restart its activities in Rafah, and would only allow the EU to be active were it able to establish a strong and effective operation that would prevent smuggling. Hamas also saw that EU observers were not needed in Rafah, but in their view this was due to Palestinians' proven capacity to operate the crossing point themselves.

²⁷ Information from <http://www.eubam-rafah.eu>. Accessed on 20 January 2016.

²⁸ Combined note on cooperation between the Palestinian General Authority for Border Crossings and EUBAM Rafah signed on 23 July 2015. <http://www.eubam-rafah.eu/files/EUBAM%20-%20GABC%20Cooperation%20English.pdf> Accessed on 9 December 2015.



As reopening of Rafah Crossing Point seems unlikely, alternatives to EUBAM Rafah have been discussed. An option to merge EUBAM Rafah with EUPOL COPPS has been brought up, but according to an EU source Israel has rejected this as it does not want EUBAM Rafah to have its mandate extended beyond Gaza. Another suggested solution has been for the EU to establish a naval operation to monitor the Palestinian and international waters (Bouris 2014: 118-119, 124).

Some non-governmental organisations have called the EU to close the operation and withdraw from the AMA arrangements. In the view of an Israeli human rights organisation GISHA (2009: 172-173) the EU's decision to keep the operation in Israel while it cannot actively execute its AMA task is in fact a recognition, tacit approval or complicity in an act of collective punishment by Israel to the population of Gaza, which is a violation of the Geneva Convention (see also Bulut 2009: 205-6). In its official statements, the EU views the situation differently, fearing that closing the operation would be seen as a failure, while keeping the operation stand-by sends a message that the EU "expects things to change in Gaza" (Bouris 2014: 117). At the same time, however, opinions vary within the EU, and at least individual EU representatives have been quite critical regarding maintaining EUBAM Rafah in its current inactive status (Bouris 2014: 123-124).

6 ASSESSMENT OF EU MISSIONS AND EU POLICY IN THE OPTS

This concluding section explores how scholars and other observers of the Middle East conflict have assessed the two EU CSDP operations, as well as the EU and other international support to the security and justice sectors in the OPTs. How does the earlier literature on this topic perceive the effectiveness of international aid in the OPTs? At least two general observations can be detected: first, most observers seem to agree that the EU CSDP operations (or more widely international aid actors in the fields of SSR and JSR) have achieved the set goals and worked effectively in providing technical assistance; and second, observers have grown increasingly critical over whether the EU's focus on technical assistance has been appropriate to address the current political and security situation of continuing occupation and intra-Palestinian divisions.

Kerckäinen et.al. (2008: 28-29) assessed that launching of EUPOL COPPS was a significant step in the EU foreign and security policy. Together with EUBAM Rafah it was the first EU crisis management operation in Europe's volatile and strategically important neighbouring region in the Middle East. Establishing two operations in the region raised the EU's visibility, credibility and political weight, and reinforced the EU's position as the largest donor in the Palestinian territories. The review praised the EU's decision to focus on supporting the Palestinian civil police as politically "intelligent and well-considered decision" as it focused on the security of ordinary Palestinians rather than on the fight against terror that was the focus area of the US support. Bouris's (2014:120-122) analysis of effectiveness²⁹ of EUPOL COPPS and EUBAM Rafah in the

²⁹ Bouris (2014) uses three criteria to assess effectiveness of EU missions' performance in the fields of SSR and the rule of law: generation of legitimacy, coherence, and regulation of violence/ability of enforcement. Generation of legitimacy is examined through four elements:



field of SSR concluded that there was a consensus both internally in the EU and outside of it that EU CSDP operations were necessary tools to address the conflict situation: EUBAM Rafah was established after the signing of AMA between Palestine and Israel, while EUPOL COPPS was launched upon the PA's request.

