



**Arab American University-Jenin**  
**Faculty of Graduate Studies**

**The Extent of the Israeli Compliances with the  
International Environmental Law in the Occupied  
Palestinian Territories 1995-2019**

**By**

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**This Thesis was submitted in partial fulfilment of the  
requirement for the Master's degree in  
Conflict Resolution and Development**

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# **The Extent of the Israeli Compliances with the International Environmental Law in the Occupied Palestinian Territories 1995-2019**

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## **DECLARATION**

I hereby declare that this thesis represents my own work which has been done after registration for the degree of Conflict Resolution and Development at Arab American University, and has not been previously included in a thesis or dissertation submitted to this or any other institution for a degree, diploma or other qualifications. Furthermore, I took reasonable care to ensure that the work is original, and, to the best of my knowledge, does not breach copyright law, and has not been taken from other sources except where such work has been cited and acknowledged within the text.

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**Malak Shweiki**

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## **DEDICATION**

All the praise to Almighty God; the source of blessing and strength that gave me the chance and endurance to complete this Master Degree.

I would like to dedicate this Thesis to my beloved Parents. For their endless love, support and encouragement. They are always the right people that show-up at the right time. And for that I am grateful.

I would also like to dedicate my Thesis to my Sisters, Nieces and Nephews who encouraged me and facilitated my academic career. Moreover, I dedicate this effort to my backbone friends and committed colleagues.

## **ACKNOWLEDGEMENT**

I would like to sincerely thank my Thesis Advisor Dr. Rezeq Salmoodi for always steering me into the right direction throughout the whole journey of writing and producing this Thesis with constant follow-up and support.

## **Abstract**

This study, entitled " The Extent of the Israeli Compliances with the International Environmental Law in the Occupied Palestinian Territories 1995-2019", The thesis mainly aims to study the extent of the "Israeli" commitment with the International Environmental Law in the Palestinian lands. It studies the environmental security conditions in the Occupied Palestinian territories under the "Israeli" occupation practices. In which the research problem revolves around the question that discusses to what extent the Israeli environmental practices are consistent with the International Environmental Law in the Occupied Palestinian territories from 1995 until 2019?

To find the results, the researcher used primary data as in legal provisions, international agreements, and the UN resolutions in order to build a proper legal framework of the found "Israeli" practiced actions on the Occupied Palestinian Territories. In addition, the researcher has used international/national resources, reliable journals, and environmental conducted reports/publications about that document the Environmental violating "Israeli" practices. Also the researcher has used a comprehensive analytical approach to analyse the legal provisions in relation to the thesis context.

This research includes an introduction and four chapters. In First Chapter (Thesis Introduction and Mapping), the researcher addressed a full introduction that includes an introduction about the topic of the thesis, justification and significance in addition to the objectives, research questions and previous studies that tackle the environmental aspect in different contexts. Also the chapter presents a comprehensive introduction about the International Law sources in general and the International Environmental Law in specific, in order to create a strong base for the readers of this thesis. The second chapter (International Legislative Provisions Analysis) the researcher divided it into

three main parts, armed conflict definition and types, environmental legislative provisions, and the application of the selected and analysed laws on the Palestinian context. The researcher addressed the International laws that include the environmental protection and security in times of peace and war. In addition, the researcher ensured that all the analysed laws are applied on the Palestinian environmental and political context. In the third chapter, the researcher made sure that the “Israeli” violating practices are addressed then comprehensively related to relevant legal framework aspired from the International Environmental Law that is fully analysed before. The last chapter includes the overall conclusion of the thesis. In addition, the fourth chapter divides the researcher recommendation into three sections in which they are directed differently.

The researcher concluded several results, and mentions the fundamentals:

- “Israel” is not committed to the International Environmental Law.
- The International Law lacks the executive tool that binds the UN members under its laws and provisions.
- The Occupied Palestinian Territories are violated on an environmental and human levels.
- The International Environmental Law opposes the environmental “Israeli” violating practices against the Occupied Palestinian Territories.
- The “Israeli” violating environmental practices entail uncountable environmental, health, human, and political damages on the Occupied Palestinian Territories.
- “Israel” has not been accountable for its environmental violating practices in the Occupied Palestinian Territories.

- The Palestinian authority does not set a serious counted step into setting “Israel” accountable for its environmental violations.
- The Palestinian as well as the international communities lack enough resources and statistics on the gas emission violations against the Palestinian territories.



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## **List of Acronyms**

- AC: Armed Conflict
- IC: International Court
- ICC: International Criminal Court
- ICRC: International Committee of the Red Cross
- IEL: International Environmental Law
- IHL: International Humanitarian Law
- IHRL: International Humanitarian Rights Law
- IL: International Law
- LR: Literature Review
- NGO: Non-Governmental Organization
- OPT: Occupied Palestinian Territories
- PGIs: Palestinians Governmental Institutions
- SDGs: Sustainable Development Goals
- UN: United National
- UNDP: United Nations Development Programme
- UNFCCC: United Nations Framework Convention on Climate Change

## Chapter 1

- **Thesis Introduction and Mapping.**

### Introduction

The main use of the International Environmental Law is to stop and accountable any environmental violations a country or any group could commit against another country that would cause a serious environmental harm on the nature of the violated territory.<sup>1</sup> Moreover, the concept of the armed conflict focuses on the use of weapons in defending or proving an authority and power over a territory in its basic meaning.<sup>2</sup> This use of weapons can in somehow cause a great harm on humanitarian, political and environmental levels.

This thesis focuses on the link between the International Environmental Law and the Armed Conflict in terms of affects and accountability. As mentioned above, the IEL aims to control and prevent any environmental violations that could be committed excessively on the natural resources of a different country.<sup>3</sup> In addition, the use of weapons can exceed the damage on the level of destroying and damaging countries in terms of buildings and constructions, however and due to the highly developed weapons, the damage would go further and cause humanitarian and environmental assaults that could leave great and serious long-term harms on the affected country. Therefore, the IEL principles and embedded laws of the International Law when

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<sup>1</sup> Thornton, Justine. Beckwith, Slias. Environmental Law. London, Sweet & Maxwell. P. 1. 1997

<sup>2</sup> Bassoioni, M. Cherif. A World Study on Conflicts, Victimization, and Post-Conflict Justice 79. (vol. 1, 2010).

<sup>3</sup> Thornton, Justine. Beckwith, Slias. Environmental Law. London, Sweet & Maxwell. P. 1. 1997

highlighted and referred to can help in stopping, limiting and accountable the violations' committers.<sup>4</sup>

Accordingly, the researcher highlights the Israeli environmental violations over the Palestinian territories taking in consideration the case of the Armed Conflict that is still active in these territories in light of the IEL regulations in specific and the International Law with all its parts in general. Hence, the study sheds light on the condition, consequences and effects of the Armed Conflict practices on a territory that have left a long-term harm on the environmental aspect of the country which would keep the territory suffering from these environmental violations even after the Armed Conflict ends. Moreover, the study addresses how the Environmental violations that are commit at the time of an Armed Conflict would affect the humanitarian aspect later due to the relation between environment and humans' interactions and dependency.

In addition, the environmental violations that were commit in a specific zone would later exceed the boarders of the violated country and move to be an international concern due to the impossibility of controlling the spreading of the affect that the natural resources have undergone. This is due to the fact that the environment is limitless and boarders-less. Which would mean that the environment in general is an international concern that the whole international community should never turn its back for it. In order to address these environmental issues, the researcher presents through the thesis a comprehensive explanation of the International Environmental Law and its most reliable treaties that have taken place in order to draw the limits for states in order to prevent any environmental assaults.<sup>5</sup>

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<sup>4</sup> ICRC, The protection of the environment in time of armed conflict. -No Year Available-.

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

<sup>5</sup> Thornton, Justine. Beckwith, Slias. Environmental Law. London, Sweet & Maxwell. P. 1. 1997

In addition, the thesis refers to the agreements' regulations and principles that an international committee have designed and then considered them as fundamental foundation for the environmental protection and a preventive tool of any prospect violations. The thesis aims to create the connection between the IEL laws and principles with the Armed Conflict regulations and limits that were stated by the IL. The thesis then follows to present if there are any committed violations on the Palestinian Territories by the "Israeli" side since 1995 until 2019, that might go against the global recognized laws and agreements in general and the IEL in specific taking in consideration the special case of Palestine with the ongoing Armed Conflict and Occupation.

Moreover, the thesis discusses in case of environmental violations proved later in the thesis if there is a chance of accountability of the "Israeli" side due to the fact that "Israel" has signed and is part of the most important environmental agreements and have agreed on their regulations, laws and principles. Which means that the "Israeli" side agrees on their responsibility of protecting and preserving the environment and natural resources of any neighbouring territories with any way.

This study consists of three self-contained chapters, which design the whole thesis map. The first chapter is an introduction of the construction of the thesis. It contains and maps the study through stating the research problem, questions, and objectives. It also gives an explanation and introduction to the IEL in relation to the Armed Conflict then applied on the Palestinian Territories as a case study. The second chapter includes the protocols and laws of the Armed Conflict and IEL more specifically, which contains a brief clear clarification of both concepts in relation to the Palestinian Territories as a case study. The third chapter recites only officially proven Environmental violations

commit by the “Israeli” side on the Palestinian Territories and sheds light on how these violations break the Environmental Laws and Agreements.

The study in general aims to document the proven environmental violations that “Israel” commit on the Palestinian Territories in the light of the International Environmental Law in connection with the Armed Conflict concepts and regulations. The thesis uses official documents and archives that state and prove the violations of “Israel” and refer to documents from both sides in relation to the environmental issues and the Palestinian as well as the “Israeli” commitment to preserve the Environmental aspects and the natural resources of both territories.

Moreover, the thesis searches in the possibility of putting the violating side under accountability according to the agreements that both sides (Israel-Palestine) have signed and admit their responsibility of their regulations and laws.

