

WATER-DEPRIVED

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- *Israel's occupation dispossessing Palestinians of their land and resources* •

ABSTRACT

Israel's occupation of Palestinian territory, currently in its 50th year, includes its systematic control and exploitation of Palestinian natural resources, preventing Palestinians from fully benefiting from their natural wealth. This article examines how, in the case of water, Israel has deliberately denied Palestinians control over and access to their water resources, in clear violation of its obligations under international law, which require Israel as occupying power to protect the occupied Palestinian population and territory. The author argues that through the imposition of discriminatory policies and practices, Israel has created a comprehensive system of control over the water resource, which prohibits Palestinians from exercising sovereign rights over their water resources and forces the dependence of Palestinians on Israel for much of their water needs. Accordingly, Palestinians suffer from a lack of sufficient access to their most basic need; and a severe imbalance of water usage exists favoring Israelis, both those residing in illegal settlements in the Occupied Palestinian Territory and in Israel. The article finishes by examining what role third party states, companies and civil society should play in resisting the exploitation of water by Israel and the national water carrier, Mekorot.

KEYWORDS

Palestine | Israel | Water | Oslo Accords | Occupying power

1 • Introduction

Israel's occupation of Palestinian territory, currently in its 50th year, includes its systematic control and exploitation of Palestinian natural resources, ranging from water to stone to Dead Sea minerals, preventing Palestinians from fully benefiting from their natural wealth. In the case of water, Israel has deliberately denied Palestinians control over and access to their water resources, forcing the dependence of Palestinians on Israel for much of their water needs. As a result, Palestinians suffer from a lack of sufficient access to their most basic need; and a severe imbalance of water usage exists favouring Israelis, both those residing in illegal settlements¹ in the Occupied Palestinian Territory (OPT) and in Israel.

During the summer of 2016 – like many summers before – thousands of Palestinians in the OPT were deprived of running water as the Israeli national water carrier, Mekorot, restricted the water supply to areas in the northern part of the occupied West Bank.² Lack of access to water not only places a severe strain on everyday life, making the most ordinary activities such as cooking and bathing very difficult, it also has crippling effects on education, healthcare, and Palestinian economic activity.

In this article, I will discuss the various policies and practices that Israel has employed to unlawfully exert and maintain control over and appropriate Palestinian water resources; the impact on Palestinian communities across the OPT, including the West Bank, East Jerusalem, and the Gaza Strip, all of which are occupied, but which face different realities; the relevant international law framework; and a brief discussion of the problematic partnerships between Latin American companies and Mekorot.

2 • Myth v. Reality

Israel has long perpetuated the myth of water scarcity in the region, heralding itself as the nation that has “made the desert bloom.” In reality, the OPT is rich in water resources. There are three main fresh water sources in the area: the Jordan River, running along the eastern border of the West Bank; the Mountain Aquifer, underlying the West Bank and Israel; and the Coastal Aquifer, underlying the Gaza Strip and Israel.³ There is also ample rainfall in the area.⁴ For example, records reflect that Jerusalem receives more rain on average per year than Berlin.⁵ Despite abundant sources of water, Palestinians suffer from a lack of sufficient water due to Israel's control and appropriation of this vital resource via its occupation.

Israel maintains the myth of water scarcity in order to mask its near exclusive (and unlawful) control over Palestinian water resources in the OPT, and specifically in the West Bank. When Israel occupied the West Bank, including East Jerusalem, and the Gaza Strip during the Six-Day war in 1967, it was widely believed that a central reason was to secure control

over ground and surface water resources in the West Bank.⁶ Israel's direct control over water resources increased by approximately 50 per cent immediately following the war.⁷

Since then, Israel has used a variety of discriminatory policies and practices – including military orders, an inequitable water-sharing agreement, and a discriminatory planning and permit regime – to create and maintain a comprehensive system of control over the water resources, ensuring that Palestinians are prohibited from exercising sovereign rights over their water resources.

3 • Formalising Control: Israeli Military Orders and Integration

Within the first 18 months of the occupation, Israel introduced legislative changes in the form of military orders, still in force today, which declared all water resources in the area state property,⁸ placed water resources and water-related issues under the control of the Israeli military commander,⁹ and required Palestinians to obtain permits from the Israeli military (later the Israeli Civil Administration)¹⁰ in order to construct or rehabilitate water infrastructure¹¹ without which any water structure would be subject to demolition or confiscation.¹² Israel also began the process of building an extensive water network in the West Bank, which ultimately served to integrate the Palestinian water system in the OPT into the Israeli system, denying Palestinians control over the resource.¹³ Israel also declared the banks of the Jordan River Basin closed military zones, cutting off Palestinian access to this water source.

