

# **Spatial Planning in Area C of the Israeli occupied West Bank of the Palestinian territory**

Report of an International Advisory Board



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#### Disclaimer

This report has been funded by UK aid from the UK government; however, the views expressed do not necessarily reflect the UK government's official policies'.



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## List of abbreviations

<b>AIDA</b>	Association of International Development Agencies
<b>ARIJ</b>	Applied Research Institute-Jerusalem
<b>CIP</b>	Canadian Institute of Planners
<b>IAB</b>	International Advisory Board
<b>ICA</b>	Israeli Civil Administration
<b>ICAHD</b>	Israeli Committee Against Housing Demolitions
<b>ICJ</b>	International Court of Justice
<b>Km</b>	Kilometre
<b>IPCC</b>	International Peace and Cooperation Centre
<b>MOs</b>	Military Orders enacted by the Israeli military commanders in the oPt
<b>MOLG</b>	Ministry of Local Government in the Palestinian Authority
<b>oPt</b>	Occupied Palestinian Territory
<b>PA</b>	Palestinian Authority
<b>UK</b>	United Kingdom
<b>UN</b>	United Nations
<b>UN OCHA</b>	UN Office for the Coordination of Humanitarian Affairs
<b>UN-Habitat</b>	UN Human Settlement Programme

## Glossary

**Administrative justice** concerns the relations between the administrative systems of state bodies and the rights and interests of individuals affected by those systems, so that the latter are properly safeguarded. It requires fair processes and just outcomes.

**Alternative dispute resolution** is a way of resolving disputes without recourse to litigation. It typically involves use of an independent third party. The main forms of alternative dispute resolution are arbitration and mediation.

**Area A** was defined under the Oslo Accords as the part of the West Bank where the Palestinian Authority has full civil and security control (though Israeli forces do enter and conduct house searches etc. to make arrests). It comprises 8 cities (though not all of one of them – Hebron).

**Area B** was defined under the Oslo Accords as the part of the West Bank where the Palestinian Authority has full civil control, while security control is shared with Israel. It comprises villages and land, often adjacent to Area A.

**Area C** was defined under the Oslo Accords as “areas of the West Bank outside Areas A and B”. Israel was to retain civil and security control on an interim basis. It is largely rural with Palestinian villages, but also houses over 300,000 Israeli settlers in Israeli settlements.

**Barrier wall** is the separation barrier built by Israel. In urban areas it is a concrete wall up to 8 metres high, but more commonly a system of fences, barbed wire and ditches. It is built mainly on the 1949 Armistice Line (the “Green Line”) but in places extends beyond that into Palestinian territory. Israel’s declared purpose in constructing the barrier was to protect its civilians from terrorism. However, Palestinians argue that it is a means to annex land, and some Palestinian towns are almost encircled by the barrier. It makes accessibility between places in Area C difficult for Palestinians and restricts land for development.

**Bedouin** are a minority Arab ethno-cultural group with a semi-nomadic lifestyle associated with herding of animals, and living in tribal groupings. There are also other non-Bedouin groups whose livelihoods are based on herding.

**British Mandate** ran from 1922 to 1948. The Mandate system was instituted by the League of Nations in the early 20th century to administer non-self-governing territories. The mandatory power, appointed by an international body, was to consider the mandated territory a temporary trust and to see to the well-being and advancement of its population. In 1947 the UN General Assembly adopted a resolution to partition Palestine.

**District Committees** existed under Jordanian planning law as a tier between local and national. They heard appeals against Local Committees’ refusals of permission to build. They were abolished under MO#418.

**Dunum** is a unit measure of land area dating from the Ottoman period and still in wide use. In Palestine it is an area of 1000 square metres (0.1 hectares).

**East Jerusalem** has been annexed by Israel after it was captured in the 1967 war, and is not part of Areas A, B or C.

**Firing zones** account for almost 30% of the land in Area C. They are designated for use as training areas for the Israeli Defence Force. Palestinians need permission to enter these areas, but it is rarely given. Residents report that little or no military training actually goes on.

**Higher Planning Council** is the supreme planning institution under Jordanian planning law, responsible for approving Regional and Local Outline Plans and hearing appeals against District Council decisions. Under the occupation the membership of the Higher Planning Committee for Area C is appointed by the Israeli Military Commander.

**Israeli Civil Administration** implements Israel's policies in respect of civil and security co-ordination and liaison in the Palestinian territories (which Israel calls Judea and Samaria). It has authority over the population in Area C in matters relating to land use planning, construction and infrastructure.

**Israeli settlements** are Israeli civilian communities which have been developed on land occupied by Israel after the 1947 war, particularly in Area C and in East Jerusalem. The UN has repeatedly described such development as illegal under international law.

**Israeli settlers** are Israelis living in the Israeli settlements.

**Joint Services Councils** have been established by the Palestinian Authority in an attempt to increase the coordination and efficiency of service delivery. There are 86 of them in the oPt.

**Local Councils** are the municipal authorities for the large and medium-sized Israeli settlements in Area C.

**Local Planning Committees** existed under Jordanian planning law, and were normally made up of elected representatives from Village Councils. They were abolished by MO#418, except for the towns that are now Area A. The ICA does not presently have any "Village Planning Committees". The role is played instead by the Planning and Licensing Subcommittee of the Higher Planning Council. This subcommittee includes six officers of the ICA, all Israeli. Thus there is no Palestinian representation on the institutions determining plans for Area C.

**Local Outline Plans** are land use zoning plans prepared for villages in Area C that are also likely to include specifications for setbacks and building heights. Jordanian Planning Law required that "a detailed outline planning scheme" must be prepared as a basis for issuing building permits. The Local Outline Plans are sometimes called "master plans".

**Occupied Palestinian territory** is the area of the Gaza Strip and the West Bank of the River Jordan (including East Jerusalem) that has been occupied by Israel since the 1967 war.

**Oslo Accords** were an agreement in 1993 by Israel and the Palestine Liberation Organisation in which the creation of a Palestinian state, based on just part of the historic territory of Palestine, alongside the continued existence of Israel, was implicit – a "two state solution" to the long-running territorial conflict. The Accords created interim governance arrangements that would operate until a final peace treaty would be agreed, which would be by the end of 1998. That peace process has never been completed, with each side accusing the other of breaking agreements, so that after more than 20 years the interim arrangements have become the status quo.

**Outpost** is the nascent phase of an Israeli settlement. It is an occupation of land – typically state land - by a relatively small group of people living in temporary shelters such as tents, and defended behind barbed wire.

**Partial Special Outline Plans** were produced by the Israelis from 1987 onwards, mainly for places that are now in Areas A and B. They are based on aerial photos and have a "blue line" that demarcates the development envelope for a village.

**Regional Councils** are the municipal authorities that incorporate small Israeli settlements. Each of these councils representing Israeli settlers is designated as a Special Planning Committee under MO#418.

**Regional Outline Plans** are land use plans prepared in the 1940s under the British Mandate which remain statutory documents today.

**Setback** is the minimum distance prescribed in a plan that a building needs to be set back from a road or other features. Setbacks are used to promote safety and access to air and light.

**Spatial strategy** is typically expressed in a very diagrammatic map (not on a topographical base) show main connections and development opportunities, backed by a set of written policies. It is a means of integrating investment between different sectors, including the private sector.

**Special Planning Committees** were established under MO#418. Their members are elected representatives from (Israeli settlers') Local and Regional Councils, and the Committees are empowered to make plans and issue building permits.

**State land** is taken into the ownership of, and administered by, the Israeli Land Administration, and used on fixed term leases mainly as a resource for the Israeli military or for Israeli settlements. There were provisions under the Ottoman Land Code for the state to claim ownership of uncultivated land. The limited land registration and displacement of Palestinians after the 1967 war saw tens of thousands of hectares of the West Bank declared as state land.

## Foreword

*Area C is fundamental to the contiguity of the West Bank and the viability of Palestine and its economy. It is essential for the expansion of public infrastructure, such as transportation, water and electricity networks, wastewater treatment plants and landfills, private sector development, and the development needs of communities in Areas A and B. Communities in Area C are some of the most vulnerable in the West Bank in terms of humanitarian needs, yet Area C carries vast potential for the oPt and the human development of the Palestinian people. Development of Area C will also increase the PA's tax revenue.*

*In this context, effective and efficient urban and regional planning is essential if sustainable development is to be realized. Without the establishment of a "fair" planning regime, vulnerable communities in Area C remain at risk of demolitions and displacement. This, first and foremost, undermines the possibility of those communities leading decent lives, but also undermines the possibility of realizing real economic development. This report, prepared by an independent group of international experienced planners, represents an important step in addressing these issues, providing recommendations that are based on the principles of human rights and administrative justice.*

*Finally, I would like to thank those who have supported this work, beginning with the IAB members themselves who gave their time freely, my colleagues in the UN-Habitat, and finally, the UK Department for International Development who funded the IAB mission. I believe the need to develop an integrated and fair planning regime in Area C of the West Bank is now more urgent than ever. The UN remains committed to this endeavor.*



James Rawley

Deputy Special Coordinator/  
UN Resident Coordinator/Humanitarian Coordinator  
Office of the United Nations Special Coordinator (UNSCO)



## Preface

This report is commissioned by the UN-Habitat Office in the occupied Palestinian territory (oPt). UN-Habitat is mandated by the UN General Assembly to promote socially and environmentally sustainable towns and cities with the goal of providing adequate shelter for all. UN-Habitat's Governing Council called upon the Agency to *“further focus its operations on planning, land and housing issues in view of improving the housing and human settlement conditions of Palestinians, addressing the urbanization challenges, supporting the building of a Palestinian State, humanitarian action and peace-building, in the areas where there are acute humanitarian and development needs, identified through technical assessments by UN-Habitat in coordination with all concerned parties”*.

One of the programme components is entitled “Planning Support to the Palestinian Communities in Area C”. The overall goal of this component is improved resilience of Palestinian communities in Area C through sustainable local development, building rights and access to basic services. Beneficiaries are Palestinian communities in Area C, the Ministry of Local Government and other line ministries, as well the entire Palestinian planning community.

The project is funded by the UK Government’s Department for International Development (DfID) and is currently implemented by UN-Habitat. This programme component also aims at implementing the Palestinian Authority’s Strategic Action Plan “Planning Support to Palestinian Communities in Area C”. The Strategic Action Plan assumes that there is no formal transfer of the planning authority in Area C to the Palestinian Authority. Until then, Israel maintains the formal obligation under international law to take care of the needs of the Palestinian communities in Area C. The Palestinian Authority seeks to support Palestinian communities in responding to their needs and ensuring the development of sustainable communities in Area C, which is a vital and integral part of the Palestinian territory and of the overall development of a Palestinian State.

The overall goal of the aforementioned programme component is broken down in three more specific objectives:

1. Planning in Area C made more effective by ensuring that the planning system applied is technically coherent and in line with Palestinian needs, through the preparation of statutory land-use plans and complementary development schemes, to realize authorized increases in building rights, enhance sustainable development and build resilience through participation in planning processes;
2. Enhanced Palestinian capacity for planning and community development in Area C;
3. Coordinated advocacy for changes in the restrictive planning system of Area C based on a comprehensive information and monitoring system.

A specific element of the first objective and the first sub-output of the Logical Framework is the review of existing Local Outline Plans against benchmarks of internationally recognized ‘quality standards’, through a specially established **International Advisory Board**. The process of consideration of the plans by the occupying power in Area C (the Israeli Civil Administration - ICA) has been lengthy with additional details continually required to support the proposed plan land use designations. Planning experience elsewhere would suggest that the time taken and the technical specificity required are disproportionate to the size and nature of the communities being considered.

A **Scoping Paper** was commissioned in fall 2014 to consider this premise further and propose a method, drawing on UN-Habitat’s international standing as the UN Agency with a mandate for planning for human settlements and sustainable urbanization, to garner international technical opinion on this issue and propose a set of technically sound ‘benchmarks’ against which existing plans can be examined and new plans prepared, including the planning standards applied by the Palestinian Authority for planning in Area A/B, as well including benchmarks to address the specific planning needs of Bedouin and herding communities. The Scoping Paper recommended the establishment of an Advisory Board and reporting process on whether plans

have met an internationally recognized quality standard. The Advisory Board was also recommended to advise on the creation of a technically and territorially more coherent overall planning framework to ensure resilience and development opportunities for Palestinian communities in Area C, including specific planning needs for Bedouin and herding communities. Eventual communications with the Israeli Authorities on the planning rights and constraints in Area C will be channelled through UNSCO and/or UN-Habitat's Governing Council.

An **International Advisory Board (IAB)** of experienced international planners was established early 2015 and a field mission was organized from 12-19 February 2015. The Board met with many stakeholders and looked at a sample of local outline plans including field visits. The IAB was complemented by a **Local Expert Support Group** with experienced planners from the region. Interim findings and recommendations were presented by the IAB on 18 February and served as basis for this report.

The Scoping Paper and this IAB Report are authored by Em. Prof. Cliff Hague. Hague (born 1944) is a British town planning practitioner and Emeritus Professor of Planning and Spatial Development at Heriot-Watt University, Edinburgh. He is also a Past President of the Royal Town Planning Institute, the Commonwealth Association of Planners and of Built Environment Forum Scotland.

The members of the Advisory Board were:

- Professor Emeritus Cliff Hague (Chair) (UK);
- Martin Crookston (UK);
- John Gladki (Canada);
- Christine Platt (South Africa);
- Professor Emeritus Michael Wegener (Germany).

Short biographies are provided of each of them in Appendix 1. Biographies of the Expert Support Group are presented in Appendix 3.

*As commissioning agency, UN-Habitat oPt wants to thank all members of the IAB and the ESG for their voluntary contributions and dedication, as well all the key stakeholders including the respective Village Councils, local planning consultants and the Palestinian Ministry of Local Government as our main partner in the implementation of this DFID funded project.*

## Executive Summary

In the Oslo Accords, the West Bank was divided into 3 areas<sup>1</sup>. In the largely rural Area C, the planning function was to be undertaken temporarily by the Israelis. However, responsibility for planning and infrastructure has still not been passed over to the Palestinian Authority. Since the occupation began, planning has severely restricted Palestinian development opportunities, while permitting the extensive growth of Israeli settlements and the infrastructure to support them. This has denied the Palestinian Authority vital economic resources and contributed to a situation where villages in Area C are dependent on donors for basic services, and are at risk of having property demolished.

Urban and regional planning is very important to achieving the economic development of the West Bank, and in the short term to delivery of the humanitarian and resilience programming through international development agencies. Therefore, in 2011 donors began to support the making of plans for villages in Area C, and the submission of those plans to the Israeli Civil Administration for approval. However, this has yielded few results, with only 3 plans out of 99 progressing to full authorisation by March 2015.

An International Advisory Board of experienced planners was therefore invited by UN-Habitat to review the situation, to assess the professional quality of plans that had been produced, and to make recommendations. The Board met with the Palestinian Authority Ministry of Local Government and the Israeli Civil Administration, along with a range of other stakeholders. The Board heard presentations of ten plans and were able to visit four of the villages concerned and talk with local leaders. The Board was also able to access publications detailing the legal situation, history of planning in Area C and evidence of its impacts.

The Board found that planning in Area C is taking place in a situation where unrecognised land rights, lack of approved plans and a rigid approach to enforcement have left poor and vulnerable communities at long-term and frequent risk of demolition and displacement. At the same time the expansion of Israeli settlements has been facilitated. The planning practices of the Israeli civil administration have been insensitive to the livelihoods and culture of Bedouin and herding communities.

The benchmarking of the sample of plans revealed that they met technical criteria for a basic land use plan and within the constrained context enforced by the Israeli Civil Administration. However, the Board did not endorse the boundaries of the plans, and the consequent threat of demolition to any properties lying beyond those boundaries. In general the Board felt that the level of detail required in these plans was excessive for small villages in rural areas, and that required setbacks from roads were also excessive. The process of negotiating plan preparation through the Israeli Civil Administration, with opportunities for objections by persons living in Israeli settlements, was seen as unnecessarily protracted and fundamentally flawed. It amounts to a denial of administrative justice

The Board was surprised to find that regional plans from the 1940s still had statutory power. These outdated plans do not provide the basis for a 21<sup>st</sup> century development-oriented approach to regional planning.

A set of principles were identified through which to interpret findings and shape recommendations. These include human rights as a basis on which to build planning practice, principles of administrative justice, and the *International Guidelines on Urban and Territorial Planning* of UN-Habitat.

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<sup>1</sup> In the Sharm Al-Sheik Agreement (2000), 3 percent of the West Bank was designated as Nature Reserve. The Nature Reserve area is mainly located in the Bethlehem and Hebron city-regions. This area has never been handed over to the PA, and in reality it remains under the effective control of the Israeli authorities, a *de facto* Area C, so to speak.

