

Date: 14 October 2013

Al-Haq Submission to the EU on its 2013 ENP Progress Report on Israel





Al-Haq Submission to the EU on its 2013 ENP Progress Report on Israel

In light of the upcoming 2013 European Neighbourhood Progress Reports, Al-Haq would like to draw the attention of the European Union (EU) to Israel's implementation of the EU-Israel Action Plan (Action Plan) over the past year. In doing so, Al-Haq seeks to strengthen the international law component of the progress report on Israel.

In the currently valid 2005 Action Plan, the EU and Israel agreed to prioritise the enhancement of political dialogue and co-operation, including the promotion of protection of human rights. The parties further committed themselves to "[w]ork together to promote the shared values of democracy, rule of law and respect for human rights and international humanitarian law".

As a Palestinian organisation dedicated to the promotion and protection of human rights in the Occupied Palestinian Territory (OPT), Al-Haq is gravely concerned by Israel's failure to fulfil, and indeed its disregard of this commitment in relation to the rights of the occupied Palestinian people. In 2013, Israel further entrenched its illegal policies and practices in the occupied territory, including by increasing the number of demolitions of Palestinian homes and the consequent forcible transfers of Palestinians from East Jerusalem; failing to bring to account settlers who commit acts of violence against Palestinians and their property; continuing to construct the Annexation Wall; expanding the number of settlements and settlers in the OPT; and continuing to exploit Palestinian natural resources, especially through the appropriation of land in Area C.

In this submission, Al-Haq sets out its concerns regarding the structure and language of the 2012 progress report on Israel. It also lists some key Israeli



violations of international law committed during 2013 that contribute towards the fragmentation of the occupied territory and the Palestinian people, thus violating the Palestinians' right to exercise self-determination in a unified territory. We respectfully request that the concerns highlighted in this submission are reflected in the 2013 progress report on Israel.

STRUCTURAL AND LANGUAGE RELATED CONCERNS IN 2012 PROGRESS REPORT

In the 2012 progress report on Israel, the EU yet again included a section entitled "Israel in the Occupied Territories". We welcome the inclusion of a section devoted to Israel's behaviour in the occupied territory and consider it a positive step towards comprehensively addressing Israel's human rights and humanitarian law obligations towards the occupied Palestinian people. However, we remain concerned by the lack of clear reference to Israel's legal obligations towards the occupied people throughout the progress report. The absence of a clear and uncompromising reassertion that Israel has human rights and humanitarian law obligations towards the occupied people, coupled with the fact that the section on the OPT remains separated from the section entitled "Other human rights and governance-related issues", which only addresses Israel's human rights record towards its own population, gives the impression that the EU is accepting Israel's claim that it does not have such obligations.

When assessing the implementation of the Action Plan, including the implementation of the commitment to promote international law, it is paramount that the progress report clearly sets out the legal obligations incumbent on Israel, as well as appropriately addresses violations that occurred during the reporting period. As such, it is regretful that in previous progress reports, the EU did not adequately assess Israeli violations committed against the occupied Palestinian people on the basis of the legal frameworks applicable, nor qualified Israeli actions and omissions as violations of international law. For example, the 2012 progress report on Israel merely provided factual information on the creation of new settlements and the development of outposts from an Israeli domestic

law perspective. In order to evaluate Israel's implementation of the Action Plan with respect to the promotion of international law, the progress report must state that settlements are considered illegal under international law and that Israel has therefore failed to adhere to its obligations. The Action Plan must also include the recommendation that settlements must be dismantled.

Recommendations to the EU on its 2013 progress report on Israel:

- Reaffirm that Israel has international human rights and humanitarian law obligations towards the occupied Palestinian people;
- Demand that Israel immediately recognises and adheres to the legal obligations incumbent upon it in the OPT;
- Address the full range of Israeli violations of international law, including those committed against the occupied Palestinian people in the OPT, under the section explicitly addressing Israel's implementation of the joint objective "to work together to promote the shared values of democracy, rule of law and respect for human rights and international humanitarian law;
- Qualify and assess Israeli actions or omissions as violations of international law when applicable;
- Comprehensively address the full range of Israeli violations of international law committed during the reporting period.

