

# **Environmental Injustice and Trampled Human Rights in Relation to Natural Environment During the Israel-Palestine Armed Conflict- Problems and Prospects**

Kinchit Reddhirnan



Master's Thesis in International Law & Human Rights  
Author: Kinchit Reddhirnan  
Faculty of Social Sciences, Business and Economics, and Law  
Åbo Akademi  
2024

<b>Author:</b> Kinchit Reddhirman	<b>Year:</b> 2024
<b>Title:</b> Environmental Injustice and Trampled Human Rights in Relation to Natural Environment During the Israel-Palestine Armed Conflict- Problems and Prospects	
<b>Subject:</b> Public International Law	
<b>Supervisor:</b> Mikaela Heikkilä	
<p><b>Abstract:</b></p> <p>Human and all living elements begotten as parts of natural environment, hence, shielding it legitimately for sustainable and harmonious future is our foremost duty. Environment is the most former creation of the earth, but often falls under one of the most recent issues to be solved globally. However, lately but fortunately human started to realize the importance of natural environment. As a result, they started to adopt numerous safeguards to protect the environment and its belonging human rights via international and national laws, agreements, and by other subsidiary methods. In recent times, the environment and its subordinate human rights protection during armed conflicts and their sustainable development are seizing more international attentions. Nevertheless, this sensibility is moving forward a bit slowly. Meanwhile, many countries are still engaged in armed conflicts, where human rights and environment are the foremost victims. This environmental and human rights crisis is calling for immediate, lawful, and applicable actions. Therefore, as research topic this thesis has decided to work on the environmental and human rights injustice and destructions in relation to the Israel Palestine Armed Conflict.</p> <p>The thesis had claimed that the most vindictive actions during the Israel-Palestine Armed Conflict injures the natural world in the loftiest way due to the gaps between laws and their applicability. Moreover, such impacts on natural environment are ultimately affecting the human rights, though there are numerous laws for such protection. Furthermore, the thesis has detected that, the legal provisions for the environmental and its connected human rights protections hold many challenges and unintelligibility on its application during the Israel-Palestine Armed Conflict. Hence, the prime purpose of the thesis is to find out the best possible and sustainable ways to solve these environmental and human rights for this running conflict. To fulfil such purpose, therefore, the thesis has applied ‘Doctrinal methodology’ in its research. The thesis has followed all applicable agreements and laws regarding the environmental and human rights matters that are compatible with the situation of Israel and Palestine. Moreover, the thesis has used journals articles, legal commentaries, research of legal scholars, book references, judicial decisions, and literature to support its legal arguments. Finally, the thesis has developed essential solutions on environmental and its connected human rights issues for these conflicted parties. The thesis has found that, to solve these mentioned issues and maintain peace and security for other States, the world community must work hand on hand. Besides that, both Israel and Palestine must respect and obey the international laws, e.g., international humanitarian law and international human rights law, along with their signed treaties. Basically, the research attempted to establish all the existing laws and principles of law that are applicable in the situation of the Israel Palestine Armed Conflict. In addition, the thesis has suggested in its result that, there are few viable solutions to the environmental and human rights issues by advancing and imposing the current laws as well as the development plans for these States.</p>	
<p><b>Keywords:</b> Israel- Palestine Armed Conflict, Environmental and Human Rights Destruction, Public International Law, United Nations, International Law Commission, Gaps and Challenges, Environmental and Human Rights Protection</p>	
<b>Date:</b> January 2024	<b>Pages:</b> 94

# Contents

<b>1. Introduction.....</b>	<b>1</b>
<b>1.1 The Interdependency Between the Environment and Human Rights and Their Safeguards .....</b>	<b>2</b>
<b>1.2 Case Study on the Israel-Palestine Armed Conflict.....</b>	<b>5</b>
1.2.1 The Case Study.....	5
1.2.2 The Characterization of the Conflict .....	6
1.2.3 Parties of the Conflict.....	9
1.2.4 A Brief History .....	9
1.2.5 The Israel-Palestine Armed Conflict's Impact on the Environment and Human Rights .....	10
<b>1.3 Purpose and Research Questions.....</b>	<b>13</b>
<b>1.4 Methods, Materials and Limitations .....</b>	<b>14</b>
<b>2. The OPT and the Environmental Injustice with a Violation of Human Rights.....</b>	<b>17</b>
<b>2.1 Occupied Palestinian Territories (OPT) .....</b>	<b>17</b>
<b>2.2 Impact of the Israel-Palestine Armed Conflict on the Environment and Human Health .....</b>	<b>17</b>
2.2.1 Flora and Fauna.....	17
2.2.2 Medical Plants .....	18
2.2.3 Deforestations and Wildlife.....	19
2.2.4 Biodiversity loss, Unsustainable Use of Natural Resources, Pollution and Their Impact on the Human Health .....	19
2.2.5 Restricted Palestinian's Access Over the Natural Resources and Managerial Activities.....	21
<b>2.3 Conclusion.....</b>	<b>22</b>
<b>3. Environmental and Human Rights Protection During the Israel-Palestine Armed Conflict.....</b>	<b>23</b>
<b>3.1 IHL and Its Sources for the Protection of the Environment.....</b>	<b>23</b>
3.1.1 Introduction .....	23
<b>3.2 Treaty-Based IHL .....</b>	<b>23</b>
3.2.1 Introduction to Treaty-Based IHL .....	23
3.2.2 Geneva Convention VI, Additional Protocols and The Hague Regulation (1907).....	24
3.2.3 Environmental Modification Convention (ENMOD) and The Convention on Certain Conventional Weapons (CCW).....	26
3.2.4 Israeli-Palestinian Interim Agreement, 1995 .....	26
<b>3.3 Introduction to Customs-Based IHL .....</b>	<b>27</b>
3.3.1 CIL Rules Relevant for Environmental and Human Rights Protection .....	27
3.3.2 Soft Law .....	29
<b>3.4 The Martin Clause .....</b>	<b>34</b>
<b>3.5 Environmental Protection under International Environmental Law .....</b>	<b>35</b>
3.5.1 Introduction to Multilateral Environmental Agreements (MEAs).....	35
3.5.2 The Stockholm Convention on Persistent Organic Pollutants (2001) and its Connection with the Stockholm Declaration (1972) .....	35
3.5.3 The Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal (1992).....	37
3.5.4 The Convention on Biological Diversity (CBD) (1993) .....	37

3.5.5	Arhus Convention's Protocol on Pollutant Release and Transfer Registers Convention (PRTRs) (2001)	37
3.5.6	The Paris Agreement (2015)	38
<b>3.6</b>	<b>Customary International Environmental Law (CIEL)</b>	<b>39</b>
3.6.1	Introduction	39
<b>3.7</b>	<b>International Human Right Law (IHRL) and Human Right Treaties</b>	<b>40</b>
3.7.1	International Human Right Law and Its Connections with Environment and Human Rights in Armed Conflicts	40
3.7.2	International Human Rights Treaties	41
<b>3.8</b>	<b>Conclusion</b>	<b>42</b>
<b>4.</b>	<b>Breaches of the Norms of Laws During the Israel-Palestine Armed Conflict and the Arise of Liabilities</b>	<b>44</b>
4.1	Legal Status of the Israeli Settlements and the Occupation of Palestine (OPT) under IHL	44
4.2	Instances of the Environmental Destruction and Breach of Laws during the Israel-Palestine Armed Conflict and OPT	46
4.3	Norms to Protect the Environment and Their Breaches	47
4.3.1	Duty of the Occupying Power and Violation of International Regulations	48
4.4	Breaches of Legal Norms and Their Impact on the Environment, Aquifer and Human	51
4.5	State Responsibility and the Arise of Liabilities under the Israel-Palestine Armed Conflict	53
4.5.1	State Responsibility	53
4.5.2	<i>The Trail Smelter Case (United States v. Canada)</i>	54
4.5.3	<i>Costa Rica v. Nicaragua</i>	56
4.6	Liabilities of Israel and Palestine	58
4.6.1	Liabilities of Israel	58
4.6.2	Liabilities of Palestine	63
4.7	Conclusion	65
<b>5.</b>	<b>Dilemmas for Environmental Protection during the Israel-Palestine Armed Conflict and Suggested Actions</b>	<b>66</b>
5.1	Introduction	66
5.2	Challenges for Sound Environmental Management Due to the OPT and Conflict	66
5.3	Limitations of the Existing Laws and Agreements	68
5.3.1	Issues in Connection to IHL	68
5.3.2	Challenges Regarding the Implementation of Laws and Agreements	71
5.4	Other Limitations	73
5.4.1	Existence of Single General Rules and the Absence of Specific Rules	73
5.4.2	Absence of Common Concern and the Results of Negligence	74
5.4.3	The Impact of Lack of Information and Enduring Global Mechanism on State Responsibility	74
5.5	Suggested Actions and Strategies	75
5.5.1	Observance of the IHL with a Development of CIL	75
5.5.2	Advancement of the IHL, Treaties and Maintaining International Standards in Strategies	77
5.5.3	Development and Practice of the IEL and Environmental Agreements	78

5.5.4	Stricter Compliance with the Law of Occupation .....	79
5.5.5	Adoption of the Specific Legal System .....	79
5.5.6	Adoption of More Hard Law Than Soft Law on Environmental Issues .....	79
<b>5.6</b>	<b>Other Recommendations at the International Levels .....</b>	<b>80</b>
5.6.1	International Solidarity with Common Environmental Goals .....	80
5.6.2	Additional Roles of the UN and Its Security Council .....	81
5.6.3	Role of ICC by Sanctions Against Illegal Exploitation .....	82
5.6.4	Role of International Law Commission (ILC) .....	83
5.6.5	Applying an Alternative Convention .....	84
<b>5.7</b>	<b>Other Recommendations at the National Levels .....</b>	<b>84</b>
5.7.1	Development of Oslo Accords .....	84
5.7.2	Practice of the ‘Code of Conducts’ .....	85
5.7.3	Development of Political Motions .....	86
5.7.4	Implementation of ICRC Rules in National Level .....	86
5.7.5	Ministries, Mandates and Ministries’ Collaboration .....	86
5.7.6	Role of National IHL Committees .....	87
5.7.7	Development Plans .....	87
5.7.8	Independent and Active National Frameworks .....	88
5.7.9	Role of Non-Governmental Organizations (NGOs) .....	88
5.7.10	Palestinian Municipal Management Project (PMMP), Civic Engagement and Access to Information .....	88
5.7.11	Use of Technology .....	89
<b>5.8</b>	<b>Conclusion .....</b>	<b>89</b>
<b>6.</b>	<b>Concluding Remarks .....</b>	<b>91</b>
	<b>Bibliography .....</b>	<b>95</b>

## List of Abbreviations

Additional Protocols	AP
Additional Protocol I	API
Additional Protocol II	APII
Article	Art
Articles on the Responsibility of States for Internationally Wrongful Acts	ARSIWA
Convention on Biological Diversity	CBD
Customary International Law	CIL
Customary International Environmental Law	CIEL
Customary International Humanitarian Law	CIHL
The Convention on Certain Conventional Weapons	CCW
The Convention on the Elimination of Discrimination against Women	CEDAW
The Convention on the Rights of the Child	CRC
Dense Inert Metal Explosives	DIME
Environmental Modification Convention	ENMOD
Environmental Impact Assessment	EIA
Environment Quality Authority	EQA
Geneva Convention	GC
The House of Water and Environment	HWE
International Armed Conflict	IAC
International Committee of the Red Cross	ICRC
International Covenant on Civil and Political Rights	ICCPR
International Covenant on Economic and Social Rights	ICESCR
Israeli Defence Force	IDF
International Humanitarian Law	IHL
International Human Right Law	IHRL
International Union for Conservation of Nature	IUCN
The International Court of Justice	ICJ
Kilometre	Km
Laws of Armed Conflict	LOAC
Long-Range Transboundary Air Pollution	LRTAP
Ministry of Agriculture	MOA
Million Cubic Metres	MCM

Multilateral Environmental Agreements	MEAs
Non-International Armed Conflict	NIAC
National Environmental Action Plan	NEAP
Occupied Palestinian Territory	OPT
Palestinian Development Plan	PDP
Friends of Earth Palestine (PENGON)	FoE
Palestinian Environmental Friends	PEF
Protection of the Environment During Armed conflict	PERAC
Palestinian Environmental Authority	PEA
Public International Law	PIL
Palestine Liberation Organization	PLO
Palestinian Legislative Council	PLC
Palestinian Municipal Management Project	PMMP
Persistent Organic Pollutants	POPs
Pollutant Release and Transfer Registers	PRTRs
Traditional Arabic Palestinian Herbal Medicine	TAPHM
United Nations	UN
UN Convention on the Law of the Sea	UNCLOS
Universal Declaration of Human Rights	UDHR
United Nations Environment Programme	UNEP
United Nations Economic and Social Council	UNESCO
United Nations Framework Convention on Climate Change	UNFCCC
United Nations General Assembly	UNGA
United Nations Human Rights Council	UNHRC
United Nations Security Council	UNSC

## 1. Introduction

The environment is the natural world around us, which is not only a geographical area but also the source of our existence. Environment encompasses all living and non-living elements occurring naturally around us by an ecological community. It is the main source of survival for human and other creatures.<sup>1</sup> Unfortunately, human has a huge greed for authority and intoxication of domination. For that, they often elect the way of conflict to achieve power. Consequently, not only the innocent people but also the environment became the victims of armed conflicts. Destroying the environment and suppressing human rights are the most common features of armed conflicts. One of the significant examples of such environmental destruction and human rights defilement is the Israel-Palestine Armed Conflict.<sup>2</sup> This armed conflict is leading to erosion for the eastern slopes by degradations of agricultural and range lands, ruinous dumping of solid waste and raw sewage. It also severely depletes underground water aquifers.<sup>3</sup> This ongoing Israel-Palestine Armed Conflict is currently creating a foundation of calamitous environmental catastrophe for present and future generations.<sup>4</sup> This conflict also affects the climate change and creating a hazardous living atmosphere for human as well as for floras and faunas.<sup>5</sup>

Therefore, Public International Law (PIL) plays an essential role in the Israel-Palestine armed conflict. PIL governs the behaviour of the several subjects of international law and States. It also reinforces the principle of sovereign equality among all States and maintains the relationship between the subjects of international law. The branches of PIL, such as, International Human Rights Law (IHRL), International Humanitarian Law (IHL) (Law of Armed Conflict), and International Environmental Law (IEL) has remarkable roles to protect the human rights and environment during the Israel-Palestine armed conflict.<sup>6</sup>

---

<sup>1</sup>A. K. Verma, 'Ecological Balance: An Indispensable Need for Human Survival,' 407-408.

<sup>2</sup> United Nations Human Rights Council (UNHRC), 'Report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967,' 40<sup>th</sup> session (2019), pp. 2-19.

<sup>3</sup> Leonardo Hosh & Jab Isaac, 'Environmental Challenges in Palestine and the Peace Process', pp. 1-3, 1996.

<sup>4</sup> MB Qumsiyeh, MA Abusarhan, 'Biodiversity and Environmental Conservation in Palestine.' Biodiversity, Conservation and Sustainability in Asia', pp. 1-15.

<sup>5</sup> H El Shaer, K Omer, I Albaradeiya, M Mahassneh, 'State of Palestine Fifth National Report to the Convention on Biological Diversity (2015),' pp. 44-45, 55.

<sup>6</sup> Alina Kaczorowska, 'Public International Law,' 2015, p.12.



## 1.1 The Interdependency Between the Environment and Human Rights and Their Safeguards

All humans are dependent on the natural environment and a healthy environment is always a precondition of sound human health.<sup>7</sup> A safe, healthy, and sustainable environment ensures the full enjoyment of a wide range of human rights including the rights to life and health.<sup>8</sup> Therefore, right to health is an essential human right under the International Covenant on Economic, Social and Cultural Rights (ICESCR) which is a source of IHRL.<sup>9</sup> However, an armed conflict has both direct and indirect impacts towards the environment and human health.<sup>10</sup> It causes widespread damage to the environment and causes sustained harm to the public health and ecosystems. Specifically, the Israel-Palestine Armed Conflict is affecting the environment and human health holistically by using dangerous weapon (e.g., rockets, mortar attacks, explosives) during the conflict time. These attacks also releasing dangerous pollutants in the environment. Besides these, deforestation, and exploitation of natural resources during the armed conflict is tremendously distressing the natural environment. Such damages towards environment are commonly known as ‘the environmental degradation’. It is systematically destroying the natural resources and the ecosystem services that sustains them (e.g., carbon, nutrient, and hydrological cycles).<sup>11</sup> Therefore, the environmental degradation by armed conflicts have been a subject of deep concern for the international community for decades. Because a wartime environmental destruction has long-term impact over human health, livelihoods, security of people and birth defects.<sup>12</sup> This degradation indicates the decay of the environment through exhaustion of resources, like, air, water, and soil. Parallely, armed conflicts cause the destruction of ecosystems and extinction of wildlife.<sup>13</sup>

Therefore, the international effort for better protection of the natural environment during an armed conflict first arose in 1970s. Specifically, with the occurrence of a long-term and severe

---

<sup>7</sup> JT McClymonds, ‘Human Right to a Healthy Environment: An International Legal Perspective’, 1992, p.583.

<sup>8</sup> John H. Knox, ‘Report of the Special Rapporteur on the Issue of Human Rights Obligations Relating to the Enjoyment of a Safe, Clean, Healthy and Sustainable Environment: Biodiversity Report’, United Nations Human Rights Council, A/HRC/34/49, pp.3-7.

<sup>9</sup> United Nations, *Treaty Series*, vol. 993, p. 3; depositary notification [C.N.781.2001](#).TREATIES-6 of 5 October 2001, [C.N.7.2002](#).TREATIES-1 of 3 January 2002. ICESCR adopted by the United Nations General Assembly on 16 December 1966 through GA. Resolution 2200A (XXI) and came in force from 3 January 1976.

<sup>10</sup> Ibid, pp.6,12, 16 & 19.

<sup>11</sup> T. Hanson et al. (2009), “Warfare in biodiversity hotspots”, *Conservation Biology*, 23(3): 578–587.

<sup>12</sup> Daniëlla Dam-de Jong, ‘Building a Sustainable Peace: How Peace Processes Shape and Are Shaped by the International Legal Framework for the Governance of Natural Resources’, *Review of European, Comparative & International Environmental Law* 29, no.1, 2020, pp. 21–32.

<sup>13</sup> Ibid.

damage towards the environment by the Vietnam War. Because bombturbation (a type of soil disturbance due to extensive explosion) during the Vietnam war induced a profound, and everlasting effect on the ecosystem functioning. Besides the environmental destruction, such bombturbation also caused health damage from toxic fumes. Therefore, the Vietnam war for the first time triggered an international concern towards the improvement and protection of environment and environmental related human rights during armed conflicts. Hereafter, in 1976 the adoption of the Convention on the Prohibition of Military or Any Other Use of Environmental Modification Techniques (ENMOD Convention) took place.<sup>14</sup> The Convention prohibits military or any other hostile use of environmental modification techniques during armed conflicts.<sup>15</sup> Usually, wartime environmental damage is the result of four categories of affects, namely, (i) directly targeting environment, (ii) collateral environmental damage, (iii) use of environment as a weapon and (iv) ‘knock-on effects’ meaning an action that goes beyond governmental structure and state functions which exploits natural resources, wildlife; as well as collapse sanitization, sewage, and waste.<sup>16</sup> Besides these, armed conflicts pull down human rights widely by threaten people’s mental and physical health, livelihoods, peace, and reliability.<sup>17</sup> Therefore, the United Nations (UN) along with its six principal organs is engaged with many activities and action plans to protect environment and human rights during armed conflict for its members.<sup>18</sup> UN six principal organs are, General Assembly (GA), Security Council, Economic and Social Council (ECOSOC), Trusteeship Council, International Court of Justice (ICJ) and Secretariat.<sup>19</sup> For instance, regarding environmental destructions during an armed conflict time the United Nations Environment Programme (UNEP) was created in 1972 following the landmark UN Conference in Stockholm on the human environment addressing deforestation, energy resources, urban expansion.<sup>20</sup> UNEP holds legislative authority on the

---

<sup>14</sup> ENMOD Convention, UNTC Registration Number. 17119, United Nations, Treaty Series , [vol. 1108](#), depositary notification [C.N.263.1978](#). Adopted by General Assembly of the United Nations in its resolution [31/72](#)<sup>1</sup> on 10 December 1976, came into force 5 October 1978.

<sup>15</sup> Ibid, Article I, para. 1-2, Article II, Article 35, para. 3 of Protocol I of 1977 additional to the Geneva Conventions of 1949.

<sup>16</sup> Britta.S, ‘The Role of Multilateral Environmental Agreement, chap.2: Categories of war time environmental damage’, pp.11-22, 2020.

<sup>17</sup> Mandil, Ahmed, Monique Chaaya, and Dahlia Saab. "Health status, epidemiological profile and prospects: Eastern Mediterranean region." *International journal of epidemiology* vol. 42.2, 616-626.

<sup>18</sup> Israel became UN member on 11th May, 1949. As of 1 June 2023, 139 of the 193 UN member states and two non-member states have recognized it (Israel is recognized by 165) and Palestine also has been a non-member observer state of the UN General Assembly since the passing of United Nations General Assembly resolution 67/19 in November 2012.

<sup>19</sup> The United Nations, UN Structure, online source, <https://www.un.org/en/model-united-nations/un-structure>.

<sup>20</sup>United Nations General Assembly (UNGA) report of ‘The United Nations Conference on The Human Environment’, GE.72-17919, 1972, UN doc. A/CONF.48/INF.5/Rev.I. See also <https://undocs.org/en/A/CONF.48/14/Rev.1>

environmental issues in the global and regional levels for the UN system.<sup>21</sup> UNEP also publishes annual reports to monitor the state of the environment during and after war, sets the environmental agenda, promotes the coherent implementation of the environmental dimension of sustainable development, informs policy making with science and works world's environmental challenges. For instance, UNEP report 2020, on environmental impact of the occupation during Israel-Palestine war.<sup>22</sup> UNEP report usually includes analysis of the current state of the environment of a war zone, including biodiversity, water, land and soil degradation, depletion of natural resources, urbanization, and waste management. It describes trends and identifies emerging environmental challenges.<sup>23</sup>

The environment and its related laws are interrelated with international human rights.<sup>24</sup> Therefore, it is essential to establish potential ways of accountability for environmental damage in conflicts through international law. Because legal frameworks both directly and indirectly protect the environment by governing the rules of war.<sup>25</sup> For instance, customary international law (CIL) as a source of PIL safeguards the environment and its related human rights. CIL has a strong legal status because it can determine the rules of law under Art. 38.1 of ICJ Statute.<sup>26</sup> (Art.38 of the Statute of the ICJ lists 'international custom as evidence of a general practice accepted as law' as a source to be used by the Court.) The CIL is also having legal frameworks (e.g., set of rules, norms) those are actively engaged with the protection of environment and environmental related human rights in armed conflicts. Hence, the sources of PIL play fundamental roles in environmental protection during armed conflicts. PIL has three formal sources: treaties, customs (e.g., customary international humanitarian law), and general principles of law,<sup>27</sup> and all of them are environment and human rights protectors. Based on

---

<sup>21</sup>Maria Ivanova, 'UNEP in Global Environmental Governance: Design, Leadership, Location', pp.38-52. The mandate and objectives of UNEP are set out in General Assembly resolution 2997 (XXVII) of 15 December 1972 and subsequent amendments adopted by the United Nations Conference on Environment and Development (Report A/CONF.151/26/Rev.1 (Vol. I), para. 38.22).

<sup>22</sup> UNEP Report, Z. Zhongming, L. Linong, Y. Xiaona, Z. Wangqiang, L. Wei, 'State of Environment and Outlook Report for the occupied Palestinian territory 2020'. Also available at <https://ceobs.org/un-report-details-environmental-degradation-in-west-bank-and-gaza/>

<sup>23</sup> UNEP report 2022. Also available at [https://wedocs.unep.org/bitstream/handle/20.500.11822/41679/Annual\\_Report\\_2022.pdf?sequence=3](https://wedocs.unep.org/bitstream/handle/20.500.11822/41679/Annual_Report_2022.pdf?sequence=3)

<sup>24</sup>Dinah Shelton. "Human Rights and the Environment: jurisprudence of human rights bodies.", p.158, 2002.

<sup>25</sup> Mrema, Elizabeth, Carl Bruch, and Jordan Diamond. Protecting the environment during armed conflict: an inventory and analysis of international law, p.8, 2009.

<sup>26</sup> A.Zimmermann, *CJ Tams*, K Oellers-Frahm, 'The Statute of the International Court of Justice: A Commentary', Article 38 lists sources of international law for the court to follow when overseeing proceedings between member states of the United Nations, or states that have become parties to the ICJ Statute, p.819.

<sup>27</sup> Alina Kaczorowska, 'Public International Law', pp.21-23.

IHL, in 1994 International Committee of the Red Cross (ICRC) issued a set of guidelines that contains applicable international rules for protecting the environment during armed conflict. ICRC guidelines are presenting an outline of the existing IHL rules and recommendations that bestow protection on the environment during armed conflicts, also provide commentary to support their application.<sup>28</sup> Thus, rather than provide new rules or regulations, the ICRC guidelines aim to promote the implementation of existing ones. Unfortunately, despite of such safeguards the protection of the environment is often disregarded during armed conflicts. Notwithstanding of legal deterrents, the Israel-Palestine Armed Conflict became a critical example of such environmental injustice and environment related human rights suppression.<sup>29</sup>

## **1.2 Case Study on the Israel-Palestine Armed Conflict**

### **1.2.1 The Case Study**

In this thesis, the international regulation on the environmental and environment related human rights destruction will be discussed through the case study of the ‘Israel-Palestine Armed Conflict’. Currently, Israel and Palestine are engaged in an armed conflict which holds both the characters of IAC and NIAC concurrently. The Israel-Palestine Armed Conflict is an important case study due to its destructive impact of environment and human rights as well. The conflict also known as ‘Gaza conflict’. The main reason behind this conflict is, both Palestinian self-government and the Israeli State want the same land. Geographically these states are in Asian continent, part of the Middle East region and bound by the Mediterranean Sea. Israel stands at the cross border of Europe, Asia, and Africa. Israel is in the east of the Mediterranean Sea, and Palestine forms a land bridge connecting the contents of Africa and Asia. Both States have very important geographical regions due to the environmental importance.<sup>30</sup> The geography of ancient Israel included both desert landscapes and fertile regions. Palestine, on its part, is known as a fertile landscape for agriculture, heritage, and human activities.<sup>31</sup> Due to their geographical location, both Palestinian self-government and the Israeli State want the same land. Hence, any actions by these States during the armed

---

<sup>28</sup> ICRC, ‘Guidelines for protection of natural environment in armed conflict’, also available at <https://www.icrc.org/en/document/guidelines-protection-natural-environment-armed-conflict-rules-and-recommendations-relating>

<sup>29</sup> Human Rights Council, ‘Report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967,’ 40<sup>th</sup> session (2019), pp. 2-19.

<sup>30</sup> Carlos E. Cordova, ‘Millennial landscape change in Jordan: geoarchaeology and cultural ecology,’ pp. 5-31.

<sup>31</sup> Assi Eman, "Human rights and World Heritage in transverse context", pp.864-865.

conflict not only affects their own land or people, but also tremendously impacting the environment of world's three big continents, e.g., Asia, Europe, and Africa<sup>32</sup>. The armed conflict of Israel-Palestine is a strong example of environmental destruction, also a sample of substantive and procedural environmental injustice.<sup>33</sup> Substantive environmental injustice is referred to a situation that unfairly distributes environmental 'goods' (clean air, water, land) and 'bads' (polluted air, water, land) amongst people belongs to different ethical, social, or political groups.<sup>34</sup> Procedural environmental injustice refers to unfairness of providing opportunities in participation for policy or decision-making process and governance regarding the environmental matters.<sup>35</sup>

### 1.2.2 The Characterization of the conflict

The Israel-Palestine Armed Conflict is known to be a very sensitive and disputed conflict in the history of wars due to the challenges regarding its characterization. The armed conflict has both characteristics of an IAC and NIAC. Due to development of CIL/CIHL, the laws for both IAC and NIAC are now largely similar except their differences regarding the protection of individuals and the accountability for IHL violations under international criminal law (ICL).<sup>36</sup> However, this dilemma on classification is solemnly affecting the scope of the applicability of IHL and other legal instruments to protect the environment and nature related human rights. Because a non-state actor (known as 'Sunni-Islamic fundamentalist militant'), and a nationalist organization of Palestine (called 'Hamas') took part in the armed conflict with Israeli armed forces in Palestinian territory at Gaza. As a result, such circumstance arises a severe complexity to determine the nature of the armed conflict.<sup>37</sup> Therefore, two categories of armed conflict are identified for the Gaza conflict under the existing treaty regime.<sup>38</sup>

To determine the legal character of the Israel-Palestine Armed Conflict, two sub-scenarios should be distinguished: (i) when hostilities within Gaza constitute a NIAC because Hamas is

---

<sup>32</sup> Elena Lazarou, 'Water in the Israeli-Palestinian conflict', pp.2-3, EPRS | European Parliamentary Research Service, 2016.

<sup>33</sup> [C Menkel-Meadow](#), 'Chronicling the Complexification of Negotiation Theory and Practice,' pp.415-418.

<sup>34</sup> G. Walker, 'Environmental Justice: concepts, evidence, and politics, 2012, vii.

<sup>35</sup> Ibid.

<sup>36</sup> J.D. Hemptinne 'Classifying the Gaza Conflict Under International Humanitarian Law, a Complicated Matter,' available at [Classifying the Gaza Conflict Under International Humanitarian Law, a Complicated Matter – EJIL: Talk! \(ejiltalk.org\)](#)

<sup>37</sup> Human Security Centre (HSC), Classifying the Israeli-Palestinian Conflict, available at, <http://www.hscentre.org/middle-east-and-north-africa/classifying-israeli-palestinian-conflict/>

<sup>38</sup> S Vité - International review of the red cross 'Typology of armed conflicts in international humanitarian law: legal concepts and actual situations', pp. 69-71, 2009.

a non-State actor; and (ii) when all hostilities are regulated by the law of IAC because the situation of occupation.<sup>39</sup>

Usually, IHL governs the laws of armed conflicts and defines their natures and deals with the restrictions, rules, and regulations of conflicts. IHL refers IAC as a conflict between two or more States resorting to armed force and codified in the Geneva Conventions of 1949 and Additional Protocol I of 1977.<sup>40</sup> Whereas a NIAC exists when a State and organised armed group resort to protracted armed violence (here can be two or more organized armed groups within a State) as codified in Common Article 3 of the Geneva Conventions and Additional Protocol (AP) II of 1977.<sup>41</sup> However, in case of Israel-Palestine Armed Conflict it is even crucial for IHL to determine the nature of this armed conflict.

According to the IHL, IAC refers armed conflict between two or more States also fights for fight colonial domination. Palestine has been considered as an individual state by a great number of States and recognized as a State under the ‘de facto’ recognition of statehood (a provisional recognition of statehood) since 1988.<sup>42</sup> UN also accorded Palestine a non-member observer State status in 2012 (see UN General Assembly Resolution 67/19)<sup>43</sup> and is a party to several treaties, including the Statute of the International Criminal Court (ICC). Under this scenario, Palestine can be treated as a State and Gaza as an occupied territory. Consequently, such explanation offers legal protection towards the human rights and it objects like environmental rights under both IHL and ICL.<sup>44</sup> Additionally, Israel and Palestine were engaged in a conflict in 2017 by virtue of Israel’s continued military occupation of Palestinian territory which falls under the characterization of an international armed conflict.<sup>45</sup> Moreover, the actions of Hamas could be attributed to Palestinian state, which make the nature of this

---

<sup>39</sup> J.D. Hemptinne ‘Classifying the Gaza Conflict Under International Humanitarian Law, a Complicated Matter’

<sup>40</sup> Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I), Entry into force on 7 December 1979, in accordance with article 95. Definitions are also available at, <https://www.icrc.org/en/doc/assets/files/other/opinion-paper-armed-conflict.pdf>

<sup>41</sup> Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II), Entry into force: on 7 December 1978, in accordance with Article 23.

<sup>42</sup> Tessler, Mark, ‘A History of the Israeli–Palestinian conflict’ (second, illustrated ed.), p. 722.

<sup>43</sup> General Assembly Plenary, 44<sup>th</sup> & 45<sup>th</sup> meetings, General Assembly, (GA/11317), introduced the draft resolution on “status of Palestine in the United Nations” (document A/67/L.28), 29 November 2012.

<sup>44</sup> J.D. Hemptinne ‘Classifying the Gaza Conflict Under International Humanitarian Law, a Complicated Matter’

<sup>45</sup> S Arraf, V Cheterian, M Ferrer, JA Lambin, ‘The War Report 2017, Geneva Academy’, p.33.



conflict an IAC.<sup>46</sup> Therefore, under this explanation the Israel-Palestine Armed Conflict can be considered as an IAC.

On the contrary, a NIAC opposes state and non-state parties within the territory of the State party. From that perspective, if the actions of Hamas cannot be attributed to Palestine, the conflict between Hamas (non-State actors) and Israel may be considered as a cross-border NIAC.<sup>47</sup> As Israel didn't ratify AP I & II, hence, the conduct of hostilities and the protection of individuals would only be governed by common Art. 3 to the four GCs and related customary principles.<sup>48</sup>

Due to this conundrum, the UN Security Council,<sup>49</sup> the United Nations Fact Finding Mission on the Israel–Gaza conflict<sup>50</sup> (established by the Human Rights Council), international human rights-based NGOs<sup>51</sup> and the ICRC did not manage yet to determine whether the Gaza conflict is an IAC or NIAC. Furthermore, the actions of the organised armed groups of this conflict cannot be attributed to the territorial State. Moreover, cross-border conflicts share common features with both IACs and NIACs, such as, Israel and Palestine conflict.<sup>52</sup> Thus, there must be two separate conflicts occurring simultaneously. However, though differences remain, but now-a-days under the CIL, many rules of IAC and the fundamental principles of IHL applicable for NIAC.<sup>53</sup> Additionally, according to Art. 2 of GC I (ICRC Commentary, 2016) expressed that, an unclear status of a territory should not prevent the application of the law of occupation. The ICRC Commentary, 2016 noted that, “The fourth Geneva Convention applies, if it is sufficient that the State whose armed forces have established effective control over the territory was not itself the rightful sovereign of the place when the conflict broke out.”<sup>54</sup>

---

<sup>46</sup> “The Operation in Gaza, Factual and Legal Aspects”, Report, Israeli Ministry of Foreign Affairs, 2009, Part: III (Applicable Legal Framework), para:31.

<sup>47</sup> Ibid, para. 29-32.

<sup>48</sup> J.D. Hemptinne ‘Classifying the Gaza Conflict Under International Humanitarian Law, a Complicated Matter’

<sup>49</sup> Resolution 1860 (2009), adopted by the Security Council at its 6063rd meeting, on 8 January 2009. General Assembly resolution supporting the immediate ceasefire according to Security Council resolution 1860 (2009). Also available at <https://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/Gaza%20AES10L21Rev1.pdf>

<sup>50</sup> Resolution adopted by the General Assembly, Tenth Emergency Special Session, 34th & 35th Meetings (UN Doc. A/ES-10/L.21/Rev.1)

<sup>51</sup> Amnesty International, op.cit., p.80. Human Rights Watch, White Flag, p.5.

<sup>52</sup> J.D. Hemptinne ‘Classifying the Gaza Conflict Under International Humanitarian Law, a Complicated Matter’

<sup>53</sup> JM Henckaerts, C Alvermann, ‘Customary International, Humanitarian Law’, pp.198-212, 2005.

<sup>54</sup> ICRC, IHL Databases, ‘Convention (I) for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field. Geneva, 12 August 1949. (Art.2, Commentary of 2016). Available at <https://ihl-databases.icrc.org/en/ihl-treaties/gci-1949/article-2/commentary/2016>

Therefore, the thesis needs to address both the features of IAC and NIAC to decide the applicable regulations and laws for this running armed conflict.

### **1.2.3 Parties of the Conflict**

Historically, the participants of the conflict in early time addressed as Egypt, Iraq, Israel, Jordan, Lebanon & Syria.<sup>55</sup> However, presently the main parties to this armed conflict continue to be Israel and Palestine, with Fatah in the West Bank and Hamas as the two key political factions in Palestine. There are multiple armed groups operating in Gaza and the West Bank which can generally be categorized as being part of one of the following groups: (1) Hamas affiliated (nationalist organization of Palestine), (2) Fatah affiliated (dominant force in Palestinian politics), (3) Salafist Groups (Palestinian Islamic Jihadis), (4) Sunni-Islamic fundamentalist militant (non-state actor).

### **1.2.4 A Brief History**

The current political conflict between Israel-Palestine has its roots in the late 19<sup>th</sup> and early 20<sup>th</sup> century. It has begun with the birth of major nationalist movements by Jews and Arab Muslims for the call of own sovereignty in the Middle East. Both their claims to the land back based on religious activism and implementation of power.<sup>56</sup> Historically, the Israel-Palestine conflict started since the United Nations Partition Plan of 1947, where UN General Assembly called for the partition of Palestine into Arab and Jewish states, with the city of Jerusalem as a corpus separatum to be governed by a special international regime.<sup>57</sup> The partition has resulted the Arab-Israeli war and Israel's declaration of independence in 1948 (known as 'Israel's War of Independence'). Basically, the present Israeli-Palestinian conflict began with the establishment of the state of Israel in 1948.<sup>58</sup> After that, numerous armed conflicts took place between these two states and occurs in several parts. For instance, many notable strikes occur in 1948–49, 1956, 1967, 1973, 1982, 2006, 2021 and 2023. But the most significant ones reflect their outcomes by two wars. One was waged in 1948 and another in 1967 due to their

---

<sup>55</sup> S Arraf, V Cheterian, M Ferrer, JA Lambin, 'The War Report: armed conflicts in 2017, The Armed Conflict in Israel-Palestine,' pp.2-12.

<sup>56</sup> Ibid.

<sup>57</sup> Elad.B.Dror, "The United Nations Plan to Establish an Armed Jewish Force to Implement the Partition Plan (United Nations Resolution 181), pp.560-570 .

<sup>58</sup> S Arraf, V Cheterian, M Ferrer, JA Lambin, 'The War Report: armed conflicts in 2017, The Armed Conflict in Israel-Palestine,' p.2.



detrimental impact on the environment and human rights.<sup>59</sup> During the war of 1948, the State of Israel was established on 78% of Palestine and made it remarkable. Such establishment has been destroying the environment by exploiting natural resources and repeated military strikes.<sup>60</sup>

The war of 1967 between Israel-Palestine (known as ‘Arab-Israeli war’) leads to the Israeli military occupation of the West Bank, Gaza, East Jerusalem, and the Golan Heights; and grounded today’s Israel-Palestine Armed Conflict.<sup>61</sup> Eventually, Israel is potentially expanding their colonies around the areas of Gaza Strips and West Bank. This occupation known as ‘Occupied Palestinian Territory (OPT)’. Though currently the West Bank is nominally controlled by the Palestinian Authority but, practically it is under the Israeli occupation.<sup>62</sup> Therefore, since 1948 till now these conflicts are marked by riots, rocket attacks, environmental vandalization by heavy explosive weapons use,<sup>63</sup> to take-over the land and occupying power. As an aftermath, besides the environment, the civilians’ health and human rights have been vastly devastated by the armed conflict. For instance, Israeli airstrikes in Gaza Strip caused damages in the water infrastructure and agricultural facilities which is injurious to human health.<sup>64</sup>

### **1.2.5 The Israel-Palestine Armed Conflict’s Impact on the Environment and Human Rights**

The reckless airstrikes, bombing and unusual use of the natural resources during the Israel-Palestine Armed Conflict and OPT are damaging both the environment and human health in an unrestrained way.<sup>65</sup> Therefore, UNEP has always undertaken an assessment of environmental conditions and damages in the OPT. Israel is a member state of UN,<sup>66</sup> and

---

<sup>59</sup> Ibid.

