

CCDP Project Brief

The Centre on Conflict, Development and Peacebuilding – No.3/September 2010

The Islamic Charities Project

Executive Summary

The Islamic Charities Project (ICP) arose in the framework of a decision of the Swiss Federal Department of Foreign Affairs, Political Division IV (FDFA-PD IV) in 2004 to make "religio-political conflicts" – conflicts where religious and political factors are a determining element – a new sector of activity of its peace promotion activities through the creation of a programme on "Religion and Politics: Initiatives and Applied Research". The FDFA-PD IV, whose overall mission relates to strengthening human security, works, in collaboration with the Centre on Conflict, Development and Peacebuilding (CCDP) of the Graduate Institute of International and Development Studies in Geneva, on the coordination of various conflict transformation projects in which religion is a major factor within the "Religion and Politics" programme.

The ICP is the continuation and transformation of the Montreux Initiative (MI), a previous effort spurred in 2005 towards peaceful cohabitation through fair and respectful relations between Islamic charities, western non-governmental organizations (NGOs), and concerned governments. The ICP currently strives towards new directions. Indeed, the group of experts noticed that the difficulties for Islamic charities are not only an internal governance issue, but are also the result of a long chain of possible misperceptions in and around policies and institutions that both control and limit the action of Islamic charities. The project now seeks to generate academic findings about Islamic institutions that distribute aid to beneficiaries in situation of humanitarian need – the so-called "receiving end" – and involve policy-makers as well as legal experts familiar with the remaining obstacles. Finally, the ICP has also enlarged its focus to the Atlantic community.

THE GRADUATE INSTITUTE | GENEVA

CENTRE ON CONFLICT,
DEVELOPMENT AND PEACEBUILDING

Religion & Politics
Initiatives and Applied Research



Schweizerische Eidgenossenschaft
Confédération suisse
Confederazione Svizzera
Confederaziun svizra

Federal Department of Foreign Affairs FDFA
Directorate of Political Affairs DP
Political Affairs Division IV – Human Security

AIMS OF THE PROJECT

The aim of the Islamic Charities Project (ICP) is to promote cooperation in removing unjustified obstacles for *bona fide* Islamic charities, as a collective contribution towards confidence-building between Muslim-majority societies and western societies including governments. It was initiated as a reaction to the reported obstacles faced by *bona fide* Islamic charities in providing aid to victims, such as financial circuits being blocked and assets frozen as a result of the 'War on Terror' policies in the aftermath of 9/11. The project facilitated cooperation between, on the one hand, the western humanitarian and political community, and Islamic charities on the other, to work out practical ways to remove obstacles in the way of *bona fide* Islamic charities. By enhancing such cooperation, which at present is rather scarce, the project pursues both humanitarian and confidence-building objectives.

Islamic charitable organizations and Muslim individuals continue to face difficulty in performing the zakat (legal alms), one of the five pillars of Islam. Zakat is a fundamental duty of pious Muslims which, if neglected, invalidates prayers. Zakat consists of an annual payment of 2.5 percent of one's savings to eight categories of beneficiaries listed in the Qur'an. Zakat can be paid directly and on an informal basis to the beneficiaries or to religious institutions in charge of redistributing in-kind or cash aid to the poor and people in need. The Project addresses obstacles for *bona fide* organizations arising from current counterterrorism measures. Its focus is on Islamic charities, although not exclusively since other non-Islamic organizations engaged in

legitimate humanitarian work have also suffered from similar restrictions.

The core aim of the ICP is to enable safe aid by contributing to the changing context in the legal and policy field introduced after 9/11 and other counterterrorism measures.

The ICP is the continuation and transformation of the Montreux Initiative (MI-named after the location of its first meeting), a previous effort spurred in 2005 towards peaceful cohabitation through fair and respectful relations between Islamic charities, western non-governmental organizations (NGOs), and concerned governments. The MI was designed as a medium-term project bringing together a group of experts with relevant experience in the Muslim and Western charity field as well as in the regulatory and governmental sectors. A core group of experts coordinated a capacity-building process for Islamic charities while elaborating, publishing and disseminating a series of recommendations, both for governments and for Islamic charities (including a code of conduct) known as the "Montreux Initiative Conclusions" (MIC).