There should be an assessment of development needs in rural Palestine as a whole. This would take account of the relation of the rural areas to the towns. All existing demolition orders should be revoked and no more issued and displacement and confiscation of land should be halted. Recommendations also include the restoration of Local Planning Councils for clusters of villages, with powers to adopt plans and issue building permits. An integrated approach to planning is needed (which the current division of responsibilities between Areas A and B and Area C prevents). The PA should complete its National Spatial Plan, which should include a strategy for the rural area that is currently Area C, and promote city-regional plans.

With support from the international community, the Palestinian Authority should initiate a drive towards complete land registration, giving people proof of title and increased security. Donors should also back the new local plans through investment in development on the ground.

The culture of planning in Area C needs to change to make it more integrated, strategic and participatory. Planning in Area C needs to be “people-centred”, and the focus should be more on development opportunities and challenges, phasing and implementation and less on rigid separation of land uses in 20 year “snap-shot”, static layouts. Failure to integrate concern for livelihoods into the making of land use plans is not unique to this situation. However, many communities living in Area C are poor and marginalised; the use of land and planning of infrastructure should be viewed as a means to improve their lives.

In the short term, the Israeli Civil Administration could do much to facilitate the transition advocated by the Board, while still ensuring regard for Israel’s security. However, if that does not happen, it remains important for the Palestinian Authority to develop and promote its ideas for equitable planning in the West Bank, and for the international community to support this endeavour.

# Chapter 1: Introduction

## Area C

Area C is Palestinian territory that is occupied by Israel. It is an artificial geographical unit. It was delineated in 1995 in the Israeli-Palestinian Interim Agreement on the West Bank and the Gaza Strip. It is the hinterland of the towns in Areas A and B, and of East Jerusalem (see Map 1), but is administratively separated from these places. The separation from East Jerusalem is made physical by militarised checkpoints, the 8 meter high wall that Israel has constructed and a system of Israeli-issued permits that regulates movement.

Under the Oslo Peace Accords, Area C was to be transferred fully to the Palestinian Authority by the end of 1999, except for aspects reserved for the intended final settlement agreement; these included Jerusalem, refugees, Israeli settlements, security arrangements, borders, relations and co-operation with other neighbours, and other issues of common interest. However, it was also agreed that the outcome of these “permanent status negotiations” should not be prejudiced or pre-empted by either Israel or Palestine. Until these matters are agreed, all development in Area C requires permission from the Israelis.

Area C is 61% of the area of the West Bank. Estimates of its Palestinian population vary widely, as two-thirds of West Bank towns and villages fall partly in Area C but also partly in Areas A or B. The UN Office for the Coordination of Humanitarian Affairs oPt (UN OCHA oPt), (2011, p.2) put it first at 150,000, the World Bank (2013, p.3) accepted a figure of 180,000, but the UN OCHA oPt (2014a, p.32) put it later as high as 300,000. Analysis by the Applied Research Institute-Jerusalem (ARIJ) (2013, p. 2) showed that there are nearly 242,000 persons living within Area C and they constitute around 10 percent of the West Bank population.

Area C is largely rural. Most of the West Bank’s natural resources are there. Area C has economic potential in respect of agriculture, minerals, stone, tourism and construction. It is also fundamental to establishing the infrastructure and connectivity needed for economic development, notably for telecommunications, water and transport. The World Bank (2013) is clear that, while Area C cannot solve all of Palestine’s economic problems, it is “key to future Palestinian economic development” (p.vii), and to job creation, poverty alleviation and livelihoods (p.xi). However, 70% of Area C is now included within the boundaries of the regional councils of Israeli settlements, and so is off-limits for Palestinian use and development (UN OCHA oPt, 2014c).

## Planning matters

Urban and regional planning is very important to achieving the economic transition sought by the World Bank, and, in the short term, to delivery of the humanitarian and resilience programming through international development agencies. Currently the planning system is administered by the Israeli Civil Administration (ICA). It has been extremely restrictive on Palestinian development within Area C, while able to deal expeditiously with proposals for new Israeli settlements there.

The regional scale of planning is provided by plans made under the British Mandate in the 1940s. These are one basis on which the ICA restricts Palestinian development at local level, and they are also used by the Regional Councils (of Israeli settlements). Thus, in practical terms, there is no regional planning that connects the Palestinian-administered towns in Areas A and B to their natural hinterland in Area C.

Without ICA-approved local scale plans for Palestinian villages, development is unauthorised and enforcement action is taken. Properties are demolished. Planned developments by donor agencies are put on hold. Bedouin and herder communities are particularly at risk because of their semi-nomadic way of life. Such planning practice is a driver of humanitarian need.

While this report focuses on the planning of the Palestinian villages in Area C, the story it tells has to be set in context by comparing it with the development of Israeli settlements in Area C. The Israeli settlements are illegal under international law. However, some 340,000 Israeli settlers (UN OCHA oPt, 2014a, p.32) now live in approximately 135 Israeli settlements, and there are another 100 settlement “outposts” (land occupations by

Israelis that precede the formal development of Israeli settlements) in Area C (not including East Jerusalem). The Israeli settlements get preferential access to water resources, and their residents are offered financial incentives to locate there by the Israeli government (e.g. housing subsidies). While outposts are typically “unauthorised development” in terms of statutory plans, they rarely face demolition of their illegal structures (UN OCHA oPt, 2011, p.13). These Israeli settlements are widely recognised by the international community to be both illegal and an ever increasing obstacle to achieving a peaceful solution to the conflict. As Chapter 3 shows, the expeditious authorisation of new Israeli settlements stands in marked contrast to the treatment of Palestinian plans for nearby villages.

Urban and regional planning with a focus on promoting, rather than restricting, development has a key role to play in realising the ambitions of the Palestinian people, the Palestinian Authority, the World Bank and donor agencies. It can be the means to coordinate investments spatially, to create synergies between investments in different sectors, to connect urban and rural areas into functional economic units, to build consensus amongst stakeholders and to fashion a development path that is respectful of local needs and cultures. A developing and prosperous Palestine at peace with Israel is a prospect that could benefit all sides.

As one step towards this wider aspiration, an International Advisory Board (IAB) of experienced planners visited Area C in February 2013. Their brief was:

- To establish what planning regulations are currently being applied in relation to Local Outline Plans in Area C, and to consider whether they are appropriate in the context of local needs and aspirations and international practice.
- To collect evidence and make recommendations on ways to expedite the preparation and approval of Local Outline Plans in Area C, and to advise on an inclusive and appropriate means of preparing and approving such plans.
- To examine a sample of submitted Local Outline Plans and to visit the relevant sites of those plans and to offer a professional view on the acceptability of the submitted plans.
- To review the planning process in Area C as a whole, including the Regional Outline Plans, with a view to making it fit for the purpose of delivering sustainable rural economic development, and to make recommendations accordingly.
- To promote international awareness of their conclusions and recommendations, and to explore ways in which support for local capacity to deliver a better planning system in Area C might be supported by the global community of professional planners and other relevant professionals.

Short biographies for the IAB members are provided in Appendix 1.

### **Structure of this report**

Chapter 2 explains how the IAB went about its work. Chapter 3 presents the Board’s findings. Chapter 4 outlines the principles which connect those findings to recommendations, which are set out in Chapter 5.



**Map 1: Area C** (coloured red). Source: B'Tselem.

## Chapter 2: Method of work

### **The scoping study**

As a preliminary to the formation of an IAB, a scoping paper was prepared (Hague, 2014). This was based on a one-week study visit in September 2014, under the auspices of UN-Habitat's Palestine office. The paper made a number of criticisms of the planning system as it is operating in Area C. It endorsed the idea of an international board to try "to break the impasse on the preparation and processing of Local Outline Plans for villages in Area C, but also set this in the context of the need for a set of planning instruments and practices that could deliver sustainable economic development in Area C" (p.7).

Emeritus Professor Hague subsequently attended and addressed the conference *Local Authorities at the Heart of the State of Palestine* in Ramallah, 21-22 November 2014. This enabled him to hear presentations and interventions by a range of Palestinian stakeholders in Area C, including mayors from urban areas adjacent to Area C, and also from village leaders.

### **The International Advisory Board**

Hague was then invited to recruit members to an IAB. In doing this he sought planners with extensive international experience, drawn from different continents, and with a range of backgrounds and skills. Two had previous experience in the region, but the other two board members had never visited it. The IAB members were provided with a copy of the scoping paper.

Hague also undertook some preliminary work reviewing planning regulations and guidelines for rural areas in Cyprus, Portugal, Turkey and South Africa. In addition, Christine Platt, a member of the IAB, had led an expert group for UN-Habitat preparing a set of international guidelines on urban and territorial planning (UN-Habitat, 2015).

### **The work of the Board**

The timetable for the IAB's week in Area C is provided in Appendix 2. During the week, the Board was able to collect and assess evidence from a number of sources. There were published reports from the World Bank (2013), the UN OCHA oPt (2014a, 2014b, 2014c, 2012, 2011), UN Development Programme (2013), UN-Habitat (no date), the European Union (Directorate-General for External Policies, 2013), the Association of International Development Agencies (2013), the Palestinian National Authority Ministry of Local Government (2010, 2009), the International Peace and Cooperation Centre (2012), Bimkom (Shalev and Cohen-Lifshitz, 2008), and B'Tselem (Stein, 2013). The IAB also received a paper on the UN-Habitat perspective on planning in Area C (UN-Habitat oPt, 2014). The IAB received oral evidence in a series of meetings with the Israeli Civil Administration (ICA), the Palestinian Authority's Ministry of Local Government (MoLG), UN-Habitat, the International Peace and Cooperation Centre (IPCC), the Norwegian Refugee Council, UN OCHA oPt, Diakonia's International Humanitarian Law Resource Centre, and Bimkom (Planners for Planning Rights).

UN-Habitat agreed with the chair of the IAB on how to select a sample of Local Outline Plans for Palestinian villages for the Board to review. Eight plans were chosen. The sample covered the work of all the consultants who have been engaged in preparing plans, the degree of progress towards a decision from the ICA, and the geographical location. All eight plans were presented to the Board by consultants who had prepared them (along with two further examples). The Board then visited the sites of four of the plans and spoke with local leaders about the plans and the processes of plan preparation. The four visits were to Dab'a and Ras Tira (Qalqilyeh), Dahr al-Abed (Jenin), Susiya (Hebron), Khashm al Karem (Hebron).

In moving towards findings and recommendations, the IAB was able to consult with an Expert Support Group of professionals with a close understanding of local conditions, cultures and practices. The members of this group are listed in Appendix 3.



## Chapter 3: Findings

### Legal Context: International Law and Military Orders

Area C is not part of the sovereign state of Israel. Rather, as recognised by the international community, and indeed by Israel, it is part of Palestine under temporary occupation by Israel. Israel has full control over security and all land-related civil matters, including planning, construction, infrastructure and development. While the PA is responsible for provision of education and medical services to its people in Area C, Israel has control over provision of the land and physical infrastructure for such services. Water rights were divided under the Oslo Accords – two aquifers straddle the Green Line – with temporary allocations of extraction rights to each party for the temporary period, pending a final negotiated solution.

Two main fields of international law are relevant in this situation. International humanitarian law applies in situations of war and armed conflict, including occupation. Meanwhile, international human rights law applies at all times. These oblige states to uphold and defend a wide range of rights (from political to economic, social and cultural) to all human beings for whom they are responsible (Imseis, 2012, p.85).

Under the Fourth Geneva Convention, to which Israel is a party, Israel is obliged to protect the population of the occupied territory and to administer the territory for the benefit of that population:

- The occupying power is not permitted to settle its own population in the occupied territory;
- Confiscating or intentionally destroying private civilian property is prohibited under Article 46 of the 1907 Hague Regulations and Article 53 of the Fourth Geneva Convention.

Diakonia International Humanitarian Law Resource Centre (2014, p.8) drew attention to the Declaration of the High-level Meeting of the UN General Assembly on the Rule of Law at the National and International Levels adopted by the General Assembly in November 2012. This emphasises,

“the right to self-determination of peoples which remain under colonial domination and foreign occupation, and that greater compliance with international humanitarian law is an indispensable prerequisite for improving the situation of victims of armed conflict, [...] ensuring that impunity is not tolerated for genocide, war crimes and crimes against humanity or for violations of international humanitarian law and gross violations of human rights law.”

The same report notes (p.11) that the Israeli High Court has generally declined to address issues arising from the Fourth Geneva Convention. Kretzmer (2002) is quoted as saying that the Court focuses on “matters of procedural fairness [...] rather than those of international law”.

Notwithstanding the overarching nature of the Geneva Convention and international law, since 1967 Israeli military commanders in the oPt have issued numerous Military Orders (MOs) which take full jurisdiction over life for Palestinians in the West Bank, not least in relation to planning and construction. Box 1 gives a summary of some of the most important ones.

**MO#58** (1967) gives control of absentee-owned land to the Israeli military.

**MO#59** (1967) gives power to take over land owned by the Jordanian Government, and to appropriate land from individuals or groups by declaring it “Public Land” or “State Land” (amended by MO#364 and MO#1091).

**MO#291** (1968) suspended the process of land registration.

**MO#321** (1969) confers the right to confiscate, without compensation, land for “Public Service”. Amendments to MO#321 in 1994-1996 allow land confiscation for by-pass roads that can only be used by Israelis.

**MO#418** (1971) amended the Jordanian Urban Planning and Infrastructure Law of 1966, and vested the Israeli Higher Planning Council with all powers over planning. The same order enabled the establishment of Planning Committees within Israeli settlements in the West Bank, some with powers autonomously to issue permits and master plans.

**Box 1: Some important Military Orders impacting on planning and construction in Area C.**

Source: Presentation to the IAB by the Norwegian Refugee Council, 13 February 2015.

In considering cases, the Israeli High Court has had to weigh requirements of international law against practices under the occupation and associated MOs. Diakonia International Humanitarian Law Resource Centre (2014, p.18) concludes that:

“the Court has made the application of international customary law contingent on a broad set of arbitrarily-defined circumstances, as opposed to making adherence to international law the foundation of its policies and practices in the oPt. By applying legal standards in such a manner, the Court often facilitates the denial of even the minimum protections guaranteed to Palestinians under both the law of occupation and international human rights law.”

Imseis (2012, pp.97-101) has reviewed cases in the Israeli High Court, and noted the way in which the priorities under international law are weighed alongside concerns for security in relation to petitions about Israeli settlements, and the barrier wall, for example. The analysis reveals that the Court has given priority to security needs as defined by the Military Commander over human rights law. However, it does show that in some cases the Court has applied a proportionality test, comparing the security gain with the harm done to Palestinian residents. For example, see Box 2. In the *Beit Sourik* case in 2004, the Court recognised access to their land as a source of livelihood as a legitimate concern of Palestinian villagers.

*Mara'abe et al. v. Prime Minister of Israel et al.*, included claims of the illegality of the Israeli settlement around which the barrier wall was planned to be constructed and which formed the impetus for its route inside the occupied territory. The Court agreed that the effect of the route of the barrier on the villagers' rights was *disproportionate* to the military advantage gained by the State. The Court ordered the barrier to be rerouted. However, the Court held that Article 43 of the Hague Regulations obligates the Israeli military to protect all civilians in the occupied territory, whether or not their presence is legal under international law. The Court refused to consider arguments based on Article 49(6) of the Fourth Geneva Convention and examine the legality of the settlement itself.

**Box 2: Mara'abe et al. v. Prime Minister of Israel et al.- the Israeli High Court applying a test of proportionality.**

Source: Imseis (2012, pp.99-100).

In 2004 the International Court of Justice (ICJ) issued an Advisory Opinion which said that Israel “has to face numerous indiscriminate and deadly acts of violence against its civilian population (however), the measures taken are bound nonetheless to remain in conformity with applicable international law” (quoted in UN OCHA oPt, 2014b, p.9). Furthermore, the ICJ has issued several advisory opinions that a state cannot be its own judge on whether military necessity justifies the seizure of private property (Imseis, 2012, p.87).

**IAB Finding 1: International humanitarian law and international human rights law set the prime framework within which the planning practices in Area C should be evaluated and constructed.**

**IAB Finding 2: There is evidence that the Israeli High Court in some particular cases has been prepared to recognise that the harm done to Palestinian residents, notably in respect of access to their land, in the West Bank exceeds the likely security benefits to Israelis as a result of proposed developments.**

**Land registration**

The system of land registration in Area C is complex, contested and incomplete. The deficiencies of this system are more significant in the largely rural Area C than in the urban areas of the West Bank, and impact directly on the operation of planning. The origins of the land laws are the Ottoman Land Code of 1858, with subsequent amendments under the Ottoman, British and Jordanian periods, and then through MOs. For a full discussion of this complicated history see Imseis (2012).

Land registration – defining plot boundaries and ownership under the Ottoman system - was “unfinished business” under the British and Jordanian administrations, and never completed. Only roughly a third of the land in the West Bank is registered in the Land Register. Under the occupation, the process for “First Registration” is not easy to navigate, and can only be done for individual plots, not for a whole village. The combination of costs, extensive documentation required and time taken mean that it is not a “realistic avenue for most of the Palestinian residents of the rural areas of the West Bank” (Imseis, 2012, p.37). In addition many Palestinians fled during the 1967 war. From 1968 MO#291 suspended the process of land registration, avoiding costs to the public purse of an expensive exercise.

