



State of Palestine
Ministry of Local Government

Fostering Tenure Security and Resilience for Bedouin Communities in the so-called Area C of the West Bank, Palestine

Policy Framework and Implementation Tools

April 2020

*Bedouins in Massafer Yatta area, Hebron,
Photo courtesy: UN-Habitat (2015)*



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Abbreviations and Acronyms

ACCO:	Area C National Coordination Office, Now Area C National Coordination Team
CEDAW:	Convention on the Elimination of all forms of Discrimination Against Women
CERD:	International Convention on the Elimination of all forms of Racial Discrimination
CRC:	Convention on the Rights of the Child
FIG:	International Federation of Surveyors
GLTN:	Global Land Tool Network
HRBA:	The Human Rights-Based Approach
HRIAM:	Human Rights Impact Assessment Mechanism
ICA:	Israeli Civil Administration
ICCPR:	International Covenant on Civil and Political Rights
ICESCR:	International Covenant on Economic, Social and Cultural Rights
IDP:	Internally Displaced Person
IUCN:	International Union for Conservation of Nature
LADM:	Land Administration Domain Model
LGUs:	Local Government Units
LWSC:	Land and Water Settlement Commission
MO:	Military Orders
MoJ:	Ministry of Justice
MoLG:	Ministry of Local Government
OCHA:	United Nations Office for the Coordination of Humanitarian Affairs
PA:	Palestinian Authority
PENRA:	Palestinian Energy and Natural Resources Authority
PLA:	Palestinian Land Authority
STDM:	Social Tenure Domain Model
UN:	United Nations
UNRWA:	United Nations Relief and Works Agency for Palestine Refugees in the Near East

1. Purpose and synopsis

The purpose of this document is to contribute meaningfully to the formulation of policy change and an implementation strategy which can help to foster tenure security and resilience for Bedouin communities in Area C of the West Bank. Considering the multiple pressures on the land access, livelihood options and traditional practices of these communities, achieving this is no mean task. Yet the information gathered, ideas shared, and discussions had in the course of the research and mission on which this document is based, did produce some important and positive insights to inform such a policy and strategy.

A central thread of the investigation was exploring ways to broaden conceptions of the tenure rights the Bedouin communities, deepen understanding of how these fit in with, back up and complement the land rights of all Palestinians, and visualize how recognising and protecting those rights can contribute to a future Palestinian society and economy. Clear visioning and policy development on this require careful navigation of both the current and potential roles, contributions, responsibilities and obligations of the different duty-bearers in Area C, all in the context of the overall impact of the protracted Israeli military occupation and settlement strategies in the West Bank from 1967 and in the wake of the Oslo Accords of 1993. It also, crucially, requires an understanding of the past and potential future contributions and roles of the Bedouin communities themselves. The overwhelming reality of the Israeli military occupation and settlement strategies in the West Bank (acknowledged in many of our consultations as “the primary geopolitical driver”) tends to permeate discussions and perspectives on how to deal with the myriad of challenges faced by Palestinians. This is of course understandable. The State of Israel is and will remain the Primary Duty Bearer in Area C until the end of the occupation.

However, if allowed to dominate the discourse, this overbearing reality can obstruct the identification of fresh policy opportunities, options and strategies for the Palestinian Authority (PA) and other duty bearers and stakeholders, built upon the land use, livelihood practices and histories of all Palestinians in Area C, with the specific focus in this case on the Bedouin communities. Significantly most of the stakeholders and actors interviewed for this document did not allow this to happen. They demonstrated an appetite for fresh thinking towards an innovative policy vision around the Bedouin, considering key issues from several angles including cultural heritage and way of life, livelihood practices and agricultural production, land use and tenure rights, demonstrated resilience through the decades, and strategic location. The consultations also included highly informative scenario exercises of the envisaged position of the Bedouin in a future, post-occupation Palestine.

2. Background

Contrary to the transitional nature of the arrangements under the Oslo Accords of 1995¹, Israel continues to have exclusive control over planning and construction in Area C of the West Bank, including land policy and management. Palestinians are largely excluded from the planning and decision-making process under an unjust planning regime². As Occupying Power, the Israeli occupation authorities are implementing policies and measures that are contrary to international law, resulting in forced evictions³, demolition of homes and infrastructure and other coercive factors such as denial of basic services, creating a coercive environment⁴ that lead to forcible transfer, settlement activity and continued construction of the West Bank Barrier. The illegality of Israeli settlements in the West Bank, including East Jerusalem, has been repeatedly reaffirmed by the UN: settlements are in violation of Article 49(6) of the Fourth Geneva Convention which prohibits the transfer of parts of the Occupying Power's own civilian population into territory it occupies. The United Nations (UN) Secretary-General has clearly stated in his reports to the General Assembly and more recently to the Human Rights Council that the planning and permitting regime implemented by Israel in Area C is discriminatory and restrictive and not in conformity with international humanitarian and human rights law.

Against this backdrop, the land designated as Area C remains crucial for a future independent Palestine. It constitutes more than 60 per cent of the West Bank. An estimated 300,000 Palestinians live in Area C and a much larger number depends on natural resources located inside it for their livelihoods⁵. Yet development in Area C is tightly controlled by the Israeli authorities, resulting in confined development for Palestinians through means such as limiting or refusing permits for construction of individual buildings and services, and by issuing demolition, eviction and seizure orders in relation to buildings constructed without a permit noting the discriminatory zoning and planning regime in face of Palestinians⁶, while for Israelis zoning and planning is considered catalytic in terms of allowing for the systematic establishment, expansion and financing of settlements and the unlawful exploitation of natural resources on appropriated Palestinian land⁷. As a result of land seizure and allocation for Israeli settlement construction and expansion, the designation of military zones and the

1 Oslo Accords, Article 27 of Annex III of the Israeli-Palestinian Interim Agreement on the West Bank and the Gaza Strip (1995): "In Area C, powers and responsibilities related to the sphere of Planning and Zoning will be transferred gradually to Palestinian jurisdiction that will cover West Bank and Gaza Strip territory except for the issues that will be negotiated in the permanent status negotiations, during the further redeployment phases, to be completed within 18 months from the date of the inauguration of the Council."

2 See also "Finding 23" of the report of the International Advisory Board (2015): "The aspects of the occupation that constrain plan preparation, combined with the failings in the procedures and practices for processing and authorizing the Local Outline Plans and the disregard for International Humanitarian Law and the Law of Occupation amount to a denial of administrative justice. ", in "Spatial Planning in Area C of the Israeli occupied West Bank of the Palestinian territory – Report of an International Advisory Board.

3 According to OCHA (2014) there are 38 Palestinian communities located in parts of Area C that have been designated by the Israeli authorities as "firing zones" for military training, and these communities are under an increasing risk of displacement and forced eviction. See OCHA's Area C of the West Bank: Key Humanitarian Concerns, 2014.

