

Denis J. Sullivan

*Non-Governmental
Organisations
and Freedom
of Association*

*Palestine & Egypt
- A Comparative Analysis -*

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1. Introduction

1.1 Research Questions and Methodology

This research analyzes the regulations governing non-governmental organizations (NGOs) in Egypt and Palestine. *Jam'iyāt khayriya* - charitable associations and other NGOs - have been leading the efforts at promoting economic and social development in local communities throughout both societies, especially in the past two decades. In the absence of effective governmental projects that address the most basic needs of various communities, non-profit groups (Islamic, Christian, secular, feminist, labor, and capitalist) are attempting to fill the void. Governments in Egypt and Palestine are increasingly unable to devote limited resources to a plethora of problem areas - education, housing, health care, day care, agricultural and industrial productivity, transportation, and employment. Elements of would-be civil societies in different settings must fend for themselves.

In recent years, NGOs in Egypt and Palestine have been extended tremendous responsibility for socio-economic development. The international donor community has coupled that responsibility with substantial economic and technical assistance. In Egypt, the Social Fund for Development, established by the World Bank in 1990 and currently capitalized at over \$640 million, is relying on NGOs to help it in its efforts to ameliorate the social costs of economic adjustment and privatization. In Palestine, NGOs similarly are being touted as the most appropriate mechanisms for achieving the economic development that has eluded (or been denied to¹) Palestinians for decades, development that is vital to the success of Palestinian autonomy. To demonstrate such faith in the NGO sector in Palestine, the World Bank is planning to establish a \$15 million Trust Fund for NGOs in 1996.

While great hopes lie with NGOs in both of these distinct political and economic settings, there nevertheless remains great pessimism among development specialists familiar with both societies. The pessimism is a result of the understanding that NGO activities in both places (Egypt, a nation-state; Palestine, a state that is currently "under construction") traditionally have been restricted. The pessimists are bolstered in their argument by the fact that Egypt's Law 32 of 1964 is generally aimed at *limiting* the autonomy of NGOs and at keeping governmental control over their activities. As the Palestinian National Authority (PNA) works to regulate its NGO community, there is great concern among the NGO and international donor communities about the way in which the PNA will establish its legal and regulatory mechanism to govern (and control?) the NGOs under its auspices. Of special concern is the fact that the PNA looked to the Egyptian law (among others, including Jordan's law) to find "inspiration" in drafting its own. Still, despite the uncertainties of the legal/regulatory environment within which NGOs must operate in Palestine, and despite the strict regulation of NGOs in Egypt, local social activists as well as donor officials understand that NGOs remain the "key" to development in both countries.

This research project seeks to demonstrate that the trust put in NGOs is well placed because of the laudable history and continuing potential of non-profit, charitable, developmental, and civic associations in the region. This is a follow-up and an expansion of previous field research conducted in Egypt during 1990-91.²

1. 2 Hypotheses

This monograph is part of a larger research project, currently in progress but far from concluded. The initial question I faced once I arrived in Palestine to conduct research for the larger research project was suggested to me by a great many Palestinians, in both the PNA and the NGO community. It is summed up as follows:

The way in which the PNA deals with NGOs now indicates the underlying philosophy of the coming regime. Is this philosophy of the PNA supportive of civil society, democratic governance, and popular participation or is Palestine "destined" to be ruled by another authoritarian Arab regime?

In interviews with PNA officials as well as Palestinian NGO (PNGO) leaders, it was evident that the proposed law aimed at governing charitable associations and private institutions had much in common with the Egyptian law of associations. PNA officials admitted "looking at" Egypt's law as well as laws from Jordan, Denmark, and the United States. As Egypt's law has been under attack by the NGO community there and somewhat, though more quietly, by the international community, the fact that Palestine would look to the outdated and much maligned law in Egypt as a model was an outrage to international donors and PNGO representatives; it also came under attack by some officials in other parts of the PNA, including PECDAR and the Ministry of Justice.

*If Palestine is threatened with a restrictive and undemocratic regime (though I make no claims that this *will* occur), the NGO community is in danger of having its laudable past remain in the past; its future will be less than stellar under any law that severely limits its freedom of movement and gives a Palestinian government extensive powers over its activities. PNGOs face another threat to their sustainability and that is the very real threat to financial support from the international donor community. As governments world-wide seek to support the PNA and President Yasser Arafat, they shift monies that used to go to sustain NGO activities away from these and into the coffers of the PNA. This has already begun to occur. The PNA is unlikely to take that money and deliver it to the same NGOs that used to receive those funds directly. This financial issue is connected directly with the proposed NGO law in that the latter stipulates in various places that NGOs must get permission from the PNA to receive funds, especially foreign funds.*

The broader research project, of which this initial report is a part, is aimed at academics, development specialists, and policy makers. Based on field work and interviews with NGO leaders, government officials, and international donor representatives plus an analysis of primary and secondary sources, my intent is: (1) to better inform development theory about the role of NGOs in promoting development and restructuring using case studies from the Middle East; (2) to examine whether there is a correlation between NGO and civic association activities and political development; and (3) to suggest specific solutions to evident problems facing NGOs in the Middle East. The latter in particular should be of interest to policy makers (domestic and international) and NGO leaders.

To frame and guide this work, a series of hypotheses are specified:

- (1) governments inhibit individual and community activism in the realm of socio-economic development;
- (2) the *jam'iyāt khayriya* (charitable associations) and *munathamaat gheir hukumiya* (NGOs) promote socio-economic development through the provision of basic social services (education, health care, job training, etc.);
- (3) NGO efforts *bolster* the legitimacy of the existing system.

The flow of ideas from these hypotheses is almost counter-intuitive - i.e., if governments inhibit community activism, how can NGOs function properly to promote development? If NGOs promote development, how does this *bolster* regime legitimacy? Why does this not *undermine* legitimacy - especially if governments inhibit NGO efforts? While this might sound more logical than how the hypotheses are presented, in fact the research I conducted in Egypt in 1990-91 suggests that the situation is much more complex than it appears. Governments are not simply "out to get" community activists. Governments often encourage such activism even if they keep a tight

control over various types of activities. And most NGO leaders are not working to undermine governments. Many of them need and appreciate government involvement in their activities even if they prefer more freedom of action. And, of course, these hypotheses are posed without suggesting that they are truths; they are ideas to be tested in the field.

Time is also an important factor in knowing *whether* NGOs enhance development and *how* governments affect these groups. Thus, this research will examine the difference between NGO activity over time and under different administrations: Is control over Egypt's NGO activities more liberal now than it has been in the past? Will Palestinian government enhance NGO effectiveness beyond what they were capable of doing under Israeli occupation? This research is therefore comparative *between* two societies and comparative *within* each society *over time*.

For policy makers working with these organizations, two other issues are examined: (1) "smaller is better" in the sense that small development projects targeted at finite communities promote more tangible results than do large, "demonstration" projects that only secondarily target larger, more amorphous, communities; and (2) "local is more legitimate", in the sense that people prefer to work with and listen to members of their own community who know what community needs are and who can mobilize support and cooperation from a target population; less appreciated are foreign aid contractors and even national government bureaucrats, unfamiliar with local needs, politics, etc. The literature on development and aid provide enough evidence to suggest that these two issues are no longer hypotheses to be tested but can be considered corroborated "fact". These are addressed in this research to determine if there is further evidence for use by policy makers, NGO leaders, and aid donors.

1. 3 Theoretical Framework

The theoretical framework of this research centers on the issue of organizations as key to economic and political development. While this theory finds much in common with Huntington's analysis of "political institutionalization" - e.g., "without strong political institutions, society lacks the means to define and to realize its common interests"³ - it differs considerably from the state-centrist focus of his analysis. Instead, this theoretical framework is grounded in the analysis of Esman & Uphoff⁴ who argue that development, which is intended to improve productivity and distribute its benefits more equitably among the majority, requires a range of supports: **Public investments** in physical and social infrastructure; a supportive **policy environment**, **suitable technologies**, and **effective institutions**, to enhance the capacities in the public and private sectors. This framework relies also on Bellah and his collaborators⁵ who find that the "good society" depends overwhelmingly on institutions and that improvement in communal lives requires people to work within the existing institutional framework to reform the system, not throw it out entirely and start from scratch.

The theory of organizations and institutions as essential to the development process draws on the questions raised by Tandler in her report to U.S. Agency for International Development (USAID), *Turning Private Voluntary Organizations [PVOs] into Development Agencies*. Tandler traces the movement of PVOs away from their traditional "relief" work to become "mini-development agencies". She criticizes the notion that there is a difference between welfare services and development and demonstrates that PVOs have been making significant contributions to development for years. Implicitly, PVOs/NGOs need not shoulder numerous responsibilities which would lead to greater bureaucratization and generalization. They can continue to "show the way for governments in areas where they have specialized and where, at the same time, targeting on the poor may be easier."⁶

1. 4 A Private Response to the State

The increasing role of NGOs in providing basic social and economic services in various communities throughout the Middle East is a direct response to state-bureaucratic neglect and/or failures in these fields. As such, these organizations are an underrecognized aspect of the world-wide movement toward "privatization" (broadly defined) and easing the state out of its dominant position in economic affairs. This is certainly occurring in Egypt. As NGOs assert themselves by providing a variety of services (health, education, agriculture extension, vocational training) the government *pretends* to provide - but does so either only on paper or ineffectively, with poor quality and lack of "sincerity" on the part of its employees - this is clearly a case of "private" organizations replacing the state.

In Palestine there has been no "Palestinian state", only a repressive and economically stifling Israeli occupation. With the development of a Palestinian "state", there appears to be a reverse process than that in Egypt as a national authority attempts to assert itself over the institutions that have sustained Palestinian society for many decades. Private actors (NGOs) remain vital to the supply of health and education services among many others; but state leaders are almost desperate in trying to legitimize their authority in the eyes of the Palestinian public. Providing services is a handy political device to gain legitimacy, if only they can provide services *well*.

International aid donors (multilateral aid agencies, such as the World Bank and other U.N. bodies) and even many governments (bilateral donors as well as individual governments supporting their own NGO communities) still tend to favor NGOs when it comes to service provision. Their recognition of the benefits provided by such organizations is demonstrated by the increased funding aimed at NGOs by both governments and donors. Egypt and Palestine are evidence enough of this new emphasis. For governments, much of this is no doubt an aspect of control, or an attempt to have some

influence in and on these groups and to take some credit for their successes, which are many. Donors, on the other hand, are often frustrated by the lack of progress in the projects they fund through governments. They see NGOs as less bureaucratic, less corrupt, and often more effective and efficient than are most governments and thus as more able to get money and technical assistance directly into the hands of needy community groups. While donors in Egypt have been looking for ways to direct their assistance more directly to communities through local NGOs because of the Egyptian government's ineffectiveness in using such aid, in Palestine the reverse has developed. For years, international donors have provided hundreds of millions of dollars (annually, in the last few years) directly to PNGOs. Now, with the establishment of a Palestinian "authority" or governmental structure, donors are taking money out of NGOs pockets and directing it to the authority. This should prove to have a significant and debilitating effect on the PNGO community.

The enormous expectations placed on Egyptian NGOs by the government and especially by the World Bank to offset the negative effects of structural adjustment and privatization plus the expectations placed on Palestinian NGOs to develop a terribly crippled economy indicate the extent to which states have been unable to fulfill their self-ascribed development and social welfare functions. It also indicates the extent to which an occupying force has total disregard (to say the very least) for the welfare of a people it controls. While governments worldwide abdicate these roles, many fail to relinquish their tight controls over society or to otherwise provide a supportive policy environment necessary to allow societal organizations to more freely assemble, speak, or engage in development activities. This research will assess this worldwide phenomenon and place it in the context of Middle Eastern societies; it thus relates as much to economic development theory as it does to the growing literature, theory, and understanding of "civil society" (and issues of political development, democratization, and pluralism) in the Middle East and elsewhere.

1. 5 Methodology

Conducting this research involves months of field research, visiting scores of NGOs, government offices, project sites, and donor agencies throughout Egypt and Palestine. The methods I use are: open-ended interviews in Arabic and English, on-site inspections, and evaluations of organizational goals and achievements. In Palestine, unlike Egypt, I have had the opportunity to develop and distribute a questionnaire/survey. In Egypt, the Ministry of Education regulating foreign researchers provides strict guidelines that prohibit questionnaires (as well as tape recording of interviews and even taking notes during interviews!⁷) I rely as well on NGO publications, government documents, and donor reports. The availability of data is enormous as there are thousands of Egyptian NGOs and hundreds of Palestinian NGOs.

This project is not only relevant to the current political and social environment of the Middle East in general, it is also relevant to donor funding policies aimed increasingly at NGOs. It is, unquestionably, of interest to host governments, Egypt and the Palestinian National Authority, both of which claim to rely on NGOs to promote development and reconstruction.

From these Middle Eastern cases, development theorists and policy makers will be better informed about the capabilities of NGOs to fulfill the numerous tasks assigned to them. It is important to know whether NGOs can continue to achieve their traditional objectives (relief, charity, community development) plus satisfy the growing demands placed on them by governments and international aid donors determined to find effective organizations capable of taking on some of the state's responsibilities (e.g., labor retraining, transportation, housing) in the move to a more market-oriented economy. It is as important to understand the role such civic associations play in political development, including but not necessarily equated with democratization.