Thus most of the land in Area C has not had a legally recognised private owner. Impacts of this have been:

- Extensive amounts of Area C have been declared to be “state land” and effectively removed from being potential sites for development by Palestinians. In 1967 there were 700,000 *dunums* (70,000 hectares) of state land in the West Bank – 12% of the land area of the West Bank: by 1992 the figure was 30% (Norwegian Refugee Council presentation to IAB, 13 February 2015). Lodging a legal objection to the designation of state land is expensive and beyond the means of most villagers.
- Unregistered land and/or “state land” is a prime source of land for the development of Israeli settlements. The boundaries of Israeli settlements have been declared as closed military zones, that Palestinians are banned from accessing (Imseis, 2012, p.48).
- Land surrounding towns and villages, the use of which may be integral to residents’ livelihoods, is separated from the town/village and “out of bounds” when Local Outline Plans are being considered for approval.
- Area C is, to a significant extent, defined by the areas declared as state land. In particular, much of the state land is on the mountain ridge where there are hundreds of Palestinian villages.

**IAB Finding 3: The lack of a complete land register, and the financial and administrative obstacles that block land registration by Palestinians, has combined with the associated declaration of state land to constrain significantly development opportunities for Palestinians, while facilitating the development of Israeli settlements.**

### Demolitions and Displacement

“The single most common reason causing people to move stems from the restrictive planning regime applied by the Israeli authorities in Area C, which makes it virtually impossible for Palestinians to obtain permission to build” (UN OCHA oPt, 2011, pp.2-3).

“...consideration is always given to planning policies that will ensure a reasonable quality of life, preserve open public areas as well as sites having cultural and historical value. In order to facilitate proper planning procedures, illegal construction is not tolerated. Such illegal construction harms the local population, given the fact that it does not take into consideration planning policies that will ensure a reasonable quality of life, and public needs” (Government of Israel response to question 9, UN Committee on the Elimination of Discrimination Against Women, Pre-Session Working group, 48<sup>th</sup> session, 2010).

UN OCHA oPt collects data on the demolition of homes, animal shelters and essential infrastructure. In 2011 there were 571 demolitions in Area C, in 2012 the figure was 540, and the following year 565, leading to the displacement of 805 people including 405 children. Donor-funded developments are not immune; in 2013 there were 122 demolitions of such structures, following 79 in 2012 (UN OCHA oPt, 2014a, p.31). Not all the demolitions are a direct result of unauthorised development. The Israeli Committee Against Housing Demolitions (ICAHD) (2012) divides demolitions into three categories. “Punitive demolitions” where houses are demolished to punish the residents, amount to 6% of all demolitions. “Administrative demolitions” are those for unauthorised development and account for 23% and demolitions for military use of an area for 47%. The reasons for the remaining 24% of demolitions are not explained by ICAHD.

According to ICA data, between 2000 and 2012 there were 3750 applications for building permits submitted by Palestinians in Area C: only 211 were approved (5.6%) (UN OCHA oPt, 2014a, p.34).

Powers to enforce planning law where development has taken place without planning permission are common in planning systems around the world. However, demolition is notably less common than in Area C. For example, in England in 2014, where the population was around 50 million, there were less than 5000 enforcement notices served, with 36 being taken to Court and demolitions in single figures. A senior planning officer in Scotland with over 25 years' experience could recall only one case resulting in demolition.

Planning practice internationally typically seeks to solve problems of illegal development by negotiation. Demolition is the last reluctant resort, if all else fails. In kwaZulu-Natal, South Africa, for example, a "contravention notice" can be served on illegal development. However, the offender can then make a retrospective application to seek planning permission. The local planning authority must then consider that application against the normal planning criteria.

As the examples in Box 3 show, decisions on whether to take enforcement action, let alone actually demolish, should be proportionate, taking account of the nature of the unauthorised development, its scale and impact. It is simply not credible that each year in Area C, in what are largely poor and marginalised village communities, there are over 500 unauthorised Palestinian developments that have such a deleterious impact that the only remedy has to be demolition, often entailing the eviction of families from their homes, and/or severely damaging livelihoods.

In England the enforcement of planning control is a matter for the discretion of the local planning authority. The UK government advises them to act proportionately, and a planning authority can decide not to take enforcement action (Department for Communities and Local Government, 2012, p.47). In general a council will take action if it believes that the unauthorised development is causing serious harm to local public amenity (see <http://www.lgo.org.uk/publications/fact-sheets/complaints-about-planning-enforcement/>). It will typically seek to resolve the problems informally before resorting to legal action, let alone demolition, which is rarely required.

In Scotland the Scottish Government advises local planning authorities to be sensitive to the possible impacts of enforcement action on small businesses (Scottish Government, 2009). Perth and Kinross Council, like some other Scottish planning authorities, publishes a Planning Enforcement Charter, which makes clear that "our priorities for enforcement will be linked to significant breaches of planning control" (emphasis added) such as impacts on environmentally sensitive sites or where the residential amenity of "a number of residential properties are affected" (Perth and Kinross Council, 2014). The Council makes a summary translation of the document available on request in seven languages.

**Box 3: The approach to enforcement of planning control in England and Scotland.**

In the UK the personal circumstances, including such matters as health, housing needs and welfare, of persons suspected of acting in breach of planning control must be taken into account when deciding whether to take enforcement action. The relevant legal case is *Regina v Kerrier DC, ex parte Uzell [1996] 71 P&CR 566*. In addition the construction of animal shelters on agricultural land would not normally require planning permission. In kwaZulu-Natal the planning legislation also includes a permissive approach to some kinds of development not covered by a plan. The Planning and Development Act no. 6 of 2008 provides for planning applications to be made for areas outside planning schemes, and specifically allows the construction of a first dwelling on a registered piece of land, as well as dwellings associated with a traditional household settlement, related agricultural activities and engineering works, provided they are consistent with the strategic level plan for the local authority area.

Main reasons for refusal of a building permit:

- the construction of more than one building on an original plot;
- the division of land without an approved subdivision scheme;
- building area in excess of that permitted in the regional outline plans;
- deviation from prescribed building lines; and
- property issues (failure to prove ownership of the land).

In most cases an application is rejected for several reasons together (for example – deviation from building

lines and division of land without a parcellation scheme), rather than for a single reason.

**Box 4: Main reasons for refusal of a building permit**

Source: Shalev and Cohen-Lifshitz (2008, p.78)

The fact that demolitions occur on an extensive scale in Area C is widely documented, not least by Israeli NGOs such as Bimkom, B'tselem (the Israeli information Centre for Human Rights in the Occupied Territories) and ICHAD. Though not all the demolitions are for planning reasons, the aggressive enforcement of planning control in Palestinian villages was confirmed in virtually all the meetings that the IAB held, including those with the ICA and with leaders in the villages visited by the IAB. Similarly, there can be no doubt that demolition and displacement is a deeply stressful experience, with damaging physical, social, economic and psychological impacts.

“In the past ten years many young couples have left Khallet Sakariya (population approximately 350) located in the Gush Etzion settlement bloc, because they are not allowed to build new structures. Those who leave are moving to new towns in Areas A and B. This has been a trend since the mid-1990s when the village began receiving demolition orders and experiencing demolition of their structures... The village is composed of one main built-up area, with several pockets of a few families in the same general area... In 2005, the village applied for a master plan that, if approved, would allow for residential construction in the main area. According to the village council the ICA replied that if the families living in the other areas relocated to the main area, it would approve the plan. The community, however, refused this offer because the families living outside the main area do not own land in the main area, but rather own the land on which they currently reside... Villages are also affected by settler violence, settlements and settler outpost expansion... which has considerably reduced access to village land.”

**Box 5: Khallet Sakariya village, Bethlehem Governorate.**

Source: UN OCHA oPt (2011, p.18).

Are such demolitions legal? As noted above, it is normal for planning systems to include power of sanctions against unauthorised developments, up to and including demolition. If development is of a kind that threatens public safety, or impacts significantly on environmentally sensitive sites or on the residential amenity of a substantial number of houses, then even demolition may be seen as appropriate and even legal under the international laws that govern occupation.

The Israeli view is that where development is illegal, as the civil authority for Area C it has a responsibility to take action. However, there is compelling evidence from a number of sources (see e.g. Box 4), including the meetings that the IAB had in villages in Area C, to support the interpretation that “the demolition of Palestinian property is intrinsically linked to the expansion of Israeli settlements, with a large portion of all demolitions taking place in Palestinian communities situated in land allocated to settlements” (Diakonia p.9). Most demolitions take place “in just ten communities, which are located in areas where Israel has established military zones, published relocation plans, or where Israeli settlements have been allocated land to expand” (AIDA, 2015, p.23).

Last but not least, the point was strongly made to the IAB from several sources that the demolitions are illegal under international law. As noted above, confiscating or intentionally destroying private civilian property is prohibited under Article 46 of the 1907 Hague Regulations and Article 53 of the Fourth Geneva Convention. Under International Humanitarian Law, Israel must administer the occupation in a manner that benefits the occupied people. Imseis (2012, p.90) says that “where buildings are demolished only because they lack permits, but otherwise do not pose any threat to public safety and order, and are not demolished based on military necessity, they constitute unlawful destruction of property under international humanitarian law.”

**IAB Finding 4: The risk of demolition and displacement is long-lasting, real and continuing, and denies basic human rights, and in respect of the many buildings that pose no threat to public safety and order, and are not demolished for military necessity, is unlawful under international humanitarian law.**

**IAB Finding 5: Unrecognised land rights, lack of approved plans and an enforcement regime for development outside approved plans that is rigid by international standards, provide a pretext for demolitions and displacement.**

**IAB Finding 6: Planning control and enforcement is used as a means of demolition, displacement and containment of Palestinian villages in a manner that is at odds with practice in other planning systems.**

### **Bedouin and herding communities**

Bedouin and herding communities are amongst the poorest and most vulnerable in Palestine. Planning control that seeks a rigid containment of villages, and takes no account of traditional cultures and means of livelihood, impacts adversely on these communities. Of all the people living in the West Bank, the Bedouins are the most common victims of demolitions. The Bedouin way of life is based on a tent, a borderless open space and the raising of livestock, which are also a mark of social status. Within Area C, 38 Bedouin and herding communities, with a total population of around 6,200 are located on land designated by the Israelis as “firing zones”, and there are another 50 communities with 12,000 people in their immediate vicinity (UN OCHA oPt, 2014a, p.40).

The IAB was able to visit two such communities, at Khashm al Karem and at Susiya. The Board heard how the Susiya residents had already been evicted from their historical location that had been declared an archaeological site. There is an Israeli settlement nearby. The ICA wish to relocate the villagers into a “new town” some distance away. The villagers do not want to move and fear forced eviction. Stein (2012, pp.34-38) provides more on the history of this case.

Stein (2013, pp.41-51) provides an account of how the Jahalin people have been displaced from a number of sites from the 1950s onwards. The development of the planned township at Ma’ale Adumim from the 1970s onwards, which now has a population of over 36,000, led to the evacuation of some of the Jahalin tribe. The relocation site provided for them is close to a major garbage dump. Their allocation of land is small and insufficient for keeping flocks. The traditional way of life is no longer sustainable.

The ICA confirmed in their meeting with the IAB that they see a settled urbanisation for Bedouin and herding communities as the best solution for all concerned. The plan is to relocate something like 7,500 Palestinian Bedouins from 46 communities to three planned townships in Area C (AIDA, 2015, p.2). This is the policy that Israel has followed within its own boundaries since its formation, and many Bedouin have been urbanised over those decades, notably in the Negev. However, there are criticisms of this approach and its impacts on the Bedouin, see, for example, Yiftachel (2003), Abu-Saad (2008) and Abu-Rabia (2000) who reported that the transition from a traditional lifestyle created problems including unemployment and poverty, while also stressing that Bedouins are not a uniform group, and that adjustments to urbanisation differed.

The UN Declaration on the Rights of Indigenous Peoples in 2007, states that “indigenous peoples have the right to the lands, territories and resources which they have traditionally owned, occupied or otherwise used or acquired” (Article 26(1)). Israel did not vote on the adoption of this Declaration, which is not binding law. Also, within Israel, the legal principle of equality is constitutionally recognised, but in practice considerable discrimination has long existed against Israeli-Arab citizens (see, for example, Smooha, 1990).

Planners in other settler countries have become increasingly sensitive to the needs and cultures of indigenous peoples. For example, the Planning Institute of Australia has a Reconciliation Action Plan (see Box 6). Similarly, the Canadian Institute of Planners (CIP) recognises that “Many goals of Canada’s indigenous communities (First Nation, Inuit, Métis and Urban Aboriginal) intersect with planning concerns. These goals include preserving language and culture, building governance and planning systems, investing in community health and wellness, practicing sustainable resource management, establishing self-reliant economies, developing sustainable food and energy systems and improving community housing and infrastructure” (<http://cip-icu.ca/Topics-in->

[Planning/Indigenous-Planning#](#)). There is a CIP subcommittee that provides support on planning matters to Canada's indigenous peoples.

"The recognition of Aboriginal and Torres Strait Islander people's law and custom and their strong and enduring connections to Country requires planners and the institutions for which they work to modify contemporary planning processes to take account of Aboriginal and Torres Strait Islander people's rights, interests, needs and aspirations."

"The Institute respects Aboriginal and Torres Strait Islander decision-making and dispute resolution processes."

"Working in partnership with Aboriginal and Torres Strait Islander peoples and communities is an essential part of achieving our objectives and vision."

**Box 6: Extracts from the Planning Institute of Australia' Reconciliation Action Plan, 2008.**

Source: <http://www.planning.org.au/documents/item/198> 2008

Similarly, in post-apartheid South Africa the municipal planning control in traditional areas is based on the principle of lawful development which allows development for activities reflecting cultural needs and the functional context of a traditional community to proceed without the need for planning permission.

**IAB Finding 7: The ICA planning approach is insensitive to the culture, traditional lands and livelihoods of Bedouin and herding people and disregards the 2007 UN Declaration on the Rights of Indigenous Peoples and current international good practice in planning in settler countries. It takes land away from people who have had long-lasting use rights and forces a transition to urban livelihoods, and lifestyles regardless of the wishes of those affected.**

### Regional planning

As the Palestinian National Authority Ministry of Local Government (2010) has noted, the fragmentation of territory into Areas A, B and C is a serious constraint on effective planning. This is particularly true at the regional scale.

The regional tier of statutory planning is still provided by plans made under the British Mandate in the 1940s. These covered the rural areas, with separate "outline plans" for the cities. The British Mandate aimed to update the regional plans every five years, but the plans have not been updated. The IAB is not aware of any example from elsewhere of 70-year old plans still being statutory today. Furthermore, the plans reflect 1930s British perceptions of planning. The kind of linear development that characterises many Palestinian villages, with buildings either side of a road connecting to a larger road, was equated with the "ribbon development" that was stretching along the radial roads of UK cities and was anathema to British planners of the time. So the plans declared wide building lines to set development well back from primary roads (Shalev and Cohen-Lifshitz, 2008, p.50). The regional plans cover extensive areas but zone areas only for a few main uses – roads, an agricultural zone, development zones, nature/forest reserves and beach reserves. Most land is zoned for agriculture.

There are three of these "Regional Outline Plans" in the West Bank:

- Plan RJ/5 for the Mandatory Jerusalem district, approved in 1942, which applies to the area from the southern Hebron Hills in the southern West Bank to the vicinity of Salfit in the northern central West Bank, though only part of this plan is for area in the West Bank;
- Plan S/15 for the Mandatory Samaria district, approved in 1948, which applies to most of the northern part of the West Bank, from Salfit in the south up to the Jenin area in the northern West Bank; and
- Plan R/6 for the Mandatory Lydda district, approved in 1942; most of the area of this plan is outside the West Bank.

The plans designated development areas diagrammatically, rather than precisely. They were shown by yellow one kilometre circles (covering approximately 78.5 hectares). Using a model from Howard's garden city idea, the planner who led the work on these British plans, Henry Kendall, envisaged the villages in these development zones growing to a population of 2,000 then spawning a new satellite village within the agricultural zone (Shalev and Cohen-Lifshitz, 2008, p. 74). Not all existing villages were included in the yellow circles, and villages that developed after the mid-1940s, of course, were also not shown on the plans.

Surprisingly for plans at a regional scale, they are also very prescriptive on detailed matters of construction, and include detailed provisions which allow building permits to be issued for development in the agricultural zone – see Appendix 4. Imseis (2012, pp.62-63) says that the Israeli Supreme Court has ruled that planning permission is required for those matters reserved in the plans for the District Committees which existed under Jordanian planning law but were abolished by MO#418. The same source points out that plots in the West Bank were very large, typically a few or even dozens of hectares, so the standards prescribed in the Regional Outline Plans were in fact very restrictive. Under the Regional Outline Plans it is possible to get more buildings on a plot if planning permission is given for a subdivision. However, Imseis (2012, p.63) notes that the ICA rejects almost all the subdivision plans submitted by Palestinians, and refuses to issue building permits, even for agricultural structures.