<sup>60</sup> HS Salem, ‘No Sustainable Development in the Lack of Environmental Justice’, p.4.

<sup>61</sup> S Arraf, V Cheterian, M Ferrer, JA Lambin, ‘The War Report: armed conflicts in 2017, The Armed Conflict in Israel-Palestine,’

<sup>62</sup> Ibid.

<sup>63</sup> UN General Assembly Economic and Social Council, 2017 session, ‘Economic and social repercussions of the Israeli occupation on the living conditions of the Palestinian people in the Occupied Palestinian Territory, including East Jerusalem, and of the Arab population in the occupied Syrian Golan’, under resolution 2016/14, pp.4-6.

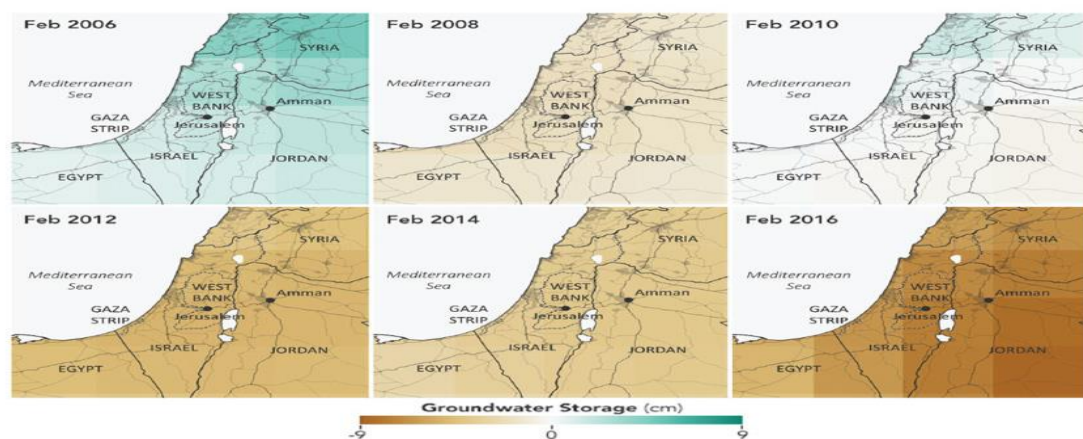
<sup>64</sup> E Weinthal, J Sowers, ‘Targeting infrastructure and livelihoods in the West Bank and Gaza’, pp.320-331.

<sup>65</sup> Human Rights Council, Fortieth session, 2019. ‘The Report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967’. The report is also available at [https://www.ohchr.org/sites/default/files/HRBodies/HRC/RegularSessions/Session40/Documents/A\\_HRC\\_40\\_7\\_3.docx](https://www.ohchr.org/sites/default/files/HRBodies/HRC/RegularSessions/Session40/Documents/A_HRC_40_7_3.docx)

<sup>66</sup> United Nations Member States, The State of Israel was admitted to the United Nations (UN) as its 59th member on 11 May 1949. Also available at <https://www.worldometers.info/united-nations/>.

Palestine is a non-member observer state of the UNGA since the passing of the UN General Assembly resolution 67/19 in November 2012.<sup>67</sup> As followed the UN, UNEP reports of these two States hold huge value for the research of the thesis. The UNEP reports 2006-2020 of Israel-Palestine conflict reveals notable alarms against the environment and human health.<sup>68</sup> According to the UNEP report 2016, both Israel and Palestine fall under a water stressed region that is already carries effects of climate change. For instance, the report notes that temperatures are projected to increase by between 1.2°C-2.6°C by 2050, and by up to 4.8°C by 2100.<sup>69</sup> Parallely, an average monthly precipitation may fall by 8-10mm by the end of this century.<sup>70</sup> This conflict and the OPT result contaminations of the aquifer. Because Gaza relies on with pollution and sea water continues to accelerate.<sup>71</sup> Hence, the following map of West Bank and Gaza shows that, both water courses and groundwater are being polluted by waste from Palestinian towns and villages, and from Israeli settlements.

### Picture 1 Nasa illustration



Maps used in the report show groundwater availability as observed by the NASA Gravity Recovery and Climate Experiment. Since 2006, the Middle East has experienced a net decrease in groundwater (NASA, 2018).<sup>72</sup>

<sup>67</sup> UN Digital Library, title: 'Status of Palestine <https://www.worldometers.info/united-nations/> e in the United Nations: resolution / adopted by the General Assembly', agenda: A/67/251 37 'Question of Palestine'. Online source <https://digitallibrary.un.org/record/738624?ln=en>

<sup>68</sup> UNEP Report, Z. Zhongming, L. Linong, Y. Xiaona, Z. Wangqiang, L. Wei, 'State of Environment and Outlook Report for the occupied Palestinian territory 2020'.

<sup>69</sup> Ibid, pp. 45,90-93.

<sup>70</sup> Ibid

<sup>71</sup> Ibid, p.96.

<sup>72</sup> ResearchGate, Observation of NASA Gravity Recovery and Climate Experiment (2018), available at [https://www.researchgate.net/figure/Maps-show-groundwater-availability-as-observed-by-the-NASA-Gravity-Recovery-and-Climat\\_fig10\\_341481235](https://www.researchgate.net/figure/Maps-show-groundwater-availability-as-observed-by-the-NASA-Gravity-Recovery-and-Climat_fig10_341481235)

As a result, this conflict became responsible for the water scarce and pollution of groundwater in the West Bank and Gaza.<sup>73</sup> The UNEP reports (2016-2018) also disclosed a serious threat over the human health and marine environment correspondingly solid waste condemnation (estimated 800 tonnes of solid waste disposed in daily basis) and by raising environmental pollution in agricultural areas of Gaza strips under the OPT. These reports confirmed that soil, air, and water are also being polluted by unregulated electronic waste (e-waste) from Israel for processing in the Palestinian villages that results several health problems.<sup>74</sup> Additionally, the terrestrial ecosystems facing a range of pressures by damaging the biodiversity and ecosystem. It also causing environmental destructions by desertification, land degradation, rapid urbanisation, and soil erosion. Uprooting of trees and deforestation are common menacing consequences of the Israel-Palestine Armed Conflict. Paradoxically, these pollutions are continuing their contamination across border.<sup>75</sup> The UNEP report from 2020 conducted a desk study on the environment under the OPT to assess the environmental impact of ongoing conflict on the areas of waste management, biodiversity, and institutional capacity. Unfortunately, this report has confirmed the long-length of this conflict had presented huge challenges for Palestinian efforts towards sound management of their natural resources and protection over environment and human rights.<sup>76</sup> The 2020's UNEP report says, surface and groundwater courses and marine ecosystems of these conflicted areas are being demean due to untreated wastewater discharge and by irregular solid waste disposal.<sup>77</sup> The report also mentions Gaza's water crisis and how the untreated wastewater is impacting the marine ecosystems, human health and desalination operations of this area.<sup>78</sup> According to this report, only in 2019, approximately 343 tonnes of solid waste per day in the West Bank and 443 tonnes per day in the Gaza Strip were disposed in different dumpsites.<sup>79</sup> This way, the Israel-Palestine Armed Conflict is pushing the world environment towards an alarming situation.<sup>80</sup>

---

<sup>73</sup> UNEP Report, Z. Zhongming, L. Linong, Y. Xiaona, Z. Wangqiang, L. Wei, 'State of Environment and Outlook Report for the occupied Palestinian territory 2020', pp.95-96.

<sup>74</sup> Ibid, pp.110-118, 128-131.

<sup>75</sup> Ibid.

<sup>76</sup> Human Rights Council, Fortieth session, 2019. 'The Report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967', pp. 3 & 8.

<sup>77</sup> UNEP Report, Z. Zhongming, L. Linong, Y. Xiaona, Z. Wangqiang, L. Wei, 'State of Environment and Outlook Report for the occupied Palestinian territory 2020', pp.72-78.

<sup>78</sup> Ibid, pp.93-96.

<sup>79</sup> Ibid, pp. 111 & 125-131.

<sup>80</sup> Ibid.

### 1.3 Purpose and Research Questions

The purpose of the thesis is to scrutinize and promote the applicability legal norms of IHL, IHRL and IEL for protecting the environment and human rights during an armed conflict. To accomplish such purpose, the thesis will attempt to address the leading issues of wartime environmental and human rights damages and will seek the gaps and contravention of the international law that is connected to armed conflict. The thesis will utilize armed conflict related national laws and agreements between Israel and Palestine for finalizing the answers to the research questions. Though currently the international law seems to have a good number of protective laws for the human rights and environment during a conflict time; however, a dramatic destruction of the environment and human rights are taking place in the Israel-Palestine Armed Conflict despite of such legal protections. The central aspect of the thesis is to understand why the international law in this regard does not seem to fulfil its purpose. Hence, the main research question of the thesis will be why and how the Israel-Palestine Armed Conflict is creating the environmental degradation and environment-related human rights violations, despite existing international law, domestic laws, and general norms for preventing environmental vandalization and human rights during armed conflict. For instance, how to support this argument, the research will accomplish to define the legal status of the OPT. The research will also answer, how the environmental mismanagement, negligence, and breach of laws by Israel and Palestine are leading to environmental and human rights dilemmas. This thesis will also scrutinize the significant gaps between utilizing the laws that protects environment and environment related rights. Additionally, it will expose the obstacles in promotion of sound environmental management strategies for Palestine under the occupation. To reach the solutions to the research questions, the thesis will apply environmental rule of law for setting a framework on already existing laws. Because environmental rule of law is applicable to all levels of governments. It protects simultaneously public health and environment.<sup>81</sup> Moreover, to find out the other possible solutions for these existing issues the thesis will try to suggest few protective measures for the environment and its related human rights by signifying the ways of developing the existing laws, and by adopting new legal shields.

---

<sup>81</sup> UN. Secretary-General, 'The rule of law and transitional justice in conflict and post-conflict societies: report of the Secretary-General' (2004)

## 1.4 Methods, Materials and Limitations

As a methodology, the thesis will apply ‘Doctrinal methodology’ which will be based on the primary and secondary sources of international law. Primary sources of international law include treaty law and general principles of law.<sup>82</sup> As secondary source the thesis will use law journals articles, legal commentaries, research of legal scholars and books. To support the legal arguments, the thesis will use case law (judicial decisions), and literature (doctrine) as well.<sup>83</sup>

As regard the case study of the thesis is the environmental destruction and human rights violation during the Israel-Palestine Armed Conflict, the research will be highly focused on IHRL and IHL. For instance, the thesis will utilize international conventions such as, the International Covenant for Civil and Political Rights (ICCPR)<sup>84</sup> and the four 1949 Geneva Convention (GC). Regarding the IHL it needs to mention that, both the State of Israel and the State of Palestine are parties to the four GC of 1949. Israel ratified the Geneva Conventions on July 6, 1951,<sup>85</sup> but not a party to the Additional Protocols. Instead of not being a party, Israel became committed to the most of the customary law rules that are reflected few provisions of Additional Protocols,<sup>86</sup> accepts some provisions that reflect the CIL.<sup>87</sup> On the other hand, the State of Palestine acceded to both Additional Protocols I and II.<sup>88</sup>

---

<sup>82</sup> ICJ, 1945, Statute of The International Court of Justice, Chapter II: Competence of the court (Art: 34-38). Statute of the International Court of Justice, art 38(1) (The Court, whose function is to decide in accordance with international law such disputes as are submitted to it, shall apply the international conventions, international custom, the general principles of law recognized by civilized nations; judicial decisions and the teachings of the most highly qualified publicists of the various nations, as subsidiary means for the determination of rules of law.) Also available at <https://www.icj-cij.org/statute>.

<sup>83</sup> Legal Guide, ‘Introduction to law: Primary and Secondary Sources of Law’, also available at <https://library.highline.edu/c.php?g=344547&p=2320319#:~:text=Primary%20and%20Secondary%20Legal%20Sources&text=Primary%20legal%20sources%20are%20the,or%20critique%20it%20as%20well>.

<sup>84</sup> Israel signed the International Covenant for Civil and Political Rights (ICCPR) in 1966 and ratified it in October of 1991. The Covenant came into force in Israel in January 1992. In 2014, the State of Palestine acceded to the ICCPR. Both Israel and Palestine are party to other core international human rights treaties. Also available at [https://tbinternet.ohchr.org/\\_layouts/15/TreatyBodyExternal/Treaty.aspx?Treaty=CCPR&Lang=en](https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?Treaty=CCPR&Lang=en)

<sup>85</sup> Ibid.

<sup>86</sup> Permanent Mission of Israel to the United Nations UN sixth committee, ‘Status of Protocols Additional to the Geneva Conventions of 1949 and relating to the protection of victims of armed conflicts’, (15 December 2020) UN Doc A/RES/75/138, Agenda item 83.

<sup>87</sup> Ministry of Foreign Affairs of the State of Israel, The 2014 Gaza Conflict: Factual and legal aspects, p. 138, para. 234, FN 397 (available at: <http://mfa.gov.il/ProtectiveEdge/Pages/default.aspx>, accessed 28/10/2018) (“For example, although Israel is not party to the 1907 Hague Convention IV respecting the Laws and Customs of War on Land, it views the Convention as reflecting customary international law and thus its provisions are binding on Israel. Although Israel is also not a party to the 1977 Additional Protocols I and II to the 1949 Geneva Conventions, but it abides by their provisions in as much as they reflect rules of customary international law.”)

<sup>88</sup> Israel is a signatory State of GC, 1949 since 12<sup>th</sup> August 1949. GC, 1949, Registration no.973. GC, Protocol I relate to the protection of victims of international armed conflicts where Protocol II relates to victims of non-international armed conflicts. Also available at <https://treaties.un.org/pages/showdetails.aspx?objid=0800000280158b1a> . For a full list of IHL treaties, and

To answer the research questions, the thesis will also study several environment and human right treaties where both Israel and Palestine are parties,<sup>89</sup> such as, the Multilateral Environmental Agreements (MEAs),<sup>90</sup> and the World Heritage Convention.<sup>91</sup> The research will parallelly investigate case laws from the International Criminal Court (ICC)<sup>92</sup> on human rights and environmental unjust during the Israel-Palestine Armed Conflict.<sup>93</sup> This is because, the Government of Palestine accepted, by means of a declaration under Article 12(3) of the Rome Statute, ad hoc ICC jurisdiction since June 13, 2014;<sup>94</sup> even though Israel doesn't recognise the court. Moreover, the thesis will follow the rules of the International Committee of the Red Cross (ICRC). Because, ICRC has an International Humanitarian Law page that provides a good number of introductory IHL resources. Moreover, the Geneva Academy of International Humanitarian Law and Human Rights hosts the 'Rule of Law in Armed Conflicts Project' that provides a database of relevant legal instruments and overviews of current IHL issues.<sup>95</sup> Besides these, the thesis will mention essential environmental protection rules, general principles, e.g., principles on protection of the environment in relation to armed conflicts (The PERAC principles).<sup>96</sup> To fulfil the purpose of the research, the thesis will scrutinize the

---

additional protocols ratified or acceded to by the State of Israel or the State of Palestine, see <https://ihl-databases.icrc.org/en/ihl-treaties/gciv-1949/state-parties?activeTab=1949GCs-APs-and-commentaries>

<sup>89</sup> For a full list of international human rights treaties signed or ratified by the State of Israel, see: [https://tbinternet.ohchr.org/\\_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=84&Lang=EN](https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=84&Lang=EN) ; for signed or ratified by the State of Palestine, see:

[https://tbinternet.ohchr.org/\\_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=217&Lang=en](https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=217&Lang=en) .

<sup>90</sup> Multilateral Environmental Agreements (MEAs), 1857 is a set of international agreements between states that specify the environmental problems at national, and global levels. It is consisting most significant treaties dealing with global environmental problems and environmental protocols. Israel ratified many of the MEAs since 1978 and Palestine since 2015.

<sup>91</sup> The World Heritage Convention, 1972 is an international treaty formally the Convention Concerning the Protection of the World Cultural and Natural Heritage. Israel has ratified the Convention in October 1999 and Palestine ratified the Convention in December 2011. Online source <https://whc.unesco.org/en/statesparties/>

<sup>92</sup> International Criminal Court (ICC), 2002 investigates and prosecute war crimes. The Rome Statute of the International Criminal Court is the treaty that established the ICC. Entry into force: 1 July 2002, in accordance with article 126 of the Statute. On December 31, 2000, Israel signed the Statute of the International Criminal Court (ICC). See, Daniel A. Blumenthal, 'The Politics of Justice: Why Israel Signed the International Criminal Court Statute and What Are the Signature Means,' Vol. 30:593, pp.593- 596.

On 1 January 2015, the Government of Palestine has lodged a declaration under article 12(3) of the Rome Statute accepting the jurisdiction of the ICC over alleged crimes committed "in the occupied Palestinian territory, including East Jerusalem. On 2 January 2015, Palestine acceded to the Rome Statute by depositing its instrument of accession with the UN Secretary-General. The Rome Statute entered into force for Palestine on 1st April 2015. Also available at <https://www.icc-cpi.int/palestine>

<sup>93</sup> Amnesty International, 'Amnesty International Report 2022-2023: The State of The World's Human Rights', <file:///C:/Users/kinch/Downloads/WEBPOL1056702023ENGLISH-2.pdf>

<sup>94</sup> ICC, 'State of Palestine,' available at <https://www.icc-cpi.int/palestine>

<sup>95</sup> IJRC, 'International Humanitarian Law,' available at [International Humanitarian Law – International Justice Resource Center \(ijrcenter.org\)](https://www.ijrcenter.org/)

<sup>96</sup> Adopted by International Law Commission at its 27<sup>th</sup> session, in 2022 at submitted to the General Assembly as a part of the Commission's report overing the work of that session (A/77/10, PARA.58). Online source, [https://legal.un.org/ilc/texts/instruments/english/draft\\_articles/8\\_7\\_2022.pdf](https://legal.un.org/ilc/texts/instruments/english/draft_articles/8_7_2022.pdf)

interconnection between the existing legal norms and their utilization to prevent the environmental degradation and environment related human rights issues during the running armed conflict. Though the Israel-Palestine Armed Conflict is also independently contaminating the pervasive marine environment, distressing the layers of atmosphere, and triggering the climate change; however, that will not be a topic of discussion for the thesis. The thesis will be only focused on environmental damages, such as, land- air-water pollution, wreck of flora and fauna, destruction of natural resources and environment related human rights issues in the regions of Israel and Palestine.

## **2. The OPT and the Environmental Injustice with a Violation of Human Rights**

### **2.1 Occupied Palestinian Territories (OPT)**

This thesis is based on the environmental impact of ongoing Israel-Palestine Armed Conflict as well as how the violation of environmental regulations is affecting few prime human rights under the OPT. Before the OPT, the total area of historical Palestine is estimated as 26,320 km<sup>2</sup> of land in addition to 704 km<sup>2</sup> of an inland water.<sup>97</sup> Including the area of the Dead Sea, the total area was approximately 6,210 km<sup>2</sup>. But currently Palestine has a consists of two physically separated land masses: the West Bank and the Gaza Strip. Israel has declared at least 26% of the West Bank as “state land” under the OPT. About 60% of the total land area in the West Bank, remains under Israeli control and more than 30% of the land in the Gaza Strip continues to be held by Israel.<sup>98</sup> Already by year 2018, 611,000 Israeli settlers living in 250 settlements in the occupied West Bank, including East Jerusalem, in contravention of the international law. Modi’in Illit (known as Ugpper Modi’in” is a Haredi Israeli settlement and city in the West Bank) is the largest settlement where houses more than 70,000 Israeli Jews in the occupied West Bank. Such settlements started since 1967’ and highly contaminating the nearby areas till now.<sup>99</sup> The destructive outcome of the Israel-Palestine Armed Conflict and the Israeli occupation is increasing gradually, consequently and making the ecological assets even more critical.<sup>100</sup>

### **2.2 Impact of the Israel-Palestine Armed Conflict on the Environment and Human Health**

#### **2.2.1 Flora and Fauna**

The Israel-Palestine Armed Conflict has an environmental defeatist collision over the whole Africa, Asia, and Europe via ecological variation. Due to Palestine’s unique location at the crossroads of three continents has made its environment a melting pot for the flora and fauna of Africa, Asia, and Europe. Flora and fauna here refer to plants and animals encompassing

---

<sup>97</sup> Jad Isaac and Mohammad Ghanyem, Report of Applied Research Institute of Jerusalem (ARIJ) 1998, ‘Environmental Degradation and the Israeli - Palestinian Conflict, pp.1-4.

<sup>98</sup> Ibid, p.3.

<sup>99</sup> UN Human Right Council , ‘Israeli Settlements Amount to a War Crime, Special Rapporteur Tells Human Rights Council’,(un.org.press) available at

<https://www.ohchr.org/EN/HRBodies/HRC/Pages/NewsDetail.aspx?NewsID=27295&LangID=E>

<sup>100</sup> Ibid



pretty much all life on earth. Floras known as all the plants life present in a particular region or time, generally the naturally occurring native plants, whereas fauna includes mammals, marine mammals, birds, amphibians, reptiles, and invertebrates. Specifically, the Jordan Valley, because it is the main biological heart of the Middle East region and located at the crossroads of biodiversity for Africa, Asia, and Europe.<sup>101</sup> Both flora and fauna are essential elements for the environmental conservation, but unfortunately the OPT has harmed their existence. Consequently, the whole Africa, Asia, and Europe's ecological variation now is facing threat.<sup>102</sup>

### 2.2.2 Medical Plants

Thinking about the overall environmental destruction it can be said that the OPT causes severe harm for the human health in various ways.<sup>103</sup> Specifically, by affecting floras. For instance, Middle East countries are known for their herbal medicine plants. Those medicinal plants are great sources of curing several diseases like, gastrointestinal diseases, urinary tract infections, infertility, cutaneous abscesses, and chronic diseases. They were known and used in Traditional Arabic Palestinian Herbal Medicine (TAPHM).<sup>104</sup> However, the OPT is remarkably hindering floras and faunas by decreasing these medical plants day by day. Moreover, they are contaminating more often than before, which arises a direct challenge towards the human health, environment as well as towards global biodiversity between the year 1961 and 2008. Disastrously, only between these years all countries in the Mediterranean have either turned into a biocapacity deficit or have grown deeper into deficit than they were in 1961.<sup>105</sup>

---

<sup>101</sup> Raisul Bari, 'Environmental Sustainability and Hydro-Political Crisis of Jordan River Basin in Middle East: An Analysis,' Vol.7, pp. 381-386.

<sup>102</sup> CBD report 2015, 'State of Palestine Fifth National Report: To the Convention on Biological Diversity (CBD)', pp.44-45. See the report <https://www.cbd.int/doc/world/ps/ps-nr-05-en.pdf>

<sup>103</sup> Health Annual Report: Palestine 2018. Palestinian Health Information Centre (PHIC); 2019. See also the report by the Director-General of WHO, 'Health conditions in the occupied Palestinian territory, including east Jerusalem, and in the occupied Syrian Golan', 73<sup>rd</sup> World Health Assembly, Agenda item 17, A73/15, 5<sup>th</sup> Nov.2020., also available at, [https://apps.who.int/gb/ebwha/pdf\\_files/WHA73/A73\\_15-en.pdf](https://apps.who.int/gb/ebwha/pdf_files/WHA73/A73_15-en.pdf)

<sup>104</sup> Ahmad Ibrahim Husein, Ali-Shtayeh, Mohammed Saleem Husein, et al. "In vitro antioxidant and antitumor activities of six selected plants used in the Traditional Arabic Palestinian herbal medicine." 2014, Vol.52, No. 10, also available at <https://www.tandfonline.com/doi/full/10.3109/13880209.2014.886274>

<sup>105</sup> CBD report 2015, 'State of Palestine Fifth National Report: To the Convention on Biological Diversity (CBD)', pp.32 & 35.

### **2.2.3 Deforestations and Wildlife**

During the OPT Israeli authorities are continuing deep drilling in mountains for their settlement, and road constructions. Moreover, people are expanding the areas for own use.<sup>106</sup> Consequently, wild animals are losing own place of residence, scope of their natural migration, also became a subject of hunt. The OPT is also restricting the nesting and breeding sites of animals and birds, as well as causing the extinction of faunas. Statistically, already within year 2015 the 70.7% of the total forest area of the West Bank has been damaged, and no more than 29.3% of it is left.<sup>107</sup> The OPT has increased imbalances in nature via cutting off trees to built-up colonies, growth of population, agricultural use of land and depletion.<sup>108</sup>

### **2.2.4 Biodiversity loss, Unsustainable Use of Natural Resources, Pollution and Their Impact on the Human Health**

Once the State of Palestine used to be rich in biodiversity. Because they used to include more than 50 sites those were identified as biodiversity sites. It was an essential source of natural protection for Africa, Asia, and Europe. For example, the Jordan Valley region and the Eastern Slopes region.<sup>109</sup> Nevertheless, the OPT is displaying tremendous negative impacts on the water quality. Consequently, a fetid trickle of sewage now runs where once the Jordan River was. Jordan river not only known for its beauty but also accepted as a great source of water resources. This river is an international river basin which is also maintaining the Middle Eastern ecological balance. Jordan River is the main natural water resource for Lebanon, Syria, Palestine, Israel, and Jordan. Unfortunately, due to the OPT this river is now facing a huge water crisis.<sup>110</sup> Because the water resources of this river are dramatically decreasing and reducing the Arab water shares in the river basin. The OPT also destroying the pumping units of the river and decreased the water flow from 1250 mcm (one thousand cubic water) to 152-203 mcm per year.<sup>111</sup> Additionally, the OPT causes unsustainable use of natural resources, and

---

<sup>106</sup> Human Rights Watch (HRW) report. 2021: A Threshold Crossed, 'Israeli Authorities and the Crimes of Apartheid and Persecution', see the report <https://www.hrw.org/report/2021/04/27/threshold-crossed/israeli-authorities-and-crimes-apartheid-and-persecution>.

<sup>107</sup> CBD report 2015, 'State of Palestine Fifth National Report: To the Convention on Biological Diversity', p.67.

<sup>108</sup> ARIJ report, J. Isaac, and M. Ghanyem. 'Environmental Degradation and the Israeli - Palestinian Conflict', pp. 19-24.

<sup>109</sup> CBD report 2015, 'State of Palestine Fifth National Report: To the Convention on Biological Diversity (CBD)', pp. 18-21.

<sup>110</sup> CA Scott, H El-Naser, RE Hagan, A Hijazi, 'Facing water scarcity in Jordan: reuse, demand reduction, energy, and transboundary approaches to assure future water supplies', pp.210-212.

<sup>111</sup> J. Isaac and M. Ghanyem. 'Environmental Degradation and the Israeli - Palestinian Conflict', pp. 16-18.

urbanization. According to UNEP report of 2020, settlements out of OPT caused pollution in freshwater courses and groundwater in the West Bank and Gaza.<sup>112</sup> Correspondingly, the OPT's pressure on water and marine ecosystem excessively pressed human health. Especially the health of children and pregnant women are badly affected in the West Bank and Gaza.<sup>113</sup> Though the institutional management for aquifer systems controlled the chemical use or solid waste disposal; still wastewater recycling and water harvesting in these zones are next to impossible.

Moreover, the Israeli colonizers use rowdy wastewater disposal methods. Such as, they dump water waste in agricultural land and population centres. The settlers are also dumping animal manure in these areas.<sup>114</sup> These activities exceedingly polluting these living areas by growing mosquitoes and flies, which causes various potential major diseases. In consequence, water associated diseases account for approximately 26% of childhood diseases in Gaza. This situation became a primary cause of child morbidity for Gaza, which is explicitly breaching the human rights over health and environment.<sup>115</sup> Moreover, dumping solid or industrial wastes, like, aluminium, fiberglass, plastic, electroplating, surface coating, waste oil recycling, metal fabrication, release of wastewater, oil spills, use of pesticides are major reasons behind the environmental damage and contamination of the coastal aquifer. For example, released water waste from Etzion colony (Israeli colony) is polluting the environment of Karne Zur (falls under Palestinian towns) which is an agricultural colony contains several large livestock dairy farms.<sup>116</sup> Similarly, water, soil, and air are also being polluted by unregulated e-waste, for example, electronic products from vehicle processing and industries. The estimated e-waste coming from Israel and processed in Palestinian villages is around 57,000 to 64,000 tonnes annually.<sup>117</sup> The uncontrolled disposal and treatment of e-waste are causing serious health hazards for people.<sup>118</sup> After the occupation Israel agreed to protect these sites, but Israel is continuing spreading their colonies without protecting the environment. Above these, the OPT is degrading the sustainability of Palestinian natural resources by a continuous and permanent depletion of its natural resources. It causes enlarging human suffering along with damage.

---

<sup>112</sup> UNEP report, 'State of Environment and Outlook Report for the occupied Palestinian territory 2020', see the report at <https://ceobs.org/wp-content/uploads/2020/06/SEORP.pdf>

<sup>113</sup> Ibid, pp.77-78.

<sup>114</sup> The World Bank report 2009, 'Assessment of Restrictions on Palestinian Water Sector Development', pp. 9-31. Report No. 47657-GZ.

<sup>115</sup> Ibid, p.77.

<sup>116</sup> J. Isaac and M. Ghanyem. 'Environmental Degradation and the Israeli - Palestinian Conflict', pp. 18-21.

<sup>117</sup> UNEP report 2020, 'State of Environment and Outlook Report for the OPT 2020,'pp. 87-89 and 129.

<sup>118</sup> Ibid.

Parallely, these destructions are raising from sewage dumping and increasing the air-soil-water pollution in a remarkable range.<sup>119</sup> According to UN experts, Israel is exploiting the natural resources of Palestinian which is a clear violation of the human rights.<sup>120</sup> Moreover, Israel took control over Palestinian lands in the name of biodiversity protection<sup>121</sup> and converted these reserved areas to Israeli illegal settlement regime by Israelis occupation military. Israelis use a large area for annexation and made a 774 km long separation wall. The wall prevents many species of mammals from travelling to their sources of food and mating, also made their survival challenging.<sup>122</sup> This is how the OPT is exploiting the natural resources in an unsustainable manner.

### **2.2.5 Restricted Palestinian's Access Over the Natural Resources and Managerial Activities**

Israel has also restricted Palestinian's access to the natural resources of Palestine. The enforcement activities of management and protecting biodiversity for the West Bank areas are possible to do jointly. However, Israel has prevented the access of Palestinian management agencies, namely, the Environment Quality Authority (EQA) and the Ministry of Agriculture (MOA) in most of the protected areas of West Bank.<sup>123</sup> Consequently, the illegal settlements have distressed flora and fauna of those areas, and they are threatening the wild edible plants in their habitat. Ultimately, the Israeli actions anguished the overall ecological balance, environment, and human health of the Mediterranean area.<sup>124</sup> Israel's actions have hence, inflicted damage not only on the Palestinian environment but also made Africa, Asia, and Europe victims of environmental loss with the violation of human rights.

---

<sup>119</sup>Ibid, pp.73, 87-88, 129.

<sup>120</sup> Human Rights Council, 14<sup>th</sup> session, 'Report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967', pp.1-19.

<sup>121</sup>UN. Org press, UN's 68<sup>th</sup> General Assembly, Control, Exploitation of Resources Detrimental to Palestinian Development, Delegates Say in Second Committee, 2013, online source <https://www.un.org/press/en/2013/gaef3379.doc.htm>

<sup>122</sup> Report of Applied Research Institute of Jerusalem (ARIJ), and the Natural Resources Sector within the Palestinian Energy and Natural Resources Authority (arij.org), 'The Environmental Impacts Assessment of The Israeli Segregation Plan on Battir Village', 2005, p.5.

<sup>123</sup> CBD report 2015, 'State of Palestine Fifth National Report: To the Convention on Biological Diversity (CBD)', pp. 47, 80-83.

<sup>124</sup>Ibid, pp.36-37.

## 2.3 Conclusion

In sum, the OPT has entailed a huge destruction towards the environment and human health along with human rights by damaging the existence of flora, fauna, and biodiversity loss. Various types of pollution and waste discharge are destructing the natural resources. It is also spreading life taking diseases, shortage of food and drinking water. Preventive access for the environmental protection for Palestine, and urbanization by illegal settlement triggered the damage even more. Already in 2018 Human Rights Council reported that, the Israel-Palestine Armed Conflict and the OPT are causing debilitating hardship for communities. Because 70% of the population of Gaza are rely on aid but they have very little access to the most basic services.<sup>125</sup> It is quite clearly manifested that, during the OPT Israel has violated several of its international obligations in connection to the environmental harm and human rights violation. Therefore, the next chapter will include a deeper analysis of the applicable law on the protection of environment and human rights in the Israel-Palestine Armed Conflict.

---

<sup>125</sup> HR Council, 37<sup>th</sup> Session (2018), 'Report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, A/HRC/37/75, p.6.

### **3. Environmental and Human Rights Protection During the Israel-Palestine Armed Conflict**

#### **3.1 IHL and Its Sources for the Protection of the Environment**

##### **3.1.1 Introduction**

The most evident source for the protection of the environment during armed conflict is the IHL, which is a branch of international law that regulates armed conflicts. The situation in the OPT is primarily governed by two international legal regimes: IHL (including the rules of the law of occupation) and IHRL. Therefore, this chapter will discuss the key IHL instruments and IHRL to protect the environment and human rights during the Israel-Palestine Armed Conflict.<sup>126</sup> Treaties and Customary International Law (CIL) are the two main sources of IHL norms, therefore, the situation of Israel-Palestine Armed Conflict and the occupation will be monitored under both of them.<sup>127</sup> Moreover, the International Committee of the Red Cross (ICRC) is the international body who monitors and promotes adherence to the Geneva Conventions. Due to ICRC is consistently affirmed with the application of the Fourth Geneva Convention in all of its statements dealing with the OPT since 1967, therefore, the ICRC rules will be also highly valued during this research procedure.<sup>128</sup>

#### **3.2 Treaty-Based IHL**

##### **3.2.1 Introduction to Treaty-Based IHL**

IHL contains treaty provisions, and rules of treaty law that indirectly protect the environment and human rights during conflicts. Generally there are five categories of IHL rules to protect the environment during armed conflicts: (i) rules limiting or prohibiting certain weapons and methods of warfare by conventions, (ii) clauses protecting civilian objects and property; (iii) clauses protecting cultural heritage sites, for example, the 1907 Hague Regulations;<sup>129</sup> (iv) rules concerning installations containing dangerous forces; and (v) limitations on certain specifically

---

<sup>126</sup> Mrema, Elizabeth, C. Bruch, and J. Diamond 'Protecting the Environment During Armed Conflict an Inventory and Analysis of International Law', 2009, p.10.

<sup>127</sup> International Justice Resource Centre (IJRC), 'International Humanitarian Law', online source <https://ijrcenter.org/international-humanitarian-law/>

<sup>128</sup> Report of Human Rights watch (2000), 'The Obligations of Israel and The Palestinian Authority Under International Law. Available at, [https://www.hrw.org/reports/2001/israel/hebron6-04.htm#P305\\_49327](https://www.hrw.org/reports/2001/israel/hebron6-04.htm#P305_49327)

<sup>129</sup> The 1907 Hague Regulations (annexed to Hague Convention IV and Hague Convention IX), also available at <https://theblueshield.org/resources/laws/1954-hague-convention-treaty-law/1329-2/>

defined areas.<sup>130</sup> However, the most relevant provisions of IHL treaty law for the protection of the environment during armed conflict can be divided into three main categories. Such as, (i) those that directly address the issue of environmental protection, (ii) the general principles of IHL that are applicable to environmental protection, (iii) the provisions that can be considered to provide indirect protection to the environment during times of conflict.<sup>131</sup>

### **3.2.2 Geneva Convention VI, Additional Protocols and The Hague Regulation (1907)**

Even though, the word "environment" neither clearly expressed in the Hague Regulation (1907) nor in the Geneva Convention (1949), however, the Article 23(g) of the Hague Regulations states that it is forbidden to destroy or seize the enemy's property, unless such destruction or seizure be imperatively demanded by the necessities of war. The term "enemy property" also includes protected areas, environmental goods, and natural resources of the opponent party during conflict. Simultaneously, the GC IV, 1949 is solemnly concentrated in preventing any widespread, long-term, and severe damage to the natural environment and the Hague Regulation (1907) is attached to the Hague Convention IV on the Laws and Customs of War on Land.<sup>132</sup> These legal instruments stipulate the environmental protection by restricting parties of an armed conflict from destroying "enemy property".<sup>133</sup> Therefore, though the GCVI and The Hague Convention 1907 seems limited to protect environmental issues, but they do protect the environment by prohibiting the wilful or unjustified destruction of property during an armed conflict.<sup>134</sup>

Israel and Palestine both have ratified GC IV therefore, bound by it. Unfortunately, Israel is not a party to the Additional Protocol I but accepts some of its provisions those reflect CIL. On the other hand, the State of Palestine acceded to Additional Protocols I, II and III.<sup>135</sup> Therefore, the AP I, specifically Article 35 and 55 of this are essential legal instruments for the thesis. Because its protection includes a prohibition of the use of methods or means of warfare

---

<sup>130</sup> Mrema, Elizabeth, C. Bruch, and J. Diamond 'Protecting the Environment During Armed Conflict an Inventory and Analysis of International Law', 2009, p.13.

<sup>131</sup> ICRC, 'The Environment and The International Humanitarian Law', available at <https://casebook.icrc.org/case-study/environment-and-international-humanitarian-law>

<sup>132</sup> Convention (IV) respecting the Laws and Customs of War on Land and its annex: Regulations concerning the Laws and Customs of War on Land. The Hague, 18 October 1907.

<sup>133</sup> Geneva Conventions (IV) of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I): the protection of the environment, Articles 35, para. 3, and 55

<sup>134</sup> UNGA Report, 'Protection of the environment in times of armed conflict' (1993) UN Doc A/RES/47/37

<sup>135</sup> ICRC, Treaties, States Parties and Commentaries, online source [https://ihl-databases.icrc.org/applic/ihl/ihl.nsf/vwTreatiesByCountrySelected.xsp?xp\\_countrySelected=IL](https://ihl-databases.icrc.org/applic/ihl/ihl.nsf/vwTreatiesByCountrySelected.xsp?xp_countrySelected=IL)

which are intended or may be expected to cause such damage to the natural environment and thereby to prejudice the health or survival of the population.<sup>136</sup> For instance, the Article 55(1) includes method of warfare under the consideration of ‘health’, it also refers to the care that shall be taken in warfare to protect environment against such mentioned harms. This Article also includes prohibition of the use of methods or means which are devastating for the health or survival of the population and may relate to pollution from different sources that may cause chronic illness.<sup>137</sup> Moreover, Article 55(2) prohibits all attacks against the natural environment by way of reprisals.<sup>138</sup> Additionally, under the IHL Israel is considered as the occupying power regarding the OPT, hence, these legal provisions have essential roles to protect the environment and its connected human rights during the Israel-Palestine Armed Conflict. However, Israel has refused to accept the *de jure* applicability of the GC IV to the OPT including Jerusalem and has committed serious violations of every relative provision of the Convention.<sup>139</sup> Moreover, Israel neither signed nor ratified the 1907 Hague Regulations. Fortunately, the Israeli High Court has found that the 1907 Hague Regulations are part of CIL,<sup>140</sup> thus binding on all states, including those not party to the treaty.<sup>141</sup> Due to this court decision, Israel is still bound by the provisions of the GC and the Hague Regulations annexed to the Convention (IV) ‘Respecting the Laws and Customs of War on Land’.<sup>142</sup> This is how, the Hague Regulations and the Fourth Geneva Convention set limits to the discretion of the Occupying Power, as far as the destruction of property is concerned. Moreover, the UNGA has affirmed the applicability of the GCVI to the Palestinian territories in many resolutions.<sup>143</sup> Palestine has become a

---

<sup>136</sup> GC VI, Additional Protocol I, Article 35 – ‘Basic Rules’ and Article 55 – ‘Protection of the natural environment.’

<sup>137</sup> JF Queguiner, ICRC Commentary on AP of 8th June 1977 to the Geneva Convention of 12 August 1949, (Martinus Nijhoff 1987) (ICRC Commentary) at 661.