In 1982, Israel increased the integration of water resources by transferring ownership of all West Bank supply systems to Mekorot, the Israeli national water carrier, of which the state of Israel owns 50 per cent. This created a situation where Palestinians are forced to purchase water from Mekorot to meet their annual needs. It is estimated that “Mekorot supplies almost half the water consumed by Palestinian communities.”¹⁴ Mekorot also directly extracts water from Palestinian sources for the supply of illegal settlements in the OPT.¹⁵

4 • Oslo Accords Water Regime: Consolidating Israel's Control

Israel's dominion over water resources was further consolidated in 1995 with the signing of the Oslo II Accords,¹⁶ which outlined an inequitable water-sharing agreement. The agreement, which only referenced the Mountain Aquifer,¹⁷ was based on “existing quantities of utilisation,”¹⁸ and thus aimed to legitimise Israel's unlawful use of Palestinian water resources. It allowed Israel's continued utilisation of approximately 87 per cent of the resource, and only allocated 13 per cent to the Palestinians.¹⁹

The Oslo II Accords also divided the West Bank into areas A, B and C,²⁰ and passed the responsibility of supplying water to Palestinian populations in areas A and B to the Palestinian Authority (PA).²¹ Israel restricts the PA's ability to do so in several ways.

First, the Oslo II Accords created the Joint Water Committee (JWC), to oversee all water projects and systems in the West Bank.²² The JWC was to function in a seemingly democratic way, as Palestinians and Israelis would sit on the committee in equal numbers, and all decisions would be made by consensus.²³ In reality, the JWC serves as one of the central ways that Israel maintains control over Palestinian water resources, as Israel has *de facto* veto power over all proposals.²⁴ A study showed that from 1995-2008, Palestinians approved nearly all Israeli water proposals, while Israelis only approved half of the Palestinian proposals.²⁵ In addition, Israeli approval of large Palestinian proposals is conditioned upon Palestinian approval of Israeli proposals for the benefit of the settlements, a situation described as “blackmail” by Palestinians.²⁶

Second, although the majority of “Palestinians reside in Areas A and B, the infrastructure upon which they depend lies inside or crosses into Area C,” which is under full Israeli control.²⁷ This means that Palestinians must obtain permits from both the JWC and the Israeli Civil Administration (ICA) in order to build or rehabilitate any structures, including water infrastructure, in Area C. Such permits are rarely, if ever, granted. The United Nations Office for the Coordination of Humanitarian Affairs reported that the ICA approved only 1.5 per cent of Palestinian permit requests in Area C between 2010 and 2014.²⁸ Together, the JWC and Israel’s discriminatory permit regime, serve to further consolidate Israel’s control over water resources, “which makes integrated planning and management of water resources virtually impossible for the PA.”²⁹

To illustrate, Israel has denied Palestinians the ability to drill any wells in the western basin – the most productive basin - of the Mountain Aquifer.³⁰ Meanwhile, Israel has drilled 39 wells in the West Bank, 29 of which are located in the Jordan Valley that service Israel’s illegal residential and agricultural settlements.³¹ Israel also has access to 500 wells in Israel that over extract water from the shared Mountain Aquifer, affecting the quality and quantity of water available to Palestinians.³² Therefore, Israel not only controls the Mountain Aquifer, but it obstructs Palestinian use of the aquifer by diverting the flow of water into Israel.³³

Accordingly, Palestinian water use significantly decreased over the years, with Palestinians having access to only 11 per cent of the Mountain Aquifer, less than the allocations per the Oslo II Accords.³⁴ Ultimately, the Oslo II Accords water regime protects and perpetuates Israel’s control over water resources in the West Bank and enables its illegal exercise of sovereign rights over the same.

5 • ‘Water-Apartheid’:

Impact of Israel’s Control on the Palestinian Population

This combination of discriminatory Israeli policies and practices has resulted in severely inequitable allocation of water resources between Palestinians and Israelis; a situation that has been described as ‘Water-Apartheid’.³⁵

The violation of Palestinians' right to water is clearly demonstrated in a comparison of consumption between Palestinians and Israelis. Israeli settlers in the West Bank, numbering over 500,000, consume approximately six times more water than 2.6 million Palestinians residing in the West Bank.³⁶ The World Health Organization recommends a minimum domestic consumption of 100 liters per capita per day (lpcd), but consumption by Palestinians in the West Bank is an average of 72 lpcd,³⁷ compared to 300 lpcd³⁸ for Israelis in Israel and 369 lpcd for Israeli settlers residing in illegal Israeli settlements in the occupied West Bank.³⁹

Palestinians residing in Area C are the most affected and vulnerable, as Israel has refused to connect 180 Palestinian communities in Area C to a water network, and 122, while connected, have an inconsistent supply or none at all.⁴⁰ This is due to Israel's discriminatory planning and permit system, which makes it impossible for communities (and the PA) to develop and maintain water infrastructure without it being subjected to demolition or confiscation by the Israeli authorities. In 2016, Israeli authorities demolished or confiscated 103 water-related infrastructures, citing lack of permits.⁴¹

Not only does Israel prohibit Palestinians from developing their water infrastructure, but it also prevents them from benefitting from the natural water resources that they have historically relied on, such as rain harvesting cisterns, which are also confiscated or demolished. As a result, average consumption in these communities is as little as 20 lpcd.⁴² Palestinians in these communities are forced to purchase tankered water to meet their needs. Due to high transportation and other costs, these families pay up to 400 percent more for water than those connected to a water network.⁴³

An affidavit collected by Al-Haq from a livestock breeder residing in al-Hadidiyya village in Toubas governorate illustrates the suffering caused by Israeli water policies:

"I reside in the village of al-Hadidiyya, which is located in the northern Jordan Valley...there are no services in al-Hadidiyya and we receive our education and health services from neighbouring villages around Toubas. This is because al-Hadidiyya is located in Area C. We obtain our water resources from other villages, such as Ain al-Bayda, which is approximately 15 kilometers away; obtaining this water is very expensive, as we require water not just for personal use but also for our livestock, which is our only source of livelihood.

