



**Joint Parallel Report submitted by
the Emergency Water, Sanitation and Hygiene group (EWASH)
and Al-Haq
to the Committee on Economic, Social and Cultural Rights
on the occasion of the
consideration of the Third Periodic Report of Israel**

**Israel's violations of the International Covenant
on Economic, Social and Cultural Rights
with regard to the human rights to water and sanitation
in the Occupied Palestinian Territory**

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I. INTRODUCTION

1. The Emergency Water, Sanitation and Hygiene group (EWASH) is a coalition of almost 30 organisations working in the water and sanitation sector in the occupied Palestinian territory¹. Established in 2002, its members include international and national NGOs and UN Agencies. EWASH is a coordination body seeking to improve Water, Sanitation and Hygiene conditions in the occupied Palestinian territory and minimize the adverse effect of the political situation and environmental factors on the Water, Sanitation and Hygiene sector. For further information see www.ewash.org.

2. Al-Haq is an independent Palestinian non-governmental human rights organization based in Ramallah, West Bank. Established in 1979 to protect and promote human rights and the rule of law in the occupied Palestinian territory, the organization has special consultative status with the United Nations Economic and Social Council. Al-Haq documents violations of the individual and collective rights of Palestinians in the occupied Palestinian territory, irrespective of the identity of the perpetrator, and seeks to end such breaches by way of advocacy before national and international mechanisms and by holding the violators accountable. The organization conducts research; prepares reports, studies and interventions on breaches of international human rights and humanitarian law in the occupied Palestinian territory; and undertakes advocacy before local, regional and international bodies. Al-Haq also monitors governmental institutions and cooperates with Palestinian civil society organizations in order to ensure that international human rights standards are reflected in Palestinian law and policies. For further information see www.alhaq.org.

3. EWASH and Al-Haq respectfully submit this Parallel Report to bring to the attention of the Committee on Economic, Social and Cultural Rights (Committee) Israel's lack of compliance with the International Covenant on Economic, Social and Cultural Rights (Covenant) in regard to the human rights to water and sanitation. The limitations of this report should not be understood to imply that Israel complies or does not comply with articles of the Covenant which are not mentioned here.

4. In submitting this report to the Committee, EWASH and Al-Haq wish to provide information which is of relevance to its review of Israel's Third Periodic Report on its implementation of the Covenant, and in particular Israel's response to the Committee's List of Issues from 9 December 2010, in particular paragraphs 2, 27 and 30.

5. While this parallel report focuses with particularity on the rights to water and sanitation, the violations of those rights as discussed below result in violations of other rights under the Covenant, including the right to self-determination (Art. 1), the right to an adequate standard of living (Art. 11), the right to adequate housing (Art. 11), the right to food and the right to be free from hunger (Art. 11), and the right to the enjoyment of the highest attainable standard of physical and mental health (Art. 12).

II. ISRAEL'S LEGAL OBLIGATIONS IN THE OPT

6. EWASH and Al-Haq reiterate the obligation of Israel, as an Occupying Power, to implement the Covenant in respect to the entirety of the occupied Palestinian territory (Gaza Strip and the West Bank including East Jerusalem) and to afford Palestinians their rights as enshrined therein. Furthermore, EWASH and Al-Haq affirm that Palestinians are entitled their right to self-

¹ Please visit www.ewash.org for full list of members

determination, as set forth in Article 1 of the Covenant. Israel's denial of Palestinians' right to self-determination has effectively blocked Palestinians' realization of other rights guaranteed within the Covenant, including the rights to water and sanitation.

7. Israel is obligated to respect, protect and fulfil the International Covenant on Economic, Social and Cultural Rights in the occupied Palestinian territory of the Gaza Strip and the West Bank including East Jerusalem. Indeed, the International Court of Justice deliberated upon this matter in the Advisory Opinion on *Legal Consequences of a Wall in the Occupied Palestinian Territory* in which the Court found that, in the occupied Palestinian territory, "Israel is bound by the provisions of the International Covenant on Economic, Social and Cultural Rights" and that Israel was "under an obligation not to raise any obstacle to the exercise of such rights in those fields where competence has been transferred to Palestinian authorities."²

8. This holding was reaffirmed by the Committee on Economic, Social and Cultural Rights itself, when it reiterated that Israel is bound by the Covenant towards all Palestinians in the occupied Palestinian territory, including the occupied Gaza Strip. Indeed, all UN treaty bodies mandated to monitor compliance with Israel's treaty obligations have categorically held that human rights treaties ratified by Israel apply to the occupied Palestinian territory. In its Concluding Observations on Israel in 2003, the Committee reiterated "its view that the State party's obligations under the Covenant apply to all territories and populations under its effective control."³ The Committee also repeated "its position that even in a situation of armed conflict, fundamental human rights must be respected and that basic economic, social and cultural rights, as part of the minimum standards of human rights, are guaranteed under customary international law and are also prescribed by international humanitarian law" and that "the applicability of rules of humanitarian law does not by itself impede the application of the Covenant or the accountability of the State under article 2 (1) for the actions of its authorities."⁴

9. Even with the adoption of the Oslo Accords and the creation of the Palestinian Authority, Israel retains effective control over all of the occupied Palestinian territory and Israel retains control over the Palestinian population's access to vital resources including land and water – issues left for the yet to be resolved final status negotiations. Concluding Observations of UN treaty bodies adopted after the Oslo Accords and after the creation of the Palestinian Authority make clear that Israel is still obligated to abide by its treaty obligations in the occupied Palestinian territory.⁵

10. That Israel is obligated to respect, protect and fulfil the International Covenant on Economic, Social and Cultural Rights in the occupied Palestinian territory was also reaffirmed by the international community. For instance, the Human Rights Council recently called upon Israel immediately to abide by "international protection for the Palestinian people in the Occupied Palestinian Territory, in compliance with international human rights and humanitarian law, applicable in the Occupied Palestinian Territory, including East Jerusalem."⁶

² International Court of Justice, *Legal Consequences of a Wall in the Occupied Palestinian Territory*, Advisory Opinion of 9 July 2004, I. C. J. Reports 2004, p. 136 at para. 112.

³ Committee on Economic, Social and Cultural Rights, Concluding Observations: Israel, UN Doc. E/C.12/1/Add.90 at para. 31 (26 June 2003).

⁴ *Id.*

⁵ See, e.g., Committee on Economic, Social and Cultural Rights, Concluding Observations: Israel, UN Doc. E/C.12/1/Add.69, at para. 12 (31 August 2001); Committee on Economic, Social and Cultural Rights, Concluding Observations: Israel, UN Doc. E/C.12/1/Add.90 at para. 31 (26 June 2003).

⁶ UN Human Rights Council, Resolution 16/29, UN Doc. A/HRC/RES/16/29 (13 April 2011).

III. VIOLATIONS OF THE HUMAN RIGHT TO WATER AND SANITATION

A. *Human Right to Water and Sanitation*

11. In its General Comment No. 15 (2002), the Committee affirmed that the right to water was implicitly guaranteed within the International Covenant on Economic, Social and Cultural Rights.

12. On 8 July 2010, the United General Assembly affirmed the human right to water and sanitation, making explicit reference to General Comment No. 15 (2002).⁷ Subsequently, the UN Human Rights Council, on 30 September 2010, reaffirmed that the right to drinking water and sanitation was legally binding and linked to existing human rights treaties, including the International Covenant on Economic, Social and Cultural Rights.⁸ The Council also reaffirmed “that the human right to safe drinking water and sanitation is derived from the right to an adequate standard of living and inextricably related to the right to the highest attainable standard of physical and mental health, as well as the right to life and human dignity.”⁹

13. General Comment No. 15 states, among other things, that “The human right to water entitles everyone to sufficient, safe, acceptable, physically accessible and affordable water for personal and domestic uses”¹⁰ and further that:

The right to water contains both freedoms and entitlements. The freedoms include 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. By contrast, the entitlements include the right to a system of water supply and management that provides equality of opportunity for people to enjoy the right to water.¹¹

14. Under the Covenant, States have obligations to respect the right to water by refraining from interfering directly or indirectly with the enjoyment of the right to water, to protect the right to water by preventing third parties from interfering in any way with the enjoyment of the right to water, and to fulfil the right to water by adopting the necessary measures directed towards the full realization of the right to water.¹²

15. Examples of violations of the right to water explicitly mentioned in General Comment No. 15 (2002) include arbitrary or unjustified disconnection or exclusion from water services or facilities; pollution and diminution of water resources affecting human health; failure to enact or enforce laws to prevent the contamination and inequitable extraction of water; failure to protect water distribution systems (e.g., piped networks and wells) from interference, damage and destruction; failure to adopt or implement a water policy designed to ensure the right to water

⁷ UN General Assembly Resolution 64/292, The human right to water and sanitation, UN Doc. A/RES/64/292 (8 July 2010).

