



Petition to Connect the Village of Al-Aqabeh to the Water Supply Grid

Following are translated excerpts from the petition, submitted to the High Court of Justice in January 2016

Petitioners 1-14:

Residents of the village of Al-Aqabeh, in the northern Jordan Valley.

Petitioner 15:

The Association for Civil Rights in Israel (ACRI), founded in 1972, is the largest and oldest human rights organization in Israel. The organization's goal is to protect human rights for all people in Israel, in the Occupied Territories, and anywhere where Israeli authorities operate. As part of its activities, ACRI works to promote the rights of Palestinian residents of the Occupied Territories.

Petitioner 16:

Bimkom – Planners for Planning Rights (hereinafter: the Bimkom association) is a registered NGO of planners, architects, and professionals from the legal and social spheres, which addresses human rights in spatial planning in Israel and in the territories under its responsibility. Bimkom has worked with the village of al-Aqabeh on various issues for over a decade.

Respondents:

- 1. Minister of Defense**
- 2. Commander of IDF Forces in the OPT**

Grounds for the petition

1. Why the Respondents should not arrange the connection of the village of al-Aqabeh to the water supply grid, in such manner as to enable them to maintain a normal life.
2. Why the Respondents should not refrain from demolishing water storage facilities, such as water pools for agricultural use, wells, or reservoirs, pending the arrangement of the connection of the village to the water supply grid as requested in item 1.

Introduction

This petition concerns the right to water and to health of over 200 people – women, men, and children – who have lived for decades in the village of al-Aqabeh in the northern Jordan Valley, farming its land and grazing animals in its area since the Ottoman era. The petition addresses the basic and constitutional rights of the residents of the village of al-Aqabeh, and particularly the basic right to water.

Approximately one decade after the beginning of the Israeli occupation of the area, the lands of the village were declared part of a firing zone. The army thereafter began to hold military exercises in the area, between the residential homes, causing loss of life and extensive injuries, and severely impairing the ability of the residents of the village to live in the area. Only in 1999, following a petition submitted by the Association for Civil Rights in Israel (ACRI) on behalf of the residents of the village, did the military issue instructions to halt the military exercises on the village's lands.

Despite the numerous difficulties the residents have faced over many years, they continued to maintain strong community bonds, farm their land, and graze their flocks. With remarkable resourcefulness, the residents developed various solutions that have enabled them to maintain the normal way of life of a community and to meet basic needs, such as medicine, education, and sources of employment.

While the residents have managed to develop a village fit to provide their community with a fruitful platform for its survival and development, and to continue their actions to ensure its ongoing development in the future, the reality of the petitioners' lives has remained an ancient and fossilized one in an extremely fundamental field that constitutes a basic condition for their existence. **The residents of al-Aqabeh face a daily struggle to secure water due to the lack of any connection to a water infrastructure. Accordingly, they are forced to purchase and transport the water needed for their survival independently, in a manner that significantly increases the cost of water, impairs its quality, and limits its availability.**

In the late 1990s and the early 2000s, the authorities in the area began to enforce the pertinent planning and building laws. Over the years, demolition orders were issued against almost all the structures in the village. Numerous attempts by the petitioners over the years to regulate and legalize planning and construction in the village proved unsuccessful. Nevertheless, the respondents' attitude toward the village of al-Aqabeh over the years reflects de facto recognition of its existence.

Despite repeated requests, the respondents are maintaining their refusal to permit the connection of the village to the water supply grid and ensure that the residents of the village can maintain a normal way of life and avoid damage to their livelihood and health. The respondents argue that the water connection cannot be approved in the absence of a planning horizon for the village. At the same time, the respondents reject any attempt by the residents to regulate and legalize planning of the village, and indeed have undertaken actions that impair the residents' ability to live their lives and to attend to the most basic needs for their survival, such as restricting their ability to use natural water sources, as they were in the habit of doing over many decades. In this state of affairs, the

residents have found themselves in a trap that leaves no room for exit, and the village faces a daily and exceptionally severe water crisis.

