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مركز المعلومات الإسرائيلي لحقوق الإنسان في الأراضي المحتلة-بتسيلم

**B'Tselem** – The Israeli Information Center for Human Rights in the Occupied Territories

## **Information for the Consideration of Israel**

### **Submitted to the UN Committee on Economic, Social and Cultural Rights, 47th Session, (14 November - 2 December 2011)**

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B'TSELEM - The Israeli Information Center for Human Rights in the Occupied Territories has earned international recognition as the leading source of information regarding human rights in the Occupied Territories. Founded in 1989 to monitor, document and advocate to improve the human rights situation in the Occupied Territories, B'Tselem publishes comprehensive reports on a wide variety of human rights issues, organizes public advocacy campaigns, and serves as an important source of information for journalists, researchers and the diplomatic community at the national and international level. B'Tselem has also pioneered the use of video as a tool to foster accountability and bring human rights messages to new audiences.

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## SUMMARY AND RECOMMENDATIONS

### Article 11: The Right to an Adequate Standard of Living

Israel's control of the land and water resources in the Jordan Valley and northern Dead Sea undermines the right of Palestinians to an adequate standard of living. Israel has closed off 77.5 percent of the land area to Palestinians (see map 1 below). Some land was allocated to settlements and their regional councils, and other parts were classified closed military zones or nature reserves. Israel has also taken control over most of the water sources in the area and allocated it almost exclusively for the benefit of Israeli settlements. 9,400 settlers are allocated 45 million m<sup>3</sup> water a year, almost one-third the quantity of water accessible to the 2.5 million Palestinians living throughout the West Bank. Together, these policies undermine:

***The right to water:*** Israel's control of the water sources in the area has reduced the quantity of water available to Palestinians. In 2008, Palestinians pumped 31 million m<sup>3</sup> of water in the area – 44 percent less than the amount pumped prior to the Israeli-Palestinian Interim Agreement of 1995. Bedouin communities in the area have so little water that their consumption matches the World Health Organization standard of the minimal quantity needed to survive in humanitarian-disaster areas.

**B'Tselem recommends:** In accordance with the international law prohibitions on exploitation of natural resources in occupied territory, Israel must allow Palestinians to use the water resources in the region.

***The right to housing:*** Most home demolitions in the Jordan Valley occur in closed military zones. Israel does not permit Palestinians to be present in these zones, even though many Palestinian communities lived on this land prior to 1967, and most of the zones are not being used by the military. In recent years, this prohibition has caused repeated demolition of homes in small Bedouin communities. From 2004 to March 2010, Israel demolished at least 163 residential dwellings.

**B'Tselem recommends:** Israel must cancel the firing zones and remove the threat of demolition in dozens of Bedouin communities in these areas.

***The right to work:*** As a result of closing off most of the region to Palestinians access, and the water shortages, Palestinians have been forced to neglect farmland that used to be cultivated and to switch to growing less profitable crops. Others are forced to work as laborers in Israeli settlements where working condition do not meet the standards of Israeli law, including the payment of minimum wage.

**B'Tselem recommends:** Israel must allow Palestinians to access all the areas that have been closed off to them and to use the water resources and other natural resources for economic activity.

## **Background**

The Jordan Valley and northern Dead Sea cover 28.8 percent of the West Bank, the largest land reserve in the West Bank. 87.5 percent is situated in area C, over which Israel has complete control. Abundant fertile land, water resources, minerals and tourist sites, make this the most suitable area for economic development (agriculture, industry, tourism and infrastructure) for the Palestinians and indispensable for the realization of the right to self-determination.

The area is thinly populated. Today 80, 000 Palestinians live in the area, mostly in Jericho and two other villages. There are also a number of small Bedouin communities. There are no precise estimates of the population before the Israeli presence, but UNRWA puts the figures between 50, 000 and 200, 000. 9, 400 Israeli settlers live in 37 settlements in the area.

This submission to the Committee on Economic, Social and Cultural Rights provides information regarding the economic and social impact of Israel's settlement policy in the Jordan Valley and northern Dead Sea. In a recent report, *Dispossession and Exploitation*, B'Tselem examines Israel's control over the land and water resources in the Jordan Valley and northern Dead Sea, and how it undermines the Palestinian right to self-determination and the rights of residents to an adequate standard of living, including food, water, work and housing. The findings are based on official Israeli and Palestinian data.