To an outsider these outdated regional plans appear surprising survivors from an earlier age. However, the ICA and the Israeli courts continue to use them, interpreting them in a rigid way that imposes barriers on development rights for Palestinians, and thus exposing them to the risk of demolitions. However, the Regional Outline Plans have not carried similar weight when considering the creation and expansion of Israeli settlements. Nearly all West Bank settlements were erected on land designated as agricultural in these plans from the 1940s. The Civil Administration planning authorities have approved hundreds of new master plans that changed the zoning, thereby enabling the establishment of Israeli settlements. In virtually all cases, construction in Israeli settlements was approved retroactively, or else by Military Order. From 2002 to 2010, only 176 construction permits were issued to Palestinians, but at least 15,000 residential units were built in Israeli settlements during that same period, with or without permits (Stein, 2013, p.21).

The Regional Outline Plans express a philosophy of planning as a means of restricting development, whereas today planning is increasingly seen as a means of enabling development. For example, within the UK Local Development Plans are typically expected to allocate sufficient land to ensure a generous supply of effective housing sites (i.e. sites that can be readily developed and where there is likely to be a market demand for the houses), with a five-year supply of such sites at any one time. At the regional scale, plans are expressed as a spatial strategy, highlighting development opportunities, and not just as a set of roads and land for agriculture in the way that the Regional Outline Plans do. Regional scale plans do not prescribe setbacks or building heights or site-specific land use. At local level, development plans set out written policies, not lay-outs. Planning practice in the UK makes use of design briefs to control development at local level, particularly in sensitive sites. Design briefs are not detailed land use plans; rather they are forms of guidance that set out priorities and criteria (e.g. on densities, landscaping access and circulation, building heights and materials etc.) that are seen as appropriate for the characteristics of the particular site, but leave the developer to interpret them and produce a layout, elevations etc. when seeking planning permission.

Rather than aiming to prescribe the conditions for the issue of building permits, regional planning practice elsewhere in the world is typically focused on how to achieve sustainable economic development, boosting regional competitiveness while moving towards more sustainable management of regional resources. It seeks to integrate economic, environmental and social concerns spatially in a strategic manner. Connectivity and networks are central themes, embracing surface transport, water and sewerage systems, broadband etc. as appropriate to the region in question. Solid waste management, river catchment systems, green networks, sustainable transport, and business clusters are amongst the type of issues that regional plans are likely to



address in the 21<sup>st</sup> century. The functional urban region is recognised as a key unit for strategic planning, and it typically extends across the boundaries of a number of local administrative units. Last, but not least, strategic planning at a regional scale is no longer the task of a single planner like Henry Kendall working on a drawing board, rather it is the outcome of a shared vision that has been negotiated amongst a multiplicity of stakeholders from the public and the private sectors (see, for example, Collinge et.al. 2013). If the World Bank's (2013) aspirations for economic development in Area C are to become reality then these are the kind of plans that will need to replace the old-fashioned Regional Outline Plans that are currently in use.

"...the functioning of cities depends on relationships with areas immediately surrounding them... obvious ones such as commuting, but also business-to-business relationships, and connections between major institutions such as universities and hospitals and the areas in which they are located... The most common solution around the world is one form or other of innovation whereby local governments enter into partnerships... this is an issue of profound importance for urban planning."

**Box 7: Why and how plans need to link cities to their surroundings.**

Source: Royal Town Planning Institute (2015, p.7).

The Regional Outline Plans have failed to deliver access to essential infrastructure and to facilitate movement between places in the West Bank. This is not surprising, since they could hardly have anticipated the impacts of later events such as the building of the barrier wall and other physical and administrative restrictions on movement of people and goods, or the impact of the growth of Israeli settlements on water resources and supply. As the World Bank (2103, p.x) noted, the PA has been unable to develop roads, airports or railways in or through Area C, or the utility lines to connect Areas A and B across Area C. Further, at the end of 2012, 60 Palestinian communities were still compelled to use detours that are two to five times longer than the direct route to the closest city (p.30). This has obvious negative impacts on labour mobility and access to services. In addition, many Palestinian communities in Area C remain unconnected to Palestinian water networks and have to access water from water tankers at high prices – prices that are inflated by the frictions on movement for vehicles. In short, planning at the regional scale is delivering outcomes that are the antithesis of those sought by regional planning in other countries today.

**IAB Finding 8: The Regional Outline Plans from the 1940s have not been updated. This is poor professional practice. Concerns of regional plans in other countries today – such as regional competitiveness, urban-rural relations, spatial coordination of investment, and sustainable development - are not being addressed. The separation of the towns (Areas A and B) from their hinterlands (Area C) prevents the kind of planning for functional regions that is adopted in many other countries.**

**IAB Finding 9: Despite being 70 years old, the Regional Outline Plans are still significant in the operation of planning in the West Bank. They are used and interpreted in a way that restricts development opportunities for Palestinians, and legitimises demolitions, without presenting comparable obstacles to the development of Israeli settlements.**

**IAB Finding 10: The lack of an updated set of regional plans means that the Local Outline Plans lack a framework to address and capitalise upon the potentials for functional linkages between towns and villages, and a rational spatial approach to provision of services.**

**IAB Finding 11: The restrictive form of planning operating in Area C undermines the potential for economic development not only in Area C but in Areas A and B also, and so impacts on the economic viability of the Palestinian state.**

### Partial Special Outline Plans

These are plans produced by the ICA for Palestinian villages from 1987 onwards. There are over 400 such plans, though none for Israeli settlements. They mainly were produced for places that are now in Areas A and B. Of the 180 communities which are located entirely in Area C, the ICA has prepared and approved plans for only 16 of them (UNDP, 2013, p.4). The map is an aerial photograph, and the plans typically designate only roads and three categories of residential use, differentiated by densities. They do not mark building plots and roads may be incomplete. The written provisions are in a standard format, without adjustment to the needs of each particular village (Imseis, 2012, p.65). They represent a “cut-price” approach to plan making, completely disregarding normal plan-making procedures in planning systems elsewhere in the world.

Five features are noteworthy:

- The boundaries, a “blue line”, are typically drawn tight to the built area of the village;
- In some cases the “blue line” has been drawn through the existing built area of a village, thus excluding part of that area from future development for no evident reason;
- The plans are for small areas (in some cases less than 10 hectares);
- The residential densities specified are exceptionally high – 33 / 100 / 150 houses per hectare – and would be considered inappropriate for comparable rural hamlets under planning jurisdictions anywhere else in the Mediterranean or North East or Southern regions of Europe;
- There was no involvement of the local residents in the plan-making process: MO#418 had abolished the Local Planning Committees that had existed under the Jordanian planning law.

The tight boundaries, together with the restrictive approach to building permits outside these boundaries and use of enforcement (as described above), mean that these plans are deeply implicated in the process of demolitions and evictions, while also facilitating Israeli settlement expansion (see Box 8).

One of the communities which has an outline plan is Bruqin. The original proposed plan was 188 dunums. The total built-up area of Bruqin is 172 dunums, of which only half, 87 dunums were included in the proposed plan. The remaining built-up area, all 85 dunums, lay outside of the outline plan leaving all those residents living on that land in a perpetual state of insecurity and uncertainty.

In contrast the area of the plan for the nearby Israeli settlement, Bruchin, is a considerably more generous 955 dunums, of which 328 dunums are built-up, and, none of the built-up area is left outside of the plan.

#### **Box 8: Bruqin contained, but room to grow for Bruchin.**

Source: UNDP (2013, p.5.)

**IAB Finding 12: The Special Outline Plans produced by the ICA for Palestinian villages fall well short of current international standards in respect of their content and preparation process.**

### Local Outline Plans

The Local Outline Plans have their origin in Jordanian planning law and its British antecedents. The Jordanian system required two types of plans to be prepared for towns and cities. These were an outline plan (providing zoning for the whole built-up area) and a detailed plan for districts within the town. The detailed plan was to be consistent with the outline plan, and specified the exact location of buildings, set-backs and similar site specific matters. However, for small towns and villages there was no requirement to prepare an outline plan. Rather, the Jordanian law required a plan with sufficient detail to allow building permits to be issued. The term for such plans was “a detailed outline planning scheme” (see Imseis, 2012, p.51). This oxymoronic concept is the basis for the Local Outline Plans that have to be prepared today for Palestinian villages in Area C and then gain approval through the ICA.

The Palestinian Ministry of Local Government (MoLG) was established in 1994. Not surprisingly, its planning work has focused on Areas A and B. Since 2011 it has sought to support the planning process for Palestinians living in Area C. Its aspiration is to see local development plans – the Local Outline Plans (often called “Master Plans”) - prepared for all Area C communities. This was a difficult decision for the Ministry, as submitting plans to the occupying power carries the risk of being drawn into “occupation engineering”. After careful consideration the PA decided to back the plan-making. The MoLG are satisfied with the technical quality of the plans, but they are not satisfied with the content, because of the extent to which that has been constrained by the context of the occupation.

In principle the strategy of preparing and submitting Local Outline Plans promises a number of benefits for the Palestinian communities involved. They can be given a voice in the preparation of the plan for their village. If approved, the plans would become the basis for the issuing of building permits, and so reduce the threat of unauthorised development being demolished, and provide land to accommodate present and future needs of the residents. The MoLG will then be a key partner in implementation of approved plans, in partnership with other sector ministries (e.g. education).

With help from the international community, Palestinian planning consultants have been engaged to prepare these Local Outline Plans. A key part of the IAB’s brief was to review a sample of the 99 plans that since 2011 have been prepared or are under preparation, and assess their quality against international standards. As indicated in Chapter 2, the sample of eight plans was carefully selected. It was decided to only look at plans that had been submitted to the ICA, excluding the 22 plans still under preparation on the grounds that quality could not be judged at an early stage in the planning process. The plans would cover the work of four of the five planning consultants, with the majority being plans produced by the IPCC, who have produced a majority of the plans. The sample would also cover the state of progress of the plans – authorised/advertised for public objection; “stuck” in the system; and rejected. Finally, the sample would take account of geographical location. The resulting section is shown in Table 1. Two further plans were also presented to the IAB by the IPCC – for Imniezel and Tuwani.

Category	Locality	Governorate	Consultants	Comments
Rejected	Khashm al Karem	Hebron	CEP	Part of Ka’abneh Cluster
	An-Nabi Samuil	Jerusalem	IPCC	Declared as a nature reserve.
	Susiya	Hebron	IPCC	Rejected by the Israeli High Court.
Stuck	Kardala	Tubas	Sigma	Considered as part of the Jordan valley.
	Beit Nuba	Ramallah	Pillars	Military training area surrounded by the wall.
	Dahr Al-Abed	Jenin	U.G.	Village existence denied.
Progressing	Dab’a and Ras Tira	Qalqilyeh	IPCC	Authorised.
	Abdullah al-Yunis	Jenin	IPCC	Advertised for public objection.

**Table 1: Selected cases**

Each of the plans was presented to the IAB on the morning of 14 February, 2015 then visits were made to Dab’a and Ras Tira, Dahr Al-Abed, Susiya and Khashm al Karem for discussions with community leaders.

A consistent picture emerged:

- The consultants have worked up the plans through a process of consultation with the leaders of the communities. The leaders the IAB met were satisfied with this process.
- The plans are generally for small areas, and provide detailed lay-outs and sub-division of land. Residential is the predominant land use, but sites are also typically allocated to other uses, not least public services. Road lines are shown.
- The standards by which the ICA assesses the plans are written but not published, a point confirmed by the ICA in the meeting the IAB had with them.
- The consultants have several meetings with the ICA to discuss the plans and are given verbal guidance on what is required. This is not followed up in written form, e.g. by a letter. Similarly, reasons for rejecting a plan are not provided in writing. The first language for ICA staff is Hebrew, while for the consultants it is Arabic.
- The ICA has generally, though not always, put demolition orders on hold until a decision is taken on the plan.
- Engaging with the ICA-administered process implied some degree of acceptance of the occupation and the legitimacy of the ICA role and requirements: however, non-engagement or non-compliance with ICA requirements would increase the vulnerability of the communities to demolitions.
- Consultants report that constraints on development for reasons of protection of natural and cultural heritage can suddenly emerge during their consultations with the ICA, but statements and maps such protection areas are not available in the public realm or open to challenge.
- Many of the Palestinian communities in Area C are small, and some villages are deemed to be “unrecognised” by the ICA. This, together with all the other restrictions (e.g. on movement and lack of services) they face, and the growth of Israeli settlements, makes them very vulnerable.
- The boundaries of the plan are an important focus of the early discussions, with ICA officials advising for boundaries tightly drawn around the existing built up area. There appears to be some informal agreement with the ICA that plans respecting the “blue line” of the Special Partial Outline Plans are more likely to progress, and to reduce the risk of demolitions.
- Consultants have used the Physical Planning Manual developed by Palestinian National Authority Ministry of Local Government (2010)<sup>2</sup>, to guide their approach.
- The plans tend to be long-term, typically a 20 year horizon, without indicating phasing or means of implementation. In this sense they are “static”.
- Plans have to be approved by the Regional Councils. The Regional Councils were set up under Military Order, and are Israeli administrative units for the Israeli settlements. The ICA stressed that the Regional Council meetings to consider submitted plans are open meetings – i.e. anybody can attend and address the committee. Given the tensions that exist between settlers and Palestinians, and the nature of the Regional Councils, it would be disingenuous to imagine that this is an inclusive arrangement likely to facilitate plan approval. In real terms Palestinians are unable to authorise their plans.
- Once advertised, there is a 60 day period for objection to the submitted plan. This is again an opportunity for Israeli settlers to have a say on the development of the Palestinian villages. Final approval rests with the Israeli Ministry of Defence.
- Progress towards plan approval has been extremely slow in relation to the size of the villages (see Table 2). Only 3 plans had been authorised. It had taken 32 months from the start of drafting to the point of authorization.

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<sup>2</sup> This Manual was reproduced in 2013 as an Urban Planning Manual by MoLG.

Phase	Drafted by key players	First Submission to the ICA, excluding those refused	Last Submission to the ICA	Approved by the Israeli Central Planning Council		Announced for public objection		Final Authorization	
Number of Plans	99	60	39	14		9		2	
Average duration to complete the phase	6 months	17 months		14 months		28 months		32 months	
Minimum / Maximum duration	-	1	35	7	22	18	34	32	32

**Table 2: Progress towards final authorisation of plans through the ICA.**

Source: Provided by UN-Habitat (2015).

The IAB was unanimously of the view that as basic land use zoning plans, all the plans presented in the sample were technically sound. They are adequate for the limited and specific purpose for which they have been produced. In contrast, the ICA advised the IAB that the main reason why the plans progress slowly or are rejected, and why plans for Israeli settlements proceed much more expeditiously and successfully, is because of the superior technical quality of the Israeli plans. Those drafting the Israeli settlement plans immediately understand and conform to the ICA's requirements, the IAB was told, whereas the Palestinian planners struggle to grasp what is required. The lack of written guidance and feedback provided by the ICA may be a factor compounding this barrier.



**Photo 1: Israeli settlement built environment**



**Photo 2: Palestinian village built environment (Khashm al Karem Village, Hebron)**

By implication this suggests that layouts for Palestinian villages (see Photo 2) that mimicked the layouts for Israeli settlements (see Photo 1) would receive speedy endorsement by ICA. While this type of reasoning might seem logical to a military mind trained to give and take orders, it is not robust within a professional planning context. The Israeli settlements in effect are “green field” developments. Designing a plan for a green field site is a less complicated process, other things being equal, than creating a plan through dialogue with long established residents for a site that already is substantially a built up area. Furthermore, the form of development of the Israeli settlements, redolent of medium density European suburbia, is not necessarily an appropriate design solution for a Palestinian village. Last but not least, where strict standards are imposed and adhered to, the resulting built form is likely to become repetitive and monotonous. Good planning practice has to allow space for creative design solutions that respect the historic legacy of a place and the aspirations of its residents.

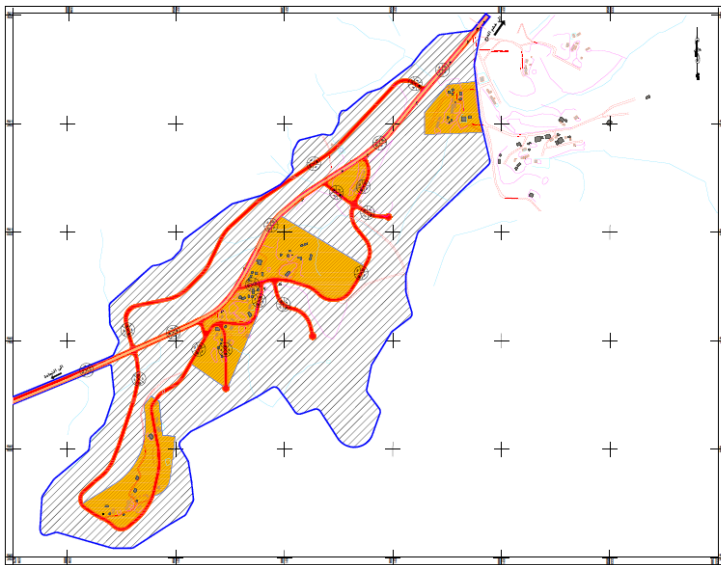
#### **Benchmarking of the sample of plans**

Part of the brief for the IAB was to benchmark the sample of Local Outline Plans. However, “benchmarking” begs questions of the criteria to be applied. The criteria used by the ICA were not available to the IAB, except by inference as discussed in the section above. Besides which, the IAB felt it was more useful to provide a general review of each of the plans presented to it, rather than a point-by-point benchmarking. These reviews are now provided.