An early assessment stated that the project approach utilised by EUPOL COPPS was perceived to work well in this type of crisis management and to form a useful link between crisis management work and development aid. By enhancing radio capacity of the PCP and in providing trainings to police officers on how to use and maintain the communication system through its early communications project EUPOL COPPS had had a positive impact on everyday security of Palestinians as well as of Israelis (Kerkkäinen et.al. 2008: 29). Also other observers have concluded that EUPOL COPPS has, through training, advise, and infrastructure and equipment assistance, contributed to strengthening the capacity of PA in policing and fighting crime (Asseberg 2009; Bulut 2009a). Neuvonen (2014) brought up that EUPOL COPPS has contributed to the professionalization of the civil police force in the West Bank, helped the PCP to develop sophisticated crime investigation techniques, provided specialised advisers in specific areas, and made tangible contributions to equipment, infrastructure and assessments. Bouris (2014: 157-158) has furthermore stated that EUPOL COPPS, together with the European Commission's Seyada program, have illustrated the EU's long experience and tested models on how to design and run reform programs in justice sector and promote the rule of law objectives. Local ownership of the EU's JSR programs has been guaranteed by basing them in the Palestinian Reform and Development Plan (PRDP). Similarly, EUBAM Rafah's performance during its fully active period was assessed positively as it managed to significantly increase the freedom of movement of Palestinians, and enhance capacities of the PA security and customs officers at the Rafah crossing point. High level of local ownership was guaranteed by the fact that the crossing point was run by Palestinian Border Service rather than EU Monitors (Bulut 2009b; Bouris 2014: 120). Both operations managed to increase the feeling of local ownership by building capacities of local actors (civil police officers and security and customs officers).

In his analysis of policing in the West Bank and Gaza Saiygh (2011) is far less positive about the technical achievements of the EU and other Western donors in building security sector and the Palestinian state in the West Bank. According to him, the West Bank security sector has become donor-led with little local responsibility and initiative as some security elements receive donor funding while others remain in marginalised positions. The US has funded the National Security Forces and the Presidential Guard while the EU has focused its donor support to the Palestinian Civil Police. At the same time the CIA has clandestinely provided support to the General Intelligence Department and Preventive Security Apparatus. In Sayigh's view, donor support and training have been fragmented without coordination. At the same time, donor efforts have focused on technical training and failed to support developing indigenous planning capacity of the West

internal cohesion and consensus over the initiative, the ability to mobilise other players, broader legitimacy on the ground, and local ownership. Coherence is formed from three elements: first, clear objectives of different EU players; second, consensus on the mechanics of the mission and shared belief among the different state-building agencies; and finally, coordination and clear division of labour among those agencies.



Bank security actor, including the Ministry of Interior. On the other hand, in Gaza, due to political and financial boycott by the Roadmap Quartet, Hamas has been forced to build its own streamlined security system.³⁰ In isolation Hamas government has established security sector with formal training facilities. According to Sayigh (2011: 12) Gaza security sector is more integrated and suffers much less from factional disputes than the one in the West Bank.

In Tartir's (2015: 13) words, in their support to the PA in the West Bank EUPOL COPPS and USSC have failed

"to support democratic governance and improve civil oversight and accountability due to the technical nature of their intervention. Both bodies focused on a conventional train-and-equip approach which created a more skilful security forces, but failed to generate institutional capacity to design, plan, and conduct training indigenously. Their support paved the way for moving towards authoritarianism and the establishment of a police state."

The absence of democratic governance and constitutional order in which international support to the Palestinian security and justice sectors takes place is at the core of criticism of the EU's actions, including its CSDP operations in the OPTs. The EU decided in 2007 not to engage with the Fatah-Hamas unity government despite that the EU election observers had assessed the 2006 parliamentary election as "open and well-run."³¹ Later, the EU opted to cooperate with Fayyad's West Bank government that was perceived as a good 'partner for peace' while not engaging with Hamas in Gaza. These decisions have affected the work of the two CSDP operations. They have had negative implication for the legitimacy of the operations and the EU in the eyes of Palestinians, but also hampered the efforts to strengthen the rule of law that cannot proceed without functioning parliament, democratic control and a judicial system (Bouris 2012: 268; 2014: 121-122, Collantes et.al. 2008: 16). Both the West Bank and Gaza, as Sayigh (2011) underlines, have a fundamental problem that the restructuring of security sectors takes place in the absence of democratic governance and constitutional order. Donor support upholds the division and contributes to increasing authoritarianism of both systems. Sayigh argues that a number of critical steps need to be taken to divert the current trend: genuine Palestinian ownership needs to be achieved in security sector reform, the West Bank and Gaza security sectors need to be reintegrated with government monopoly on force in both regions, and a new national security vision must be developed through a process that engages all stakeholders.

