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Diakonia position paper on Israel / Palestine

Introduction

The purpose of the position paper is to provide a summary of Diakonia's views on the conflict in the area, the occupation of the Palestinian territories and ways forward.

The document does not make an analysis of poverty and discrimination inside Israel. It focuses on the occupation, international law, especially international humanitarian law, partner perspectives, Swedish and European policies and actions.

The aim is to serve as a tool for communication with partner organizations, decision makers, colleagues and other relevant actors Diakonia engages with in order to further develop the thinking and work around solutions of the conflict.

Please note that this document is a "living document" and that it will be subjected to alterations in line with the constant development of Diakonia's work and changes in the regional context.

Explanations:

- *When we refer to Israeli territory we include the internationally recognized borders of Israel inside the 1949 armistice line.*
- *The OPT (Occupied Palestinian Territory) is referring to the internationally recognized borders along the 1949 armistice line*
- *Although the Wall will appear in different shapes along its route, we are using the definition "wall" from the ICC ruling of 9 July 2004.*

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1 Diakonias vision

Diakonia's vision is a viable two state solution brought about by a just and negotiated peace, in accordance with International Law and UN Security Council resolutions.

Diakonia works for the right of both people to live in peace and security within internationally recognized borders.

- Both sides accepting the right to exist of the other state
- The end of the Israeli occupation*
- End of the Israeli settlements in the occupied Palestinian territories.
- A negotiated peace agreement including the future of the Palestinian refugees, the right and access to land and natural resources, the status of Jerusalem.
- Respect for all religious groups and their free access to the holy places

* Occupation includes the Israeli control over the West-bank, East Jerusalem and the ongoing military control over the Gaza borders and territory.

2 Background

It is high time to deal with the old view of the conflict that you have to make a choice – either that you support Israel or you support Palestine. To achieve a sustainable peace, the interests of both sides have to be respected or we will create ongoing tensions and a constant risk of new violence.

Diakonia has a vision of a life of dignity for all people. The main target group for Diakonia's work is the poor and oppressed and those subjected to violence in different forms. The main objective is to change the political, economic and social structures that hinder a fair and sustainable development.

It is of fundamental importance that Diakonia's starting point is not to take side with any of the parties in the conflict, but to uphold the rights of the individual. Diakonia's objective is the promotion of international law, human rights and democracy, gender equality and poverty eradication

Diakonia's starting point is also non-violence. The Palestinian-Israeli situation today shows the futility of violence, where endless repression and retaliation feed off each other. On top of this cycle of repression and violence, conflict and provocation, come the bitter fruits of poverty. Action is urgently needed to break this cycle of diminishing hope.

We need an honest analysis of the causes of the current humanitarian crisis and we need an understanding of the structural problems behind them. In particular, what is required is support for the active engagement of all key partners in a renewed peace process where international law and in particular international humanitarian law is in the centre of the process.

The continuation of the occupation, the building of the Wall, the fragmentation of the Palestinian territory are not only causing suffering, poverty and frustration; these facts all constitute a formal violation of international law.

Diakonia's engagement and activities for a just peace must take into account how the Israeli/Palestinian conflict is sometimes used in the debate in Sweden. We must be aware that there are groups and individuals that use the conflict in Israel /Palestine to promote both islamophobic and anti-Semitic ideas and arguments.

Diakonia must act vigorously to counter those arguments and ideas. But to criticize the Israeli occupation and promote the respect for international humanitarian law is not anti-Semitism. To criticize Palestinian suicide-bombs, corruption and gender imbalance is not equal to Islamophobia.

The way to peace is to support the forces on both sides that choose to work for coexistence. Those who choose peaceful methods, and those that support international law.

3 The role of Religion

The influences from the three major religions in the existing conflict cannot be overlooked.

However the influence of the religion is not easily defined and can also influence in totally different directions.

We can recognize that much of the hope in this bitter conflict comes from the religious groups where the strain for peace and reconciliation over political, cultural and religious borders are driven by their interpretation of their faith urging all human beings to respect the life and dignity of others.

Diakonia has a special goal to support groups and networks like those.

However, religion can also be used to facilitate hate, to dehumanize and disrespect others. Numerous acts of terror and crimes have been justified by a perverted religious argumentation and interpretation. We are deeply worried by the growing influence of extremism using religious references.

