

This comprehensive report on Israeli Land and water policies and practices in the Occupied Palestinian (West Bank of Jordan including East Jerusalem, and Gaza Strip) and other Arab Territories, (the Syrian Golan Heights) was prepared in accordance with the U.N. General Assembly decisions 40/432 and 43/430 and Security Council Resolution 65/1988. The Economic and Social Council in the 35th plenary meeting of 26 July 1989 requested the U.N. Secretary-General to prepare this report to be submitted to the U.N. General Assembly at its forty fifth session through the U.N. Economic and Social Council.

The five chapters of this report cover the following topics :

- 1- Introduction and brief review of the status and policies related to water and land before the Israeli Occupation.
- 2- The Israeli military orders in the Occupied Arab Territories concerning : land, water, agriculture, transportation and marketing of agricultural products, grazing and animal production and husbandry, agricultural activities under the Palestinian uprise conditions, practices concerning rural development in the light of international law, and main clauses of a sample Israeli military order No. 498 for management of water sources in Gaza, and order No. 92 and order No. 158 for management of water sources in the West Bank.
- 3- Water ownership and management of the water system in Israel and the Occupied Arab Territories.
- 4- Utilization and development constraints of water and agricultural resources, and Israeli practices and policies related to water and agriculture in the Occupied Arab Territories.
- 5- Legal aspects of sharing common water sources in light of the international law.

Inhabitants of the Middle East region depend for their livelihood upon two major resources : oil and water. Some states have both, some only one. Ironically, " God's chosen land " - Palestine- is perhaps that area least blessed, for it has no oil and its limited water resources are unevenly distributed. Palestine is situated between the arid desert climate of the Sinai desert to the south, and a more humid Mediterranean climate to the north (figure 1 ) where 79 percent of the region's rainfall, and thus most of its water resources, originate. Problems of water availability are intensified by the fact that about 60 percent of the rainfall evaporates. Much of the rest flows seaward or is absorbed by underground aquifers which can in turn be tapped by wells and pumps. Salinity, however, is an ever present danger in any arid climate, and Palestine, where much of the land is below sea level and contains considerable deposits of salt, is no exception. Severe salinity problems sometimes irreversible- are among the consequences of over exploitation and in judicious use of Palestine's wadis and underground water tables.

Water supply has been a crucial variable in the development calculations of the people of Palestine, and it has been a motivating factor in Zionist politics since the mandate period. Israel's agricultural development, however impressive it might be, has been accomplished at an enormous cost, borne by those with whom Israel must share the region's water resources. Fully aware of the hydrological as well as the political consequences, Israel's leaders plunged the country into a massive immigration campaign which dangerously

