



State of Palestine
Ministry of Local Government

THE HUMAN RIGHTS IMPACT ASSESSMENT MECHANISM AND LOCAL OUTLINE PLANS IN THE SO-CALLED "AREA C", WEST BANK, PALESTINE

Guidelines for Implementation for Planners

UN HABITAT
FOR A BETTER URBAN FUTURE

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Disclaimer

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Forward

Local Government Units (LGU), and particularly those whose village lands extend to the Oslo-designated Area C, have a key role to play in Palestine's development. By working with planners, they can make a significant contribution in breaking the current development impasse. A rights-based approach to spatial planning sees this as a key tool to protect Palestinians as civilians living under military occupation and ensure adherence to human rights including collective rights, such as the right to self-determination and development. Spatial planning schemes, which adequately utilize the villages' lands – both private and publicly shared (Masha' - may alleviate housing shortage, facilitate the construction of infrastructure and access to essential public services). A regional and national perspective ensures that the right to self-determination is grounded in actual spatial policies.

Under the prolonged military occupation, spatial planning is challenged by ongoing land confiscation, settlement expansion, the Separation Wall, forcible displacement, the closure policy, planning, zoning and building restrictions, and house demolition policy. These find LGUs and planners facing a dilemma – either plan according to Israeli settlements' territorial interests at the expense of basic needs which necessitate spatial expansion; or potentially put beneficiaries at risk of demolition and displacement if occupation policies are ignored.

To overcome this dilemma a Human Rights Impact Assessment Mechanism (HRIAM) for planning in Area C was prepared in 2016 by UN-Habitat with financial support from the European Union. The mechanism was endorsed by the Ministry of Local Government with the aim to assist planners in “planning under fire”. As a monitoring tool for spatial planning, the mechanism introduces a methodology which maximizes the advantages of spatial planning for ensuring human and humanitarian rights through communal organization and steadfastness; planning coherence at the local, regional and national levels; encouraging land rehabilitation land rights; delaying the execution of demolition orders; and reinforcement of Bedouin-landowners mutual commitment. On the other hand, it ensures that the implementation of collective rights in the long run are not undermined by short-term advantages.

These guidelines are divided into two sections: (1) introducing the HRIAM; and (2) guidelines for the implementation of the HRIAM through lessons learned in the Barta'a - Jenin pilot cluster plan.

The Human Rights Impact Assessment Mechanism (HRIAM)

The HRIAM is a tool which translates the rights of Palestinians and the duties of Israel as the primary duty-bearer as well as Palestine as the territorial sovereign state that is a secondary duty-bearer, into spatial formulations. Considering Israel's planning regime, under international law, the HRIAM promotes the transfer of planning powers back to Palestinian communities and ensures local ownership.

The HRIAM was designed (a) to introduce a rights-based monitoring and assessment tool for current spatial planning policies and practices and (b) to limit the potential harm of the institutional and operational engagement with the Israeli Civil Administration (ICA) particularly in relation to Area C communities.

The HRIAM is expected to contribute to: (a) the selection criteria and prioritization of Palestinian communities eligible for spatial planning; (b) the selection of the least harmful planning alternative; (c) a long-term and integrated perspective to local, regional and national planning; (d) increasing the participation of all groups and communities in all planning phases; (e) considering the upcoming obstacles introduced by ICA; (f) ensuring that humanitarian and development projects are coherently designed; (g) supporting a coordinated messaging and advocacy on spatial planning in the West Bank; and (h) the formulation of a unified national approach and standardization of policies and practices, decision making processes and mitigation strategies.

Conceptually the HRIAM is based on three factors: (a) the spatial factors: the local, regional/sub-regional and national spheres; (b) the temporal factor: looking at the entire planning process in the short, medium and long-term; and (c) and the protection factor: calculating the impact of planning as protection alongside other protection measures including: legal and humanitarian.

Furthermore, the HRIAM promotes the Sustainable Development Goals (SDGs) and the New Urban Agenda (NUA) of the United Nations (Annex 1).



Barta'a as-Sharqiya - Jinin.
Source: Palestine remembered (27 September 2007).