⁸ UN Human Rights Council, Resolution 15/9, Human rights and access to safe drinking water and sanitation, UN Doc. A/HRC/RES/15/9 (30 September 2010).

⁹ *Id.*

¹⁰ Committee on Economic, Social and Cultural Rights, General Comment No. 15, UN Doc. E/C.12/2002/11 (2002) at para. 2.

¹¹ *Id.* at para. 10.

¹² *Id.* at paras. 21 – 29.

for everyone; insufficient expenditure or misallocation of public resources which results in the non-enjoyment of the right to water by individuals or groups, particularly the vulnerable or marginalized; the failure to take measures to reduce the inequitable distribution of water facilities and services; and failure to ensure that the minimum essential level of the right is enjoyed by everyone.¹³

16. Speaking directly to the issue of blockades, General Comment No. 15 states that “States parties should refrain at all times from imposing embargoes or similar measures, that prevent the supply of water, as well as goods and services essential for securing the right to water” and that “water should never be used as an instrument of political and economic pressure.”¹⁴

17. Elaborating upon this strict prohibition of using water as an instrument of political and economic pressure, in its General Comment No. 8 on the relationship between economic sanctions and the respect for economic, social and cultural rights, the Committee makes clear that “the imposition of sanctions does not in any way nullify or diminish the relevant obligations of that State party” and that indeed “those obligations assume greater practical importance in times of particular hardship.”¹⁵

18. Finally, the Committee affirmed “the obligation of States parties to guarantee that the right to water is enjoyed without discrimination”¹⁶ and in its General Comments No. 3 and No. 15 stipulated that deliberately retrogressive measures are generally prohibited unless justified by reference to the totality of the rights provided for in the Covenant and in the context of the full use of the maximum available resources. The Committee has also made clear that “ensuring that everyone has access to adequate sanitation is not only fundamental for human dignity and privacy, but is one of the principal mechanisms for protecting the quality of drinking water supplies and resources.”¹⁷

19. It is clear in the context of the occupied Palestinian territory, as described below, that obligations to respect, protect and fulfil the rights to water and sanitation as well as both the prohibition on discrimination and the prohibition on unjustified retrogressive measures are violated by Israel on an ongoing basis.

B. Violations in the West Bank

1. Contextual Background

20. While a series of droughts have affected the region in recent years, the water shortages in the West Bank are not solely the result of natural phenomena. Indeed, water is not scarce in the region as it contains several productive aquifers, generally replenished by ample rainfall, as well as the Jordan River and other natural water sources. Rather, the lack of water for Palestinians is the result of deliberate acts and omissions of Israel. Israel’s policies and practices in the West Bank have been to expropriate and assert control over Palestinian water resources as well as land,

¹³ *Id.* at para. 44.

¹⁴ *Id.* at para. 32.

¹⁵ Committee on Economic, Social and Cultural Rights, General Comment 8, The relationship between economic sanctions and respect for economic, social and cultural rights (Seventeenth session, 1997), U.N. Doc. E/C.12/1997/8 (1997), reprinted in *Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies*, U.N. Doc. HRI/GEN/1/Rev.6 at 50 (2003) at para. 10.

¹⁶ *Id.* at para. 13.

¹⁷ *Id.* at para. 29.

maintain an unequal and discriminatory allocation of water resources to benefit both Israeli citizens living in Israel and those living in West Bank settlements, which are illegal under international law, and prevent Palestinians from developing or accessing their own resources and thus undermining their right to self-determination. This situation has been achieved primarily through the issuance of military orders subsequent to the occupation, which transferred the power over water resources and water resource management to the occupation authorities. Civil administration laws and policies, particularly in the East Jerusalem area of the West Bank, also contribute to violations of the rights to water and sanitation. The Oslo peace process only served to formally institutionalise this arrangement. Under the terms of the Oslo II Agreement of September 1995, for instance, Israel was allocated nearly six times more water from trans-boundary underground aquifers. Furthermore, Israel extracts in excess of that amount which jeopardizes the long-term sustainability of the aquifer. One result of this discriminatory access to water, is that today Israeli citizens consume on average four to six times more water than a Palestinian living in the West Bank.

21. Israel has also actively prevented the construction and maintenance of water and sanitation infrastructure in the West Bank. This has primarily been achieved through Israel exercising its effective veto through the Joint Water Committee, which is mandated to approve all water and sanitation projects in the West Bank. In areas of the West Bank that remained under direct Israeli control following Oslo (around 61 per cent of West Bank territory) a further layer of bureaucracy exists, as the Israeli Civil Administration must grant a permit for any construction, including water and sanitation projects. The vast majority of applications for a permit are denied, and any structure built without a permit faces the risk of demolition by the Israeli authorities and subsequent forced displacement. In the first seven months of 2011, demolitions of water infrastructure, other livelihood infrastructure and homes have forcibly displaced 755 people and affected the livelihood of some 1,400 others. This is more than during the whole year of 2010 when 606 people were forcibly displaced.¹⁸ As well as prohibiting nearly all construction of wells necessary for Palestinians to secure additional quantities of water to support population growth and socio-economic development, such policies have denied communities access to water and sanitation facilities, including water, toilets, sewage networks and cisterns for rainwater harvesting.¹⁹ In addition to destruction of cisterns and wells, Israeli military and Israeli settlers routinely shoot holes in and consequently destroy water tanks on Palestinian homes.²⁰

22. Israeli so-called 'security' measures inside the West Bank such as roadblocks, checkpoints and the construction of the Separation Wall, which result in violating freedom of movement, have also obstructed Palestinian access to water resources, services and facilities, resulting in severe suffering of the Palestinian population. Areas that have been confiscated by settlements, designated closed military areas, nature reserves and 'settler only' roads have left large areas of the West Bank inaccessible to Palestinians. Such measures isolate Palestinian communities from their springs, wells and other water points once relied upon for domestic and agricultural purposes; force Palestinians to travel long distances to access what water is available; and hinder water tankers and sewage disposal trucks from accessing certain areas, causing them to make long detours which due to increased time and fuel costs have rendered such services unaffordable in many cases. What few wells and springs are available to Palestinians are

¹⁸ Information gathered by the Displacement Working Group, facilitated by OCHA, August 2011.

¹⁹ Israel prohibits the construction of wells in both the Western and North Eastern Aquifers and has only recently allowed a few wells to be constructed in the Eastern Aquifer, albeit these are not sufficient to allow for Palestinian development of the agreed additional water under Oslo.

²⁰ See, e.g., COHRE, *Policies of Denial: Lack of Access to Water in the West Bank*, Geneva: COHRE 2008; Amnesty International, *Troubled Waters: Palestinians Denied Fair Access to Water*, London: AI 2009.

generally degraded on account of Israel drilling deeper and more efficient wells nearby, further impacting the availability and accessibility of water for the Palestinian population. Finally, the lack of access to and control over land also results in the inability of the Palestinian Authority to divert water from the few areas in the West Bank with sufficient access, such as Jericho, to the many areas in the West Bank facing a severe water crisis. The result is a serious water crisis in the West Bank, as in the Gaza Strip, that is caused by the deliberate actions and omissions of Israel.

2. Intentional Discrimination in Availability of and Access to Water

23. Discrimination in availability of and access to water in the West Bank can be seen in the comparison of access by Palestinians to that of the Israeli settlers. The unlawfulness of this discrimination is exacerbated by the fact that the Israeli settlements themselves are unlawful under international law, but the disparities that exist in Israeli policy and practice demonstrate intentional discrimination in availability of and access to water.