By contrast with the MI, which was aiming more at policy dialogue and institution-building, ICP attempts to focus more on research questions underpinning the work of Islamic charities, and on pragmatic reflection supported by research findings. The Centre on Conflict, Development and Peacebuilding (CCDP), co-coordinator of the "Religion and Politics: Initiatives and Applied Research" with the Federal Department of Foreign Affairs, Political Division IV (FDFA- PD IV), has hence concen-

trated its research efforts on attaining a better understanding of the locally embedded operations of Islamic institutions that distribute aid in conflict-affected zones, in particular the zakat committees. It conducted field research and published two working papers on the Palestinian zakat committees, both available in English and Arabic¹, to contribute to well-informed international and domestic policy dialogue about the governance and social value of such institutions. The CCDP aspires to be at the forefront of policy dialogues around these issues through up-to-date fact-finding and innovative research in the transnational field of Islamic charities.

PROJECT RATIONALE

Following the attacks of 9/11, the United States administration and the international community became increasingly concerned with the vulnerability of charities and their potential misuse by terrorists, particularly in financing terrorist attacks. Various measures have been introduced to counter this vulnerability, including "designations" (black-listing) and banking restrictions as well as high standards on financial transparency and good governance. Some of the measures taken have created a situation where many *bona fide* Islamic charity organizations have been substantially hindered from doing their work or have been closed down without being able to legally

contest the obstacles that they were facing. As a result, they see themselves as subject to discrimination. In a field of increased tensions, mutual trust between western governments and Islamic charities risks diminishing and possibly vanishing.

In this context, the Swiss government decided to work towards an enhanced cooperation between Islamic charities and key stakeholders from the West. The MI was launched in 2005, and a first technical meeting was held in Istanbul in November of the same year, and attended by representatives of 17 Islamic charities. With some amendments, the MIC were adopted. Plans were developed for launching a legally-constituted independent office, governed by eminent trustees and administered by a secretariat, with the dual function of providing, first, capacity-building and training services, and second, formal accreditation services for charities that decided to apply. Further meetings were held during the year 2006 in Doha, Montreux and London.

The year 2006 was a productive one, as a number of informal meetings between western government officials were held to discuss the challenges faced by Islamic charities, such as designation and blacklisting, and how to prevent them. However, the MI began to encounter severe political turbulence during this same year, and the planned objective to set up an independent office was not met. One of the challenges was that some of the Islamic charities, especially those based in the Gulf, were reluctant to submit to external monitoring procedures, pointing out that, though some Islamic charities – for instance those based in the United Kingdom and France – were authorized to continue operating normally under their respective national regulatory systems, they were still designated by the

¹ Emanuel Schäublin. 2009. *Role and Governance of Islamic Charitable Institutions: The West Bank Zakat Committees in the Local Context*. CCDP Working Paper 5. Geneva: Graduate Institute of International and Development Studies. See also;

عمانويل شاولين. 2009. دور المؤسسات الخيرية الإسلامية وأسلوب إدارتها: لجان الزكاة في الضفة الغربية (1977-2009) في السياق المحلي. ورقة عمل مركز دراسات النزاعات والتنمية وبناء السلام. جنيف: معهد الدراسات الدولية العليا والتنمية.

US Treasury as allegedly terrorist organizations, which severely impeded their international activities.

As the need for greater professionalism spread among Islamic charities and various support organizations began to meet this demand – a number of them using the training material prepared by the MI – the capacity-building element of the MI became less necessary over the period 2006–2009. An international organization, the Humanitarian Forum, which was also created in 2005, began to establish itself as a focus for dialogue on humanitarian issues with special reference to the Muslim world.

PROJECT ACTIVITIES

Despite this period of reduced activity, the core group maintained that the MIC were valid, and in particular that the adoption of strict criteria for self-regulation and monitoring would be in the interests both of Islamic charities and of governmental authorities concerned with the problems of money laundering and terrorist financing.

Two new developments gave the ICP a new orientation and helped relaunch the activities during the end of 2008 and beginning of 2009. Firstly, Jonathan Benthall, one of the members of the core group hired as an adviser for the project, was able to build on independent research he had previously carried out in the mid-1990s on the zakat committees in the Palestinian West Bank².