4 Important to note that forcible transfer may be accomplished by the creation of a coercive environment, without the use of physical force. For instance, measures facing Bedouin communities in the West Bank, including house searches, cutting from water, electricity, and other services, and denial access to employment and livelihoods contribute, inter-alia in the creation of an environment in which it is practically impossible to remain. Protection Cluster, oPt (2017). Coercive Environment Note, (Un published).

5 Statistics from the OCHA Humanitarian Bulletin Monthly Report, July 2015, based on vulnerability profile project carried out in 2013. (For further information see: <http://data.ochaopt.org/vpp.aspx>).

6 UN (2015). *One UN Approach to Spatial Planning in "Area C" of the Occupied West Bank*.

7 Al-Haq 2018, *Settling Area C: The Jordan Valley Exposed*.

construction of the West Bank Barrier, only 1,050 km² out of a total Area C of 3,502 km² is available to Palestinian construction⁸, which represents a meagre 30 per cent of Area C, which is by and large controlled by the Israeli occupation authorities⁹. In practice, Palestinians have so far been permitted to build only within the boundaries of Israeli-approved plans, which to date cover less than 1 per cent of the land in Area C.

The West Bank planning process reflects elements of multiple historical, contemporary, civilian and military systems. After the 1967 war, Israel as the Occupying Power initially maintained in force the 1966 Jordanian Planning Law Number 79. Israel subsequently amended the Law with numerous Military Orders (MO) and regulations.¹⁰ Of specific note, in 1971 Israel issued MO 418, depriving Palestinians of the planning mechanisms in place under the Jordanian Planning Law. MO 418 concentrated all planning powers within an Israeli, military-led Supreme Planning Committee, and remains in force in Area C today, despite the Oslo Accords envisaging the transfer of planning authority in Area C to Palestinian jurisdiction¹¹.

The issues of land use (spatial planning and control of land use) and land development (construction planning and permits, regulations and implementation) are inextricably linked in Area C of the West Bank. Efforts to develop and – through the Israeli system – approve spatial plans in Area C have been ongoing. These continue to improve in terms of scope of coverage, complexity of issues addressed (moving more towards building linkages for economic development), and complementarity with higher order non-statutory planning instruments. In contrast, it has been the policy of the Government of Palestine, represented by Ministry of Local Government (MoLG), not to prepare statutory local outline plans for Bedouin communities that have chosen not to settle-down in certain areas¹², noting that these groups have broader rights of access to and use of land and resources, while practicing their pastoral way of life through commuting during the seasons. This is an area of policy requiring further specific attention, given that the Bedouin in present context often require a unique *combination* of a secure base and provision of necessary basic services, with freedom of transit and access to grazing land and other natural resources for maintenance of their herds and way of life. However, for Bedouin communities, plans have been and continue to be drafted and deposited for their relocation to sedentary urbanized areas, without consultation or the consent of the targeted communities. If successful, such forced settlement will destroy the Bedouin way of life and mode of agricultural production in Palestine, as it does not take into considerations the basic needs for open spaces, as well as contribute to even further distortion of human settlement patterns.

The West Bank Bedouin can trace their origins and mode of agriculture back to 7th century in southern historical Palestine¹³, where they had survived as nomadic herders. Some are still on their original land, today (Saraya, Ka'abnah). Many lost their original

8 UN (2015). 'One UN' Approach to Spatial Planning in "Area C" of the Occupied West Bank.

9 The Israeli Civil Administration (ICA) was established in 1981. See Order regarding the establishment of a Civilian Administration (Judea and Samaria) (Order No. 947) 5742-1981.

10 For an overview of the military orders see "Ruling Palestine", COHRE/BADIL, 2005.

11 See Oslo Accords – Article 27 of Annex 3 of the Israeli-Palestinian Interim Agreement on the West Bank and the Gaza Strip (1995).

12 MoLG supported the plan-making processes in a number of Bedouin communities that settled down, like in the case of Khan al-Ahmar, Ar Rshaidh, Faisal, and Marj Numa'.

13 Important to note that Bedouins existed in Palestine for more than 5,000 years and they are considered an indispensable part of the Palestinian fabric.

lands following the 1948 war (*al-Nakbah*), when some of them were displaced from the Tel Arad desert in the Naqab (Negev)¹⁴. Others originate from Judea Desert (Rashaideh), some from the North of the Israel proper (Arab Abu Fardeh), yet others from elsewhere.

In addition to their original dispossession, the Area C Bedouin have over subsequent decades and into the present been subjected to several other human rights violations, including illegal forced displacement and land expropriations. Most of them presently reside in Area C, located mainly in the Jordan Valley, the Dead Sea area, Ramallah, Jerusalem, and Hebron.

Given their displacement after 1948, the majority are classified as Palestinian refugees, and as such are entitled to protection and assistance under international law including the right of return and other entitlements such as compensation for the land lost and other damage caused by displacement, including lost opportunities. Given that many were subsequently again displaced by Israeli settlement expansion, military land use and other methods, they are also entitled to Internally Displaced Person (IDP) protections under international law, as formulated in the *UN Guiding Principles on Internal Displacement*¹⁵. The *Principles on Housing and Property Restitution for Refugees and Displaced Persons* (AKA, Pinheiro Principles) are of relevance here as well, as they call for policy coherence that is currently understood to align and harmonize short-term humanitarian relief and assistance with longer-term institution-building development approaches, and both within the overarching framework of human rights¹⁶.

The human rights-based approach (HRBA) applies the corresponding obligations of States with both their remedial and preventive effects to address the tragedy that accompanies refugee and displacement situations. Furthermore, while remaining under Israeli military occupation, Bedouin are along with all other Palestinians in Area C entitled to full protection under International Humanitarian Law, including protection against “expulsion and forcible transfer” under Article 49¹⁷ of the Fourth Geneva Convention Relative to the Protection of Civilian Persons in Time of War, a violation is classified as a grave breach of the Geneva Conventions¹⁸.

An additional layer of protection is offered to all Palestinians of the West Bank by International Human Rights Law, through the ratification by both Israel and the State of Palestine of the International Covenant on Civil and Political Rights (ICCPR), the

¹⁴ Abdel Qader Yasin (1980). *History of the Palestinian Working Class 1918-1948*, Research Center, Palestinian Liberation Organization, Beirut.