In October of 2016, a donor organisation sought to provide water to our village through plastic pipes that were connected to a town west of al-Hadidiyya, approximately 11,300 meters away – around the length of the water pipeline. The pipeline provided for 200 people and 1,000 sheep. Prior to this pipeline,

we paid over 20 shekels per cubic meter of water, as we were forced to transport water in tankers and store it in containers. The water pipeline eased the suffering of the residents in the area, both personally and financially.

On 20 February 2017, at around 7am, I saw three bulldozers, a large number of Israeli soldiers, members of the Israeli Civil Administration, a number of military jeeps, and workers in civilian clothing in the area. I watched as they cut different sections of the pipeline. I also watched the bulldozers dig out the water transport lines that were underground, completely destroying the water pipeline. Israeli forces stayed in the area destroying and removing the pipeline until approximately 1pm.⁴⁴

East Jerusalem

Palestinians residing in East Jerusalem, which was illegally annexed⁴⁵ by Israel in 1967 and where Israeli civil law applies, also suffer from Israel's control over water resources. As with other parts of the West Bank, Israel's discriminatory planning and construction laws, which make it difficult for Palestinians to obtain permits to build, also affect access to water services.⁴⁶ Over half of Palestinian households are not connected to a licensed water network, as Israel refuses to connect them due to a lack of building permits.⁴⁷ This forces many families to resort to unlicensed water networks, despite the fact that Palestinian residents of East Jerusalem are entitled to full services from the Jerusalem Municipality, as they pay taxes pursuant to their status as permanent residents.⁴⁸

Palestinian residents of East Jerusalem residing in areas east of the Annexation Wall⁴⁹ are especially vulnerable, as they receive limited municipal services after Israel excluded these areas from the boundaries of Jerusalem. The water infrastructure in these areas is in disrepair and does not meet the needs of the growing population in the area.⁵⁰ Despite this, the Jerusalem Municipality has failed to rehabilitate or update the infrastructure over the years, causing regular disruptions in the water supply.⁵¹

Gaza Strip

The depletion of the Coastal Aquifer and Israel's oppressive closure of the Gaza Strip, now in its 10th year, are the central reasons that 1.8 million Palestinians suffer from an acute lack of access to water. The Coastal Aquifer, shared by Israel and the Gaza Strip, is the only source of freshwater available to the Palestinians in Gaza. Due to over-extraction and pollution,⁵² the water quality has increasingly deteriorated, leaving 95 per cent of the Aquifer unfit for human consumption.⁵³ In addition, since the closure, Israel has prohibited the entry of materials necessary for Palestinians in Gaza to

develop, maintain, and rehabilitate their water and sanitation infrastructure, much of which was deliberately targeted by Israel during the last three wars on the Gaza Strip.⁵⁴

As a result of these factors, 100,000 Gazans are not connected to a water network.⁵⁵ Meanwhile, those who are connected do not receive water on a regular basis, and when supplied, it is highly saline and not fit for consumption. As a result, 95 per cent of the population in Gaza depends on desalinated water purchased from private vendors for their drinking needs.⁵⁶ It is reported that Gazans spend nearly one third of their income on water, a steep amount given the poor economic situation in the Gaza Strip.⁵⁷

Lack of access to water plays a large role in the humanitarian crisis in the Gaza Strip, which the United Nations (UN) has estimated will be uninhabitable in the year 2020.⁵⁸

6 • International Law

As demonstrated above, Israeli policies and practices of controlling Palestinian water resources and denying Palestinians the ability to fully utilise this vital resource have severe and detrimental effects on the protected Palestinian population, regardless of their status and where they reside. Such Israeli actions do not simply reflect a humanitarian crisis or a gross injustice they also violate international law. More specifically, Israel, as occupying power, is bound by both international humanitarian law (IHL) and international human rights law (IHRL).

International Humanitarian Law

Under IHL, Israel, as occupying power, has specific obligations toward the occupied Palestinian population and the occupied Palestinian territory.⁵⁹ This includes a duty to administer the territory in the interest of the Palestinian population, but it does not grant sovereign rights over the territory and its natural resources.⁶⁰ Customary IHL requires that any use of the natural resources by Israel is limited to military needs and should not exceed the rate of use prior to the occupation, as Israel is required to “safeguard the capital” of the occupied territory for the interest of the Palestinians.⁶¹ IHL also prohibits the destruction of public and private property in occupied territory for any reason other than military necessity.⁶²

Israel’s near exclusive control over Palestinian water resources and extensive appropriation of the water for the benefit of Israeli settlers in the OPT and Israelis residing in Israel, violates Israel’s duty to administer the occupied territory for the benefit of the Palestinian population, and exceeds the permissible use of the natural resources of the occupied territory. Israel’s confiscation and destruction of water infrastructure for “administrative” purposes (i.e. lack of a permit) also violates the obligation to administer the territory for the *benefit* of the Palestinians and proves that military necessity does not justify the confiscation or destruction of water infrastructure.