24. According to the WASH Cluster,²¹ some 13,000 Palestinians living in 99 communities in Area C of the West Bank are considered at high risk of water scarcity, since they are not connected to the water network, nor have any reliance in the form of water storage and depend on trucking of water, often of questionable quality. Another 300,000 in 234 communities are considered at medium risk of water scarcity. Overall, in the West Bank there are some 50,000 people in 151 communities that receive less than 30 litres per person per day.²² Furthermore, as detailed below, some communities have access to less than 25 litres per person per day, which is on par with disaster and humanitarian crisis criteria.²³ These amounts are well below the minimum 100 litres per person per day which according to the World Health Organisation is necessary for human dignity and thus should be considered a minimum core obligation to provide. According to Amnesty International, 180,000 to 200,000 Palestinians living in rural areas have no access to the water network.²⁴

25. It must be noted that Israel has sole authority over access to water in Area C of the West Bank, including over the construction of new wells and cisterns as well as upgrading existing wells and other water infrastructure. In Areas A and B, the ability to transfer water is severely inhibited on account of the non-contiguous nature of those areas. Many decisions on water and sanitation rest with the Israeli Civil Administration which rather than meeting the obligation to fulfil the right to water and sanitation is, in the words of the World Bank, a “severe constraint” to implementing necessary water and sanitation projects in the West Bank, including by rarely providing the permits required by Israel for construction and by, in practice, denying Palestinians from construction in over 99 per cent of Area C.²⁵

26. The situation in the Jordan Valley provides a striking example of discriminatory policies and practices with respect to access to water and sanitation, again with favouritism towards Israeli settlements which are themselves illegal under international law. Palestinians are barred

²¹ The Water, Sanitation and Hygiene (WASH) Cluster consists of all emergency WASH actors and is lead by UNICEF.

²² WASH Cluster rapid assessment on Water Scarcity, February-April 2011.

²³ See, B’Tselem, *Dispossession and Exploitation: Israel’s Policy in the Jordan Valley and Northern Dead Sea*, (May 2011).

²⁴ Amnesty International, *Troubled Waters: Palestinians Denied Fair Access to Water*, London: Amnesty International 2009 at p. 12.

²⁵ World Bank, *Sector Note: Assessment of Restrictions on Palestinian Water Sector Development*, April 2009, at p. 54 – 55; also cited in UN OCHA, *Special Focus: Restricting Space: The Planning Regime Applied by Israel in Area C of the West Bank*, December 2009, at p. 12.

from 77 per cent of the Jordan Valley, including all access to the Jordan River and adjacent springs, and have access to only 30 per cent of the water production from the Eastern Aquifer while Israeli utilizes 70 per cent with 75 per cent of that amount going to Israeli settlements.²⁶

27. The availability of and access to water enjoyed by Israeli settlers demonstrates that resources are available to provide water in the West Bank. In other words, the lack of sufficient water for Palestinians in the West Bank is not on account of lack of available resources but rather of lack of political will, and indeed outright discrimination, by Israel. It also has to be pointed out that the presence of Israeli settlements in the occupied Palestinian territory is illegal under international law, thereby exacerbating the violations by Israel in the occupied territory. Notwithstanding this illegal presence, in order to ensure continuous access to water for Israeli settlers in the West Bank, Mekorot, the Israeli water company, actually reduces or temporarily cuts off what little water is supplied to Palestinians.²⁷ Additionally, when Palestinians do have piped water, it is usually junctioned off of water for Israeli settlements, albeit with lesser volume and smaller diameter pipes, with the junction placed within the settlement where settlers often disconnect or otherwise shut down the water flowing to the Palestinian villages. Finally, supply of water to Palestinian cities and villages is not continuous, particularly in the summer, and Palestinians can go without water for weeks on end. The result of the overall situation is that, generally, Israeli settlers in the West Bank, which now number nearly 500,000 persons, consume approximately six times the water consumed by Palestinians. This amount if even higher when use for agricultural purposes is factored in.

28. A direct comparison between availability of and access to water of Israeli settlers and Palestinians provides a stark example of discrimination in provision of and access to water resources. As mentioned above, Israeli settlers have access to water in amounts often greater than those available to Israelis living within Israel, while Palestinians generally have well below the WHO recommended 100 litres per person per day, and many Palestinian villages have access to water in amounts similar to disaster situations.

29. Specific examples include the Dead Sea settlements of Mitzpe Shalen and Qalya, both of which enjoy approximately 700 litres of water per person per day, while the Palestinian village of al-Jiftlik has access to only 66 litres of water per person per day and the Palestinian villages of al-Nuwe'i'ma and al-Hadidiya are struggling at humanitarian crisis levels of 24 and 22 litres of water per person per day respectively.²⁸

30. The following table provides further examples of this stark situation by comparing Israeli settlements' availability of and access to water with that of nearby Palestinian villages.²⁹

Israeli Settlement	Litres/person/day	Nearby Palestinian village	Litres/person/day
Beda'ot	401	Tubas	30
Niran	433	Al-A'uja	82
Arganan	411	A-Zubeidat	82
Ro'i	431	Al-Hadidiya	20
Beqa'ot	406	Al-Hadidiya	20

²⁶ Interview with B'Tselem, July 2011.

²⁷ Ma'an Development Center, *Draining Away: The Water and Sanitation Crisis in the Jordan Valley*, 2011.

²⁸ See, B'Tselem, *Dispossession and Exploitation: Israel's Polity in the Jordan Valley and Northern Dead Sea* (May 2011).

²⁹ See, *id.*

31. It is clear that discrimination in availability of and access to water rises to a violation of the right to water, and in particular the requirements outlined in General Comment No. 15 “to adopt or implement a water policy designed to ensure the right to water for everyone;” to avoid “insufficient expenditure or misallocation of public resources which results in the non-enjoyment of the right to water by individuals or groups, particularly the vulnerable or marginalized;” and the requirement “to take measures to reduce the inequitable distribution of water facilities and services” and “to ensure that the minimum essential level of the right is enjoyed by everyone.” However, in this context the discrimination demonstrates the intent of not providing sufficient water to the Palestinian population and equal access cannot be the proper remedy as the Israeli settlements themselves are illegal under international law. Rather, the Israeli settlements must be discontinued and the demonstrated ability to provide sufficient water in the West Bank be afforded to the indigenous Palestinian population.

32. Finally, sewage from Israeli settlement is often discharged into Palestinian area, which contaminates the few water resources that are available for Palestinians.

33. Beyond the violation of the right to water, the lack of availability of and access to water, coupled with the denial of access to and control over land, results in violations of the right to self-determination and the right to food and to be free from hunger by having a detrimental impact on economic and agricultural development, particularly in the Jordan Valley which once was one of the most productive agricultural areas in the region before the occupation.

3. Denial of Access to Water: Destruction of Water Resources and Infrastructure including as a Means of Displacement and Conquest of Palestinian Resources

34. A closer examination of violations of the rights to water and sanitation in the West Bank demonstrates how deliberately retrogressive measures and violations of the obligation to respect the right to water is used as a means to displace Palestinians from land and thereby facilitate Israeli control over resources, including land and water. As recently as August 2011, UN Office for the Coordination of Humanitarian Affairs issued a report entitled *Displacement and Insecurity in Area C of the West Bank* which elaborates on issue of human rights violations as a means of forced displacement.³⁰

35. General Comment No. 15 clearly states that:

The obligation to respect requires that States parties refrain from interfering directly or indirectly with the enjoyment of the right to water. The obligation includes, *inter alia*, refraining from engaging in any practice or activity that denies or limits equal access to adequate water; arbitrarily interfering with customary or traditional arrangements for water allocation; unlawfully diminishing ... water, ... and limiting access to, or destroying, water services and infrastructure as a punitive measure.³¹

36. Some of the most egregious violations of the right to water and sanitation manifest themselves in this context. For instance, Israeli forces destroy cisterns, wells and springs used by

³⁰ See, UN Office for the Coordination of Humanitarian Affairs, *Special Focus: Displacement and Insecurity in Area C of the West Bank* (August 2011).

³¹ Committee on Economic, Social and Cultural Rights, General Comment No. 15, UN Doc. E/C.12/2002/11 (2002) at para. 21.

