

A2. EUROPEAN UNION, INTERNAL REPORT ON "AREA C AND PALESTINIAN STATE BUILDING," BRUSSELS, JANUARY 2012 (EXCERPTS)

Titled "Area C and Palestinian State Building," this report was prepared by the European Union (EU) representative's office in Jerusalem for internal use only but was leaked to the British newspaper The Independent. While the report bears the date July 2011, it was not submitted to EU headquarters in Brussels until 14 December and was approved in early January. The full document can be obtained at <http://www.redress.cc/cms-files/nsabir20120115.pdf>.

SUMMARY

In accordance with the Oslo Agreement the West Bank excluding East Jerusalem consists of three areas:

- Area A (18% of territory, 55% of population) under Palestinian civil and security control.
- Area B (20% of territory, 41% of population) under Palestinian civil and shared Israeli-Palestinian civil and security control.
- Area C (62% of territory, 5.8% of population) under full Israeli security control and almost full Israeli civilian control.

In 1972 the number of Israeli settlers in Area C were 1,200, in 1993 110,000, and in 2010 310,000 (excl. East Jerusalem). The number of settlers in Area C today

is more than double the estimated number of Palestinians (150,000). The settlers live in 124 formal settlements and approximately 100 informal settlements (so-called outposts and illegal under Israeli law).

The Palestinian presence in Area C has continuously been undermined through different administrative measures, planning regulations, and other means adopted by Israel as occupying power. Prior to 1967 there were between 200,000 and 320,000 Palestinians in the Jordan Valley. Today the number is 56,000 (of which 70% live in Area A in Jericho). The increasing integration of Area C into Israel proper has left Palestinian communities in the same area ever more isolated. During the past year there has been a further deterioration of the overall situation in Area C. If current trends are not stopped and reversed, the establishment of a viable Palestinian state within the pre-1967 borders seems more remote than ever.

The window for a two-state solution is rapidly closing with the continued expansion of Israeli settlements and access restrictions for Palestinians in Area C, the only contiguous area in the West Bank surrounding Areas A and B. Area C compromises crucial natural resources and land for the future demographic and economic growth of a viable Palestinian State. State building efforts in Area C of the Palestinian Authority (PA) and the EU are therefore of utmost importance in order to support the creation of a contiguous and viable Palestinian state. Full and effective Palestinian development of Area C will require the redesignation of Area C to Areas A and B. This objective has to be pursued at the political level. Enabling measures should, however, be pursued in the interim to support Palestinian presence in and development of this area.

Implementation of the following would improve the situation in Area C (see also Annex 1):

- A. Encourage Israel to change its policy and planning system for Area C and engage the Palestinian communities in access and development.
- B. Reduce land and population vulnerability and facilitate better

- coordination of basic needs deliveries in Area C.
- C. Promote economic development in Area C.
- D. Increase visibility and accountability for the delivery of aid in Area C.

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3. *Israeli military administration*

The Israeli military administration or the so called Civil Administration (CA) was established by the Israeli government in 1982 pursuant to military order no. 947 with the mandate to “administer the civil affairs in the area [West Bank] . . . for the welfare and benefit of the population and for provision and operation of public services, considering the need to maintain proper administration and public order in the area.” Its mandate includes serving both Israeli settlers and Palestinians. However, because of this dual role the civil administration does not administer the civil affairs for the genuine welfare of the local Palestinian population.

The CA is subordinate to COGAT (Coordinator of Government Activities in the Territories) and is composed of Israel Defense Forces (IDF) soldiers and Israeli citizens and has no formal Palestinian representation. Local and District Planning Committees were abolished in 1971 with military order no. 418 and ever since, the planning process—which impacts on every aspect of civilian life of individual Palestinians as well as on villages and small towns—is exclusively controlled by non-Palestinians. The CA is therefore operating as de facto sovereign in civilian affairs in Area C. The restrictions on the normal life of the local Palestinian population in Area C impact directly and indirectly on the security, humanitarian, developmental, and psychological conditions of the Palestinians in the entire area of the West Bank. Furthermore, Israeli control of planning laws and institutions limit severely the possibility for state building of a future Palestinian state in Area C.

4. *The Palestinian Authority*

Since its establishment the Palestinian Authority (PA) does not have any municipal or planning authorities in Area C (despite that, planning is

encouraged among the local communities by the PA through Ministry of Local Government). PA has some authorities concerning the delivery of services in Area C such as health and education, excluding those that require infrastructure and construction, which Israel has exclusive control of. According to the Oslo Agreements, some civil authorities in Area C such as zoning and planning were intended to gradually (within five years) pass from the control of the Israelis to the Palestinians; however, such transfer did not take place and therefore Israel has almost full responsibility and authority for the Palestinian civilian population in Area C.

In August 2009 Palestinian Prime Minister Salam Fayyad introduced his two-year statehood plan: “Ending the Occupation, Establishing the State.” With regard to infrastructure, one of the objectives is to develop large infrastructure projects in Area C, which consists of vast and uninhabited areas located outside the major population centers. These areas are natural locations for large infrastructure projects, such as wastewater treatment plants, landfills, water pipelines, and main roads. However, PA has been prevented from (despite efforts by the Quartet, European Union Military Staff (EUMS), and others) implementing many of these essential projects. Consequently, several donor-funded projects are today indefinitely suspended. The Palestinian government has been working with the international community to convince Israel to change those obstructive practices, rules, and regulations leading to delays or lack of implementation. In the words of Fayyad: “Area C is not disputed territory, it is occupied territory, and the Israelis have to relinquish control,” he says. “It’s an integral part of where the Palestinian state is going to emerge.”

