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### Human rights situation in Palestine and other occupied Arab territories

## Written statement\* submitted by United Nations Watch, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[19 August 2021]

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\* Issued as received, in the language(s) of submission only.



## Myths and Facts on Mideast Water Disputes

In this report we set the record straight about allegations made about alleged violations of water rights. In its June 2020 resolution 43/32, the Human Rights Council mandated the High Commissioner to prepare a report on “allocation of water resources in the Occupied Palestinian Territory, including East Jerusalem,” to be presented at the Council’s 48th session. This followed a March 2019 report to the Council by Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967 accusing Israel of violating Palestinian water rights.<sup>1</sup> Indeed, UN member states and officials routinely accuse Israel of such violations. However, these claims ignore and mischaracterize the reality.

In fact, both Israel and the Palestinians have certain rights to the natural resources in the West Bank, or Judea and Samaria, as defined in the Israeli-Palestinian Interim Agreement on the West Bank and the Gaza Strip. Known as the Oslo II Accord, it was signed in September 1995 by Israeli Prime Minister Yitzhak Rabin and PLO Chairman Yasser Arafat, and witnessed by the President of the United States of America, Bill Clinton, as well as by representatives of the Russian Federation, Egypt, Jordan, Norway, and the European Union, and deposited with the United Nations.<sup>2</sup> The subject was specifically addressed under Annex III of the Interim Agreement.<sup>3</sup>

Oslo II did not resolve the complex issue of water ownership rights, leaving this for final status negotiations. Indeed, international law generally refers to usage rights rather than ownership rights when it comes to water—a resource that crosses boundaries, is difficult to confine, and the use of which by one state can negatively impact a neighboring state.<sup>4</sup> Oslo II did provide under Article 40 of Appendix 1 to Annex III, that the two sides should “coordinate the management of water and sewage resources and systems in the West Bank” and form a joint committee for that purpose. Each side was authorized to maintain existing quantities of water utilization from existing resources. In addition, the Palestinians could take further resources primarily from the Eastern Mountain Aquifer. The Mountain Aquifer is a shared water resource with two-thirds falling in Israel and one-third in the West Bank.<sup>5</sup> The Palestinians were also to develop their own water resources, to prevent waste and deterioration of water quality, avoid harming the water resources and sewage systems of either side and to treat, reuse or properly dispose of sewage.

The claim that Israel steals Palestinian water resources is false. Israel uses only water sources allocated to it by Oslo II. In fact, it has been shown that the Palestinians steal water from Israel, and not the other way around.<sup>6</sup> Over the years, instead of drilling in the Eastern Aquifer allocated to the Palestinians, or developing new water resources as required by the Oslo

<sup>1</sup> Report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, UN Doc. A/HRC/40/73 (March 15, 2019).

<sup>2</sup> Letter dated December 27, 1995 from the Permanent Representatives of the Russian Federation and the United States of America to the United Nations addressed to the Secretary-General, UN Doc. A/51/889; S/1997/357 (May 5, 1997), [https://peacemaker.un.org/sites/peacemaker.un.org/files/IL%20PS\\_950928\\_InterimAgreementWestBankGazaStrip%20OsloII%29.pdf](https://peacemaker.un.org/sites/peacemaker.un.org/files/IL%20PS_950928_InterimAgreementWestBankGazaStrip%20OsloII%29.pdf).

<sup>3</sup> The Israeli-Palestinian Interim Agreement on the West Bank and the Gaza Strip, Annex III (last visited Dec. 24, 2020), <https://mfa.gov.il/MFA/ForeignPolicy/Peace/Guide/Pages/THE%20ISRAELI-PALESTINIAN%20INTERIM%20AGREEMENT%20-%20Annex%20III.aspx>.

<sup>4</sup> See, e.g., Stephen McCaffrey, *International Water Law For the 21st Century: The contribution of the U.N. Convention, WORLD BANK SEMINAR ON INTERNATIONAL WATERCOURSES* (Nov. 1997), <https://core.ac.uk/download/pdf/60534697.pdf>; Elements of water law, GLOBAL WATER PARTNERSHIP (last visited Aug. 8, 2021) (noting that “water is a fugitive resource”), <https://www.gwp.org/en/learn/iwrm-toolbox/The-Enabling-Environment/Legal-Framework/Elements-of-Water-Law/>.

<sup>5</sup> Myths vs. Facts: NGOs and the Destructive Water Campaign Against Israel, NGO MONITOR (March 17, 2016), [https://www.ngo-monitor.org/reports/myths\\_vs\\_facts\\_ngos\\_and\\_the\\_destructive\\_water\\_campaign\\_against\\_israel/](https://www.ngo-monitor.org/reports/myths_vs_facts_ngos_and_the_destructive_water_campaign_against_israel/).

<sup>6</sup> See, e.g., Fact Sheet: Water in the West Bank, COGAT (2012), <https://reliefweb.int/sites/reliefweb.int/files/resources/3274.pdf>; Prof. Haim Gvirtzman, *The Truth Behind the Palestinian Water Libels*, THE BEGIN-SADAT CENTER FOR STRATEGIC STUDIES (Feb. 24, 2014), <https://besacenter.org/perspectives-papers/truth-behind-palestinian-water-libels/>.

Accords, they have drilled several hundred unauthorized wells in the Western and Northern Mountain Aquifers in violation of the Oslo Accords, increasing salt levels in the water and thus harming Israel's water supply and the surrounding environment. The Palestinians also steal water directly from Israel's national water company, Mekorot, by tapping into its pipes, thereby harming the water supply to both Israelis and Palestinians.

