

Thirsting for Justice

*Israeli Violations of the Human Right to Water
in the Occupied Palestinian Territories*

May 2003

A Report to the 30th Session of the United Nations Committee on Economic, Social and Cultural Rights



Residents of Rafah, Gaza inspect damage to local drinking water well by Israeli Army bulldozers, January 2003.



CENTER FOR ECONOMIC AND SOCIAL RIGHTS
in cooperation with the Palestinian Hydrology Group

Acknowledgements

This report was prepared and written by Lucy Mair, Anjali Kamat, and Julian Liu for presentation to the 30th Session of the United Nations Committee on Economic, Social and Cultural Rights.

The opinions expressed in this document are those of the Center for Economic and Social Rights (CESR) and do not necessarily reflect the opinions of other contributors.

Anna Cody (CARITAS), Malcolm Langford (Center on Housing Rights and Evictions) and Ayman Rabi (Palestinian Hydrology Group) provided comments and feedback. The report was reviewed and edited by Sarah Zaidi.

CESR would like to give special thanks to our partner, the Palestinian Hydrology Group, for all their cooperation on this project and the extremely useful information from their comprehensive survey of 615 West Bank and Gaza Palestinian localities, through the WaSH project. This is the most comprehensive survey of the water sector in the West Bank and Gaza currently available.

We would also like to acknowledge and thank our other partners who made the three case studies possible:

- 1) The Wall Case Study: The Palestinian Environmental NGO Network (PENGON), especially Jamal Juma' and Galit Gelbort, and the municipality of Baqa al-Sharqiya, especially Mayor, Muayad Hussein and Municipal Engineer, Yusuf Bawaqne.
- 2) Rafah Case Study: Save the Children-Jerusalem and Gaza and the Municipality of Rafah, especially Dr. Ali Shehda Barhoum, General Director.
- 3) Unrecognized Villages Case Study: Adalah, the Legal Center for the Arab Minority in Israel, especially Attorney Marwan Dalal.

CESR also thanks John Reese for the use of his photos.

CESR would like to acknowledge and thank the following organizations for their generous financial support: The Ford Foundation, The John D. and Catherine T. MacArthur Foundation and the Joyce-Mertz Gilmore Foundation.

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Executive Summary

The Israeli occupation of the Palestinian territories has long been recognized as the root cause of the violation of Palestinians' civil, political, economic, social and cultural rights. Many of these violations, as well as Israel's illegal occupation, have been condemned by the UN system. However, the matrix of Israeli policies and practices which have resulted in the degradation of the Palestinian environment and natural resources, and the implications for Palestinians' right to water, are less well-documented. The purpose of this report is to expose the ways in which Israel has taken complete control of shared Palestinian-Israeli water sources, since the beginning of the occupation in 1967, and has continued to limit availability, destroy accessibility and degrade the quality of the already inadequate amount of water that is available to Palestinian households, especially during the current intifada.

The human right to water is a recognized component of international human rights law. In November 2002, the UN Committee on Economic, Social and Cultural Rights released its General Comment #15, in which it reaffirmed that "[t]he human right to water entitles everyone to sufficient, safe, acceptable, physically accessible, and affordable water for personal and domestic uses." In addition, the right to water is a fundamental component of the right to health (Article 12 of the Covenant on Economic, Social and Cultural Rights) and the right to life as set forth in the Covenant on Civil and Political Rights (cf. General Comment No.6 of HRC paragraph 5). The right to water is also protected in international humanitarian and customary water law. Israel, through a range of policies and practices, violates all the substantive aspects of the right to water as recognized in international law, particularly *accessibility*, *availability*, and *quality*, as set forth in General Comment #15.

Availability

Israeli actions severely reduce the availability of water for many communities in the Occupied Palestinian Territories (OPT). While 15% of the Palestinian population is not connected to a water network, those who are connected are subjected to the whims of the Israeli water carrier, Mekorot. During the current intifada Mekorot has cut back or even cut off entirely the water it supplies for some 67 Palestinian communities—in a context where per capita consumption of water per day in both the West Bank and Gaza Strip is already well below the 100 litres per day recommended by the World Health Organization for domestic and urban use. Almost half of the Palestinian communities surveyed recently have a per capita consumption of less than 50 litres per day – for domestic, industrial and agricultural use. Furthermore, water for all domestic uses (*including* domestic agriculture, livestock, and losses) was less than 30 l/p/d in 62 communities.

Physical Accessibility

Access to water sources has been greatly impacted by attacks from the Israeli military during the current intifada. The Israeli army has damaged the water infrastructure in 202 communities and the water network in 255 communities. UNDP, the World Bank,

UNESCO, and USAID estimate that the Israeli army has destroyed at least US\$7 million worth of water infrastructure. Recently, the Israeli military destroyed two wells in Rafah, in the Gaza Strip, that provided nearly half of the city's drinking water supply. Furthermore, water tanker drivers and water maintenance personnel have been physically attacked and threatened by the Israeli army and illegal settlers.

Economic Accessibility

Palestinians' economic accessibility to water is being diminished both from a general increase in poverty and unemployment, as well as a rise in the price of both piped and tanker water. Since the start of the second intifada, poverty among Palestinians has trebled to 60%, unemployment has risen to half the population, and the price of tanker water, on which so many rely, has risen by an average of 82%. Even in communities with piped water, high rates of inability to pay water bills (up to 100%) have been recorded. The poverty, unemployment, and inflation of water prices are a direct result of Israeli policies of occupation, closure, and discrimination between Israelis and Palestinians.

Quality

Israeli occupation and closure have compromised the quality of water available to Palestinians. Israeli military incursions have destroyed critical water treatment infrastructure. Closure has delayed or prevented repair to aging or damaged water and sanitation systems as well as the proper disposal of sewage and solid waste, leading to contamination of water sources. With the start of the second intifada, Israel halted all construction projects of much needed sewage treatment plants, further exacerbating the decline in water quality. Settlements, Israeli industries relocated to the OPT to avoid environmental regulations within Israel, and military installations all dump untreated waste and wastewater into Palestinian watersheds. The destruction of drinking water sources and infrastructure, as well as the decline in incomes, has forced Palestinians to turn to water sources of lesser quality to fulfill their domestic needs.

Article 12: the right to health

The decline in the amount of water and the quality of water used by Palestinians has also led to violations of the right to health as poverty and the destruction and deterioration of infrastructure has forced communities to turn toward water sources of lesser quality. In surveys conducted by Oxfam, 4 out of 10 households reported an increase in cases of diarrhea. The prevalence of water-related diseases in Palestinian communities is as high as 64% (in Rantis, Ramallah District).

Security as a Pretext for Human Rights Violations

Israel justifies the policies of occupation, expropriation, closure and military attacks as necessary for 'security.' However, the IVth Geneva Conventions clearly prohibit attacks on, destruction or removal of, or rendering useless, "drinking water installations and supplies" for any motive. In his visit to the OPT in August 2002, the UN Special Rapporteur to the OPT reported "Often [Israeli measures] appear so disproportionate, so remote from the interest of security, that one is led to ask whether they are not in part designed to punish, humiliate and subjugate the Palestinian people. Israel's legitimate security needs must be balanced against the legitimate humanitarian needs of the

Palestinian people. To the Special Rapporteur it appears that there is no such balance. Human rights have been sacrificed to security.”¹

Recommendations

As long as the illegal occupation of the OPT continues, Palestinians will be denied their basic right to self-determination over their land and natural resources. Without first addressing these root causes of the violation of Palestinians’ right to water, it is impossible to envision a situation where Israel can fulfill its human rights obligations. Therefore, key recommendations in this report include:

- An end to the Israeli occupation of the OPT, dismantling of all settlements, withdrawal of the Israeli army from the OPT, and an end to total Israeli control of Israeli-Palestinian water resources.
- The negotiation of an agreement for the fair and equitable management, extraction and distribution of shared water resources between Israelis and Palestinians and the end to discriminatory allocation of these water resources in favor of Jewish Israelis living both within Israel and illegally in the OPT; the establishment of a truly joint Israeli-Palestinian governance body on water that has a mandate covering the entire mountain and coastal aquifers.
- Israeli compensation for the past destruction of water infrastructure and sources as well as for Israeli over-extraction and depletion of joint water resources, inequitable Israeli use of joint water resources, and lost Palestinian income due to water shortages; compensation for health and environmental damage.

Immediate recommendations which should be implemented in the meantime, but which are not sustainable solutions to the Palestinian water crisis include:

- Israeli army must cease all attacks on water-related infrastructure, such as wells, pumps and piping; Israel must prevent settlers from destroying or damaging Palestinian water infrastructure.
- Mekorot should not only ensure continuous supply to Palestinian communities connected to the water network, but should also stop discriminating in the price and quantity of water received by Palestinians and illegal settlers.
- Israel must lift the ban on construction of new wells by Palestinians and lift the quotas which have been in place since 1967 on Palestinian extraction.
- The Israeli army should allow water tankers and water repair persons immediate access to Palestinian localities.
- The Israeli army must cease all attacks and threats on civilians attempting to repair and construct water-related infrastructure.
- Israel must end the relocation of polluting industries to OPT; Israel must hold those relocated industries which already exist to the same environmental standards as within Israel.
- Israel must stop dumping its toxic waste in the OPT and facilitate the creation of solid-waste dumping sites within the OPT and must allow access of waste-removers to these sites.

¹ Report of the Special Rapporteur of the Commission on Human Rights on the situation of human rights in the Palestinian territories occupied by Israel since 1967, 16 September 2002, A/57/366/Add.1.

Water plays a central role in the Israeli-Palestinian conflict. In the absence of policies and practices that respect the fundamental human right of all people to adequate amounts of clean, safe and affordable water, no just and sustainable resolution to the conflict can be achieved.

Introduction

In August 2001, the Committee on Economic, Social and Cultural Rights expressed “its deep concern about [Israel’s] continuing gross violations of economic, social and cultural rights in the occupied territories, especially the severe measures adopted by the State party to restrict the movement of civilians between points within and outside the occupied territories, severing their access to...water...”

Since that time, in the context of the current intifada, Israel’s violation of Palestinians’ human right to water has escalated, manifested by widespread water shortages, an increase in water-borne diseases, an increase in the price of water, intensified destruction of water infrastructure, and a decrease in food security and subsistence agriculture. These ongoing violations of the human right to water in the OPT must be understood within the context of the almost 36-year illegal Israeli occupation of Palestinian territory during which Israel has engaged in massive confiscation of Palestinian land and water resources. In addition, the now-obsolete Oslo Accords did not address the issue of basic access to and sovereignty over water resources.

The Center for Economic and Social Rights compiled this report to provide a comprehensive overview of Israeli violations of the Palestinian human right to water.² The first section of the report provides a background on water resources in the region, including basic information on the renewable water resources and levels of usage both within the OPT and Israel. The second section of this report deals with the governance of the water sector in the OPT, outlining the various policies and practices since 1967 which have served to secure Israeli control over Palestinian water resources.

The third section of the report gives an overview of Israel’s historic and ongoing violations of international humanitarian law and international customary law regarding water in international conflict and transboundary basins.

The fourth section of this report details Israeli violations of Palestinians’ right to water during the current intifada, specifically in the areas of availability, quality and accessibility. A variety of Israeli policies and practices, both official and unstated, have been used to infringe upon Palestinians’ enjoyment of their human right to water. These policies and practices include restriction of movement, the destruction of water infrastructure, the construction of a massive wall of separation that prevents local communities’ access to their water sources and failure to share critical information about the water sector. Additionally, unilateral diversion of shared resources, depletion of groundwater sources, and pollution from industry and settlements also contribute to ongoing violations of Palestinians’ right to water and other rights, including the right to

² CESR worked closely with the Palestinian Hydrology Group (PHG) and the Palestinian Environmental NGO network (PENGON) on this project. Other information was obtained from publications put out by the Applied Research Institute, Jerusalem (ARIJ), the Israeli information center for Human Rights in the Occupied Territories (B’Tselem), the Palestinian Society for the Protection of Human Rights and the Environment (LAW), the Palestinian Academic Society for the Study of International Affairs (PASSIA), Oxfam International and the United Nations Environmental Programme.

health and the right to an adequate standard of living. This section demonstrates that Israeli measures are discriminatory and retrogressive, and therefore are in clear violation of the International Covenant on Economic, Social and Cultural Rights and the recently released General Comment on the Right to Water.

The fifth section illustrates these points using three case studies of violations of the right to water. The first case study covers the city of Rafah in the Gaza Strip, where Israeli military forces in January of this year destroyed two wells which are a main source of water for the city. The second case study looks at the communities of the northern West Bank, where the new 'Separation Wall' which Israel is constructing is having a major impact on Palestinian access to water.

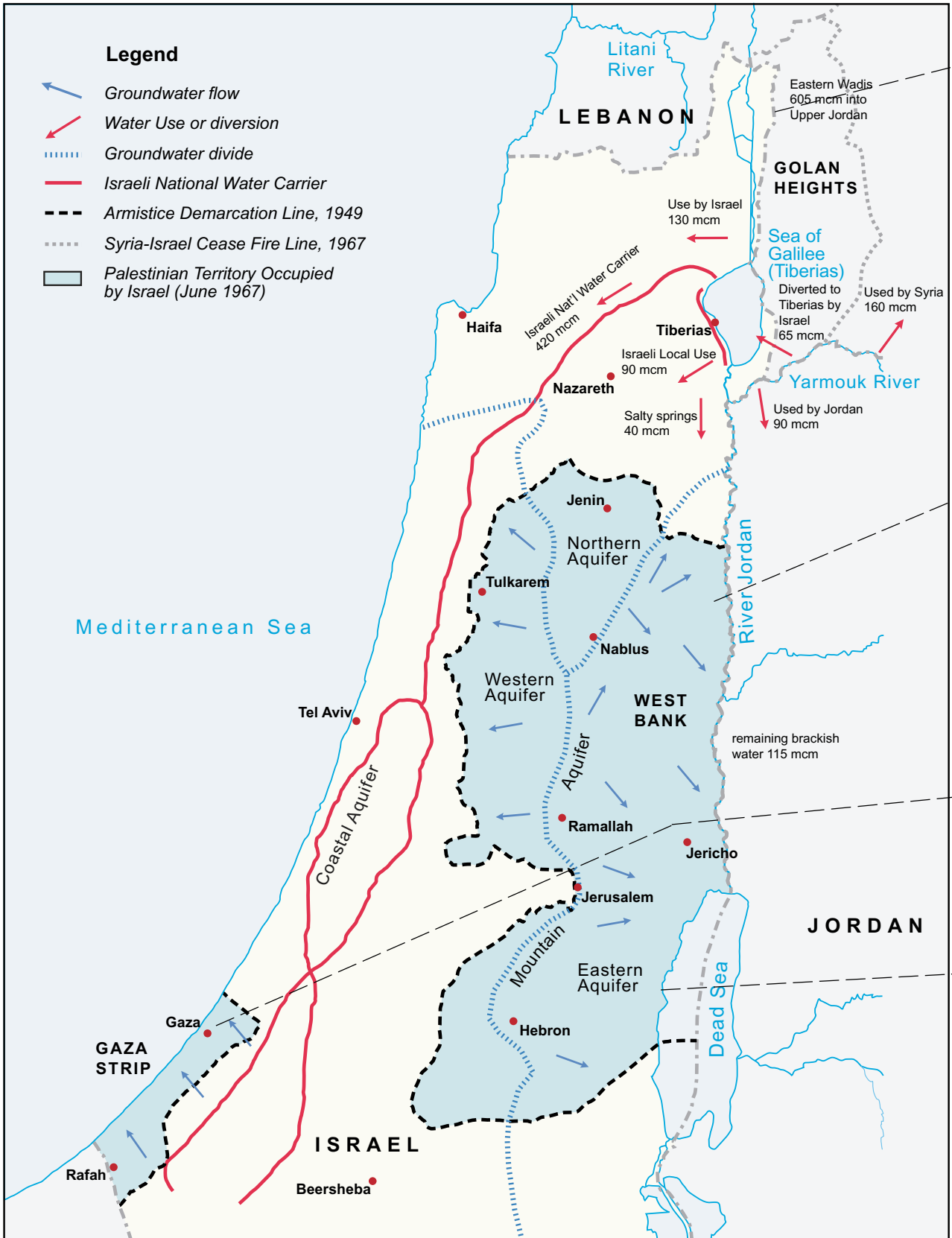
The focus of this report is on violations of the right to water **in** the OPT and a thorough examination of the water sector within Israel was not possible in the timeframe of this report. However, a particularly urgent situation within Israel, that of the "unrecognized" Arab villages, provides the third case study.