The protracted lack of reasonable access to water, and the difficult efforts to secure water by other means, have left their mark on the residents of this long-established village and have incurred a heavy price. This reality damages the residents' health, their livelihood, and their ability to live a normal life in dignity. This severe reality is particularly striking given the reality of the neighbors of the village for many years – well-established settlements and even illegal outposts that are also situated in the heart of the occupied area, but which enjoy the presence of high-quality and available water systems for domestic consumption and agricultural consumption, permitting the existence of flourishing, prosperous, and profitable agriculture.

The right to water is intended to meet a basic human need that has been recognized since the earliest times. The basic right to water is enshrined in international humanitarian law and international human rights law, and has also long since been recognized in Israeli constitutional law. The respondents' conduct also severely violates the right to a dignified existence, the right to health, the right to a livelihood, and the residents' ability to maintain a normal way of life in their own homes. The respondents' total disregard for the range of rights of the residents included in this petition clearly contradicts their lawful obligation.

The Factual Background

Facts and Historical Background

The village of al-Aqabeh is situated on the upper slopes of a hill with an elevation of some 300 meters about sea level, located in the northern Jordan Valley, in Area C, which is under Israeli civil and security control in accordance with the Oslo Accords.

As of 2013, 216 people lived in the village, belonging to several extended families that purchased the village land, farmed it, and have lived on it for many years, since the days of the Ottoman era.

The residents initially lived in the area in temporary structures, such as tents and sheds; they also used caves in the area. They later began to build permanent homes in accordance with their economic capabilities. The village land is regulated in the land registry ledgers in the names of the owners and their heirs. In the 1950s, when the Jordanians controlled the West Bank and began to regulate land ownership in the area, the residents registered their ownership of the land in the Jordanian land registry.

Since the beginning of the settlement in the area and through to the present day, the primary source of livelihood of the residents of the village has been agriculture and the grazing of flocks.

The Declaration of the Area as a Closed Military Zone and the Military Presence in Its Vicinity

In 1979, Respondent 2, the Commander of IDF Forces in the Judea and Samaria Area, signed an order (No. 1/79) adding the area of the village to Firing Zone 900 (a zone that had already been declared in Order No. 496 in 1972). Since then, the entire village, including its built-up area and its farmlands, has been a closed military zone.

Since then, military exercises have been held on and around the village's farmland. The exercises are conducted at various times of night and day, including exercises on foot, the use of military vehicles, and in the past even firing with live ammunition. In 1983, a military post was established to the west of the village on land belonging to residents of the village. Following the construction of the post, military exercises also began to be held within the built-up area of the village and between the residents' homes.

The military exercises made the lives of the residents of al-Aqabeh, like those of other villages in the area, intolerable. Their peaceful lives and their ability to live a normal life were disrupted. The exercises impaired the residents' ability to move freely to and from the village during the exercises, as well as to consume vital services situated primarily outside the village, such as educational institutions and health services.

The sources of livelihood were also damaged. The military operations sometimes led to the destruction of crops, and farming and grazing were often impaired due to the prohibitions imposed from time to time.

Most serious of all, the exercises, which were conducted within the built-up area of the village and on its farmland, led to the painful and superfluous loss of human life. Six residents of the village were killed during the exercises, including a six-year-old girl; two residents of the nearby village of Tubas were also killed. Dozens of other residents were injured, including one of the petitioners who was left paralyzed from the waist down. It hardly needs to be added that the remaining residents who were not physically injured faced mortal danger and protracted anxiety due to the use of live ammunition within the area of the village.

In 1999, five residents of the village, together with ACRI, submitted a petition against the IDF exercises on farmland and in the built-up area of the village of al-Aqabeh. Following the petition, the military established procedures and guidelines for the exercises held in the area, intended to reduce the damage to the residents. As part of the guidelines, the use of live ammunition in the area was prohibited, and it was established that soldiers would no longer move between the homes of the village, whether on foot or in armored troop carriers. Damage to the farmland located within the closed zone was also prohibited (HCJ 3950/99 *Sabih v Defense Minister* (27 June 2001)). However, since these guidelines were issued, they have not always been strictly observed by the military.