At the same time, Israel has substantially increased the water supply to West Bank Palestinians. Although Israel undertook in the Oslo Accords to increase their water supply by 20%, in practice, it increased the water supply by 50%.<sup>7</sup> According to the former CEO of Mekorot, Shimon Ben-Hamo, Israel aims to triple the amount of water it supplies to the Palestinians from 50 million to 170 million cubic meters so that the Palestinians and Jews living in the West Bank will receive equal amounts of water. This is separate and apart from any water resources developed and produced by the Palestinians themselves.<sup>8</sup> Notably, Mekorot has sold water to the Palestinians at a loss, significantly less than what it charges Israeli consumers.<sup>9</sup>

Moreover, Palestinian use of water has been characterized by waste and mismanagement. The Palestinian Authority has a history of failing to: fix water leaks, collect and treat sewage, conserve water used for agriculture, or collect payment for water from most Palestinians in the West Bank and Gaza. The PA could easily solve its water problems in the West Bank by drilling the Eastern Mountain Aquifer, fixing the main leaks in their pipes, collecting and treating their urban waste and implementing drip irrigation technology for agriculture.<sup>10</sup> They could do the same in Gaza. Furthermore, the international community has offered to build a desalination plant in the Gaza Strip which, according to water expert Haim Gvirtzman, "could completely solve the Gaza Strip's water shortages," but the Palestinians originally opposed this on political grounds.<sup>11</sup> According to recent sources, construction on the project is in the very early stages.<sup>12</sup>

Finally, the accusation ignores the fact that Israel and the Palestinians have been working together to resolve water issues. For example, in June 2020, the cornerstone was laid for the Kidron Joint Israel-Palestinian Wastewater Treatment Facility to purify wastewater flowing from Palestinian and Israeli neighborhoods in Jerusalem—a major source of pollution—through the Kidron River to the Judean desert. The purified water is to be used for Israeli and Palestinian agriculture. At the time, Minister of Water Resources Ze'ev Elkin commented on the project that "About half of Jerusalem's sewage is polluting the Kidron River—which is one of the most serious environmental hazards untreated so far. A lot of hard work was done here, which included a lot of coordination with government, military, municipal and the Palestinian Authority."<sup>13</sup>

Additionally, in July 2017, Israel and the Palestinian Authority signed a U.S.-brokered water-sharing deal pursuant to which Israel agreed to sell to the Palestinians 32 million cubic meters

<sup>7</sup> Amb. Alan Baker, *Debunking 11 More False Assumptions Regarding Israel*, JERUSALEM CENTER FOR PUBLIC AFFAIRS (Jan. 2017), [https://jcpa.org/article/debunking-more-false-assumptions-regarding-israel/#\\_ednref13](https://jcpa.org/article/debunking-more-false-assumptions-regarding-israel/#_ednref13); see also Amiram Barkat, *Mekorot CEO: We could earn billions abroad*, GLOBES (Feb. 19, 2017), <https://en.globes.co.il/en/article-mekorot-ceo-we-could-earn-billions-abroad-1001177666>.

<sup>8</sup> *Id.*

<sup>9</sup> Fact Sheet: *Water in the West Bank*, *supra* note 6.

<sup>10</sup> *The Truth Behind the Palestinian Water Libels*, *supra* note 6.

<sup>11</sup> *Id.* See also *Myths vs. Facts: NGOs and the Destructive Water Campaign Against Israel*, *supra* note 5.

<sup>12</sup> Focus Areas: *Water*, OFFICE OF THE QUARTET (last visited Dec. 24, 2020), <http://www.quartetoffice.org/page.php?id=5e2231y6169137Y5e2231>; see also *Gaza desalination plant: UFM flagship project ready for implementation*, EU NEWS (June 30, 2020), <https://www.euneighbours.eu/en/south/stay-informed/news/gaza-desalination-plant-ufm-flagship-project-ready-implementation>.

<sup>13</sup> *60 m deep tunnel and a joint wastewater treatment facility: This is how the Kidron River will be restored*, JERUSALEM INSTITUTE MILKEN INNOVATION CENTER (June 28, 2020), <https://milkeninnovationcenter.org/news/60-m-deep-tunnel-and-a-joint-wastewater-treatment-facility-this-is-how-the-kidron-river-will-be-restored/>; see also Sarah Vorsanger, *Solving a Long Standing Sewage Problem*, ZAVIT (Aug. 18, 2019), [https://www.zavit.org.il/intl/en/energy\\_infrastructure/israeli-and-palestinian-cooperation-to-solve-a-long-standing-sewage-problem/](https://www.zavit.org.il/intl/en/energy_infrastructure/israeli-and-palestinian-cooperation-to-solve-a-long-standing-sewage-problem/).

of water annually at a reduced price. Palestinian Water Authority head Mazen Ghuneim welcomed the deal.<sup>14</sup> This was part of a larger trilateral agreement between Israel, the Palestinian Authority and Jordan for construction of a pipeline to transfer water from the Red Sea to the Dead Sea.

Regrettably, despite this cooperation, the issue of water has been politicized by certain groups, leading to the false narrative put forward by the UN and its officials.<sup>15</sup>

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<sup>14</sup> Jeffrey Heller, Trump envoy announces Israeli-Palestinian water deal, silent on peace prospects, REUTERS (July 13, 2017), <https://www.reuters.com/article/us-israel-palestinians-usa-water-idUSKBN19Y1EZ>; Raphael Ahren and Melanie Lidman, Israel, Palestinians reach landmark water deal for West Bank, Gaza, TIMES OF ISRAEL (July 13, 2017), <https://www.timesofisrael.com/israel-palestinians-reach-landmark-water-deal-for-west-bank-gaza-strip/>.

<sup>15</sup> Myths vs. Facts: NGOs and the Destructive Water Campaign Against Israel, *supra* note 5.