KEY VIOLATIONS OF CONCERN

During 2013, Israeli violations have continued unabated and the human rights situation in the OPT has generally deteriorated. As a Palestinian human rights organisation, we hereby provide information on key violations of international law committed during the reporting period and ask that these violations be considered when assessing Israel's implementation of the Action Plan. We also ask that the 2013 progress report on Israel explicitly refers to these violations and provides recommendations aimed at bringing these violations to an end. The limited number of recommendations listed in the 2012 progress report on Israel did not reflect the magnitude of the violations committed.



Israeli appropriation of Palestinian land and forcible transfer

Settlements

Since 1967, Israel has systematically appropriated hundreds of thousands of *dunums* (1.000 square meters) of land throughout the West Bank for the establishment and expansion of Israeli settlements. Currently, Israeli settlements control 42 per cent of the land of the West Bank. At least one fifth of the land occupied by settlements is private Palestinian land.¹ Once the land has been appropriated, Israel actively supports and facilitates the transfer of its own civilian population into the OPT, in contravention of international humanitarian law, through financial incentives, subsidies for agricultural and tourism development, and construction of infrastructure.²

Furthermore, a restrictive planning regime implemented by the Israeli authorities in 62 per cent of the West Bank, earmarked Area C, prevents Palestinians residing there from constructing any infrastructure or implementing development projects without first obtaining permits from the Israeli Civil Administration (ICA), in accordance with master zoning and planning schemes. However, less than one per cent of Area C has been planned for Palestinian development by the ICA.³

In order to meet their needs, Palestinians have been forced to build without the required, but virtually unobtainable, permits, despite the ever-present risk of demolition.

The recent demolition of Palestinian village Khirbet Makhul provides a telling example of the correlation between Israeli demolition of Palestinian owned structures, including homes, and the appropriation of land in Area C. Khirbet Makhul is located 20 kilometres to the east of Toubas city in the northern Jordan Valley area. It has a population of approximately 60 people and consists of 11 families, who dwell in residential structures built with zinc boards, wood and

1 B'Tselem, *By Hook and By Crook: Israeli Settlement Policy in the West Bank* (July 2010), at 11.

2 R Falk, Report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, 23rd session of the UN Human Rights Council, UN Doc. A/HRC/23/21 (3 June 2013), paragraph 42.

3 OCHA, *Fragmented Lives: Humanitarian Overview 2012* (May 2013), at 26-27.

canvas. The locals depend on herding for a living and keep their cattle in animal barracks or barns. On 16 September 2013, Israel demolished 11 tents and 16 animal sheds belonging to these families. In this instance, Israel evacuated 54 persons, including 19 children and 11 women.

Two days afterwards, on 18 September, an Israeli military force raided Khirbet Makhul and prohibited the residents from setting up tents that had been provided to them by the International Committee of the Red Cross. A similar raid also took place the following day. Israel destroyed and confiscated approximately four tents and declared it a closed military zone. Despite an injunction issued by the Israeli High Court on 24 September, preventing soldiers from evicting the community or carrying out further demolitions in the area, Israeli soldiers have prohibited Palestinian residents from rebuilding their homes. According to local residents, aid transferred to the area has also been confiscated.⁴

The number of structures demolished since 2009 has been steadily on the rise, with 191 structures demolished in 2009, displacing 319 Palestinians; 357 during 2010, displacing 478 Palestinians; 571 during 2011, displacing 1006 Palestinians; and 540 during 2012, displacing 809 Palestinians.⁵

Between January and September 2013, Israeli forces demolished 524 Palestinian-owned structures in the West Bank, including East Jerusalem, displacing 862 Palestinians.⁶ In 2013, Al-Haq has noted a particularly sharp increase in the demolition of Palestinian homes in East Jerusalem. From January until the end of September 2012, Al-Haq documented the demolition of 29 Palestinian homes in East Jerusalem. In comparison, between January and 8 October 2013, Al-Haq has documented 65 cases of home demolitions in East Jerusalem.