<sup>138</sup> Protocol Additional to the Geneva Conventions of 12 August 1949 and relating to the Protection of Victims of International Armed Conflicts (Protocol I), art.55 on ‘Protection of the natural environment’, see official commentary on the 1977, Additional Protocol I, Article 55, online source, <https://ihl-databases.icrc.org/applic/ihl/ihl.nsf/ART/470-750070?OpenDocument>

<sup>139</sup> ‘Israel’s Belligerent Occupation of the Palestinian Territory, including Jerusalem and International Humanitarian Law: Introduction’, conference of the high contracting parties to the Fourth Geneva Convention on measures to enforce the convention in the occupied Palestinian territory, 15th July 1999 Geneva, Switzerland. Also available at <https://unispal.un.org/DPA/DPR/unispal.nsf/0/6B939C57EA9EF32785256F33006B9F8D>

<sup>140</sup> *Suleiman Tawfiq Ayyub et al. v. Minister of Defense et al.*, Israeli High Court Judgment 606/78, at 6.

<sup>141</sup> UN org report, ‘The obligation of Israel and Palestine authority under international law’, online source <https://www.hrw.org/reports/2001/israel/hebron6-04.htm>

<sup>142</sup> Report of Human Rights watch (2000), ‘The Obligations of Israel and The Palestinian Authority Under International Law.’

<sup>143</sup> UN org, ‘Israeli practices affecting the human rights of the Palestinian people in the Occupied Palestinian Territory, including East Jerusalem’, Seventy-seventh session, Agenda item 47, a Resolution adopted by the General Assembly on 30 December 2022 (on the report of the Special Political and Decolonization Committee (Fourth Committee) (A/77/400, para.14).

Also available at [https://www.un.org/unispal/wp-content/uploads/2023/01/A.RES.\\_77.247\\_301222.pdf](https://www.un.org/unispal/wp-content/uploads/2023/01/A.RES._77.247_301222.pdf)



contracting party to the 1907 Hague Convention on 29 December 2015 in accordance with its Article 95.<sup>144</sup> Therefore, both Israel and Palestine are bound by its regulations regarding the protection of the environment and its related human rights during the armed conflict.

### **3.2.3 Environmental Modification Convention (ENMOD) and The Convention on Certain Conventional Weapons (CCW)**

Treaties have the advantage of expressly setting out binding obligations for States in their conduct. However, Israel has not ratified all the central IHL treaties, such as the ENMOD Convention of 1977, which is an essential instrument of international disarmament law and also in environmental conservation.<sup>145</sup> As an example, Article 1 of this convention prohibits States from engaging in military or other hostile use of environmental modification techniques that might severely cause damage to any other State Party.<sup>146</sup> Palestine ratified the convention in 2017, but Israel has hence neither signed nor ratified the Convention. This makes the protection of environment during the Israel-Palestine Armed Conflict challenging. Nevertheless, the CCW of 1980 also designed with the same goals as ENMOD, and its Protocol III on 'Prohibitions or Restrictions on the Use of Incendiary Weapons' directly addresses environmental protection. The CCW bans or restricts the use of specific types of weapons that are considered to cause unnecessary or unjustifiable suffering for human and environment.<sup>147</sup> Israel acceded this Convention in 1995, and similarly Palestine in 2015.<sup>148</sup> Thus, both of parties to the conflict are bound to environmental protection based on the CCW during the conflict.

### **3.2.4 Israeli-Palestinian Interim Agreement, 1995**

The Interim Agreement 1995 on the West Bank and Gaza Strip, commonly known as, 'Oslo II'. It is an important agreement in the Israeli-Palestinian peace process, cooperation also

---

<sup>144</sup> UN org, 'United Nations Conciliation Commission for Palestine,' available at <https://www.un.org/unispal/document/auto-insert-211941/>

<sup>145</sup> Environmental Modification Convention (ENMOD), 1977. The convention was approved by [Resolution 31/72](#) of the General Assembly of the United Nations on 10 December 1976 in thirty-first session, Supplement No. 27 (A/31/27), New York, United Nations, 1976, pp. 91–92.

<sup>146</sup> Convention on the prohibition of military or any hostile use of environmental modification techniques, 10 December 1976. See official commentary, art.1, <https://ihl.databases.icrc.org/applic/ihl/ihl.nsf/Article.xsp?action=openDocument&documentId=2771DB89FF11D8B4C12563CD0051FB44>

<sup>147</sup> Convention on Certain Conventional Weapons (CCW or CCWC), 1980. Available at [https://www.icrc.org/en/doc/assets/files/other/icrc\\_002\\_0811.pdf](https://www.icrc.org/en/doc/assets/files/other/icrc_002_0811.pdf)

<sup>148</sup> List of parties to the Convention on Certain Conventional Weapons, online source [https://en.wikipedia.org/wiki/List\\_of\\_parties\\_to\\_the\\_Convention\\_on\\_Certain\\_Conventional\\_Weapons](https://en.wikipedia.org/wiki/List_of_parties_to_the_Convention_on_Certain_Conventional_Weapons)

conduct may constitute a wrongful act.<sup>149</sup> Specially, Articles 12-17 and Schedule 2,3,7-11 of the agreement protects the environment and human health along with environment related human rights during the Israel-Palestine Armed Conflict.

### **3.3 Introduction to Customs-Based IHL**

Another indispensable source of IHL is CIL, which exists independently of treaty law. Rules of CIL contains immediate applicability in IAC and NIAC.<sup>150</sup> It has also direct influence over IHL, therefore, many IHL treaty provisions are considered as having customary status.<sup>151</sup> Even CIL has power to fill the gaps where the treaty law is insufficient or non-existent, especially in case of NIAC. For instance, the Rome Statute, which established the International Criminal Court,<sup>152</sup> demonstrates that there are corresponding rules for NIAC in customary law.<sup>153</sup> CIL is generally bind by all the states in contrast to treaty law.

#### **3.3.1 CIL Rules Relevant for Environmental and Human Rights Protection**

Though the rules of CIL are unwritten and State practice is required to determine their existence, in such case ICRC rules play a very important part in the development of IHL along with customary rules to protect environment. In 2005, the ICRC published a study with had the aim to identify customary IHL (CIHL), and consequently facilitate the application of its existing rules. Without creating new rules of IHL, it seeks to provide the most accurate snapshot of existing rules of CIHL.<sup>154</sup> Hence, the legal status of CIHL complements the environmental and human rights protection provided by treaty law during armed conflict.<sup>155</sup> Knowledge of these customary rules has vital importance when it comes in determining what rules apply to armed forces operating under the aegis of organizations which are not formally parties to the IHL treaties, such as, non-state actors. Accordingly, few ICRC rules are essential to mention in this thesis to establish the liability of Israel and Palestine for protecting environment and

---

<sup>149</sup> UN Peacemaker, available at <https://peacemaker.un.org/israelopt-osloII95>

<sup>150</sup> ICRC, 'Customary international humanitarian law: questions & answers', Q & A 3. 'What does customary international humanitarian law add to existing treaty law?' online source

<https://www.icrc.org/en/doc/resources/documents/misc/customary-law-q-and-a-150805.htm>

see also, [ICRC, Customary International Humanitarian Law | How does law protect in war? - Online casebook](#)

<sup>151</sup> State Library of new south Wales, 'Sources of IHL', online source <https://legalanswers.sl.nsw.gov.au/hot-topics-international-humanitarian-law/sources-ihl>

<sup>152</sup> Rome Statute of the International Criminal Court (ICC), 1998.

<sup>153</sup> ICC Statute, Article 8(2)(b) and (e).

<sup>154</sup> ICRC, Customary International Humanitarian Law, 'How does law protect in war', online source

<https://casebook.icrc.org/case-study/icrc-customary-international-humanitarian-law>.

<sup>155</sup> Ibid, Q & A 2. 'Why was the study on customary international humanitarian law carried out?'

related human rights.<sup>156</sup> Such a rule is most notably Rule 43 (A, B, & C), which refers the general principles on the conduct of hostilities apply to the natural environment. The rule mentioned that natural environment cannot be attacked or destroyed unless a military objective or military necessity; and launching an attack against a military objective that cause incidental damage to the environment concreted towards direct military advantage is prohibited. The Rule is according to the study, applicable both in IAC and NIAC.<sup>157</sup> Rule.44 protects the environment during armed conflict by focusing on the methods and means of warfare that the protection and preservation of the natural environment is certain. The Rule is according to the study applicable both in IAC and arguably in NIAC.<sup>158</sup> Rule.45 ensures that any use of methods or means of warfare that are intended to cause widespread, long-term, and severe damage to the natural environment is prohibited. Destruction of the natural environment may not be used as a weapon.<sup>159</sup> The Rule is according to the study applicable in IAC and arguably in NIAC.

Parallel to the ICRC rules, a CIL study and draft principles were adopted by the International Law Commission (ILC) to impose protection of the environment during armed conflict (PERAC).<sup>160</sup> These draft principles aim at codifying ICRC the rules of CIL in armed conflict and to determine the existence and content of such laws. These principles are necessary to ascertain whether there is a general practice among the States, which is also accepted by them as law (*opinio juris*).<sup>161</sup> Specifically, draft principles 13(2) and 16 ensure the care to protect the natural environment against long-term and severe damage;<sup>162</sup> and codifies (?) prohibited attacks against the natural environment.<sup>163</sup> Draft principles 14 and 15 reflect the general rules under the law of armed conflict to protect the environment.<sup>164</sup> PERAC principle is a set of 27 environmental rules that all States need to fulfil before, during and after armed conflict, also

---

<sup>156</sup> Britta.S, The Role of Multilateral Environmental Agreements: A Reconciliatory Approach to Environmental Protection in Armed Conflict, p.71.

<sup>157</sup> Henckaerts, Jean-Marie. Customary international humanitarian law: Vol. 1, p.143, 2005. See also, [ICRC, Customary International Humanitarian Law | How does law protect in war? - Online casebook](#)

<sup>158</sup> Ibid, p.147-150. See, ICRC Rule 44, 'The Natural Environment.'

<sup>159</sup> Ibid, p. 151.

<sup>160</sup> The International Law Commission (ILC) is a body of experts responsible for helping develop and codify international law, founded on 1947.

<sup>161</sup> Draft conclusions on identification of customary international law, with commentaries, part VII: conclusion.16, 'Particular customary international law', 2018. Online source [https://legal.un.org/ilc/texts/instruments/english/commentaries/1\\_13\\_2018.pdf](https://legal.un.org/ilc/texts/instruments/english/commentaries/1_13_2018.pdf)

<sup>162</sup> International Law Commission, seventy-first session on '*Protection of the environment in relation to armed conflicts*', part.2, draft principle 13 (2) [II-1, 9]: 'General protection of the natural environment during armed conflict', A/CN.4/L.937, 2019, also available at [https://legal.un.org/ilc/texts/instruments/english/draft\\_articles/8\\_7\\_2022.pdf](https://legal.un.org/ilc/texts/instruments/english/draft_articles/8_7_2022.pdf).

<sup>163</sup> Ibid, Draft principle 16 [II-4, 12]: 'Prohibition of reprisals,' 2019.

<sup>164</sup> Ibid, Draft principle 14 [II-2, 10], 'Application of the law of armed conflict to the natural environment' and Draft principle 15 [II-3, 11], 'Environmental considerations.'

during occupation. Because a healthy environment refers to sustainable peace and protecting nature safeguards the human rights. Therefore, these PERAC principles are fundamentals for Israel and Palestine to be followed during armed conflict, specifically for situations of occupation to protect natural environment and human rights. For instance, draft principles 10 and 11 engaged in regulating the environmental conduct of the conflicted areas. Mentionable, the ILC has adopted a non-differentiation approach between IACs and NIACs, also the conducts of non-state armed groups within the scope of the PERAC draft principles. For instance, PERAC draft principle 13 details the general protection of the environment during armed conflict under the CIHL regarding ‘duty of care.’<sup>165</sup>

IHL has also guiding principles known as, the ‘saviours of environment’.<sup>166</sup> These principles create guidelines and rules for environmental preservation. Its various instruments apply to all countries, and they impose clear statements on environmental preservation and related human rights during armed conflicts.<sup>167</sup>

### 3.3.2 Soft Law

Soft law is generally a quasi-legal instrument with no legally binding force. Soft laws have its own influences in humanitarian law, even though some of these soft-law instruments are not legally binding to parties of conflict unless they can be said to be codified with CIL.<sup>168</sup> Soft laws independently inform the interpretation and application of the international law. Even some soft laws are legally binding, such as, legally binding resolutions. The legal nature of a resolution depends on the organ that adopted them and the powers it exercises. For instance, the interpretation of the UN Charter Article.25 provides that, only Security Council resolutions adopted under Chapter VII (which regulates actions undertaken with respect to threats to the peace, breaches of the peace, and acts of aggression) has legally binding nature.<sup>169</sup> Furthermore, sources of soft laws are related to the corpus of IHL that compose necessary policy tools for framing the international law in relation to environment and human rights, hence, plays a

---

<sup>165</sup> DR. S. E. Pantazopoulos, ‘Greening the Law of Environmental Protection in Armed Conflicts’, pp. 76-97. Also see ‘The ILC Draft Principles on Protection of The Environment in Armed Conflict’ (summary of the research), available at <https://lieber.westpoint.edu/ilc-protection-environment-armed-conflict/>.

<sup>166</sup> International Committee of the Red Cross, Guidelines on the Protection of the Natural Environment in Armed Conflict (2020)

<sup>167</sup> ICRC Guidelines, section.4, part. III & IV.

<sup>168</sup> C. Albert, ‘The Practical Guide to Humanitarian Law: Soft law,’ available at <https://guide-humanitarian-law.org/content/article/3/soft-law/>

<sup>169</sup> Ibid, ‘Legally Binding Resolutions’.

significant role in environmental and human rights protection during armed conflicts.<sup>170</sup> For instance, the United Nations General Assembly (UNGA) resolutions. Now-a-days several soft law instruments are widely recognized as the CIL. Even, the CIL enjoys equal status with the convention-based norm on environmental preservation during a conflict time.<sup>171</sup> They also contain additional valuable principles to guard human environment. Soft laws protect environment and its connected human rights via declarations, action plans or code of conducts. Declarations (e.g., the Stockholm Declaration, the Rio Declaration),<sup>172</sup> action plans (e.g., Agenda 21), and code of conduct (e.g., World Charter for Nature)<sup>173</sup> are examples of such instruments.

### 3.3.2.1 The Stockholm Declaration

The Declaration has principles those hold a direct reflection on the CIL with environmental policies.<sup>174</sup> Such as, the principle 21 of the Declaration mentioned about States sovereign right to exploit their own resources pursuant with own environmental policies, also the responsibility to ensure those activities within their jurisdiction without damaging the environment of other States;<sup>175</sup> and principle 26 of the Declaration refers that: 'Man and his environment must be spared the effects of nuclear weapons and all other means of mass destruction'. Although the principles of the Stockholm declaration (not the convention itself) falls under the soft law instruments; still its agenda was to create a better international jurisprudence for the environmental law. It remains as global cooperation on environmental issues and established environmental protection as a human right for present and future generation. Such as, principle 1 of the Declaration secures the fundamental human rights towards healthy environment and sustainable future along with dignity, equity, freedom, and adequate condition of life by reflecting responsibilities to protect environment; and principle 2 provided safeguards for the

---

<sup>170</sup> Arif Ahmed and Md. Jahid Mustofa, *Global Journal of Politics and Law Research*: 'Role of soft law in environmental protection,' Vol.4, No.2, 2016, pp.1-4.

<sup>171</sup> LR. Helfer & IB. Wuerth, "Customary International Law: An Instrument Choice Perspective." Vol. 37, pp. 600-603, 2015. See, e.g., Hurst Hannum, *The Status of the Universal Declaration of Human Rights in National and International Law*, 25 GA. J. INT'L & COMP. L. 287, 317-36 (1995-96); Richard B. Lillich, *The Growing Importance of Customary International Human Rights Law*, 25 GA. J. INT'L & COMP. L. 1, 1-4 (1995-96).

<sup>172</sup> Rio Declaration on Environment and Development, A/CONF.151/26 (Vol. I), E/CN.4/RES/1994/65' (1994).

<sup>173</sup> UN General Assembly resolution 37/7, World Charter for Nature, UN Doc. A/RES/37/7, (1982).

<sup>174</sup> G Handl, '[Declaration of the United Nations conference on the human environment \(Stockholm Declaration\), 1972 and the Rio Declaration on Environment and Development](https://legal.un.org/avl/pdf/ha/dunche/dunche_e.pdf?_gl=1*qzo0tb*_ga*MTAyNjk5NzYxNy4xNjc3MDY0NDQ3*_ga_TK9BQL5X7Z*MTY5Mjc3OTEwNC4yMy4xLjE2OTI3NzkyOTEuMC4wLjA) 1992, pp. 3-9. Also available at [https://legal.un.org/avl/pdf/ha/dunche/dunche\\_e.pdf?\\_gl=1\\*qzo0tb\\*\\_ga\\*MTAyNjk5NzYxNy4xNjc3MDY0NDQ3\\*\\_ga\\_TK9BQL5X7Z\\*MTY5Mjc3OTEwNC4yMy4xLjE2OTI3NzkyOTEuMC4wLjA](https://legal.un.org/avl/pdf/ha/dunche/dunche_e.pdf?_gl=1*qzo0tb*_ga*MTAyNjk5NzYxNy4xNjc3MDY0NDQ3*_ga_TK9BQL5X7Z*MTY5Mjc3OTEwNC4yMy4xLjE2OTI3NzkyOTEuMC4wLjA).

<sup>175</sup> Stockholm Declaration, principle 21. Also available at <https://docenti.unimc.it/elisa.scotti/teaching/2016/16155/files/file.2017-03-11.7227158899>

natural resources, flora, fauna, and natural ecosystems. The principle 4 imposes human responsibility to safeguards the heritage of wildlife and its habitat and principle 12 emphasises the importance of the preservation of natural resources.<sup>176</sup> The declaration also works on preventing the discharge of toxic substances and state responsibilities for the environmental protection.<sup>177</sup> This way, Stockholm Declaration became an essential part of this thesis paper due to its accountability towards environment and related human rights protection, as well as for the promotion of consciousness for the environmental preservations.<sup>178</sup>

### **3.3.2.2 The World Charter for Nature, 1982**

It is a code of conduct that secures global natural habitats and resources during armed conflicts.<sup>179</sup> The Charter was adopted through a UNGA Resolution (1982), and its principles directly to control, avoid and prohibit environmental harm resulting from armed conflict.<sup>180</sup> Moreover, UNGA resolution 47/37 urges all States to take necessary measures for complying with the international law and for protecting the environment during an armed conflict.<sup>181</sup> Israel did not vote for the Charter. However, as a participant for the UN assembly Israel got a voting membership of the World Charter, hence, bound to follow the Charter as an occupying power of the OPT.<sup>182</sup>

### **3.3.2.3 Rio Declaration, 1992**

Another prominent document on the environmental protection is the Rio Declaration of 1992. It also known as ‘the Declaration on Environment and Development’ or ‘the Earth Summit 1992’.<sup>183</sup> This Declaration defines necessary principles of interstate relationships along with the State responsibility, relationship between states and their citizens in the field of

---

<sup>176</sup> Ibid, Principle. 1, 2, 4 & 12

<sup>177</sup> Ibid, Principle. 6 & 7.

<sup>178</sup> Ibid, Principle 1 & 26,

<sup>179</sup> UN General Assembly resolution 37/7, 28 October 1982, World Charter for Nature, UN Doc. A/RES/37/7, reference no. 37, call number. UNEP (092)/E5, series. [Environmental law guidelines and principles](https://ejc.orfaleacenter.ucsb.edu/wp-content/uploads/2018/03/1982.-UN-World-Charter-for-Nature-1982.pdf), ‘principle 5’. Also available at <https://ejc.orfaleacenter.ucsb.edu/wp-content/uploads/2018/03/1982.-UN-World-Charter-for-Nature-1982.pdf>

<sup>180</sup> Ibid, Principle. 11, 20.

<sup>181</sup> UN General Assembly resolution 47/37, 9 February 1993, ‘Protection of the Environment in Times of Armed Conflict’, UN Doc. A/RES/47/37.

<sup>182</sup> World Charter for Nature: resolution / adopted by the General Assembly (1982), available at <https://digitallibrary.un.org/record/609285> .

<sup>183</sup> UN Conference, United Nations Conference on Environment and Development, Rio de Janeiro, Brazil, 3-14 June 1992, available at <https://www.un.org/en/conferences/environment/rio1992>

environment and development even during an armed conflict.<sup>184</sup> Earth Summit 1992 produced the Rio Declaration on Environment and Development, the Statement of Forest Principles, and Agenda 21. The Earth Summit also led to the establishment of the Convention on Biological Diversity, and the United Nations Framework Convention on Climate Change (UNFCCC).<sup>185</sup> Israel agrees on the principles of Rio Declaration as a participant party.<sup>186</sup> Palestine as a UN non-member observer also works on the Declaration's principles.<sup>187</sup>

#### **3.3.2.4 Agenda 21, 1992**

As a production of Earth Summit, a large-scale of environmental destruction can be protected under the Article 39(6) of the Programme of Action for Sustainable Development. It is also known as the 'Agenda 21'. Though it is a soft-law instrument and a non-binding action plan of the United Nations; still, it plays an indispensable role regarding sustainable development for environment. One major objective of the 'Agenda 21' initiative is every local government should draw its own local agenda even during any occupation over another territory. Specifically, section II of this agenda deals with the conservation and management of resources for development includes atmospheric protection, combating deforestation, protecting fragile environments, conservation of biodiversity for controlling the pollution and management of biotechnology along with radioactive wastes.<sup>188</sup>

#### **3.3.2.5 UNGA Resolutions**

As mentioned before, in a form of soft law UNGA resolutions also protects environment and nature related human rights. Because, though the declarations adopted by UNGA resolutions are accepted as soft laws; but they provide essential guidance to the member States for protecting environmental rights of human. For instance, the Article. 9 and 25 of the Declaration

---

<sup>184</sup> Rio Declaration on Environment and Development, 13 June 1992, UN Doc. A/CONF.151/26, Vol. I, Principle. 2-4, 8, 10, 15, 16 & 24.

<sup>185</sup> E. A., P. M. Haas, and M. A. Levy. 1992. A summary of major documents signed at the earth summit and the global forum. *Environment* 34 (4): 12-15, 34-36. Also available at <http://www.ciesin.org/docs/003-312/003-312.html>

<sup>186</sup> UN Treaty Collection, 'Rio Declaration', available at <https://treaties.un.org/doc/Publication/MTDSG/Volume%20II/Chapter%20XXVII/xxvii-8.en.pdf>

<sup>187</sup> The State of Palestine has been recognized by 139 of the 193 UN members and since 2012 has had a status of a non-member observer state in the United Nations.

<sup>188</sup> Agenda 21: Programme of Action for Sustainable Development, UN GAOR, 46th Session, Agenda Item 21, UN Doc. A/Conf.151/26, 14 June 1992, Art. 39(6).



on Social Progress and Development (1969),<sup>189</sup> and the Declaration on the Right to Development (1986),<sup>190</sup> both refer to the sovereignty of the people over their natural resources. Moreover, Article 25(a) of the Declaration on Social Progress and Development requires the establishment of legal and administrative measures for the protection and improvement of the human environment, in both national and international level. These declarations are adopted by UNGA Resolutions. Israel is a UN member since 1949<sup>191</sup> and the State of Palestine has been accepted as an observer state of the UNGA in 2012.<sup>192</sup> Therefore, every member of UN including Israel and Palestine must follow the declarations. Additionally, to protect the natural environment the UNGA resolution no. 55/2 is having effective actions under the UN Millennium Declaration.<sup>193</sup> It promotes a fundamental value and dedicates a full chapter called “Protecting our common environment” in part IV of the declaration. There are few more resolutions by the Human Rights Commission, e.g., Resolution 2003/71<sup>194</sup> and resolution 2004/119<sup>195</sup> which encourage cooperation between UNEP and the Office for the High Commissioner for Human Rights in capacity-building activities and the promotion of the linkages between the human rights and the environment. For instance, Human Rights Commission’s resolution 2003/71 took the human rights and environment both as part of sustainable development. Moreover, reports like the UN Secretary-General’s report on Human Rights and Environment (2005) received as an important instrument for the environmental protection during an armed conflict.<sup>196</sup> This is because, its sustainable development acknowledges that, these reports carried out by the human rights treaty bodies or by the special

---

<sup>189</sup> UN General Assembly, 24th Session, Declaration on Social Progress and Development, 11 December 1969, A/RES/2542(XXIV), Also available at

<https://www.ohchr.org/Documents/ProfessionalInterest/progress.pdf>

<sup>190</sup> UN General Assembly, 41st Session, The Declaration on the Right to Development, 4 December 1986, Resolution 41/128. Also available at

<https://www.ohchr.org/en/professionalinterest/pages/righttodevelopment.aspx>

<sup>191</sup> UN Org, ‘Admission of Israel to membership in the United Nations,’ UN Doc A/RES/273(III)

<sup>192</sup> UN Org, ‘The Question of Palestine and the General Assembly,’ available at <https://www.un.org/unispal/data-collection/general-assembly/>

<sup>193</sup> The United Nations Millennium Declaration, 2000. Also available at

<https://www.ohchr.org/EN/ProfessionalInterest/Pages/Millennium.aspx>

<sup>194</sup> UN Commission on Human Rights, Commission on Human Rights resolution 2003/71: Human Rights and the Environment as Part of Sustainable Development, 25 April 2003, E/CN.4/RES/2003/71, available at: <https://www.refworld.org/docid/43f3134dc.html> [accessed 29 September 2021]

<sup>195</sup> UN Commission on Human Rights, ‘Human rights and the environment resolution’ 2004/119, 2004, UN Doc. A/HRC/RES/16/11, available at

[https://www2.ohchr.org/english/bodies/hrcouncil/docs/16session/A.HRC.RES.16.11\\_en.pdf](https://www2.ohchr.org/english/bodies/hrcouncil/docs/16session/A.HRC.RES.16.11_en.pdf)

<sup>196</sup> GA report of the Secretary-General on the work of the Organization, 2005, Sixtieth Session Supplement No. 1 (A/60/1), online source <https://www.un.org/millenniumgoals/sgreport2005.pdf>



procedures of the Commission on Human Rights. Parallely MEAs make connections between the environmental protection and human rights.<sup>197</sup>

### 3.4 The Martin Clause

Another strong environmental and human rights protector during an armed conflict is the Martin Clause. Usually, the environmental and human rights protections are secured by the principles that has been referred in the Marten Clause. Because the effect of the clause is to underline in such cases where a situation is not covered by IHL treaties, or in cases where people affected by armed conflicts will never find themselves completely deprived from such protections.<sup>198</sup> This also makes the laws of armed conflict much richer and permits the participation of all States in its development. It has formed as a part of the humanitarian law since its first appearance in the preamble to the 1899 Hague Convention (II) with respect to the laws and customs of war on land.<sup>199</sup> Basically, the Martens Clause provides a strong connection between positive norms of international law relating to armed conflicts. Now-a-days the Martens Clause has acquired the status of a customary rules. It has been also adopted as a whole or partly by other IHL instruments.<sup>200</sup> Hence, the International Union for Conservation of Nature (IUCN)<sup>201</sup> also has recommended the adoption of the Martens Clause for the environmental protection. Such recommendation was an articulation of the Martens Clause that has focused on protecting the biosphere and all its constituent elements and processes until a more complete international code was adopted.<sup>202</sup> Therefore, it is generally considered to constitute a foundational principle of IHL and a core principle protecting the environment in the absence of other provisions in treaty or customary law.<sup>203</sup>

---

<sup>197</sup> Mrema, Elizabeth, C. Bruch, and J. Diamond 'Protecting the Environment During Armed Conflict an Inventory and Analysis of International Law', 2009, p.49.

<sup>198</sup> ICRC org, 'The Marten Clause reads,' available at [https://casebook.icrc.org/a\\_to\\_z/glossary/martens-clause](https://casebook.icrc.org/a_to_z/glossary/martens-clause).

<sup>199</sup> Rupert Ticehurst, ICRC: The Martens Clause and the Laws of Armed Conflict, online source <https://www.icrc.org/en/doc/resources/documents/article/other/57jnhy.htm>

<sup>200</sup> ICRC, 'The Martens Clause', available at [https://casebook.icrc.org/a\\_to\\_z/glossary/martens-clause](https://casebook.icrc.org/a_to_z/glossary/martens-clause)

<sup>201</sup> International Union for Conservation of Nature (IUCN), 1948.

<sup>202</sup> Mrema, Elizabeth, C. Bruch, and J. Diamond 'Protecting the Environment During Armed Conflict an Inventory and Analysis of International Law', 2009, p.47.

<sup>203</sup> ICRC, 'The Martens Clause'

### **3.5 Environmental Protection under International Environmental Law**

#### **3.5.1 Introduction to Multilateral Environmental Agreements (MEAs)**

MEAs are agreements between states on a subject related to the environment. MEAs follows hard laws which specify legally binding actions towards environmental objectives.<sup>204</sup> Both Israel and Palestine are parties of many MEAs, therefore, any breach of such agreements arises state responsibility. For instance, Palestine has concluded many of these treaties during the OPT.<sup>205</sup> As a bunch of treaties, MEAs also indicates the laws of miscellaneous environmental protection, hence, MEAs are the crucial document for environmental and human rights shielding during the Israel-Palestine Armed Conflict. Few essential MEAs in connection to Israel-Palestine Armed Conflict is given below.

#### **3.5.2 The Stockholm Convention on Persistent Organic Pollutants (2001) and its Connection with the Stockholm Declaration (1972)**

‘The Stockholm Convention on Persistent Organic Pollutants’ is commonly known as the first convention to discuss environmental issues on a global scale along with environmental just and right to live in a healthy environment.<sup>206</sup> The Convention is a global treaty that aims to protect human health and the environment from the effects of persistent organic pollutants (PoPs).<sup>207</sup> PoPs are toxics and they have the potential to accumulate in unhealthy quantities in humans and animals. They are stable and thus resistant to natural breakdown and can be transported over long distances through the atmosphere and oceans. Moreover, PoPs can lead to serious health effects including certain cancers, birth defects, dysfunctional immune and reproductive systems, greater susceptibility to disease and damages to the central and peripheral nervous systems. Therefore, the convention preserves wildlife and the environment from chemicals that remain intact in the environment for long periods.<sup>208</sup> The convention is a legally binding international instrument and designed to lead a gradual decrease of the presence

---

<sup>204</sup> East African Community, Multilateral Environmental Agreements, online source <https://www.eac.int/environment/multilateral-environmental-agreements>

<sup>205</sup> International Environmental Agreements (IEA) Database Project, ‘MEAs to which Palestine, Occupied Territories has taken membership actions’, online source <https://iea.uoregon.edu/country-members/Palestine%2C%20Occupied%20Territories>

<sup>206</sup> The Stockholm Convention on Persistent Organic Pollutants was adopted by the Conference of Plenipotentiaries on 22 May 2001 in Stockholm, Sweden. Entered into force on 17 May 2004 in accordance with article 26(1), Registration No. 40214, United Nations, Treaty Series, vol. 2256, p. 119.

<sup>207</sup> The Stockholm Convention on Persistent Organic Pollutants, 2004 (Text adopted in 2001), Article.1, also available at, <http://www.pops.int/TheConvention/Overview/tabid/3351/Default.aspx>

<sup>208</sup> Ibid

of persistent organic pollutants in the environment. This convention also led the UNEP to coordinate global actions for the protection and preservation of the environment.

The convention also includes the major environmental protections those has been mentioned the Stockholm Declaration, 1972. Stockholm declaration is known as the first truly global cooperation on environmental issues, which proclaims truths relating to man and the environment. The declaration also reiterates the importance of preservation of the environment.<sup>209</sup> It contains 26 principles, placed environmental issues at the forefront of international concerns. As ignorance and careless actions are the main reasons behind environmental deterioration, therefore, this convention and its declaration focused on careful action, better awareness, and education about the protection of the environment during both IAC and NIAC. It also carries a detailed resolution for financial and institutional arrangements for environmental protection.<sup>210</sup> However, the principles of the Stockholm declaration are not legally binding (more about the declaration's role in environmental and human rights protection will be discussed in Section 3.2.2). Israel has signed the Stockholm Convention in 2001, but it has not ratified it.<sup>211</sup> Signatory towards a treaty or convention creates an obligation to refrain, in good faith, from acts that would defeat the object and the purpose of the treaty.<sup>212</sup> Therefore, unfollowing any of these principles during the OPT stressed the cooperation of Israel with the world community and dragged them towards moral and legal obligations. Palestine acceded to the Stockholm Conventions by depositing its instruments of accession in 2017.<sup>213</sup> Therefore, both Israel-Palestine are subjects of the convention and the principles mentioned in the declaration regarding environmental protection during an armed conflict.

---

<sup>209</sup> Declaration of the United Nations Conference on the Human Environment (Stockholm Declaration), 16 June 1972, UN Doc. A/CONF.48/14/Rev. 1 (1973).

<sup>210</sup> Diganth Raj Sehgal, iIpleaders, 'Everything you need to know about the Stockholm Declaration', online source [https://blog.iplayers.in/everything-need-know-stockholm-declaration/#Effects\\_of\\_the\\_convention](https://blog.iplayers.in/everything-need-know-stockholm-declaration/#Effects_of_the_convention)

<sup>211</sup> Stockholm Convention, Status of ratification, online source, <http://www.pops.int/Countries/StatusofRatifications/PartiesandSignatoires/tabid/4500/Default.aspx>

<sup>212</sup> UN Library, 'What is the difference between signing, ratification and accession of UN treaties?' available at <https://ask.un.org/faq/14594#:~:text=The%20signature%20qualifies%20the%20signatory,the%20purpose%20of%20the%20treaty.>

<sup>213</sup> Chemical Watch, 'Palestine accedes to Stockholm Convention', online source <https://chemicalwatch.com/62966/palestine-accedes-to-stockholm-convention>

### **3.5.3 The Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal (1992)**

One of the most essential Conventions to prevent environmental hazard is ‘The Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal’.<sup>214</sup> It is an international treaty that was designed to reduce the movement of hazardous wastes between nations, and specifically to prevent the transfer of hazardous wastes from developed countries. Till now, this is the sole global legal instrument addressing transboundary movements and environmentally sound management of hazardous and other wastes, therefore, has become the centrepiece of an international legal regime on the issue. Israel has ratified the Convention in 1994 and Palestine acceded to the Basel Convention in 2015, hence bound by the Convention.<sup>215</sup>

### **3.5.4 The Convention on Biological Diversity (CBD) (1993)**

Armed conflict harms biodiversity in numerous ways, such as, by destroying forests, land, natural resources, accelerating species loss and by creating extreme amounts of pollution. Therefore, CBD has been adopted in 1993 to protect environment in general.<sup>216</sup> It is a multilateral treaty and an international legal instrument for the conservation of biological diversity, the sustainable use of its components and the fair and equitable sharing of the benefits arising out of the utilization of genetic resources. Israel has ratified the CBD in 1995 and Palestine has accession to the Convention since 2015.<sup>217</sup>

### **3.5.5 Aarhus Convention’s Protocol on Pollutant Release and Transfer Registers Convention (PRTRs) (2001)**

One of the important MEAs are the Aarhus Convention’s Protocol on Pollutant Release and Transfer Registers Convention. It was adopted by the the United Nations Economic Commission for Europe (UNECE) to protect environment related human rights by giving human access to information, public participation in decision-making and access to justice in

---

<sup>214</sup> The Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal, Registration: No. 28911, UNTS Volume Number: 1673 (p.57), Basel, 5 May 1992.

<sup>215</sup> Parties to the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal, also available at [https://treaties.un.org/Pages/showDetails.aspx?objid=08000002800156c2&clang=\\_en](https://treaties.un.org/Pages/showDetails.aspx?objid=08000002800156c2&clang=_en)

<sup>216</sup> The Convention on Biological Diversity (CBD) opened for signature at the United Nations Conference on Environment and Development in June 1992.

<sup>217</sup> UN InforMEA, ‘Access information on Multilateral Environmental Agreements’, available at <https://www.informea.org/en/countries>

environmental matters.<sup>218</sup> It represents an important extension of human's environmental rights and duties, along with the corpus of human rights law. Moreover, Article 9 of the Convention stipulated 'access to justice'. Access to justice is also allowed for the settlement of disputes relating to acts or omissions by private persons and public authorities which contravene national rules relating to the environment. Israel accedes to the UNECE Protocol in 2013 and became the thirty-second Party to the Protocol. Israel adopted the protocol in 2008.<sup>219</sup> However, as an occupying power, during the OPT Israel is unfollowing many of the PRTRs protocols of the convention. Because Israel is preventing Palestine's public participation in decision-making and access to the justice in environmental matters.<sup>220</sup>

### 3.5.6 The Paris Agreement (2015)

The Paris Agreement is a legally binding international treaty made in 2015. It is an international agreement on climate change for protecting environment and provides a sustainable framework guiding the global effort for protecting natural environment. It also known as 'the Paris Accords.' Even though 'climate change' is not on the top discussion topics of this research paper; but armed conflicts have destructive effect on the climate and pessimistic changes in climate cause degradation of the natural environment. Such effect ultimately affects human health.<sup>221</sup> Israel and Palestine ratified the treaty in 2016.<sup>222</sup> Hence, this agreement became an essential legal tool for this thesis to realize the results of the research questions.

---

<sup>218</sup> Aarhus Convention, 2001 (Article. 1). Entry into force on 30 October 2001, in accordance with article 20(1) and definitively on 30 October 2001, in accordance with article 20(1), Chapter. XXVII, Registration no. 37770, Treaty Series, vol. 2161, p. 447. Also available at, [https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtdsg\\_no=XXVII-13&chapter=27](https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtdsg_no=XXVII-13&chapter=27).

<sup>219</sup> UN Treaty Collection. Entry into force 8 October 2009, in accordance with article 27(1).Chapter XXVII: Environment, 13. a Protocol on Pollutant Release and Transfer Registers to the Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters, Registration No. 37770, United Nations, Treaty Series , vol. 2629, p. 119. [Doc. MP.PP/2003/12](https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtdsg_no=XXVII-13-a&chapter=27&clang=en), online source, [https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtdsg\\_no=XXVII-13-a&chapter=27&clang=en](https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtdsg_no=XXVII-13-a&chapter=27&clang=en)

<sup>220</sup> CBD report 2015, 'State of Palestine Fifth National Report: To the Convention on Biological Diversity (CBD)', pp.37-47.

<sup>221</sup> B. Halvard, 'Climate Change and Conflict: Taking Stock', see <https://doi.org/10.1515/peps-2016-0034>

<sup>222</sup> The Paris Agreement, UN Treaty Series No. 54113, vol. 3156 (4 November 2016), Reference: C.N.735.

2016.TREATIES-XXVII.7.d (Depositary Notification), also available at [https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg\\_no=XXVII-7-d&chapter=27&clang=en](https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=XXVII-7-d&chapter=27&clang=en)

## 3.6 Customary International Environmental Law (CIEL)

### 3.6.1 Introduction

The CIL that protects environment in relation to the human rights are known as customary international environmental law (CIEL). The CIEL plays a very essential role during armed conflict regarding the protection of environment and its related human rights. Co-ordinately, few principles of the IEL are also abided for every country including Palestine and Israel to save the environment, for instance, Trail Smelter principle. This principle is capable to provide protection to non-belligerent and neutral territories by establishing state responsibility for environmental damage, that caused outside the state where the acts or events entailing such damage occurs.<sup>223</sup> The core environmental principles to protect nature are: avoidance of trans-boundary harm, the precautionary principle, the prevention principle, common but differentiated responsibilities (CBDR), principle of sustainable development in international law, intergenerational equity, and the polluter pays principle.<sup>224</sup> Some of these principles have been even considered to decide remarkable international cases.<sup>225</sup> For instance, The Trail Smelter Arbitration. It refers two renowned cases on transboundary harms, e.g., *United States v. Canada* and *Costa Rica v. Nicaragua*. Fact of these cases carries a deep relationship with the actions of Israel and Palestine during their armed conflict and the occupation. Because the decisions of these cases show indications to both Israel and Palestine to arise their consciousness and responsibilities towards environmental protection. Decisions of these cases also raised an essential question on State responsibility, such as, 'it is a state duty to protect other States against harmful acts by individuals from within its jurisdiction always is the responsibility of a State?' This question basically arose cause, both of these cases have synopsis with the rule of law.<sup>226</sup> Therefore, the links among these cases, state liabilities and their synergies with the Israel-Palestine Armed Conflict is given chapter.4 of this research paper.