² See Benthall, Jonathan. 2008. *The Palestinian Zakat Committees 1993–2007 and Their Contested Interpretations*. PSIO Occasional Paper 1/2008. Geneva: Graduate Institute of International and Development Studies. See also;

جوناثان بنذال. 2008. *لجان الزكاة الفلسطينية 1993 - 2007 وتأويلاتها المختلف عليها*. برنامج دراسة المنظمات الدولية (PSIO) : بحث غير دوري 2008/1. جنيف : معهد الدراسات الدولية العليا والتنمية.

The main thrust of the paper was to challenge the theory adopted by the Israeli and US governments that these zakat committees were simply fronts for Hamas. Instead, he argues that, at least until their reorganization in 2007, they were, by and large, effective and independent grass-roots organizations. FDFPA-PD IV and the CCDP then authorized funding of a field research project on the same topic, as well as on the outcome of the reorganization in 2007. This was carried out by Emanuel Schaeublin of the CCDP, with Benthall's assistance, in June 2009. The resulting Working Paper, *Role and Governance of Islamic Charitable Institutions: The West Bank Zakat Committees (1977–2009) in the Local Context*, was published in November 2009. Considerably longer and more detailed than Benthall's 2008 paper, it reviews all the available evidence and reaches similar conclusions. Schaeublin is currently preparing a matching study on the zakat committees and other Islamic charities in Gaza, on the basis of field research carried out in 2010.

Secondly, developments in the US administration in 2009 and the more congenial environment for engagement with the Islamic world made it possible to rethink the ICP's strategy. Coinciding with the change of administration, several US-based organizations working to protect *bona fide* charities (not only Muslim ones) from criminalization launched various activities to inform policy-making circles on the issue of discrimination in the designation process, and on potential human right violations ensuing from the emergency measures passed after 9/11. OMB Watch and, in particular, the creation of the Charity and Security Network (CSN) in late 2008 gave momentum to new discussions in the US, creating synergies with the specific objectives of the ICP.

CURRENT DYNAMICS

Presently, the aim of ICP is to reflect on how unjustified obstacles to *bona fide* Islamic charitable institutions can be collectively removed in a systematic and transparent manner. The ICP seeks to contribute to the shift of conditions that would make such a change possible. It should be underlined, however, that the ICP has not been set up as an interest group lobbying for such removal on behalf of Islamic charities. This would have meant adopting an advocacy or lobbying approach, which would reflect neither the mission nor the interests of the host institutions (FDFA-PD IV and CCDP). Instead, the ICP observes that there is a stalemate in the functioning of certain Islamic charities worldwide. Actors are trapped in a *status quo* and have not witnessed any substantial improvement in the past four years. It is therefore important to consider a context-sensitive approach, establish a mapping of existing obstacles, and reflect on the conditions that would lead influential actors to reach a compromise on the legislation pertaining to transnational Islamic charities. Thus, the project's approach proposes to tackle this stalemate on two levels.

First, the ICP seeks to contribute to changing the discourse on Islamic charities in the US. This country is a decisive player in this issue because of its unique leverage on the Arab-Israeli conflict. In his Cairo speech on 4 June 2009, US President Barack Obama recognized the existing obstacles for Islamic charities with regard to aid delivery and promised to move forward to enable Muslim Americans to pay zakat safely and without the fear of being tried retroactively for supporting terrorism. Discussions within the ICP are now taking place on how best to help change the conversation

in the US administration, in particular through research focused on Islamic charities and on the “humanitarian deficit” that designation measures might have created on the ground. Reflection on how charities (and not just Muslim ones) might be victims of human rights violations (in particular the First Amendment guaranteeing the freedom of religion) are at the heart of a strategy of coalition-building with other religious constituencies willing to acknowledge the role of charity in all revealed religions. Finally, a strategy of dissemination of new research should aim at reaching out to influential decision-makers, in particular the people involved in security and intelligence circles, since the stalemate is linked to the interpretation of the role of Islamic charities with regard to politics, security, and terrorism.