The sixth section is a conclusion and a set of recommendations that the government of Israel must take to fulfill its international obligation to respect, protect and fulfill the human right to water within the OPT.

While Israel continues to reject its responsibility for fulfilling human rights obligations in the OPT, the Committee has repeatedly affirmed Israel's continuing jurisdiction over Palestinian human rights. In its Concluding Observations of August 2001, the Committee reiterated: "The Committee deplores the State party's refusal to report on the occupied territories and the State party's position that the Covenant does not apply to 'areas that are not subject to its sovereign territory and jurisdiction.'" Furthermore, it declared that it "...rejects the State party's assertion regarding the distinction between human rights and humanitarian law under international law to support its argument that the Committee's mandate 'cannot relate to events in the Gaza Strip and West Bank.'" Yet despite these findings, the state of Israel continues to violate both international human rights and humanitarian law, particularly in respect to the management and use of natural resources such as water.

Section I: Background on Water Resources and Consumption in Palestine/Israel

Map of Water Resources



Map adapted from Palestinian Academic Society for the Study of International Affairs (PASSIA)

Main Water Sources

Jordan River: Since 1967, Israel has exercised full control over the headwaters of the Jordan River. Before 1967, Israeli territory accounted for only three percent of the Jordan River basin area. The construction of the Israeli National Water Carrier in 1964, an extensive network of pumping stations, pipelines, reservoirs and canals stretching from the Sea of Galilee to the Negev, diverted more than 75 percent of the water of the Jordan River to Israel.¹ While Jordan and Syria are allowed to share the remainder of the water (320 mcm/year and 160 mcm/year respectively), Israel bans Palestinians from using any water from the Jordan River.²

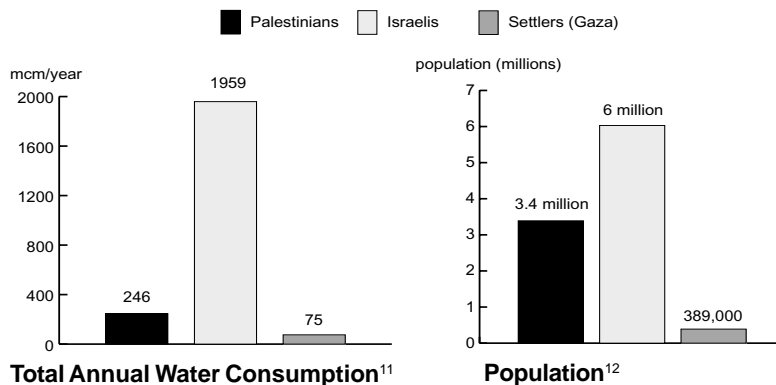
Mountain Aquifer: Israel exploits over 80 percent of groundwater resources lying under the oPt— thereby accounting for a quarter of its own water needs.³ The Mountain aquifer, composed of three aquifer drainage basins (the Northern, Western and Eastern aquifers) based on the direction of groundwater flow, has an annual renewable freshwater yield of 679 mcm. While 83 percent of its recharge area lies within the borders of the West Bank, Palestinians can only access 19 percent of their renewable groundwater supplies.⁴ Even the Eastern aquifer basin, which lies entirely within the West Bank, is pumped by Israeli wells for settler and Israeli use.

Coastal Aquifer: In the Gaza Strip, the annual recharge of the coastal aquifer is just 55mcm but is being overpumped at 120 mcm a year. It used to be partially recharged from the Wadi Gaza near Hebron, but Israel has stopped its flow by building a series of dams.⁵

Natural springs: 300 springs in the West Bank provide about 60 mcm of water a year to Palestinians.⁷

Rainfall: Averages 450 mm/year in the West Bank and 325 mm/year in the Gaza Strip.⁸ While 75 percent of the total rainfall evaporates, the rest replenishes the underground aquifers and forms the major source of water.⁹ Annual rooftop cistern collection in the oPt is estimated at 6.6 mcm.¹⁰

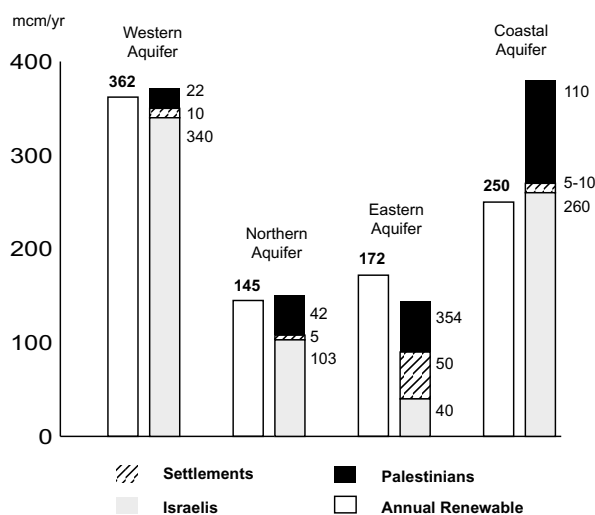
Comparing Consumption and Population



Israelis and settlers use a far greater share of the region's water resources than their proportion of the population would suggest.

Running Dry¹³

According to the World Bank, the gap between demand and available supply of water in the West Bank and Gaza will be at 32 percent in 2000 and 55 percent in 2020 (67 percent if the terms of Oslo II apply). In the Coastal Aquifer, Israelis alone use more water than is naturally renewed.



NOTES:

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- B'Tselem, "Thirsty for a Solution," Jerusalem: B'Tselem, July 2000; UNEP "Desk Study on the Environment," 2002.
- WWS 401c Task Force, Woodrow Wilson School, Princeton University "Allocations of Water and Responsibilities in an Israeli – Palestinian Water Accord" <http://www.wws.princeton.edu/~wws401c/index.html>

Section II. Background on Governance of Water Sector in OPT

Violations of the human right to water in the OPT must be understood in the context of the policies enacted by Israel since its illegal occupation of the areas in 1967. Israel's military, legal, bureaucratic and administrative control over the OPT has systematically undermined Palestinians' attempts to exercise self-determination over their own natural resources. This section outlines the successive institutional arrangements established by Israel since 1967 to control and confiscate Palestinian water resources.

Israeli Military Orders:³

After 1967, Israel took control over all water resources in the newly occupied Palestinian territories by a series of military orders that imposed a new governance regime in the water sector and forbade construction of new wells by Palestinians without permission from the area Israeli military commander. These military orders are illegal in the face of international humanitarian and human rights law.

Military Order 58 (23 July, 1967) on Abandoned Property declared lands whose owners were either unknown or had left their lands on or after 7 June, 1967 as "absentee property" and expropriated an unknown number of Palestinian-owned wells that had been used for irrigation.⁴ Most of these "absentee owners" or "unknown owners" are in fact Palestinians who had been forced to flee their lands after 1948 and 1967. As per the order, the burden of proving the legal status of the property fell on the owners, and not on the Israeli government.

With **Military Order 92** (15 August, 1967), Israel transferred full authority over all matters concerning water resources in the West Bank and Gaza Strip from the various governors, municipalities and village councils to a single person, an Israeli official appointed by the area military commander.

Military Order 158 (19 November, 1967) adjusted the existing Jordanian Water Monitoring Law and prohibited the construction of any new water infrastructure without a permit. Permits could be granted only upon approval from the official appointed by the area military commander. The order granted this official the right to refuse a permit and revoke or amend existing licenses without justification. Furthermore, the order established no mechanism to appeal the official's decisions.

Military Order 291 (19 December, 1968) declared all water resources to be Israeli State property and stated that all prior and existing settlements of water disputes were invalid.

Between 1967-69 Israel also limited Palestinian access to surface water sources by declaring irrigated farmland along the Jordan River to be a closed military area and

³ Shawqi Issa and Gert De Bruijne, "Existing Water Laws and Regulations in Palestinian Territory," LAW, September 1995; Ralph H. Salmi, "Water the Red Line: The Interdependence of Palestinian and Israeli Water Resources," *Studies in Conflict and Terrorism*, Jan-Mar 1997 vol. 20, 1; PASSIA, "Fact Sheet," 2001.

⁴ B'Tselem. "Disputed Waters: Israel's Responsibility for the Water Shortage in the Occupied Territories," Information Sheet, Jerusalem: B'Tselem, September 1998.

declaring five groups of springs as ‘Nature Reserves’ to be used by Israeli citizens upon paying an entry fee.⁵

Restrictions on new water development: Since 1967, under the system set forth by the military orders, permits have been granted for only 23 new wells. According to a 1998 B’Tselem report, a Palestinian applicant wishing to drill a well has to pass through eighteen stages of approval from the multiple departments of Mekorot, the Israeli Civil Administration, the Israeli Water Planning Authority and the Israeli Ministry of Agriculture.⁶ In 1975, Israel set quotas limiting the amount of water to be drawn from wells and enforced compliance by using meters for each well and imposing heavy fines for exceeding the quota.⁷ In 1986, Israel reduced the quotas for the amount of water Palestinians could pump from their wells by 10 percent, resulting in widespread water scarcity.⁸ In October 2002, Israeli infrastructure minister Effi Eitam banned Palestinians from drilling for water and placed a freeze on the issue of future permits for wells.⁹

Control over Water by Mekorot:

In 1982, under the then Israeli Minister for Defense, Ariel Sharon, control of all water resources in Israel and the OPT was given to Mekorot, the Israeli national water authority. Mekorot had started to build an extensive water network in the OPT in 1967, to provide water for the military and the Israeli settlements. From the mid-1970s, when Mekorot began to expand its network to connect Palestinian towns and villages not linked to a water system, it did not make any effort to improve or repair the Palestinian municipal water systems – most of them built before the occupation.¹⁰ The municipalities did not have the resources to improve the condition of the piping as they were dependent on allocations set by the Israeli Civil Administration.¹¹ The price of this neglect is high; network losses of 30 –50 percent because of deteriorating networks and leaky pipes have been recorded.¹²

While existing Palestinian wells were being destroyed on a systematic basis, Mekorot continued to drill deeper wells in the OPT, effectively drying up older Palestinian wells.¹³ In many instances, the wells dug by Mekorot in the OPT only supply water to Israel and Israeli settlers and not to the Palestinian populations living near the wells or along Mekorot’s water lines.¹⁴ Moreover, Mekorot drilled dozens of very deep wells on the outskirts of Palestinian towns and villages to supply Israeli settlements. According to a United Nations report, these wells damaged the wells and springs feeding the upper level

⁵ Ibid.

⁶ Ibid.

⁷ Ibid.

⁸ PASSIA, “Fact Sheet,” 2001.

⁹ Jessica McCallin, “Israel bans new West Bank wells.” *The Sunday Herald* (Scotland) October 28, 2002.

¹⁰ B’Tselem, “Disputed Waters,” 1998.

¹¹ Ibid.

¹² UNEP, “Desk Study on the Environment,” 2002.

¹³ PASSIA, “Fact Sheet,” 2001; UNEP, “Desk Study on the Environment,” 2002.

¹⁴ Isam R. Shawwa, “The Water Situation in the Gaza Strip,” in Gershon Baskin, editor. *Water: Conflict or Cooperation* (revised edition), Jerusalem: Israel/Palestine Center for Research and Information, March 1993.

of the aquifer, resulting in reduced water supply for Palestinian towns and villages and even a complete drying-out of the water source.¹⁵

While Israelis and settlers receive a continuous supply of water from Mekorot year-round, Palestinians across the OPT have to contend with irregular water supply and a severe shortage of running water in the summer months.¹⁶ Furthermore, one quarter of West Bank households received no piped water at all.¹⁷ Many Palestinians are thus forced to buy water – either from Mekorot, or from private suppliers selling expensive trucked water. In April, 2003, the Israeli infrastructure minister informed the Palestinian Authority (PA), that Mekorot will stop supplying the Palestinian cities of Ramallah, Al-Bireh, Jenin, Toubas, Nablus and other towns with water and will not allow Palestinians to either drill more water wells or maintain existing ones.¹⁸

As the occupying power, it is Israel's obligation under international law to take responsibility for the deteriorating water infrastructure in the OPT and supply a sufficient quantity and quality of water to the residents of the OPT.

Oslo Accords: Although the Oslo Peace Process begun in 1993 was supposed to usher in a new era of mutual cooperation between Israelis and Palestinians, it has in fact further consolidated Israeli control over Palestinian territory and resources and continued to undermine Palestinian self-determination. The water sector serves as a telling illustration. The Oslo process was negotiated between two unequal partners, Israel and the Palestinian Liberation Organization (PLO) with the US serving an unjust and powerful broker. After the failure of the 1991 and 1992 talks in Madrid and Washington between Israel and representatives of the Palestinians (not the PLO, which was excluded from these talks), Israel initiated secret talks with the PLO in Oslo in 1993 and the two parties signed the Declaration of Principles (the Oslo Accords) in September 1993. The Accords stipulated that negotiations would take place over a five-year interim period during which Israel would withdraw from Gaza, Jericho and unspecified parts of the West Bank. The PA was established as the governing body of the evacuated territories in May 1994 and the September 1995 Taba Agreement (Oslo II) divided the West Bank into three non-contiguous areas with varying degrees of Israeli and Palestinian control: Area A (under complete PA control - at best this covered 17 percent of the West Bank and is spread over numerous disconnected enclaves and excludes the West Bank's internal and external borders), Area B (under shared PA and Israeli control) and Area C (under complete Israeli control; this includes all the settlements and the main roads and comprises almost 2/3rds of the West Bank). Under this agreement, the PA was given powers only in the realm of civil affairs, social services and internal security, while control over all critical Palestinian resources, like land, labor, water, energy, industry, trade, transport and capital was given to Israel.¹⁹

¹⁵ United Nations, *Water Resources of the Palestinian Occupied Territories*, Report A/AC. 183, New York: United Nations, 1992, pg. 27-30. Cited in B'Tselem, "Disputed Waters," 1998.