## **Article 6 and 7 – The right to work and the right to just and favourable conditions of work**

### ***Committee's Issues:***

*Issue 12:* Please indicate how the State party ensures the right to work of: (a) Palestinians in the West Bank whose agricultural land has been rendered inaccessible by the construction of the barrier and the State party's permit system.

*Issue 14:* Please provide information on the number and nature of complaints received by the Ombudswoman for the Complaints of Foreign Workers, on a yearly basis, as well as action taken after referral to the Ministry of Industry, Trade and Labor.

*Issue 15:* Please provide information on the wage levels by occupation, disaggregated by population group, in particular Jews and Arab Israelis.

Israel's control of the land and water resources of the Jordan Valley and northern Dead Sea has undermined the possibility for Palestinians to work their agricultural land, forcing them to seek work outside the region or in Israeli settlements.

The Jordan Valley Regional Council estimates that some 5,000 Palestinians work on the agricultural settlements in the Jordan Valley, although the number can reach up to 20,000 people during the harvest periods.<sup>1</sup>

According to a military order issued in 1981 and a High Court of Justice decision given in 2007, Israeli labor laws apply in settlements.<sup>2</sup> However, the Ministry of Industry, Trade and Labor and the employment staff officer in the Civil Administration have not enforced the labor laws in the settlements and ignore complaints of violations of the laws.<sup>3</sup>

According to testimonies given to Kav LaOved and B'Tselem, as well as documentation of the governmental committee that examined the employment of migrant workers, ***Palestinian workers in agricultural settlements in the area are paid as little as one-third the minimum wage they are entitled to receive.***<sup>4</sup> The governmental committee for shaping policy on non-Israeli workers found that the hourly rate and cost of employment of a Palestinian living in the Occupied Territories employed in agriculture was less than one-third of the rate and cost of an Israeli worker.<sup>5</sup>

<sup>1</sup> Gittit Ginat, "Up a High Tree," *Ha'aretz* Magazine, 27 September 2006; "Bitter Dates," a film produced by Kav LaOved, <http://www.youtube.com/watch?v=cwTZ2xeSAkM> (visited on 3 March 2011).

<sup>2</sup> Order Regarding Administration of Regional Councils (Judea and Samaria) (No. 783), 5739 – 1979, and in the addendum to Order Regarding Administration of Regional Councils (Judea and Samaria) (No. 892), 5741 – 1981; HCJ 1234/10, *A. Dynamica Holdings Ltd. v. Civil Administration for Judea and Samaria*, judgment of 21 July 2010; HCJ 5666/03, *Kav LaOved et al. v. National Labor Court in Jerusalem*, unanimous judgment of expanded High Court panel, given on 10 October 2007; Yuval Yoaz, "HCJ: Labor Laws Apply to Palestinians in the Occupied Territories," *Ha'aretz*, 10 October 2007; B'Tselem, *Builders of Zion: Human Rights Violations of Palestinians from the Occupied Territories Working in Israel and the Settlements* (September 1999), 73-83.

<sup>3</sup> See, for example, the letter of 8 March 2009 from Hana Zohar, executive director of Kav LaOved, to the head of the Foreign Workers Authorization Unit, in the Industry and Trade Ministry, to the ministry's legal advisor, and to Zvi Avner, chairperson of the Jordan Valley Agricultural Committee, regarding the violation of the rights of workers in the settlements Tomer, Peza'el, Massu'a, and Netiv Hagedud; Amira Hass, "Industry and Trade Ministry will Enforce Minimum Wage for Palestinians in Settlements," *Ha'aretz*, 15 January 2006.

<sup>4</sup> The minimum wage is NIS 20.92 per hour, from NIS 154-179.50 a day, depending on the number of workdays, and NIS 3,890.25 a month as of 1 April 2011. See updates of the minimum wage on the Ministry of Industry and Trade website, <http://www.tamas.gov.il/NR/exeres/01E4A3A1-5BCE-4B2A-A843-40385C3392CE.htm> (visited on 3 March 2011) [Hebrew]

<sup>5</sup> The gross hourly wage for a Palestinian worker in agriculture is NIS 8 compared with NIS 18.10 for a foreign worker and NIS 26.80 for an Israeli worker. The cost of employing a Palestinian worker in agriculture is NIS 10 an hour, compared to NIS 24.30 for a foreign worker and NIS 34.20 for an Israeli worker. See Eckstein Report, "Table of Labor Cost for Uneducated Israelis and of Non-Israeils in Agriculture, Construction, and Nursing, for 2005," 36

