

# Embassy of the State of Palestine

General Delegation  
of Palestine to Australia,  
New Zealand, and the Pacific



**INTERN POLICY REPORT**

## **Water Inequality Under Oslo II**

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## Executive Summary

Prior to Oslo II, the Israeli Military issued three Military Orders following the 1967 occupation that transferred power to the Israeli military over all water-related issues in the Occupied Palestinian Territories (OPT), abrogated existing water rights, and created a bureaucratic application process to build or improve water facilities. These Military Orders are still in place. The Oslo II Interim Agreement, signed in September 1995, has been extensively violated by Israel, resulting in pervasive inequality of access for Palestinians to water resources. The Joint Water Commission (JWC), established under Oslo II, has contributed to access inequality for Palestinians living in the West Bank. Despite a transfer of power to the Palestinian Authority (PA) concerning water-related issues, the power possessed by the PA is virtually non-existent. From 1995-2008 the Palestinian Authority was forced to accept water projects for illegal settlements after the Israeli government intimated the PA would not be allowed to improve infrastructure if it did not approve the projects. This trend has continued to the water crisis in June 2016, with the Israeli government refusing to increase water supply to Palestinian communities until the PA approves water projects to illegal settlements. The results of JWC manipulation have been devastating. As of 2009, 12 wastewater projects dating back to 1999 were either not approved by the JWC or rejected by the Civil Administration. The projects would have established or improved sanitation for nearly 800,000 Palestinians in the West Bank.

Overall, Palestinian access to water is demonstrably less than that of Israelis. Palestinians have access to one-fifth of the resources of the Mountain Aquifer, while Israel abstracts the rest and continues to overdraw nearly 2 times more than its share under the Interim Agreement without JWC approval. Numerous Palestinian communities do not consume the WHO recommended 100 litres per person, per day. According to 2011 figures, Palestinians in the Jenin area (Northern West Bank) consumed 38 litres per person/per day, and those living in the Tubas region consumed 52 litres per person/per day. The situation is much better for the more than 520,000 illegal settlers, who use 6 times

more water than the 2.6 million Palestinians living in the West Bank. Palestinians who are not connected to the water grid face a more serious water shortage, consuming between 20-50 litres a day. Because of this water shortage, Palestinians are forced to purchase water from Mekorot, an Israeli water company. Mekorot profits immensely from Palestinian water insecurity by selling Palestinians water pumped from the Mountain Aquifer, a shared water resource which they are restricted access from. Mekorot also demonstrates discriminatory water policies that result in the Palestinian water supply being decreased and diverted to Israeli settlements in the hottest months of summer.

Palestinian access to water and inequality is also exacerbated by settlers and the Israeli military. Settlers frequently poison water supplies with chemical substances, including 2-Fluoracetamide, a poison banned in Israel and many other countries, soiled nappies, and dead animals. Reports also found that settlers frequently harass Palestinians, take over springs on Palestinian land near illegal settlements and subsequently bar them from access, sever water pipes to Palestinian villages, and divert water supplies to fill pools. The Israeli military also engages in activity that increases water insecurity that includes shooting water tanks, and destroying cisterns and water reservoirs. The "Separation Barrier," declared illegal by the International Court of Justice in 2004, also contributes to water inequality by removing Palestinian access to farm lands and wells, and destroyed nearly 12,000 metres of irrigation network.

Israeli policies and actions demonstrate numerous violations of the Oslo II Interim Agreement and international law, including the International Covenant on Economic, Social, and Cultural Rights, Article 54 of the 1977 Protocol Additional to the Geneva Conventions of 12 August 1949, the Convention on the Elimination of All Forms of Discrimination Against Women, and The Protocol on Water and Health to the 1992 Convention on the Protection and Use of Transboundary Watercourses and Lakes. The Palestinian position is consistent with international law and supported by the broader international

community. For example, the most recent resolution in the United National General Assembly recognising Palestinian sovereignty over their natural resources was supported by 164 states.

Australia's position on Palestinian water rights demonstrates reasons for concern. From the 66<sup>th</sup>-70<sup>th</sup> session of the United Nations General Assembly, Australia chose to abstain from voting on resolutions affirming the sovereignty of the Palestinians over their natural resources. Australia also chose to abstain from voting on resolutions from the 68<sup>th</sup>-70<sup>th</sup> sessions of the United Nations General Assembly affirming the applicability of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949 to Occupied Palestinian Territories. This is concerning and not consistent with a rules-based global order, especially considering the actions of both the Israeli government and settlers in the OPT.

## Introduction

The status of water in the West Bank and Gaza Strip was established in the Oslo II Interim Agreement in 1995. The Interim Agreement commits Israel and Palestine to various legal clauses that were to be applicable for five years, but are still applicable today. Among the relevant clauses pertaining to water rights are that Israel recognized Palestinian rights to water in the West Bank and Gaza Strip that would be negotiated in the permanent status negotiations, the duty to prevent the deterioration of water quality in water resources, using water resources in a manner that demonstrates consideration for the changing climatological and hydrological conditions, and taking appropriate measures to prevent harm to water resources.<sup>1</sup> To carry out the conditions set forth, the Interim Agreement established the Joint Water Committee (JWC). Under the Interim Agreement, the Palestinians living in the West Bank were allocated a share of water that was one quarter that of the Israelis.<sup>2</sup> The future water needs of the Palestinians were determined to be 70-80MCM/yr. during the interim period, a total described as being, “a gross miscalculation” of future water needs.<sup>3</sup> Additional allocation included 5MCM/yr. for Gaza,<sup>4</sup> while the immediate water needs for the interim period were determined to be 28.6 MCM/yr., which were to be supplied from new wells and Mekorot.<sup>5</sup>

Despite the holistic clauses of the Interim Agreement, there are numerous issues that effectively preclude the realization of Palestinian water rights in the West Bank and Gaza Strip. To assess the historical and contemporary framework of water in Palestine, specifically the West Bank, this paper will

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<sup>1</sup> "The Israeli-Palestinian Interim Agreement." September 28, 1995..

[http://www.mfa.gov.il/mfa/foreignpolicy/peace/guide/pages/the\\_israeli-palestinian\\_interim\\_agreement\\_-\\_annex\\_iii.aspx#app-40](http://www.mfa.gov.il/mfa/foreignpolicy/peace/guide/pages/the_israeli-palestinian_interim_agreement_-_annex_iii.aspx#app-40).

<sup>2</sup> "Assessment of Restrictions on Palestinian Water Development." World Bank. April 2009, iv, <http://siteresources.worldbank.org/INTWESTBANKGAZA/Resources/WaterRestrictionsReport18Apr2009.pdf>.

<sup>3</sup> Glover, Steven, and Andrew Hunter. "Meeting Future Palestinian Water Needs." *Palestine Economic Policy Research Institute*, 2010., 17, <http://www.mas.ps/files/server/20141911091046-1.pdf>.

<sup>4</sup> Attili, Shadd. "Israel and Palestine: Legal and Policy Aspects of the Current and Future Joint Management of the Shared Water Resources." NAD PLO. June 2004, 7. <http://www.nad-plo.org/userfiles/file/Reports/shared-water.pdf>.

<sup>5</sup> *ibid*; Assessment of Restrictions on Palestinian Water Development." Pg. iv

be divided into six sections. The first section will discuss the Israeli Military Orders following the 1967 occupation of Palestinian land and their impact on the Palestinians. The second section will discuss water inequality under Oslo II. This section will be divided into four sections; the JWC, inequality of access, damage and destruction to water infrastructure, and the Jordan Valley. The sections will address specific aspects of water inequality in the West Bank. The third section will analyse violations of the Oslo II Accords and international law including resolution 181 from November of 1947 (the UN Partition Plan), the Convention (IV) relative to the Protection of Civilian Persons in Time of War, Article 11 of the International Covenant on Economic, Social, and Cultural Rights, Article 54 of the 1977 Protocol Additional to the Geneva Conventions of 12 August 1949, The Convention on the Elimination of All Forms of Discrimination Against Women, The Convention on the Rights of the Child, and The Protocol on Water and Health to the 1992 Convention on the Protection and Use of Transboundary Watercourses and Lakes, and resolution 64/292. The fourth and fifth sections will analyse Palestinian and Australian positions on water rights in the OPT respectively. The final section will offer a brief conclusion and policy recommendations for the Australian government. This paper will address only those issues related to the West Bank. The status of water in the Gaza Strip is drastically different and deserves different considerations and assessments.

### **Military Orders after 1967**

Following the occupation of the West Bank and Gaza Strip in 1967, Israel's military apparatus established Military Orders to construct a legal framework for Palestinians now living under their occupation. There are three relevant military orders relating to water rights. The first is Military Order 92, issued on 15 August 1967, which granted complete authority over all water-related issues in the Occupied Palestinian Territories (OPT) to the Israeli Army.<sup>6</sup> The second is Military Order 158, issued on 10 November 1967 which declared that, "Palestinians could not construct any new water installation

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<sup>6</sup> "Troubled Waters - Palestinians Denied Fair Access to Water." Pg. 12

without first obtaining a permit from the Israeli army.”<sup>7</sup> If water facilities were built in the absence of a permit, the structure was subject to confiscation or demolition. The third is Military Order 291, issued on 19 December 1968, which “annulled all land and water-related arrangements” in existence prior to the 1967 occupation.<sup>8</sup> Analysed together, the Military Orders transferred authority of water resources away from the Palestinians and placed them under the purview of the Israeli military, established a system where permits were required for any new water installation, thus establishing control over water construction, and abrogated any existing ownership arrangements prior to the occupation. These Military Orders are contemporarily applicable to Palestinians living under the occupation but do not apply to settlers living in internationally condemned illegal settlements.<sup>9</sup> Following the Israeli occupation in 1967, the Palestinians also lost access to the Jordan River, the most important water resource in the region.<sup>10</sup> Prior to the loss of access, Palestinian farmers used “about 150” pumps from the Jordan River that yielded about 30MCM annually.<sup>11</sup> These pumps were “abrogated” by the aforementioned Military Order 291. Currently, Palestinians have no access to the Jordan River.<sup>12</sup>

### **Inequality under Oslo II Interim Agreements**

#### **Joint Water Committee (JWC)**

The Interim Agreement recognized “undefined Palestinian water rights” and transferred some water services and resources in the West Bank to the Palestinian Authority (PA) and established the Joint Water Committee.<sup>13</sup> Despite the ostensible transfer of power, theoretically, the PA has “restricted” control over “territory-related” issues, which includes water resource management and infrastructure planning issues in Area C, constituting 60 percent of the West Bank.<sup>14</sup> The actual authority of the PA over

