

*Report*  
**Collapsing  
Prospects**

**PALESTINIANS IN AREA C,  
WEST BANK**

**A REPORT OF THE DUTCH MULTIDISCIPLINARY EXPERT TEAM ON THE SITUATION OF  
THE PALESTINIAN POPULATION IN AREA C UNDER THE ISRAELI MILITARY REGIME.**

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## EXECUTIVE SUMMARY

In October 2015, a Dutch multidisciplinary team of experts visited Area C in the West Bank, aiming at two specific objectives: to assess the human security and sustainable development situation of Palestinian communities in Area C, and subsequently to offer Dutch policy makers recommendations for specific engagements. The Expert Team focused on three themes:

- the rule of law, human rights and violence;
- access to natural resources, in particular water and land;
- demolition and building policies and practices.

Before going to Area C the team consulted a substantial number of relevant sources. During the visit itself, it met with a large number of Israeli, Palestinian and international activists, NGO practitioners, experts and academics, Dutch diplomatic representatives as well as Palestinian farmers and refugees.

The team has identified three layers of Israeli military regime which directly impact – individually and cumulatively – human security and sustainable development in Palestinian communities in Area C:

- A. The development of Israeli settlements and outposts in the territory designated by the UN Resolution 181 (II) in 1947 as a Palestinian territory.**
- B. A system which severely restricts freedom of movement for Palestinians, consisting of the Barrier/ Separation Wall, mobile and permanent checkpoints, roadblocks, separate road systems for Israelis and Palestinians and various policies of segregation and restriction of mobility.**
- C. The fragmentation of Palestinian territories and the introduction of different governing and legal systems in the West Bank, through the creation of Areas A, B and C, East Jerusalem and zones E1, H1 and H2.**

Some of the conditions described above - such as territorial, governance and judicial fragmentation - were created by the Oslo Accords, signed in 1993 and 1995. However, the accords were meant to be temporary, revisited after 5 years. Moreover, they were supposed to create the conditions for security and prosperity for both Israelis and Palestinians, and lead to a peaceful coexistence within the Two-state framework. This has not materialized. On the contrary, the team wishes to stress with the utmost urgency that peace and security are getting ever further.

### THE MISSION RESULTED IN TWO MAIN CONCLUSIONS:

- First, the systematic institutional oppression and discrimination of the Palestinians in Area C have increased exponentially since the signing of the Oslo Accords, while human security and the prospects for growth and economic development have deteriorated dramatically. This process goes much deeper and faster than generally acknowledged.
- Second, it is the strong conviction of the Expert Team that such circumstances are neither sustainable nor tenable even in the short-run, and that they pose a serious and immanent threat to any possible just solution to the conflict.

Israeli military occupation in all its forms of domination affects the daily life of Palestinians to the extent of creating an overall context of deep human insecurity and little hope for the future of Palestinians as a people under occupation. Development aid and projects supported by international donors contribute to the survival of Palestinian communities, easing some of the immediate dire needs, but under these conditions they do not and cannot contribute to either human security or sustainable development in Palestinian communities in Area C.

### WITH THIS IN MIND, THE EXPERT TEAM WISHES TO POINT TO ITS FOLLOWING KEY CONCERNS:

1. There is a dual legal system in Area C, with Israeli settlers being subject to Israeli Civil Law and Palestinians governed by Israeli Military Law. The high degree of Palestinian convictions, the harsh sentencing of Palestinians and the systematic failure of Israeli authorities to enforce the law and protect the Palestinians when facing settler violence, are viewed by national and international human rights organisations as institutionalised discrimination against the Palestinians.
2. In spite of it being illegal under international law, Israeli support for the development and expansion of settlements and outposts continues and is even accelerating in Area C, depriving the Palestinians of, and driving them from their land.
3. Restrictions on the freedom of mobility of Palestinians have intensified exponentially since the Oslo Accords and the Second Intifada, and most recently since the outbreak of violence in October 2015. The Wall – built as a temporary security measure – and the strict system of checkpoints and mobility permits have resulted in Palestinian communities being cut off from their farmlands and water resources. Moreover, Palestinians are not allowed to use the bypass roads designated for the use of Israeli settlers only. These restrictions are being broadened continuously, affecting more and more Palestinian populations and territories.
4. The Israeli military and civil administrations have appropriated land in Area C by designating it as ‘state land’, ‘military zone’ and ‘nature reserve’. Palestinians either have extremely restricted access to these lands or are actively expelled from. At the same time, Israeli settlements and companies have full access to, and rights of use of the appropriated Palestinian lands. Spatial planning is one of the major tools used for these designations and for the restriction of the demographic, economic and social development of Palestinian communities.
5. The fragmentation of agricultural land, the denial of access to adequate water supplies and the prohibition to breed livestock and farm the fertile land in Area C have left Palestinians dependent on import



Delegation visit to South Hebron hills. (photo: Galit Saporta)

for their daily sustenance. Basic food security, already low, is likely to become a major problem.

6. The lack of adequate investments in the Palestinian water and sanitation infrastructure, the disproportionate extraction and usage of water per person/ per day by Israel and Israeli settlers and the active and systematic denial of access to, as well as the destruction of Palestinian water resources are characteristic of what has been named 'water-apartheid'.
7. The denial of permits for the construction of private, community and public property for Palestinian use, either by donors or with Palestinian funds, as well as the demolition of property – including essential water and energy supplies - by the Israeli civil administration and military authorities constitute a major violation of some of the basic human rights, including the right to development.
8. Palestinian land and residences in key places in Area C and East Jerusalem have been declared Israeli/Jewish 'archaeological sites' and 'national heritage sites', and Palestinians residing there are being forced to leave their homes. At the same time, Palestinian cultural and national heritage is being denied and destroyed.
9. The space for non-violent resistance is drastically shrinking, as the right of Palestinians to peaceful assembly and association is restricted. Lately protests and other non-violent actions by both Israeli and Palestinian human-rights defenders and organisations have been delegitimized much more systematically, countered by heavy military force and by threats, and criminalized by the passing of laws that limit and control such activities.

The Expert Team wishes to emphasize that no independent, sustainable and secure livelihood for Palestinian communities is possible under these conditions.

The Palestinian population in Area C lives under an Israeli military regime which the United Nations and the international community still call occupation. However, international law forbids occupying states to move their own population to the occupied territory and to evict occupied populations from their land. It also forbids the exploitation of natural and other resources of the occupied country, denying occupied communities health, education and due social,

economic and political development, violating the social, civil and political rights of the occupied population, the use of collective punishments and causing the occupied people undue suffering. Israel does all of this.

Together with the international community, the Dutch government has supported the Oslo peace process and the two-state solution, hoping that a combination of security and economic development would pave the way for an economically and politically independent and viable sovereign Palestinian state living in peace with Israel as its neighbour. It is however the conclusion of this Expert Team that, under the current conditions, the social and economic resources of such a Palestinian state are being either destroyed or appropriated by the State of Israel, while negative political processes extinguish the options for non-violent engagement.

It is with this in mind that the Expert Team addresses the Dutch government, Dutch Parliament and Dutch policy makers with the following recommendations:

## RECOMMENDATIONS

**In view of our main conclusions and key concerns, the Expert Team urges the Dutch Government, Parliament and policy makers to engage in debates about the nature of the Israeli military regime in the West Bank and the two-state solution. Very different positions are taken on these issues by various political and civil-society organisations in Palestine and Israel, in the Middle East, the EU, The Netherlands and other parts of the world. We recommend that the Dutch Government, Parliament and policy makers play an active role in discussing the different approaches and what consequences they bear for the Palestinian people, and that they engage in envisioning just and sustainable solutions to a Palestinian statehood.**

In addition, we urge the Dutch Government, Parliament and policy makers to exert their influence on Israel and persuade it to acknowledge and respect international laws referring to the illegitimacy of Israeli occupation of Palestine and its devastating effects on the Palestinian people. In particular, Israel should be required to fulfil its obligations under Oslo I and Oslo II to transfer full governing power of Areas C and B to the Palestinian

National Authority, and to stop all activities prohibited by international law, such as the building, expansion and planning of Israeli settlements in the West Bank.

We advise the Dutch Government, Parliament and policy makers to demand that Israel takes the following steps in order to slow down and ultimately stop the current near-collapse of Palestinian livelihood in Area C, and start creating the basic conditions for sustainable livelihood as well as personal and property security:

**a. Immediate acknowledgement and respect of the right of the Palestinians in Area C to human and property security, along with the abolishment of policies and practices which violate those rights. More specifically by:**

- Respecting the freedom of movement of persons and goods;
- Abandoning the dual legal system and other policies and practices which discriminate against Palestinians;
- Securing the rule of law and fair trial rights;
- Ensuring proper protection of Palestinians and their property against settler violence;
- Stopping the expulsion and forced resettlement of Palestinians within Area C and the 'silent transfer' from Area C;
- Abandoning discriminatory spatial planning and establishing Palestinian planning and building institutions and agencies.

**b. Immediate withdrawal of policies and practices which have a direct negative impact on the economic development of Palestinian communities in Area C, as well as acknowledgement and respect of the right of the Palestinian people to sustainable economic development, in particular by:**

- Allowing the Palestinians full access to their natural resources, guaranteeing a just distribution and hi-tech development of water resources under supervision of an independent party, as well as securing investments in basic water infrastructure;
- Restituting appropriated Palestinian land with no delay, ensuring full Palestinian access to privately-owned and communal lands and allowing Palestinian farmers free access to their arable lands and pastures;

- Securing the right of all Palestinians to exploit natural resources in the West Bank, especially drinking and irrigation water, quarries of building materials, minerals and nature reserves, for economic development and solving food insecurity;

**c. Protection of development aid, investments done by the national and international community, including the Dutch government, and all other investments enhancing personal and property security and livelihood in Area C, in particular by:**

- Immediately dismantling the discriminatory building and demolition system with all its policies and institutions;
- Stopping all demolitions and withdrawing all threats of demolition (be it as a measure of collective punishment or because a property was built without a permit).

**d. Immediate recognition and protection of the right of Palestinian, Israeli and international individuals, groups and civil-society organisations to freedom of expression, assembly and non-violent activity, as well as the abolishment of policies and practices which violate these rights;**

In addition, the Expert Team urges the Dutch government to make a change **within its own national space**, to go further than the mere "discouraging policy" which advises companies, institutions and organisations to refrain from contributing economically, intellectually, technically or otherwise to the building and development of Israeli settlements, or to the Israeli occupation of Palestine, thus violating national and international laws and principles, and to see to it that Dutch companies and organisations that are involved in such international law violations are held accountable.

Finally, The Expert Team recommends that the Dutch government **uses its position within the EU** and assumes a leading role in creating, pursuing and supporting European policies which hold Israel legally, politically and economically accountable for its policies and practices in the oPt which violate international law and impede human security of the Palestinians and development of their society.

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# INTRODUCTION

It is widely acknowledged that human security and economic development in the Occupied Palestinian Territories (oPt) are fundamental to sustaining the livelihood of the Palestinian population. Since the signing of the Oslo Accords in 1993 and 1995, the international community, as well as local and international aid agencies, have supported various development projects in the oPt, hoping that these would contribute to the peace process and the two-state solution by creating structures of economic growth and good governance which, in turn, would enable Israel and Palestine to co-exist in peace and autonomy within the framework of the two-state solution.

However, five decades after the 1967 Israeli occupation of Palestine and two decades after the signing of the Oslo Accords, the increasing tension and clashes in the Occupied Palestinian Territories suggest that a just and enduring political solution still remains elusive.

In order to assess the current situation of, and future possibilities for economic development and human security in Area C of the West Bank under Israeli military occupation, an Expert Team travelled to Area C in October 2015. The team had two objectives:

1. To look into issues of human security and economic development of the Palestinian population in Area C of the West Bank, focusing on:
  - the rule of law, human rights and protection from violence;
  - access to water and land resources;
  - demolition and construction practices;
2. To explore ways in which Dutch policy makers could exert their influence in the region in support of policies and programmes aimed at achieving just, autonomous and sustainable livelihood and security for the Palestinian people, in accordance with international law.

The mission was carried out by a multidisciplinary team with expertise in water management, gender and conflict, human rights, human security and economic and social development. Its members were: Rachel Kurian, Aalt Leusink, Peter van Lieshout, Marloes van Noorloos and Dubravka Žarkov, assisted by Machteld Galema<sup>1</sup>. The mission was initiated and organized by **gate48**, a Dutch NGO of critical Israelis living in the Netherlands, represented by director Galit Saporta, and **Palestine Link**, an organisation of Palestinians in the Netherlands, represented by director Ghada Zeidan.

<sup>1</sup> See short biographies of the team members in Annex 1.

This Report is the result of the Expert Team mission. Focusing on issues of development and human security, the report addresses the three domains specified in the objectives. Where relevant, the report reflects on the role of international and local NGOs and aid agencies, including Dutch government and companies.

Work on the report began in April 2015 with a comprehensive review of research, data and reports on the economic, social and political situation in the West Bank.

The Mission to Area C took place between the 9th and 20th of October 2015, coinciding with an escalation of violence in the area. The team found itself amidst sounds of sirens, sights of police and military vehicles, ambulances and new roadblocks heavily manned with Israeli military. All of this, combined with the restriction of movement, made traveling quite an undertaking, as certain towns (such as Hebron) were deemed too dangerous for the team to visit, while others (Jerusalem and Bethlehem) were off-limits to our Palestinian and Israeli organizers, respectively.

The team met many committed Israeli and Palestinian individuals, grass-root groups and organisations of all faiths and backgrounds, local farmers and politicians, lawyers, academics, activists and members of the Netherlands Representative Office in Ramallah and the Dutch Embassy in Tel Aviv.