Even before the comparative analysis is extended beyond the Middle East, the two countries in question may benefit considerably by seeing what is occurring to one another. Palestinians may learn much from Egypt and the situation of NGOs there - even if that learning means knowing what *not* to do (e.g., establish a restrictive law giving government sweeping powers over NGOs).

* * *

2. State Building & Law Making in Palestine

The summer and fall of 1995 was a crucial period in setting the stage for future state-society relations in Palestine. After negotiating and finalizing the Interim Agreement on the West Bank and Gaza Strip (the Taba or "Oslo 2" Agreement), the PNA set out to draft and nearly institute a law that would govern NGOs broadly defined (charitable and relief groups, both local and international; foundations; and private institutions). This also was a time that the NGO community itself was organizing and lobbying against this particular law. Having a law to govern and regulate the NGO sector was not, in and of itself, an issue of contention for the Palestinian NGO community. It was the specific law and the general spirit of its drafting that most concerned and mobilized this community⁸.

In a series of interviews conducted between October and November, 1995, this issue continuously rose to the top of the agenda for any meeting held with either the PNA (PECDAR, Ministry of Social Welfare, and Ministry of Justice) or with the Palestinian NGOs and other non-profit organizations (such as Cooperative Societies, not technically governed by NGO laws). Given that a significant part of the law concerns the rights and responsibilities of NGOs regarding the acceptance of international aid, the draft law also was very much on the minds of international donors, such as the World Bank, International NGOs (INGOs), and the European Union, representatives of which also were interviewed for this research.

Attitudes of Palestinian Authority officials and NGO representatives, largely reflecting a political "class" as well as the politically and socially active "elite"⁹, are important to understand, especially given the still-to-develop traditions and routines of Palestinian state-society

relations. As governors and governed begin to work together, or often at cross purposes, it is useful to see how they develop the methods of governing, obeying authority, protesting against each other. An excellent example of how the PNA and Palestinian society are dealing with one another, negotiating future relationships, lobbying for current interests, and complaining about one another's actions is the case of the proposed NGO law, written in 1995. Palestinians can use this case to learn how to "negotiate" state-society issues specifically and perhaps more generally, e.g., in terms of creating the necessary "social contract" between this new state and this old society. Others (outside observers, students of Palestinian and comparative politics) may use this case to get a better understanding of a variety of theoretical and policy issues, including:

- civil society
- democratization (if this can be considered as separate from civil society)
- self-reliant development
- role of international donors in promoting socio-economic development
- role of international donors in promoting or prohibiting political development
- relations between INGOs and local NGOs and the role of "government" in restricting those relations

What is clear from the Palestinian case is that issues of democratization, development, and foreign assistance cannot be separated, especially given the massive amounts of money the donor community is pouring into the Palestinian Authority's coffers *and* the fact that much of that money is being diverted from the NGOs. Under Israeli occupation since 1967, Palestinian NGOs (PNGOs) in the West Bank and Gaza Strip were the only significant "entity" that could and would promote development projects for Palestinians suffering from the occupation. Thus, PNGOs would receive tens of millions of dollars each year from international donors - U.N. and

other multilateral agencies, governments and INGOs - to help them in their tasks. But,

"donors told us 2 months after Oslo [i.e., the signing of the Oslo Agreement in September 1993] that no more money would be coming to NGOs directly. We must go to the PNA!"¹⁰

Now, there's the rub. What will the PNA do with that money? Will it turn it directly back into the NGOs that must come looking to it for the money that used to come directly to them? Or, will the PNA use that money for vastly different purposes from what it was originally intended and offered? Some NGO officials complain that "90% of foreign aid to the PNA [is spent on] policing, security, and surveillance."¹¹ Others worry that whatever aid does get to NGOs will be directed to those who support the government and money will be refused to any NGO considered "opposition".

The idea of "pro-government NGOs" and "opposition NGOs" stems from the historical development of Palestinian NGOs in the West Bank and Gaza Strip after Israeli occupation began in June 1967. The internal divisions within the Palestine Liberation Organization as well as the general nationalist movement were replicated in the Occupied Palestinian Territories, often to the point that if a pro-Democratic Front NGO were established in a given village or town, Fateh would establish a similar NGO, but one dependent on it. This tended to promote a plethora of NGOs in many communities in the occupied Palestinian territories. An Israeli-PLO peace process has not ended these divisions; rather, it has allowed these divisions to continue, perhaps even to become more stark. As Barghouti states, with the signing of the Gaza-Jericho agreement in 1993,

"it is inevitable that there will be some polarization and differentiations in this broad-based sector [NGOs], especially in that some of the activists in this movement perceive their role as temporary and are waiting for the establishment of a Palestinian authority ... Consequently, a proportion of what are considered

NGOs today will be transformed into government organizations or will become part of the authority's structure."¹²

A great many others will remain outside, in the non-profit, charitable, developmental, voluntary sector. Whether they will remain as vital to the support and sustenance of Palestinian society as they have been under Israeli occupation remains to be seen. The potential to retain their significance in socio-economic development depends to a great extent on the legal and regulatory environment within which they operate.

The legal framework to which NGOs must adhere is an important place to start when discussing the role and potential of NGOs in providing services (health care, job training, literacy programs, day care centers, agricultural extension, legal advice, credit programs, and so on). It is important to know whether NGOs are given considerable latitude in planning and executing their activities or are instead restricted, controlled, and confined in those activities. Such legal frameworks also indicate the way in which a government will exercise its authority over various other aspects of society - e.g., elections, freedom of expression and assembly, human rights, trade and investment, and so on.

What is occurring in Palestine in the mid-1990s is a rare case of state building. New states are not created much any more. As the PNA develops the institutions and the legal frameworks to govern, inevitably there will be a clash with those who are to be governed. Palestinians have been without a representative government (i.e., in close and daily contact) for decades; now they have a chance to create one. But, in the past, in the absence of a government and in the face of Israeli military occupation and usurpation of rights and confiscation of lands and deportations and demolition of homes and inhumane treatment in prisons and elsewhere, it has been the NGOs and grass-roots organizations and popular committees that have sustained the movement of a society to resist such an occupation.

And these NGOs were supported, funded, often created by the Palestine Liberation Organization (PLO).

With the creation of the PNA, led by the PLO, many of the NGOs that were established to act on behalf of the PLO in the occupied Palestinian territories "joined" the PNA structure and no longer can be considered "non-governmental." Still, there are a great many NGOs in Palestine that are either in opposition to the PLO and PNA and the current "peace process" or are neutral on these matters or maybe even supportive of the PLO but do not want to be part of the PNA. The latter two groups remain committed to working outside the government, in the non-profit, grass-roots, and/or charitable sectors. Given the chaotic situation developing in Palestine with the piecemeal transfer of records and of authority from the Israeli occupation administration to the PNA, it is all but impossible to develop a concise picture of the NGO community in Palestine. What is clear is that the number of NGOs in both the West Bank and Gaza Strip is at least 700 (and as many as 1500). Fully half of this minimum figure of 700 (377) are found in a single bloc, the General Union of Palestinian Charitable Associations. Palestine is replete with a variety of blocs (unions, networks, federations); often there are a few different blocs within the same sector (e.g., there are at least four in health). The latter are a vestige of the divisions within Palestinian society during the occupation. Still, not all blocs should be seen merely as a vestige of internal divisions; many exist in fact to bring a unity long denied to Palestinian society. See Table 2.1 to get an initial idea of the extent of both the networking and the divisions within the Palestinian NGO community.

Into this fractious situation, the PNA has come. And it has not come with the full support of the Palestinian people. In addition to a general disappointment with the terms of Palestinian "autonomy", there is an added dimension of resistance to joining the peace process coming from the military wing of Hamas. This segment of an otherwise socially activist Islamic Resistance Movement, along with

the Islamic Jihad, have insisted on using any means necessary (i.e., including violence) to resist the "peace process" that they see as continuing Israel's occupation of Palestine with the complicity of the PLO. (The PLO/PNA continues to hold discussions with Hamas leaders in order to bring them into the process and especially to participate in the legislative elections in January 1996.) Indeed, much of the terms of the autonomy agreements give the PNA a huge police apparatus that will be used more to protect Israelis than fellow Palestinians. With at least seven different police units totalling 25,000 to 30,000 in the Gaza Strip alone, this force is used to root out the Islamic opposition against Israel more than to "protect" Palestinians from each other, especially considering that Palestine has a very low crime rate as compared with Western industrial societies.

With the vestiges of a "police-state" as well as with the approach to policy making within the PNA, the latter is already being compared to numerous other authoritarian Arab regimes. Part of this "presumption of authoritarianism" is Arafat's own tendency toward total control¹³ and concentration of power (including an unwillingness to delegate responsibilities), due to nearly 30 years as leader of the struggle for the liberation of Palestine. Part of it is the recognition on the part of Palestinians that since other Arab regimes are almost universally dictatorial (albeit with degrees of dictatorship), this regime likewise will assume such a method of rule. It is also certainly true that the "twenty-seven year occupation has naturally made Palestinians distrustful of authority."¹⁴

Even more to the point is the practice of the PNA while in power and especially of its various subunits - ministries and police units, including the *mukhabaraat* (secret police). As these entities attempt to impose their will, their "authority" on the population of the West Bank and Gaza Strip, they have consistently offended and often outraged the people who actually carried on the resistance to Israeli occupation for 28 years. Many of these new governors are "returnees" from PLO headquarters in Tunis and from other offices

around the Arab World - Egypt, Syria, Jordan, Lebanon, and so on. Those who have remained to carry out the struggle for independence or just to survive the occupation and all its horrors are skeptical, at least, of these returnees; often they are dismissive of those who have come in to reap the benefits of someone else's daily struggle against oppression and subjugation¹⁵.

New laws or proposed laws on governing NGOs, on political parties, on freedom of expression and association, have been received with a chorus of rejection by interested groups who feel that their years of struggle are being scorned as a new authority¹⁶ imposes its will and drafts legislation without consulting with the people most affected by such legislation. And when there is "consultation", it is often in the form of *Mukhabaraat* (secret police) seeking information from and about individuals and groups, information that is to be used to monitor, control, and/or subvert grass-roots, charitable, and developmental activities, not encourage and support them.

The competition within the PNA between various ministries has put the NGO community in the middle of a bureaucratic and political turf war. NGOs are uncertain which ministry is going to win out in this struggle and which is the one they must "report to" and register with. The turf battle has spilled over, outside the walls of the PNA offices in Gaza, Ramallah and Jericho. For instance, while many NGOs assumed they had to deal with the Ministry of Social Affairs in terms of registering their organizations, these groups also were being "monitored" by *al-mukhabarat al-'aama* (general intelligence). Two "questionnaires" were distributed by the secret police/general intelligence in 1995. The first was a fairly bland questionnaire asking general information about the NGO and its board members. The second, however, was especially intrusive into the personal affairs of individual members of an NGO. For instance, the second questionnaire asked the following questions (among others):

- ⇒ name of mother; her profession, social status and address
- ⇒ individual's passport number, profession, height, color of skin, eyes, hair, blood group, distinguishing marks
- ⇒ name of wife (before and after marriage); name of second wife; third wife; their mothers' names
- ⇒ name of father, his occupation, other family income
- ⇒ names of brothers, their professions and addresses
- ⇒ names of sons and their professions
- ⇒ other relatives' names
- ⇒ names of three important friends (professions and addresses)
- ⇒ "Have you ever belonged to any Palestinian organization? mention date and reason for leaving."
- ⇒ "Have you ever been a member in a political party? Name and Date."
- ⇒ "Has any of your family been charged of spying? Name and Date."
- ⇒ "Does any of your family members belong to a political party? Name of family member and name of party."
- ⇒ "Have you ever been imprisoned for political reasons or others?"
- ⇒ "Write a personal report about events in your life."
- ⇒ Signature

Of course, the *mukhabaraat* threatened any organization that "leaked" this questionnaire outside their offices. Yet, I was able to obtain copies of it from several different sources - none of which was directly from an NGO.

This type of heavy handed approach to "governing" NGOs in Palestine is one of many reasons why the PNGO community is so concerned. In addition to the *mukhabaraat*, Palestinian NGOs are being asked to report to the Ministry of Social Affairs (Welfare). To formalize this, a draft law was prepared and nearly approved by President Arafat and his Council of Ministers, but not by an elected legislative council (the elections for which had yet to occur). How

that draft was prepared, distributed within the PNA (but not outside), discussed by the NGO community (despite not being informed), and later revised and suspended from further governmental approval is the subject of the next section.

* * *

3. Formulating the Draft Law Concerning NGOs

That Palestinian NGOs would have to be regulated was never in doubt, either on the part of the PNA or of the NGO community. How and when that would occur, what form of regulation, under which ministry, with what rights and responsibilities accruing to NGOs - these and other questions were being considered as early as the beginning of 1995. In May, contacts were made between the PNA and the PNGO Network, representing 42 NGOs and speaking on behalf of at least 70 in total (i.e., supporters but not officially members of the Network). The Network held workshops on proposals for regulating NGOs and creating legislation. Before the second phase of their efforts to work with the PNA,

"we received the news that a draft law had been already written, without discussing anything with us. Then, the PNA wouldn't even give us a copy of the law! This is the only law not published or made available to the public"¹⁷.

The law was drafted by three men from the PNA - at least one of whom is an official in the Ministry of Social Welfare (MOSW). The principal author of the draft defended himself in an interview we held in Gaza.

