



6404 Seven Corners Place, Suite N | Falls Church, VA 22044 | 703.534.3032 | ampalestine.org

Memorandum to Biden-Harris Transition Team on Palestine Policy

TO: Ambassador Linda Thomas-Greenfield, Department of State Agency Review Team Lead, Biden-Harris Transition Team

FROM: Dr. Osama Abuirshaid, Executive Director, American Muslims for Palestine

DATE: Tuesday, November 24, 2020

RE: Policy recommendations on Palestine for Biden administration

Dear Ambassador Thomas-Greenfield,

On behalf of American Muslims for Palestine (AMP), a 501(c)(3) nonprofit organization, I'm writing to congratulate you on your nomination as US Ambassador to the UN, and to congratulate the entire Biden-Harris transition team. I am also writing to provide our policy recommendations on Palestine. I would be extremely grateful if you can share this message with the entire team and if we can meet with appropriate team members to discuss these recommendations at their earliest convenience.

AMP educates, organizes, and advocates for a US policy that supports the Palestinian people's self-determination and liberation. Our organization looks forward to working with the Biden administration to reorient US policy to pursue a just and lasting peace between Israelis and Palestinians based on human rights and international law.

AMP is the largest national Muslim-American organization that works exclusively on advocating for Palestinian rights. As a Palestinian-led organization, we firmly believe that those most impacted by past US policymaking should also be those who are at the forefront of formulating US policy now and in the future.

Unfortunately, for far too long, Palestinian-American voices have been marginalized, disregarded, and largely ignored in the formulation of US policy toward our people and our beloved homeland. We would like to take this opportunity to open a dialogue with the Biden transition team to rectify this situation. We want to ensure that our communities have a place at the table in the formulation of US policy toward Palestine, and we would like to encourage the Biden administration to hire qualified and representative individuals from our communities to help craft US policy.

Like many marginalized and oppressed communities, the Palestinian people have suffered from tremendous injustices inflicted upon them by the Trump administration. In the policy recommendations below, AMP calls upon the incoming Biden administration to immediately

enact a harm reduction strategy to undo the egregious policies of the Trump administration, which often overturned decades of bipartisan US policy.

Only after remedying these harmful policies will the United States be in a position to fundamentally reorient its policies toward the Palestinian people to support their legitimate rights. In this last section of the memorandum, we offer general principles that should guide US policy rather than specific policy prescriptions.

We thank you for your time and consideration, and we look forward to continuing our conversation.

Sincerely,

Dr. Osama Abuirshaid

Dr. Osama Abuirshaid, Executive Director
American Muslims for Palestine

SHORT-TERM EXECUTIVE ACTION NEEDED ON PALESTINE

A. Reestablish US impartiality on Jerusalem

The Trump administration's December 2017 recognition of Jerusalem as Israel's capital and the opening of the US Embassy to Israel in Jerusalem in May 2018 upended 70 years of bipartisan policy on the status of the city. Prior to the Trump administration's actions, the US government consistently refused to recognize any party's claim to sovereignty over any portion of the city and held that Jerusalem was a permanent status issue that had to be resolved by the parties before the US would recognize sovereign claims.

In addition, in October 2020, the State Department began to issue passports to US citizens born in Jerusalem allowing them to select "Jerusalem, Israel" as their place of birth if they choose to do so.

All three of these policy decisions prejudice the status of Jerusalem in Israel's favor and are unprecedented interventions by the United States to prejudice the Palestinian people's rightful claims to the city. Jerusalem is the political, geographic, historical, religious, cultural, and economic heart of Palestine, and the Palestinian people view Jerusalem as the capital of Palestine, as stipulated by international resolutions.

AMP urges the Biden administration to reverse these policies by:

1. Rescinding President Trump's [statement](#) of December 6, 2017, that Jerusalem is Israel's capital. Failing that, the Biden administration should make a supplemental statement that Jerusalem is also the capital of Palestine.