4 Al-Haq, Weekly Focus, Demolitions Leave Jordan Valley Community of Khirbet Makhul Homeless (27 September 2013), available at: <http://www.alhaq.org/documentation/weekly-focuses/745-demolitions-leave-jordan-valley-community-of-khirbet-makhul-homeless> (accessed 14 October 2013)

5 UN OCHA, Areas C of the West Bank: Key Humanitarian Concerns (January 2013), at 2.

6 UN OCHA, Protection of Civilians: Weekly Report 10-16 September 2013 (September 2013), at 2.



Israel's policies and practices in the OPT, including the demolition of Palestinian-owned structures, result in the forcible transfer of the protected population. This transfer occurs through the use of physical intimidation, the threat of force or coercion, or by taking advantage of a coercive environment. Given the unbearable living conditions created by Israel, any claim that Palestinian residents exercise a genuine choice when they move away from their land is invalid. Consequently, as an Occupying Power in the OPT, Israel is contravening the prohibition of forcible transfer of protected persons and of the transfer of its own civilian population into the occupied territory, respectively enshrined in Article 49(1) and 49(6) of the Fourth Geneva Convention.

In addition, Israel is prohibited from destroying Palestinian property in the occupied territory, except where such destruction is rendered absolutely necessary by military operations. By demolishing Palestinian owned-structures, including homes, for a lack of Israeli permits or any other reason that does not meet the requirement of imperative military necessity, Israel is contravening its obligations under Article 53 of the Fourth Geneva Convention, which is reflective of customary international law.

The Annexation Wall

Since 2002, Israel has continued to build its 708 kilometres long Annexation Wall (the Wall), despite the finding by the International Court of Justice (ICJ) that its construction on occupied land is illegal. When completed, an estimated 85 per cent of the Wall will have been built inside the occupied territory.

Most notably, the Wall serves to physically reinforce Israel's claim over Jerusalem and exacerbate East Jerusalem's administrative and social detachment from the rest of the West Bank. The Wall, which has physically separated Palestinian neighbourhoods in East Jerusalem, is effectively placing some 30,000 Palestinian Jerusalemites at risk of losing their residency rights and of being displaced from occupied East Jerusalem. By effectively re-drawing the 1967 border through the construction of the Wall, Israel is ensuring a strong Jewish presence in what it considers the undivided capital of a Jewish State.



The continued appropriation of Palestinian land through the routing of the Wall demands attention in the progress report. Regretfully, the 2012 progress report did not consider Israel's refusal to adhere to international law and the findings of the ICJ. The upcoming 2013 progress report must critically assess the construction of the Wall and enforce the findings of the ICJ, by requesting that Israel immediately ceases the construction of the Wall, dismantles sections built to date, provides reparation for all damage caused by the construction and undoes all legislative and regulatory acts related to the construction of the Wall.⁷

Moreover, the fact that Israel has not been adhering to its obligations with respect to the construction of the Wall should be explicitly reflected in the conduct of EU-Israeli relations.

Recommendations to the EU on its 2013 progress report on Israel:

- Refer to Israeli violations of international law in transferring its population into the OPT and constructing the Annexation Wall on occupied land when assessing Israel's implementation of the Action Plan;
- Reaffirm that settlements are illegal under international law;
- Demand that Israel immediately ceases the transfer of its civilian population into the OPT and immediately and unconditionally withdraw from and dismantle all settlements, including outposts, in the OPT;
- Demand that Israel ceases all financial support, subsidies, and incentives to settlements and settlers in the OPT;
- Demand that Israel immediately ceases the demolition and destruction of private and public civilian property in breach of Article 53 of the Fourth Geneva Convention and Articles 46, 53, and 55 of the Hague Regulations;
- Request that Israel affords all victims of the settlement enterprise effective legal remedy and reparations, in accordance with international law standards;
- Demand that Israel recognises, accepts and implements the ICJ Advisory Opinion on the Wall, including by demanding that Israel immediately ceases the construction of the Annexation Wall, dismantles sections built to date, provides reparation for all damage caused by the construction of the Wall and undoes all legislative and regulatory acts related to the construction of the Wall.

⁷ See Al-Haq, *The Annexation Wall and its Associated Regime* (2012).



Israeli failure to protect Palestinians and Palestinian property and lack of accountability

Over the past couple of years, Al-Haq has documented an increasing number of settler attacks against Palestinians in the OPT. Al-Haq's documentation reveals a correlation between the number of cases of settler violence and the proximity between Palestinian communities and agricultural lands and settlements. Since the beginning of January 2013, Al-Haq has collected around 160 affidavits related to settler violence. Fifty per cent of those collected relate to incidents in the Nablus area, due to the high number of settlements located there. Settler attacks also occur frequently inside Hebron due to the presence of settlers in the inner city.