Neuvonen (2014) argues that EUPOL COPPS has made little effort to engage with Palestinian public and civil society, the participation of which in public debates and decision-making processes

³⁰ By 2011 the West Bank government had received for rebuilding its security sector nearly USD 400 million from the US in technical assistance and training, and additional USD 47 million from the EU and its Member States. In comparison, Hamas government in Gaza has received only minimal outside assistance, mostly police training from Iran, Syria and Sudan (Sayigh 2011: 3).

³¹ See for example the Statement of Preliminary Conclusions and Findings.

http://www.europarl.europa.eu/meetdocs/2004_2009/documents/dv/eueomwestbankgazaprel_stat_e26jan /eueomwestbankgazaprel_state26jan_en.pdf



is essential for any democratic society. Palestinian and international civil society organisations have brought up that while Fayyad government made some progress in the field of human rights during its first years, in recent years human rights situation in the Palestinian territories has deteriorated. Arbitrary detentions, political imprisonments, ill-treatment of detainees, violence against peaceful demonstrations and impunity have been repeatedly reported as human rights violations by the Palestinian authorities. Critics have also brought up that the EU, through its insistence that teaching technical skills can be separated from the political reality in the West Bank, is at least indirectly responsible for the human rights violations, stressing that there is a gap between the EU's human rights rhetoric and its actions on the ground in the Palestinian territories (Mustafa 2015: 225; Tartir 2015: 12; Persson 2013: 169-171; Amnesty International 2013; ICG 2010).

Another point of criticism towards the EU is that it has failed to make any impact on changing the situation of Israeli occupation. The EU's and other international assistance since the Oslo Accords has focused on building Palestinian 'state capacity' rather than supported the formation of statehood. As Le More (2005: 998) concluded, there has been a fundamental contradiction between the international aid community's political reasoning - to resolve a conflict between two parties - and the way they perceive their own role as technical support for institution-building directed only at one of the two conflict parties. Palestine is perceived to be a post-conflict state, which it is not, as it does not fulfil many of the criteria of state. Economically Palestinians are dependent on Israel that collects the revenues forming an essential part of the PA budget. The PA's control over its own territory is continuously undermined by Israeli security forces' actions and by the Israeli settlement policy. The rights of Palestinians are restricted by the occupying power and the PA's limited capacity to govern the territory and population under its control. The EU CSDP operations have been criticised for neglecting the difficulties of building a police force when there is no state, and when the single major hindrance for building civil police force is Israel's occupation of Palestinian territories (Sabiote 2010; Bulut 2009a: 294; CITPax 2006:24). Mandy Turner (2011: 3) has pointed out that while a survey brought up that in 2008-2009 the key security-related concerns of Palestinian civil society were lack of protection against the occupiers and the limited oversight of the PA's security services, neither the EU nor the US has addressed those concerns in their security sector reform programs. Bouris (2014) has brought up that the EU's justice sector support is also seriously affected by the Israeli occupation. Palestinian judges and police are often unable to carry out their work due to limitations to their freedom of movement by IDF checkpoints. They cannot act upon crimes committed by Israeli citizens in the Palestinian territory, which means that they cannot for example respond to Israeli settler violence against Palestinian villagers. At the same time, Israeli police and the IDF often enter the PA-controlled territories to make arrests.

It has become evident that the 'technocratic solution' put forward by the Palestinian Prime Minister Fayyad and strongly supported by the EU and others in international community, is not working. The rationale of Fayyad's solution was that if the PA fulfils the security commitments to 'end violence, terror and incitement through restructured and effective Palestinian security services' as it was outlined in the Roadmap it could undermine Israel's argument that due to poor security situation it has to keep its soldiers and settlers in the West Bank. Succeeding this, Palestinians would be one step closer to the statehood. The end result has been that the Palestinian security forces have actually been ensuring the security of Israel rather than Palestinians. In practice, while



Israel has indeed expressed its satisfaction many times for increased security, there has been no change in the situation of occupation. Israeli authorities have also been reluctant to expand the PA security forces' areas of operation. Instead, the PA security forces have arrested people at Israel's request. Upholding security has also led to problematic situations when Palestinian civil police officers have used violent means against Palestinians who are demonstrating against the Israeli occupation. Such incidents lower the trust of Palestinians towards the PCP and the PA, but also towards the EU that supports the PCP (Persson 2013: 167-168; ICG 2010: 5, 18-21).