"What's the problem with the PNGOs [the Network]? This is a positive law, not like other countries. Egypt's law is bad for NGOs. I am *with* the NGOs. I want to help them not stop them."¹⁸

The mention of Egypt's law was initiated by this official, not me. It indicates even more his self-consciousness and defensiveness about the "infamous" Egyptian law, which was indeed a reference the

authors made by their own admission. Also, it was an attempt to respond to the PNGO and PECNDAR criticisms that have been circulated either in the press or through personal lobbying. Virtually no Palestinian - officials and especially lay public - wants to look to Egypt's political and bureaucratic system as a model for their own. Nevertheless, the comparison exists, and the first two drafts of the PNA law on associations is an example of this comparison.

Officials from PECNDAR also attempted to have their say as to how NGOs should be governed in Palestine. These officials, however, had a much different law in mind than do their counterparts in other offices throughout the PNA - Social Welfare, Interior, Justice, and the Office of the President. PECNDAR came out quite forcefully with a working paper discussing principles that would indeed *govern* - i.e., regulate but not control - the NGO community in Palestine. But their proposal was not even seriously considered by the PNA. PECNDAR officials say

"we drafted a law for NGOs and we circulated it around the ministries for discussion. But it was simply rejected without any real reason given. We even tried to have a workshop in Jerusalem with NGOs in December 1994 to get NGOs and the PNGO Network to work with us and push the PNA to accept this draft law. But Israel banned this workshop. This is too bad for the NGOs; ours was a much more [liberal] law with more freedoms of activity for the NGOs. With a workshop, we could have built a coalition to pressure the PNA to pass our draft. Instead, [the Ministry of Social Welfare] wrote an alternative draft law. When we received a copy of their draft law on NGOs, our lawyers and others in the office rejected it out of hand! We concluded it would be better for NGOs to close up shop than to live under this law. I'd like to tell NGOs to revolt against this law, but we can't tell NGOs to do this since we *are* the government! Yet, as PECNDAR, our mandate is to fully support NGOs."

In addition to this example of internal PNA disillusionment and resistance to supporting the proposed law, there is some evidence that the Ministry of Social Welfare itself was divided over this law. One fact in support of this statement was found in my own interviews in the Ministry. In Gaza and Ramallah, I found two men each claiming to be the principal author of the legislation and each disavowing the other. Why there is an effort to take credit for a discredited draft law, I cannot say. But it does demonstrate clearly the internal rivalries within MOSW. Another indication of internal divisions was suggested to me by officials from both MOSW and the PNGO Network. Both claim to have heard directly from Intisar al-Wazir (Um Jihad), the Minister of Social Welfare, about her personal dissatisfaction with the proposed law and the way in which the draft was written, distributed, and nearly passed.

Prior to the election of a legislative Council, scheduled for in January 1996, laws were made by decree from the Office of the President (Yasser Arafat), usually with the consultation with his Council of Ministers. Using the law of associations (NGOs) as an example of "how a bill becomes a law", the process looks (theoretically at least) something like this:

- a ministry (in this case, the Ministry of Social Welfare) initiates and sends a draft law to
- the President, who turns it over to
- the Minister of Justice who reviews it and asks the opinion of
- *Diwan al-Fatwi wa al-Tashrii'ah*, the legal council reviewing decrees and laws; they return it to
- the Minister of Justice who passes his recommendation on to
- President Arafat, who seeks advice and a vote from
- the Cabinet of Ministers

Laws could be changed, of course, once the legislative Council was elected and took office.

For the draft law on NGOs, the NGO community in Palestine was not content to "ride out" the storm of this restrictive law and hope that it would be changed in 1996 by an as-yet unelected Council. Instead, they mobilized their members and put on an impressive lobbying campaign against the draft. First, the PNGO Network

"attempted to meet Arafat before he approved this law. We worked with his office in Gaza and he sent to the Israeli-PNA liaison committee the names of five of us who would come from the West Bank to Gaza. We were told it was all set - but when we showed up at the Erez Crossing, the Israelis wouldn't let two of our group in. So the rest of us refused to enter, out of solidarity with the two."¹⁹

Whether Arafat's office had anything to do with undermining this popular effort against the draft law is unclear. Still, if it was the case that Arafat's office had cleared this visit with the Israeli-PNA liaison committee, the fact that this group was not allowed to enter as planned may be attributable to Israeli inefficiency (unlikely), Israeli duplicity (possible), PNA inefficiency (likely) or duplicity on Arafat's part (possible).

Down, but not out of the "game", the PNGO Network continued its campaign.

"We put pressure in every way possible. We wrote papers, put ads in *al-Quds* [Arabic daily newspaper; see ad in Appendix], wrote a newsletter with a translation [English] of the law and an analysis of it, we asked friends in the international community to complain, some of us called ministers and asked them to reject this. Finally, Um Jihad called me and said to 'cool down, be patient, and stop your campaign against the law.' Um Jihad admitted that there was tremendous pressure from international agencies, donors, consulates, representatives of the Union of Charitable Societies, and from political factions."²⁰

With the postponement of a decision on the *first* draft law, a ministerial steering committee was set up to coordinate NGO activities and regulations surrounding them. This committee consisted of ministers of:

- Health (Riad Za'loun)
- Justice (Freih Abu-Mideen)
- Social Welfare (Um Jihad/Intisar al-Wazir)
- Planning and International Cooperation (Nabil Sha'ath)
- Culture and Information (Yasser Abed Rabbo)
- Transportation (Abdel-Aziz Hajj Ahmed)

What the Ministry of Transportation has to do with regulating NGOs, no one interviewed for this research could quite say. It was certainly on the minds of PNGO Network representatives.

By mid-October 1995, a second draft law was distributed by the Ministry of Justice. This draft said that it has taken into account the concerns of various entities, including:

- Ministry of Economics and Industry
- Ministry of Planning and International Cooperation
- Ministry of Labor
- Walid al-Assaly, Lawyer from the PNGO Network

Among the "positive" changes (in the view of PNGO and some international donors) of this second draft include (1) the right of appeal by NGOs against the Minister of Social Welfare, a right explicitly not allowed in the first draft; and (2) the right of a general assembly to decide on combining/ integrating their boards, rather than keeping that right in the hands of the Minister of Social Welfare as in the first draft. The right of appeal is especially significant, since otherwise the Minister of Social Welfare had final say in allowing an NGO to register and provide services. The right of appeal gives the judicial branch a "check" on the power of the Executive Branch.

"More than just the few, but important, changes, the greatest achievement so far is the fact that approval of this draft has been delayed until further discussion. We would like to discuss this with the PNA and the Coordinating Committee of Ministers. But even more, we want the elected Palestinian Council to decide on this important [legislation]."²¹

The PNGOs and their Network are generally displeased, still, with the clauses stipulating that they must get the "approval of" the Minister of Social Welfare to accept foreign assistance - not just report such assistance to the Minister. "Why not just let the board of an NGO decide if it should accept money from a certain group? Why should the Minister have that decision?" The response of a MOSW official to this question was: "because we don't want Iran or other certain groups or countries sending money in to Palestine to undermine us, the government and the society."²² PNGO representatives are especially and mostly concerned about the second article of the proposed law, dealing with registration *and* licensing of NGOs.

"Licensing to us means that NGOs could fulfill the registration conditions but still not get a license to conduct their activities. Requiring both means the PNA will have two ways of controlling us. And they can look cooperative - i.e., we'll let you register - but still act [dictatorially] - i.e., we won't let you do your work!" MOSW officials assert that registration and licensing are one and the same, i.e., "it is the same process. Once you register, *khalaas*, you are licensed as well."

PNGOs do not trust this statement.²³

"We need to be in constant discussion with the PNA about this, about the law, about our role in society. What we need, at least, is a *declaration of principles*...."

Without finishing her thought, this leader in the PNGO Network suddenly realized the significance of her words. She admits she had

no intention of using this phrase, which is the term used for the official document that began the peace process between Israel and the Palestine Liberation Organization. With the parallel having been made, she agreed that the Palestinians themselves need a declaration of principles. Many Palestinians from the NGO community agree that Palestinians as a community need to negotiate with one another, to build consensus on an arrangement between "state and civil society" - i.e., they need a social contract to govern their relationship as they move toward the establishment of an independent sovereign state that is also recognized and supported by the international community.

Easier said than done, however.

The PNGO representative saw the conflict between it and MOSW as a clash of

"competing visions of development. The PNA sees development as a sector-by-sector process with a singular focus on health care by itself and education by itself or agriculture by itself. We, the PNGOs, see development as occurring *across* sectors simultaneously. We must continually think about the interactions and interrelationships of health, education, human rights, and so on." ²⁴

Beyond their developmental philosophizing and social activism, the NGO community is developing a clear sense of its duty to act in solidarity to assert its collective interests vis-a-vis the emerging Palestinian government. That is, it is developing itself as a "lobby group." Beyond simply publicizing its complaints in newspapers and newsletters, the PNGO community has not shied away from using its own contacts within the PNA to request, if not demand, that its interests be better represented in the new governing authority.

"We lobby the PNA as a group but also personally - i.e., any way we can. The PNA isn't just some anonymous, distant government. These are colleagues, friends, former students,

classmates. It is such a luxury to deal with them compared with Israel. We couldn't even speak to anyone there. They didn't care what our problems were. The PNA is different, of course. For example, with the proposed law on NGOs, I called Nabil Shaath and all the ministers I know to ask them to resist this law. I also called international leaders to tell Arafat to change the law."²⁵

This comment raises an important third factor that must be considered when analyzing the way in which laws were proposed, developed, amended, and generally implemented during the interim autonomy phase of Palestinian governance. In addition to the lobbying efforts of both societal actors and state representatives, this third source of pressure on the PNA is that of international actors, donors in particular. International pressure on the PNA is certainly a factor in the decision of the latter to suspend further consideration of the law of associations for Palestine. This pressure was quite subtle but nevertheless strong during the fall of 1995. Donors were quick to say they were not exerting overt pressure on the PNA as they did not attempt to get involved in the domestic affairs of this developing "authority" (i.e., government). (In response to such a statement, most Palestinians who heard it simply laughed at the idea that international donors claimed to not interfere in internal political issues!) Nevertheless, it was clear from discussing this issue with a variety of international donors, especially representatives of the European Union and bilateral and multilateral aid agencies, that this pressure existed and was persistent.

At the Donor Conference in Paris in mid-October, 1995, NGOs were on the agenda and were to be discussed Saturday October 14th. The NGO draft legislation was likely to be raised at that meeting, with the implication that the PNA was set to be officially "warned" about the negative impact of this law. PNA officials were quick to announce - before stepping into the room and before the session officially opened - that this legislation was not a problem for the donors to worry about because the cabinet agreed on Friday (i.e., the day before) to withdraw the draft law (now in its second version)

from consideration for the time being.

"The donors have been very reluctant about the draft law for NGOs. Just before donors were to discuss NGOs and the law at the October Donor Conference, the PNA announced its plans to drop the draft and said it would start over, 'with dialogue'!"²⁶

This timing could be coincidental, but the potential for international pressure is a factor in the decision making by the PNA.

In addition to feeling the subtle international pressure regarding the specific law, PNA officials are adept at using the appropriate language when discussing matters of interest to the donors. Nabil Shaath, Minister of Planning and International Cooperation, is especially experienced in such diplomatic niceties. At the Donor Conference, he stressed the importance of NGOs in building a civil society, democracy, etc.

"We're not sure he meant it but at least the PNA is on notice that these are the topics of interest to the donor community and that they (PNA) will be accountable on these issues."²⁷

The postponement of the NGO draft legislation is a result of at least three factors - "societal pressure" represented by the extensive lobbying efforts of the PNGO community; "inter-governmental debates" represented by the disagreements within the PNA structure; and "international pressure" represented in particular by the decision by the PNA to suspend further consideration of the draft law on NGOs at the time of the October 1995 Donors Conference in Paris. There certainly could be other factors - such as the mercurial temperament of Arafat - but these three are the factors that can be demonstrated and analyzed in a systematic fashion.

As Palestinians continue to struggle internally and externally, with themselves and with international actors (donors especially), it would be useful to see that they are not alone in this continuing struggle to

develop and enhance a political community. Jordan and Egypt are often the first countries Palestinians look to for comparison with their own. In the case of NGOs, such comparisons are especially relevant. Egypt especially shares with Palestine a rich tradition of social activism, civic involvement, charitable works, and urgent need for communities to rely on themselves. While a full comparison between Egypt and Palestine must wait until the completion of this research, a look at Egypt's law governing its NGO community is an important starting point - especially since the issue of governing NGOs is perhaps the most pressing issue now for Palestinians.

* * *

4. *Egypt's Law of Associations*

Associations - non-profit, non-governmental, developmental, and other private voluntary organizations - are governed by Egypt's Law 32 of 1964. An association, according to this law, "is defined as each group having an organization that... consist(s) of normal individuals not less than ten... for purposes rather than acquiring a materialistic profit."²⁸ In addition to preventing for-profit groups from using this law to get legally sanctioned, political associations are likewise proscribed. This includes (by implication) religious associations that seek to promote a specific cause. Yet, there are thousands of "religious" associations in Egypt that get around this by simply avoiding political issues. While the Muslim Brothers - the most powerful of the Muslim political forces - were banned as an association before Law 32 came into existence, they continue to be denied legal acceptance in the realm of social activity because of this clause. (They are also denied legal recognition as a political party.) Yet, the Islamic Medical Society (*al-jam'iyya al-tibbiyya al-islamiyya*) with branches throughout Egypt is legal because it confines its activities (theoretically) to the field of health care.