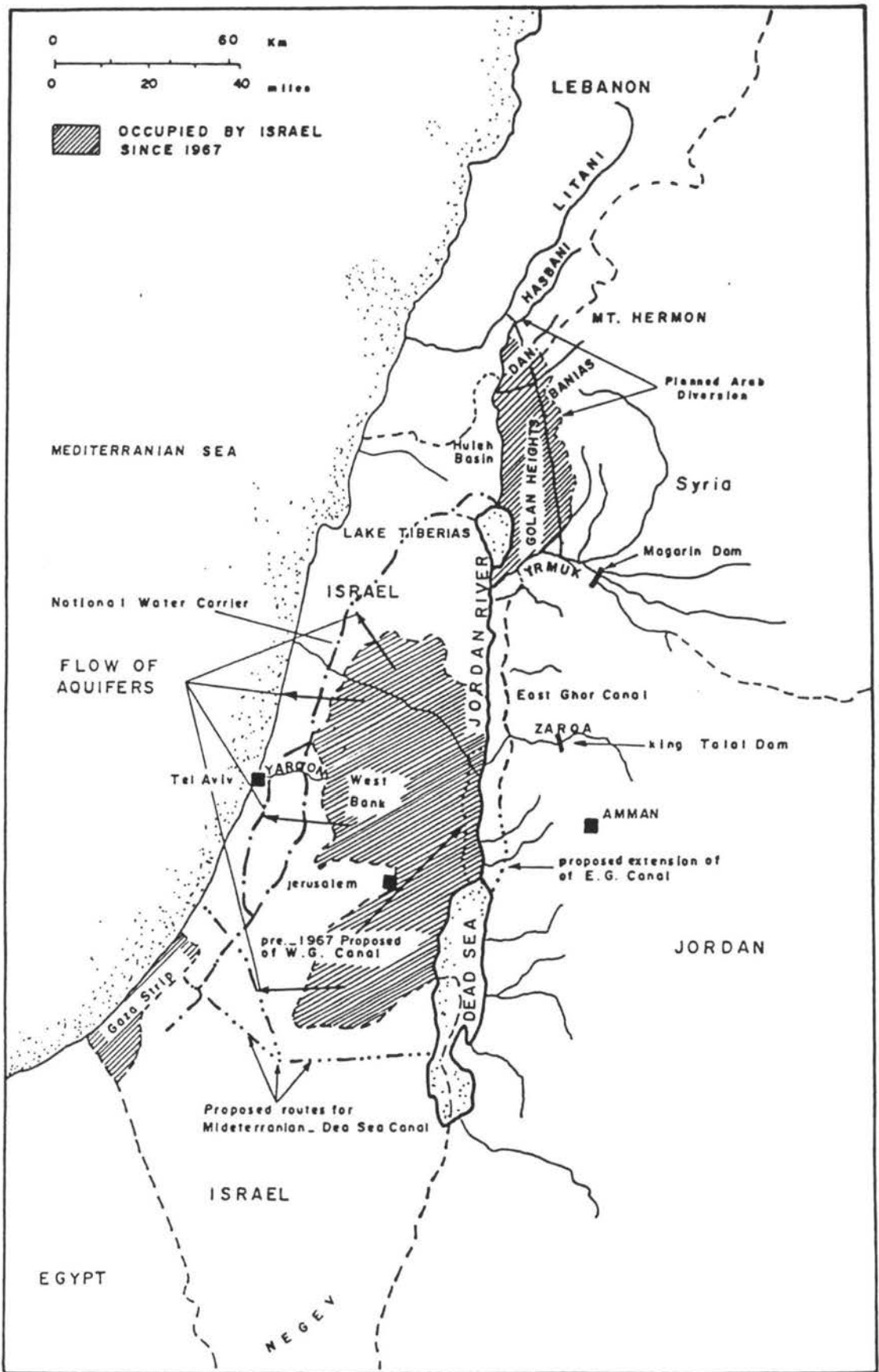


FIGURE 1 : JORDAN RIVER SYSTEM  
WEST BANK, GAZA STRIP AND GOLAN HEIGHTS

over exploited all of the water resources within its boundaries. Territorial expansion has served to bring additional water to the country, as have efforts to prevent Israel's riparian neighbors from themselves developing a coordinated strategy for utilizing the area's water resources. Israel now faces a serious water shortage, aggravated by its intensification of agriculture in the Negev, its expansion of industry, and its settlement policy both on the West Bank and within Israel itself. The country's water deficit will likely reach 450 million cubic meters (MCM) by the year 2000 and there are no new unexploited water resources within Israel itself which might alleviate this shortage. Only limited increases in water supply can be expected from such techniques as desalinization and sewage reclamation. As Israel secures itself in south Lebanon in addition to the rest of the Occupied Arab Territories, and as the military administration in these territories grows ever more oppressive, a discussion of Israeli water and land policies and practices, their means and their ends, are essential for the accurate interpretation of Israel's political and territorial objectives.

The West Bank of the Jordan River has more abundant water resources than much of the surrounding area, although all of the West Bank's groundwater is dependent upon rainfall. A mountain range runs from north to south for almost the entire length of the region, creating watershed areas to the east and west. The western watershed is almost entirely in Israel proper, and the runoff of each watershed constitutes about 25 MCM annually. Groundwater is the most important water source, the potential supply from the West Bank aquifers totalling about 600 MCM. The entire water potential of the West Bank is estimated as about 850 MCM, only 200 of which comes from the Jordan River.

Thus, Israel has had a longstanding interest in the waters of the West Bank. The two aquifers arising there supply almost all the groundwater for northern and central Israel. Indeed, one-third of Israel's pre 1967 water consumption of 1.6 billion cubic meters came from the West Bank after the Israel's bored wells just on their side of the Armistice line to draw off as much West Bank Water as possible, not only for irrigation but to counteract their overpumping of the coastal aquifers. The annual volume of Arab water controlled by Israel since 1967 has recently reached 600-700 MCM, almost the total increase in Israel water consumption since the 1960s. In other words, Israel's expansion of settlements and increase in agricultural production since that time has essentially been accomplished solely with water from the West Bank and upper Jordan River. The importance to Israel of control over these water resources thus cannot be overemphasized.