### **Research problem**

A group of researchers and “Israeli” departments declare that “Israel” is applying a green strategy and style of living or in terms of industry following the principles of the IEL of not violating any other territories environmental resources stability or exploiting any natural resources. OECD Environmental Performance Reviews 2011 which is established in light of the IEL regulations and expectations<sup>6</sup> has stated in one of its reports that “Israel” has reported the latest progress in the Environmental sector of and has adopted a progressive green policy internationally and internally<sup>7</sup>. For instance, the

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<sup>6</sup> OECD (2011), OECD Environmental Performance Reviews : Israel 2011. OECD Publishing.  
<https://dx.doi.org/10.1787/9789264117563-en>

<sup>7</sup> Ibid

OECD report 2011, states that “Israel” achieved a goal in gas emissions issue, especially in the electricity sector of 20% reduction by 2010.<sup>8</sup>

Moreover, the same report states that “Israel” has established the foundation to create a modern waste management policy with respect to the international practices internally<sup>9</sup>. Adding to that and after Stockholm agreement that “Israel” has signed to be part of, “Israel” has created its Environmental Protection Services (EPS) as a step to reflect what the agreement has emphasized on in regards of the environmental issues that are related to “Israel”<sup>10</sup>. Moreover, in 1988 “Israel” has established the ministry of Environment in order to put the environmental works as part of the system’s achievements and compliances of the IEL.<sup>11</sup> These two steps indicate “Israel’s” conscious and recognition of the responsibility towards the environmental protection and the binding regulations of Stockholm agreement or any other agreements that they have signed on.

On the other hand, another group of researchers and official departments present an opposing idea which states that “Israel” is not fully committed to the IEL and its agreements regulations that it has signed on, which would be binding on “Israel” to apply the treaties principles. This is due to some “Israeli” practices that are considered against the IEL and the customary law which the opposing group present. For example the “Israeli” settlements that are built on the Palestinian territories<sup>12</sup> which cause major harm to the natural balance of the settlements areas due to the cutting down of the trees

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<sup>8</sup> OECD (2011), OECD Environmental Performance Reviews : Israel 2011. OECD Publishing.  
<https://dx.doi.org/10.1787/9789264117563-en>

<sup>9</sup> Ibid

<sup>10</sup> Gabbay, Shoshana. The Environment in Israel, 1994. Ministry of the Environment, Jerusalem, Publications and Public Relations Unit. 2002. (Link in References)

<sup>11</sup> Ibid

<sup>12</sup> UNEP, Desk Study on the Environment in the Occupied Palestinian Territories, 2003.  
<https://postconflict.unep.ch/publications/INF-31-WebOPT.pdf>



that would cause an imbalance in the natural atmosphere and many more affects that are highlighted later in the thesis.

Moreover, the water supplies and resources face several violations as the “Israeli” side has a full control on the water wells and resources. For example, “Israel” only allows to the Palestinians to use the surface water and do not allow them to have access to the groundwater, which is purer and more guaranteed to be cleaner<sup>13</sup>. As a result, this type of violation would have a great impact on the Palestinians health and rights to have an access to clean water, which also goes along with the SDG number 6 *Clean Water and Sanitation*<sup>14</sup>.

In addition, there are many lawsuits that have ended up with decisions by the “Israeli” courts, which are considered as environmentally violating actions. One type of these lawsuits is related to the Stone Quarries that the “Israeli” High Court of Justice has legalized their construction in the settlements that are based in the West Bank with less Environmental regulations and standards than the standards followed internally in “Israel”<sup>15</sup>. Accordingly, the UNEP mentions in its 2015 report that “Israeli” lacks the commitment of the IEL application on other territories.

Hence, the research problem is embedded in the extent of commitment the “Israeli” side shows towards the International Law in general. Over the past decades, The Palestinians and the international community have faced a problem with the extent of the “Israeli” commitment of the agreements that it has been a part of as well as the UN

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<sup>13</sup> UNEP, Desk Study on the Environment in the Occupied Palestinian Territories, 2003.

<https://postconflict.unep.ch/publications/INF-31-WebOPT.pdf>

<sup>14</sup> General Assembly, Transforming our world: the 2030 Agenda for Sustainable Development, 2015.

<https://sustainabledevelopment.un.org/post2015/transformingourworld>

<sup>15</sup> Human Rights Watch. How Settlement Businesses Contribute to Israel’s Violations of Palestinian Rights. 2016. <https://www.hrw.org/report/2016/01/19/occupation-inc/how-settlement-businesses-contribute-israels-violations-palestinian>

resolutions applications on ground. On the same hand, this preconception is due to previous experiences that the Palestinians and the international community undergone by the “Israeli” side. Such as the Resolution 194 in 1948,<sup>16</sup> that declares the right to return of the Palestinian Refugees or the Resolution 66/225 in 2011<sup>17</sup> that stand against the exploitation of natural resources by the “Israeli” side in the Palestinian territories and the lands of the Syrian Golan Heights which none of them have been executed. There are many more neglected UN resolutions that “Israel” has not commit to apply them ignoring any consequences or global rights that “Israel” is supposed to commit to, as well as minding the global responsibility of these resolutions.

Consequently, the Israeli’s commitment and respect of the law and the International community will and still exists as a knocking question which makes it considered as a problematic issue that faces any step of a change, which the global or local community ever wills to do.

### **Importance and Justification**

The Environmental topic is a global debatable concerning topic that arose in the late decades of the 20<sup>th</sup> century. The environmental violations over any state are a highly rated concern worldwide. This study is attempted to conduct due to the importance of highlighting new angles that are not analytically being presented. This study has chosen the Environment as a topic due to the lack of research in the Palestinian territories case that would enrich the reference sources in case of documentations. Moreover, this study was firstly conducted in view of the fact that the wide impact of any environmental

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<sup>16</sup> The Meaning of UN general Assembly Resolution 194, BADIL Occasional Bulletin No.11. 2002.  
[http://www.badil.org/phocadownloadpap/Badil\\_docs/bulletins-and-briefs/Bulletin-11.pdf](http://www.badil.org/phocadownloadpap/Badil_docs/bulletins-and-briefs/Bulletin-11.pdf)

<sup>17</sup> Resolution Adopted by the General Assembly. Agenda item 661. United Nations, 2011.  
<https://www.un.org/en/ga/66/resolutions.shtml>

violating consequences are movable and unrestricted of any borders. Therefore, any violations at any territory in the world would after a period of time harm the balance of the global natural resources stability due to the expanded limitless effect of any violations that would extend beyond the geopolitical borders. Which would eventually result in affecting the factors of Climate Change cause, which needs more attention, and require more caution.

Furthermore, after a humble research and readings in IEL, it was clear to the researcher that there is not a clear definition of the Environment. The thing that would cause a fluffiness in the laws because there were no clear determined components of the Environment that needs to be stated in detail. Besides that, in the case of war or armed conflicts there should be another specified definition of the Environment that would hold the violating state accountable for its assaults. As the aggressive activities that would affect the Environment dramatically in the time of war or use of weapons because such situations must be treated differently. For example, the scale and effect principle that was stated in the IEL cannot be measured the same in time of peace as in time of armed conflict as this would cause a problematic resolution of the violation affects and the accountability of the violating state.

Accordingly, the case of armed conflict in the Palestinians Territories and its daily impacts on the land, water, human health, air...etc requires being highlighted distinguish-ly. That being the case, this study is expected to add recommendations, new results and analysis to the active International community and supervisors of the environmental laws and security under the case of armed conflicts that would help as a result in developing the IEL in a more coherent way. The thing that is needed to understand the different scale and effect concept in time of conflicts than in time of

peace that would help in framing a strategic legal defence for cases of other conflicted areas and the Palestinian case in specific.

Moreover, the thesis timeframe is significantly selected to cover a period, which starts from 1995 until 2019 with 24 years in total. The duration selection refers to three important factors that highlights the significance of this time-period in addition to its impact and is reflected in the thesis. The first factor is the selection of 1995 year that held Oslo agreement signature in which it had made a turning point in the Palestinian statues in terms of the political weight<sup>18</sup>, the increase of the “Israeli” various violations committed in the Palestinian territories, in addition to its applicability in the recent times. Second, the time range that the thesis covers embed watersheds in the Palestinian cause on a national, regional, and international level in general and in relation to the Environmental International Law in specific. The Palestinian ground has witnessed some changes in the last 24 years such as recent and significant agreements for example Paris Agreement, and more attempts by the Palestinian side to ensure more International recognition and presence as in the UN declaration of Palestine as a non-member observer state of the UN November 2012.<sup>19</sup> Third, the importance in being up-to-date of the provided information is an importance element and what gives this thesis a more relevancy to the real situation on the ground in relation to the extent of the “Israeli” competence with the International Environmental Law in the Palestinian lands by documenting the most recent updates regarding the environmental security in order to make this thesis a recent and up to date reference in this topic.

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<sup>18</sup> The Israeli-Palestinian Interim Agreement (Oslo II), Washington, DC, September 28, 1995.  
<http://www.acpr.org.il/publications/books/44-Zero-isr-pal-interim-agreement.pdf>

<sup>19</sup> Question of Palestine, Report of the Committee on the Exercise of the Inalienable Rights of the Palestinian People (A/67/35). UN, 29 November 2012.  
<https://unispal.un.org/DPA/DPR/unispal.nsf/0/C05528251EA6B4BD85257AE5005271B0>

## **Research Questions**

### **Main Question:**

- To what extent the Israeli environmental practices are consistent with the International Environmental Law?