Second, it is important to produce in-depth research about the receiving end of Islamic charitable work. Providing comprehensive, reliable, and thoroughly-researched information about the local organizations receiving funds from West- and Gulf-based Islamic charities, and their political involvements, is crucial. Open and transparent research is scarce in this domain³, and gov-

³ The main academic sources on the subject are; 1) Alterman, Jon B. and Karin von Hippel. 2007. *Understanding Islamic Charities*. Washington, DC: Center for Strategic and International Studies Press. 2) Gunning, Jeroen. 2008. ‘Terrorism, charities, and diasporas’. In: Biersteker, Thomas and Sue Eckert, eds. *Countering the Financing of Terrorism*. New York: Routledge. 3) Biersteker, Thomas and Sue Eckert. 2008. *Countering the Financing of Terrorism*. New York: Routledge. 4) Benthall, Jonathan. 2008. *The Palestinian Zakat Committees 1993–2007 and Their Contested Interpretations*. PSIO Occasional Paper 1/2008. Geneva: Graduate Institute of International and Development Studies. 5) Benthall, Jonathan and Jérôme Bellion-Jourdan. 2003. *The Charitable Crescent: Politics of Aid in the Muslim World*. London: I.B.Tauris. 6) Schaeublin, Emanuel. 2009. *Role and Governance of Islamic Charitable Institutions: The West Bank Zakat Committees (1977 to 2009) in the Local*

ernments often rely on intelligence material which, especially if poorly interpreted, risks distorting the picture of political and security relationships in the local context. Thus the ICP strives towards a maximum of transparency and reliability in its research methods. Publications will be used to better inform concerned governments and, it is hoped, to pave the way for the development of feasible solutions for aid delivery on the ground (such as end-user verification, as well as the political "profile" of on-the-ground "deliverers", etc).

Currently, ICP's research is focused on the zakat committees in the West Bank and Gaza. The Palestinian zakat committees may well prove to be a paradigmatic case as many of the pending legal cases in US courts deal with aid that had been sent to charitable organizations (including zakat committees) operating in the occupied Palestinian territories (oPt). The research conducted in the case of the Palestinian organizations receiving funds from Western- and Gulf-based Islamic charities could be then extended to a series of other conflict zones in the near future.

Through new field research on the zakat committees in Gaza, the ICP aims to complete the cycle of research on zakat committees in Palestine since the formal split between the Fatah-led Palestinian National Authority in the West Bank and the Hamas *de facto* government in Gaza. Now that both working papers are published and made available in Arabic, and a third is forthcoming, it is hoped that a dialogue with local actors on how zakat committees

can be protected from politicization will follow under the auspices of the ICP.

With a view to coming to a better understanding of how safe channels can be created for and by charitable organizations working in the field of humanitarian intervention (Muslim and non-Muslim alike), the CCDP is planning to organize a series of meetings with different stakeholders both in the US and in the Middle East. In order to disseminate its results and gather reactions, the first series of roundtables organized by the CCDP should take place with academics and policy-makers willing to engage on the topic (and with Chatham house rules in order to facilitate the exchange of constructive, yet critical remarks). Such roundtables and podium discussions are currently foreseen in and around the oPt, in Europe, as well as in the US.

ICP'S APPROACH TO CONFLICT ANALYSIS

The MI was a short-term emergency response. It was not a replacement for local regulation of charities, nor did it aspire in any way to take the place of legally-constituted regulatory authorities. The ICP (in common with the original MI) does not carry any implication that Islamic charities should be treated differently from other charities. However, it recognizes that Islamic charities make up the majority of charities reporting obstacles in recent years.

In terms of methodologies of conflict transformation, the ICP works on two different tracks. The dialogue around the legal environment of transnational Islamic charities is subjected to a meticulous conflict-mapping, coupled with multilateral forms of engage-

Context. CCDP Working Paper 5. Geneva: Graduate Institute of International and Development Studies.

ment with different actors to help initiate a political "hands off" process respecting the role of *bona fide* Islamic charities in humanitarianism. Meanwhile, the research component adopted in the ICP is thought of as a confidence-building measure.