¹⁶ B'Tselem, "Disputed Waters," 1998.

¹⁷ PASSIA, "Fact Sheet – Water and Environment," 2001.

¹⁸ "Palestinian water crisis looming this summer," *The Jerusalem Times*, April 24, 2003.

¹⁹ Sara Roy, "Postscript: The Palestinian Economy after Oslo: de-Development Unabated," in *Gaza Strip: The Political Economy of de-Development*, 2^d ed, (Washington, DC: Institute for Palestine Studies, 2002).

The Oslo process also required that Palestinians make their principal compromises at the beginning of the negotiations, whereas Israel's ostensible compromises were only to be made at the end. Thus, Oslo II designated division of water sources, the status of Jerusalem, the right of return for Palestinian refugees, the disposition of Israeli settlements, and final borders between Israel and a Palestinian state as issues for “final status” negotiations. As these final talks of Oslo were never reached, Israel has been able to continue its illegal appropriation of Palestinian water resources from 1995 until the present. In the absence of a concrete agreement on sharing of water resources, Israel continued the expansion of settlements, closure, military incursions, and relocation of industry to the OPT, which led to the diversion of even more resources towards Israel and Israeli settlers, increased pollution of water supplies and prevented Palestinians from developing a coherent and sustainable national water plan.

Joint Water Committee and Palestinian Water Authority

The Oslo II Accords established a Joint Water Committee, a body whose purpose was to manage fairly and equitably water resources in the interim period before the final status negotiations. However, from its inception, this committee has served to undermine, rather than promote, Palestinians’ sovereignty over their water resources. The mandate of the committee is limited to “water and sewage related issues in the West Bank”²⁰ which effectively means that the committee has no authority to address the disproportionate extraction of water from the mountain aquifer that occurs within Israel (although most of the aquifer lies under the West Bank), nor the issue of access to waters of the Jordan River basin. Moreover, the Joint Water Committee does not even have the authority to regulate the use of water by illegal Israeli settlements, which accounts for roughly 37 percent of all water use in the West Bank.²¹ Although it was mandated that an equal number of Israelis and Palestinians sit on the joint water committee, the Oslo II Accord also established consensus as the decision making process for the committee, which effectively gives Israel veto power over any Palestinian water-related initiatives. According to a B’Tselem report from 2000, out of 79 Palestinian requests to drill wells, only seventeen were approved.²² Furthermore, as of 1998 only one well had actually been drilled.²³

Although a Palestinian Water Authority (PWA) has since been established, Israel maintains control of the total flow and volume of water available in the OPT. Therefore the PWA has no ability to manage or develop water resources and instead only allocates the limited supply made available by Israel. Moreover, even though Israel passed to the PWA responsibility over an extremely deteriorated water network system, Oslo II does not obligate Israel to fund repairs.

²⁰ Israeli-Palestinian Interim Agreement on the West Bank and the Gaza Strip Washington, D.C., September 28, 1995 see: <http://www.mfa.gov.il/mfa/go.asp?MFAH00qa0>

²¹ Eyal Weizman, *The Politics of Verticality* <http://www.opendemocracy.net/debates/article.jsp?id=2&debateId=45&articleId=806>, 2002.

²² B’Tselem, “Thirsty for a Solution: The Water Crisis in the Occupied Territories and its Resolution in the Final Status Agreement,” Jerusalem: B’Tselem, 2000.

²³ B’Tselem, “Disputed Waters,” 1998.

While every new water project in Area A, which was listed under Oslo as areas of “complete PA control,” requires the consent of Israel’s representatives on the JWC, water projects which are located in, or traverse, land labeled Area C (under complete Israeli control) must be approved not only by the JWC, but also the Israeli Civil Administration. Delays are frequent: in July 2001, B’Tselem recorded 17 outstanding requests by the PWA to the Civil Administration stemming from as far back as 1997. Projects executed without prior approval face the possibility of demolition; in May 1999, for example, the Civil Administration demolished five reservoirs around Hebron that were built without approval.²⁴ With such bureaucratic restrictions, the PWA cannot be considered to have the institutional capacity or authority to manage the Palestinian water sector.

The Oslo II agreement does not call for redistribution of existing water sources nor require any reduction in water extraction or consumption by Israelis or settlers; the entire onus of water conservation is placed on Palestinians. Nor does it address the possibility of providing additional water to the Palestinians from sources like the Jordan River and springs. Instead, it estimates the “future needs” of West Bank Palestinians at 70-80 mcm per year, of which Palestinians are allowed to pump an additional 41-51 mcm per year from the unutilized water in the “Eastern aquifer and other agreed sources in the West Bank.”²⁵ However, as pointed out by B’Tselem, the currently unutilized water allocated to Palestinians from the eastern aquifer cannot be used because most of it is saline – due, in a large part, to excess drawing of water by Israel.²⁶ Furthermore, the agreement does not expand on the “other agreed sources,” and it is unclear what they might be, given that all water sources available to Palestinians are already fully utilized.²⁷

Conclusion:

The governance of the water sector in the OPT thus demonstrates how Israeli policy since 1967 - in complete violation and contravention of international humanitarian and customary international law – is directly responsible for the denial of the Palestinian right to self-determination over their natural resources. Palestinians are restricted from utilizing their water sources to meet their basic rights and needs by a host of bureaucratic, military, legal and administrative arrangements of the Israeli state that impose a complete web of Israeli control over all matters relating to water in the OPT. The existing system shows a systematic and blatant discrimination between Israeli settlers and Palestinians in the OPT.

The Oslo “peace process” achieved little in the way of improving the water situation for Palestinians. Instead, it further institutionalized the structural inequality between Israel and the OPT by refusing to address the issue of reducing Israeli water consumption, and by delaying discussions of the unfair distribution of water and the discrimination between

²⁴ Ibid; Amira Hass, “Protests and arrests in West Bank Demolitions, Uprooting,” in *Haaretz*, (Israel) May 20, 1999.

²⁵ Interim Agreement, 1995, Annex 3, article 40(7)(b)(6). <http://www.us-israel.org/jsource/Peace/iaannex3.html#app-40>

²⁶ B’Tselem, “Disputed Waters,” 1998

²⁷ Ibid.

Palestinians and Israeli settlers to “final status negotiations” – that, eight years since, have yet to be discussed.

Section III: International Humanitarian and Customary Law

Both Israel's official policies and its unwritten practices in the OPT violate international humanitarian law, as well as contravene broadly accepted standards of conduct regarding the use of transnational water resources. This section outlines Israel's violations of specific standards of international humanitarian and customary law. Israel is a signatory to both the **Hague Regulations** and the **IVth Geneva Conventions**.

Respect for existing legal systems:

- According to **Article 43 of the Hague Regulations of 1907**, "the authority of the legitimate power having in fact passed into the hands of the occupant, the latter shall take all the measures in his power to restore, and ensure, as far as possible, public order and safety, while respecting, unless absolutely prevented, the laws in force in the country." The Military Orders of 1967, which imposed an entirely new legal regime to govern the water sector, are in violation of this prohibition.

Prohibition on discrimination between civilian population and citizens of occupying power:

- According to **Article 27 of the Fourth Geneva Convention of 1949**, "[w]ithout prejudice to the provisions relating to their state of health, age and sex, all protected persons shall be treated with the same consideration by the Party to the conflict in whose power they are, without any adverse distinction based, in particular, on race, religion or political opinion." Israel continues to discriminate on the basis of national identity, religion and ethnicity in terms of the provision of water services. Israeli settlements receive continuous supplies of subsidized water, while Mekorot reduces the amount of water available to Palestinian communities, and charges a higher price for it.²⁸

Prohibition on utilization of resources from occupied area for non-military purposes:

- Mekorot's drilling of wells in the OPT to supply water to the Israeli settlements is in breach of **Article 55 of the Hague Resolutions** which limits the occupying power from utilizing the resources of the occupied area to benefit its citizens who live there, other than for purely military needs.

Obligation to supply the needs of the civilian population:

- Under **Article 55 of the Fourth Geneva Convention**, Israel is obligated to supply the needs of the occupied population and is prevented from using water resources in the OPT for the Israeli settlers. Israel's failure to supply enough

²⁸ Ibid. Citing records from the Water Departments of Hebron and Bethlehem showing that Mekorot supplied these Palestinian towns with half as much water during the summer than in the winter, because of increased water needs of Israelis and settlers in the summer.

water to Palestinian residents of the West Bank and its use of water from West Bank wells for the needs of Israeli settlers contravene international law.

Prohibition on destroying objects indispensable to survival of civilian population:

- The destruction of Palestinian wells and water infrastructure by the Israeli army is prohibited under both the **Hague Regulations (article 23 g)** and the **Fourth Geneva Convention (articles 53 and 147)**²⁹.
- Numerous reports by Israeli and Palestinian NGOs have documented the destruction of water infrastructure by the Israeli Army, including at least fifteen wells. Most recently, in January of this year, Israeli forces destroyed two wells in Rafah, Gaza Strip, which had provided nearly half the drinking water supply for the city. The destruction of water infrastructure by the Israeli army is in violation of these Protocols.

Equitable Division of Shared Water Resources:

- Israel continues to ignore commonly accepted principles of customary international law regarding the management of trans-boundary waters. The **Helsinki Fair Use Principles**, adopted in 1966, stipulate that four factors be considered in dividing shared water resources: current or previous use, natural characteristics of water source, social and economic needs and access to alternate sources. Even if, as Israel argues, it is entitled to a higher quota of water than the Palestinians due to its higher use in the past, water use by Israeli settlements in the OPT is in complete violation of the fair use principle. Moreover, the current division of shared water by Israel violates the other three factors, (natural characteristics of water source, social and economic needs, and access to alternate sources) – all of which work entirely in the Palestinians’ favor and necessitate a more equitable re-division of the shared water resources.

Prevention of pollution of groundwater:

- **Article III of the Seoul Rules on International Groundwaters** (adopted by the International Law Association in 1986) states that “Basin states shall prevent or abate the pollution of international groundwaters in accordance with international law applicable to existing, new, increased and highly dangerous pollution.”³⁰

²⁹ Article 23(g) reads: “it is especially forbidden (g) To destroy or seize the enemy's property, unless such destruction or seizure be imperatively demanded by the necessities of war;” Israel has not shown that its destruction of water infrastructure is justified on military grounds. Article 53 states: “Any destruction by the Occupying Power of real or personal property belonging individually or collectively to private persons, or to the State, or to other public authorities, or to social or cooperative organizations, is prohibited, except where such destruction is rendered absolutely necessary by military operations” Israel has never demonstrated that destruction of water infrastructure is necessary for military operations. Article 147 states: “Grave breaches...shall be those involving any of the following acts, if committed against persons or property protected by the present Convention: wilfully causing great suffering or serious injury to body or health...and extensive destruction and appropriation of property, not justified by military necessity and carried out unlawfully and wantonly.”

³⁰ The Seoul Rules on International Groundwaters, article III, paragraph 1.

Israel's policy of relocating highly polluting industries to the West Bank, as well as disposing of toxic and military waste in the OPT, is contrary to this principle.

Freedom of Information:

- The high level of secrecy surrounding information on water on the part of Israeli authorities is contrary to the Seoul Rules, Article III, paragraph 2: "Basin states shall consult and exchange relevant available information and data at the request of any one of them."³¹ The **Helsinki Rules** (1966) also call for the free sharing of information and data on water resources. According to the Applied Research Institute of Jerusalem, information on water is considered sensitive and any figures that are released by Israel are censored.³²

Access of civilian population to indispensable objects:

- The **International Committee of the Red Cross** states that "[access by the population to indispensable objects] must not be hindered and those whose task it is to repair and operate the civilian water supply systems and installations must be protected."³³ It has been widely noted that many repairs to broken water systems are not made because of violence and threats of violence from the Israeli army or settlers.³⁴

This section has elaborated how Israel's policies and actions impacting Palestinian water use are in violation of both international humanitarian law and the generally accepted principles of customary international law. The following section focuses on Israel's responsibility for specific violations of the human right to water in the OPT in the period since Oslo, and particularly, during the second Intifada.

³¹ Seoul Rules, article III, paragraph 2.

³² Jad Ishaq and Jonathan Kuttub Applied Research Institute, Jerusalem, "Approaches to the Legal Aspects of the Conflict on Water Rights in Palestine/Israel," in Jad Ishaq and Hillel Shuval, editors, *Water and Peace in the Middle East: Proceedings of the first Israeli-Palestinian International Conference on Water, Zurich, Switzerland, 10-13 December 1992*, Amsterdam: Elsevier Science Publishers, 1994.

³³ ICRC, *Protection of the civilian population in periods of armed conflict*; 26th International Conference of the Red Cross and Red Crescent, 1995.

³⁴ Oxfam, "Water workers run gauntlet of violence as they seek to repair vital supplies." *Israel-Palestine Humanitarian Update* 18/04/2002.

Section IV: Violations of the Right to Water in the OPT during the Second Intifada

Introduction

Israel has violated Palestinians' right to water through a variety of military orders, policies and practices which include: discriminatory and disproportionate (non-equitable) use of water sources in the OPT; ban on digging new wells; quotas on water use which have virtually not increased since 1967; disproportionate pricing; over-pumping of water sources located in the OPT for Israeli use; destruction of existing water resources and infrastructure; not approving new water projects and pollution/contamination of Palestinian water supply.

Furthermore, throughout the entire Oslo period (beginning with the signing of the Oslo Accords in September 1993), Israel has continued to confiscate land and water resources, build bypass roads and settlements and develop industries and industrial zones in the OPT. All of these practices have led to a serious degradation of the environment in the OPT with grave consequences for the quality of Palestinian water resources.

During the current intifada, beginning in September 2000, Palestinian human rights, including the right to water, have been grossly infringed upon by Israeli imposed curfews and closures, Israeli military incursions and settler violence and interference. Furthermore, under the guise of "unilateral separation" and increased "security" for Israel, Israel has begun building a "Separation Wall" in the northern West Bank, which will confiscate even more Palestinian land and water resources, and may eventually leave Israel in full control of the Western (Mountain) Aquifer, which Israel considers vital to its national water interests, and from which Israel currently exploits the majority of water supply. In public statements and news articles, Israel refers to the Western Aquifer as part of Israel's groundwater, ignoring any Palestinian claims to the aquifer.