There are approximately 14,000 registered NGOs in Egypt. While this is small by Western standards (the U.S. has approximately 1,400,000 NGOs with New York City alone having some 18,000²⁹), this figure is much more than the total for all other Arab countries combined.³⁰ Many of these 14,000 are thought to be inactive. Still, Ministry of Social Affairs (MOSA) "records indicate that over one million Egyptians are annual dues-paying members of NGOs and approximately 300 NGOs have memberships in excess of 100 individuals."³¹

Political sensitivity aside, use of the terms "Private Voluntary" and "Non-Governmental" to describe charitable, development, non-profit,

and other organizations is done with a great deal of skepticism in Egypt. Virtually all participants in and observers of NGO activity in Egypt recognize that these organizations are far from being independent of the government and many in fact are creations of that government.³²

This is hardly unique to Egypt. NGOs are established in many developing countries by governments themselves or by officials of those governments. Still, the relationship between NGOs and the state can be tentative and conflictual as much as it can be cooperative, even cooptative.

"NGOs are often distrustful and critical of governments and wary of forging close contacts. These sentiments are often reciprocated. ...[H]owever, NGOs comprise a broad spectrum and such a generalization is dangerous."³³

There are numerous examples from Egypt about this distrustful and conflictual nature of state-NGO relations. In addition to a host of examples where the state has closed down NGO operations, especially those that are Islamic in orientation, one of the more recent and prominent cases is that of AWSA, the Arab Women's Solidarity Association led by physician and author Dr. Nawal el-Saadawi (see below).³⁴

Examining the historical development of NGO activity in Egypt helps to explain the reasons behind the state's dual approach to dealing with private associations. For example, due to the state-dominance of welfare activities since the 1960s, private voluntarism had gradually declined. As government began to regulate strictly the activities of NGOs after 1964 - especially its legislative restrictions governing fund-raising - donations to these organizations declined as well as private participation. The government then moved to create agencies to help the poor and other needy groups. The *wihda* (social unit) was an early version of the state's attempt to promote health care,

education, and social development throughout Egypt. In many areas of Egypt, the *wihda* eventually merged with the CDA, community development association (in Arabic *jam'iyya tanmiya*, CDA is a type of NGO).

This combination of state control and the resulting private retreat from voluntary and benevolent work³⁵ led many government employees and former employees to fill in the gap by taking over the leadership of NGOs, including CDAs. While this element of leadership by government employees would lead many to conclude that this factor "clinches" the government's control³⁶ over NGO activity, others would disagree strongly. LaTowsky, in his report to CRS in 1990, admits that "some CDAs remain almost totally dependent upon annual government grants for all program and administrative expenses" and that "certain CDAs - those 'created' by [MOSA] and still closely tied to its Social Units [*wihda*] - are yet but minimally 'private' and 'non-governmental' ". Still, he emphasizes that

"many CDAs have been independently founded by local citizen initiative and operate completely apart from government structures as truly voluntary associations. ...[Their] services are actively directed by community members and the organizations themselves are publicly recognized as local, community-based associations."³⁷

He later emphasizes that just because NGOs and CDAs and Regional Federations have "a civil service 'majority' in their General Assemblies and Boards of Directors" this does not mean that they are

"'dominated' by government.... It is far more accurate to say that Egypt's private, non-profit associations are - like nearly all of their counterparts in other, less developed countries - middle class in character and membership. Not all members... are government employees but Egypt's middle class is indeed still largely made up of civil servants... The point here is that the prevailing character of most NGOs, CDAs and the Federations is more truly middle-class than "quasi-governmental."³⁸

NGOs are extensive throughout Egypt, from Aswan to Alexandria, from Siwa to El-Arish and virtually everywhere in between. Because of the standards imposed by MOSA, such NGOs make for interesting comparisons. While the structures are the same and the functions are quite similar as well, the "culture" of the organizations vary. The variance is very much dependent upon who has established the NGO, who runs it, who supports it (financially and otherwise), who are the clientele of the NGO, and what services it performs.

4. 1 Law 32 of 1964 (The Law of Associations)

The legal and bureaucratic structures that regulate NGO activity in Egypt are enshrined in Law 32 of 1964. The Ministry of Social Affairs (MOSA) and the "administrative entity" (which is usually the MOSA directorate in each governorate) discussed throughout the text of this law are entrusted with sweeping powers of registration, control, supervision, regulation, oversight, management, direction, appointment, etc.

MOSA may refuse an association permission to be formed (Book One, Chapter One, Article 12 [I,1,12]); prevent money from coming to an association from abroad (I,1,23); appoint a temporary board of directors (I,1,28); dissolve an association and transfer its money to another (I,4 is devoted entirely to this); merge two or more associations doing similar activities (I,1,29); deny permission to raise funds through donations "and other methods of collecting money for social purposes" (I,1,25). The authorization granting such control and oversight goes on and on throughout the text of the law.

In general, Law 32 discusses how "the respective administrative entity has the right to" do such and such; how MOSA can, may or shall do thus and such; and how associations "can not", "are prohibited from", and "shall not" do this or that; and how they "are subjected to authority of" MOSA and its subunits. In short, the

government gives itself rights and puts constraints on the public from freely associating to promote their own individual and collective rights, e.g., basic human rights, community development, and so on.

Associations are also subject to other administrative entities. Even if they are successful in getting MOSA approval for their intended activities - e.g., primary school, day care, job training, primary health care, family planning, teaching the Qur'an - they generally must get permission from another agency. For example, if a community development association (CDA) wants to establish a primary school next to a mosque (or even on its own), it must get permission in the form of a license from the Ministry of Education. A health center must be licensed by the Ministry of Health. Any association tied to a mosque must also get permission to operate from Ministry of Awqaf (Endowments). Thus, a CDA involved in education and health care is regulated by MOSA as well as the ministries of Education, Health, and Awqaf.

Governorates also have control over NGO activity. Law 43 of 1979, the law of local administration, allows the governorate to dissolve a NGO's board of directors and prevent the association from collecting money.³⁹ In many respects, then, it is the government, its administrative agencies, and its geographic sub-units which exerts a significant degree of control and oversight over NGO activities. Some of this control is recognized as necessary and even "good" by NGO advocates; much of it is seen as detrimental to the freedom of association, expression, and economic enterprise which the same government is saying is allowed in Egypt (see below).

4. 2 NGO Structure and Activities

As we see from Law 32, an NGO is formed by "not less than 10" individuals. In reality, MOSA will not take seriously any group smaller than 20. This group constitutes the General Assembly. Sizes

of general assemblies in Egypt range from 50 to 600.⁴⁰ From this assembly, a board of directors is chosen. The Law mandates that at least 4 officers be appointed - a president, vice president, treasurer, and secretary. The total number of board members "are not to be less than 5 or more than 15". (I,3,46) The Law gives MOSA the authority to appoint "a representative of the ministry as well as representatives of each concerned administrative agency [e.g., Health, Education, Awqaf] as members in the board." (I,3,48) The board must meet one time each month. Membership is valid for 3 years with election of 1/3 of the members occurring every year.

Quite often, it is the board of directors that comes first and the general assembly which follows. That is, a group of people who are committed to a particular cause - e.g., an issue, a specific community, a grand ideal - come together to achieve similar goals. They build up the would-be general assembly, form an NGO and get it registered with MOSA (and whatever other authority) and get themselves elected as the board to execute their plans. From the board, they appoint a director to serve as their representative.

The clientele of each NGO is as similar and as different as the communities served and the ideas propagated. For instance, Islamic training centers have much in common with Christian and other (i.e., non-religious) training centers, given the legal requirement that NGOs not discriminate on basis of religion. In the Coptic Benevolent Society of Ma'adi, a mixed-class suburb of Cairo popular with the foreign community, has a training center that caters more to under-class Muslim girls and young women than Christians of the same ages and socio-economic status. The secular Bulaq Social Service Association provides similar training for females of all ages as do thousands of similarly constituted associations throughout Egypt. The common denominator among the overwhelming majority of associations is the attempt to satisfy an urgent need for skills training, literacy, health care, among a host of other critical needs.

4. 3 Charitable Associations and CDAs

NGOs, or associations, registered under Law 32 are divided generally into two categories: (1) *Jam'iyyāt Khayriyya* (or *Ra'āya*) referring to charitable associations and (2) *Jam'iyyāt Tanmiya*, the (community) development associations. Charitable associations generally must perform only a limited number of activities. MOSA does register charitable NGOs to get involved in more than one activity. Still, they are confined to working in 14 types of services. And they must work within the field for which they are registered. If an NGO wants to add or change fields, it must go to the MOSA directorate in the field and get permission. The fields of activities include help for: children, families, social assistance, the handicapped, and prisoners' families. Other activities which MOSA permits include cultural (and this includes religious), literary, international friendship, administration and organization, and "defense of society." In many cases, this category of NGO includes the "advocacy groups" of Egyptian society, whether that be religious, feminist, capitalist, or other interest groups.

The second category, CDAs, are allowed to do

"anything they want. There are no limits on the type of services they provide. They can start a school or day care, pave roads, construct waste water, sewage, etc. There is a philosophical difference between CDAs and welfare NGOs. CDAs are of more recent vintage and seek to *develop* their community. Welfare NGOs are usually born out of religious motivation and/or to provide health care, education, or other services - for *welfare* purposes, not necessarily for development."⁴¹

Still, relief and welfare activities are seen as foundations of development.

CDAs are often "public" in nature, not private. The chairman of the board of directors is often a public official, such as the *'umda*

(village head) or the president of the district (*ra'iis al-hayy*). Out of six districts in Alexandria Governorate, each has a CDA which is chaired by the *ra'iis al-hayy*. It is easier to register a CDA than a welfare NGO - especially the religious ones. The government has begun to be more careful about religious groups, including welfare NGOs, for fear of an increasing Islamic influence in society.⁴²

To some, it would appear to be easier to register a welfare NGO since its activities are often limited to one (or a few at most) of the 14 allowable services. But, the governmental preference which is apparent may be due to the fact that the CDA is more influenced and controlled by public officials. Also, the welfare NGOs, though limited in activity, are more often driven by religious or otherwise committed groups, usually outside the influence of government.

4. 4 Federations

An important link between the grass-roots development associations and welfare organizations on the one hand and the arms of the state on the other is the federation. The government cannot directly control the approximately 14,000 associations directly from the center of power in Cairo. To achieve government objectives of control and monitoring of activities, intermediate agencies are used. These agencies are the federations and the directorates.

"The Regional Federation of NGOs (RF) is the sole representative in each governorate of all private voluntary organizations - including CDAs - registered with (MOSA). Like its constituent NGOs and CDAs, the Federation is itself a private, non-profit association with its own charter and financial accounts. The Federation is thus a governorate-level NGO, legally defined and regulated by Law 32."⁴³

Until 1979, all NGOs were supervised by the central MOSA headquarters in Cairo. At that time, MOSA decided it needed to

decentralize its operations in order to achieve more intensive monitoring and control. It then set up directorates, or MOSA offices, in the 26 governorates throughout Egypt. Some directorates are further subdivided due to the large numbers of NGOs to be monitored. Cairo, for instance, has 19 districts.

And where does MOSA fit into this? In effect, MOSA and its directorate offices stand above the structure of the NGOs and its various federations. Moreover, these governmental organizations of control are more often than not directly involved in these NGOs. Again, NGOs and NGOs are nominally unrelated to the government. But the Minister of Social Affairs, Dr. Amal Osman, is herself the head of the General Federation of NGOs making it, as the head of one of the specialized federations puts it,

"in effect a department for MOSA. I and other members of the general federations choose to not attend meetings because we view the general federation as in fact a governmental organization, a branch of MOSA."⁴⁴

4. 5 Governmental Acceptance: Procedures and Pitfalls

Receiving the Egyptian government's permission to operate legally entails a group of individuals (representing the NGO) approaching MOSA and working with a MOSA official to assure compliance with Law 32. In other words, this group must specify a non-political, non-profit goal to serve a specific community (their own or others') where no other group is meeting a specific need (goal). Once MOSA accepts the application from this group, which pays a fee of 5 Egyptian Pounds (L.E. 5; about US\$1.50), it must conclude the registration process within 60 days. If it is not completed in this time, the association is considered to be legally promulgated without further action and notice must be published in the official gazette, *Al-Waqā'i' Al-Misriyya*.

The Ministry of Social Affairs "has the right to refuse the promulgation of an association's system" (I,1,12), after consulting the respective federation, if it determines that a community does not need its services, other associations exist, it threatens state security, or other equally vague reasons. What generally happens is not that MOSA will refuse to promulgate the association but that it will not even accept their papers in the first place. If it accepts the papers and then refuses promulgation, the association's leaders can complain and if their complaint is not answered in sixty days, it is considered accepted and they are then registered. Given the bureaucratic delays in Egypt, MOSA officials surely recognize that the odds are against them in a case of accepted papers, rejected registration, and the likely complaint from founders of a NGO. Thus, they simply discourage a group from applying.