¹⁵ E/CN.4/1998/53/Add.2 (see <http://www.un-documents.net/gpid.htm>)

¹⁶ See Committee on World Food Security, “Framework for Action for food Security and Nutrition in Protracted Crises,” 13 October 2015, at: <http://www.fao.org/3/a-bc852e.pdf>; and United Cities and Local Governments, “Mechelen Declaration on Cities and Migration,” 16 November 2017, looks toward the development of the Global Compact on Safe, Orderly and Regular Migration to provide “a unifying framework of common principles, commitments and understandings among Member States on all aspects of international migration, including the humanitarian, recovery, development and human rights-related dimensions,” para. 9, at: https://www.ion.int/sites/default/files/press_release/file/Mechelen-Declaration-final.pdf

¹⁷ Article 49 of the Fourth Geneva Convention prohibits the expulsion and forcible transfer of protected civilians – whether within the occupied territory or to areas outside it – “no matter the motive”. The only circumstances under which the occupying power is allowed to evacuate residents from their homes is when doing so is critical for their own safety, or by virtue of “considerations of military necessity” – when the presence of the civilians at that location hinders a military action during hostilities. Even then, the evacuees must be permitted to return to their homes “immediately upon cessation of the hostilities in that area”. During the temporary evacuation, the occupier must provide the evacuees with alternate living quarters and basic life necessities. Geneva Conventions of 12 August 1949: Commentary, Convention IV, art. 49; B’tselem “Acting the Landlord- Israel’s Policy in Area C, the West Bank, June 2013, p.97

¹⁸ Protocol Additional to the Geneva Conventions of 12 August 1949 and relating to the Protection of Victims of International Armed Conflicts (Protocol I), 8 June 1977, art. 85(4)(a) (recognising a violation of Geneva Convention IV, art. 49, as a grave breach of the Protocol).

UN experts decry Israel plan to demolish Bedouin homes near Jerusalem

GENEVA (31 May 2018) - *UN human rights experts have expressed grave concerns about an Israeli court's decision on 24 May to uphold a plan by the Government of Israel to demolish the entire Palestinian Bedouin community of Khan al-Ahmar Ab al Helu in the West Bank east of Jerusalem. "This ruling paves the way for the eviction of 181 inhabitants and constitutes an involuntary move that would likely amount to forcible transfer," said the experts. The individual or mass forced transfer of protected persons within an occupied territory is a grave breach of Article 147 of the Fourth Geneva Convention. Forcible transfer also constitutes a war crime under the Rome Statute, that may lead to individual criminal responsibility. The experts also said that forced eviction is a gross violation of international human rights law.*

OHCHR Statement, *UN experts decry Israel plan to demolish Bedouin homes near Jerusalem*, 31 May 2018 (emphasis added)

International Convention on the Elimination of All Forms of Racial Discrimination (CERD), the International Covenant on Economic, Social and Cultural Rights (ICESCR), the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), and the Convention on the Rights of the Child (CRC). Palestine has also ratified the Rome Statute of the International Criminal Court. However, both Israel and Palestine have yet to ratify the Indigenous and Tribal Peoples Convention, 1989 (C169). Protections include the rights to adequate housing, freedom of movement and the prohibition on arbitrary eviction. The Bedouin may also be entitled to protections under indigenous 'soft' law, such as the UN Declaration on the Rights of Indigenous Persons, including the recognition of land rights and the right to enjoy and preserve their culture and livelihood. Such protections would be significantly bolstered if the above mentioned C169 was in force.

3. Operational definitions and baseline information

In its *Common Country Analysis* (2016) the UN in Palestine identified Bedouin and other herder sub-groups in Area C of the West Bank as among Palestine's most disadvantaged groups. The number of people under this group was reported to be 30,171 in 2016¹⁹. They comprise, according to the United Nations Office for the Coordination of Humanitarian Affairs (OCHA) oPt, 172 communities (See Map at Annex 2), a total of 46 of which are at risk of forcible transfer in the central West Bank, with a population of 8,174 (5,975 are refugees) inhabiting 1,358 households (124 of which are female-headed). OCHA oPt has recently reported that between 2009 and 2019 a total of 2,662 structures, including 709 donor-funded structures, were demolished in Area C Bedouin communities, resulting in the displacement of 5,109 people and affecting a total of 11,050 people²⁰.

Israeli plans for Bedouin communities include forced transfer of pastoral communities to sedentary urbanized areas, without consent of the targeted communities. Important to emphasize that the Israeli planning initiative for Bedouin communities is based on establishment of a Bedouin township adjacent to Areas A or B to concentrate the communities in certain small areas without paying any attention to their needs as pastoralists. The designated "relocation" sites are inadequate and raise serious humanitarian concerns. They include three new "townships" in Fasayil (far north of Jericho), An Nuwei'ma (north-west of Jericho), and Al Jabal (south-east of Jerusalem) to be developed on "State Land" that the Israeli authorities allocated for this purpose in Area C²¹. The International Advisory Board commissioned by UN-Habitat to examine the spatial planning situation in Area C of the West Bank in 2015, reported that "*The Israeli Civil Administration (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 resident countries*"²².

"The word 'Bedouin', derived from the Arabic terms *badawi* or *badu*, is commonly used to describe people of a nomadic or semi-nomadic pastoral lifestyle, who inhabit the desert, the *badiya*. One of the earliest scholars to have written on the Bedouin [...] referred to the Bedouin by stressing the concept of '*asabiyya*' (extreme loyalty) and inter-tribal relations, describing how loyalty to the tribe, kinship, family and blood ties were important in understanding tribal order and structure". It is important to take note of the different operational definitions used by main actors including UN

19 WHO (2016). Health conditions in the occupied Palestinian territory, including East Jerusalem, and in the occupied Syrian Golan.

20 Online dashboard – Breakdown of data on demolition and displacement in the West Bank – retrieved on March 25, 2019: <https://app.powerbi.com/view?r=eyJrIjoiImMkZGRhYWQ0ODk0MS00MWMkLWlWl2NTktMDg7NGJlMGNYZyZlIiwidCI6IjBmOWUzNWRLTU0NGYtNGY2MC1ZGNjLTlVYTQxNmUzZGM3MCIslmMlOjIh9>

21 See OCHA (2014). Bedouin Communities at Risk of Forcible Transfer.

22 Protocol Additional to the Geneva Conventions of 12 August 1949 and relating to the Protection of Victims of International Armed Conflicts (Protocol I), 8 June 1977, art. 85(4)(a) (recognising a violation of Geneva Convention IV, art. 49, as a grave breach of the Protocol).

agencies when describing the Bedouin groups. For example, the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA) uses “family unit”, while UN-Habitat uses “community”, compared to OCHA which uses “residential communities”. Depending on situation, other operational definitions include “Bedouin” or simply “pastoralists”; “refugee and non-refugee”, etc. The Palestinian government’s operational definition is normally “Bedouin Communities”. Careful use of the terminology is key in understanding the social structure of this group. What remains important is to acknowledge the contextual differences within the broad group, and to carefully analyse and understand specific situations and sub-groups to facilitate interventions, noting that such analysis and understanding requires concerted effort and the direct and meaningful participation of the people affected. For instance, developing local outline plans for and with Palestinian communities in Area C has always been considered as a tool that would help address the current ‘no-plan-so-no-building-permit’ policy the Israeli authorities frequently cite to justify demolitions and displacement of communities, many of whom – like the Bedouin – have suffered multiple displacements over the years. The MoLG’s policy has been directed to develop such spatial plans for “other herder” sub-groups, and not necessarily to Bedouin sub-groups that did not choose to settle down, in order to safeguard their cultural way of life, where they can commute freely and not to be confined within planning boundaries.



