



Al Muntar reservoir, the main water storage capacity for Gaza city, was completely destroyed during the 2014 conflict. The reservoir was uploaded into the GRM system in July 2015, yet despite its critical role in the provision of water for Gaza City, it was not completed until November 2016. Photograph taken from reconstructed reservoir: Alison Martin/Oxfam September 2016.

# TREADING WATER

## The worsening water crisis and the Gaza Reconstruction Mechanism

**In the wake of the devastating destruction in Gaza in 2014, the Gaza Reconstruction Mechanism (GRM) was established as a temporary measure to facilitate the entry of construction materials and a range of items classified and treated as ‘dual use’ by Israel. Two and a half years on, vital water sector recovery and development remains hampered and fully controlled by the Government of Israel, demonstrating the extent to which Israeli government policies continue to undermine humanitarian response, cause de-development and exacerbate the separation of the Gaza Strip from the rest of the Occupied Palestinian Territory (OPT) and the world.**

**This paper analyses the effectiveness of the GRM in improving access to water, health and sanitation services, assesses the roles and responsibilities of a range of actors, and identifies urgent steps in relation to the GRM that should be taken to contribute to the development of a just, effective and sustainable water sector in Gaza.**

# ACRONYMS

GRM	<b>Gaza Reconstruction Mechanism</b> A temporary mechanism to allow the entry into Gaza of materials considered 'dual use' for the purposes of reconstruction following the conflict in 2014.
PWA	<b>Palestinian Water Authority</b> The body responsible for the management, development and protection of water resources for the Occupied Palestinian Territory.
DNA	<b>Detailed Needs Assessment</b> Assessment of the damage, economic loss and human impact of the 2014 escalation in violence in Gaza, across five sectors; 1) Infrastructure, 2) Production, 3) Livelihoods and Social Protection 4) Social Development 5) Governance.
OPT	<b>Occupied Palestinian Territory</b> Refers to the Gaza Strip and the West Bank including East Jerusalem, recognized as one territorial entity under international law.
PA	<b>Palestinian Authority</b> Established in 1994 to govern the Gaza Strip and parts of the West Bank, as a consequence of the 1993 Oslo Accords.
CLA	<b>Israeli Coordination and Liaison Administration</b> Unit responsible for implementation of Israel's civilian policy regarding the transfer of commodities and entry of civilians via land crossings to and from the Gaza Strip
UNSCO	<b>United Nations Special Coordinator for the Middle East Peace Process</b> UNSCO represents the Secretary-General and leads the UN system in all political and diplomatic efforts related to the peace process, including in the Middle East Quartet. UNSCO also coordinates the humanitarian and development work of UN agencies and programmes in the OPT, in support of the PA and the Palestinian people. UNSCO is the key UN office involved with the GRM.
WASH	<b>Water, Sanitation and Hygiene</b>
GRAMMS	<b>Gaza Reconstruction and Material Monitoring System</b> A comprehensive online information management system for the GRM.
UNOPS	<b>United Nations Office for Project Services</b> Provides project management, procurement and infrastructure services to governments, donors and UN organizations. UNOPS is the body responsible for monitoring the implementation of the GRM on the ground.
COGAT	<b>Coordinator of Government Activities in the Territories Unit, Government of Israel</b> A unit in the Israeli Ministry of Defence responsible for implementing the government's policy in West Bank and the Gaza Strip
CMWU	<b>Coastal Municipalities Water Utility</b> Body responsible for water and sanitation services in the Palestinian Gaza Strip.
KFW	<b>German government-owned development bank</b>
MoCA	<b>Ministry of Civil Affairs, the PA</b>
Gol	<b>Government of Israel</b>
UN	<b>United Nations</b>
IHL	<b>International Humanitarian Law</b>
NGOs	<b>Non-Governmental Organizations</b>
GDP	<b>Gross Domestic Product</b>
NORG	<b>Palestinian Office for the Reconstruction of Gaza, the PA</b>
INGOs	<b>International Non-Governmental Organizations</b>
USAID	<b>United States Agency for International Development</b>
UNICEF	<b>United Nations Children's Fund</b>
UNDP	<b>United Nations Development Programme</b>

# SUMMARY

The water crisis in Gaza is escalating dangerously. Even before the 2014 conflict, the water and sanitation sector was failing to provide for the needs of the 1.8 million people trapped in Gaza, isolated from the outside world.

As the humanitarian catastrophe in Gaza protracts, exacerbated by the 10-year blockade that prevents critical reconstruction and development of safe water and sanitation systems, the water crisis will only intensify.

Israel's illegal blockade of Gaza severely limits, or prevents altogether, the entry of materials that would allow the water and sanitation sector in Gaza to recover from years of conflict and de-development.

The prevention of entry of these essential items, treated by Israel as 'dual use,' raises questions about the disproportionate balance of Israel's security concerns over the rights of Palestinians.

The Gaza Reconstruction Mechanism (GRM) was designed to facilitate urgently needed reconstruction, however it is subject to the same ultimate controls as the blockade itself and as such its capacity to meet the needs of Palestinians living in Gaza is heavily constrained. It has failed to circumvent the challenges of the blockade to enable the necessary scale and pace of reconstruction and recovery.

The GRM takes as its starting point the blockade, formalizing and giving the appearance of legitimizing an extensive control regime that is designed to restrict rather than facilitate the entry of materials. In building a systemized process to administer the 'dual use' list, the parties – the United Nations and the Palestinian Authority (PA), alongside the Government of Israel (Gol) – have adopted an unquestioning position which seems to accept it as legitimate (notwithstanding criticisms of the 'dual use' list outside the functioning of the GRM). This approach narrows the expectations placed on the GRM and relegates the system to a complicated bureaucracy that in part administers rather than challenges the blockade. The GRM in its current form and function is fundamentally and unavoidably constrained by the Gol's ultimate control over the 'dual use' list.

The mechanism allows Israeli authorities the power to significantly delay or not approve projects at all, as well as to reject specific items essential for the delivery of infrastructure, despite stringent monitoring undertaken and funded by the international community.

The GRM has facilitated the entry of materials to an extent that may not have been possible without it, with most of the repairs to water and sanitation infrastructure damaged in the 2014 conflict now completed. However, the mechanism is increasingly being used for longer term projects and is failing to operate at the pace or scale necessary to meet the levels of need. Since its inception, less than half of the water, sanitation and hygiene projects which have entered the system have

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*'Our house is not connected to the sewage system; we depend on sink holes: open, uncovered pits to collect sewage. When the hole is full, we empty it ourselves. Our children are always having skin issues as they play around outside the house. They often have diarrhoea, we have lots of mosquitoes. The doctors cannot help.'*

The Amir family, Gaza.

been completed and almost 3000 'dual use' items critical to these projects are yet to be approved, awaiting the individual approval of each item needed, even when the project itself has already been approved. The GRM contains no inbuilt accountability mechanisms regarding timelines for approval or to ensure that the parties comply with international law obligations.

The limitations of the GRM are compounded by challenges such as the internal Palestinian divide between the authorities in the West Bank and the de facto authorities in the Gaza Strip, including limited and in some cases non-existent coordination or communication.

The impact of all these constraints is particularly severe on the water and sanitation sector, due to the technicality of such projects, the chronic nature of the need and the fact that the majority of construction material and technical items needed for water and sanitation infrastructure rehabilitation fall under the category of 'dual use'.

The result for Palestinians living in Gaza is undrinkable water, a dangerous lack of adequate sanitation and little hope on the horizon for better conditions.

The international community must urgently reassess its approach to the GRM, including by taking a more critical position in relation to Israel's security objectives rather than necessarily accepting them as a basis for negotiations. Key stakeholders must adhere to humanitarian principles and ensure that in all discussions and agreements the security concerns of an occupying power do not violate the rights of civilians living under occupation, as guaranteed under international law.

Otherwise de-development will spiral, construction will stagnate and the UN's prediction that Gaza will be unliveable by 2020 will be realized.

# WATER CRISIS WORSENS DAILY

Humanitarian needs in Gaza remain enormous. The Israeli-imposed blockade, now in its 10th year, prevents vital reconstruction, deepens de-development and causes immense suffering.

In penalizing an entire population for acts they have not committed, the blockade constitutes collective punishment under International Humanitarian Law.<sup>1</sup> It has devastated Gaza's economy and continues to entrench the separation of Gaza from the West Bank, including East Jerusalem, and the rest of the world. Despite substantial donor pledges to support reconstruction following the 2014 conflict, the situation for Palestinians living in Gaza has never been worse.<sup>2</sup>

As a result of the compounding impacts of 50 years of occupation combined with recurrent conflict, people in Gaza were already facing a dire shortage of safe water and adequate and equitable sanitation systems before the 2014 conflict, with less than a quarter of households receiving running water every day.<sup>3</sup>

The only source of fresh water in Gaza is a small part of the Coastal Aquifer which is heavily polluted, severely depleted and incapable of meeting the immense needs. The Gaza Strip is one of the most densely populated areas in the world, with a growing population expected to exceed 2.1 million by 2020.<sup>4</sup> Due to the failure of the sector to keep pace with this rapid population growth, the aquifer has been pumped beyond its sustainable yield. The water level has fallen below sea level, resulting in sea water intrusion and rendering 96 percent of the water undrinkable.<sup>5</sup> The section of the aquifer along the Gaza Strip is also heavily polluted due to untreated sewage infiltration and fertilizer run-off from agricultural land. The Palestinian Water Authority (PWA) expects demand for water from the aquifer to increase by 60 percent by 2020.<sup>6</sup>

Attacks in 2014 caused further significant damage to Gaza's water and sanitation systems. Gaza's only power plant was bombed, leaving water and wastewater pumps and treatment plants with extreme shortages of electricity.<sup>7</sup> In a clear violation of international law, the main water reservoir for Gaza city was destroyed, despite its location being known to the Israeli authorities.<sup>8</sup> Of the donor pledges made at the Cairo Conference, approximately \$1.6bn had been disbursed as of July 2016, including \$385.6m for the reconstruction of infrastructure including Housing, Energy, Water, Transport and Explosive Ordinance Disposal.<sup>9</sup> However, funding needs far exceed this. Investment needed in large-scale water sector infrastructure – on which the blockade and the 'dual use' list have impacted heavily – was estimated at over \$900m following the 2014 conflict.<sup>10</sup>

*'Israel's continued occupation of Gaza is maintained through an extensive military, economic and social blockade of the territory, which reinforces its separation from the world and the rest of the Occupied Palestinian Territory. As a form of collective punishment imposed upon an entire population, the blockade is contrary to international law.'*

Michael Lynk, the UN Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, October 2016