Documentation of Kav LaOved and press reports indicate that workers engaged in pruning and harvesting hundreds of thousands of date trees in the settlements are especially exploited, with the employers violating safety regulations on working at height.<sup>6</sup> Some of these workers were not provided personal protective equipment against pesticides; some were compelled to climb to the tops of short date trees, a height of 10 meters, without the aid of a crane. Some laborers were compelled to remain there most of the day, without any safety device, such as a lifting platform, safety harnesses, or apparatus to stop a fall.<sup>7</sup>

## **Article 11 – The right to an adequate standard of living**

### **Home demolitions and building restrictions**

*Committee's Issue 24: Please indicate whether the State party's policies on home demolitions and evictions in Area C meet its obligations arising from the Covenant: (a) to consult with the affected persons; (b) to explore all possible alternatives prior to evictions; and (c) to provide effective remedies to those affected by forced evictions carried out by the State party's military. Please indicate if the development of special outline plans and closed military zones is preceded by consultations with affected Palestinian communities, so as to obtain their informed consent*

Israeli policy undermines the right to an adequate standard of living of Palestinian communities in the Jordan Valley and northern Dead Sea in two principal manners. The first is by declaring large swathes of land as closed military zones (45.7%) and nature reserves (20%) and closing them off to Palestinians (see map 2 below). The second is by preparing extremely restricted zoning plans for communities that Israel recognizes, preventing any further construction and development and limiting access to agricultural land.

#### **1) Home demolitions in closed military zones**

**Most home demolitions of Palestinian in the Jordan Valley occur in the closed military zones.** Israel does not permit Palestinians to be present in these zones, even though many Palestinian communities lived on this land prior to 1967. In recent years, this prohibition has caused repeated demolition of structures in small Bedouin communities, often demolishing all the temporary structures of these communities. The communities are not consulted, compensated or provided with alternative farmland or housing.

According to B'Tselem's figures, from 2004 to the end of March 2010, the Civil Administration demolished at least 163 residential dwellings in Palestinian communities in the Jordan Valley, as well as an unknown number of agricultural structures, most of them on the grounds that they were built in closed military areas. The demolished dwellings were

<sup>6</sup> Labor Safety Regulations (Working at Height), 5767 – 2007, Ministry of Industry, Trade, and Labor, <http://www.tamas.gov.il/NR/exeres/A8107512-6A12-4DAC-989D-AA234A4667A6.htm> (visited on 3 March 2011) [Hebrew]. See also the comments of Attorney Hani Ben-Yisrael, of Kav LaOved, in the movie "Bitter Dates."

<sup>7</sup> The method of employment in which Palestinian workers are left on the tops of date trees throughout the workday is called "taxi drivers." See Gittit Ginat, "Climbing a High Tree," "Forbidden Work Method," and "Who Benefits from the Jordanian Law," *Ha'aretz*, 27 September 2006, <http://www.haaretz.co.il/hasite/pages/ShArtPE.jhtml?itemNo=762282&contrassID=2&subContrassID=13&sbSubContrassID=0> (visited on 3 March 2011); "Bitter Dates."

home to 1,060 Palestinians, among them 340 minors. So far, the Civil Administration's efforts have been directed at three villages: Khirbet Tana,<sup>8</sup> al-Aqabah,<sup>9</sup> and al-Farsiya.<sup>10</sup>

Israel declared the closed military zones in the late 1960s and 70s during the time that Palestinian armed groups tried to enter the West Bank via the Jordan Valley. However, Israel did not reduce the closed military zones after the number of attempts dropped since the 1970s. Nor were the military zones reduced after the Israeli-Jordanian peace agreement was signed in 1994 and many military bases in the area were evacuated. Today, some of the closed military zones are clearly not being used; they are located next to main roads and to settlements. Some are even used by settlers to grow crops.

International humanitarian law prohibits damage to property of the population under occupation. Article 46 of the Hague regulations states that private property must be respected and may not be confiscated. Article 53 of the Fourth Geneva Convention states that destruction of real or personal property is prohibited "except where such destruction is rendered absolutely necessary by military operations."<sup>11</sup>

**Israel is not allowed to exploit occupied territory for military training without claiming that such training is an imperative military need as defined by international humanitarian law. This does not seem to be case given the negligible use of the training areas. Given this, Israel must cancel the firing zones and remove the threat of demolition in dozens of Bedouin communities in these areas. At minimum, it must drastically reduce the amount of land delineated for firing zones in order to achieve a reasonable balance with the property rights of the Palestinians living in the Jordan Valley.**

## **2) Restrictions on building for Palestinian communities in area C**

For Palestinian communities in area C who are not within closed military zones or nature reserves, Israel limits any possibility for sustainable development, does not allocate lands for future needs of the communities and limits construction of new buildings. Plans are prepared in a non-transparent manner and with no involvement of the communities.