The Right to Water

In November 2002, at its twenty-ninth session in Geneva, the Committee on Economic, Social and Cultural Rights (CESCR) published General Comment No. 15 on the Right to Water, whose content is enshrined in Articles 11 (right to an adequate standard of living) and 12 (right to the highest attainable standard of health) of the International Covenant on Economic, Social and Cultural Rights (ICESCR).³⁵ While the General Comment prioritizes the right to water for personal and domestic use, it also provides for sustainable access to water resources for agriculture, in order to realize the right to adequate food. The General Comment refers to article 1, paragraph 2 of the Covenant, according to which, people may not "be deprived of its means of subsistence." Finally,

³⁵ The General Comment states that: "the right to water clearly falls within the category of guarantees essential for securing an adequate standard of living, particularly since it is one of the most fundamental conditions for survival." In its General Comment on the right to health (No. 14) the Committee interpreted the right to health as an inclusive right that extends not only to timely and appropriate health care but also to those factors that determine good health such as access to safe drinking-water and adequate sanitation.

the General Comment recognizes that water is necessary for other purposes and rights: to produce food (right to adequate food); to ensure environmental hygiene (right to health); to secure livelihoods (right to gain a living by work); and to enjoy certain cultural practices (right to take part in cultural life).

States Obligations Under the Right to Water

As with all human rights, the right to water imposes certain obligations on all state parties to the Covenant. Six of these obligations are detailed below with a quick summary of Israel's failure to meet these obligations.

Progressive Realization

The recognition that the realization of human rights is dependent upon resources is embodied in the principle of progressive realization. This principle mandates the realization of human rights within the constraints of available resources. It also creates a constant and continuous duty for States to move quickly and effectively towards the full realization of a right. Steps towards the full realization of rights must be deliberate, concrete and targeted as clearly as possible towards meeting the human rights obligations of a government.

Contrary to its obligation of progressive realization, Israel has never developed an overall water plan for the OPT, nor invested in Palestinian water infrastructure and services. Since the establishment of the PA in 1995, Israel has prevented the Palestinians from developing a comprehensive water use strategy due to continued Israeli control of all water resources in the OPT and due to its undermining of the PA financially and politically.

Non-retrogression

The General Comment states, "There is a strong presumption that retrogressive measures taken in relation to the right to water are prohibited under the Covenant." Previously, in General Comment No. 4, the Committee observed that State Parties may not adopt regressive measures that result, for example, in "a general decline in living and housing conditions directly attributable to policy and legislative decisions."

During the current intifada, Israel has employed policies and practices, such as deliberate destruction of water infrastructure, which have led to deterioration in the availability, quality and accessibility of water for the Palestinian population in the OPT.

Non-Discrimination

Article 2(2) of the Covenant, which prohibits discrimination in access to economic, social and cultural rights, is not subject to the progressive realization clause. States are obligated to remove de facto discrimination to ensure that the allocation of water resources, and investments in water, facilitate access to water for all members of society.

Furthermore, the General Comment emphasizes that “States have a special obligation to provide those who do not have sufficient means with the necessary water and water facilities” and “should give special attention to those individuals and groups who have traditionally faced difficulties in exercising this right.”

The Israeli policies detailed in this section apply to Palestinians but not to Jewish settlers living in the OPT, and therefore constitute blatant discrimination in terms of the right to water. The deliberate confiscation of resources from the Palestinian inhabitants of the OPT for use by Israeli Jewish citizens inside Israel and illegal Jewish settlers in the OPT, the differential prices that these populations pay for water, and the blatant non-recognition of the water needs of the Palestinians in the OPT (such as lack of water planning or investment in infrastructure) all provide further evidence of Israel’s discriminatory policies.

Respect

The obligation to respect requires that States parties refrain from interfering directly or indirectly with the enjoyment of the right to water, such as policies and practices that deny or limit equal access to adequate water, diminish or pollute existing water, interfere with traditional water allocation arrangements and that limit access to, or destroy water services and infrastructure as a punitive measure. The General Comment reminds that “during armed conflicts, emergency situations and natural disasters, the right to water embraces those obligations by which States parties are bound under international humanitarian law.”

As detailed in the previous section, Israel has systematically violated Palestinians’ right to water under international humanitarian law. The state has also failed to respect Palestinians’ enjoyment of the right to water by setting water quotas, forbidding the building of new wells and over-exploiting shared water resources. During the current intifada the Israeli army has targeted and destroyed water infrastructure in the OPT and has enacted policies such as closure and curfew which compromise the accessibility of water providers to many Palestinian communities.

Protect

The obligation to protect requires States parties to prevent third parties from interfering in any way with the enjoyment of the right to water which includes restraining third parties from denying equal access to adequate water, polluting water sources, and inequitable extracting from water resources. The General Comment specifies that where water services are provided by third parties, the State must prevent them from compromising equal, affordable and physical access to sufficient, safe and acceptable water; in part this should be accomplished by establishing an effective regulatory system.

In the case of Israel, the State has not prevented Israeli settlers from interfering with Palestinian water sources, nor has it regulated the provision of water services by the Israeli water authority, Mekorot, in the OPT. As a result Mekorot has arbitrarily cut water access to many Palestinian areas or provided water of sub-standard quality.

Finally, Israeli companies which have relocated to the OPT have dumped toxic and industrial waste, contaminating the environment and the water supply. Israel has encouraged these practices by failing to hold Israeli companies in the OPT to the same environmental standards that are applied within Israel.

Minimum Core

Regardless of their available resources, all States Parties have an immediate obligation to ensure that the *minimum essential level* of a right is realized. In the case of water, this minimal level includes ensuring people's access to enough water to prevent dehydration and disease. Other immediate obligations include *non-discrimination* and the *respect and protection of the existing enjoyment of rights*. Therefore, the General Comment reminds that "While the adequacy of water required for the right to water may vary according to different conditions, the following factors apply in all circumstances:" availability, quality and accessibility.

The General Comment also lays out a list of nine core obligations in relation to the right to water, *none* of which have been fulfilled with regards to Palestinians in the OPT (see table below). The rest of this Chapter will detail Israeli violations of Palestinian human rights in terms of availability, quality and accessibility.

Nine Core Obligations	How the obligation has not been met
1) To ensure access to the minimum essential amount of water, that is sufficient and safe for personal and domestic uses to prevent disease	Palestinian communities are plagued with water shortage; almost half of the communities recently surveyed have a per capita consumption of less than 50 l/p/d – for domestic, industrial and agricultural use. Israel limits water supply to Palestinian communities.
2) To ensure the right of access to water and water facilities and services on a non-discriminatory basis, especially for disadvantaged or marginalized groups	Palestinians living in the OPT have been systematically denied their right to water while Jewish Israeli citizens and illegal Jewish settlers receive continuous, plentiful, affordable access to water.
3) To ensure physical access to water facilities or services that provide sufficient, safe and regular water...	Physical access to water has been severely compromised by Israeli destruction of Palestinian water infrastructure.
4) To ensure personal security is not threatened when having to physically access water	Water repair personnel and tanker drivers have been physically assaulted or threatened by Israeli soldiers or settlers while on the job.
5) To ensure equitable distribution of all available water facilities and services	Israel uses a disproportionate amount of shared Palestinian-Israeli water resources.
6) To implement a national water strategy and plan of action addressing the whole population...	Israeli national water plans have always excluded the Palestinian population of the OPT; Israeli occupation policies have precluded the formulation of a PA national water plan.
7) To monitor the extent of the realization, or the non-realization, of the right to water	Israel has never surveyed the water rights of the Palestinian communities of the OPT or requested information from Palestinian bodies.
8) To adopt relatively low-cost targeted water programs to protect vulnerable and marginalized groups	The cost of water for Palestinians, especially marginalized rural areas, is often higher than the cost of water for Israelis and illegal settlers.
9) To take measures to prevent, treat and control diseases linked to water, in particular ensuring access to adequate sanitation	During its occupation of the OPT Israel has never developed adequate sanitation facilities such as wastewater treatment plants and solid waste dumps. During the intifada Palestinians have been unable to evacuate waste and reach solid waste dumps due to curfews and closures.

Right to Water Violations in the OPT

I. Availability

Introduction

According to the General Comment, “The water supply for each person must be sufficient and continuous for personal and domestic uses” (including drinking, personal sanitation, washing of clothes, food preparation, personal and household hygiene).” The World Health Organization (WHO) and the US Agency for International Development (USAID) have defined sufficient per capita water use for household and urban purposes as 100 liters/person/day (l/p/d), which does *not* include domestic agriculture, livestock and losses.³⁶

³⁶ There are different interpretations of the minimum availability required. Peter Gleick, in an article entitled “Basic Water Requirements for Human Activities: Meeting Basic Needs” recommends the

In the OPT, many households lack both sufficient and continuous access to water, especially since at least 15% of the population is not covered by a water network. As detailed in this section, Palestinians' limited water consumption has been exacerbated during the current intifada due to water shut-offs from the Israeli national water authority, Mekorot, and settler interference. Limited water consumption has led to an increase in violations of the right to health.

Limited Water Consumption

In a July 2001 report, B'Tselem placed the average water consumption for Palestinians in the West Bank at 60 l/p/d for household, urban and industrial use.³⁷

According to a recent survey of most West Bank and Gaza Strip areas, the Palestinian Hydrology Group,³⁸ found that many communities are suffering from a severe water shortage; almost half of those surveyed have a per capita consumption of less than 50 l/p/d – for domestic, industrial and agricultural use. Furthermore, water for all domestic uses (*including* domestic agriculture, livestock, and losses) was less than 30 l/p/d in 62 communities, which represents about 10 percent of surveyed communities. In some cases, per capita water consumption was below 15 l/p/d, as detailed in the table below.

adoption of a basic water requirement standard for human needs of 50 liters, per person per day (l/p/d) which is based on the following calculation:

Minimum Drinking Water Requirement – 5 liters per day

Basic Requirements for Sanitation – minimum of 20 l/p/d for waste disposal

Basic water requirement for bathing – 15 l/p/d

Basic requirement for food preparation – 10 l/p/d

However, these recommended levels are based on fundamental health considerations and on assumptions about technological choices usually made at modest levels of economic development (no showers, flush toilets, etc.) which do not apply in Palestine. However, Falkenmark and others consider 100 l/p/d to be necessary to provide for some minimum acceptable quality of life. USAID recommends 100 l/p/d.

³⁷ B'Tselem: *Not Even a Drop*, July 2001.

³⁸ PHG carried out a survey of 615 out of the 708 communities in the West Bank and Gaza Strip from June 2002 – March 2003. Information from the surveyed communities can be found at: www.phg.org/campaign

Out of 615 communities surveyed, PHG found 178 communities without a water network. This represents 29 percent of the surveyed communities and 7 percent of their population. Even in networked communities coverage is not always 100 percent; thus it was estimated that 15 percent of the total population in the surveyed communities is not served by a water network. Furthermore, in the summer even those connected to the network sometimes do not receive water because the water pressure is too low to supply homes at high altitudes within the community. In July 2001, B'Tselem put the figure at 218 communities, or approximately 200,000 people, in the West Bank who are not connected to a water network.³⁹

Daily per capita water consumption

Location	(l/p/d)
Rantis (Ramallah)	13
Ar Rifaiyya (Hebron)	13
Karma (Hebron)	13
Qawawisin (Hebron)	11
Um Lasafa (Hebron)	10
Khallet al Maiyya (Hebron)	10
Deir Samit (Hebron)	10
Yanun (Nablus)	9
Ad Deirat (Hebron)	7
Kharsa (Hebron)	7
Al Heila (Hebron)	7

Source: Adapted from information in PHG WaSH Report 7

Mekorot is the main water source for 201 Palestinian communities in summer and 213 communities in winter. This makes it the largest primary water source for Palestinians. However, in the past 2 years, Mekorot has seriously reduced the supply quantities to many Palestinian communities and in some cases Mekorot has completely stopped the provision of water to them.⁴⁰ Some communities are suffering from closures of the main valves by settlers.⁴¹ PHG reports that 67 communities have lost more than 50 percent of their water supply because of either the closure of main valves or a 50 percent decrease in the amount of water supplied by Mekorot⁴².

Water Shortage Leads to Violations of the Right to Health

The water shortage affecting many Palestinian communities has led to changes in hygiene practices and subsequent violations of the right to health. PHG reported 133 communities with severe sanitation and hygiene problems.⁴³ B'Tselem reports that in the summer some residents are only able to take one or two showers a week, which they take using a bucket, and that some residents improvise toilets outside, usually just a hole, to save water.⁴⁴ Research in the OPT in the early 1990s indicates that water shortage is one

³⁹ B'Tselem: *Not Even a Drop*, July 2001.

⁴⁰ PHG WaSH Report #7, March 2003. The report specifically mentions that all Mekorot supply has been stopped to the following areas: Al Khamajat, Wadi ash Shajina, Kureise, As Sikka, Al Faqir, Al Burj, An Najada in Hebron, Al Mughayyir, Ash Shuhada, Birqin in Jenin and 'Aqqaba in Tubas.

⁴¹ PHG WaSH Report #7, March 2003. This closure is sometimes complete (100 percent) such as the cases of Turrana, Al Burj, AS Sikka, Kurza, Al FAqir and An Najada in Hebron, Al Mughayir in Jenin and 'Aqqaba in Tubas.

⁴² PHG Water for Life Campaign database – www.phg.org/campaign

⁴³ PHG Water for Life Database.

⁴⁴ B'Tselem: *Not Even a Drop*, July 2001.

of the primary causes of infection and skin diseases among residents of villages without household water supply, and among children in particular.

Oxfam reported that four out of 10 households that they interviewed reported an increase in the incidence of diarrhea, due to cuts in water supply and use of unclean water from springs, irrigation channels, and scraping the bottom of cisterns where pathogens accumulate.⁴⁵ The Health Sector Bi-Weekly Report reported that a quarter of rural households interviewed had a member suffering from diarrhea; in approximately half these cases they had not had an adequate amount of water for bathing over the previous weeks.⁴⁶

Finally, Oxfam reported that in Rehiyeh in Hebron, the school is no longer cleaned. The washrooms and toilets are in a terrible state and the classrooms are dirty. There is no water available for consumption on the premises. Children now have to bring a bottle of drinking water to school. Other communities have also reported lack of water for schools, hospitals and other public institutions.

Palestinian Women and the Right to Water

Water shortage has a particular impact on women, as detailed in a *Discussion Paper on The Integration of Gender into Oxfam GB Jerusalem's Water Programme*.

In most homes women are the water managers and are thus responsible for obtaining water, cleaning it when necessary and making decisions about water use. Women are therefore bearing the increased cost of tankered water, which requires them to engage in income generating activities for the first time or sell off jewelry and possessions. Many women are forced to borrow money and are incurring increasing debts. Women also must bear the increased time needed to provide water for the household as they travel longer distances to access water from springs and spend more time filtering and boiling the spring water which is of a lower quality.

Finally, women are making the decisions on how to use increasingly limited water supplies. In some areas this has resulted in bathing children less. Often women's small scale production activities suffer - they may have to sell land and livestock to purchase water, or have to sell off livestock when they can no longer afford to give them water to drink. This directly violates the stipulation in the General Comment on Water that "Attention should be given to ensuring that disadvantaged and marginalized farmers, including women farmers, have equitable access to water and water management systems..."

⁴⁵ Oxfam Briefing Paper 28: Forgotten Villages.

⁴⁶ Health Inforum News: <http://hart.itcoop-jer.org/HART%20News/Forms/AllItems.htm>

II. Accessibility

Introduction

According to the General Comment, “Water and water facilities and services have to be accessible to *everyone* without discrimination... Accessibility has four overlapping dimensions: physical accessibility, economic accessibility, non-discrimination and information accessibility.”