International Human Rights Law

The right to water, although not a standalone right in IHRL, is essential for sustaining life, health, and human dignity.⁶³ Ensuring access to safe drinking water and sanitation is an implicit obligation in a number of rights including the right to life, the right to the highest attainable standard of health, and the rights to an adequate standard of living, to adequate housing, and to adequate food.⁶⁴

The right to self-determination⁶⁵ is a fundamental right in IHRL and is necessary for the enjoyment of all other human rights.⁶⁶ As an *erga omnes* right,⁶⁷ it imposes positive obligations on all states toward all peoples who have been deprived of the possibility of exercising the right to self-determination.⁶⁸ Several UN General Assembly resolutions have stated that permanent sovereignty over natural resources is a fundamental component of self-determination.⁶⁹ Permanent sovereignty over natural resources prohibits Israel from illegally exploiting and disposing of Palestinian natural resources.⁷⁰ Israel's integration of the Palestinian water system into Israel's and its near total control over Palestinian water resources, reflect Israel's policies aimed at dispossessing Palestinians of their natural wealth, and therefore impedes the right of the Palestinian people to self-determination.

7 • Third State Responsibility and Business and Human Rights

Israel is the primary duty bearer with respect to the OPT and the protected Palestinian population, but third states also have obligations under international law. The Draft Articles on Responsibility of States for Internationally Wrongful Acts, which reflects customary international law, affirms that in the case of breaches of peremptory norms of international law, such as the right to self-determination, all states are obligated not to recognise the situation as lawful, not to render aid or assistance in maintaining the illegal situation and to actively cooperate in order to bring it to an end.⁷¹

In addition, while upholding international human rights standards is traditionally the responsibility of states, businesses also have a responsibility to respect human rights in their operations. Over the last several years, the issue of business impacts on the enjoyment of human rights has received a great deal of attention. In 2011, the UN Human Rights Council endorsed the Guiding Principles on Business and Human Rights (UNGPs), a set of non-binding rules applicable to business enterprises requiring compliance with IHRL and IHL in situations of armed conflict. The UNGPs specify that business enterprises should “identify, prevent and mitigate... adverse human rights impacts that the business enterprise may cause or contribute to through its own activities, *or which may be directly linked to its operations, products or services by its business relationships*”⁷² (emphasis added). The UNGPs go on to state that if a business cannot use its leverage to put an end to the human rights abuses, it should consider ending the business relationship.⁷³

Therefore, both states and businesses can and should play important roles in holding Israel accountable for its violations of international law, and ensuring that Palestinians are afforded their right to self-determination, and ultimately their dignity and freedom.

8 • Mekorot and Latin America: What Civil Society and Responsible Business Can Do

Where states have failed to act, civil society has taken it upon itself to advocate for the rights of the Palestinian population by reminding both states and businesses of their obligation to respect human rights.⁷⁴ In Latin America, for example, civil society has galvanised support for various campaigns relating to the protection of Palestinian rights. Over the last few years, particular attention has been paid to the issue of Palestinian water resources, as Israel has been promoting itself as a water innovator around the world, including across Latin America.⁷⁵

Israel's propaganda fails to take into account or mention that it has developed this sector at the expense of the Palestinian population and through the appropriation of Palestinian water resources. More specifically, Mekorot, a central player in the appropriation of Palestinian water resources and discriminatory allocations, has capitalised on this by entering into partnerships with companies and utilities in Brazil, Argentina,⁷⁶ and Mexico.⁷⁷

Brazil

In 2013, Mekorot entered into a cooperation agreement with the Bahia state water utility, Embasa, to provide technical consultations to help improve water resource management in Bahia.⁷⁸ Bahia's urban development secretary stated that "the goal of the partnership is to share know-how in groundwater exploration, water loss control, desalination technologies, and water resource management."⁷⁹

International and Brazilian civil society engaged in advocacy and awareness-raising campaigns, calling on Bahia to cancel the agreement, highlighting Israel's violations of international law through its oppressive policies and practices against the Palestinians, and Mekorot's appropriation of Palestinian water resources.⁸⁰ State representative Marcelino Galo, vice president of the Environmental Commission, Drought and Water Resources, demanded a review of the agreement with Mekorot, which eventually led to the cancellation of the agreement.⁸¹ On 11 April 2016, it was announced that Bahia had ended its cooperation with Mekorot.⁸²

Argentina

In 2012, Argentina's Buenos Aires governor, Daniel Scioli, met with Israel's ambassador to Argentina and the CEO of Mekorot to discuss cooperation for developing strategic water

and sanitation plans, including the design of a wastewater treatment plant in La Palta.⁸³ The talks culminated into an agreement between the parties.⁸⁴

Soon thereafter, Argentine civil society mobilised and formed various campaigns to inform the public of Israel and Mekorot's illegal practices, as well as the fact that Argentine money would be contributing to Mekorot's continued violation of Palestinian rights. This included a virtual campaign called *Fuera Mekorot Argentina* ("Mekorot, Get Out of Argentina") which criticised governor Daniel Scioli for signing the deal with Mekorot for the construction of the water treatment plant in La Plata and demanded that the cooperation come to an end.⁸⁵