With limited funding to recover, rebuild and undertake large-scale development of municipal infrastructure, local government units are facing difficulties in delivering essential social services.<sup>12</sup> Municipalities are formally mandated to provide water and sanitation services within their jurisdiction, however they have very limited resources to maintain, rehabilitate and upgrade existing water and sanitation infrastructure. The water network itself faces significant inefficiencies due to limited operational effectiveness, including that 40 percent of the network water is lost through leakage.<sup>13</sup> While the piped domestic water is chlorinated, it is not fit for drinking and many rely on water purchased from private water trucks for drinking and cooking.<sup>14</sup> 95 percent of Palestinians in Gaza depend on desalinated water, with 40,000 people still without access to a municipal water network.<sup>15</sup> Sanitation is also severely inadequate, with almost a third of households not connected to the waste water collection system and up to 116 million litres of raw or partially treated sewage discharged into the Mediterranean Sea daily, posing serious health risks to Gaza and the region.<sup>16</sup>

Lack of access to basic water and sanitation disproportionately impacts on women and girls, who bear primary responsibility for household functioning. Barriers to access and limited availability lead to additional time being allocated to these tasks, impeding women's ability to participate in the labour market or in other activities.<sup>17</sup> Shortages of safe water also mean that women may be more likely to use low-quality water for personal hygiene, cooking or drinking. Contaminated water places children at risk of diarrhoea, vomiting and dehydration, while also leaving them vulnerable – along with pregnant women – to the longer term effects of chemical contamination, such as by nitrates.<sup>18</sup>

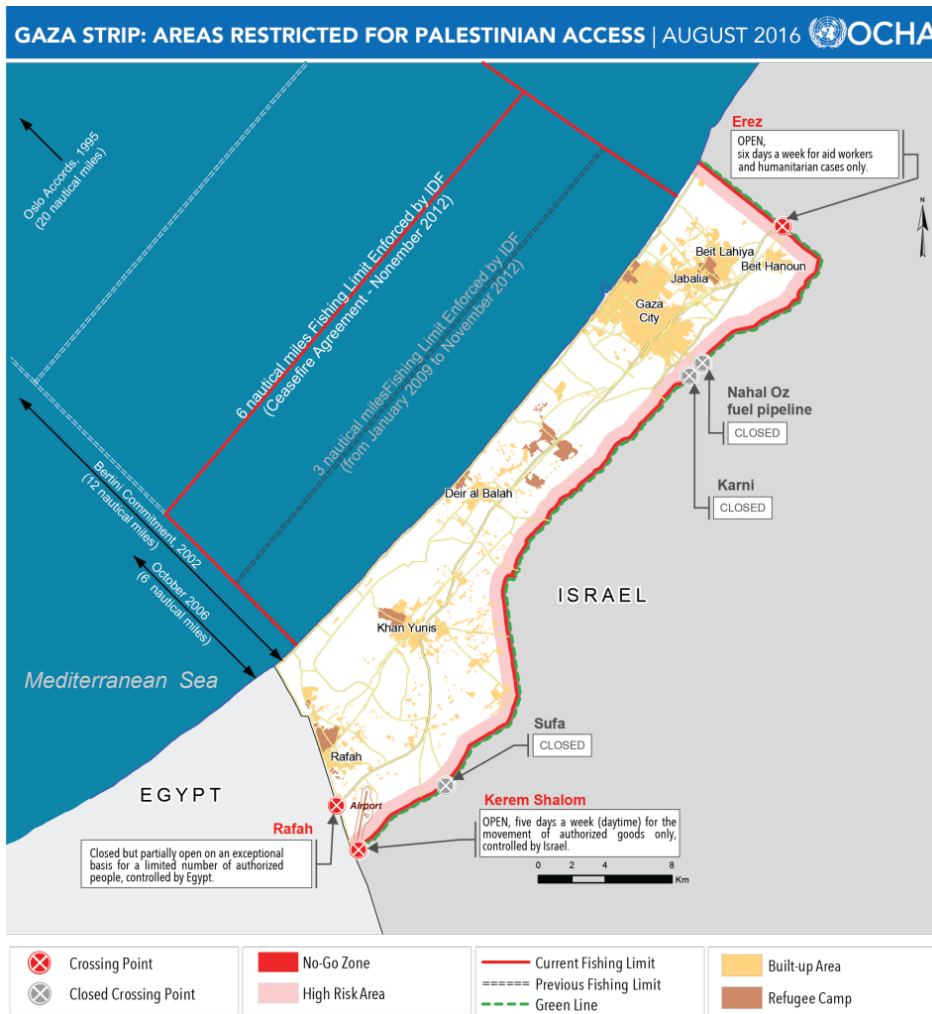
Delayed reconstruction due to restrictions on the entry of materials, as well as lack of funding for much needed projects, means that civilians continue to suffer from substandard or a complete lack of safe water and basic sanitation. Further, the potential positive impact of reconstruction is hampered by the scale of Gaza's chronic water and energy crises, which predate the war and have their root causes in the broader political and humanitarian context; chiefly the 50-year occupation, including the 10-year blockade.<sup>19</sup>

The Palestinian Water Authority is responsible for the management, development and protection of water resources for the OPT, and has developed a strategy to address the challenges facing the water sector.<sup>20</sup> However, severe restrictions on imports and access due to the blockade mean that these critical and otherwise achievable projects are exceedingly difficult to implement.

*'Through war after war, the existing and already poor water infrastructure in Gaza is repeatedly destroyed or damaged. With a near decade-long blockade, some of the WASH projects remain delayed, incomplete or inoperative as vital materials take months to reach the local market – if at all. The international community is putting much-needed funds into Gaza's recovery and development. And yet, the vigorous political action needed to support these financial commitments is not pursued. As a result – and lacking necessary international pressure – the Gaza water crisis worsens every day.'*

Maher Al Najjar, Deputy General Director of CMWU<sup>11</sup>

**Figure 1: Areas restricted for Palestinian access in Gaza Strip**



Construction material and other items can only enter through Kerem Abu Salem (Kerem Shalom) border crossing, authorized and controlled by Israel and with limited capacity.<sup>21</sup>

Erez checkpoint remains open six days a week for aid workers, exceptional humanitarian cases and occasionally for business people.<sup>22</sup>

Sufa, Karni and Nahal Oz Border crossings remain closed, imposing severe constraints on import capacity.<sup>23</sup>

The isolation of Gaza is further exacerbated by restrictions imposed by the Egyptian authorities on Rafah border crossing.<sup>24</sup>

### The Gaza-specific 'dual use' list<sup>25</sup>

Following the Hamas takeover of the Gaza Strip in 2007, Israel imposed restrictions on goods entering Gaza, enabling only limited entry of basic food items in sufficient quantity to avoid a humanitarian crisis. The list of permitted items was updated and changed periodically, and a substantial change came about in May 2010, after the Israeli navy attacked a Turkish flotilla to Gaza. Israel then began to allow the entry of materials except for those it described as having a potential 'dual use' – that could be used for both civilian and military purposes.<sup>26</sup> While internationally, 'dual use' lists exist in relations between countries, in this case it is not a balanced relationship between sovereign states but rather restrictions being imposed by an occupying power which has the obligation to safeguard the wellbeing of the protected population – Palestinians living in Gaza.<sup>27</sup> The initial list included a number of items: fertilizers, chemicals and raw materials for manufacturing, metal pipes, lathes, and navigation and surveying accessories. A major change was made in March 2015, when an additional 48 items were included on the list. A further 13 items were added in November 2015 including wooden planks, smoke detectors, castor oil, asbestos insulation, graphite powder and heavy lifting equipment. The unique list for Gaza also includes watercraft, heavy vehicles, asphalt, building bricks of any kind, and wood panels more than 2cm thick.

A number of construction materials and means to manufacture were permitted entry only for projects 'authorized by the PA and implemented and monitored by the international community'.<sup>28</sup> This prepared the ground for the Project Stream of the GRM.

The 'dual use' list for Gaza poses a number of serious concerns under International Humanitarian Law (IHL) and International Human Rights Law (IHRL), including the following rules:

- The right of civilians to receive humanitarian assistance.<sup>29</sup>
- The duty of the occupying power to ensure food and medical supplies to the population, to the fullest extent of the means available to it.<sup>30</sup> Should the population be inadequately supplied, the occupying power shall allow and facilitate humanitarian access.<sup>31</sup>
- The right of the occupied population to humane treatment.<sup>32</sup>

Estimates suggest that 70 percent of construction material and technical items needed for water and sanitation infrastructure rehabilitation fall under the category of 'dual use'.<sup>33</sup>

In submitting items for approval, details of each required item must be specified. This creates a lengthy process and there is no general guidance on whether or not a particular item is acceptable. In response to the stringency of the system and in an attempt to streamline the process, stakeholders report that they have started using the exact same item and description in subsequent projects to ease the approval process. Applicants then follow up on each item individually with the Israeli Coordination and Liaison Administration (CLA), explaining specifics. Feedback from stakeholders also indicates that this system is the same as it was under CLA direct coordination before the GRM was instituted, indicating that this is an element of the blockade which has been institutionalized by the GRM process.

In December 2016, a list of 'dual use' items approved and imported was made available on the [GRM.report](#) website.



# THE GRM AND WATER AND SANITATION

The GRM was established in the months following the 2014 ceasefire and includes processes for the approval, purchasing, supply and monitoring of building materials otherwise restricted from entering Gaza, to reconstruct structures destroyed in July and August 2014. This includes aggregate, reinforcement bars and cement – so called ABC materials – and other items treated or classified by Israel as ‘dual use.’ For a more detailed overview of the functioning of the GRM, please see Annex 1.<sup>36</sup>

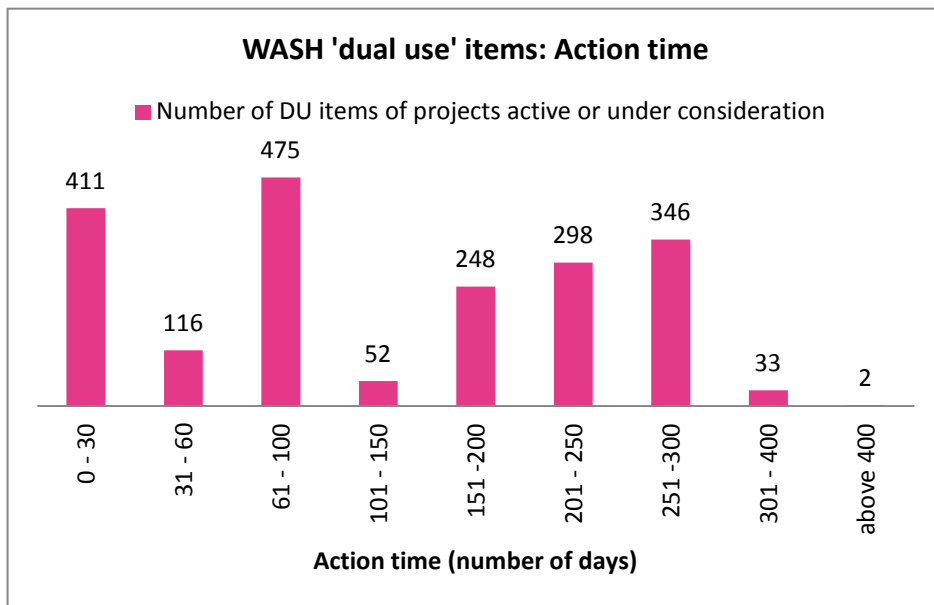
Projects and materials may be delayed due to a number of factors, including hold-ups with approval by the PA at various stages, while it has also been reported that ‘Palestinian objections in principal to the inclusion of international water projects in the GRM kept projects on hold for several months, until agreement was reached on their inclusion in the GRM’.<sup>37</sup> Other factors also contribute to limited sector development, such as lack of capacity, funding, and sector coordination. However, stakeholders interviewed for this research most often highlighted that the requirement for Israeli approval of projects and ‘dual use’ items, whether via the GRM or otherwise, is the primary cause for delays and obstruction of project implementation. The process dictates that each project must be approved first, then each ‘dual use’ item; those items can be rejected even if the project itself has already been approved. Stakeholders report that this process hampers effective project management and leads to costly delays. As of November 2016, the majority of ‘dual use’ items still pending approval for water and sanitation projects had been awaiting approval for between 61–100 days (see Figure 2).