### **Sub-Questions:**

- What are the Israeli environmental violations of the Palestinian Territories?
- What are the Israeli policies if any would be calculated harm the IEL?
- Are there any side effects of the Israeli environmental violations (if found)?
- In case of environmental violations, what are the possible steps of accountability to be taken?
- Is the measuring tool (scale and effect) of pollution violations in the time of Armed Conflict the same as in the case of peace?
- How can the arms and weapons be an environmental violating case?
- How the environmental law can overlaps with the humanitarian rights?
- Does the Palestinian side have any internal environmental agreements with the Israeli side?
- To what extent is the IEL agreements binding in terms of application and accountability of their participants?
- How possible it is to withdraw from an international environmental agreement?

## **Objectives**

- Identify the extent of the “Israeli” compliances with the IEL.
- Study the Palestinian Territories environmental condition under the ongoing Armed Conflict.

- Analyze the gaps of the IEL in terms of the Environment definition and the extent of the treaties binding process.

## **Methodology**

This is a qualitative analytical research. The main methodology used for this study is the analysis of the available literatures relevant to the previous studies as well as the International Environmental Law specifications and details. This research uses primary sources of the internationally recognized treaties, Customary Law, International Courts Decisions, the General Principles of Law, UN Published Documents (UNEP reports, SDGs reports), and the Israeli High Court of Justice Decisions.

Also, the research takes in consideration secondary sources of purposeful interviews with expertise in this field that is conducted in depth, field observations, reports from both the Palestinian and “Israeli” side regarding the environmental issues in terms of commitment or violations. As the study is fully concentrating on the Palestinian case.

## **Chapters Plan**

- Chapter 1: Thesis Introduction and Mapping.
- Chapter 2: International Environmental Legislative Provisions Analysis
- Chapter 3: Environmental Violating Practices and Legal Applicability
- Chapter 4: General Conclusions and Recommendations.

## **International Environmental Law**

The International law was purposely designed to discipline the behaviour of individuals and states after WWII in order to control the results of the war between countries,

accountable those who are responsible, and maintain peace and security.<sup>20</sup> The International law has many sources and different fields concerning the world issues and is updated when needed in order to follow up the evolving and complicated worldly cases. When a phenomenon causes a threat that affects the world security, it is then a concerning issue to be considered as a priority that needs a global attention in order to mitigate its impacts and danger. There are many recent threats that caught the attention of the world such as the Climate Change.

The International Environmental Law was made as a result to the industrial revolution and its development that it has caused to the style of living of people and the changes that has occurred in world as an outcome of the life evolution.<sup>21</sup> The industrial revolution has resulted in a behaviour in the countries ruling systems as each country wanted to develop faster and become more innovative.<sup>22</sup> Therefore and in order to achieve this goal that countries are aiming to score, they started to overwork, over produce, over industrialize, and overdo in all the typical fields. As a result, this has caused an extreme exploitation of the natural resources that at some cases it has reached the level of violating other country's environmental security and cause an environmental threat to the well-being of the humans as well as the stability of the natural foundation of the violated state.<sup>23</sup>

The world is familiar to armed types of violations where weapons are the main player of the harm that is caused by one state on the other. However, due to the changes that the world has experienced in terms of industry, all sectors production, tourism, science,

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<sup>20</sup> Benvenisti, Eyal. The Conception of International Law as a Legal System. 2008.  
[https://www.researchgate.net/publication/228149361\\_The\\_Conception\\_of\\_International\\_Law\\_as\\_a\\_Legal\\_System](https://www.researchgate.net/publication/228149361_The_Conception_of_International_Law_as_a_Legal_System)

<sup>21</sup> Thornton, Justine. Beckwith, Slias. Environmental Law. London, Sweet & Maxwell. P. 1. 1997

<sup>22</sup> Ibid

<sup>23</sup> Ibid

or kinds of transportation, a new type of violating acts have started to take place between countries. This type of assaults is in the means of the environmental violations that cross countries despite the borders that separate countries from each other. So the environmental violations that are committed of some countries against other countries whether intentionally or unintentionally, such as water pollution, gas emissions of the violating countries factories, and pollutions that are resulted due to the weapons that are being used in the armed conflicts or practiced under an armed conflict conditions and consequences.<sup>24</sup> Therefore the violating countries are always expected to be put under accountability no matter what the intentions are, and in order to justify the accountability process, there has to be a legal system of laws that binds countries to execute them on ground in order to make sure that environment is protected.

Many cases have happened later in the nineteenth century that have provoked the international community and justice to create a field that would bring justice and secure countries from any prospect violations that would at the end have a global affect which is not limited only on the violated state.<sup>25</sup> Environmental Law has gone through many different evolving stages. So accountability has started to refer to the customary law that is a foundational legal base of the International law which puts countries under accountability of familiar already used laws that bind people from violating other countries such as no killing, no pollution, or no bombing of any country.<sup>26</sup>

However, after finding that the environmental violations started to take different paths and forms against other states and causes life threatening affects, it started to be important for the international community to construct a field of the international law

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<sup>24</sup> Thornton, Justine. Beckwith, Slias. Environmental Law. London, Sweet & Maxwell. P. 1. 1997

<sup>25</sup> Benvenisti, Eyal. The Conception of International Law as a Legal System. 2008.  
[https://www.researchgate.net/publication/228149361\\_The\\_Conception\\_of\\_International\\_Law\\_as\\_a\\_Legal\\_System](https://www.researchgate.net/publication/228149361_The_Conception_of_International_Law_as_a_Legal_System)

<sup>26</sup> Ibid



that would be environmentally more specific and protective. Therefore, the international legislative decision makers took a new step in the legal means by moving to create binding international agreements that bind their participants to commit to the treaties regulations and be under the accountability at the time of environmental violating acts. Accordingly, the UN started to form agreements and invite countries to conferences concerning the environmental issues and dilemmas, which have later resulted in many binding agreements that focuses on the Environmental protection of the all world countries. Out of the multiple number of agreements, there were a number of treaties that made the greatest impact and are considered as the most binding signed conventions. The following few pages present these agreements.

- The Stockholm Convention

It has been signed in 1972, that aims to protect human health and the environment from persistent organic pollutants. The agreement's goal is achieved by reducing the production of these materials as much as possible, eliminate the manufactures of these materials and find their healthy and non-harming alternatives. The agreement includes an exchange of information between the parties in this regard and the regulation of international trade in these chemicals.<sup>27</sup>

- United Nations Framework Convention on Climate Change.

The United Nations community is at the forefront of efforts to save our planet. In 1992, through the Earth Summit, the United Nations Framework Convention on Climate Change (UNFCCC) was produced as a first step in addressing the problem of climate change. Today, the Convention has a universal membership and 197 States have ratified

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<sup>27</sup> O. Adede, Andronico. The Treaty System from Stockholm (1972) to Rio de Janeiro (1992), Vols.13, Issue.1, digital commons, 1995.  
<https://digitalcommons.pace.edu/cgi/viewcontent.cgi?article=1391&context=pelr>

and are parties of the Convention. The ultimate goal of the Convention is to prevent "dangerous" human interference in the climate system.<sup>28</sup>

- Kyoto Protocol

This protocol extends and operationalize the UNFCCC work and by 1995, some countries had begun negotiations to promote a global response to climate change. Two years later, the Kyoto Protocol had been adopted. The Kyoto Protocol legally binds developed country Parties to emission reduction targets. The first commitment period of the Protocol began in 2008 and ended in 2012. The second commitment period began on 1<sup>st</sup> January 2013 and will expire soon in 2020. There are now 197 Parties to the Convention and 192 Parties to the Kyoto Protocol.<sup>29</sup>

- Paris Agreement

At the 21st Conference of the Parties in Paris in 2015, the same as the Parties of the United Nations Framework Convention on Climate Change (UNFCCC) reached to a historic convention to combat climate change, accelerate and intensify the actions and investments needed to achieve a sustainable low carbon future. Paris Agreement is based on the UNFCCC, and for the first time, Paris included all States to a common cause for ambitious efforts to combat climate change and adapt to its effects, while strengthening support to help developing countries do so. As such, it marked a new course in global climate efforts.<sup>30</sup>

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<sup>28</sup> O. Adede, Andronico. The Treaty System from Stockholm (1972) to Rio de Janeiro (1992), Vols.13, Issue.1, digital commons, 1995.

<https://digitalcommons.pace.edu/cgi/viewcontent.cgi?article=1391&context=peir>

<sup>29</sup> Valentine, Sarah, & Smith, Reed. International Environmental Law. Advocates for International Development, 2011. <http://www.a4id.org/wp-content/uploads/2016/03/International-Environmental-Law.pdf>

<sup>30</sup> Ibid

The main objective of Paris Agreement is to enhance the global response to the threat of climate change by maintaining global warming of this century also to reduce the earth temperature further to 1.5°C<sup>31</sup>.

On Earth Day, celebrated on 22<sup>nd</sup> April 2016, 175 world leaders signed Paris Convention at United Nations Headquarters in New York. As this was the largest number of countries signing an international agreement in one day ever before. Recently, 184 States have acceded to sign the Paris Convention.<sup>32</sup>

These agreements put the countries that have signed them under accountability in case of the environmental violations in any way or attempt. Moreover, they have required from each country to create a specific section in their legislative system that deals and treat the environmental issues which go along with the international treaties. The countries were expected to create the national Environmental Law of their countries according to the main elements of the IEL, that's in order to protect the countries' environments and put individuals and countries as well under accountability in case of a national environmental violations. The thing that would create an environment friendly culture among people to protect them against any attack in other cases.