4. 6 Goals and Finances of a NGO

Finances often determine goals. If money does indeed talk, then it can also dictate. Many NGOs in Egypt develop out of mainly philanthropic efforts. The initial resources of such groups are primarily the time, effort and ideas of individuals committed to a particular cause, such as community development (potable water, skills training, or health care), group maintenance (teaching the Qur'an to children), or a combination of these and other goals.

Once a group determines its objectives, it turns to a larger audience for financial and material support. In Egypt, as with many numerous developing nations, that audience can be both local and international, governmental and non-governmental (public and private). The five primary avenues for resource generation in Egypt are:

- member subscription/participation fees
- client service payments - fee for service
- government donations

- foreign aid
- private donations

The first two avenues are "close" to the association itself and are in keeping with the developmental theme of self-reliance. The latter three, which are in keeping with the norm in developed world NGOs and other Third World settings, are necessary to keep NGOs afloat in Egypt but may nevertheless go against the goal of self-reliance (*juhūd thātiyya*). The first two are primarily financial but could include volunteer work from either members or clients. The next two are often a combination of financial contribution and technical assistance. The last item is almost entirely in the form of money and material (buildings, equipment) donations.

One of the primary ways in which NGOs raise funds is by going directly to the public, i.e., its own members and others in the community who, if they do contribute, become members. This is known as *ishtirākāt*, or member subscriptions. The *ishtirākāt* is also considered a form of partnership in the NGO so that shareholders (contributors) attend the yearly meeting and participate in the elections of the *majlis al-idāra*, board of directors. Subscriptions are of varying denominations. The range of contribution is either set by the NGO or can be whatever a person can afford to pay. It could be a monthly fee of 25 piasters (approximately 8 cents) or a LE 3 yearly payment. More wealthy individuals pay LE 25 per month while others contribute hundreds of Pounds per year. Contributors often have a booklet of payment forms from which they tear out a monthly reminder sheet (and leave a stub) and include with their payment. The concept is similar to both car-payment booklets in the United States and tithing envelopes in various Christian church settings.

Fees for service include payments for tuition (for day care, private elementary school, training programs in computers, tricot [knitting and weaving], carpentry), doctors, hospitals, trash removal, water, agricultural extension services, among others.

The Egyptian government donates financial, material and human resources for use in NGOs. These donations are in many cases inadequate but they are also quite often the difference between survival and extinction for certain associations. The primary dispute over government contributions is that it is recognized as the state's way of keeping tabs on social organizations and in many cases dictating the types of services these groups will provide to their communities. The dispute centers on whether this is a good or bad thing in terms of independence of local communities or private groups from the controls of the national government. Does this national involvement in local affairs inhibit private initiative, self-sufficiency and self-reliance? Or, as many would argue, does it enable such initiative while enhancing cooperation between the national and local communities?

The types of assistance provided by government include direct payments, technical assistance, and material support. The latter refers to equipment, books, and supplies. Quite often medical equipment is made available from the government because it has received foreign assistance to be used specifically for this purpose. Technical assistance is often in the form of MOSA secretaries or management assistants being seconded to work (full time, part time, or on temporary basis) for the NGO. Such employees of the state get their full salaries from the government plus an additional one-third of this salary paid to them by the NGO. This is, therefore, a preferred position to have since an employee will enhance his or her salary and still maintain the security of government employment (which is permanent until retirement).

Direct financial contributions from the government may range anywhere between zero and thousands of Pounds (LE). An official at one of the most famous, both within Egypt and internationally, NGOs said that his organization is supplied with "very little from the government through MOSA, maybe 1%" of his society's budget, which in 1990 was LE 1,220,957.93⁴⁵ This incredible level of

revenues is a result of grants from foreign embassies, international "friends" and Egyptian philanthropists as well as revenues from tuition, membership fees (*ishtirākāt*), and sales from food and clothing produced at the society. That the government would have supplied LE 12,209.57 (1% of revenues) is quite a substantial figure for 1990. Other NGOs say that they used to receive anywhere from LE 3000 in recent years to LE 10,000 in previous ones but that even the LE 3000 is declining sharply. LaTowsky, in his report to Catholic Relief Services in 1990, says:

"The real value of MOSA funding support for NGO programs and administrative expenses declined sharply throughout the 1980s as high inflation outpaced the very limited increases in grant monies available each year... Newly registered CDAs [were] added to the bottom of grant review lists... New associations in distant rural villages were lucky to receive even the smallest MOSA grants - less than LE 500 (\$200)."⁴⁶

Other NGOs turn down government funding which, according to a member of an NGO devoted to helping poor women in the City of the Dead, has the added potential benefit of keeping a MOSA representative off the board of directors.⁴⁷ Still other NGOs are forced into self-reliance, *juhūd thātiyya*, at least in the sense of not relying on the government for financial support. An NGO which runs a hospital and elementary school in Qalyub in the Delta region has received support from a one-time supply of money from USAID (which did come through MOSA channels) as well as financial and material contributions from the local community, *zakāt* (tithing), the local Islamic Computer Co., and wealthy families in Qalyub. There is a definite distrust of the government in this community. A member of the board of this NGO says that the deteriorating economic and social structures "is what comes of socialism and nationalism. And so, given the poor quality and insufficient services of the government, we built our own hospital, day care, and primary school. The government can't or won't help us so we do for ourselves. Here, in the village, the government is ignored or even

hated. What counts for these village people is what is here for them, not the government but their own community. 'The Government' means the central government and they are far away and only care for themselves or care only to stop us from doing as we wish."⁴⁸

The notion that the government "gives us nothing" even when it is the conduit of foreign assistance is a sentiment heard quite often among NGO officials in Egypt. In addition to the mosque-hospital and school in Qalyub, a Coptic association in Cairo also was funded by USAID local development program. Here as well, the sentiment regarding MOSA was as strong - if somewhat exaggerated, justifiably or otherwise - as it was in the Islamic context in the Delta:

"MOSA has never donated anything to Christian societies. AID donated money to MOSA to give to us. With this we bought a refrigerator, stove, washing machines, sewing machines and knitting machine. For every single Christian society the government helps, it helps 10 or 20 Muslim societies. Then they use this minimal assistance to say they are helping our [Coptic] societies."⁴⁹

Statistics reported by Berger (1970) might indicate that not much has changed since the time of his book. More likely, they probably indicate that despite the changes that have occurred in the last 30 years (his data are from 1960), things are returning to the point they were before the government became more involved in controlling NGOs in the 1960s and 1970s. Those statistics indicate that over 74 per cent of associations received no amount of funding from the government and nearly 25 per cent did receive some funding, especially in the range of LE 100 to LE 1000 (in 1960 currency).

Private donations come from a wide array of sources, both local and international. They include international churches, foreign governments using informal channels (e.g., Saudi Arabia and Kuwait), philanthropists, and foundations. The Bulaq association has something quite unique among Egyptian NGOs. It has the "*Friends*

of Bulaq" association in Switzerland selling its goods and raising money on its behalf. While many Egyptian NGOs get help in the form of international aid contributions, most do not have the added advantage of a sister association working outside Egypt for the benefit of Egyptians. Coptic associations, in particular CEOSS in al-Minya, also have these international "friends" or "sister" associations which work on their behalf and are a source of financial support, but these are the exception, not the rule, in the indigenous NGO community in Egypt.

The Mustafa Mahmud Association of Mohandiseen is also the beneficiary of a very generous group of foreign friends. In this case, these friends are individuals, not groups as in the case of Bulaq and CEOSS. This Islamic Association has received considerable support from a Kuwaiti entrepreneur with close personal ties to Dr. Mustafa Mahmud. One of his donations included a building in Mohandiseen which has become an important component of the Association's sprawling medical complex.

Any donations, whether they be from foreign governments or philanthropists or indigenous groups or individuals, must be reported to MOSA. Again, this is part of the government's desire to keep tabs on all aspects of NGO activity in Egypt.

Fund-raising in Egypt - through carnivals, raffles, or other methods of asking local communities to support a certain NGO - is difficult but not impossible. Still, it is not considered one of the primary avenues for revenue enhancement due to the fact that government controls whether a NGO can do it. Between 1985 and 1990, none of the 20 CDAs in Gharbeya Governorate

"obtained the approval of the Directorate of Social Affairs to hold such fund-raising events. Nor is it likely that CDAs in the Upper Egyptian Governorates [Assiut, Minya, and Qena] had organized these activities. Rather there, as in Gharbeya Governorate, it is

most probably the same few, experienced NGOs best known to MOSA officials and located in the governorate capital that regularly receive official permission for such fund-raising."⁵⁰

Security concerns is the primary rationale for this continued government rejection of applications, throughout Egypt. Bureaucratic delays and repeated visits to MOSA and security (Ministry of Interior) offices are related deterrents to NGO officials even contemplating seeking permission for such activities.

In recent years, there have been increasing calls from politicians, human rights activists, donor representatives, and NGO members to amend Law 32 of 1964. Perhaps the most prominent case has been that of Parliamentarian Mona Makram Ebeid who, in her maiden speech before the Majlis al-Sha'ab in 1991, called on Parliament to amend Law 32 and allow more freedom of association and expression:

"Societies Law 32 of 1964 in particular represents the uttermost organizational hegemony on the part of the state over social activities. Moreover, it no longer represents the official attitude of the state or responds to present and future aspirations... The law represents a flagrant example of disbelief in the vital role that could be played by national organizations in pushing forward the wheel of development, serving society, and facing the chronic challenges it confronts. Therefore, I call upon the government to urgently develop [*tawir*, i.e., amend] these laws to give individuals the chance to establish firms and societies without any unconstitutional restrictions and constraints."⁵¹

The pressure to amend Law 32 is also beginning to come from some international sources, e.g., human rights organizations and USAID. Middle East Watch in New York has joined the challenge to Law 32. While proponents of amending this law see it as an indispensable part of the overall reform process being pursued (however slowly) in Egypt, government officials appear to consider this as a separate and less pressing issue.⁵²

While the mini-debate over Law 32 continues within the overall debate over economic reform, structural adjustment, privatization, and public sector revitalization, the activities of NGOs continue despite the inability of policy makers to provide a more appropriate climate.

* * *

5. *Conclusions*

Palestinians are in the process of developing a civil society. Palestinian social institutions - women's organizations, charitable societies, professional and labor unions - have existed for decades and are internationally recognized for their achievements in resisting Israeli colonization of their land and attempts to destroy their society and for their leadership of the grass-roots movements for independence from Israeli occupation. Still, some academics would claim that a "civil society" cannot exist in the absence of a government - i.e., one's own government, not a military occupation. This is not a popular view among Palestinians who have been in the forefront of leading what they see as legitimate civil society institutions, and indeed they must receive as much credit and respect due to non-violent fighters for independence. To the academics, Palestinians are now in a position to recreate that civil society that was developing during a previous occupation (the British Mandate) and that was destroyed with the creation of the state of Israel in 1948.

Of course, an independent government in a sovereign State of Palestine does not yet exist, although there is much more progress today toward achieving that goal than there has been for the previous five decades. Even if a Palestinian state does not come into being for the next few years, the character of that state is being developed now, as Palestinians - individuals and groups - begin to separate themselves (however slowly) from direct Israeli supervision and to "attach" themselves to the newly formed Palestinian National Authority (PNA). The world can learn much from the Palestinian case. Unlike South Africa, in which one group negotiated the transfer of power to another group within the same state, the gradual creation of an entirely new state is a rarity that demands watching and learning.

The PNA must walk a fine line and establish a definite balance between regulating, policing and governing Palestinian society while trying to avoid their proclivities to "control" and thus stifle that society, as has been the case in Egypt. Palestinian individuals and groups, beginning with the 1993 accords and even more so after the Taba/Oslo II Agreement, have increasingly raised their voices in opposition to what they see as a one-sided agreement, i.e., one that helps Israel but not necessarily the Palestinians. Civil society institutions - popular committees, NGOs, student organizations, opposition movements - are concerned that the PNA itself will take from them the fruits of autonomy (limited as it is), including the liberty and freedom to conduct their activities so that they, too, can participate in the recreation of Palestinian government and social development.

Before there was a *second* NGO draft law, the following was true of the first draft and thus again demonstrates some of the philosophy of the regime, some of the original thinking about its role and that of civil society:

"Primarily, there is only one power over NGOs, one branch of government [the Executive], even only one person [i.e., Arafat]. It is his personal vision of what NGOs should do and should be like. There is no way of appealing his [or his minister's] decisions."

Indeed, this was one of the biggest concerns of the PNGO Network. When the second draft came out with the "right of appeal" given to NGOs, the Network was very pleased to see this "check" on the authority of an otherwise powerful minister.

Even with the changes to the first draft and the initial (temporary?) success for the PNGO community with the postponement of a decision on the draft law, the struggle is far from over. In addition to what Rana Bishara of the PNGO Network sees as a clash of

visions regarding how best to promote development, "state" (PNA) and "society" (NGOs, etc.) also suffer from a clash of "generations" and of "cultures". The state is solidly in the hands of an old guard generation that largely represents Palestinians living in the diaspora for decades. The old guard will remain in charge of the Executive branch as well as the Legislative after the elections - which preclude anyone under 30 years of age from running for the legislative Council. "Culturally" also, there is a clash between governors and governed. The latter are the ones who have suffered and endured occupation since 1967. Their lives are now being directed by a group made up largely of Palestinians who struggled for the liberation of Palestine from outside. While they, too, have suffered, they in no way had to live the daily misery of occupation which has socialized Palestinians in a way that the returnees cannot fully comprehend. The latter themselves have been socialized, in a different way. These new rulers have learned from the dictators of the Arab world how to govern. Their socialization has occurred in restrictive, military dictatorships, some of which have the facade of democracy, one or two of which actually have moved closer to such a liberal system. Nevertheless, the models for Arafat - the countries he's lived in and occasionally suffered from - are restrictive, military dictatorships (and/or police states) that espouse traditional, patriarchal, bureaucratic authoritarianism.