The declaration of the area of the village as a closed military zone, the establishment of the military post in the vicinity of the village, the loss of life and injuries due to the IDF exercises, the damage to the ability to move without fear, the hardships of making a living and maintaining routine life – all these factors led the majority of the residents of the village to

leave and move to neighboring communities. When the Israeli occupation began, the village had a population of over 1,000, but over the years the young people in the village were forced to leave due to the above-mentioned restrictions. Today only a few hundred residents remain in the village.

According to reports, the military in recent years intensified its exercises in those areas that were declared as firing zones in the late 1960s and in the 1970s, particularly in the Jordan Valley (see: Humanitarian Monitoring Report, OCHA, pp. 8-10, May 2014). At a meeting of the Judea and Samaria Area Affairs Subcommittee of the Knesset Foreign Affairs and Defense Committee on 27 April 2014, Colonel Einav Shalev, an Intelligence Division officer in the military, admitted that exercises in firing zones in the West Bank are a means for reducing the number of Palestinian residents in these areas, and form part of the campaign against Palestinian construction without permits; the comments were made with explicit reference to the exercises in the Jordan Valley (see the minutes of the discussion published in an article by Amira Hess, "IDF Admits: Exercises in Firing Zones are Used to Remove Palestinian Population," Haaretz, 21 May 2014).

The Restriction of Construction and Development in the Village and the Issuing of Demolition Orders

Planning and building in Area C are regulated in the Town, Village, and Building Planning Law (Temporary Law) No. 79 from 1966, which was enacted during the Jordanian period. In 1971, Israel amended the law by means of the Order concerning Town, Village, and Building Planning (Judea and Samaria) (No. 418). The amendments to the law changed the former reality so that as far as Palestinians are concerned, there is a single planning institution – the Supreme Planning Council – comprised entirely of representatives of the army's Civil Administration (and accountable to Respondent 1, the Minister of Defense). The Palestinians for whom the plans heard by this council are intended have no representation whatsoever.

Since Israel occupied the West Bank, the authorities have refused to arrange planning and building in the village of al-Aqabeh. The residents have instigated legal proceedings over the years regarding the ongoing failure of the authorities to promote an outline plan for the village; three different outline plans have been submitted and rejected, while an additional outline plan has been awaiting a response since 2013.

The refusal of the Civil Administration to approve an outline plan for the village blocks the possibilities for authorized construction for residential and public purposes and for the establishment of agricultural structures, thereby preventing the possibility of meeting the changing needs of the population of the village and its natural growth.

Efforts to Maintain a Normal Life

In the past, the petitioners would travel to neighboring villages and cities that housed the public institutions they required on a daily basis, such as the school and mosque. The petitioners would travel to the village of Taisir on foot, since there was no orderly public transportation. More distant centers could only be reached by families who could afford the costs of private transit, or in cases when there was no alternative (such as serious medical incidents).

Due to the various difficulties impeding movement in the area, the residents initiated, with the help of outsiders, various solutions enabling them to cope with the changing reality and to meet the needs of the expanding community. Thus, for example, a school was established in the village in 1998, and later a mosque was established. Additional vital public buildings were established that were not present even in neighboring villages. In 2001 a medical clinic was established in the village. The clinic operates three times a week, performing preliminary tests, providing medicines for simple illnesses, issuing prescriptions, and inoculating babies and children.

The Al-Aqabeh Women's' Committee has been active in the village since 1998 with the goal of advancing the rights of rural women by creating an empowering and supportive environment in the local communities. This goal is advanced through various projects: economic empowerment, political and social participation, and the prevention of violence. The committee in the village initiated the establishment of a preschool for young children – a facility that had not previously been available in the village or the immediate vicinity, obliging children to remain at home with their mothers until the age of six. The preschool enabled mothers of young children to devote time to other pursuits, such as studies and work. The committee also organizes vocational training, women's empowerment workshops, and lectures intended for women on a range of issues, including violence against women, first aid, maintaining children's hygiene, and the proper and efficient use of water in light of the water difficulty in the village.