### **Sources of International Law**

The international Law has a clear basement, which construct the main sources of the legal provisions that are referred at legal disputes. Article 38 of the statute of the International Court of Justice states the official sources of the International Law.<sup>33</sup>

These main and mostly only resources of the International Law are the International

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<sup>31</sup> Valentine, Sarah, & Smith, Reed. International Environmental Law. Advocates for International Development, 2011. <http://www.a4id.org/wp-content/uploads/2016/03/International-Environmental-Law.pdf>

<sup>32</sup> Ibid

<sup>33</sup> Thornton, Justine. Beckwith, Slias. Environmental Law. London, Sweet & Maxwell. Ps. 28-30. 1997

Treaties, International Custom, General Principles of Law and Judicial decisions and academic writings.<sup>34</sup>

The International Treaties refer to the type of treaties that are conducted between the UN states members and under the provision of a legal framework. These treaties set up rules and laws that are binding on the signing states of the UN. Moreover, if a treaty has been accepted and signed on by highly influential states, that treaty becomes indirectly in force and executive-able on all the UN states as the major and general acceptance brings in a pressure on the states to accept it and be part of it. In addition, when a sufficient number of the UN states members accept the international treaties to become part of their national and international followed legal provisions, these treaties laws and provisions become part of the Customary Law that is a strong source of the international law due to its expanded net of enforce and bind.

Following the treaties and their affection in creating the Customary Law, it is important to bring up the power of the Customary Law in this section. Customary Law is created when there is a general recognition within the UN states regarding a specific law, which is also sometimes not negotiable as in the IHL, Hague and Rome Statue.<sup>35</sup> Moreover, a Customary Law is built due to the period of practicing that law in reality in order to examine and spread the acceptance of that law among all states.<sup>36</sup> If we picture the Customary Law it looks like the traditions of the International Law where no treaties have been necessarily signed by all the states, yet are practiced and are under no condition able to be negotiated as in the human rights and dignity. The Customary Law becomes by time a binding law and enforced on all states due to its general acceptance.<sup>37</sup>

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<sup>34</sup> Thornton, Justine. Beckwith, Slias. Environmental Law. London, Sweet & Maxwell. Ps. 28-30. 1997

<sup>35</sup> Ibid

<sup>36</sup> Ibid

<sup>37</sup> Ibid

In addition, the third source of the IL is the General Principles of Law due, the title of the legal source says it all, as the use of the word general explain the type of laws that this source contain.<sup>38</sup> This source is more concerned with the basic fundamental and abstract laws that have no specific details yet they are clear enough to protect a certain aspect as in the states' sovereignty in its borders.<sup>39</sup>

Lastly is the source of the judicial decisions and Academic Writings. When the ICJ has set a lawsuit with a decision, this case's legal decision is usually used later as a reference to similar disputing cases and enrich the legal provision.<sup>40</sup> Moreover, such decision is usually used as a way to protect the disputed parties by refereeing to the judicial decision as an international legal reference to clear up the rights, duties and the consequences in times of violations.<sup>41</sup> Moreover, due to the need of continues studies and researches in this field as a way to enrich and enlighten the legal team at the ICJ or around the world in general, some highly expertise qualified researchers that are deepened in this field have produced some researches in legal analysis to participate and contribute in developing the law.<sup>42</sup>

### **Fundamental Principles of the IEL**

The same environmental issues have been placed on the agenda of various conferences, meetings, and political, security and economic debates at the global and regional levels. These international efforts, together with the various studies, work and reports issued by the research centers and the environmental and strategic practitioners, have produced

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<sup>38</sup> Thornton, Justine. Beckwith, Slias. Environmental Law. London, Sweet & Maxwell. Ps. 28-30. 1997

<sup>39</sup> Ibid

<sup>40</sup> Ibid

<sup>41</sup> Ibid

<sup>42</sup> Ibid

a set of principles for protecting the environment. The principles we review are most important in this requirement.<sup>43</sup>

### 1. cooperation or international solidarity Principle:

This principle refers to the need to make every effort to achieve cooperation and coordination to take the necessary measures to protect and improve the environment in areas threatened by pollution. Hence, Principle/article 24 of the Stockholm Declaration on the Environment in 1972 states that

*By all major and small States on an equal footing, and cooperation through multilateral or bilateral agreements or other appropriate means is indispensable for the effective identification, prevention, reduction and elimination of all attacks on the environment, resulting from activities in all areas, while respecting the sovereignty and interests of all States*<sup>44</sup>

In other words, global environmental security requires international, regional and local cooperation to protect the environment. That has to result in conserving its natural resources, in the sense of the need to establish a close link between the environment and all sectors development in a more comprehensive sense, in both developed and developing countries.

### 2. The principle of non-discrimination:

The principle of non-discrimination as a principle of environmental principles is that the standardization and approximation of environmental pollution policies and

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<sup>43</sup> Liur's Paradell, Principles of International Environmental Law, Blackwell Publishers, Vols.9, Issue.2, 2000. <https://pdfs.semanticscholar.org/65fc/1acaf83eec4d73a3e6b7f14d3243943d6284.pdf>.

<sup>44</sup> Ibid

procedures, for example, must be carried out either before or during the existence of such an environmental threat or to compensate for it and to complete its effects.<sup>45</sup>

**3. Principle of the obligation of the State not to cause environmental damage in another State:**

The origins of this principle are based on the judgment of the Court of Arbitration in 1937 in connection with the Court's consideration of the Trail Smelter Arbitration case between Canada and the United States of America, as stated in Principle 17 of the 1972 Stockholm Environment Declaration.<sup>46</sup>

**4. Principle of prohibition or prohibition:**

It is agreed that preventing damage before it occurs is better than compensation for damage after it occurs. This proactive action requires a set of legislative and executive measures to protect the environment and its resources against various environmental threats, accompanied by such early warning mechanisms, and called for action

In addition, the principle of prohibition or prohibition was included in the 1992 Rio Declaration, in which it was recommended in Principle 14 (14) that the principle of precaution should be adopted.<sup>47</sup>

**5. Polluter pays principle:**

This principle indicates that every natural or juridical person has caused pollution to the environment. Under this principle, the violator is obliged to pay the affected parties the costs necessary to combat, prevent and prevent the spread of such pollution. The competent bodies in the protection of the environment determine these costs. In this

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<sup>45</sup> Liur's Paradell, Principles of International Environmental Law, Blackwell Publishers, Vols.9, Issue.2, 2000. <https://pdfs.semanticscholar.org/65fc/1acaf83eec4d73a3e6b7f14d3243943d6284.pdf>.

<sup>46</sup> Ibid

<sup>47</sup> Ibid

regard, *Ecotax* finds its basis and derives its philosophy from this global principle (polluter pays), which first appeared in 1972 on the work of the Organization for Economic Cooperation and Security.<sup>48</sup>

**6. The principle of individual interest in protecting the environment:**

This principle provides for the right of individuals in their abstract capacity to resort to judicial bodies for the defense of environmental damage. This right is taken in the form of popular actions or the idea of heresy known in Islamic law. This principle is because environmental damage does not differentiate between humans and others. This is because these damages and dangers are kinetic in nature and do not differentiate between one state and another or between one person and another. For example, the dense smoke that covered all countries Southeast Asia in 1997, which resulted from the burning of rubber forests in one of the countries of the region only.<sup>49</sup>

As mentioned above, the International Law was firstly created in order to discipline the behaviour and actions of states and individuals. This is due to the violations that governments or individuals commit. The violations have taken different forms because of the development and security matters. Hence, one type of violations that the International Law gave attention to is the Environmental violations that have taken place recently and caused many harms to people are included into the IL restrictions and crimes.<sup>50</sup> Moreover, due to the multiple and variety of the cases where violations take place, and the diversity of cultures, beliefs and ethics the Environmental violations can be more sever under the case of Armed Conflicts due to the aggressiveness that occur at the times of war. Because at such cases, the violations are not restricted to

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<sup>48</sup> Liur's Paradell, *Principles of International Environmental Law*, Blackwell Publishers, Vols.9, Issue.2, 2000. <https://pdfs.semanticscholar.org/65fc/1acaf83eec4d73a3e6b7f14d3243943d6284.pdf>.

<sup>49</sup> Ibid

<sup>50</sup> Ibid



polluting act, natural resources exploitation, or even gas emissions of one country's factories or production system.<sup>51</sup>

All types of violations at the time of Armed Conflict are continuous, consistent and more harmful due to the severe destruction war can make.<sup>52</sup> When there is a conflict between two groups or states, both parties will try to benefit on the account of the other to achieve their military goals, even if their acts would harm the other party's sources and infrastructure. As at the time of war and conflict, the ethics of the conflicting parties go lower than what they should be; therefore, their interests' achievements become more important than people's lives or safety. Moreover, the use of weapons raises the chance of harm, as the assaults would be more severe on people and the environment, especially where there is a use of international illegal weapons. That would later affect the land/environment and the people. Hiroshima and Nagasaki<sup>53</sup> incident can be a clear direct example of how the use of weapons can harm both people and the environment due to the use of weapons.

Furthermore, there is a clear connection between the security of the environment that the IEL tries to protect from any assault with the Human Rights Law that attempts to secure and protect people from being violated or harmed by any party no matter what is the reason or interest. Environmental and Human Rights violations can easily be caused under the condition of an Armed Conflict. Saving the Environment from any violations can be a great attempt to guarantee the security as well as the safety of people. The protection or lack of protection of the Environment has a huge impact on the living quality of the violated country's people. Which automatically pours into the same box

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<sup>51</sup> ICRC, The protection of the environment in time of armed conflict. -No Year Available-.

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

<sup>52</sup> Ibid

<sup>53</sup> Ochiai, Eiichiro. (Data on Hiroshima and Nagasaki. 10.1007/978-3-642-38727-2\_13. 2014

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

of the Human Rights goals and missions of securing a safe and dignified life to all the nations around the world despite any racial differences, color, ethnicity, or Religion. A better interaction between all sectors of law would establish a stronger foundation for the legal systems to rely on. Moreover, if deep legal interaction happens, it would cover all the rights and obligations of individuals and countries. The thing that would present the international law more as a comprehensive legal base.

