

On the Oslo II 20 years anniversary EWASH calls on the International Community and local authorities to guarantee Palestinians' water rights

28 September, 2015 marks the **twentieth anniversary of the signing of the Oslo II Interim Agreement.** The accord, officially signed in 1995 as a temporary settlement for a transitional period **not exceeding five years**, outlines amongst other things, the arrangements concerning access to water in the West Bank and the Gaza Strip (Article 40). The agreement maintained the status quo where the government of Israel maintains its controls over more than 70% of the water pumped from the Mountain Aquifer, an underground water source shared by Israel and the occupied State of Palestine, the majority of which lies in Palestinian territory and which is mostly replenished in the West Bank by rain and snowfall. Only 17% of the total share was allocated to the Palestinians. By doing so the accord created a water regime that perpetuates discrimination in management and allocation of water resources between Israel and the occupied State of Palestine. Besides controlling the shared underground water resources, Israel has denied Palestinians physical access to the Jordan River (the other main source of fresh water in the West Bank) and prevented them from using its water since it occupied the West Bank in 1967.

The overall imbalance of power outlined in the accords is reflected in a harsh reality on the ground, as twenty years later Palestinians are no closer to achieving their rightful share from the shared water resources. In the West Bank, Palestinians have access to less water per capita than they did in 1995 due to the government of Israel's continued restrictions on the development of essential Palestinian water infrastructure, particularly the construction of wells. Palestinian water allocations from these shared resources have remained capped at 1995 levels, but their actual abstraction rates have dropped compared to the official 1995 levels documented in Oslo, despite the Palestinian population having doubled since then. Palestinian pumping from the Mountain Aquifer is in recent years 10 to 20% less than the Oslo agreed-upon rates.²

While the interim Agreement aimed to become a basis for equal and just transboundary water sharing, in reality Palestinians currently utilize not more than 11% of the shared Mountain Aquifer, while the government of Israel claims the rest, thus maintaining control over transboundary water resources. Consequently, the approximate average domestic consumption rate among Palestinians in the West Bank is approximately 40 liters per capita per day (I/c/d) while the World Health Organization recommends 100 I/c/d. In Gaza, daily average consumption lies at 79 I/c/d but most of this water is polluted with nitrates and chloride and thus not safe for drinking. Inadequate access to water in the West Bank and particularly the low quality of water in Gaza places Palestinians at increased risk of disease and illness and prevents sustainable livelihood development. Due to the allocation rates defined by Oslo, Palestinians are increasingly dependent on purchased water from Israel to meet their basic water needs. 30% of all municipal water supply available to Palestinians is purchased from Israel. Under customary international water law, these transboundary water resources should be shared equitably and reasonably, so as to provide the maximum benefit to each party from the use of the water with the minimum detriment to each. Under this principle, vital basic needs in particular must always be protected.

The Oslo agreements not only resulted in discriminatory water sharing arrangements. They also established the government of Israel's civil and security control over Area C and requirement for Israeli governmental approval for the development and maintenance of water and sanitation infrastructure in this area, which represents over 60% of the West Bank. In recent years, 94% of Palestinian applications for construction permits in Area C were rejected. Since the beginning of 2015 alone, 36 WASH structures have been destroyed by the Israeli authorities in Area C, generally for lack of a building permit.

In the Gaza Strip, less than 5% of the water extracted from the Coastal Aquifer – the only source of fresh water available to Palestinians in Gaza - is safe to drink. Under Oslo, the government of Israel was obliged to double its water supply to Gaza during the 5 years interim period - from 5 mcm to 10 mcm per year. This quota was calculated based on 1995 population figures. Only in 2015 did the government of Israel agree to sell to Gaza

¹ The Israeli-Palestinian Interim Agreement on the West Bank and the Gaza Strip, Annex III Protocol Concerning Civil Affairs, 1995.

² Palestinian Water Authority (PWA), Status Report of the Water Resources in the Occupied State of Palestine, 2012.

³ Al Haq, Water Factsheet Number 1, March 2013.

⁴ Information provided by PWA, September 2015.

⁵ PWA, <u>2014 Water Resources Status Summary Report/ Gaza Strip</u>, September 2014.

⁶ PWA, Status Report of the Water Resources in the Occupied State of Palestine, 2012.

^{7 &}lt;u>UN Watercourses Convention, User's Guide Factsheet Series: Number 4.</u>

⁸ Bimkom, <u>Demolition Orders in Area C of the West Bank 1988 – 2013</u>, December 2013.

 $^{9\} UN\ OCHA\ Demolition\ System,\ August\ 2015.$



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this additional amount of water – 20 years later, when the **population in Gaza has more than doubled.** Today, 10 mcm of water only provides for 5% of Gaza's water needs.¹⁰

Current water resource sharing arrangements between the government of Israel and the occupied State of Palestine are not adequate to ensure the basic human right to access safe and clean drinking water, as outlined in the UN General Assembly resolution of 2010 on the human right to water and sanitation.¹¹ The current state of the Palestinian water rights will not improve unless fundamental structural changes are made to the control, access and management of the shared water resources. It is time to take steps to stop the denial of basic human rights to Palestinians.

EWASH* calls upon:

- **The International Community** to immediately take concrete steps to ensure that transboundary water resources are shared between Israel and the occupied State of Palestine in an equitable and reasonable manner so that Palestinians can achieve their water rights.
 - Third parties (in particular donor countries) must address needs on the ground while ensuring the applicability of international law, including international humanitarian law (IHL), as it relates to water as a human right.
 - In addition, the international community should exert political pressure on the government of Israel to change the policies determining access to water resources. Meanwhile, the government of Israel, as the occupying power has the responsibility to provide for the wellbeing of the Palestinian population and should therefore lift restrictions related to the use of water resources and bring policies affecting the development of Palestinian communities in line with their needs and priorities and with IHL.
- The International Community and in particular donors to clarify if strategies for the water sector are to be developed and implemented either following the conditions and limitations imposed by the vestiges of the Oslo agreements (in particular regarding Area C), or in a manner consistent with IHL regardless of other frameworks. This is important to facilitate organizations' interventions, which are now limited due to donors' lack of proactive engagement in Area C, and to ultimately allow an adequate response to the population's needs, in agreement with IHL obligations.
- The Palestinian Authority to take up its responsibilities and, with the support of the international community, to prioritize the attainment of Palestinian water rights through the substantial and structural rethinking of water sharing agreements with Israel. Water sharing should be negotiated in accordance with international law and IHL, as water rights cannot be subject to political solutions. In addition, the Palestinian Authority needs to be supported for the development and implementation of a national water policy that addresses the country as a whole instead of being linked to the administrative divisions of Area A, B and C outlined in the Oslo agreements.

For questions please contact EWASH Advocacy Task Force:

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The Emergency Water Sanitation and Hygiene (EWASH) is a group of 28 humanitarian agencies working together to coordinate interventions, respond to needs, share information and do advocacy on the water and sanitation sector in the oPt. Members include local and international NGOs and UN agencies.

¹⁰ Norwegian Refugee Council, Doubling of the Mekorot Water Supply to Gaza Strip, June 2015.

¹¹ Resolution adopted by the General Assembly on 28 July 2010, The human right to water and sanitation.