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<sup>7</sup> Ibid

<sup>8</sup> Ibid

<sup>9</sup> Ibid

<sup>10</sup> "Assessment of Restrictions on Palestinian Water Development." p. 5-6

<sup>11</sup> Ibid

<sup>12</sup> "Troubled Waters - Palestinians Denied Fair Access to Water." p. 9

<sup>13</sup> "Assessment of Restrictions on Palestinian Water Development." p. 5-6

<sup>14</sup> Ibid



water infrastructure development in the occupied West Bank is virtually non-existent due to the unique operational structure of the JWC that requires approval by consensus and a relevant paragraph of the agreement, Article VII, that states, "Israel may request that the legislation subcommittee decide whether such legislation exceeds the jurisdiction of the PA or is otherwise inconsistent with the provisions of this Agreement."<sup>15</sup>

The net result is that Palestinian water projects are often caught in the perpetuity of the political manoeuvring in the JWC. As of 2008, of the 417 cases sent to the JWC, 236 projects have been approved, 22 were not approved, and 143 are "pending."<sup>16</sup> In 2009, 12 wastewater projects, dating back to 1999, were either not approved by the JWC or rejected by the Civil Administration.<sup>17</sup> The projects would have "created or improved sanitation services for 790,000 people, one third of the West Bank population."<sup>18</sup> Furthermore, there were 106 "pending" water projects, some dating back to 1999, that would have increased water connectivity or water supply for 1,090,000 Palestinians.<sup>19</sup> Moreover, since the inception of the JWC, every Palestinian application to build new wells in the Western Basin of the Mountain Aquifer, the largest shared resource, has been vetoed by Israel, while some wells in other locations face a delay in approval of up to eight years.<sup>20</sup>

More recently, from 2010-2014 Israel rejected 98.5% of applications for building permits in Area C, including applications for maintaining water networks.<sup>21</sup> Israel, however, has continued to carry out its water development in the absence of JWC approval.<sup>22</sup> The reasons for the extreme variation in project approval, lack of approval, and uniform acceptance of Israeli projects are numerous. Some

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<sup>15</sup>"Water for Life." Palestinian Hydrology Group. 2008.

[http://www.phg.org/data/files/publications/general\\_reports/Reports/2008/waterforlife\\_07\\_08.pdf](http://www.phg.org/data/files/publications/general_reports/Reports/2008/waterforlife_07_08.pdf).

<sup>16</sup> *ibid*

<sup>17</sup> "Assessment of Restrictions on Palestinian Water Development." Pg. 49

<sup>18</sup> *ibid*

<sup>19</sup> *ibid*

<sup>20</sup> Selby, Jan. "Global Insights." University of Sussex. March 2013.

<https://www.sussex.ac.uk/webteam/gateway/file.php?name=2788-policy-briefing-web.pdf&site=11>.

<sup>21</sup> "West Bank." EWASH. March 22, 2016. <http://www.ewash.org/wash-in-opt/west-bank>.

<sup>22</sup> *ibid*

factors include, “fundamental asymmetries” of power, capacity, and information, politics, and policy issues.<sup>23</sup> This asymmetry of power has allowed for the manipulation of the JWC by the Israeli government, and was demonstrated in a study by Dr. Jan Selby. His study found that from 1995-2008, “major water projects to West Bank Settlements were undertaken with the approval of the PA after it was made clear that otherwise Israel would not allow the PA to repair or improve the water infrastructure serving its own population.”<sup>24</sup> According to Selby, the JWC has been used as a tool for Israeli domination and the colonisation of strategically important regions of the West Bank.<sup>25</sup>

### **Inequality of Access**

As of 2008, Palestinians had access to one-fifth of the resources of the Mountain Aquifer and abstracted 20% of “estimated potential” while Israel abstracted the remaining balance and also, overdrew “without JWC approval on the estimated potential by more than 50%, up to 1.8 times its share under Oslo.”<sup>26</sup> This over-withdrawal has caused many Palestinian wells to dry up. In the Eastern Aquifer, one report found that half of Palestinian wells have dried up over the last twenty years.<sup>27</sup> Furthermore, figures from the Palestinian Water Authority (PWA) found that the number of operational Palestinian wells dropped from 774 in 1967, to 328 in 2005.<sup>28</sup> While Israel overdrew from water resources, Palestinian abstractions from 1999-2007 actually decreased from 138 MCM in 1999 to 113 MCM in 2007.<sup>29</sup> Overdrawing from water resources has placed undue pressure on aquifers and has resulted in Palestinians consuming and having access to far less water than Israeli settlers living nearby.

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<sup>23</sup> "Assessment of Restrictions on Palestinian Water Development." p. ix

<sup>24</sup> Hass, Amira. "Liquid Asymmetry: How the PA Is Forced to Support Water Projects for West Bank Settlements." Haaretz. April 6, 2013. <http://www.haaretz.com/israel-news/liquid-asymmetry-how-the-pa-is-forced-to-support-water-projects-for-west-bank-settlements.premium-1.513694>.

<sup>25</sup> Selby, Jan. "Cooperation, Domination and Colonisation: The Israeli-Palestinian Joint Water Committee." *Water Alternatives* 6, no. 1 (2012). <http://www.ewash.org/sites/default/files/inoptfiles/Cooperation, Domination and Colonisation The Israeli-Palestinian Joint Water Committee.pdf>.

<sup>26</sup> "Assessment of Restrictions on Palestinian Water Development." Pg. v

<sup>27</sup> Ibid., Pg. 12

<sup>28</sup> Ibid

<sup>29</sup> "Assessment of Restrictions on Palestinian Water Development." Pg. 12

Palestinians living in the West Bank consume approximately one-third less than the daily minimum 100-liter threshold recommended by the World Health Organization and USAID.<sup>30</sup> According to 2011 figures, for example, Palestinians in the Jenin area (Northern area of the West bank) consumed 38 litres per person/per day, and those living in the Tubas region consumed 52 litres per person/per day.<sup>31</sup> Palestinians who are not connected to the water grid, however, face a more serious water shortage, and consume between 20-50 litres a day.<sup>32</sup> Water consumption for Israelis, according to the Israeli Water Authority, is 183 litres per person/per day.<sup>33</sup> This figure is somewhat misleading, however, because the figure also applies to those Israelis living outside of the West Bank. As of 2015, the approximately 520,000 illegal settlers used 6 times more water than the 2.6 million Palestinians living in the West Bank.<sup>34</sup>

The inequality of water access carries many negative implications for the West Bank economy and predatory business models. The inequality of access to water has been catastrophic to the Palestinian agricultural sector, with the World Bank reporting a loss of nearly 111,000 jobs.<sup>35</sup> The illegal settlers, however, “use a significant proportion of the water to produce agricultural goods for export by [an Israeli] government-run private export company, Agrexco [which is] serviced by wells in the West Bank, (largely in the Jordan Valley)”, and by Mekorot, which also extracts water from the aquifers beneath the West Bank.<sup>36</sup> As of 2010, the 9,000 illegal settlers involved in the agricultural sector in the

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<sup>30</sup> "Discriminatory Water Supply." B'Tselem. March 10, 2014.  
[http://www.btselem.org/water/discrimination\\_in\\_water\\_supply](http://www.btselem.org/water/discrimination_in_water_supply).

<sup>31</sup> Ibid

<sup>32</sup> Ibid

<sup>33</sup> Ibid

<sup>34</sup> "20 Facts; 20 Years Since the Oslo Accords." Oxfam. 2015.  
<http://www.ewash.org/sites/default/files/inoptfiles/oxfam-oslo-20-factsheet.pdf>.

<sup>35</sup> "Separate and Unequal." Human Rights Watch. December 2010.  
[https://www.hrw.org/sites/default/files/reports/iopt1210webwcover\\_0.pdf](https://www.hrw.org/sites/default/files/reports/iopt1210webwcover_0.pdf); "Assessment of Restrictions on Palestinian Water Development." Pg. 26

<sup>36</sup> "Separate and Unequal." Pg. 17

Jordan Valley use one-quarter the amount of water used by the entire Palestinian population living in the West Bank.<sup>37</sup>

The disparity in access to water is further facilitated through Mekorot, an Israeli water company. This disparity has been displayed during the hottest months of summer when water demand is at a zenith. A B'tselem report from 2000 found that during the hottest months of summer when demand for water increased for both Palestinians and illegal settlers, Mekorot's response was discriminatory," with "Israel's illegal settlements receiv[ing] a continuous supply," while Palestinians often faced a decrease in water access.<sup>38</sup> Mekorot achieved this through, "turning off valves at junctions of the main pipelines that bring water to Palestinian cities."<sup>39</sup> The report continues to state that, "to reduce regular water supply to Palestinian towns and villages from lines that also supply settlers, Mekorot installed divides that decrease (within the pipes) the diameter of the pipes, thus regulating flow."<sup>40</sup> In late 2002, the Palestinian Water Authority found the same trend. They reported water reductions of nearly 40% by Mekorot in order to increase supply illegal settlements.<sup>41</sup> Due to the lack of access to water, Palestinians were forced to purchase water extracted from the aquifers beneath the West Bank by Mekorot at inflated prices. The discriminatory policy was confirmed by a former senior official who worked for the Water Commissioner's Office who stated, "Mekorot's obligation is, first of all, to the Jewish settlement and Israeli citizens. The water shortage among Palestinians led [Yitzhak] Rabin at the time to direct us to separate the water-supply network of the settlements from those of the Palestinians..."<sup>42</sup>

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<sup>37</sup> Ibid., 18

<sup>38</sup> "Thirsty for a Solution: The Water Shortage in the Occupied Territories and Its Solution in the Final Status Agreement." B'Tselem. July 2000.

[http://www.btselem.org/publications/summaries/200007\\_thirsty\\_for\\_a\\_solution.;](http://www.btselem.org/publications/summaries/200007_thirsty_for_a_solution.;)

<sup>39</sup> "Thirsting for a solution..." Pg. 43-44

<sup>40</sup> Ibid

<sup>41</sup> "Water for Life." p 28

<sup>42</sup> Ibid

The trend of cutting Palestinian water supplies to service illegal settlers was also found in other reports from June, July, and August of 2009, when “Mekorot cut water supplies [from] 5,000 cubic meters a day to 2,500 cubic meters a day in the Hebron municipality as increased demand from settlements meant their needs were prioritized over those of Palestinians.”<sup>43</sup> In Bethlehem, Mekorot carried out similar actions and reduced the water supply from 10,000 cubic meters per day to 6,000 cubic meters per day during the summer months.<sup>44</sup> This decrease in Palestinian access has not correlated to a decrease in water availability to illegal settlements, which are often festooned with green lawns, gardens, and swimming pools.