If the struggle over the NGO law in Palestine in 1995 is any indication, the prospects for the future state of Palestine look only a bit more optimistic than the existing models of Arab politics. The law was drafted in an exclusive and closed environment, despite the great efforts to be included on the part of various NGO representatives. After the drafting, the continuing debate over the draft law was marked with rancor and defensiveness.

In addition to the normal and expected friction between representatives of a state and society, there is the inevitable friction between representatives within these same entities. Political infighting

and turf battles are common place in governments; so too are they within "society" and especially between representatives of sectors such as the NGO community that is looking for a way to coexist with a governing authority with whom they have had little direct, daily, and personal contact.

More significant than the inevitable internal governmental turf battles that can, ultimately, be regulated by the political "bosses" of the day, it is the battles between state and society that will determine the viability of a long-hoped for Palestinian state. The fight over the draft law of associations provides us with an excellent example of how Palestinians will come to deal with one another in that future state. Harking back to the original draft law, I present a final quotation before summing up with tentative conclusions. This is from a strong supporter of the NGO community within the PNA:

"If this PNA-draft law passes, it'll be quite difficult, if not impossible, for NGOs to build the civil society we know we can achieve. Of course, the entire situation is uncertain. We don't know for sure - who can know? - if we'll build the civil society and democracy we want."

This quote combines the pessimism and the uncertainty that the situation in Palestine in 1995-96 demands. It also suggests a hope for and faith in the NGO community as one that has tremendous potential to help the PNA establish a political community that would be the envy of the Arab World.

The main conclusion to be drawn from this initial report is one of warning - that civil society institutions and supporters must be aware (and beware) of the PNA's attempt to *control* society instead of simply *regulating* it. At the same time, the PNA must be aware (and beware) of Palestinians' determination to resist the natural tendencies of governments (in this case, its own government) to control society and not necessarily support, encourage, and liberate that society.

1. See especially Sara Roy, *Gaza: The Politics of De-Development*. Washington, DC: Institute for Palestine Studies, 1995.
2. See Denis J. Sullivan, *Private Voluntary Organizations in Egypt: Islamic Development, Private Initiative, and State Control*. University Press of Florida, 1994.
3. Samuel Huntington, *Political Order in Changing Societies*. New Haven: Yale University Press, 1968, p. 24.
4. Milton J. Esman and Norman T. Uphoff, *Local Organizations: Intermediaries in Rural Development*. Ithaca: Cornell University Press, 1984.
5. Robert Bellah et al., *The Good Society*. Westminster, MD: Alfred Knopf, 1992.
6. Judith Tendler, *Turning Private Voluntary Organizations into Development Agencies: Questions for Evaluation*, AID Discussion Paper, no. 12, Washington, D.C.: USAID, 1982, p. 68.
7. This is a long-standing Egyptian policy. I received written notification of these guidelines when I was a Fulbright Scholar in Egypt in 1990-91.
8. Interview with Rana Bishara, PNGO Network Coordinator, October 1995. See also PNGO Network Newsletter, Vol. I, no. IV (September 1995).
9. In many ways, this paper follows the method of Helena Lindholm Schulz. The similarity of letting "the respondents 'speak', in order to contribute to the Palestinian national narrative" is coincidental and not premeditated on my part. The political elite and politically and socially active elite in my study are generally second-tier government officials (*wakiil al-wizaara* [deputy minister] and directors of offices) plus an entire range of NGO leaders (presidents, directors, assistants, etc.). See her *One Year Into Self-Government: Perceptions of the Palestinian Political Elite*. Jerusalem: PASSIA, 1995.
10. Interview with Dr. Majed Nassar, Beit Sahour Medical Center, October 20, 1995.
11. Interview with "Jamal", head of a cooperative in the district of Bethlehem, October 22, 1995.
12. Mustafa Barghouti, *Palestinian NGOs and Their Role in Building a Civil Society*. (mimeo, 1995).
13. To give just one of a long list of examples, President Arafat intervened in a \$15,000 printing contract; he stopped publication of a book to be used at the Amman Conference in October 1995. Why a "president"

must involve himself in the minutest of details is beyond most people, except for those who understand that the President/Chairman excels at micro-management and has an ad-hoc nature of decision making. Interview with World Bank official, 1 November 1995.

14. Adrien Katherine Wing, *Democracy, Constitutionalism, and the Future State of Palestine: With a Case Study of Women's Rights*. Jerusalem: PASSIA, 1995, p. 11.

15. These are not my own impressions of what is occurring but rather are statements made to me during interviews with Palestinians in the NGO community as well as the PNA.

16. Known casually as "*al-Sulta*" (authority), the perception that Arafat is doing Israel's dirty work (cracking down on Hamas and Jihad and other opponents of the peace process and of Israel in general) lends itself to derision of the PNA. At a rare showing of Palestinian nationalist activity in Jerusalem (a purely Palestinian parade outside Damascus Gate of the Old City and heading into Arab East Jerusalem), *al-Sulta* was once derisively dismissed as *al-Sulta al-Isra'iliya* (the "Israeli Authority") by a group of college students watching the spectacle.

17. Interview with Rana Bishara, Coordinator of PNGO Network, Beit Hanina, October 17, 1995.

18. Interview, Ministry of Social Welfare, Gaza City, October 18, 1995.

19. Interview, Rana Bishara, October 17, 1995.

20. Interview, PNGO Network representative, October 24, 1995.

21. Interview, PNGO Network representative, October 24, 1995.

22. Interview, Ministry of Social Welfare, Gaza City, October 18, 1995.

23. As when I was doing similar research in Egypt, I often felt I was a "*participant observer*" or even an ad-hoc negotiator between two conflicting sides, often carrying messages between various parties or sharing information with one group obtained by another.

24. Interview, Rana Bishara, October 17, 1995.

25. Interview, Dr. Iyyad Sarraj, member of Steering Committee of PNGO Network, October 17, 1995.

26. Interview, Fritz Froehlich, Society for Austro-Arab Relations, November 1, 1995.

27. Interview, donor representative in attendance at the Paris conference, October 22, 1995.

28. Ministry of Social Affairs "Law no. 32 of 1964 concerning Private Associations and Establishments". This English translation was provided to me by an official from the Ministry's office of information.
29. "The Big Apple now offering non-profits association center", *The NonProfit Times*, p. 8. Egypt has a population approaching 60 million, approximately one-fourth that of the U.S.
30. Abdel-Rahman, "Some Current Trends in Philanthropy" quoted in B. Ibrahim, "Indigenous Philanthropy."
31. *ibid.*, p. 413.
32. Similarly, there is a great deal of criticism of American NGOs working in the US and especially in the international arena for being nearly totally dependent on the U.S. government for their financial survival. See Smith, *More than Altruism*, especially chapter 6.
33. Clark, *Democratizing Development*, p. 64.
34. For details, see Middle East Watch "Egyptian Government Moves to Dissolve Prominent Arab Women's Organization", July 1991.
35. However, as B. Ibrahim points out, levels of voluntary giving to religious organizations have remained high throughout the years of strict controls on the NGO. She concludes that "as NGOs have become identified with the public sector, Egyptians are less likely to extend to them private support and have consequently shifted their giving to other channels", p. 413.
36. See Springborg, *Mubarak's Egypt*, especially chapter 5 which discusses the role of MOSA in "The System of Political Control."
37. LaTowsky, "Building Capacity for Self-help," pp. 6-7.
38. *ibid.*, p. 38.
39. "qānūn niẓām al-idāra al-mahalliyya" (The Law of Local Administration), p. 98.
40. There is no upper limit on size. This figure was suggested to me by an Egyptian development officer, from an international NGO, responsible for working with indigenous NGOs. The 600-person general assembly "was the largest I've ever heard of in Egypt."
41. Interview with USAID official dealing with indigenous NGOs. October 11, 1990.

42. *ibid.*
43. LaTowsky, "Building Capacity for Self-help", p. 36.
44. Interview with head of a specialized federation, Cairo.
45. Statistics from *al-taqrtr al-sanawt 1990* (Annual Report) of *jam'iyyat al-khadamat al-ijtimā'iyya bi-huyy bulāq*, the Social Services Society of Bulaq.
46. LaTowsky, "Building Capacity for Self-Help", p. 15. LE 500 at 1993 exchange rate is \$151.
47. This alone may not keep MOSA at bay, but it is one probable way. This member asserts that "MOSA won't put a member on the board, though they have that right, if you're a powerful group, if you don't ask them for money, or if you don't otherwise bother them - and if you give them what they want, which is minutes of meetings and keep them informed of your activities."
48. This board member went on to give a specific example of why there is animosity on the part of villagers against government. "If we want to beautify our village by planting trees, we must get a permit from the government. And this permit is really something for the government, not for us. We must sign this permit that says that the trees now belong to the government and not to us and that if anything should happen to the trees we are responsible for them and must replace them."
49. Interview with Coptic Association official, February 11, 1991.
50. LaTowsky, "Building Capacity for Self-Help", p. 20.
51. Ebeid, *madhbata* (Minutes), p. 8. Dr. Ebeid was speaking of the need to amend Law 32 as well as Investment Law 230 of 1989.
52. This conclusion is drawn based on interviews with parliamentarians and MOSA officials.

Act Number (_____) 1995

**Concerning Charitable Societies, Social
Bodies and Private-Institutions**

Head of the Executive Committee of the Palestine
Liberation Organization
Head of the Palestinian National Authority

After reviewing law number (5) for the year 1995 concerning Transfer of Powers and Authorities, and Charitable Societies Law Number (33) for the year 1966 concerning Charitable Societies, Social Bodies and Private Institutions in force in the West Bank;

and the Ottoman Societies Law promulgated on 29 Rajab for the Hijri year 1327 in force in the Gaza Strip; and in accordance with the public good;

and after the approval of the Palestinian National Authority Council on _____ 1995 and based on the proffer of the Minister of Social Welfare,

Promulgated the following law

**Chapter One
General Regulations**

Article (1)

All societies, organisations and agencies established according to this law are subject to the monitoring of the Minister of Social Welfare. No charitable society, social agency or private institution may be established without his written permission according to this Law. And every society, agency or institution established for illegal purposes or that violates public order and morality, or that aims to harm state security, is null and void.

Definitions

Article (2)

The following items and expressions appearing in this law shall have the following meanings unless presumed otherwise:

- *The Minister:* The Social Welfare Minister in the Palestinian Authority
- *The Ministry:* The Social Welfare Ministry in the Palestinian Authority
- *The Director General:* The Director General of the Ministry of Social Welfare

- *Director*: The Director of the Ministry of Social Welfare
- *Charitable Society*: Any body composed of seven members or more which aims to provide social, financial and economic services to the citizens without and profit or political gains
- *Social Bodies*: Any body composed of seven members or more which aims to provide social services, whether these services were scientific, cultural, training, charitable, artistic, or professional, without having any political gains
- *Private Institutions*: Any institution established with a specific specialization, aiming to take a main role in the various fields of social welfare or any other activity having a humanitarian, scientific or technical nature or any other social welfare activity, without aiming for profit
- *Foreign Society*: Any social body, charitable organization or private institution whose headquarters are located outside the territorial jurisdiction of the Palestinian National Authority or one with a majority of foreign members
- *Social Service*: Any social or economic service or activity provided voluntarily or optionally which may improve the financial, cultural, educational, health, athletic, social, technical, or professional level of the citizens in the society.

Article (3)

All existing social bodies, charitable societies, and private institutions and those which shall be established, in accordance with this law, shall enjoy the status of a legally independent body once licensed and shall be allowed to carry out its functions and activities so long as these activities do not contravene this law or the institutions by-laws approved by the appropriate authority

Chapter Two Licensing Societies

Article (4)

Applications for licensing any society, body, or institution shall be submitted to the Minister, along with ten copies of its by-laws. The minister shall issue a decision which s/he deems appropriate concerning this application within a period not exceeding two months from submitting the application.

Article (5)

Prior to making his/her decision to license a society or body, or institution, the minister shall consult the opinion of the interior Minister or his/her delegate who shall forward an opinion regarding it within a maximum of thirty days after studying the society's by-law. This issue should not be contingent on his/her approval.

Article (6)

Subject to any conditions or instructions promulgated by the minister, the by-laws of any society, institution or body demanding a registration must contain the following:

- a. The name of the society or body or institution, its address, its headquarters and branches;
- b. The names of its founding members, place of residence, their ages and responsibilities;
- c. The basic objectives for which it was established and any other objectives it holds;
- d. Details of membership requirements, membership fees, and the method for canceling membership;
- e. Details of the method of forming the body in charge of administration, delegation work, and supervising the affairs of the institution, body, or society, and its jurisdiction.
- f. Details of the manner of holding the meetings of the general assembly;
- g. Details of the manner of controlling financial affairs and dispensing funds;
- h. Details of the manner of dissolving the society, body, or institution;
- i. Details of the manner of disposing of the society or body or institution's funds and properties when dissolved, provided that this does not go beyond the purposes of the society and that the funds are spent within the boundaries of the Palestinian National Authority, or else the Minister may decide on how funds and properties are disposed of so long as this does not contradict the purposes for which the society was established.

