



Factsheet 2

The Jerusalem Light Railway (JLR) and Veolia's other business activities in the Occupied Palestinian Territory

[Note: this factsheet was revised on 25 June 2012 to include footnotes 13-16 which had mysteriously fallen off the previous posting and PDF]

JLR

1. In 2002, the City Pass consortium, which is made up of Alstom, Veolia Transport,^[1] and a number of Israeli companies, concluded a contract with the Israeli government for the building, maintenance and running of the Jerusalem Light Rail Tramway for thirty years, as well as for the manufacturing of tramway cars and signals. Veolia Transport has a 5% share in the City Pass consortium and acts as operator now the service has begun. As an operator, Veolia is responsible for the day-to-day operational functions of the system, including customer service, service planning, ticketing and fare collections and track control.
2. The first line opened in August 2011. The tramway has connected West Jerusalem with a number of illegal Israeli settlements in and around occupied (and illegally annexed) East Jerusalem, and by doing so has reinforced the permanence of those illegal settlements. It will also contribute to the expansion of new settlements. The system will help to cement Israel's hold on occupied East Jerusalem and tie the settlements even more firmly in to the state of Israel. The first line now links the illegal settlements of Pizgat Zeev and French Hill with West Jerusalem. A station at Ammunition Hill operates as a feeder station for traffic from Ma'aleh Adumim, a large Israeli settlement in the West Bank and Israeli settlements in the Jordan Valley.
3. As the tram routes are within Occupied Palestinian Territory, they are subject to the legal regime of "belligerent occupation", including the Fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War of 1949, the 1977 First Additional Protocol and the Hague Regulations of 1907. The tramway constitutes a clear violation of articles 49(6)^[2] and 53^[3] of the Fourth Geneva Convention (IVGC) and article 3 of the Hague Regulations. Article 49(6) IVGC prohibits an occupying power from transferring its own civilians into occupied territory and Article 53 prohibits an occupying power from destroying real or personal property in the occupied territory. Additionally, article 3 of the Hague Regulations prohibits significant alteration to the infrastructure of the occupied territory.
4. Israeli settlements in the OPT and the Israeli annexation of East Jerusalem have unanimously been considered to be illegal in the eyes of successive British governments, the international community, and authoritative international legal bodies.^[4] In January 2007, the Special Rapporteur on the situation of human rights in

in the Palestinian territories occupied since 1967 reaffirmed the illegality of the settlements under article 49 IVGC and noted that the continued expansion of Israeli settlements and the enclosing of the wall will “effectively divide Palestinian territory into cantons, thereby destroying the territorial integrity of Palestine.”^[5]

5. All the settlements being served by the tramway are on the Israeli side of the wall which has been built separating them from the West Bank and some of the Palestinian populated areas of East Jerusalem. The tramway therefore reinforces the process of incorporation by Israel of the settlements and the sections of Occupied Palestinian Territory between the wall and the green line into Israel. This is crucially important, given that the primary reason that the International Court of Justice declared the wall in the OPT and East Jerusalem illegal in 2004 was that its purpose was to incorporate the self same territory.^[6] It is therefore clear that the tramway itself constitutes a breach of article 49(6) IVGC.

6. The construction of the tramway has involved (and will continue to involve) the confiscation of Palestinian land and extensive damage to the roadway on which the tracks have been laid. As early as 11 July 2001 already the Palestine Liberation Organisation, (recognized as the “sole legitimate representative of the Palestinian people” by the United Nations), reported that: “Last week, the Israeli West Jerusalem Municipality issued letters to several Palestinian families in the Shu’fat neighborhood informing them that they intend to confiscate 15 dunums of land to build a parking lot and a station for the future Light Rail.”^[7] Journalist Adri Nieuwhof, who has followed the JLR story since its inception, reports for example that “Two-thousand square meters of land belonging to Shuafat resident Mahmoud al-Mashni have been confiscated for the light rail project, and more of his land will be confiscated for the parking lot next to the station.”^[8] The nature and extent of the damage constitute major destruction, contrary to article 53 IVGC.^[9] The construction also constitutes significant alteration to the infra-structure of the OPT, contrary to article 3 of the Hague Regulations 1907. Furthermore, the construction and maintenance of the tramway, involving the dispossession of Palestinian land, and the transfer of the Israeli civilian population into the occupied area amounts to a “grave breach” of the Geneva Conventions, contrary to article 147 IVGC.^[10]

7. Further, an important reference to the Jerusalem light railway was made in a resolution that was adopted by the United Nations Human Rights Council sitting in Geneva on 14 April 2010. The reference for the resolution is: A/HRC/RES/13/7. The resolution is entitled “Israeli settlement in the occupied Palestinian territory, including East Jerusalem, and in the occupied Syrian Golan”. The preamble includes references to the illegality of Israeli settlements in the Occupied Palestinian Territory, including East Jerusalem, which the Council says constitutes “very serious violations of international humanitarian law . . . “ At paragraph 5 the Council expresses “its grave concern” at a number of Israeli actions, including at (g):

“the Israeli decision to establish and operate a tramway between West Jerusalem and the Israeli settlement of Pisgat Zeev, which is in clear violation of international law and relevant United Nations Resolutions.”