Reports from June of this year also demonstrate a continuation of this trend of cutting water supplies to Palestinian communities during the hottest months of summer and the manipulation of the JWC to service the illegal settlements. Tens of thousands of Palestinians have faced severe shortages of water, or a complete lack thereof, due to Mekorot’s discriminatory water practices. Some villages east of Nablus and the Salfit region have “have had no running water for more than two weeks.”<sup>45</sup> Overall, Palestinians only had access to approximately 73 litres per capita per day, well below the WHO recommendation, while Israelis consumed 240 litres per capita per day.<sup>46</sup> Uri Schor, the Israeli Water Authority spokesman, claimed the water shortages were because the Palestinian Water Authority “refused” to authorise additional water supply to the West Bank.<sup>47</sup> A senior Palestinian Water Authority official denied this claim and noted that USAID had recently completed a brand new water pipeline to

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<sup>43</sup> Nieuwhof, Adri. "Portuguese Water Company's Immoral Collaboration with Israel." Electronic Intifada. November 9, 2009. <https://electronicintifada.net/content/portuguese-water-companys-immoral-collaboration-israel/8526>, quoting "Water – A Question of Survival For Palestinians." Applied Research Institute Jerusalem. October 2009

<sup>44</sup> Ibid

<sup>45</sup> Hass, Amira. "Israel Admits Cutting West Bank Water Supply, but Blames Palestinian Authority." Haaretz. June 21, 2016. <http://www.haaretz.com/israel-news/1.726132>.

<sup>46</sup> "EWASH Concerned by Water Restrictions in the West Bank Resulting from Israeli Discriminatory Policies." EWASH. June 21, 2016. <http://ewash.org/sites/default/files/inoptfiles/160621 - EWASH PR- Water Restrictions West Bank Result of Israeli Discriminatory Policies.pdf>.

<sup>47</sup> Ibid

serve more than half a million Palestinians in Hebron and Bethlehem, the only issue is that Israel has refused to increase the flow. Reflecting the findings of Dr. Jan Selby from 2013, the PWA official stated that Israel submitted a project to “increase the size of the pipe serving Israeli settlements in the Tekoa area, and the Israel Water Authority is blackmailing the Palestinian Authority to approve the Israeli project in exchange for increasing the water from the Deir Sha’ar booster station.”<sup>48</sup> According to the Palestinian Central Bureau of Statistics and the Palestinian Water Authority, in 2014 Palestinians were forced to purchase water from Mekorot that totalled 18.5% of the total water supply.

The “Separation Barrier,” which was declared illegal by the International Court of Justice, also prevents Palestinian access to water resources.<sup>49</sup> The “Separation Barrier” cut Palestinian access to 28 wells, the equivalent of 4 million meters of water each year.<sup>50</sup> The “Separation Barrier” also destroyed nearly 12,000 metres of irrigation network and destroyed irrigated land, led to the isolation of “groundwater wells [that] has left many families without any source of income.”<sup>51</sup> Shu’fat Refugee Camp, Ras Khamis, Ras Sh’hadeh and Dahiyat a-Salam are a few of the communities most seriously affected by the barrier. After the “Separation Barrier” cut the communities off from the rest of Jerusalem, they were cut off from water supply by Jerusalem’s water utility company, Hagihon, leaving 60,000-80,000 Palestinians without running water for three months in 2014.<sup>52</sup>

Extreme inequality is also demonstrated in occupied East Jerusalem, where, as of March 2014, “53 percent of Palestinian residents...ha[d] no suitable and legal connection to the water network.”<sup>53</sup> This realization is due to an Israeli law that classifies more than 150,000 Palestinians as living in homes

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<sup>48</sup> *ibid*

<sup>49</sup> "Troubled Waters - Palestinians Denied Fair Access to Water." Pg. 48

<sup>50</sup> EWASH. Accessed April 6, 2016. [http://www.ewash.org/sites/default/files/inoptfiles/killer\\_1.jpg](http://www.ewash.org/sites/default/files/inoptfiles/killer_1.jpg).

<sup>51</sup> "The Impact of the Wall's First Phase on Water." Palestinian Hydrology Group.

<http://stopthewall.org/downloads/pdf/book/impactonwater.pdf>.

<sup>52</sup> "Serious Neglect of Neighborhoods Cut off by Separation Barrier: 3 Month without Regular Running Water." B'Tselem. June 29, 2014. [http://www.btselem.org/jerusalem/20140527\\_shufat\\_water\\_crisis](http://www.btselem.org/jerusalem/20140527_shufat_water_crisis).

<sup>53</sup> "Through the Camera Lens; Access Denied to Water and Sanitation for Palestinians in Jerusalem." EWASH. March 2014.,12, [http://www.ewash.org/sites/default/files/inoptfiles/Through the camera lens\\_Access denied to water and sanitation for Palestinians in Jerusalem\\_EWASH 2014.pdf](http://www.ewash.org/sites/default/files/inoptfiles/Through%20the%20camera%20lens_Access%20denied%20to%20water%20and%20sanitation%20for%20Palestinians%20in%20Jerusalem_EWASH%202014.pdf).

not licensed by the Israeli municipal authorities.<sup>54</sup> In essence, because Palestinians in East Jerusalem do not have a “master plan,” and are not, under Israeli law, allowed to live there. Palestinians must submit applications for building, which are “virtually impossible” to receive.<sup>55</sup> To give proper perspective of the difficulty in attaining a building permit, over the past five years, of the 11,603 building permits issued, only 878 were for Palestinian neighbourhoods, constituting about 7% of Jerusalem building permits.<sup>56</sup>

### **Damage, Destruction, Demolition, and Harassment**

When Palestinians do have access to water, they often face intimidation, harassment, violence, and the destruction of their wells and cisterns by the IDF, the Civil Administration, and settlers. Beginning with the IDF and the Civil Administration, during the Israeli military operation entitled Defensive Shield, the Israeli army carried out, “an unprecedented level of destruction in towns and refugee camps throughout the West Bank.”<sup>57</sup> One pumping station that supplied Jenin City and other western villages was effectively rendered inoperable because the “mainlines from the reservoirs or pumping stations were cut intentionally by bulldozers or indirectly through heavy tank traffic,” while “7 of the 11 booster pumps were hit or destroyed by heavy machine gun fire or tanks.”<sup>58</sup> There were also widespread reports of soldiers shooting at cisterns on roofs, with one soldier telling Amnesty International that, “Water tanks are good for target practice” because it allows the IDF to “teach a lesson” to the children who threw rocks that they were not able to catch.<sup>59</sup>

Between 2009 and 2011, the Israeli military destroyed 173 water, sanitation, and hygiene structures in the West Bank, 57 rainwater collection cisterns, 40 wells, irrigation equipment, and at least

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<sup>54</sup> Ibid

<sup>55</sup> Hassan, Nir. "Only 7% of Jerusalem Building Permits Go to Palestinian Neighborhoods." Haaretz. December 7, 2015. <http://www.haaretz.com/israel-news/.premium-1.690403>.

<sup>56</sup> Ibid

<sup>57</sup> "Troubled Waters - Palestinians Denied Fair Access to Water." Pg. 59

<sup>58</sup> Ibid

<sup>59</sup> Ibid

20 toilets and sinks.<sup>60</sup> The same trend continued in January 2015; 39 Palestinian-owned water and sanitation structures in the West Bank were either destroyed or demolished.<sup>61</sup> Among those communities recently affected by destruction from the IDF and the Civil Administration are Khirbet Yarza, Khirbit Humsah, Al Jiftlik, Fasayil and Almekser, Khirbet Eunin , Khirbet Tana, and Khirbet Samrah

- On 29 January 2015, the Civil Administration dismantled and confiscated the water pipes in the small rural town of **Khirbet Yarza** that connected them to the water network.<sup>62</sup>
- On 10 June 2015, “ten Palestinian families were evacuated from the small shepherding community of **Khirbit Humsah**...so that the Israeli military could train on adjacent land owned by the residents.”<sup>63</sup> Upon their return, the families found their farmland had been burnt by fires attributed to military shooting, and their water tanks riddled with bullet holes.<sup>64</sup>
- On 10 February 2016, the IDF demolished houses and agricultural facilities in the villages of **Al Jiftlik, Fasayil and Almekser**. The IDF also destroyed 2km of water pipes that had been supported by the Palestinian Hydrology Group. The water pipes provided water for nearly 300 people.<sup>65</sup>
- From 12-14 January 2016, the Civil Administration destroyed agricultural structures and a reservoir in **Khirbet Eunin** that supplies water to a neighbouring community.<sup>66</sup>

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<sup>60</sup>"Demolition & Destruction of Water, Sanitation & Hygiene (WASH) Infrastructure in the Occupied Palestinian Territory (OPT)." EWASH. October 2011. [http://www.ewash.org/sites/default/files/inoptfiles/Factsheet\\_11\\_Demolition & destruction of WASH infrastructure in the OPT \(Updated February 2011\).pdf](http://www.ewash.org/sites/default/files/inoptfiles/Factsheet_11_Demolition%20&%20destruction%20of%20WASH%20infrastructure%20in%20the%20OPT%20(Updated%20February%202011).pdf).

<sup>61</sup>"Overview: 20 Years on from the Oslo II Agreement, Palestinians' Access to Water Still Limited." EWASH. January 2015.. [http://www.ewash.org/sites/default/files/inoptfiles/2015 in review\\_External Newsletter.pdf](http://www.ewash.org/sites/default/files/inoptfiles/2015%20in%20review_External%20Newsletter.pdf).

<sup>62</sup>"Civil Administration Dismantles, Confiscates Water Pipes in Khirbet Yarza, Jordan Valley." B'Tselem. February 23, 2015. [http://www.btselem.org/planning\\_and\\_building/20150223\\_confiscation\\_of\\_yarza\\_water\\_system](http://www.btselem.org/planning_and_building/20150223_confiscation_of_yarza_water_system).

<sup>63</sup>"Military Again Evacuates Khirbet Humsah Residents for Maneuvers, Orders Evacuation of Three Other Communities." B'Tselem. June 10, 2015. [http://www.btselem.org/area\\_c/20150610\\_humsah\\_temp\\_evacuation](http://www.btselem.org/area_c/20150610_humsah_temp_evacuation).