But we also know that fatigue, poor education and a lack of trust in legal rights and civil society are easily exploited by extremists, using religious terminology. Those are causes Diakonia addresses in our work.

As an organization with our roots in Christianity, Diakonia has a special responsibility to counter and prevent misuse of the Christian faith to justify acts of violence, discrimination or nationalism.

Among other's Diakonia will never accept "replacement theology" as a philosophy to discriminate the Jewish belief or facilitate Anti-Semitism, or the "Christian Zionism" as an excuse to support Israeli territorial claim, deny the rights of the Palestinians, or to facilitate Islamophobia.

4 Thematic issues

4.1 Democracy

Today both Israel and the Palestinian territories have democratic structures and democratically elected governments, but there are serious concerns regarding substantive democracy.

Nevertheless, the existences of both democracies make them unique in the region.

Both Israel and the occupied territories under the Palestinian Authority have problems and limitations in relation to democratic process and culture.

4.1.1 Occupied Palestinian territory

The Palestinian Authority (PA) was bestowed with limited powers in certain areas of the West Bank and Gaza after the 1993 Oslo Agreement. The PA has certain responsibilities for health, education and police in some of the areas. During different phases the PA has had different power in relation to Israeli military occupation. After the 2002 incursions, most departments and activities of the PA were destroyed by Israeli military forces.

The PA has also been characterized by corruption and nepotism, especially from leading members of the Fatah party.

The elections of the new President, Parliament and local elections in 2004-2006 have changed the Palestinian political sphere from a “one party system” to a system with recognised democratic structures.

The Israeli occupation creates challenges for democratic development in the OPT. It has created support for militant groups by undermining people’s belief in a peaceful solution of the conflict. Furthermore, the unwillingness and inability from the international community to protect the rights of the Palestinians have undermined the belief in democratic and legal structures.

In the elections of January 2006 Hamas won a large proportion of the votes to the legislative assembly. Hamas are known to be responsible for many fatal attacks against civilians that must be characterised as “war crimes”. But it was also a democratic election. Diakonia will closely analyze how the current situation will affect our policies and working methods.

4.1.2 Israel

In Israel problematic issues surrounding democracy emanate from different sources. Many Israeli organizations are bringing up the contradiction of being both an occupying power and a healthy democracy.

The constant conflict with international law endangers Israeli society by undermining respect for the both the domestic legal system, and the respect for Israel international reputation. The feeling of impunity for the settlers’ behaviour and the modest consequences once in court undermines respect for the fairness of the legal system.

The double standard in treatment of Arab and Jewish Israeli citizens are promoting the spread of racism.

4.2 Human Rights and International Humanitarian Law

International humanitarian law and international human rights law (hereafter referred to as human rights) are complementary. Both strive to protect the lives, health and dignity of individuals, albeit from a different angle.

Humanitarian law applies in situations of armed conflict and occupations, whereas human rights, or at least most of them, protect the individual at all times, in war and peace alike.

4.2.1 House demolitions

International Humanitarian Law prohibits the punishment of a protected person for any offence he or she has not personally committed. Therefore collective punishments are forbidden according to the Fourth Geneva Convention and the Hague Regulations 1907.

Most Palestinians who are made homeless through house demolitions are not suspected or wanted persons, but may be family members or neighbours of such people.

4.2.2 The wall

In its Advisory Opinion of 9 July 2004, the International Court of Justice held that the wall currently being built by Israel in the Occupied Palestinian Territory is contrary to international law. According to UN body, OCHA, 80% of the wall is built on occupied Palestinian territory and only 20% on the international recognized border.

The wall has serious consequences for Palestinians living in its vicinity. Many thousands are separated from their agricultural lands by the wall and are denied permits to access their lands. Even those who are granted permits frequently find that gates within the wall do not open as scheduled. As a result, Palestinians are gradually leaving land and homes that they have inhabited for generations.

The harm to the farming sector is liable to have drastic economic effects on the residents – whose economic situation is already very difficult – and drive many families into poverty. More than 1 million people out of the 3 million Palestinians living in the West Bank are estimated to be directly affected by the wall (source: OCHA).

The annexation of the Jordan Valley as a military area in early 2006 is increasing the difficulties for West Bank residents to move within the territories. It is seen as a first step to building a wall also on the east side of West Bank.