This unequivocal reference to the Jerusalem light railway, which Veolia is involved with, and the grave concern expressed about the project, given that it links up illegal Israeli settlements with West Jerusalem, must be an additional factor that public bodies take into account when deciding whether or not Veolia’s conduct can be

described as "grave misconduct in the course of [Veolia's] business or profession" within the meaning of the relevant procurement regulations.

Other misconduct

8. In addition to the JLR, Veolia Transport Israel operates several bus routes (at the last count the following routes: 7, 19, 109, 110, 422, and 425), connecting Israeli communities in Israel to illegal Israeli settlements in the West Bank.

Specifically:

- Route no. 7 runs between Modi'in (a town that is just within the green line, so is not an illegal Israeli settlement) to the illegal Israeli settlements of Hashmonaim and Kfar Ha'oranim.
- Route no. 19 runs between Modi'in and the illegal Israeli settlement of Mevo Horon.^[11]
- Route 109 runs from Jerusalem to Modi'in, but also services the illegal Israeli settlements of Mevo Horon and Giv'at Ze'ev, located in the West Bank..
- Route 110 runs from Jerusalem to Modi'in, but it provides a bus service to the illegal Israeli settlement of Giv'at Ze'ev.
- Three bus lines between Bnei-Brak and Jerusalem that cut through the OPT, two of them, 422 and 425, with stops to serve the settlers. At the end of November 2011, Veolia won a contract to operate these bus services for the ultra-orthodox Haredim community.
- Route 422 passes through the OPT in Mahane Ofer junction, Givat Zeev Junction, Sderot Golda Meir, Shefa Haim and Ohel Yehoshua in Jerusalem.
- Route 425 passes through the OPT in Mahane Ofer junction, Givat Zeev junction, Sderot Golda Meir and Sderot Vaitzman, Jerusalem.

In the same way as the tramway, the bus routes reinforce the process of incorporation of the settlements, and as such aid and abet Israeli officials in breaching article 49(6) IVGC. Furthermore, **Veolia Transport Israel operates the services on a discriminatory basis. With the possible exception of a short stretch on some of the routes Palestinians who reside in the West Bank are not allowed to use them.** Palestinians with evidence of East Jerusalem residency rights can in theory use the routes. The problems of West Bankers not resident in East Jerusalem was highlighted on 15 November 2011, when Palestinians from outside East Jerusalem sought to use an Egged bus service, finding that six consecutive drivers refused to even stop for them, and after a seventh driver allowed them to board, all six Palestinian passengers were forcibly removed due to their non-Jewish status.^[12]

Veolia's activities in the OPT clearly do not benefit the local population.

9. Further, Veolia:

(a) Collects and disposes of waste from the Tomer settlement, an illegal Israeli settlement established in 1976 on the lands of the people of Fasayil, Al Auja and other nearby Palestinian communities, located in the Jordan valley north of Jericho.

(b) Supplies waste-management services to the illegal Israeli settlement of Beqa'ot, which is in the northern part of the Jordan valley within the West Bank, a few kilometres southeast of the Palestinian town of Tubas.

(c) Manages the Tovlan landfill site in the Jordan valley (Israeli-occupied West Bank).^[13] This site receives waste from illegal Israeli settlements in the West Bank, including waste that is brought to that landfill site by Veolia trucks. Indeed, recent information disclosed by the Israeli Civil Administration over the West Bank has revealed that communities inside Israel have been using the West Bank site to dispose of their waste!^[14] A UN General Assembly Resolution on 28 January 2009 specifically called on “Israel, the occupying Power, to cease the dumping of all kinds of waste materials in the Occupied Palestinian Territory”.^[15]

(d) Veolia Water Israel provides services to the illegal settlement of Modi'in Illit. Who Profits? – a research project of the Israeli Coalition of Women for Peace – uncovered evidence of Veolia's involvement by researching the company's website, official Israeli websites and financial reports. On its website, [Veolia Water Israel](#) writes that its Ayalon Sewage Treatment Plant provides wastewater treatment to several communities, including the Israeli settlement of Modi'in Illit. The illegal Modi'in Illit settlement is situated between Jerusalem and Tel Aviv, in the occupied West Bank. Veolia Water Israel is a full subsidiary of Veolia Environnement, according to Who Profits?^[16]

These services are part of the “grave misconduct in the course of [Veolia's] business or profession” that public bodies must take into account when exercising their discretion to exclude Veolia from bidding for public contracts.