In the Case of the Environmental violations at an unstable condition of a territory such as an Armed Conflict case like the one the Palestinian territories experience, the consequences of the war can be unpredictable, uncontrollable, and more serious. Therefore, such special cases of Armed Conflict and different types of violations there has to have a specific highlight on the details of the case where the general concepts of the International Law are not enough to cover all the case's details. On the other hand, the IL mentions some prohibited acts and considered them as a red line and a war crime in order to prevent any type of violations, which includes in some parts the Environmental violations but with no specifications. Environment preservation is highly connected to the Armed Conflict condition due to the affects that exceed the humans and reach the natural resources of the motherland of the humans themselves, which is the nature. So it is not only about killing or harming humans of a mean time but also it reaches the next generations of the assaulted territory as the environmental effects of the practices of the Armed Conflict does not end by the end of the war. In order to create limits for the cases of the Armed Conflict violations on Environment and after different incidents such as Hiroshima and Nagasaki the IL had to bring specific lines to the law that set limits and consequences clear.

Article 35 of the Additional Protocol 1977 to Geneva Conventions 1949 states different rules but the there are two important rules of the article that are related to the

environmental preservation at the time of Armed Conflict.<sup>54</sup> The first rule states the following *In any armed conflict, the right of the Parties to the conflict to choose methods or means of warfare is not unlimited*<sup>55</sup>. This rule is related to the weapons and methods used at the time of war; it declares that the choice of the military procedures does not refer only to the standards of the conflicting parties; however, it has detailed manual and benchmarks as well as restrictions that limit the military interventions styles and intensity. So, the conflicting states are not free at choosing how to fight or attack another state internationally or even internally. The choice depends to a detailed military manual that is mentioned later in the thesis. The second rule statement of Art 23 is *It is prohibited to employ methods or means of warfare which are intended, or may be expected, to cause widespread, long-term and severe damage to the natural environment*<sup>56</sup>. This rule of the ART.35 turns to be more specific about the environmental affects that the natural resources would undergo at the time of any assaults. The rule states that it is prohibited which means it is completely not allowed or even negotiable to use any method that would be in any expected or meant to be the reason behind any sort of damage practiced on the environment. Moreover, the same rule states that there are features of the environmental violation at the time of Armed Conflict in order to count it as a prohibited act, which are a widespread, long-term, and sever damage. These features point out an embedded rule, which is about the extent of the environmental violation affect that would later exceed the impact and end up affecting humans. A widespread harm can be internally inside the harmed state itself and externally (internationally) in which the harm extends to reach further natural areas

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<sup>54</sup> ICRC, Guidelines for Military Manuals and Instructions on the Protection of the Environment in Times of Armed Conflict, 1993. <https://www.icrc.org/en/doc/resources/documents/article/other/57jn38.htm>

<sup>55</sup> Ibid

<sup>56</sup> Ibid

than the assaulted zone, and as a result this would have a major impact on the steadiness of the human and nature survival.

Moreover, the features of long-term and severe damage are related to the seriousness of the impact of the environmental damage. As a long-term violation indicates the depth of the environmental destruction that the nature is unable to detox itself from the harm. In other words, the harm is becoming semi-permanent and this would result in a severe damage to the violated territory due to the constancy of the environmental damage. Thus, if a calculated harm the “Israeli” side has caused on the Palestinian territories, which applies on Art 35 rules, then “Israel” is considered as a violating state to the International Law.

Moreover, Article 55 1977 of Protocol I Additional to Geneva Conventions 1949 is another fundamental principle and reference in regards of the Armed Conflict field of law. Article 55 proclaims the following

*Care shall be taken in warfare to protect the natural environment against widespread, long-term and severe damage. This protection includes a prohibition of the use of methods or means of warfare, 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>57</sup>

This Part of the article asserts the components of Art 35 of the additional protocol in terms of the precautions that the states must take in order to preserve the environment of any of the conflicting parties and the features of the violations in which the harm is unforgivable. Moreover, it affirms the same concept of the Art 35 in the means of

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<sup>57</sup> ICRC Guidelines for Military Manuals and Instructions on the Protection of the Environment in Times of Armed Conflict, 1993. <https://www.icrc.org/en/doc/resources/documents/article/other/57jn38.htm>

methods and procedures taken at the wartime that would cause any kind of violation to the environment of the conflicting parties. However, the last statement of this section brings a clear connection between the environmental violations and the well-being of the humans' lives the indigenous steadiness and right to have a healthy life. Accordingly, in the case of Palestinian territories violated areas by "Israel", if the Palestinians' quality of life got affected negatively in any way due to the environmental violations then this means that "Israel" is responsible before the International community and the International Court of Justice to compensate and subject to the decisions and principle of the IEL.

The second part of Art 55 states, *Attacks against the natural environment by way of reprisals are prohibited*.<sup>58</sup> In this part, the revenge between states or armed parties can never be executed by destroying the environment of the violated country. This is according to the Art 55 is completely prohibited to cause any damage on the environment in order to achieve a military goal. In other words, damaging the nature is not allowed to be a target to any armed party at the time of war to collect a credit point in the balance of power between the conflicting parties on the account of the wellbeing of the humans and the preservation of the environment.

Following the same track of the principles and the Articles that accountable the violating states on the environment at the time of the Armed Conflict is Art 8 (2) (b) (IV) of the ICC Rome Statute which states the punishment of the environmental violation at the war time

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<sup>58</sup> ICRC Guidelines for Military Manuals and Instructions on the Protection of the Environment in Times of Armed Conflict, 1993. <https://www.icrc.org/en/doc/resources/documents/article/other/57jn38.htm>

*Intentionally launching an attack in the knowledge that such attack will cause incidental loss of life or injury to civilians or damage to civilian objects or widespread, long-term and severe damage to the natural environment which would be clearly excessive in relation to the concrete and direct overall military advantage anticipated.*<sup>59</sup>

Article 8 of Rome Statute is one of the four Geneva Conventions, which states that the violation at the time of Armed Conflict is a war crime. Moreover, the environmental damage that Art 8 states that causes a damage to the natural environment which are severely, widespread as well as a semi-permanent damage effects on the violated zones is a final line for the International Law and decided to be a war crime in case of occurrence. A war crime decision is a final resolution for the International law jurisdictions declared by the treaties and statutes and all member states of the UN admit the responsibility of any violations and the punishment as a result to the commit assault.

According to the Customary Law of the International Humanitarian Law (IHL), the states have produced some rules that are applicable on the international and non-international Armed Conflicts. Rule 44 is one of the important rules that all states should consider in any Armed Conflict as the limits that the conflicting parties should never cross them.

*Rule 44. Methods and means of warfare must be employed with due regard to the protection and preservation of the natural environment. In the conduct of military operations, all feasible precautions must be taken to avoid, and in any event to minimize, incidental damage to the environment. Lack of scientific certainty as to the*

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<sup>59</sup> Jahidul, Islam. The Protection of Environment during Armed Conflict: A Review of IHL. Stamford University Bangladesh, Vol. XI, No.3. 2017.

*effects on the environment of certain military operations does not absolve a party to the conflict from taking such precautions.*<sup>60</sup>

Rule 44 focuses on two different components that are stated clearly to consider by the conflicting parties. The first component includes preserving the natural environment at the time of war and take all the precautions to keep the natural resources of the two parties preserved and safe from any affects that could occur due to any military operations one party would execute. In other words, any step a conflicting party would take in the use of arms and weapons should be evaluated first under the vision of preserving any component that would make a threat on the life and wellbeing of the humans. Which can be in this case the environment that is considered a fundamental part of the human beings lives due to the dependence the humans have on the environment in order to survive.

The Rule has not stressed only on serious harms but also the incidental assault in which indicates the seriousness of the environment preservations. Moreover, the second component of the rule is considering any evading act from justice and accountability by the violating state in any way. The rule declares that even if there is not a concrete measurement tool or a scientific tool to know exactly how to save the nature in any military operations, the conflicting and executer of a military operation state is still under accountability and responsible to take all the possible precautions to protect the invaded territory in all available ways. In the of case of the “Israeli” compliances in regards of any executed to be executed military operations in a Palestinian territory, according to the IHL “Israel” is supposed to take all

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<sup>60</sup> ICRC, The protection of the environment in time of armed conflict. -No Year Available-.  
<https://casebook.icrc.org/case-study/environment-and-international-humanitarian-law>

precautions in order not to harm any natural resource and environmental zone. Otherwise, “Israel” would be responsible for any law limit breaking in front of the International community and ICRC in case of claiming a lawsuit.<sup>61</sup>

Finally, the connection between the Armed Conflict laws, limits and principles with the preservation of the IEL, IL and IHL are stated in different sections and parts. The laws and restrictions to protect the environment at the time of Armed conflict are several and included in all parts of the International Law starting from the different treaties that have been designed to limit casualties at the time of war.<sup>62</sup> Such as Articles 35 and 55 of Protocol I Additional to Geneva Conventions<sup>63</sup> as well as Art 8 of Rome Statue<sup>64</sup> and many more that are stated in different treaties concerned of the Environmental protection at war times. Moreover, the Customary Law principles which take in consideration the environment protection concerns at the time of war as Rule 44 and Rule 45 that both include details about the restrictions on the conflicting parties at war time.<sup>65</sup> All these pre-mentioned articles, laws, or rules of preserving the environment at the time of Armed Conflict are applicable on any Armed Conflict. Which includes the Palestinian territories and the case of the active Armed Conflict that all the armed practices that are executed on the Palestinian Environment should be taking in consideration all the International Laws and

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<sup>61</sup> ICRC, The protection of the environment in time of armed conflict. -No Year Available-.  
<https://casebook.icrc.org/case-study/environment-and-international-humanitarian-law>

<sup>62</sup> ibid

<sup>63</sup> ICRC, Guidelines for Military Manuals and Instructions on the Protection of the Environment in Times of Armed Conflict, 1993. <https://www.icrc.org/en/doc/resources/documents/article/other/57jn38.htm>

<sup>64</sup> Islam, Jahidul. The Protection of Environment during Armed Conflict: A Review of IHL. Stamford University Bangladesh, Vol. XI, No.3. 2017.