This section will describe violations of Palestinian right to water which stem from the Israeli destruction of water infrastructure, physical threats to water personnel, lack of access for water tankers and the decreasing economic accessibility of water. As a direct result of Israeli-imposed movement restrictions and Israeli military re-occupation of major population centers in the OPT, there has been a dramatic increase in poverty during the current intifada, making basic food and water supplies inaccessible to a growing number of families.

Physical Accessibility

Physical accessibility to water requires that “sufficient, safe and acceptable water must be accessible within, or in the immediate vicinity, of each household, educational institution and workplace.” During the current intifada, the destruction of Palestinian water infrastructure has led to a decrease in accessible water supplies for Palestinians. In some cases, this destruction has left whole communities with no access to water for extended periods of time. Furthermore, water tankers have been prevented from collecting and delivering water to Palestinian communities.

PHG reports that the Israeli military has damaged the water infrastructure (including wells, springs, cisterns, tankers, roof tanks and reservoirs) in 202 communities and the water network in 255 communities.⁴⁷ The Israeli army has bulldozed pipelines and destroyed over 15 wells in the West Bank and Gaza since September 2000 - eliminating the largest water source for many Palestinian villages and towns.⁴⁸ UNDP, the World Bank, UNSCO and USAID estimate that damage to West Bank water supply and sewerage infrastructure by the Israeli military between March and May of 2002 is US\$7 million.⁴⁹

According to the Institute of Community and Public Health at Birzeit University, trying to fix damaged water and sanitation networks and facilities amounts to a “cat and mouse game of finally getting approval to fix the damage, only to have them destroyed the following day.”⁵⁰ Destruction occurs when military vehicles gouge out streets and

⁴⁷ PHG Water for Life Campaign database – www.phg.org/campaign.

⁴⁸ PHG: “WaSH Report #6: December 2002.”

⁴⁹ UNEP: “Desk Study on the Environment,” 2002.

⁵⁰ Rita Giacaman: “A Population at Risk of Risks: No One is in a Healthy State in Palestine”, Institute of Community and Public Health, Birzeit University, April 16, 2002.

damage underlying pipes, when bulldozers and tanks demolish wells, and when soldiers shoot at roof-top water tanks.

Destruction of the Water and Sanitation System in Nablus

During the intensive Israeli military invasions and re-occupations of April 2002, one quarter of the existing water pipe network in the city of Nablus, which also provides water to the refugee camps, was destroyed. The main pipeline trunks were also damaged and three main water sources out of four were cut off, resulting in severe water shortage. The fourth water source, which covers only 20 percent of the city, continued its supply. In addition, damage to the sewage lines and manholes around Nablus threatened to contaminate the city's water supply.

This situation continued for one week, after which coordination between the municipality and the Israeli authorities to start the maintenance operations for the water supply network began. After 11 days of devastation, the municipality was able to pump the water from the city's four water sources. The preliminary cost of the destroyed water system is about \$1.5 million. (Oxfam press release – see footnote 51)

Physical Security

The General Comment states, "Physical security should not be threatened during access to water facilities and services." During the current intifada there have been numerous documented reports of municipal water workers attacked by the Israeli army while they tried to repair water infrastructure and water tanker drivers who were beaten or harassed by the Israeli army or settlers.

On 18 April, 2002, during the Israeli army's invasion and reoccupation of key West Bank cities, Oxfam reported on a number of incidents, including the following:⁵¹ "In the past few days, Israeli soldiers have failed to honor agreements made by senior officers to allow water engineers to repair vitally needed pipes. At least one person has been killed and another wounded attempting to repair water structures damaged in the military action since 29 March." And in Jenin, "when ten water workers sought to repair a reservoir, they were chased away by Israeli soldiers, according to the municipal authority."

In April 2002 Birzeit University reported that in Ramallah the Water Department had finally gained approval from the Israeli Army to fix the damage to the city's water infrastructure, which had left at least 150,000 people without water for days on end. Nonetheless, the Water Department crew were shot at, denied entry or arrested instead.⁵²

⁵¹ Oxfam's press release can be found at:
<http://www.oxfam.org.uk/whatnew/press/palestineupdate180402.htm>

⁵² Rita Giacaman: "A Population at Risk fo Risks: No One is in a Healthy State in Palestine", Institute of Community and Public Health, Birzeit University, April 16, 2002.

Tankered Water

Communities without a water network must rely on a variety of sources such as collection of rainfall, collection of water from springs and purchase of water from tankers. All of these sources are unreliable and do not guarantee a continuous or dependable supply. Especially during the dry summer months, water from rainfall and springs is not available and during the current intifada tankers have had great difficulties in operating due to the curfews and closures, which place severe restrictions on movement. PHG reports that between 250 and 300 localities that rely on tankered water, have limited access to water due to closures and delays of tankers at checkpoints.⁵³ In July 2001 B'Tselem reported a number of documented cases in which Israeli soldiers had prevented or greatly delayed tanker drivers from crossing staffed checkpoints; soldiers beat and humiliated tanker drivers, security forces purposefully spilled water from the tankers onto the ground and Israeli settlers attacked tanker drivers.⁵⁴

While tankered water itself is *not* a sustainable remedy for communities that lack a water network, until these communities are able to develop reliable water sources, they will continue to depend on water tankers.

Economic Accessibility

The General Comment defines Economic Accessibility such that “Water, and water facilities and services must be affordable for all. The direct and indirect costs and charges associated with securing water must be affordable.” As a result of closures and curfews there have been great cost increases associated with tankered water. Even piped water has become increasingly difficult to pay for since there has been a trebling of the poverty rate during the intifada to 60 percent⁵⁵ and an increase in unemployment to at least 50 percent⁵⁶.

Tanker companies are experiencing increased costs due to increased transportation time and costs. Oxfam reports that in 11 localities interviewed, the local authorities reported an average increase of 82 percent in the price of tankered water, as detailed in the table below.⁵⁷ In one case (Izbiq in Jenin) the increase was 300 percent, from 20 NIS per cubic meter in summer 2000 to 80 NIS per cubic meter in summer 2001⁵⁸. PHG also reports steep price increases in many communities, especially in Hebron. Oxfam reports that in the Nablus District an average of 21 percent of household expenditure now goes to water, while in Jenin District the proportion is 27 percent, and in Salfeet District it is 39 percent.⁵⁹

⁵³ PHG WaSH Report #7, March 2003.

⁵⁴ B'Tselem: *Not Even a Drop*, July 2001

⁵⁵ World Bank: “Two Years of Intifada, Closures and Palestinian Economic Crisis”, March 2003.

⁵⁶ Ibid.

⁵⁷ Oxfam Briefing Paper 28: *Forgotten Villages*.

⁵⁸ PHG, Report #7

⁵⁹ Ibid.

The cost of tanker water in the OPT is several times greater than the prices paid by residents of other countries, including those with limited water resources. For example, according to a worldwide survey of water prices conducted in 2002 by the NUS Consulting Group, South Africans paid only US\$0.34 per cubic meter for water, while US residents paid an average of US\$0.76 per cubic meter of water and the French US\$0.93.⁶⁰ In the context of widespread unemployment and growing poverty among Palestinians, these high prices for clean water are placing a great strain on households.

District	cost per cubic meter	
	NIS	US\$
Bethlehem	23	\$4.90
Hebron	17	\$3.63
Jenin	12	\$2.56
Jerusalem	7	\$1.49
Nablus	14	\$2.99
Qalqilya	11	\$2.35
Ramallah	23	\$4.91
Salfit	22	\$4.70
Tubas	11	\$2.35
Tulkarem	15	\$3.20

Prices in NIS from Palestinian Hydrology Group field survey, February 2003. US dollar prices estimated from March 2003 exchange rates.

Even in communities supplied with piped water, a high percentage of families cannot afford to pay their water bills, in some cases, nearly the entire 99-100 percent of the population, as in the case of ‘Aba (Jenin), Beit Mirsim (Hebron), An Najada (Hebron) and Wada ar Rim (Hebron).⁶¹

III. Quality

Introduction

According to the General Comment, “Water must be safe for personal use – free from micro-organisms, chemical substances and radiological hazards. Must be of an acceptable color, odor and taste for each personal or domestic use.”

Since the beginning of the current intifada there has been a dramatic decrease in the quality of water that is consumed for both household and agricultural use. This is due to the water shortage detailed above, which leads people to use water from inferior water sources. In addition, there has been an increase in contamination of water sources due to sewage and solid wastes which cannot be collected because of curfews, closures and military incursions. In some cases, contamination results from a lack of supplies, such as the case of Mughrayeh, where rainwater cisterns and wells were not cleaned or chlorinated when supplies could not be delivered from Ramallah.⁶² There have even been reports of Israeli settlers purposefully contaminating Palestinian water supplies.

⁶⁰ Arizona Water Resources Research Center, University of Arizona. “Water Prices Rise Worldwide” *News Briefs* Vol. 10, No. 3, Jan-Feb 2002 <http://ag.arizona.edu/AZWATER/awr/janfeb02/news.html>.

⁶¹ PHG WaSH Report #7, March 2003.

⁶² Oxfam Briefing Paper 28: Forgotten Villages.

*Contamination from Sewage and Solid Waste*⁶³

The General Comment states that a good sanitation system is one of the principal mechanisms for protecting the quality of drinking-water supplies and resources.

According to a recent report of the UN Environment Program (UNEP), only about one-third of the Palestinian population is connected to a sewage system and most of the population is dependent on cesspits, from which sewage often leaks into streams and wells. In one-quarter of the water samples collected for the report from streams and tanks that provide water in the West Bank, the levels of bacteria exceeded those permitted in drinking water according to the standards set by the WHO. In Gaza, there were higher-than-permitted levels of nitrates (pollutants that have their source in sewage and fertilizers) in 50 percent of the water samples.

Although many larger West Bank cities have sewage treatment plants, most of them are obsolete or out of order. In addition, Israeli military incursions have done considerable damage to sewage systems and pumping plants. In terms of waste-disposal sites, curfews and closures mean that Palestinians are unable to access centrally located sites and thus temporary sites have sprung up. The UN researchers were unable to obtain precise figures, but estimate that there are between 200 and 450 such sites.

According to the head of the environmental committee of the Governorate of Ramallah, around 50 percent of homes in the Governorate are linked to a public sewage network, with the rest relying on cesspits that require emptying regularly, usually, every 2-4 weeks. The majority of villages remain without a piped sewage system, again relying on cesspits requiring regular emptying, which cannot take place under curfew, closure, and siege.

Furthermore, many families lack funds to pay for wastewater evacuation tankers. The evacuation cost of percolation pits reaches 300 NIS (\$60)/ 8 cubic meters tanker as is the case in Al Burj in Hebron and 250 NIS (\$50)/ 8 meter cubed as in Al Muwarraq, Beit Maqdam, Humsa and Al Kam in Hebron. The overflow pollution resulting from unevacuated cesspits creates a real threat of water contamination.

In addition, curfews and closures have severely limited solid-waste collection and thus trash is burned in order to decrease the problem of waste buildup while generating toxic substances in the air and water. Other threats to water sources come from the build-up of medical waste products, dangerous industrial runoff and refuse from military sources.

These problems have increased since Israel halted all the plans for the construction of treatment plants in Palestinian cities during the intifada. To add insult to injury, in January 2003 the Israeli daily *Ha'aretz* reported that Israel planned to deduct the costs (36 million NIS or \$7 million) of treating sewage from the OPT which crossed over into Israel from the frozen PA funds which are being held by Israel.

⁶³ This section takes information on the UNEP report as summarized in the *Ha'aretz* article "What an awful waste," by Zafirir Rinat, February 7, 2003.

*Industrial Waste*⁶⁴

Since the beginning of the Oslo process, the Israeli Ministry of Industry and Trade has set up at least ten industrial zones on West Bank settlements and in 2001, invested NIS 28 million (\$6 million) in developing Israeli industries in the OPT. Not only are the industries in these zones entitled to generous government subsidies, they are also exempt from conforming to Israeli environmental laws. As a result, many polluting industries, such as those involved in chemical processing, have moved from inside Israel to the OPT, and this has led to the contamination of Palestinian water sources and agricultural land. In just one example, the Barkan industrial zone, there are 80 companies involved in industries such as aluminum, fiberglass and plastics. These industries notoriously produce large amounts of hazardous liquid and solid wastes and the Barkan zone generates an estimated 810 thousand cubic meters of industrial wastewater annually. This waste was originally collected in storage tanks, but these no longer function and the wastewater now flows into the nearby valley, contaminating local water sources.

Health Violations from Contaminated Water Sources

There is continued, strong evidence of the spread of water-related diseases in many communities that are forced to use contaminated water sources. (See chart)

Location	Number of cases	Percent of population in location
Rantis (Ramallah)	1580	64%
Jurish (Nablus)	900	24%
Deir Abu Mash'al (Ramallah)	800	17%
Al Qaraya al Badawiya al Maslakh (North Gaza)	500	15%
Nur Shams Camp (Tulkarem)	350	11%
Tammun (Tubas)	300	10%
'Aqqaba (Tubas)	300	6%
Qaffin (Tulkarem)	300	4%

Source: Adapted from information in PHG WaSH Report 7

⁶⁴ Nancy Hawker: "State Support for Developing Industries in Settlements," *News from Within*, Vol. XIX, No. 1, January 2003, p. 12-13.

THE RIGHT TO WATER IN PALESTINE: CRISIS IN GAZA

BACKGROUND¹

The Gaza Strip, an area of 365 square kms, is one of the most densely populated places on earth. Approximately 1.3 million Palestinians live in an area of 210 square kms. Around two-thirds of the population is registered refugees with one-third living in 8 refugee camps. The other 155 square kms of Gaza are controlled by the Israeli military and illegal settlers. Approximately 7,000 settlers, who comprise about 0.6% of



Agricultural well in Wadi Salka, Gaza damaged by Israeli army during incursions in 2002. Photo courtesy John Reese.



Gaza's population, live on 16 settlements. The Gaza Strip has been particularly hard-hit by the current intifada with over 600 homes demolished by the Israeli army and about 10% of the arable land razed. The poverty rate is estimated at about 80% in some areas of Gaza.

becoming increasingly important as a means of income and food security for Gazans, many of whom have lost their jobs as wage laborers in Israel due to the intifada. Already the increasing salinity has affected the types of food grown, eliminating most citrus fruit — which are sensitive to saline — in favor of salt-tolerant vegetables and flowers.