Article (7)

Every charitable society, or social body, or private institution shall be granted a license after it has been registered, signed, and sealed by the Minister, attaching a copy of the approved by-laws. This shall be published in the official Gazette.

Article (8)

If 3 months elapse after the application is submitted to the Ministry and the applicants have not received a notice of the decision nor a request for more details nor a notice regarding incomplete legal requirements, the applicants shall have the right to function as if they are an institution or society licensed in accordance with the law.

Chapter Three

Obligations of Charitable Societies and Social Bodies

Article (9)

It is not permissible for any society, or body, or institution to own property except to the degree required to fulfill the purpose for which it was established, unless it was granted permission to own property by the Minister or his/her delegate, for the purpose of generating funds to provide services. Housing societies, family and child service providers, juvenile, geriatric and disabled peoples' service providers are exempted as well, as they have special requirements in services, funding, organization, and training.

Article (10)

For the purpose of implementing this law, the Ministry shall maintain the following:

"1" A registry of all licensed societies, including the titles and centers of its activities and any other information deemed necessary by the Minister.

"2" A different registry of all societies that were denied a permit, stating their objectives and reasons for denying the permit and any other information deemed necessary by the Minister.

"3" A registry where registration applications are recorded in consecutive numbers according to application date.

Article (11)

Applications for registration by different societies shall be examined by the Director General of the specialized Ministry and shall be referred to the Minister or his/her delegate, with his/her opinion included.

Article (12)

The relationship between the Ministry and the institutions, societies, and bodies shall be based on cooperation and participation in the provision and upgrading of services. The Ministry's Director General or delegate for that purpose may visit the premises of any society and inspect its records and papers to ensure that its funds are being used for the purpose for which they were intended and that it is carrying out its functions in accordance with the provisions of this law and in accordance with the set objectives.

Article (13)

The administrative body in any charitable societies, or social body, or private

institution or any of its branches shall keep in its administration center the following:

"1" Correspondence shall be maintained in special files and in organized records.

"2" Its by-laws, the names of its board of directors in every election term and the day of its election.

"3" The names of all members of the society, or institution, or social body, stating also their identity card numbers, age, and the days of their memberships.

"4" The minutes of the meetings of its administrative body, in consecutive order.

"5" The minutes of the General Assembly of the society, or body, or institution.

"6" Detailed statement of revenues and expenditures.

"7" Record of the society's private assets and belongings. The relevant administrative committee at the Ministry shall have the right to examine these documents, books, and records.

Article (14)

The administrative body of any charitable society, or social body, or private institution shall notify the Director General of the Ministry with any amendment or change that may occur with its position or by-laws or any total or partial change in its administrative body. Any amendment or change shall not take effect unless approved in writing by the Minister or his/her delegate after consulting with the Minister of the Interior or his/her representative.

Article (15)

Any administrative body for a charitable society or social body or private institution must present to the Minister through the Director General of the Ministry two copies of an annual report stating their activities, the aggregate amount of money spent for implementing their goals, sources of revenue, and any other information requested from them as set out in the form prepared by the Ministry. A copy of this report shall be forwarded to the Ministry of the Interior.

Article (16)

Every charitable society, or social body, or private institution shall have an annual budget supervised by a certified accountant, if expenditure does not exceed five hundred dinars. In either case, the auditors' report on the budget, expenditures, and revenues shall be presented to the general assembly on its annual meeting for ratifying and authorizing it.

Article (17)

The society shall deposit its liquid assets in its name in a bank and it shall notify the Ministry of the place of depositing the funds. It is not permissible for the society to keep money exceeding its monthly expenditure without the consent of the Ministry.

Article (18)

Charitable societies, social bodies, and private institutions covered by this law shall be exempted by the Minister from custom fees on all equipment imported. It is not permissible for the society to use equipment for a period not less than five years if it does not pay fees on it.

Article (19)

It is not permissible for any society to join, or participate, or enroll in an organization located outside the jurisdiction of the Palestinian National Authority unless approved by the Minister or thirty days after notifying the Minister of the desire to do so, if no reply is given.

Article (20)

It is not permissible for any society to receive funds from outside the jurisdiction of the Palestinian National Authority or from a foreign body or to transfer funds outside or to any foreign body without the consent of the Minister of his/her delegate, with the exception of goods required from external or foreign markets.

Article (21)

It is permissible for societies to hold parties or charitable functions, or sports activities, or undertake other fund-raising activities such as sending letters for collecting funds intended for the objectives for which the society was established. This requires prior consent from the Minister or his/her delegate.

Article (22)

All societies shall comply with the monitoring of the Ministry. This monitoring shall include inspection of accounts, and donations collected by the society and ensuring that the society complies with the laws and its by-laws.

Article (23)

Every society, or institution, or body shall have a board of directors whose roles are specified, as is the process of selecting members, and its by-laws.

Article (24)

The board of directors of any society, social body, or institution shall be responsible for the society's entire activities and functions. The board shall be headed by its director, who represents the society before all official, international, and local bodies, and shall sign all correspondence, contracts and agreements conducted between the organization and other parties.

Article (25)

The role of the director, his/her deputy, the secretary, researcher, and the secretary of the board of director of any society shall be determined in accordance with the by-laws set by its board directors.

**Chapter Four
Board of Directors**

Article (26)

The board of directors shall be specialized in:

- Administering the technical and administrative affairs of the organization;
- Preparing internal lists and instructions while taking into account the instructions of the Ministry;
- Establishing committees which it deems required to improve work, and specifying the roles of each;
- Appointing/dismissing staff of the organization and specifying their roles;
- Preparing the final account for the elapsing fiscal year and next year's budget proposal;
- Inviting the General Assembly for regular and extra-regular meetings in accordance with the law and implementing its decisions;
- Discussing any remarks from the monitoring office or from the Ministry, and replying to them or to the international, or official, or private parties in regard to the organization's activities; or any other activities necessary for the organizations activities and functions.

Article (27)

It is not permissible to join in more than one membership of the board of directors of a society, or institution, or body working in the same field, without permission from the Ministry.

Article (28)

It is not permissible to combine the membership of a Board of Directors and a post as a salaried employee in the society, or body, or institution. It is conditional that

the Board of Directors member enjoy all civil and political rights of the institution or society as long as it is not dealing with students or educational institutions.

Article (29)

The board of Directors shall carry out the administration of the affairs of the organization or institution. To do so it may carry out any function with the exception of that which infringes on the organizations bylaws, provided that the General Assembly approves the plan before implementing it and that its decisions are decided through absolute majority and all its decisions and minutes shall comply with the Ministry's monitoring.

Article (30)

The board's member shall be appointed from candidates by way of elections by the General Assembly. It is permissible to form the board from the winning candidates pursuant to what is stated in the organization's by-laws.

Article (31)

The Minister has the right to halt the implementation of any decision issued by the bodies running the affairs of the society or body or institution if that decision is in contravention with the law or the organization's general regulations or its by-laws.

Article (32)

It is permissible for the Minister to decide to integrate more than one society or institution, or body working for the implementation of a similar objective, to unite their administration, or amend its objectives in accordance with the requirements of public interest or to achieve coordination of the administration of the public service these organization are carrying out, or for any other reason which the Minister sees appropriate for achieving the services for which the organization was established.

Article (33)

The wishes of the founders and the objectives of the organization and the type of service they provide shall be taken into consideration in the process of integration. The integrated organizations shall merge their funds and documentation. No integrating organization shall ask for more funds than were at its disposal at the point of integration.

Chapter Five The General Assembly

Article (34)

The active members of the charitable societies, private institution, or social bodies shall form a general assembly which holds one regular meeting annually to examine the budget and final accounts and the reports of the board of directors and auditor, and to plan the election of the new members of the board of directors sees should be included on the agenda.

Article (35)

It is permissible to invite the General Assembly of any society for an extra-ordinary meeting to examine the amendment of the organization's regulations, or its dissolution, or its integration with another organization or the dismissal of a member of its board of directors, or for any other reason.

Article (36)

The Ministry shall be informed about any of the General Assembly meetings 15 days before they are held. The letter of invitation shall contain all issues stated in the agenda.

Article (37)

The meeting of the General Assembly of any society or institution or body is not valid unless attended by the absolute majority of its members. If the majority is not met, the meeting shall be postponed to another session deemed proper with the number of attending members.

Article (38)

The decisions of the General Assembly of any society, institution, or social body shall be made by the absolute majority of the members present unless the organization's regulation specifies another majority. The Ministry shall be informed through a copy of the minutes of the meetings of the General Assembly fifteen days after it was held.

Article (39) Private Organizations

Private institutions with certain specializations shall be established for an unspecified period to carry out a function having a humanitarian, or religious, or scientific, or technical nature or for any of the activities of charity, social welfare, or public good, without intending to gain financial profits. It shall enjoy the status of a judicial body and all the provisions of this law shall be applicable to it.

Chapter Six Foreign Societies

Article (40)

It is permissible for the Minister to allow any foreign society to open one branch or more in the National Authority's territory to carry out any type of social services in accordance with the restrictions and fees determined by the Minister. The license application shall include the name of the foreign organization, its headquarters, the names and addresses of its founders, the names of its board of directors, its main objectives, and the names of those who shall be responsible for the branch to be established in the country, their citizenship, purposes, and the manner by which the branch's private funds shall be disposed of once the branch is pulled out or dissolved or if its works are liquidated.

Article (41)

Those responsible for any branch of the foreign societies, bodies, or institutions, as defined in this law, shall notify the Minister with any changes that may occur on the private records of the branch which they administer within a period of one month after this change or alteration is made.

Article (42)

It is permissible for the Minister to consult with the head of the Palestinian National Authority and refuse to allow any foreign body, or society, or institution to function in this country or to impose on it any conditions which s/he sees necessary and to amend the previous conditions, or to cancel its license.

Article (43)

Every branch of a foreign society shall submit to the Ministry of Social Affairs in its area a regular report stating its entire activities and the amount of money spent for implementing its objectives, and any other information requested by the Minister.

Article (44)

If the services provided by the institution, society, or body in the country are not free, and if its fees exceed more than 10% of the expenses, coordination shall be made with the Minister and the ministries concerned with the objectives for which the society was established, in order to grant it a license.

Chapter Seven

Religious Bodies and Orders

Article (45)

It is the responsibility of religious bodies and orders established in the territory of the Palestinian National Authority to carry out social services targeted for the public good, without aiming for profit infringing on religion and without taking any fees from the beneficiaries. It is conditional that this body receive the approval of the Minister for its establishment and administration and it shall be put under the supervision and monitoring of the Minister to ensure its correct administration and provision of public services.

Article (46)

If the services provided by the religious bodies and orders are related to education or health aspects and services are provided in return for a fee, the appropriate Minister may give an opinion regarding the license to the Minister of Social Affairs regarding the type of service provided.

Article (47)

This law shall apply to all religious bodies and orders established in the territory of the Palestinian National Authority.

Chapter Eight

Merges and Unions

Article (48)

It is permissible for two or more licensed social or charitable bodies to merge and unite together once approved by two-thirds of the General Assembly provided that this does not infringe on the rights of others in relation to both sides prior to this merger.

Article (49)

It is permissible for three or more charitable societies or private institutions or other bodies to have amongst them one union. It is not permissible to establish more than one union in each of the Gaza Strip and the West Bank.

Article (50)

The establishment of union between the licensed charitable and social societies is conditional on the consent of the majority of the members of the general body of each of them. If more than half the existing societies in the West Bank and the Gaza Strip from a union, then the other remaining societies shall be regarded as part of this union and shall comply with its regulation once they are notified

thereof.

Article (51)

All procedures and regulations stated in this law regarding the manner of registration, its procedures, by-laws records, and work regulation related to any union between charitable bodies, societies, institutions, shall apply to any other institution established pursuant to this law.

Article (52)

The Minister may consult with the union in decisions pertaining to the dissolution of a society, or body, or institution which is a member of a union, or in regard to the appointment of temporary administrative councils for each, or the like.

Article (53)

If the services or aims of the society, organization, or council have anything to with the type of services provided by a Ministry other than the Ministry of Social Welfare, then they must obtain the approval of the concerned Minister in addition to abiding by all the regulations in this Law. They must obtain the necessary permit for the activity before applying to the Ministry of Social Welfare, according to this Law.

Chapter Nine
Financial Issues for Societies and Unions

Article (54)

The Minister is allowed to establish a fund to help societies, private institutions and unions established according to this Law, as long as the fund's income is from donations and aid from banks, public institutions, companies, stores, merchants, business people, or any Palestinian citizen. The Minister must head the fund's Board of Trustees, which draws the policies of the fund.

Article (55)

The Minister may appoint, for a limited time, a director or temporary council for a society to carry out the specifications of its bylaws along the following lines:

- 1) If the number of Board members is not enough for it to hold a legal meeting, or if the General Assembly did not convene within two consecutive years without an excuse acceptable to the Ministry.
- 2) If the society makes a violation which forces this step to be taken, and the Minister does not see a reason to dissolve it, there can be a warning from the Ministry to amend all the violations within 15 days.