The Respondents' Reaction to Construction in the Village

The first stone building was erected in the village as early as the 1920s, followed by several additional buildings that remained in place until the beginning of the Israeli occupation. In 1979 the area of the village was declared a closed military zone; at the time, there were numerous permanent family homes in the village. Over the years, in light of the natural development of the village, additional buildings were established. The first demolition order against a building in the village was only issued in 1997; for three entire decades the Civil Administration authorities had permitted the village to develop without disruption.

In 2004, the members of the village council submitted two petitions to the High Court demanding the nullification of several demolition orders issued against 16 structures in the village, and demanding that the Israeli authorities be required to prepare an outline plan for the village (HCJ 143/04 **Jaber v State of Israel**; HCJ 8440/04 **Dabaq v State of Israel**). The buildings slated for demolition included vital institutions for the residents' normal fabric of life, such as the mosque, the preschool, and the clinic.

In response to these petitions, the Civil Administration proposed to allocate a section of the built-up area of the village with a size of some 110 dunams (approximately 27 acres) as a zone where demolition orders would not be enforced. This area mainly included residential buildings and public institutions. The proposal did not provide a solution for around half the buildings in the village outside this zone, such as structures for raising livestock located alongside residential buildings, serving for the residents' livelihood and survival. Other residential buildings were also not included in the zone. The zoning plan did not necessarily offer a plan for the village, but merely agreement to refrain from enforcing demolition orders within the limited area. Accordingly, the residents rejected the proposal and the court rejected their petitions.

Since 1997, when as noted the Civil Administration began to issue demolition orders against buildings in the village, it has only implemented a handful of demolition orders out of 55 that have been issued.

The Dwindling Water Sources of Palestinians in the Jordan Valley

The water system in the Jordan Valley is a closed one; in other words, water produced in the area (by any means) remains in the valley, does not leave the area, and serves only the residents of the valley. A small quantity of water from the Jerusalem area (of various types) is imported to the Jordan Valley for agricultural use by the settlements in the area.

The dwindling water resources are due to various factors:

1) Blocking Palestinians' access to water sources in the West Bank

Although it is a shared water source, **Israel has since 1967 prohibited Palestinians to use the waters of the Jordan River.** The only water source Palestinians use in practice in the West Bank is the eastern mountain aquifer, which is located almost entirely within the area of the West Bank. Palestinians also encounter numerous difficulties in accessing water from this source.

In addition, the access of village residents to nearby springs has been blocked following the establishment of the military post and the military presence around the springs. In 1981, for example, a military base was established in the vicinity of Ein al-Maleh, near al-Aqabeh, pushing Palestinians outside that area.

2) Damage to Palestinian water sources in the Jordan Valley due to excessive pumping by Israel

Excessive pumping by Israel through the use of deep wells has led to a reduction in the quantity of water available to Palestinians, who draw water by means of shallower wells. Like other Palestinian villages in the northern Jordan Valley, al-Aqabeh also suffers from dwindling natural water sources in the area, due in part to excessive pumping by Israel.

3) The unsuccessful mechanism for cooperation regarding water in the West Bank

The third factor restricting Palestinians' ability to use the natural water sources in the West Bank is the interim agreement signed between the two sides. In the agreement, Israel recognized Palestinians' right to water in the West Bank. The interim agreement was not intended to exhaust the sides' rights and obligations regarding the control of the West Bank. Instead, it established an interim period of not more than five years following the signing of the Agreement concerning the Gaza Strip and Jericho Area in 1994. Accordingly, it was agreed that the future water rights and needs of the population would be discussed and finalized in a future permanent agreement (section 40(5) of the agreement). Such an agreement was never signed. Pending the signing of the expected agreement, however, the sides agreed to cooperate, and signed the interim agreement, which includes an extensive chapter on the subject of water and sewage. The agreement detailed the quantities of water that would be available to each side during the interim period (table 10 in section 40 of the agreement).