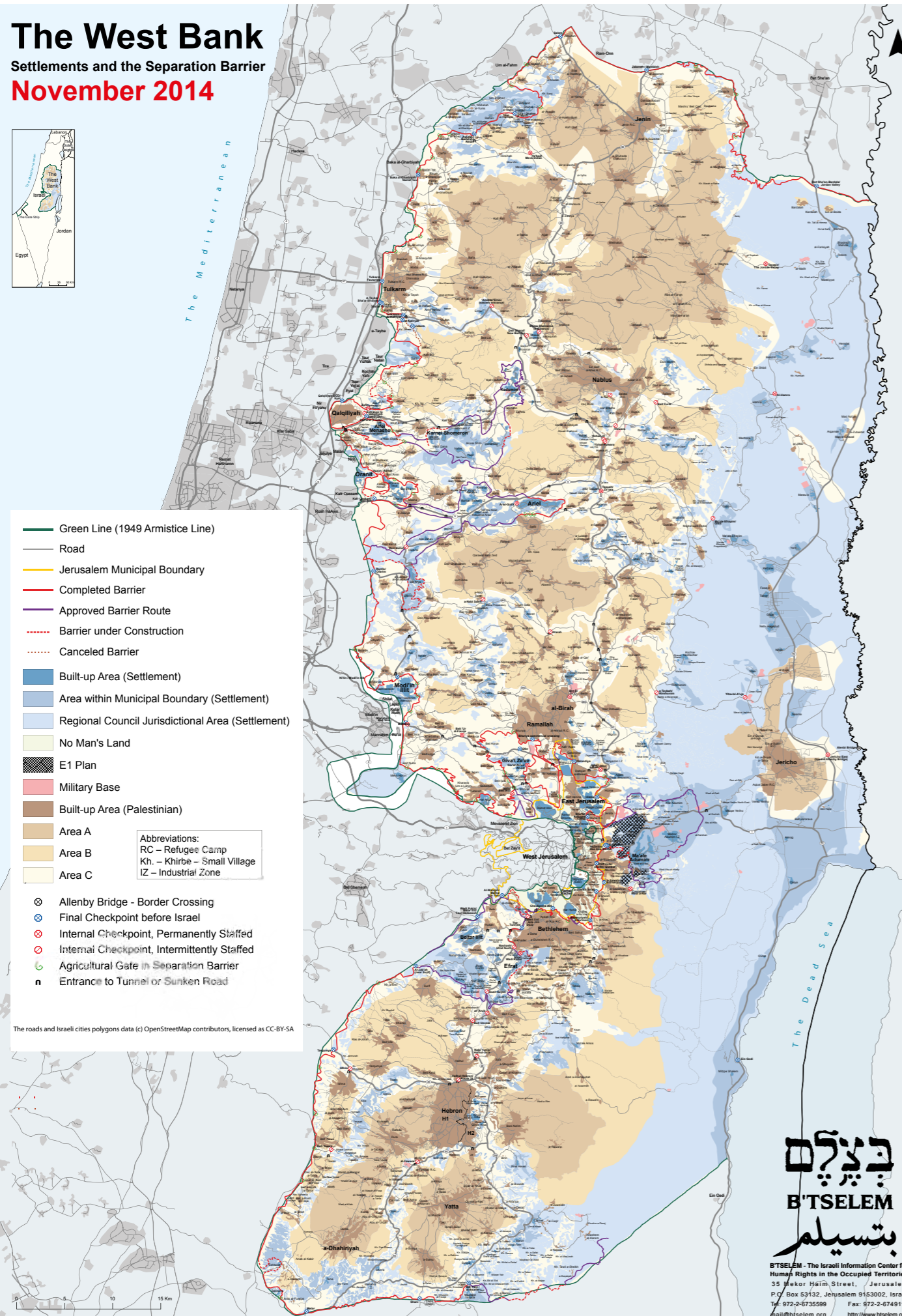
## This report consists of the following chapters:

- Chapter 1: Three layers of occupation.
- Chapter 2: Legal Discrimination
- Chapter 3: Restricted access to natural resources (water and land).
- Chapter 4: Construction and demolition policies and practices in Area C.

We end the report with conclusions and recommendations to Dutch policy makers.

# The West Bank

Settlements and the Separation Barrier  
November 2014



## 1 THREE LAYERS OF OCCUPATION

### POLITICAL PROCESSES AND CONTROVERSY

For a thorough understanding of the possibilities of sustainable development and human security in Area C of the West Bank, one must understand the present context of Israeli occupation of Palestinian territories. Different aspects of life in the West Bank are regulated by different layers of occupation. These layers have a long history. As noted in the introduction, many of them date back to the Oslo Accords of 1993 and 1995. Others are directly related to the 1967 war, when Israel occupied West Bank and Gaza and annexed East Jerusalem.

Three layers of occupation were of particular significance for our mission:

- the building of Israeli settlements on occupied Palestinian land;
- restrictions on the freedom of movement of Palestinians;
- the territorial, legal and governance fragmentation of the West Bank.

Each of these layers has its specific effects on the Palestinian population in Area C. It is however their cumulative impact on the rule of law and on human rights, on the access of Palestinian to their natural resources and on demolition and building policies and practices, that the Expert Team found particularly detrimental to the life and livelihood of the Palestinians in Area C. These effects will be explored in detail in the following chapters.

### LAYERS OF OCCUPATION

The first layer of occupation the Expert Team wishes to highlight is the development of Israeli settlements and outposts within the territory designated by the UN Resolution 181 (II) in 1947 as Palestinian territory. For the last half century, a process of continuous

construction of Israeli settlements in the West Bank – and in particular in the Area C - has taken place. Israeli settlements in the West Bank are illegal under international law, and have been a focus of several UN Security Council resolutions and the advisory opinion of the International Court of Justice. Yet they are legal under Israeli law. The so-called ‘outposts’ are illegal under Israeli law, but generally the Israeli authorities do not take action against them. Since the war in 1967, when Israel occupied Palestinian territories, some 150 settlements and 100 outposts have been established throughout West Bank (UN OCHA, 2016). In the last two decades, some settlements have become cities, increasing the number of Israeli settlers from around 100,000 in 1993 (before Oslo Accords) to over 300,000 in 2011 (World Bank, 2013) to almost 550,000 in 2015 (B'Tselem, 2015). Some 35% of the land in East Jerusalem has been confiscated for Israeli settlement use. The amount of land in Area C directly controlled by Israeli settlers increased to almost 70% (World Bank, 2013). The Israeli authorities have allocated most of the land in Area C for settlements and their expansion, and are actively involved in construction of the infrastructure necessary for the survival of the settlements (such as electricity, water and roads). Individual settlers and the settler organisations also rely on foreign funding<sup>2</sup>. A recent report by the UN Secretary General noted that expansion of existing and building of new settlements “would sever the territorial continuity between the Palestinian neighborhoods of southern East Jerusalem and the southern West Bank” (UN Secretary General, 2015, §7).

<sup>2</sup> See December 2015 report by Haaretz (Haaretz, 2015) of US-based charities for Israeli settlements in the West Bank. See also organisations such as One Israel Fund or Shuva Israel that (One Israel Fund) openly supporting settler organisations in the West Bank. Shuva Israel operates in the Netherlands as well, enlisting support for settlements from Dutch Christian groups (see for example (Israel Platform) (Stichting HVC) and (Shuva Israel)).

With the building of settlements, Palestinians have not only lost land, but also road infrastructure and traditional routes between their houses and farmlands, between neighbouring villages, and between villages and cities. Accessing land near settlements has become extremely difficult and sometimes impossible for Palestinian farmers. There are also regular reports of settler violence against the Palestinians, with the Israeli police and military turning a blind eye to these incidents or cooperating with settlers. While Israeli settlers' violence against Palestinians is often met with impunity or lenient sentences, Palestinian violence against settlers – including the stone-throwing - is dealt with harshly.

**The second layer of occupation relevant for this mission is the system which severely restricts freedom of movement for Palestinians: the Barrier/Separation Wall, mobile and permanent checkpoints, roadblocks, separate road systems for Israelis and Palestinians and various policies of segregation and restriction of mobility.** Occupation policies have reached a new phase with the construction of the Separation Wall. Approved by the Israeli government in 2002 as a 'temporary security measure', the Wall now consists of over 400 km of different types of barriers, from barbed wire to concrete-slab segments up to 9m high. Around 85% of its route lies within the West Bank, encircling 71 out of the 150 Israeli settlements and 85% of the settler population behind the Green Line (established in 1949 as an official border between the State of Israel and its Arab neighbors, marking the territories of Gaza and the West Bank). Around 6 percent of the West Bank is already illegally annexed this way (UN OCHA, 2015). The Wall has isolated Palestinian cities in the West Bank from each other, has hugely limited the mobility of Palestinians living behind it and restricted their access to agricultural land, water resources and places of work, as well as to health, administrative and educational centres. A policy of 'permits' has been introduced for Palestinians who need to pass through the checkpoints. Some 150 Palestinian communities have their farmlands in the enclosed spaces between the Green Line and the Wall and are required to obtain permits in order to go through the gates built for this purpose<sup>3</sup>, when they need to cultivate their crops.

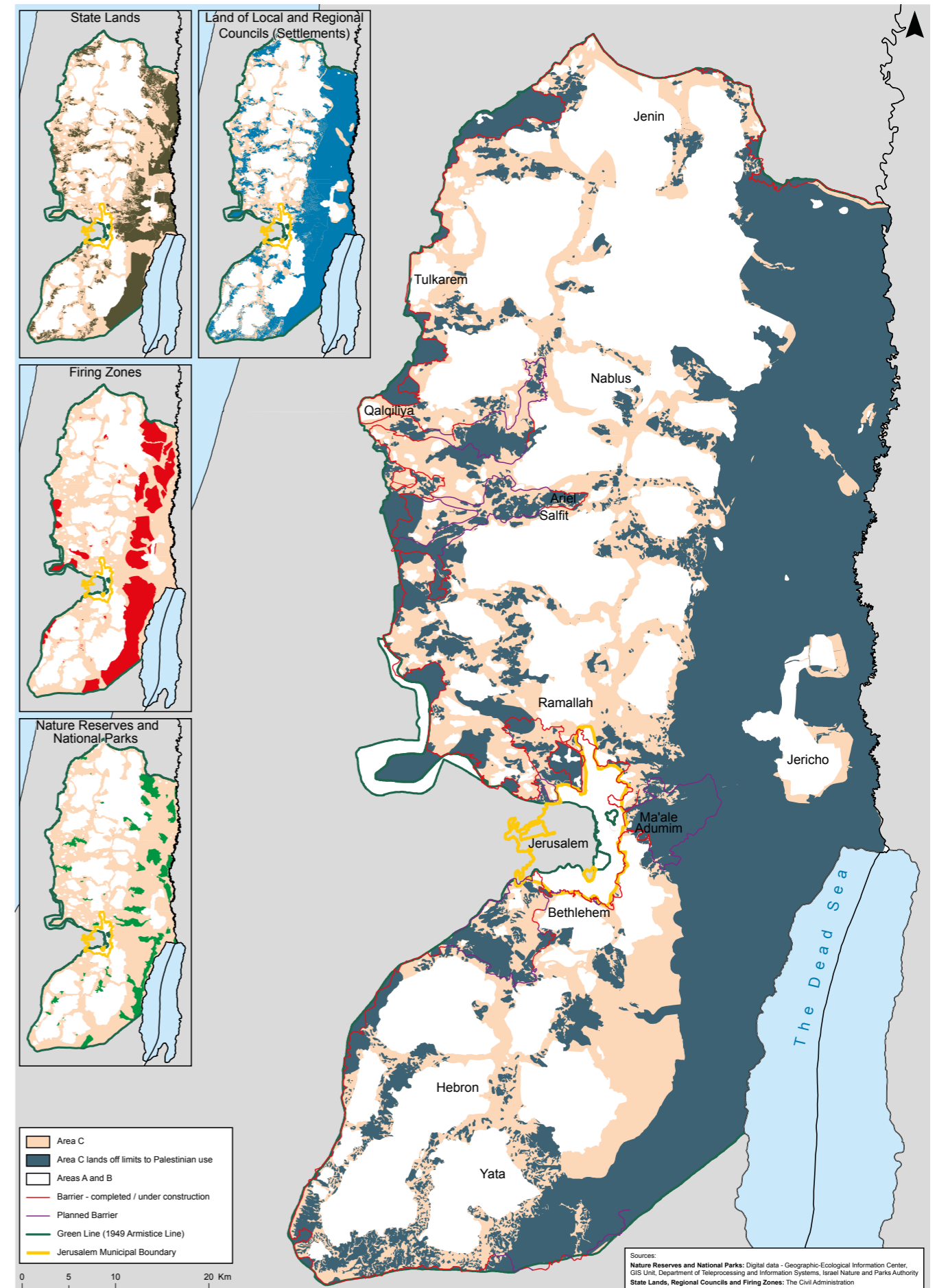
<sup>3</sup> There are 81 checkpoints in the area between the Green Line and the Wall.

This has resulted in a 60% reduction in the yield of the olive trees which have remained on the Israeli side of the Wall (UN OCHA, 2014). The situation is particularly problematic in Jerusalem. Palestinians from other parts of the oPt can only enter Jerusalem (East or West) with special permits, through four of the 13 checkpoints that have been set up around the city. Israeli citizens are forbidden by Israeli law to enter the Palestinian Area A. A recent addition to this strategy has been the extension of the bypass-roads that lead directly from Israel to specific Israeli settlements within the West Bank. These roads are not accessible to Palestinians.

**The third important layer of occupation is the fragmentation of Palestinian territories and introduction of different governing and legal systems in the West Bank's Areas A, B and C, in East Jerusalem and zones E1, H1 and H2.** This fragmentation is both the result of the occupation of the West Bank and Gaza in the Six Day War (5-10 June, 1967) and of the Oslo II Accord.

As noted in the Introduction, Area A is supposed to be under full administrative and security control of Palestinian Authority. Area B should be under administrative control of Palestinian Authority, with security under Israeli authorities. Area C is under full control of Israeli military authorities. However, all three Areas are still under full occupation, and Israeli military enters them at will, regardless of the regulations of the Oslo Accords.

Area C – around 60% of the West Bank - has been under direct and full Israeli military command and Israeli civil administration since 1967. The latter was established in 1981 by Military Order No. 947 in order to 'run all regional civil matters' in the West Bank (and Gaza) 'for the well-being' of the local population. Although named 'civil administration' it operates under Israel's Ministry of Defence, is enforced by military courts and headed and staffed by military personnel (Israel Defence Force Area Commander, 1981). Furthermore, Area C is sub-divided into a number of zones. According to a World Bank Report "less than 1 percent of Area C, which is already built up, is designated by the Israeli authorities for Palestinian use; the remainder is heavily restricted or off-limits



for Palestinians, with 68 percent reserved for Israeli settlements, 21 percent for closed military zones, and 9 percent for nature reserves (approximately 10 percent of the West Bank, 86 percent of which lies in Area C)<sup>4</sup>. Palestinians from the Area C regularly face forced resettlement to Areas A and B and their access to land and water is heavily restricted.

The territorial fragmentation of the West Bank means that Areas A and B – consisting of around 170 villages and a few larger cities - do not exist as one unified, continuous territory, but are scattered like islands within the Area C.

In addition to the fragmentation of Palestinian territories and aforementioned division of governance between Palestinian National Authorities and Israeli authorities in Areas A, B, and C, Area C also has a dual legal system: in fields such as criminal law, Palestinians are ruled by military law and military courts, and Israeli settlers by civilian law and courts. Palestinian judiciary and police have no authority in Area C. This dual legal system has been criticized by many Israeli, Palestinian, and international human rights organisations as discriminatory and unjust. At the same time, in other fields where Palestinians do have access to the Israeli civilian legal system, this system has been repeatedly criticized by Israeli and international organisations for succumbing to the influence of Israeli politics and being unable to uphold the fundamental civil and political rights of Palestinians<sup>5</sup>. Legally and socially, possibilities for non-violent resistance by both Israeli and Palestinian citizens are being reduced, while at the same time violence against Palestinians is continuing with impunity<sup>6</sup>.

4 The percentage of the zones differs slightly per source. See for example OCHA 2011 at *Restricting Space in the OPT, Area C map*, 12 2011 and B'Tselem, *Taking control of land and designating areas off-limits to Palestinian use*, 30 10 2013, and World Bank, "Area C and the Future of the Palestinian Economy." (2013).

5 Numerous reports can be found at the websites of Israeli HR organisations B'Tselem and Yesh Din, as well as Amnesty International, Human Rights Watch etc.

6 See cases of impunity taken up by B'Tselem (B'Tselem, 2015), and Yesh Din (Yesh Din, 2016) respectively.

Besides Areas A, B and C, there are special arrangements that further fragmentize the West Bank territorially, administratively and legally. The City of Hebron, the second largest Palestinian city, is divided in two sectors: H1, which covers around 80% of the city, is populated by 120,000 Palestinians, and administered by the Palestinian National Authority; and H2, which covers around 20% of the city, is populated by 30,000 Palestinians and around 700 Israeli settlers, is governed by the settlers, and officially governed by Israel.

Finally, a special arrangement exists for Area E1 – a large Israeli settlement Maale Admomi, situated northeast of Jerusalem. The settlement creates a barrier for expansion of East Jerusalem, separates it from the West Bank and at the same time cuts the West Bank in two segments: north and south. Area E1 was officially created in 1999 (i.e. after Oslo II, 1995), but it covers the territory that was considered Area C under Oslo II, and was populated by Bedouin communities that have since been facing forced resettlement and expulsion.