<sup>64</sup> Ibid

<sup>65</sup> "IOF Demolishes at Least 15 Palestinian Facilities and Destroys Water Pipes." Jordan Valley Solidarity. February 12, 2016. <http://jordanvalleysolidarity.org/news/iof-demolishes-at-least-15-palestinian-facilities-and-destroys-water-pipes/>.

<sup>66</sup> "Week of Harassment in Jordan Valley Continues Harm to Area C Communities." B'Tselem. January 17, 2016. [http://www.btselem.org/jordan\\_valley/20160117\\_demolitions\\_and\\_temp\\_evac\\_in\\_jv](http://www.btselem.org/jordan_valley/20160117_demolitions_and_temp_evac_in_jv).



- On 23 March 2016, the Civil Administration and military forces went to **Khirbet Tana** and demolished 17 homes, 21 livestock pens, five outhouses, blocked entrances to caves, and demolished a water reservoir.<sup>67</sup> This left more than 80 people, including 30 children, both homeless and without water.
- On 14 June 2016, Israeli authorities seized a tractor the Palestinians of **Khirbet Samrah** relied on “to carry water to their flocks.” The Israeli authorities then delivered demolition orders for spring water reservoirs that were vital to the community.”<sup>68</sup>

Former IDF soldiers also verify stories of wanton destruction of water facilities. One soldier describes his experience in a paratrooper unit that attempted to “attract fire” from Palestinians through provocation. They eventually drew fire from an undescribed location close to the Tul Karm refugee camp. No soldiers were injured, but the soldiers continued to, “[take] a shot every water tanker along the way [to the refugee camp],” while reservists were also “snip[ing] water tankers.”<sup>69</sup> The same story of shooting at water tanks was described by another IDF soldier, describing it as a “game” and that such occurrences have effectively become the norm.<sup>70</sup> An IDF soldier also tells the story that following the death of Rechavam Ze’evi, water trucks were prohibited from entering Palestinian villages in the Nablus area leaving some villages without water.<sup>71</sup>

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<sup>67</sup> "Israeli Authorities Demolish Homes in Khirbet Tana for Third Time This Year, Leaving 85 People Homeless, including 30 Children." B'Tselem. March 24, 2016. [http://www.btselem.org/facing\\_expulsion\\_blog](http://www.btselem.org/facing_expulsion_blog).

<sup>68</sup> "If They Had Any Human Decency, They'd Let Us Hook up to the Water Pipes That Run a Meter from Our Tents." B'Tselem. June 22, 2016. [http://www.btselem.org/water/20160622\\_jv\\_water\\_restrictions](http://www.btselem.org/water/20160622_jv_water_restrictions).

<sup>69</sup> "Reservists Shot at Tanks." Breaking the Silence. Accessed April 6, 2016. <http://www.breakingthesilence.org.il/testimonies/database/54734>.

<sup>70</sup> "A Moving Human Shield." Breaking the Silence. Accessed April 6, 2016. <http://www.breakingthesilence.org.il/testimonies/database/17453>.

<sup>71</sup> "Villages with No Water." Breaking the Silence. Accessed April 6, 2016. <http://www.breakingthesilence.org.il/testimonies/database/63456>.

Settler violence against Palestinians has been “directly linked to the existence and expansion of illegal Israeli settlements in the West Bank, including East Jerusalem.”<sup>72</sup> Their violence against Palestinians is extensively documented and sometimes carried out with the protection of Israeli military.<sup>73</sup> From 2006-2013, the Office for the Coordination of Humanitarian Affairs (OCHA) recorded “630 settler-related incidents resulting in Palestinian casualties (deaths or injuries), and 1,344 settler-related incidents resulting in damage to Palestinian property or land (including trees).”<sup>74</sup> During the same period, there were 10 Palestinian deaths, including four children, and injuries to 1,040 people, including to 267 children.<sup>75</sup> Settler violence also applies to Palestinian property, including water infrastructure and facilities. The following examples from the South Hebron Hills, Urif, Asira Al Qibliya, Tel Rumeida, and Deir al-Hatab present only a few examples of the many stories of destruction that have contributed to Palestinian water insecurity.

- An interview with a First Sergeant in the **South Hebron Hills** revealed that Settlers “made the Palestinian cave dwellers’ lives pretty miserable.”<sup>76</sup> The settlers sealed their wells and the caves, leaving them with no water, so the Palestinian community was forced to leave.
- There are reports of Israeli settlers using metal spikes to vandalise and demobilise water tankers provided by Oxfam.<sup>77</sup> The settlers placed spikes across the road prior to the water truck’s usual arrival time, which punctured three tires and caused a delay in water delivery.<sup>78</sup>

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<sup>72</sup> "Update on Settler Violence in the West Bank, including East Jerusalem." Office of the United Nations High Commissioner for Human Rights. October 2013., 2, [https://unispal.un.org/pdfs/UHCHR\\_SettlerViolence.pdf](https://unispal.un.org/pdfs/UHCHR_SettlerViolence.pdf).

<sup>73</sup> See "Video Documentation: Soldiers Escorting Yitzhar Settlers on Violent Rampage." B'Tselem. October 8, 2015. [http://www.btselem.org/press\\_releases/20151008\\_soldiers\\_provide\\_security\\_to\\_vigilante\\_settlers](http://www.btselem.org/press_releases/20151008_soldiers_provide_security_to_vigilante_settlers).

<sup>74</sup> Update on Settler Violence in the West Bank, including East Jerusalem." Pg. 2

<sup>75</sup> Ibid

<sup>76</sup> "Breaking the Silence: Soldiers' Testimonies from the South Hebron Hills." *Breaking the Silence*, 2011, 27.

[http://www.breakingthesilence.org.il/wp-content/uploads/2011/07/Soldiers\\_Testimonies\\_from\\_the\\_South\\_Hebron\\_Hills\\_2000\\_2008\\_Eng.pdf](http://www.breakingthesilence.org.il/wp-content/uploads/2011/07/Soldiers_Testimonies_from_the_South_Hebron_Hills_2000_2008_Eng.pdf).

<sup>77</sup> "Troubled Waters - Palestinians Denied Fair Access to Water." Pg. 63

<sup>78</sup> Ibid

- In the village of **Urif**, settler attacks resulted in the destruction of a water tank provided by USAID.<sup>79</sup>
- Reports from **Asira Al Qibliya** found that settler attacks resulted in a project for a water cistern sponsored by USAID being delayed and forced to accrue additional costs due to damage.<sup>80</sup>
- In **Tel Rumeida**, there are numerous reports of settlers cutting water mains outside of Palestinian homes, "leaving them without running water for weeks."<sup>81</sup>
- In April 2007, the settlers from Alon Moriah took over control of the main spring providing one-third of the water to **Deir al-Hatab**. The settlers diverted the water supply to fill a child's pool and also destroyed the pipe line from the spring to the village. The head of the village stated that the pipe line has been fixed several times, but the settlers promptly destroy it.<sup>82</sup>
- In December 2015 in **Tel Rumeida** the water pipe that provides Shufa with water was cut by settlers.<sup>83</sup>

There are also widespread reports of settlers taking over water springs in close vicinity to settlements. A 2011 survey by The Office for the Coordination of Humanitarian Affairs "identified a total of 56 such springs, the large majority of which are located in Area C (93 percent), on land parcels recorded by the Israeli Civil Administration as privately owned by Palestinians (at least 84 percent)."<sup>84</sup> Thirty of the springs are described as "under full settler control" with the Palestinian's completely removed of access. Among these thirty wells, Palestinians have been prevented from using twenty-two

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<sup>79</sup>"Settler Violence & Impunity in the Occupied Palestinian Territory." The Jerusalem Legal Aid and Human Rights Center. October 2015., 17, [http://tbinternet.ohchr.org/Treaties/CCPR/Shared Documents/ISR/INT\\_CCPR\\_CSS\\_ISR\\_18146\\_E.pdf](http://tbinternet.ohchr.org/Treaties/CCPR/Shared/Documents/ISR/INT_CCPR_CSS_ISR_18146_E.pdf).

<sup>80</sup> Ibid

<sup>81</sup> Ibid

<sup>82</sup> "Newsletter, Issue No. 46." Eco Peace, Friends of the Middle East. March 2007. <http://www.foeme.org/water.php?id=20>.

<sup>83</sup> "Settler Violence & Impunity in the Occupied Palestinian Territory."

<sup>84</sup> "How Dispossession Happens." Office for the Coordination of Humanitarian Affairs Occupied Palestinian Territory. March 2012. [http://www.ochaopt.org/documents/ocha\\_opt\\_springs\\_report\\_march\\_2012\\_english.pdf](http://www.ochaopt.org/documents/ocha_opt_springs_report_march_2012_english.pdf).

of these springs through, “acts of intimidation, threats and violence.”<sup>85</sup> The remaining eight springs “under full settler control” have been blocked from Palestinian access by physical barriers.<sup>86</sup>

Another worrying trend is settlers carrying out attacks that result in water spoliation for many Palestinian communities including Yanoun, the South Hebron Hills, Tuwani, Mufaggara, Khorouba, and Madama.

- In 2002, the **Yanoun** councilor compiled a dossier of offences carried out by settlers against Palestinians that included, “spoiling the only natural source of water in the village,” and killing hundreds of sheep through poisonous injections.<sup>87</sup>
- Interviews with a former IDF Lieutenant regarding his service from 2001-2004, found that settlers frequently poisoned wells in the **South Hebron Hills**. The Lieutenant described a story where he responded to a scene where settlers had poisoned a Palestinian well with dead chickens.<sup>88</sup>
- In March 2005, reports from Tuwani found that settlers had thrown soiled nappies, dead chickens, and garbage into water reservoirs.<sup>89</sup>
- In 2005, settlers also contaminated water supplies by spreading “large quantities of toxic chemicals around the main water reservoir and in the **Tuwani** villagers’ fields and those of two other Palestinian villages...**Mufaggara** and **Khorouba**.”<sup>90</sup> The chemical compounds were identified as 2-Fluoracetamide and Brodifacoum. The former is banned in Israel and several other countries, while the later is used to kill rodents.<sup>91</sup>

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<sup>85</sup> Ibid., Pg. 2

<sup>86</sup> Ibid

<sup>87</sup> Ibid

<sup>88</sup> "Breaking the Silence: Soldiers' Testimonies from the South Hebron Hills." *Breaking the Silence*, 2011, 17. [http://www.breakingthesilence.org.il/wp-content/uploads/2011/07/Soldiers\\_Testimonies\\_from\\_the\\_South\\_Hebron\\_Hills\\_2000\\_2008\\_Eng.pdf](http://www.breakingthesilence.org.il/wp-content/uploads/2011/07/Soldiers_Testimonies_from_the_South_Hebron_Hills_2000_2008_Eng.pdf).