*Khan al Ahmar Bedouin community, East of Jerusalem
Photos courtesy: Jean du Plessis, UN-Habitat (2015)*

4. Context

At the outset, thinking about the future of the Bedouin communities require reflection on the often misunderstood and underestimated nature, role and contribution of pastoralism as a way of life and a mode of agricultural production. In the first place, we need to know that pastoralism is a global phenomenon found in many parts of the world. "Pastoralism is practiced on 25 per cent of the world's land area, provides 10 per cent of global meat production, and supports an estimated 200 million pastoral households and herds of nearly a billion camelids, cattle and smaller livestock, in addition to yaks, horses [and] reindeer"²³. In Sub-Saharan Africa an estimated quarter (268 million) of the total population depends on pastoralism as their main means of livelihood.

While less in relative population numbers compared with Sub-Saharan Africa, Arab Bedouin tribes have a rich and important history over many centuries and across a vast geographical spread in the Middle East and North Africa (from present-day Saudi Arabia, Iraq, Oman, Yemen, Jordan, Syria, Israel / Palestine, Egypt, Algeria and Morocco). Bedouin tribes have populated the Galilee, as well as southern historical Palestine, as well as Hebron and the West Bank, for centuries, mainly as semi-nomadic pastoralists. According to the 1922 census, Bedouins in Palestine calculated about 60,000²⁴. Throughout the Palestinian history, the Bedouin have been part of the physical as well as the cultural landscape, enriching and complementing urban Palestinian culture. The Bedouin way of life is strongly and inextricably connected to their origin as pastoral nomads. Traditionally, Bedouin divided themselves into three groups based on their main sources of subsistence. The first group was the 'true' Bedouin – camel-herders – who made use of the entire desert since camels can live for long periods of time on little or no water. The second group was 'small' Bedouin who raised sheep and goats primarily. These tribes migrated for shorter distances, as sheep and goats need water at least once a day. The third group was 'herdsmen' who kept flocks of sheep and goats and also practiced farm agriculture²⁵.

The International Union for Conservation of Nature (IUCN) has noted that "Since the late 1990s there has been growing interest in, and awareness of, sustainable pastoral development, most notably in Sub Saharan Africa and Central Asia"²⁶. This is in part based on a recognition that, in many Sub-Saharan contexts, nomadic and semi-nomadic pastoralism have proven to be a most viable – and indeed at times the only suitable – means of livelihood available to dryland populations. There is also a growing understanding of the positive ecological contribution that this form of agricultural production, when given recognition and the proper level of support, can make. The pastoral system "makes enormous contributions to social, environmental

23 IUCN 2012 [quoting FAO], *Supporting Sustainable Pastoral Livelihoods. A Global Perspective on Minimum Standards and Good Practices*, p.2.

24 Abdel Qader Yasin (1980). *History of the Palestinian Working Class 1918-1948*, Research Center, Palestinian Liberation Organization, Beirut.

25 *Cultural Survival Quarterly Magazine (March 1984)*, *Nomads in Jordan and Syria*: <https://www.culturalsurvival.org/publications/cultural-survival-quarterly/nomads-jordan-and-syria>

26 IUCN, op. cit., p.1.

and economic wellbeing in dryland areas and beyond. Pastoralism has a unique ability to add value and convert scarce natural resources into meat, milk, income, and livelihoods²⁷. In addition, “the strategic mobility associated with pastoralist livestock migration is the basis for the profound ecological resilience of pastoralism”. In a rapidly changing world, such *ecological resilience* is insufficient on its own, and must be complemented by *social resilience* fostered by “compatible social and economic conditions, a supportive policy and institutional environment”. Pastoralism remains vulnerable to shocks (climate, politics, economics), and so requires support through mutually reinforcing policy and institutional processes²⁸. For this support to be successful and sustainable in the long run, they should largely be based on the knowledge, insights, tenacity and adaptive capacity of the pastoralist communities themselves.

In this spirit, much work in strengthening pastoralist resilience is being done worldwide, with main emphasis on Sub-Saharan African and Central Asia, but elsewhere also. For example, the Arab region has seen the formation of the Arabian Pastoralist Communities Network, with the goal “to revive, document and develop the traditional knowledge in the Arabic Region in order to invest it in the development of Bedouin pastoral groups and building their capacities for effective participation in rehabilitation and improvement of sustainable participatory management of rangelands”. Partnerships through the Arabian Pastoralist Communities Network “aim to foster capacity building, shared learning, networking and exchange of experience of the indigenous peoples (local people) in our region, sharing a deep concern for the respect of cultural rights and rights to land and natural resources²⁹. Significantly, this network grew from the struggle by one community – a small mountain village in the South of Jordan, called Dana – to assert their land rights. In the process they “learnt that in order to participate in local decision-making processes they needed to build relationships with national, regional and international organisations³⁰.”

This should not be surprising. Sustainability and resilience were integral components of traditional Bedouin land use over many centuries in the Arabian Peninsula through the highly disciplined *Al Hima* (“protected place”) system, designed to help communities manage shared rangelands effectively. “Under Islamic law it became a method for the sustainable use of the region’s limited natural resources and the conservation of its biodiversity”. Unfortunately, the practice came under severe stress in the latter part of the 20th century, when *al Hima* declined across the Middle East “as governments in many countries laid claim to rangelands and opened them up for anyone to use³¹. Yet it has not completely disappeared. By the mid-1980s, Syria had managed to establish a “unique amalgam of traditional practice and government policy” with “both the Bedouin and the Syrian government [appearing] to be dedicated to their success”. And around that same time, the Jordan government was also showing interest in implementing Bedouin *Hima* cooperatives,³² so much so that 2014 IUCN reported:

27 FAO 2018, *Pastoralism in Africa's drylands Reducing risks, addressing vulnerability and enhancing resilience*, p.v.

28 Helen Young et al., *Risk, Resilience and Pastoral Mobility*, Feinstein International Center, 2016, p.15-16.

29 IUCN: <https://www.iucn.org/regions/west-asia/our-work/drylands-livelihood-and-gender-programme/arabian-pastoralist-communities-network>

30 ILEIA <https://www.ileia.org/2016/12/19/building-arab-pastoralist-communities-network/>

31 Ecologist (2017), *Ecologist Special Report: The Al Hima Revival* (<https://theecologist.org/2017/aug/22/ecologist-special-report-al-hima-revival>).

32 *Cultural Survival Quarterly Magazine* (March 1984), *Nomads in Jordan and Syria* (<https://www.culturalsurvival.org/publications/cultural-survival-quarterly/nomads-jordan-and-syria>).