### CUMULATIVE CONSEQUENCES OF THE THREE LAYERS OF OCCUPATION

The prevailing situation of the Palestinian people in the West Bank and East Jerusalem is the outcome of a number of political processes and controversies surrounding the establishment of the State of Israel through the UN-sponsored 'Partition Plan' of 1947, the actual founding of Israel in 1948, the first Israeli-Arab war of 1948-1949 and the subsequent Armistice/Green Line of 1949, that resulted in the division of what is now the West Bank and Gaza between Israel (ruling 78% of the territory), Egypt and Jordan. Israel's rule was extended in June 1967 during the 'Six Day War' after seizing the West Bank and East Jerusalem (from Jordan), the Gaza Strip and the Sinai Peninsula (from Egypt) and the Golan Heights (from Syria)<sup>7</sup>.

The Expert Team will argue in this Report that the Oslo Accords and the subsequent Oslo Process are also heavily implicated in the current situation in Area C.

7 Consult Annex 2 for a timeline of relevant events.

Oslo I (1993) – the Declaration of Principles on Interim Self-Government Arrangements – enabled the official inclusion of the Palestinian Liberation Organisation in negotiations and was followed by the creation of the Palestinian National Authority in May 1994.

Oslo II (1995) – the Interim Agreement (Israel Ministry of Foreign Affairs, 1995) on the West Bank and the Gaza Strip<sup>8</sup> – divided the Palestinian territories into Gaza and the West Bank, and further created three administrative zones within the West bank: Area A, B and C, which are ruled by different governance and legal systems. As noted earlier, Area A has been placed under full Palestinian authority and constituted of around 18% of the West Bank territory (mainly major cities). Area B contained about 22% of the West Bank with the civil affairs responsibilities under the Palestinian Authority, while security remains the responsibility of Israel. Area C consisted of around 60% of the West Bank territory and was placed under

8 Since the Gaza Strip was not part of the expert team's mission, we refer to it in the report only when necessary.

full Israeli control<sup>9</sup>. Following the Oslo Accords, the status of East Jerusalem was to be determined at a later stage together with other issues, such as water, borders and the return of the refugees, which were meant to be dealt with at the end of the 5 years interim period. In 1994 a Peace Treaty was signed between Israel and Jordan fixing the borders between the two states, Jordan accepting thereby Israeli control over the lands that had been occupied in the 1967 war. Oslo II was supposed to be re-visited after 5 years, during which period Israel was supposed to transfer control of both Areas B and C to the Palestinian National Authority, but that never happened.

While the Oslo Accords initially created hope that the just solution for peace would be found, the effects of the three layers of occupation listed above have actually deepened and dramatically intensified conflicts and confrontations in the post-Oslo period.

9 Percentages on Areas A, B and C from (B'Tselem, 2014)



photo: Palestine Link



Their individual and cumulative effects on the everyday life of Palestinians have been not just numerous but also interrelated, and have affected almost every aspect of daily life: personal and property security; possibilities to create, sustain and expand livelihoods; access to necessary natural resources; and chances to use health, educational, civic, cultural and other services and facilities. The growth of the Palestinian population over the last two decades, the systematic denial of building permits to Palestinians in Area C and the restricted access to arable land and water have created pressure on the limited economic and natural resources and induced economic hardship. In the West bank, GDP per inhabitant is around 900\$ a year, while in Israel it is around 40,000\$ a year. Unemployment in West Bank is consistently high, and growing. In 2010, in rural areas, unemployment was around 20%, poverty 22%, food insecurity 17% and malnutrition 28% (FAO, 2010). According to ILO unemployment rate in occupied territories has reached 27% in 2014, with much higher rates among youth: 40% and 63% among young men and women respectively (International Labour Organisation, 2015). According to UNRWA, in 2014 a third of Palestinian households was food insecure (UNWRA, 2014).

There have been a number of international attempts to change the situation in the West Bank and bring about peace: the US-sponsored Rogers Plan of 1970, the Camp David Agreement between Israel and Egypt of 1978, the Oslo Accords of 1993 and 1995, the second Camp David Summit of 2000, and the Annapolis Conference of 2008.

The Palestinians have resisted Israeli occupation in various ways: undertaking strikes, using various forms of civil disobedience and non-violence as well as underground resistance and armed struggle. On two occasions resistance has escalated into mass uprisings (in Arabic: intifada, meaning 'shaking off'). The First Intifada broke out in December 1987 and was notable for its widespread support amongst the Palestinians, who challenged Israeli military forces, called for the boycott of Israeli products, and organized community-based initiatives for food security, education and health services. The Second Intifada, characterized by armed resistance as well as

terrorist attacks, sparked off in 2000, thus after the Oslo Accords, as a result of the continuous occupation and an absence of progress in Israeli transfer of power to the Palestinian National Authority. The Israeli authorities responded by increasing restrictions on Palestinian mobility and constructing the Separation Wall and other permanent and mobile barriers. The resistance actions abated in 2005 when Palestinian President Mahmoud Abbas and the Israel Prime Minister Ariel Sharon agreed to return to negotiations and follow the US initiated Road Map to Peace. But those negotiations were soon halted, restrictions over Palestinian mobility further increased, building of Israeli settlements in the West Bank intensified, and Palestinian rights guaranteed by international law trampled. The ongoing direct physical violence of Palestinian youth against Israeli civilians and security forces, and various forms of Israeli physical and structural violence against suspected Palestinian attackers and their families and communities should be seen, according to a number of observers, in the light of the absence of a political solution<sup>10</sup>.

Given the context of ongoing occupation, the questions that the Expert Team focused on were: What are the current situation and the future possibilities for human security and economic development for Palestinians in Area C? What could Dutch policy makers do to aid human security and economic development in the Area C and the West Bank?

In the following chapters, we will answer these questions by focusing on the three domains of everyday life in Area C mentioned above:

- a. The rule of law, human rights and violence;
- b. Access to natural resources such as water and land;
- c. Construction and demolition practices and policies.

We will examine how different layers of occupation affect those domains - individually and cumulatively - and how these effects are inter-related.

<sup>10</sup> See for example the statement of the UN Secretary general (UN, 2016)

## 2 LEGAL DISCRIMINATION: RULE OF LAW, HUMAN RIGHTS AND VIOLENCE IN AREA C

A human security perspective to the situation in Area C requires looking at issues of adequate protection against violence and discrimination and access to justice in case of human rights violations. With respect to economic development and sustainability of livelihood, it is important to assess what role the legal system can and does play to make such a development possible.

This chapter briefly outlines the international legal system as applicable to the occupation and then describes some of the major Israeli violations of international law as related to Area C. Violations of international law in Area C take place in a wide range of situations, which are partly dealt with in other chapters. In this chapter, the focus will be on legal aspects of three of the most endemic violations of human

security and economic development of Palestinian communities in Area C:

- a. **restrictions on the freedom of movement;**
- b. **the building of Israeli settlements, settler violence against Palestinians and the discriminatory legal system;**
- c. **the shrinking space for non-violent resistance.**

### BACKGROUND: INTERNATIONAL LAW

Under international law (including the United Nations Charter and General Assembly Resolution 2625 XXV) Palestinians have the right to self-determination and every state - including Israel - has the duty to refrain from any forcible action that deprives them of this right.



photo: Palestine Link

In its role as an occupying power in the Palestinian Occupied Territories, Israel is bound by the rules of the International Human Rights Law and International Humanitarian Law. The International Court of Justice (ICJ) has reiterated this in its Advisory Opinion in 2004 (International Court of Justice, 2004).

International Humanitarian Law (IHL, the law of armed conflict) is applicable in the oPt, as Israel has the status of occupying power. According to the ICJ, the Fourth Geneva Convention and The Hague Regulations are applicable. These instruments hold, amongst other things, that the occupying power shall respect the laws in force in the occupied country, is responsible for the general welfare of the inhabitants, and shall not deport or transfer parts of its own civilian population into the territory it occupies. International Humanitarian Law also prohibits collective punishment and destruction of property (the latter is only allowed when absolutely necessary for military operations).

Even in times of war, International Human Rights Law (IHRL) is applicable next to IHL, though in wartime specific rules of IHL can at times prevail over the norms of IHRL (e.g. the rules on the killing of combatants in IHL are an exception to the rather strict 'right to life' in IHRL). The International Court of Justice has held that International Human Rights Treaties such as the International Covenant on Civil and Political Rights and the Convention on the Rights of the Child are applicable in the oPt. This means, amongst other things, that Israel shall grant Palestinians the right to freedom of movement, health and a fair trial. No matter how serious the security situation, under international law restriction of the freedom of movement should always be prescribed by law, and must be necessary, proportionate, and non-discriminatory.

### VIOLATIONS OF INTERNATIONAL LAW BY THE OCCUPYING POWER

Violations of these international legal standards by the Israeli occupier against Palestinians in Area C are endemic, as also identified by the International Court of Justice. Referring to the freedom of move-

ment, the International Court of Justice held in its Advisory Opinion that the construction of the Wall and the related regime were contrary to International Law: "The wall, along the route chosen, and its associated regime gravely infringe a number of rights of Palestinians residing in the territory occupied by Israel, and the infringements resulting from that route cannot be justified by military exigencies or by the requirements of national security or public order." (International Court of Justice, 2004, §137). Moreover, the ICJ has held that the establishment of settlements in the occupied Palestinian territories (including East Jerusalem) is contrary to international law.

Other major violations include land confiscations, house demolitions, forced displacements, and extrajudicial killings. Such violations are certainly not new. However, with the flaring up of violence in Autumn 2015, the incidence of Israeli violations of various types of human rights of Palestinians seems to have increased again. Human rights groups and UN special reporters have expressed concern about increase in Palestinian violence against Israeli civilians and security personnel, but have also expressed concerns about what seem to be summary executions by the Israeli security authorities against suspected Palestinian attackers (Amnesty International, 2015) (UN OCHA, 2015) (UN OCHA, 2015) (UN OHCHR, 2015).

Direct Israeli-Palestinian conflict related casualties, in 2015 (UN OCHA, 2016)

- **160 Palestinians killed**  
(159 civilians; 30 children)  
(135 West Bank);
- **15,374 Palestinian injured**  
(15367 civilians, 2495 children)  
(13,994 West Bank).
- **25 Israelis killed**  
(22 civilians, 0 children);
- **281 Israelis injured**  
(180 civilians, 16 children)  
(Israel, West Bank and Gaza).

Israel uses demolition of family homes as a form of collective punishment against Palestinians. The Israeli authorities have recently stepped up the practice of punitive house demolitions that target the whole family of a person who is killed by Israeli security forces or incarcerated. From mid-October until the end of November 2015, 11 Palestinian-owned homes were demolished or sealed on punitive grounds, displacing 80 people, including 42 children; four adjacent houses were severely damaged by the explosions, temporarily displacing 26 people (UN OCHA, 2015). In December 2015 and January 2016, Israeli authorities punitively demolished or sealed another five homes, displacing 55 people (UN OCHA, 2015) (UN OCHA, 2016). According to B'Tselem, from October 2015 to March 2016 15 apartments were demolished by official order, 115 people were left homeless, including 85 children (B'Tselem, 2016).

Military law in the West Bank issues harsh jail sentences of up to 20 years for stone throwing. This law does not apply in East-Jerusalem, which has been annexed by Israel and therefore falls under Israeli civil law. In reaction to the uprising in November 2015, Israel enacted a civil law to the same effect, which does apply to East Jerusalem. The new civil law also states that parents of minors imprisoned for rock-throwing can be denied social benefits for the period of the imprisonment, and fined up to 10,000 Shekel (Jerusalem-Post, 2015). De facto this law was enacted in order to persecute Palestinian children throwing stones in East Jerusalem (UN OCHA, 2016) (Jerusalem-Post, 2015).

Moreover, Israeli human rights organisations Hamoked and B'Tselem have recently reported that the Israel Security Agency consistently engages in patterns of cruel, inhuman and degrading treatment of Palestinian detainees, despite the fact that these are prohibited by international law and by the Israeli High Court of Justice. It is a systematic practice, and those responsible are never brought to justice. These human rights organisations have also shown that the Palestinian Authority engages in torture as well – and when the interrogees are subsequently brought to Israeli detention, the Israeli authorities knowingly use the information obtained by the previous use of

torture (Hamoked-and-Btselem, 2015). In fact, security agreements between Israel and the Palestine National Authority render the latter as Israel's sub-contractor in security issues, thus leading to a situation where PNA security forces arrest Palestinians and transfer them to Israeli security forces. This contributes to the situation in which both Israel and the PNA may evade their human rights obligations. In addition, despite the official division of governance of the West Bank into Areas A, B and C, in practice, Israeli authority is asserted in all three Areas. The Governor of Jericho and the Jordan Valley informed the Expert Team that it was not unusual for Israeli Defence Forces to enter Area A and arrest people.

### VIOLATION OF THE RIGHT TO FREEDOM OF MOVEMENT

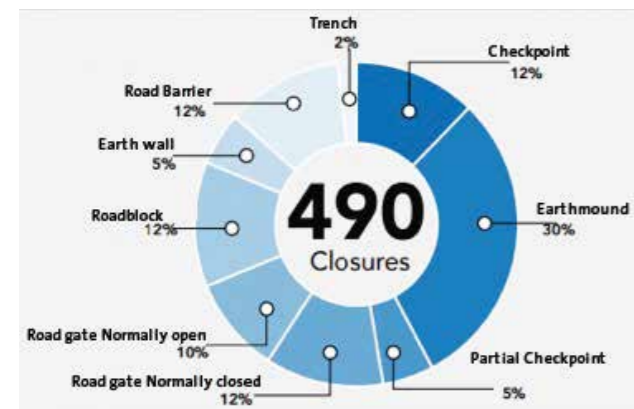
Restrictions of Palestinians' freedom of movement in the West Bank have been severe ever since the Israeli occupation in 1967. But they have become much more diverse and endemic after the Oslo Accords and the Second Intifada. Referring to the dramatic and ubiquitous deterioration of the freedom of movement in the post-Oslo period, Mr. Shawan Jabarin from Al Haq, an independent Palestinian non-governmental human rights organisation based in Ramallah, West Bank, has stated the following:

**"Before Oslo there were no bypass roads specially built for Jews, we used the same roads. Now there are. Before Oslo, I could go to Jerusalem, now I cannot. Before Oslo, people could go to their farmlands, now they cannot. Before Oslo there was no Wall, now the Wall is everywhere".**

In Area C, freedom of movement of Palestinians is severely restricted in various disproportionate and discriminatory ways through an intricate system consisting of settlements (built in such a way as to block off complete areas from the rest of the West Bank), Israel's control of border crossings, checkpoints, roads that may only be used by Israelis, and the Separation Wall which has isolated Palestinians

from their land and Palestinian cities from villages. In practice, this means for instance that Palestinians are confronted with physical obstacles that make it impossible for their children to attend school or go to hospital. Checkpoints (which Palestinians need to pass through to move between towns), served by Israeli police, security forces and/or private security companies are often noted by observers to be places of humiliation, violence against Palestinians and violation of their human rights.<sup>11</sup> During the Mission, the Expert Team witnessed how the presence of heavily-armed Israeli law enforcement personnel from the Border Police Force and the Israeli Defence Forces, created threats and was the focus of frustration for the Palestinians in their daily lives even if clashes did not take place.