<sup>89</sup> "Troubled Waters - Palestinians Denied Fair Access to Water." Pg. 63

<sup>90</sup> Ibid

<sup>91</sup> Ibid., Pg. 64

- In 2006, settlers poisoned the only well servicing **Madama**. When aid workers came to the well to clean it, settlers shot at them. The villagers were forced to purchase water from tankers or walk for hours every day to retrieve water for both household and agricultural use.<sup>92</sup>
- Settlers targeted **Tuwani** again on 9 March 2007 when they entered the village and “threw a substance into the rainwater harvesting cistern that contaminated the water.”<sup>93</sup> A Spanish NGO took samples of the water and found it was wholly unfit for human or animal consumption, with a pH level of 2.4, similar to vinegar (normal drinking water has a pH level of 7).<sup>94</sup>

Damage and destruction to Palestinian water facilities adds an additional factor that contributes to water inequality. The Palestinians, already disadvantaged by the operations of the JWC, face near continuous harassment not only from the IDF and the Civil Administration, from settlers, who have poisoned water supplies, damaged water tankers, and destroyed water facilities. These realities are further exacerbated by Mekorot, which pumps water from the shared water source, the Mountain Aquifer, which Palestinians have restricted access to, and then sells them this water for a profit. Mekorot has also demonstrated discriminatory water practices that favour illegal settlements over Palestinians. In this way, already disadvantaged Palestinian communities are made more insecure.

### **Jordan Valley**

The Palestinian communities in the Jordan Valley often face extreme hardship, especially regarding their water rights and access to land. According to 2009 figures, 58,000 Palestinians live in the Jordan Valley, 10,000 of which live in more than twenty communities in Area C.<sup>95</sup> The Jordan Valley, along with the North Dead Sea area, comprises nearly 160,000 hectares, with nearly 90 percent of the land in this area

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<sup>92</sup> Pearce, Fred. "Running on Empty." The Guardian. March 1, 2006. <https://www.theguardian.com/society/2006/mar/01/guardiansocietysupplement4>.

<sup>93</sup> Ibid

<sup>94</sup> Ibid

<sup>95</sup> "Background on the Jordan Valley." B'Tselem. October 6, 2013. [http://www.btselem.org/jordan\\_valley#water](http://www.btselem.org/jordan_valley#water).

designated in Area C.<sup>96</sup> Despite having some of the most fertile lands and a substantial Palestinian population, “Israel does not allow Palestinians to use most of the Jordan Valley, restricts their access to the Jordan Valley’s abundant water resources and refuses to draw up plans for Palestinian villages located there.”<sup>97</sup> As a result of Israeli restrictions, “85.2% of the land area of the Jordan Valley and northern Dead Sea is off-limits to Palestinians: they may not be, build, or herd their livestock in these areas.”<sup>98</sup>

Among the motivating factors for restricting Palestinian access to the Jordan Valley is economic exploitation of its abundant natural resources. The Union of Agricultural Work Committees “estimates that Israel’s settlement agriculture in the Jordan Valley is worth \$850 million annually, whilst a further \$1 billion is reaped from the Dead Sea minerals and cosmetics industries.”<sup>99</sup> These industries rely on Israeli control of the area’s water resources.<sup>100</sup> The water used for the settler agricultural sector is provided by Israel from “Tirtza artificial water reservoir in the central Jordan Valley as well as from treated waste water from the Israeli and Palestinian neighbourhoods of East Jerusalem and the Adumim settlements.”<sup>101</sup>

As noted in the previous section, Israeli pumping of the Jordan Valley has caused some Palestinian wells to dry up and reduces the volume of water for Palestinian consumption.<sup>102</sup> The combined result of Israeli, Syrian, and Jordanian pumping of the Jordan River Basin has been devastating, with the flow of the Jordan River being reduced by 98 percent of its flow from the 1940s and the Dead Sea being reduced by 1 metre per year.<sup>103</sup> Israeli wells in the Jordan Valley produce an

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<sup>96</sup> Ibid

<sup>97</sup> Ibid

<sup>98</sup> Ibid

<sup>99</sup> "Palestinian Water in the Jordan Valley." Middle East Monitor. March 22, 2015.

<https://www.middleeastmonitor.com/20150322-palestinian-water-in-the-jordan-valley/>.

<sup>100</sup> Ibid

<sup>101</sup> "Background on the Jordan Valley."

<sup>102</sup> Ibid

<sup>103</sup> Ibid

estimated 32 million cubic metres annually, “most of which is designated for the settlements and a small portion of which is supplied to the Palestinian villages.”<sup>104</sup> The result of Israeli exploitation of water resources and restriction of access in the Jordan Valley has dramatically contributed Palestinian water insecurity and inequality of access. One estimate from Save the Children found that the 9,000 illegal settlers in the Jordan Valley consume 6.6 times more water than the Palestinian population numbering nearly 60,000.<sup>105</sup> Because of the scarcity of water for Palestinians, they are forced to purchase water from private water trucks, which the World Bank states can cost as much as four times more than network water. This creates extreme hardship for many Palestinian villages, including al-Hadidiya, al-Aqabah, Al-Jiftlik, and al-Farisiyah. Their experiences demonstrate a brief glimpse of life for Palestinians in the Jordan Valley.

- Despite its close proximity to a water pump owned by Mekorot, the village of **al-Hadidiya** in the northern Jordan Valley, survives on 23 times less water than the illegal settlements Ro’i and Beka’ot, which are allotted 430 litres per day for household use.<sup>106</sup>
- The village of **al-Aqabah**, located in the northern Jordan Valley, has been refused connection to the water network by the Civil Administration. As a result, like many other villages, they are forced to spend excessively on non-network water.<sup>107</sup>
- The village of **al-Jiftlik** has been connected to the water network since 1984, but has been denied by the Civil Administration from expanding its water system, or diverting water supply to it, despite the village population doubling.<sup>108</sup> The existing water infrastructure is antiquated and cannot supply all parts of the village because the system itself loses 40 percent of its water

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<sup>104</sup> Ibid

<sup>105</sup> "Palestinian Water in the Jordan Valley."

<sup>106</sup> "Background on the Jordan Valley."

<sup>107</sup> "The Village of Al-Aqabah." B'Tselem. January 5, 2014. [http://www.btselem.org/jordan\\_valley/al\\_aqabah](http://www.btselem.org/jordan_valley/al_aqabah).

<sup>108</sup> "The Village of Al-Jiftlik." B'Tselem. January 1, 2014. [http://www.btselem.org/jordan\\_valley/al\\_jiftlik](http://www.btselem.org/jordan_valley/al_jiftlik).

before it is received by the villagers.<sup>109</sup> As a result, the villagers must purchase non-network water for an exorbitant price and suffer from severe shortages of water. The village had an application for a water project sponsored by the European Commission to improve the water system, that was approved by both the PWA and the JWC, denied by the Civil Administration in 2005.<sup>110</sup> Furthermore, in 2006, the Civil Administration denied a permit to build a reservoir because the proposed site was declared an “archaeological site.”<sup>111</sup>

- The village of **al-Farisiyah** is not connected to the water supply and the villagers survive on twenty litres of water per day (WHO recommendation is 100 litres per day).<sup>112</sup> Furthermore, on 19 July 2010, the Civil Administration “demolished 26 huts and residential tents in al-Farisiyah, as well as dozens of sheep pens, kitchens, water containers, toilet stalls, irrigation lines and farm buildings.”<sup>113</sup>

The villagers living in the Jordan Valley often face more difficult circumstances than Palestinians in other areas of the West Bank in realising their right to water. The villages face the perpetual threat of demolition of water containers and other items, consume far less water than the WHO recommendation, and in some cases are denied applications for upgrading antiquated and wasteful water systems. Their stories demonstrate additional obstacles to achieving Palestinian water rights in one of the areas that needs it most.

### **Violations of Oslo II and International Law**

Israeli violations of Oslo II and corresponding international law are extensive. Oslo II commits both Israel and Palestine to various clauses, including, “using the water resources in a manner which will ensure

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<sup>109</sup> Ibid

<sup>110</sup> Ibid

<sup>111</sup> Ibid

<sup>112</sup> "The Village of Al-Farisiyah – Demolitions for Alleged Construction in Firing Zone." B'Tselem. January 6, 2014. [http://www.btselem.org/jordan\\_valley/al\\_farisiyah](http://www.btselem.org/jordan_valley/al_farisiyah).

<sup>113</sup> Ibid



sustainable use in the future, in quantity and quality,” and “taking all necessary measures to prevent harm to water resources, including those utilized by the other side.”<sup>114</sup> These clauses, among many others, have been violated by Israel as the previous sections demonstrate. During a public meeting in 2008, for example, the President of the Israel Water Authority stated “abstractions over the last five years have brought aquifer levels ‘to the point of where irreversible damage is done to the aquifer.’”<sup>115</sup> This is particularly relevant considering Palestinian abstractions from 1999-2007 actually declined while water withdrawals per capita for West Bank Palestinians are, “about one quarter of those for Israelis” and also declined over from 1999-2007.<sup>116</sup> Furthermore, Palestinians abstract only 20 percent of the water beneath the Western Aquifer, with, “Israel abstract[ing] the balance, and in addition overdraw[ing] on the estimated potential by more than 50 percent.”<sup>117</sup> Israeli overdraw[ing] is in violation of both their share of water under Oslo II, and the aforementioned clauses stating that water must be used in a sustainable fashion. This has contributed to damaging the aquifers and has also led to a decline in the amount of water available to the Palestinian people.

Israel has also violated the Interim Agreement by failing to take necessary steps to prevent harm to water resources. As the previous paragraph demonstrated, Israeli overdraw[ing] from the aquifers has been catastrophic, but Israel has also failed this provision by allowing settlers, the IDF, and the Civil Administration to damage Palestinian water infrastructure. As the section on settler violence demonstrated, the damage to Palestinian water resources by Israeli settlers is extensive. There are numerous reports of settlers degrading water resources by throwing banned chemical substances, dead chickens, and soiled nappies into wells. There are also reports of illegal settlers taking over wells and

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<sup>114</sup> "The Israeli-Palestinian Interim Agreement." September 28, 1995.

[http://www.mfa.gov.il/mfa/foreignpolicy/peace/guide/pages/the israeli-palestinian interim agreement - annex iii.aspx#app-40](http://www.mfa.gov.il/mfa/foreignpolicy/peace/guide/pages/the%20israeli-palestinian%20interim%20agreement%20-%20annex%20iii.aspx#app-40); it should be noted there are numerous other violations, this section is merely a small sample of the greater trend of violations.