Palestinians, with three wells in the Jordan Valley destroyed in or around June 2011 alone. Some are destroyed on the pretext that their construction was not undertaken with an Israeli permit, which are nearly impossible to acquire, while others are destroyed without any reason given, including cisterns dating from the Roman era that are not subject to permitting regime. They also destroy rooftop water storage containers and destroy or confiscate water tankers and tractors used to transport water from distant filling points, including tankers provided by humanitarian organizations. These actions are often accompanied by other measures aimed at restricting access to the areas served by such water infrastructure, for instance drilling of deep wells upstream from natural springs which cause the springs to run dry. The consequences of such actions is that life becomes untenable for Palestinians and they are essentially expelled from these areas and the land then appropriated for Israeli purposes such as expansion of Israeli settlements, despite them being illegal under international law.³²

37. The forced eviction of the village of Humsa in the Jordan Valley in August 2007 provides an example of attacks on water resources and infrastructure in the context of forced displacement. There the Israeli authorities confiscated water tanks and tractors, the only means by which villagers access drinking water.³³ The Israeli authorities required the community to pay an unaffordable fine to reclaim their property used for water collection as well as to sign a pledge to leave the area and never to return.³⁴

38. Similarly, in September 2008, Israeli military confiscated two water tankers from the village of Hadidiya as well as two water tankers and a tractor from nearby Hamra.³⁵ Again the villages were levied an unaffordable fine and required to leave the area. Later, on 16 February 2009, during a demolition in Latoon Abu Jumma, a mobile water tank belonging to a Bedouin community was confiscated by the Israeli authorities.³⁶

39. More recently, there is been a substantial increase on attacks on water resources and infrastructure, particularly since September 2010. Reportedly, this substantial increase is in part due to the international condemnation of and attention to forced evictions and house demolitions. As a result of that condemnation and attention, Israeli authorities are now increasing demolition and confiscation of water resources and infrastructure as a means to coerce forced evictions and displacement. For example, EWASH, the Wash Cluster and the Displacement Working Group report that in 2009 three cisterns were demolished, in 2010 21 cisterns were demolished, and in the first seven months of 2011 alone 20 cisterns have been demolished. In addition, seven wells were demolished in 2009, 12 in 2010 and 12 in the first seven months of 2011 alone. The destruction of wells and cisterns has adversely affected nearly 14,000 people.³⁷

40. Susiya, in the South Hebron Hills, provides an example. Susiya is a community dependent on small scale agriculture and herding and is situated between two Israeli settlements. It is threatened by increased pressure by settlers and Israeli military seeking to expel them from their land. Water infrastructure destruction is one means this threat is being realized. On 22 February 2011 Israeli forces demolished two water cisterns needed for the subsistence of the

³² See Amnesty International, Troubled Waters: Palestinians Denied Fair Access to Water, London: Amnesty International 2009.

³³ Amnesty International, *Amnesty International Report 2008: The State of the World's Human Rights*, (2008), at p. 168.

³⁴ Amnesty International, Troubled Waters: Palestinians Denied Fair Access to Water, London: Amnesty International 2009, at p. 46.

³⁵ Amnesty International, Troubled Waters: Palestinians Denied Fair Access to Water, London: Amnesty International 2009, at p. 46-47.

³⁶ Information gathered by the Displacement Working Group, facilitated by OCHA, February 2009.

³⁷ Information gathered by the Displacement Working Group, facilitated by OCHA, August 2011.

community and also destroyed seven residential tents along with several olive groves confiscating trees in the process. Then on 29 March the Israeli military destroyed three sanitation facilities and confiscated 12 tents, four of which had been provided by the ICRC as part of an emergency response to the February demolitions. Again on 5 May, cisterns repaired after the demolitions in February were again destroyed by the Israeli military along with 6 zinc structures and 2 tents. Left without this source of water, humanitarian organizations delivered 10 small plastic tanks. These tanks were subsequently confiscated by Israeli authorities on 5 June.



Resident of Susiya standing in front of the remains of her home



Susiya cistern destroyed twice by the Israeli military in 2011

41. In the Jordan Valley, the village of Al Farisiya also suffered multiple demolitions of property and water and sanitation related infrastructure by the Israeli authorities. On 19 July 2010, the community suffered its first demolition of 2010 when the Israeli military destroyed twenty-six homes along with twenty-four animal shelters, including several items donated by the international community. These included three water tanks, 12 sanitary units, four trees and 1.8 tonnes of fodder as well as irrigation lines vital to the survival of crops and the livelihood of the community. As a result 107 persons, including 52 children, were displaced. On 5 August 2010 the community suffered further demolitions by the Israeli military, displacing 22 persons and affecting another 92. Twenty-three residential tents provided in response to the first demolition, including eight International Committee of the Red Cross and 12 Palestinian Ministry of Local Government (MoLG) tents were demolished along with one animal shelter; three kitchens and three toilet units.

42. Similarly, in July 2009, Israeli military forces issued stop-work and/or demolition orders on cisterns being constructed in the village of Tuwani, even though the villagers of Tuwani faced a severe water shortage on account of the drought, increasingly stringent Israeli restrictions on movement necessary to gather tankered water, and attacks on water resources and infrastructure by Israeli settlers.³⁸ If constructed, these cisterns would have significantly eased the water crisis for the people of Tuwani. However, according to Israeli military orders in effect in the area, rain is the property of the Israeli authorities and thus Palestinians are forbidden from gathering rain water for domestic or agricultural needs. In 2010, Israel approved the construction of a filling point in the village of Tuwani that alleviated the problem of water availability in the village even though the capacity of the filling point was significantly below the capacity requested by humanitarian agencies (less than 1/4th) in order to serve surrounding villages, which are considered as the cluster of communities most at risk of water scarcity in the West Bank.

43. The result of these actions and omission by Israel is that many Palestinians are increasingly left with no access to water, rendering life untenable and forcing their displacement.

4. Impact of Israeli Settlements

44. The water crisis in Tuwani, like elsewhere in the West Bank, is compounded by Israeli settler activity. There, settlers have appropriated land and water cisterns belonging to the village and have poisoned water stored in other cisterns by dumping dead chickens, soiled diapers and other pollutants into them.³⁹ In 2005, Israeli settlers spread toxic chemicals around the main water reservoir and in the fields surrounding Tuwani as well as the nearby villages of Mufaggara and Jhorouba.⁴⁰

45. Settlers have also annexed traditional Palestinian water sources. For instance, near the Palestinian village of Nabi Saleh, the nearby Israeli settlement took control of a springs used by the village for agricultural and recreational purposes. The water from these springs, while essential for the Palestinians, is not needed by the settlers, who enjoy ample water including for swimming pools. Indeed, the village itself is water deficient with access to only twelve hours of piped water per week, which is not enough to allocate for the agricultural purposes that were

³⁸ Amnesty International, Troubled Waters: Palestinians Denied Fair Access to Water, London: Amnesty International 2009, at p. 44.

³⁹ Amnesty International, Troubled Waters: Palestinians Denied Fair Access to Water, London: Amnesty International 2009, at p. 45.

⁴⁰ *See id.*

taken care of by the natural spring water. Israeli authorities have now intervened, but on the side of the settlers, with Israeli military now preventing access to the spring by the Palestinian villagers.

46. The village of Madama, home to some 1,900 residents near Nablus, has only one water source, the Al Sh'ara Spring. Settlers from the Yitzhar settlement, however, have repeatedly damaged the spring and the water pipe which carries water to the village's holding tank. After the second of such incidents, the international aid agency Oxfam accompanied workers to repair the damage. However, they were fired upon by settlers with small arms fire. After being repaired for a third time, settlers poured concrete down the pipes. Settlers have also dumped raw sewage, diapers and chicken carcasses into the spring in order to contaminate it. In February of 2010, the spring was vandalized yet again, with large rocks thrown in to block the flow of water to the pipes on account of which the village's water storage tank ran dry in the Spring of 2010. As recently as April 2011, water pipes were again intentionally damaged by settlers from the Yitzhar settlement.⁴¹

47. Such attacks occur frequently and with impunity. As General Comment No. 15 states, "violations of the obligation to protect follow from the failure of a State to take all necessary measures to safeguard persons within their jurisdiction from infringements of the right to water by third parties." Consequently, Israel's repeated failure to investigate and prosecute those responsible for such attacks as well as its failure to make reparations for such attacks, rises to a violation of the Covenant and in particular Articles 1, 11 and 12 as well as the right to water itself.⁴²

5. Impact of the Wall

48. Superimposing a map of the Wall over a map of Palestinian water resources provides a striking illustration of how the Wall is encroaching not only on Palestinian land but placing Palestinian water resources out of access and control of Palestinians and into access and control of Israel. Indeed, the Wall is routed in such a way so as to deny access to Palestinians to some of the richest water sources in the region – the areas of the Western Aquifer that contain the most resources for extraction and development of wells. To date, tens of thousands of Palestinian have been cut off from access to these water sources, as well as the land that was once used for agriculture and other means of livelihood.