GAZA'S FRESH WATER CRISIS²

Gaza has been experiencing a fresh water crisis for years. The majority of Palestinian water comes from the Gaza Coastal Aquifer, which is quite shallow and is continually overpumped, leading to increased salinity from the influx of sea water. The groundwater is also contaminated from fertilizers and pesticides used in agriculture and from raw sewage. Only about 25% of the Palestinian population is attached to a sewage network and raw sewage from settlements and Palestinian areas is dumped directly into the Mediterranean. The water in Gaza contains high level of nitrates and chlorides, which breach WHO standards in most parts of the Gaza Strip (nitrates must be less than 50 mg/L and chlorides less than 250 mg/L). The contaminated water results in an increase of water-related diseases such as kidney problems from high salinity and “blue baby syndrome” (methemoglobinemia) caused by elevated levels of nitrates, which hinders the blood's ability to carry sufficient oxygen to the individual body cells. Researchers from MIT estimate that within 20 years, agriculture will no longer be possible in Gaza due to the salinity of the groundwater. Currently agriculture provides about one-third of Gaza's GDP and is

Raw Sewage Flows into the Mediterranean

Testing on the Egyptian side of the Gaza-Rafah border revealed that Rafah's seawater contained a high percentage of pollutants — mainly ammonia and hydrogen sulfide — which severely compromises the taste and odor of drinking water and renders it unacceptable to consumers. Furthermore, samples taken from the town's subterranean ‘potable’ water reservoirs located near the border were found to be so polluted as to be unfit for drinking. The pollution comes from the Israeli settlements in the south of Gaza which dump a daily average of 140-170 cubic meters of untreated sewage directly into the Sea through three big pipes. Furthermore, the Israel occupation authorities established only an open lagoon for Rafah's Palestinian inhabitants to dump their sewage into, before pipes carry that waste directly to the sea. (Gihan Shahine: “A Real Crisis,” *Al Ahram Weekly*, 23 - 29 January 2003)

The Gaza Coastal Aquifer³

The portion of the Coastal Aquifer underlying Gaza has an annual safe yield of 55 million cubic meters (mcm) but is now being overpumped. The aquifer used to be partially recharged from the Wadi Gaza coming from Hebron but Israeli stopped its flow. There are approximately 3,850 wells in the Gaza Strip, pumping 122 mcm of water a year. Mekorot supplies an additional 5 mcm. In the first year of the second intifada, the amount of water in Gaza pumped for domestic uses declined by 30%.

COLLECTIVE PUNISHMENT: DESTROYING RAFAH'S WELLS⁴

The city of Rafah is located in the south of the Gaza Strip, along the Egyptian border, Approximately 130,000 people live in Rafah, 60-70% of whom are refugees. Rafah is one of the poorest municipalities in Gaza and at the end of 2001 the Rafah municipality announced that they were on the brink of bankruptcy, with a debt of around half a million dollars, much of this from uncollected bills, for services such as water. Because of its position along the Egyptian border, Rafah has been the site of extensive home demolitions, as Israel expands its “security zone” and builds a wall between Rafah and Egypt. Israeli bulldozers routinely clear row after row of Palestinian homes near the border. In a highly publicized case, an international peace activist, Rachel Corrie,

who was attempting to protect Palestinian homes in Rafah, was run-over and killed by an Israeli bulldozer in March 2003.

There are 6 artesian wells in Gaza, only 2 of which meet international standards for drinking water. These 2 wells also provide approximately half of Rafah's drinking water and are mixed with the city's other 4, poorer quality, wells before the water is distributed to homes. On average, the public receives water that has chlorides of around 290 mg/l and nitrates of around 85 mg/l, higher than WHO's acceptable levels, listed above.

On 30 January, 2003, these 2 wells, which are located in a particularly exposed position in the Tel al-Sultan neighborhood, near an Israeli settlement and the Egyptian border, were destroyed by Israeli army bulldozers. While the army says "A review of the incident revealed that the troops did not have good intelligence, and the force was not aware of the two wells were in the area," the Rafah municipality says they distributed maps of the area to the Israeli troops on which the wells were clearly marked. The wells were also easily identifiable by the well house containing the operating machinery. During

this same incident, 20 homes were damaged, 7 cars were crushed and a fence around a school was destroyed.

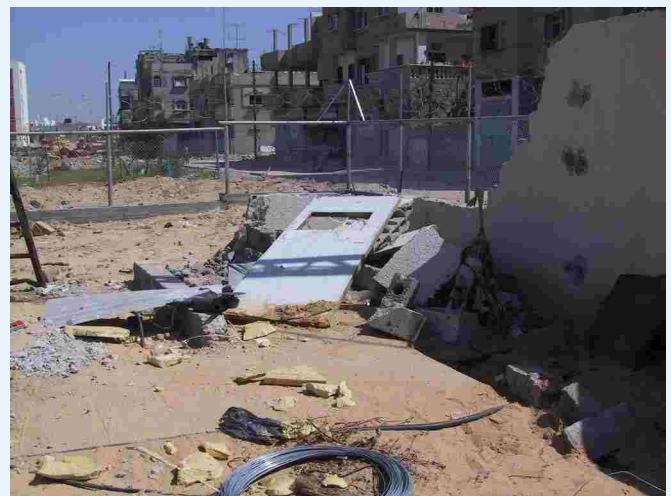
Now the residents of Rafah are on strict water rationing, with water flowing only a few hours a day, every second or third day. The estimate to fix the wells is \$450,000 and although the Canadian and Norwegian governments will likely fund the repairs, the estimate is a minimum of 5 months to rebuild due to the difficulty in importing parts into the sealed-off Gaza Strip.

THE TWO WELLS

Well 144 – "Canada Well" – drilled in 1999 with a grant from the Canadian government, and produced 80 cubic meters of water per hour.

Well 103T – drilled by the Israeli occupation authorities in 1990 and produced 190 cubic meters of water per hour.

Together, the two wells provided some 6,000 cubic meters of fresh water out of 13,000 cubic meters produced daily for Rafah's residents. The residents used to go to the wells and fill up with the fresh water, which is clean and tasty, much better than the water that comes out of Rafah's faucets, a murky mixture of fresh and salt water.



Above: remains of a building which housed a sewage pump in the Block O section of Rafah.

All photos courtesy Amelia Peltz, Save the Children.

1 PASSIA Diary 2003.

2 Information from PASSIA Diary 2003, Denise Brehm: "Salt in Gaza Strip water could destroy agriculture in 20 years" <http://web.mit.edu/newsoffice/tt/2001/jan10/water.html>. Asya Abdul Hadi: "Gaza Water Crisis Worsening." Palestine Report, 16 May,

1997.

3 Statistics from the Palestinian Central Bureau of Statistics

4 Information from Amira Hass: "Danger: Rafah's fresh water wells." *Haaretz*, 5 February, 2003. Mohammed Al Baba: "Rafah faces financial crisis" translated by Joharah Baker from *Al Ayyam*,

20 October, 2001 for the *Palestine Report*, Muhammad Al Baba: "An Israeli War on Gaza's Drinking Water," translated by Jennifer Peterson from *Al Ayyam* on 1 February, 2003 for the *Palestine Report*, PASSIA Diary 2003. interviews conducted by Lucy Mair with Rafah Municipality Staff in March, 2003.

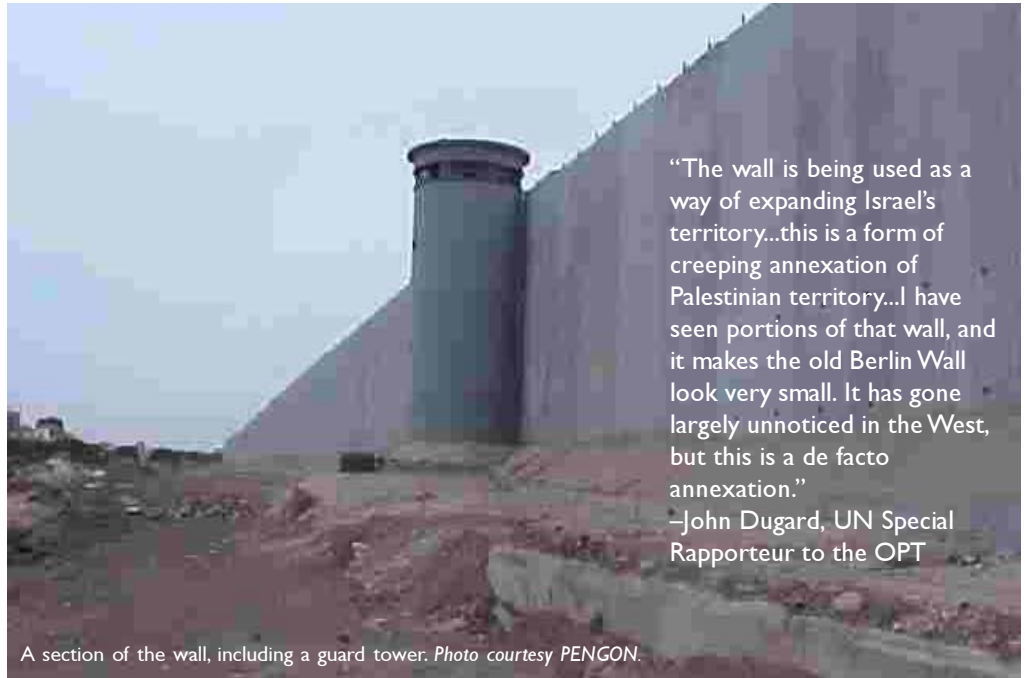
THE RIGHT TO WATER IN PALESTINE: Israel's Separation Wall Confiscates Prime Land and Water Resources

THE SEPARATION WALL¹

On April 15, 2002, Israel's Prime Minister, Ariel Sharon, announced that he would "isolate" Palestinians from Israelis by erecting "walls" and "buffer zones" in an attempt at "unilateral separation." On the ground the building of a "Separation Wall" (or "Apartheid Wall") appears aimed at expropriating key Palestinian land and water resources, annexing illegal settlements to Israel, imposing complete restriction on movement and re-drawing the borders of the West Bank. The impact of the Wall on the full range of Palestinian human rights and civilian protections under humanitarian law cannot be understated.

The "first phase" of the Separation Wall is being built in the northern West Bank in the areas of Qalqilya, Tulkarem, and Jenin. Simultaneously, the building of portions of the Jerusalem and Bethlehem Wall is also under way. The Wall is not being built on, or in most cases even near, the Green Line (the 1967 border between Israel and the West Bank). In fact, at some points the Wall is being built 7 kms inside the Green Line and in the first phase alone the Wall is expected to confiscate 2% of the West Bank and annex at least 10 illegal settlements to Israel. The confiscated Palestinian land is some of the most fertile land in the OPT and lies directly over the Western Aquifer, the largest source of groundwater in the West Bank. The Yesha Council of settlers has now proposed an alternative route for the Wall (which the government looks set to adopt), which would annex additional settlements and bring the total number of settlers annexed to Israel to 343,000, a large percentage of whom are Jerusalem settlers. At the same time, 420,000 Palestinians will be isolated between the Wall and the Green Line.

While the original estimates placed the length of the Wall along the entire West Bank at a minimum of 360 kms, Sharon has now promised to build a second wall in the eastern West Bank, which will confiscate large tracts of Palestinian land along the Jordan River, and totally separate Palestinians from the most important source of surface water in Israel/Palestine making permanent Israel's long time, illegal ban on Palestinians access to the waters of the Jordan River. If both the western and eastern walls are built the total length will be 720 kms, rendering West Bank Palestinians completely



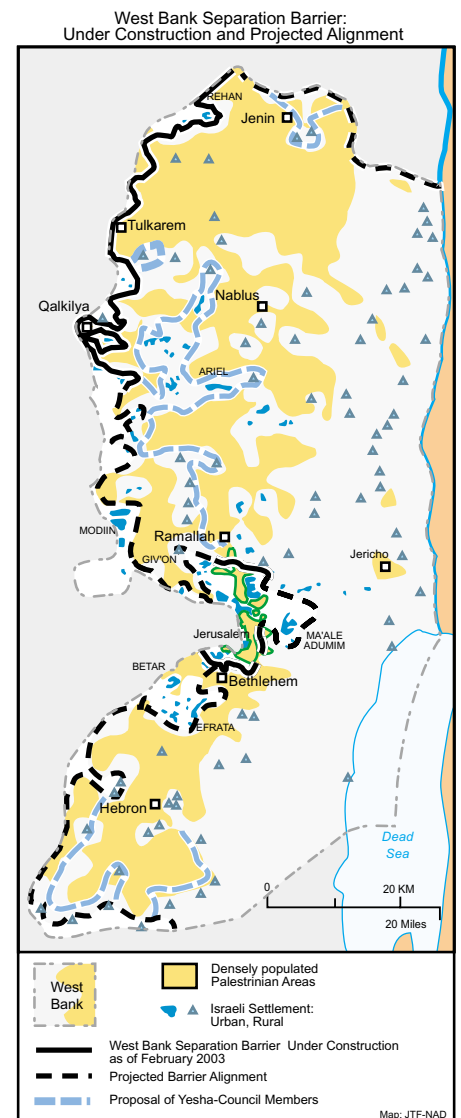
A section of the wall, including a guard tower. Photo courtesy PENGON.

"The wall is being used as a way of expanding Israel's territory...this is a form of creeping annexation of Palestinian territory...I have seen portions of that wall, and it makes the old Berlin Wall look very small. It has gone largely unnoticed in the West, but this is a de facto annexation."
—John Dugard, UN Special Rapporteur to the OPT

imprisoned by walls in a drastically reduced and non-contiguous land mass.

The Wall is an average 8 meters (25 feet) high, with tens of armed watchtowers and a buffer zone of 30-100 meters wide which includes electric fences, trenches, cameras, sensors and security patrols. The Wall's buffer zone has been deemed by the military as a no-man's land, paving the way for large-scale demolitions of any buildings or structures in its path. Not including any of the planned expansions to the Wall, the Wall will be about three times as long and twice as high as the Berlin Wall and is often located just meters away from homes, shops, and schools.

In the first phase, 16 Palestinian communities will be trapped between the Wall and the Green Line, with no access to either Israel or the West Bank. Many other communities will be located east of the Wall but with their agricultural lands to the West, cutting them off from their livelihoods, sustenance, and heritage. As of January 2003, some 84,000 trees had been uprooted. Ultimately thousands of jobs will be lost as well as thousands of tons of olive oil, fruit and vegetables. To date some 100 buildings have been demolished, the majority of which have been stores and have been an important source of income and survival for a number of communities. Additional stores and homes have already received demolition orders which are expected to take place in the very near future. A number of small villages, or



hamlets, which are only meters away from the Wall have been told by the military that their proximity to the Wall will deem most of their community demolished.

Not only does the Wall serve as a form of collective punishment for the West Bank's 2.3 million Palestinians, but it also precludes the possibility of a Palestinian state in the West Bank and Gaza. There is also a great fear of expulsion of Palestinians from their land especially in areas where the land is destroyed, confiscated or annexed to Israel, thus robbing communities of their ability to subsist. The great danger is that this expulsion at "bulldozer-point" will undoubtedly be less widely anticipated, recognized and responded to by the international community, than expulsion at gun-point.

THE WALL AND WATER²

The construction of the Wall will have a tremendous impact on Palestinian water resources. In the first phase alone, over 31 groundwater wells will be confiscated, with a total discharge equal to some 4 million cubic meters (MCM). Furthermore, while laying the groundwork for the Wall, Israeli bulldozers have already destroyed around 35,000 meters of water pipes used for both agricultural and domestic use. The Wall is also separating water sources and networks from agricultural lands and a number of villages are to lose their only source of water, such as Jayous, in the Qalqiliya District. Jayous has 72% of its lands, some 8,600 dunums, isolated from the village on the other side of the Wall, in addition to all of its 7 groundwater wells; the lands and wells are inaccessible to their owners and beneficiaries and de facto confiscated.