<sup>115</sup> "Assessment of Restrictions on Palestinian Water Development." Pg. 12

<sup>116</sup> Ibid. Pg. 12-13

<sup>117</sup> Ibid. Pg. 11

harassing Palestinians through violence, and intimidation. They are allowed to operate with near impunity, as Yesh Din found that nearly 95 percent of Israel's investigations into settler attacks on Palestinians end "without any indictments."<sup>118</sup> Furthermore, the "Separation Barrier" destroyed a 12,000-metre length irrigation network, destroyed farmlands, and removed Palestinians of access to 28 wells and destroyed the water resources used by "the other side" that Israel was meant to be protecting.<sup>119</sup>

The scale of Israel's violations are further extended when applied to international human rights law. The following resolutions, conventions, and covenants are applicable to Palestinian water rights in the Occupied West Bank.

- **The United Nations resolution 181 from November of 1947**, the UN Partition Plan, contains a relevant provision for Palestinian water rights that stipulated, "Access for both States and for the City of Jerusalem on a non-discriminatory basis to water and power facilities."<sup>120</sup> The previous sections demonstrate the extent to which water is inaccessible for many Palestinians, with some Palestinian communities falling substantially lower than the WHO recommendation of 100 litres per day, especially those living in occupied East Jerusalem. Mekorot also demonstrates discrimination in its water allocation to Palestinians during the hottest months of summer by decreasing water allocation to supply illegal settlements. Overall, Palestinian access to water is demonstrably less than the Israelis.

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<sup>118</sup> Silva, Cristina. "Israel Police Allow Jewish Settlers To Attack West Bank Palestinians With Impunity, Human Rights Group Claims." IBT. May 18, 2015. <http://www.ibtimes.com/israel-police-allow-jewish-settlers-attack-west-bank-palestinians-impunity-human-1927736>.

<sup>119</sup> EWASH. Accessed April 6, 2016. [http://www.ewash.org/sites/default/files/inoptfiles/killer\\_1.jpg](http://www.ewash.org/sites/default/files/inoptfiles/killer_1.jpg); The Impact of the Wall's First Phase on Water." Palestinian Hydrology Group. <http://stopthewall.org/downloads/pdf/book/impactonwater.pdf>.

<sup>120</sup> "Resolution 181 (II). Future Government of Palestine." United Nations. November 29, 1947. <https://unispal.un.org/DPA/DPR/unispal.nsf/0/7F0AF2BD897689B785256C330061D253>; "Troubled Waters - Palestinians Denied Fair Access to Water." Amnesty International. October 2009., Pg. 75

- **Convention (IV) relative to the Protection of Civilian Persons in Time of War** is also applicable to the discussion on Palestinian water rights because it prevents the transfer of the occupying power's population to the occupied territory.<sup>121</sup> Israel signed this on 8 December 1949, and ratified it on 6 July 1951.<sup>122</sup> Illegal settlements in the West Bank have a profound impact on Palestinian access to water and inequality of water supply by contaminating water supplies, taking over springs and wells, and destroying water infrastructure. The international community consistently votes in overwhelming favour of resolutions in the United Nations General Assembly confirming the applicability, and Israeli violation, of Convention (IV) relative to the Protection of Civilian Persons in Time of War to the OPT.
- The right to water has been recognized as a component of **Article 11 of the International Covenant on Economic, Social, and Cultural Rights** (ICESCR) and is therefore applicable to Palestinian water rights and has been extensively violated.<sup>123</sup> Furthermore, the General Comments and General Recommendations for the ICESCR that have been adopted included clauses relating to water rights. One of the clauses states that person have, "the right to maintain access to existing water supplies necessary for the right to water, and the right to be free from interference, such as the right to be free from arbitrary disconnections or contamination of water supplies."<sup>124</sup> Furthermore, it also requires states to "ensure that natural

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<sup>121</sup> "Convention (IV) Relative to the Protection of Civilian Persons in Time of War. Geneva, 12 August 1949." International Committee of the Red Cross. <https://www.icrc.org/applic/ihl/ihl.nsf/1a13044f3bbb5b8ec12563fb0066f226/523ba38706c71588c12563cd0042c407>.

<sup>122</sup> "Convention (IV) Relative to the Protection of Civilian Persons in Time of War." International Committee of the Red Cross. [https://www.icrc.org/applic/ihl/ihl.nsf/States.xsp?xp\\_viewStates=XPages\\_NORMStatesParties&xp\\_treatySelected=380](https://www.icrc.org/applic/ihl/ihl.nsf/States.xsp?xp_viewStates=XPages_NORMStatesParties&xp_treatySelected=380).

<sup>123</sup> "International Covenant on Economic, Social and Cultural Rights." OHCHR. January 3, 1976. <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CESCR.aspx>; "Troubled Waters - Palestinians Denied Fair Access to Water," 76-77

<sup>124</sup> "Committee on Economic, Social and Cultural Rights, General Comment 15, The Right to Water (Twenty-ninth Session, 2003), U.N. Doc. E/C.12/2002/11 (2002), Reprinted in Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies, U.N. Doc. HRI/GEN/1/Rev.6 at 105 (2003)." University

water resources are protected from contamination by harmful substances and pathogenic microbes.”<sup>125</sup> States are in violation of their obligations when they fail to, “protect water distribution systems (e.g., piped networks and wells) from interference, damage and destruction,” or fail to “adopt or implement a national water policy designed to ensure the right to water for everyone.”<sup>126</sup> Israel signed the ICESCR on 19 December 1966, and ratified it on 3 October 1991.<sup>127</sup> The previous sections demonstrate that Palestinians face near perpetual harassment, disconnection, and interference realizing their right to water that also includes contamination, destruction, and disconnection of water infrastructure by settlers and the Israeli military.

- **Article 54 of the 1977 Protocol Additional to the Geneva Conventions of 12 August 1949** states that:

“It is prohibited to attack, destroy, remove or render useless objects indispensable to the survival of the civilian population, such as foodstuffs, agricultural areas for the production of foodstuffs, crops, livestock, drinking water installations and supplies and irrigation works, for the specific purpose of denying them for their sustenance value to the civilian population or to the adverse Party, whatever the motive, whether in order to starve out civilians, to cause them to move away, or for any other motive.”<sup>128</sup>

Multiple Israeli policies and actions that include the destruction of water tanks, cisterns and reservoirs violate this Protocol. For example, the Civil Administration frequently demolishes

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of Minnesota, Human Rights Library. <https://www1.umn.edu/humanrts/gencomm/escgencom15.htm>.; "Troubled Waters - Palestinians Denied Fair Access to Water." Pg. 76-77

<sup>125</sup> Ibid

<sup>126</sup> Ibid

<sup>127</sup> "International Covenant on Economic, Social and Cultural Rights." United Nations Treaty Collection. [https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg\\_no=IV-3&chapter=4&lang=en](https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-3&chapter=4&lang=en).

<sup>128</sup> "Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of International Armed Conflicts (Protocol I), 8 June 1977." International Committee of the Red Cross. June 8, 1977. <https://www.icrc.org/applic/ihl/ihl.nsf/Article.xsp?action=openDocument&documentId=C5F28CACC22458EAC12563CD0051DD00>.; "Troubled Waters - Palestinians Denied Fair Access to Water." Pg. 76-77

homes, cisterns, outhouses, and water reservoirs of populations that already face extreme hardship, like those in the Jordan Valley. The Military operation entitled “Defensive Shield” also targeted water infrastructure.

- **The Convention on the Elimination of All Forms of Discrimination Against Women**, signed by Israel on 17 July 1980 and ratified more than a decade later on 3 October 1991, states that individuals have the right “to enjoy adequate living conditions, particularly in relation to housing, sanitation, electricity and water supply, transport and communications.”<sup>129</sup> Actions by the IDF, the Civil Administration, and illegal settlers have extensively violated this convention.
- **The Convention on the Rights of the Child**, signed by Israel on 3 July 1990 and ratified on 3 October 1991, states that children have the right to clean-drinking water.<sup>130</sup> This has been extensively violated through the multiple Israeli policies and actions discussed in the previous sections, including destructions by the Civil Administration and the IDF that leave many children both homeless and without water, like Khirbet Tana.
- **The Protocol on Water and Health to the 1992 Convention on the Protection and Use of Transboundary Watercourses and Lakes** confirmed in 1999 that Parties to the Economic and Social Council should be guided by principles that included, “Equitable access to water, adequate in terms both of quantity and of quality, should be provided for all members of the population, especially those who suffer a disadvantage or social exclusion.”<sup>131</sup> The previous sections detail how Palestinians, on average, consume far less water than settlers living nearby due to Israeli

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<sup>129</sup> "Convention on the Elimination of All Forms of Discrimination against Women." United Nations Treaty Collection. December 18, 1979. [https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg\\_no=IV-8&chapter=4&lang=en](https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-8&chapter=4&lang=en;); "Convention on the Elimination of All Forms of Discrimination Against Women." United Nations. 1979. <http://www.un.org/womenwatch/daw/cedaw/text/econvention.htm>.

<sup>130</sup> "Convention on the Rights of the Child." United Nations Treaty Collection. November 20, 1989. [https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtdsg\\_no=IV-11&chapter=4&lang=en](https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtdsg_no=IV-11&chapter=4&lang=en); "Convention on the Rights of the Child." United Nations. 1989. <http://www.ohchr.org/en/professionalinterest/pages/crc.aspx>.

<sup>131</sup> "Protocol on Water and Health to the 1992 Convention on the Protection and Use of Transboundary Watercourses and International Lakes." United Nations Economic and Social Council. June 17, 1999. <http://www.unece.org/fileadmin/DAM/env/documents/2000/wat/mp.wat.2000.1.e.pdf>.

policies and practices. The 520,000 illegal settlers in the West Bank consume six times more water than those 2.6 million Palestinians in the West Bank. Equitable access to water is also hampered by the functioning of the JWC. Current allocation of the Mountain Aquifer underlying the West Bank demonstrates that the water usage is not equal in quantity. Israel uses more than 71% of water from the Mountain Aquifer, while the Palestinians use approximately 17%, which is in violation of this Protocol.<sup>132</sup>

- Also relevant for water rights is the “Separation Barrier” which demonstrates implications for Palestinian water rights. The International Court of Justice (ICJ) ruled it was illegal in 2004. When considering information about the wall’s construction on the impact of lives of the inhabitants that included “cutting-off access to primary water sources,” The court found the following:

“The construction of the wall and its associated régime are contrary to the relevant provisions of the Hague Regulations of 1907 and of the Fourth Geneva Convention; that they impede the liberty of movement of the inhabitants of the territory as guaranteed by the International Covenant on Civil and Political Rights; and that they also impede the exercise by the persons concerned of the right to work, to health, to education and to an adequate standard of living as proclaimed in the International Covenant on Economic, Social and Cultural Rights and in the Convention on the Rights of the Child. Lastly, the Court finds that this construction and its associated régime, coupled with the establishment of settlements, are tending to alter the demographic composition of the Occupied Palestinian Territory and thereby contravene the Fourth Geneva Convention and the relevant Security Council resolutions.”<sup>133</sup>

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<sup>132</sup> "Israel: Water as a Tool to Dominate Palestinians." Al Jazeera. June 23, 2016.