During 2013, Al-Haq documented a wide range of categories of settler violence; thus far, the majority of settler attacks documented relate to settlers physically assaulting Palestinian civilians, in some instances severely beating their victims. In addition, settlers have attacked Palestinian property - burning, uprooting and damaging trees and agricultural land in an effort to prevent Palestinians from reaping their lands. Settlers have also thrown stones on Palestinian moving vehicles and damaged Palestinian homes.

Al-Haq has noted that settler attacks increase during certain agricultural seasons, such as the annual olive harvest. At the time of this submission, the olive harvest has begun and thus the accompanying settler attacks have just started. On 5 October 2013, settlers stole olive produce and destroyed 100 olive trees belonging to Palestinians in the Nablus area.⁸ During the olive harvest of 2012, Al-Haq documented damage to and destruction of over 7,500 olive trees by settlers.

To date, there is no indication that the recent significant increase in settler attacks, first noted in 2011, is waning. Acts of settler violence are intended, organised, and publicly represented to influence the political decisions of the Israeli State authorities. The lack of effective measures on the part of the Israeli authorities to

⁸ Al-Haq, Weekly Focus, Israeli settlers attack and destroy Palestinian Olive Trees (10 October 2013) available at: <http://www.alhaq.org/documentation/weekly-focuses/749-israeli-settlers-attack-and-destroy-palestinian-olive-trees-> (accessed 14 October 2013)

deter or bring perpetrators to account, allow settlers to continue to commit acts of violence against Palestinians and their property with impunity.

In 2013, the Israeli police reportedly established a new 'special unit' to combat settler violence.⁹ In parallel, the Israeli military commander issued an order that criminalises groups that carry out such attacks under military law.¹⁰ However, a sufficient legislative basis already existed for the prosecution of violent settlers before these adjustments. The fact that police forces have failed to enforce existing laws reveals an institutional unwillingness to hold settlers accountable for criminal acts committed against Palestinians.

Most investigations of incidents of settler violence have not led to the arrest of suspects, let alone to their prosecution.¹¹ The Israeli human rights group Yesh Din has monitored 938 cases of settler violence between 2005 and 2013 into which the Israeli police opened an investigation. Over 90 per cent of these cases were closed without an indictment being filed, mostly on grounds that suggest investigative flaws by the police forces.¹²

According to international humanitarian law, Israel has an obligation to safeguard the well-being and safety of the local population and to ensure that they are not mistreated by either the Occupying Power's authorities or private actors.¹³

Israel's obligation to ensure safety, public order and civil life in the occupied territory includes taking effective measures to protect the lives and livelihoods

9 H Levinson, Israel Police creates unit to fight 'price tag' attacks - but only in West Bank, Haaretz (26 June 2013), available at: <http://www.haaretz.com/news/diplomacy-defense/.premium-1.53195> (accessed 1 October 2013).

10 G Cohen, IDF outlaws 'price tag' rings in the West Bank, Haaretz (29 July 2013), available at: <http://www.haaretz.com/news/diplomacy-defense/.premium-1.538470> (accessed 14 October 2013).

11 Fleishman, Price Tag vandals consistently escape prosecution, Ynet (4 September 2012), available at: <http://www.ynetnews.com/articles/0,7340,L-4277043,00.html> (accessed 1 October 2013).

12 Yesh Din, Data Sheet: Law Enforcement on Israeli Civilians in the West Bank,

Yesh Din Monitoring Update (July 2013), at 2; and Yesh Din, Submission by the Israeli Human Rights Organization Yesh Din: Volunteers for Human Rights to the UN Fact Finding Mission on the Israeli Settlements in the Occupied Palestinian Territory including East Jerusalem (6 November 2012), at 9.