The gap between ‘dual use’ items submitted for approval and finally being imported is constantly growing, hampering the implementation of water and sanitation projects.

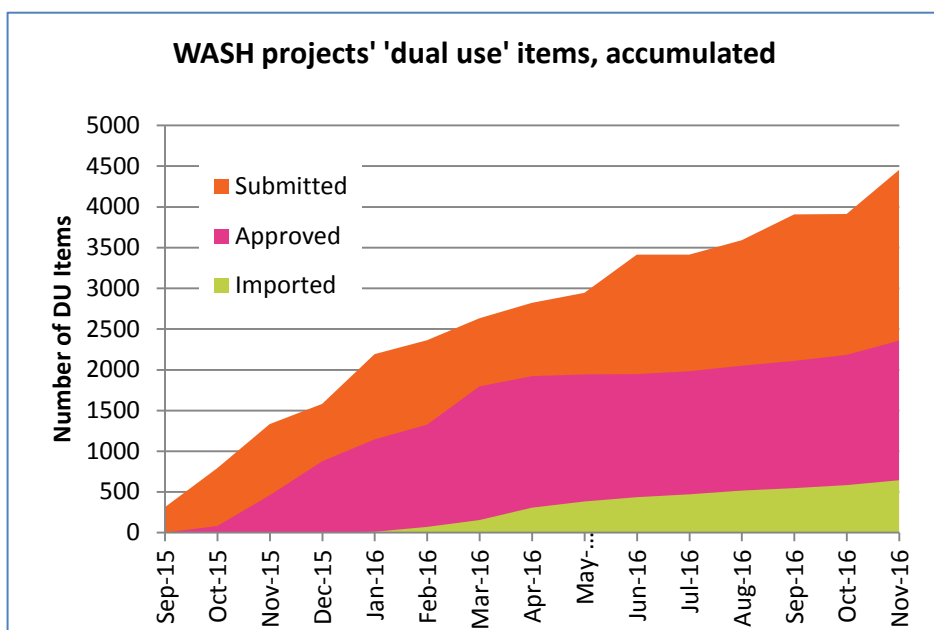
*Just 64 of a total of 142 water, sanitation and hygiene projects that have entered the GRM system have actually been completed – less than half.<sup>34</sup>*

*There have been 5,373 ‘dual use’ items submitted for water, health and sanitation projects, of which an alarming 2,950 are still awaiting approval, with just 856 imported – less than 16% of the total needed.<sup>35</sup>*

**Figure 2: ‘Dual use’ items still awaiting approval for water and sanitation projects. The table shows the breakdown of the amount of time items have been pending, as of November 2016, demonstrating that the majority of items have been waiting for between 61–100 days.**



**Figure 3: Import of ‘dual use’ items related to water, sanitation and hygiene over time, demonstrating the gap between those submitted, approved and finally imported.**



Sources: GRAMMS Data provided by UNOPS, November 2016.

It is important to note the immense scale of investment needed in large-scale water infrastructure – as previously noted, \$900m – much of which will need to be facilitated predominantly through the GRM. (See also Annex 1, which includes a table showing water and sanitation projects for which funding has already been secured, reflecting the large volumes of construction material and technical items that must yet be imported into the Gaza Strip.)

Stakeholder consultations suggest that any new water and sanitation infrastructure projects aimed at sector development are now expected to be facilitated via the GRM.<sup>38</sup> This effectively provides the GoI with the power to approve or reject projects, reflecting the dynamics of the blockade and allowing the GoI direct influence over water sector development.

#### **Destruction and delay: the Al Muntar water reservoir**

The Al Muntar reservoir, the main water storage capacity for Gaza City, was completely destroyed by airstrikes during the 2014 conflict. The reservoir is needed to store water purchased from MEKOROT, the Israeli National Water Company, as provided under the Oslo Accords.<sup>39</sup> In addition to storage, the reservoir is needed for pressure regulation and the blending of water received from MEKOROT with brackish highly saline water from the Coastal Aquifer. This is essential to increase the quantity of water available in the network to be delivered to households, to lessen the salinity of the water and to reduce the amount of water pumped from the Coastal Aquifer.

The destruction of the water reservoir has had severe impacts on water availability for Palestinians living in Gaza City, as instead of being stored and mixed to increase the amount of water available, it is directly delivered to the network, meeting only 10 percent of the city's needs.<sup>40</sup>

The reservoir was uploaded into the GRM system in July 2015. Yet despite its critical role in the provision of water for Gaza City, it was not completed until November 2016.<sup>41</sup>

It took up to 153 days to receive a response from COGAT on most of the 'dual use' items requested through the GRM for the reconstruction of Al Muntar.<sup>42</sup> Some items were totally rejected, while others were approved in lower quantities than required, resulting in adjustments to planning details and creating severe delays in project implementation.<sup>43</sup>

The reservoir's reconstruction falls under the responsibility of the Coastal Municipalities Water Utility (CMWU) as the water utility for Gaza. KfW, a German-government owned development bank, agreed to finance the reconstruction, at an estimated cost of \$820,000.<sup>44</sup> The responsible project engineer highlighted lack of clarity of the GRM process and a frequent need for adjustment of planning details as reasons for the project's delay – challenges which were partly counteracted by direct but informal communication between KfW and COGAT.<sup>45</sup>

*The Al Muntar reservoir was uploaded into the GRM system in July 2015. Yet despite its critical role in the provision of water for Gaza City, it was not completed until November 2016.*

# GRM AND THE RIGHT TO HUMANITARIAN ACCESS

## Falling short and failing Gaza

The humanitarian crisis in Gaza is a result of the 50-year occupation, including the Israeli-imposed blockade, compounded by the effects of recurrent conflict. The primary obligation under international law to provide for the humanitarian needs of Palestinians living in the OPT rests with Israel as the occupying power.<sup>46</sup> Where it is unwilling or unable to do so, it has an obligation to agree to relief programmes, which it must facilitate by all means at its disposal.<sup>47</sup>

The GRM must be considered in this context.

The urgent need to facilitate humanitarian access for reconstruction, in the context of the blockade by which Israel exercised control over the main access points into Gaza, allowed for the assurance of Israel's security to form the implicit underpinning principle for negotiations.<sup>48</sup> The GRM reflects the overall dynamics and restrictions of the blockade, including through embedding within the mechanism the Gol's power to refuse entry of essential humanitarian assistance. (See Annex 1 for further details on the functioning of the GRM.)

The United Nations Special Coordinator for the Middle East Peace Process (UNSCO) – the key UN agency involved with the GRM – maintains that the GRM is an agreement between the Gol and the PA, with the UN as a broker. However, the text of the GRM itself states that it is an agreement between three 'parties': the Gol, the PA and the UN, the latter being represented by UNSCO.<sup>49</sup> The UN Special Coordinator for the Middle East Peace Process at the time, Robert Serry, also referred to a 'trilateral agreement'.<sup>50</sup> In any case, the UN's substantial involvement in the design and functioning of the GRM raises a number of concerns in relation to humanitarian principles and the delivery of assistance as protected under International Humanitarian Law (IHL).

In response to the immense and urgent need to facilitate entry of materials after the destruction of 2014, the GRM was instituted as a temporary, imperfect mechanism. Two and a half years on, it continues to function and has absorbed and institutionalized a number of elements of the blockade, providing rights and control to Israel in relation to the entry of humanitarian assistance, with no timeline in place for its cessation. This includes the Gol's power under the GRM to object to any project including humanitarian projects, reflecting the overall control dynamics of the blockade. Meanwhile – as is emblematic of the broader conflict – some of the significant costs of the blockade have been shifted to the international community rather than being borne by the Gol, which imposes the restrictions and has the primary responsibility under IHL for providing for the needs of the protected population. UN agencies shoulder significant burden, being primarily responsible for intensive

*UNSCO has brokered a trilateral agreement between Israel, the PA and the UN to enable work at the scale required in the Strip, involving the private sector in Gaza and giving a lead role to the PA in the reconstruction effort, while providing security assurances through UN monitoring that these materials will not be diverted from their entirely civilian purpose.*

UN Special Coordinator for the Middle East Peace Process, Robert Serry, September 2014.

monitoring of materials, while donors are required to include additional costs to facilitate material entry. The GRM also fails to impose obligations on Israel or hold it to account as the occupying power under IHL.<sup>51</sup>

It is clear from the dire condition of the water, sanitation and hygiene infrastructure in the Gaza Strip, and the impact that this has on those living there, that effective humanitarian relief is not being sufficiently facilitated by the GoI in accordance with its responsibilities under IHL. While the GRM was created so as to facilitate such relief, it has in practice, through its opaque complexity and the formalization of Israeli control over humanitarian access, become a tool for entrenching Israel's systematic violation of these obligations.

Given the failure of Israel to fulfil its responsibilities to ensure the wellbeing of Palestinians in the OPT, it is even more critical for international actors to ensure the principled delivery of humanitarian assistance.<sup>52</sup> This responsibility must be borne by the UN and its agencies as well as donors and the range of NGOs operating in the OPT. As a key actor within the GRM, the UN must give serious consideration to its own participation in this system, and take all feasible actions to ensure that it is in no way complicit in violations of IHL. As a party to the GRM, the PA must also do its utmost to ensure the delivery of aid in accordance with IHL.