<http://www.aljazeera.com/news/2016/06/israel-water-tool-dominate-palestinians-160619062531348.html>.

<sup>133</sup> "Press Release 2004/28." International Court of Justice. July 9, 2004. <http://www.icj-cij.org/docket/index.php?pr=71&p1=3&p2=1&case=131&p3=6>.

In this way, the “Separation Barrier” is clearly in violation of international law.

- Lastly, **resolution 64/292** was adopted on 28 July 2010 and recognized the human right to water and sanitation and called upon states to “provide financial resources, help capacity-building and technology transfer to help countries, in particular developing countries, to provide safe, clean, accessible and affordable drinking water and sanitation for all.”<sup>134</sup> Australia, New Zealand, and Israel abstained from voting on this resolution. Palestine voted in favour of this resolution, and “welcomed the adoption [that] affirmed the right of access to clean water and sanitation as universal human rights that should be enjoyed by all people, including those living under occupation.”<sup>135</sup>

### **Palestinian Position**

Palestinian autonomy over its water resources and a fair allocation of water is essential to the future of political stability in the region. This is also reflected by the PLO, which states, “The attainment of water rights and the fair allocation of water are required for a successful two-state solution.”<sup>136</sup> The Palestinian position is informed by international law, with the PLO stating, “We accept the principle of international law stipulating that both Israel and Palestine are entitled to an equitable and reasonable allocation of shared freshwater resources, including those in the four main aquifers, the Jordan River, and Wadi Gaza.”<sup>137</sup> The PLO also informs its position through the Helsinki Rules on the Uses of Water of International Rivers of 1966, the 1997 United Nations Convention on the Law of the Non-Navigational Uses of International Watercourses, and the UN Committee on Economic, Social and Cultural Rights.<sup>138</sup>

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<sup>134</sup> “The Human Right to Water and Sanitation.” United Nations. May 29, 2014. [http://www.un.org/waterforlifedecade/human\\_right\\_to\\_water.shtml](http://www.un.org/waterforlifedecade/human_right_to_water.shtml).

<sup>135</sup> “GA/10967.” United Nations. July 28, 2010. <http://www.un.org/press/en/2010/ga10967.doc.htm>.

<sup>136</sup> “Water.” NAD PLO. Accessed May 6, 2016. <http://www.nad-plo.org/etemplate.php?id=179&more=1#1>.

<sup>137</sup> Ibid

<sup>138</sup> Ibid

Numerous resolutions adopted by the United Nations General Assembly and the Security Council also inform and confirm the Palestinian position. For example, resolution 242 following Israeli occupation of lands following the 1967 war, emphasized the “inadmissibility of the acquisition of territory by war and the need to work for a just and lasting peace in which every State in the area can live in security.”<sup>139</sup> Every year, the United Nations General Assembly overwhelmingly adopts a resolution that reaffirms the “Permanent sovereignty of the Palestinian people in the Occupied Palestinian Territory, including East Jerusalem, and of the Arab population in the occupied Syrian Golan over their natural resources.”<sup>140</sup> The Resolutions usually also express concern for “widespread” Israeli destruction of “vital infrastructure, including water pipelines and sewage networks, in the Occupied Palestinian Territory, in particular in the Gaza Strip...”<sup>141</sup> The Resolution also acknowledges the detrimental impact of “Israeli settlements on Palestinian and other Arab natural resources, especially as a result of the confiscation of land and the forced diversion of water resources,” and “the detrimental impact on Palestinian natural resources being caused by the unlawful construction of the wall by Israel.”<sup>142</sup>

More recently, in December of 2014 a UNSC resolution calling for the withdrawal of Israel from occupied Palestinian Territories within a three-year period, and calling for a resolution to the conflict within one year fell one vote short for passage with Argentina, Chad, Chile, China, France, Jordan, Luxembourg, and the Russian Federation voting in favour.<sup>143</sup> Five states, the United Kingdom, Nigeria, the Republic of Korea, Rwanda and Lithuania abstained from the vote, with the United States and Australia voting against the resolution.<sup>144</sup>

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<sup>139</sup>“Resolution 242 (1967) of 22 November 1967.” United Nations. November 22, 1967. <https://unispal.un.org/DPA/DPR/unispal.nsf/5ba47a5c6cef541b802563e000493b8c/7d35e1f729df491c85256ee700686136?OpenDocument>.

<sup>140</sup> “66/225.” United Nations. March 29, 2012., 2, [http://www.un.org/en/ga/search/view\\_doc.asp?symbol=A/RES/66/225](http://www.un.org/en/ga/search/view_doc.asp?symbol=A/RES/66/225).

<sup>141</sup> Ibid

<sup>142</sup> Ibid

<sup>143</sup> “SC/11722.” United Nations. December 30, 2014. <http://www.un.org/press/en/2014/sc11722.doc.htm>.

<sup>144</sup> Ibid



The Palestinians position on water rights is further clarified by the PA's National Development Plan 2011-2013. The Plan states that the Palestinian Authority must continue to invest in physical infrastructure to improve "the quality of basic utilities and other services, including water and energy supply sanitation."<sup>145</sup> There was moderate progress in achieving this with the installation and reparation of 1,700 km of water pipelines, digging and rehabilitating 70 wells, constructing 7 new water reservoirs, installing 60 km of sewage networks across Palestine, constructing 1,400 rainwater harvesting tanks, and the implementation of projects to build new facilities for wastewater management and solid waste recycling.<sup>146</sup> Moreover, the 2011-2013 Plan established as one of its objectives for the next three years as being able to "exercise control over water sources and consolidate a national public network capable of supplying potable water to all Palestinian citizens and providing sufficient supply for agricultural and industrial use."<sup>147</sup> The same goal was also set for expanding the sewage network to all Palestinians.<sup>148</sup>

The 2014-2016 National Development Plan states nearly identical positions as those from 2011-2013. The Plan described development of the national infrastructure as being crucial to deliver human rights that included the right to affordable energy and clean water.<sup>149</sup> This was also reflected in the Plan's Strategic infrastructure objectives, which includes, "a Palestinian water and wastewater management sector that is more organized and more capable of securing water rights for citizens and materializing a fair distribution for all purposes."<sup>150</sup> Thus far, progress has been made in developing the water and wastewater management sector. The Palestinian Authority increased connectivity to water

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<sup>145</sup>"National Development Plan 2011-2013." Palestinian National Authority. April 2011., 11, <http://www.mopad.pna.ps/en/attachments/article/5/EstablishingtheStateBuildingourFutureNDP202011-13.pdf>.

<sup>146</sup> Ibid, Pg. 19

<sup>147</sup> Ibid, Pg. 54

<sup>148</sup> Ibid

<sup>149</sup> "National Development Plan 2014-2016." Palestinian National Authority. 2014. [http://www.mopad.pna.ps/en/images/PDFs/Palestine\\_State\\_final.pdf](http://www.mopad.pna.ps/en/images/PDFs/Palestine_State_final.pdf).

<sup>150</sup> Ibid, Pg. 15

supply networks of Palestinian homes while internal water supply and sewage networks were installed to communities in previously unserved communities.<sup>151</sup>

One example of the success of the PA's water development plan was the announcement in February 2016 by Prime Minister Rami Hamallah and the European Union representative Ralph Tarraf, which announced a wastewater treatment plant that will service Tubas district and the villages of Tayasir and Aqqaba, in northern occupied West Bank.<sup>152</sup> The plant will service 34,000 Palestinians and will also provide treated water for agricultural use for farmers across the district.<sup>153</sup> The wastewater plant will allow Palestinians living in Tubas to reduce the health and environmental costs associated with untreated sewage.<sup>154</sup> The project is expected to be completed in September of 2017.

As demonstrated, the Palestinian position is informed by the principles of international law and consistent with the many resolutions passed by the United Nations General Assembly. Despite the repeated United Nations General Assembly resolutions confirming the Palestinian autonomy over its natural resources in the Occupied Territories and the relevant international humanitarian and human rights law, full realization of Palestinian rights to its natural resources, specifically water, remains elusive. Even with the progress made by the PA in administering water and sanitation services, the actual control possessed over water and waste management development is difficult to assess, with some assessments indicating, "the PA exists in a complex environment over which it has no control."<sup>155</sup> Furthermore, the Palestine Economic Policy Research Institute states, "It cannot be emphasised enough, however, that ultimate control over the usage of all significant West Bank water resources remains squarely with the Government of Israel."<sup>156</sup> Of further concern for the Palestinian position on water are

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<sup>151</sup> Ibid, Pg. 71

<sup>152</sup> "EU Launches Tubas' First Water Treatment Plant." Ma'an News Agency. February 22, 2016. <https://www.maannews.com/Content.aspx?id=770397>.

<sup>153</sup> Ibid

<sup>154</sup> Ibid

<sup>155</sup> Glover, Steven, and Andrew Hunter. "Meeting Future Palestinian Water Needs." *Palestine Economic Policy Research Institute*, 2010., 20, quoting Haddad, <http://www.mas.ps/files/server/20141911091046-1.pdf>.

<sup>156</sup> Ibid

Israeli declarations concerning water rights, with the official position of the Israeli Government stating that “it will not relinquish to the Palestinians any of the water of the Mountain Aquifer or any other sources it is currently using and has used historically.”<sup>157</sup>

### **Australian position**

Australia’s voting history in the United Nations General Assembly regarding resolutions reaffirming the sovereignty of the Palestinian people over their own natural resources has demonstrated variation from the 48<sup>th</sup> to 70<sup>th</sup> General Assembly of the United Nations (see table one).<sup>158</sup> As the table demonstrates, since 2003-2004, Australia has either voted against, or abstained from voting, for resolutions reaffirming Palestinian rights over their natural resources in OPT. This trend of Australian non-recognition is troubling for the future of Palestinian water rights and other natural resources that are exploited by Israel and settlers. This position is contrary to international law and not consistent with a rules-based international order.