Through research, the ICP seeks to build trust and access with partners having "hands-on" access to humanitarian aid and its delivery processes. In addition, through the expertise gathered, the ICP seeks to show that the new information produced can feed back into the cycle of policy-making. This so-called "Action – Research – Action Cycle" hints at the complex and iterative links between joint actions, understood as activities involving different parties to the conflict, and research. Action – as well as making some progress towards the specific defined goals – generates trust and contacts,

giving access to the production of deeper and more extensive research, which can in turn underpin further action. Thus, the ICP is moving on two related fronts. On the one hand, the FDFA-PD IV and the CCDP seek to capitalize on the legacy of the MI and concentrate their efforts on helping actors to find solutions to address existing obstacles, including the legal restrictions in the US. On the other hand, the two partners want to deepen the academic research produced on the Palestinian receiving end and expand the virtuous cycle of applied research leading to well-targeted actions. In a nutshell, the first part deals with conflict transformation (through an approach that seeks to remove obstacles) and implicitly concentrates on legal issues, while the second part deals with conflict analysis (working towards a possible "hands-off" approach at a high political level) and concentrates more on a socio-political analysis.



Consultant Jonathan Benthall at a conference hosted jointly by Islamic Relief and Welthungerhilfe in Bonn in December 2009. Source: ICP.

PROJECT STAKEHOLDERS

○ *The FDFA-PD IV*

The FDFA-PD IV is interested in broadening its knowledge and experience in the area of peace promotion in contexts where worldviews tend to divide interlocutors. It considers the enhancement of cooperation across different religions and worldviews as an area of expertise it seeks to enhance and promote. The ICP is one of the projects exploring possibilities of cooperation and conflict transformation in conflicts with a religious component.

The FDFA-PD IV is the initiator of the dialogue on Islamic charities. First, it approached various key actors (either based in the Gulf region and Egypt, or in Europe and the US) linked to Islamic charities to join the MI. These experts from different constituencies (Muslim and non-Muslim, governmental and non-governmental, advocacy milieus or academic background, etc.) are all concerned with ensuring fair treatment of *bona fide* Islamic charities. Throughout the six years of its activities, the MI and ICP have consisted of a series of meetings around a nucleus of people having followed the dialogue since its inception.

Several actors are involved in the core group in parallel with international initiatives such as the Humanitarian Forum, as well as a leading scholar working as consultant for the Swiss FDFA on issues of Islamic charities: Jonathan Benthall, honorary research fellow in the Department of Anthropology at the University College London. Benthall was formerly Director of the Royal Anthropological Institute of Great Britain and Ireland (1974-2000). His book, *The Charitable Crescent: Politics of Aid in the Muslim World* (first published in 2003), has set the standards for on-the-ground research dealing

with Islamic charities in the Arab Middle East. His expertise was thus instrumental in launching a series of working papers on Palestinian zakat committees. In the past year, he was invited to give talks in international conferences and think tank meetings both in Europe (see picture on p.7) and in the United States (held by Charity and Security Network in Washington D.C. in January 2010 and by the University of California Law Department in Los Angeles (UCLA) in April 2010). Benthall was given the opportunity to explain the nature and partial results of the MI and to generate public debates about the ongoing ICP. The growing interest in publications about the decriminalization of charities suggests both that the Swiss government, through its applied initiative on religion and politics, has been a pioneering force and at the forefront of some of the ongoing debates. In parallel, academic research around Islamic charities currently undertaken by CCDP has served as an essential corollary for all types of (dis)passionate debates on the issue.

○ *The Graduate Institute's CCDP*

Since March 2009, the initiative is hosted and administered by the Graduate Institute's CCDP, which took over the role of the former Program for the Study of International Organizations (PSIO) that had signed a partnership agreement with the FDFA-DP IV in the joint programme "Religion and Politics: Initiatives and Applied Research". The CCDP co-directs the programme with the FDFA-PD IV and coordinates the operational and learning aspects of the ICP. It is in charge of the organization, financing and reporting of activities, while providing side-reflections to the process

rather than being an integral part of the dialogue.

The CCDP engages in innovative research into the connections between security and development in fragile states, or into situations of violence and insecurity. The research programme focuses on the factors and actors that are implicated in the production and reproduction of violence within and between societies and states, as well as on efforts at the international, state, and local levels to reduce violence and insecurity and enhance development and peacebuilding.