49. The villages of Jayyus and Falamyia (in the Qalqilyia district) provide an example, as they had been cut off from six groundwater wells and the water networks which previously supported them on account of the wall, with only one well having been reclaimed. The village of Jayyus itself was cut off from two thirds of its land and, as a result, the quantity of water has been drastically reduced to 23 litres per capita per day, well below the WHO levels that stipulate 100 litres as necessary to ensure all health concerns are met and more akin to the level of water in disaster areas.⁴³ Now, in the summer, running water has to be rationed to two hour per day.⁴⁴

⁴¹ Ma'an News Agency (April 2011).

⁴² See, Yish Din, *Too Little, Too Late* (27 July 2008) which examines how the supervision by the Office of the State Attorney over the investigation of offenses committed by Israeli civilians against Palestinians in the occupied territory has been inadequate.

⁴³ Centre on Housing Rights and Evictions, *Policies of denial: Lack of access to water in the West Bank*, Geneva: COHRE 2008 at pp. 29-31.

Prior to the construction of the Wall, Jayyus was a leading agricultural area with some of the most fertile land in the West Bank due to the availability of water, now it is reliant on international humanitarian assistance for its survival.

50. The town of Qalqilya, with some 43,000 residents, has similarly seen the Wall cut it off from 80 per cent of its agricultural land and 11 wells. Smaller villages are suffering a similar fate. The village of Dab'a has lost access to five cisterns on which the villagers relied for irrigation of their crops and trees.

51. According to the Palestinian Water Authority, the Wall has thus far resulted in the *de facto* annexation of agricultural wells in the West Bank that are capable of providing 500 million cubic metres of water per year and were essential for sustainable Palestinian agriculture in the area. This loss can not be replaced by the Palestinians as they have not been allowed to drill any new wells since 1967 in the Western Aquifer, which is the most productive aquifer in the region, and thus the Western Aquifer itself has essentially been unlawfully annexed by Israel.

C. Violations in East Jerusalem

52. The East Jerusalem section of the West Bank, illegally annexed by Israel and under its civil rather than military administration, suffers violations of the rights to water and sanitation as well.

53. For instance, Palestinian residents of East Jerusalem lack access to adequate water and sanitation infrastructure and services primarily due to the Jerusalem Municipality's strict housing and urban planning regime, which places stringent and unrealistic criteria for access to such services.⁴⁵

54. Over half of Palestinians living in East Jerusalem, some 160,000 persons, are not allowed under Israeli law to connect to the water network, mainly because they do not have housing permits, which are nearly impossible for Palestinians to acquire. Furthermore, the failure of Israel as the Occupying Power to invest taxes for the benefit of the Palestinian population, although it collects taxes from the occupied territory, detrimentally impacts those areas of East Jerusalem where Palestinians reside and has resulted in dilapidation of water and sanitation infrastructure for Palestinians. Indeed, over one third of Palestinian households are not connected to the sewage network, contributing to health risks and environmental degradation.

55. Some Palestinian areas of East Jerusalem have also been excluded from the boundaries of the city, leading to a crisis in access to water and sanitation. For instance, parts of East Jerusalem have been cut off by the construction of the Wall and now exist in a "no mans land" without access to municipal services including water and sanitation. The area of Kufr Aqab provides a glaring example. There, while Kufr Aqab is within the Israeli-defined municipal boundaries of Jerusalem, it is cut off from the city and its services by the Wall, even though some residents are required to pay taxes to the Israeli authorities.

56. The Palestinian village of Beit Ikra is surrounded by West Jerusalem and Israeli settlements, however was left out of the Israeli-defined municipal boundaries of Jerusalem. As

⁴⁴ Amnesty International, *Troubled Waters: Palestinians Denied Fair Access to Water*, London: Amnesty International 2009, at p. 54.

⁴⁵ See, Bimkom, *The Planning Deadlock: Planning Policy, Land Regularization, Building Permits and House Demolitions in East Jerusalem* (2006).

such, it is technically in Area C of the West Bank, which is under complete Israeli control, but nonetheless cut off from the water and sanitation infrastructure networks which nonetheless surround the village.

57. The Shu'fat refugee camp, home to approximately 20,000 residents, is also situated in East Jerusalem and not adequately served by Israeli water or sanitation infrastructure. Compounding this situation, in the summer of 2006 Israel shut off access to water for 7,000 residents of the Shu'fat refugee camp, thereby worsening the already dire conditions under which Palestinians in the camp live.

58. As such, the situation in East Jerusalem demonstrates violations of the rights to water and sanitation, particular the obligation to fulfil the rights to water and sanitation without discrimination as well as the right to the highest attainable standard of health and the right to adequate housing, on account of lack of necessary infrastructure. It should be pointed out that the obligation to ensure access to water is contingent upon tenure status; consequently the fact that Israel refused to recognize tenure status for parts of East Jerusalem is irrelevant.

D. Violations in the Gaza Strip

1. Deliberate attacks on and destruction of water and sanitation infrastructure

59. Since the outbreak of the second Intifada, and prior to “Operation Cast Lead”, Israeli military forces have been deliberately targeting water and sewage infrastructure throughout the Gaza Strip. The United Nations reported that between 2000 and 2006 Israeli forces destroyed 244 wells in the Gaza Strip, including two drinking water sources.⁴⁶ Even after “Operation Cast Lead”, water and sanitation infrastructure is routinely destroyed by Israel. As recently as June 2011, a well in Beit Hanoun was bombed and destroyed by Israel forces. Similarly, several agricultural wells were destroyed in the summer of 2011. Roads, water supply lines and sanitation networks have been dug up using specially designed “back-hoe” tanks and bulldozers. Waste-water treatment plants in Gaza City and Rafah have been attacked or partially destroyed and water storage tanks on Palestinian roof tops as well as cisterns have been fired at. According to the then Special Rapporteur on the occupied Palestinian territory:

... between June and November 2006, [Israeli military] carried out 346 military incursions into different parts of Gaza, accompanied by persistent artillery shelling and air to surface missile attacks. Missiles, shells and bulldozers destroyed, or caused serious damage to, homes, schools, hospitals, mosques, public buildings, bridges, water pipelines and sewage networks.⁴⁷

⁴⁶ United Nations Economic and Social Council, Economic and social repercussions of the Israeli occupation on the living conditions of the Palestinian people living in the occupied Palestinian territory, including Jerusalem, and of the Arab population in the occupied Syrian Golan, -Note by the Secretary-General (2006), UN Doc. A/61/67-E/2006/13, para. 19.

⁴⁷ Dugard, J, *Report of the Special Rapporteur on the situation of human rights in the Palestinian Territories occupied since 1967*, (August 2007) UN Doc.A/62/275, para. 13.

60. In Rafah, Israeli attacks in 2003 destroyed two public wells which provided water to half of Rafah's 120,000 residents.⁴⁸ All in all, from 1 July 2002 to 31 March 2003, 102 wells were destroyed in the Gaza Strip.⁴⁹ Subsequent attacks on Rafah in 2004 resulted in damage to more than half of the town's water and sewage pipes.⁵⁰ In the aftermath, UN agencies reported that "public health degenerated as a consequence of damage to water and sewage networks...."⁵¹

61. Israeli military forces have also deliberately targeted electrical infrastructure related to water and sewage infrastructure on several occasions. For instance, during the Israeli military incursion into the Gaza Strip between 27 February and 4 March 2008, OCHA reported that:

230,000 Gazans were without water for almost two days following damage to 8 electrical transformers and 2 high voltage lines affecting 10 water wells. Water supply to a larger part of the Gazan population was interrupted for shorter periods, due to lack of access of the Water Utility personnel to some wells in the Gaza Strip.⁵²

62. Indeed, the lack of access to electricity continues to have a detrimental impact on access to water and sanitation. The Gaza electrical power plant was destroyed by Israel in 2006 as an act of collective punishment. This plant had provided 42 per cent of the electricity for Gaza, however now it can only provide 23 per cent some five years after the attack. Furthermore, while Israel is to provide the other 51 per cent of Gaza's electricity needs, since 2006 that amount has been substantially reduced, also as a means of collective punishment on the Gazan civilian population. As of 2010, the Gaza Strip still experienced eight to twelve hours of scheduled power outages per day, disrupting the normal functioning of water and sewage systems and other humanitarian infrastructure, including health and educational institutions, and the agricultural sector.⁵³

63. Direct attacks on persons repairing or maintaining water and sanitation infrastructure have also been reported. For instance, in February 2008, the Gaza based Al Mezan Center for Human Rights reported that Israeli forces "frequently firing at municipal and water authority workers, who approach solid waste dumps or the sewage treatment plant project in the east of Jabalia [which] prevents them from performing works necessary for public health."⁵⁴ Such deliberate attacks on persons attempting to repair or maintain water and sanitation infrastructure were confirmed in July 2011 by several NGO and Palestinian Authority agencies working to rehabilitate damaged water and sanitation infrastructure.