Many believe that the path of the Wall, which follows West Bank groundwater resources, is part of Israel's plan to consolidate control of the Western Aquifer, which Israel has always considered vital to its water interests. In 1990, in a paid advertisement in the Jerusalem Post, Israel's Ministry of Agriculture stated that "Relinquishing the western slopes of the Judean and Samarian hills [the western West Bank] will create a situation in which the fate of the Israeli national water supply could be determined by the actions of whatever Arab authority controlled the evacuated areas after withdrawal. It is difficult to conceive of any political solution consistent with Israel's survival that does not involve complete, continued Israeli control of the water and sewage systems..."

QALQILIYA

The city of Qalqiliya, the district urban center, with 45,000 residents, will be almost entirely encircled by the Wall (see map). The path of the Wall also means that nearly 50% of the city's agricultural land will be confiscated. Qalqiliya was once known as the West Bank's "bread basket" and since the beginning of the intifada agriculture accounts for 45% of Qalqiliya's economy. In addition, 19 of the city's wells will be confiscated, representing 30% of the city's water supply. Qalqiliya will also lose contact with 50 reservoirs and nine villages which will be located on the other side of the Wall. Over the years Israel has already sunk eight wells at various points around Qalqiliya which pump out 77,000 cubic feet of water per hour. Nine Israeli settlements are scattered around the town, consuming additional water resources. The building of the Wall will give Israel even greater control of Qalqiliya's water resources.



BAQA AL SHARQIYA

The entire village of Baqa al Sharqiya, with 3,500 residents, will be trapped between Israel and the Wall, isolating the village from the rest of the West Bank. Although residents will be able to access their lands and the village's four wells, farmers will not continue cultivating their fields since their markets in the West Bank will be totally inaccessible. Decreased cultivation of the land (which has already begun) will be accompanied with decreased pumping of water from the wells. Israel often confiscates uncultivated land, claiming it is "not productive", and Baqa's residents fear that Israel will use this precedent to begin confiscating Baqa's wells, claiming they, too, are "not productive." In addition, the Wall is cutting Baqa off from its reservoir that lies to the east, which was previously filled from Baqa's wells. Many of the surrounding villages depended on the water from this reservoir, including tankered water which was collected from the reservoir and delivered to surrounding villages. These villages will no longer benefit from Baqa's water.



An Israeli bulldozer clears a path for the wall while Palestinian residents look on. Photo courtesy PENGON.



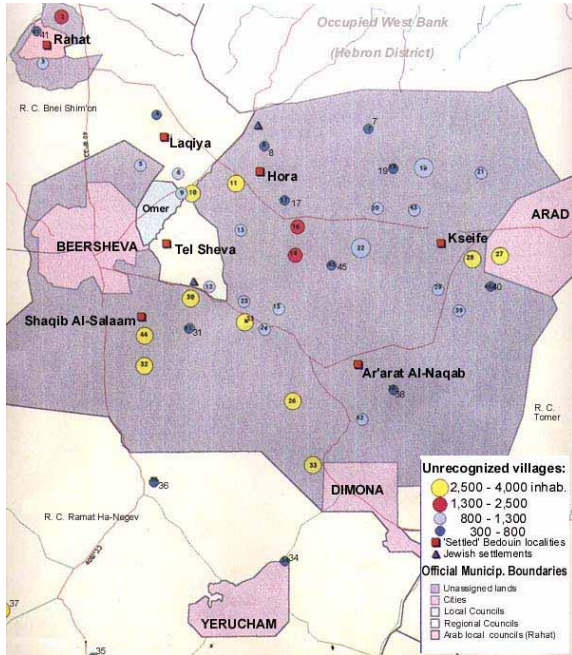
Pathway cleared to make way for the wall. Photo courtesy PENGON.

1 This section is based on fact sheets produced by PENGON's Apartheid Wall Campaign - www.pengon.org.

2 Sources: PENGON; interviews with Dr. Abdel Rahman of the Palestinian Hydrology Group; interview with Mayor Muayad Hussein and Municipal Engineer, Yusuf Bawaqne, of Baqa al

Sharqiya; the PLO's Negotiations Affairs Department's Fact Sheet: Bad Fences Make Bad Neighbors, Part II - http://www.nad-plo.org/fact_sheets_faq/factsh3.html; and Electronic Intifada - Qalqiliya and the Wall by Susan Brannon - <http://electronicintifada.net/v2/article751.shtml>.

THE RIGHT TO WATER IN ISRAEL: No Water for the “Unrecognized” Arab Villages



A map of the unrecognized villages.



An unrecognized village in the Naqab.

Nowhere is the inequity between Arab and Jewish citizens of Israel more obvious than in the case of the unrecognized Arab villages, primarily located in the south of Israel in the Naqab (Negev) area. Most of these villages existed prior to the establishment of the State of Israel in 1948. During the 1948 War, Israeli forces expelled and forced many Palestinian Bedouin living in these villages in the Naqab to flee; only about 9,000 people remained. During the subsequent military regime imposed on all Palestinians in Israel (1948-1966), of the 9,000 remaining Bedouin, many more were displaced from their homes. With the enactment of **The National Planning and Building Law** (1965), the lands of these Bedouin villages were designated as non-residential, agricultural lands and open spaces, and the State claimed ownership of these lands. Today estimates place the number of inhabitants of these unrecognized villages in the Naqab at approximately 70,000.

The unrecognized villages, of which there are tens located in the Naqab, are afforded no official status: They are excluded from state planning and government maps, they neither have local councils nor belong to other local governing bodies, and they receive little to no basic government services such as electricity, water, telephone lines, educational or health facilities. Article 157A of The

National Planning and Building Law, in fact, prohibits national utility companies from connecting a building to electricity, water, and telephone networks, if it lacks a building permit issued by a local planning authority. Such a permit can only be issued if there is a plan. In the unrecognized villages in the Naqab, there are no plans; the planning authorities systematically excluded these villages from local and national plans. Thus, residents of these villages can obtain no permits to build. Although neutral on its face, Article 157A was drafted for the express purpose of dislodging Palestinian citizens of Israel from these dispersed villages.

In addition to denying basic services to the residents of the unrecognized villages, the government refuses to allow any physical infrastructure development, thus prohibiting the building and repairing of homes and the construction of paved roads and proper sewage facilities in these communities. The government uses a combination of house demolitions, land confiscation, denial of services, and restrictions on infrastructure development to drive residents from their homes. Official government policy is to relocate residents to designated concentrated areas in order to use the land for the creation and expansion of Jewish cities and towns or for military purposes.

THE CASE OF WATER IN THE UNRECOGNIZED VILLAGES IN THE NAQAB

In May 2001, Adalah: The Legal Center for Arab Minority Rights in Israel filed a petition to the Supreme Court of Israel charging that the State maintained a policy of denying clean and accessible water to thousands of residents of the unrecognized villages. The petitioners included the Regional Council for the Unrecognized Villages in the Negev, several NGOs, and Palestinian Bedouin citizens of Israel living in seven unrecognized villages in the Naqab - Abu Tlul, Shahbi, Wadi el-Neem, El-Gara, Em Tnan, Em Batin, and Drejat. The population of these villages ranges from 750 – 4000 each. Most residents of these villages obtain water via improvised, plastic hose hook-ups or unhygienic metal containers, which are used to transport the water from a single water point located on main roads quite far from their homes, a lengthy and expensive process. The water sources are contaminated by animals, insects, military waste and food waste.

Residents of the villages have reported a variety of health problems due to the contaminated water, such as dysentery. The petition included an expert opinion from a medical doctor, who detailed the health risks



ABOVE: The Association of Forty, a local NGO, been working to bring water to villages.



to the residents posed by this system of conveyance; two Ministry of Health reports noting health dangers relating to the water; and affidavits of residents describing the hardships entailed by lack of access to water. The petitioners maintained that water, like any other public good, should be divided in an equal, fair and non-arbitrary manner.

Initially the State claimed that these villages were “illegal settlements” and that the residents were trespassers on state land. Thus, the state contended that these residents and villages were not entitled to water network connections. However, as a result of the filing of the petition, the state attorney informed the Supreme Court in October 2001 that a special inter-ministerial Water Committee had been formed to examine the water situation in these unrecognized villages.

In February 2003, the Supreme Court dismissed the petition when the state reported that water access points have been added for five of the seven villages represented by the petitioners. Adalah argued that these measures were still insufficient to meet the residents’ needs. Distant water points and improvised access to water is no different than the current situation in the unrecognized villages. Adalah stresses that the appropriate solution to the issue of water access is to connect the unrecognized Arab villages to the water network. Only in this way may Palestinian Bedouin citizens of Israel receive the same level of water access and service enjoyed by Jewish citizens of the state living in other towns and communal farms in the Naqab. It should be noted that while entire unrecognized Arab villages are deprived of adequate access to water, individual Jewish Israeli families, living on vast, expansive ranches in the Naqab, are promptly provided with water access and other services.



TOP: Children from an unrecognized village in the Negev collecting water. Photo: Peter Fryer, Association of Forty archives
 ABOVE: Villagers stand in the remains of a house demolished by Israel. Photo courtesy Association of Forty

TESTIMONY FROM AM TNAN

“Everyday I wake up at 5 a.m. and travel by donkey 200 meters to bring water from the container ... we fill the container every three days from the water point that is located 2 kilometers from the village...bringing water to my home takes about two hours ... In the winter, we suffer from the difficulty of transporting the water to the home ...therefore ... we try to limit the consumption of water as much as we can, and I even ask my children to put open plastic cans on the tin roof so that they will be filled with rain water and we can use the water for laundry and cleaning.”

TESTIMONIES FROM DREJAT

“My home, like all other homes in the village of Drejat, is not connected to the water network. I get water from a well, which belongs to me and another family. We fill the well with water every two weeks through the container that we rent. The container gets the water from a main water point, which is 6 kilometers away from the village. However, from time to time, the water runs out because the owners of the container are busy and work far away, and cannot fill the well on time. Hence, I remain without water until the owner of the container fills it!”

“Several times a day, I bring water from the well and pull it to my home ...although it is almost beyond my physical abilities and it is exhausting. I do all of this in order to use water for basic needs such as drinking, washing, cooking, cleaning the house, and washing before prayer. The water that I consume, including the transport in the containers, is about NIS 100 (US \$22) a week, and it is very difficult to make these high payments ...”

Conclusion and Recommendations

As outlined in this report, Israeli violations of the Palestinian right to water stem from the Israeli occupation and the denial of the Palestinian right to self-determination. Israel has consolidated control over all joint Israeli-Palestinian resources and does not allow for equitable Palestinian use of this water. Israeli policy clearly discriminates between Palestinians living in the OPT, and Jewish Israeli citizens and illegal Israeli settlers. While the latter enjoy a constant supply of safe, affordable, adequate water, Palestinians in the OPT must contend with chronic water shortages, water of sub-standard quality, attacks on their water infrastructure, and mounting water prices. As demonstrated in the previous section, Israel has failed to meet any of its substantive obligations as laid out in the Committee's General Comment 15 on the right to water.

In order for Palestinians to enjoy their human right to water, it is imperative that the Committee first address Israel's policies of occupation, appropriation and discrimination which are the underlying causes of right to water violations in the OPT.

Therefore, CESR urges the Committee to:

- Express grave concern over Israel's failure to respect the right of Palestinians to self-determination over their own resources, as recognized in article 1(1) of the Covenant;
- Call for an immediate end to the illegal 36 year Israeli occupation of the OPT;
- Call for the dismantling of existing illegal Jewish settlements in the OPT and the cessation of any future settlement building;
- Call for an immediate withdrawal of the Israeli army from the OPT and a cessation to all Israeli-imposed restrictions on the movement of Palestinians living in the OPT, including roadblocks, checkpoints, closure and curfew policies. These policies not only hinder the development of a national PA water plan and stop the movement of water tankers and repair personnel, but they are the underlying cause of the severe economic crisis affecting the OPT which has made water economically inaccessible for many families;
- Call for an immediate halt to the building of the Separation Wall and the dismantling of the existing Wall; restitution for Palestinian individuals and communities who have lost their land and water resources to the building of the Wall and compensation for damages done and income lost;
- Urge Israel to call for the negotiation of an agreement for the fair and equitable management, extraction and distribution of shared water resources between Israelis and Palestinians which would end the total Israeli control over shared Israeli-Palestinian water resources and the discriminatory allocation of these water resources in favor of Jewish Israelis living both within Israel and illegally in the OPT.
- Call for the establishment of a truly joint Israeli-Palestinian governance body on water that has a mandate covering the entire mountain and coastal aquifers;
- Establish a mechanism to determine appropriate Israeli compensation for the past

- destruction of water infrastructure and sources as well as for Israeli over-extraction and depletion of joint water resources, inequitable Israeli use of joint water resources, and lost Palestinian income due to water shortages; compensation for health and environmental damage;
- Condemn discriminatory Israeli policies towards its own citizens, including giving official recognition to "unrecognized" Palestinian communities inside Israel, and creating development plans for these communities which would include the provision of a water network;
 - Urge Israel to develop a long range conservation plan towards reducing its water consumption (including reducing or eliminating subsidies to agriculture) to prevent complete depletion of shared Israeli-Palestinian water sources.

Without the implementation of the above recommendations the Palestinians' legitimate human right to water cannot be realized due to complete Israeli military, political, and economic control on Palestinian life. However, since the above recommendations may take time to implement, other short-term measures must be taken immediately to allow for the recognition of the minimum core content to the Palestinian right to water. These provisional measures should not be seen as a sustainable, long-term solution to the violation of Palestinians' right to water.

Availability:

- Call on Israel to monitor Mekorot services in the OPT to ensure continuous supply to Palestinian communities connected to the water network, and to ensure an end to discrimination in the price and quantity of water received by Palestinians and illegal settlers;
- Urge Israel to lift the ban on construction of new wells by Palestinians and lift the quotas which have been in place since 1967 on Palestinian extraction;
- Call on Israel to ban the drilling of additional wells by settlers;
- Call on Israel to allow the Wadi Gaza to once again recharge the coastal aquifer.

Accessibility:

- Urge Israel to cease all army attacks on water-related infrastructure, such as wells, pumps and piping;
- Call on Israel to refrain from destroying water-related infrastructure during any construction that it undertakes in the OPT and to repair, at its own expense, damage that it causes;
- Urge Israel to prevent settlers from destroying or damaging Palestinian water infrastructure;
- Call for Israel to allow water tankers and water repair persons immediate access to Palestinian localities; and to cease all attacks and threats on civilians attempting to repair and construct water-related infrastructure;
- Urge Israel to share with the Palestinian Water Authority all information regarding its own water extraction from the Mountain and Coastal Aquifers.