---

<sup>223</sup> Trail Smelter Arbitration (*United States v. Canada*), ICJ.

<sup>224</sup> Qc, P. SANDS. "Principles of international environmental law," pp.150, 231-285.

<sup>225</sup> *Trail Smelter Case (United States v. Canada)*, (Compensation, Judgement), The International Joint Commission (IJC), (Arbitrational Tribunal, March 11, 1941).

<sup>226</sup> See detailed case discussion in Chapter. 4.5.2 & 4.5.3.

### 3.7 International Human Right Law (IHRL) and Human Right Treaties

#### 3.7.1 International Human Right Law and Its Connections with Environment and Human Rights in Armed Conflicts

IHRL provides the directions on State's conducts for guarding the environment and natural resources during armed conflicts. Even international legal bodies, like the ICJ follows IHRL rules to decide cases due to its active applications in conflict situations. For instance, the case of '*Democratic Republic of the Congo v. Uganda*' (*The Armed Activities Case*).<sup>227</sup> This case is a remarkable example of breach of the human rights, destruction of environment and natural resources during a combat.<sup>228</sup> Therefore, on this case ICJ ordered Uganda to make reparation for breaches of IHL and IHRL during its military activities and occupation of Iturbi. ICJ made the decision following the Hague Regulations for looting, plundering, and exploitation of natural resources in the occupied territory. Decision of the 'The Armed Activities Case' is a notable example on environmental issues, because here IHL replaces the IHRL under its specific legal framework that specially designed for armed conflicts.<sup>229</sup>

Though very few of the IHRL texts are relevant to environmental issues during armed conflict, however its role is still significant for environmental and human rights protection. For example, the Universal Declaration of Human Rights (UDHR) is a non-binding soft law instrument, but its provisions are accepted as binding CIL. This is an international document adopted by the UNGA in 1948 to enshrine the rights and freedoms of all human beings. It has inspired a rich body of legally binding international human rights treaties and generally agreed as the foundation of IHRL.<sup>230</sup> Therefore, principles of this declaration such as, Article 2 'prohibition of discrimination', Article 3 'right to life,' Article 25 'adequate standards of living,' Article 13(1)), and enshrines 'the right to a standard of living adequate for the health and well-being' and Article 30 'do no harm' indicates a clear protection of the environment and human rights during armed conflicts.

---

<sup>227</sup> Armed Activities on the Territory of the Congo (*Democratic Republic of the Congo v. Uganda*), Judgment of 19 December 2005, ICJ Reports 168, para. 250.

<sup>228</sup> Carsten Stahn, Jens Iverson, and Jennifer S. Easterday, 'Environmental Protection and Transitions from Conflict to Peace: Clarifying Norms, Principles, and Practices: International humanitarian law', also available at <https://oxford.universitypressscholarship.com/view/10.1093/oso/9780198784630.001.0001/oso-9780198784630-chapter-16>

<sup>229</sup> Mrema, Elizabeth, C. Bruch, and J. Diamond 'Protecting the Environment During Armed Conflict an Inventory and Analysis of International Law', 2009, p.48.

<sup>230</sup> UDHR, 'The Foundation of International Human Rights Law', See, <https://www.un.org/en/about-us/udhr/foundation-of-international-human-rights-law>.

### 3.7.2 International Human Rights Treaties

Besides the previously mentioned treaties in this chapter, both Israel and Palestine have ratified few other treaties on international human rights. For instance, in year 1991 Israel has ratified both the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic and Social Rights (ICESCR). The State of Palestine also acceded to the ICCPR and ICESCR in year 2014.<sup>231</sup> Consequently, during the Israel-Palestine Armed Conflict the ICCPR takes care of the environmental preservation and human rights. For example, Articles 17 and 47 of ICCPR are concentrated on prohibiting environmental damage that negatively affects family and human life. They protect human rights by referring that, human shall not be subjected of unlawful interference with his privacy or family life, neither should be subject of unlawful attacks.<sup>232</sup> Specifically, Article 17 ensures citizens' human rights over natural resources during conflict situation.<sup>233</sup> Similarly, ICESCR under its Article 1(2) ensures the human rights over environment, enjoyment of natural wealth and resources based upon the principle of mutual benefit, and international law in Israel-Palestine Armed Conflict and OPT.<sup>234</sup> Therefore, UN Human Rights Committee has adopted various General Comments which are relevant to the environment and sustainable development that interprets the articles of ICESCR. Notably, the General Comments 14 and 15 interprets Articles 11 and 12 of this Covenant that deal with the right to an adequate standard of living and right to health. Such rights are secured by adding the access to sufficient, safe, and affordable water for domestic uses and sanitation, secured mental health and healthy living environment.<sup>235</sup> The ICESCR also prevents harmful substances like, radiation and chemicals, or other detrimental environmental conditions that directly or indirectly impact upon human health by imposing treatment and control of epidemic, endemic, occupational, and other diseases.<sup>236</sup> Hence, as an occupying power, it is Israel's role to ensure the access for Palestinian citizens to enjoy the natural resources, adequate water as well as to live in a healthy environment.

---

<sup>231</sup> UN Treaty Body Database, Israel ratified the ICCPR and ICESCR on 3 October 1991. The State of Palestine acceded to the ICCPR and ICESCR on 2 April 2014. Also available at [https://tbinternet.ohchr.org/\\_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=84&Lang=en](https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=84&Lang=en)

<sup>232</sup> International Covenant on Civil and Political Rights (ICCPR), Part III, art.17 & 47, 1966.

<sup>233</sup> Mrema, Elizabeth, C. Bruch, and J. Diamond 'Protecting the Environment During Armed Conflict an Inventory and Analysis of International Law', 2009, p.48.

<sup>234</sup> International Covenant on Economic, Social and Cultural Rights (ICESCR), Part I, art.1 and 1(2), 1966.

<sup>235</sup> United Nations, Economic and Social Council, General Comment No. 15 (2002) The right to water (arts. 11 and 12 of the International Covenant on Economic, Social and Cultural Rights), twenty-ninth session, agenda item. 3, E/C.12/2002/11, 20 January 2003, also available at [https://www2.ohchr.org/english/issues/water/docs/ICESCR\\_GC\\_15.pdf](https://www2.ohchr.org/english/issues/water/docs/ICESCR_GC_15.pdf)

<sup>236</sup> The International Covenant on Economic, Social and Cultural Rights (ICESCR), art.11 &12, 12 (c), 1966.



Besides these, the UN General Comments regarding the Convention on the Elimination of Discrimination against Women (CEDAW, 1979) has described the environmental destruction as an infringement of relevant human rights.<sup>237</sup> Israel ratified the convention in 1991.<sup>238</sup> Palestine has ratified CEDAW by Presidential Decree no. 19 of 2009, after UN recognition of Palestine as a State. Palestine acceded to CEDAW in 2014 with no reservations.<sup>239</sup> Equally, the Convention on the Rights of the Child (CRC,1989) deal with human rights related to environmental matters. It is the most universally accepted human rights instrument. Under its Article.24, the Convention has protected the children's human rights over clean environment<sup>240</sup>. Both Israel and Palestine have ratified the Convention.<sup>241</sup>

### 3.8 Conclusion

The prime intent of this chapter was to display the environmental and human rights protectors in the Israel-Palestine Armed Conflict. The main finding of this chapter is, during armed conflicts (IAC/NIAC), environment and its connected human rights must be subjects to be protected.<sup>242</sup> Regardless IHL or IHRL, international law or national law, hard law, or soft law, in any case nature and human rights must be unharmed; and it is the States responsibility to protect them. During an armed conflict States must follow all necessary measures and methods of warfare to protect and not to damage these mentioned rights.<sup>243</sup> Otherwise if States unfollow these laws or general principles then such conducts may raise liabilities for the States.

---

<sup>237</sup> UNHRC (2017) 'Report of the special rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment: biodiversity report', UN Doc.A/HRC/34/49 and UNHCR Report (2013), 'Mapping Human Rights Obligations Relating to the Enjoyment of a Safe, Clean, Healthy and Sustainable Environment', UN Doc A/HRC/25/53.

<sup>238</sup> UN Treaty Collection, Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), 1979. United Nations, *Treaty Series*, vol. 1249, p. 13. Also available at

[https://treaties.un.org/pages/ViewDetails.aspx?src=IND&mt\\_dsg\\_no=IV-8&chapter=4&clang=en](https://treaties.un.org/pages/ViewDetails.aspx?src=IND&mt_dsg_no=IV-8&chapter=4&clang=en) and [https://tbinternet.ohchr.org/\\_layouts/15/TreatyBodyExternal/Treaty.aspx?Treaty=CEDAW&Lang=en](https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?Treaty=CEDAW&Lang=en)

<sup>239</sup> Convention on the Elimination of All Forms of Discrimination against Women, 27<sup>th</sup> session, 2018, 'List of issues and questions in relation to the initial report of the State of Palestine' CEDAW/C/PSE/Q/1/Add.1. Available at

[https://tbinternet.ohchr.org/\\_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=217&Lang=en](https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=217&Lang=en)

<sup>240</sup> UNCRC, Article 24, 'Every child has the right to good quality health care and a clean environment'.

<sup>241</sup> The Convention on the Rights of the Child, 1989. United Nations, *Treaty Series*, vol. 1577, p. 3; depositary notifications [C.N.147.1993](#).TREATIES-5 of 15 May 1993 [amendments to article 43 (2)]<sup>1</sup>; and [C.N.322.1995](#).TREATIES-7 of 7 November 1995 [amendment to article 43 (2)]. Also available [https://tbinternet.ohchr.org/\\_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=217&Lang=en](https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=217&Lang=en)

<sup>242</sup> Rule 11. 'Indiscriminate attacks are prohibited'. Volume II, Chapter 3, Section A. State practice establishes this rule as a norm of customary international law applicable in both international and non-international armed conflicts.

<sup>243</sup> ICRC Rule. 1. 'Choice of Means and Methods of Warfare', Rule. 42. 'Works and Installations Containing Dangerous Forces' & Rule.43.'Application of General Principles on the Conduct of Hostilities to the Natural Environment'.

Therefore, the next chapter will discuss that, how the breaches of the norms of laws in the Israel- Palestine Armed Conflict arise liabilities for the conflicted parties. To establish the claim the following chapter will also exhibit few case references besides legal corroboration.

## **4. Breaches of the Norms of Laws During the Israel-Palestine Armed Conflict and the Arise of Liabilities**

### **4.1 Legal Status of the Israeli Settlements and the Occupation of Palestine (OPT) under IHL**

The territory of Palestine is under the occupation of Israel now more than five decades.<sup>244</sup> This chapter will deeply discuss the major breaches of PIL that have occurred during the OPT. Primarily this occupation is governed by two international legal regimes, e.g., IHL (including the rules of the law of occupation) and IHRL.<sup>245</sup> Before going through an analysis on the breaches of legal and general norms by these conflicted parties, it is essential to mention that Israeli settlements in West Bank and Gaza Strip under the OPT stand opposed to two main principles of the IHL. One is, the principle on prohibition of transfer of civilians from occupying power's territory to occupied territory.<sup>246</sup> Another is, the principle of prohibition of creating permanent changes in the occupied territory that are not for the benefit of the occupied population.<sup>247</sup> Israel shall not deport or transfer parts of its own civilian population into the territory it occupies. Instead of such restrictions, Israel is still expanding their colonies via illegal settlement and building most of the colonies on confiscated Palestinian agricultural or grazing land.<sup>248</sup> Even, they are uprooting trees to spread their colonies, using the natural resources of Palestine and destructing the environment in a disregardful manner.<sup>249</sup> Parallely, Israelis are depriving citizens of Palestine from accessing in their own environmental decisions and protection. They are also preventing Palestinian's access into proper Medicare in use of natural resources with inadequate agricultural rights. Simultaneously, various types of pollutions are damaging the environment, health, and life of Palestinians. As a result, the environment is losing its preservative features and Palestinians are suffering from hunger, hazardous physical and mental health conditions, shortage of medical support, food, and water (especially during summer). For instance, during summer Palestinians are not getting enough

---

<sup>244</sup>Convention (IV) respecting the Laws and Customs of War on Land and its annex: Regulations concerning the Laws and Customs of War on Land, art.42. The Hague, 18 October 1907.

<sup>245</sup> EJIL. 18 (2007), AM Gross, 'Human proportions: are human rights the emperor's new clothes of the international law of occupations', pp. 2-10.

<sup>246</sup> ICRC, Treaties, States Parties and Commentaries, art.49: 'Deportation, transfers, evacuation'. Geneva Convention (IV) 1949 and Practice Relating to Rule 129. The Act of Displacement, Section A. Forced displacement.

<sup>247</sup> ICRC, Practice Relating to Rule 130. Transfer of Own Civilian Population into Occupied Territory, online source [https://ihl-databases.icrc.org/customary-ihl/eng/docs/v2\\_rul\\_rule130](https://ihl-databases.icrc.org/customary-ihl/eng/docs/v2_rul_rule130)

<sup>248</sup> EJIL. 18 (2007), AM Gross, 'Human proportions: are human rights the emperor's new clothes of the international law of occupations', pp. 2-31.

<sup>249</sup> UNHR, ochr.org, 'Israel's exploitation of Palestinian resources is human rights violation', online source <https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=24349&LangID=E>

water to drink, live or use for daily household works, whereas Israelis are filling their pools with water for pleasure during summer.<sup>250</sup> Palestinian's water consumption for all sectors is 107-156 cubic meter per year, whereas, for Israelis it is 640-1,480 cubic meter per year (within year 1996).<sup>251</sup>

According to the law of occupation, the occupying power is considered to have only temporary, administrative rights over the occupied territory. However, Israel is occupying the Palestinian territories for over last 50 years, which is not a temporary by nature.<sup>252</sup> From 1967 till now, it has been a militarily ruling over Palestinians by the occupation (excluding East Jerusalem). Under GC IV, an occupying power has the right to bring changes in the occupied territory only in case of military necessity or for the benefit of the protected population.<sup>253</sup> Contrary to the law, policies that Israel applied on those occupied areas neither benefited the locals nor protected the Palestinian population or their interests. This Israeli colonial settlement in the West Bank and Gaza can be addressed as illegal settlement under the international law. Because Article 49(6) of GC IV states that: "The Occupying Power shall not deport or transfer parts of its own civilian population into the territory it occupies".<sup>254</sup> Moreover, ICRC in a November 2000 statement recognized that, the presence of Israeli settlements in the West Bank is contrary to the GC IV.<sup>255</sup> Additionally, the UN Security Council and General Assembly resolutions have addressed the settlement as contrary to the GC IV.<sup>256</sup> The Security Council reaffirmed that, Israel's establishment of settlements in Palestinian territory and the occupation including East

---

<sup>250</sup> WHO report, 'Right to Health in the occupied Palestinian territory: 2018' (October 2019), online source <https://reliefweb.int/report/occupied-palestinian-territory/who-right-health-occupied-palestinian-territory-2018>

<sup>251</sup> Leonardo Hosh & Jad Isaac, 'Environmental Challenges in Palestine and the Peace Process', p.11, 1996.

<sup>252</sup> Amnesty International (2017), 'Israel's Occupation: 50 Years of Dispossession', online source <https://www.amnesty.org/en/latest/campaigns/2017/06/israel-occupation-50-years-of-dispossession/>

<sup>253</sup> GC. IV, Art.4. The Israeli settlers are not part of the protected population as defined by the Fourth Geneva Convention, since, as Israeli citizens, they are not persons "in the hands of a Party to the conflict or Occupying power of which they are not nationals."

<sup>254</sup> The Geneva Convention (IV), section III. 'Occupied Territories', Art.49 'Deportations, transfers, evacuations', 1949, Geneva. Also see J. Isaac and M. Ghanyem. 'Environmental Degradation and the Israeli - Palestinian Conflict', p.1 & 10, 2009.

<sup>255</sup> ICRC, "ICRC appeal to all involved in violence in the Near East," November 21, 2000, online source <https://casebook.icrc.org/case-study/icrc-appeals-near-east>

<sup>256</sup> UN, 'General Assembly Adopts Seven Resolutions, Including Texts on Middle East, Citing Illegality of Annexing Occupied Palestinian Territory', online source, <https://www.un.org/press/en/2020/ga12292.doc.htm>

Jerusalem, had no legal validity under its resolution 2334 (2016).<sup>257</sup> Therefore, Israel's occupation over Palestine is illegal under the IHL.<sup>258</sup>

#### **4.2 Instances of the Environmental Destruction and Breach of Laws during the Israel-Palestine Armed Conflict and OPT**

The main breaches of international legal norms during the Israel-Palestine Armed Conflict can be found in the disobedience of IHL along with IHRL by these conflicted parties. There are several instances of legal disobedience, environmental and human rights destructions exist within this last 54 years of armed conflict. Israel and Palestine both caused environmental destruction and human rights violations during this running armed conflict, because both these States acted opposed towards international rules and principles of customary law. For instance, since the 'Operation Protective Edge' in 2014,<sup>259</sup> Palestinian armed groups have continued to launch rocket and mortar attacks on Israel. As a counter, Israel also continued to respond with overwhelmingly superior firepower.<sup>260</sup> Consequently, the attack caused lack of proper wastewater treatment as well as impacted the marine environment which was already suffering from major organic pollution. Moreover, air, land, noise pollution and biodiversity loss arrived in a severe form during the attack.<sup>261</sup> Though in most cases Palestine found as a victim of environmental and related human rights issues, but in many incidences, Palestine also took active role in the environmental demolition. Such as, attack of Palestinian rocket arsenal.<sup>262</sup> That caused potential detrimental impacts on the environment including an environmental defeatist collision over the whole Africa, Asia, and Europe via ecological variation.<sup>263</sup>

Another example of a strike that causes tremendous environmental damage is the attack of Israeli Defence Force (IDF). IDF had lunged precision-guided bombs and missiles by F-16, F-

---

<sup>257</sup> UN, The Security Council meeting: 7853<sup>rd</sup>; 'Israel's Settlements Have No Legal Validity, Constitute Flagrant Violation of International Law, Security Council Reaffirms', SC/12657, 23 December 2016.

<sup>258</sup> UNGA Committee on the Exercise of the Inalienable Rights of the Palestinian People Report (2023), 'The Legality of the Israeli occupation,' available at <https://www.un.org/unispal/wp-content/uploads/2023/08/Study-on-the-Legality-of-the-Israeli-occupation-of-the-OPT-including-East-Jerusalem.pdf>

<sup>259</sup> Amnesty International, 'Gaza: Operation Protective Edge', online source <https://www.amnesty.org.uk/gaza-operation-protective-edge>

<sup>260</sup> Geneva Academy (Academy of International Humanitarian Law and Human Rights), 'The War Report 2017: The AC in Israel and Palestine.' p.6, 2017.

<sup>261</sup> Ahmad Saleh Safi, '2014 War on Gaza Strip: Participatory Environmental Impact Assessment', pp.15-18, 2015.

<sup>262</sup> BBC. Jonathan Marcus, 'What weapons are being used in the Israel-Gaza conflict', online source <https://www.bbc.com/news/world-middle-east-28245343>

<sup>263</sup> Gidon Bromberg, Munqeth Mehyar, Nader Khateeb, 'The Jordan River', 2008. Online source <https://www.mei.edu/publications/jordan-river>. See also Chapter 2, section 2.2.

15I Ra'am jets and F-35 jets and set an attack on Palestinian territory in May 2021.<sup>264</sup> The used weapon of the attack employed are 285-pound GBU-39 Small Diameter Bombs and the IDF prominently employed the 2,000-pound GBU-31 (V)4/B bunker-buster during their attack. The GBU-39/B is a 250-pound precision-guided glide bomb that is intended to provide aircraft with the ability to carry a higher number of more accurate bombs.<sup>265</sup> The attack destroyed electricity sewage pipes, and reportedly 50% of the water pipeline networks in Gaza, that ultimately affected the environment of Palestine up-to a severe range. Specially it caused air and land destructions and remain a long-term, wide-spread, and severe damage for the environment. Such attack stands against the Rule.43 of ICRC.<sup>266</sup> IDF also used 'Spike anti-tank missiles', commonly known as 'Tammuz' and targeted Spike attacks to Hamas's naval equipment which are known to mount Spike missiles (e.g., Shaldag II- and Super Dvora III-type patrol boats). Such sort of nuclear attacks is prohibited under IHL and common law due to its impact on human health and civilian's objects.<sup>267</sup> Due to that, ICJ has defined the principle of distinction in the following manner: 'States must never make civilians the object of attack and must consequently never use weapons that are incapable of distinguishing between civilian and military targets'<sup>268</sup>

### 4.3 Norms to Protect the Environment and Their Breaches

Basic human rights e.g., the right to food, living in a healthy environment and treatment can be affected by an armed conflict. Due to that, the UNGA adopted a historic resolution in 2022 by declaring access to a clean, healthy, and sustainable environment a universal human right.<sup>269</sup> That means, under the law of belligerent occupation States hold numerous responsibilities for the safety of human health and environment. Nevertheless, the Israeli occupation over Palestine

---

<sup>264</sup> Forbes, 'Israel's Bombardment of Gaza: Methods, Weapons And Impact', online source <https://www.forbes.com/sites/sebastienroblin/2021/05/26/israels-bombardment-of-gaza-methods-weapons-and-impact/?sh=7b538e7f2f44>

<sup>265</sup> CRS report 2021, 'Precision-Guided Munitions: Background and Issues for Congress', p.10. Also available at <https://crsreports.congress.gov/product/pdf/R/R45996/9>

<sup>266</sup> ICRC Rule 45. 'Causing Serious Damage to the Natural Environment', Volume II, Chapter 14, Section C. See also, B. Saeed, 'International Review of ICRC (2023), 'The legal limits to the destruction of natural resources in non-international armed conflicts: Applying international humanitarian law,' IRRC No. 923

<sup>267</sup> *Legality of the Nuclear Weapons Case* (Judgement, Advisory Opinion) (ICJ, 8 July 1996). Title: '*Legality of the Threat or Use of Nuclear Weapons, Advisory Opinion*', Document Symbol. I.C.J. Reports 1996, p. 226. Also available at: <https://www.refworld.org/cases/ICJ,4b2913d62.html>.

<sup>268</sup> Mustafayev, N, ELIJ Talk (2022), 'The Legality of Use of Ballistic Missiles on Cities: The Case of Armenia-Azerbaijan Armed Conflict', available at <https://www.ejiltalk.org/the-legality-of-use-of-ballistic-missiles-on-cities-the-case-of-armenia-azerbaijan-armed-conflict/>

<sup>269</sup> UNGA Res. 76/L.75, 'UNGA Recognizes Human Right to Clean, Healthy, and Sustainable Environment' the [resolution](#) /, UN Doc (A/76/L.75), 2022.

causes a notable injustice over natural environment. Because, though Israel is bound by many international treaties and CIL to protect the natural environment during the armed conflict and occupation; still they are involved in environmental damage by contaminating land, despoiling landscape. Moreover, raising air, noise, and water pollution are now in the common feature of environment loss under the OPT.<sup>270</sup> Moreover, these rules were neither followed nor respected during the Israel-Palestine Armed Conflict; also systematically violated many times by its parties (especially by Israel). For Instance, in the contrary to the rule numbers 1-3 of ICRC guidelines, the IDF lunged precision-guided bombs and missiles on Palestinian territory on May 2021. This attack also disrespected the ICRC rule 16 on the protection of environment.<sup>271</sup>

Because under the IHL warring parties may target only military objectives, neither civilians nor the natural environment but Israel affected both. These means of attack caused a tremendous air, land, and water pollution in Gaza.<sup>272</sup> Simultaneously, Palestinians' officials claimed that 800,000 Gazans lacked access to clean drinking water in the territory of Gaza due to extreme water pollution, whereas 'access of water is a human right.'<sup>273</sup>

#### **4.3.1 Duty of the Occupying Power and Violation of International Regulations**

As an occupying power Israel must ensure sufficient hygiene and public health standards to the population under occupation to secure human rights. It is also the legal duty of occupying power to function as a trustee for the protected population to respect and preserve their fundamental rights under international law. These duties lie towards the natural wealth of the occupied territory, which includes water, soil and lands, environment and both its finite and renewable natural resources.<sup>274</sup> Nonetheless, Israel stands far away from these duties. Such as, the Human Rights Council in their 40<sup>th</sup> session, 2019 reported that, there is an exploitation of Palestine's natural resources and environment along with human right violation during

---

<sup>270</sup> Dr. Benjamin Pontin, Vito De lucia, Dr. Jesus Gamero Rus, 'Environmental injustice in occupied Palestinian territory,' p.37, 2015.

<sup>271</sup> Guidance on the protection of the natural environment in armed conflict, 'Rule 16 –The Martens Clause with respect to the protection of the natural environment' pp.79-80.

<sup>272</sup> Forbes, 'Israel's Bombardment of Gaza: Methods, Weapons, and Impact.'Forbes, 'Israel's Bombardment of Gaza: Methods, Weapons, and Impact.

<sup>273</sup> See, European Parliament resolution of 5 October 2022 on access to water as a human right – the external dimension ([2021/2187\(INI\)](#)). Also available at [https://www.europarl.europa.eu/doceo/document/TA-9-2022-0346\\_EN.html](https://www.europarl.europa.eu/doceo/document/TA-9-2022-0346_EN.html)

<sup>274</sup> Hague Regulation, 1907, art. 53 & 55.



Israel-Palestine Armed Conflict by Israel.<sup>275</sup> The main governmental agency which is responsible for protecting and managing the environment and natural resources in Palestine named Environment Quality Authority (EQA) alluded through their examination that, sea pollution of Palestine already has reached to 63% in the total coastal area. Hence, EQA asked Gaza Strip citizens not to swim in the sea due to the high rate of pollution. Similarly, Gaza's municipality also warned the population about the water pollution and health risks. They also confirmed that, it started pumping untreated sewage into the sea in May 2021.<sup>276</sup> Israel's actions can be found as a contrary of the fundamental principles of protecting the environment and its connected human rights during an armed conflict.<sup>277</sup> These actions are also contradictory to the rules of international humanitarian law whether customary or treaty based on those safeguarding the environment and environment related rights.<sup>278</sup>

According to the General Assembly resolution 1803 (XVII): 'All peoples, including peoples under occupation, enjoy the sovereign right to control their natural wealth.'<sup>279</sup> This resolution alludes to, States shall strictly respect the sovereignty of peoples and nations over their natural wealth and resources in accordance with the UN Charter and the principles contained in the resolution, to protect environment related human rights. Furthermore, an occupying power must act "only as administrator and usufructuary" of the public immovable property of the occupied territory and the power is entitled only to a limited use of the public natural resources of the occupied territory.<sup>280</sup> According to the 'Law of Occupation', ground water falls under immovable property and there are restrictions in use by occupying power.

---

<sup>275</sup> UNHR (18 March 2019) Israel's exploitation of Palestinian resources is human rights violation, says UN expert, available at <https://www.ohchr.org/en/news/2019/03/israels-exploitation-palestinian-resources-human-rights-violation-says-un-expert>.

See also, UNCHR, Res 40/24 'Israeli settlements in the Occupied Palestinian Territory, including East Jerusalem, and in the occupied Syrian Golan' (22 March 2019) UN Doc [A/77/90-E/2022/66](#). UNCHR, Res 40/73 'Human rights situation in Palestine and other occupied Arab territories since 1967 (15 March 2019) UN Doc [A/HRC/37/75](#)

<sup>276</sup> Forbes, 'Israel's Bombardment of Gaza: Methods, Weapons, and Impact.

<sup>277</sup> Fundamental principles of IHL. Also, according to ICRC - '*Distinction*': 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, Article 48. See also Commentary of 1987 of Basic Rules & '*Proportionality*': U.S. Army Field Manual FM27-10: Law of Land Warfare (July 1956), Page 5, Paragraph 41.

<sup>278</sup> Rharade.L, ICRC org, Israel/Palestine, Operation Protective Edge (Gaza, 13 June - 26 August 2014), available at <https://casebook.icrc.org/case-study/israel-palestine-operation-protective-edge-gaza-13-june-26-august-2014>

<sup>279</sup> UN General Assembly, resolutions 1803 (XVII) of 14 December/ 3171, 'Permanent sovereignty over natural resources' (17 December 1973) UN Doc A/RES/3171.

<sup>280</sup> UNCHR, Res 40/73 'Human rights situation in Palestine and other occupied Arab territories since 1967 (15 March 2019) UN Doc [A/HRC/37/75](#)



Additionally, such property must be administered according to the rule of usufruct.<sup>281</sup> However, Israeli settlers have been using the Palestine's natural resources, e.g., water, agricultural land, forests for personal use and their daily living rather than any military purpose, whereas such resources should be used only for the benefit of the protected people under an occupation.<sup>282</sup> Parallely, Israel took Palestinian's sovereignty by restricting the access of Palestinians over natural resources and prevented them to work there freely and took control over Palestinian lands in the name of biodiversity protection.<sup>283</sup> Israel also prevented the access of Palestinian management agencies, e.g., EQA and the Ministry of Agriculture in most of the protected areas on the West Bank for management purposes. Hence, such deterrence stands opposed to GA resolution 1803(XVII). Because under this Resolution, States and international organizations must strictly and conscientiously respect the sovereignty of peoples and nations over their natural wealth and resources in accordance with the UN Charter and the principles contained in the resolution.<sup>284</sup>

Moreover, such actions also explicitly stand opposed to the 'Principles of conservation' and Articles 4-9 of the Aarhus Convention. Because these Articles of the Convention clearly mentioned about the civilians access rights to environmental information, public participation in environmental issues and access to justice in the form of human rights.<sup>285</sup> Additionally, Israel gave the Palestinians very limited access to a large portion of the natural resources in the West Bank areas, such as, the Jordan Valley, and the Eastern Slopes which are considered as major natural resources of the region.<sup>286</sup> This fact reflects breaches of the principle 10 of the Rio Declaration on the environment and development in practice (adopted by UNEP) which ensures three fundamental rights of a State. Namely, access to information, access to public participation and access to justice. These rights are the key pillars of a sound environmental governance. The "access rights" have emerged to be especially important in promoting transparent, inclusive, and accountable environmental governance.<sup>287</sup>

---

<sup>281</sup> ICRC, Customary IHL, Rule 51. 'Public and Private Property in Occupied Territory'.

<sup>282</sup> See section 4.1.

<sup>283</sup> UN General Assembly, EF/3379 'Control, Exploitation of Resources Detrimental to Palestinian Development, Delegates Say in Second Committee' (30 October 2013), UN Doc GA/EF/3379, also available at <https://www.un.org/press/en/2013/gaef3379.doc.htm>

<sup>284</sup> General Assembly resolution 1803 (XVII) of 14 December 1962, 'Permanent sovereignty over natural resources.' Available at <https://www.ohchr.org/sites/default/files/Documents/ProfessionalInterest/resources.pdf>

<sup>285</sup> UNECE, The Aarhus Convention, art.4-9, 1998.

<sup>286</sup> Jad Isaac and Mohammad Ghanyem, 'Environmental Degradation and the Israeli - Palestinian Conflict,' p.15.

<sup>287</sup> The Rio Declaration on Environment and Development, 1992.

#### **4.4 Breaches of Legal Norms and Their Impact on the Environment, Aquifer and Human**

There are three primary sources of natural fresh water in the OPT: (i) the Jordan River; (ii) the Coastal Aquifer; and (iii) the Mountain Aquifer. These sources are divided into three basins: (a) the Western Aquifer Basin; (b) the North-Eastern Aquifer Basin and (c) the Eastern Aquifer Basin. However, the OPT and the destruction of these water sources are causing environmental vandalization in Africa, Asia, and Europe due to the unique location of Palestine.<sup>288</sup> Consequently, environment related human rights, such as, right to healthy life, food, water, and sanitation are trampled, and these areas are getting contaminated remarkably.<sup>289</sup> Such actions by Israel falls against the principle.2 of the Stockholm Declaration which holds that, ‘the natural resources of the earth, including the air, water, land, flora and fauna and especially representative samples of natural ecosystems, must be safeguarded for the benefit of present and future’.<sup>290</sup>

Besides that, ‘Wadi Gaza’ is the largest valley in Gaza, which is considered an ecologically significant natural heritage area. The valley is also one of the most important coastal wetlands in the Eastern Mediterranean Basin. Therefore, the International Union for Conservation of Nature has addressed the valley an ideal place for feeding during migration of bird and a balancer of Marine ecosystem, also referred it as a strong protector of flora and fauna.<sup>291</sup> Unfortunately, due to the Israel-Palestine Armed Conflict and occupation, this valley has become a victim of environmental loss and pollution. Anthropogenic activities, e.g., wastewater release, groundwater and other categories of pollutions, unconscious illegal settlement, military operations and use of dangerous means and method of war, heavy air bombing, low capacity of plants to treat excessive amounts of wastewater, release of airborne solid and liquid particles, improper operation of sewage systems and power outages caused the destruction of natural habitats, ecosystem.<sup>292</sup> During the armed conflict, almost all the wastewater of the Gaza Strip was dumped untreated to the sea and harm the environment in a hazardous way. Coextensively, it harmed human health. For instance, the

---

<sup>288</sup> Gidon Bromberg, Munqeth Mehyar, Nader Khateeb, ‘The Jordan River’,2008. See also chapter 2.

<sup>289</sup> UNEP report, ‘What are environmental rights?’ based on Environmental Rule of Law Report 2019, available at [https://www.unenvironment.org/resources/assessment/environmental-rule-law-first-global-report?\\_ga=2.68615633.1936467246.1693900615-1363578821.1683268776](https://www.unenvironment.org/resources/assessment/environmental-rule-law-first-global-report?_ga=2.68615633.1936467246.1693900615-1363578821.1683268776)

<sup>290</sup> Declaration of the United Nations Conference on the Human Environment, Stockholm Declaration, 1972.

<sup>291</sup> Gibson, Michael, ‘The Universal and the local’ (2012) UNESCO, World heritage review 63, p. 16-17.

<sup>292</sup> Ahmad Saleh Safi, 2014 War on Gaza Strip: ‘Participatory Environmental Impact Assessment’, pp.33-34, 2015.

contaminated sea water caused many communicable diseases which mainly affected peoples' skin, eyes also cause ear infections, hepatitis, diarrhoea and gastroenteritis, cancer, premature birth, lung, and respiratory illness.<sup>293</sup> Moreover, Israel's use of Dense Inert Metal Explosives (DIME) weapons during the "Operation Protective Edge." Using of such explosives breached few central international legal norms. Such as, breach of the IHL that is primarily combined in the Regulations Annexed to the 1907 Hague Regulation and GC IV.<sup>294</sup> Besides health issues, the Operation Protective Edge results hazardous dust and debris in air and land for long term, damaged water supply, contaminated land, released harmful chemicals in environment, destructed ecological balance and affected flora and fauna, which is a breach of the Rules 1-4, and 26-32 (specifically Rule 31) of the IHL guidelines on the protection of the natural environment in armed conflict. Rule 1-4 provides general protection of the natural environment under the IHL; and Rule 26-32 expressed the respect for implementation and dissemination of IHL rules for protecting the natural environment. Remarkable, Rule 31 is essential, because it refers the legal advice to the armed forces on IHL including on the rules protecting the natural environment.<sup>295</sup>

Furthermore, the Western Aquifer System is an essential topic to be mentioned for the thesis. Because the Western Aquifer System has a safe yield of 362 MCM (Million Cubic Metres) per year which is connected to the environment and health of human. However, Israel exploits most of the water of this aquifer system through 300 deep groundwater wells during the occupation and Palestinians, though it was limited to utilize 22 MCM/year from this aquifer system.<sup>296</sup> For the North-Eastern Aquifer System, it has an annual safe yield of 145 MCM, whereas Palestinians are limited to 42 mcm/year while Israel utilizes 103 mcm/year. The Eastern Aquifer System has a safe yield of 100-150 MCM per year (of which 70 MCM are brackish). It lies entirely within the West Bank territory and used exclusively by Palestinian villagers and farmers before the occupation. After 1967, Israel expanded its control over this aquifer and began to tap it mainly to supply Israeli colonies implanted in the area. Out of the Eastern Basin, the Palestinians extract 54 MCM/year, and the Israelis extract 40 MCM/year.<sup>297</sup> These sort of undertakings by Israel over aquifer system stand against the Article 40 of the

<sup>293</sup> Ahmad Saleh Safi, 2014 War on Gaza Strip: 'Participatory Environmental Impact Assessment', pp.34-35.

<sup>294</sup> Rharade. L, ICRC org, 'Israel/Palestine, Operation Protective Edge (Gaza, 13 June - 26 August 2014)'

<sup>295</sup> Rules from the guidelines on the protection of the natural environment in armed conflict, Rule. 1-4 & 26-32. Also, Part IV: Respect for implementation and dissemination of International Humanitarian law rules protecting the natural environment, Rule.31: 'Legal advice to the armed forces on international humanitarian law, including on the rules protecting the natural environment', commentary: 327-328.

<sup>296</sup> International Branch Organizations Branch, Samaria and Judea of Administration, Factsheet: 'Water in the West Bank', pp.3-5, 2012. Also available at <https://reliefweb.int/sites/reliefweb.int/files/resources/3274.pdf>.

<sup>297</sup> Jad Isaac and Mohammad Ghanyem, 'Environmental Degradation and the Israeli - Palestinian Conflict,' p.16.

Interim Agreement on the West Bank and the Gaza Strip.<sup>298</sup> Although the Oslo accords which Israel and the Palestine Liberation Organization signed in the early and mid-1990s devolved some governance powers to the Palestinian Authority, but Israel did not relinquish its primary domination over the waters of the West Bank. The United Nations had estimated in 2017 that more than 96% of the Coastal Aquifer groundwater of Gaza's had become unfit for human consumption,<sup>299</sup> and the aquifer would be irreversibly damaged as a drinking source by 2020 without a radical intervention. In year 2020 the United Nations Office for the Coordination of Humanitarian Affairs (OCHA) has published a report of 'American Near East Refugee Aid' (ANERA), who is helping the refugees and others hurt by conflicts in Palestine since 1968. According to the report, the settlement of Israel at Gaza causes serious pollution by over-pumping and wastewater contamination. As a result, 96.2% of household water from the aquifer is non-potable and about 40% of the domestic water supply holds outdated infrastructure.<sup>300</sup> Recently the OCHA published another report of ARENA in 2023 which statistically showed that, 97% of Gaza's water is unfit for human consumption and communicable diseases are on the rise due to the water.<sup>301</sup> Therefore, these actions are against Article 1 of Aarhus Convention that is concentrated towards the protection of every person's right to live in an environment adequate to human health and well-being.<sup>302</sup>

## **4.5 State Responsibility and the Arise of Liabilities under the Israel-Palestine Armed Conflict**

### **4.5.1 State Responsibility**

Every State is responsible for their own acts and bound by the 'Rule of law.'<sup>303</sup> Therefore, any breach of treaty or CIL obligations arise State liabilities. Under the law of armed conflict

---

<sup>298</sup> Israeli-Palestinian Interim Agreement on the West Bank and the Gaza Strip (Oslo II), art.40. 'Water and Sewage', principle. 4-5 'Transfer of Authority' and principle. 21-25 'Protection of Water Resources and Water and Sewage Systems'.

<sup>299</sup> Human Rights Council, 14<sup>th</sup> session, 2019, 'Report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, Agenda item 7, 'Human rights situation in Palestine and other occupied Arab territories', A/HRC/40/73.