# SECURITY AND HUMANITY: OBLIGATIONS UNDER INTERNATIONAL LAW

The dominant narrative used by the Gol to justify its control over the Gaza Strip is the underlying imperative to ensure the security of Israel. To this end, Israeli authorities have said that opening the crossings into Gaza would significantly undermine the security of Israelis.<sup>53</sup> It should be noted, however, that Israeli security and political figures have argued that allowing the entry of construction materials is important in preventing or at least delaying insecurity and further escalation.<sup>54</sup> On this basis, preventing the entry of these materials would in fact be detrimental to Israel's security. As such, Israeli military experts, such as Major General (res) Natti Sharoni, President of the Council for Peace and Security, have firmly acknowledged the need for change: 'Israel must recognize the need to lift the Gaza closure, which causes political damage and does not help undermine the Hamas regime or stop weapons being smuggled into Gaza.'<sup>55</sup>

Indeed, a recent report on the 2014 conflict by the Israel State Comptroller was highly critical of Israeli government officials as well as its military and intelligence services.<sup>56</sup> The report highlighted the lack of discussion on the civilian and humanitarian situation in Gaza in the lead-up to the conflict, noting that strategic consultation about Gaza did not address 'the severe problem of infrastructure in Gaza [...] including its potential dangerous implications for Israel'.<sup>57</sup>

A new poll by Israeli human rights organization Gisha also found that 67 percent of Israelis believe the government's policies in the Gaza Strip have worsened security, with 69 percent believing that improving conditions in Gaza helps Israel's interests.<sup>58</sup>

In addition to citing direct security concerns, the Gol has itself justified its access regime as forming part of a campaign of 'economic warfare' against Hamas.<sup>59</sup> While Israel has legitimate security concerns – including indiscriminate rocket fire from within Gaza by armed groups, which constitutes a clear violation of international humanitarian law – such statements raise questions as to whether military necessity is the full motivating factor behind all of Israel's actions.

The central tenet of IHL, including the law of occupation, is the balance between military necessity and humanity.<sup>60</sup> Even if it were deemed necessary for Israel to implement some form of access restriction regime, it is prohibited from disregarding the humanitarian requirements of the occupied population when doing so. The provisions of IHL, including the Hague Regulations and the Fourth Geneva Convention, are crafted so as

to already account for this balance between military necessity and humanitarian concern. Therefore, military or security requirements do not justify the failure to comply with the humanitarian prescriptions of IHL.<sup>61</sup> Israel's invocation of security needs can never provide a valid justification for acts that amount to collective punishment, or for the violation of obligations to provide for the humanitarian needs of the occupied population and to facilitate humanitarian relief.

Despite the evidenced, destructive impact on Palestinian lives, the devastation to Gaza's economy and severe hampering of humanitarian interventions, the international community has done little to challenge Israel's invocation of security as a justification for acts that violate IHL.

The GRM provides an example of this. With one of its key objectives being to '(a)ddress Israeli security concerns related to the use of construction and other 'dual use' material', the mechanism further entrenches through its form and function restrictions that violate the IHL protections of Palestinians living in Gaza. The root cause of the failures of the GRM are the restrictions inherent in the blockade itself: the fact that the 'dual use' list is imposed and fully controlled by Israel. However, the GRM formalizes these restrictions, at best mitigating some of the violations of an inherently unlawful blockade, but fundamentally failing to challenge it.



Members of the Amir family at their home in Gaza, including Um Amir, right, and Abu Amir, centre. Alison Martin/Oxfam

## **As if you are drinking from the sea: dangerous delays for safe water and sanitation**

'Our water is salty, as if you are drinking from the sea,' says 50-year-old Um Amir, a mother of 11 whose household includes 20 family members.

Her husband, Abu Amir, adds that the family only receives water from the municipal system – low quality, salty water – when there is electricity. 'We didn't have electricity since yesterday. Sometimes we have to use drinking water to clean and flush the toilets [sink holes] as there is no water from the municipal system.'

'Sometimes we don't have municipal water for the whole week due to power cuts. We were forced to purchase additional drinking water from private vendors.'

The family worries about being cut off from the scarce, unsafe water they are receiving. 'The municipality issues bills but we can't pay,' says Abu Amir, adding that they have accumulated debts amounting to thousands of Israeli Shekels.

Sanitation is also dangerously poor. 'Our house is not connected to the sewage system; we depend on sink holes: open, uncovered pits to collect sewage. When the hole is full, we empty it ourselves. Our children are always having skin issues as they play around outside the house. They often have diarrhoea, we have lots of mosquitoes. The doctors cannot help.'

The family lives in Berka, an area north-west of Gaza city that is not connected to the sewage system. A project is under way that would see families like the Amir family connected to a sanitation system, but it has been drastically delayed due to essential technical items being blocked from entering. The Coastal Municipalities Water Utility, responsible for water and sanitation in the Gaza Strip, says that although the project was uploaded into the GRM system in January 2016, a number of technical items vital to complete it – all classified as 'dual use' – have yet to be approved.

When completed, the project will connect all 600 households in the Berka area, serving a total of 12,000 people. Its delay means that households are responsible for disposing of their own waste, depending on cesspits or boreholes which risk contaminating the aquifer through seepage. Every day of delay leaves families like the Amirs vulnerable to illness, as well as putting Gaza's key water source at risk of further contamination, jeopardizing the health of many more.



# ENTRENCHING THE SEPARATION

## Internal divisions fuelling fragmentation

For years, the Israeli government has been implementing a separation policy that has resulted in the political, social and economic fragmentation of the OPT, by isolating Gaza from the West Bank, including East Jerusalem. The separation policy hampers reconstruction efforts including in the water and sanitation sector.

The situation is worsened by the internal divide between the PA and the de facto authorities in the Gaza Strip. This continues to impede a comprehensive agenda for government operations and services, while limited coordination impairs the delivery of basic services. For example there are two Palestinian Water Authorities – PWA Ramallah is responsible for managing all international projects in Gaza and coordination with donors, while PWA Gaza is responsible for licensing private water wells and private brackish water desalination plants. There is reportedly little or no coordination between the two.<sup>62</sup> The political split exacerbates the inefficiency and limits the effectiveness of the GRM, with parallel governmental functions and overlapping structures operating across the West Bank and the Gaza Strip.

The PA has been criticised for failing to engage strongly in the Gaza Reconstruction Mechanism. Local and international sector stakeholders interviewed as part of this research consistently highlighted the need for the PA to take a more proactive role in supporting reconstruction and development in Gaza, including by being vocal in challenging problems arising through the GRM, and opposing any measures that restrict or prevent the entry of vital materials.

## THE GRM AND LOCALLY-LED RECONSTRUCTION

The project stream of the GRM is used by only a limited number of actors for water and sanitation: a small number of INGOs that are active in the sector in Gaza (a fraction of the total INGOs present in the region), as well as international donors such as USAID, UNICEF, the World Bank, and the Islamic Development Bank, via CMWU. There are no local NGOs using the GRM project stream directly for water, sanitation and hygiene projects. Some local NGOs work as implementing partners or contractors to international donors or organizations, which then facilitate the GRM process. Most of those include additional staff capacities in projects and/or allow for additional contingency budgets for their vendors and contractors to facilitate the process, including adherence to the comprehensive monitoring undertaken by UNOPS.<sup>63</sup>

Local NGOs are often limited in their funding cycle, and the long waiting periods for the release of 'dual use' items render the implementation of infrastructure projects impossible within the limits of their commitments to donors. Further, the stream provides for large-scale project implementation which may be outside the scope of local NGOs. Research also reflects that local NGOs are often politically opposed to the GRM because they see it as a mechanism that facilitates the blockade.<sup>64</sup>

Consultations with stakeholders reflect that donor agencies implementing water and sanitation projects at scale allocate additional human and financial resources to informally facilitate technical relations between the PA and the Coordinator of Government Activities in the Territories, Gol (COGAT), specifically for the GRM. The additional resources required to engage through the GRM effectively limit the participation of smaller local NGOs, as they lack sufficient financial resources or are unwilling or unable to directly informally contact Israeli officials, as is frequently required to ensure the functioning of the process.

Therefore, although the GRM theoretically provides for the democratization of material entry and project implementation – as it purported to do – practically, its complexity as well as its political implications often limit direct participation of local NGOs. Further, the risk of vendor/contractor suspension by Israel leads to decreased space for Gaza's private sector (see Annex 1 for further details).

## A WAY FORWARD

In the aftermath of the devastation of 2014, the GRM had some success in facilitating the entry of goods at a scale which may not have been possible without it. It is impossible to quantify what may have happened in its absence and important to reiterate that the challenges facing Gaza's water and sanitation sector are not solely due to the constraints of the GRM. However, two and a half years on and with the Gaza Strip suffering under an increasingly suffocating blockade, it is imperative to review a key mechanism tasked with its reconstruction. This is even more crucial given that although the GRM was initiated as a temporary mechanism, stakeholder consultations suggest that it is increasingly becoming a permanent method for entry of material for large-scale water infrastructure.

The GRM's form and function is fundamentally flawed to the extent that it is predicated on the same illegitimate logic that sustains the dynamics of the overall blockade. It contains no embedded accountability measures which would guarantee appropriate needs-based responses, nor does it ensure basic rights such as the right to safe water and adequate and equitable sanitation. And although in its rhetoric the UN consistently opposes the blockade as illegal, in practice it has become inextricably involved in overseeing a restrictive regime over which it has little if any influence.

The ongoing, dire water crisis in Gaza is just one example among others, such as inadequate shelter and economic de-development, which demonstrates the need to re-evaluate this approach. While progress has been made in allowing the entry of some materials and introducing a measure of transparency around the 'dual use' list, the immensity and chronic nature of the crisis in Gaza is beyond the capacity of the GRM. The current mechanism reflects the same restrictions of the overall blockade: it allows for an opening and closing of the tap, but never enough flow to fulfil the needs and rights of Palestinians living in Gaza.

While outside the scope of this research, in discussions moving forward it is important to note that bilateral arrangements also exist between some agencies and donors in order to facilitate the entry of items into Gaza, and that these similarly may pose a number of concerns as have been raised in relation to the GRM. Such arrangements may also formalize the restrictions of an unlawful blockade, by failing to challenge the power of Israeli authorities to prevent the entry of materials in a way that appears to violate the IHL protections of Palestinians living in Gaza.

A review and invigorated discussion is essential, particularly in light of the immense needs in the water and sanitation sector and the large number of projects and materials that require facilitation of entry. A rights-based approach must be adopted, demanding humanitarian access to the level dictated by the needs on the ground and as guaranteed under international law.