#### **Case study 1: Plans that have been rejected - Case Study 1: Khashm al Karem (Population 400)**

This is a village in the hills east of Hebron (see Photo 2). The consultants, the Centre for Engineering and Planning (CEP) have had about ten meetings with the ICA since February 2013, but failed to make progress. The fundamental stumbling block is that the ICA argues that the village does not exist, though it was

established some 60 years ago. It was visited by the IAB. There are 70 buildings scattered at low density and 23 demolition orders. The ICA has classified the area as a “firing range”, and proposes that the residents should be relocated to other villages.



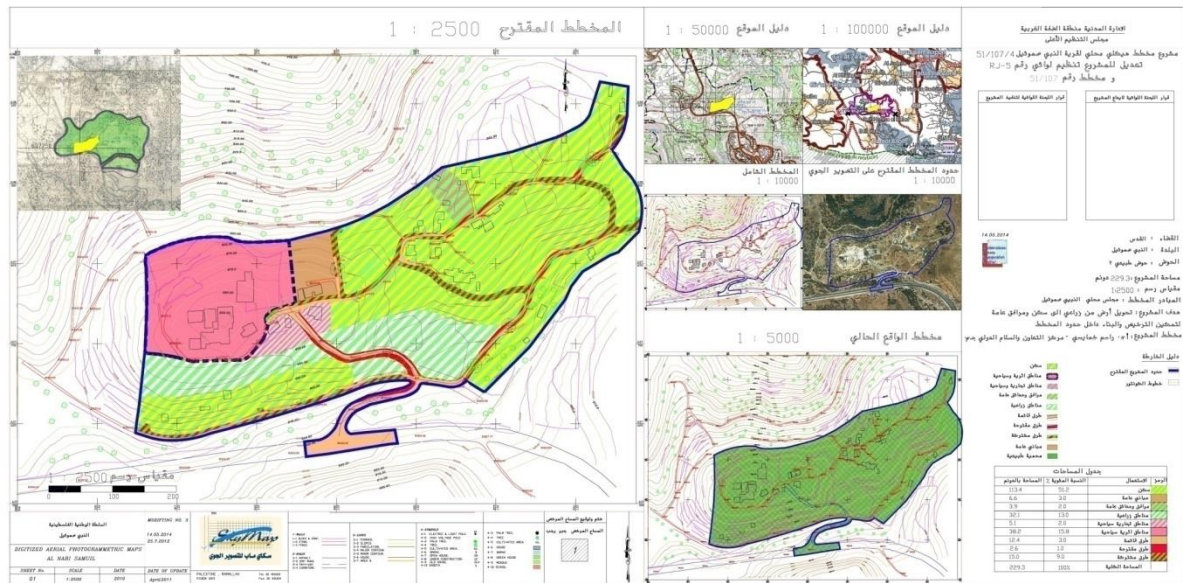
Khashm al Karem proposed expansion area (shaded). Courtesy of CEP.



**Photo 3: Community engagement in the planning for Khashm al Karem.**  
Courtesy of CEP.



**Case study 2: Plans that have been rejected - Case Study 2: An-Nabi Samuil (Population 281)**

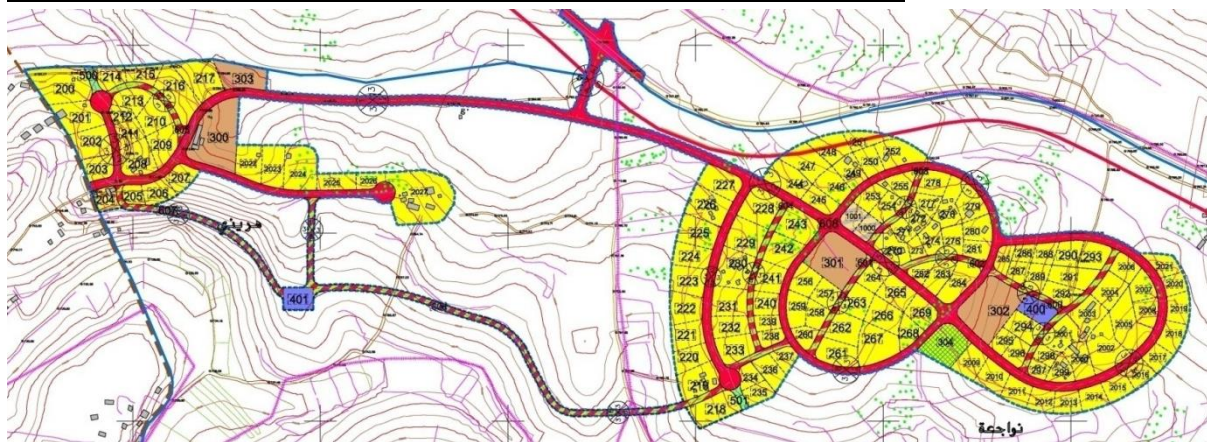


Slide courtesy of IPCC.

This site has a history of contentious planning. Located just 4km north of Jerusalem and close to Israeli settlements, in 1986 the village was included by Israeli officials in a nature reserve. The site is located in the middle of four Israeli settlements. A plan was prepared for an area of 229 dunums (22.9 hectares), but has been rejected by the ICA, and instead of allowing an extension of the area for development, they are proposing to add tourist parking to the Tomb of Samuel. The issue is with the courts at the time of writing (March 2015).

The IPCC plan attempts to provide an internal road network for this small area, as well as providing sewerage and electricity networks, while accommodating growth of the population to around 450 by 2035. The areas zoned residential are in the north east and south west of the site, and are separated by an agricultural area. The area around the existing buildings that draw tourists to the site, the Tomb of Samuel, is in the north-west, coloured pink, with public and tourist buildings adjacent. Unlike most of the other plans presented to the IAB, this one does not attempt a detailed subdivision of the area where residential development is proposed.

**Case study 3: Plans that have been rejected - Case Study 3: Susiya (Population 340)**



Outline plan for Susiya, courtesy of IPCC

The residents of Susiya make a living from herding sheep and growing olives. In 1983, the Israeli settlement of Susiya was established near their village, on Palestinian land that Israel declared state land. Then in 1986, the

ICA informed the villagers that their village was located on an archaeological site. The village's lands were appropriated "for public purposes" and the Israeli military expelled the villagers from their homes. The families moved their tents and shelters several hundred meters to a new site. They were moved again in 2001, after Palestinians murdered a resident of the Susiya settlement, and, the IAB was told, Israeli settlers murdered villagers also.

Since then the ICA has declined to produce a Local Outline Plan that could give the residents some security and access to a piped water supply. Instead the ICA has issued 58 Demolition Orders. Israeli settlers have restricted access by the villagers to some of their traditional agricultural land, and there have been many documented cases of Israeli settler violence (see, e.g. Stein, 2013, p.35). There is disputed ownership of the land that they are on, and the land has been declared by the Israeli authorities to be part of a nature area. The village has secured electricity through solar panels.



**Photo 4: Susiya development visualisation**

Source: IPCC.



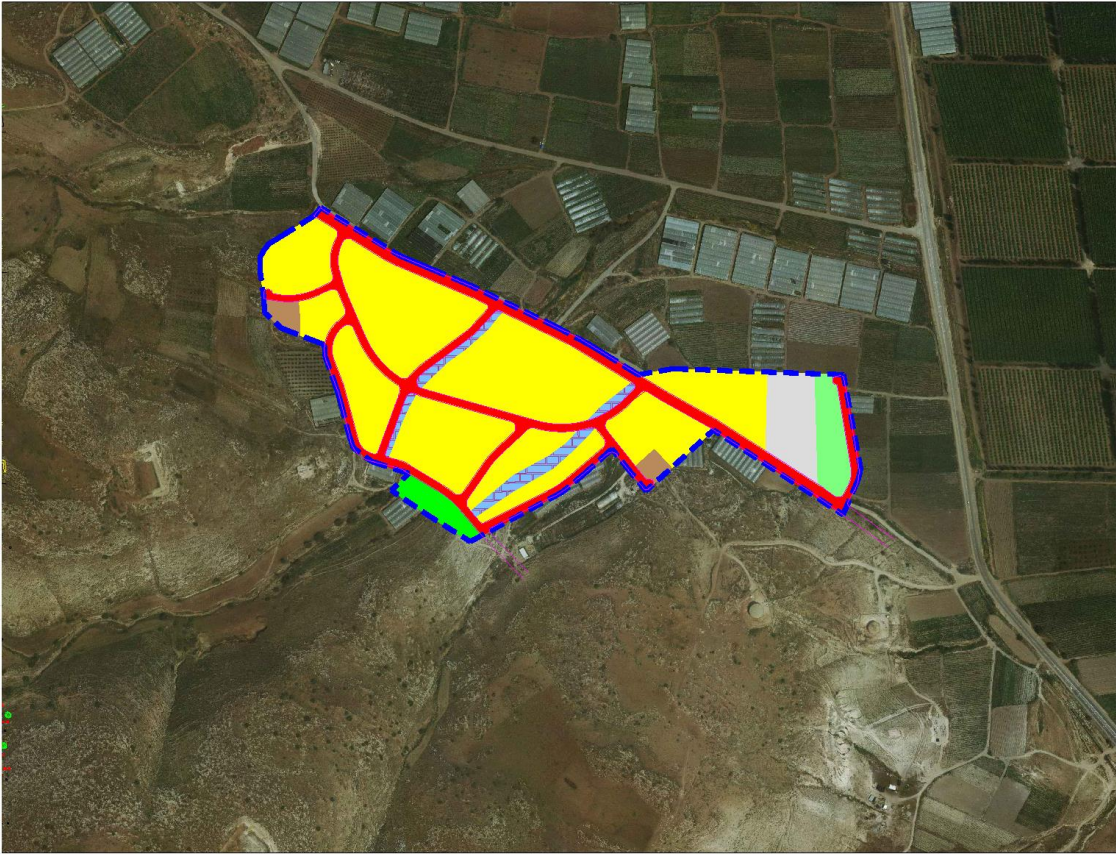
**Photo 5: Susiya 2015.**

The IPCC has produced a plan that seeks to provide land for the herding community to return to. Like the other plans the IAB has seen, it provides a connection to the main road, a road network to service a subdivided residential area, water and sewerage systems and modest provision for other uses of land. In this as in a number of other Local Outline Plans in the sample, the layout bears some resemblance to that in Israeli settlements. In the case of Susiya, the consultants have produced a visualisation of the development (Photo 4) that makes the similarity clear. It also contrasts markedly with the current lay-out of the village (Photo 5). This would seem to be a case of adaptation to ICA requirements so as to reduce the threat of demolitions. The separation of the two development sites reflects the different communities within the village. The first version of the plan was submitted to the ICA in May 2012 and the last version a year later. There has been no progress since then.

Case study 4: Plans that are “stuck” - Case Study 4: Kardala (Population 370).

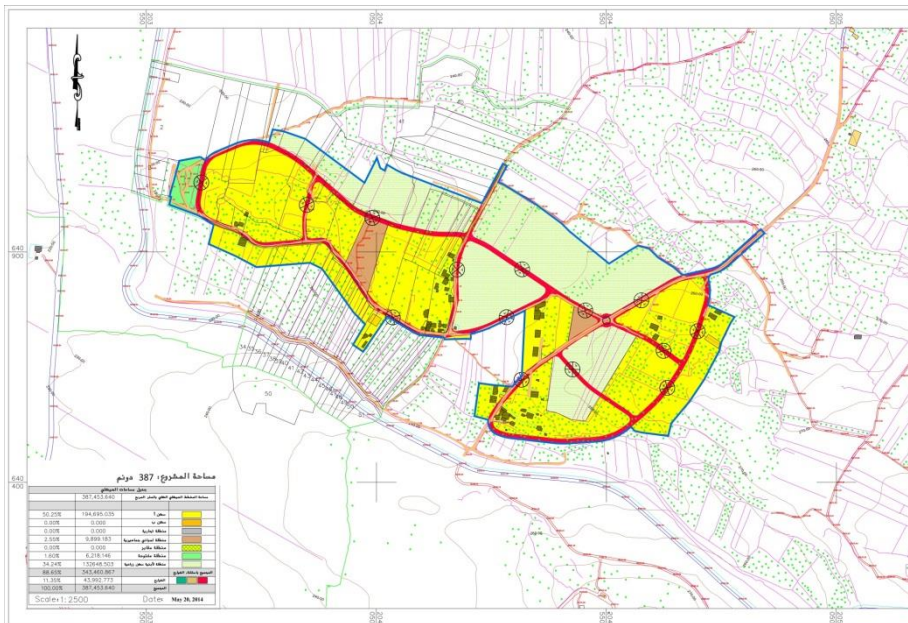
This village in the north east of the West Bank lies in Area C, in an agricultural area but between two Area B towns. The consultants, Sigma, worked up proposals over a period of a year in 2013-14, only to be told at their fourth meeting with the ICA that the plan was unacceptable and they must start again. As in other examples one objection is that the village is not recognised.

Because of the rejection, this plan has not reached the detailed sub-division stage. The main land use proposed is residential (yellow), together with a road network (red), and small allocations of peripheral land for open space (green), public buildings (brown) and “engineering facilities” (grey).



Plan for Kardala. Courtesy of Sigma.

Case study 5: Plans that are “stuck” - Case Study 5: Beit Nuba (Population 270).

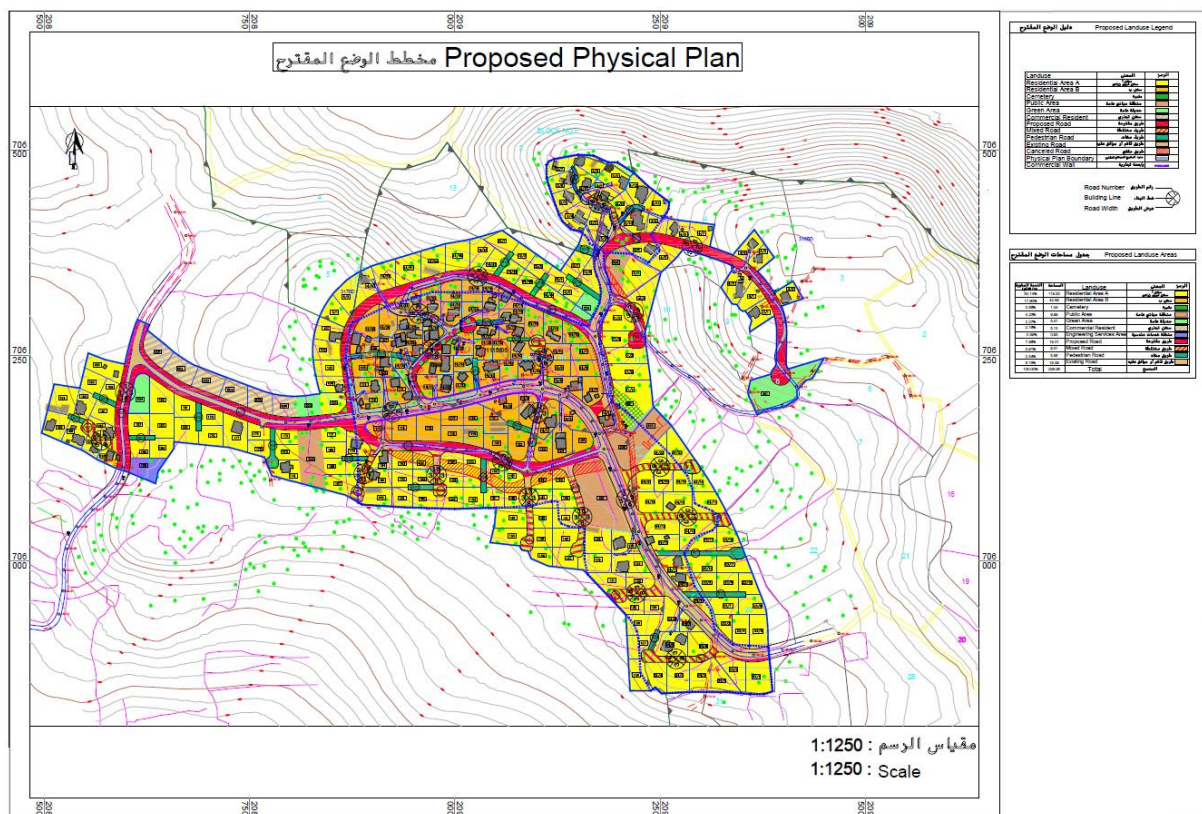


Plan courtesy of Pillars Consulting.