In 2014, it was reported that Buenos Aires suspended the US\$ 170 million water treatment plant contract with Mekorot due to pressure from activists, the Argentine Workers' Central Union, and social movements, who argued that Mekorot was attempting to export the discriminatory water policies it uses against the Palestinian people to Argentina.⁸⁶

Mexico

In November of 2013, Mekorot signed an agreement with the Mexican Environmental Protection and Natural Resources Ministry to provide the Mexico National Water Commission, La Conagua, with "technical assistance in protection of groundwater quality, carrying out rehabilitation of the underground reservoirs and quality control of the restoration of water resources."⁸⁷ The agreement was dubbed "historic" as it is one of Mekorot's largest agreements in years.⁸⁸ In addition, the Head of La Conagua and the Ambassador of Israel to Mexico, signed a Cooperation Agreement on water technologies and water resource management, which will be used to carry out joint projects relating to research, monitoring and evaluation of water use.⁸⁹ Unfortunately, there have been no reports of civil society campaigns against Mexico's cooperation with Mekorot.

As highlighted by the UNGPs, companies are responsible for identifying, mitigating, and preventing negative human rights impacts, even when those impacts are a result of their business relationship. Therefore, Latin American companies should be aware of the risks that are associated with entering into agreements with Mekorot, given its control over and appropriation of Palestinian water resources, and the resulting negative human rights impacts on the Palestinian population. As demonstrated, civil society can play a vital and necessary role in reminding businesses and states of their obligations and in assisting in the protection of Palestinian human rights.

9 • Conclusion

For 50 years of occupation in the OPT, Palestinians have suffered through violations of nearly all of their human rights. Israel's control over Palestinian water resources

is therefore just one facet of Israel's oppressive occupation aimed at dispossessing Palestinians of their land and natural wealth.

Israel and Mekorot have not only exploited Palestinian water resources unchecked, but have developed an expertise in water technology solutions at the expense of the protected Palestinian population, and is marketing this to the world. Beyond the moral and humanitarian issues that Israel and Mekorot's actions present in this context, they are illegal. Therefore, the international community, both states and businesses, must not condone or assist in the continued exploitation and appropriation of this vital resource. Indeed, states' failures to abide by their international law obligations to hold Israel accountable for its human rights violations, and businesses' continuation to entertain agreements with Mekorot, reinforce Israel's illegal practices and dominion over Palestinian water resources, and ultimately ensure the continuation of Israel's oppressive occupation. If Palestinians are to fully exercise their human rights, that to water and others, the occupation must come to an end.

NOTES

1 • This includes residential communities, industrial zones, and agricultural areas illegally established in the OPT for the benefit of Israeli citizens, and integrally, the activities that help to sustain, promote, and expand the settlements. Settlements are illegal under international law as recognised by the United Nations and by the International Court of Justice. See United Nations Security Council Resolution 2334, UN Doc. S/RES/2334, 23 December 2016, accessed May 22, 2017, <http://www.un.org/webcast/pdfs/SRES2334-2016.pdf>; see also "Advisory Opinion on the Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory," International

Court of Justice Report, paragraph 120, 2004, accessed May 22, 2017, <http://www.icj-cij.org/docket/files/131/1671.pdf>.

2 • See "Summer 2016 – Israel Cut Back on the Already Inadequate Water Supply to Palestinians," BTselem - The Israeli Center for Human Rights in the Occupied Territory, September 27, 2016, accessed May 22, 2017, http://www.btselem.org/water/201609_israel_cut_back_supply.

3 • These are considered transboundary water resources; aquifers and basins that are shared by two or more politically, economically, or culturally distinct communities. Shared resources are governed by international water law (IWL), as

previously documented by Al-Haq and which will not be discussed in this article. Due to Israel's near exclusive control over the shared resources and a lack of "equitable and reasonable utilisation", Israel violates IWL. For more information, see Elisabeth Koek, "Water for One People Only: Discriminatory Access and 'Water-Apartheid' in the OPT." Al-Haq, 2013, 83-85, accessed May 22, 2017, <http://www.alhaq.org/publications/Water-For-One-People-Only.pdf>.

4 • The climate in the West Bank is considered semi-arid or sub-humid, with 60 per cent of the rainfall concentrated during a two-month period. Clemens Messerschmid, "Till the Last Drop: The Palestinian Water Crisis in the West Bank, Hydrogeology and Hydropolitics of a Regional Conflict." Juragentium, 2005, accessed May 22, 2017, <http://www.juragentium.org/topics/palestin/en/water.pdf>.

5 • Rain records from Jerusalem since 1846 show rainfall with an annual average of 599.8 mm – more than Berlin which receives an annual average of 568 mm. See Clemens Messerschmid, "Hydro-Apartheid and Water Access in Israel-Palestine: Challenging the Myths of Cooperation and Scarcity," in *Decolonizing Palestinian Economy*, eds. Mandy Turner, and Omar Shweiki (Basingstoke: Palgrave Macmillan, 2014), 61.

6 • Israel also occupied the Golan Heights and the Sinai Peninsula during the 1967 Six-Day War, – occupying lands that allowed it strategic control over the natural resources in the area. For a discussion of the role water played in the war see Lisdey Espinoza Pedraza and Markus Heinrich, "Water Scarcity: Cooperation or Conflict in the Middle East and North Africa," *Foreign Policy Journal*, September 2, 2016, accessed May 22, 2017, <https://www.foreignpolicyjournal.com/2016/09/02/water-scarcity-cooperation-or-conflict-in-the-middle-east-and-north-africa/>.