**Closure obstacles in the West Bank, 2014**  
(UN OCHA, 2015)



The Wall is viewed as 'the main obstacle to Palestinian movement within the West Bank' (UN OCHA, 2015). As noted earlier, it is unlawfully built in the West Bank, beyond the internationally set Green Line (International Court of Justice, 2004) sometimes deep into Palestinian land. Upon its completion, the unlawfully encircled land between the Wall and the Green Line will amount to 9.4% of the West Bank including East Jerusalem. This land, referred to as 'seam zone' – more than half of which is privately owned by Palestinians – is separated from the rest of the West Bank by the Wall and even Palestinians

<sup>11</sup> Some of those violations are reported by the Israeli women's volunteer organisation Checkpoint Watch (AlMonitor). Checkpoint incidents sometimes lead to the death of Palestinians. See for example Human Rights Watch (Human Rights Watch).

living and working there need a military permit to enter it. Israelis do not need such a permit, regardless of whether or not they live in the area. Acquiring a permit is extremely difficult and 30% of requests are rejected (Hamoked, 2013). Furthermore the permits are issued for specific people and for limited time, resulting in the inability of farmers to cultivate their land and to travel in order to sell their products effectively. Also, permits are mostly granted to family members who are too old or weak to work on the land.

The extremely strict system of mobility permit and travel bans (sometimes meaning that Palestinians travelling abroad cannot return to their homes), makes life impossible for many Palestinians. Since the outbreak of violence in October 2015, movement restrictions have worsened, especially in places such as Hebron - the city the team was unable to visit because of the security situation. Many Palestinians are losing hope and leaving Area C or the West Bank altogether because of these difficulties, making it easier for subsequent appropriation of their land by the settlers or the Israeli authorities. For instance, the village of Al Oja in the Jordan Valley, which was visited by the Expert Team, had 18,000 inhabitants in 1967; it now has only 7000. Some stay because of the lack of alternatives.

Palestinians do not have effective access to justice in order to address violations of freedom of movement. Though there are occasional verdicts remedying those violations (often in trials brought up by human rights NGOs whose activities are currently made increasingly difficult; see below), many people stop trying to go to court because it takes much time and effort and is often not successful. Moreover, verdicts are often not implemented in practice<sup>12</sup>.

Overall, these far-reaching restrictions of freedom of movement, as well as the absence of action against settler violence, has resulted in a shrinking and fragmented space for the Palestinians to live their daily lives, and engage in agricultural or other economic activities.

<sup>12</sup> In May 2016 the Israeli human rights NGO B'Tselem decided to stop referring cases to military courts (B'Tselem, 2016).

## SETTLEMENTS AND THE DISCRIMINATORY LEGAL SYSTEM

As noted earlier, within Area C, two separate systems of law apply to Israeli settlers and to Palestinians. In matters of criminal law and planning/building, for instance, Israeli settlers are subject to Israeli civilian law (Association for Civil Rights in Israel, 2014), whereas Palestinians are subject to Israeli military law (as the occupier is prohibited from imposing its own civil legal system upon the occupied population). Whereas military law used to be applicable to settlers as well (and in some areas, it still is), Israel has, in practice, gradually brought more and more aspects of settlers' life, such as economic activities, under Israeli civilian law.

These two legal systems differ greatly in terms of due process guarantees, evidence standards, detention powers, judicial review, freedom of expression and the right to protest, and in terms of the penalties imposed. Thousands of Palestinians are convicted before the military courts yearly, for charges such as entering Israel without a permit, stone-throwing, and membership in an 'illegal association' (B'Tselem, 2015).

According to a number of sources, the conviction rate before the military courts – where Palestinians are tried - is very high: the numbers are thought to be between 98% and 100% (though this includes plea bargains) (Dutch multidisciplinary expert group, 2014)<sup>13</sup>. In comparison, Israeli settler violence against Palestinians is only prosecuted in 7.4% of the cases,

<sup>13</sup> See also the NGO Military Court Watch. Over 99% of cases in the military courts end in conviction (Military-Court-Watch, 2016).

	2012	2013	2014	2015	2016
<b>Israeli-settler related incidents resulting in casualties or property damage</b>	<b>Total</b>	<b>Total</b>	<b>Total</b>	<b>Total</b>	<b>Jan</b>
Incidents leading to Palestinian casualties <sup>4</sup>	100	92	107	96	2
Incidents leading to Palestinian property/land damages	269	305	217	130	6
<b>Subtotal: incidents affecting Palestinians</b>	<b>369</b>	<b>397</b>	<b>324</b>	<b>226</b>	<b>8</b>
Incidents leading to Israeli casualties	35	39	87	97	8
Incidents leading to Israeli property/land damages <sup>5</sup>	14	11	134	104	6
<b>Subtotal: incidents affecting settlers</b>	<b>49</b>	<b>50</b>	<b>221</b>	<b>201</b>	<b>14</b>

Source: (UN OCHA, 2016)

and only 10.5% of the cases in which legal proceedings were concluded ended with a full conviction (22.8% of those in a partial conviction) (Yesh Din, 2015). This despite the fact that, according to international law, the occupying power is responsible for enforcing the law to provide security for those it occupied.

The United Nations International Fact-Finding Mission on Settlements in 2013 noted a failure of the Israeli authorities to enforce the law, and concluded that there was institutionalised discrimination of Palestinians when it comes to addressing violence (UN-Human-Rights-Council, 2013). Israeli soldiers have been recorded, photographed and videoed as 'standing idly by' when Israeli settlers attacked Palestinians and their property (Yesh Din, 2015). B'Tselem video evidence shows that the Israeli army in fact acts as 'escort' of the settlers rather than protecting Palestinians against violence. The settlers also organize quasi-military forces that represent their interests. Police stations in Area C are often within the Israeli settlements, so Palestinians do not dare to go there. If they do, they have to wait for hours to get an Arabic-speaking investigator. As a result, Palestinians often do not report cases of settler violence.

According to the NGO Military Court Watch, since 1967 between 750,000 and 800,000 Palestinians have been detained (Human Rights Watch). Files of detentions and arrests are kept by Israeli authorities and have consequences, e.g. they are used to deny mobility or construction permits to Palestinians in the future, creating long-term consequences for their human security and possibilities of engagement in economic activities.

## NON-VIOLENT RESISTANCE

Freedom of expression, freedom of association, and the freedom to assembly are considered essential to any democratic society. It is of crucial importance for the civilian population to be able to engage in non-violent resistance to oppression, including occupation. Though such rights can be more easily restricted in times of conflict than under normal circumstances, restrictions to such freedoms, according to international law, have to be both limited and justified.

Despite the fact that Palestinians face Israeli state and settlers' physical violence and the systematic violation of their rights through a discriminatory judicial system on daily basis, the Expert Team stresses that there are many organisations and individuals in the oPt and Israel who persistently adhere to diverse forms of non-violent resistance. These include: the steadfastness of Palestinian communities that stay on their land despite a combination of violent and discriminatory practices such as demolitions, denial of building permits, restricted mobility and access to water and land, which make their lives increasingly impossible; legal actions by the NGOs which resist human rights abuses (such as B'Tselem, Yesh Din, Comet-Me, Bimkom, Al Haq); diverse NGO actions supporting Palestinian communities through education, training, and facilitation of community-based resistance; and actions of citizens' groups and associations (formal and informal) that support community members in expressing resistance through art and initiating positive change (such as the Arab Education Institute).

The space for dialogue and cooperation in non-violent resistance between Palestinians from the West Bank and Israelis is highly restricted, however, because of the segregated residence and mobility restrictions. The right to peaceful assembly and association of Palestinians is restricted and peaceful protests are often violently crushed by the army (Human Sciences Research Council, 2009). Military regulations in this field are incomprehensible and inaccessible, while the right to freedom of information, as well as of opinion and expression, are limited by military censorship laws.

Whereas the prohibition of non-violent resistance by Palestinians has been a problem for a long time, a relatively recent worrying development is that the Israeli government is increasingly crushing the freedom of expression and association of Israeli human rights organisations and activists defending the rights of Palestinians, using measures which tend to delegitimize these groups and individuals. In 2011, Israel passed a law that authorizes the government to reduce state funding or support to institutions that commemorate the Nakba (Arabic for 'catastrophe'): the expulsion of more than 700,000 Palestinians from their homes and the destruction of over 400 villages by Jewish forces during the 1948 war which followed the establishment of the State of Israel. The same restriction of state funding applies to institutions that reject the existence of Israel as a Jewish and democratic state (Budget Foundations Law (Amendment No. 40), 5771-2011). Moreover, it is a civil offense to advocate the boycotting of Israeli and settlement products, institutions or individuals; this law has also been partly upheld by the Supreme Court (HRW, 2015). Furthermore, an 'NGO bill' has been proposed and approved by the Ministerial Committee for Legislation (within the law on Increased Transparency by which recipients of funding from foreign donors are required to disclose their financial sources). This bill requires organisations that are primarily funded by 'foreign political entities' (as labelled by Israeli right-wing organisations) to make this known during certain meetings by wearing identification tags. In practice, the law mostly affects Israeli human rights organisations. Swisspeace also notes in its latest report that civil-society organisations' freedom of action has been "curtailed on every level in the past five years, especially the right to freedom of association, which is seen as clearly under threat" (p.4) in "the mounting atmosphere of harassment" of CSOs and the "the current stigmatization campaign that undermines their work" (p.5) (KOFF, 2016).

In short, within Israeli politics and public debates, non-violent resistance to the Israeli occupation of the oPt, both by Israeli and Palestinian human-rights NGOs is increasingly criminalized, dissidence is silenced and often dismissed as 'terror aiding' or treason. This has further shrank the otherwise already restricted space for non-violent resistance.

## NON-VIOLENT RESISTANCE: THE TENT OF NATIONS

The Tent of Nations is originally a family farm established in 1916, which has now developed into a non-violent resistance site with widespread international support. Since the 1970s the family-owned land has been surrounded by settlements and in 1991 Israel declared the land as 'state land', unjustly claiming that it was not cultivated over three years. The family started a court case that lasts until today and has been postponed numerous times.

Despite the land registration papers that show family's ownership of the land, the court cases still go on and require the family – as well as eyewitnesses that they want to question – to make long journeys to Jerusalem, where they are sometimes sent away after waiting for 5 hours. Palestinian lawyers without Israeli citizenship are not accepted. 18 demolition orders have been issued for the premises. The demolition orders are just thrown on the premises and are written in Hebrew, stating that the family has to destroy the structures built without permission, otherwise the Israeli Defence Forces will come with bulldozers and the family has to pay for the expenses. They have actually done so: the military has come to the property several times bringing bulldozers, settlers, and soldiers. The family resisted in a non-violent manner; once, they stood in front of the bulldozers for three days together with Israeli and Palestinian human rights activists. The military eventually left, but before leaving the settlers uprooted 250 olive trees and destroyed the water system. The olive trees were later replaced with new ones sponsored by a Jewish organisation from the UK. In 2014 the military came again, in the middle of the night, and uprooted 1500 fruit trees. The family keeps going on, replanting trees and rebuilding destroyed structures (including water collection cisterns) with international help.

Using the farm as a place for locals and international volunteers to meet, they want to break the cycle of violence. They teach hope, understanding, reconciliation and peace, and believe that injustice will not stay forever. This persistence by which Palestinian communities continue to hold onto their land for decades, despite ongoing intensification of Israeli structural and direct violence is a form of non-violent resistance known as 'sumud' or steadfastness. Individuals and communities are continuously making a conscious choice not to abandon their homes, farms, villages and towns, but continue to claim and re-claim their right to stay on their land, in spite of multiple forms of injustice.

## CONCLUSIONS: LEGAL DISCRIMINATION

Overall, the far-reaching restrictions of freedom of movement, the impunity for settler violence, the dual legal system and discriminatory application of law have resulted in legal and physical insecurity of Palestinians, and a shrinking and fragmented space for their daily lives and economic activities. The result of these endemic human rights violations combined with the absence of access to justice to remedy these violations, is that Palestinians are effectively chased away from their land whereas neighbouring Israeli

settlements thrive. The activists from human rights organisations that the Expert Team has met spoke of injustice within the application of laws as an intentional, organized, and systematic practice.

Though there have been judgments by the Israeli courts that upheld the rights of Palestinians against far-reaching measures by the Israeli authorities, as noted above, this is currently becoming increasingly difficult. In certain kind of cases, such as punitive house demolitions, the courts reject almost all petitions (B'Tselem, 2016). Yet human rights lawyers keep

trying. They view their persistence in itself as a form of resistance, making the costs of occupation higher for Israel.

Importantly, human rights defenders the Expert Team met are increasingly sceptical of the role of the Israeli Supreme Court in upholding the rights of Palestinians. The Court itself seems to be under pressure from politicians not to appear too left-leaning. Calls have even been heard to establish special tribunals that would circumvent those Supreme Court judgments that do actually make an effort to respect Palestinian rights (Yesh Din, 2016). Moreover, judgments are often not implemented in practice, and Israeli institutions and individuals responsible for violations of Palestinian human rights are not sanctioned. Consequently, many Palestinians stop trying to go to court because it takes much time and effort and is often not successful.

**Taking all this into account, the Expert Team draws the following conclusions:**

- Israel as an occupying force in the West Bank and Area C does not respect international laws that

regulate occupation and does not respect Palestinian human rights. These violations have been increasing significantly in the last couple of years.

- The Palestinian daily life and struggle for livelihood in Area C is impeded by absence of legal protection, and the presence of discriminatory laws and legal practices which human rights defenders call “manipulative use of law”. For instance, a number of legal regulations and interpretations currently exist that allow Israel to annex Palestinian private lands (e.g. declaring that the land was not cultivated; declaring it an “archaeological site”, “state land”, “firing/military zone”, “nature reserve” etc.). The occupier bends the law in such ways that it serves the taking of effective control over Palestinian land while making life impossible for its inhabitants.
- Lack of legal protection and discriminatory use of law create continuous individual and property insecurity within Palestinian communities, while restrictions of freedom of movement preclude possibilities for economic activities, and directly undermine chances of sustainable livelihoods;



photo: Palestine Link

### 3. RESTRICTED ACCESS TO NATURAL RESOURCES: WATER AND LAND

**This chapter elaborates Israeli restrictions of Palestinian access to and use of natural resources in Area C, most notably land and water, and the consequences of those restrictions for development and human security.**

#### ACCESS TO LAND RESOURCES

Area C constitutes over 60 percent of the West Bank and contains the most significant land reserves for Palestinian development, as well as the bulk of Palestinian agricultural and grazing land. However, much of this land is not accessible to Palestinians, as a consequence of Israel’s on-going policy of territorial fragmentation, the prohibition for Palestinians to use the Jordan Valley and the Dead Sea areas for development (which constitute half of Area C) and the designation by the State of Israel of land in Area C as ‘state land’, ‘nature reserve’ and ‘military zones’. Only 1 percent of the ‘state land’ in Area C is designated for Palestinian use (Bimkom, 2013).

The largest Palestinian enclave in the de facto annexed Jordan Valley is the area around Jericho and al-Oja. Israel does not allow Palestinians to develop land in most of the Jordan Valley and prevents them from developing water resources. This causes stagnation of the development of 10,000 ha for agricultural use by Palestinians with an estimated potential contribution to GDP of around 2 billion dollars a year (World Bank, 2009).

The Palestinian agricultural sector is of key importance for food security and income generation, as well as private sector development. A significant part of the Palestinian population is dependent on it, either for their daily access to food or for employment opportunities. However, Palestinian farmers have in many cases insufficient access to their own lands and water wells due to existence of Israeli settlements and settler roads, due to the Separation Wall along the western border of the West Bank, or due to Israeli restrictions in obtaining permits to develop arable lands and water infrastructure.



photo: Ghada Zeidan

Those restrictions are the main constraint for sustainable development of agriculture in the Area C.