This is another site with a history. It lies a few kms north west from Jerusalem and about 23 kms west of Ramallah. The area was captured by Israel in the 1967 war. Beit Nuba was one of three villages from which some 5,500 Palestinians were expelled. Israel has since created “Canada Park”, a scenic and historic tourist area (see <http://www.kkl.org.il/eng/tourism-and-recreation/forests-and-parks/ayalon-canada-park.aspx>), erasing the Palestinians from the narrative. The plan preparation by the consultants, Pillars, is focused on an unrecognised village called Hai Al Krama (c.f. Khashm al Karem), which was a relocation site for people displaced from Beit Nuba, and thus embodies memories of that place. No building permits have been issued since 1989. There is no sewerage or solid waste disposal, and no public transport. Buildings are in poor condition, the roads are unpaved, and the Separation Wall isolates the farmers from their lands, and creates a 300 meter “no development” zone on the Palestinian side. The clear priority of the residents is to be able to build without fear of demolition, however there is no progress towards plan approval.

**Case study 6: Plans that are “stuck” - Case study 6: Dahr-Al-Abed (Population 419)**

Here the planning consultants, Universal Group, are negotiating on the final version of the plan, which was submitted in November 2014. The village was established in 1950 and is in the north of the West Bank, 26 kms west of Jenin. The Separation Wall lies to the north and north-west of the village, with its buffer zone restricting development opportunities, as does the buffer zone of a regional road. The current built-up area is just 65 dunums, consisting of scattered buildings of one to three storeys. An Israeli Partial Special Outline Plan was approved in 2005. While it covered 127 dunums, it left 49 buildings and 184 residents of the village outside the plan boundary.



Submitted plan for Dahr-Al-Abed, courtesy of Universal Group.

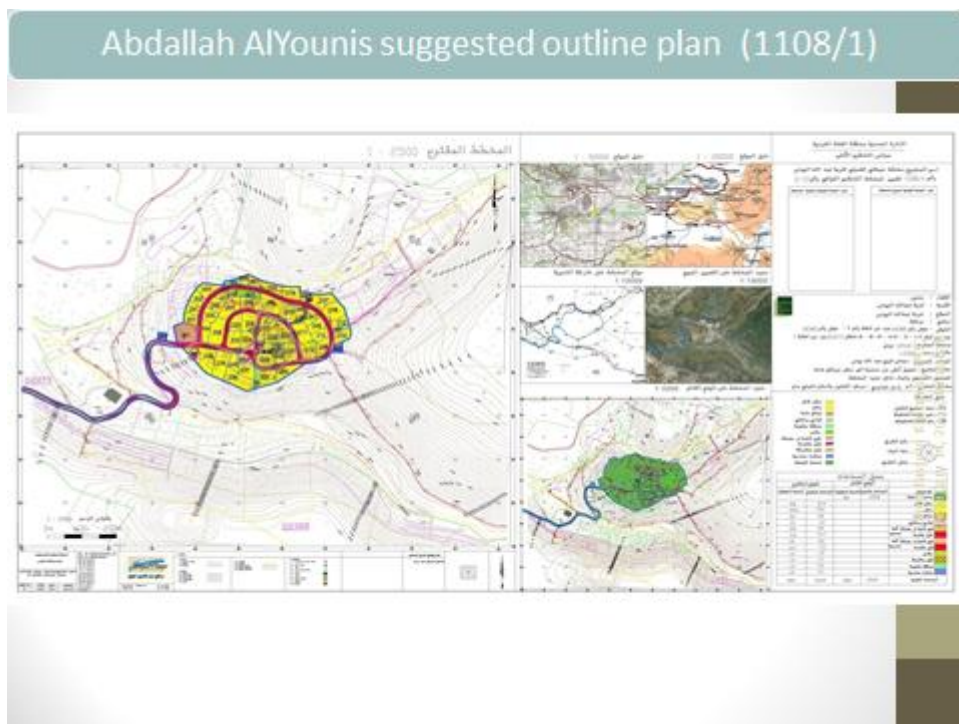
The plan produced by the Universal Group is for an area of 238 dunums and includes provision for 50 houses that would be outside the boundary of the 2005 plan. It is a modified version of a plans submitted in March 2014 and December 2013. It provides a detailed subdivision, which earlier versions did not, and proposes that the existing core is “Residential B”, while the more peripheral areas will have lower housing densities as “Residential A” (coloured yellow). Four areas of green space are provided (light green in colour) and there are

pedestrian ways (darker green) giving access to some of the plots for development. The brown areas are for public buildings. This village was visited by the IAB who spoke to local leaders who were very positive about the preparation of the plan.

Case study 7: Plans that have progressed - Case Study 7: Abdullah Al Younis (Population 147)

The area covered by this plan is only 125 dunums (12.5 hectares). As can be seen the consultants have accepted a boundary that is drawn very tightly. The village is between the Green Line (i.e. the Israel/West Bank boundary after the 1948 Arab-Israel war) and the separation wall, which has cut off the village from its previous service centre, Ya'bad. In addition the village is located in land classified as a nature reserve, and state land surrounds the planning area. In these circumstances there is little that the Local Outline Plan can do to restore the connectivity that has been taken away from the village. In effect the village is a cul-de-sac, with one entrance on a 4km paved road from Bartaa Al Sharqia.

The plan seeks to accommodate a population of 400, by expanding around the core of the existing built up area on the top of the hill. It also provides for a small industrial area to the east and a small area for open space adjacent to the plan boundary in the north. The plan has been published for public objection, after going through ten modifications between December 2011 and December 2013.



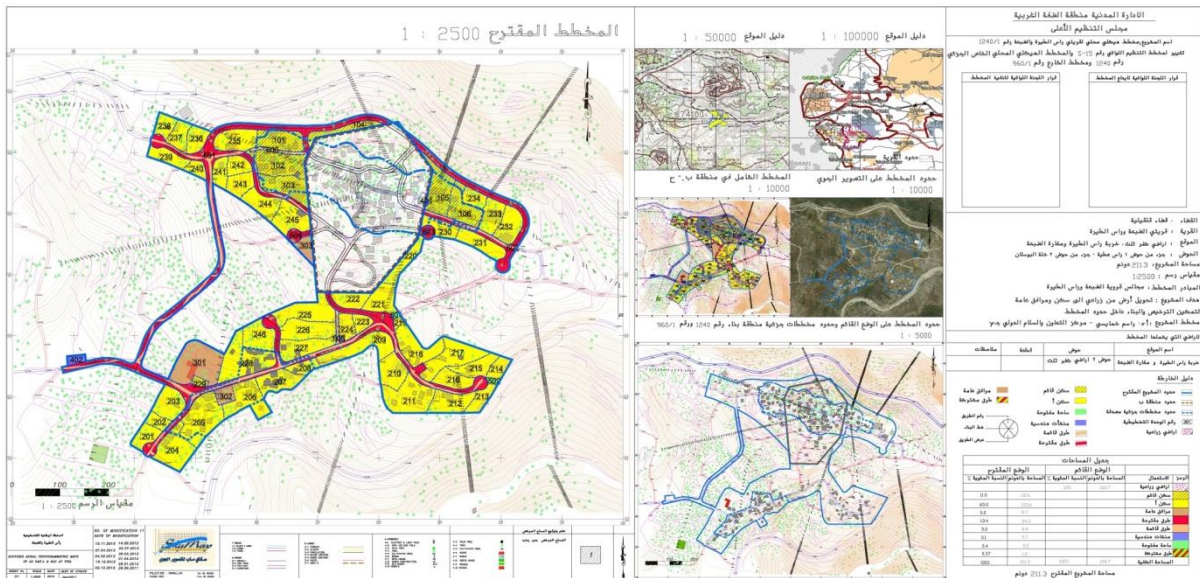
Slide courtesy of IPCC.

Case study 8: Plans that have progressed - Case Study 8: Dab'a (Population 325 ) and Ras Tira (Population 383).

Ras Tira and Dab'a are two villages in an area that lies between the Green Line and the separation wall, and close to expanding Israeli settlements. Not all of the area is in Area C – part is in B. Expansion to the north is restricted by the wall. The area included in the plan is 211 dunums (21.1 hectares). By accepting the constraints imposed by the ICA, including a buffer zone along the road, the consultants have been able to achieve the final authorization of the plan.

However, it is clear that the plan preparation process has involved coercion rather than advice. The wall restricts development opportunities, with a 300 meter buffer zone imposed. The villagers are cut off from land they have traditionally farmed. Roads that were included in the British Mandate Regional Outline Plan have been removed. A 5 metre set-back between buildings was required. Essentially, the consultants, through a

process of 11 modifications over a 14 month period, were able to iterate between what the villages would ideally have wanted and what the ICA required.







Slide courtesy of IPCC.

In addition the IAB received presentations from IPCC of plans for Imniezel and Tuwani, which are discussed below.

**Case Study 9: Imniezel (Population 450)**

### Case Study : Imniezel Locality

<b>Existing situation</b>	<b>450</b> Persons	<b>60</b> Households	<b>50</b> Dunums existing builtup area
<b>proposed outline plan</b>	<b>192</b> Dunums outline plan area	<b>142</b> Dunums residential area	<b>225</b> housing unit

	Water	School	k.G	Roads
<b>before planning</b>	0 %	50 %	0 %	0 %
<b>Implimentation</b>	100 %	100 %	100 %	100 %

<b>Plan extension documents</b>	11 GIS maps Locality Profile landuse map Regulation Transportation map Cut & fill sections Inviromental Study Sewage map Water map
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Slide courtesy of IPCC

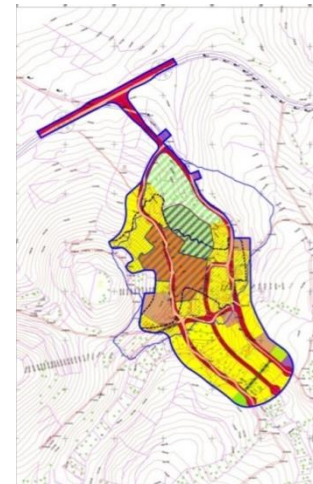
The first submission of the plan for Imniezel to the ICA was in July 2011. At the time of the IAB visit it had been advertised for public objection (13 November 2014) and the statutory 60 day period had been completed, with

a final authorization pending, so this would be categorised as a plan that is progressing. The plan has sought to include some agricultural land, and to make provision for a site for a school. The village boundary is required to be set back 400 meters from the main road.

The exclusion of the long “tongue” of land running north west – south east from the plan looks arbitrary and forces the creation of a number of cul-de-sacs. In other respects this is a quite orthodox approach to connecting what is mainly a housing expansion into an existing village. As the slide shows the village currently lacks a water supply, and this is an issue that the plan seeks to solve, as well as providing for a school, sewerage, basic roads, a health care facility, youth centre and kindergarten.

#### Case study 10: Tuwani (Population 370).

A Partial Special Outline Plan was issued by the ICA in 2005, defining the boundary but not providing any zoning. In 2011 the IPCC made its first submission to the ICA. The 60 day public objection period began on 1 January, 2014. The IPCC plan has sought to increase the area by adding land for development, and a connection to the main road, while also providing an internal road network to service the development, and a zoning of land within the boundaries. Within the constraints this seems a practical solution.



Outline Plan for Tuwani courtesy of IPCC.

In summary, the IAB looked at 10 plans, visited the sites of four of them and met with spokespersons for those communities, heard from five sets of planning consultants, and met with representatives of the ICA, MoLG and several others, as well as having available a range of reports and publications about planning in Area C. The Board’s findings are based on this wide range of evidence. They are grouped under three headings: benchmarking, processing of plans, and integrated planning.

The findings from the **benchmarking** exercise are:

**IAB Finding 13: These are long-term land use zoning plans for small communities, which have been prepared under conditions where normal considerations to accommodate village expansion and connectivity have had to be adjusted or abandoned to take account of criteria such as set-backs from the barrier wall, proximity to Israeli settlements, military areas and by-pass roads, or the threat of demolitions. Such criteria relate to actions illegal under International Humanitarian Law and the Law of Occupation.**

**IAB Finding 14: Within the constraints imposed by this exceptional context, and because the planning standards imposed by the ICA are not available in a written and comprehensive form, the IAB is of the view that all ten plans discussed above have met basic professional standards in terms of public engagement and in terms of land use zoning, given the limited purpose for which these plans have been prepared. On the basis of the evidence available, there are no appropriate technical grounds for delay or refusal of these plans.**

**IAB Finding 15: The growth boundaries imposed through these plans are arbitrary, and the IAB does not endorse them or the demolition of properties and agricultural buildings outside the plan boundaries. In general, the boundaries, which limit land where development can be authorised, are very tightly placed in relation to existing buildings within a village, and in some cases already developed areas are excluded. This**



sterilises opportunities to develop existing properties outside the line, and creates vulnerability to demolitions. The practice fosters conflicts within communities, and objections to plan proposals and hence delays in plan approval. Practice internationally is less rigid and affords opportunity to gain the right to develop, even in areas beyond planned growth boundaries.

**IAB Finding 16:** Conventional restraints on development that are common in international experience (e.g. to conserve forests, nature areas, archaeology, etc.) are imposed by the ICA, but inconsistently and with insufficient transparency.

**IAB Finding 17:** It is highly exceptional in international practice to find that the existence of a village is not recognised, and that this is used as a reason for refusal of a plan for the village.

**IAB Finding 18:** The level of detail required in the Local Outline Plans is excessive for small developments in rural areas. Required setbacks from roads appear excessive for these types of places, and density requirements seem arbitrary. Together with the very protracted process towards plan authorisation, requiring multiple meetings between those preparing the plans and ICA officials, this means that the total investment of staff time is far greater than would be normal in other countries for planning small rural communities.

**IAB Finding 19:** Uniform standards are imposed that seem likely to result in routine suburban environments that lack sensitivity to local cultures and building traditions, especially for Bedouin and herding communities. There is a lack of consideration from the ICA of issues of livelihoods, mobility and access to essential services, themes that are important when making and evaluating plans.

The Palestinian National Authority Ministry of Local Government (2010, pp.3-4) has made a number of critical observations about the approach to the preparation of master plans in Palestinian cities and villages. Though the IAB has not looked at plans produced for towns and cities in Areas A and B, the comments in the *Physical Planning Manual* have resonance in respect of the plans benchmarked in Area C. Specifically:

- the limitation of planning to the area defined by the planning boundary without covering the rest of the area/territory of a local authority, in particular with regard to infrastructure utilities outside the planning boundary (like water wells/springs, waste water treatment plans, solid waste landfills);
- a focus on data collection, rather than development challenges and opportunities, and overall strategies and phasing of actions; and
- the limitation of master planning to land use and zoning without sufficient consideration of the implications for infrastructure development and services provision, in particular with regard to the programming and phasing of needed investments, and the implications for budgets of local authorities.

Reference has already been made to the slow and expensive process of moving towards plan approval, the very small number of plans that have received final authorisation, and the comparison with the much speedier authorisation of plans for settlements within Area C. Further findings on the **processing of the plans** through the ICA's systems are now listed.

**IAB Finding 20:** There is a lack of transparency in the use of criteria since they are not published on the web in Arabic, but rather are explained verbally at the first meeting between the ICA and the planning consultants. Use of the Hebrew language in planning in Palestine creates barriers to communication; while translators are available, language differences create a risk of misunderstanding. The lack of written comment and advice from the ICA following meetings about preparation of plans is bad practice.

**Inadequate information and access to data creates delays, with ambiguities in land registration a particular problem.**

**IAB Finding 21: The process for vetting and objection to plans is cumbersome, involving different committees and contributing to excessive delays in determination of plans. In the context of occupation, the right of settlers to object to plans for Palestinian villages is inappropriate, as is the lack of a Palestinian voice in decisions about plans in Area C.**

**IAB Finding 22: Despite the evidently contentious nature of plan making in Area C, there are no dispute resolution procedures operating, other than expensive recourse to the Israeli courts. This is an exclusionary situation, and one likely to foster resentment rather than consensus building.**

Public bodies should respect and operate the principles of administrative justice. Good administrative justice requires them to:

- make users and their needs central, treating them with fairness and respect at all times;
- enable people to challenge decisions and seek redress using procedures that are independent, open and appropriate for the matter involved;
- keep people fully informed and empower them to resolve their problems as quickly and comprehensively as possible;
- lead to well-reasoned, lawful and timely outcomes;
- be coherent and consistent;
- work proportionately and efficiently;
- adopt the highest standards of behaviour, seek to learn from experience and continuously improve. (Administrative Justice and Tribunals Council, 2010, p.2).

**IAB Finding 23: The aspects of the occupation that constrain plan preparation, combined with the failings in the procedures and practices for processing and authorising the Local Outline Plans and the disregard for International Humanitarian Law and the Law of Occupation amount to a denial of administrative justice.**

Finally, there are findings in relation to integration – of policies, plans and places.