7 • Rose M. Mukhar, "The Jordan River Basin and the Mountain Aquifer: The Transboundary Freshwater Disputes between Israel, Jordan, Syria, Lebanon

and the Palestinians," *Annual Survey of International and Comparative Law* 12, no. 1 (2006): 59-85.

8 • These military orders provided the Area Military Commander in the West Bank with full authority over the West Bank and declared that all property, whether moveable or immovable, that belonged to the state was under the control of the Area Military Commander. "Proclamation Regarding Regulation of Administration and Law," Jerusalem Media and Communication Center (JMCC), June 7, 1967; Jamil Rabah and Natasha Fairweather, "Israeli Military Orders in the Occupied Palestinian West Bank 1967-1992." JMCC, 1995, vii.

9 • Military Order 92 "Order Concerning Jurisdiction over Water Regulations," August 15, 1967.

10 • The Israeli Civil Administration is the body responsible for the implementation of Israel's government policies in the West Bank, and is part of the Coordinator for Government Activities in the Territories, which is a unit in the Israeli Ministry of Defense.

11 • This includes, but is not limited to pipes, wells, pumps, and rain harvesting cisterns.

12 • Military Order 158 "Order Concerning the Amendments to the Supervision Over Water Law," November 19, 1967, an amendment to Water Law 31, 1953. Israel also imposed Military Order 291 which declared are prior water agreements invalid, giving military commander regulatory jurisdiction over water. Military Order 291 "Order Concerning Settlement of Disputes over Land and Water", December 19, 1968, is an amendment to the Land and Water Regulation Law 40, 1952.

13 • Yehezkiel Lein, "Disputed Waters, Israel's Responsibility for the Water Shortage in the Occupied Territories," B'Tselem, September 1998, 5, accessed May 22, 2017, http://www.btselem.org/publications/summaries/199809_disputed_waters.

14 • "Report of the independent international fact-finding mission to investigate the implications of the Israeli settlements on the civil, political, economic, social and cultural

rights of the Palestinian people throughout the Occupied Palestinian Territory, including East Jerusalem," International Fact-Finding Mission on Settlements, February, 2013, UN Human Rights Council 22nd Session, paragraph 101.

15 • According to the World Bank, unofficial estimates reflect that Mekorot supplies 75 mcm of water to the settlements, of which 44 mcm are extracted from wells in the OPT. "Assessment of Restrictions on Palestinian Water Sector Development," World Bank, 2009, 34, accessed May 22, 2017, <http://siteresources.worldbank.org/INTWESTBANKGAZA/Resources/WaterRestrictionsReport18Apr2009.pdf>.

16 • In 1993, the Palestine Liberation Organization and Israel signed the *Declaration of Principles on Interim Self-Government Arrangements* (Oslo I), which was designed to be an initial step in a multiphase process to transfer power from Israeli military authorities and the Israeli Civil Administration to the Palestinian Authority. In follow-up to Oslo I, the parties signed the *Israel-Palestinian Interim Agreement on the West Bank and the Gaza Strip* (Oslo II) to further develop plans for transfer of power. The gradual transfer of power to the Palestinian Authority has never occurred. While designed to be interim measures due to expire after five years, the Oslo Accords continue today as a smokescreen that facilitates Israel's prolonged occupation of Palestinian territory.

17 • Limited only to the portions of the Mountain Aquifer that underlies the West Bank, it does not include the portion that underlies Israel which is under unilateral Israel management.

18 • "Israeli-Palestinian Interim Agreement on the West Bank and the Gaza Strip," Office of the United Nations Special Coordinator for the Middle East Peace Process, 1995, Annex III Protocol Concerning Civil Affairs, Article 40, accessed May 22, 2017, <http://www.unsco.org/Documents/Key/Israeli-Palestinian%20Interim%20Agreement%20on%20the%20West%20Bank%20and%20>

[the%20Gaza%20Strip.pdf](#).

19 • *Ibid*, Appendix I, Schedule 10. See also Jan Selby, "Dressing up Domination as 'Cooperation': the Case of Israel-Palestinian Water Relations," 29 *Review of International Studies* 29, no. 1 (2003): 121, 131.

20 • Area A covers approximately 18 per cent of the West Bank, includes six major Palestinian cities, and is under full Palestinian civil and security control although Israel has not abdicated full authority over area A. Area B covers approximately 22 percent of the West Bank and is under full Palestinian civil control and joint Israeli-Palestinian control. Area C covers approximately 60 per cent of the West Bank and is under full Israeli civil and military control, including land registration, planning, building and designation of land use. It is also where the majority of Palestinian natural resources lie, including agricultural land, water sources and underground reservoirs. The Israeli-Palestinian Interim Agreement on the West Bank and the Gaza Strip, 1995, Chapter 2, Article XI.

21 • The Israeli-Palestinian Interim Agreement on the West Bank and the Gaza Strip, 1995, Annex III Protocol Concerning Civil Affairs.