64. Finally, the "buffer zone" created along the Green Line by Israel has resulting in the destruction of 305 water wells.⁵⁵ The "buffer zone" also inhibits access by Palestinians to other water resources as well as agricultural land.

⁴⁸ Amnesty International, *Troubled Waters: Palestinians Denied Fair Access to Water*, London: Amnesty International 2009, at p. 67.

⁴⁹ *Id.*

⁵⁰ *Id.*

⁵¹ OCHA, *Rafah Humanitarian Needs Assessment*, 6 June 2004.

⁵² OCHA, 'Humanitarian Situation Update for the oPt', 20 March 2008, p.1.

⁵³ See, Gisha, *Who turned out the lights in Gaza?* (July 2010).

⁵⁴ Al Mezan Center for Human Rights, 'Severe drinking water crisis in Gaza, IOF Siege continues, Prevents entry of materials essential for water treatment', Press Release, 28 February 2008, <http://www.mezan.org>.

⁵⁵ UN Office for the Coordination of Humanitarian Affairs, *Special Focus: Between the Fence and a Hard Place: The Humanitarian Impact of Israeli Imposed Restrictions on the Access to Land and Sea in the Gaza Strip* (August 2010).

2. “Operation Cast Lead”

65. The already dire situation in the Gaza Strip drastically worsened with the military invasion by Israel known as “Operation Cast Lead” between 27 December 2008 and 18 January 2009. During “Operation Case Lead”, water wells, water networks, waste water facilities and water tanks were intentionally targeted and destroyed,⁵⁶ causing an estimated US\$ 6 million of damage to such infrastructure as well as immense and sustained human suffering.⁵⁷ Three new wells were completely destroyed in Jabaliya and Beit Hanoun which supplied more than 50,000 persons with water.⁵⁸ In northern Gaza, three water facilities were destroyed and an emergency sewage treatment plant was damaged.⁵⁹ In central Gaza, the Sheikh ‘Ajlin sewage treatment plant was destroyed, causing raw sewage to flood the surrounding area.⁶⁰



Beit Hanoun well destroyed in Operation Cast Lead

66. The targeting of sewage and waste water treatment plants also led to sewage flowing in the streets in a number of areas include Beit Hanoun and Beit Lahia. On 24 January 2009, there were severe problems with sewage according to Coastal Municipalities Water Utility (CMWU), which reported that waste water from the treatment plant in the Netzarim area was flooding up to one kilometre from the plant and that waste water in the Beit Lahia lagoon was increasing to the point of risking a collapse of the lagoon.⁶¹

⁵⁶ See, Report of the United Nations Fact Finding Mission on the Gaza Conflict, para. 1023, UN Doc. A/HRC/12/48 (15 September 2009) which found that water and sanitation resources and infrastructure were intentionally targeted by Israel.

⁵⁷ Coastal Municipalities Water Utility, *Damage Assessment Report: Water and Waste Water Infrastructure and Facilities*, (January 2009), p. 5.

⁵⁸ *Id.*

⁵⁹ Amnesty International, *Troubled Waters: Palestinians Denied Fair Access to Water*, London: Amnesty International 2009 at p. 65.

⁶⁰ *Id.*

⁶¹ EWASH Report, *Gaza Emergency WASH Cluster weekly situation report no. 1* (8 February 2009).

67. At the height of the Israeli military offensive some 800,000 persons, over half the population of Gaza, were left without access to running water. As of 8 February 2009, 300,000 persons remained without tap water, tankered water was in short supply due to a lack of water tankers and prices for water had risen to around 30-40 NIS/cubic metre (US\$ 7.5 - 10) – unaffordable for many. Eight months after the invasion some 10,000 people in the Gaza Strip still remained without access to running water. There are still 103,779 people unconnected to a main water supply.

68. The Report of the United Nations Fact Finding Mission on the Gaza Conflict (Goldstone Report) had similar findings, including the “systematic destruction of food production [and] water services [which was related to] the overall policy of disproportionate destruction of a significant part of Gaza’s infrastructure.”⁶² The Goldstone Report found that the blockade resulted in a dire situation, including the fact that 80 per cent of the water available in the Gaza Strip did not meet the World Health Organization guidelines for safe drinking water and that access was severely limited.⁶³ Operation Cast Lead exacerbated these dire conditions, including by destroying thousands of metres of water and sewer pipes as well as destroying around 5,700 roof top water storage tanks and damaging an additional 2,900.⁶⁴

69. The United Nations Environment Programme, in September 2009, found that:

Water resources in the Gaza Strip were already in the throes of an environmental crisis prior to the latest escalation of hostilities. However, the recent events aggravated the situation in several ways. First, the collapse of sewage treatment during the period accelerated the pollution load into the underlying aquifer. Second, the lack of reliable and sufficient drinking water supply during the fighting meant that the population used whatever water it had access to, irrespective of its supply source. Third, even water supplied through municipal systems and private tankers was both untreated and untested, leaving the population exposed to contamination.⁶⁵

70. As elaborated upon in the next section, following the end of overt hostilities the blockade resulted in continuing violations of the rights to water and sanitation and further prevented humanitarian agencies from being able to enter materials such as cement as well as technicians and experts to carry out the necessary repairs to water and waste water facilities, and otherwise provide aid to the population.

3. Gaza Blockade

71. Even before Operation Cast Lead, Israel had restricted movement of goods and persons into and out of the Gaza Strip. These restrictions have been coupled with reduction of fuel and electricity supplies to Gaza since September 2007, as mentioned above. These actions have exacerbated an already critical situation caused by the blockade imposed on the Gaza Strip beginning in January 2006. The blockade on Gaza has led to the periodic paralysis of the water and sanitation sector which has resulted in denial of access to water and sanitation as well as detrimentally impacting quality and safety of water.

⁶² Report of the United Nations Fact Finding Mission on the Gaza Conflict, para. 1023, UN Doc. A/HRC/12/48 (15 September 2009).

⁶³ *Id.* at para. 1243.

⁶⁴ *Id.*

⁶⁵ UNEP, *Environmental Assessment of the Gaza Strip following the escalation of hostilities in December 2008 – January 2009*, (September 2009).

72. The blockade continues to hinder investment into rehabilitation of damaged water and sewage infrastructure as well development of much needed new infrastructure. Materials necessary to repair damaged infrastructure or construct planned new infrastructure are routinely denied entry into the Gaza Strip by Israeli authorities, often resulting in projects delays for years or having project outright cancelled. Additionally, lack of entry by technicians and other experts has had a detrimentally impact on the ability to implement necessary projects aimed at improving the water and sanitation situation in the Gaza Strip.

73. For example, the second largest city in the Gaza Strip, Khan Younis, with a population of nearly 200,000, is without a waste water treatment plant. Presently sewage is contained either in on-site septic pits which often overflow into the streets, or in sewage lagoons constructed as an emergency measure. Such lagoons are prone to leakage and collapse, as evident by the collapse of the Beit Lahiya sewage lagoon which killed five persons and contaminated entire neighborhoods.