The smooth functioning of the West Bank well system is a lynchpin in the overall Israeli water balance. In order to ensure control of well water supply, Israel must control the aquifers in their entirety, for which control of the West bank per se is necessary. This end has been a continuing policy goal of the Israeli government, and current Israeli planning policy considers the West Bank to be a " water reservoir of Israel ". Indeed 550 MCM of the West Bank's water supply is used by Israel after it flows into the aquifers, and the growing quantity of water used by the Israeli settlements on the West Bank currently reaches 50 MCM. Thus, over 70 percent of the West Bank water resources is currently utilized by the Israelis, leaving the Palestinian majority with less than 30 percent. Israel has continuously attempted to justify its appropriation of the majority of the West Bank's waters by claiming that the region's inhabitants have not been efficient in their utilization of resources and that " systems of irrigation in this area are wasteful," thus recommending "efficient administration and conservation in irrigation systems in Judea and Samaria..." However, only 5 percent of West Bank land is irrigated by the Palestinians. Per capita agricultural, domestic and industrial water consumption in the West Bank, Gaza Strip and Israel is illustrated in table 1 of the report. The Israeli government denies the Palestinians the right to develop and manage their land and water resources and all water utilization and development land activities by the Arabs are forbidden by the Israeli military orders.

Many Palestinian Arab farmers caught between the high price of water, no access to finance, high agricultural production costs, marketing constraints, and a low price for agricultural goods because of competition with the free entry from Israel of highly subsidized agricultural commodities, are unable to continue cultivation and thus must abandon their lands to the Israelis. Ample evidence has been presented that much of the land Israel claims to have "reclaimed" through its water development policies is precisely this land which Palestinians have been forced to abandon as well as that cultivated land initially surrendered by Palestinians who departed in 1948. The drilling of Israeli wells and the consequent desiccation of Palestinian wells, the refusal of the Israeli government to allow Palestinians and Arabs, in general, of the occupied territories to drill new wells, and the confiscation of absentee property, there are fewer and fewer wells providing less and less water to the Palestinians whose lands have been occupied since 1967. Israel's water and land policy on the occupied territories accelerates the pace of Arab land abandonment, facilitating Israeli acquisition of land and water.

From the beginning, Israeli water policy has raised many moral as well as legal questions. The first was whether Israel was in fact bound by 1922, 1923, and 1926 French-British agreements regarding access to regional waters. While Israel maintained that it did not inherit treaties signed by the U.K. as a Mandate power, France and Britain stipulated that existing water rights of the region's inhabitants remain unimpaired. The issue was never legally resolved.

In addition, early attempts by Israel to divert the Jordan River from within the DMZ appeared to breach the General Armistice Agreement between Israel and the Arab States, which stipulated :

- 1- The principle that no military or political advantage should be gained under the truce ordered by the Security Council.
- 2- It is also recognized that no provision of this Agreement shall in any way prejudice the rights, claims and positions of either Party in the ultimate peaceful settlement of the Palestine question.

The Arabs perceived Israel's early water projects as calculated to obtain political and military advantages in the DMZ, particularly in that they were designed to facilitate mass immigration for the express purpose of achieving military superiority. This issue as well was never satisfactorily resolved, although the U.N. Security Council concurred with Arab opinion and several times issued cease-work orders to Israel.

Disagreement over principles is reflected in the debate over water allocation by "prior apportionment," whereby old users must be satisfied before new claims are honored, versus "equitable apportionment." While the Arabs have stressed the first principle, the Israelis have involved the second, albeit with their own interpretations. According to Article III of the Helsinki Rules on Uses of Water of International Rivers, adopted by the International Law association in 1966, "Each basin is entitled, within its territory, to a reasonable and equitable share in the beneficial uses of the waters of an international drainage basin." Although no clear-cut method of calculating "reasonable" or "equitable" was determined, a list was compiled of relevant factors to be considered in individual cases.

Applying this ruling to Palestine has been an exercise in futility, however, since Israel's definition of equitable seems to be based upon a much lower per capita water consumption for Arabs than for Jews. This effectively precludes any Arab water development or economic growth, an achievement which clearly is among Israel's primary regional goals.

Finally, there is the "moral" question of whether to keep river water in the watershed area, a course supported by the Arabs and most of the international community, or whether to divert the river, an alternative which Israel claims is justified by a lower water duty in the Negev.