As a consequence, there is low production volume of agricultural products, which further impacts the (development of) institutional capacity of the Palestinian economy. Palestinian goods also have weak market access to consumers. With a fast growing population the challenges for food security become even bigger as Palestinians are highly dependent on food imports, mainly from Israel that uses the occupied Palestinian territories as dump market. In addition, large number of Palestinians working in the construction and agricultural sectors is forced to find employment in Israel or in the Israeli settlements in Area C, most often under exploitative conditions and without proper labour protection<sup>14</sup>. According to EU supported research by Kav LaOved in 2011, “some 28,000 Palestinians from the West Bank were working in Israel with permits and more than 20,000 without them. In addition, some 25,000 Palestinians were working in Israeli settlements in the West Bank” (LaOved, 2012). These numbers have more than doubled by 2014, according to the Bank of Israel Press Release, reaching 92,000 Palestinian workers (both with and without permits) (Bank of Israel, 2015). While Bank of Israel notes that “the stability and availability of their employment increased as well” (ibid), other sources point to the precarity of this employment. Precarity is not just in the absence of labour rights and protection (regardless of the possession of permits) but also in barring workers’ access to their places of work by not issuing daily passes. In January 2016 over 10,000 Palestinians from West Bank were affected by such a measure, as a form of collective punishment, after a Palestinian stabbed two settlers (Middle East Eye, 2016).

Besides the restricted use of land and water for agriculture and livestock, there are hardly any other possibilities for Palestinians to exploit natural resources in Area C – such as building materials, minerals and revenues from nature reserves. Israel, however, takes enormous advantage of the quarries, minerals of the Dead Sea area and nature reserves in Area C<sup>15</sup>, causing in the process grave environmental damage.

14 Source: Kav LaOved

15 See for example report on Israel’s exploitation of the Dead Sea minerals, in the 2012 Al Haq report (Al Haq, 2012)

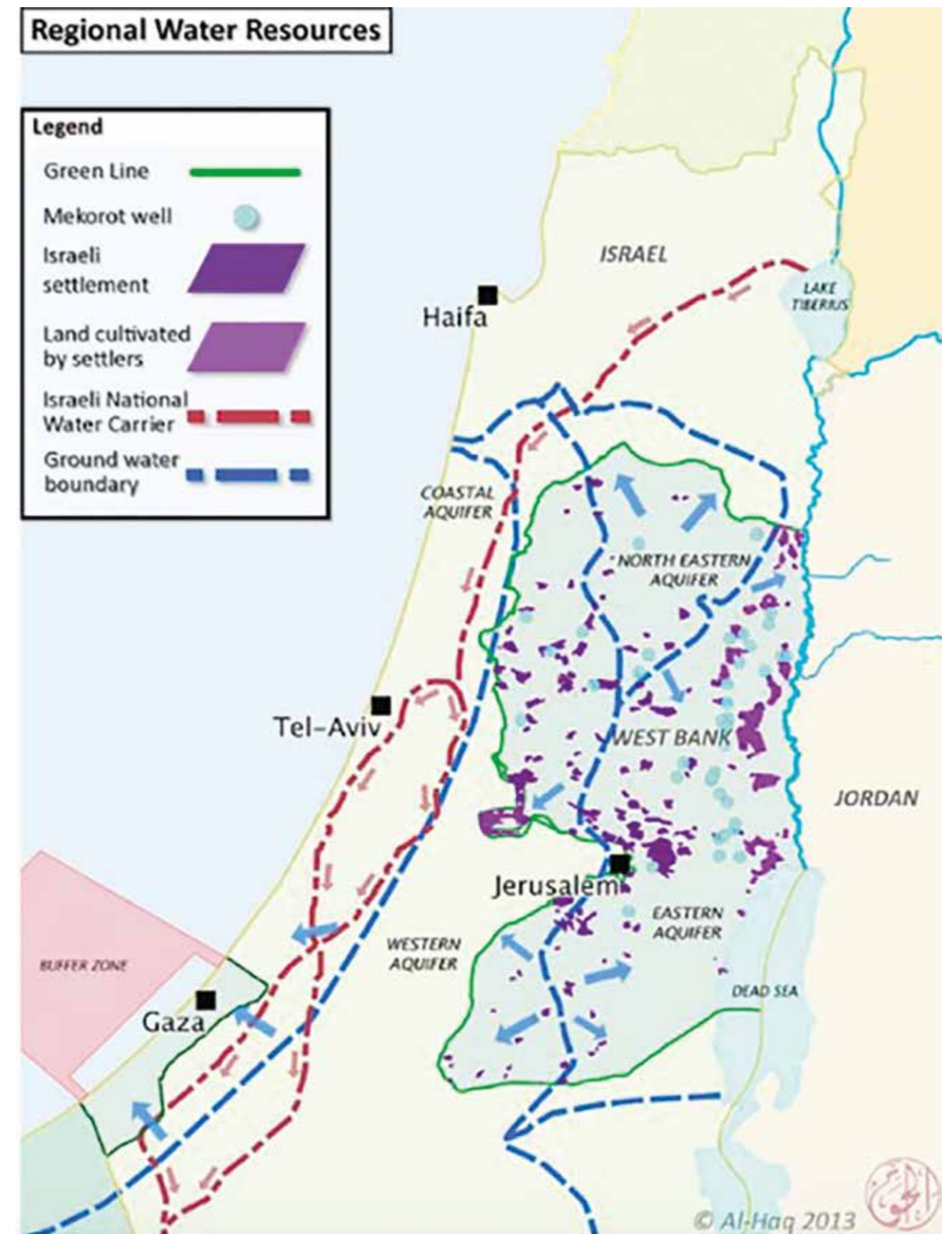
## ACCESS TO WATER RESOURCES

The West Bank, which has a favourable hydro-geological underground through the presence of limestone rocks, has very rich groundwater resources in three separate aquifers sometimes collectively known as the “Mountain Aquifer”:

Estimated recharge and estimated potential of West Bank aquifers (MCM/year)		
AQUIFER	ESTIMATED RECHARGE RANGE	ESTIMATED POTENTIAL
Western	335-450	362
North Eastern	130-200	145
Eastern	155-237	172
<b>Total</b>	<b>620-887</b>	<b>679</b>

(World Bank, 2009) (Tal & Abed-Rabbo)

All three of these aquifers derive most of their recharge from rainfall and snowmelt on the Palestinian side of the Green Line. Rainfall in the West Bank is about 600 – 650 mm per annum, which is only 10 – 15 % less than rainfall in The Netherlands. Two of the three aquifers (the Western and North-Eastern, see map) also underlie Israeli territory, with a flow that follows the surface topography, from the West Bank towards Israel. The third aquifer – the Eastern – lies almost completely within the West Bank and discharges towards the Dead Sea. An overall view of Israel’s and West Bank shared and non-shared groundwater aquifers is provided in a map below.



Map: Groundwater resources in Israel and oPt; Source: (Al Haq, 2013)

Palestinians draw only about 14% of the estimated potential of the aquifers, while Israel abstracts the balance of 86%, 1.8 times its share under the Oslo Accords (UN OCHA, 2012). In addition to the unjust abstraction of the aquifers, the over-extraction through deep wells by the Israeli water company Mekorot, which holds monopoly in the region and by the Israeli settlers in Area C, has created severe risks for the availability of water for the Palestinians who rely on shallow wells.

Besides the groundwater resources there are surface water resources adjacent to the West Bank in the Jordan Valley. The current annual discharge of the Lower Jordan River into the Dead Sea is estimated at 20-200 MCM; the water quality in the Lower Jordan River is very low due to pollution. Palestinians are barred even from this water, although they have no access to other water sources (Al Haq, 2013).

Irrigated agriculture is an important economic sector, currently contributing about 12% to Palestinian GDP and employing 117,000 people. Decreasing water availability together with almost no new or replacement water infrastructure receiving building permits from Israeli authorities, means an enormous opportunity loss for the Palestinian economy. According to the World Bank the loss could be as high as 10% of Palestinian GDP and 110,000 jobs (World Bank, 2013), while the potential value of Palestinian free access to natural resources and free engagement with agriculture, construction, tourism, telecommunications, exploitation of Dead Sea minerals and stone mining and quarrying “would likely equal 35 percent of total Palestinian GDP for 2011” (World Bank, 2013).

## DRINKING WATER SUPPLY AND SANITATION

The available amount of drinking water per head of the Palestinian population in the West Bank (50 liter/capita/day)<sup>16</sup> is less than 16% of the amount available to Israelis (300 l/c/d). Since the Oslo II Accord (which regulated water distribution between Israel and oPt) water withdrawal per capita for Palestinians

<sup>16</sup> Communities south of Hebron live of as little as 20l of water per capita per day, see (Comet-ME, 2015).

is steadily declining leading to serious water shortages (World Bank, 2009), despite the fact that there has been a 50% increase in the West Bank Palestinian population covered by the water supply. Almost half the water is now supplied to Palestinians by the Israeli company Mekorot, Israeli Water Authority and the Israeli settlements, either through the water network or through the inflated-price tanked water (World Bank, 2009). Almost 70% of the Area C population still lacks network services (J. Saba, 2014). Communities unconnected to water supply networks, which are mainly situated in the Northern and Southern part of the West Bank, pay very high prices for sometimes poor quality water (up to four times the price of water provided by a distribution network). The management of companies supplying electricity and water, as well as those treating wastewater is quite poor. 34% of the supplied drinking water is not billed, and only 50% of the bills for water actually get paid.

Wastewater collection and treatment in the West Bank is very weak and the situation in the rural communities of Area C is even worse. Only 31% of the Palestinian population is connected to a sewerage network. Just four towns have wastewater treatment plants, producing poor quality effluent. 25 MCM of raw sewage is being discharged each year in 350 locations in the West Bank, from Israeli settlements and Palestinian communities, and environment and groundwater quality have been the major victims. Impact on health of the population, and especially on children, under these circumstances is threatening, with the increase of water-borne diseases.

Governance of the water resources in the West Bank is regulated in Oslo II by-laws, through the Joint (Israeli-Palestinian) Water Committee (JWC). But the JWC has not fulfilled its role of providing a supportive governance framework for joint resource management and investment and there is a very limited number of project approvals. There are clear asymmetries of power, capacity and information between Israeli and Palestinian counterparts and Israel takes unilateral actions outside the JWC (World Bank, 2009). Water policy, planning and regulatory roles in the West Bank belong to the National Water Council (NWC) - an inter-ministerial body that has met only a few times,

and to the Palestinian Water Authority (PWA), along with the Ministry of Agriculture for matters relating to irrigation.

Water production is carried out by the West Bank Water Department (WBWD) of the Palestinian Water Authority, as well as through municipal or private well operators. Depending on the community, water distribution is ensured by many different providers: regional utilities (JWU, WSSA) and municipal utilities in urban areas (Area A), or by Village Council water departments and Joint Service Councils (JSCs), in rural areas (Area B). JWU also provides water to 200 villages in Area B and C (World Bank, 2009). To varying degrees the bulk of the water supply of these often low capacity operators, is dependent on a single high capacity Israeli water company - Mekorot - managing the scarcity through interconnected systems at the West Bank.

There is an enormous underinvestment in West Bank water supply and sanitation infrastructure,

with current investment estimates as one tenth of planned levels. Wastewater investments have been blocked by Israeli Authorities already for more than a decade (World Bank, 2009). National and international NGOs are almost the only implementers of emergency projects. The restrictions imposed by Israeli occupation and, as a consequence, the decline of the Palestinian economy, have resulted in hardly any major water infrastructure projects. Many investment plans never even get off the drawing board.

## KEY CONSTRAINTS IN THE WATER AND SANITATION SECTOR

Key constraints in the water and sanitation sector are numerous and well identified in multiple reports: (i) Israeli authorities control all major water resources in the region and have a monopoly in water supply through Israeli company Mekorot; (ii) Israeli authorities control the supply and the amount of available water for Palestinians; (iii) there is systematic



Israeli water pump station in the Jordan Valley. (photo: Ghada Zeidan)

obstruction of water infrastructure development: no new Palestinian wells in the West Bank Western Aquifer have been permitted by the Israeli Authorities since 1967 and no permits to Palestinians have been issued by the Civil Administration to drill wells in the foothills of the West Bank, i.e. Area C's East Aquifer, despite growing demand; (iv) there is systematic destruction of water infrastructure: any water structure for Palestinian use built without a permit from the Israeli Authorities – permits that are virtually impossible to obtain – is either demolished or risks demolition.

Israel's occupation policies and practices in the West Bank and especially Area C have created a situation in which natural resources such as water and land are unlawfully exploited and appropriated by Israeli settlers, Israeli companies and the State of Israel. Those policies and practices prevent Palestinian people from exercising sovereignty over natural resources, in particular land and water.

Israeli authorities argue that they have "sovereign rights" over Palestinian water resources. However, available data, as presented above, indicate that Israel's appropriation and management of water in Area C is contrary to international law, contrary to the Oslo Accords, unjust and exploitative, and has a goal of satisfying its own interests. In 2012, those practices have been called 'water apartheid' by French Parliamentary Report and human rights groups (Haaretz, 2012). In addition, human rights groups have also been pointing out for years that a number of foreign companies contribute to the development of water and sewage infrastructure in Israeli settlements in Area C. A number of Dutch companies, such as the Dutch water giant Vitens and the Dutch infrastructure giant Royal HaskoningDHV, working on projects of drinking water supply with Mekorot and of sewage treatment in East Jerusalem respectively, have faced pressure from different parties to withdraw from these projects. Vitens withdrew in 2013 citing concerns with violating international law, and HaskoningDHV stopped its projects in East Jerusalem the same year, but still works in Israel on other projects (Our Neighbors in Palestine News, 2013)

(Pavlic & Meijdam, 2014)<sup>17</sup>. This is in direct conflict with the latest statement of the UN Human Rights Council which reaffirms illegality of Israeli settlements and calls upon all states to take "all necessary steps" to make sure their companies do not break international law by "contributing to gross human rights abuses of Palestinians" (United Nations General Assembly, 2016, p.7, article 12). The UNHRC has decided at the same session "to produce a database of all business enterprises" involved in violation of human rights of Palestinians ((United Nations General Assembly, 2016, article 17, p. 8).

With regard to land and water rights, the Israeli authorities treat the Palestinian people completely differently than the Israeli settlers in Area C. Israeli settlers are privileged as they have an uninterrupted and abundant supply of water, while Palestinians throughout the occupied Palestinian territories, and especially in the Area C, are denied their basic right to water and sanitation, and consequently, to full and autonomous development of their natural and economic resources.

Access to the essential utilities as water, sanitation and electric power has a huge impact on everyday life, health and wellbeing of people as well as on the development of sustainable livelihoods. This is why international donors have been willing to invest in those sectors to improve daily life and personal and property security for Palestinians and their communities. At present, services such as wastewater treatment and drinking water infrastructure for Palestinian communities are hardly developed, or provided (interruptedly) by the efforts of the NGOs supported by international donations, although under international law such provisions are the responsibility of the occupying power, i.e. Israel. One such NGO is Comet-ME.