“The Jordan Badia extends over 90% of Jordan’s landscape, with Bedouins and other villages using it for livestock grazing as part of their main economic activity. Traditional grazing systems have declined over the years, subjecting the lands to a number of environmental pressures that further stem from industrialization, urbanization and agricultural intensification. Traditional grazing systems have the ability to reverse this degradation and restore the land to its optimum productivity and levels of biodiversity. With local community and key stakeholders playing a role in re-introducing traditional grazing systems and adapting to environmental conditions, the Hima system was revived. The Hima system allows communities to conserve areas of key resources in order to regulate their use. Improvements in rangeland biodiversity and fodder production were observed in as little as one year of establishing these Hima sites”³³.

The above considerations are important, as they help us to recognise the significant contributions that Bedouin communities can make to a present and future State of Palestine; and inform a viable policy and a strategy to foster Bedouin tenure security and resilience in Area C. Of course, under the existing reality of Israeli military occupation – which is consciously and actively geared against Bedouin and in favour of Israeli settler security and prosperity³⁴ – implementation of this policy and strategy will face enormous difficulties. Yet it will be built on a solid historical and cultural foundation, increasing its prospects of success.

³³ IUCN (2014), *Al Hima. Possibilities are Endless* http://cmsdata.iucn.org/downloads/hima_case_1_1.pdf

³⁴ OHCHR Statement, 31 May 2018, *UN experts decry Israel plan to demolish Bedouin homes near Jerusalem*: <https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=23161&LangID=E>. Note also ongoing Israeli planning initiatives to establish of Bedouin townships adjacent to Areas A or B, for relocation and urban settlement of presently rural communities, with the goal to concentrate the communities in small areas without paying any attention to their needs as pastoralists.

5. Elements of do-no-harm analysis

In 2016, MoLG with support from UN-Habitat adopted a Human Rights Impact Assessment Mechanism (HRIAM)³⁵ alongside a broader perspective on the institutional and operational engagement with the Israeli authorities to contribute to the 'do-no-harm' imperative. The aim of the HRIAM is to empower the Palestinian communities in Area C and the Government of Palestine in defying the coercive environment imposed by the Israeli military occupation, by monitoring and assessing the contribution of the current spatial planning policy to the realization of human rights of Palestinians in Area C as well as the potential harm of the institutional and operational engagement with the Israeli authorities. The HRIAM did not cover Bedouin communities at the time, but now MoLG is taking stock of the accumulative experience gained in piloting the HRIAM and suggest rolling it out to incorporate the Bedouin (and other herder sub-groups), where relevant³⁶.

"The Israeli Government has denied building permits submitted by many Palestinian communities living in Area C of the West Bank – which is under full Israeli civil and security control. In contrast to the planning approval system for the Israeli settlements, Israel has made it almost impossible for Palestinian communities in Area C to obtain building permits. Palestinian construction is entirely prohibited in about 70 percent of Area C and heavily restricted in the remaining parts, with less than one percent of Area C planned for Palestinian development. For the period 2007-2016, less than four percent of applications for building permits for Palestinians in Area C were approved."

OHCHR Statement, UN experts decry Israel plan to demolish Bedouin homes near Jerusalem, 31 May 2018

The HRIAM should include the following components when considering communities:

- Mobility throughout the year as a key element to the sustainability of pastoralists.
- Current, potential and realized risks resulting from the Israeli occupation policies.
- The vital importance of participatory processes in all planning initiatives, and the involvement of the leaders of Bedouin groups in the authorization of plans.
- Effect is measured on existing and planned structures, space/land, distances and access to basic services, agricultural lands, grazing zones, wells and cisterns, throughout the planning process.
- The loss of capital due to loss of land access resulting from settler violence or official Israeli policies such as confiscation of livestock should be monitored.
- The relevant right (education, health, housing, culture etc.) for emphasis on the rights-based approach and easy reference to sector analysis.
- The effect is measured on property, people and costs for distinguishing between geographic and demographic trends as well as third party responsibility concerning costs and permit process.

³⁵ Retrieved on April 1, 2019: <https://unhabitat.org/wp-content/uploads/2016/12/Human-Rights-Impact-Assessment-Mechanism.pdf>

³⁶ Important to keep in mind that legal aid vis-à-vis Israeli courts is a key response in terms of trying to seek protection from displacement of Bedouin communities, but the do-no-harm perspective needs to be kept in mind as well.

- Special vulnerable groups which are particularly monitored including but not limited exclusively to women, children, displaced persons' lands.
- Public and private property should both be monitored.

It is suggested that the monitoring of outputs should include disaggregated analysis of risks, rights, special vulnerable groups etc. to enable the understanding of each case at hand. While the HRIAM may capture the specific problems of threatened grazing zones and herding needs, the particular semi-nomadic lifestyle as well as the customary land regime of the Bedouin requires additional indicators which are not covered by the current HRIAM. Therefore, a subset HRIAM mechanism needs to be further designed to reflect the special risks faced by these communities.



*Bedouins in Massafer Yatta area, Hebron
Photo courtesy: UN-Habitat (2015)*

6. Complementarities, synergies and opportunities

There was agreement and affirmation amongst most of the individuals and groups interviewed, that the Bedouin of Area C, some of whom reside on their historical lands and some of whom are refugees from 1948 located on villages communal or private lands

1. ... are custodians of a valuable strand of Palestinian history, cultural heritage and way of life;
2. ... through their pastoral practices, play an important role in the productive utilisation and conservation of natural resources and the environment;
3. have traditional leadership, communal identity and organization which foster social bonding and commitment;
4. ... are in many cases caretakers and users of land that is strategically significant for the future of Palestine;
5. ... are facing a formidable array of challenges, mostly due to actions by the occupying power;
6. ... have been courageous and resilient, against great odds, in their struggles to retain access to land and maintain their livelihoods and way of life;
7. ... have had to be flexible and adaptable, often combining a mixture of strategies in order to survive;
8. ... have an important role to play in the building and development of present and future Palestine;
9. ... have certain land-related needs and rights, which are essential for the preservation of their way of life, and should therefore be identified, recognised, respected and protected;
10. ... should be provided the services required to fulfill their basic human right to an adequate standard of living, education, health, etc that they need to support, maintain and develop their traditions; and
11. ... should as a group be recognised and, treated as a priority, in policy as well as practice (immediate, medium-term and long-term).