Implementing the HRIAM and the Barta'a, Jenin Pilot Cluster Plan

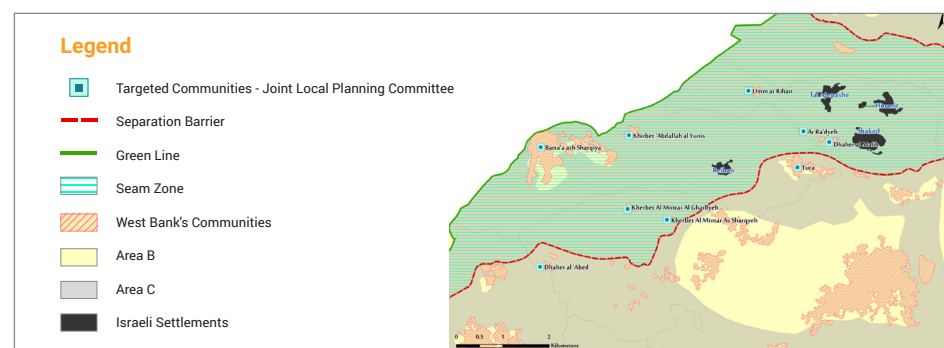
The HRIAM is composed of two Excel matrices that monitor the rights-based approach at the locality and regional/national levels, and incorporate internal risks concerning the participation of local communities in the planning process (Annex 2). The Excel sheets are composed of quantitative indicators which are complimented by qualitative data collected through semi-structured open interviews. The latter supports the integration of information on the community and its needs, and risks faced by planners and beneficiaries internally and externally from the policies of the occupation. The data gathered at the planning phase should be updated as response is received by the ICA either directly or through actions on the ground.

On the locality level it aims to measure the impact of planning on threatened population, structures and lands, access to workplaces, and distance from the service diameter. On the regional/national level it assesses the selection criteria for eligible localities, territorial contiguity throughout the West Bank, access and movement to workplaces, and distance from service centers. The HRIAM allows for disaggregated data based on private construction vis-à-vis donor humanitarian or development projects and potentially monitors aid dependency. Lastly, it monitors current, as well as potential and realized risks and pays special attention to vulnerable communities.

The implementation of the HRIAM is divided into four phases:

- Identifying the development potential vis-à-vis the main risks
- Data gathering
- Data processing
- Analysis and conclusion

In 2019, the HRIAM was piloted in the town of Barta'a as-Sharqiya located in Jenin Governorate, part of an enclave created by the Separation Wall/Barrier. Lessons learned from this case are instrumental in identifying obstacles as well as highlighting useful practices in the implementation of the HRIAM.



Source: UN-Habitat 2020

Identifying the Development Potential vis-à-vis the Main Risks

Since 2002, the Barta'a cluster was re-shaped by the construction of the Separation Wall, which created an enclave separating families living in different villages and agricultural lands from residential areas. The Separation Wall facilitated Israeli settlement expansion and restricted access of the cluster communities to main services in the city of Jenin. While the enclave is open to Israelis, Palestinian development is severely harmed by movement, planning and building restrictions. The legalization of residential areas as well as public infrastructure and services is urgently needed. However, planning under such limitations may result in the indirect and unintended entrenchment of the fragmentation and separation of the enclave created by the Separation Wall, in the long run. Therefore, both considerations – the temporal as well as the regional – were taken into account in the Barta'a planning initiative. Lessons learned from the Barta'a case include the following:

- Meetings with heads of LGUs and other communities in the cluster are key to accurately identify the development potential and the main risks involved.
- The meetings held in the municipality involved the participation of women to ensure equal input in the planning process.
- While analysis of the risks was undisputed, some local representatives voiced their wish to be included in the plan while maintaining their special local uniqueness.

The following table summarizes the potential planning risks vis-à-vis mitigating development measures:

Potential Risk in Planning	Mitigating Measures
The Separation Wall and isolation of the enclave	Boundaries of the plan extended beyond the route of the Separation Wall, and disregarded Israeli settlements' jurisdictional area
Forced urbanization of Barta'a	Adherence to cluster-level planning rather than individual planning of each LGU in the cluster, to enhance urban-rural linkages
Demographic and geographic fragmentation	Cluster planning approach beyond the A/B/C divide
Infrastructure-dependency on Israeli settlements	The cluster plan incorporates new connection roads between Palestinian communities – regardless of the route of the Separation Wall
Participatory process	Several local meetings including women took place Discussions with the presence of local and regional representatives
Coherence and coordination at the regional and national level	Local planning committee was established (Annex 3) The project is supported by the Jenin Governorate and the MoLG
Coordination - lawyers	Lawyers working in the area participated in meetings establishing the local planning committee Discussion concerning legal aid should continue
Coordinated messaging and advocacy	UN-Habitat advocacy in coordination with line ministries and LGUs



Data Gathering

Data regarding risks includes planned and actual demolitions, land expropriation, seizure of structures, and settlement and road expansion. Based on the Barta'a experience it is suggested that planners will be:

1. Given training in the legal regime of spatial planning in Area C of the West Bank.
2. Informed by different available databases beyond those available locally to improve the information flow. These include for example, GeoMoLG; OCHA Demolitions Database; and ICA-based information on land, structures, roads and settlement plans.
3. Informed by the industrial and economic sectors.
4. Complement information on existing and potential threats and strengths from active lawyers working in the cluster area.
5. Cross-check resources to assess their accuracy and relevance.