22 • This includes the drilling of new and alternative wells, the rehabilitation of existing wells (including routine maintenance, such as cleaning), laying of pipes, etc. The Israeli-Palestinian Interim Agreement on the West Bank and the Gaza Strip, 1995, Annex III Protocol Concerning Civil Affairs, Article 40 (11, 12).

23 • The Israeli-Palestinian Interim Agreement on the West Bank and the Gaza Strip, 1995, Annex III Protocol Concerning Civil Affairs, Article 40 (13, 14).

24 • "Assessment of Water Restrictions on Palestinian Water Sector Development," World Bank, 2009, 34, accessed May 22, 2017, <http://siteresources.worldbank.org/INTWESTBANKGAZA/Resources/WaterRestrictionsReport18Apr2009.pdf>.

25 • Jan Selby, "Cooperation, Domination, and

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Occupied State of Palestine," 2012, 9. 33 • "Water for One People Only," 2013, 14. 34 • Palestinian water supply in the West Bank for the year of 2012 was 104 mcm, compared to 118 mcm during pre-Oslo years. See "Status Report of Water Resources in the Occupied State of Palestine," 2012; see also "Water for One People Only," 2013, 36. 35 • "Water for One People Only," 2013, 88-93. 36 • "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," Al-Haq and Emergency Water, Sanitation and Hygiene Group (EWASH), September 2011, paragraph 81, accessed May 22, 2017, http://www2.ohchr.org/english/bodies/cescr/docs/ngos/EWASH-Al-Haq-Israel_CESCR47.pdf. 37 • "Status Report of Water Resources in the Occupied State of Palestine," 2012, 1. 38 • "How Dispossession Happens. The Humanitarian Impact of the Takeover of Palestinian Water Springs by Israeli Settlers," UN OCHA, March 2012, 14, accessed May 22, 2017, https://www.ochaopt.org/documents/ocha_opt_springs_report_march_2012_english.pdf. 39 • Jad Isaac and Jane Hilal, "Palestinian Landscape and the Israeli-Palestinian Conflict," *International Journal of Environmental Studies* 68, no. 4 (2011): 422-23. 40 • "Water Tankering Projects Target the Most Vulnerable Communities in Area C," UN OCHA, August 10, 2016, accessed May 22, 2017, <https://www.ochaopt.org/content/water-tankering-projects-target-most-vulnerable-communities-area-c>. 41 • "Demolition System Database," UN OCHA, 2017, accessed March 29, 2017, <http://data.ochaopt.org/demolition-sys.aspx>. 42 • "Troubled Waters: Palestinians Denied Fair Access to Water. Israel: Occupied Palestinian Territories," Amnesty International, 2009, 3,

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43 • “Status of Environment in the State of Palestine,” The Applied Research Institute Jerusalem, December 2015, accessed May 22, 2017, https://www.arij.org/files/arijadmin/2016/Final_SOER_2015_opt_r.pdf. In addition, it is reported that Palestinians in the Jordan Valley spend half of their monthly income on water, while their neighboring Israeli settlers, who receive piped water on a regular basis, only spend 0.9 per cent of their monthly income on water. See “Hydro-Apartheid and Water Access in Israel-Palestine,” 2014, 67.

44 • Excerpts from Al-Haq Affidavit Number 141/2017, given by ‘Abd-al-Rahim Husein ‘Bsharat, a livestock breeder and resident of al-Hadidiyya village, Toubas governorate, West Bank, on February 21, 2017.

45 • When Israel occupied the West Bank, including East Jerusalem in 1967, it expanded the boundaries of Jerusalem and applied Israeli civil law (as opposed to military law), to the area, effectively annexing East Jerusalem to the state of Israel. The international community does not recognise Israel’s annexation of this territory and it is still deemed occupied. See “Resolution 478 (1980) of 20 August 1980,” UN Doc. S/RES/478, August 20, 1980, accessed May 22, 2017, <https://unispal.un.org/DPA/DPR/unispal.nsf/0/DDE590C6FF232007852560DF0065FDDB>.

46 • Between the years 2005-2009, only some 55 per cent of requests for building permits in the Palestinian neighborhoods were approved, compared with some 85 per cent in the Israeli neighborhoods. “East Jerusalem: Facts and Figures,” Association for Civil Rights in Israel (ACRI), May 12, 2015, accessed May 22, 2017, <http://www.acri.org.il/en/wp-content/uploads/2015/05/EJ-Facts-and-Figures-2015.pdf>.

47 • “Report of the Independent International Fact-finding Mission,” February 2013, UN Human Rights Council, 22nd Session, paragraph 85.

48 • Upon illegally annexing East Jerusalem, Israel issued permanent residency cards to those who were present in the new municipal boundaries of Jerusalem. Due to Israel’s discriminatory policies, their status as permanent residents is constantly under threat. For more information, see Natalie Tabar, “The Jerusalem Trap,” Al-Haq Organisation, 2010, accessed May 22, 2017, <http://www.alhaq.org/publications/publications-index/item/the-jerusalem-trap>.

49 • In 2002, Israel began the construction of the Annexation Wall, a combination of 8 to 9-meter-high concrete slabs, razor wire fencing, and surveillance equipment, approximately 80 per cent of which is located inside the occupied West Bank, appropriating Palestinian land, restricting freedom of movement, and fragmenting Palestinian communities, including cutting off East Jerusalem from the rest of the occupied West Bank. In 2004, the International Court of Justice issued an Advisory Opinion deeming the Annexation wall illegal. See “Advisory Opinion on the Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory,” ICJ Report, 2004.