4.2.3 Extrajudicial executions

During the course of the second *intifada*, Israel officially adopted a policy of assassinating Palestinians suspected of belonging to armed Palestinian organizations. Israel argues that the members of these organizations are combatants and are, therefore, a legitimate target of attack. However, Israel does not grant them the rights given to combatants under international humanitarian law, primarily the right to be recognized as a prisoner of war when captured, which entails immunity from criminal prosecution.

4.2.4 Palestinian Authority and the death penalty

International law does not ban the death penalty. International law does, however, put stringent restrictions on implementing it, and encourages states having the death penalty to revoke it. Accordingly, the International Covenant on Civil and Political Rights requires that only the most grievous offences be subject to the death penalty. Also, the death penalty may be imposed only where the rules of due process of law, as set forth in Article 14 of the Covenant, are strictly adhered to, and provided that the defendant has the right to appeal the court's decision.

These criteria are not currently being fulfilled by the Palestinian Authority.

4.2.5 Settlements, Ethnographic and Demographic Changes

Under international law, an occupying power is not allowed to transfer its own population into occupied territory. In the case of Israel, its relentless policy of building illegal Jewish settlements on land expropriated for this purpose from the Palestinians has been deemed by the international community on more than one occasion to be a "major obstacle to peace". (eg. UNSC Resolution 465; 1980)

For the past decades Israel has assured the world that settlement growth has been frozen or limited to natural growth. Unfortunately, this is far from the truth. In 2004 the settler population increased by six per cent, compared with a growth rate of less than two per cent in Israel itself. This is three times higher than the number evacuated.

There are some 150 settlements in the West Bank and Occupied East Jerusalem inhabited by over 400,000 settlers

Existing settlements are being visibly expanded and new settlements built. In August 2005 the Israeli Government evacuated 8,000 settlers from Gaza. Since then the settlements on the West Bank have grown with more than 20 000 inhabitants.

It is clear that the majority of settlements are there to stay – and to grow, despite the unanimous ruling of the International Court of Justice in July 2004 that settlements are illegal.

The annexation of land, building of settlements, and the whole network of settlement roads constitute probably the largest impediment to a two-state solution. This falls far short of the viable state the international community has promised the Palestinians.

4.2.5.1 Ethnographic changes

International law (4th Geneva Convention and UN Security Council) stipulates that an occupation power is not allowed to transfer own population into occupied territories.

In violation of the UN decision the Israeli government have consistently continued to build and expand these illegal settlement with now a total population of 400 000 persons on the WestBank and Eastern Jerusalem.

Deliberate ethnographical changes shall not be rewarded, for example settlers can not have a vote or saying regarding the final status of areas they colonize.

4.2.5.2 The facts on the ground / Demographic changes

The UN security Council resolution 465 from 1980 says: that Israel may not "change the physical character, demographic composition, institutional structure or status of the

Palestinian and other Arab territories occupied since 1967, including Jerusalem, ...”and that Israel’s policy and practices of settling parts of its population and new immigrants on those territories constitute a flagrant violation of the Geneva Convention relative to the Protection of Civilian Population in Time of War and also constitute a serious obstruction to achieving a comprehensive, just and lasting peace in the Middle East”.

Settlements, roads reserved for Israelis, Infrastructure supporting settlements like the Jerusalem light railway are illegal.

Deliberate demographical changes shall not be rewarded. Israel must accept that all Israeli built or planned infrastructure and buildings on the OPT should be handed over to the Palestinian authorities.

4.2.5.3 Structures of Apartheid

The system with separate rights and services for Jewish settlers and Palestinians in the occupied territories bears resemblance to those of the old apartheid South Africa. The ID-system, constant restriction of movement for the Palestinian population, unequal services and separate roads and transport systems are other similarities.

The infrastructural services like roads, water, sewage, refuse collection and education system are severely mismanaged and systematically under-resourced in East Jerusalem areas (excluding the settlements). Palestinians in East Jerusalem are not citizens but treated immigrants with “resident status” that Israel can revoke even if they have lived there for generations.

It is notable that the Palestinians in East Jerusalem pay the same taxes as the residents of West Jerusalem where the standard of service provision is incomparably higher.