Despite some ambiguity concerning these issues, customary International law and International legal opinion refute the legitimacy of most of Israel's water policies. For example, Israel has stressed the principle of absolute territorial sovereignty in conducting its water development activities - although it has repeatedly denied this right to Arabs undertaking unilateral actions within their own borders- while the Arabs have emphasized the principle of restricted territorial sovereignty in utilizing international rivers. According to L. Oppenheim, a well respected authority on international law :

... The flow of not-national, boundary, and international rivers is not within the arbitrary power of one of the riparian States, for it is the rule of International Law that no State is allowed to alter the natural conditions of its own territory to the disadvantage of the natural conditions of the territory of a neighboring State. For this reason a State is not only forbidden to stop or divert the flow of a river which runs from its own to a neighboring state, but likewise to make such use of the water of the river as either causes danger to the neighboring State or prevents it from making proper use of the flow of the river on its part.

The validity of this view is furthered by U.N. documents, which speak of the interdependence of riparian states :

When a stream forms the frontier of two States, neither of these states may, without the consent of the other.. make or allow.. alterations therein detrimental to the territory of the other State. On the other hand, neither State may, on its own territory, utilize or allow the utilization of the water in such a way as seriously to interfere with its utilization by the other State.

In other words, customary international opinion is that the use of an international river is not an unfettered right of each sovereign riparian. National practices throughout the years have overwhelmingly recognized the norms of international law as defined above in the utilization of international waterways, and have denied the absolute territorial sovereignty to which Israel lays claim.

Israel has involved legal justification for its water developments based upon the Johnston Plan. However, as no Arab riparian accepted the plan, it in no way can be considered a legal international agreement. Israel's insistence that it is such an agreement was self-serving for a time in so far as it was used to legitimize Israel's diversion of the Jordan River. Now that this has been completed, and Israel is utilizing far more than its share of regional water even as allocated under the Johnston Plan, Israel no longer refers to the plan as a basis for its activities.

... By all internationally accepted standards, water rights are attached to land ownership and hence the waters should properly have remained under Arab control.

... The Israelis have used every method available to persuade the Palestinians to leave the West Bank and other occupied territories : direct intimidation, imprisonment, seizure of houses, farm lands and water resources, and the total prohibition since 1967 of all water

resources development by the Arabs for agriculture except drilling of few groundwater wells for domestic purposes which have been authorized by the Israeli government for some towns. Thus to achieve its historical objectives on the water issue along, it is obvious that Israel aims and always has aimed at boundaries which will fulfill its 1919 water claim. Water expropriation must therefore be at the forefront of Israeli policy. The information presented in this report is essential for understanding Israel's political intentions and indicates that this aggressive policy will continue until all Israel's excessive demands are met. Israel in due course will return to Lebanon the area north of the Awali river, but will maintain control of the land and water (Litani River) south of the Awali, whether at first as Haddad-Land or from the beginning under direct Israeli control. Water from Israeli-occupied land would taste sweeter, but Haddad-Land water would serve Israel's expansionist policies just as well.

All the occupied Arab territories are undergoing the same Israeli policies and practices and managed by the same agencies and institutions, therefore, confronted to a great extent with the same land and water development constraints.

## TABLE OF CONTENTS

### Summary

- Chapter I : Introduction
- Chapter II : The Israeli military decrees concerning land and water in the Occupied Territories
1. Decrees related to the use of land and its ownership
  2. Decrees related to the determination of water and its extraction
  3. Decrees limiting agricultural expansion
  4. Decrees related to the transportation and marketing of agricultural products
  5. Decree related to pasture and livestock
  6. Decree related to agriculture in light of the Intifada
  7. The occupier's authority relating to the development of the countryside in light of international law
  8. Decree no. 92 pertaining to competence according to the water regulations in the West Bank
  9. Decree no.157 pertaining to the amendment of the law dealing with the authority over water in the West Bank
  10. Decree no. 498 regarding water in Gaza
- Chapter III : Water ownership and its administration in Israel and the Occupied Territories
- Chapter IV : Obstacles to the exploitation and the development of water resources and agriculture and the Israeli practices in the Occupied Territories
- A. General obstacles
  - B. The Israeli practices related to the water resources
  - C. The Israeli practices related to the agricultural resources
- Chapter V : The legal aspects of sharing common water
- Graph no. 1 : The water system of the Jordan River- West Bank- Gaza Strip and the Golan Heights

Table no. 1 : The yearly distribution of water yearly water consumption in Israel, the West Bank and the Gaza Strip

Appendix (1) The Zionist ideology and the Israeli strategy