2. Directing the Department of State to restore the US Embassy to Israel to its previous location in Tel Aviv and signing the presidential waiver contained in the Jerusalem Embassy Act. This should not be difficult to accomplish logistically, given that most embassy officials are still stationed in the former embassy location. Failing that, the Biden administration should halt the process of transferring additional staff from the former embassy in Tel Aviv to the new embassy in Jerusalem, and declare that Jerusalem is also the capital of Palestine.
3. Rescinding the ability of US citizens to list “Jerusalem, Israel” as their birthplace on US passports, or, failing that, enable US citizens also to list “Jerusalem, Palestine” as their birthplace on US passports.
4. Reestablishing US policy that East Jerusalem is part of the West Bank, that Israel holds this territory under belligerent military occupation, and that Israel’s colonization and annexation of East Jerusalem are illegal.

B. Reestablish the illegality of Israeli settlements and the terminology of Occupied Territory

The Trump administration took several crucial steps in US policy to erase the status of Israel’s belligerent military occupation of Palestinian and Syrian land, paving the way for US recognition of past illegal annexations by Israel and support for further annexations in the future. For example, in April 2018, the [State Department](#) removed the reference of “Occupied Territories” from its annual human rights report.

The Trump administration [stated](#) that the establishment of Israeli settlements “is not per se inconsistent with international law” in November 2018. In October 2020, the United States and Israel [amended](#) bilateral agreements in spheres of scientific, industrial, and agricultural cooperation to remove a restriction previously preventing the US from funding projects in Israeli settlements in the West Bank.

And in November 2020, the Department of State [announced](#) the start of a process to adopt new guidelines allowing the labeling of products from illegal Israeli settlements as being “Made in Israel.” The new guidelines upend decades of bipartisan policy requiring that such products be labeled as West Bank/Gaza Strip country of origin. The announcement is tantamount to US recognition of Israeli sovereign claims over Area C of the West Bank.

Also, in March 2019, the Trump administration [recognized](#) Israeli sovereignty over the occupied Syrian Golan Heights, overturning more than 50 years of bipartisan US policy, which recognized that Israel held the Golan Heights in belligerent military occupation. This move also overturned nearly 40 years of bipartisan US policy of non-recognition of Israel’s illegal annexation of the territory in 1981.

Taken together, these steps add up to a Trump administration policy of enabling Israel to hold Palestinian and Syrian territory in perpetuity.

AMP urges the Biden administration to reverse these policies by:

1. Restoring the term “Occupied Territories” to the annual State Department human rights report, and throughout Executive Branch documents, when referring to territory held by Israel in belligerent military occupation--the West Bank, including East Jerusalem, the Gaza Strip, and the Golan Heights.
2. Restoring the Carter administration’s [legal memo](#) that “the establishment of the civilian settlements in those territories is inconsistent with international law,” and restoring the status quo ante of not funding bilateral scientific, industrial, and agricultural projects in Israeli settlements.
3. Restoring the Clinton administration guidelines, which were renewed by the Obama administration, requiring that Israeli settlement products are labeled correctly and not misleadingly as being “Made in Israel.”
4. Rescinding US recognition of Israel’s sovereignty over the Syrian Golan Heights.

C. Rescind the Trump administration’s “deal of the century”

In January 2020, the Trump administration [released](#) its long-delayed “deal of the century,” formally entitled *Peace to Prosperity: A Vision to Improve the Lives of the Palestinian and Israeli People* [sic]. The Palestinian side was not consulted about the plan, which reads like a wish-list for Israel to ensure its permanent separate-and-unequal rule over the Palestinian people.

The plan enables Israel’s illegal annexation of as much as 30 percent of the West Bank outside the framework of negotiations, precludes the establishment of a Palestinian capital in Jerusalem, denies Palestinian refugees their rights under international law, and forcibly denationalizes Palestinian citizens of Israel. Even nominal Palestinian “statehood” in an extremely constrained and non-sovereign entity is made conditional on Israeli approval. The plan attempts to induce Palestinians to trade away their political and national rights for economic development plans under Israeli apartheid control.

AMP urges the Biden administration to:

1. Take the Trump administration’s plan off the table and ensure the Palestinian people that it will not constitute a starting point in future negotiations.