13 JS Pictet, Commentary: Fourth Geneva Convention Relative to the Protection of Civilian Persons in Time of War (1958), at. 274-283; Y Arai-Takahashi, The Law of Occupation: Continuity and Change of International Humanitarian Law, and its Interaction with International Human Rights Law (2009), at 169. See also Article 47 of the Fourth Geneva Convention.



of the local population.¹⁴

In addition, by failing to enforce the law with respect to settler violence, Israel is in breach of its obligation to provide an effective legal remedy to Palestinian victims. Article 2(3) of the International Covenant on Civil and Political Rights provides that Israel must ensure that Palestinians have an effective remedy. Article 2(3) is complemented by Article 26, which imposes the obligation to ensure that all persons are entitled to equal protection before the law without discrimination. However, the 2013 report of the United Nations Fact-Finding Mission on Settlements highlighted the failure of the Israeli authorities to enforce the law by investigating such incidents and taking measures against their perpetrators, coming to the “clear conclusion that there is institutionalised discrimination against the Palestinian people when it comes to addressing violence.”¹⁵

As a Palestinian human rights organisation, Al-Haq is pleased with the 2012 progress report recommendation to Israel to bring all perpetrators of settler violence to justice. We ask that the 2013 progress report on Israel reflects Israel’s continued failure and unwillingness to ensure that settlers are held to account for acts of violence against Palestinians. On this note, we also ask that the 2013 progress report on Israel stresses that settlers are illegally colonising the OPT and that it therefore includes the recommendation that Israel withdraw its citizens from the occupied territory.

14 M Sassoli, Article 43 of the Hague Regulations and Peace Operations in the Twenty-First Century, Background Paper prepared for Informal High-Level Expert Meeting on Current Challenges to International Humanitarian Law (June 2004).

15 International Fact-Finding Mission on Settlements, Report of the independent international fact-finding mission to investigate the implications of the Israeli settlements on the civil, political, economic, social and cultural rights of the Palestinian people throughout the Occupied Palestinian Territory, including East Jerusalem, Advanced Unedited Version (January 2013) UNHRC 22nd session, paragraph 107.

Recommendations to the EU on its 2013 progress report on Israel:

- Recognise that Israel has been unwilling to abide by its obligation to ensure safety, public order and civil life by taking effective measures to protect the Palestinians and their property in the OPT;
- Demand that Israel guarantees the protection of the Palestinian civilian population in the OPT by taking all necessary measures to ensure effective law enforcement against settlers and adequate protection of Palestinians and their property by the Israeli police and armed forces;
- Request that Israel affords all victims of settler violence access to justice and effective remedies, including by mobilising security forces to ensure the investigation of incidents and the prosecution of potential perpetrators;
- Request that Israel desists from all practices that constitute a form of discrimination against the Palestinian population, particularly with regards to law enforcement and access to justice;
- Request that Israel facilitates the filing of complaints and lift existing obstacles to access to justice by victims of settler violence.

Israeli exploitation of Palestinian natural resources

Throughout the Israeli occupation of the Palestinian territory, Israel has exercised some degree of control over Palestinian natural resources, including agricultural land, minerals and water. Israel has recently stepped up its illegal policies and practices, including the forcible transfer of Palestinians from Area C, with the aim of exercising sovereignty over Palestinian natural resources for the benefit of its settlers and Israelis in Israel proper.

An Occupying Power does not acquire sovereign rights over the occupied territory's resources. Indeed, the Palestinian people retain their right to freely dispose of their natural wealth and resources during belligerent occupation, in



accordance with their interests of national development and well-being. Israel's illegal exercise of sovereignty over Palestinian natural resources for the benefit of Israelis and the Israeli economy, as explained below, demonstrates the existence of a governmental policy aimed at dispossessing the Palestinian population of their resources and forcing Palestinians from their land.

Despite Israel's grave violations of international law related to the exploitation of Palestinian natural resources, the 2012 progress report on Israel did not make reference to such violations. Nor did it view Israel's exploitation of these resources within the international legal framework. Instead, in the 2012 progress reports on Palestine, the EU invited the Palestinian Authority to "[c]ontinue developing the necessary legal and institutional framework for an integrated water and wastewater management system to ensure equitable service delivery and resource sustainability all over the oPt". The progress reports on Palestine did not make any reference to the fundamental issue at hand – that of Israel's illegal appropriation and discriminatory allocation of Palestinian water resources.