<sup>300</sup> OCHA, report by ARENA (2020), 'Water in Gaza: Scarce, polluted and mostly unfit for use', online source, <https://reliefweb.int/report/occupied-palestinian-territory/water-gaza-scarce-polluted-and-mostly-unfit-use>

<sup>301</sup> OCHA report by ARENA (2023), 'Gaza's Water Crisis Puts Thousands at Risk of Preventable Death,' available at <https://reliefweb.int/report/occupied-palestinian-territory/gazas-water-crisis-puts-thousands-risk-preventable-death>.

<sup>302</sup> United Nations, *The Aarhus Convention*, art.1: Objective, 1998.

<sup>303</sup> UN: 'Rule of law is a legal maxim and the principle of governance, that suggests that no one is above the law and governmental decisions must be made only by applying known legal and moral principles.' Also available <https://www.un.org/ruleoflaw/what-is-the-rule-of-law/>

and the law of belligerent occupation specific liabilities arise for the occupying power for any environmental degradation and for violation of the environment related human rights. Such laws are deeply focused on safety and health of civilian population and co-ordinately working on the protection of the natural environment.<sup>304</sup> Therefore, both Israel and Palestine are responsible for the environmental destruction as parties of the armed conflict. Besides that, according to this research, most average environmental damages in the Gaza Strip occurs during the OPT; hence, a good number of responsibilities specifically arose for Israel under the law of belligerent occupation. Before going through a detailed discussion on State responsibilities and other liabilities of both Israel and Palestine, it is essential to discuss some international cases on such topic. For instance, *United States v. Canada (The Trail Smelter Case)* and *Costa Rica v. Nicaragua*.

#### **4.5.2 The Trail Smelter Case (*United States v. Canada*)**

The Trail Smelter remains a touchstone for modern international environmental law, hence it has a strong necessity in the research purpose of the thesis. The case has its own significance in the history of cases concerning environmental issues, since the decision of the case established that, polluter pays for environmental damage and states have a duty to prevent trans-boundary harm. The fact of the case is, Trail Smelter is a Canadian corporation which is domiciled in Canada. It is located at British Columbia and known as a mineral-rich area, that release sulphur dioxide (SO<sub>2</sub>) from Trail Smelter. Such release of chemical compound resulted damages of environment in the state of Washington between 1925 and 1937, that ultimately led to the United States (plaintiff) to suit against the Canada (defendant) with an injunction against air pollution by Trail Smelter. Moreover, the complaints included that, sulphur dioxide gases in the form of some smoke generated from the smelter was directed into the Columbia River Valley by prevailing winds, scorching crops, and accelerating forest loss. Therefore, the United States sought damages from Canada by suing them to court as well as prayed for an injunction for air pollution in the state of Washington from Canada for the conduct of the Trail Smelter Company.<sup>305</sup>

---

<sup>304</sup> Dr. Benjamin Pontin, Vito De lucia, Dr. Jesus Gamero Rus, 'Environmental injustice in occupied Palestinian territory,' p.37, 2015.

<sup>305</sup> Catherine Prunella, E-Journal, Hunter College, 'International Pollution Issues', (December 2014) <https://intlpollution.commons.gc.cuny.edu/an-international-environmental-law-case-study-the-trail-smelter-arbitration/> accessed 26<sup>th</sup> October 2021.

The fact of this case arose a question that, is it a state responsibility to always protect other States against harmful acts by individuals within its jurisdiction? The held is, 'Yes'. It is always the State's responsibility to protect other states against harmful act by individuals from within its jurisdiction. It is one of the major principles of international law. This case also falls under the 'polluter pays principle' based on transboundary effect. Such provision is applicable during the situation of armed conflict and occupation as well.<sup>306</sup>

Therefore, the decision of the Tribunal was, 'The Dominion of Canada is responsible in international law for the actions of the Trail smelter.' The tribunal also stated that 'no State has the right to use or permit the use of its territory in such a manner as to cause injury by fumes in or to the territory of another or the properties or persons therein, when the case is of serious consequence and the injury is established by clear and convincing evidence', therefore, decided to give compensation to United States by Canada.<sup>307</sup>

This case has a deep inter-connection with the current environmental situation of Israel and Palestine. During the Israel-Palestine Armed Conflict, Israel is occupying the territories since 1967 till now. During this period Israel causes transboundary environmental harm in many ways, such as, transboundary movement of hazardous waste, uprooting trees, air, water, land pollution in Palestinian territory as mentioned in the thesis paper. Moreover, wastewater release by Jewish settlers, release of sewage and chemical waste left from the industrial plants to the Palestinian Al-Saqa Valley in the central part of the Gaza Strip, dumping of animal manure are alive examples of transboundary harm.<sup>308</sup> Therefore, Israel is liable for the breach of Oslo Accords and negligence towards State responsibility. Even, under this case reference Israel stand against the principles of IHL and customary IEL, such as, 'Trail Smelter Principle', (1) The state has a duty to prevent transboundary harm, and (2) the 'polluter pays' principle.<sup>309</sup> These principles are also reasserted by the ICJ.

---

<sup>306</sup> Compare the Article 28 ILC Articles on 'Responsibility of States for Internationally Wrongful Acts', annexed to A/RES/56/83 of 12 December 2001, in: Report of the ILC, 53rd Session, UN Doc. A/56/10 (hereinafter Articles on State Responsibility).

<sup>307</sup> *Trail Smelter Case (United States v. Canada)*, (Compensation, Judgement), The International Joint Commission (IJC), (Arbitrational Tribunal, March 11, 1941).

<sup>308</sup> Jad Isaac and Mohammad Ghanyem, '*Environmental Degradation and the Israeli - Palestinian Conflict*', p.19.

<sup>309</sup> InforMEA, '*Access information on Multilateral Environmental Agreements*', *Trail Smelter Case (United States v Canada)*, (The International Joint Commission (IJC) Judgement), (Arbitrational Tribunal, March 11, 1941), also available [http://legal.un.org/riaa/cases/vol\\_III/1905-1982.pdf](http://legal.un.org/riaa/cases/vol_III/1905-1982.pdf) accessed 26<sup>th</sup> October 2021.

#### 4.5.3 *Costa Rica v. Nicaragua*

This case is a landmark decision of the ICJ on environmental issues and an important precedent for recognizing conservation interests and ecosystem services. The case is based on certain activities carried out by Nicaragua in the border area (*Costa Rica v. Nicaragua*) where compensation owed by the Republic of Nicaragua to the Republic of Costa Rica (2018). Costa Rica, the plaintiff of the case brought allegation against Nicaragua for unlawful incursion, occupation, and use of Costal Rican territory, including claims of serious damage to protected rainforests and wetlands.<sup>310</sup> Costa Rica brought these proceedings to the ICJ on 18 November 2010, claiming that the occupation of the territory by Nicaragua was a violation of its rights of sovereignty. Moreover, Costa Rica claimed that the construction of a canal which included removal of trees and vegetation, and associated works on the occupied territory were having a detrimental effect on the environment in violation of the international law. The claim demanded compensations for these acts. In the contrary of the complaint Nicaragua counter claimed against Costa Rica for the violations of Nicaraguan's sovereignty and major environmental damage, which arising from a road construction works by Costa Rica along the border area of these two countries. Therefore, the ICJ joined these two cases known as '*The Costa Rica v. Nicaragua*' and '*Nicaragua v. Costa Rica*' and they arise important questions concerning States' procedural and substantive obligations under the IEL. Such as, the obligation to conduct an environmental impact assessment, the obligation to notify and consult, substantive obligations concerning transboundary harm. The facts of these cases arose a question that, is it the State responsibility under the international law to protect the environment from the loss of its ability to provide goods and services for other state? The held is, 'Yes.' Under the international law it is the State responsibility to protect other state's environment that provide goods and both direct and indirect services to the state.<sup>311</sup>

Therefore, the decision of the ICJ was, the court recognized ecosystem services as part of the compensable damage to the environment, including both direct and indirect services. The court also stated that 'damage to the environment, and the consequent impairment or loss of the ability of the environment to provide goods and services, is compensable under international law,' which may include indemnification for such impairment, loss, or payment for restoration of the damaged environment. Considering Nicaragua's wrongful acts in the disputed territory

---

<sup>310</sup> Certain Activities Carried Out by Nicaragua in the Border Area (*Costa Rica v. Nicaragua*).

<sup>311</sup> Compare the Article 28 ILC Articles on 'Responsibility of States for Internationally Wrongful Acts', UN Doc. A/56/10.

the Court concluded that Nicaragua had an obligation to make full reparation for environmental damages caused by its wrongful acts.<sup>312</sup> Even the ICJ found that Nicaragua had the obligation to compensate Costa Rica for material damages caused by Nicaragua's unlawful activities on Costa Rican territory, which included damage to Costa Rica's rain forests and water resources, which lead to also transboundary harm. Hence, the Court awarded in full Costa Rica's claim of US\$2,708.39 to compensate for measures taken to restore the wetland.<sup>313</sup>

The main relation of these cases with the Israel- Palestine Armed Conflict is, in the same way as Costa Rica and Nicaragua, Israel and Palestine also share much more than a border. The river and ocean activities, wildlife and available eco-wellness experience are similar among all these countries. Israel also involved in same sort of environmental destruction activities as Nicaragua. Such as, removal of trees and vegetation, unlawful incursion, occupation and use of other state's territory, damage of water resources, transboundary harm, violation of its rights of sovereignty, and negligence of state responsibility.<sup>314</sup> On the other hand, rocket attacks by Palestine also causes environmental destruction as well as transboundary harm by air pollution, which is a wrongful act of state and breach of principle of no harm.

According to the decision of the ICJ, the most common liabilities arose for Nicaragua due to the contrary actions towards 'the responsibility of State for wrongful act'<sup>315</sup> based on the 'principle of sovereignty', 'principle of no harm' under the fundamental principle of international law.<sup>316</sup> Hence, Israel and Palestine both found involve with same sort of environmental destructive activities which are explicitly standing against protective rules of environment under the international law.

---

<sup>312</sup> ICJ decision of *Costa Rica v. Nicaragua case*, paras. 29-30; 41. General List No. 150, (Compensation, Judgement) (International Court of Justice, 2<sup>nd</sup> February 2018)

<sup>313</sup> *Costa Rica v. Nicaragua*, copy of judgement, <https://cer.org.za/wp-content/uploads/2018/04/Costa-Rica-v-Nicaragua.pdf> accessed 28<sup>th</sup> October 2021.

<sup>314</sup> See chapter 4, part. 4.3.1. 'Duty of the Occupying Power and Violation of International Regulations'; 4.3.2 , 'Breaches of Legal and General Norms of International Laws and Impact on Human, Aquifer and Biodiversity',

<sup>315</sup> Yearbook of the International Law Commission (2001), 'Responsibility of States for Internationally Wrongful Acts (2001)', Article. 12, 17 and 28, vol.

<sup>316</sup> Chapter 4 of this thesis paper, part: 4.5 'Liabilities that arises for Israel during the armed conflict and the occupation'.



## 4.6 Liabilities of Israel and Palestine

### 4.6.1 Liabilities of Israel

The thesis has found Israel liable for causing serious damage to the natural environment under, amongst others, customary IHL. For instance, IDF has lunged precision-guided bombs and missiles by F-16, F-15I Ra'am jets and F-35 jets and set an attack on Palestinian territory on May 2021. This attack violated ICRC customary rules 43-45 those stipulate that, it is essential to use general rule of conduct for protecting the natural environment from serious damage during the military operation.<sup>317</sup> The IDF's attack called 'Operation Protective Edge' caused a widespread, long-term, and severe damage to the natural environment. Israel was too careless during the attack in using warfare to protect the natural environment against widespread, long-term, and severe damage, though any attack against the natural environment by way of reprisals are prohibited. Hence, such attack made Israel liable as a party to the four Geneva Conventions of 12 August 1949 and its Additional Protocol III.<sup>318</sup> While Israel has not ratified the Additional Protocols I and II to the 1949 Geneva Conventions; however, it accepts that some of their provisions accurately reflect CIL, such as, Articles 35(3) and 55(1-2).<sup>319</sup> The provisions of these Articles hold the methods and means of warfare combatant and prisoner-of-war status and protection of the natural environment. Besides these Articles, the Common Article.1 to the four Geneva Conventions mentioned that 'the high contracting parties undertake to respect and to ensure respect for the present Convention in all circumstances.'<sup>320</sup> Therefore, to prove Israel's liabilities in the Israel-Palestine Armed Conflict besides these Articles it is also essential to discuss about the 'principle of proportionality'. Because it is the duty of a State to ensure the proportionality of warfare during an armed conflict. 'Proportionality' is a core principle in international law that ensure the legality of an action of armed conflict, which is also codified in Article 51(5)(b) of the 1977 Additional Protocol I. This principle explicitly reflects the customary international law.<sup>321</sup> 'According to the principle, the legality of an

---

<sup>317</sup> ICRC Rule.43-45 'Natural Environment'.

<sup>318</sup> Rharade.L, ICRC, 'Israel/Palestine, Operation Protective Edge (Gaza, 13 June - 26 August 2014)'

<sup>319</sup> Protocol Additional to the Geneva Conventions of 12 August 1949 and relating to the Protection of Victims of International Armed Conflicts (Protocol I), Art. 35 on 'Basic Rules' and Article 55(1) & (2) on 'Protection of the natural environment.

<sup>320</sup> Amnesty International Report 2022/2023, 'Israel/Opt: Joint Support for Call for A Conference of High Contracting Parties to The Fourth Geneva Convention 1949', Index Number: MDE.15/7469/2023.

<sup>321</sup> ICRC, 'Principle of Proportionality', available at [https://www.icrc.org/sites/default/files/wysiwyg/war-and-law/04\\_proportionality-0.pdf](https://www.icrc.org/sites/default/files/wysiwyg/war-and-law/04_proportionality-0.pdf)

action of armed conflict shall be determined depending on the respect of the balance between the objective and the means and methods those used for such action.<sup>322</sup>

Furthermore, during a belligerent occupation it is the occupying power's duty to protect the natural environment and human health. The duties of the occupying power are explicitly spelled out in the Fourth Geneva Convention (GC IV, art. 27-34 and 47-78), as well as in certain provisions of Additional Protocol I and customary international humanitarian law.<sup>323</sup> Moreover, as a party to GC IV Israel must follow its Article.49 that prevents the occupying power from deporting or transferring parts of its own civilian population into the territory it occupies<sup>324</sup>. As an occupying power Israel must respect, protect, and fulfil the human rights of people under their jurisdiction, including people living in territory of occupation. Therefore, Israel's settlement policy in Palestine violates a special category of obligations entitled peremptory norms of international law from which no derogation is permitted.<sup>325</sup> Nevertheless, besides the illegal settlements, the Israeli government also allows the settlers to exploit the lands and natural resources of Palestinians, such as, 'violation of the right of water'<sup>326</sup>. Consequently, Israel has failed to ensure Palestinian residents to have a sufficient supply of clean, safe drinking water and water for other domestic uses constitutes a violation of its obligations to respect and fulfil the right to water, especially during summer.<sup>327</sup>

Additionally, opposed to these mentioned legal provisions for protecting the environment and human rights; as an occupying power and a party of an armed conflict, Israel used Dense Inert Metal Explosives (DIME) weapons during the 'Operation Protective Edge.' Such actions of Israel have breached few central international legal norms. For instance, DIME weapon contains a mixture of explosive material, cobalt, nickel, iron, and tungsten alloy which work together to create a very dense micro-shrapnel that destructed both environment

---

<sup>322</sup> Ibid.

<sup>323</sup> See ICRC org, 'Occupation and international humanitarian law: questions and answers,' available at <https://www.icrc.org/en/doc/resources/documents/misc/634kfc.htm>

<sup>324</sup> Article 49 of the Fourth Geneva Convention.

<sup>325</sup> Amnesty International Report (2019), 'Chapter 3: Israeli Settlements and International Law', available at <https://www.amnesty.org/en/latest/campaigns/2019/01/chapter-3-israeli-settlements-and-international-law/>

<sup>326</sup> United Nations General Assembly: 'The human right to water and sanitation', Resolution A/RES/64/292. On 28 July 2010. Also United Nations General Assembly, July 2010 General Comment No. 15. 'The right to water', UN Committee on Economic, Social and Cultural Rights, November 2002.

<sup>327</sup> S Raby, 'The humanitarian crisis of the Israeli occupation and settler colonialism in the West Bank and Gaza,' pp.8-16 (Amnesty International report, 2017, 'The Occupation of Water'), see also <https://www.amnesty.org/en/latest/campaigns/2017/11/the-occupation-of-water/>

and human health.<sup>328</sup> Subsequently, this engagement in hostilities made Israel liable for the environmental destruction under the CIHL, ‘principle of proportionality’ and ‘to ensure respect’ towards the four Geneva Convention. Moreover, Israel as a party to the CCW (1980) violates the provisions of Protocol I and Protocol II of the convention. The Protocols refer the prohibition of the use of any weapon designed to injure by fragments which cannot be detected in the human body by X-rays; and prohibition of the use of nondetectable anti-personnel mines and their transfer and prohibits the use of non-self-destructing and non-self-deactivating mines outside fenced, monitored and marked areas.<sup>329</sup>

Besides that, the Article 47 of the ICCPR states that: ‘Nothing in the present Covenant shall be interpreted as impairing the inherent right of all peoples to enjoy and utilize fully and freely their natural wealth and resources.’ Hence, Israel stands contrary to this Article for taking Palestinian’s sovereignty and civil rights by restricting the access of Palestinians over natural resources. Israel also prevented Palestine to work there freely and took control over their lands in the name of biodiversity protection.<sup>330</sup> As a party of ICCPR, Israel has breached the above-mentioned provision of the Covenant. Moreover, this action of limiting and restricting Palestine’s rights arises ‘responsibility of State for wrongful act’ for Israel.<sup>331</sup> The responsibility is based on the ‘principle of sovereignty’ under the fundamental principle of international law.<sup>332</sup> Simultaneously, such restriction over natural resources and preventing Palestine to work freely over own natural resources or control over their authorities stands contrary to General Assembly resolution 1803 (XVII).<sup>333</sup> These actions are not only opposed to above-mentioned regulations but also a violation of the ‘principle of conservation’ and Articles 4-9 of Aarhus Convention, which stipulate the access rights over environmental information, public participation on environmental matters, and access to justice.<sup>334</sup> This is

---

<sup>328</sup> Bindiya Thomas, ‘Banned Weapons Used In Israel-Palestine Conflict?’, 2014, also available at [https://www.defenseworld.net/news/10870/Banned\\_Weapons\\_Used\\_In\\_Israel\\_Palestine\\_Conflict\\_#.YWSgrtpBw2w](https://www.defenseworld.net/news/10870/Banned_Weapons_Used_In_Israel_Palestine_Conflict_#.YWSgrtpBw2w)

<sup>329</sup> The Convention on Certain Conventional Weapons, available at <https://disarmament.unoda.org/the-convention-on-certain-conventional-weapons/#:~:text=CCW%20Facts,and%2097%20to%20Protocol%20V>. See also, CCW, Art.3, ‘Clearance, removal, or destruction of explosive remnants of war’.

<sup>330</sup> UN’s 68<sup>th</sup> General Assembly, Control, Exploitation of Resources Detrimental to Palestinian Development, Delegates Say in Second Committee, 2013. See also, ‘Israel’s Obligations Concerning Natural Resources According to the International Law,’ available at <https://pij.org/articles/1571/israels-obligations-concerning-natural-resources-according-to-the-international-law>

<sup>331</sup> Yearbook of the International Law Commission, ‘Responsibility of States for Internationally Wrongful Acts (2001)’, Art. 12 & 17, vol. II, 2001.

<sup>332</sup> N. Schrijve, ‘Self-determination of peoples and sovereignty over natural wealth and resources,’ pp.97-98.

<sup>333</sup> UNGA, resolutions 1803 (XVII) of 14 December/ 3171, ‘Permanent sovereignty over natural resources’ (17 December 1973) UN Doc A/RES/3171.

<sup>334</sup> UNECE, The Aarhus Convention, Art.4-9, 1998.

because, such convention reads together with the UNECE Protocol on Pollutant Release and Transfer Registers (PRTRs). Hence, as a state party Israel has breached the provisions of the Convention and became liable for breaching Palestinians' human rights over environmental matter.

Additionally, Israel has breached the regulations of ICESCR as Israelis living in settlements are discharging their water in manner, where Palestinians have no control over these practices and no information as to the content of the water being discharged. Even they are engaged in sewage dumping from Israeli settlements.<sup>335</sup> Therefore, such actions of Israel stand against the Article 11, 12 and 25 of the Convention. Because these Articles of ICESCR stipulate the human rights to an adequate standard of living, right of physical and mental health, and inherent right of all peoples to enjoy and utilize fully and freely their natural wealth and resources. Hence, Israeli authorities holds occupier's responsibilities towards Palestinian territories and natural resources to cover the social costs which inflicted by Israel.<sup>336</sup>

Since 1967 till now as an occupying power Israel is generating transboundary environmental harm and illegal disposal of waste despite of the Oslo accords II (known as Interim Agreement).<sup>337</sup> According to the Article 12 (b)(10)<sup>338</sup> of the agreement, disposal of chemical and radioactive wastes will be only to the authorized sites in Israel. However, Israel industrial solid waste has been generated by Israelian factories and dumped in areas near Palestinian villages. For instance, the Barqan industrial zone released aluminium, fiberglass, plastic, electroplating, surface coating, chemical, waste oil recycling, metal fabrication near Palestinian villages;<sup>339</sup> that arise Israel's liability for releasing hazardous compounds in the environment in contrary to the agreement. Simultaneously, under Article 12(b)(3) of the Interim Agreement Israel did exploitation of the natural resources and showed negligence to

---

<sup>335</sup>Jad Isaac and Mohammad Ghanyem, 'Environmental Degradation and the Israeli - Palestinian Conflict,' p.22.

<sup>336</sup> ICESCR (1966), General Assembly resolution 2200A (XXI). Also available at <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-economic-social-and-cultural-rights#:~:text=in%20that%20Convention-,Article%209,social%20security%2C%20including%20social%20insurance>.

<sup>337</sup> Ilan Allesson, Jamie Levin, Shmuel Brenner & Mohammad Said Al Hmadi, *Journal of Peacebuilding & Development*: 'Peace and Pollution: An Examination of Palestinian—Israeli Trans-Boundary Hazardous Waste Management 20 Years after the Oslo Peace Accords', pp.16-18. 2013.

<sup>338</sup>The Israel-Palestine Interim Agreement on the West Bank and Gaza Strip, Annex III, article. 12 (b)(10): 'Environmental Protection', 1995.

<sup>339</sup>Jad Isaac and Mohammad Ghanyem, 'Environmental Degradation and the Israeli - Palestinian Conflict,' p.23.

prevent environmental damage. Due to that Israel became legally responsible for its actions.<sup>340</sup> This is how Israel found blameworthy for the breach of Oslo Accords which a pair of agreements between the Government of Israel and the Palestine Liberation Organization regarding trans-boundary hazardous waste management.<sup>341</sup>

The Basel Convention (including its Annexes I and III) regulates the transboundary movement of hazardous waste. Article 4(5) regulates how the parties of the convention are obliged to control the transboundary movement of waste also with regards to non-parties.<sup>342</sup> Israel is a party of the convention.<sup>343</sup> Therefore, Israel's liability arises towards the environmental destruction for Palestine as referred in the Article. Need to mention, although Israel has not signed or ratified the 1907 Hague Regulations, it is, however, still obliged by its content under CIL<sup>344</sup>. During the occupation Israel has uprooted 107,000 trees in the West Bank alone,<sup>345</sup> in Gaza 95% of the forests disappeared (from 42,000 dunums in 1971 - 2,000 dunums in 1999) and engaged in deforestation in occupied territory. The occupation army destroyed about 10,000 forest trees and about 300 olive trees.<sup>346</sup> Hence, Israel has disobeyed the CIL by acting against Article 55 of the Convention to protect forests in occupying territory.<sup>347</sup> Israel's careless environmental harm spreads across border, specifically regarding water waste and air pollution as naturally water blow and breeze is uncontrollable by human. With such actions Israel also breached the principle of no harm under CIL. It is a principle of IEL and accepted as a customary norm with a binding character (under IEL such principle is also known as 'Trail Smelter Principle'). This principle is reasserted by the ICJ and mentioned, 'States are obliged not to allow knowing its territory to be used for acts contrary to the rights of other states.'<sup>348</sup>

---

<sup>340</sup>The Israel-Palestine Interim Agreement on the West Bank and Gaza Strip, Annex III, Article. 12 (b)(3): 'Environmental Protection', 1995.

<sup>341</sup> The Oslo I Accord, signed in Washington, D.C., in 1993; and the Oslo II Accord, signed in Taba, Egypt, in 1995.

<sup>342</sup> Article.4(5), The Basel Convention.

<sup>343</sup> Israel ratifies the Basel Convention on 14<sup>th</sup> of December 1994 and entered into force on 14<sup>th</sup> March 1995. See UN treaty Collection, [https://treaties.un.org/PAGES/ViewDetails.aspx?src=TREATY&mtdsg\\_no=XXVII-3&chapter=27&clang=\\_en](https://treaties.un.org/PAGES/ViewDetails.aspx?src=TREATY&mtdsg_no=XXVII-3&chapter=27&clang=_en)

<sup>344</sup> Suleiman Tawfiq Ayyub et al. v. Minister of Defence et al., Israeli High Court Judgement 606/78, at 6.

<sup>345</sup> OCHA report, West Bank: Largest Number of trees recorded vandalized by Israeli settlers in a single incident since 2005, also available at <https://www.ochaopt.org/content/west-bank-largest-number-trees-recorded-vandalized-israeli-settlers-single-incident-2005>

<sup>346</sup> Awad Rajoub (report), 'Israel destroys nature reserve, uproots 10,000 trees.

<sup>347</sup> Convention (IV) respecting the Laws and Customs of War on Land and its annex: Regulations concerning the Laws and Customs of War on Land, Art.55, The Hague, 18 October 1907.

<sup>348</sup> Corfu Channel Case (UK v Albania) (Judgment, Merits) (ICJ, 9 April 1949)

Though Rio Declaration is a formally not binding, it carries the general principles for the IEL. Hence, this declaration is essential to be followed by States during an armed conflict. It is already mentioned that Israel took an active part in the Agenda 21 and the Rio Declaration.<sup>349</sup> Additionally, in accordance with paragraph 68 to the ILC Report (2019), the State of Israel submits its comments and observations on the ILC's draft principles and respecting the Rio Declaration on the protection of the environment in relation to armed conflicts.<sup>350</sup> Therefore, an unprotected and destructive behaviour towards environment during the occupation arises general liabilities for Israel for not to ensure respect towards the principle.23 of the declaration.<sup>351</sup> Such principle protects the environment and natural resources of people under oppression, domination, and occupation. Moreover, Israel is liable for the transboundary environmental harm by violating the principle 2 of the declaration that declares that States have the responsibility to ensure that activities within their jurisdiction or control do not cause damage to the environment of other States or of areas beyond the limits of national jurisdiction.<sup>352</sup>

Israel also found liable for 'significant harm' for the loss and damage by the impairment of the environment and its related human rights. The International Law Commission addressed that, Israel gets obligated for effecting human health including generation unborn, causing pollutions, distressing flora, and fauna along with other natural resources during the armed conflict and OPT.<sup>353</sup>

#### **4.6.2 Liabilities of Palestine**

Although during the Israel-Palestine Armed Conflict and OPT, Palestine mostly found as a victim of the environmental damage and related human rights; still, Palestine have been also found engaged with the environmental destruction during this conflict. For instance, besides the 'Operation Protective Edge' (2014) Palestine has lunged several rocket and mortar attacks on Israel as well as military operations since year 2000. Such as, Operation Rainbow

---

<sup>349</sup> Israel Mistry of Foreign Affairs, 'International Cooperation', online source

<https://mfa.gov.il/MFA/PressRoom/1994/Pages/INTERNATIONAL%20COOPERATION.aspx>

<sup>350</sup> UN, Israel-Protection to the Environment, 'Comments from the State of Israel on the International Law Commission's Draft Principles on the Protection of the Environment in Relation to Armed Conflicts as adopted by the Commission in 2019 on first reading', available at

[https://legal.un.org/ilc/sessions/73/pdfs/english/poe\\_israel.pdf](https://legal.un.org/ilc/sessions/73/pdfs/english/poe_israel.pdf). See also, ILC Report 71st Session (A/74\10).

<sup>351</sup> Rio Declaration on Environment and Development, principle 23. 'The United Nations Conference on Environment and Development'. 1992.

<sup>352</sup> Ibid, Principle 2.'

<sup>353</sup> Report of the International Law Commission, fifty-third session, 2001, UN Doc A/56/10 at 388.

(2004), Operation Days of Penitence (2004), Operation Summer Rains (2006), Operation Autumn Clouds (2006), Operation Hot Winter (2008), Operation Cast Lead (2009), and Operation Pillar of Defence (2012). According to the IDF, roughly 3100 rockets have been fired from Gaza only and in most these operations Palestine used dangerous means of war.<sup>354</sup> Even though rocket launches are low on the polluter list on a global scale, but it burns monstrous amounts of fuel to escape the Earth's gravity and release tons of CO<sub>2</sub>, which affects the quality of land and air. Rockets also produce harmful gases from burning kerosene and methane that pollute the higher layers of the atmosphere.<sup>355</sup> Moreover, these attacks pollute air, land, water which is one of the major reasons for transboundary environmental harm. Simultaneously, it destructs natural resources that ultimately hampers the human health. Therefore, as a party of the Paris agreement, Palestine can be found responsible for environmental destruction by triggering a defeatist climate change.<sup>356</sup> Furthermore, Palestine became a party of Basel Convention in 2015 with reservation,<sup>357</sup> but failed to control the transboundary movements of hazardous wastes which is a breach of Article 4(5) of the convention.<sup>358</sup>

Besides these, as a party to the to the 1949 Geneva Conventions (AP I), Palestine has failed to protect the natural environment during armed conflict, as it is codified in Article 35(3) and 55(1) of the Convention.<sup>359</sup> The Articles 35(3) restricts the selection of means and methods of attack by conflict parties, and Article 55(1) stipulates the obligation to protect the natural environment during armed conflicts. Moreover, during the Israel-Palestine Armed Conflict Palestine has also breached the 'principles of no harm' along with Article.52 of GC IV (1949) on 'general protections of civilian objects.'<sup>360</sup> Palestine also failed to follow the 'principle of proportionality' for the protection of civilian population under IEL and Article.51 of GC IV.<sup>361</sup>

---

<sup>354</sup> Blog, 'The Conversation', Michael J. Armstrong (Associate professor of operations research, Goodman School of Business, Brock University) 'Gaza's enhanced rocket technology challenges Israel's defences', May 17, 2021.

<sup>355</sup> Leonard David, 'How Much Air Pollution Is Produced by Rockets?', 29<sup>th</sup> November 2017. Online source, <https://www.scientificamerican.com/article/how-much-air-pollution-is-produced-by-rockets/>

<sup>356</sup> All 197 United Nations Framework Convention on Climate Change (UNFCCC) members have either signed or acceded to the Paris Agreement and Palestine signed for the UNFCCC 22<sup>nd</sup> April 2016.

<sup>357</sup> Treaty Database, [https://verdragenbank.overheid.nl/en/Treaty/Details/003765\\_b](https://verdragenbank.overheid.nl/en/Treaty/Details/003765_b)

<sup>358</sup> Article.4(5), The Basel Convention.

<sup>359</sup> GC IV, AP I, Art. 35 & 55.

<sup>360</sup> GC, Additional Protocol I, Art.52.

<sup>361</sup> GC, Additional Protocol I, rt.51 (5)(b), also ICRC rule. 14 under Customary International Law.

Parallely, attacks by Palestine have breached ICRC Rule 26 on obligations to respect and ensure respect for international humanitarian law, including the rules protecting the natural environment. Palestine has also acted contrary to the ICRC Rules 2- 24 and 43.<sup>362</sup> These rules stipulated the distinction between civilian objects and military objectives, proportionality, and precautions for an attack as well as methods or means of warfare. Accordance to these rules, Palestine failed to carry the responsibilities and initiatives of the State to defend natural environment during an armed conflict. Consequently, these mentioned attacks and failure of responsibilities found Palestine liable for the ‘significant harm’ for the environment related human rights. Because these non-fulfilments affect human health via heart disease, lung cancer, and respiratory diseases in long-term by air pollution.

#### **4.7 Conclusion**

Despite of the presence of several international legal norms, this thesis has found both Israel and Palestine liable for environmental harm and human rights destruction. Though both these States are parties of several international treaties and customary laws, however, they are failing to keep their state responsibilities and legal duties. Eventually, Israel stands as more liable for such harms compared to Palestine not only due to breaching the international laws, but also for failing to follow the law of occupations and the rule of law.

Israel-Palestine Armed Conflict is a remarkable model of the human health and global environmental destruction in the history of armed conflicts. Therefore, this alarming situation of environment requires to protect both in national and international levels. Hence, the chapter 5 of this thesis will discuss the challenges to impose laws to protect nature and environment related human rights. Parallely, the chapter will come-up with necessary possible solutions for the human rights protection and environmental justice for these conflicted zones.

---

<sup>362</sup> ICRC Rule. 2-24.



## **5. Dilemmas for Environmental Protection during the Israel-Palestine Armed Conflict and Suggested Actions**

### **5.1 Introduction**

With time being many remarkable growths in environmental laws has been visible. However, since 1967 Palestine is suffering from environmental dilemmas not only by reason of political and managerial limitations during the armed conflict and the OPT; but also, due the failure of enforcement of existing laws and access rights to own natural resources, information, public participation, and justice. Hence, it is important to seek for a sustainable solution with practical directions to protect environment and human rights under the rule of law, institutional and civic engagement, also by advancing governance, rights, and justice. According to David Boyd, the UN Special Rapporteur on Human Rights, and the Environment: ‘Unless the environmental rule of law is strengthened, even seemingly rigorous rules are destined to fail and the fundamental human right to a healthy environment will go unfulfilled.’<sup>363</sup>

### **5.2 Challenges for Sound Environmental Management Due to the OPT and Conflict**

There are numerous obstacles to safeguard and promote the environment and its related human rights during the Israel-Palestine Armed Conflict. The main challenge is, though the laws related to the environment and human rights protection have become mainstreams around the world; still the deficit of State responsibility and political will, ineffective enforcement of environmental rules and governance, and insufficient public awareness remain these laws bookish. For instance, lack of laws and implementational non-success in the environmental and human rights agreements, missing performance of laws in domestic level;<sup>364</sup> analytic shortfalls of environmental governance and mandates,<sup>365</sup> scarcity of collaboration, negotiations, and sovereignty over natural resources made these challenges more inflexible. Alongside, political interference, disobedience of legal and general norms of laws, and mismanagement by authorities or states itself confined the ways of conservational protection.<sup>366</sup> Specially in the Israel-Palestine Armed Conflict, the security sectors of both countries are influenced by

---

<sup>363</sup> UNEP (2019), ‘Environmental Rule of Law: First Global Report. United Nations Environment Programme.’ Also available at [https://www.unep.org/resources/assessment/environmental-rule-law-first-global-report?\\_ga=2.164420152.681107989.1682324155-449660479.1682324155](https://www.unep.org/resources/assessment/environmental-rule-law-first-global-report?_ga=2.164420152.681107989.1682324155-449660479.1682324155)

<sup>364</sup> Michael Bothe, Carl Bruch, Jordan Diamond, and David Jense, ‘International law protecting the environment during armed conflict: gaps and opportunities’, pp. 571-591.2010.

<sup>365</sup> UNEP Report: Anna Manikowska, ‘State of Environment and Outlook Report for the occupied Palestinian territory 2020’, p.151.

<sup>366</sup> Jad Isaac & M. Ghanyem, ‘Environmental Degradation and the Israeli - Palestinian Conflict’, pp.13-19.

different legal systems and traditions. Therefore, the rules and regulations on environmental matters and nature related human rights are suffering with complexity. Due to different legal origins, the governances of these States are overlapped and the gaps between regulation and their imposition are uprising. These challenges are also limiting the coordination between the corresponding authorities and their ascendancies.<sup>367</sup> Moreover, Israel has control over all land crossings and entry points to the West Bank. It means neither merchandise nor human are allowed to mobile inside the territory of West Bank without the approval by Israel. These sort of territorial divisions, legal complexities regarding different legal provisions and political instabilities pose significant harm over the environment and human rights.

Fundamentally, environmental challenges of the Israel-Palestine Armed Conflict are three folded. Firstly, under the OPT Palestine is facing dramatic environmental dilemmas by biodiversity loss, land fragmentation, environmental pollution, climate change, waste depletion, loss of agriculture, environmental degradation, and detriment of related human rights as well as health.<sup>368</sup> Secondly, sovereign rights of Palestine are on gunpoint since 1967 due to Israel's restrictions on Palestine's over natural resources, whereas, sovereignty over natural resources is one of the key elements for any nation to achieve sustainable development and sound environmental management.<sup>369</sup> Without the ability to regulate or access in own land, water resources and other natural resources, it is not possible for Palestine to maintain their natural ecosystems and environment.<sup>370</sup> Thirdly, Israel has prevented the access rights of Palestinian management agencies in most of the protected areas on the West Bank (e.g., Jordan Valley, the Eastern Slopes). These rights have been considered as the pillars for sound environmental governance, and emerged to be especially important in promoting transparent, inclusive, and accountable environmental regime.<sup>371</sup> Nevertheless, Palestine is lacking from such rights and these lacking made their environmental challenges even deeper. Consequently, the Palestine's Environmental Quality Authority (EQA) fails to perform and build proper governance as well as institutional frameworks like, evaluation and reporting. Because they are not independently getting active in managerial plans for the protection

---

<sup>367</sup> Report on the occupied Palestinian Territory by the DCAF- Geneva Centre for Security Sector Governance, 'Stocktaking of Security Sector Roles in Climate and Environmental Security', 2022, pp. 5-6.

<sup>368</sup> Leonardo Hosh and Jad Isaac, 'Environmental Challenges in Palestine and the Peace Process', pp. 4-17.

<sup>369</sup> Jad Isaac and Mohammad Ghanyem, 'Environmental Degradation and the Israeli - Palestinian Conflict', p.14.

<sup>370</sup> Rashed Al-Sa'ed and Ahmad M. Al-Hindi, 'Challenges of transboundary wastewater management for Palestinian communities along the Green Line – The Israeli Palestinian border', chap.13, p.206.

<sup>371</sup> The Rio Declaration on Environment and Development, 1992.

and sustainability of the environment.<sup>372</sup> Besides these, the Environmental Impact Assessment (EIA) (it falls under the authority of EQA) is lacking from clear quality assurance process, standardize process for the environmental protection and sustainability, information, training, certification, licensing, and data management for environmental betterment.<sup>373</sup> Consequently, Palestinian's EQA faces numerous challenges for achieving their objectives of protecting the environment and human health, curbing and reducing the depletion of natural resources. Due to inadequate application of laws, EQA is facing obstacles for combating desertification, preventing the aggravation of environment pollution, promoting environmental awareness, and ensuring sustainable environmental development.<sup>374</sup> These challenges not only remain weak governance and institutional framework for EQA; but also remain a frailty in coordination mechanisms. Such coordination is lacked from support and empowerment, also inadequate in human and financial resources that is require for an environmental management plan. These limitations are immense barriers for environment and environmental related human rights protections during the Israeli-Palestine armed conflict.<sup>375</sup>

### **5.3 Limitations of the Existing Laws and Agreements**

#### **5.3.1 Issues in Connection to IHL**

Although the IHL is known for its specific rules to protect the environment during a conflict, it has a broad range of applicability that sets a high threshold for environmental vandalization. Because IHL is containing requirements and instructions on what kind of environmental damage is prohibited. Additionally, a significant criticism of the entire IHL framework remains due to the lack of State adherence to IHL standards and legal qualification, even where they are signatories to the relevant treaties.<sup>376</sup> Hence, the UN has concluded that 'the current framework of international environmental governance is weakened by institutional

---

<sup>372</sup> UNDP Report, Karlstedt, Cecilia, Torbjörn Öckerman, Muna Dajani, and Suleiman Daifi. 2014, 'Organisational Review of the Palestinian Environment Quality Authority (EQA). SIDA. Available at <https://erc.undp.org/evaluation/managementresponses/keyaction/documents/download/411>.