<sup>17</sup> Numerous Dutch companies still work in fields that are seen, under international law, as supporting Israeli occupation of Palestine. See for example (Nieuwhof, 2013) (Nieuwhof, 2012) (United Civilians for Peace, 2006) (Nieuwhof, 2015)

## NON-PUBLIC WATER UTILITY: COMET-ME

Small Palestinian villages scattered throughout Area C are as a rule without public water infrastructure, unless such infrastructure existed before 1967 Israeli occupation of the West Bank. After 1967 the permit system was introduced that controls new constructions. This includes also one of the main sources of water to Palestinian villages in Area C: rainwater collecting underground cisterns. Rainwater is collected into the cisterns from the house roofs (where permanent buildings exist) or any other available surface. By small distribution systems water is provided to the houses and temporary dwellings such as tents and shacks. Any improvements to the existing rainwater collection systems or digging new cisterns are considered by the Israeli Civil Administration as 'buildings' and require building permits, which are hardly ever given. When built without permits, the new cisterns or the existing ones are regularly bulldozed.

Comet-ME provides alternative water infrastructure to Palestinian villages in South Hebron Hills through above-ground rainwater tanks, with filters, electric pumps and piping systems for water distribution into the houses. It also provides electric power through small-scale windmills and solar panels with storage batteries and electric wire nets to the houses. The water tanks and small-scale windmills and solar panels are built within, or in proximity of, the villages. All Comet-ME works on water and electricity is based on renewable energy principles.



Comet-ME project: South Hebron hills solar panels (photo: Galit Saporta)

Israeli authorities consider water tanks and solar panels and windmills as 'buildings' and do not issue permits for their construction. Consequently, they are regularly threatened by demolition when built without permits. This includes the structures built by Comet-ME, financed by international donors among which is also Dutch Ministry of Foreign Affairs.

## CONCLUSIONS: DENIAL OF THE PALESTINIANS' RIGHT TO UTILIZE AND DEVELOP THEIR NATURAL RESOURCES

Central constraints of sustainable development and management of water and land as essential natural resources in the Area C and the West Bank are the following:

- Israeli authorities control all major water resources in the West Bank and Area C, and have a power

to allocate them to both Palestinian population and Israeli settlers; this allocation is conducted in unjust and exploitative manner, with Palestinians being denied basic right to sufficient drinking water, water for the household use and agricultural sector;

- Israel obstructs all development of infrastructure in Area C for drinking water supply, irrigation water schemes, sanitation and wastewater management; Israeli Civil Administration obstructs



## 4 CONSTRUCTION AND DEMOLITION POLICIES AND PRACTICES IN AREA C

This chapter reflects on specific policies that regulate building and demolition practices in Area C, focusing in particular on: a) building permits for and demolition of Palestinian property and donor funded property; b) support of building, expansion and consolidation of Israeli settlements; c) use of rural and urban spatial planning for physical reduction of Palestinian territories; and d) use of archaeology for physical and symbolic reduction of Palestinian presence.

### BUILDING PERMITS FOR AND DEMOLITION OF PALESTINIAN PROPERTY AND DONOR FUNDED PROPERTY: WATER AND ELECTRICITY INFRASTRUCTURE

The State of Israel requires Palestinians living in Area C and national and international NGOs working there to apply for building permits for any type of work on new or existing structures, including homes, business and agricultural buildings, energy and water infrastructure, roads, schools, and hospitals. Building without a permit usually leads to (threat of) demolition, but at the same time, those permits are, as a rule, withheld.

According to Israeli NGO B'Tselem, only 176 construction permits were issued to Palestinian civilians between 2002 and 2010 (B'Tselem, 2013). The numbers have dwindled since. According to documentation of the Israeli NGO Bimkom in the years 2010, 2011, and 2012, Palestinians in Area C have applied for 444, 395, and 284 permits, and received 7, 16 and 7, respectively. In comparison, between 1988 and 2015 Israeli authorities issued around 14,500 orders for demolition of Palestinian property in Area C (by 2013 it was around 12,500), of which around 3000 (2500 by 2013) were executed and 11,500 are still outstanding (Bimkom, 2013).

It has been less known in public and political circles, however, that demolitions also affect development projects sponsored by international funds. Recently the Dutch Parliament was made aware of such practices, through a question to the Minister Koenders by the MP van Bommel (Koenders, 2016). According to UN-OCHA, since 2012 there is a sharp increase in Israeli demolitions and threats to demolition of

the structures built for Palestinian communities by various international donor funds as part of development aid projects in the West Bank and Area C:

YEAR	2012	2013	2014	2015
<b>Demolished:</b>	79	90	118	86*
* (January – August)				
<b>Demolition order or Stop Work Order:</b>	72	104	105	127**
** (January – July)				

*Abridged data from (UN OCHA, 2016)*

The OCHA numbers are not disaggregated by the type of project or the donor, but the visit of the Expert Team to South Hebron area offered insights in the particular situation of demolition of water and electricity infrastructure built by the Israeli-Palestinian NGO Comet-ME (mentioned in previous chapter). Their work has been supported by donations from the EU Partnership for Peace Programme, Dutch Ministry of Foreign Affairs, Federal Republic of Germany, Swiss, Swedish and Irish aid agencies, and a number of other national and individual donors. According to the representative from Comet-ME, too few development projects by international donors “ever receive permits

investments by international donors and NGOs in the basic water infrastructure in Area C, hardly issues any permits and threatens with destruction or destroys infrastructure build by donor funds;

- Israel applies different rules to Palestinians and Israeli settlers when it comes to rights to exploitation of water and land resources, such as irrigation and drinking water supply, sanitation, permits for arable and pasture land development, denying those rights to Palestinians and granting them to Israeli settlers;
- Israel exploits quarries, minerals and nature reserves in Area C while denying the use and development of those resources to Palestinians.

The denial of Palestinians’ access to their own water resources in combination with restriction of freedom of movement that leads to restricted access to arable land has resulted in complete stagnation of economy of the West Bank. Private sector development is affected, resulting in low income generation and high unemployment rates for a well-educated workforce. Restricted access to water and land has undermined agricultural production significantly affecting food security for the Palestinian people:

- Domestic production of agricultural products is insufficient for domestic demand and people have become dependent of (sometimes subsidized) food imports;
- Market entrance for home products has become more and more difficult;
- For their daily subsistence Palestinian labourers are forced to earn money in Israel or Israeli settlements, under highly exploitative labour conditions.

Israel illegally over-exploits natural resources of the Area C and the West Bank:

- A few dozen large quarries for building materials in Area C are exploited by Israeli and foreign owned companies with Israeli Civil Administration permits. Since 2012 only nine Palestinian quarries are legally in business by Palestinian companies that export to 60 countries;
- Only Israeli and Jordanian companies exploit and export minerals from the Dead Sea area;
- Nearly all nature reserves in Area C are exploited by Israel;

- Israel over-extracts groundwater by deep wells and withdraws 1.8 its share agreed under the Oslo Accords;
- Israel allows no access of Palestinians to surface water in the Jordan Valley and issues no permits for development of irrigation schemes by Palestinians in the West Bank;
- Israel’s over-exploitation of natural resources throughout Area C (water, minerals, quarries) and the imposed restrictions on building infrastructure for wastewater treatment have serious environmental impact that also affects the quality of water in the region.

There is a high demand for investments in basic infrastructure for drinking water supply and sanitation in Area C. 34% of the supplied drinking water is not billed, and only 50% of the bills for water actually get paid. These are quite high rates.

Access to water and land are clearly crucial for development of agricultural sector anywhere, and especially in the regions where this sector holds major role in overall economic development and livelihoods of communities. In the Area C, agriculture is a major source of subsistence and a major element in food security. It is also a sector that holds a huge potential for uplifting the West Bank’s GNP and employment. Without access to water and land, the health, food security, human security, and livelihoods of the entire Palestinian community are under direct threat.

Israeli control and exploitation of the water resources in the West Bank, its restriction of Palestinian access to the arable land and pastures, together with fragmentation of the area through barriers and settlements, settler violence and restrictions of free movements of Palestinians, have created a complex set of obstacles to sustainable livelihoods and human security of Palestinian communities in Area C. Many of the Israeli practices violating Palestinian rights to their natural resources and autonomous economic development are contrary to the agreements set within the Oslo Accords and are also illegal under international law that prohibits occupying power to exploit natural resources in the occupied land.

from Israeli authorities, so they work without them. This is why they are under constant threat of demolition". She also noted that many NGOs nowadays plan 10% of their budget for the (growing) legal costs brought up by court cases against demolition orders.

Comet-ME Annual Budget 2014:	1.548.858,- euro
Gross Income, 2014:	2.418.772,- euro
Foreign donations (of Gross Income), 2014:	2.387.452,- euro
Legal expenses, 2014:	124.243,- euro
Legal expenses, 2013:	89.728,- euro
Legal expenses, 2012:	78.575,- euro

*Legal costs Comet-ME; Source: (Comet-ME, 2015)*

Since 2012, out of 20 water and electricity systems built by Comet-ME in South Hebron, Area C, 16 have received demolition orders; one of the cases is currently under appeal at the Israeli Supreme Court<sup>18</sup> (Comet-ME, 2015)

<sup>18</sup> Comet-ME infrastructure is sometimes destroyed by 'unidentified attackers' whom Comet-ME suspects of being settlers (Comet-ME, 2014)

Access to electricity and clean drinking water has huge impact on everyday life, health and well-being of the communities, as well as on possibilities for sustainable livelihoods. This is why a number of European and other international donors, including the Netherlands, invest into NGOs working on water and electricity infrastructure. Destruction and threats of destruction of those investments, however, significantly decrease and in cases obliterate, their actual possibility to contribute to the improvement of Palestinian lives and livelihoods. This especially refers to benefits that water and electricity bring to health of the communities, in particular children's health, and to women's domestic work (for example, with replacing women's manual labour through presence of washing machines and butter churns). Water and electricity are also indispensable for the security of the communities. The absence of water and electricity resources, the violence involved in the destruction of the existing resources, and the constant threats of violent demolitions result in personal and property insecurities and undermine the chances of the communities to sustain permanent residence in specific territories – even when the land on which the communities reside is in private Palestinian ownership.



*South Hebron hills: structures threatened to be demolished (photo: Galit Saporta)*

As an occupying force, Israel is responsible under international law to provide necessary services to the occupied population. Instead, much of the essential services in Area C, such as access to water and electricity, are provided by NGOs sponsored by international donors. Huge international investments in these amenities are wasted through their destruction and threat of destruction by Israeli authorities.

At the beginning of 2016, a three-day demolition campaign by the Israeli authorities in the Jordan Valley, left 59 people, including 28 minors, homeless (B'Tselem, 2016). Many of the structures demolished were financed by the EU. Such demolitions are not an exception and the EU often publishes statements expressing "deep concern" regarding demolition and confiscation of Palestinian and NGO property (EU Press Office, 2016).

### **SUPPORT OF BUILDING, EXPANSION, AND CONSOLIDATION OF ILLEGAL ISRAELI SETTLEMENTS**

The building, expansion and consolidation of Israeli settlements in Area C are pursued by the Israeli state through various means. Law, as well as technical and economic assistance are dominant among them.

As noted before, while all Israeli settlements in Area C are illegal under international law, Israel distinguishes two types of settlements: the so-called 'illegal outposts' and the established settlements that are legal under Israeli law. The 'illegal outposts' are built on 'state land', in 'nature reserves' and 'firing zones' as well as on the land privately owned by Palestinians yet to which the rightful owners have no physical access. According to B'Tselem, between 2000 and 2010 "at least 15,000 residential units were built in [Israeli] settlements ... with or without permits" (B'Tselem, 2013).

A representative of the Israeli NGO Yesh Din informed the Expert Team that the Israeli state regularly issues a retroactive approval of 'illegal outposts'. In this manner the outposts become legal settlements under Israeli law and can apply for state subsidies that enable building of permanent and cheap housing, permanent water and electricity infrastructure for homes and agricultural production, and roads and public transportation that link settlements to each other and to Israeli cities inside Israel. Yesh Din also argued that the Israeli state supports Israeli 'illegal outposts' and settlements through impunity of the many different forms of settlers' appropriation of private Palestinian land: barring access of Palestinians to their land, violence against Palestinians who try to access their land, illegal settlers' construction on Palestinian property, and settlers' cultivation on Palestinian property (Yesh Din, 2012). Barring Palestinians access to their land means that some agricultural areas cannot be cultivated. This has potentially devastating effects on Palestinian land ownership. In its report "Under the Guise of Legality" B'Tselem has shown that Israel has adopted a number of new laws, interpretations of existing laws, and new legal practices that legalize Israeli appropriation of large portions of privately owned and communal Palestinian land. For example, if the land, or its specific sections, are not continuously cultivated, the land is declared 'state land' (B'Tselem, 2012). At the same time, various (violent and other) means are used to prevent Palestinians from accessing and cultivating their land.

Technical and economic assistance, together with the issuing of the discriminatory laws, the discriminatory re-interpretation of the existing laws, and discriminatory legal practices, work together to support establishment, expansion and consolidation of Israeli settlements in Area C. As a consequence, Palestinian individual and collective land ownership is denied, personal and property security is violated, and lives and livelihoods are threatened.

## BUILDING EXTENSIONS OF THE WALL – BEIT JALA

In addition to supporting the building and expansion of the Israeli settlements in Area C, Israel continues with extension of the Wall. Beit Jala – a town adjoining Bethlehem – encircled by several Israeli settlements, is currently faced with Israeli ground work for the extensions of the Wall around Bethlehem. The town is surrounded by olive groves and vineyards belonging to the residents and the two Cremisan monasteries (one for monks, another for nuns). The new Wall will be built through the olive groves in a way that only a small part, starting right outside the town, will remain accessible, while the rest will be cut off. Both monasteries and vineyards will fall out of Bei-Jala's reach. Olive oil and wine are the most important produce of the area and cutting the access to land would mean depriving population and men's monastery of their main source of livelihood. The nuns' monastery houses a Catholic school attended by a big number of children from Beit Jala and surrounding area, thus the Wall will destroy an important opportunity for education to children and income to the monastery.

The residents of the town united in a Stop the Wall Campaign started a legal battle against the Wall in 2006. In 2010 they were joined by the nuns of the Cremisan monastery. The Wall building was first halted and its route somewhat changed but then allowed to proceed, in contradiction to the ruling of the Israeli Supreme Court (B'Tselem, 2016) (Global Research, 2015).

The expert Team was stopped by the Israeli Security forces while visting Beit Jala (althought the town is in Area B, under Palestnian administrative authority), and was denied passage through the town street that leads towards the building site.

## USE OF RURAL AND URBAN SPATIAL PLANNING FOR THE REDUCTION OF PALESTINIAN TERRITORY IN AREA C

The Israeli state, as an occupying force, is the ultimate decision maker in the spatial planning in Area C. A representative of Bimkom believes that "Israel uses planning as a tool for discrimination" against Palestinian communities in Area C and of "silent transfer" of Palestinians, by making their lives and livelihood in Area C unsustainable.

Planning policies in Area C are ruled by the Planning Law of 1971 (Military Order 418) that has created a set of separate institutions for Israeli settlers and for Palestinians. Settlers have Local Committees and Special Planning Committees authorized to issue building permits, and full representation in both, whereas Palestinians have neither planning committees nor public representation in the planning system controlled by the Israel and the settlers. Instead, Palestinians have to apply for

building permits to the Israeli Civil Administration. Furthermore, spatial planning in Area C is ruled by Special Outline Plans, which are, according to Bimkom an "invention of Civil Administration" that does not even exist in the applicable Planning Law. The area allocated to Palestinian communities is 0.5%, and to Jewish settlements 26% of the land under the authority of the Special Outline Plans. Bimkom's documentation shows several examples of effects of Israeli spatial planning policies in Area C on a number of Palestinian communities to which Bimkom offers planning support.