Additionally, it is suggested that the needs assessment is:

- Informed based on nationally accepted basic development standards.
- Informed by data provided by development and humanitarian local and international organizations.



Data Processing

While the HRIAM is composed of excel sheets, it is suggested that:

1. Planners process data using the format of a "threat map" for each cluster highlighting high, medium and low risk areas. This "threat map" will complement the quantitative and textual needs assessment analysis.
2. Follow-up discussions with active lawyers in the area for clarifications and decision making.



Summary of Analysis and Conclusion

In the Barta'a case the risk of demographic and geographical fragmentation and isolation by the Separation Wall was mitigated by the planners as they extended the plan's boundaries regardless of the route of the Separation Wall and settlements' jurisdictional area. In addition, to enhance a regional perspective, representatives of the Ministry of Local Government on the national and regional level in Jenin were part of the design and decision making in the planning process.

The risk of forced urbanization of Barta'a was mitigated through cluster planning which considered the agricultural needs of all LGUs and not only the city of Barta'a itself. The risk of infrastructure-dependency on Israeli settlement was mitigated through the construction of new roads connecting the villages across the route of the Separation Wall. Lastly, coordinated messaging for the cluster was led by UN-Habitat team in coordination with line ministries and LGUs.

Annex 1:

Linking Human Rights to SDG's and NUA

 SDGs	 NEW URBAN AGENDA	 HUMAN RIGHTS
 11 SUSTAINABLE CITIES AND COMMUNITIES	Ensure access for all to adequate, safe and affordable housing and basic services including health, water and sanitation, transportation in particular to health facilities, water, sanitation, public spaces, public transport, housing, education and, public information and communication through policies and programmes [13a, 31, 32, 33, 34, 36, 37, 100, 104, 106, 107, 108, 109] Participatory, integrated and sustainable human settlement planning and management in all countries [16, 27, 28, 29, 50, 54, 63, 65, 66, 71, 74, 76, 77]	› UNDHR, Article 25: Right to a standard of living - including food, clothing, housing and medical care › CEDAW, Article 14.2.h: Enjoy adequate living conditions, housing, sanitation, electricity and water supply, transport and communication › CRPD, Article 9.1: Enable persons with disabilities to participate in all spheres of life through buildings, roads, transportation and other indoor and outdoor facilities including schools, housing, medical facilities and workplaces › ICRMW, Article 43: Migrant workers to have access to housing, including social housing schemes and protection against exploitation in respect of rents › UNDRIP, Article 21.1: Right to (without discrimination) improve their condition in housing, sanitation, health and security › ICESCR, Article 11: Right to an adequate standard of living including, food, clothing and housing › ICESCR, Article 12: State to improve all aspects of environmental and industrial hygiene › UDHR, Article 21: Everyone has the right to take part in government directly or indirectly through chosen representatives › ICCPR, Article 25: Right to take part in government directly or indirectly through chosen representatives › CRC, Article 12: Freedom of expression for the child and due weight to be given to the views of the child in accordance with age and maturity of the child › CRC, Article 31.2: Promote the right of the child to participate fully in cultural and artistic life › CRPD, Article 4: State parties to consult actively and meaningfully persons with disabilities in decision making processes concerning issues related to persons with disabilities - Article 9 - › CEDAW, Article 7: Right of women to participate in the political and public sphere on an equal basis with men › CEDAW, Article 13.c: Equal rights of both men and women to participate in recreational activities and all aspects of cultural life › ICRMW, Article 42.2: State to facilitate the participation of migrant workers and their families in decisions concerning the life and administration of local communities
	TARGETS [5, 5.1.a]	
	CEDAW • Convention on the Elimination of all Forms of Discrimination Against Women CRPD • Convention on the Rights of persons with Disabilities CRD • Convention on the Rights of the Child ICCPR • International Covenant on Civil and Political Rights	ICESCR • International Covenant on Economic, Social and Cultural Rights ICRMW • International Convention on the Protection of the Rights of all Migrant Workers and Members of their Families UDHR • Universal Declaration of Human Rights UNDPPI • United Nations Declaration on the Rights of Indigenous Peoples.

Source (UN-Habitat, 2017: How do human rights link to the SDG's and NUA?, pp. 7)

A. HRIAM Matrix at the local level for Palestinian communities that are eligible for the planning initiative

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