<sup>65</sup> ICRC, The protection of the environment in time of armed conflict. -No Year Available-.  
<https://casebook.icrc.org/case-study/environment-and-international-humanitarian-law>



principles. Otherwise, all punishments in case of violations are possible to implement and enforce on “Israel” according to the IL, IEL, and IHL in time of Armed Conflict.

## **Literature Review**

This part includes a selection of studies, MA theses, official reports that have articulated the topic of the Environment protection under the International Law and IEL. Then the studies summarization and simple analysis of them, they are followed by a clarification of what is the connection and difference between these selected studies and my study of the “Israeli” compliances of the International Environmental Law in the Occupied Palestinian Territories.

### **1. Thornton, Justine. Beckwith, Slias Entitled “Environmental Law”**

The aim of this book is to analyse the Environmental Law in details. Starting from the evolution of the law to the treaties that put binding regulations on the signing countries. The study is directed to the students of law or any people who work in this same discipline. Therefore, the book aims to serve the field of law and help in developing the IEL as a way for the book to be an analytical reference for the IEL. The book follows a qualitative analytical methodology of all details of the Environmental law. Hence, the book describes the elements of each treaty related to the IEL in terms of regulations, protection, and accountability elements. Moreover, the book shows the gaps of the IEL in terms of the environment definition, binding extent, as well as execution of accountability.<sup>66</sup>

This current study “The Israeli Compliance of the IEL in the Palestinian Territories as a Case Study” considers this book (mentioned above) as one of the main important

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<sup>66</sup> Thornton, Justine. Beckwith, Slias. Environmental Law. London, Sweet & Maxwell, 1997.

references of the study due to the deep analysis of the IEL in the same document. The study considers it as an important reference as it creates the base for the study to refer to at the coming stages of the MA research such as at the interviews, observations, and other studies. Because the law is the baseline.<sup>67</sup>

## **2. Cullet, Philippe. Entitled Differential Treatment in International Environmental Law**

This book focuses on the term of equity in the International Environmental law in the means of obligations that states are committed to apply especially in the case of unequal states in terms of economic or political power. The book also focuses on the connection of the International Environmental Law and the International Sustainable Development due to the widening of the IEL field that now includes economic, the use of natural resources, trade...etc. The book has followed an analytical qualitative researching method of the International Law and the International Environmental Law. It takes a case study as part of the book structure, which is Plant Variety Protection (PVP) that was created in 1961 by the International Convention for the Protection of New Variety of Plants. The book brings up an important question related to finding a way of measuring the environmental harm of the violated or disadvantaged country as well as measuring tools of the responsibility of the violating country and party must be clearer and covered by the context of the IL.<sup>68</sup>

## **3. Sillitoe, Paul. Entitled “Sustainable Development an Appraisal From the Gulf Region”**

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<sup>67</sup> Thornton, Justine. Beckwith, Slias. Environmental Law. London, Sweet & Maxwell, 1997.

<sup>68</sup> Cullet, Philippe. Differential Treatment in International Environmental Law. Routledge, 2016.

This book focuses on the sustainable development aspect in terms of definitions and applications worldwide and in Qatar in specific. It also shows the possible connection between sustainability and education impacts of the country's performance in case of application. The book also discusses the mutuality of the International Environmental Law and the Environmental Law of the Gulf and Qatar in specific. The book arises a few questions that the book aims to answer. First, what does it mean to be sustainable in a region reliant on oil revenues and in the throes of an economic development boom? Second, what are the challenges faced? Third, what needs to happen now and in the future to enable the Gulf region to achieve sustainability? Lastly, how the obstacles to the creation of a more sustainable lifestyle are being tackled? In addition, the book comes up with a number of recommendations but there are main ones such as the recommendations related to a more sustainable lifestyle behavior such as the use of transportation and more tree planting. However, it recommends to start creating a merging system between the environmental sustainable development and education.<sup>69</sup>

**4. Dussud, Morgane. Entitled "Towards The Emergence of Environmental Human Rights?"**

This study depends on the analysis of the European Court of Human Rights "Case-Law". The study's questions are 1- what are the theoretical relationship between the human rights and environmental concerns. 2- How does the European Court of Human Rights handle cases in which restoring to the right to safe and healthy environment could be relevant? 3- What formulation of a working definition of the right to a safe and healthy environment emerges when merging theoretical debates and the court's ruling on the subject? Hence, the study sheds light on the connection between the

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<sup>69</sup> Sillitoe, Paul. Sustainable Development an Appraisal From the Gulf Region. Berghahn Books, 2014. JSTOR, [www.jstor.org/stable/j.ctt9qdd86](http://www.jstor.org/stable/j.ctt9qdd86). Accessed 12 Feb. 2020.

Human Rights and the environment as well as the development of the environmental humanitarian mission of guaranteeing a healthy life of the coming generations. The study discusses first the relation between human rights and environment in terms of standards and mutual goals in saving the nation and all generations rights to live safely and healthy. Moreover, Dussud tries to find a functional definition of the right to have a safe environment as a human as the research has an advocacy orientation in finding a constructive foundation of the environmental human rights. This study collected three types of data, economic data, human rights and environmental documents and a case-law data as a case study.<sup>70</sup>

Finally, the study has come up with a number of recommendations. The researcher recommended at the end of the research the importance to focus on the preventative measures of the environmental violations as much as accountability due to the huge negative affects the violated countries undergo. Moreover, the study has recommended to work more on finishing old stuck law-suits in order to process new cases and re-allocate the efforts in a more vital field as well as taking in consideration the development that took place since the law-suits were firstly claimed.<sup>71</sup>

**5. Sjöberg, Eric. Entitled “Essays on Environmental Regulation, Management and Conflict”**

This Study talks about how the economic and political aspects should be related to the environmental issues and concerns. It has three main chapters. This study uses two methodologies, the qualitative analytical one, which focuses on analysing the literature of the field of study and quantitative in terms of prices, questionnaires that are presented

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<sup>70</sup> Dussud, Morgane. Towards The Emergence of Environmental Human Rights, 2013.  
<https://munin.uit.no/bitstream/handle/10037/5379/thesis.pdf?sequence=2&isAllowed=y>

<sup>71</sup> Ibid

and analysed later through graphs.<sup>72</sup> The first chapter evaluates if there is a systematic difference in the application of the environmental law in Sweden through the different municipalities and facilities. The second chapter focuses on the overfishing behaviour in Sweden with an examination on how the size of the fish would influence the cost or the price of it. However, in the third chapter, the researcher created a model that it would be possible for him to apply new conditions on the model actors. Therefore, the researcher creates a game where its two players have different values of the meaning of the benefit. The game would have two stages, the first stage is about creating a contract between the two players and divide the goods between them and see what they would react if they would accept or not.<sup>73</sup>

Where the second stage starts if any of the players rejects the contract. So they would be asked to try to find a way to invest in what they have in order to create a better condition or maybe take it to court. Hence, the study's questions are 1- how does the one-sided provided information to any of the actors would affect the settlement's destiny. 2- The researcher wonders if a peaceful division of the benefit would be more preferred by the actors other than going into a competition of getting the share they need. The main objective of this study is to fill the gap of the environmental strategical and mechanisms of the application of environmental law. Finally, the main result of the study is that the feasibility of a peaceful contract and agreement on the profit in consideration of the environmental concerns depends on the actors' expectations and behaviour.<sup>74</sup>

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<sup>72</sup> Sjöberg, Eric. Essays on Environmental Regulation, Management and Conflict. Stockholms Universitet. 2013. <https://www.dissertations.se/dissertation/34e4a655d0/>.

<sup>73</sup> Ibid

<sup>74</sup> Ibid

6. Daszkiewicz, Christina. Entitled “Environmentally displaced persons at the crossroads of environmental, human rights, asylum and economic law”

This study focuses on how the environmental changes and challenges causes a displacement of people and how this urges to a human rights involvement. Moreover, this study uses the European Union regulations in regards of the Environmental displacement. The study talks uses a qualitative methodology with the help of some numeric facts and statistics in order to support the analysis of the researcher.<sup>75</sup> The thesis literature highlights the gap of a strong foundation of law and regulations that would protect those who are forced to change their locations due to environmental violations of changes. Therefore, the study focuses on legal and lawful aspects such as the Environmental Law; human Rights Law...etc, as an attempt to fill this gap and help the concerned parties in establishing a more powerful foundation in protecting and compensate the harmed persons. The study’s questions is “what legal instruments or principles can constitute a foundation for EU obligations regarding EDP protection?”<sup>76</sup>.

Finally, the researcher lists a number of recommendations that mention the importance of a better interaction and connection between all law sectors and take in consideration the humanitarian aspect in order to connect human rights and the climate change affects. Moreover, it recommends that the EU takes a better and a direct position in regards of Paris Agreement due to the Environmental damages that occurred after it was signed.<sup>77</sup>

7. Isaac, Jad. Rishmawi, Khaldoun. “Statue of the Environment in the State of Palestine 2015”

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<sup>75</sup> Daszkiewicz, Christina. Environmentally displaced persons at the crossroads of environmental, human rights, asylum and economic law. 2018  
<https://skemman.is/bitstream/1946/30426/1/Christina%20Ninfa%20Daszkiewicz.pdf>.

<sup>76</sup> Ibid

<sup>77</sup> Ibid

This report focuses and highlights the environmental condition of Palestine. It is published by a Palestinian between the period between 2011 – 2015. It has followed the qualitative and quantitative methodologies in terms of numeric facts and case studies facts. Moreover, the report works of reporting and analysing all the details regarding the environmental condition. It collects environmental information of statistics and graphs. It also go through the legislative and institutional field of the environment in Palestine.<sup>78</sup> Moreover, it focuses on the environmental violations against Palestine as a way to go under the Environmental Law regulations and rights. Also, it sheds the light on the progress of the national development plan. Finally, the study recommends solutions for the water issue in Palestine such as the retreating of water, building a better infrastructure...etc<sup>79</sup>

After a humble research of this current ongoing study, the researcher indicated a shortage in the resources that deal with the topic of Armed Conflict in association with Environment protection as well as Human Rights preservation. This study aims to connect the components of the Environmental Law including its regulations, binding agreements, principles and accountability with the violations that the Armed Conflict would cause. As the Armed Conflict and the use of weapons constantly would definitely cause Environmental problems of pollution and land damages.