Table 1

| <b>Session</b> | <b>Resolution</b> | <b>In Favour</b> | <b>Against</b> | <b>Abstention</b> |
|----------------|-------------------|------------------|----------------|-------------------|
| 49 (1994-1995) | A/RES/49/132      | •                |                |                   |
| 50 (1995-1996) | A/RES/50/129      | •                |                |                   |
| 51 (1996-1997) | A/RES/51/190      | •                |                |                   |
| 52 (1997-1998) | A/RES/52/207      | •                |                |                   |
| 53 (1998-1999) | A/RES/53/196      | •                |                |                   |
| 54 (1999-2000) | A/RES/54/230      |                  |                | •                 |
| 55 (2000-2001) | A/RES/55/209      | •                |                |                   |
| 56 (2001-2002) | A/RES/56/204      | •                |                |                   |
| 57 (2002-2003) | A/RES/57/269      | •                |                |                   |
| 58 (2003-2004) | A/RES/58/229      |                  |                | •                 |
| 59 (2004-2005) | A/RES/59/251      |                  |                | •                 |
| 60 (2005-2006) | A/RES/60/183      |                  | •              |                   |
| 61 (2006-2007) | A/RES/61/184      |                  | •              |                   |
| 62 (2007-2008) | A/RES/62/181      |                  | •              |                   |

<sup>157</sup> Ibid, Pg. 18

<sup>158</sup> This time period has been chosen because it reflects the sessions when the Oslo II interim agreements have been in operation.

|                |              |  |   |   |
|----------------|--------------|--|---|---|
| 63 (2008-2009) | A/RES/63/201 |  | • |   |
| 64 (2009-2010) | A/RES/64/185 |  | • |   |
| 65 (2010-2011) | A/RES/65/179 |  | • |   |
| 66 (2011-2012) | A/RES/66/225 |  |   | • |
| 67 (2012-2013) | A/RES/67/229 |  |   | • |
| 68 (2013-2014) | A/RES/68/235 |  |   | • |
| 69 (2014-2015) | A/RES/69/241 |  |   | • |
| 70 (2015-2016) | A/RES/70/225 |  |   | • |

Also important in the recognition of Palestinian water rights, and rights over natural resources in general, is the issue of illegal settlements. As noted in the first section of the paper, international law declares that it is impermissible for an occupying power to transfer their own population to lands occupied through a war. Israel's population transfer to the occupied West Bank has demonstrated negative implications for Palestinians and their right to water, with settlers often damaging or destroying infrastructure, and contaminating water resources. Table two compiles Australia's voting history from 1994 to present day in the United Nations General Assembly for resolutions that call upon Israel to accept the "applicability of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, to the Occupied Palestinian Territory, including East Jerusalem, and to the occupied Syrian Golan and to abide scrupulously by the provisions of the Convention, in particular article 49."<sup>159</sup> The resolutions also calls upon Israel to immediately cease all settlement construction and expresses concern over violence against Palestinians, especially to their property, by Israeli settlers.<sup>160</sup>

Table 2

| <b>Session</b> | <b>Resolution</b> | <b>In Favour</b> | <b>Against</b> | <b>Abstention</b> |
|----------------|-------------------|------------------|----------------|-------------------|
| 49 (1994-1995) | A/RES/49/132      | •                |                |                   |
| 50 (1995-1996) | A/RES/50/129      | •                |                |                   |
| 51 (1996-1997) | A/RES/51/223      | •                |                |                   |
| 52 (1997-1998) | A/RES/52/66       | •                |                |                   |
| 53 (1998-1999) | A/RES/53/55       | •                |                |                   |
| 54 (1999-2000) | A/RES/54/78       | •                |                |                   |
| 55 (2000-2001) | A/RES/55/132      | •                |                |                   |
| 56 (2001-2002) | A/RES/56/61       | •                |                |                   |

<sup>159</sup> "62/108." United Nations. January 10, 2008.

[http://www.un.org/en/ga/search/view\\_doc.asp?symbol=A/RES/62/108](http://www.un.org/en/ga/search/view_doc.asp?symbol=A/RES/62/108).

<sup>160</sup> Ibid

|                |              |   |   |   |
|----------------|--------------|---|---|---|
| 57 (2002-2003) | A/RES/57/126 | • |   |   |
| 58 (2003-2004) | A/RES/58/98  |   |   | • |
| 59 (2004-2005) | A/RES/59/123 |   | • |   |
| 60 (2005-2006) | A/RES/60/106 |   | • |   |
| 61 (2006-2007) | A/RES/61/118 |   | • |   |
| 62 (2007-2008) | A/RES/62/108 |   | • |   |
| 63 (2008-2009) | A/RES/63/97  | • |   |   |
| 64 (2009-2010) | A/RES/64/93  | • |   |   |
| 65 (2010-2011) | A/RES/65/104 | • |   |   |
| 66 (2011-2012) | A/RES/66/78  | • |   |   |
| 67 (2012-2013) | A/RES/67/120 | • |   |   |
| 68 (2013-2014) | A/RES/68/82  |   |   | • |
| 69 (2014-2015) | A/RES/69/92  |   |   | • |
| 70 (2015-2016) | A/RES/70/89  |   |   | • |

From 2003-2008, and 2013 to present day, Australia demonstrated a trend of either voting against resolutions that call upon Israel to recognize international law and cease the construction of illegal settlements, or abstaining from voting altogether. This is unsettling given the information in the previous sections about water access inequality that is exacerbated by the illegal settlements. Not only is this position contrary to international law and a rules-based international order, but also not representative of the Australian population. According to a 2010 study quoted by the Australian Institute of International Affairs, 78% of the Australian population were opposed to Israel's settlement policy, while 80% wanted the government to argue for negotiations to respectful of international law.<sup>161</sup> Polling from Roy Morgan Research in November 2011 also reflects this perception of the Australian population. When asked "Israel settlers have been building homes on occupied Palestinian land for many years. Would you say you support this activity?," 63% of responded no.<sup>162</sup>

<sup>161</sup> Boyce, Peter. "Australia, Israel and Palestine." Australian Institute of International Affairs. March 14, 2014. [http://www.internationalaffairs.org.au/australian\\_outlook/australia-israel-and-palestine/](http://www.internationalaffairs.org.au/australian_outlook/australia-israel-and-palestine/).

<sup>162</sup> Manning, Peter. "Political Stance on Palestine Is out of Step with Public Opinion Read More: <http://www.smh.com.au/federal-politics/political-opinion/political-stance-on-palestine-is-out-of-step-with-public-opinion-20120212-1szkn.html>.

## Conclusion

Both the historical and contemporary framework for Palestinian water rights is characterized by gross inequality. Palestinians have access to substantially less water than both Israelis and illegal settlers that has been facilitated by Military Orders following the 1967 war and Oslo II regime. The Military orders abrogated existing ownership of land and water arrangements, granted complete authority over all water-related issues in the Occupied Palestinian Territories (OPT) to the Israeli Army, and created a permit system where Palestinians had to apply to build new water facilities, and abrogated existing water and land arrangements. These Orders are still in place today. The JWC, created to carry out Article 40 of the Interim Agreement, has not helped Palestinians realise their water rights, but has been marred by inefficiencies, manipulation, and political manoeuvring where many Palestinian water projects are left pending or not approved that would have improved water quality and sanitation for more than 1 million Palestinians. As a result, Palestinians are forced to purchase non-network water, usually pumped from the Mountain Aquifer, a shared water resource that Palestinians have severely restricted access to, from Mekorot, an Israeli water company. Mekorot has profited immensely from the manipulation and inefficiency of the JWC. Mekorot also demonstrates discriminatory water supply techniques that favour illegal settlers over Palestinians.

Destruction, demolition, harassment, and violence demonstrate additional obstacles to Palestinian water rights. The IDF and Civil Administration frequently destroy and demolish water facilities, shoot at water tankers, and destroy water pipelines. Illegal settlers, often under the supervision of the IDF, also create water insecurity for the Palestinians by severing water pipelines, diverting water supplies to fill pools, spoiling water resources and then shooting aid workers who try to clean them, and taking over springs, more than 80% of which are registered on Palestinian land, and barring Palestinians from using them. The Israeli actions are carried out in contravention of numerous international treaties, covenants, resolution, and the Oslo II Interim Agreements. This reveals that

Palestinians are forced to live and operate in a unique scenario where they have had their land and water rights stripped based upon an illegal occupation, and were then forced to apply for permits to build or improve water facilities that would be denied or approved by an illegal occupying force. Oslo II has allowed for a continuation of this trend. Without international support and change, this leaves bleak prognostications for a just and equitable solution for Palestinian water rights in the West Bank without the backing of the international community.

To facilitate progress and awareness of this issue and draw upon the knowledge and expertise of the Australian community, the following section offers policy recommendations that are informed by international humanitarian law, international human rights law, and the many resolutions passed by the United Nations General Assembly and the United Nations Security Council.

### **Recommendations**

- Insist that all parties in the conflict abide by the established rules based international order, including international humanitarian law, international human rights law, and the numerous resolutions from both the United Nations General Assembly confirming the sovereignty of the Palestinians over their natural resources, and the United Nations Security Council.
- Facilitate workshops where Australian and Palestinian water and waste management experts can meet, share opinions and advice, and be involved in skill building.
- Continue the exchange program where Palestinian water experts can come to Australia and learn from water and waste management experts.
- Provide technical and financial assistance to the Palestinian agricultural sector to facilitate the better utilization of already scarce resources.

- A joint study carried out by Palestinian and Israeli economists found that development of the agricultural sector in the Jordan Valley could produce between 150,000-200,00 jobs.<sup>163</sup>
  - By using advanced agricultural technologies, Palestinian farmers could increase their yield by five to ten-fold.<sup>164</sup>
- Facilitate projects that aid the restoration and rehabilitation of the Jordan River.
  - Send a fact finding mission to the OPT to investigate Israeli violations of Palestinian water rights and provide recommendations to the Australian Government.
  - Changing the Australian vote in the UNGA to supporting the resolutions affirming the sovereignty of the Palestinian people over their natural resources including water, and the resolutions regarding the Implementation of Fourth Geneva convention in the OPT and the condemnation of Israeli settlements.
  - Direct Australian aid to facilitate the goals and projects in the Palestinian National Development Plan, especially those in Area C.

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<sup>163</sup> "Background on the Jordan Valley."

<sup>164</sup> Ibid