**Example 1:** A number of Israeli settlements incorporate large sections of private Palestinian land and cut access of the owners to the land (Geva Binyamin; Beitar Illi't, Sansana, Eli);



*Enclaves of private Palestinian land inside the Israeli settlement of Geva Binyamin*

**\*\* Example 2:** The Israeli spatial plan for Umm ar-Rihan excludes large sections of the existing Palestinian village, including private residences, a school, agricultural land of villagers and access to the main road. The forest outside the village was declared 'nature reserve' and off limit to Palestinians. Similar situations exist in Al Funduq, Beit Ijza and Zif.



*Village of Umm ar-Rihan: Special Outline Plan no. 1170/08 – 5.6 Hectares*

Spatial planning determines the size of a residential area and its surrounding and marks the shape of its internal and external territory. It also determines the access of the residents to the surrounding natural resources such as water and land; it designates industrial areas and nature reserves, controls mobility of people and their access to educational, health, and administrative and other services. As a result, spatial planning is crucial in determining possibilities of socio-economic development of communities, their personal and property security and their general well-being. Israeli spatial planning policies and practices are systematically discriminating against Palestinian communities through dispossession and restrictions that directly impact the possibilities of these communities to grow and develop demographically, economically, and socially.

### USE OF ARCHAEOLOGY FOR PHYSICAL AND SYMBOLIC ERASURE OF PALESTINIAN PRESENCE IN EAST JERUSALEM AND AREA C

According to the Israeli NGO Emek Shaveh, archaeological research is one of the tools used by Israel to erase Palestinian physical and symbolic presence from the West Bank and East Jerusalem. The Expert Team has been introduced to two cases of archaeological excavations that served as a justification for displacement of Palestinian communities.

After the 1948 Arab-Israeli war, the city of Jerusalem was divided in two: West and East. West Jerusalem, with a majority Jewish population, was bordering with Israel, while East Jerusalem with a majority Palestinian population was bordering with the West Bank. The latter also included the Old City, with all the important religious and historical monuments. Israel, however, has claimed the undivided city as its capital, and during 1967 war annexed East Jerusalem (annexation not recognized by the UN). Since then the Palestinian population of East Jerusalem has been under continuous intimidation, evictions and threats of expulsion by Israeli authorities. Besides using direct violence against Palestinians, Israeli authorities use archaeology not only to reduce the number of Palestinians in East Jerusalem, but also to symbolically deny Palestinian belonging to the city.

Archaeology is used to ‘prove’ that the entire city has always been populated by Jews. To sustain this argument, ‘archaeological excavations’ have been pursued in Palestinian neighbourhoods. One such neighbourhood is Silwan. Israeli authorities argue that Israeli archaeologists have discovered remnants of the ancient biblical ‘City of David’ in Silwan. The excavation site is currently being developed as a theme park and a tourist destination, while Palestinians in Silwan face constant home demolitions, evictions and curfews. The ongoing and future archaeological and environmental (green) projects that the Israeli authorities pursue in the area are accompanied by the creation and expansion of an Israeli settlement in the middle of Silwan (Civic Coalition for Palestinian Rights in Jerusalem, 2014).

**While the Emek Shaveh representative asserted the rights of both Israelis and Palestinians to their cultural heritage, he stressed that in a city such as Jerusalem the “heritage belongs to the entire humanity and not just individual group of people”. He also noted that archaeology is used by the Israeli government to legitimize its politics of strengthening the Jewish character of the city and its territorial claims: “Archaeology is used to prove that the Israeli immigrant society is not an immigrant society at all, but a people belonging to the land”.**

Another example comes from South Hebron region. The Palestinian village of Susiya has been declared an Israeli ‘national heritage site’. This resulted in archaeological excavations on the Palestinian land, intimidation, forced eviction and threat of demolition of the village (Rabbis for Human Rights). The archaeological site – with offices built of hard material – is visible at the other side of the road. While the Palestinian community has neither permanent water nor electricity infrastructure, and has their temporary residences (tents for people and shacks for animals) and water cisterns regularly demolished and property appropriated by the Israeli military, the archaeological site and the neighbouring Israeli settlements

built meanwhile have both<sup>19</sup>. Destroyed Palestinian property and structures also include those built and donated by European funds.

At the same time, the village Susiya is an ancient Palestinian village of shepherds cave-dwellers, with specific life style, culture and tradition which are being denied and destroyed by the Israeli authorities. Such destruction of Palestinian cultural heritage “with discriminatory intent”, according to the UN Special Rapporteur on Cultural Rights, Karima Bennouna’s report) “can be charged as a crime against humanity and the intentional destruction of cultural and religious property and symbols can also be considered as evidence of intent to destroy a group within the meaning of the Convention on the Prevention and Punishment of the Crime of Genocide (see A/HRC/17/38 and Corr.1, para. 15)” (UN Special Rapporteur on Cultural Rights, 2016, article 64.

<sup>19</sup> See also Yesh Din legal case against the political use of the Tel Shiloh archaeological site (Yesh Din, 2015).

The declaration of Palestinian land and residences in Area C as Israeli ‘archaeological sites’ and Jewish ‘national heritage sites’ has a direct impact on security of Palestinian communities and their chances of economic development, as the appropriation of the land, expulsions and forced re-settlements and property destruction undermine livelihood activities and extinguish personal and property security of the population. Physical and symbolic destruction and denial of Palestinian historical presence and cultural heritage, at the same time, constitute a grave breach of international laws and conventions.

### CONCLUSIONS: DISCRIMINATORY CONSTRUCTION AND DEMOLITION POLICIES AND PRACTICES

Israeli policies and practices of building and demolition elaborated above are related to each other, and consequently produce very specific effects on the Palestinian population and their possibility to maintain secure and sustainable livelihoods.

*Bypass road and wall construction in Beit Jala. (photo: Ghada Zeidan)*



The demolition of water and electricity infrastructure for the Palestinian use and denial of building permits, the support of the building, expansion and consolidation of Israeli settlements, the barring of Palestinian physical access to their land and the appropriation of that land, together with the laws, policies and practices that legalize and legitimize those actions make sustainable agricultural production and animal husbandry – which are the main source of Palestinian livelihoods in Area C – impossible, threaten personal and property security of the individuals and communities as well as their physical and symbolic presence on the land that is rightfully – also by the international legal standards – theirs.

- Legal and administrative policies and provisions ruling the construction and demolition practices in Area C indicate the following:
- There is a systematic denial by Israeli authorities (Civil Administration) of building permits to Palestinians and donors, even for the structures that secure essential needs and rights (such as water and energy infrastructure, and shelters/homes), structures for collective use (schools, hospitals) and structures necessary for economic development (business, agricultural buildings etc.);
- Systematic patterns of physical destruction and threats of demolition of individual and common/collective Palestinian property and of donor funded property are enforced by Israeli authority, including demolitions of structures linked to the realization of basic human rights – such as water and energy sources, shelters, schools and hospitals, business structures and agricultural buildings;
- Systematic support for building and expansion of Israeli settlements is pursued by the State of Israel, in the form of legal protection, building permits, economic and technical support for water, energy, road and transportation infrastructures, and cheap housing;
- Continuous extensions of the Separation Wall lead to appropriation of Palestinian land and water resources, and destroy possibilities for economic activities (specially agricultural production) in Palestinian communities;

- There is systematic impunity for violence by Israeli settlers against Palestinian population and property, including direct physical violence, denial of access to resources, and appropriation of land and water resources.

An intricate set of legal, (quasi)scientific, administrative and historical arguments, policies and practices is resulting in physical and symbolic erasure of Palestinian presence in Area C:

- Spatial planning is systematically used for reduction of Palestinian territories and suppression/debilitation of Palestinian livelihoods through spatial limitation of Palestinian villages and towns, resulting in denial of access to educational and health services, roads and vital resources such as water and land;
- Palestinian population is forcefully resettled and expelled from areas designated as ‘state land’, ‘nature reserves’, ‘military zones’, as well as Israeli ‘archaeological sites’ and Jewish ‘national heritage’;
- Denial and destruction of Palestinian historical and cultural heritage goes hand in hand with systematic use of academic, scientific and professional expertise – such as archaeology – for asserting Israeli presence in the West Bank.

These legal, administrative and (quasi)scientific arguments, policies and practices form a systematic, consistent and comprehensive pattern of discrimination against Palestinians living in Area C. In themselves, and in combination with other practices noted in this Report, those patterns have radically increased personal and property insecurity of Palestinians in Area C and have dramatically subverted possibilities for satisfying even the basic needs of Palestinian communities, let alone for creating sustainable livelihoods or leading to sustainable economic development.

## 5 CONCLUSIONS

**It is with a sense of urgency that the Expert Team brings forth its two central conclusions:**

**First, the systematic, institutional oppression and discrimination of Palestinians in Area C have increased exponentially since the signing of the Oslo Accords, while human security and prospects for growth and economic development for the Palestinian People in Area C have deteriorated dramatically, and much deeper and faster than generally acknowledged.**

**Second, it is a strong conviction of the Expert Team that such circumstances are neither sustainable nor tenable even in the short-run, and pose serious and imminent threats to the two-state solution, promoted by the European Union and the Dutch government.**

The erosion in the basic freedoms and rights of Palestinians is reflected most visibly in the ways the three layers of occupation affect, individually and cumulatively, different domains of Palestinian daily life: the discriminatory legal system that favours Israel

and Israeli settlers, increased restrictions on freedom of movement, confiscation and over-exploitation of Palestinian natural resources such as water and land, demolition practices and permit system for building even the essential infrastructure, and the regular



*A view on Gilo settlement and Jerusalem. (photo: Ghada Zeidan)*

resort to heavy arms to subdue demonstrations and restrain even the non-violent forms of protest, often with fatal results. Infrastructure, public and private investment, and resources such as water and land, have been allocated almost exclusively for the benefit of the Israeli settlers and Israel.

As a consequence, Palestinian agriculture has experienced serious declines in productivity and production, while overall Palestinian economy is characterized by poor infrastructure, shrinking access to natural resources, little or no industrial or market development, and diminishing opportunities for productive employment and decent work. This means that all possibilities for economic growth and sustainable development are severely undermined, leaving Palestinian communities to struggle for the mere survival.

In addition, these effects of the Israeli military occupation and forms of domination interplay in the daily lives of Palestinians, and create an overall context of deep human insecurity and little hope for the future of Palestinian communities as a people under occupation.

Development aid and projects supported by the international donors contribute to the survival of Palestinian communities, easing some of the dire needs, but, under conditions of occupation, they do not, and cannot contribute to either human security or sustainable development of Palestinian communities in Area C.

**With this in mind, Expert Team wishes to point to its following key concerns:**

1. Dual and discriminatory legal systems exist in Area C, with Israeli settlers being subject to Israeli Civil Law, and Palestinians being governed by Israeli Military Law. The high degree of Palestinian convictions, the harsh sentencing of the Palestinians, and the systematic failure of Israeli authorities to enforce the law and protect the Palestinians when facing settler violence have been viewed by national and international human rights

organisations as institutionalised discrimination against the Palestinians, with the latter mistrusting the discriminatory legal systems to provide them with justice and fair treatment.

2. In spite of being illegal under international law, Israeli support for development and expansion of outposts and settlements continues to take place and is accelerating in Area C, depriving the Palestinians of, and driving them from their land.
3. Restrictions on the freedom of mobility of the Palestinians have intensified exponentially since Oslo Accords and Second Intifada, and most recently since October 2015. The Wall – built as a temporary security measure – and the strict system of checkpoints and mobility permits have resulted in Palestinian communities being cut off from their farmlands and water resources, while also not being allowed to use the bypass roads designated for Israeli settlers use only. Those restrictions are getting ever more broadened, affecting more Palestinian populations and territories.
4. Israeli military and Civil Administration have appropriated land in Area C through the designation of ‘state land’, ‘military zones’ and ‘nature reserves’ to which Palestinians have extremely restricted access, or are actively expelled from. At the same time, Israeli settlements and companies have full access to and rights of use of the appropriated Palestinian land. Spatial planning is one of the major tools used for these designations and for restrictions of demographic, economic and social development of Palestinian communities. A process of colonisation of Palestinian territories appears to be taking place with devastating consequences for Palestinian economic development, human security and survival of families and communities in the region.
5. The fragmentation of agricultural land, the lack of access to adequate water supply and the prohibition to farm and breed livestock on fertile land in Area C have left Palestinians dependent on imports for their daily sustenance. Basic food security, already high, is likely to become a major problem.

6. The lack of adequate investment in the water and sanitation infrastructure, the disproportionate extraction and per person/per day usage of water by Israel and Israeli settlers, and active and systematic denial of access to, and destruction of Palestinian water resources are characteristic of what has been named ‘water-apartheid’.
7. Denial of permits for constructions of private, community and public property for Palestinian use, be it by the donor funds or by Palestinian funds, and the resort to demolitions of property, including the essential water and energy supplies, by the Israeli Civil Administration and Military authorities constitute major violations of some of the basic human rights, as well as rights to development.

8. Palestinian land and residences in key places in Area C and East Jerusalem have been declared as Israeli / Jewish ‘archaeological sites’ and ‘national heritage sites’, and Palestinians are being forced to leave their homes. At the same time, Palestinian cultural and national heritage is being denied and destroyed.
9. The space for non-violent resistance is drastically shrinking as the right to peaceful assembly and association of Palestinians is restricted. Since recently, protests and non-violent actions by both Israeli and Palestinian human rights defenders and organisations are being much more systematically delegitimized, countered by heavy military force and by threats, and criminalized by the passing of laws that limit and control their activities.



*Closed gates in Area C. (photo: Palestine Link)*

The Expert Team emphasizes that these processes have intensified since signing of Oslo Accords, but have assumed particular urgency within the last few years, and in particular since the surge of violence in October 2015.

In terms of economic and broader human development of the Area C, such processes – with destruction of private and communal property and donor funded property, appropriation of water and land, support for expansion of Israeli settlements, forced deportations of Palestinians from their land and prohibition of free movement of persons and property – create conditions under which no independent, equal and sustainable livelihoods are possible.

Palestinian population in Area C lives under Israeli military regime that the United Nations and international community still call occupation. However, under the international law, the occupying country is not allowed to resettle its population to the occupied land nor to forcefully resettle occupied population from their land; to exploit natural and other resources of the occupied territory; to prohibit occupied society due social, economic and political development; to deny occupied population health and education; to violate social, civil and political rights of the occupied population; to use collective punishment; and to cause undue suffering to the occupied people. Israel does all of this. In recent weeks, Israeli Government has explicitly stated that it intends to keep Golan Heights annexed in 1981 “under Israel’s sovereignty permanently” (CNS News, 2016), defying UN Resolution 497 (17<sup>th</sup> December 1981) which declares the annexation illegal under international law (Security Council Report, 1981).

Numerous states and supra-national, international and national governmental and non-governmental organisations have – since the signing of Oslo Accords – invested funds and expertise in supporting development projects in the Occupied Palestinian Territories. Dutch government and Dutch NGOs have also participated in those efforts. Those investments, while crucial for the survival of Palestinian communities, are increasingly met with destruction and threats of destruction by Israeli authorities. It is the

view of the Expert Team the investment in development projects - in the current context of occupation and systematic destruction and threat of destruction of those investments by Israeli authorities - has very limited immediate effect, and does in no way contribute to long-term development.

Dutch government, together with international community, has supported Oslo peace process and the Two-state solution, hoping that a combination of security and economic development will allow for a sovereign, economically and politically independent and viable Palestinian state that will live in peace with Israel as its neighbour. It is however the conclusion of this Expert Team that under current conditions of the Israeli military regime in the West Bank this solution is under serious and ever increasing threat. Under current conditions, social and economic resources of such a Palestinian state are being either destroyed or appropriated, while negative political processes are extinguishing options for non-violent engagements.