LESSONS LEARNED

- **The main resource of the project in the past years has been its core group of experts from various fields and constituencies.** The core group has met on a regular basis and jointly worked out recommendations for governments and Islamic charities. The regular meetings have allowed members to build confidence and to develop personal and professional relations well beyond the technical aspects of self-regulations of Islamic charities. The current larger aim of ICP – to promote a discussion on how safe aid can be promoted – would have never been possible without the achievements of the MI's core group.
- **There is no general solution to political tensions around Islamic charities.** Islamic charities are active in different countries and conflict-affected zones – each one with its specific legal, political and social context. Even if western governments' policies create obstacles affecting a wide range of different organizations and contexts, the arguments about possible discriminatory measures against *bona fide* Islamic charities need to be elaborated from the start in each local context.
- **Legislating about transnational Islamic charities is mostly a prerogative of local governments.** It is therefore difficult to have various actors coming to a collective agreement which would actually imply the "green light" of so many sovereign entities. Moreover, part of the ICP's actors, or the ones involved in the MI, fail to see the interests of the Swiss government to take the lead in such a complex issue. The communication strategy of the ICP has therefore been to insist on the negative humanitarian impacts that the current stalemate has provoked, in line with Switzerland's role of depository state of the Geneva Conventions. There is therefore an agreement within the ICP members that the "humanitarian deficit" needs to be thoroughly documented in the future phases of the project.
- **A "hands-off" approach may be able to bring about some improvement in regions where the role of Islamic charities is highly politicized.** Politicization of Islamic charities can lead to their destruction and/or the enforcement of centralized and tight government control. There is also a risk that opposition forces may instrumentalize Islamic charities. The "hands-off" approach, one which encourages local political stakeholders to protect Islamic charities from politicization, has also been mentioned in a recent International Crisis Group (ICG) 2010 report on the ongoing tensions between Hamas and Fatah, in which the following is recommended to the US government: "A new, more nuanced American approach to Palestinian politics, including at a minimum a hands-off ap-

proach toward reconciliation; enhanced steps to relax or remove the siege on Gaza; and encouragement of third-party contacts with Hamas."⁴ Such formulation hints indirectly at the usefulness of ICP's current approach and aims.

- On a more epistemological level and in terms of conflict analysis, the ICP's task is a daunting one. Each context requires a new mapping of the conflict(s) at stake. This then impacts the **methodology of conflict transformation**, since many actors and numerous motives can be invoked to justify the current stalemate. Methodological tools can range from confidence-building measures and removing of obstacles to mediation or facilitation methods. The choice should also take into consideration the fundamental role that research can have in certain ambits and moments of the conflict.

- **Transparent research on the local context, based on respect and confidence, is crucial.** Islamic charities have ambiguous relations with the state, ranging from close cooperation to state-initiated reorganizations where hundreds of board members are dismissed by the state within weeks. Many states welcome the social services provided by Islamic charities but mistrust their board members as they tend to be closer to forces of the political opposition.

- **The "Action – Research – Action Cycle" appears promising so far, but challenges may lie ahead.** The politicization of the Islamic charity field and its increasingly important security dimension make it difficult to conduct transparent research based on mutual trust. An important part of the

policy debates about Islamic charities is taking place secretly. This trend is reinforced by the fact that in many contexts and administrations, the role of Islamic charities is framed as a security issue. It is thus very important to increase balanced, comprehensive, and respectful research available on the work of such institutions and their role in politics and society.

About the project brief

The project brief was written by Benoît Challand and Emanuel Schaeublin of the Centre on Conflict, Development and Peacebuilding (CCDP). It is updated on a continuous basis by Benoît Challand and Elvire Corboz.

The brief serves to highlight the project's progress since 2006 and will be followed by other project outputs, both of the Islamic Charities Project (ICP) and the other projects falling under the "Religion and Politics: Initiatives and Applied Research" programme.

For more information, visit

http://graduateinstitute.ch/ccdp/religion_politics.html

⁴ International Crisis Group (ICG). April 2010. *Tipping Point? Palestinians and the Search for a New Strategy*. Middle East Report n.95. Brussels, Washington, Ramallah, Jerusalem: ICG.