4.3 Social and economic justice

The impact of the conflict is felt by Israelis and Palestinians in innumerable ways: the worker who fears traveling to work because of suicide bombings on buses, or the children afraid to travel to school. But while the daily climate of fear is shared, the economic impact is primarily felt by Palestinians: the father who works only one day in ten; the farmer whose crops rot in the field because he may be shot by Israeli settlers if he tries to harvest them; the school building constructed with funds from international donors which is now shattered by army incursions. Large swathes of farmland have been cleared, citrus and olive groves torn out to make way for settlements and settler roads.

Almost three-quarters of Palestinians now live on less than US\$2 a day – below the official UN poverty line. Half the population needs extra food to ensure minimum daily requirements. A quarter of all children are anemic.

According to the World Bank the reason for the collapse of the Palestinian economy is the Israeli occupation policies especially Israel’s policies of roadblocks, the wall and the lack of freedom of movement.

In practice Israel in this way strangles the Palestinian economy. It makes it impossible or extremely difficult, for Palestinians to export and trade with the outside world and even to trade within the occupied territories.

The Israeli state has evolved a system for supporting the 400 000 illegal settlers in various economic ways, including roads connecting the settlements to each other and to Israel, investment subsidies, property subsidies, tax relief and the system of trade and export facilities – in stark contrast with the difficulties that Palestinian goods have in reaching outside and inside occupied territories.

4.4 Gender

Palestinian women in the West Bank and Gaza have lived all or most of their lives under Israeli occupation and have been facing a triple challenge to demand their rights; as Palestinian living under Israeli military occupation which controls almost every aspect of their lives; as women living in a society governed by patriarchal customs, and as unequal members of society subject to discriminatory laws.

Poverty, low participation in the labour force and in the political arena, increasingly high education drop-out rates, poor access to reproductive health services and increased loss of personal freedoms due to the building of the wall, are all issues that affect the female population in particular.

The women are often has to carry a heavy burden of the impact from the Israeli occupation concerning the family life, the economy and social services.

4.5 Conflict transformation and peace

The Israeli-Palestinian conflict is a violent conflict on many levels. It is partly a military conflict but involves the civilian populations. Both Palestinians militant groups and the Israeli occupation forces are responsible for different forms of violations of international humanitarian law.

Approximately one quarter of those killed in the conflict were Israeli civilians. Two thirds of the fatalities are Palestinian civilians, according to statistics from the Israeli human rights organization B'Tselem (29 sept 2000- 31 dec 2005).

Palestinian groups and individuals have been responsible for suicide bombs that are directly aimed at killing and injuring the civilian Israeli population. This is in direct conflict with international law and may constitute war crimes.

Israel has continuously violated the laws of warfare. These violations include, inter alia, indiscriminate firing that has caused injury to bystanders, use of ammunition and means of warfare that are incapable of sufficiently distinguishing between persons taking part in the hostilities and those who are not, and extensive destruction of houses and other property, in violation of the principle of proportionality.

4.5.1 Non violence and the right to resist

In our work in the region and in the advocacy work in Sweden and the EU, Diakonia promotes non-violence. Diakonia recognizes the right to resist by non-violent means.

International Humanitarian Law relates to resistance movements as a fact that needs to be taken into account in an armed conflict. The struggle for freedom from occupation should always be conducted in accordance with IHL namely, either as mass resistance against an

occupying force at the time of the invasion, as long as the resisters carry arms openly and respect the laws and customs of war, or by members of an armed group that follows specific conditions - a hierarchical organization, whose members carry a fixed distinctive sign, carry their arms openly and conduct their operations in accordance with the laws and customs of war.

4.5.2 Impunity

Violations of international law have been committed on both sides. Many of the suspected perpetrators are still alive and sometimes hold public positions in both communities. The peace process must consider legal measures to be brought against such people, and provide redress for the victims. However, this should run in parallel to a process of future reconciliation.

States have the duty to investigate alleged wrongdoing by their soldiers according to their obligations under international humanitarian law, and bring perpetrators to justice. Steps must be taken, on both sides, to hold those responsible for killings, extensive and wanton destructions of property without military necessity, torture and other crimes accountable. In the event that the state does not or cannot fulfil its obligations, the international community has a complementary duty to bring perpetrators to justice.

5 Regional Issues

5.1 The status of Jerusalem

Israel has declared Jerusalem as the eternal and undividable capital of Israel. The occupation of Arab East Jerusalem since 1967 and the annexation of part of that territory are not recognized by the international community, and thus constitute a violation of international law.