Expert Team is cognizant of the divisiveness that the Israeli – Palestinian issues create in Dutch government and society, as well as of the efforts of many Dutch politicians, public figures and citizens to bring justice to Palestinian people. Dutch government has maintained close working relationships with both Israeli government and Palestinian National Authority. Dutch government is also a strong proponent of respect for international law, many of which are continuously and systematically violated in Area C by the State of Israel.

This Expert Team deem that neither sustainable livelihoods, nor proper economic development, nor human security will be possible without the end of the Israeli occupation of Palestine and Palestinian autonomy and self-governance. It is with this in mind that the Expert Team addresses Dutch government, Dutch Parliament and Dutch policy makers with the following recommendations:

## RECOMMENDATIONS

**In view of our main conclusions and key concerns, the Expert Team urges the Dutch Government, Parliament and policy makers to engage in debates about the nature of the Israeli military regime in the West Bank and the two-state solution. Very different positions are taken on these issues by various political and civil-society organisations in Palestine and Israel, in the Middle East, the EU, The Netherlands and other parts of the world. We recommend that the Dutch Government, Parliament and policy makers play an active role in discussing the different approaches and what consequences they bear for the Palestinian people, and that they engage in envisioning just and sustainable solutions to a Palestinian statehood.**

In addition, we urge the Dutch Government, Parliament and policy makers **to exert their influence on Israel** and persuade it to acknowledge and respect international laws referring to the illegitimacy of Israeli occupation of Palestine and its devastating effects on the Palestinian people. In particular, Israel should be required to fulfil its obligations under Oslo I and Oslo II to transfer full governing power of Areas C and B to the Palestinian National Authority, and to stop all activities prohibited by international law, such as the building, expansion and planning of Israeli settlements in the West Bank.

We advise the Dutch Government, Parliament and policy makers to demand that Israel takes the following steps in order to slow down and ultimately stop the current near-collapse of Palestinian livelihood in Area C, and start creating the basic conditions for sustainable livelihood as well as personal and property security:

**a. Immediate acknowledgement and respect of the right of the Palestinians in Area C to human and property security, along with the abolishment of policies and practices which violate those rights. More specifically by:**

- Respecting the freedom of movement of persons and goods;
- Abandoning the dual legal system and other policies and practices which discriminate against Palestinians;
- Securing the rule of law and fair trial rights;

- Ensuring proper protection of Palestinians and their property against settler violence;
- Stopping the expulsion and forced resettlement of Palestinians within Area C and the ‘silent transfer’ from Area C;
- Abandoning discriminatory spatial planning and establishing Palestinian planning and building institutions and agencies.

**b. Immediate withdrawal of policies and practices which have a direct negative impact on the economic development of Palestinian communities in Area C, as well as acknowledgement and respect of the right of the Palestinian people to sustainable economic development, in particular by:**

- Allowing the Palestinians full access to their natural resources, guaranteeing a just distribution and hi-tech development of water resources under supervision of an independent party, as well as securing investments in basic water infrastructure;
- Restituting appropriated Palestinian land with no delay, ensuring full Palestinian access to privately-owned and communal lands and allowing Palestinian farmers free access to their arable lands and pastures;
- Securing the right of all Palestinians to exploit natural resources in the West Bank, especially drinking and irrigation water, quarries of building materials, minerals and nature reserves, for economic development and solving food insecurity;

c. Protection of development aid, investments done by the national and international community, including the Dutch government, and all other investments enhancing personal and property security and livelihood in Area C, in particular by:

- Immediately dismantling the discriminatory building and demolition system with all its policies and institutions;
- Stopping all demolitions and withdrawing all threats of demolition (be it as a measure of collective punishment or because a property was built without a permit).

d. Immediate recognition and protection of the right of Palestinian, Israeli and international individuals, groups and civil-society organisations to freedom of expression, assembly and non-violent activity, as well as the abolishment of policies and practices which violate these rights;

In addition, the Expert Team urges the Dutch government **to make a change within its own national space**, to go further than the mere “discouraging policy” which advises companies, institutions and organisations to refrain from contributing economically, intellectually, technically or otherwise to the building and development of Israeli settlements, or to the Israeli occupation of Palestine, thus violating national and international laws and principles, and to see to it that Dutch companies and organisations that are involved in such international law violations are held accountable.

Finally, The Expert Team recommends that the Dutch government **uses its position within the EU** and assumes a leading role in creating, pursuing and supporting European policies which hold Israel legally, politically and economically accountable for its policies and practices in the West Bank which violate international law and impede human security and development of the Palestinians.

## ANNEX I:

# BIBLIOGRAPHIES OF EXPERT MISSION 2015 TEAM MEMBERS

### Rachel Kurian

Rachel Kurian is International Labour Economist at the Institute of Social Studies of the Erasmus University Rotterdam. Her teaching, research, project and consultancy work have focused on trade unions, gender politics, women and child workers, social exclusion, human rights, poverty and labour in the context of economic restructuring. She has done research on gender, labour relations and labour movements on plantations in Asia (Sri Lanka, India, Malaysia, Philippines, Thailand, South Korea), Latin America (Colombia, Peru, Chile, Ecuador), Caribbean (Trinidad and Tobago, Barbados) and Africa (Mauritius, Tanzania,). Her recent publications include *Class, Patriarchy and Ethnicity on Sri Lankan Plantations: Two Centuries of Power and Protest*, co-authored with Kumari Jayawardena (2015; Hyderabad, Orient Black Swan).

### Aalt Leusink

Aalt Leusink is a senior advisor to national and international authorities in the fields of water resources development, drinking water supply and sanitation, environmental management and transport infrastructure. I have carried out a great number of projects in the Netherlands, Europe, Africa, North and South America and Asia. The work executed comprised project preparation, monitoring and evaluation, policy preparation, project development and financing, feasibility studies, supervision of works and institutional strengthening. In the past 40 years I have executed a great number of projects in The Netherlands and overseas countries. I have a broad experience in management and governance of private and public businesses and multi-cultural relations.

### Peter van Lieshout

Peter van Lieshout's interest is in working at the interface between academia and policy making. As an academic, he has a part time university chair

in a social science faculty and for a long time held a position as a managing director of a large research institute. As a policy maker, he was a director general at two Ministries. During the past decade he has combined academia and policy making as a member of the Scientific Council for Government Policy, the main advisory body of the Dutch government, falling under the Prime Minister's Office. In that role, he sought to apply divergent insights to the Dutch context, learning from academic sources as well as successful policies from abroad. Additionally, he has been active as a non-executive member on the boards of large Dutch organisations in the fields of mental health, elderly care, vocational training, university evaluation, social security, housing and public broadcasting.

### Marloes van Noorloos

Marloes van Noorloos is assistant professor of criminal law at Tilburg University in the Netherlands. Her research is situated at the border of criminal law and human rights law; particularly the rights to freedom of expression, non-discrimination and privacy. In 2011 she published her PhD thesis 'Hate speech revisited'. Since 2013 she has been president of the Dutch section of the International Commission of Jurists (NJCM), an NGO that aims to protect and promote human rights in the Netherlands and in Dutch foreign policy.

### Dubravka Žarkov

Dubravka Žarkov is Associate Professor in Gender, Conflict and Development at ISS/EUR, where she teaching courses on feminist and conflict theories and on the media. Her research interests follow two main lines: a) (sexual) violence against women and men in war, and its representation in the media; b) nexus of neo-liberal economic globalization, militarism and violent conflict. In both of those research fields she is interested how the dynamics of gender and sexuality with ethnicity, religion and



race underpin specific political, economic, social and symbolic processes. She has published *Conflict, Peace, Security and Development* (ed. with Helen Hintjens, 2015), *Narratives of Justice in and out of the Courtroom* (ed. with Marlies Glasius, 2014), *Gender, Conflict, Development* (ed. 2008), *The Body of War. Media, Ethnicity and Gender in the Break-up of Yugoslavia* (2007), and *The Post-war Moment: Militaries, Masculinities and Peacekeeping* (ed. with Cynthia Cockburn, 2002).

### Machteld Galema

The experts were supported by Machteld Galema. She has expertise in environmental and climate issues, integrated water management and water and agriculture and currently works for Akvo Foundation. Before

joining Akvo as a project manager for West Africa in January 2016, she worked as an independent consultant with several assignments in the water development sector, and as a farmer. Prior to that, she worked for the Netherlands Water Partnership, where she supported the Dutch embassies in West Africa and the Middle East in the formulation and execution of their bilateral water programmes. She also worked as a programme coordinator of media and politics for the Palestinian embassy in the Netherlands.

Machteld has a bachelor's degree in European Studies from The Hague University and a master's degree in Environmental Sciences, specialising in Integrated Water Management (MSc) from Wageningen University (WUR).

The expert mission was initiated and organized by gate48 and Palestine Link:



**gate48** is a platform for Israelis living in the Netherlands who oppose the occupation of the Palestinian territories and call for its end. We wish to convey to the Netherlands opinions and voices which show that criticizing Israel's official policy is not the same as being anti-Israeli.

**gate48** organizes activities in the Netherlands that provide a platform to people from Israel/Palestine who work together in non-violent ways to resist the occupation and to find a just solution for all.

We strongly believe that the two peoples who share the same land must share equal justice and equal rights. (<http://www.gate48.org/>)

**Palestine Link** is an initiative by Palestinians in the Netherlands to advocate Palestinian national and human rights and promote Palestinian interests. It seeks to set Palestine and the Palestinians on the European agenda through challenging the current myths and stereotypes, reframing the debate and contributing to branding Palestine, its people and its identity, and functioning as a bridge to link up individuals and organisations in the Netherlands and Palestine.

**Palestine Link** is an independent knowledge and service center, and a portal to all aspects of the Palestinian life and society; the socio-economic, historical, cultural and political developments. (<http://www.palestinelink.eu/>)



Members of the expert team.

## ANNEX II: ACRONYMS

<b>CA</b>	Civil Administration
<b>ECHO</b>	European Community Humanitarian Aid Department
<b>GDP</b>	Gross Domestic Product
<b>IDF</b>	Israeli Defence Force
<b>IWA</b>	Israeli Water Authority
<b>JSC</b>	Joint Service Council
<b>JWC</b>	Joint Water Committee
<b>JWU</b>	Jerusalem Water Undertaking
<b>Lpcd</b>	Liters per capita per day
<b>MCM</b>	Millions of cubic meters
<b>MO</b>	Military Order
<b>MoA</b>	Ministry of Agriculture
<b>MoP</b>	Ministry of Planning
<b>NGO</b>	Non-governmental organisation
<b>NIS</b>	New Israeli shekel
<b>NWC</b>	National Water Council
<b>OCHA</b>	Office for the Coordination of Humanitarian Affairs
<b>PA</b>	Palestinian Authority
<b>PCBS</b>	Palestinian Central Bureau of Statistics
<b>PHG</b>	Palestine Hydrology Group
<b>PMU</b>	Project Management Unit
<b>PRDP</b>	Palestinian Reform and Development Plan
<b>PWA</b>	Palestinian Water Authority
<b>UFW</b>	Unaccounted-for water
<b>UNDP</b>	United Nations Development Program
<b>UNRWA</b>	United Nations Relief and Works Agency
<b>WBWD</b>	West Bank Water Department
<b>WHO</b>	World Health Organisation
<b>WSWG</b>	Water Sector Working Group

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## ANNEX IV:

### LIST OF INTERVIEWEES

Name	Organisation	Function
Salah Abu Sittah	Farmer Union	
Mazen al Aze	Stop the Wall campaign	
Majed Al-Fityani	Governorate of Jericho and Al-Aghwar	Governor
Mutasm al-Hadalin	Comet-ME	Water Technician
Ribal Alkurdi	Alrowwad	Administrative Assistant
Smadar Ben Natan		Lawyer and Human rights specialist
Luuk Bouwers	EKN Tel Aviv	Political diplomat
Hillel Cohen	Hebrew University Jerusalem	Professor of History
Tamar Cohen	Comet-ME	Organizational Development Manager
Alon Cohen-Lifshitz	Bimkom	Architect
Ismail Daiq		Former Minister of Agriculture, farmer
Emiel de Bont	EKN Tel Aviv	Deputy
Inas Deeb	Arab Jewish School Jerusalem	Parents committee & curriculum
Ray Dolphin	OCHA	Barrier Specialist
Noam Dotan	Comet-ME	Co-founder and Technical Director
Roos Frederikse	EKN Tel Aviv	Political diplomat
Subha Ghannam	Netherlands Representative Office Ramallah	Senior Policy Officer
Fuad Giacaman	Arab Educational Institute (AEI)	Co-president and co-founder
Aeyal Gross	Tel Aviv University	Professor of international law
Shawan Jabarin	Al Haq	Director
Sarit Michaeli	B'Tselem	Spokesperson
Yonathan Mizrachi	Emek Shaveh	Director
Peter Mollema	Netherlands Representative Office Ramallah	Head of mission
Rania Murra	Sumud	Director
Amal Nassar	Tent of Nations	
Nasser Nawaj'ah	B'Tselem	B'Tselem field researcher
Fakhry Njoom		Farmer
Saleh Njoom	Al Uja municipality	Mayor
Neta Patrick	Yesh Din	Executive director
Ayman Rabi	Palestinian Hydrology Group (PHG)	Director
Arik Saporta	Arab Jewish School Jerusalem	Co-Director
Fadi Suidan	Hand in Hand (school foundation)	Parents committee & fund raiser

The delegation also tried to meet with Israeli officials but all requests to meet with representatives of the Israeli Ministry of Justice and the Military authorities (Civil Administration) were rejected.

## Report

# Collapsing Prospects

## PALESTINIANS IN AREA C, WEST BANK

Upon the initiative of Palestine Link and gate48, an multidisciplinary team of experts visited Area C in the West Bank in October 2015.

### The mission resulted in two main conclusions:

- First, the systematic institutional oppression and discrimination of the Palestinians in Area C have increased exponentially since the signing of the Oslo Accords, while human security and the prospects for growth and economic development have deteriorated dramatically. This process goes much deeper and faster than generally acknowledged.
- Second, it is the strong conviction of the Expert Team that such circumstances are neither sustainable nor tenable even in the short-run, and that they pose a serious and immanent threat to any possible just solution to the conflict.

### In light of its conclusions, the expert team urges the Dutch Government, Parliament and policy makers to:

- take immediate concrete steps to pressure the State of Israel to slow down and ultimately stop the current near-collapse of Palestinian livelihood in Area C, and start creating the basic conditions for sustainable livelihood as well as personal and property security.
- exert their influence on Israel and persuade it to acknowledge and respect international laws referring to the illegitimacy of Israeli occupation of Palestine and its devastating effects on the

Palestinian people. In particular, Israel should be required to fulfil its obligations under Oslo I and Oslo II to transfer full governing power of Areas C and B to the Palestinian National Authority, and to stop all activities prohibited by international law.

- make a change within its own national space, to go further than the mere “discouraging policy” which advises companies, institutions and organisations to refrain from contributing economically, intellectually, technically or otherwise to the building and development of Israeli settlements, or to the Israeli occupation of Palestine, thus violating national and international laws and principles, and to see to it that Dutch companies and organisations that are involved in such international law violations are held accountable.
- use its position within the EU and assume a leading role in creating, pursuing and supporting European policies which hold Israel legally, politically and economically accountable for its policies and practices in the OPTs which violate international law and impede human security of the Palestinians and development of their society.
- play an active role in discussing the different approaches towards achieving a resolution to the conflict and what consequences they bear for the Palestinian people, and engage in envisioning just and sustainable forms for a Palestinian statehood.

### Report by

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