Israel justifies its policy on the grounds that it does not want "extreme changes in the work patterns that had developed" under Jordanian rule, and in reliance on British Mandate outline

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<sup>8</sup> The village Khirbet Tana lies east of Beit Furik, on land that has been declared a closed military area. The village has about 600 residents. The residents petitioned the High Court of Justice, demanding that the Civil Administration prepare an outline plan for the village and reduce the size of the closed area in which they live. The court denied the petition, holding that it relied on the decision of the Civil Administration's planning authorities, which, "for substantive reasons based on environmental needs," have not prepared a plan for the village. The court also censured the residents for not taking the initiative to prepare a building plan for their community.<sup>8</sup> Since the residents filed their first petition, in 2005, the Civil Administration has demolished the structures in the village six times, four of them in 2011. In the last demolition operation, the Civil Administration sealed ancient caves that residents used as dwellings and for sheltering their flocks.<sup>8</sup> Despite the repeated demolitions, the residents continue to live in the village.

<sup>9</sup> In 2008, the Civil Administration tried to demolish 35 of the 48 structures in the village al-'Aqabah. Among the structures designated for demolition were a mosque, a kindergarten, and a medical clinic. The plan was frozen when village leaders petitioned the High Court of Justice to order the Civil Administration to prepare an outline plan for the village and began a public campaign together with international organizations. In response to the petition, the Civil Administration proposed demarcating the land on which construction was permitted, with most of the existing structures being located within the demarcated area. However, the Civil Administration did not propose a solution for the other structures, and did not allocate land for future development of the village.<sup>9</sup>

<sup>10</sup> In the summer of 2010, the Civil Administration demolished, in two waves, all of the 80 temporary structures in the Bedouin village al-Farsiya, to the east of which the Shademot Mehola settlement was built. Among the structures demolished was a packing house that had been built some 30 years ago in cooperation with the Israeli agricultural export company Agresco. The Civil Administration also confiscated water pumps and much farm equipment belonging to the residents.<sup>10</sup> The village has since been rebuilt.

<sup>11</sup> The Hague Convention of 1907 and its attached regulations are available at [http://avalon.law.yale.edu/20th\\_century/hague04.asp](http://avalon.law.yale.edu/20th_century/hague04.asp). The Fourth Geneva Convention is available at [http://avalon.law.yale.edu/20th\\_century/geneva07.asp](http://avalon.law.yale.edu/20th_century/geneva07.asp).

plans that were prepared for the area in the 1940s. As a result, Israel prohibits Palestinian construction in these areas.<sup>12</sup> But it does not prevent the Israeli planning system from approving extensive building and development plans for settlements in the area.<sup>13</sup>

The small number of plans that Israel has prepared for Palestinian communities are much more limited than the plans for settlements in the area. For example, the plan for al-Jiftlik, a village in which 5,176 Palestinians live, contains only 590 dunams (59 hectares).<sup>14</sup> In comparison, the plan approved in 2008 for the Maskiyot settlement, in which an estimated 200 settlers lived, covered 690 dunams (69 hectares).

## Water

*Committee's Issue 27: Please provide information on measures taken by the State party to restore the water infrastructure of the West Bank including in the Jordan Valley, after the destruction of the local civilians' wells and other water and irrigation facilities under military and settler operations since 1967. Please indicate what measures the State party has undertaken to ensure equal and equitable availability, access, affordability, acceptability and quality of water across the Occupied Palestinian Territories, as indicated in the Committee's general comment No.15 (2002) on the right to water?*

### Reduced availability and quality of water

Israel has taken control of most of the water sources in the Jordan Valley and northern Dead Sea and has earmarked most of it for the settlers in the area, while ignoring Palestinian communities and the chronic water shortage in the rest of the West Bank. Israel's control of the water sources has contributed to limited quantities of water available to Palestinians. In 2008, Palestinians pumped 31 million cubic metres of water in the area – 44 percent less than the amount pumped prior to the Israeli-Palestinian Interim Agreement of 1995. Due to the water shortage, Palestinians have been forced to neglect large parts of their farmland.