Nevertheless Israel is rapidly moving forward to make the annexation a fact by taking over more and more areas in the city, sometimes by illegal measures such as letting settlers occupy Palestinian buildings; in other cases by buying out Palestinian property. Through a system of legal measures, in particular discriminatory planning laws, it has become impossible or very hard for the Palestinian population to live and own property in Jerusalem. Discriminatory methods are used in respect of Palestinians applying for building permits, and permission to enter the city to Palestinian owners of Jerusalem property must be gained by negotiating a series of daunting obstacles – and is more often than not refused.. Israel makes no secret of its desire and intent to make the whole of Jerusalem a predominantly Jewish city.

The status of an open city for 2 peoples and 3 religions should be permanent, ensuring access to the holy places for all.

5.2 The double standard

It is obvious that violations of human rights and international humanitarian law are perpetrated on both sides. The possibility of applying diplomatic and financial pressure on the parts to increase the incentives to respect international law is often discussed.

In the “Roadmap” process, the main obstacles cited are the PA/PLO inability to stop acts of terror and Israel’s stubborn refusal to stop the settlements and expansion of territory. Diakonia want to point out the utmost importance of not practicing a double standard towards the different sides. Demands and threats of sanctions should, if used, apply to both parties.

5.3 To build a just peace

Diakonia’s vision is a two-state solution brought about by a just and negotiated peace, in accordance with International Law and UN Security Council resolutions

5.3.1 Acceptable to both “sides”

Peace has to be negotiated and be based on international law. Unilateral declarations that do not take into account international law for both sides will not create a lasting peace.

Agreements concluded between the authorities of the occupied territories and the Occupying Power cannot not deprive protected persons living in an occupied territory of their benefits under international humanitarian law. The international community should act with the conviction that only a solution based on international law, negotiated by both parties while each maintains respect for international law, can create justice and lasting peace. It is only with such as solution that terrorism can be discouraged and the rights of the two peoples to exist and live side by side will be fulfilled.

5.3.2 Viable two state solution

Both states must have a possibility to exist and develop a working state economy. This includes control over borders and natural resources.

It also includes logical borders, rather than creating enclaves or bantustans.

6 Conclusions

Diakonia seeks to be an active partner in the region, in the EU and in Sweden to promote a just peace. We shall have a proactive agenda initiating debates and increasing public awareness.

All activities should be in line with Diakonias general program work and our 5 prioritized focus areas, democracy, gender, human rights and international law, conflict transformation and peace, social and economical justice.

Many partners of Diakonia in Israel and in the OPT are in favor of financial sanctions against Israel. Many churches in the United States also support various forms of financial sanctions against Israel. Diakonia is not ready today to support general and broad financial sanctions against any party. But we note that:

- The policy that Israel today imposes on the population in the West Bank and Gaza is preventing Palestinians from traveling and having normal trade relations. This is a policy of siege and boycott. This policy is allowed to continue against the Palestinians, at the same time as for example military cooperation with EU-states like Sweden continues. Diakonia do not accept military cooperation with Israel or any of the parties in the conflict.
- Israel has also been granted privileged trade conditions with the European Union. This status has been granted on condition that Israel respects human rights. Also the EU and Israeli Association Agreement is only valid for goods produced inside Israel, and not from the OPT's. The EU has suspended Association Agreements 13 times with various states with reference to deteriorating human rights situation. This has not been done in the case of Israel in spite of the worsening situation after 2002. Diakonia do not accept double standards for Israel compared to other states

Diakonia should always defend the Israeli population's right to live in peace and security within internationally recognized borders. In the same way we should defend the Palestinian population's right to live as an independent state in peace and security.

Diakonia should contribute to this development with tools as aid and capacity building to partners in Israel and Palestine, and advocacy and information work in Sweden and Europe.

We shall always try to be constructive rather than to be seen as just complaining and pointing fingers.

International humanitarian law and human rights are our guiding principles. We should strive to ensure respect for international law, by giving the rights holders the tools to recognize and defend their rights. We should also educate and inform authorities, commercial enterprises and governments about their duties.

All Diakonias work is based on non-violence, we reject any use of direct or indirect violence from all parts as a tool in this conflict.

In our work in the region and in the advocacy work in Sweden and the EU, Diakonia will promote and support organizations and ideas within society that support peace, justice, reconciliation and a just peace.