Throughout the consultations and discussions, the importance of boosting Bedouin resilience in Area C was clearly recognised, as was the link between that resilience and tenure security. But what exactly is the nature and form(s) of the land tenure of these communities? What are tenure rights that should be recognised, respected and protected? Several terms and phrases (some positive and others negative) that occurred and recurred are worth noting. We were repeatedly and in different ways told

that: Many Bedouin communities are *'custodians of strategically significant land'*³⁷. They face enormous pressures, often daily, including denial of *'access to their grazing grounds'*, threats of *'demolition, forced transfer'* and *'forced urbanisation'*, pushing them to the edge of survival. That, to fulfil their potential role in Palestinian society and development, they would need protection (or restoration) of appropriate rights of *'land access, use and transit'*, considering their style of life *'connected to Palestinian heritage culture'*, which is economic activities based on *'space to move, seasonal changes and social relations'*. At the same time, they also require recognition of their traditional leadership and communal identity and organization, their historical connection to the lands on which they currently reside, which is reinforced by the human right to *'adequate housing and protection from forced eviction'*, plus provision of *'basic and essential services'* as well as their collective right to communal development.

Considering all these aspects within the multi-layered context in which Bedouin communities presently occupy and use land in Area C, combined with the fact that an element of mobility and seasonal access is essential to their traditional way of life, there is no simple way of describing their tenure. At an abstract level it can be said that they require, at a minimum, (1) rights of **residential security**; and (2) rights of **access, transit and seasonal use** of land for livelihoods. Yet in practice their relationship to such land is directly influenced and shaped by a combination of factors, including their historical origins and connection to the land on which they reside, way of life and traditional land uses and meaning, agricultural mode of production, beneficial environmental impact, and communal identity and organization, family structure and relations, as well as the land and property rights of others, and the policies and actions of their government. The tenure status and security of Bedouin families and communities are therefore highly varied depending on their location on their traditional lands or refugee status, specifics of their situation and, in addition, the availability (or not) of vacant "State Land", or of privately-owned land for lease, rent or other form of permission to occupy. Not forgetting, of course, that the primary geopolitical driver of their experience, namely the policies and actions of the Israeli occupying power, have turned the tenure position of multiple Bedouin communities into a deeply stressful experience of uncertainty and fear, particularly those living with pending demolition orders and forced relocation plans.

Within this dire and urgent situation there are practical steps that can and should urgently be taken and there are several complementarities, synergies and opportunities that could be capitalised on and extended, through a concerted intervention by the PA. An important first step recommended is the issuing of a clear policy statement and implementation strategy, regarding the situation of the Bedouin communities of Area C (options described in Section 7, below). This should be formulated with reference to the *Road Map for Reforming Palestinian Land Sector* (2017) and its attachment, the amended *National Land Policy Framework Policy Statements*. It should also refer to and build upon the many local and international actors, from civil society to government to UN, who are active in supporting the resilience of Bedouin communities through a

³⁷ This role, while important, can also create a highly ambiguous situation, as in several cases their present location is far from ideal and the result of a previous forced "relocation".

range of activities over several years, as has been well illustrated in the case of Al Khan al-Ahmar. It should explicitly recognise the intrinsic value and contribution of Bedouin history, heritage and way of life, as part of Palestinian identity, and accordingly it should incorporate a process of intensive consultation with / involvement of the people most directly affected, the Bedouin communities and their ongoing struggles for survival. All these actors and their efforts can only benefit from and be emboldened by clear strategic direction and coordination, led by the PA.

There are also innovative land concepts and tools, developed by international land actors over the past decade, which are well suited to support this process. From amongst these, the Continuum of Land Rights, Social Tenure Domain Model (STDM) and Fit-for-Purpose Land Administration approach, developed by UN-Habitat and other partners in the Global Land Tool Network (GLTN), are particularly well suited for this purpose. These are described below³⁸.

The **Continuum of Land Rights** is a concept or metaphor for understanding and administering the rich complexity of land rights on the ground. The rights along this continuum can be documented as well as undocumented, formal as well as informal, for individuals as well as groups, legal as well as extra-legal. The rights do not lie on a single line, and they may overlap. The concept provides for the recognition and improvement of security across a continuum of tenures, as well as opportunity for movement between tenure forms depending on context, need and circumstance. It offers governments and land actors innovative, inclusive ways to promote the realisation of tenure security, through recognising, recording and administering a variety of appropriate and legitimate land tenure forms. The continuum concept provides a valuable analytical *lens* for understanding complex tenure situations, in context, and may prove particularly useful in Area C. It can form the basis for communicating how particular tenure forms should evolve and for developing ways of administering them to compliment rather than infringe upon the legitimate rights of others. This is an important and powerful alternative to simply focusing one dominant form of tenure – for example individually held private property – at the expense of the many other different land use and access rights (customary, leasehold, group tenure, informal, pastoral) that co-exist within the same system. It can be very useful in describing the tenure rights of the Bedouin communities, in terms of their form and content; the Bedouin's relationship to their traditional historical lands or land rights of village, or other private individuals; the forces at play undermining those rights; and what can be done to recognise, respect, protect and strengthen them. The concept has been successfully used to deepen understanding of land tenure typologies, scenarios and options in a variety of contexts, including Angola, South Africa, Mozambique, Malawi, Namibia,³⁹ Nepal, Egypt and Syria⁴⁰. As a first step, the concept could be very usefully deployed to develop a Palestinian tenure typology and continuum diagram.

38 For further information, see: www.glttn.net.

39 Royston, L. and J. du Plessis (2014). *A Continuum of Land Rights: Evidence from Southern Africa*, paper presented at the World Bank Annual Land and Poverty Conference, 2014.

40 See *Urban Housing and the Question of Property Rights in Syria* (unpublished EU funded project document for consultation), pp.7, 55, 60, 61, 62 https://www.academia.edu/36454365/Urban_Housing_and_the_Question_of_Property_Rights_in_Syria

The **Social Tenure Domain Model** is a highly flexible and affordable open-source land information system for capturing person/s to land relationships within the context of a continuum of land rights. “The flexibility of STDM is in the recognition that parties, spatial units and social tenure relationships may appear in many ways, depending on local tradition, culture, religion and behaviour. Recordation in STDM may not only be based on formal registration of formal land rights, but may also be based on observations in reality, resulting in recordation of informal land use rights”⁴¹. STDM is a ‘specialization’ of the ISO-approved Land Administration Domain Model (LADM) and is being used, together with Participatory Enumeration methodologies, in successful projects in a growing number of countries including Nepal, Iraq, Kenya, Uganda, Zambia, Namibia, Democratic Republic of Congo and the Philippines. It has formed the cornerstone of numerous successful GLTN learning events to build local capacity of officials, local government leaders, community members and other relevant land actors. This included orientation training to relevant Palestinian institutions, especially Land and Water Settlement Commission (LWSC) in December 2017, where it showed that STDM could be catalytic in achieving the goal of land settlements across the A/B/C divide in the West Bank territory⁴². In the Palestinian territory context it should be applied with close linkage to the ongoing land settlement project.