# RECOMMENDATIONS: 14 IMMEDIATE STEPS

## **The UN and donors supporting the GRM should:**

- Encourage and engage in a wide-ranging, inclusive and transparent stakeholder consultation and review of the GRM, with particular focus on discussions with Palestinian civil society, relevant Palestinian authorities, and the wider Gaza community. In the interests of transparency, the findings of this review should be made public.
- Ensure in all discussions and agreements that measures taken according to the security objectives of an Occupying Power do not violate the rights of civilians living under occupation, as guaranteed under international law, and that aid modalities do not entrench injustice.
- Initiate and/or support the renegotiation of the terms of the GRM in order to embed accountability mechanisms into the process (for example, concrete benchmarks mandating the facilitation of materials and projects to a sufficient scale and within a minimum timeframe) to ensure it complies with international law and delivers for the needs of Palestinians living in Gaza. Where this is not possible, and firmly grounded in a 'do no harm' approach, wide-ranging consultations must be initiated to discuss the potential to transition away from the GRM.

## **The Government of Israel should:**

- Lift the blockade and open all crossings into and out of Gaza, allowing for the unimpeded entry and exit of goods and people, with the exception of armament, as a necessary prerequisite to meet humanitarian needs and to ensure sustainable economic recovery and development. As an urgent step toward completely ending the blockade, immediately remove from the 'dual use' list building materials and other items that are necessary for humanitarian and development projects.
- Urgently authorize and support the entry of much needed materials for the construction and maintenance of water and sanitation projects, particularly the Gaza (medium-scale) Seawater Desalination Plant, the Khan Younis Wastewater Treatment Plant, the North Gaza Wastewater Treatment Plant and the Gaza Central Waste Water Treatment Plant (Gaza and middle area).
- Refrain from targeting civilian infrastructure and essential facilities during any future hostilities.

## **The PA and the de facto authorities in Gaza should:**

- Prioritize reconciliation: agree on a time-bound plan to address pending issues, build linkages and improve cohesion between the authorities in the Gaza Strip and the West Bank.
- Take a stronger leadership role grounded in principles of transparency and good governance, fostering a participatory, Palestinian-led approach to the coordination of reconstruction and development.
- Denounce and take all steps to prevent indiscriminate rocket attacks from within Gaza by armed groups, and hold accountable those responsible.

## **The international community more broadly should:**

- Underpin all financial commitments in Gaza with matching commitments to diplomatic pressure to end the blockade.
- Encourage an increased role for Palestinian authorities in both the Gaza Strip and the West Bank in the reconstruction and development process, empowering and providing space for a stronger leadership role.
- Support the parties to propose a time-bound plan to end the blockade, including benchmarks and accountability mechanisms to respond in case of failure to make progress. Promptly develop a common response to the Gol if immediate progress is not made in ending Israeli-imposed restrictions, for example by conditioning bilateral agreements and/or the deepening of diplomatic relations on adherence to international law.
- Counter the Gol's policy of separating the Gaza Strip from the West Bank, including by: supporting the consolidation of a Palestinian Government of National Consensus to promote more efficient, sustainable and holistic interventions; actively fostering connections between the Gaza Strip and the West Bank; and avoiding the duplication of systems and instead empowering national systems.
- Reorient aid to promote greater participation of Palestinian humanitarian and development organizations and civil society in the design and delivery of assistance, in accordance with the principles and commitments outlined in the Busan Partnership for Effective Development Cooperation.<sup>65</sup>

# ANNEX 1: GRM OVERVIEW

This annex seeks to provide a simplified overview of the GRM process, using the water and sanitation sector as an example, in order to inform discussion regarding the responsibilities and accountabilities of different actors. This does not fully capture the complexities of the process, which were repeatedly highlighted in stakeholder consultations as overly complicated, time consuming, exclusionary and not conducive to efficient processing of vital projects and materials. Many stakeholders reported it took them months to understand how to negotiate the system, with little concrete or formalized communication from the GRM's architects in relation to how the system should work. In December 2016, the GRM website ([grm.report](http://grm.report)) was significantly updated with improved information regarding processes as well as sector-specific information.

## The objectives of the GRM

According to UNSCO, the GRM was designed to fulfil the competing objectives of several stakeholders: (i) Enable the Government of Palestine to lead the reconstruction effort; (ii) Enable the Gaza private sector; (iii) Assure donors that their investments in construction work in Gaza will be implemented without delay; (iv) Address Israeli security concerns related to the use of construction and other 'dual use' material.<sup>66</sup>

## Key stakeholders and duty-bearers

A stated parameter of the mechanism was that '(t)he PA leads the reconstruction of the Gaza Strip and bear(s) overarching responsibility for its execution'.<sup>67</sup> **The PA's Ministry of Civil Affairs (MoCA)** acts as a liaison between Gaza and the Israeli authorities (COGAT). MoCA is responsible for vetting all vendors and contractors and sending their names for final approval by the Israeli authorities.<sup>68</sup> It is also formally responsible for following up on progress of project approval, non-approval, or withdrawals with the Israeli authorities. However, during stakeholder consultations, MoCA maintained that its engagement is limited to data processing, with all monitoring undertaken by the UN.

**The Government of Israel**, through COGAT and the CLA, has the power to approve or reject projects, 'dual use' items, as well as vendors and contractors even after they have been nominated by the PA and inspected by the UN.

**The UN** is responsible for coordination and monitoring, for which the UN Office for Project Services (UNOPS) established a comprehensive online information management system – the Gaza Reconstruction Material Monitoring System (GRAMMS). The approval, entry and use of construction materials are then overseen by the Material Monitoring Unit (MMU).

**Prioritization of projects** formally falls under the responsibility of the PA, the Ministry of Public Works and Housing (MoPWH), and the

international community including donors. However, the Gol retains the power not to approve prioritized projects or essential items and therefore plays a de facto role in determining which projects are implemented, and when.<sup>69</sup>

## **Who can apply for entry of ‘dual use’ items?**

‘Dual use’ materials can be purchased by approved individuals, companies or organizations after they have had their projects and Bills Of Quantities approved, and must be procured through selected ‘vendors’ – businesses authorized by the PA to procure building materials and distribute them to users in Gaza. The GRM was designed to enable the import of materials by private individuals in Gaza who, with the start of the blockade, were restricted in their access to external markets.

## **Vendors and contractors**

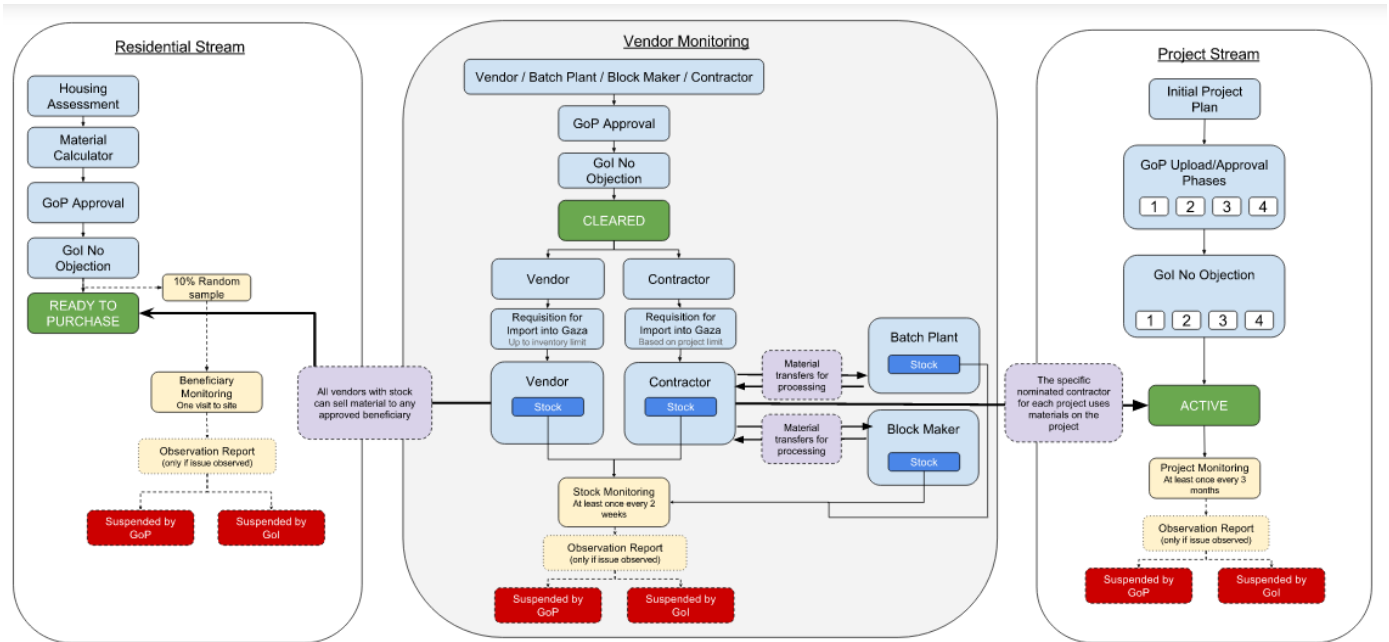
After the GRM was established, a large number of vendors and contractors were approved. More recently, a number of these have been suspended following monitoring reports, or in a minority of cases, following a unilateral decision of the Israeli authorities that cited security concerns. Of a total 255 vendors, 72 are suspended. Monitoring reports are not disclosed publicly and there is no opportunity for appeal, causing growing frustration among Palestinian vendors and contractors who are increasingly threatening to refuse to use the GRM.<sup>70</sup>

## **How does it work?**

The activities of the GRM are classified into four streams of entry:

- The Shelter Repair Stream: Individual beneficiaries with shelters/homes damaged in the 2014 conflict.
- The Residential Stream: Individual beneficiaries with requirements to reconstruct or construct new residential properties damaged at times other than in 2014.
- The Finishing Stream: Individual beneficiaries with requirements to complete properties on which construction began prior to the 2014 conflict.
- The Project Stream: Large-scale construction or infrastructure projects, either privately funded or through international organizations.<sup>71</sup>

**Figure 4: GRM processes**



Source: Grm.report, February 2017

The repair of water, sanitation and hygiene infrastructure is facilitated via the Project Stream, with approval divided into four stages and each stage requiring information to be submitted to MoCA and then provided to the Israeli authorities for authorization.<sup>72</sup>

All applications by implementing organizations to use ‘dual use’ material for construction are made to the PA Ministry of Civil Affairs (MoCA) which submits the standardized project information to COGAT for approval using GRAMMS. The main documents to be submitted include Bills of Quantities, a project plan or schematic, and a list of ‘dual use’ items, including details of the exact location of the project itself.