The interim agreement did not improve Palestinian access to water sources in the Occupied Territories and control of water sources in the Palestinian areas was not transferred to the Palestinian Authority. The Palestinian Authority merely received responsibility for managing the supply of water allocated to the Palestinian population, and for the rehabilitation and repair of the water infrastructure (section 2A in table 8 in section 40, para. 15 of the interim agreement). The agreement provides for the maintenance of the existing level of use of resources, while allowing for additional quantities of water that the Palestinians will be able to develop from the eastern aquifer and from agreed additional sources in the West Bank, as detailed in section 40 of the agreement.

Even after the signing of the interim agreement, access to the water of the Jordan River basin continued to be blocked to Palestinians. Accordingly, the main water source remaining for use by the residents of the West Bank is the water of the eastern aquifer. Regarding this source, it was established that the Palestinians can draw additional quantities of water (see the Knesset report on Israeli-Palestinian cooperation regarding water).

In accordance with sections 1-2 in table 8 of section 40, para. 15 of the interim agreement, any new project in the field of water – from the drilling of a well to the placement of a pipeline or the construction of a reservoir – is subject to the approval of the Joint Water Committee (JWC). This applies even in Area A, which is under the full control of the Palestinian Authority. The JWC was established as part of the interim agreement, and was due to operate during the interim period and pending a permanent agreement. The Palestinian Authority does not have any authority to increase the quantities of extracted water, to take decisions regarding the drilling of new wells or the rehabilitation of existing ones, or to implement other projects relating to water, such as plans to establish new water and sewage systems or to alter existing systems.

According to the interim agreement, the JWC includes equal representation of the Israeli and Palestinian sides, and all its decisions are to be made by consensus. This mechanism, which was intended to ensure equality and cooperation between the two sides, means that either side in the JWC can impose a veto on any decision.

The World Bank, which undertook a comprehensive study of the restrictions on the development of the Palestinian water economy, noted that the JWC does not function as an institution for joint management, due to the fundamental asymmetry between Israel and the Palestinian Authority in strength, capability, information, and interests (see the summary of arguments concerning the operations of the JWC on page ix of the report, and details in section 17 of the report). Since Israel is the main beneficiary of the water sources in the West Bank, which also meet the needs of the settlements in the area, it is usually the Palestinian population that requires the approval of the JWC. Israel has no motivation to approve projects that will increase the production of water for Palestinians.

Approval by the JWC is only the first hurdle facing Palestinians who wish to implement projects relating to water in the West Bank. According to section 37a(b) of the Town, Village, and Building Planning Law (Temporary Law No. 79 from 1966), the connection of a structure to electricity, water, and telephone infrastructures is to be conditioned on the granting of approval on behalf of a planning institution confirming that the building was constructed in accordance with a building permit. Accordingly, as and when the JWC approves such a project, the Palestinians will still be required to obtain additional permits from the Civil Administration before any work can begin in Area C of the West Bank. The Civil Administration is accountable to respondent 1 – the Minister of Defense.

The above procedure applies not only to projects located in Area C, such as wells, pumping stations, reservoirs, and sewage treatment facilities, but also for projects such as the installation or repair of pipelines for the connection of water grids in Area A and B, but which pass through Area C. This stage creates numerous problems, since Area C accounts for 60 percent of the total area of the West Bank, while water projects relate to numerous isolated villages situated in enclaves of Area A or B. The practical outcome is that any significant project in the water economy in the West Bank can only be implemented with the prior approval of the Civil Administration.

Serious criticisms have been raised concerning the procedure for obtaining permits from the Civil Administration, which includes protracted bureaucratic proceedings, and concerning the delays and rejection of Palestinian requests relating to water, even after these have been approved by the JWC. Out of 202 requests to drill wells submitted in the period 1997-2008, only 65 received approval from the JWC. Of these, only 38 were actually implemented after the Civil Administration granted approval and completed the necessary procedures. In other words, only 19 percent of the total requests by Palestinians to drill wells initially submitted to the JWC in this period were actually implemented (World Bank Report, footnote 10, p. 48).