D. Restore US diplomatic relations with the Palestinian people

In September 2018, the Trump administration [closed](#) the General Delegation of the Palestine Liberation Organization (PLO) in Washington, DC, shutting down a mission that had existed since the Clinton administration. The risible reason cited for the shuttering of the PLO delegation was that the “PLO has not taken steps to advance the start of direct and meaningful negotiations with Israel” at a time when Israel had no interest in conducting “meaningful negotiations.”

In March 2019, the Trump administration [closed](#) down the US Consulate General in Jerusalem and integrated its functions into the US Embassy to Israel. The Jerusalem Consulate General had existed since 1844--more than a century before the establishment of Israel. Both before and after the establishment of Israel in 1948, the consulate general served as a direct link between the United States and the Palestinian people. The Trump administration’s decision to open a Palestinian Affairs Unit within the US Embassy to Israel bureaucratically subsumes US foreign policy-making toward the Palestinian people under its relations with Israel and constitutes a diplomatic denial of Palestinian self-determination.

In addition to the policy recommendations mentioned above concerning the US Embassy to Israel, AMP urges the Biden administration to reverse these policies by:

1. Removing the Palestinian Affairs Unit from the jurisdiction of the US Embassy to Israel and reestablishing the US Consulate General in Jerusalem as an independent diplomatic conduit between the United States and the Palestinian people.
2. Working with Congress to [enable](#) a PLO diplomatic presence in the United States even if Palestinians should continue to pursue accountability for Israel’s human rights abuses at the International Criminal Court, which is their right.

E. Restore US humanitarian aid to UNRWA and the West Bank and Gaza Strip

In August 2018, the Trump administration [cut off](#) US funding to the United Nations Relief and Works Agency (UNRWA), which provides health care, education, and other social services to Palestine refugees.

Also, in August 2018, the Trump administration also [reprogrammed](#) \$200 million in Economic Support Funds from the West Bank and Gaza Strip, functionally ending US assistance to Palestinians even before the Palestinian Authority informed the United States that it would no longer accept any form of US foreign assistance in December 2018. That PA decision was made in the aftermath of Congressional passage of the [Anti-Terrorism Clarification Act of 2018](#), which opened additional avenues for lawsuits against the PA and PLO in US courts if assistance is accepted. The USAID West Bank/Gaza Strip mission now only funds [projects](#) within Israel.

AMP urges the Biden administration to reverse these policies by:

1. Restoring US funding to UNRWA. Traditionally, US contributions to UNRWA were made from the Department of State's line-item for Migration and Refugee Assistance and were not subject to a Congressional earmark.
2. Working with Congress, the PLO, and the PA, to amend the Anti-Terrorism Clarification Act to facilitate the acceptance of USAID projects in the West Bank and Gaza Strip that actually serve the humanitarian interests of the Palestinian people and do away with former projects that serve to reinforce Israel's military occupation of these territories.

F. End the global gag order on advocacy and organizing for Palestinian rights

In November 2020, the Trump administration [announced](#) that the Department of State would conduct a review to "ensure that its foreign assistance funding is not provided to foreign organizations" that nonviolently advocate and organize for Palestinian freedom, justice, and equality through boycott, divestment, and sanctions (BDS) campaigns. This announcement could create another global gag order forcing organizations to choose between their solidarity with the Palestinian people and receiving US funding, amounting to an unacceptable restriction on freedom of expression.

AMP urges the Biden administration to reverse this policy by:

1. Rescinding the announcement and stopping any incipient Department of State review that may be underway.

LONG-TERM PRINCIPLES FOR REIMAGINING US POLICY TOWARD ISRAEL AND THE PALESTINIAN PEOPLE

Even if the Biden administration succeeds in reversing all the damage done to the Palestinian people through the policies of the Trump administration, these steps will only result in restoring US policy to an unacceptable *status quo ante* of providing unconditional military, political, and diplomatic support for Israel's oppression of the Palestinian people. The United States needs a fundamentally new policy that is based on human rights and international law as the only possible bases for ensuring the long-denied rights of the Palestinian people to self-determination and a just and lasting peace between Israelis and Palestinians.

AMP takes no position on the outcome of negotiations and does not advocate for or against any particular resolution. What follows are general principles that AMP suggests to guide the policy of the United States.