Currently there are 89 active Palestinian wells in the Jordan Valley; prior to 1967, there were 209. Most of the wells in operation are for agricultural use, and few are intended for household purposes. Some Palestinian wells in the northern Jordan Valley have dried up and other may have been affected because of Israeli drillings nearby, which are deeper and more sophisticated, and affect the amount of water the Palestinians can pump, as well as the quality. Palestinian are not allowed to develop flexible methods of managing their water sector, such as collecting rain water or drilling to a depth below 150 meter and are banned from using the

<sup>12</sup> For further discussion, see the affidavit response of 18 April 1980 made by the director of the Planning Office, in HCJ 145/80, *Al-Ta'unuyyah Jam'iyyat Iskan al-Mu'aliman et al. v. Minister of Defense et al.* For a discussion on the Mandatory plan's building provisions, see *The Prohibited Zone*, 48-53, 73. Email correspondence of 15 March 2011 from Alon Cohen-Lifshitz, of Bimkom.

<sup>13</sup> The database of Brig. Gen. Baruch Spiegel mentions the settlements Argaman, Beka'ot, Mekhora, Ro'i, and Rimmonim, in which building was approved under military orders. According to the database, the settlements Avenat, Rotem (which was built on land of an airport, on which building is prohibited), Hemdatt, and Maskiyot, the construction was carried out without approved plans

<sup>14</sup> In 2005, Israel approved an additional plan for al-Jiftlik. The village is surrounded by settlements: Argaman to the east, Massu'a to the south, and Hamra, to the northwest, which were allocated extensive lands for agricultural purposes. **The plan, which relates to three sections in the village and was prepared without the involvement of the residents, does not enable building and development.** The planners also ignored the need to arrange family ownership of the land in the village in a way that would enable each family equal rights to build and would allocate other areas for future development or for roadways. According to information provided by residents to Bimkom, in 2006-2008, following approval of the plan, the Civil Administration issued 100 demolition orders for structures in the village that had been built outside the borders of the plan, and demolished thirty of them. From email and conversation with Alon Cohen-Lifshitz, 15 and 16 March 2011

water resources of the Jordan river basin, now exploited by Israel, Jordan and Syria.

Only recently has the Israeli-Palestinian Joint Water Committee, which has the authority to approve water projects in the West Bank, approved in principle the restoration of some 50 Palestinian wells that had been active before 1967.

### **Discrimination and Unequal Access to Water**

9,400 settlers are allocated 45 million cubic meters of water per year, 97.5% of it for agriculture, from the local Israeli water drilling, artificial water reservoirs, the Jordan river and from partially treated wastewater from the city of Jerusalem (West and East Jerusalem) and its surrounding settlements.<sup>15</sup> This is equivalent to almost one-third the quantity of water accessible to the 2.5 million Palestinians living throughout the West Bank. The average quantity of water that Israel pumps from drillings in the Jordan Valley is 32 million cubic meters. Per capita, settlers in the Jordan Valley and northern Dead Sea were allocated 13,086 liters of water, most for agricultural use, almost 180 times greater than the per capita quantity accessible to Palestinians in the West Bank.<sup>16</sup>

The huge disparity between the quantity of water allocated to settlements in the area and water consumption in nearby Palestinian communities is even clearer when compared to the situation between adjacent communities. The per capita allocation, for household use only (excluding agriculture), in the Ro'i settlement, in the northern Jordan Valley, was 431 liters, and in the nearby Beka'ot settlement, 406 liters. These settlements were established next to the Bedouin community al-Hadidya. In the Bedouin community, which is not connected to regular water supply, per capita water consumption was less than 5 percent of this figure, only 20 liters (a quantity similar to that found in disaster areas).<sup>17</sup>

### **Affordability of Water**

The monthly cost of water for a Palestinian family is three times higher than for a family living in a settlement. According to the World Bank's figures, the average monthly expenditure for water by a Palestinian family is 283 Israeli shekels (Euros 58), which represent 8 percent of the family's monthly expenditures, a percentage more than twice as high as the average figure worldwide. In the Jordan Valley, there are dozens of small Bedouin communities that are not connected to running water and residents have to buy water from water-tank operators. In communities not connected to running water, the cost for water amounts to half the family's monthly expenditures – 1,744 Israeli shekels. In comparison, the average monthly cost for water consumption for a family in the settlements is 105 shekels (Euros 21), which represents 0.9 percent of the family's monthly expenditures.<sup>18</sup>