Therefore, we ask that the EU recognises Israel's role in exploiting and withholding Palestinian natural resources from the Palestinian people. Such recognition should take place in the progress report on Israel, as Israel is the violating party and duty-bearer. We also request that the EU assesses the implications of these violations on the ability of the Palestinian Authority to implement its action plan with the EU. And most importantly, we ask that Israeli exploitation of Palestinian natural resources is explicitly referred to and considered when assessing Israel's implementation of its commitments in its Action Plan.

Appropriation of water resources

In addition to the illegal appropriation of land and the establishment of settlements, Israel has consistently exploited the Palestinian share of the region's transboundary water resources for the benefit of its own citizens. At present, Israeli *per capita* consumption of water for domestic use is four to five times higher than that of the Palestinian population of the OPT. In the West Bank, the Israeli settler population, numbering more than half a million, consume

approximately six times the amount of water used by the Palestinian population of 2.6 million; this discrepancy is ever greater when water used for agricultural purposes is taken into account.

Because water does not follow territorial boundaries, Israel and Palestine share the region's three main sources of natural fresh water. Water-sharing States must utilise international water resources in accordance with the principle of equitable and reasonable utilisation enshrined in international water law. However, since 1967, Israel has adopted legislative measures and institutionalised policies and practices that have a) enabled Israel to gain, maintain and consolidate exclusive control over Palestinian water resources; b) appropriated water resources; and c) paralysed Palestinian water infrastructure development.

A series of military orders – still in force and applicable only to Palestinians – have integrated the water system of the OPT into the Israeli system, while at the same time denying Palestinian control over this vital resource.¹⁶ This integration was significantly advanced in 1982 by the transfer of ownership of Palestinian water infrastructure in the West Bank to Israel's national water company 'Mekorot.' This has forced Palestinians to purchase water from 'Mekorot' that should have been allocated to them by virtue of their riparian share in the West Bank's aquifer system. In its January 2013 report, the United Nations Fact-Finding Mission on Settlements estimated that "Mekorot supplies almost half the water consumed by Palestinian communities."¹⁷

Moreover, Israel has allowed 'Mekorot' to develop wells, mainly located in the Jordan Valley, that supply (agricultural) settlements in the West Bank. As such, Israel facilitates 'Mekorot's' inequitable extraction of water from the Palestinian share of the transboundary water resources.

16 On 7 June 1967, Israel issued Military Proclamation No. 2, declaring all water resources in the region State property. Military orders 92, 158, and 291 followed in the first 18 months of the occupation, and, respectively, transfer complete authority over all water resources and water-related issues in the OPT to the Israeli military authorities, require a permit for construction of any new water installation without which any water structure could be subject to confiscation, and declare all prior settlements of disputes concerning water invalid.

17 International Fact-Finding Mission on Settlements, Report of the independent international fact-finding mission to investigate the implications of the Israeli settlements on the civil, political, economic, social, and cultural rights of the Palestinian people throughout the Occupied Palestinian Territory, including East Jerusalem' Advanced Unedited Version (January 2013) UNHRC 22nd session, paragraph 84.



Since 1967, Israel has denied Palestinians physical access to the riverbanks of the Jordan River and prevented them from accessing their share of its water resources. In addition, Israel annually extracts 89 per cent of the water from the Mountain Aquifer, which is divided into three basins. The Western Aquifer Basin is the largest and most productive, yielding more water than the Northeastern and Eastern Aquifer Basins combined. Palestinian access to the Western Aquifer Basin is limited to 6 per cent, despite the fact that 80 per cent of the basin's recharge area is located in the West Bank. The limited Palestinian access is a result of the Oslo Accords' "no reduction of existing quantities" provision. While the Coastal Aquifer is the only source of natural fresh water available to the Gaza Strip, Palestinians only enjoy one quarter of the water extracted per year.¹⁸

Moreover, 90 to 95 per cent of the water in the Gaza Strip is unfit for human consumption, forcing the majority of the already disenfranchised residents to purchase water. In an environment where high poverty rates and unemployment are prevalent, some families spend one third of their income on water.¹⁹

With access to a mere 11 per cent of the Mountain Aquifer's resources, a quarter of total extractions from the shared Coastal Aquifer, and no access to the Jordan River's surface water, Palestinians in the OPT are left with only 10 per cent of all available water in the region. The remaining 90 per cent is retained by Israel.²⁰

Israel further aims to paralyse Palestinian water infrastructure development by vetoing the majority of Palestinian projects at the Joint Water Committee – a mechanism for joint development of all West Bank water resources that was established under the Oslo Accords.²¹ While Israel has agreed to 85 per cent of applications for projects that draw water from the small Eastern Aquifer Basin, it does not allow Palestinians to exploit the full amount allocated to them under

18 C Messerschmid, *Water in Gaza – Problems & Prospects* in M Larudee (ed.) *Gaza – Palestine: Out of the Margins* (2011) at 141, 175.