<sup>373</sup> Enos E. Esikuri, Ayumi Koyama and Glenn S. Morgan, 'West Bank and Gaza Environment Priorities Note', pp.14-15.

<sup>374</sup> UNEP report, 'State of Environment and Outlook Report for the occupied Palestinian territory 2020,' pp.154-155.

<sup>375</sup> Carsten Stahn, Jens Iverson, and Jennifer S. Easterday, 'Environmental Protection and Transitions from Conflict to Peace: Clarifying Norms, Principles, and Practices', Chap 9.2.3: National sovereignty and its limits.

<sup>376</sup> ICRC report (2007), 'International humanitarian law and the challenges of contemporary armed conflicts', pp-724-726 & 738-739. See also, the sole exception is set out in Article 1(4) of Additional Protocol I and is subject to specific conditions, i.e., the existence of a war of national liberation.

fragmentation and specialization and lack of a holistic approach to environmental issues and sustainable development.<sup>377</sup>

According to International Law Commission, under the current international law framework the environment is even more vulnerable during NIAC compared to IAC.<sup>378</sup> The governance of the body of IHL treaty and customary law during a NIAC is limited due to the lack of explicit treaty obligations. Additionally, the legal obligations under IHL have less restrictions over IAC.<sup>379</sup> As the Israel-Palestine Armed Conflict is simultaneously running both IAC and NIAC with undetermined treaty rules and the legal obligations towards the parties; thus, the environmental and human rights protections are more limited in this conflict. Furthermore, the case laws, e.g., ICJ's case laws are assumed to have the status of CIL and they are equally applicable to IAC and NIAC. However, these case laws of international bodies on IHL matters are not sufficiently comprehensive, and they carry subsequently unclear provisions of IHL for protecting the environment during an armed conflict.<sup>380</sup> Additionally, there is also a lack of IHL-based case law relevant for armed conflicts, as there has been a limited number of environmental related cases brought before the international courts.<sup>381</sup> As a result, it causes disinclinations in enforcing precautions for the environmental preservation and nature related human rights.

Basically, NIAC is governed by the Common Article 3 to the four Geneva Conventions of 1949 and by the AP II of 1977 to the Geneva Conventions. This Article apply equally to all parties to an armed conflict, government, and rebels. Such nature of Common Article.3 has made its application very general. Moreover, the AP II of 1977 to the Geneva Conventions develops and supplements the Common Article 3 common without modifying its existing conditions of application. Parallellly, there is a lack of common legal definition between the 1949 Common Article 3, the 1977 Additional Protocol II; and the AP II relating to the protection of victims of NIAC does not contain a direct provision to protect the environment. Besides these, the Common Article 3 contains the basic and minimum guarantees applicable

---

<sup>377</sup> United Nations Report of the Joint Inspection Unit for 2008 and programme of work for 2009. General Assembly Official Records Sixty-third Session, Supplement No. 34.

<sup>378</sup> Analytical Guide to the Work of the ILC, 'Protection of the environment in relation to armed conflicts', also available at [https://legal.un.org/ilc/guide/8\\_7.shtml](https://legal.un.org/ilc/guide/8_7.shtml).

<sup>379</sup>David Jensen and Silja Halle, UNEP Report:2009, 'Protecting the Environment During an Armed Conflict: An Inventory and Analysis of International Law', Job No.: DEP/1191/GE, p.28.

<sup>380</sup> Ibid.

<sup>381</sup> Ibid, p.51.

in an NIAC without providing any specific definition of this sort of armed conflict.<sup>382</sup> Hence, these limitations made the field of environmental and human rights defence even more challenging during an NIAC. Additionally, this Article has no direct effect on the legal status of the parties, and itself does not constitute any recognition by the de jure (legal) government. Consequently, the government authorities and the occupy power are still entitled to suppress an insurgency over environmental issues by all legitimate means under domestic legislation.

383

Although the GC of 1949 have been universally ratified and many of their provisions are considered to constitute an integral part of customary IHL, however, it is still difficult to put obligations over States for environmental destructions. Because a significant number of States are not parties to the Additional Protocols. For instance, Israel has not ratified AP I and II of GC<sup>384</sup> whereas Palestine has ratified them.<sup>385</sup> Therefore, it is reducing the legal obligations for environmental destruction and making the environmental protections more challenging.

Furthermore, Articles 35 and 55 of AP I do not adequately protect the environment during armed conflicts due to the requirements to demonstrate damages. For instance, to impose liabilities over a State for an environmental destruction, violation of three provisions must be proven- 'widespread, long-term and severe damage of environment.'<sup>386</sup> Although in an armed conflict the right of the parties to choose methods or means of warfare is limited, still it is challenging to prove such violation or measure the damage.<sup>387</sup> Moreover, those provisions are not specifically focused on the prohibition of means and methods causing damage as refer in Article 35(3) of AP I, rather they are focusing on the State parties' obligation for 'taking care' of the environment against such harms. The threshold of 'care' is also mentioned in Article 55(1) of AP I, where it is limited to prevent or taking actions for such preventions. Because it works only where that environmental damage is severe in long race.<sup>388</sup>

---

<sup>382</sup> The Practical Guide to Humanitarian Law, 'Non- international Armed Conflict (NIAC),' available at <https://guide-humanitarian-law.org/content/article/3/non-international-armed-conflict-niac/>

<sup>383</sup> Ibid.

<sup>384</sup> ICRC, Treaties, States Parties and Commentaries, Israel.

<sup>385</sup> Ibid, Palestine, Additional Protocol (I) to the Geneva Conventions, 1977, Ratification / Accession:02.04.2014 Declaration Article 90: 26.03.2018 and Additional Protocol (II), Ratification / Accession:04.01.2015.

<sup>386</sup> ICRC, 'The Environment and International Humanitarian Law, Part B: United Nations Environment Programme 2009: Protecting the Environment During Armed Conflict'; 2.2 Treaty law: 'Provisions specifically aimed at protecting the environment during armed conflict'.

<sup>387</sup> See Geneva Convention, Additional Protocol I, Articles 35 (1, 3)

<sup>388</sup> K. Hulme, 'Taking care to protect the environment against damage: a meaningless obligation? pp.676-682. See also Article 55 (1), 'Protection of the natural environment' of API, GC 1949.

The EU committee on Social Affairs, Health, and Sustainable Development of 'The Parliamentary Assembly' also reported that, the international legal framework provides a limited protection of the environment in times of armed conflict based on IHL instruments. For instance, the ENMOD Convention provides very limited impact on the modern armed conflicts and less effective over other obligations those are relevant to environment in the conduct of hostilities. Because the interpretation of the notion of this Convention is not clear and it is only applicable during IAC. Therefore, such limitations are narrowing the scope of human rights and environmental protection during an armed conflict.

### **5.3.2 Challenges Regarding the Implementation of Laws and Agreements**

The foremost limitation for environmental protection during a conflict time is the unclear and variation in application of IEL. Such as, some MEAs directly or indirectly protect environment and its human rights during an armed conflict; whereas some MEAs are automatically remain suspended, terminated, inapplicable or silent once armed conflict begun.<sup>389</sup> Another challenge is, for some MEAs their language is not clear enough to determine their application during a conflict. Additionally, LRTAP holds the lack of certainty and direct responsibility for States in its provisions which make them difficult to enforce. It imposes less liability and rely more on negotiation,<sup>390</sup> and such attitude cannot bring a practical solution for Palestine's environmental loss. Moreover, the Basel Convention only contains a general provision stating that, it is not intended to override other international instruments governing the ocean.<sup>391</sup> These limitations of MEAs are certainly a challenge for Palestine to design appropriate environmental management strategies for preventing the environmental degradations and impose a sustainable development for the nature and human rights.<sup>392</sup> These limitations and inexplicit provisions of laws also set Israel free from the State liability in many cases, although the breach of MEAs arises State responsibilities.

Furthermore, the relationship between the IEL and IHL is uncertain because, it does not provide much concrete explanations or criteria for rules those bind a military entity during various types

---

<sup>389</sup> UNEP Report 2009, 'Protecting the Environment During Armed Conflictan Inventory and Analysis of International Law', pp.34-35.

<sup>390</sup>Convention on Long-Range Transboundary Air Pollution (1979), Fundamental Principles: Article 2, 13 November 1979, 1302, UNTS 217.

<sup>391</sup> Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal, Article IV (12), 22 March 1989, 1673, UNTS 126.

<sup>392</sup> Couzens, Ed, and Melissa Lewis. "International environmental law." International Environmental Law-making and Diplomacy: Insights and Overviews, pp.115-118, 2016

and phases of engagement with environmental issues. There are numerous commentaries on which international environmental principles might constitute customary IEL. However, there are few commentaries regarding their applications. For instance, there are less commentaries to express that, whether and how customary IEL applies during an armed conflict.<sup>393</sup> Besides that, most of the commentaries on environmental issues reflect that, customary IEL continues to apply in the same manner to MEA during an armed conflict.

Parallely, obstacles regarding the implementation of existing agreements drags the intricacy, e.g., the failure of the implementation of Oslo II pushes the environment of Palestine towards contamination, also limits the environmental recovery.<sup>394</sup> The main objective of the Interim Agreement (Oslo II) was to establish peace between Israel and Palestine and to protect the human rights and the environment. However, the primary obstacle for its implementation was the lack of negotiations. Since 1995 till now the total devoted negotiating time for the progress of the declaration is very slow, limited, and complex. For instance, during the bilateral discussion between the parties often the Israeli representatives offers a restrained and strictly limited transfer of powers while they have responsibility for maintaining the security regarding OPT. Whereas, Palestinians demands a quick and extensive transfer of power for their sovereignty.<sup>395</sup> This contradictory and measured process of Oslo II grasps lots of time, equally fails to find a sustainable solution for the Israel-Palestine Armed Conflict. Consequently, the conflict is continuing by distressing the natural environment along with human rights.<sup>396</sup> Under the soft law instruments, it is also challenging to impose protective actions for environment related issues. Due to their non-binding nature, there are limitations for the legal frameworks and enforcement of soft laws, unless they reach the level of CIL.<sup>397</sup> For example, the Stockholm and Rio Declarations both agreements are key soft law documents of IEL and true pioneers in global environmental governance; still cased to their non-binding nature it is difficult to assure the protection entirely.<sup>398</sup> Therefore, although Declarations, Charters and Agendas as a form of

---

<sup>393</sup> UNEP Report:2009, 'Protecting the Environment During Armed Conflictan Inventory and Analysis of International Law', p.45-46.

<sup>394</sup> Hosh, Leonardo, and Jad Isaac. "Environmental Challenges in Palestine and the Peace Process." Applied Research Institute Jerusalem. Bethlehem: ARIJ, p.18, 1996.

<sup>395</sup> A. Shlaim, 'The Rise and Fall of the Oslo Peace Process', Oxford University Press, 2005, pp.241-261.

<sup>396</sup> Bagheri. S, 'Perhaps Lawful, but Awful: The Environmental Impacts of the Israel-Hamas War' (2023), available at <https://www.lawfaremedia.org/article/perhaps-lawful-but-awful-the-environmental-impacts-of-the-israel-hamas-war>

<sup>397</sup> Couzens, Ed, and Melissa Lewis. "International environmental law," pp.119-123, 2016.

<sup>398</sup> UNEP Report:2009, 'Protecting the Environment During Armed Conflictan Inventory and Analysis of International Law,'p.40.

soft law contains more guiding principles to the protect environment and its belonging human rights; still it is often difficult for states to impose them in practicality due to the lack of rigid characteristics.

Alongside, the ICRC rules emphasize general humanitarian principles to protect the natural environment during an armed conflict, e.g., ‘the principle of distinction, necessity, and proportionality.’<sup>399</sup> However, these principles probably not be sufficient to limit such damages due to their limited practical effectiveness. In addition, the ICRC emphasizes the importance of taking precautionary measures in absence of scientific knowledge on harmful effects of weapon in the environment. The vital operational challenge for ICRC is to ensure its access towards victims’ human rights during an armed conflict and other situations of violence.<sup>400</sup> Such access is becoming more difficult in a changing conflict environment because of security constraints. Even the implementation of existing rules and legal frameworks on environmental protection became challenging. Because the implementation of the ICRC guidelines and ILC’s PERAC principles has been initiated, however it has not yet been conclusively resolved during their preparation.

## **5.4 Other Limitations**

### **5.4.1 Existence of Single General Rules and the Absence of Specific Rules**

There is existence of only ‘single general rules of eco-protection’ on the environmental protection during armed conflicts, which means there are absence of ‘specific environmental rules’ for environmental conservation. Such general rules are derived from the basic principles of distinction, proportionality, avoidance of unnecessary suffering and humanity. As mostly the protective environmental regulations are derived from doctrines, provisions, and general principles of law, therefore, it is often questioned to set a sustaining solution on environmental issues. Alongside, absence of specific rules for the prohibition of environmental modification techniques,<sup>401</sup> lack of legal obligations and convincing assessment on environmental issues by

---

<sup>399</sup> ICRC, ‘Guidelines on the Protection of The Natural Environment in Armed Conflict: Rules and Recommendations Relating to The Protection of The Natural Environment Under International Humanitarian Law, with Commentary,’ pp. 46-60.

<sup>400</sup> ICRC, Jakob Kellenberger, ‘Challenges faced by ICRC and international humanitarian law (IHL).’

<sup>401</sup> Carsten Stahn, Jens Iverson, and Jennifer S. Easterday, ‘Environmental Protection and Transitions from Conflict to Peace: Clarifying Norms, Principles, and Practices’, Chap 9: Legal Protection of the Environment The Double Challenge of Non-International Armed Conflict and Post-Conflict Peacebuilding’, p.204, 2017.



State authorities, uncertainty of the contents of existing rules, and non-appearance of clear legal guidance makes the environmental protection even more challenging.<sup>402</sup>

#### **5.4.2 Absence of Common Concern and the Results of Negligence**

In contrast to the international environmental protection regulations, both Israel and Palestine seem unconcerned about the necessity of a safe environment. Additionally, the presence of anthropogenic negligence behaviour towards environment and occupation limits the safety of natural environment. These obstacles are present in both national and international levels. Therefore, according to the research both States show negligence in use of natural environment during the armed conflict. Specifically, Israel's intentional use the natural resources for own well-being rather than following international provisions of occupation is huge calamity<sup>403</sup>

#### **5.4.3 The Impact of Lack of Information and Enduring Global Mechanism on State Responsibility**

The lack of State responsibility has made the preservation of nature even more challenging during the Israel-Palestine Armed Conflict. Lighting on the ILC's Articles on the Responsibility of States for Internationally Wrongful Acts (ARSIWA)<sup>404</sup> it concerns the global environmental crisis. ARSIWA covers 'the State responsibility' for environmental protection in a form of CIL.<sup>405</sup> It protects environment, and it connected human rights by primary and secondary rules. For instance, MEAs include both primary and secondary rules for environmental and human rights protection. Nevertheless, MEAs are more firmly working on primary rules by referring only to the basic scenario involving a bilateral relationship between two States to guard State interests only, rather than giving much attention on the secondary rules e.g., state responsibilities over environmental issues. Moreover, the absence of clarity regarding the role and relations among responsible States triggers the lack even deeper.<sup>406</sup>

Another most challenging limitations is the lack of permanent international mechanisms for monitoring the legal infringements and addressing compensation claims for environmental

---

<sup>402</sup> Report of the International Law Commission, 2011, Annex E, UN-Doc A/66/10, 347.

<sup>403</sup> UNHR report (2019), 'Report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967', agenda item.7, UN Doc. A/HRC/40/73

<sup>404</sup> ILC's Article 8.

<sup>405</sup> Ginevra Le Moli, The European Journal of International Law, 'State Responsibility and the Global Environmental Crisis', 2019.

<sup>406</sup> Ibid. Also see also. [Trail Smelter Arbitration, 1941](#).

damage during the Israel-Palestine Armed Conflict. This dearth arises severe obstacles to claim reparation from Israel for the environmental destructions during the OPT.<sup>407</sup> Additionally, Palestine's local government units lack the technical capacity for managing wastewater, solid waste, industrial pollution, and hazardous waste on the ground with effective delivery systems.<sup>408</sup> Such insufficiency of monitoring severely limits the State responsibility that requires reparation for the victims of armed conflict (including environment) under the Hague Convention.<sup>409</sup> As there is no comprehensive national environmental information system available for monitoring the state of the environment under the OPT, hence, the term 'State responsibility' is challenging to apply during the Israel- Palestine Armed Conflict.<sup>410</sup>

## **5.5 Suggested Actions and Strategies**

### **5.5.1 Observance of the IHL with a Development of CIL**

In year 2023, ICRC in a discussion at the regional expert seminars mentioned that, improving compliance with IHL is the most challenging matter in armed conflicts, especially in NIAC and relation to non-State parties.<sup>411</sup> However, international law has established clear legal obligations for the parties to armed conflict and for States party to the Geneva Conventions in terms of ensuring respect for IHL. Hence, respect, better implementation, and stricter monitoring towards the IHL need to impose both in national and international level to reduce the jeopardy of environment and human rights. Additionally, following the statements of ICJ must be seen as a priority for such observation. For instance, ICJ recommended the obligation to respect and ensure respect for IHL under Article.1 of the ICRC.<sup>412</sup> Hence, compliance with the recommendations of ICJ may minimise the environmental degradation. Moreover, ICRC Rule.26 mentioned about the obligations to respect and ensure respect for IHL, including the

---

<sup>407</sup> Sandrine Maljean-Dubois, Vanessa Richard, 'Mechanisms for monitoring and implementation of international environmental protection agreements', pp.15-16, 2004.

<sup>408</sup> UNEP Report: 'State of Environment and Outlook Report for the occupied Palestinian territory 2020', p. 153.

<sup>409</sup> Art. 3 Hague Convention (IV) Respecting the Laws and Customs of War on Land (18 October 1907) 2 AJIL Supplement 90–117 (1908); Art. 91 AP I. (See also) International Law Association, Declaration of International Law Principles on Reparation for Victims of Armed Conflict (Substantive Issues), adopted at the seventy-fourth ILA Conference (The Hague, 2010), and Procedural Principles for Reparation Mechanisms, adopted at the seventy-sixth ILA Conference (Washington DC, 2014).

<sup>410</sup> UNEP Report 2020, p.153.

<sup>411</sup> ICRC (2004), 'Improving Compliance With International Humanitarian Law,' also available at [https://www.icrc.org/en/doc/assets/files/other/improving\\_compliance\\_with\\_international\\_humanitarian\\_law.pdf](https://www.icrc.org/en/doc/assets/files/other/improving_compliance_with_international_humanitarian_law.pdf). See also, ICRC report (2007), 'International humanitarian law and the challenges of contemporary armed conflicts', p.743.

<sup>412</sup> ICJ recommendation, 'Respect for IHL, States and other parties to an armed conflict have an obligation to "respect and ensure respect for" IHL "in all circumstances." (Art. 1 common to the Geneva Conventions)'.

rules protecting the natural environment.<sup>413</sup> Therefore, if both Israel and Palestine compliance the ICRC guiding principles with IHL during the armed conflict, it can already exceedingly protect the environment and human rights.

Besides that, a serious attention over the development of CIL can bring a strong positive impact on the environmental and human rights safety during IAC and NIAC. The main advantage of CIL is it is applicable to all parties to an armed conflict regardless State and non-State. It also works independently in any formal ratification process. A development of CIL also heals the rudimentary nature of treaty law because it exists independent of treaty law, fill up the gaps those left by the treaty law and strengthen the shield victims including environment. Equally, such solidification can enlarge the muscularity of the rules of IHL during armed conflicts. For instance, the solidification and practice of the 'common Article 3' is a must during Israel-Palestine Armed Conflict, while ICJ has addressed this Article as a 'elementary consideration of humanity' and that must be observed in all types of armed conflict as a matter of CIL.<sup>414</sup> As mentioned before, the nature of the running Israel-Palestine Armed Conflict consists of both IAC and NIAC and the rules regarding NIAC is more limited compared to IAC. Hence, a development in the clarification and implementation of CIL can solve this substantive challenge to a great degree. This is because, a development of CIL (common Article 3) may particularly determine the 'party to the conflict' (either governmental or non-governmental armed groups) that will ultimately ease the implementation of all possible regulations to protect the nature and environmental related human rights during the Israel-Palestine Armed Conflict.<sup>415</sup>

Furthermore, the international regulations on occupation are based on CIL. It means that a development of CIL can automatically advance the international regulations regarding occupation and can be enforced more strictly.

Equally, the terms of Martin Clause on laws of humanity and the ICRC guidelines should be also considered as a major topic of general discussion for government and international politics

---

<sup>413</sup> ICRC, Guidelines on Respect for, Implementation and Dissemination of International Humanitarian Law Rules Protecting the Natural Environment, Part.IV.

<sup>414</sup> International Court of Justice, *Nicaragua v. United States*, para. 218.

<sup>415</sup> ICRC report (2007), 'International humanitarian law and the challenges of contemporary armed conflicts', pp-741-743.

due to their autonomous normative value under international law.<sup>416</sup> It requires a raising public conscience as well.<sup>417</sup> Till now, ICRC rules contain the best solutions to protect human rights over environment for present and future generation. Hence, it should be more developed and solely observed under IHL.<sup>418</sup> On the other hand, Martin clause belongs to both treaty law and CIL. Due to that, all countries must seriously take Martin Clause rules into consideration to avoid the environmental and human rights degradation.

Additionally, while the prime challenges of CIL are formulated in a general form without any sufficient guidance for detaining authorities; therefore, for the protection of the natural environment in situations of Israel-Palestine Armed Conflict both parties should realise the interpretations of these all four Geneva Convention provisions (1949) and must strictly obey them.

### **5.5.2 Advancement of the IHL, Treaties and Maintaining International Standards in Strategies**

As IHL is largely based on treaties, therefore, both Israel and Palestine must agree on adopting treaty rules to advance the environmental protection during this conflict. Particularly, the purpose, context and characteristics of present international treaties needs to be understood and obey for environmental safety. For instance, treaty regulations should be specific to accomplish the private and public interest and must be maintainable or alterable by the parties. It also requires constant follow-up on international treaties and strategic discussion both in national and international level to identify the gaps.

Parallely, all States and parties of conflict should integrate IHL into their field manuals. For example, all States' armies should include international standards by additional training, instruction, procedures for armed forces. They must add regular activities, training programmes and international legal provisions into their Defence's reference manuals as well. States who are engaged in armed conflicts (e.g., Israel, and Palestine) must understand the complexity of

---

<sup>416</sup> The meaning of the Martin Clause, see ICRC, Commentary on the First Geneva Convention, 2016, paras 3290–3298, providing further references that are omitted here. The present commentary on Rule 16 reflects those paragraphs of the commentary on Article 63.

<sup>417</sup> ICRC, 'Guidelines for Military Manuals and Instructions on the Protection of the Environment in Times of Armed Conflict', para.7.

<sup>418</sup> International Conference of The Red Cross and Red Crescent report, 31<sup>st</sup> session, 'Strengthening legal protection for victims of armed conflicts', 31IC/11/5.1.1, 2011, p.20.

loss of nature, parallelly, must follow certain detailed learning of IHL by taking environment into consideration. These specific identifications are needed to be assured before setting-up strategies to fill-up the gaps of law by reconciliation.

### **5.5.3 Development and Practice of the IEL and Environmental Agreements**

During an armed conflict, the IEL requires to be understood, respected, and enforced in benefit of environmental protection and enjoyment of human rights. Environmental rule of law carries the frameworks to fill-up the gap between environmental laws in the books and practicality. IEL also underpins the four pillars of sustainable development, namely, economic, social, environmental development, and peace.<sup>419</sup> Therefore, the value of IEL must be prioritized and evolved by developing the key provisions on effective implementation. It requires more direct legal provisions, rather than the existing indirect provisions. IEL also needs comprehensive provisions regarding waste management, biodiversity, air quality, noise, and water quality and environment related human rights. For that, a detailed and global guidance with policy statements in the interpretation of IEL is necessary. Such global guidance must clarify the environmental law, its terminologies and implementation. To achieve this goal, the UNEP could lead a global initiative by developing its guidelines. Additionally, international agreements based on IEL need to be revised and restructured.<sup>420</sup> Such as, terms of MEAs should have clear languages and must provide rigid environmental protections by strict laws. MEAs should follow 'classification theory', combining with 'intention theory', and must contain references to their application. Because 'classification theory' categories of environmental laws that determine their application during armed conflict and 'intention theory' are the closest possibilities of parities' original intention towards the treaty.<sup>421</sup> Hence, MEAs like Basel Convention needs to include more firmed environmental safety provisions than general provisions. However, a lightful hope is that, many countries already have started in building institutional capacity, governance, accountability, and integrity of environmental agencies, courts' empowerment, and civic interference to ensure the implementation of the environmental law and to raise normative importance of IEL.<sup>422</sup> Therefore, the leaders of the Isarel-Palestine Armed Conflict should follow the same approach, also must connect and read

---

<sup>419</sup> The four pillars are enshrined in the 2030 Agenda for Sustainable Development, UNGA 2015, A/RES/70/1.

<sup>420</sup> UNEP report (2019), 'Environmental Rule of Law: First Global Report,' pp.1-34.

<sup>421</sup> For a discussion of intention theory, see Luan Low and David Hodgkinson, 'Compensation for wartime environmental damage: challenges to international law after the Gulf War', in *Virginia Journal of International Law*, Vol. 35, No. 2, 1995, p. 405.

<sup>422</sup> UNEP report 2019, pp.1-34.

the IEL along with IHL and IHRL in their current situation. Furthermore, circumstances and seriousness of environmental and human rights damage during the armed conflict must be tested under these mentioned laws for establishing liabilities. For that, both Israel and Palestine must build stronger environmental institutions by ascertaining appropriate mandates and skilful managements in their governments, as well as in armed forces. They must coordinate across all the levels of their own governmental sectors, find reliable data, and must ensure fair and consistent enforcement of environmental law in their systems.<sup>423</sup> Supportively, they need to observe the UNEP guidelines seriously for the betterment of armed conflict situation.

#### **5.5.4 Stricter Compliance with the Law of Occupation**

The international law of belligerent occupation must be explicitly understood and followed by the occupying power of the Israel-Palestine Armed Conflict. Such as, under this law, the occupying power (e.g., Israel) is allowed only to exercises a provisional and temporary control over foreign territory (e.g., Palestine); and it is the duty of Israel to safeguard the natural resources, environment, and human rights of the occupied territories.<sup>424</sup> Hence, Israels compliance with the law of occupation can solve both environmental and human rights issues of this running conflict.

#### **5.5.5 Adoption of the Specific Legal System**

In the case of Israel-Palestine Armed Conflict the security sectors of both countries are influenced by different legal systems and traditions. Due to different legal systems and cultures, it is not easy to settle environmental and human rights matters for these States.<sup>425</sup> Therefore, the security sectors of these States require to adopt specific legal systems to address the general environmental and human rights issues that occur from this ongoing conflict.

#### **5.5.6 Adoption of More Hard Law Than Soft Law on Environmental Issues**

Environmental safeguards demand to adopt more hard law than soft law; and more regulations compared to guiding principles. Therefore, to protect environment it is needed to impose liabilities and restrictions over States on severe damage during armed conflict. It also requires

---

<sup>423</sup> UNEP report 2019, pp. 25-33.

<sup>424</sup> 'Duty of occupying power', 1907 Hague Regulations (Arts 42-56) and the GC IV (Art. 27-34 and 47-78).

<sup>425</sup> Shehadeh.R, 'Multiple Legal Systems in the West Bank,' available at <https://pij.org/articles/1681/multiple-legal-systems-in-the-west-bank>

the right of the parties to choose the methods or means of warfare to be limited rather than relying on mere terms like, 'taking care of environment'. Specifically, in the event of Israel-Palestine conflict mandatory observation of rules will work more than internal thinking of right or wrong. Additionally, existing soft law instruments require proper implementation strategies, e.g., "Best Available Techniques" to control them.

## **5.6 Other Recommendations at the International Levels**

### **5.6.1 International Solidarity with Common Environmental Goals**

According to Ilze Brands Kehris, the United Nations Assistant Secretary-General for Human Rights, the: 'International community need to act with single-minded purpose and solidarity to deploy every possible resource to protect and fulfil the human rights to a healthy environment'.<sup>426</sup> This responsibility must cover common goals without delay or denial. For example, both Israel and Palestine must collectively observe the United Nations recent resolution no. 48/13, 2021 for 'access to a healthy environment' as human right.<sup>427</sup> They need to set common goals e.g., sustainable development goals for healthy environment as a form of human rights. They can accomplish such target by ensuring the availability of sustainable management for water and sanitation, and conservation of natural environment during the running armed conflict.<sup>428</sup> In case of severe environmental destruction and breaching of peace and security that include also human rights during the Israel-Palestine Armed Conflict, an international intervention can be made by the world community. For instance, the UN Security Council (UNSC) is tasked by the UN Charter for maintaining the international peace and security. Due to that, it is possible for the UN member States to engage in an international interference for the Israel-Palestine issues under the UNGA's landmark Resolution of 1950. This resolution is known as 'Uniting for peace.' Under this Resolution, in case of a breach of the peace or act of aggression which also includes armed conflict; the UN's entire members can intervene in the Israel-Palestine Armed Conflict to maintain or restore international peace and security.<sup>429</sup> However, before such intervention, all member States of UN must follow the

---

<sup>426</sup> United Nations, 'Right to healthy environment: Access to a healthy environment, declared a human right by UN rights council', resolution no. 48/13, 2021. Also available at <https://www.ohchr.org/en/statements-and-speeches/2022/04/right-healthy-environment>

<sup>427</sup> Ibid.

<sup>428</sup> Midden, Cees JH, Florian G. Kaiser, and L. Teddy McCalley: 'Technology's four roles in understanding individuals' conservation of natural resources,' pp. 155-174.

<sup>429</sup> UNGA, *Uniting for peace*, 3 November 1950, A/RES/377, available at, <https://www.refworld.org/docid/3b00f08d78.html>

IHL and IHRL, and they must be thoughtful about the motives and limitations of such intervention.

Moreover, international community should set regional management plans for protecting the Jordan River Basin under international norms to save the biological heart of the Middle East region.<sup>430</sup> Meanwhile, other countries of the world must take initiatives of peaceful negotiations to resolve the armed conflict rather than supporting specifically any one of these states. Concurrently, leaders across the region and the international community must focus on the development of the political motions of Israel and Palestine. They also need to put all efforts to secure the environment and nature related human rights of these region with a long-term political solution. Therefore, the UN Security Council is also asking international community to distinguish in their relevant dealings between the territory of the State of Israel and the territories occupied since 1967' with reference to the 'achievement of the two State solution'.<sup>431</sup>

### **5.6.2 Additional Roles of the UN and Its Security Council**

One of the best solutions for the environmental and its related human rights protection would be the application of the "variable-geometry theory" for negotiation, and to determine the applicable legal framework to the OPT or ending the occupation. This theory is basically a strategy that allows negotiations of issues to lead to an agreement that is non-binding on all the parties to the agreement and interprets the occupation law.<sup>432</sup> The legal basis of the theory could be found in Article 6(3) of the GC IV, which implies a division of responsibilities between the occupying power and the local government, as well as accompanies for halting the occupation process.<sup>433</sup>

Moreover, to solve the issues between Israel and Palestine, UN can use the law of occupation for its operations, commands and control.<sup>434</sup> Since 1967, numerous UNSC resolutions are calling for the withdrawal of Israeli military forces from the occupied territories of Palestine and for an acknowledgment of the sovereignty, territorial integrity, and political independence

---

<sup>430</sup> Jad Isaac and Mohammad Ghanyem, 'Environmental Degradation and the Israeli - Palestinian Conflict', p.30.

<sup>431</sup> UNSC/RES/2334 (2016).

<sup>432</sup> T Ferraro, ICRC report 2012, 'Occupation and Other Forms of Administration of Foreign Territory,' pp.31-33.

<sup>433</sup> GC IV, Art.6. See also, Art.42 of the Hague Regulations.

<sup>434</sup> T Ferraro, ICRC report 2012, p.34.



of both State.<sup>435</sup> These resolutions of the Council should be addressed seriously to find a permanent solution on environmental and human rights issues under the OPT. The United Nations Human Rights Council (UNHRC) in 2021 also adopted a resolution by recognizing the human right to a clean, healthy, and sustainable environment as an important human right.<sup>436</sup>

### **5.6.3 Role of ICC by Sanctions Against Illegal Exploitation**

According to ICC, Environmental destruction is a crime against humanity also a war crime.<sup>437</sup> Destruction of environment, wildlife, biodiversity, and natural resources during armed conflict is a ‘environmental crime’, therefore, criminal liabilities over environmental destruction and nature related human rights should be monitored and strictly imposed on Israel and Palestine conflict situation. Such as, ICC pursuant to Article 12(3) of the Rome Statute can take actions against Israel for environmental crime. Article 12(3) of Rome Statute states that, ‘if the acceptance of a State which is not a party to this Statute is required under paragraph 2, that State may, by declaration lodged with the Registrar, accept the exercise of jurisdiction by the Court with respect to the crime in question.’ For that, international community can may refer Israel to accept special jurisdiction of ICC. Addressing that, South Africa, Bangladesh, Bolivia, Comoros, and Djibouti, submitted a joint referral of the situation in Palestine to ensure that the ICC pays urgent attention to the grave situation in Palestine.<sup>438</sup>

Meanwhile, ICC can also take actions against the commanders and other superiors of the militant groups of the conflict under Article 28 of the Statute in case of illegal exploitation of human rights and natural environment.<sup>439</sup> The Pre-Trial Chamber of the ICC has already ruled that, it has jurisdiction over Rome Statute crimes committed during the Israel-Palestine Armed Conflict and OPT. Therefore, in accordance with regulation 25(1)(c) of the Regulations of the Office of the Prosecutor of ICC, the Prosecutor opens a preliminary examination to determine the situation of Israel and Palestine as a matter of policy and practice. Specifically, under article

---

<sup>435</sup> UNSC/RES/242 (1967), UNSC/RES/338 (1973), UNSC/RES/ 446 (1979), UNSC/RES/ 452 (1979), UNSC/RES/ 465 (1980), UNSC/RES/ 476 (1980), UNSC/RES/ 478 (1980), UNSC/RES/ 1397 (2002), UNSC/RES/ 1515 (2003), and UNSC/RES/ 1850 (2008).

<sup>436</sup> United Nations, ‘Right to healthy environment: Access to a healthy environment, declared a human right by UN rights council’, resolution no. 48/13, 2021.

<sup>437</sup> Article 8(2)(b)(iv) of the Rome Statute of ICC.

<sup>438</sup> ICC (2023), ‘Statement of the Prosecutor of the International Criminal Court, Karim A.A. Khan KC, on the Situation in the State of Palestine: receipt of a referral from five States Parties,’ available at <https://www.icc-cpi.int/news/statement-prosecutor-international-criminal-court-karim-aa-khan-kc-situation-state-palestine>

<sup>439</sup> Ibid, Art.12, 28.

53(1) of the Rome Statute, the Prosecutor shall consider issues of jurisdiction, admissibility, and the interests of justice in making of such determination.<sup>440</sup> Hence, in the absence of independent and faithful domestic investigations, the investigation of ICC is the best way for Palestinians and Israelis to get access in justice, reparations, and long-term solution. This situation also calls for the global governments to offer their full support towards the ICC actions and their accountability.<sup>441</sup> Already the ICC Prosecutor called for a preliminary examination and investigation for the situation in Palestine. It also seeking a ruling on the scope of the Court's territorial jurisdiction to prevent such crimes, which is certainly a new hope for the improvement of the environmental and human rights condition of Israel and Palestine.<sup>442</sup>

#### **5.6.4 Role of International Law Commission (ILC)**

In 2004, the GA has approved the ILC's proposal to include work on the 'effects of armed conflict on treaties' in its long-term programme. As a result, in 2008 ILC has adopted draft Articles to regulate the applicability of treaties during armed conflicts.<sup>443</sup> Those principles stated by the ILC should be globally observed as a form of responsibility to protect the natural environment during an armed conflict. States and organizations must also designate areas of major environmental significance as protected zones.<sup>444</sup> Such as, draft principle 6 suggested that, States and international organizations to include provisions on the environmental protection in agreements concerning armed conflict by adding preventive measures, impact assessments, restoration, and clean-up measures during a conflict time. Principle 9 imposes State responsibility regarding environmental damage during conflict. Principle 11 and 12 are concentrated in corporate liabilities and principle 13-17 are highly concentrated towards environmental protections in a collective way during a conflict time. Therefore, States should

---

<sup>440</sup> ICC (2021), 'State of Palestine: Situation in the State of Palestine (ICC-01/18: Investigation),' available at <https://www.icc-cpi.int/palestine>

<sup>441</sup> Saleh Higazi, 'An ICC investigation marks a long-overdue step towards justice for victims, and is a chance to end the cycle of impunity that is at the heart of the human rights crisis in the OPT' (Amnesty International 2021)

<sup>442</sup> ICC, 'State of Palestine: Situation in the State of Palestine', ICC-01/18, available at [State of Palestine International Criminal Court \(icc-cpi.int\)](https://www.icc-cpi.int)

<sup>443</sup> International Law Commission (ILC), Report of the International Law Commission, 59th Session, 7 May–5 June and 9 July–10 August 2007, paras. 266–324, UNGA Supp. A/62/10; ILC, Effects of Armed Conflicts on Treaties, UN Doc. A/CN.4/L.727/Rev.1, 6 June 2008; ILC, Effects of Armed Conflicts on Treaties, Addendum, UN Doc. A/CN.4/L.727/Rev.1/Add.1, 11 July 2008. The draft Articles were provisionally adopted and circulated to states for comment and observation, to be submitted by January 2010: ILC, Report of the International Law Commission, 60th Session, 5 May–6 June and 7 July–8 August 2008, para. 14, UNGA Supp. A/63/10.

<sup>444</sup> Report of the International Law Commission (Seventy-first session), Draft principles on protection of the environment in relation to armed conflicts, 'Protection of the environment in relation to armed conflicts. Principle.4: Designation of protected zones,' 2019. Also available at, [https://legal.un.org/ilc/documentation/english/reports/a\\_74\\_10.pdf](https://legal.un.org/ilc/documentation/english/reports/a_74_10.pdf)

adopt appropriate legislative and other measures along with ILC principles to protect the environment and human rights.<sup>445</sup>

Moreover, the ILC's decision to commence its work on a topic is mainly influenced by the status of the consideration of other topics and requests by the UNGA (e.g., special assignments or requests to give priority or work on certain topics) therefore, GA should exercise special assignments on ILC regarding environmental issues. In addition, the Commission by itself must prioritize the development of IEL and take this topic under consideration. The developments of ILC's role will also enlarge the progressive development of international law and will certainly provide appropriate guidance to States.<sup>446</sup> Consequently, it may lay a bounce for both Israel and Palestine to follow ILC Articles to minimizing environmental hazards.

### **5.6.5 Applying an Alternative Convention**

Obligations for protecting the natural environment in armed conflict should be implemented in national level by Israel and Palestine. For instance, as a party to the ENMOD Palestine should follow its rules, and as a non-state party Israel must respect the rules regarding OPT.<sup>447</sup> In such case, also an alternative environmental protection is possible by the application of CCW. Because CCW of 1980 is also designed with the same goals as ENMOD, and its Protocol III on 'Prohibitions or Restrictions on the Use of Incendiary Weapons' directly addresses environmental protection.<sup>448</sup> Israel has accessed to the CCW in 1995, and similarly by Palestine in 2015.<sup>449</sup> Therefore, both these parties are obliged to protect environmental under the CCW.

## **5.7 Other Recommendations at the National Levels**

### **5.7.1 Development of Oslo Accords**

The Oslo I and Oslo II Accords already reacted on the creation of institutional structures by the Palestinian Authority, namely the Palestinian Legislative Council (PLC) regarding the

---

<sup>445</sup> Ibid, principle: 6,9,11 & 12.