Chapter Ten

Dissolving a Society or Council and Punishments

Article (56)

The Minister or his/her delegates have the right to order the dissolution of any charitable society, social agency and private institution. They have the right to cancel the permits, if they are convinced that the organizations have violated their bylaws, have not fulfilled the aims for which they were established, stopped operating, shirked their responsibilities, refused to allow officials to search them, monitor them, or look in their books and records, given false information, spent their funds on things not mentioned in their bylaws, violated any of the legislature in this Law, or if two-thirds of the members of the General Assembly who are eligible to vote decide upon this measure.

Article (57)

The Minister must inform the society that it will have its permit canceled, a minimum of 15 days before cancellation. The Interior Ministry must also be informed.

Article (58)

When the charitable society, social agency or private institution receives its dissolution notice, it must stop all its activities on the day it receives the notice. The society has the right to appeal the decision legally.

Article (59)

If a society is dissolved, a salaried employee will audit its funds and contents, and they will be dealt with according to its bylaws. If the bylaws don't mention how to deal with the funds, the Ministry will transfer the funds of the dissolved society to similar societies, agencies and institutions.

Article (60)

The Minister may add any other regulations to execute the purposes of this law.

Article (61)

The Minister or his designates may close the headquarters of the society, agency or institution and its branches, or one of its branches, for a certain renewable period of time as a temporary step until it is learned whether any members of its Board of Trustees committed a violation of the regulations in this Law.

Article (62)

Anyone who violates the regulations of this Law will be fined no more than 100

dinars, or imprisonment for no more than six months, or both.

Article (63)

Whoever establishes a secret society without taking this Law into account will be punished with a one-year prison sentence or fine of 3,000 dinars, or both.

Article (64)

Whoever submits a false affidavit or claim, or falsifies records of a society with the aim of hiding information from officials, will be punished by a prison sentence of between two months to a year, or a fine of 1,000 dinars or both.

Article (65)

Every society performing illegal acts or which violates public order and moral will be subject to closure, and the member(s) are subject to the penal law.

Article (66)

Each ministry, agency and administrative body will execute the parts of the Law applicable to it.

Article (67)

This law cancels the Ottoman Societies Law of 29 Rajab 1327 Hijri, in effect in the Gaza Strip, and the Jordanian Law of Charitable Societies #33 of 1966 dealing with societies and administrative bodies in effect in the West Bank, and all other articles which are superseded in this law.

Article (68)

This Law goes into effect on the date it is issued and published in the official gazette.

Yasser Arafat

Chairman of the PLO

President of the Palestinian National Authority

Issued on ____ / ____ / 1995

Palestinian NGO Network Position on the Draft Law Concerning Charitable Societies, Social Bodies and Private Institutions, September 1995

In spite of great efforts exerted by the Palestinian NGOs last year to develop close and constructive relations with the Palestinian Authority, and to open various channels of dialogue on how relations between the authority and the NGOs can be regulated, and despite the constructive response of some officials, we were astonished to see that there was a draft law for the societies under discussion within the authority. The draft law was formulated without a serious dialogue with the parties concerned with the law, and without benefiting from the conclusions reached in a series of meeting with the representatives of various ministries on regulating relations between the two parties.

The matter becomes more complicated when we notice that the draft law comes at a time when the Israeli authorities are tightening their grip on the national institutions and NGOs in Jerusalem. In addition to that, there was no mention of the party responsible for preparing that draft law, or the body authorized by the PA to lead the discussion on it.

Out of its absolute concern for the national unity and the interests of the Palestinian people, and out of its loyalty to the values of freedom, democracy and civil society, the Palestinian NGO Network calls on the Palestinian Authority to totally discarded this proposed draft law, which is full of defects and dangers, and to open a serious and responsible dialogue with the Network, charitable societies on an individual basis, and NGOS, on regulating the relations between them and the PA. This is necessary to contribute to maintain national unity and protecting the future of the Palestinian people who are continuing their struggle against occupation, suppression and settlement expansion.

The Network also calls on all Palestinians NGOs and all bodies sympathizing with the Palestinian people and supporting their national cause to encourage a democratic dialogue in this respect, and to support anything that may provide an atmosphere pertinent to its success.

The aforementioned draft law, if put into effect, can inflict serious harm not only on the function of NGOs and the national interest, but also on the PA's efforts to develop Palestinian society, as well as the efforts to build a democratic Palestinian

homeland in which citizens enjoy freedom and dignity and be creative, after such long years of suppression and oppression.

To explain the problematic nature of this draft law, we mention the following points:

1. The relationship between the PA and Palestinian society, including the bases of civil society and its NGOs, is one of the fundamental elements of reinforcing national unity. This is particularly necessary under these circumstances, as the Palestinian issue is subjected to great dangers, among which are the escalation of settlement activity, maintaining the separation of Jerusalem from the rest of the West Bank, and attacking the national institutions in it. The nature of the stage we are passing, and the continuation of the Israeli occupation in most of the Palestinian lands force us to support the efforts of all Palestinian institutions, and not impose restrictions and controls on them.

The proposed draft law ignores the fact that the relationship between the PA and the NGOs should be one of alliance and solidarity, and not one of competition and hegemony. Strengthening the unifying elements of Palestinian society rather than dividing elements is a must.

2. There is no need to rush into issuing laws at this point, before the endorsement of legislative bodies which enjoy national consensus through democratic means. This is particularly so on light of the obstacles put by the Israeli government preventing the conducting of comprehensive Palestinian elections, and in the absence of any separation of legislative, executive, and judicial authorities in the areas of the Palestinian Authority.

Among the strangest things in the proposed law is that it grants PA ministers an absolute mandate to dissolve or freeze NGOs as they wish, without being accountable to any legal term of reference or any independent judicial body.

3. NGOs support formulating laws that regulate the performance of Palestinian society, including their own performance. However, we believe that regulating relations between the PA and the NGOs necessitates a dialogue between the two parties, and necessitates making suggestions in a democratic and civilized form. This reflects the aspirations of the Palestinian people in development and democracy.

It is not in the benefit of the authority or the NGOs to limit their relationship to a framework of laws that are copied from "failing" systems in some Arab countries, and impose them by force or through an administrative decree.

The proposed draft law represents an approach of a bureaucratic dictation,

which proved to be a failure in practice in several Arab countries. This law is presented to us at a time when many governments are getting rid of it for its bad reputation and detrimental impact.

4. The role of NGOs is becoming stronger in all countries. It has become one of the characteristics of democratic development, societal participation and civil modernization. The revolution in the means of communication has also been strengthening the role of NGOs by providing citizens with data and organizational means. This provision of information cannot be prevented or suppressed. Despite the ferocity of the occupation in Palestine, NGOs have come a model to be followed in steadfastness, creativity and establishing new developmental patterns, all of which have accumulated experience, knowledge, and energies which should be employed in the establishment of the Palestinian homeland.

As the national interest is the motive behind the legislation process, there should be no feeling of competition or contradiction between the Palestinian Authority and the NGOs. The proposed draft law however does not give that impression. Rather it aims at subjugating the NGOs to a series of legislation which contradict the spirit of our times. This includes authorizing the Minister of Social Welfare to make the final decision on licensing, dissolving or merging any society with any other institution, without any consideration to the will of its general assembly or its democratic rights.

Within the same context, the law imposes a series of restrictions on NGO activities, which at times reaches the level of forcing some of them to obtain the approval of several ministries including the Ministry of Interior, before being able to start their activities. This allows for selective and moody implementation of the law, in the absence of a legal term of reference that has the authority to review decisions taken by the concerned ministers.

5. We believe that it is the duty of the NGOs, so long as they work for the public interest, to report their activities and budget, not just to the official departments, but to their general assemblies and citizens as well, within a framework of just laws, and a sound system of accountability applicable on all official and grassroots bodies. The best way to realize that is to spread a spirit of democratic and just regulation, that can guarantee continuity for all organizations and institutions without any discrimination, rather than imposing laws that would maintain the situation which has been existing over the last 30 years, and which obstructed the natural development of a democratic administration.

6. The excessive concentration in the proposed law on restricting NGOs activities in the field of securing financial resources for their work, which is non-

profitable anyway, practically means besieging them, destroying their capabilities, and abolishing the basis of their very existence. By their nature, the bulk of NGOs are in no state to compete with the authority for foreign funding. Donating countries in fact are heading towards placing several developmental projects under foreign supervision, through UN bodies and other international institutions. This contradicts the principles of self-reliance, and the promotion of local capabilities. It also leads to wasting valuable resources on administrative expenses.

This approach of the donors is aggravated by the insistence of some funding countries to limit funding to Israeli conditions and dictations. An example for that is the EC decision to exclude Jerusalem from development aid. In this respect, the national interest entails that the relationship between the NGOs and the authority be one of solidarity and cooperation, not the contrary.

* * *

Regulating the function of national institutions can only be achieved through a contemporary law that rivals the development of civil society institutions in various parts of the world, particularly with respect to cooperation to bridge the existing developmental gap.

Without indulging into the details of the law, it unfortunately represents a disastrous setback. It contradicts democratic values and human rights, and will inflict serious damages on the national interest if endorsed.

Therefore, we sincerely call again on the PA, and PLO institutions, to disregard it totally, and to immediately initiate serious and responsible dialogue with the NGOs, for the benefit of the Palestinian people, their national future and rights to democracy, freedom and human dignity.

A Suggested Framework for Relations Between Palestinian NGOs and the Palestinian Authority

[This is a revised draft, based on discussions between PNGO and PECDAR in late 1994. It reflects the PNGO's view of the relationship but not necessary that of PECDAR].

Political realities in Palestine have created new circumstances for public institutions and NGOs operating in the region. These new circumstances require concentration on all aspects of development work, guided by the principle of professional qualifications and effectiveness.

Based on the important role played by Palestinian NGOs under occupation, and their foreseeable important contributions in the forthcoming period, we believe it is necessary to develop clear guidelines which will govern the relationship between the Palestinian NGOs and the Palestinian Authority, to facilitate their work and increase the effectiveness of coordination between them.

I. Definition

NGOs are non-profitable institutions of civil character which work in various aspects of development including education, culture, charity, legal, religious, and technical fields. They work without discrimination on the basis of race, religion, or gender.

II. General Principles

1. In its regulations and relations with NGOs, the Palestinian Authority is informed by the uniqueness of the Palestinian experience in struggle and development, the Palestinian communal work, the democratic tradition and human rights.
2. The Palestinian Authority views the role of NGOs with importance, and guarantees their freedom to work within the framework of international covenants, democratic norms and human rights, within the principle of the supremacy of law.
3. Relations between the Palestinian Authority and local NGOs will be based on the continuous exchange of information with the aim of consolidating the coordination concerning development policies and various economic projects.
4. The Palestinian Authority views positively the participation of NGOs in the formulation of development policies.
5. Based on the importance of the role of the NGOs, as an active part of

Palestinian society, the Palestinian Authority will provide the NGOs with the necessary support to facilitate and promote their work.

6. Based on the previous provisions, the Palestinian Authority will enter into constructive relations with the NGOs, particularly in the fields where some of these NGOs have accumulated important experiences. Such relationships could lead to opening of doors for NGOs to participate in planning, implementation, and evaluation of development projects in certain fields.

III. Establishment of NGOs

1. Any group of people have the right to establish an institution or an NGO.
2. NGOs have the right to choose any organizational framework that they deem fit to carry out their activities.
3. The Palestinian Authority guarantees the freedom to establish NGOs to perform their functions in accordance with the laws and regulations locally in practice.

IV. Funding

1. Palestinian NGOs have the right to receive funds from any source so that they can provide their services.
2. The Palestinian Authority exempts NGOs from customs and taxes in accordance with the law.

V. Organizational Aspects

1. All NGOs should have a clear written organizational structure which delineates the function of the various departments, by staff, and the hierarchical levels and interaction between the different units of the organization.
2. All NGOs should adopt a written administrative and financial policy pertaining to the appointment of staff, their job descriptions, their salaries and work benefits (such as health and social insurance, etc).
3. Modern administrative approaches and democratic principles stipulate the need for a clear system of accountability and evaluation. It is, therefore, binding on all institutions to have general assemblies, boards of trustees, committees or any other form of supervision that would be responsible for determining general policies and approval of annual budgets.
4. In the case of social and professional institutions, such as clubs, associations, professional unions, and trade unions, the general assembly should elect the executive committee, and should hold its elected representative bodies accountable.
5. NGOs without general assemblies are obliged to establish a neutral voluntary body (i.e., board of trustees) in order to provide effective supervision

over the proper implementation of projects, and the achievement of annual objectives.

These bodies should:

- Be formed independently of the executive committee
- Meet annually to approve the institution's budget, direction and activities
- Have voluntary membership
- Bear full responsibility for all matters relating to the institution

VI. Financial Aspects

1. The financial operations of the institution should be clearly documented and organized in accordance with international and local book-keeping criteria and procedures. Statements of expenditures and income should be presented clearly to the general assembly, the donors and the public.
2. An accountant and a licensed auditor should be appointed. Financial reports should be prepared in accordance with the local and international book-keeping criteria and procedures.
3. An annual financial report should be submitted to the responsible authorities. The report should include the general budget, planned and actual expenditure, and a summary of overall costs, showing how funds were used from the time of donation through the implementation of the specific project for which funds were allocated.

VII. Registration

The Palestinian Authority approves the Palestinian NGOs which are currently operating, considering them legal until a new law organizing the relationship between the Palestinian Authority and the Palestinian NGOs is promulgated and approved by an elected Palestinian Council.

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