Even when permits are granted, work is dependent on military assessments concerning “security considerations” relating to the location and time of the works (for examples of the delay of requests over years by the Civil Administration, see *Troubled Waters*, pp. 35 ff.)

Although the JWC is the official and initial stage in the approval of requests relating to water connection, the above description shows that Israel effectively controls the ability of Palestinian communities to connect to water supplies. This control was illustrated recently when the Civil Administration approved the connection of the new Palestinian city of Rawabi

to the water system – despite the fact that the JWC’s activities have been paralyzed for a long period. The Israeli prime minister approved the connection. Similarly, a number of Palestinian projects have been approved over the past five years without securing the approval of the JWC (see appendix 8 to the petition).

In conclusion: **Despite Palestinian expectation, and despite the provisions of the interim agreement, the quantities of water available to the residents of the West Bank in general, and the residents of the Jordan Valley in particular, have dwindled by comparison to the situation prior to the signing of the agreement.** By way of example, in 2008 the Palestinians extracted 30.7 million cu.m. of water in the West Bank – less than 44 percent extracted prior to the signing of the interim agreement in 1995 (Dispossession and Exploitation, p. 19).

According to World Bank figures, “the Palestinians produce approximately 20 percent of the ‘estimated potential’ of the aquifers located under the ground of the West Bank and Israel” (World Bank Report, p. 11).

Independent Attempts to Cope with the Water Shortage

In 1997, after the residents of al-Aqabeh realized that the natural water sources in the area were dwindling, and due to the daily difficulties involved in accessing these sources, they established by themselves and with their own funds a rainwater collection pool to supply water for the entire village. The collection pool offered partial relief for the water crisis in the village, but it was demolished by the Civil Administration in 1999, just two years after its construction, without any other solution being offered.

In 2008 the residents of the village built a small water collection pool with a capacity of some 300 cu.m., intended for agricultural use. A demolition order has also been issued against this pool, and the residents are concerned that it may be demolished.

The Respondents’ Refusal to Connect the Village to the Water System

Attempts to request and secure a solution to the petitioners’ water have met with the respondents’ refusal. The respondents claim that section 37a(b) of the Town, Village, and Building Planning Law (No. 79 from 1966) establishes that the connection of a building to electricity, water, and telephone infrastructures is conditioned on confirmation by a planning institution that the building was constructed in accordance with building permit. Since the buildings in the village were established without obtaining a lawful building permit, it is inappropriate to connect the village to water.

As noted above, four outline plans have been submitted on the residents’ behalf, none of which has received the respondents’ approval. Moreover, since the village of al-Aqabeh is situated in a closed zone (firing zone), it is unlikely that an outline plan will be approved at this point.

It should be noted at this juncture that the Israeli settlements in the Jordan Valley enjoy completely different treatment. These settlements have been connected to the water supply of the Mekorot water company, in some cases even in the absence of any planning horizon. Even settlements referred to as “unauthorized outposts,” which Israel claims were established without permit and which it has repeatedly promised to evacuate, enjoy a direct water supply from Mekorot or an indirect supply through adjacent Israeli settlements. The authorities have officially permitted the establishment of these connections and their integration in the Israeli water grid in the West Bank.

The Petitioners’ Current Water Sources: Quantities, Consumption, and Costs

The water used by the residents of al-Aqabeh is purchased from the adjacent village of Taisir, which is connected to the water grid of the city of Tubas. The distance between the village and the pumping station is approximately 2-3 kilometers. The two villages are connected by an old and badly-maintained road constructed some 20 years ago and plagued by potholes and bends.

Every cubic meter of water in Taisir costs NIS 4 (for up to 10 cu.m. of water), NIS 5 (between 11-20 cu.m.), and up to NIS 10 (for 31 cu.m. and above). Accordingly, the cost of 12 cubic meters – approximately the quantity of one water container – is NIS 50. Despite this, the residents actually pay NIS 150 for each such container – three times the original price. Accordingly, the actual price paid for one cubic meter of water by residents of al-Aqabeh is NIS 12.50. Thus, the residents’ expenditure on water for their livelihood is extremely high.