<sup>446</sup> ILC, 'Organization, programme and methods of work', also available at <https://legal.un.org/ilc/methods.shtml>.

<sup>447</sup> ENMOD Convention (1976), Art. IV.

<sup>448</sup> Convention on Certain Conventional Weapons (CCW or CCWC), 1980. Available at [https://www.icrc.org/en/doc/assets/files/other/icrc\\_002\\_0811.pdf](https://www.icrc.org/en/doc/assets/files/other/icrc_002_0811.pdf)

<sup>449</sup> List of parties to the Convention on Certain Conventional Weapons, online source [https://en.wikipedia.org/wiki/List\\_of\\_parties\\_to\\_the\\_Convention\\_on\\_Certain\\_Conventional\\_Weapons](https://en.wikipedia.org/wiki/List_of_parties_to_the_Convention_on_Certain_Conventional_Weapons)

environmental matters. It also indicated the responsibilities of Israeli Civil Administration in the OPT (especially in the West Bank). Hence, now the Oslo Accords must keep their sharp eyes on the actions of both Israeli Ministry of Environment and Palestine to protect the environment and human rights of those areas.<sup>450</sup> Building mutual trust, understanding and collaboration through cultural and educational programs might help to develop and reach the goal of this agreement. Moreover, a stricter law of occupation will ascertain the performance of occupying power. Consequently, if Israel follows their duties during the OPT, then by building resilience between these States it is possible to protect the environment and its connected human rights.

Additionally, the Palestinian Authority has developed an environmental strategy document to be updated every three to five years which emphasizes regional arrangements with neighbouring countries according to the Oslo II Accord. The authority also adopted a National Environmental Action Plan (NEAP) whose task is to work on general themes and priorities of the environmental strategy. These strategies and plans hold nine prioritized environmental themes to protect the environment. Hence, besides the development of the Israeli-Palestinian Interim Agreement<sup>451</sup> these environmental strategies must be sustained to get rid of environmental hazards.<sup>452</sup> Specially, it must ensure the rights of Palestinian Environmental Authority (PEA) not to be breached by Israel. Besides these actions, both countries should deeply monitor the conflict resources for such preservation.

### **5.7.2 Practice of the ‘Code of Conducts’**

These above-mentioned challenges of the Israel-Palestine Armed Conflict demand a comprehensive enforcement of duties. To complete the enforcement, both States and their citizens should strictly obey by few codes of conducts. Such as, duty of care, duty to respect, and common but differentiated responsibilities.<sup>453</sup> The intergenerational equity, duty of avoidance of trans-boundary harm and duty of precautionary principle, polluter pays principle,

---

<sup>450</sup> The Oslo Accords are set of two separate agreements signed by the government of Israel and the leadership of the Palestine Liberation Organization (PLO) established in 1964 to create a Palestinian state in the region the Oslo. Also available at <https://wedocs.unep.org/bitstream/handle/20.500.11822/7854/-Desk%20Study%20on%20the%20Environment%20in%20the%20Occupied%20Palestinian%20Territories-2003INF-31-WebOPT.pdf?sequence=2&isAllowed=y>, p.111.

<sup>451</sup> Israeli-Palestinian Interim Agreement on the West Bank and the Gaza Strip (“Oslo II”), 1995. Also available <https://www.un.org/unispal/document/auto-insert-185434/>

<sup>452</sup> UNEP, Desk Study on the Environment in the Occupied Palestinian Territories, pp.109-110.

<sup>453</sup> ICRC, Code of conduct and general principles.

prevention principles during attack or conflict, also duty of sustainable development must be rightfully observed.<sup>454</sup> For example, both Israel and Palestine should incorporate this code of conducts into military manuals for environmental and human rights. They must encourage the teaching of the civilian population in how the natural environment is protected in times of armed conflict also in peace time.<sup>455</sup> Moreover these countries must identify and designate areas of environmental importance and exchange good practices to protect them.

### **5.7.3 Development of Political Motions**

Both Israel and Palestine must restructure their political agendas and motions for long-term national interests and peace. Because unwavering political attitudes of both parties not only violating the core rules of the laws and State duties; but also weakening their own parities' strategic thinking, planning capabilities to bring peace by violating the human rights over health by affecting environment. These States are also requiring responsible leadership to fulfil such target.<sup>456</sup>

### **5.7.4 Implementation of ICRC Rules in National Level**

ICRC rule.27 on 'National implementation of IHL' refers the implementation of international obligations in domestic law and practices. It also carries the obligations to respect and ensure the applicability for IHL in national level.<sup>457</sup> Therefore, both these States must set their war strategies and political views accordance with this rule to avoid environmental hazard and to protect human right over natural environment.

### **5.7.5 Ministries, Mandates and Ministries' Collaboration**

States' sectoral ministries and other bodies with mandates related to the environment protection during the Israel -Palestine armed conflict need to collaborate internationally to protect human rights, e.g., the Ministry of Planning and International Co-operation. Additionally, national

---

<sup>454</sup> Conflict and Environment Observatory, 'Armed conflict, environmental protection and the Sustainable Development Goals', online source, <https://ceobs.org/armed-conflict-environmental-protection-and-the-sustainable-development-goals/>

<sup>455</sup> ICRC, 'Guidelines on the Protection of the Natural Environment in Armmed Conflict', p. 104-105.

<sup>456</sup> Peter Maurer, 'Challenges to international humanitarian law: Israel's occupation policy', pp. 1509-1510.

<sup>457</sup> Regarding the obligation to respect and ensure respect for IHL, see Rule 26 of the present Guidelines. Regarding the link between national implementation and the common Article 1 obligation to respect and ensure respect for the Geneva Conventions, see E. Mikos-Skuza, "Dissemination of the Conventions, including in time of armed conflict", in A. Clapham, P. Gaeta and M. Sassòli (eds), *The 1949 Geneva Conventions: A Commentary*, Oxford University Press, Oxford, 2015, p. 598.

ministries of both countries, e.g., Ministry of Local Government, Ministry of Health, Ministry of Transport, Ministry of Justice, Ministry of Environmental protection, Ministry of Foreign Affairs should work hand in hand with the EQA. The Department of Environment and Forestry and Fishers (DEFF) also must solemnly operate to protect the human rights and environment during the Isarel-Palestine armed conflict.

### **5.7.6 Role of National IHL Committees**

Till now many States parties of Geneva Conventions have set up national committees or similar entities (known as ‘national IHL committees’) to protect environment and human rights during an armed conflict. Israel and Palestine should adopt and follow the same.<sup>458</sup>

### **5.7.7 Development Plans**

From Palestinian part for optimal use of natural resources at the top of the public sector’s environmental priorities, the Palestinian Development Plan (PDP) 1999–2003 should be followed seriously. PDP have clear policies regarding environmental protection during conflict time. They work also actively for adding review of legal and institutional systems. PDP investigates organizational structures of the various ministries including other public bodies, and their activities. Parallely, they investigate the infrastructure developments and natural resource management actions regarding the environmental protection which is a new hope of preventing the environmental damage during running conflicts.<sup>459</sup>

Besides these, ‘National Waste Management Plans’ should be executed on a daily basis both by Israel and Palestine during war time.<sup>460</sup> Such as, both these countries must educate their people about proper waste disposal practices as part of awareness building. For that, Israel and Palestine both must apply developing indicator for solid waste disposal. To reduce such waste and to assure waste management advocacy; a reduce, reuse, recycle plan (3Rs) should be imposed by the Ministry of Environmental Affairs and the Ministry of Local Government.<sup>461</sup> Besides these, governments of both States should allow restriction-free environmental auditing

---

<sup>458</sup> ICRC Guidelines on protection of Natural environment, p.108.

<sup>459</sup> UNEP, Desk Study on the Environment in the Occupied Palestinian Territories, p.108

<sup>460</sup> Valérie Thöni & Samir K.I. Matar, ‘Solid Waste Management in The Occupied Palestinian, West Bank including East Jerusalem & Gaza Strip’, pp. 20 and 50, 2019.

<sup>461</sup> Mustafa Kamel EI-Hawi, ‘Towards an environmentally sound sustainable solid waste disposal strategy: The Gaza Strip Case’, p.242, 2004.

for solid waste management by third-party review on environmental performance of the industrial facilities, agencies, and even for the entire government programs.

### **5.7.8 Independent and Active National Frameworks**

Legal and institutional frameworks of these nations require to work more independently. Palestinian legislative Council and Israel's unicameral parliament (The Knesset) can play an active role in this case. These frameworks must ensure civilians' and authorities' freedom of expression by active functioning legal systems for such protections. They also should ensure that, Israel provide all environment and settlement related data and information to Palestine. They must guarantee that, Israel is legally and institutionally allowing Palestinians full freedom to apply their wastewater treatment plans, freedom to construct water networks within and between Palestinian districts.<sup>462</sup>

### **5.7.9 Role of Non-Governmental Organizations (NGOs)**

Environment related NGOs in the Occupied Palestinian Territories, e.g., Friends of Earth Palestine (PENGON-FoE Palestine),<sup>463</sup> Palestinian Environmental Friends (PEF) and The House of Water and Environment (HWE is a Palestinian NGO, established in 2004 to promote practical research into the current and future state of water resources and the environment in Palestine) can play important roles to control the environmental destructions by contributing information, inspecting, and hindering the preparatory works of laws and decision-making process.

### **5.7.10 Palestinian Municipal Management Project (PMMP), Civic Engagement and Access to Information**

PMMP was made to improve the capacity and institutional building of the municipalities in Palestine to activate public participation to the municipal decision. Civic engagement is a cornerstone of the environmental rule of law because humans have a moral obligation to preserve nature. Civic engagement in PMMP and inspection, access to information, monitoring, and enforcement of environmental law helps to ensure that the laws are complied

---

<sup>462</sup> Jad Isaac and Mohammad Ghanyem, 'Environmental Degradation and the Israeli - Palestinian Conflict,' p.30.

<sup>463</sup> PENGON-FoE Palestine is a coordinating body among different Palestinian NGOs working in the field of environment, established in 1996. It is the only environmental network for Palestinian environmental organizations in both the West Bank and Gaza Strip.

with and enforced accordingly.<sup>464</sup> Civilians' participation in such project will not only protect the environment during a conflict time, but also it will raise public awareness towards own rights and duties. For instance, NGOs like PEF has composting programs to protect the local environment and the natural resources from pollution by public awareness with environmental educations both in peace and conflict time.<sup>465</sup>

### 5.7.11 Use of Technology

It is now the era of scientific and technological advancement. Technology can have a great impact to deal with the environmental issues during an armed conflict, if parties of any want to impose bright side of science.<sup>466</sup> Therefore, the ICRC guidelines has suggested the parties to armed conflict to consider the technological advancement to commence with environmental and human health issues during an armed conflict.<sup>467</sup> Moreover, the UN's Secretary-General António Guterres has argued that, technologies can promote the values revered in the UN Charter and UDHR.<sup>468</sup> According to some legal scholars use of technology, e.g., smartphone, internet or remote sensing data from satellite systems can even detect conflict-linked environmental damage. Parallely, it can support to address the long-term environmental and health risks, so that States can take preventive measure to minimising such risks.<sup>469</sup> Therefore, in case of Isarel-Palestine Armed Conflict use of technology can detect and prevent environmental and human rights destructions.

## 5.8 Conclusion

Due to the softness of the applicability and vagueness of laws and agreements it seems next to impossible to protect the natural environment and its related human rights during the Israel-

---

<sup>464</sup> UNEP report 2019, 'Environmental Rule of Law First Global Report', Document no. DEL/2227/NA, pp. 87, 90-135.

<sup>465</sup> Mustafa Kamel EI-Hawi, 'Towards an environmentally sound sustainable solid waste disposal strategy: The Gaza Strip Case', p.232, 2004.

<sup>466</sup> Nakamitsu.I, UN (2018), 'Responsible Innovation for a New Era in Science and Technology,' Nos. 3 & 4 Vol. LV, available at <https://www.un.org/en/un-chronicle/responsible-innovation-new-era-science-and-technology>

<sup>467</sup> ICRC (2020), 'The protection of the natural environment under international humanitarian law:The ICRC's 2020 Guidelines', ICRC commentary on taking contemporary and empirical knowledge into account in the planning and conduct of military operations in paras 54, 58, 65, 118 and 334. Also available at <https://international-review.icrc.org/sites/default/files/reviews-pdf/2023-12/protection-of-the-natural-environment-under-ihl-icrc-2020-guidelines-924.pdf>

<sup>468</sup> Nakamitsu.I, UN (2018), 'Responsible Innovation for a New Era in Science and Technology.'

<sup>469</sup> Wim Zwijnenburg and Ollie Ballinger, 'Leveraging Emerging Technologies to Enable Environmental Monitoring and Accountability in Conflict Zones', pp.1497-1521, 2023.



Palestine Armed Conflict. However, by a parallel reconciliation of the IHL, environmental and human right law, practical management policies with sustainable development plans can minimise such degradations. Furthermore, collective, and individual responsibilities towards nature along with environmental regulations may bring utmost outcome for this mission. International responsibility towards environment is a broader form of collective duty. Therefore, States must implement their international commitments and need to co-work on this. They must collectively agree on the protection of natural environment and human rights during any form of armed conflict by any country. Besides these, international community requires collaborated developing common international training courses and protocols for all countries' armies to ensure the action of IHL, IEL and IHRL. Hence, following suggested actions might bring a substantive and sustainable solution for the environmental and human rights degradation that raised by Israel-Palestine Armed Conflict. These given solutions are also comprehensively answer the research questions of the thesis paper.

## 6. Concluding Remarks

Human is a part of the natural environment, thus, protecting the environment for present and future generations is our primary responsibility. Though such responsibility falls under our moral duties, however, the protection of environment and human rights require legal shielding. Specifically, in a case of armed conflict environmental issues need legal defence.<sup>470</sup> Due to that, the environmental protection and safeguarding its associated human rights are essential topics of the Public International Law. This is also because, doing harm to the natural environment by armed conflict can remain a severe and drastic impact on the human health.<sup>471</sup> A vital pictures of such environmental and human rights degradation can be witnessed in the armed conflict of Israel and Palestine. Therefore, the thesis is based on the environmental and human rights injustice in relation to the Israel Palestine Armed Conflict.

One of the prime findings of the thesis is, it has claimed the Israel-Palestine Armed Conflict has solemnly distressed the natural world as well as its connected human rights due to the gaps between laws and their applicability; even though these lawful safeguards seem commanding and suitable. The thesis professed that, these provisions on environmental protection are not always been effectively implemented or enforced. Parallely, such legal protections hold many challenges and unintelligibility on its application during the armed conflict. According to the research, the foremost challenge for applying these existing legal provisions is the unclear characteristic of the armed conflict. Because, in the Israel-Palestine Armed Conflict both IAC and NIAC are simultaneously ongoing.<sup>472</sup> Due to that, it remains complicated to establish a specific legal provision of IAC or NIAC for the conflict. Additionally, regarding the environmental and human rights protection sometimes both countries are not parties of the same environmental agreements. Such as, Palestine has ratified the ENMOD but not Israel.<sup>473</sup>

---

<sup>470</sup> ILC, 'Protection of The Environment in Relation to Armed Conflicts' (6 June 2019) UN Doc A/CN.4/L.937

<sup>471</sup> JT McClymonds, 'Human Right to a Healthy Environment: An International Legal Perspective', 1992, p.583.

<sup>472</sup> J.D. Hemptinne, 'Classifying the Gaza Conflict Under International Humanitarian Law, a Complicated Matter.'

<sup>473</sup> United Nations, *Treaty Series*, vol. 1108, p. 151 and depositary notification C.N.263.1978. Treaties-12 of 27 October 1978.

Moreover, the thesis has proven that the OPT by Israel is illegal,<sup>474</sup> and as an occupying power Israel has failed to fulfil the duties of an occupying power.<sup>475</sup> Besides unfollowing the law of occupation, Israel is occupying the Palestinian's territory for a long time, preventing Palestinians access rights over own natural resources and their participation in environmental matter.<sup>476</sup> Consequently, the OPT is not only causing various types of pollutions that are damaging the environment, human health, and quality of life of Palestinians; but also such actions by Israel is creating challenges for setting-up sound environmental management in this conflict situation.

Parallely, the findings of the thesis manifested the gaps in IHL, limitations of laws in IAC, lack of case references or their inadequacy in environmental issues. For instance, the thesis has verified that the minimum standards of common Art.3 of Geneva Convention and its Protocols in IHL are preventing the sustainable environmental and human rights protections and sound managerial plans during the running conflict. Specifically, the implementation challenges of international laws and treaties, interstate agreements, softness of guiding principles, and the uncertain relationship between IEL and IHL are negatively affecting the environment and rights of people in the situation of Isarel-Palestine Armed Conflict.

The findings of the thesis also revealed that, the Israel-Palestine Armed Conflict has a destructive impact on not only the environment and human health of the conflicted zone, but also it has disastrous influence on the environment of Africa, Asia, and Europe.<sup>477</sup> As a result, the natural environment is remaining injured, and it is getting weaker to support our present world and to save our future generations.

Correspondingly, the thesis has mentioned about the lack of cooperation and care by both States on environmental and human rights issues. It claimed that none of the Staes are thoroughly following the Oslo accords II on their conflict situation, neither obey the rule of 'State responsibility or proportionality.' For instance, both Israel and Palestine have demonstrated

---

<sup>474</sup> UNGA Committee on the Exercise of the Inalienable Rights of the Palestinian People Report (2023), 'The Legality of the Israeli occupation.'

<sup>475</sup> UNCHR, Res 40/24 (22 March 2019) UN Doc A/77/90-E/2022/66, UNCHR, Res 40/73 (15 March 2019) UN Doc A/HRC/37/75 and UNGA/RES/ 3171 (17 December 1973) UN Doc A/RES/3171.

<sup>476</sup> K.B. Nida, 'Israel's Obligations Concerning Natural Resources According to the International Law,' vol.19:3.

<sup>477</sup> See, chapter. 2.2, 'Impact of the Israel-Palestine Armed Conflict on the Environment and Human Health.'

disregard for the environment and its connected human rights during their strikes by ignoring the means and methods of military operations under IHL.<sup>478</sup> As a result, the research has found both Israel and Palestine liable for environmental and human rights destructions during the running armed conflict.<sup>479</sup>

Due to these complexities, the thesis has expressed the need of sustainable solutions for the environmental and human rights issues in the Israel-Palestine Armed Conflict. This research is indispensable because, besides finding out the gaps of existing laws and agreements, it has come-up with the most possible solutions for the running armed conflict. For instance, the thesis has mentioned that the legal underpinning for the protection of natural environment and its connected human rights is outlined not only in the international law and treaties, but also States has moral duties towards such protections. In parallel, it stated about the potential national laws and policies for such conservation; and demonstrated numerous existing international laws and regulations as delicate and sought to revive. The thesis has proposed to observe and develop the IHL and CIL that are related to the environment and human rights. For example, to support these developments the thesis has manifested the recommendations by the ICJ.<sup>480</sup>

Alongside, the thesis has demonstrated numerous ways to advance and practice international treaties, IEL, and environmental agreements.<sup>481</sup> It has also recommended to take practical actions, e.g., to adopt, develop and apply the best standards in war strategies, guidelines, and laws both in national and international levels. The research referred to use of technology for detecting the environmental damage and minimising the health and environmental risks as well. The most specific contribution of the research is, it has proposed to apply the "variable-geometry theory" for negotiation to determine the legal frameworks that are applicable to the OPT and assistance for ending the occupation.<sup>482</sup> Another aspect is the suggestion that the world community should intervene on such issue to keep peace and security.<sup>483</sup> Remarkably, the

---

<sup>478</sup> Amnesty International Report (2023), 'Damning evidence of war crimes as Israeli attacks wipe out entire families in Gaza.'

<sup>479</sup> ICRC Rules. 1, 3, 7, 8, 16 & 26-32.

<sup>480</sup> ICJ recommendation, 'Respect for IHL, States and other parties to an armed conflict have an obligation to "respect and ensure respect for" IHL "in all circumstances." (Art. 1 common to the Geneva Conventions).'

<sup>481</sup> See chapter 5.5-5.7

<sup>482</sup> T.Ferraro, ICRC report 2012, 'Occupation and Other Forms of Administration of Foreign Territory,' pp.31-33.

<sup>483</sup> UNGA, *Uniting for peace*, 3 November 1950, A/RES/377.

thesis has highlighted the essential role of UN and its Security Council, as well as the role of ICC and ILC to address these environmental and human rights matters.

The thesis also alludes to increase individual and collective responsibility, along with stricter enforcement of legal procedures. For instance, it suggested both Israel and Palestine to collectively observe the United Nations recent resolution no. 48/13, 2021 on ‘access to a healthy environment’ as human right.<sup>484</sup> The research has gravely consulted that, laws and regulations regarding the environment and human right protection must be rigorously systemized, monitored and practiced during the Israel-Palestine Armed Conflict.

Therefore, in this concluding part it can be said that, though these mentioned solutions seem not possible to reach overnight; however, the proper executions of laws and regulations, State and individual responsibilities and international solidarity can gradually diminish this environmental vandalizations. Following these suggested actions may also leave a better, healthy, and sustainable earth behind for future generations. Hence, the research is recommending for valuing the importance of these proposed solutions to safeguard the natural environment and its associated human rights in a sustainable manner. Furthermore, the research is demonstrating the importance of continuing the analysis in the future as well for the betterment of this ongoing conflict situation in Israel and Palestine.

---

<sup>484</sup> United Nations, ‘Right to healthy environment: Access to a healthy environment, declared a human right by UN rights council’, resolution no. 48/13, 2021.

## Bibliography

### Monographs And Journal Articles

Alleson, Ilan, et al., 'Peace and Pollution: An Examination of Palestinian—Israeli Trans-Boundary Hazardous Waste Management 20 Years after the Oslo Peace Accords' (2013) 8.1 Journal of Peacebuilding & Development 15

Alsharqawi, Ahmad, Ahmad Bani Hamdan, and Moh'D. Abu Anzeh, 'The role of general assembly resolutions to the development of international law' (2021) 24.2 J. Legal Ethical & Regulatory Issues 1

Assi, Eman, '*Human rights and World Heritage in transverse context*' (Universidad Complutense de Madrid 2015)

Avi , 'The Rise and Fall of the Oslo Peace Process' in Louise Fawcett ed., *International Relations of the Middle East* (Oxford, Oxford University Press 2005)

Bari, Raisul, 'Environmental Sustainability and Hydro-Political Crisis of Jordan River Basin in Middle East' (2019) 7:6 Impact Journals 379

Ben-Dror, Elad, 'The United Nations Plan to Establish an Armed Jewish Force to Implement the Partition Plan (United Nations Resolution 181)' (2013) 24:4 Diplomacy & Statecraft 559

Bothe, Michael, 'International law protecting the environment during armed conflict: Gaps and opportunities' (2010) 92.879 International Review of the Red Cross 569

Buhaug, Halvard, 'Climate Change and Conflict: Taking Stock' (2016) 22:4 Peace Economics, Peace Science and Public Policy 331

Cordova, Carlos E. 'Millennial landscape change in Jordan: geoarchaeology and cultural ecology' (2007) University of Arizona Press 1

David Jensen, 'Evaluating the impact of UNEP's post-conflict environmental assessments' in D. Jensen and Steve Lonergan (eds) *Assessing and Restoring Natural Resources in Post-Conflict Peacebuilding* (Environmental Law Institute and United Nations Environment Programme, Routledge, 2013)

Dam-de Jong, Daniëlla, 'Building a sustainable peace: How peace processes shape and are shaped by the international legal framework for the governance of natural resources' (2020) 29:1 Review of European, Comparative & International Environmental Law 21

Daniel A. Blumenthal, 'The politics of justice: Why Israel signed the international criminal court statute and what the signature means' (2021) 30 Georgia Journal of International & Comparative Law 593.

Gibson, Michael, 'The Universal and the local Scenic natural beauty: How can it be judged?' (2012) 63 The World heritage review: UNESCO 10

Gross, Aeyal M, 'Human proportions: are human rights the emperor's new clothes of the international law of occupation?' (2007) 18.1 European Journal of International Law 1

Hammer, Leonard M, 'Reconsidering the Israeli Courts' Application of Customary International Law in the Human Rights Context' (1998) 5: 23 ILSA Journal of International & Comparative Law 23

Hakala, Emma, and Freek Van der Vet, 'Protecting the environment during armed conflict: From principles to implementation' (Finnish Institute of International Affairs, 26 May 2021) <[https://www.fiia.fi/wp-content/uploads/2021/05/bp311\\_protecting-the-environment-during-armed-conflict\\_emma-hakala-freek-van-der-vet.pdf](https://www.fiia.fi/wp-content/uploads/2021/05/bp311_protecting-the-environment-during-armed-conflict_emma-hakala-freek-van-der-vet.pdf)> accessed 19 December 2022

Hannum, Hurst, 'The status of the Universal Declaration of Human Rights in national and international law' (1995) 25 Ga. J. Int'l & Comp. L. 287

Hanson, Thor, 'Warfare in biodiversity hotspots' (2009) 23:3 Cambridge University Press 578

Handl, Günther, 'Declaration of the United Nations conference on the human environment (Stockholm Declaration), 1972 and the Rio Declaration on Environment and Development, 1992' (2012) 11.6 United Nations Audiovisual Library of International Law 1

Helfer, Laurence R., and Ingrid B. Wuerth, "Customary International Law: An Instrument Choice Perspective" (2015) 37 Mich. J. Int'l L. 563

Henckaerts, Jean-Marie, and Carolin Alvermann, 'Customary international humanitarian law' (2005) 1 Cambridge University Press Husein, Ahmad Ibrahim, et al, "In vitro antioxidant and antitumor activities of six selected plants used in the Traditional Arabic Palestinian herbal medicine" (2014) 52:10 Pharmaceutical biology 1249.

Hulme, Karen, "Taking care to protect the environment against damage: a meaningless obligation?" (2010) 92:879 International Review of the Red Cross 675

Ivanova, Maria, "UNEP in global environmental governance: design, leadership, location" (2010) 10:1 Global Environmental Politics 30

Kaczorowska-Ireland, Alina (ed), *Public International Law* (5th ed, Taylor and Francis 2015)

Kotzé, Louis J., and Wendy , ‘Constitutional international environmental law for the Anthropocene?’ (2018) 27:3 Review of European, Comparative & International Environmental Law 278

Lacombe, Guillaume, and Alain Pierret, ‘Hydrological impact of war-induced deforestation in the Mekong Basin’ (2013) 6:5 Ecohydrology 901

Low, Luan, and David Hodgkinson, ‘Compensation for wartime environmental damage: Challenges to international law after the Gulf War’ (1994) 35 Va. J. Int'l L. 405

Mandil, Ahmed, Monique Chaaya, and Dahlia Saab, ‘Health status, epidemiological profile and prospects: Eastern Mediterranean region’ (2013) 42:2 International journal of epidemiology 616

McClymonds, James T, ‘Human Right to a Healthy Environment: An International Legal Perspective’ (1992) 37:1 The NYLS Law Review Sch. L. 583

Menkel-Meadow, Carrie, ‘Chronicling the complexification of negotiation theory and practice’ (2009) 25: 4 Negotiation Journal 415

Midden, Cees JH, Florian G. Kaiser, and L. Teddy McCalley, ‘Technology's four roles in understanding individuals' conservation of natural resources’ (2007) 63:1 Journal of Social Issues 155

Nida Kamhawi-Bitar, ‘Israel’s Obligations Concerning Natural Resources According to the International Law,’ (2014) 19:3 Israel-Palestine Journal

Pantazopoulos, Stavros-Evdokimos *Greening the Law of Environmental Protection in Armed Conflicts.*’ *Netherlands Yearbook of International Law 2021: A Greener International Law—International Legal Responses to the Global Environmental Crisis* (The Hague: TMC Asser Press, 2023)

Peter Maurer, ‘Challenges to international humanitarian law: Israel’s occupation policy’ (2012) 94:888 Cambridge University Press 1

Pontin, Ben, Vito De Lucia, and Jesus Gamero Rus, ‘Environmental Injustice in Occupied Palestinian Territories-Problems and Prospects’ in Svenja Oberender (ed) *Impacts of the Annexation Wall on the agricultural land of the city of Qalqilya* (Al-Haq 2015)

Queguiner, Jean-François, ‘Commentary on the Protocol additional to the Geneva Conventions of 12 August 1949, and relating to the Adoption of an Additional Distinctive Emblem (Protocol III)’ (2007) 89:865 International Review of the Red Cross 175



Qumsiyeh, Mazin B., and Mohammed A. Abusarhan, 'Biodiversity and Environmental Conservation in Palestine' (2021) 1 Palestine Institute for Biodiversity and Sustainability, Bethlehem University 1

Raja Shehadeh, 'Multiple Legal Systems in the West Bank' (2016) 21: 3 Palestine-Israel Journal of Politics, Economics and Culture

Salem, Hilmi S., 'No sustainable development in the lack of environmental justice' (2019) 12: 3 Environmental Justice 140

Saeed Bagheri, 'The Legal Limits to The Destruction of Natural Resources in Non-International Armed Conflicts: Applying International Humanitarian Law' (2023) 105: 923 International Review of the Red Cross 882

Scott, Christopher A, 'Facing water scarcity in Jordan: reuse, demand reduction, energy, and transboundary approaches to assure future water supplies' (2003) 23:2 Water international 209.

Shelton, Dinah, 'Human Rights and the Environment: jurisprudence of human rights bodies, (2002) 32 Envtl. Pol'y & L. 158

Sjostedt, Britta, 'The Role of Multilateral Environmental Agreements: A Reconciliatory Approach to Environmental Protection in Armed Conflict' (2020) 76 Bloomsbury Publishing 1

Stahn, Carsten, Jens Iverson, and Jennifer S Easterday, *Environmental Protection and Transitions from Conflict to Peace: Clarifying Norms, Principles, and Practices* (Oxford University Press 2017)

Tessler, Mark, *A history of the Israeli–Palestinian conflict* (2nd illustrated ed, Indiana University Press 1994)

Valérie Thöni & Samir K.I. Matar, 'Solid Waste Management in The Occupied Palestinian, West Bank including East Jerusalem & Gaza Strip' (Cesvi 'cooperation e sviluppo', cooperation and development 2019) 1.

Vietnam Ministry of Natural Resources and Environment. Department of Legal Affairs, *International Environmental Law: Multilateral Environmental Agreements*, (UNEP May 2017)

Vinuales, Jorge E. 'The contribution of the international court of justice to the development of international environmental law: a contemporary assessment' (2008) 32 Fordham Int'l LJ 232

Vité, Sylvain, 'Typology of armed conflicts in international humanitarian law: legal concepts and actual situations' (2009) 91:873 *International Review of the Red Cross* 69

Walker, Gordon, '*Environmental justice: concepts, evidence, and politics* (Routledge 2012)

Wilco de Jonge, Brianne McGonigle Leyh, Anja Mihr, Lars van Troost (eds.), '*50 Years of Amnesty International - Reflections and Perspectives*' (Amnesty International, 2011)

Weinthal, Erika, and Jeannie Sowers, 'Targeting infrastructure and livelihoods in the West Bank and Gaza' (2019) 95:2 *International Affairs* 319

Zimmermann, Andreas, *The Statute of the International Court of Justice: A Commentary* (3<sup>rd</sup>, Oxford University Press 2019)

Zwijnenburg, Wim and Ballinger, Ollie, 'Leveraging Emerging Technologies to Enable Environmental Monitoring and Accountability in Conflict Zones' (2023) *International Review of the Red Cross* 105:924

### **Working Papers**

Alan Boyle, 'Human Rights and International Environmental Law: Some Current Problems' (2011) European University Institute

<<https://www.eui.eu/Documents/DepartmentsCentres/Law/ResearchTeaching/WorkingGroups/08-03-HumanRights.pdf>> accessed 10 April 2023

Alice M. Panepinto, 'From Extraterritorial Jurisdiction to Sovereignty and Annexation of Palestine' (2018) Queens University Belfast

<[https://pureadmin.qub.ac.uk/ws/portalfiles/portal/164900234/Panepinto\\_extraterritoriality\\_FINAL.pdf](https://pureadmin.qub.ac.uk/ws/portalfiles/portal/164900234/Panepinto_extraterritoriality_FINAL.pdf)> accessed at 5 November 2023

Couzens, Ed, and Melissa Lewis, 'International Environmental Law-making and Diplomacy Review 2014 (2015) University of Eastern Finland Research Paper- UNEP Course Series 14/2015' <[https://sites.uef.fi/cceel/wp-content/uploads/sites/185/Review-2014\\_final\\_2-version.pdf](https://sites.uef.fi/cceel/wp-content/uploads/sites/185/Review-2014_final_2-version.pdf)> accessed 18 November 2023

<[https://sites.uef.fi/cceel/wp-content/uploads/sites/185/Review-2014\\_final\\_2-version.pdf](https://sites.uef.fi/cceel/wp-content/uploads/sites/185/Review-2014_final_2-version.pdf)> accessed 18 November 2023

El-Hawi, Mustafa Kamel, 'Towards an environmentally sound sustainable solid waste disposal strategy: the Gaza Strip case' (2004) University of Salford (United Kingdom) <https://salford-repository.worktribe.com/preview/1500394/401979.pdf> accessed at 5 December 2023

Eline Lazarou, 'Water in the Israeli-Palestinian conflict' (2016) European Parliamentary Research Service (EPRS), PE 573.916, pp.2-8

<<https://policycommons.net/artifacts/1334402/water-in-the-israeli-palestinian-conflict/1939889/>> accessed at 22 November 2023

Ginevra Le Moli, 'State Responsibility and the Global Environmental Crisis' (August 8, 2021) 30: 3 EJIL The European Journal of International Law <<https://www.ejiltalk.org/state-responsibility-and-the-global-environmental-crisis/>> accessed 19 December 2023

Hosh, Leonardo, and Jad Isaac, 'Environmental Challenges in Palestine and the Peace Process' (1996) Applied Research Institute Jerusalem. Bethlehem: ARIJ 1/1996 <<https://www.arij.org/wp-content/uploads/2014/01/The-Status-and-Perspectives-of-the-negotiations-on-the-jordan-river-basin.pdf>> accessed 18 November 2023

Ibrahim Fares and Yasmin Mansour, 'Water Issues and Climate Change in the Israeli-Palestinian Conflict' in Thomas DeLorenzo (eds) (U. Pittsburgh School of Law, July 16 2020) <<https://www.jurist.org/commentary/2020/07/ibrahim-fares-climate-change-israel-palestine/>> accessed 9 August 2023

Jérôme de Hemptinne, 'Classifying the Gaza Conflict Under International Humanitarian Law, a Complicated Matter' (2023) Utrecht University, Netherlands: EJIL <[Classifying the Gaza Conflict Under International Humanitarian Law, a Complicated Matter – EJIL: Talk! \(ejiltalk.org\)](https://www.ejiltalk.org/classifying-the-gaza-conflict-under-international-humanitarian-law-a-complicated-matter-ejil-talk-ejiltalk.org)> accessed 21 December 2023

Maljean-Dubois, Sandrine, and Vanessa Richard, 'Mechanisms for monitoring and implementation of international environmental protection agreements' (2004) IDDRI: Institute for sustainable development and international relations 1/2009,7 <<https://shs.hal.science/halshs-00426417> halshs-00426417> accessed 29 Oct 2023

Raby. S, 'The humanitarian crisis of the Israeli occupation and settler colonialism in the West Bank and Gaza' (2023) Eastern Michigan University <<https://commons.emich.edu/cgi/viewcontent.cgi?article=1772&context=honors>> accessed 15 November 2023

The Harvard University, 'The legal status of Israeli settlements under IHL' (31 Jan 2004) <<https://reliefweb.int/report/israel/legal-status-israeli-settlements-under-ihl>> accessed 30 October 2023

Tippmann, R., and L. Baroni 'The Economics of Climate Change in the Palestine, ClimaSouth Technical Paper N.2 (2016) <[http://www.climasouth.eu/sites/default/files/Technical%20Paper%20N.2%20Palestine%20%282.0%29\\_amend%20RT%20040717.pdf](http://www.climasouth.eu/sites/default/files/Technical%20Paper%20N.2%20Palestine%20%282.0%29_amend%20RT%20040717.pdf)> accessed 31 October 2023

## **Treaties And Statutes**

The Hague Conventions of 1899 and 1907, Convention (IV) respecting the Laws and Custom of War on Land and its annex: Regulations concerning the Laws and Customs of War on Land (adopted on 18 October 1907, entered into force 26 January 1910) Annexed Regulations, Document no. 28

The Geneva Convention (IV), relative to the Protection of Civilian Persons in Time of War (adopted 12 August 1949, entered into force 21 October 1950) 75 UNTS 287  
The Ramsar Convention (adopted 2 February 1971, entered into force on 21 December 1975) UNTS 996

The World Heritage Convention (adopted 16 November 1972, entered into force 1975)  
International Covenant on Economic, Social and Cultural Rights (ICESCR) (adopted 16 December 1966, entered into force 3 January 1976) Resolution 2200A (XXI)

International Covenant on Civil and Political Rights (ICCPR) (adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171

Convention on the Prohibition of Military or Any Other Hostile Use of Environmental Modification Convention (ENMOD) (entered into force on 5 October 1978, in accordance with article IX (3). Pursuant to its article VII, the Convention is of unlimited duration.

Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) (adopted 18 December 1979, entered into force 3 September 1981) Treaty Series , vol. 1249, article 27(1)

Convention on Certain Conventional Weapons (CCW or CCWC) (adopted 10 October 1980, entered into force 2 December 1983) 1342 UNTS 137

Convention on the Rights of the Child (CRC) (adopted 20 November 1989, entered into force 2 September 1990) Treaty Series, vol. 1577, article 49.

Basel Convention (adopted 22 March 1989, entered into force, 5 May 1992) Treaty Series , vol. 1673, No. 28911, article 25(1)

The Convention on Biological Diversity (CBD)/The Biodiversity Convention (adopted 5 June 1992, entered into force 29 December 1993) 1760 UNTS 70;31 ILM 818, article 36(1)

Israeli-Palestinian Interim Agreement on the West Bank and the Gaza Strip (Oslo II) (entered into force 28 September 1995) A/51/889 S/1997/357

Convention on the Protection and Use of Transboundary Watercourses and International Lakes/ The Water Convention (adopted 17 March 1992, entered into force on 6th October 1996) Treaty Series , vol. 1936

The Aarhus Convention (adopted 25 June 1998, entered into force 30 October 2001) Treaty Series , vol. 2161, No. 37770, article 20(1)

Rome Statute of the International Criminal Court (ICC) (adopted 17 July 1998, entered into force 1 July 2002) Treaty Series, vol. 2187, No. 38544, A/CONF.183/9

Stockholm Convention on Persistent Organic Pollutants (adopted 22 May 2001, entered into force 17 May 2004) Treaty Series, vol. 2256, No. 40214, article 26(1)

Convention on the Law of the Non-Navigational Uses of International Watercourses (adopted 21 May 1997, entered into force 17 August 2014) Supplement No. 49 (A/51/49)

The Paris Agreement/ Paris Accords or the Paris Climate Accords (adopted 12 December 2015, entered into force 4 November 2016) Treaty Series, vol. 3156, No. 54113, article 21(1)

### **Declarations and Recommendations**

Universal Declaration of Human Rights (UDHR) (adopted 10 December 1948) UNGA Resolution 217 A (III)

Declaration on Social Progress and Development (adopted 11 December 1969, UNGA Resolution A/RES/2542(XXIV), entered into force 4 January 1969)

Declaration of the United Nations Conference on the Human Environment/ Stockholm Declaration (adopted 16 June 1972, entered into force 1973, UN Doc. A/CONF.48/14/Rev

The United Nations Environment Programme (UNEP) (adopted 15 December 1972 UNGA Resolution 2997 (XXVII), entered into force 1993) A/CONF.151/26/Rev.1(Vol. I)

World Charter for Nature (adopted by UNGA Resolution 37/7, entered into force on 28 October 1982) UN Doc. A/RES/37/7, reference no.37, call number. UNEP (092)/E5

Declaration on the Right to Development (adopted 4 December 1986, UNGA resolution 41/128, entered into force in 1986)

The Programme of Action for Sustainable Development (Agenda 21) (entered into force from 3-14 June 1992)

Rio Declaration on Environment and Development (adopted 12 August 1992, UNCHR (GA. 50th session) entered into force 9 March 1994) A/CONF.151/26 (Vol. I), E/CN.4/RES/1994/65

Declaration on Human Rights Defenders (adopted 1998, UNGA Resolution A/RES/53/144, entered into force in 1998)

### **Case Law**

#### **International Case Law**

*Trail Smelter Case (United States v. Canada)* (Judgement, Arbitrational Tribunal, Compensation) (IJC, March 11, 1941)

*Corfu Channel Case (UK v Albania)* (Judgment, Merits) (ICJ, 9 April 1949)

*Democratic Republic of the Congo v. Uganda*, General List No. 116 (Judgment, Compensation) ICJ Reports of Judgement and Decision 168, para. 250. (ICJ, 9 December 2005)

*Costa Rica v. Nicaragua*, ICJ GL No 150 (Judgement, Compensation) (ICJ, 2 February 2018)

*Legality of the Nuclear Weapons Case* (Judgement, Advisory Opinion) (ICJ, 8 July 1996)

### **National Case Law**

*The Bethal Case (Suleiman Tawfiq Ayyub et al. v. Minister of Defense et al.)*, (Judgement, Bench Trial), Israeli High Court Judgment (HCJ 606/78, 5 April 1979)

*The Bekaot Case (Matawa, et al. v. Minister of et al.)* (Judgement, Bench Trial) (H.C. 610/78, 5 April 1979)

### **Committees, Organizations and Agencies**

International Court of Justice (ICJ), known as the World Court, established in 1945.