Veolia selling off involvement in the JLR & Tovlan

10. It is understood that Veolia has stated that the JLR and the Tovlan site mentioned above are currently up for sale. First, that does not apply to the other undertakings above. Further, in the case of any sell-off of the JLR stake held by Veolia to Egged, as with the comparable sell-off relating to the Tovlan landfill site, Veolia will continue its involvement in the JLR by providing consultancy services, as regards ticketing and other aspects of the service. Furthermore, such sell-offs, do not annul Veolia's past complicity in their aforementioned activities and thus its past grave misconduct.

11. Public bodies are therefore entitled to look at Veolia's complete involvement in the impugned projects and services, *historically and currently*, and to test carefully any evidence supplied about a prospective sale of shares in those projects.

References

[1] Via its 50% owned subsidiary Veolia Transport Israel. Since 3 April 2011, Veolia Transport Israel has been a subsidiary of Veolia Transdev. The Chair/CEO of VE is the Chair of Veolia Transdev.

[2] Article 49(6) of IVGC states that, “The Occupying Power shall not deport or transfer parts of its own civilian population into the territory it occupies”. There are exceptions of military necessity but these do not apply in this context.

[3] Article 53 IVGC states that, “Any destruction by the Occupying Power of any real or personal property belonging individually or collectively to private persons, or to

the State, or to other public authorities, or to social or cooperative organisations, is prohibited, except where such destruction is rendered absolutely necessary by military operations”.

[4] See UN General Assembly resolution, A/RES/56/62 of 10 December 2001, A/RES/58/97 of 9 December 2003 and UN Security Council Resolution 465 of 1 March 1980.

[5] Report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, January 2007, Human Rights Council, A/HRC/4/17, Para.32.

[6] Legal Consequences of the Constructions of a Wall in the Occupied Palestinian Territory, Advisory Opinion, I.C.J. Reports 2004, paras.61-63, and 197.

[7] Orient House [press release](http://www.orienthouse.org/press/Release/July11.01.html), see <http://www.orienthouse.org/press/Release/July11.01.html>

[8] [Veolia whitewashes illegal light rail project](http://www.electronicintifada.net/content/veolia-whitewashes-illegal-light-rail-project/9001), The Electronic Intifada, 25 August 2010. See <http://www.electronicintifada.net/content/veolia-whitewashes-illegal-light-rail-project/9001>

[9] Any denials of this violation by Veolia need to be treated with great caution, as both public and private land has been confiscated to enable the tram to be constructed.

[10] Article 147 states, “Grave breaches to which the preceding article relates shall be those involving any of the following acts...extensive destruction and appropriation of property, not justified by military necessity and carried out unlawfully and wantonly”.

[11] Bus services 7 and 19 both go into the West Bank but service only Israeli Jewish settlers.

[12] The bus boarded was an Egged one, but the Freedom Riders’ campaign also highlighted Veolia’s involvement. Also, note that Veolia was trying to sell its shares in the Jerusalem light rail tramway operating company to Egged. See <http://www.dailykos.com/story/2011/11/15/1036888/-We-Shell-Overcome-A-Photo->, <http://www.jpost.com/DiplomacyAndPolitics/Article.aspx?id=245717>, <http://www.bdsmovement.net/2011/palestinian-freedom-riders-challenge-israeli-apartheid-8366>, and <http://www.flickr.com/photos/activestills>

[13] Veolia says that it is selling its Tovlan operating rights to a local buyer and may have already done so, but far from ending Veolia’s complicity, the deal will compound and perpetuate it, for the intended sale is to Massu’a (also called Moshav Masoa), the nearby illegal Israeli settlement. Moreover, Veolia will continue its involvement by providing the settlement with advice concerning Tovlan.

[14] The information from the Civil Administration included these details: (1) eight Israeli companies hold a permit to transfer waste to Tovlan landfill, namely Eden Brief recycling services; Rami Shitawi – Poultry maintenance; YARV; Ramnir; Mifat 1965; SH Market, Trade and Recycle; Sharonim Recycling; TMM – combined recycling industries; and (2) the waste transferred to the Tovlan site arrives from the following places within Israel: Recycling factories in the HaSharon, Sgula, Haifa and Afula areas, and the Hiriya site (Southeast of Tel Aviv); and (3) the types of waste transferred to the landfill are: municipal solid waste, construction waste, sterilized medical waste and electronic waste.

[15] See [UN General Assembly Resolution](#) of 28 January 2009 at <http://unispal.un.org/UNISPAL.NSF/0/023EB658DD2AC18E85257562006F0CFA>

[16] See [Veolia treats wastewater from Modi' in Illit settlement](#) at <http://electronicintifada.net/blogs/adri-nieuwhof/veolia-treats-wastewater-modiin-illit-settlement>