74. There is a planned wastewater treatment plant that would substantially improve the sanitation situation in Khan Younis and thus reduce the ongoing serious threats to public health and the environment. However, until recently the Israeli authorities had refused to grant permission for the project to be executed. Khan Younis is now under imminent threat of a public health and environmental catastrophe. This imminent threat is not due to lack of available resources, but to the deliberate interference of Israel which, as confirmed by the ICRC,⁶⁶ it is undertaking as a means of collective punishment of the civilian population of the Gaza Strip.

75. All told, these intentional acts and omissions by Israel to deny availability of and access to water and sanitation have caused severe pain and suffering on the civilian population of the Gaza Strip who have not only struggled to manage their personal and domestic needs due to lack of access of sufficient supplies of safe water but have had to live with both the indignity and potential health risks of sewage flowing in the streets of residential areas. In 2011, Gazans on average had 91 litres of water available per person per day, albeit of dangerous quality. This is compared to Israeli's having on average access to 280 litre of high quality water per person per day. The sanitation situation has resulted not only in contamination of the Coastal Aquifer, agricultural land and urban neighbourhoods, but 50 to 80 million litres of raw sewage flows into the Mediterranean Sea each day. On account of this water and sanitation crisis in the Gaza Strip, UNRWA reports that diarrhoea and acute bloody diarrhoea, diseases caused by lack of access to safe water and adequate sanitation, remain the major cause of morbidity among infectious diseases affecting the refugee population of the Gaza Strip.⁶⁷

76. In the aftermath of 'Operation Cast Lead', the blockade was eventually ostensibly eased in June 2010. However, materials necessary to repair and maintain water and sanitation infrastructure remain limited, with Israel allowing only 16 per cent of requested materials be brought into the Gaza Strip through these so-called eased entry procedures.⁶⁸ With the exception of some large scale projects, negotiated directly by World Bank, German and American Governments, Palestinian Authority and UN agencies as well as NGO sector development agencies report that materials necessary to build infrastructure for alternative sources of water, such as desalination plants, or to protect the existing water in the Coastal Aquifer, such as waste water treatment facilities meeting international standards, are not able to

⁶⁶ <http://www.icrc.org/eng/resources/documents/update/palestine-update-140610.htm>

⁶⁷ OCHA, *Protection of Civilians Weekly Report, 18-24 February 2009*, www.ochaopt.org.

⁶⁸ Interview with WASH Cluster, July 2011.

get into the Gaza Strip in a timely manner if at all. The result has been that much needed projects still face delays for years or cancellation, leaving the Gazan population to continue living with lack of available and accessible quality water as well as sanitation facilities.

77. In March 2009, the UN Food and Agriculture Organization concluded that “following Operation Cast Lead, a twenty-two months-long blockade, restricted access to vital agricultural areas and prolonged water stress, the agricultural community in the Gaza Strip remains on the brink of collapse.”⁶⁹

78. All told, the blockade continues to result in deliberate retrogressive measures by Israel as well as violations of the obligations to respect and to fulfil the rights to water and sanitation. It also seriously hinders the Palestinian Authorities ability to fulfil the rights to water and sanitation in the Gaza Strip.

4. Quality: Unsafe Drinking Water

79. As a result of deliberate attacks on and underdevelopment of the water and sanitation sector, and compounding the problems of denial of availability and access to water and sanitation resources and infrastructure, the water that is available in the Gaza Strip falls far short of the quality standard of General Comment No. 15 of being safe, e.g., free from micro-organisms, chemical substances and radiological hazards that constitute a threat to a person’s health. Indeed, much of the cause of the inadequate quality of water in the Gaza Strip is on account of lack of access to other sources of water and violations of the obligations to respect and to fulfil the right to sanitation.

80. Most of the water available to the Gaza Strip is from the Coastal Aquifer. The Coastal Aquifer is seriously degraded and is presently being over utilized on account of lack of access to other sources of water or from desalination plants which are not being constructed due to the blockade. As of July 2011, only five per cent of the Coastal Aquifer is providing water considered safe by WHO standards. The other 95 per cent, which the Palestinian population of the Gaza Strip is forced to use for domestic consumption, contains seriously dangerous levels of nitrates and excessive chlorides. The WHO standards require nitrates to be less than 50 mg/litre and chloride to be less than 250 mg/litre. However, the vast majority of the Coastal Aquifer now has nitrates ranging from 100 to 800 mg/litre and chloride ranging from 500 to 3,000 mg/litre. Without access to materials for improving the water and sanitation infrastructure, the quality of what is essentially the only freshwater supply for the Gaza Strip will rapidly continue to degrade, with all the resulting severe detrimental impacts on health, and is estimated to be unusable by 2016 when, without alternatives, the Gaza Strip could be unfit for human habitation.

IV. INTERNATIONAL ASSISTANCE AND THE RIGHTS TO WATER AND SANITATION IN THE OCCUPIED PALESTINIAN TERRITORY

81. While the International Covenant on Economic, Social and Cultural Rights requires that rights be progressively realized for all and that the obligations under the Covenant include meeting those obligations through international assistance, in the context of Israel such international assistance may actually lend support to the occupation and/or blockade regimes which detrimentally impact the Palestinian population in the occupied Palestinian territory. Consequently, States parties to the Covenant that engage in international assistance with Israel, whether through bi-lateral or

⁶⁹ UN FAO, *Gaza’s Farmers Unable to Recover from Operation Cast Lead* (26 March 2009).

multi-lateral arrangements, should be closely monitored by the Committee to ensure that their assistance and activities do not undermine or contribute to violations of Covenant rights but rather further the totality of rights in the Covenant including the right to self-determination.

V. CONCLUSIONS AND SUGGESTED CONCLUDING OBSERVATIONS AND RECOMMENDATIONS

82. Based on the foregoing, EWASH and Al-Haq encourage the Committee to adopt the following Concluding Observations:

A. The Committee is gravely concerned about the State party's failure to respect the right of Palestinians to self-determination, including over their own resources, on account of the occupation and appropriations of Palestinian resources including water and land in the West Bank including East Jerusalem.

B. The Committee is gravely concerned about the State party's failure to respect the right of Palestinians to self-determination, including by being able to receive materials, technical support and expertise necessary to improve their own resources, on account of the blockade of the Gaza Strip.

C. The Committee continues to be gravely concerned about the deplorable living conditions of the Palestinians in the occupied territory, who – as a result of the continuing occupation and subsequent measures of closures, extended curfews, roadblocks and security checkpoints – suffer from impingement of their enjoyment of economic, social and cultural rights enshrined in the Covenant, in particular their right to self determination and access to work, land, water and sanitation, health care, education and food.

D. The Committee is particularly concerned about the construction of the so-called “security fence” around and within the occupied Palestinian territory as well as settlements, Israeli only bypass roads and other infrastructure within the occupied Palestinian territory, which infringe upon the surface area of the occupied territories and which limit or even impede access by Palestinian individuals and communities to land, food and water resources.

E. The Committee is particularly concerned about limited access to and distribution and availability of water for Palestinians in the occupied territory, as a result of inequitable and discriminatory management, extraction and distribution of shared water resources.

F. The Committee is gravely concerned about the intentional destruction of water and sanitation resources and infrastructure in the occupied Palestinian territory and is gravely concerned that violations of the right to water and sanitation are aimed at displacing Palestinians from their land, water and other resources.

G. The Committee is gravely concerned at denial of access to and control over water resources and infrastructure and sanitation infrastructure, including denial of ability to repair, develop or construct such infrastructure, and is gravely concerned that violations of the right to water and sanitation are aimed at displacing Palestinians from their land, water and other resources.

83. Based on the foregoing, EWASH and Al-Haq encourage the Committee to adopt the following Recommendations:

A. The Committee affirms that the root cause of violations of the rights to water and sanitation, as well as other Covenant rights, in the occupied Palestinian territory is the occupation itself. Consequently, the Committee calls upon the State party to end to occupation, including settlement activity, and provide full reparation for the consequences of the occupation in accordance with international law and with meaningful consultation with relevant Palestinian authorities and civil society.

B. Similarly, the Committee affirms that a root cause of violations of the rights to water and sanitation in the Gaza Strip, as well as other Covenant rights, is on account of the unlawful blockade. The Committee calls upon the State party to lift the blockade immediately and provide full reparation for the consequences of the blockade in accordance with international law and with meaningful consultation with relevant Palestinian authorities and civil society.