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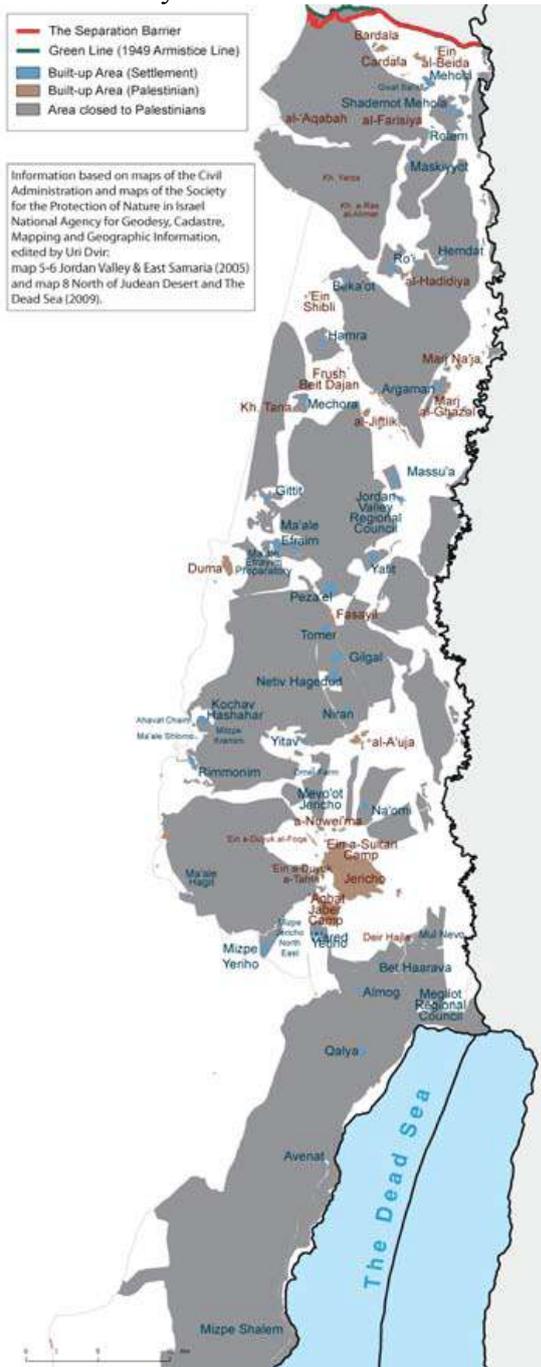
<sup>15</sup> From drillings, from the Jordan River, from treated wastewater, and from artificial water reservoirs

<sup>16</sup> For details on average water consumption in the West Bank, see BTselem, "24 March 2010: International Water Day: Chronic water shortage in the West Bank due to discriminatory division of shared resources," [http://www.btselem.org/english/water/20100324\\_International\\_water\\_day.asp](http://www.btselem.org/english/water/20100324_International_water_day.asp).

<sup>17</sup> The comparison was made based on the data in *Development of the Palestinian Valley*, 14-15; statistics of the Water Authority on allocation of water for 2008 for administrative areas. The figures represent household use in the settlements and do not include allocations for agricultural or industrial use.

<sup>18</sup> According to the World Bank, water consumption accounts for 3.5 percent of family monthly expenditures worldwide. See *Assessment of Restrictions on Palestinian Water Sector Development*, 21-22. The average total expenditures for a family in the West Bank is 708 Jordanian dinars (NIS 3,548 at the current exchange rate). See Palestinian Central Bureau of Statistics, "On the Occasion of World Population Day, 11 July, PCBS Issues a Statistical Overview on Palestinian Population," 11 July 2008. For figures on family expenditures in the settlements, see "Schedule 6.13: Monthly Expenditure for Household Consumption, by Sub-district, for 2006," in Prof. Dan Suan and Dr. Vered Neeman-Haviv (eds.), *Judea and Samaria Statistical Yearbook 2007* (Ariel University Center of Samaria and Jordan Valley Research and Development Center, 2008), 125 [Hebrew]. Average total family expenditures in the settlements were NIS 11,502.

Map 1: Areas closed to Palestinians in the Jordan Valley and northern Dead Sea



Map 2: Closed military zones and nature reserves in the Jordan Valley and northern Dead Sea