The point of criticism is not that the EU and others should not support Palestinian security and justice sectors reforms due to the flaws in the process and difficult political situation. Rather, many argue that the EU has neither used its full potential to push forward comprehensive reforms nor taken sufficiently active role in reactivating the peace process that would bring political solution to fundamentally political questions over Palestinian sovereignty and territory. Even European officials Bouris (2014) interviewed stated that the EU is not sufficiently using its tools to bargain with Israel. The EU has for example rarely used its economic influence on either Israel or the PA, despite that it is an important trade partner of the former and the largest donor for the latter. Common explanations to the EU's ineffectiveness in pushing forward a political solution have been that the EU has been marginalised by the US and Israel in all previous peace processes, and that the EU's internally divided views over Palestinian-Israeli conflict prevent it from becoming a strong actor. To illustrate the latter problem, in the UN voting on the Palestine's non-member observer state status the EU member states' votes were divided. But both Persson and Bouris who examine the EU's long term role in Palestinian-Israeli conflict conclude that over the years the EU has managed to introduce important concepts and ideas for conflict settlement in the OPTs, such as the 1967 borders and the two-state solution that have become widely accepted by all parties. Furthermore, the EU has been seen in the past as the only international actor to push Israel to fulfil its international obligations and to function as a counterforce against the demands by Israel and the US. The EU is seen to possess the capacity to push the dormant peace process forward, but in order to do so it should use the variety of its political, economic and technical instruments more effectively (Bouris 2014: 167, 173-174; Persson 2013: 178-179, 208-209).



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8 INTERVIEWS

Nr	Category	Date of Interview
P1	Former EUPOL COPPS international staff	4 March 2016
P2	2 EUPOL COPPS international staff members	7 March 2016
P3	EUPOL COPPS international staff member	7 March 2016
P4	Representative of Palestinian Attorney General's Office	7 March 2016
P5	EUPOL COPPS international staff member	7 March 2016
P6	2 EUPOL COPPS international staff members	7 March 2016
P7	EUPOL COPPS international staff member	8 March 2016
P8	Representative of Palestinian Civil Police	8 March 2016
P9	EUPOL COPPS international staff member	8 March 2016
P10	EUPOL COPPS international staff member	8 March 2016
P11	3 Palestinian political analysts	9 March 2016
P12	Palestinian civil society representative	10 March 2016
P13	Palestinian civil society representative	10 March 2016
P14	2 Palestinian civil society representatives	10 March 2016
P15	Palestinian civil society representative	10 March 2016



P16	EEAS Official	11 March 2016
P17	2 EEAS Officials	11 March 2016
P18	Representative of Palestinian Human Rights Commission	14 March 2016
P19	Palestinian civil society representative	14 March 2016
P20	2 Representatives of EU Member State	14 March 2016
P21	Representative of Palestinian General Administration of Borders and Crossings	14 March 2016
P22	Representative of the United Nations Development Programme	14 March 2016
P23	EUPOL COPPS international staff member	15 March 2016
P24	4 representatives of the US Bureau of International Narcotics and Law Enforcement (INL) and the US Security Coordinator's Office (USSC)	15 March 2016
P25	2 EEAS Officials	17 March 2016
P26	2 EUBAM Rafah international staff members	18 March 2016
P27	Representative of EU Member State	22 March 2016
P28	EUPOL COPPS international staff member	3 May 2016
P29	Former EEAS Official	20 May 2016
P30	Former EEAS Official	2 June 2016
P31	EEAS Official	11 June 2016
P32	EEAS Official	13 June 2016
P33	EEAS Official	13 June 2016
P34	EEAS Official	14 June 2016