“We live under constant stress because of the demolition orders, and especially because the Civil Administration won’t leave us alone. They keep an eye on every breath we take. Since the [Israeli] High Court gave the occupation authorities the go-ahead to demolish our homes, we’ve been in a state of constant anxiety, waiting for the demolition to begin. My wife phones me any time she sees a military patrol or Civil Administration vehicle on the hill opposite our home. She bursts into tears and says: ‘Come home right away, maybe they’re coming to tear it down.’ I rarely leave our living area, because I’m afraid they’ll demolish it while I’m gone and won’t let me come back to help my family and support them through the demolition. Even my children and grandchildren ask every morning, as soon as they wake up: ‘Did they demolish the school?’ They’re convinced the school will be torn down one night and will simply be gone when they wake up.”

Testimony of Ahmad Jahalin, 60, Khan al-Ahmar, in B’Tselem, Fake Justice, 2019, pp.41-42

The **Fit-for-Purpose Land Administration** approach was developed by the International Federation of Surveyors (FIG), the World Bank, UN-Habitat and other GLTN partners. This was in response to the urgent need existing in many countries to build systems which can quickly and effectively identify the way land is occupied and used and help to provide security of tenure and control of the use of that land. It is a practical and realistic approach, focusing on the minimum needed to be done to meet the urgent and immediate needs of society, in a way that can then be incrementally improved over time. The elements of Fit-for-Purpose Land Administration are:

1. *Flexible* in the spatial data capture approaches to provide for varying use and occupation;
2. *Inclusive* in scope to cover all tenure and all land;
3. *Participatory* in approach to data capture (formal and informal) and use to ensure community support;

⁴¹ FIG, UN-Habitat and the Global Land Tool Network (2010). *The Social Tenure Domain Model. A Pro-Poor Land Tool*, p.11.

⁴² For more information, please refer to this web story: <https://unhabitat.org/training-in-palestine-on-good-land-governance-for-peace-development-and-human-rights/>

4. *Affordable* for the government to establish and operate, and for society to use in close relations to other land tenure processes taking place;
5. *Reliable* in terms of information that is authoritative and up to date;
6. *Attainable* to establish the system within a short timeframe and within available resources; and
7. *Upgradeable* with regard to incremental improvement in response to social and legal needs and emerging economic opportunities.



Khan al Ahmar Bedouin community, East of Jerusalem
Photos courtesy: Jean du Plessis, UN-Habitat (2019)

7. Policy options to foster tenure security and resilience for Bedouin communities in Area C

The following policy options are targeting the Palestinian institutions as a lawful sovereign under international law that are responsible for promoting rule of law and translating international parameters effectively into national results that are actionable within certain timelines under the Israeli occupation, recalling that Israel, the Occupying Power is the primary duty bearer. This framework is based on international law that protects Palestinian rights who are living under prolonged occupation. When the Israeli occupation is ended, the policy options need to be revisited in light of the new operational environment.

a. Main focus: PA as a secondary duty bearer

IMMEDIATE TERM (WITHIN 1 YEAR)

Policy 1: Formulate and adopt an integrated policy on land use and access rights which incorporates Bedouin communities into existing policies and projects

- Describe and acknowledge the positive role of Bedouin communities within Palestinian society and economy both generally and specifically across the A/B/C divide. Refer to heritage and powerful customs that can be harnessed to foster resilience and sustainable rangeland production.
- Dimensions to be considered:
 - Access, transit and seasonal use of land for livelihoods.
 - Ongoing and sudden changes in these areas due to a variety of factors.
 - Right to adequate housing⁴³.
 - Environmental justice⁴⁴.
 - Right of return⁴⁵.
 - Right to self-determination⁴⁶.
 - Freedom to maintain and/or change way of life.
 - Sovereignty imperative⁴⁷.

⁴³ https://www.ohchr.org/Documents/Publications/FS21_rev_1_Housing_en.pdf

⁴⁴ <https://www.undp.org/content/dam/undp/library/Democratic%20Governance/Access%20to%20Justice%20and%20Rule%20of%20Law/Environmental-Justice-Comparative-Experiences.pdf>

⁴⁵ <https://www.hrw.org/legacy/campaigns/israel/return/>

⁴⁶ <https://minorityrights.org/our-work/law-legal-cases-introduction/self-determination/>

⁴⁷ For Storey (2001: 37) "In addition to land, borders and people, there is one vitally important additional feature which states must possess: sovereignty" See: Storey, D. (2001). *Territory: The Claiming of Space*. Harlow, England: New York: Prentice Hall. Sovereignty here entails "final and absolute political authority in the political community" (Hinsley, 1986: 26). See Hinsley, F. H. (1986). *Sovereignty*. Cambridge, New York: Cambridge University Press. Nevertheless, it is important to distinguish between de jure and de facto sovereignty. This is especially crucial in volatile geo-political contexts, such in the deeply unequal and polarized regime of the oPt.

Policy 2: Extend the management reach of PA's institutions to deliver basic services to Bedouin communities within a city-region perspective

Targeted Groups:

(i) PRIMARY: MoLG/Local Government Units (LGUs); and **(ii) SECONDARY:** Area C National Coordination office (ACCO); Ministry of Health; Ministry of Agriculture; Ministry of Education; Palestinian Water Authority; Palestinian Energy and Natural Resources Authority (PENRA)

STEPS & TOOLS FOR IMPLEMENTATION:

- Modify the current governance structure for the hierarchy of social services and increase the financial capacities and mandates of district and local authorities to provide services for Bedouin communities, where appropriate.
- Recognise the need to work with recognised local leadership in a sustained manner. Develop appropriate mechanisms for doing this in consultation with the communities. Consider potential of formalising the agreed procedures.
- Formally include the participation of Bedouin communities in local development processes (during planning, execution, and monitoring stages), and participate in decision making processes with nearby villages and cities.
- Leverage the statutory and non-statutory spatial plans on local and district levels by engaging in tenure responsive land use planning for communities in need of a secure home base and livelihoods, and indicate and use mechanisms and tools of land governance in an innovative and participatory fashion, and develop capacities, where relevant.
- Work with the Palestinian stakeholders and respective communities to develop fit-for-purpose plans, responsible land governance and the effective delivery of social services.
- During planning and implementation, strive for community ownership, including attention to the involvement and contributions of women and the needs of the young generation.
- Foster resilience of Bedouin livelihoods through capacity building and provision of appropriate and targeted support, including water, fodder, access to transport, amongst others.
- Encourage and support communal public institutions to sustain community's needs in the fields of economic development, culture and education.
- Support connecting agricultural roads, including dirt roads.
- Identify and utilise innovative and participatory land governance tools and mechanisms, and develop capacity as may be required.
- Adopt a national advocacy strategy by ACCO focused on promoting the right to adequate housing and security of tenure for Bedouin communities.