On the other hand, Area C did not have much attention in Palestinian national plans. The Palestinian Reform and Development Plan (PRDP) 2008–2010 did not take Area C into full consideration, nor gave recommendations on how to deal with the needs of its residents. Similarly, the new Palestinian National Development Plan (NDP) 2011–2013 does not give clear guidance on how the Palestinians would like to

deal with Area C, seam-zones, and East Jerusalem. However, recently a separate Area C strategy is being prepared by the PA with input from the UN to complement the NDP.

Palestinian development of the land and resources in Area C has been recognized by members of the Ad Hoc Liaison Committee and the Quartet as fundamental to sustainable economic growth and Palestinian state-building.

5. The Palestinian population and demographic development

A recent survey conducted by UNOCHA (UN Office for the Coordination of Humanitarian Affairs, occupied Palestinian territories) indicates that over 520 Palestinian communities are located in Area C of which over 230 are entirely located in Area C. While the survey states that it is difficult to ascertain the exact Palestinian population residing in Area C due to the high number of cross-boundary (Areas A, B, C) communities, it is estimated that as many as 150,000 Palestinians live there, with some 18,500 in villages and 27,500 in small Bedouin and other herding communities located entirely in Area C. Although Area C composes of 62% of the West Bank, only 5.8% of the West Bank Palestinians remains there. Service provision to populations in Areas A and B has increased over recent years while communities in remote parts of Area C are struggling to adequately access basic social services and assistance such as water/sanitation, primary education, and basic safe shelter.

According to the CA, the annual natural growth of the Palestinian population in 2008 stood at 2.9% and has since been declining. The CA is expecting the natural growth rate to decrease to 1.8% in light of negative migration in the West Bank. The negative migration reaches up to 50% of the natural growth rate.

According to Save the Children UK (SCUK) Fact Sheet on the Jordan Valley of October 2009 more than 90% of the Jordan Valley is designated as Area C. Prior to the Israeli occupation in 1967 the Palestinian population of the Jordan Valley was estimated at between 200,000 and 320,000. As of 2009 the population is approximately 56,000,

with roughly 70% of residents concentrated in the City of Jericho (located in Area A). According to SCUK 31% of the surveyed households in high-risk areas in the West Bank, including the Jordan Valley, have been either temporarily or permanently displaced at least once since the year 2000, primarily as a result of Israeli military orders (31%) and house demolitions (23%).*

7. Closed military areas and nature reserves

Palestinians' access to farming and grazing locations is becoming increasingly difficult in Area C. The 2010 Consolidated Appeal Process (CAP) noted that approximately 23% of the West Bank—all within Area C—mostly in the Jordan Valley and eastern Bethlehem, are still designated by the Israeli authorities as either "fire zones" or "nature reserves," where Palestinian access is severely restricted, and any development of the land by Palestinians is prohibited (approximately 10% of the West Bank is an Israeli-designated nature reserve, of which 48% overlaps with the closed military training zones).

Although nature reserves and closed military areas including fire zones are not prohibited by international humanitarian law (IHL) per se, the use of public lands should only be done in good faith under a trusteeship regime. Closed military areas should only be taken in the case of imperative military necessity. The occupying power is under an obligation to revisit the necessity of impeding access to private lands periodically. If such examination culminates in lack of such absolute military necessity, the declaration of areas as closed military areas should be withdrawn. Destructions of civilian buildings are prohibited in occupied territory unless rendered

*According to an August 2011 report of the UN OCHA titled "Displacement and Insecurity in Area C of the West Bank," "the total Palestinian population of Area C is estimated at around 150,000, two-thirds of whom live in localities which are partly located in Area A and B, and one-third in communities located entirely in Area C" (p. 2).—Ed. Note

absolutely necessary by military operations (art. 53 IVGC). . .

8. Access to natural resources

Land control and movement and access problems directly impact the ability of Palestinians to use their natural resources in Area C. A recent World Bank report (2010) notes the lack of access to water for the Palestinian population and highlights Israel's overextraction of water resources in the West Bank as an impediment to the possibilities for Palestinian economic development and employment. On a per capita basis, water withdrawals for Palestinians in the West Bank are about 25% of those available to Israelis and have declined over the last decade, making Palestinians the population with the lowest access to fresh water resources. . . .

Predictably, economic activity in Area C is limited primarily to low intensity agriculture. High intensity agricultural, industrial, housing, tourism, and other investments are hindered by the inability to obtain construction permits from the Israeli authorities and the limited amount of titled land available. Israeli settlements in the Jordan Valley, however, have developed a specialized agricultural production, primarily for export, using most of the water resources in the area. Furthermore, it is worth noting that the over-extraction of water resources in the Jordan Valley (by both Jordan and Israel) negatively contributes to the shrinking of the Dead Sea as well.

. . . It is . . . of great concern that a total of 45 cisterns and rainwater structures in Area C of the West Bank have been demolished by the Israeli Authorities since January 2010 (UN OCHA).

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