**IAB Finding 24: The separation of Areas A and B from planning in Area C prevents proper integrated planning. Local plans currently lack a framework to capitalise on functional linkages between villages and towns, and to address such linkages between towns in Areas A and B that necessarily pass through parts of Area C. The Regional Outline Plans from the 1940s are not an adequate basis for regional planning in 2015.**

**IAB Finding 25: The PA is right to prepare a National Spatial Plan, though the work is not yet complete. There are some Palestinian sectoral plans (e.g. for water, environment etc.), but they do not appear to be integrated into the spatial planning process. Inadequate local government, incomplete coverage by Joint Services Councils, and abolition of Local and District Planning Committees in Area C and the exclusion of Palestinians from Local and Regional Councils creates further fragmentation of governance.**

## Chapter 4 – Principles

The IAB considered the evidence in the context of principles of human rights, administrative justice and professional planning internationally.

### Human Rights as a basis for planning practice

While “the Government of Israel has consistently rejected any application of international human rights law to the oPt” (Diakonia, 2014, p.24), as members of the international community, the IAB is not constrained by this rejection. Planning in Area C, as in any other part of the world, should respect human rights. For example, access to education, health care and family life are human rights, but the restrictions on movement of Palestinians, e.g. through developments such as Israeli-only roads and the barrier wall, are seen internationally as denials of those rights. Therefore, planning standards contingent on such restrictions and imposed through the drafting of Local Outline Plans, cannot be seen as legitimate technical matters. Similarly, proximity to settlements, developments which themselves are widely recognised as illegal under international law, cannot be part of technical standards from a human rights perspective.

The restrictive planning regime in Area C has resulted in a significant shortage and adequacy of school infrastructure. At least 32 schools, used by 3,900 children, have pending stop-work or demolition orders (verbal or written). Some communities are distant from the nearest school and there are also physical obstacles and cases of intimidation that restrict children’s access to a school.

#### **Box 9: Planning and (lack of) access to schools**

Source: UN OCHA oPt (2014a, p.87).

Livelihoods must be a key consideration. Currently about a third of Area C residents rely on farming and herding (UN OCHA oPt, no date, p.4). These are activities for which access to land and to water is essential. A quarter of residents work in Israel or in Israeli settlements – for these people transport matters to access employment opportunities. Rather than a restrictive land use planning approach, Area C needs a form of planning that aims to drive rural development to lift people out of poverty and aid dependency.

Over a long period of time Israel has extended planning institutions and procedures over the West Bank. Through these it has facilitated the development of Israeli settlements while denying development rights to Palestinians from adjacent towns and in rural villages in Area C. This amounts to a *de facto* extension of sovereignty over Palestinian space and people. It cannot be trivialised as merely the routine application of an even-handed administration of planning “for the public good”. It has demonstrably negative outcomes for Palestinians.

A human rights approach to planning means putting the human rights principles of equality and non-discrimination, inclusion and participation, accountability and the rule of law at the heart of the planning process. These concerns with the process of planning are not optional extras subservient to technical measures determined top-down. Rather they are essential steps to achieving desired human rights outcomes such as the right to adequate housing, safe water and sanitation, and access to education and health care, and the right to gain a living by work freely chosen, and to family life, which are contained in the Universal Declaration of Human Rights and international human rights instruments including in the International Covenant on Economic, Social and Cultural Rights, which have been ratified by most UN member states, including Israel.

It is no coincidence that in the West Bank very poor and vulnerable communities are the consequence and victims of a planning process that has negated fundamental human rights principles.

### **Administrative Justice**

A human rights based approach to planning requires respect for the principles of administrative justice, the practice of which has already been outlined in Chapter 3. This belief informs the IAB's recommendations. This is not a purely normative stance, though it carries strong normative overtones. Rather in advocating administrative justice, the IAB is recognising norms endorsed by the international community. For example, administrative justice is implicitly expressed in the proposed UN Sustainable Development Goal 2016-2030 number 16, which says "Promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels".

### **Professional Planning**

Similarly, the approach to the planning and management of cities and human settlements (towns, villages etc.) is becoming not just a local matter but a global concern. This is recognised by the support amongst the international community for a post-2016 UN Sustainable Development Goal that reads "Make cities and human settlements inclusive, safe, resilient and sustainable" (Goal 11). Like the other 16 post-2015 goals, this applies to all governments, and at all scales, national, regional and local. Naturally then, it must inform the way the IAB reaches conclusions and recommendations.

Goal 11, like Goal 16 is not uniquely directed at professional planners. The actions of many different professions, stakeholders, businesses and NGOs - even in the case of the ICA, soldiers – shape the way that urbanisation is managed and develops. One reason why these Goals are not mere rhetoric is because to achieve them the cooperation of all the players is needed. Planners, perhaps more than most professions, have long subscribed to the view that actions of policy makers should be coordinated, and that successful coordination requires a strong spatial dimension. In Europe and in South Africa, for example, there has been the development of the idea of spatial planning as a way of integrating actions at a "horizontal" level across a territory (e.g. town, region, nation state or even across national borders), and also "vertically" – i.e. at the interfaces of policy making between such scales. As planners, the IAB members are guided by this principle.

As part of this increasing awareness of the international significance of planning urbanisation, UN-Habitat has been drafting *International Guidelines on Urban and Territorial Planning*. The drafting of these has recognised, amongst other things, a number of principles that are particularly relevant to the work of the IAB. These include:

- Endorsement of the value of national and sub-national regional plans as means to address economic, social and environmental challenges;
- Urban and territorial planning as an integrative and participatory decision-making process, and a core component of the renewed urban governance paradigm, which promotes local democracy, participation and inclusion, transparency and accountability, with a view to ensuring sustainable urbanisation and spatial quality.
- The role of local authorities in providing political leadership for the development of plans, while working in partnership with others;
- The important role of urban and territorial planning in provision of basic services, infrastructure and connectivity.

Lessons can also be learnt from how some other countries have tackled the preparation, adoption and use of guidelines for planning and development. For example, Box 10 summarises the South African approach.

In 1994 *Guidelines for the provision of engineering services and amenities in residential township development* was published. However, it was soon recognised that the guidance was restricted in its aims and perspective. It sought to produce serviced townships, but did not address the need for sustainable and vibrant human settlements. Some of the perceived shortcomings were: outdated and unwieldy urban-planning principles, insufficient information on various appropriate engineering technologies, and a general lack of an integrated approach to settlement planning. It was therefore decided to gather feedback from users of the book by

means of a series of countrywide workshops, where these and other problems could be debated by experienced professionals. Other forums, such as conferences and meetings of a number of professional societies, were also used as platforms for discussion and information

The workshops were attended by nearly 700 delegates representing a wide range of interests (e.g. consulting engineers, urban planners, local and regional authorities, provincial and central government departments, universities, technical colleges, developers, manufacturers, financiers and NGOs). The result of the deliberations was a great number of valuable recommendations and suggestions for improving the guidelines, as well as many requests for additional guidelines on various subjects. There was consensus amongst all parties present at the workshops that, in any development, a holistic, integrated planning process is an essential requirement and that planners, engineers and other professionals need to work together right from the conceptual stage of a project to achieve this. The result was the production of a new set of guidelines, with a new title, *Guidelines for Human Settlement Planning and Design*, and a new ethos.

**Box 10: An open and inclusive approach to improving planning guidelines – South Africa.**

Source: Council for Scientific and Industrial Research (2005, vol.1, chapter 1, pp.1-2).

Just as important as the process described in Box 9 was the result. *Guidelines for Human Settlement Planning and Design* decisively rejected the traditional technocratic, functionalist approach and rigid separation of land uses associated with a 20<sup>th</sup> century modernist planning. Instead, it was developed from human- and nature-centred approaches to the design and development of places for people to live. It says “a central purpose of planning is to ensure that the developmental needs and activities of people living in settlements are catered for and, in particular, that opportunities for people to achieve their full potential through their own efforts are maximised” (vol.1, chapter 2, p.1).

Thus the guide gives necessary emphasis to analysis of site characteristics such as slopes, landscape vistas, soil conditions, flood risk etc. as setting the context for subdivision. However, it also argues that “The relevant characteristics, needs and constraints of the community or anticipated target market are crucial informants that should guide land subdivision - especially with regard to levels of affordability (income profile) and community and individual preferences (e.g. it should be determined whether provision must be made for agricultural activities...)” (vol.1, chapter 5.6, pp.2-3).

The principles described in this Chapter inform the formulation of recommendations that now follow.

## Chapter 5 – Recommendations

While the report has been commissioned by UN-Habitat as part of a project funded by DfID to support the MoLG, the recommendations are pertinent to others. In particular, pending the long overdue transfer of full planning powers in Area C to the PA, there is much that the ICA could – and should – do to begin to deliver administrative justice, and to adhere to the kind of internationally endorsed principles outlined in Chapter 4. This would mean reversing entrenched practices and mind-sets, and would provoke opposition, not least from those Israelis who have settled (illegally) in Area C. However, it is important to recognise that such a shift would also command support within Israel, where individuals, NGOs and some politicians have been resolute in calling on their government to work for peace and a two-state solution. Indeed a change in planning is an essential but achievable stepping stone towards better Palestine / Israel relations and an eventual negotiated peace. Adoption of an equitable and inclusive approach to planning in Area C would receive international acclaim as a demonstration that annexation is not the goal. It would be a visible and practical way of advancing the peace process, demonstrating that civil, not military, matters are the basis for the day-to-day administration of occupied places.

Nobody should be in any doubt that planning matters in the West Bank. Removal of the current obstacles that the operation of the planning system presents to inclusive and integrated development is of fundamental importance to realising the economic potential of Palestine, as outlined by the World Bank (2013). It is the way to lift Palestine out of aid-dependency, and to improve the daily lives of Palestinian villagers. Many of them are very poor, and struggle to build simple homes for their families; they lack basic services such as a piped water supply, sewerage systems and accessible schools; they make a living by grazing sheep and goats but risk being denied access to land that they depend upon and have traditionally used; they live in fear of eviction and the demolition of their homes and animal shelters. It does not have to be like this. A change in the way the planning is done could make a significant difference. There is some urgency. Growth has stalled, lack of employment opportunities are widely reported in the sample of Local Outline Plans that the IAB has reviewed, and Palestine has a youthful demographic profile, which can be a driver of growth – or a swelling reservoir of unrest. Now is the time to act.

### **Planning needs to be a means for delivering human rights, not denying them**

- The sample of plans reviewed by the IAB are judged to be **technically sound**. On this basis, and in view of the excessively long period that the communities in Area C have been denied authorised land use plans for the development of their villages, the rest of the Local Outline Plans should be authorised immediately by the ICA and endorsed by the MoLG in a spirit of peace-building. These plans should be treated as the basis for development in Area C pending new PA-led approaches to rural planning and development in Palestine.
- With support from the international community, the PA should initiate a drive to dramatically increase **land registration**, with the eventual aim of complete registration. To succeed, ways will need to be found to resolve situations where people have been long term users of land, but never held – or have long since lost – a written title to it. The aim should be for Palestinian residents to have a secure proof of title. This would have quick economic benefits, by reducing uncertainties, increasing the efficiency of land transactions and the potential for tax collection, and by providing collateral against which loans and investment could take place.
- Communities should be recognised as drivers of the plans for their places. The fact that Israel has responsibility for planning in Area C does not mean that it has to operate the planning system in the way that it is currently doing. Community involvement is a central feature of all the other planning systems that IAB members know. Decisions are taken locally, except where developments have impacts on a wider scale. The effective exclusion of Palestinians from decisions about small scale developments that have only local effects is unnecessary and inequitable. An **independent planning advice service** could help communities develop their capacity to engage in planning, while also

endeavouring to reach those who are seldom listened to; given the age structure of Area C, children and youths are an obvious example.

- A system of **Local Planning Councils**, based on clusters of villages, should be reconstituted and given powers to decide on Local Outline plans and to issue building permits. It is beyond the remit of the IAB to address the local government structure in Area C, but it is clear to us that the existing system of Israeli settlement municipal and regional councils does not provide a basis for equitable and sustainable development of rural Palestine.

#### **A fair and transparent planning process**

- As an immediate step, ICA should publish in hard copy and on its website, in Arabic, as well as in Hebrew, the set of standards it requires Local Outline Plans to comply with. Publication of an English version would further demonstrate transparency to the international community. Along with the Physical Planning Manual of the MoLG (2010) these should be the focus of an inclusive process of consultation, led by the MoLG and supported by UN-Habitat, with a wide range of stakeholders, similar to that undertaken in South Africa and described in Chapter 4. The aim of the exercise should be to **agree and publish guidelines for the preparation, assessment and updating of plans**, based on the combination of “human-centred” and “nature-centred” approaches to design and development.
- **Written reasons for refusal / required amendments to plans or building permits should always be published** and easily available in Arabic.
- The **Local Planning Councils should have the power to approve plans** and issue building permits accordingly, subject to the power of the Higher Planning Council (or equivalent body) to “call in” and amend plans if they conflict with national or regional plans. Where plans are “called in” there should be a process of independent mediation to try to resolve the dispute, and there should be a time limit of one year by which, if plans are not determined, then they are deemed to be approved.

#### **Change the planning culture**

- The planning culture that has operated in Area C fits well to a top-down military system of rules, compliance and enforcement, but is less appropriate for delivery of good quality design and sustainable development, and is blind to diverse needs. The **context-based approach**, as exemplified in the South African guidelines, combining human-centred and nature-centred perspectives, should be explored and adapted to fit Palestinian needs. Similarly guidance on good practice can be found in School of the Built Environment, Heriot-Watt University (2005) report which argues that “Planners need to monitor how their area is changing, what the different local residents and businesses value about the place, and the range of expectations and aspirations they have for its future. ‘One size fits all’ is not appropriate when considering people or place” (p.15).
- More specifically, there are likely to be different **development needs, requiring different technical standards** between places within area C. A layout that is appropriate for extension of a town currently in area A or B is not the best solution for an isolated village or a nomadic community.
- The most acute need is to acknowledge the **rights of herder and Bedouin communities** to access land to sustain their culture and livelihoods.
- Planning needs to become – as it is elsewhere nowadays – **an enabling process**, rather than a purely restrictive mechanism. This means ensuring an adequate land supply to meet development needs over a 5-10 year period, and a proactive approach towards infrastructure and connectivity. Plans need to identify and promote development opportunities. If, in the short term, the Jordanian planning law cannot accommodate this shift away from static 20 year land use zoning, then it needs to be supplemented by non-statutory plans and development briefs.

## Integrated planning for sustainable development

- The PA MoLG should complete, publish and implement its **National Spatial Plan**, integrating plans and strategies for sectors such as transport into a spatial framework. This should include a rural development strategy that will particularly focus on achieving the development potential in what is currently Area C.
- Planning for functional urban regions is fundamental to rebuilding the economy. The PA MoLG should work with local government, the private sector and civil society partners to assist in the preparation and publication of **regional/sub-regional plans** based on main towns and their catchments and groups of villages, so that all the space of the West Bank is covered by up to date regional plans that address issues such as connectivity between places, infrastructure networks through Area C, economic development and natural resource management. Of course, there are major blockages in the short-term, notably the barrier wall: like any plan these new regional/sub-regional plans should point to a better future and to actions necessary to move towards it. These plans should replace the Regional Outline Plans from the British Mandate. Use might be made of visioning and scenarios as ways to explore alternatives and build consensus during the process of preparing these plans.

## Village planning

- The international community should continue to support the process of **Local Plan** making, with the aim of getting comprehensive coverage in Area C. As suggested above, approval of plans should rest with the re-established Local Planning Councils. The plans should be reviewed every 5 years. However, to expedite the plan preparation and adoption process and integrate development spatially, plans should be prepared for areas based on clusters of villages and the space between them. The plans should be consistent with regional level assessments of demographic change, housing need and service networks, which could be produced by the MoLG, and eventually the Local Plans should be in conformity with the proposed new regional / sub-regional plans.
- Approaches to **alternative dispute resolution** should be supported to resolve objections to the new Local Plans and to minimise recourse to the courts. If the ICA feels it needs to dispute the regional level assessments then alternative dispute resolution should be used.
- Plan preparation should be focused on **development challenges and opportunities and livelihoods**, rather than routine collection of extensive but largely descriptive data. An updated edition of the Physical Planning Manual might become a Local Planning Toolkit. The plans should be less prescriptive, less detailed and more willing to embrace mixed uses. Issues of implementation and phasing need to be addressed in the plans, addressing difficult decisions about where to concentrate service hubs, while supporting opportunities to fill gaps by local initiatives.
- Plan preparation should seek to specify and **provide permitted development rights** within approved plan areas. In other words, as far as possible, development in conformity with uses specified for a particular location within the plan would be deemed to be automatically approved with respect to planning, though technical requirements for building safety would still need to be satisfied. Meanwhile it should be possible for those wishing to undertake development outside a the area of a currently authorised Local Outline Plan to make an application and to have that application assessed of its merits by the Local Planning Council, with rights of appeal in the event of refusal or the imposition of conditions.
- The **donor community** should back the plans with investment. For now, such investment is crucial if Palestinian communities in the West Bank are to get access to basic services. When plans are produced and adopted by the people whom they are serving, the donors should recognise that this provides a legitimacy superior to planning regulations and constraints based on perpetuating a status



quo that has been widely condemned. However, investments of any type can have unintended outcomes, and so should have *ex ante* impact assessments, to help ensure that they “do no harm”.