Moreover, in other cases environmental problems would cause displacement of people after damaging lands or building settlements as in the case of Palestinian territories. Therefore, this study shows how the Armed Conflict in the Palestinian territories with “Israel” can be a main cause of Environmental violations and problems. Moreover, this

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<sup>78</sup> Isaac, Jad. Rishmawi, Khaldoun. Statue of the Environment in the State of Palestine 2015. Applied Research Institute, 2015. [https://www.arij.org/files/arijadmin/2016/SOER\\_2015\\_final.pdf](https://www.arij.org/files/arijadmin/2016/SOER_2015_final.pdf)

<sup>79</sup> Ibid

study is different from the previous mentioned studies above by questioning the legal system of the Environmental Law if it considers the armed Conflict violations as acts that the Law put the violators under accountability for their acts in terms of tools and executive legal system. Moreover, this study is expected to be a benefit to the research field in specific the studies that researches the condition of the environment of the Palestinian territories at the time of the ongoing Armed Conflict on the Palestinian Lands.

In short, the thesis mainly aims to study the OPT environmental condition in specific and highlight the main and major parts of the nature where it might after a humble search be discovered that it suffers from environmental violations against it. Especially that the case of the OPT goes under the Armed conflict and occupation procedures and forms. Therefore, it must be treated in a just way where violations -if calculated- are turned to the surface and stopped.

## **Conclusion**

The previous provided information about the whole topic shall build a comprehensive path for any environmental violating act to be under-put a clear legal referable framework sourced by the International Law in general with all its main sources. Moreover, this thesis focuses on the legislative background, which provides security and protection of the environmental aspects in all its details regardless any ethnical, religious, or regional considerations. This is because of the fact that the environment is a global importance and responsibility, which is an unnegotiable mission for the international community due to its humanitarian and earth well-being reasons and affects.



## Chapter 2

- **International Legislative Provisions Analysis**

### Introduction

The protection of Environment at the times of conflict is a crucial point, due to the highly expected damage that can be occurred as a result to the Armed Conflict practices against a territory. Therefore, the protection process went and is still going through many stages of development and complexity addition in order to cope with the rapid and sever damages of the environment during an armed conflict. The international community at the first stages has included multiple laws that would set limits before the conflicting parties so it can play a preventive tool from harming the environment.<sup>80</sup>

This Chapter is consisted of two main parts. The first part takes in consideration the responsibilities of the Conflicting parties in protecting the Environment at the time of war and armed conflict as well as at the time of occupation. Moreover, it contains a sufficient part about the Armed Conflict definition according to the International Law of all its sections and parts. The armed conflict section includes indeed distinguishing definitions of the two types of conflict, which are the International Conflict and non-international conflict. Then examine the application of International Law on both types of conflicts in case of differences in terms of protection and consequences.

Accordingly, sources of law are surely included starting from Treaties and Conventions with their laws, moving to the Customary Law, which are devoted to the protection of

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<sup>80</sup> Benvenisti, Eyal. The Conception of International Law as a Legal System. 2008.  
[https://www.researchgate.net/publication/228149361\\_The\\_Conception\\_of\\_International\\_Law\\_as\\_a\\_Legal\\_System](https://www.researchgate.net/publication/228149361_The_Conception_of_International_Law_as_a_Legal_System)

the environment at the times of International and non-International Law conflicts. Hague convention, laws, protocols, and ICC decisions are a main part of this chapter.

It is important to note that the laws are looked at from two different perspectives. First incite is the Law of War in terms of conventions, protocols and courts decisions that shed light on the environment protection necessity and consequences. Second perspective is related to the treaties and other declarations in light of protecting the environment at the time of Armed Conflict and the responsibilities of the occupier power in protecting the environment.

Lastly, the chapter digs in detail into the protection of environment at the time of the ongoing-armed conflict and occupation in the Occupied Palestinian Territories context and examine the feasibility and the possibility of applying the presented laws in this thesis on the OPT context during the Armed Conflict.

### **Armed Conflict Definition and Types**

Throughout history, life has been full of clashes and conflicts. If we look at how the world, countries, and even laws were created, we would notice that it is for the reason of resolving or managing conflicts.<sup>81</sup> Conflicts that would create a new state or create a new boarder in the world or would make people in need of protection and therefore they end up making up laws and sign agreements. Scholars and researchers started to go into the field of conflict more in order to make it less aggressive and more humanitarian if there were violations at people at any extent of the conflict.<sup>82</sup> So they defined the term conflict and set up it components that would show its types and consequences.

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<sup>81</sup> Webel, Charles & Galtung, John. Handbook of Peace and Conflict Studies. Routledge USA & Canada, 2007. <https://www.mkgandhi.org/ebks/handbook-of-peace-and-conflict-studies.pdf>

<sup>82</sup> Ibid

Therefore, many scholars have put efforts to define it in different way according to multiple standards and experiences.<sup>83</sup>

However, Johan Galtung defined Conflict as *a blocked goal because Self and/or Other pursue incompatible goals*<sup>84</sup> However, after a humble research the researcher chose one definition by Johan Galtung that the thesis considers and builds on. I choose this specific definition by Galtung due to its precisely description and accurate expression of what a conflict is. As it discussed the conflict birth from determining how a conflict is sourced of to how the participants defined as “Self and/or other” not individual just human beings. The term “Self and/or Other” that author used indicates that one party views itself as a superior, whereas the Self and/or the other itself view the Self as an Inferior.<sup>85</sup> Therefore, it is a relationship between the empowered with the depowered. In other words, it is an antagonist reaction between two opposing parties.

### **Armed Conflict**

However, and due to the modernization and development of thinking and innovations, fatal weapons were created. Therefore, referring to the industrial revolution and the races that states were involved in such arms race that America and Russia have done through during the cold war and due to the aggressiveness ruling systems have a field of study of Armed Conflict in specific was needed. This is in order to restrict any violations and contain any assault under the International Law for the sake of protection and prevention.<sup>86</sup> As a result, many scholars and humanitarian organizations that are in direct encounter of the Armed Conflicts results and violations have put efforts to create

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<sup>83</sup> Webel, Charles & Galtung, John. Handbook of Peace and Conflict Studies. Routledge USA & Canada, 2007. <https://www.mkgandhi.org/ebks/handbook-of-peace-and-conflict-studies.pdf>

<sup>84</sup> Ibid

<sup>85</sup> Ibid

<sup>86</sup> Bassoiumi, M. Cherif. A World Study on Conflicts, Victimization, and Post-Conflict Justice 79. (vol. 1, 2010).

a definition of the Armed Conflict. One of these organizations was the International Christian Red Cross (ICRC) that has created a paper that analyses and explain the Armed Conflict definition and its types (International and Non-International Armed Conflicts) in a paper that has been introduced and accepted by the ICC.<sup>87</sup>

However, due to the importance of the Armed Conflict topic, some scholars have put an effort in finding and creating a well-designed definition of the Armed Conflict. According to Ellen O'Connell who has structured a definition of the Armed Conflict in general states that:

*clashing of interests (positional differences) over national values of some duration and magnitude between at least two parties (organized groups, states, groups of states, organizations) that are determined to pursue their interests and achieve their goals and/or a 'contested incompatibility which concerns government and/or territory where the use of armed force between two parties, of which at least one is a state, results in 25 battle-related deaths' and/or 'protracted armed conflict between such groups.'*<sup>88</sup>

This definition has taken in consideration important components that can be a reference to what is an Armed Conflict. The definition states that the Armed Conflict occurs between parties, which indicates that it is not between individuals only but parties that would result in war victims of individuals and assaults at the time of the war. It also highlights that the conflicting parties do not always have to be official governments and states; they can also be armed groups such as militias of the oppositions as well as groups. In addition, it sheds light on the need of use of arms and weapons in order to identify it as an Armed Conflict due to the relation between the name of the conflict

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<sup>87</sup> Bassoioni, M. Cherif. A World Study on Conflicts, Victimization, and Post-Conflict Justice 79. (vol. 1, 2010).

<sup>88</sup> Ibid

and practices on ground. Which also needs a minimum average of intensity as well as a clear organization by the parties themselves in order to show that the use of weapons is systemized and not a fault that has happened for once. Armed Conflict field has two main types, which are the International Armed Conflicts and Non-International Armed Conflicts.

### **International Armed Conflicts**

The International Armed Conflicts according to Article 2 to the Geneva Conventions of 1949 is stated as the following

*In addition to the provisions which shall be implemented in peacetime, the present Convention shall apply to all cases of declared war or of any other armed conflict which may arise between two or more of the High Contracting Parties, even if the state of war is not recognized by one of them. The Convention shall also apply to all cases of partial or total occupation of the territory of a High Contracting Party, even if the said occupation meets with no armed resistance.*<sup>89</sup>

This quotation refers to the term of Contracting Parties in the means of states and countries. Therefore, the first hint of the International Conflict definition is related to conflicts between states of defined borders, in other words it refers to governments and internationally recognized parties. Moreover, art.2 emphasizes on the point that if an Armed Conflict is ever occurred between parties, it is still considered as an International Armed Conflict even if any of the states do not recognized the other party as one of the contracting parties (state) of the convention. This would put a point of not meditating the consequences of an armed conflict even in the case of unrecognized states are committing the violations or are being violated in anyway. Which means, that

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<sup>89</sup> ICRC, The protection of the environment in time of armed conflict. -No Year Available-.  
<https://casebook.icrc.org/case-study/environment-and-international-humanitarian-law>

violators in all ways are accountable to their practices despite their condition internationally.