Information required includes: description of the project, location, implementer, project manager, a Bill of Quantities, project plans, separate lists of technical and construction-related ‘dual use’ items, dates of each project stage, various materials, and contractors’ information.<sup>73</sup>

## Other methods of entry

Projects that had already started before the 2014 conflict are still coordinated directly with the Israeli Coordination and Liaison Administration (CLA).<sup>74</sup>

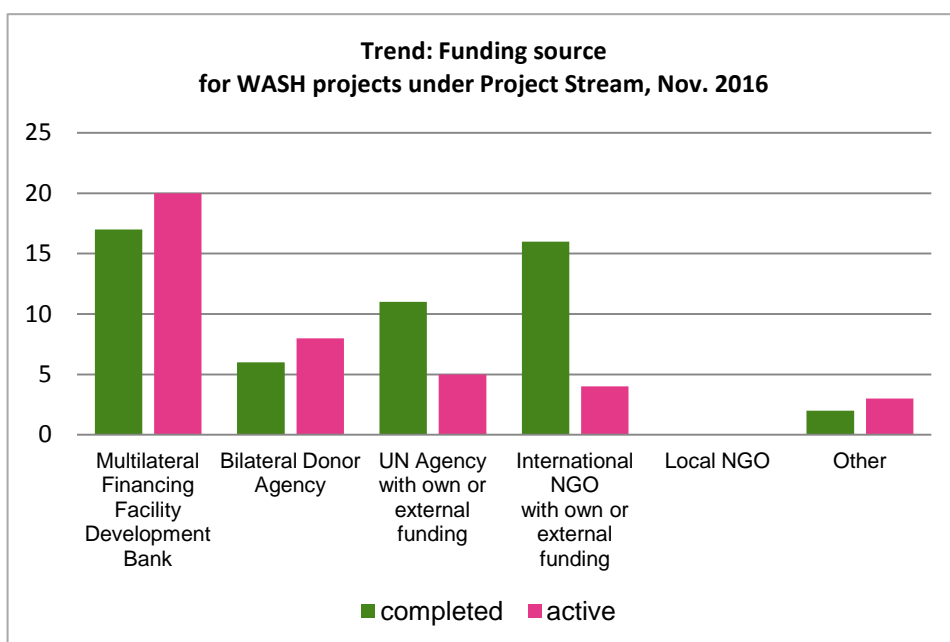
Some UN agencies have also entered into bilateral agreements to facilitate the import of ‘dual use’ items into Gaza, which also include monitoring arrangements and comprehensive reporting obligations. These include the UN Relief and Works Agency for Palestine Refugees in the Near East (UNRWA), the UN Development Programme (UNDP), and the UN Children’s Fund (UNICEF). Qatar and Saudi Arabia also undertake direct coordination with the CLA in order to facilitate the entry of materials for projects they are funding.



This research focused specifically on the functioning of the GRM in relation to the water and sanitation sector. While these bilateral agreements are outside the scope of this research, it is important to note that such arrangements may pose similar concerns as have been raised in relation to the GRM, including: mirroring the dynamics and restrictions of the overall blockade; failing to challenge the power of Israeli authorities to prevent the entry of materials in a manner that appears to violate rights as protected under international law; and failing to ensure accountability for the entry of materials at the scale and speed necessary.

The Rafah crossing with Egypt is also occasionally opened for material entry.

**Figure 5: Trend of funding sources for water and sanitation projects, indicating a shift towards multilateral financing facilities and bilateral donor agencies, with decreasing involvement of international NGOs and no direct involvement of local NGOs**



Source: GRAMMS data provided by UNOPS, November 2016

It is also important to note that once approved via the GRM, items are still subject to restrictive measures in crossing Kerem Abu Salem (Kerem Shalom) into Gaza, further reflecting the vulnerability of the GRM against the restrictions of the overall blockade. PWA reports extensive delays as Israeli authorities inspect materials and sometimes prevent their entry because they do not have time to finish the inspection.<sup>75</sup>

**Figure 6: Extract from GRM.report**

	Shelter Repair Stream	Residential Stream	Finishing Stream	Project Stream
Who Benefits?	Individuals whose homes suffered minor, major or severe damage during the 2014 conflict to access material to repair their houses	Individuals wishing to construct a full home, either brand new or to replace a home destroyed in the 2014 conflict	Owners of residential units commenced, but not completed, before the 2014 conflict	Large scale construction or infrastructure projects, funded by national/international donors or private sources
What is allocated?	Rebar and Cement based on damage assessments performed by UNDP and UNRWA	Rebar and Cement based on the number and size of floors of the home	Rebar and Cement based on individual applications to the Ministry of Public Works and Housing	Rebar, Cement and any other item considered 'dual-use' based on detailed Bills of Quantity (BoQs) submitted by the Ministry of Civil Affairs
How does it work?	Beneficiaries can visit any GRM vendor to purchase an amount of material up to their allocation	Beneficiaries can visit any GRM vendor to purchase an amount of material up to their allocation	Beneficiaries can visit any GRM vendor to purchase an amount of material up to their allocation	Once the project is approved, contractors nominated for the project submit requests for the import of materials as required for discrete project stages. Contractors may transfer materials to other business such as block makers or batching plants for processing before using the materials on the construction site.

Source: GRM.report

## ANNEX 2

**Table 1: Status update on water, health and sanitation projects for which funding was secured before the 2014 conflict, demonstrating the ongoing need to facilitate entry of a large number of materials**

Project	Status as of November 2016	Financing needs (USD)
North Gaza Waste Water Treatment Plant and Reuse scheme	Contract signed with the Joint Venture between local contractor and a new international leader to complete the remaining works of NGEST and to manage, operate and maintain the plant for two years.	\$54m <b>Donors:</b> World Bank, Agence Française de Développement (the operator for France's bilateral development finance mechanism), EU, Swedish International Development Cooperation Agency, Belgium.
Gaza Central Waste Water Treatment Plant	Construction contract signed in October 2016.	\$78m <b>Donor:</b> KFW (German government-owned development bank)
Khan Yunis Waste Water Treatment Plant	Tenders for construction are under evaluation. The process may take one month to reach an approval of the donor on awarding a contract.	\$56.8m <b>Donors:</b> Islamic Development Bank, Japan, UNDP
Water and Sanitation Programs	Delays due to unavailability of materials.	\$10.4 <b>Donor:</b> EU
South Short Term Low Volume Desalination	Construction is completed for Phase 1. Trial operation is anticipated for November 2016, to be handed over and inaugurated in early December 2016.	\$13.4m <b>Donor:</b> EU
Gaza Short Term Low Volume Desalination	Contract is signed; contractor has started construction.	\$15m <b>Donor:</b> Islamic Development Bank
Studies for Gaza Sea Water Desalination Plant	Environment Social Impact Assessment has been finalized. The consultant is unable to provide the technical designs of the solar energy plant because of a dispute with Hamas regarding the land allocated for this purpose. The legal review of the contract document for the desalination facility is in process.	\$5.4 <b>Donor:</b> European Investment Bank
Technical Assistance for the Palestinian Water Authority	The agreement actually amounts to up to €1m; agreement expanded to end of 2017.	\$1.755 <b>Donor:</b> Austrian Development Agency
<b>Total</b>		<b>\$234.755m</b>

Source: Water Sector Damage Assessment, State of Palestine, August 2014, with update on status by the Palestinian Water Authority in November 2016

# NOTES

- 1 Collective punishment is prohibited under Article 33 of the *Fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War of 1949* (GCIV). In October 2016, the UN Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, Michael Lynk, stated that: 'Israel's continued occupation of Gaza is maintained through an extensive military, economic and social blockade of the territory, which reinforces its separation from the world and the rest of the Occupied Palestinian Territory. As a form of collective punishment imposed upon an entire population, the blockade is contrary to international law'. *Report to the UN General Assembly, A/71/554, 19 October 2016, para.45*, [http://www.ohchr.org/Documents/Countries/PS/A\\_71\\_554\\_en.pdf](http://www.ohchr.org/Documents/Countries/PS/A_71_554_en.pdf). In August 2013, UN Secretary General Ban Ki Moon stated that: 'While parties to an armed conflict may take security measures, such measures must comply with international law and should be necessary and proportional. Numerous statements made by Israeli officials in their professional capacities have made clear that the blockade is being imposed to apply pressure to the *de facto* authorities, and in response to acts committed by various groups in Gaza, including Palestinian armed groups, towards or in relation to Israel. However, the blockade and related restrictions target and impose hardship on the civilian population, effectively penalizing them for acts they have not committed. As such, these measures contravene article 33 of the Geneva Convention relative to the Protection of Civilian Persons in Time of War (Convention IV) prohibiting collective penalties'. *Report to the Human Rights Council, A/HRC/24/30, 22 August 2013, para.22*, [http://www.un.org/ga/search/view\\_doc.asp?symbol=A/HRC/24/30](http://www.un.org/ga/search/view_doc.asp?symbol=A/HRC/24/30).
- 2 See for example United Nations Conference on Trade and Development: *Report on UNCTAD assistance to the Palestinian people: Developments in the economy of the Occupied Palestinian Territory*. 1 September 2016. <https://unispal.un.org/DPA/DPR/unispal.nsf/47d4e277b48d9d3685256ddc00612265/4a6dc73a1b615fe485258022004dd0e3?OpenDocument>
- 3 Only 15–25 percent received running water daily, pre 2014. Oxfam. *Cease Failure*. 27 August 2014, p. 4. <http://policy-practice.oxfam.org.uk/publications/cease-failure-rethinking-seven-years-of-failing-policies-in-gaza-324746>.
- 4 United Nations Country Team (UNCT). *Gaza in 2020: A Liveable Place?* August 2012. <https://unispal.un.org/DPA/DPR/unispal.nsf/cf02d057b04d356385256ddb006dc02f/a51d0bfd2ba835585257a680049b333?OpenDocument>
- 5 Figure provided by the Palestinian Water Authority, 23 January 2017.
- 6 United Nations Country Team (UNCT). *Gaza in 2020: A Liveable Place?* August 2012. Op. cit.
- 7 ABC News. *Gaza Conflict: Enclave's Only Power Plant Destroyed as Israel Steps Up Offensive against Hamas*. 30 July 2014. <http://www.abc.net.au/news/2014-07-29/gaza-only-power-plant-attacked-as-israel-steps-up-offensive/5633718>
- 8 Article 8(2)(b)(ii) Rome Statute of the International Criminal Court 1998 provides that 'Intentionally directing attacks against civilian objects, that is, objects which are not military objectives' is a war crime. This is predicated on the IHL principle of distinction, as set out with regard to civilian objects versus military objectives in Rule 7 of the ICRC Customary IHL Database ([https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1\\_rul](https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1_rul)). Rule 54 of the database provides further specificity, providing that 'Attacks against Objects Indispensable to the Survival of the Civilian Population' are prohibited, and making specific reference to 'drinking water installations and supplies, and irrigation works.' The Palestinian Water Authority, Gaza, has stated that it formally provided detailed information on each of the most crucial infrastructure when the 2014 escalation began.
- 9 Figures provided by the National Office for the Reconstruction of Gaza (NORG) and correct as at July 31, 2016. See also <http://www.worldbank.org/en/programs/rebuilding-gaza-donor-pledges>
- 10 State of Palestine Palestinian Water Authority. *Water Sector Damage Assessment Report, August 2014*. Pages 14-15, figure 3.4.2: 'Financing required' (\$683,516,100) also figure 3.4.3: 'Financing available and programs being implemented, either by the ministries, international organizations, or the ministries' (\$234,755,000). Total: \$918,271,100. [www.humanitarianresponse.info/sites/www.humanitarianresponse.info/files/assessment\\_s/20140819\\_PWA%20Water%20Sector%20Damage%20Assessment%20-%20August%202014\\_0.pdf](http://www.humanitarianresponse.info/sites/www.humanitarianresponse.info/files/assessment_s/20140819_PWA%20Water%20Sector%20Damage%20Assessment%20-%20August%202014_0.pdf)
- 11 eWASH. *Life under Blockade: 86% of Projects Necessary to Develop the Ravaged WASH sector in Gaza Remain at Risk*. 22 March 2016. [http://www.ewash.org/sites/default/files/inoptfiles/Press%20Release\\_EWASH%20World%20Water%20Day%20Palestine%202016\\_FNL.pdf](http://www.ewash.org/sites/default/files/inoptfiles/Press%20Release_EWASH%20World%20Water%20Day%20Palestine%202016_FNL.pdf)
- 12 UN Country Team in the occupied Palestinian territory. *Gaza: Two Years After*. 26 August 2016. [http://www.ochaopt.org/sites/default/files/gaza\\_war\\_2\\_years\\_after\\_english.pdf](http://www.ochaopt.org/sites/default/files/gaza_war_2_years_after_english.pdf)
- 13 eWASH. *Let it flow: How the Israeli blockade has brought Gaza to the brink of a water*