### Summary

In summary, the IAB has found the current planning regime in Area C to be failing the Palestinian people whom it is obliged to serve under the Law of Occupation. A mixture of outdated plans, a lack of transparency, technical approaches that are inappropriate to the situation, impositions of conditions that seek to accommodate and make permanent illegal constructions and practices of the occupation, implementation through a military culture and a punitive approach to enforcement and demolitions all combine to create a discriminatory form of planning.

Though reached independently, many of the IAB findings and recommendations are already embodied in the UN-Habitat oPt approach (UN-Habitat oPt, 2014). Their efforts need to be sustained. As experienced planners, the members of the IAB were saddened by the situation they found in Area C. Within Israel, some members of the planning profession, along with others continue to voice similar criticisms. Within Palestine, planners have been faced with intolerable professional choices about how to best protect the interests of poor and vulnerable people. The villagers themselves have been denied basic human rights.

The focus of the work of the IAB has been on the plans for the villages in Area C. Thus the Board has only indirectly addressed the issues posed by the continuing proliferation of Israeli settlements, the on-going construction of the barrier wall, the conflicts over water, and the many other tensions that are present. A key part of our argument is that the delivery of a planning service to meet the needs of the people in this occupied area should be one of the less problematic issues to resolve. From our experience we know that there are better ways of doing planning than those currently operating in Area C. The Board has sought to be constructive, without shying away from criticism.

In accordance with the mission of the IAB, all recommendations in this report address the current situation under Israeli occupation of the West Bank. However, according to the Oslo Peace Accord, the planning functions in Area C were to be transferred eventually to the Palestinian Authority and neither Area C nor the planning practices there should be considered permanent. It is therefore necessary to consider how the recommendations aimed at improving the planning situation of Area C villages may contribute to a possible post-occupation situation.

The IAB believes that its recommendations will be valid and useful for a transition from the situation under Israeli occupation:

- The completion of the **land registration** and the reconstitution of **Local Planning Councils** will remain the basic prerequisites of local planning.
- Published **guidelines for the preparation, assessment and updating of plans, written reasons for refusal/amendments** of plans or building permits and the **approval of plans by the Local Planning Councils** will remain preconditions for fair and transparent local planning.
- The recommended **context-based approach** to define **different development needs** for urban and rural communities and consideration of the special needs of **herder and Bedouin** communities will remain valid.
- The recommended completion/updating of the **National Spatial Plan** and **regional/sub-regional plans** remain a prominent task for integrated planning of main towns and villages.
- The recommendation to prepare **Local Plans** for clusters of villages, to support alternative approaches to **dispute resolution**, to focus on **development challenges, opportunities and livelihoods**, the provision of **permitted development rights** and to encourage continued support by the **donor community** will remain valid also after the occupation ends.

The task of remaking a planning system to serve the needs of the Palestinian people must reside with the PA, with the MoLG working in partnership with other stakeholders. The PA should develop and promote its vision for planning and development in the West Bank, and share these widely in and beyond the region. In the short term, the ICA could do much to facilitate this transition, while still ensuring regard for Israel's security. However, if that does not happen, and if "unauthorised development" by Palestinians continues to face the same risks as at present, then it will be up to the donors, the PA and the villagers to decide if they are willing to take those risks. If they do, the community of planners internationally should stand up for the cause of planning as an inclusive and equitable process.

The Habitat III summit in 2016 would be an opportunity to showcase to the world the progress being made, and to connect the visions and practices in Palestine with the 2016-2030 Sustainable Development Goals 11 and 16. That is a major, but not the only opportunity, for international dialogues with planning and related professionals. The part that planning plays in the unfolding tragedy of the occupation remains unrecognised by most in the global community of planners. This needs to change.

The IAB hopes that this report will be widely and fairly considered, and prompt further discussion and improvements that will give the villagers security, access to essential services and new economic opportunities.

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## Appendix 1: Biographies of IAB members

**Cliff Hague (Chair)** is Emeritus Professor of Planning and Spatial Development at Heriot-Watt University. He works as a freelance consultant and researcher, mainly in European projects including the ESPON programme (European Observatory Network for Territorial Cohesion and Development). He is a past president of the RTPI and of the Commonwealth Association of Planners, and is a member of the UK's Academy for the Social Sciences. His books include *Regional and Local Economic Development* (2011) and *Making Planning Work: A Guide to Approaches and Skills* (2006). He co-authored *The State of the Commonwealth's Cities* (2010). He was Chairman of the Built Environment Forum Scotland ([www.befs.org.uk](http://www.befs.org.uk)), the intermediary body that links the sector to the Scottish Government, from 2011-14. As Chair of BEFS he led a workstream for the Scottish Government on how to measure the success of Scotland's first Historic Environment Strategy, *Our Place in Time* (<http://www.scotland.gov.uk/Publications/2014/03/8522>). He has also led BEFS' initiative on small towns, undertaking "health checks" on 8 Scottish towns, and writing the report *Small Towns in a Small Country*. He curates his own website ([www.cliffhague.com](http://www.cliffhague.com)).

**Martin Crookston** is an urban economist and planner, working as an independent consultant in strategic planning. He is a Board Member of Architecture+Design Scotland (a Ministerial appointment), a national Trustee of the Campaign to Protect Rural England, and an Editorial Board member on the journal *Built Environment*. A former director of the international Llewelyn-Davies planning consultancy, he was a member of Lord Rogers' Urban Task Force, where he chaired the Working Group on Design & Transport, and contributed to the influential final report *Towards an Urban Renaissance* (1999). He has worked extensively in the Arab world - Algeria, Jordan, UAE, Oman, Iraq - including the recent Update of Abu Dhabi's *Plan Capital 2030* and the very successful conservation and regeneration of the historic Bastakiya district of Dubai. He has written extensively on planning and development issues, and his recent book *Garden Suburbs of Tomorrow? - a new future for the cottage estates* (2014) explores the contribution - present and potential - of Britain's four million socially-built suburban homes.

**Christine Platt** is a professional consultant based in South Africa. Christine has an advanced degree in Town and Regional Planning. She has extensive experience in planning ranging from local government level to international level, working at grass roots with local communities as well as working with international stakeholders at the strategic global level, including around the reformation of the global planning agenda. She is the honorary vice president and immediate past president and CEO of the Commonwealth Association of Planners. She is engaged in many international planning committees, like the UN-Habitat Expert Group on International Guidelines for Urban and Territorial Planning (Chair), UN-Habitat International Advisory Board for the World Cities Report 2015 (Member), UN-Habitat World Urban Campaign Steering Committee (member), and South African Housing Development Agency since 2009 (Vice Chairman and Board member). Christine is a chartered member of the Royal Town Planning Institute (United Kingdom), corporate member of the South African Planning Institute, and a registered planner with the South African Council of Planners.

**Michael Wegener** was, until 2003, Professor and Director of the Institute of Spatial Planning at the University of Dortmund, Germany, and in 1988-89 Professor at the Department of Civil Engineering of the University of Tokyo, Japan. Presently he is a partner in Spiekermann & Wegener Urban and

Regional Research, Dortmund, Germany. His main research fields are planning theory and urban and regional development and urban systems with a specialisation in urban and regional modelling, in particular of the land-use transport interface in cities and regions. He is the author of one of the leading urban land-use transport interaction models in Europe, the IRPUD model. His research has included projects for the European Commission and the European Spatial Planning Observation Network (ESPON) as well as for national and regional authorities. He worked with Israeli and Palestinian researchers on projects about sustainable accessibility in Israel and the West Bank. Michael Wegener is a registered EU expert in the fields of regional and transport planning and a Corresponding Member of the German Academy of Spatial Research and Regional Planning (ARL).

**Mr. Gladki** has over forty years' experience working with government agencies and private sector organizations on land use and policy planning, urban regeneration, local economic development, affordable housing, planning approvals, strategic planning and municipal management. He is a Fellow of the Canadian Institute of Planners and a Registered Professional Planner. In the past Mr. Gladki has worked as a senior director at the City of Toronto's Planning and Development Department where he was responsible for preparing the City's comprehensive Zoning Bylaw and Official Plan. Prior to Gladki Planning Associates he worked at GHK International on planning policy and development assignments in Canada and around the world and taught at Toronto's Ryerson University. Some of Mr. Gladki's recent projects include: overseeing the preparation of the Official Plan for the City of Markham; preparing intensification studies for Richmond Hill, Ajax, Niagara and Toronto; completing and implementing the revitalization plan for Toronto's Regent Park, Canada's oldest and largest public housing project; contributing to three Precinct Plans for Waterfront Toronto; and successfully negotiating numerous planning approvals in Toronto for private, public and institutional clients. Over his career he has worked on numerous urban and regional strategic planning and economic development initiatives in cities in the Middle East, Europe, North America and Latin America.

## Appendix 2 Timetable of IAB visit, February 2015.

Activity	Time	Place
<b>Thursday, dated February 12, 2015</b>		
Arrive in Ramallah, Palestine	-	Grand Park Hotel, Ramallah
<b>Friday, dated February 13, 2015</b>		
Kick-off meeting – meet UN-Habitat staff; review tasks and programme	9:00-9:30 AM	UN-Habitat office/Ramallah
UNDSS – Security briefing	9:30-10:00 AM	UN-Habitat office/Ramallah
Meetings with Ministry of Local Government (MoLG) and International Peace and Cooperation Center (IPCC) to explore plan preparations and approvals process in Area C	10:00-11:00 AM	UN-Habitat office/Ramallah
Break	11:00-11:15 AM	UN-Habitat office/Ramallah
UN-Habitat/Norwegian Refugee Council– Planning context and legal issues	11:15-12:00 PM	UN-Habitat office/Ramallah
Tour in Jerusalem – Guided by IPCC	12:00-3:15 PM	Jerusalem area (including light lunch)
UN-OCHA– Fact-based briefing	3:30-5:00 PM	UN-OCHA/East Jerusalem
<b>Saturday, dated February 14, 2015</b>		
Present 8 cases (Induction package)	9:00 AM-1:00 PM	UN-Habitat office/Ramallah
Visit to 2 villages – Dab'a and Ras Tira (Qalqilyeh) + Dahr Al-Abed (Jenin)	1:00 PM- 7:00 PM	In the Field (including light lunch)
<b>Sunday, dated February 15, 2015</b>		
Meet with Bimkom – Planners for Planning Rights	11:30-12:30 PM	Bimkom office, Jerusalem
Visit 2 villages – Susiya (Hebron) + Khashem Al-Karem (Hebron)	12:30-4:00 PM	In the Field (including light lunch)
Cultural activity – Visit Church of Nativity in Bethlehem +	4:00-7:00 PM	Bethlehem
<b>Monday, dated February 16, 2015</b>		
Four IAB members are paired with a member of the Local Expert Support Group (ESG) to do assessment of plans.	10:00 AM-15:00 PM	Grand Park, Ramallah
Lunch with Senior Staff of Ministry of Local Government, including the Minister and Deputy Minister	14:30-15:30 PM	Grand Park, Ramallah
Reports are prepared and discussed by the Board.	15:30-16:30 PM	Grand Park, Ramallah
<b>Tuesday, dated February 17, 2015</b>		
IAB members are paired with ESG members. Reports are discussed by the Board. Drafting of final recommendations.	10:00 AM-15:00 PM	Grand Park, Ramallah



Meet with the Israeli Civil Administration (ICA) – Liaise with UNSCO	15:30 -17:00 PM	Hebrew University, Jerusalem
<b>Wednesday, dated February 18, 2015</b>		
Seminar + presentation of findings with invited key stakeholders.	10:00 AM-1:00 PM	Grand Park, Ramallah
Visit the first Palestinian planned city, Rawabi	3:00-4:00 PM	Ramallah area
Farewell activity.	5:00-6:00 PM	Ramallah area
<b>Thursday, dated February 19, 2015</b>		
Group departs. Wrap-up with IAB's chair.	-	

## Appendix 3      Biographies of Expert Support Group

- **Hana Sweid** has a B.Sc, M.Sc., and D.Sc in Civil Engineering, Faculty of Civil Engineering – Technion. He is the immediate past member of the Israeli Knesset, where he has been Chairing the Renewable Energy Committee, Parliamentary Lobby for the advancement of local government, and Parliamentary Lobby for Corporate Social Responsibility. Furthermore, he was a member in other different parliamentary committees, including: Economics Committee, Ethics Committee, and Sub-Committee on Food prices. Between 1993 and 2003 he was elected as the mayor of Eilaboun Municipality, where he received (twice) the prize of the Minister of the Interior on outstanding municipal management. He is the founder and CEO of the Arab Center for Alternative Planning (ACAP), which is a registered association specialized in advancing sound urban planning and economic development with special emphasis on the Arab society. He has extensively published articles and research papers in peer-refereed journals and professional symposia on engineering, urban planning, environmental issues, energy and climatology.
- **Jad Isaac** is the director general of the Applied Research Institute-Jerusalem (ARIJ) which is a leading Palestinian institute that conducts research on agriculture, environment, land use and water. He got his B.Sc. degree from Cairo University and his M.Sc. degree from Rutgers University and his Ph.D. degree from the University of East Anglia in the United Kingdom. He is the former Dean of Science at Bethlehem University. He has published more than 100 articles and books in his field of interest. He headed the Palestinian delegation for the environmental working group in the multilateral talks and is an advisor to the Palestinian negotiating team on final status issues. He is a member of the Palestinian Higher Council for Innovation and Excellence, Palestinian Scientific Research Council and the editorial board of Water Policy Journal.
- **Sameer Abu-Eisheh** is a Professor of Civil Engineering at An-Najah National University, Palestine. He received his Ph.D. from the Pennsylvania State University, U.S.A., in 1987. He served as the President's Assistant for Planning and Development, Dean of the Faculty of Engineering, and Head of the Department of Civil Engineering. He was a visiting Professor at a number of European and U.S. universities. He is the former Minister of Planning, Acting Minister of Finance, Acting Minister of Education and Higher Education, and Acting Deputy Prime Minister. He served as the Chair or Member of many Ministerial Committees. His area of specialty is transport planning and engineering. His fields of experience include as well road and traffic engineering, management of transportation systems, strategic planning, spatial planning, national and regional planning, and infrastructure development. He authored more than 100 published or conference papers, and participated in authoring two books and five manuals. He has offered consulting services to various international and local entities and led many transport and planning projects on the national, regional, and urban levels.
- **Marah Khayyat** is an urban planner, community-based development and tourism specialist that led multi-disciplinary teams who delivered projects related to urban development, city planning, revitalization of historic city centers and touristic development. Though graduated in 1982 as an architect from the University of Jordan, she was exposed to other areas of education and training that covered gender planning, low-income housing, project

management, partnerships' assessment and the preservation of cultural heritage. She also did her MBA in 1996. Marah has an extensive experience in tourism products development that covers developing sites, site management plans and management models for heritage sites based on PPP as well as facilitating the implementation of the National Tourism strategy/product development pillar. She has a good understanding of communities/target groups requirements coupled with a comprehensive background of sustainable urban and local economic development requirements. Already applied sustainability, community participation, gender equity and smart growth concepts into the different fields. Marah worked in the public sector, as a consultant at Ammam Institute for Urban development, USAID and later as an IM advisor at the UNWFP.

Appendix 4 Standards prescribed in the Regional Outline Plans for development in the agricultural zone.

Plan	Minimum Curtilage	Maximum Building Area	Maximum Number of Buildings Per Lot	Maximum Height of Main Building	Permissible Uses	Planning Institution Authorized to Issue Building Permits
RJ/5	1,000 square metres	150 square metres for the main building	Main building plus one outbuilding	Two storeys	Agricultural buildings; the farmer's home; guard buildings; technical facilities (water and electricity)  Other residential buildings (besides the farmer's home); industrial buildings; buildings for the production and storage of oil, explosives and so on; buildings that are part of a general development scheme	The Local Committee  The District Committee
S/15	1,000 square metres	180 square metres for the main building	Main building plus one outbuilding	Two storeys	Agricultural buildings; recreational buildings; guard buildings; technical facilities (water, electricity); residential buildings  Industrial buildings; buildings that are part of a general development scheme; other buildings	The Local Committee  The District Committee
R/6	1,000 square metres	150 square metres for the main building	Main building plus one outbuilding	Two storeys	Agricultural buildings; the farmer's home; guard buildings; technical facilities (water and electricity)  Other residential buildings (besides the farmer's home); industrial buildings; buildings for the production and storage of oil, explosives and so on; buildings that are part of a general development scheme	The Local Committee  The District Committee

Source: Imseis, 2012, p.62.