B. The Committee reaffirms its view that the State party's obligations under the Covenant apply to all territories and populations under its effective control. The Committee repeats its position that even in a situation of armed conflict or occupation, fundamental human rights must be respected and that economic, social and cultural rights, as part of the minimum standards of human rights, are guaranteed under customary international law and are also prescribed by international humanitarian law. Moreover, the applicability of rules of humanitarian law does not by itself impede the application of the Covenant or the accountability of the State under Article 2 (1) for the actions of its agents.

C. The Committee urges the State party to not disproportionately limit or impede the enjoyment of economic, social and cultural rights enshrined in the Covenant, in particular access to land and water resources by Palestinians, and that adequate restitution and compensation are provided to those who have incurred damage to and loss of water resources, lands, housing and food sources as a result of Israel's actions and omissions.

D. The Committee strongly urges the State party to take immediate steps to ensure equitable access to and distribution of water to Palestinians living in the occupied territory, and in particular to ensure that relevant Palestinian authorities have control over their water resources including water management, extraction and distribution. In that connection, the Committee refers the State party to its General Comment No. 15 on the right to water.

E. The Committee urges the State party to undertake steps towards the incorporation of the Covenant and its provisions in the domestic legal order. The Committee refers the State party to its General Comment No. 9 on the domestic application of the Covenant.

F. The Committee urges States parties involved in international assistance to ensure that their assistance and activities do not undermine or contribute to violations of Covenant rights but rather further the totality of rights in the Covenant including the right to self-determination.

G. The Committee urges the State party to ratify the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights.

VI. CONTACT INFORMATION⁷⁰

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⁷⁰ "The content of this report does not necessarily reflect the views of all EWASH members".

VII. ANNEX: AFFIDAVITS

Affidavit No. 6370/2011

Sworn Statement

After swearing to tell the truth and nothing but the truth, I, the undersigned, Fayeq Ahmad Abdel-Rahman Sbeih, of Palestinian nationality, holder of ID No.919063644, born on 12 January 1959, a Farmer, and a resident of Ein al-Bayda' village, Jericho and al-Aghwar governorate, would like to declare the following:

I own 43 Donums of agricultural land in al-Aghwar Area (Jordan Valley), specifically in Wadi al-Maleh, an area that includes Palestinian communities such as Ein al-Hilwa, Ein al-Bayda', al-Farisiya, Makhoul and al-Himmah. I work in agricultural production and at the beginning of 2011. I set up green houses on 6 Donums of my aforementioned land, where I cultivated tomatoes, cucumbers, lettuce and a variety of other vegetables.

Two kilometers away from the green houses lies a spring known as "Ein al-Shak" that I depended on for irrigation. The spring is a natural resource and does not belong to anyone, for that reason I took the courtesy of extending a water pipeline to my land to irrigate my crops. Things were going well, until, without any prior warning, the Israeli occupation disconnected and confiscated my pipeline. This action, which caught me off guard, happened at the beginning of March 2011. When I heard that an Israeli military force was present near the spring and that soldiers were damaging my pipeline, I immediately went there. Upon arrival, I argued with Israeli military officers and officials from the Israeli national water company "*Mekorot*". Without offering any explanation, they informed me that I was not allowed to use the waters of the aforementioned spring. I kept insisting that the occupation had no jurisdiction over the spring and that this natural resource had been available to all people for decades.

I had been using the spring waters for crop irrigation since 2007 and had never been interrupted by restrictions or any acts of vandalism. The occupation forces tore up my pipeline and damaged it completely, leaving me with no water resource to irrigate my land. I was forced to search for a new resource in al-Aghwar area, which is known for its abundance in water resources especially in Wadi al-Maleh, but was unsuccessful due to continued Israeli harassment. I was then left with no option but to resort to buying tanker water from Ein al-Bayda and Bardala costing about 21 NIS⁷¹ per cubic meter. This was very expensive, considering that the spring water I used to use cost me very little.

Gradually when my expenditure on irrigation increased and I could not afford farming anymore, I was forced to abandon my land. Thus, we were stripped of our family's main source of income, despite *Mekorot*'s water pipeline systems passing right through my land to supply settlements such as Rotem and Shilo among many others. The Israeli occupation refuses to allow al-Aghwar's Palestinian farmers from extending any water lines from the pipes running through our own agricultural lands. This is a reality that all farmers in the area suffer from. Israel's policies of depriving farmers from utilizing water resources for irrigational purposes has already forced many in al-Aghwar to abandon their agricultural lands. If these violations and practices continue, there will be no more farmers in al-aghwar

⁷¹ NIS: New Israeli Shekel

and agricultural lands will turn barren. Imagine how settlement pipelines pass right through our lands, but we – the Palestinians – cannot receive a single drop.

This is my declaration and hereby I sign, 31 May 2011

Signature: Fayeq Sbeih

Name not withheld

Field researcher: Tareq al-Haj Mahmoud

Affidavit No. 6371/2011

Sworn Statement

After swearing to tell the truth and nothing but the truth, I, the undersigned, Sami Sadeq Mahmoud Sbeih, of Palestinian nationality, holder of ID No.919063842, born on 21 July 1955, a resident of al-‘Aqaba, Tubas governorate, and the president of its village council, would like to declare the following:

Aqaba village is located in the al-Aghwar area (The Jordan Valley) and specifically in its northern part within the boundaries of Tubas governorate. The village is inhabited by 300 residents and contains 45 houses. It also has several organizations and institutions such as al-Haq Kindergarten – holds 130 boys and girls from al-‘Aqaba and nearby communities, al-Amal Clinic, Salah al-Din al-Ayoubi Mosque, al-’Aqaba Unisex Primary School – holds about 80 students, Rural Women’s Association, al-’Aqaba Cooperative Agricultural Association, al-‘Aqaba Cooperative Association for the housing of immigrants, al’Aqaba Hope and Unity Club and a sewing factory belonging to the village and its residents.

The lack of a water sources is a problem we suffer from in Al-’Aqaba, both residents and institutions. The village lacks a water network system as well as water storage tanks, due to the Israeli prohibitions. While the Israel occupation refuses to allow Al-’Aqaba residents to implement a water network system, pipelines belonging to Israel’s national water company “Mekorot” are laid as close as seven kilometers away, supplying water to Israeli settlements and military bases of al-Aghwar area. Additionally, Israel prohibits Al-’Aqaba residents from digging any artesian wells for a water supply, which has forced village households and institutions alike to purchase tanker water from nearby localities such as al-Far’a and Tammun. Each household or institution purchases this water which costs about 150-200 NIS⁷² per tanker, an amount required almost on a weekly basis. While the price of tanker water is about 15-20 NIS per cubic meter⁷³, water though Mekorot’s network costs less than one NIS for the same amount. Israel’s insistence on denying us access to water from Mekorot’s network is causing Al-’Aqaba residents large monthly expenses. Due to those expenses, a number of Al-’Aqaba residents working in agriculture and raising livestock were forced to abandon their jobs.

In the past, Al-’Aqaba village had an agricultural pool, which was destroyed by Israel in 1999 under the excuse of lacking a permit. The pool was a main source of irrigation water and could hold up to 300 cubic meters (m³), thus its destruction largely affected the agricultural sector in the village. The Israeli occupation authorities also handed Al-’Aqaba village council a warning to demolish another agricultural pool built in the past two years. The pool

⁷² NIS: New Israeli Shekel

⁷³ Each cubic meter (m³) is equivalent to 1000 liters

is currently under the threat of demolition. Work on the pool began in 2009 and that same year the Israeli warning was issued. This indicates that the occupation authorities are keeping a close watch on Al-'Aqaba residents and insuring they are deprived of their basic right to access drinking water. It is worth mentioning that this area is largely dependent on agriculture and raising livestock, which is made difficult by water insufficiency. These Israeli policies, in the Jordan Valley and Al-'Aqaba specifically, have caused Palestinians to suffer from severe water shortage. Tanker trucks are constantly moving in and out of the village selling water to its residents. As the summer season is now approaching, the water shortage crisis in the village will further worsen. All this is due to Israel depriving Palestinians of their basic right to dig artesian wells and construct a water network to serve their community. Meanwhile, Israeli settlers in the Jordan Valley are supplied with an abundant amount of water that surpasses their needs.

This is my declaration and hereby I sign, 31 May 2011

Signature: Sami Sbeih

Name not withheld

Field researcher: Tareq al-Haj Mahmoud