50 • It was reported in 2014, that the water infrastructure in those areas is appropriate for a population of 15,000, while 80,000 people currently reside there. “ACRI Petitions High Court: Restore Water to East Jerusalem,” ACRI, March 25, 2014, accessed May 22, 2017, <http://www.acri.org.il/en/2014/03/25/ej-water-petition/>.

51 • In 2014, four of these neighborhoods went without running water for nearly ten months. A court case was filed on their behalf requesting that the neighborhoods be connected to a licensed water network and the water supply restored. The Israeli High Court demanded that the state take action, but these areas remain unconnected to authorised networks. “ACRI Petitions High Court,” March 25, 2014; Mairav Zonszein, “Palestinians in East Jerusalem go 10 Months Without Water.” 972 Mag, January 18, 2015, accessed May 22, 2017, <https://972mag>.

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53 • "Status of Environment in the State of Palestine 2015," The Applied Research Institute Jerusalem, December 2015, 43, accessed May 22, 2017, https://www.arij.org/files/arijadmin/2016/Final_SOER_2015_opt_r.pdf.

54 • For example, during the 2014 offensive against the Gaza Strip, 26 water wells, 46 kilometres of water supply networks, 16 water containers, 6 desalination units, 17 kilometres of sewage networks, 12 pumping stations, and 4 wastewater treatment plants were partially or totally destroyed. See "Divide and Conquer- A Legal Analysis of Israel's 2014 offensive against the Gaza Strip," Al-Haq, 2015, 67, accessed May 22, 2017, http://www.alhaq.org/publications/publications-index/item/divide-and-conquer?category_id=4.

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56 • *Ibid.*

57 • *Ibid.*

58 • "Occupied Palestinian Territory Slides into Recession, Gaza Becoming Uninhabitable," UN Conference on Trade and Development (UNCTAD), September 1, 2015, accessed May 22, 2017, <http://unctad.org/en/pages/newsdetails.aspx?OriginalVersionID=1068>. See also "Gaza in 2020: A Liveable Place?," August 2012.

59 • Derived from Article 43 of the Regulations Annexed to the Hague Convention IV Respecting

the Laws and Customs of Wars on Land of 1907 (Hague Regulations): "The authority of the legitimate power having in fact passed into the hands of the occupant, the latter shall take all measures in his power to restore, and ensure, as far as possible, public order and safety, while respecting, unless absolutely necessary, the laws in force in the country."

60 • Iain Scobbie, "Natural Resources and Belligerent Occupation: Perspectives from International Humanitarian and Human Rights Law," in *International Law and the Israeli-Palestinian Conflict: A Rights-based Approach to the Middle-East Conflict*, eds. Susan M. Akram, Michael Dumper, Michael Lynk, and Iain Scobbie (London/New York: Routledge Publishers, 2010), 231. In addition, Israel must protect the Palestinian population and their property, including natural resources, from exploitation and depletion by the occupying power. Antonio Cassese, "Powers and Duties of an Occupant in Relation to Land and Natural Resources" in *International Law and the Administration of the Occupied Territories*, ed. Emma Playfair, (Oxford: Clarendon Press, 1992), 422.

61 • "Hague Regulations," Article 55, 1907.

62 • "Fourth Geneva Convention Concerning the Protection of Civilian Persons in Time of War of 1949," Fourth Geneva Convention, Article 53, August 12, 1949, accessed May 22, 2017, <https://goo.gl/djiNZF>.

63 • "The Right to Water. Fact Sheet No. 35," UN Office of the High Commissioner for Human Rights, August 2010, 1-3, accessed May 22, 2017, <http://www.ohchr.org/Documents/Publications/FactSheet35en.pdf>.

64 • "General Comment No. 15: The Right to Water (Articles 11 and 12 of the Covenant)," UN Committee on Economic Social and Cultural Rights provides, UN Doc. E/C.12/2002/11, paragraph 3, January 20, 2003, accessed May 22, 2017, <http://www.refworld.org/docid/4538838d11.html>. See also "The right to water," August 2010, 5.

65 • The right to self-determination holds that all people have the right “freely to determine, without external interference, their political status and to pursue their economic, social and cultural development, and every State has the duty to respect this right in accordance with the provisions of the [UN] Charter.” “2625 (XXV). Declaration on Principles of International Law Concerning Friendly Relations and Co-operation among States in Accordance with the Charter of the United Nations,” United Nations General Assembly Resolution 2625, UN Doc. A/RES/2625, October 24, 1970, accessed May 22, 2017, <http://www.un-documents.net/a25r2625.htm>.

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68 • “General Comment 12,” March 13, 1984, paragraph 6.

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70 • *Ibid.*

71 • The International Court of Justice recognised these obligations in its Advisory Opinion on the Wall in relation to the consequences arising from the construction of the Annexation Wall. See “Advisory Opinion on the Legal Consequences of the Construction of a Wall in

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report-feasting-on-the-occupation-highlights-eu-obligation-to-ban-settlement-produce.

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