19 UNICEF and Palestinian Hydrology Group (PHG), *Water, Sanitation and Hygiene Household Survey – Gaza* (April 2010).

20 Al-Haq, *Water for One People Only: Discriminatory Access and 'Water-Apartheid' in the OPT* (April 2013) at 31.

21 Israel has vetoed all applications for Palestinian production wells in the large Western basin, and while agreeing to the majority of applications that draw water from the small Eastern Aquifer Basin, its approval is often conditional upon Palestinian agreement to Israeli demands for new and enlarged water supply systems that would benefit Israeli settlements in the West Bank.

Oslo for “future needs”.²² In fact, Palestinian water supplies have dropped from 118 million cubic meters (mcm) per year pre-Oslo to 98 mcm in 2010,²³ despite a Palestinian population growth. In addition, Israel has vetoed all applications for Palestinian production wells in the large Western basin.²⁴ If granted at all, approval for major Palestinian water projects is often conditional upon Palestinian agreement to Israeli demands for new and enlarged water supply systems that benefit Israeli settlements in the West Bank.

Water, sanitation and hygiene (WASH) structures built or rehabilitated in Area C without the necessary permits are at risk of demolition. Demolitions, particularly of wells and cisterns, have risen sharply since 2009, which saw 10 WASH-related demolitions; by 2011 this number had increased to 89, affecting 977 Palestinians.²⁵

In the Gaza Strip, destruction of water infrastructure frequently occurs during Israeli military operations. Since the imposition of the illegal regime of closures in 2005, more than 300 water wells have been destroyed in the buffer zone at an estimated total replacement cost of 9 million USD. During the Israeli offensive code-named ‘Operation Cast Lead’ in 2008-2009, 6 agricultural water reservoirs were destroyed in the buffer zone, all of which remain unrepaired, largely due to Israel’s illegal regime of closures, which obstructs access to essential construction materials.²⁶

22 Oslo II, Annex III, Appendix 1, Article 40.6.

23 Water Authority, Water Supply Report 2010 (March 2012) at 15, 23.

24 Palestinian National Authority and Palestinian Water Authority, Palestinian Water Sector: Status Summary Report September 2012 (In preparation for the Meeting of the Ad Hoc Liaison Committee (AHLIC), 23rd September 2012, New York (September 2012) at 4. See also, J Selby, Cooperation, Domination and Colonialism: The Israeli-Palestinian Joint Water Committee’ (2013) 6 Water Alternatives, at 13.

25 WASH, WASH Cluster oPt Monthly Situation Report: December 2011 (December 2011) at 6; EWASH, “Down the Drain”: Israeli restrictions on the WASH sector in the Occupied Palestinian Territory and their impact on vulnerable communities (March 2012) at 16.

26 UN OCHA, Between the Fence and a Hard Place: The Humanitarian Impact of Israeli-Imposed restrictions on Access to Land and Sea in the Gaza Strip, Special Focus (August 2010); EWASH, “Down the Drain”: Israeli restrictions on the WASH sector in the Occupied Palestinian Territory and their impact on vulnerable communities (March 2012) at 17; EWASH, Factsheet 13: Water & Sanitation in the Access Restricted Areas of the Gaza Strip (December 2012) at 1.

Mineral Extraction and Quarrying Activities

The 42 per cent of Palestinian land under the control of Israeli settlements also includes the occupied mineral-rich Dead Sea area. This area is renowned for its unique geographical, mineral, climatic and archaeological features and is rich in groundwater, surface water, spring system and mineral deposits.²⁷

Presently, Israeli settlements located in the occupied Dead Sea area are primarily involved in the extraction of raw materials for the cosmetic industry, in fruit harvesting and in the packaging of such products. In 2004, the Israeli government granted the Israeli cosmetic company, Ahava Dead Sea Laboratories Ltd. – 44.5 per cent of whose shares are owned by the settlements of ‘Mitzpe Shalem’ and ‘Kalia’ – permission to extract mud from the occupied Dead Sea area.