MEDIUM TO LONG-TERM (1-3 YEARS)

Policy 3: Settle land disputes and map land rights in Bedouin communities

Targeted Groups:

(i) PRIMARY: LWSC/Palestinian Land Authority (PLA); and **(ii) SECONDARY:** MoLG/LGUs; Ministry of Justice (MoJ); AWQAF; Ministry of Finance

STEPS & TOOLS FOR IMPLEMENTATION:

- Launch and support a localized dialogue between Bedouin communities and PA-recognised local councils and landowners to re-establish trust and communication.
- Launch a designated programme to map land rights⁴⁸, access and use, and issue Bedouin communities with documents to enhance tenure security and resilience.
- Issue and adopt legal procedures and agreements to recognise Bedouin traditional historical land rights, especially in case of displacement of expropriations of lands, and lease state and *awqaf* lands where needed.
- Raise awareness regarding Bedouin cultural lifestyle amongst relevant officials / staff.

Policy 4: Deconstruction of the social domain for Bedouin communities

Targeted Groups:

(i) PRIMARY: Ministry of Social Development; and **(ii) SECONDARY:** MoLG/LGUs; MoJ; AWQAF

STEPS & TOOLS FOR IMPLEMENTATION:

- Discuss with Palestinian partners the possibility of setting up a Rural Development Commission or other appropriate mechanism (e.g. 'Think Tank') in Palestine to focus on the promotion of tenure security and resilience for Bedouin communities.

b. Main focus: Israel as the Occupying Power, a primary duty bearer

Targeted Groups:

(i) PRIMARY: UN; EU; and **(ii) SECONDARY:** Office of Quartet; Ministry of Foreign Affairs and Expatriates

STEPS & TOOLS FOR IMPLEMENTATION:

- Continue, through policy, advocacy and programmes, to highlight the past and ongoing violations of international law by Israel in Area C, both generally and in terms of land rights and the right to adequate housing of the Palestinian population, including Bedouins communities.

⁴⁸ The nature of those rights will have to be determined on a case by case basis.

- Ensuring legal aid to support the Palestinian Bedouins and other herders to stand against Israeli attempts to forcibly transfer or evict them from their lands and seize it to enhance the settlements enterprise.
- Persist and intensify efforts to support the presence and socio-economic development of Palestinians throughout the occupied territory, including Bedouin communities.
- Organize high-level advocacy visits and profiling and prepare 'locality-based protection strategy kit' for high-risk cases, vis-à-vis the coercive environment facing Bedouin communities, especially those at risk of forcible transfer.
- Discuss within the UN family, especially with UNSCO/Coordination Unit, OCHA, OHCHR, FAO, and UNRWA (since more than 70 per cent of the Bedouins are refugees) the possibility of commissioning an ad-hoc task force to discuss complementarity of support and open a multi-stakeholder discussion on alternative approaches to tenure security for Bedouins, within the international human rights and international humanitarian law frameworks, noting the principle of 'do no harm' and the existing de-facto and de-jure legal systems⁴⁹.

⁴⁹ To be sure, Bedouins in the West Bank are often forced by circumstance to claim 'ownership' over land to avoid demolition and displacement, when other forms of tenure security within the continuum of land rights may be more appropriate to support their livelihoods, way of life and development.

8. Pre-requisites to implement the policy options

To enable the operational environment for the adoption of the policy options and recommendations at hand, a set of regulatory, technical and planning steps are needed.

General

- Raise awareness of the unique characters of the communities from cultural and spatial points of view.
- Facilitate coordinated advocacy work in promoting the associated rights for Bedouin communities.
- Develop fit-for-purpose educational and training programmes to capacitate people working with Bedouin communities at all levels.
- Discuss with Palestinian partners the possibility of setting up a Rural Development Commission in Palestine (e.g. Think Tank) to focus on issues inter-alia pertaining tenure security for Bedouin and other herder sub-groups. The idea is to maintain centralization to interventions to sustain quick gains which are catalytic in fostering tenure security⁵⁰.
- Concerted efforts among line ministries and non-state actors is required to foster tenure security for Bedouin communities. The role of the Governor Offices is important in the development of Bedouin communities through teaching and employment interventions.

Technical and Planning

- Work with the Palestinian stakeholders, especially MoLG and informal Bedouin traditional leadership, on introducing participatory fit-for-purpose planning methodologies, and train professionals on their use in order to be able to develop spatial plans (non-statutory) for the provision of social services and to support livelihoods.
- Update the vulnerability profiles of Bedouin communities and include elements of local economy needed to be sustained.
- Revisit the hierarchy of social services at the West Bank level to respond more nimbly to the needs of Bedouin communities, especially in Jerusalem, Ramallah, North Jordan Valley, and Southern Hebron hills.
- Revisit the Protection Plan (2009, 2012) under the National Spatial Plan (2025, 2050), especially the layout of the sensitive agricultural areas with high production value to respond to the needs of Bedouin communities.
- Empirical studies showed that livelihood projects run by women in Bedouin and

⁵⁰ The work of the Jordan Valley Authority especially in Wadi Araba (almost half the area of the West Bank territory) is a relevant example.

pastoral communities, are more likely to succeed than the projects managed by men. Important to factor-in income generating projects.

Regulatory and Procedural

- Regulatory frameworks and laws need to provide a conducive environment for Bedouins' settlement projects, where relevant. Furthermore, the regulatory framework should facilitate the most appropriate form for tenure security as it depends on the particular situation. In case of Bedouin communities, customary rights or co-management are considered superior to registered freehold.
- Decision-making on these matters should include meaningful consultation with legitimate representatives of the affected Bedouin communities.
- Directives addressed to directorate of local government and Governor Offices asking them to prioritize interventions targeting nearby Bedouin communities, and to oversee humanitarian-development interventions.



Local food produced from goat milk
Photo courtesy: UN-Habitat (2015)

ANNEXES

ANNEX 1. Table of organizations met with

- Colonization and Wall Resistance Commission (CWRC)
- Area C National Coordination Office (ACCO), now Area C National Coordination Team
- Office of the United Nations High Commissioner for Human Rights (OHCHR)
- United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA)
- United Nations Entity for Gender Equality and the Empowerment of Women (UN Women)
- United Nations Office for the Coordination of Humanitarian Affairs (OCHA)
- Palestinian Land Authority (PLA)/Land and Water Settlement Commission (LWSC)
- Local Community of Khan al Ahmar, Jerusalem
- Local Community of Jabal al Baba, Jerusalem
- Al-Haq (non-governmental human rights organization)
- Defending Human Rights
- The Office of The United Nations Special Coordinator for The Middle East Peace Process (UNSCO)
- The Office of the European Union Representative (EUREP)
- Association of International Development Agencies (AIDA)
- Norwegian Refugee Council (NRC)
- Diakonia
- International Peace & Cooperation Center (IPCC)
- Food and Agriculture Organization (FAO)
- Spanish Agency for International Development Cooperation (AECID)

ANNEX 2. Map of Bedouin and Herding Communities in the West Bank