The International Law Commission (ILC), established by the General Assembly in 1947 under article 13 (1) (a) of the Charter of the United Nations, founded on November 21, 1947

International Criminal Court (ICC), founded on July 1, 2002, Rome, Italy.

### **Documents by International Organisations**

UNSC RES/242 (22 November 1967) UN Doc S/RES/242

UNSC RES/338 (22 October 1973) UN Doc S/RES/338

UNSC RES/ 446 (22 March 1979) UN Doc S/RES/446

UNSC RES/ 452 (20 July 1979) UN Doc S/RES/452

UNSC RES/ 465 (1<sup>st</sup> March 1980) UN Doc S/RES/465

UNSC RES/ 476 (30 June 1980) UN Doc S/RES/476

UNSC RES/ 478 (20 August 1980) UN Doc S/RES/478

UNSC RES/2334 (23 December 2016) UN Doc S/RES/2334

UNSC RES/ 1397 (12 March 2002) UN Doc S/RES/1397

UNSC RES/ 1515 (19 November 2003) UN Doc S/RES/1515

UNSC RES/ 1850 (16 December 2008) UN Doc S/RES/1850

UNSC Res 1860 (2009) (8 January 2009) UN Doc S/RES/1860 (2009)

UNGA RES/273 ‘Admission of Israel to membership in the United Nations’ (11 May 1949)  
UN Doc A/RES/273(III)

UNGA RES/377 (3 November 1950) UN Doc A/RES/377

UNGA, ‘Permanent sovereignty over natural resources’ (14 December 1962) UN Resolution 1803 (XVII)

UNGA RES/ 3171 (17 December 1973) UN Doc A/RES/3171  
UNGA Res/37/7 ‘ World Charter for Nature’ (9 November 1982) UN Doc A/RES/37/7

UNGA Res 47/37 ‘Protection of the Environment in Times of Armed Conflict’ (9 February 1993) UN Doc. A/RES/47/37

UNGA Res 55/2 (18 September 2000) UN Doc A/RES/55/2  
UNGA RES/16/11 (12 April 2011) UN Doc A/HRC/RES/16/11  
UNGA RES/67/19 (29 November 2012) UN Doc A/RES/67/19  
UNGA Res /70/1 (21 October 2015) UN Doc A/RES/70/1  
UNGA Res. 76/L.75, ‘UNGA Recognizes Human Right to Clean, Healthy, and Sustainable Environment’ (28 July 2022) UN Doc A/76/L.75

UNGA RES/77/247 (30 December 2022) UN Doc A/RES/77/247  
UNGA, ‘The United Nations Conference on The Human Environment’(21 September 1972)  
UN Doc A/CONF.48/INF.5/Rev.1

UNGA, ‘Report on the Protection of the environment in times of armed conflict’ (9 February 1993) UN Doc A/RES/47/37

UNGA, ‘Status of the Protocols Additional to the Geneva Conventions of 1949 and relating to the protection of victims of armed conflicts’ (15 December 2020) UN Doc A/RES/75/138

UNGA, ‘Permanent sovereignty over natural resources’(17 December 1973) UN  
Doc. A/RES/3171

UNGA, ‘Report of the Secretary-General on the work of the Organization’(5 August 2005)  
Supplement No. 1 (A/60/1)

UNGA Supp. A/62/10 (7 May–5 June and 9 July–10 August 2007) UN Doc A/RES/ 62/10

UNGA, ‘General Assembly resolution supporting the immediate ceasefire according to Security Council resolution 1860’ (16 January 2009) UN Doc. A/ES-10/L.21/Rev.1

UNGA RES/64/292 (28 July 2010) UN Doc A/RES/64/292

UNGA, A/RES/67/19 ‘Status of Palestine in the United Nations: resolution / adopted by the General Assembly’ (29 November 2012) UN Doc A/RES/67/19

UNGA, ‘Control, Exploitation of Resources Detrimental to Palestinian Development, Delegates Say in Second Committee’ ( 30 October 2013) UN Doc GA/EF/3379

UNGA, 'Second report on identification of customary international law, by Sir Michael Wood, Special Rapporteur' (22 May 2014) A/CN.4/672

UN General Assembly Economic and Social Council, 'Economic and social repercussions of the Israeli occupation on the living conditions of the Palestinian people in the Occupied Palestinian Territory, including East Jerusalem, and of the Arab population in the occupied Syrian Golan' (2017) UN Doc A/78/127-E/2023/95

UNGA, 'General Assembly Adopts Seven Resolutions, Including Texts on Middle East, Citing Illegality of Annexing Occupied Palestinian Territory' (2 December 2020) UN Doc GA/12292

UN Secretary General, 'The rule of law and transitional justice in conflict and post-conflict societies: report of the Secretary-General' (23 August 2004) S/2004/616.

UN Secretary General 'Report of the Secretary-General on the work of the Organization' (2005) UN Doc Supplement No. 1 (A/60/1)

UNHRC Res16/11, ' Human Rights and The Environment' (21 April 2004) UN Doc A/HRC/RES/16/11

UNHCR, 'Report of special rapporteur on the issue of mapping human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment'(30 December 2013) UN Doc A/HRC/25/53

UNHRC, 'Report of the special rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment: biodiversity report" (2017) UN Doc.A/HRC/34/49

UNHRC, 'Report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967'(2018) UN Doc. A/HRC/37/75

UNHCR Res 40/73 (15 March 2019) UN Doc A/HRC/37/75

UNHRC, 'Report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967' (15 March 2019) UN Doc. A/HRC/40/73

UNHRC, 'Report of The Detailed Findings of The Independent International Commission of Inquiry on The Protests in The Occupied Palestinian Territory' (25 February–22 March 2019) UN Doc. A/HRC/40/CRP.2

UNHRC, 'Israel's Exploitation of Palestinian Resources Is Human Rights Violation' (25 February-22 March 2019) UN Doc A/HRC/40/73

UNHRC Res 48/13 (8 October 2021) UN Doc A/HRC/RES/48/13



UNHRC Res 48/13 ‘The Human Right to A Clean, Healthy and Sustainable Environment’ (18 October 2021) UN Doc A/HRC/RES/48/13

UNCHR Res 2003/71, ‘Human Rights and the Environment as Part of Sustainable Development’ ( 25 April 2003) UN Doc E/CN.4/RES/2003/71.

UNCHR Res 2005/60 ‘Human Rights and the Environment as Part of Sustainable Development’ (20 April 2005) UN Doc E/CN.4/RES/2005/60

UNCHR, Res 40/24 (22 March 2019) UN Doc A/77/90–E/2022/66

UNCRH Res 2003/7 ‘Human Rights and the Environment as Part of Sustainable Development’ (25 April 2023) UN Doc E/CN.4/RES/2003/71

UNHCHR, ‘The Response of the Government of the State of Israel to the Report of the UN High Commissioner for Human Rights’ (29 November 2000) UN Doc. E/CN.4/2001/133

UN Committee on Economic, Social and Cultural Rights (CESCR), ‘General Comment No. 15: The Right to Water (Arts. 11 and 12 of the Covenant)’ (20 January 2003) UN Doc E/C.12/2002/11

UNEP, ‘Annual Evaluation Report 1999’ (13 January 2000)

UNEP, ‘UNEP Desk Study on the Environment in the Occupied Palestinian Territories of its Seventh Special Session of the Governing Council/Global Ministerial Environment Forum in Cartagena, Colombia’ (February 2003) UNEP/GCSS.VII/7

UNEP, ‘Environmental Rule of Law: First Global Report.’ (24 January 2019) DEL/2227/NA

UNEP, ‘Protecting the Environment During Armed Conflict- An Inventory and Analysis of International Law’ (6 November 2009) Job No. DEP/1191/GE

UNEP ‘Protecting the environment during armed conflict: an inventory and analysis of international law, Report of United Nations Environmental Programme’ (6 November 2009) job no. DEP/1191/GE

UNEP, ‘Environmental Rule of Law First Global Report’ (24 January 2019) Job number. DEL/2227/NA

UNEP 2020, ‘State of Environment and Outlook Report for the occupied Palestinian territory 2020’ (28 August 2020)

ILC, ‘Report of the International Law Commission on the work of its fifty-third session’ (23 April - 1 June and 2 July - 10 August 2001) UN Doc A/56/10

ILC, ‘Report of the International Law Commission on Effects of Armed Conflicts on Treaties’ (6 June 2008) UN Doc. A/CN.4/L.727/Rev.1

ILC, 'Report of the International Law Commission on Effects of Armed Conflicts on Treaties' (11 July 2008) UN Doc. A/CN.4/L.727/Rev.1/Add.1

ILC, 'Report of the International Law Commission on 60th Session' (5 May–6 June and 7 July–8 August 2008) UNGA Supp. A/63/10

ILC, 'Preliminary Report on The Protection of The Environment in Relation to Armed Conflicts' (30 May 2014) UN Doc A/CN.4/674.

ILC, A' Yearbook of the International Law Commission from session, 'Draft Conclusions on Identification of Customary International Law, With Commentaries' (2018) A/73/10

ILC, 'Protection of The Environment in Relation to Armed Conflicts' (6 June 2019) UN Doc A/CN.4/L.937

ILC, 'Report of International Law Commission on the work of its Seventy-first session' (24 April–2 June and 3 July–4 August 2023) UN Doc A/78/10

WHO, 'Health Annual Report: Palestine 2018. Palestinian Health Information Centre (PHIC); 2019' (2020) document no. A72/33.

The World Bank Report, 'Gaza: Assessment of Restrictions on Palestinian Water Sector Development' (2009) Report No. 47657-GZ

ICRC Report, 'International humanitarian law and the challenges of contemporary armed conflicts' (2007) Volume 89 Number 867.

ICRC Report, 'Strengthening legal protection for victims of armed conflicts' (28 November–1 December 2011) 31IC/11/5.1.1

ICRC Report, 'Occupation and Other Forms of Administration of Foreign Territory' (2012) Volume 94 Number 885.

ICRC Report, 'International humanitarian law and the challenges of contemporary armed conflicts' (8–10 December 2015) 32IC/15/11

The World Commission on Environment and Development Report, 'Our Common Future', (1987) A/42/427

### **European Union Documents**

Report of the EU Committee on Social Affairs, Health, and Sustainable Development, 'Environmental impact of armed conflicts' (05 January 2023) Doc. 15074.

## **Documents by National Organizations**

Congressional Research Service (CRS) report, 'Precision-Guided Munitions: Background and Issues for Congress' (11 June 2021) R45996

Convention on Biological Diversity (CBD) report, 'State of Palestine Fifth National Report to the Convention on Biological Diversity' EQA: Ramallah, Palestine (2015), online source <https://www.cbd.int/doc/world/ps/ps-nr-05-en.pdf>

Geneva Centre for Security Sector Governance (DCAF), 'Stocktaking of Security Sector Roles in Climate and Environmental Security - Occupied Palestinian Territory' (8 December 2022) online source

[https://www.dcaf.ch/sites/default/files/publications/documents/StocktakingStudy-oPT\\_EN\\_May2023.pdf](https://www.dcaf.ch/sites/default/files/publications/documents/StocktakingStudy-oPT_EN_May2023.pdf)

Report of Applied Research Institute of Jerusalem (ARIJ), Isaac, Jad & Ghanyem. Mohammad 'Environmental degradation and the Israeli-Palestinian conflict' (2005) Online source, <https://www.arij.org/wp-content/uploads/2014/01/2005-the-environmental-impacts-assessment-of-the-israeli-segregation-plan-on-battir-village.pdf>

Report of the Israeli Ministry of Foreign Affairs (Paras 28 to 169), 'The Operation in Gaza, Factual and Legal Aspects' (July 2009) available at

<https://casebook.icrc.org/case-study/israelgaza-operation-cast-lead>

Report of the Israel Ministry of Environmental Protection

Environment Ministry unveils climate bill with sweeping powers to cut emissions'

(September 2017), available at <https://www.timesofisrael.com/environment-ministry-unveils-climate-bill-with-sweeping-powers-to-cut-emissions/>

## **Other Documents and Reports**

Agnès Callamard, Amnesty International Report: 2022-2023, 'The State of The World's Human Rights' (2023), available at

<file:///C:/Users/kinch/Downloads/WEBPOL1056702023ENGLISH-2.pdf>

Amnesty International Report 2022/2023, 'Israel/OPT: Joint Support for Call for A Conference of High Contracting Parties to The Fourth Geneva Convention 1949', Index Number: MDE.15/7469/2023, available at

<https://www.amnesty.org/en/documents/mde15/7469/2023/en/>

Amnesty International Report, 'Chapter 3: Israeli Settlements and International Law', 30 January 2019, available at <https://www.amnesty.org/en/latest/campaigns/2019/01/chapter-3-israeli-settlements-and-international-law>

CBD Report, 'State of Palestine Fifth National Report: To the Convention on Biological Diversity (CBD), 2015, Art 26, available at <https://www.cbd.int/doc/world/ps/ps-nr-05-en.pdf>

Human Rights Watch, 31<sup>st</sup> World Report:2021, ‘Israel and Palestine- Events of 2020, Hamas and Palestinian Armed Groups in Gaza’, available at <https://www.hrw.org/world-report/2021/country-chapters/israel/palestine> or [World Report 2021 \(hrw.org\)](https://www.hrw.org/world-report/2021/country-chapters/israel/palestine)

Geneva Academy, Academy of International Humanitarian Law and Human Rights, ‘The War Report 2017: The AC in Israel and Palestine’ (January 2018) available at <https://www.geneva-academy.ch/joomlatools-files/docman-files/The%20Armed%20Conflict%20in%20Israel-Palestine.pdf>

Geneva Academy, ‘The War Report: armed conflicts in 2017’ (March 2018), available at <https://www.geneva-academy.ch/joomlatools-files/docman-files/The%20War%20Report%202017.pdf>

International Criminal Court- Office of the Prosecutor ‘State of Palestine, Situation in the State of Palestine’ (3 March 2021), available at [State of Palestine | International Criminal Court \(icc-cpi.int\)](https://www.icc-cpi.int)

Karlstedt, Cecilia, Torbjörn Öckerman, Muna Dajani, and Suleiman Daifi. 2014, United Nations Development Programme (UNDP) Report ‘Organisational Review of the Palestinian Environment Quality Authority (EQA), available at <https://erc.undp.org/evaluation/managementresponses/keyaction/documents/download/411>

OCHA, report by ARENA (2020), ‘Water in Gaza: Scarce, polluted and mostly unfit for use’, online source, <https://reliefweb.int/report/occupied-palestinian-territory/water-gaza-scarce-polluted-and-mostly-unfit-use>

OCHA report, ‘West Bank: Largest Number of trees recorded vandalized by Israeli settlers in a single incident since 2005’ (31 Jan 2015), available at <https://www.ochaopt.org/content/west-bank-largest-number-trees-recorded-vandalized-israeli-settlers-single-incident-2005>

OCHA report by Al Mezan Centre for Human Rights is an independent, non-partisan, non-governmental human rights organization based in the Gaza Strip, ‘In focus: the effects of Israel’s military offensive on Gaza’s WASH facilities, Gaza Strip 2021’(2021), available at <https://reliefweb.int/report/occupied-palestinian-territory/focus-effects-israel-s-military-offensive-gaza-s-wash>

OCHA report by ARENA (2023), ‘Gaza’s Water Crisis Puts Thousands at Risk of Preventable Death,’available at <https://reliefweb.int/report/occupied-palestinian-territory/gazas-water-crisis-puts-thousands-risk-preventable-death>.

World Health Organization (WHO) Report, ‘Right to Health in the occupied Palestinian territory: 2018’ (8 October 2019), available at

<https://reliefweb.int/report/occupied-palestinian-territory/who-right-health-occupied-palestinian-territory-2018>

### **Websites and Blogs**

Adrit Memeti & Bekim Nuhija, 'The Concept of Erga Omnes In International Law' (2013) <<http://www.newbalkanpolitics.org.mk/item/the-concept-of-erga-omnes-obligations-in-international-law>> accessed 4 December 2023

Albert Camus, The Practical Guide to Humanitarian Law, 'Geneva Conventions of 1949 and Additional Protocols I and II of 1977' < <https://guide-humanitarian-law.org/content/article/3/geneva-conventions-of-1949-and-additional-protocols-i-and-ii-of-1977/>> accessed 27 September 2023

Albert Camus, 'The Practical Guide to Humanitarian Law, 'Soft Law' < <https://guide-humanitarian-law.org/content/article/3/soft-law/>> accessed 28 December 2023

Albert Camus, 'The Practical Guide to Humanitarian Law, 'Non-international Armed Conflict (NIAC)' < <https://guide-humanitarian-law.org/content/article/3/non-international-armed-conflict-niac/>> accessed 3 January 2024

Amnesty International, 'Israel's Occupation: 50 Years of Dispossession' <<https://www.amnesty.org/en/latest/campaigns/2017/06/israel-occupation-50-years-of-dispossession/>> accessed 5 September 2023

Amnesty International, 'Gaza: Operation Protective Edge' (9 July 2015) <<https://www.amnesty.org.uk/gaza-operation-protective-edge>> accessed 5 October 2023

Amnesty International, Saleh Higazi, 'An ICC investigation marks a long-overdue step towards justice for victims, and is a chance to end the cycle of impunity that is at the heart of the human rights crisis in the OPT' < [Israel/OPT: Historic ICC ruling brings new hope to victims of crimes under international law - Amnesty International](#)> accessed 21 October 2023

Andreas Zimmermann, 'Palestine at the Gates of the Peace Palace: The long and windy road towards Palestinian membership in the Permanent Court of Arbitration' (2016) Blog of the

European journal of international law (EJIL) <[Palestine at the Gates of the Peace Palace: The long and windy road towards Palestinian membership in the Permanent Court of Arbitration – EJIL: Talk! \(ejiltalk.org\)](#)> accessed 4 December 2023

BBC. Jonathan Marcus, 'What weapons are being used in the Israel-Gaza conflict' <<https://www.bbc.com/news/world-middle-east-28245343>> accessed 5 October 2023

Bindiya Thomas, 'Banned Weapons Used In Israel-Palestine Conflict?'(2014)  
<[https://www.defenseworld.net/news/10870/Banned\\_Weapons\\_Used\\_In\\_Israel\\_Palestine\\_Conflict\\_#.YWSgrtpBw2w](https://www.defenseworld.net/news/10870/Banned_Weapons_Used_In_Israel_Palestine_Conflict_#.YWSgrtpBw2w)> accessed 11 October 2023

Britannica, 'Arab-Israeli wars' <<https://www.britannica.com/event/Arab-Israeli-wars>>accessed 12 August 2022

Britannica, 'The Oslo Accords'<<https://www.britannica.com/place/Israel/The-Oslo-Accords>>  
accessed 3 October 2023

Conflict and Environment Observatory, 'Armed conflict, environmental protection and the Sustainable Development Goals'<<https://ceobs.org/armed-conflict-environmental-protection-and-the-sustainable-development-goals/>> accessed 21 December 2023

CEDAW 27th session, 'List of issues and questions in relation to the initial report of the State of Palestine'(2018)  
<[https://tbinternet.ohchr.org/\\_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=217&Lang=en](https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=217&Lang=en)> accessed 21<sup>st</sup>August 2023

Declaration of the United Nations Conference on the Human Environment, 'Stockholm Declaration and Principle'  
<<https://docenti.unimc.it/elisa.scotti/teaching/2016/16155/files/file.2017-03-11.7227158899>>  
accessed 29th September 2023

E. A., P. M. Haas, and M. A. Levy, 'A summary of major documents signed at the earth summit and the global forum. *Environment*' 34 (4): 12-15, 34-36 (1992)  
<<http://www.ciesin.org/docs/003-312/003-312.html>> accessed 5 December 2023

East African Community, Multilateral Environmental Agreements  
<<https://www.eac.int/environment/multilateral-environmental-agreements>>  
accessed 28 September 2023

European Centre for Constitutional and Human Rights (ECCHR)  
<<https://www.ecchr.eu/en/glossary/hard-law-soft-law/>>accessed 28 September 2023

European Parliament resolution of 5 October 2022, 'access to water as a human right – the external dimension' (2021/2187(INI) < [https://www.europarl.europa.eu/doceo/document/TA-9-2022-0346\\_EN.html](https://www.europarl.europa.eu/doceo/document/TA-9-2022-0346_EN.html) > accessed 31 December 2023

Forbes, 'Israel's Bombardment Of Gaza: Methods, Weapons And Impact'<<https://www.forbes.com/sites/sebastienroblin/2021/05/26/israels-bombardment-of-gaza-methods-weapons-and-impact/?sh=7b538e7f2f44>> accessed 6 October 2023

Hazardous Wastes and their Disposal, Parties with reservations, declarations, and objections’  
<[https://verdragenbank.overheid.nl/en/Treaty/Details/003765\\_b](https://verdragenbank.overheid.nl/en/Treaty/Details/003765_b)> accessed 2 December 2023

Human Rights Watch (HRW), ‘A Threshold Crossed, ‘Israeli Authorities and the Crimes of Apartheid and Persecution’ (2021) <<https://www.hrw.org/report/2021/04/27/threshold-crossed/israeli-authorities-and-crimes-apartheid-and-persecution>> accessed 5 December 2023

Human Security Centre, Rebecca Buchanan, ‘Classifying the Israeli-Palestinian Conflict’ (March 14 2015) <<http://www.hscentre.org/middle-east-and-north-africa/classifying-israeli-palestinian-conflict/>> accessed 29 August 2023

International Criminal Court (ICC), ‘State of Palestine: Situation in the State of Palestine’ (ICC-01/18) <[State of Palestine | International Criminal Court \(icc-cpi.int\)](https://www.icc-cpi.int)> accessed 23 October 2023

ICC, ‘State of Palestine,’ <<https://www.icc-cpi.int/palestine>> accessed 29 December 2023

ICJ (1945), ‘Statute of The International Court of Justice’ <<https://www.icj-cij.org/statute>> accessed 5 December 2023

ICRC, ‘How is the Term "Armed Conflict" Defined in International Humanitarian Law? International Committee of the Red Cross (ICRC, Opinion Paper, March 2008) <<https://www.icrc.org/en/doc/assets/files/other/opinion-paper-armed-conflict.pdf>> accessed 25 December 2023

ICRC, ‘What is the ICRC ’s Role in Developing and Ensuring Respect for IHL?’ (IHL 14 August 2017) <<https://blogs.icrc.org/ilot/2017/08/14/what-is-the-icrc-s-role-in-developing-and-ensuring-respect-for-ihl>> accessed 25 September 2023

ICRC, Advisory service on IHL, ‘What is International Humanitarian Law?’ <[https://www.icrc.org/en/doc/assets/files/other/what\\_is\\_ihl.pdf](https://www.icrc.org/en/doc/assets/files/other/what_is_ihl.pdf)> accessed 19 August 2023

ICRC, Customary International Humanitarian Law, ‘How does law protect in war’.  
<<https://casebook.icrc.org/case-study/icrc-customary-international-humanitarian-law>> accessed 27 September 2023

ICRC, ‘Customary International Humanitarian Law: Questions & Answers’ <<https://www.icrc.org/en/doc/resources/documents/misc/customary-law-q-and-a-150805.htm>> accessed 27 September 2023

ICRC org, ‘Occupation and international humanitarian law: questions and answers,’ <<https://www.icrc.org/en/doc/resources/documents/misc/634kfc.htm>> accessed 2 January 2024

ICRC org, 'Geneva Conventions of 1949 and their Additional Protocols'  
<<https://www.icrc.org/en/doc/resources/documents/misc/additional-protocols-1977.htm>>accessed 16 August 2023

ICRC, 'Guidelines for Protection of Natural Environment in Armed Conflict (No.311)'  
< [Guidelines for Military Manuals and Instructions on the Protection of the Environment in Times of Armed Conflict - ICRC](#)>accessed 2 August, 2023

ICRC, 'The Environment and The International Humanitarian Law',  
<<https://casebook.icrc.org/case-study/environment-and-international-humanitarian-law>>  
accessed 2 August, 2023

ICRC, 'Convention (I) for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field. Geneva, 12 August 1949. (Art.2, Commentary of 2016)  
<<https://ihl-databases.icrc.org/en/ihl-treaties/gci-1949/article-2/commentary/2016>> accessed 4 October 2023

ICRC, 'ICRC Appeal to All Involved in Violence in The Near East' (November 21, 2000)  
<<https://casebook.icrc.org/case-study/icrc-appeals-near-east>>accessed 4 October 2023

ICRC, 'Treaties, States Parties and Commentaries', <[https://ihl-databases.icrc.org/applic/ihl/ihl.nsf/vwTreatiesByCountrySelected.xsp?xp\\_countrySelected=IL](https://ihl-databases.icrc.org/applic/ihl/ihl.nsf/vwTreatiesByCountrySelected.xsp?xp_countrySelected=IL)> accessed 27 September 2023

ICRC, Treaties, State Parties and Commentaries, 'San Remo Manual on International Law Applicable to Armed Conflicts at Sea'(12 June 1994), <<https://ihl-databases.icrc.org/ihl/INTRO/560>> accessed 29 September 2023

ICRC org, 'The Marten Clause reads' <[https://casebook.icrc.org/a\\_to\\_z/glossary/martens-clause](https://casebook.icrc.org/a_to_z/glossary/martens-clause)> accessed 25 August 2023

ICRC org, 'Improving Compliance with International Humanitarian Law'  
<[https://www.icrc.org/en/doc/assets/files/other/improving\\_compliance\\_with\\_international\\_h umanitarian\\_law.pdf](https://www.icrc.org/en/doc/assets/files/other/improving_compliance_with_international_humanitarian_law.pdf)>accessed 25 September 2023

ICRC org, 'Israel/Palestine, Operation Protective Edge (Gaza, 13 June - 26 August 2014)'  
<<https://casebook.icrc.org/case-study/israelpalestine-operation-protective-edge-gaza-13-june-26-august-2014>> accessed 30 August 2023

ICRC org, 'Principle of Proportionality'  
<[https://www.icrc.org/sites/default/files/wysiwyg/war-and-law/04\\_proportionality-0.pdf](https://www.icrc.org/sites/default/files/wysiwyg/war-and-law/04_proportionality-0.pdf)>  
accessed 2 January 2024



ICRC, Jakob Kellenberger, ‘Challenges faced by ICRC and international humanitarian law (IHL)’ <<https://www.icrc.org/en/doc/resources/documents/statement/kellenberger-statement-191006.htm>>accessed 26 September 2023

ICRC, Helen Obregón Gieseken & Vanessa Murphy, ‘The protection of the natural environment under international humanitarian law: The ICRC’s 2020 Guidelines’ <<https://international-review.icrc.org/sites/default/files/reviews-pdf/2023-12/protection-of-the-natural-environment-under-ihl-icrc-2020-guidelines-924.pdf>> accessed 9 January 2024

ILC, ‘Organization, programme and methods of work’ <<https://legal.un.org/ilc/methods.shtml>>accessed 25 October 2023

International Justice Resource Centre (IJRC), ‘International Humanitarian Law’ <<https://ijrcenter.org/international-humanitarian-law/>> accessed 27th September 2023

International Environmental Agreements (IEA) Database Project, ‘MEAs to which Israel has taken membership actions’<[https://iea.uoregon.edu/country-members/Israel?field\\_inclusion\\_auto\\_value=All](https://iea.uoregon.edu/country-members/Israel?field_inclusion_auto_value=All)>accessed 28th September 2023

International Environmental Agreements (IEA) Database Project, ‘MEAs to which Palestine, Occupied Territories has taken membership actions’<<https://iea.uoregon.edu/country-members/Palestine%2C%20Occupied%20Territories>> accessed 28 September 2023

International Branch Organizations Branch, Samaria and Judea of Administration, Factsheet: ‘Water in the West Bank’ <<https://reliefweb.int/sites/reliefweb.int/files/resources/3274.pdf>> accessed 5 December 2023

ICC, ‘Statement of the Prosecutor of the International Criminal Court, Karim A.A. Khan KC, on the Situation in the State of Palestine: receipt of a referral from five States Parties (2023),’ <<https://www.icc-cpi.int/news/statement-prosecutor-international-criminal-court-karim-aa-khan-kc-situation-state-palestine>> accessed 5 January 2024

ICC, ‘State of Palestine: Situation in the State of Palestine (ICC-01/18: Investigation) (2021),’ <<https://www.icc-cpi.int/palestine>> accessed 5 January 2024

Izumi Nakamitsu, ‘Responsible Innovation for a New Era in Science and Technology,’ Nos. 3 & 4 Vol. LV (2018) <<https://www.un.org/en/un-chronicle/responsible-innovation-new-era-science-and-technology>> accessed 9 January 2024

Legal Guide, ‘Introduction to law: Primary and Secondary Sources of Law’ <<https://library.highline.edu/c.php?g=344547&p=2320319#:~:text=Primary%20and%20Secondary%20Legal%20Sources&text=Primary%20legal%20sources%20are%20the,or%20critique%20it%20as%20well>> accessed 12 June 2023

List of International Humanitarian Law treaties, and Additional Protocols ratified or acceded to by the State of Israel or the State of Palestine,

<<https://ihldatabases.icrc.org/applic/ihl/ihl.nsf/vwTreatiesByCountry.xsp>> accessed 5 September 2023

Libguides, 'Public International Law'

<<https://unimelb.libguides.com/internationallaw/environmental>> accessed 9 August 2023

Mariaamu El Maawy, 'National Spatial Plan (NSP) 2015-2045, An Integrated Spatial Plan for Balanced and Sustainable Development' Department of Physical Planning'

<<https://lands.go.ke/wp-content/uploads/2021/04/National-Spatial-Plan.pdf>> accessed 6 December 2023

Nurlan Mustafayev, 'The Legality of Use of Ballistic Missiles on Cities: The Case of Armenia-Azerbaijan Armed Conflict' (8 February 2022) < <https://www.ejiltalk.org/the-legality-of-use-of-ballistic-missiles-on-cities-the-case-of-armenia-azerbaijan-armed-conflict/>> accessed 31

December 2023

OpinioJuris.org, Darryl Robinson, 'ICL and Environmental Protection Symposium:

Environmental Crimes Against Humanity' (2020) <<http://opiniojuris.org/2020/06/02/icl-and-environmental-protection-symposium-environmental-crimes-against-humanity/>> accessed 20th December 2023

ResearchGate, Observation of NASA Gravity Recovery and Climate Experiment (2018)

<[https://www.researchgate.net/figure/Maps-show-groundwater-availability-as-observed-by-the-NASA-Gravity-Recovery-and-Climat\\_fig10\\_341481235](https://www.researchgate.net/figure/Maps-show-groundwater-availability-as-observed-by-the-NASA-Gravity-Recovery-and-Climat_fig10_341481235)> accessed 6 December 2023

Richard Allen Greene, Ibrahim Dahman, Hadas Gold, Abeer Salman and Elliott Gotkine, CNN News, 'Hundreds of rockets fired at Israel amid deadly IDF airstrikes in Gaza' (May 11, 2023) <<https://edition.cnn.com/2023/05/10/middleeast/israel-gaza-airstrikes-islamic-jihad-intl/index.html>> accessed 15 August 2023

Rupert Ticehurst, 'ICRC: The Martens Clause and the Laws of Armed Conflict'

<<https://www.icrc.org/en/doc/resources/documents/article/other/57jnhy.htm>> accessed 29 September 2023

Saeed Bagheri, 'Perhaps Lawful, but Awful: The Environmental Impacts of the Israel-Hamas War' (2023) <<https://www.lawfaremedia.org/article/perhaps-lawful-but-awful-the-environmental-impacts-of-the-israel-hamas-war>> accessed 4 January 2024

San Remo Manual 1994,

<<https://www.reuters.com/article/idUSTRE65133D20100602>> accessed 28th September 2023

Stockholm Convention, 'Status of ratification'

<<http://www.pops.int/Countries/StatusofRatifications/PartiesandSignatoires/tabid/4500/Default.aspx>> accessed 29th September 2023

Treaty Database, 'Basel Convention on the Control of Transboundary Movements of

The obligation of Israel and Palestine authority under international law

<<https://www.hrw.org/reports/2001/israel/hebron6-04.htm>> accessed 27 September 2023

The University of Melbourne, Library Guides: 'Public International

Law' <<https://unimelb.libguides.com/internationallaw/treaties>> accessed 25th September 2022

The Israeli-Palestinian Interim Agreement on The West Bank and Gaza Strip, Annex III, Protocol Concerning Civil Affairs, 'APPENDIX 1 - Powers and Responsibilities for Civil Affairs' <<https://www.gov.il/en/Departments/General/the-israeli-palestinian-interim-agreement-annex-iii>> accessed 24 September 2023

UN org, 'Israel's Belligerent Occupation of the Palestinian Territory, including Jerusalem and International Humanitarian Law', conference of the high contracting parties to the Fourth Geneva Convention on measures to enforce the convention in the occupied Palestinian territory' (15 July 1999) <<https://www.un.org/unispal/document/auto-insert-199015/>> accessed 27 September 2023

UNHR, 'Israel's exploitation of Palestinian resources is human rights violation, says UN expert' (18 March 2019) <<https://www.ohchr.org/en/news/2019/03/israels-exploitation-palestinian-resources-human-rights-violation-says-un-expert>> accessed 31 December 2023

UN Treaties org, 'Parties of Geneva Convention (1949)'

<<https://treaties.un.org/pages/showdetails.aspx?objid=0800000280158b1a>> accessed 27 September 2023

UN Treaty Collection, 'Rio Declaration'

<<https://treaties.un.org/doc/Publication/MTDSG/Volume%20II/Chapter%20XXVII/xxvii-8.en.pdf>>> accessed 27 September 2023

UN Treaty Body Database, 'List of International Human Rights Treaties signed or ratified by the State of Israel,

<[https://tbinternet.ohchr.org/\\_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=84&Lang=EN](https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=84&Lang=EN)> ; for signed or ratified by the State of Palestine

<[https://tbinternet.ohchr.org/\\_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=217&Lang=en](https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=217&Lang=en)> accessed 5 September 2023

UN org, 'List of parties to the United Nations Convention on the Law of the Sea (UNCLOS)' <[https://www.un.org/Depts/los/reference\\_files/chronological\\_lists\\_of\\_ratifications.htm](https://www.un.org/Depts/los/reference_files/chronological_lists_of_ratifications.htm)> accessed 28 September 2023

UN Treaty Collection, 'List of parties to The Paris Agreement' (UN Treaty Series No. 54113) <[https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg\\_no=XXVII-7-d&chapter=27&clang=\\_en](https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=XXVII-7-d&chapter=27&clang=_en)> accessed 8 September 2023

UDHR, 'The Foundation of International Human Rights Law' <<https://www.un.org/en/about-us/udhr/foundation-of-international-human-rights-law>> accessed 27 September 2023

United Nations Member States, 'The State of Israel was admitted to the United Nations (UN) as its 59th member on 11 May 1949' <<https://www.worldometers.info/united-nations/>> accessed on 10 December 2023

UN Treaty Body Database, Parties of ICCPR, online source, <[https://tbinternet.ohchr.org/\\_layouts/15/TreatyBodyExternal/Treaty.aspx?Treaty=CCPR&Lang=en](https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?Treaty=CCPR&Lang=en)> accessed 10 June 2023

United Nations Conference on Environment and Development, Rio de Janeiro (Brazil, 3-14 June 1992) 'A new blueprint for international action on the environment' <<https://www.un.org/en/conferences/environment/rio1992>> accessed 3 September 2023

UN Peacemaker <<https://peacemaker.un.org/israelopt-osloII95>> accessed 3 September 2023

UN Structure, 'The United Nations' <<https://www.un.org/en/model-united-nations/un-structure>> accessed 4 June 2023

United Nations Treaty Series, 'Parties to the Convention on the Law of the Non-Navigational Uses of International Watercourses' (UN Doc No. 52106) <[https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtdsg\\_no=XXVII-12&chapter=27&clang=\\_en](https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtdsg_no=XXVII-12&chapter=27&clang=_en)> accessed 9 December 2023

UN Treaty Collection, 'Chapter XXVII: Environment, A Protocol on Pollutant Release and Transfer Registers to the Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters' <[https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtdsg\\_no=XXVII-13-a&chapter=27&clang=\\_en](https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtdsg_no=XXVII-13-a&chapter=27&clang=_en)> accessed 3 October 2023

United Nations Treaty Collection, Amendment to article 8 of the Rome Statute of the International Criminal Court (Retrieved 2018-09-29) <[https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtdsg\\_no=XVIII-10-a&chapter=18&clang=\\_en](https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtdsg_no=XVIII-10-a&chapter=18&clang=_en)> accessed 29 September 2023

UNECE, 'Environmental policy: About the Water Convention'  
<<https://unece.org/environment-policy/water/about-the-convention/introduction>> accessed 27 September 2023

UN Library, 'What is the difference between signing, ratification and accession of UN treaties?' <<https://ask.un.org/faq/14594#:~:text=The%20signature%20qualifies%20the%20signatory,the%20purpose%20of%20the%20treaty>> accessed 27 November 2023

UN org, 'United Nations Conciliation Commission for Palestine'  
<https://www.un.org/unispal/document/auto-insert-211941/>> accessed 1 September 2023

UN InforMEA, 'Access information on Multilateral Environmental Agreements'  
<<https://www.informea.org/en/countries>> accessed 1 September 2023  
The Obligations of Israel and The Palestinian Authority under International Law, 'Applicable International Law to the Conflict' <<https://www.hrw.org/reports/2001/israel/hebron6-04.htm>> accessed 24 September 2023

UN, Israel-Protection to the Environment, 'Comments from the State of Israel on the International Law Commission's Draft Principles on the Protection of the Environment in Relation to Armed Conflicts as adopted by the Commission in 2019 on first reading', <[https://legal.un.org/ilc/sessions/73/pdfs/english/poe\\_israel.pdf](https://legal.un.org/ilc/sessions/73/pdfs/english/poe_israel.pdf)> accessed 2 January 2024

UNGA Committee on the Exercise of the Inalienable Rights of the Palestinian People Report (2023), 'The Legality of the Israeli occupation,' <<https://www.un.org/unispal/wp-content/uploads/2023/08/Study-on-the-Legality-of-the-Israeli-occupation-of-the-OPT-including-East-Jerusalem.pdf>> accessed 4 January 2024