1. *Hold Israel accountable domestically and internationally for its human rights abuses*

AMP believes that there should be one standard to which all countries are held accountable. No country should be singled out for special treatment, either for or against it. To date, the United States has failed to hold Israel accountable to domestic laws designed to ensure that US foreign assistance is not misused to abuse human rights. Internationally, the United States has consistently used its veto power and diplomatic heft at the United Nations to ensure that Israel is not held accountable for its violations of international law and human rights abuses. Because Israel is allowed to act with impunity by the United States, its oppression of the Palestinian people continues unchecked, making the United States a complicit partner in this oppression.

Domestically, Israel should be held accountable for its daily violations of the Arms Export Control Act, which strictly limits the use of US weapons sold or given to other countries to internal security, legitimate self-defense, and a few other narrow uses. US weapons used to enforce Israel's belligerent military occupation of the Palestinian West Bank and Gaza Strip cannot, by definition, be considered as internal security, and its use of US weapons to injure and kill civilians, demolish homes, uproot agriculture, colonize land, and destroy civilian infrastructure cannot be considered legitimate self-defense. The consequence of violating the provisions of this law is cutting off US weapons until the president certifies that the country has halted its misuse of these weapons. This law must be enforced when it comes to Israel.

Similarly, the Foreign Assistance Act prohibits any form of US assistance to a country which "engages in a consistent pattern of gross violations of internationally recognized human rights." Such a consistent pattern of Israel's gross violations of the human rights of the Palestinian people has been amply documented by the Department of State, the UN, and credible US, Palestinian, and Israeli human rights organizations. All forms of US assistance to Israel must be reviewed in light of these documented human rights violations and the requirements of the Foreign Assistance Act.

In addition, the "Leahy Laws" must be applied to Israel to deny US training and visas to individual Israelis responsible for gross violations of human rights of Palestinians. US weapons must also be denied to individual Israeli military units responsible for such violations. Currently, "Leahy Law" vetting is inadequate at the individual level and impossible at the unit level since the United States does not track which US weapons go to which Israeli military units, breaching end-use monitoring requirements in US law.

Furthermore, offshore procurement (OSP) transfers, in which Israel uses US foreign military financing to purchase its own domestically-produced weapons, are opaque. OSP circumvents the US ability to track how our money is spent by Israel as well. The Biden administration should comply with US law and fix all of these structural issues preventing the tracking of US weapons to Israel.

Internationally, the United States has acted to shield Israel from the consequences of fair and legitimate inquiries into its human rights abuses against the Palestinian people conducted by the UN and its subsidiary agencies, along with the International Criminal Court. The United States should act to ensure that Israel is held accountable for its actions in violation of international law rather than continue to protect it from the consequences of its actions.

2. *Stop “peace processing” for the sake of “peace processing”*

No dispute, no matter how supposedly complicated it is, requires decades of negotiations. The United States has been trying to broker an Israeli-Palestinian accord since 1993. The solution to the problem is not more negotiations for the sake of negotiating, but recognizing that the fundamental and underlying premises of the “peace process” have been geared to entrench, rather than end, Israel’s oppression of the Palestinian people. The United States should also recognize that until now it has functioned as an accomplice in perpetuating this oppression, not as an “honest broker” attempting to end it.

Since negotiations began, Israel has tripled its population of settlers in Occupied Palestinian Territory, making the supposed goal of the negotiations--an independent Palestinian state--that much more unattainable. Moreover, the United States and Israel have never presented the Palestinians with a proposal for a truly sovereign state. All such proposals have envisioned an entity shorn of all the traditional attributes of sovereignty under the perpetual domination of Israel. In essence, these proposals have amounted to a perpetuation of the status quo under a different terminological guise.

These sham negotiations harm the prospects for an actual just and lasting peace between Israelis and Palestinians. The United States should refrain from trying to reconvene negotiations until Israel agrees to negotiate in good faith on the basis of international law to ensure Palestinian self-determination and the rights of Palestinian refugees. Unless negotiations are reconstituted on this basis, all such efforts will inevitably fail.