Quality:

- Call on Israel to end the relocation of polluting industries to OPT and to hold those relocated industries which already exist to the same environmental standards as within Israel;
- Call on Israel to stop dumping its toxic waste in the OPT and to facilitate the creation of solid-waste dumping sites within the OPT; allow access of waste-removers to these sites;
- Urge Israeli authorities to begin treating waste water from settlements and relocated Israeli industry.

UNITED
NATIONS



**Economic and
Social
Council**

Distr.
GENERAL

UNEDITED VERSION

E/C.12/1/Add.90

23 May 2003

ORIGINAL: ENGLISH

COMMITTEE ON ECONOMIC, SOCIAL
AND CULTURAL RIGHTS

30th session

5 May - 23 May 2003

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER
ARTICLES 16 AND 17 OF THE COVENANT

Concluding Observations of the Committee on
Economic, Social and Cultural Rights

ISRAEL

1. The Committee on Economic, Social and Cultural Rights considered the second periodic report of Israel on the implementation of the International Covenant on Economic, Social and Cultural Rights (E/1990/6/Add.32) at its 17th, 18th and 19th meetings, held on 15 and 16 May 2003 (E/C.12/2003/SR.17, 18 and 19) and adopted, at its 29th meeting held on 23 May 2003, the following concluding observations.

A. INTRODUCTION

2. The Committee welcomes the submission of the second periodic report of the State party, which was prepared in general conformity with the Committee's guidelines. The Committee appreciates the extensive written replies to the list of issues, as well as the readiness of and efforts made by the high-level delegation to respond to the oral questions. The members of

the delegation were knowledgeable with respect to most of the Covenant rights, but the Committee regrets that a number of the questions it posed during the dialogue remained unanswered.

3. The Committee notes with appreciation the large amount of information received from non-governmental organizations concerning the implementation of the Covenant in the State party.

B. POSITIVE ASPECTS

4. The Committee welcomes the steps undertaken by the State party to implement the Multiyear Plan for the Development of Arab Sector Communities (2000), aimed at closing the gap between Jews and Arabs by promoting equality in the enjoyment of economic, social and cultural rights.
5. The Committee notes with appreciation the various affirmative action measures taken, as mentioned in the State party's replies to the list of issues, with respect to various disadvantaged sectors such as the Arab Druze, Circassian and Bedouin communities, despite the decline in economic growth in the State party in recent years.
6. The Committee further notes with appreciation that the Supreme Court's rules of standing have been relaxed allowing any person, regardless of citizenship, residency or other status, who contends that his or her rights were unlawfully denied or infringed, formal access to the Court, and allowing even for an *actio popularis*. In particular, the Committee particularly appreciates that in the State party, plaintiffs seeking remedy for alleged violations of economic, social and cultural rights have access to and can make use of the judiciary system, which provides opportunities for the justiciability of the rights enshrined in the Covenant. In this regard, the Committee welcomes the information given on cases before the courts, in which reference has been made to Covenant provisions.

7. The Committee further notes the amendment of the Women Equal Rights Act in April 2000.
8. The Committee welcomes the improvements in the conditions for foreign workers, allowing them to change employers for the legal duration of their stay, prohibiting against employers withholding workers' passports, as well as the regulations regarding the system of compulsory health insurance for these foreign workers.
9. The Committee notes that, while gaps still remain, the State party has achieved some positive results towards expanding basic education and special education for non-Jewish sectors.
10. The Committee notes with appreciation the efforts undertaken by the State party to address the problem of trafficking and exploitation of persons, such as the criminalization of trafficking, increased penalties for trafficking of minors, and the enhanced cooperation between government agencies to combat trafficking with a victim-sensitive approach.

C. FACTORS AND DIFFICULTIES IMPEDING THE IMPLEMENTATION OF THE COVENANT

11. The Committee reiterates its statement in previous concluding observations that Israel's continuing emphasis on its security concerns, which have even increased in recent years, has impeded the realization of economic, social and cultural rights within Israel and the occupied territories.

D. PRINCIPAL SUBJECTS OF CONCERN

12. The Committee notes with regret that a number of the issues raised in its concluding observations of 1998 (E/C.12/1/Add.27, hereinafter: 1998 concluding observations) and 2001 (E/C.12/1/Add.69, hereinafter: 2001 concluding observations) remain outstanding issues of concern. In this regard, the Committee reiterates its concerns contained in paragraphs 11, 25, 26 and 28 of its 1998 concluding observations, and paragraph 14 of the 2001 concluding

observations.

13. Despite the positive measures mentioned in paragraph 6 of the present concluding observations, the Committee reiterates its concern that the Covenant has not been incorporated in the domestic legal order, and can therefore not be directly invoked before the courts.
14. The Committee regrets that the judgment of the Qa'dan case has still not been implemented.
15. The Committee also reiterates its concern about the State party's position that the Covenant does not apply to areas that are not subject to its sovereign territory and jurisdiction, and that the Covenant is not applicable to populations other than the Israelis in the occupied territories. The Committee further reiterates its regret at the State party's refusal to report on the occupied territories (1998 concluding observations, para. 11). In addition, the Committee is deeply concerned at the insistence of the State party that, given the circumstances in the occupied territories, the law of armed conflict and humanitarian law are considered as the only mode whereby protection may be ensured for all involved, and that this matter is considered to fall outside the sphere of the Committee's responsibility.
16. The Committee is deeply concerned about the continuing difference in treatment between Jews and non-Jews, in particular Arab and Bedouin communities, with regard to their enjoyment of economic, social and cultural rights in the State party's territory. The Committee reiterates its concern that the "excessive emphasis upon the State as a 'Jewish State' encourages discrimination and accords a second-class status to its non-Jewish citizens" (1998 concluding observations, para. 10). This discriminatory attitude is apparent in the continuing lower standard of living of Israeli Arabs as a result, inter alia, of higher unemployment rates, restricted access to and participation in trade unions, lack of access to housing, water, electricity, health care and a lower level of education, despite the State party's efforts to close the gap. In this regard, the Committee expresses its concern that the State party's domestic legal order does not enshrine the general principles of equality and non-

discrimination.

17. The Committee is concerned that in spite of the enactment of the law on Equal Rights for People with Disabilities in 2000, the majority of its provisions have not been implemented. The situation is aggravated for persons with disabilities from the Arab sector.
18. The Committee is particularly concerned about the status of “Jewish nationality”, which is a ground for exclusive preferential treatment for persons of Jewish nationality under the Israeli Law of Return, granting them automatic citizenship and financial government benefits, thus resulting in practice in discriminatory treatment against non-Jews, in particular Palestinian refugees. The Committee is also concerned about the practice of restrictive family reunification with regard to Palestinians, which has been adopted for reasons of national security. In this regard, the Committee reiterates its concern contained in paragraph 13 of its 1998 concluding observations, and paragraph 14 of its 2001 concluding observations.
19. The Committee deeply regrets the refusal of the State party to provide additional information on the living conditions of population groups other than Israeli settlers in the occupied territories in its second periodic report, as requested in its 2001 concluding observations. The Committee continues to be gravely concerned about the deplorable living conditions of the Palestinians in the occupied territories, who – as a result of the continuing occupation and subsequent measures of closures, extended curfews, road blocks and security checkpoints – suffer from impingement of their enjoyment of economic, social and cultural rights enshrined in the Covenant, in particular access to work, land, water, health care, education and food.
20. The Committee expresses its concern about the general increase in unemployment in the State party, which rose from 6.7% in 1996 to 10.5% in 2002, as well as about the significant increase in unemployment of the non-Jewish sectors: 13.5% for the Arab sector, and more than 15% for the Bedouin sector. The Committee also expresses concern about the rate of unemployment in the occupied territories, which is over 50% as a result of the closures which have prevented Palestinians from working in Israel.

21. The Committee is concerned about the persisting inequality in wages of Jews and Arabs in Israel, as well as the severe under-representation of the Arab sector in civil service and universities.
22. The Committee is concerned about the fact that it is extremely difficult for Palestinians living in the occupied territories and working in Israel to join Israeli trade unions or to establish their own trade unions in Israel.
23. The Committee expresses concern about the fact that the Jewish religious courts' interpretation of personal status law with respect to divorce is discriminatory to women, especially the regulation that allows the husband to re-marry even when the wife is opposed to the divorce, whilst the same rules do not apply to the wife.
24. The Committee is particularly concerned by information received concerning the construction of a "security fence" around the occupied territories, which allegedly would infringe upon the surface area of the occupied territories, and which would limit or even impede access by Palestinian individuals and communities to land and water resources. The Committee regrets the fact that the delegation did not respond to questions by the Committee concerning the security fence or wall during the dialogue.
25. The Committee is particularly concerned about limited access to, distribution and availability of water for Palestinians in the occupied territories, as a result of inequitable management, extraction and distribution of shared water resources, which are predominantly under Israeli control.
26. The Committee reiterates its grave concern about the continuing practices by the State party of home demolitions, land confiscations and restrictions on residency rights, and its adoption of policies resulting in substandard housing and living conditions, including extreme overcrowding and lack of services, of Palestinians in East Jerusalem, in particular in the old

city (1998 concluding observations, para. 22). Furthermore, the Committee is gravely concerned about the continuing practice of expropriation of Palestinian properties and resources for the expansion of Israeli settlements in the occupied territories (1998 concluding observations, para. 24).

27. The Committee continues to be concerned about the situation of Bedouins residing in Israel, and in particular those living in villages that are still unrecognized (1998 concluding observations, para. 28). Despite measures by the State party to close the gap between the living conditions of Jews and Bedouins in the Negev, the quality of living and housing conditions of the Bedouins continue to be significantly lower, with limited or no access to water, electricity and sanitation. Moreover, they continue to be subjected on a regular basis to land confiscations, house demolitions, fines for building “illegally”, destruction of agricultural crops, fields and trees, and systematic harassment and persecution by the Green Patrol, in order to force Bedouins to resettle in “townships”. The Committee is also concerned that the present compensation scheme for Bedouins who agree to resettle in “townships” is inadequate.

E. SUGGESTIONS AND RECOMMENDATIONS

28. The Committee urges the State party to take into consideration the subjects of concern and give effect to the recommendations raised in its 1998 and 2001 concluding observations.
29. The Committee urges the State party to undertake steps towards the incorporation of the Covenant and its provisions in the domestic legal order. The Committee refers the State party to its General Comment No. 9 on the domestic application of the Covenant.
30. The Committee urges the State party to undertake steps to facilitate the implementation of the Qa’dan case judgment.
31. The Committee recognizes that the State party has serious security concerns, which must be balanced with its efforts to comply with its obligations under international human rights law. However, the Committee reaffirms its view that the State party’s obligations under the

Covenant apply to all territories and populations under its effective control. The Committee repeats its position that even in a situation of armed conflict, fundamental human rights must be respected and that basic economic, social and cultural rights as part of the minimum standards of human rights are guaranteed under customary international law and are also prescribed by international humanitarian law. Moreover, the applicability of rules of humanitarian law does not by itself impede the application of the Covenant or the accountability of the State under Article 2(1), for the actions of its authorities. The Committee therefore requests that the State party provide more extensive information on the enjoyment of economic, social and cultural rights enshrined in the Covenant by those living in the occupied territories in its next periodic report.

32. The Committee reiterates its recommendation that the State party undertake steps to ensure equality of treatment for all Israeli citizens in relation to all Covenant rights (1998 concluding observations, para. 34).
33. The Committee urges the State party to undertake effective measures to combat discrimination against persons with disabilities, especially in providing access to public facilities, promoting access to basic services and to employment, with particular attention for persons with disabilities from the Arab sector.
34. The Committee reiterates its recommendation contained in paragraph 36 of its 1998 concluding observations that, in order to ensure equality of treatment and non-discrimination, the State party undertake a review of its re-entry and family reunification policies for Palestinians.
35. The Committee reiterates its request that the State party provide detailed information on the enjoyment of economic, social and cultural rights of all population groups living in the occupied territories in its next periodic report (1998 concluding observations, para. 46, and 2001 concluding observations). The Committee also calls upon the State party to give full effect to its Covenant obligations and, as a matter of the highest priority, to undertake to

ensure safe passage at checkpoints for Palestinian medical staff and people seeking treatment, the unhampered flow of essential foodstuffs and supplies, free movement to go to their place of employment, and the safe conduct of students and teachers to and from schools (1998 concluding observations, para. 39).

36. The Committee recommends that the State party take effective measures to reduce the rate of unemployment, and to pay particular attention to reducing the inequalities between the Jewish and non-Jewish sectors with respect to employment. The Committee further recommends that the State party ensure that workers living in the occupied territories be permitted to continue to work in Israel.
37. The Committee strongly recommends that the State party undertake measures to reduce the inequalities in wages between Jews and Arabs, in conformity with the principle of equal pay for work of equal value, as enshrined in Article 7 of the Covenant.
38. The Committee recommends that the State party undertake steps to ensure that all workers working in Israel can exercise their trade union rights, in accordance with Article 8 of the Covenant.
39. The Committee recommends that the State party undertake steps to modify the Jewish religious courts' interpretation of the law concerning divorce to ensure equality between men and women, as provided for in Article 3 of the Covenant.
40. The Committee urges the State party to ensure that any security measure it adopts does not disproportionately limit or impede the enjoyment of economic, social and cultural rights enshrined in the Covenant, and in particular access to land and water resources by Palestinians, and that adequate restitution and compensation be provided to those who have incurred damages to and loss of property and lands as a result of these security measures.
41. The Committee strongly urges the State party to take immediate steps to ensure equitable access to and distribution of water to all populations living in the occupied territories, and in

particular to ensure that all parties concerned participate fully and equally in the process of water management, extraction and distribution. In that connection, the Committee refers the State party to its General Comment No. 15 on the right to water (E/C.12/2002/11).

42. Reiterating its recommendation of 1998 (para. 41), the Committee urges the State party to cease the practice of facilitating the building of Israeli settlements, expropriating land, water and resources, demolishing houses and arbitrary evictions. The Committee also urges the State party to take immediate steps to respect and implement the right to an adequate standard of living, including housing, of the Palestinian residents of East Jerusalem and the Palestinian Arabs in cities with mixed population. The Committee recalls in this connection its General Comments No. 4 (the right to adequate housing) and No. 7 (forced evictions). The Committee requests the State party to provide detailed information on this issue in its next periodic report.
43. The Committee further urges the State party to recognize all existing Bedouin villages, their property rights and their right to basic services, in particular water, and to desist from the destruction and damaging of agricultural crops and fields, including in unrecognized villages. The Committee further encourages the State party to adopt an adequate compensation scheme that is open to redress for Bedouins who have agreed to resettle in “townships”.
44. The Committee encourages the State party to continue to provide human rights education in schools at all levels and to raise awareness about human rights, in particular economic, social and cultural rights, among state officials and the judiciary.
45. The Committee also encourages the State party to develop the system of mixed schools for Jewish and Arab pupils, in order to promote understanding, tolerance and friendship among the citizens of the country.
46. The Committee requests the State party to disseminate its concluding observations widely among all levels of society and to inform the Committee on all steps taken to implement them

in its next periodic report. It also encourages the State party to continue to consult with non-governmental organizations and other members of civil society when preparing its third periodic report.

47. The Committee requests the State party to submit its third periodic report by 30 June 2008.