There are currently ten Israeli and internationally-owned quarries in operation in the OPT. Approximately 75 per cent of their yielded product is transferred to the Israeli construction market. The rest is being sold within the OPT, both to Palestinians and Israeli settlers. In some cases, the percentage of output transferred to the private market in Israel reaches 94 per cent.

The Israeli quarrying companies and the Israeli Civil Administration, who sporadically collect royalties and leasing fees, remain the sole beneficiaries of these resources. Meanwhile, Palestinians are excluded from any meaningful form of utilisation of their natural resources. The Israeli High Court of Justice concluded in November 2011 that Israel’s quarrying activities in the OPT do not violate international law and that banning their activities would likely harm the occupied population. Such a conclusion continues to legitimise Israel’s widespread exploitation of the occupied territory’s natural resources for the sole benefit of the Israeli economy, including continued illegal settlement expansion, and implicitly condones the pillage of such resources.²⁸

27 SC McCaffrey, *The Shrinking Dead Sea and the Red-Dead Canal: A Sisyphean Tale?* (2006) 264 *Pacific McGeorge Global Business and Development Law Journal*, at 260.

28 Al-Haq, *Pillage of the Dead Sea: Israel's Unlawful Appropriation of the Natural Resources of the Occupied Palestinian Territory* (September 2012) at 30; Yesh Din, *Legality of Quarry Activity in the West Bank*, Yesh Din calls for the total halt of Israeli mining and quarrying activity in the West Bank (March 2009), available at: <http://www.yesh-din.org/infoitem.asp?infocatid=15> (accessed 14 October 2013)

Recommendations to the EU on its 2013 progress report on Israel:

- Recognise that Israel is exploiting and withholding Palestinian natural resources from the occupied Palestinian people;
- Assess the implications of Israel's exploitation of Palestinian natural resources on the ability of the Palestinian Authority to implement its action plan with the EU;
- Evaluate the implementation of commitments undertaken in the EU-Israel Action Plan in light of Israel's exploitation of Palestinian natural resources;
- Stress that Israel is denying Palestinians their right to exercise self-determination in the OPT by *de facto* exercising sovereign control over the OPT and its natural resources for the benefit of Israeli citizens and the Israeli economy;
- Demand that Israel immediately grants Palestinians use and access to their rightful share of their water resources in accordance with the principle of equitable and reasonable utilisation and demand that Israel adheres to its obligations under international humanitarian law to provide water to the occupied people without discrimination;
- Request that Israel prevents its national water company 'Mekorot' from inequitably extracting water from the Palestinian share of the transboundary water resources;
- Demand that Israel allows for the development of Palestinian water infrastructure, which includes the acquisition of the necessary tools for Palestinians to construct and rehabilitate wells and wastewater treatment facilities in the Gaza Strip, in accordance with its duties under international human rights law;
- Request that Israel withdraws the mud mining permission granted in 2004 to Ahava Dead Sea Laboratory Ltd.;
- Demand that Israel withdraws all operation permissions granted to quarrying companies in the OPT which do not guarantee activities carried out in line with the rule of usufruct and Israel's obligations under Article 43 of the Hague Regulations.

Stay Connected and Updated



AL-Haq's Website: www.alhaq.org



Campaign's Website: www.alhaq.org/10years2long



AL-Haq on Facebook: www.facebook.com/alhaqorganization



AL-Haq on Twitter: www.twitter.com/AlHaq_org



AL-Haq Multimedia Channel on Vimeo: www.vimeo.com/alhaq



AL-Haq Multimedia Channel on YouTube: www.youtube.com/Alhaqhr

AL-Haq - 54 Main Street 2nd & 3rd Fl. - Opp. Latin Patriarchate
Saint Andrew's Evangelical Church - (Protestant Hall)
P.O.Box: 1413 - Ramallah - West Bank - Palestine
Tel: + 970 (0)2 2954646/7/9
Fax: + 970 (0) 2 2954903