- and sanitation disaster. 21 March 2016.  
<http://www.ewash.org/sites/default/files/inoptfiles/Infographic%20on%20the%20impact%20of%20the%20Israeli%20blockade%20on%20the%20water%20situation%20in%20Gaza.pdf>
- 14 eWASH. *Let it flow: How the Israeli blockade has brought Gaza to the brink of a water and sanitation disaster*. Op. cit.
  - 15 Desalinated water accessed via bottled water or water tankers if mixed with brackish water from wells. Figure regarding 40,000 people without access to a centralized water network, provided by the Coastal Municipalities Water Utility on 26 January 2017.
  - 16 28% of households are not connected to the sewage network. The figure regarding raw and partially treated sewage being discharged into the Mediterranean Sea was provided by CMWU on 25 January 2017. This has been updated since eWASH, 'Let it flow: How the Israeli blockade has brought Gaza to the brink of a water and sanitation disaster,' op. cit. 16% of the 116 million liters is raw sewage while the rest is partially treated.
  - 17 Approximately 20% of working age females in the West Bank and Gaza participate in the labour force, one of the lowest such rates in the world (figure not disaggregated between West Bank and Gaza). The unemployment rate among females in Gaza in 2015 was nearly 60%, compared to 37% among males. All figures from the Palestinian Bureau of Statistics, 2015, accessed February 2017:  
[www.pcbs.gov.ps/site/lang\\_\\_en/881/default.aspx#Labour](http://www.pcbs.gov.ps/site/lang__en/881/default.aspx#Labour) See also OCHA, 'The Gaza Strip: The Long Term Impact of the 2014 Hostilities on Women and Girls', December 2015, <http://www.ochaopt.org/content/gaza-strip-long-term-impact-2014-hostilities-women-and-girls-december-2015>
  - 18 UNICEF. *Protecting Children from Unsafe Water in Gaza: Strategy, Action Plan and Project Resources*. March 2011  
[www.unicef.org/oPt/FINAL\\_Summary\\_Protecting\\_Children\\_from\\_unsafe\\_Water\\_in\\_Gaza\\_4\\_March\\_2011.pdf](http://www.unicef.org/oPt/FINAL_Summary_Protecting_Children_from_unsafe_Water_in_Gaza_4_March_2011.pdf)
  - 19 OCHA. *Gaza: Two Years since the 2014 hostilities*. August 2016.  
<http://www.ochaopt.org/content/gaza-two-years-2014-hostilities-august-2016>
  - 20 The plan outlines sophisticated combined interventions in line with the Palestinian overall sector development strategy and reform plan, including repair of water networks to prevent physical losses, seawater desalination, collection and re-infiltration of rainwater into the Coastal Aquifer, waste water treatment and re-infiltration and reuse, as well as the import of water. See: PWA (2013): National Water and Wastewater Strategy for Palestine, [http://procurement-notice.undp.org/view\\_file.cfm?doc\\_id=27192](http://procurement-notice.undp.org/view_file.cfm?doc_id=27192)
  - 21 With the exception of permission given in July 2016 to transport cars for sale in Gaza via Erez Crossing. See Times of Israel, 'Gaza's Erez crossing begins transferring goods', 14 July 2016, <http://www.timesofisrael.com/gazas-erez-crossing-begins-transferring-goods/>
  - 22 The UN and NGOs report increasing restrictions on the freedom of movement of Gaza-based staff since the beginning of 2016 with an increase in permit denials for UN workers from three percent in January 2016, to 65 percent in August, and 45 percent in September. See: <http://www.aljazeera.com/news/middleeast/2016/11/israel-slammed-war-ngos-161101115337497.html> ; <http://euromedmonitor.org/en/article/1457/Euro-Med-calls-for-actions-against-Israeli-campaign-to-evict-international-workers>.
  - 23 Karni crossing, the largest and best equipped commercial crossing which served as the main crossing for goods, was partially closed in 2007 and the conveyor belt closed in March 2011. The Sufa crossing, which served mainly for the transfer of construction materials, closed in 2007. The Nahal Oz Crossing, through which fuel was transferred into Gaza, closed in 2010. See Gisha, *Ten Years Later*, 8 September 2015.  
<http://features.gisha.org/ten-years-later/#part502>
  - 24 As of 20 November 2016, the Rafah crossing had only been open 74 days since the beginning of 2015. See Gisha, *Rafah crossing open for nine days in November*, 30 November 2016. <http://gisha.org/updates/5665>
  - 25 Gisha. *Dark-gray lists*. 31 January 2016. <http://gisha.org/publication/4860>; eWASH. *Water and Sanitation in Palestine*. 14 March 2016.  
<http://www.ewash.org/sites/default/files/inoptfiles/160314%20-%20WATER%20AND%20SANITATION%20IN%20PALESTINE.pdf>
  - 26 Gisha. *Ten Years Later*. 8 September 2015. Op. cit.
  - 27 For example, the Wassenaar Arrangement (WA), established in the city of Wassenaar (the Netherlands) in July 1996, is an agreement between 41 participating states: 'in order to contribute to regional and international security and stability, by promoting transparency and greater responsibility in transfers of conventional arms and dual-use goods and technologies, thus preventing destabilizing accumulations.' The WA defines 'dual-use' goods and technologies as 'those which are major or key elements for the indigenous development, production, use or enhancement of military capabilities' and therefore could be 'diverted to contribute to the development or enhancement of military capabilities that undermine international and regional security and stability.' The WA may provide some guidance as to the types of items that might be considered 'dual use' however as an agreement entered into freely by sovereign states, it significantly differs

- to a 'dual use' list administered in the context of an occupation, and fully controlled by an occupying power bearing responsibilities under IHL. Nonetheless it is worth noting that the Gaza 'dual use' list is much more restrictive than that administered under the WA. More information: <http://www.wassenaar.org/>
- 28 Israel Ministry of Foreign Affairs. *Gaza: Lists of Controlled Entry Items*. 4 July 2010. [http://www.mfa.gov.il/mfa/foreignpolicy/peace/humanitarian/pages/lists\\_controlled\\_entry\\_items\\_4-jul-2010.aspx](http://www.mfa.gov.il/mfa/foreignpolicy/peace/humanitarian/pages/lists_controlled_entry_items_4-jul-2010.aspx)
  - 29 Rule 55, ICRC Customary International Law Database, <[https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1\\_rul\\_rule55](https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1_rul_rule55)> accessed 04 February 2017.
  - 30 Article 43 *Hague Regulations concerning the Laws and Customs of War on Land of 1907* (Hague Regulations); Articles 55, 56 & 60 GCIV.
  - 31 Articles 23, 59, 60 & 61 GCIV; Rule 55, ICRC Customary International Law Database, [https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1\\_rul\\_rule55](https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1_rul_rule55)
  - 32 Article 27(1) GCIV; Rule 87, ICRC Customary International Law Database, [https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1\\_rul\\_rule87](https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1_rul_rule87)
  - 33 eWASH. *Water and Sanitation in Palestine*. 14 March 2016. Op. cit.
  - 34 *The Gaza Reconstruction Mechanism: Report*. <http://grm.report/#/Sectors/Detail/Water> accessed February 2017.
  - 35 *The Gaza Reconstruction Mechanism: Report*. Op. cit.
  - 36 Further information on the processes and functioning of the GRM with regards to the water, health and sanitation sector was drawn from original research commissioned by Oxfam and gathered in 2016 by Dr Simone Klawitter.
  - 37 Gisha. *Hand on the Switch*. 26 January 2017. <http://gisha.org/publication/5780>
  - 38 Field evidence supported by senior PA officials of the National Office for the Reconstruction of Gaza (NORG) and the PWA suggests that any new infrastructure aimed at sector development is expected to be facilitated by the GRM, including large scale waste water treatment facilities and desalination plants which all fall under the Project Stream.
  - 39 See Annex III, *The Israeli-Palestinian Interim Agreement on the West Bank and the Gaza Strip*, Protocol Concerning Civil Affairs, Article 40: <https://unispal.un.org/DPA/DPR/unispal.nsf/1ce874ab1832a53e852570bb006dfaf6/4607cabebc559b7085256f18006c8447?OpenDocument> . It was agreed that Israel would provide an additional 5 million cubic meters (MCM) of water to Gaza, supplementary to the 5 MCM already being purchased.
  - 40 Once the reservoir is reconstructed, the additional storage capacity will allow an increased supply of water from MEKOROT, meaning that most of the saline ground water wells could be taken off the system, thereby improving the water quality in the network. However, it is also important to note that MEKOROT water is relatively expensive, costing the PA between 2.6 and 2.44 NIS per cubic meter, and is deducted at source from PA tax revenue collected by Israel on its behalf. For further information on the Al Muntar reservoir, see NRC, 'Doubling of the MEKOROT water supply to the Gaza Strip, Putting the statement into Perspective', June 2015, <http://www.ewash.org/sites/default/files/inoptfiles/NRC%20Mekorot%20Water%20Supply%20Information%20sheet%20v4.pdf>
  - 41 The reconstruction of the reservoir was completed at the end of November 2016 and handed over to the municipality in December 2016.
  - 42 Data generated through GRAMMS and provided by UNOPS to researcher Dr Simone Klawitter.
  - 43 Information provided to Dr Simone Klawitter as part of stakeholder consultations for this research.
  - 44 Estimated cost according to KFW, provided March 2017.
  - 45 For further information on the Al Muntar reservoir, see NRC, 'Doubling of the MEKOROT water supply to the Gaza Strip, Putting the statement into Perspective', June 2015, op.cit.
  - 46 Article 43 Hague Regulations concerning the Laws and Customs of War on Land of 1907 (Hague Regulations); Articles 55, 56 & 60 GCIV.
  - 47 Articles 23, 59, 60 & 61 GCIV; Rule 55, ICRC Customary International Law Database, [https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1\\_rul\\_rule55](https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1_rul_rule55) accessed 04 February 2017.
  - 48 This was highlighted as a key objective in the factsheet on the GRM: UN Office of the Special Coordinator for the Middle East Peace Process, 'Gaza Reconstruction Mechanism: Fact Sheet', October 2014, [www.unsco.org/Gaza%20Reconstruction%20Mechanism%20Fact%20Sheet%20October%202014.pdf](http://www.unsco.org/Gaza%20Reconstruction%20Mechanism%20Fact%20Sheet%20October%202014.pdf). This was also reflected in stakeholder consultations undertaken as part of this research.
  - 49 In its factsheet on the GRM, UNSCO notes that the GRM is a 'temporary agreement between the Government of Palestine ... and the Government of Israel ... brokered by