While water consumption varies from one family to another according to income, needs, and the number of people in the family, water payments account for a sizable proportion of the monthly income of almost all the families in the village. For example, petitioner 8, who lives on her own, spends NIS 100 a month on water during the summer (two-thirds of a container), while her monthly income is just NIS 500. Thus she spends some 20 percent of her monthly income on water.

The financial cost the petitioners are required to pay in order to secure the water they need for their lives is significantly higher than the proposed international standards regarding expenditure on water as a percentage of the household’s monthly income.

By way of comparison, the cost of drinking water in Israel is NIS 7.96 per cu.m., including VAT (for up to 3.5 cu.m per month). This also includes payment for sewage services. As of 2013, the average monthly expenditure on water in Israel was one percent per capita.

The situation of the farmers and herders in the village, who constitute the majority of the population of al-Aqabeh, is worse still. The price they pay for water for the purpose of their livelihood is identical to the price for domestic consumption (NIS 12.50 per cu.m. of water, on average). Accordingly, expenditure on water consumption for the purpose of their livelihood is very high.

This exceptional cost is particularly striking by comparison to the consumption of water for agriculture by the petitioners' neighbors in the settlements. Like Israeli farmers, farmers in the settlements in the Jordan Valley enjoy significantly lower prices for water supplied by the Mekorot company. For each cu.m. of white water (of drinking quality), Israeli farmers pay NIS 2.73, including VAT. The cost to farmers for gray water, saline water, and other types is even lower.

The high cost means that the residents of the village, most of whom barely make a living from grazing and agriculture, do everything possible to save water consumption, sometimes in a manner that endangers their health and that of their children. This is particularly evident in the case of families with a large number of children who make a living from grazing and agriculture. Their water consumption is higher, and accordingly they attempt to save water for domestic consumption in order to provide sufficient water for their livelihood.

The manner in which residents attempt to save water, due to the severe water shortage they face, increases the sanitary risks they face. Women and children are the main victims of this situation. The lack of an adequate quantity of running water in the village creates particular difficulties for the everyday routine of the women in the village. In a traditional society such as the village of al-Aqabeh, the burden of raising children and attending to the home environment, with all the intensive actions this entails, is borne by women.

In sharp contrast to the prospering agriculture in the settlements established in the area, agriculture is languishing in the Palestinian villages in the Jordan Valley. This is true in the village of al-Aqabeh and in other Palestinian villages in the vicinity that are not connected to the water grid. Restrictions on movement and construction and the lack of reasonable access to water in sufficient quantity and quality impairs farmers' ability to farm their land, limits the range of crops they can grow, and damages the quality of the agricultural produce.

As noted above, most of the water consumed in the village is purchased from adjacent villages and transported to the village in a water container on a daily basis, where it is emptied into the residents' wells.

On 26 March 2015, an inspection of the quality of water in the village was undertaken on the petitioners' behalf for the purpose of this petition. It was found that **the water they use is not fit for drinking**. The petitioners' testimonies raise reports of illnesses, particularly among the children in the village, caused as a result of the poor quality of the water.

The Legal Argument

The right to water in international law

Israel bears a responsibility to ensure the right to water of the residents of the village of al-Aqabeh by virtue of its status as the occupying power in the territories under its control.

The lack of access to a water supply grid for the residents of the village, which has been subject to Israeli control for fifty years, is inconsistent with the obligation incumbent on the

military regime. In the absence of a supply of water in the minimum quantity required to ensure order and the public life of the local population, it is impossible to maintain a proper life befitting “a modern and civilized country.”