- the United Nations'. See: *Factsheet on the GRM*, op.cit. However, the text of the GRM itself states it is an agreement between the three parties:  
<https://electronicintifada.net/blogs/ali-abunimah/un-database-gaza-aid-may-give-israel-targets-attack-secret-memo>. See also Professor Nigel White, 'Expert Opinion on the Legality of the Gaza Reconstruction Mechanism (GRM)' 26 January 2015: 'the GRM is set up so that much of the control over the distribution of supplies (as opposed to the control of crossings which remain in the hands of the Government of Israel) is under the auspices of the UN, making it complicit in the treatment of the people of Gaza. Given its obligations under international humanitarian law, the Government of Israel appears to be using the UN in an attempt to circumvent its own obligations under international humanitarian and human rights law to allow for the full reconstruction of Gaza, although this does not absolve the Government of Israel of its responsibility...'  
[http://lphr.org.uk/wp-content/uploads/2016/09/grm\\_legal\\_opinion\\_of\\_nigel\\_white.pdf](http://lphr.org.uk/wp-content/uploads/2016/09/grm_legal_opinion_of_nigel_white.pdf)
- 50 In announcing to the UN Security Council that the GRM had been agreed, then UN Special Coordinator for the Middle East Peace Process, Robert Serry, stated: 'UNSCO has brokered a trilateral agreement between Israel, the PA and the UN to enable work at the scale required in the Strip'.  
<http://www.un.org/apps/news/story.asp?NewsID=48730#.WKOebVV97Z4>
- 51 For an in-depth opinion on the legality of the GRM, see: 'Expert Opinion on the Legality of the Gaza Reconstruction Mechanism (GRM),' Prof Nigel White, 26 January 2015  
[http://lphr.org.uk/wp-content/uploads/2016/09/grm\\_legal\\_opinion\\_of\\_nigel\\_white.pdf](http://lphr.org.uk/wp-content/uploads/2016/09/grm_legal_opinion_of_nigel_white.pdf)
- 52 OCHA. *OCHA on message: humanitarian principles*. June 2012.  
[https://docs.unocha.org/sites/dms/Documents/OOM-humanitarianprinciples\\_eng\\_June12.pdf](https://docs.unocha.org/sites/dms/Documents/OOM-humanitarianprinciples_eng_June12.pdf)
- 53 See for example the reply to Physicians for Human Rights from the Gaza District Coordination and Liaison Public Inquiries Unit, 27 January 2016, pp. 37-38: '...in light of the armed conflict between Israel and the Palestinian terrorist organizations, foremost among them Hamas, the Israeli policy in effect with regard to the movement of people is that entry of Gaza residents into Israel is not allowed except in humanitarian cases only, and subject to security screening of persons applying for entry into Israel's territory or through its territory, including those seeking entry for medical treatment. In this context, let us note that, unfortunately, the terrorist organizations stop at nothing and have, on more than one occasion, taken advantage of the humanitarian avenue, abusing entry permits granted for medical treatment in order to advance their wrongdoing',  
[http://cdn4.phr.org.il/wp-content/uploads/2016/12/2-Refused2\\_digital\\_Eng.pdf](http://cdn4.phr.org.il/wp-content/uploads/2016/12/2-Refused2_digital_Eng.pdf)
- 54 Gisha. *Quotes by Israeli security and political figures about the connection between reconstruction in Gaza and Israel's interests*. 2016.  
[http://gisha.org/UserFiles/File/publications/Gaza\\_reconstruction\\_quotes.pdf](http://gisha.org/UserFiles/File/publications/Gaza_reconstruction_quotes.pdf)
- 55 Translated from Hebrew by Gisha. Original can be found at:  
<http://www.nrg.co.il/online/1/ART2/301/076.html?hp=1&cat=479&loc=8>
- 56 The role of the State Comptroller is to oversee and inspect the executive branch of Israel's governing administration.
- 57 Oxfam (non-official) translation of the report of the State Comptroller, which is available in Hebrew here: [http://www.mevaker.gov.il/he/Reports/Report\\_568/8c39fc9d-80f5-4b12-a593-8d0396178bd8/zuk-eitan-10.pdf](http://www.mevaker.gov.il/he/Reports/Report_568/8c39fc9d-80f5-4b12-a593-8d0396178bd8/zuk-eitan-10.pdf). See also Haaretz, 'Gaza War: 11 Key Headlines From Scathing Report Rattling Israel's Politicians and Military,' 28 Feb 2017,  
<http://www.haaretz.com/israel-news/LIVE-1.774365>
- 58 Gisha. *10 years into the closure of Gaza – a new public opinion poll reveals*. March 2017. <http://gisha.org/press/5880>
- 59 OCHA. *Fragmented Lives: Humanitarian Overview 2011*. May 2012, endnote 62.  
[http://www.ochaopt.org/documents/ocha\\_opt\\_fragmented\\_lives\\_annual\\_report\\_2012\\_05\\_29\\_english.pdf](http://www.ochaopt.org/documents/ocha_opt_fragmented_lives_annual_report_2012_05_29_english.pdf) The World Bank has estimated that if reconstruction continues at its current pace, Gaza's GDP will not rebound to its prewar levels until 2018: The World Bank, *Palestine's Economic Outlook – Spring 2016*.  
<http://www.worldbank.org/en/country/westbankandgaza/publication/economic-outlook-spring-2016>
- 60 '[IHL] is based on a delicate balance between two magnetic poles: military necessity, on the one hand, and humanitarian considerations, on the other. The tension between military necessity and humanitarian considerations permeates also the law of belligerent occupation. There are acute needs of the Occupying Power, but they coexist with counterpart needs of the population under occupation.' Dinstein, Yoram, *The International Law of Belligerent Occupation*, CUP, Cambridge, 2009, para. 268.
- 61 Dinstein, Yoram, *Military Necessity*, Max Planck Encyclopedia of Public International Law, Updated September 2015, Oxford Public International Law, <http://opil.ouplaw.com/view/10.1093/law:epil/9780199231690/law-9780199231690-e333>, particularly at para. 8: 'Military necessity cannot be invoked in order to deviate from or circumvent a specific provision of the law, unless an exception is expressly embraced in the provision itself.' No such exception is present in the provisions relating to collective punishment or facilitation of humanitarian relief.
- 62 This lack of coordination impacts on resourcing and service delivery, for example PWA Gaza reports it does not have the capacity or resources to conduct the necessary monitoring of water supplied by private vendors, increasing the risks of contaminated

water being delivered to households.

- 63 The majority of projects are funded /implemented by multilateral / bilateral financing facilities or agencies, with a trend towards funding of large scale infrastructure projects via multilateral financing facilities/development banks and bilateral agencies, with decreasing funding going towards UN Agencies/International NGOs.
- 64 See for example comments by the Palestinian NGO Network (PNGO) in a meeting with the People's Health Movement in March 2015: 'We cannot accept the Israeli declaration that a humanitarian corridor has been opened, we must demand full opening and that Israel be held accountable for the population under the state of occupation.'  
<http://www.phmovement.org/en/node/9914>
- 65 The Busan Partnership for Effective Development highlights a set of common principles for development actors that are key to making development cooperation effective: Ownership of development priorities by developing countries; a focus on results; partnerships for development (the participation of all actors); and transparency and shared responsibility. Further information:  
<http://www.oecd.org/dac/effectiveness/49650173.pdf> . A number of countries have endorsed the Busan Partnership Agreement, including Israel, the Palestinian Territories, the United States and number of EU states. See full list here:  
<http://www.oecd.org/dac/effectiveness/busanadherents.htm>
- 66 UN Office of the Special Coordinator for the Middle East Peace Process. *Gaza Reconstruction Mechanism: Fact Sheet*. October 2014. Op.cit.
- 67 Text of the Gaza Reconstruction Mechanism available here:  
<https://electronicintifada.net/blogs/ali-abunimah/un-database-gaza-aid-may-give-israel-targets-attack-secret-memo>
- 68 While COGAT is formally responsible for this function, stakeholders report that the Gol's security and defence apparatus is increasingly taking an active role in decisions relating to the 'dual use' list.
- 69 Shelter Cluster Palestine. *GRM Fact Sheet*. 31 July 2015.  
<http://shelterpalestine.org/Upload/Doc/b9b914b2-d2a7-4885-a7b2-df42cef23b91.pdf>
- 70 Number of suspended vendors as at November 2016. In October 2016 the Federation of Industries, the Union of Contractors and the Chambers of Commerce jointly issued a statement on the suspension of contractors and the limited amount of cement entering the Gaza Strip via the GRM, warning of a complete halt of reconstruction and asking the international community to intervene.
- 71 Further information on the GRM, as published by UN, can be viewed at  
<http://grm.report/#/>
- 72 GRAMMS project templates, provided by MoCA. Stakeholders report that after some trial and error with the system, they have found it is now possible for these stages to be submitted and approved as one.
- 73 Ibid
- 74 For example the first phase of the South Short Term Low Volume Desalination Plant.
- 75 Information provided by the PWA during a meeting with actors operating in the water, sanitation and hygiene sector in the Gaza Strip on 20 September 2016.





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For further information on the issues raised in this paper please email [advocacy@oxfaminternational.org](mailto:advocacy@oxfaminternational.org)

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