Unlike other cases, our case does not involve a proactive step by the respondents to disconnect the petitioners’ homes from the water supply grid. However, as described in detail in the factual section of this petition, the respondents bear a significant part of the responsibility for creating circumstances in which, on the one hand, the petitioners have no possibility to use the natural water sources in the area as they used to in the past, while, on the other, the respondents do not permit any solution that might alleviate the petitioners’ distress. This approach is reflected in such actions ranging from the demolition of facilities for the storage of rainwater established by the petitioners through to the rejection of outline plans for the village that could enable its lawful connection to water infrastructures, as well as permit authorized construction in the village. These circumstances have led the petitioners to an impasse, and accordingly have led many of the residents of the village to move elsewhere – a process that has continued from the beginning of the occupation and to the present day. If no solution is found to the severe and existential distress faced by the residents – a reality that is worsening as time passes, forcing them to leave the village against the will – there will increasingly be a tendency to interpret this departure as the forced transfer of protected residents, contrary to the prohibition in the Geneva Convention as it has been interpreted.

The right to water as a human right is derived from the right to a decent standard of living, including the rights to decent health, nutrition, and housing as protected in international human rights law.

Three standards are applied to the realization of the right to water in international human rights law: Firstly, the quantity of water must be sufficient; secondly, the water must be safe for drinking and acceptable; thirdly, the water must be physically accessible and affordable.

The central argument of the Civil Administration, as repeated in its responses, is that the village should not be connected to water due to its planning status. This argument is inconsistent with the interpretation of the UN Committee on Economic, Social and Cultural Rights, as presented in an interpretative note to the Convention, emphasizing that the legal status of land is irrelevant and cannot serve as a condition for compliance with the obligation to supply water to residents.

It should be reiterated that in contrast to the village of al-Aqabeh, which the respondents are refusing to connect to the water system on the grounds that it lacks a planning horizon, numerous illegal outposts around the West Bank have been connected to the water grid, despite the fact that they lack an approved outline plan. Settlements were connected to the water and electricity grids long before they had an approved outline plan. In the case of many of these outposts, the Ministry of Housing finances the infrastructure work and the establishment of public institutions inside the outposts. In other words, while the respondents’ official position is that a community without a planning horizon should not be connected to the water grid, in practice they enable the connection to water of these unauthorized outposts.

The right to water was not granted an independent constitutional status in Israel in accordance with the Basic Law: Human Dignity and Liberty. However, since the right to water is vital for human existence and for a dignified life, the Supreme Court has recognized the status of the right to water as a constitutional right derived from the constitutional right to a dignified existence.

Violation of the Right to Health

Access to water is a condition for meeting basic needs and rights: for drinking; for manufacturing and preparing food; for personal and domestic hygiene; for cultural and religious uses; for maintaining hygienic conditions in public institutions and health facilities. In the absence of access to clean water, it is impossible to ensure hygiene, health, or survival. The connection between a decent level of health and life and the regular supply of clean water is clear, and accrues from the causal relationship between the absence of clean water and diseases and medical problems.

Violation of the Right to Livelihood

The right to livelihood is a basic right, since it constitutes an essential condition for a dignified existence and indeed for any existence. The right to livelihood is established in international human rights law.

In our case, most of the residents of the village of al-Aqabeh make a living from farming and grazing. As described in the factual section of this petition, the lack of access to water and the costs involved in the supply of water gravely damage the residents' right to livelihood, including the inability to grow various types of crops or to extend the scale of crops grown; a concentration on animal husbandry; damage to the ability to raise the flocks and poultry that form the main source of livelihood of the residents and injuring the animals' health.

Accordingly, the residents' right to livelihood is significantly violated. This violation is amplified by a series of additional actions taken by the respondents over the years, such as the declaration of farmland as a firing zone and the restriction of the residents' freedom of movement; damage caused to crops due to the military exercises in the area; restrictions on planning and building; the demolition of water storage pools, and so forth.

The conditions in the village, together with the absence of access to water in sufficient quantity and safe for drinking, exacerbate health risks associated with water, especially for the women residents of the village. These conditions exacerbate the difficulties women face on a daily basis as those who bear the main burden of coping with the shortage of water.

For updates and information on High Court hearings concerning this petition:

<http://www.acri.org.il/en/2016/01/27/high-court-petition-demanding-water-for-al-aqabah/>

The full petition in Hebrew:

<http://www.acri.org.il/he/37061>