In addition, the article states that it is also considered an International Armed Conflict even if the occupation of a territory is partial or total. Which means that violations over a state with the use of arms is considered prohibited embedded in art.2 despite the size of occupation of a state. Also, the article states that in case of armed conflict between states, if the other party (the violated party) has not reacted against the used of arms force over the territory it is still considered and International Armed conflict even if there was resistance. This would indicate the point that an armed Conflict dose not usually need to have two reactionary parties with the use of force according to D. Schindler says as an explanation to Art.2 *Any kind of use of arms between two States brings the Conventions into effect.*<sup>90</sup>

Hence, the use of arms by one party is an enough standard to be listed as an International Armed conflict. This thing would help the violated countries in filing lawsuits against the violating country and be protected according to the Armed Conflict features and treated with the consequences that the International Law has set in case of Armed Conflict violations.

### **Non-International Armed Conflicts**

The Non-International Armed Conflicts are defined according to article 3 to the Geneva Conventions 1949

*Non-international armed conflicts are protracted armed confrontations occurring between governmental armed forces and the forces of one or more armed groups, or*

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<sup>90</sup> Schindler D., The different Types of Armed Conflicts According to the Geneva Conventions and Protocols. Vol. 163. p.119-163. 1979

*between such groups arising on the territory of a State. The armed confrontation must reach a minimum level of intensity and the parties involved in the conflict must show a minimum of organization.*<sup>91</sup>

Accordingly, the Non-international armed conflict is consisted of two main components in order to be listed under the category of non-international armed conflicts. The first main component refers to type of conflicting parties, as the article above states that the type of conflicting parties in this type of Non-international armed conflict. Either so the armed conflict can be between governmental armed forces that are in a conflicting phase with a one or more armed groups in the same state, which in other words would mean that there might be an opposing armed group that is taking actions against its governmental forces or vice versa.

On the other hand, the non-international armed conflict can be between armed groups within the same state or territory, ensuring the use of arms against each other as a sign of aggressiveness and destruction that is aligned with the term Armed Conflict. Subsequently, art.3 mentioned above follows the type of conflicting parties with other important components, which deal with the intensity of the conditions of the armed conflict that needs to reach the least level of complications and aggressiveness in order to consider it as an armed conflict. Moreover, it highlights the point of organization that the conflicting parties are expected to have in order to be considered a conflict in general. In other words, the conflicting parties within a state must have a recognition of their existence by the context that they are at; also, the internal conflicting parties are

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<sup>91</sup> ICRC, How is the Term 'Armed Conflict' Defined in International Humanitarian Law? 2008. Available at <https://www.icrc.org/en/doc/assets/files/other/opinion-paper-armed-conflict.pdf>

expected to have a basic structure of their system and construction so they can be systematic and organized not random individually led practices.

In the case of the Occupied Palestinian Territories and the conflict that is still occurring with the “Israeli” occupational forces in the Palestinian territories, it is considered a difficult and complicated situation as it has different parts and many divided areas that each area has its own specialty and features. Therefore, as in the case of the West Bank and according to the UN, it is considered clearly an occupation<sup>92</sup>. However, in the case of Gaza it is still debatable in which to be considered as an International or Non-international armed conflict due to complications inside the territories of how to classify with the armed groups in Gaza.<sup>93</sup> Despite that, it can be in some way be considered as an International Armed Conflict due to the latest updates regarding the Palestinian territories of considering them as an observing state in the UN, which can at some standards be classified as an IAC due to the use of arms by the “Israeli” side mostly and intensely.

However and according to Article 2 of the Geneva Convention 1949, it states that the use of arms against a territory is considered to be an Armed conflict no matter whether if the violated area is a recognized state or not<sup>94</sup>. Which in other words would mean that the use of arms and weapons in the Palestinian territories in anyway is a condition of armed conflict despite the type of conflict, which is the arms use is the most important part to be recognized in this section of the thesis and internationally.

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<sup>92</sup> Ferrer, Montse. The Armed Conflict in Israel-Palestine the War Report 2017. The Geneva Academy, Université de Genève, 2018. <https://www.geneva-academy.ch/joomlatools-files/docman-files/The%20Armed%20Conflict%20in%20Israel-Palestine.pdf>

<sup>93</sup> Ibid

<sup>94</sup> ICRC, How is the Term ‘Armed Conflict’ Defined in International Humanitarian Law? 2008. <https://www.icrc.org/en/doc/assets/files/other/opinion-paper-armed-conflict.pdf>



## **UN Member States Responsibilities of the Treaties Commitment**

The main topic of the thesis is to debate the compliances of “Israel” with the IEL at the time of Armed Conflict in the Palestinian Occupied Territories. After introducing, the definition of Armed Conflict and its types then attempt to apply the types on the Palestinian condition, it is now important to analyze the relatable laws, decisions and regulations that are related to the protection of Environment at the time of Armed Conflict. The IEL is consisted of all the laws that are created in all different major treaties, customary law and the decisions of the ICC. The IEL had different sources starting from treaties such as Rio de Janeiro, Stockholm Convention, Kyoto Agreement, Paris Agreement, Geneva Convention, Roma Statue, and Hague Convention...etc. However, the IEL main sources of treaties protect the environment in peacetime more generally.

Despite that, the IEL main sources still do not deny the environment protection at wartime. Which is a promising sign as the environment preservation at warfare is still not blocked out of the IEL main treaties. As a result, to the position of the IEL, the thesis still mentioned the IEL sources of agreements and courts decisions in chapter 1 as it is considered a direct root of the IEL. Moreover, peacetime treaties and laws work in both cases at peace and wartime because what works in peacetime as a common sense still works in wartime yet needs more specifications and more protection as the wartime laws is considered as another layer of protection but not the base. On the other hand, the International Humanitarian Law deals with the issues that are resulted in from the Armed Conflict and the environment is a one expected issue to be affected during Armed Conflict.<sup>95</sup> In addition, the IHL directly and indirectly includes the

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<sup>95</sup> ICRC, How is the Term ‘Armed Conflict’ Defined in International Humanitarian Law? 2008. Available at <https://www.icrc.org/en/doc/assets/files/other/opinion-paper-armed-conflict.pdf>

environmental issues within its laws. Therefore, the direct and indirect mentions of the environmental protection in the IHL alongside to the humanitarian protection, the states cannot turn their backs to the importance of protecting the environment as the IHL has become a worldwide recognized customary law from the understanding of the undeniable relation between the safety of humankind with the protection of environment.<sup>96</sup>

Furthermore, the International Criminal Court decisions and cases that treated environmental lawsuits can also be an important source of the IEL during Armed Conflict if there is such case.<sup>97</sup>

The international community has set the global recognized concept of treaties in order to put states under accountability at the time of violations through different ways. The main idea of signing treaties by the world countries is to create a set of responsibilities that the world can accountable them in case of Treaty violations. As every treaty has a collection of article and laws that all the contracting parties agree on not violating them in any case. Geneva 1949 Art. 51 states

*No High Contracting Party shall be allowed to absolve itself or any other High Contracting Party of any liability incurred by itself or by another High Contracting Party in respect of breaches referred to in the preceding Article.*<sup>98</sup>

This article in specific declares that the major states of the treaty cannot discharge itself or any other major state from the accountability and responsibility of breaking any of the treaty laws or regulations that all signing countries have agreed on not violating any

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<sup>96</sup> United Nations Office on Genocide Prevention and the Responsibility to Protect. War Crimes, United Nations. <https://www.un.org/en/genocideprevention/war-crimes.shtml>.

<sup>97</sup> Thornton, Justine. Beckwith, Slias. Environmental Law. London, Sweet & Maxwell. Ps. 28-30. 1997.

<sup>98</sup> ICRC, The protection of the environment in time of armed conflict. -No Year Available-. <https://casebook.icrc.org/case-study/environment-and-international-humanitarian-law>

of the treaty regulations and laws. Geneva Convention is considered first as a very important source of the International Law that has created and designed the framework of all the later following international treaties. Which means that this article in specific has set it clear to all the world even those who do not accept it, that the respect of the treaties that any country participate in is a must and a non-negotiable principle. Hence, the breaking of any of the worldly recognized treaties laws put a responsibility of the breaking state before the international community. Which later would be followed with a confrontation of consequences. Article 51 that is derived from a fundamental treaty of the IL covers all the global treaties and all their components including the environmental legal ingredients.<sup>99</sup> Therefore, the following laws and regulations that are quoted from basic sources of the IL that are devoted to protect the environment, are binding on the high contracting parties of the agreements.

### **Environmental Devoted Legislative Provisions**

Article 3 in 1907 of the Hague convention that is related directly to the protection of the states during Armed Conflict, which declares important notes of the preservation of states' sanctity.

*A belligerent party which violates the provisions of the said Regulations shall, if the case demands, be liable to pay compensation. It shall be responsible for all acts committed by persons forming part of its armed forces.*<sup>100</sup>

The conflicting parties shall respect the principle of the attacked state under any circumstances. Article 3 1907 states different regulations regarding the protection of

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<sup>99</sup> ICRC, The protection of the environment in time of armed conflict. -No Year Available-.  
<https://casebook.icrc.org/case-study/environment-and-international-humanitarian-law>

<sup>100</sup> Afrianssyah, Arie. State Responsibility for Environment Protection during International Armed Conflict. University of Otago. 2011.  
<https://ourarchive.otago.ac.nz/bitstream/handle/10523/4046/AfriansyahArie2013PhD.pdf?sequence=3&isAllowed=y>

the environment and natural resources at the time of war and armed conflicts that violation of any of the concerned regulations would put the arms using country under responsibility. Accordingly, this same article states that in case of violation then a compensation must be occurred in order to make up for the created damage. This article does not state in specific the environmental violations however, it hints to the importance of respect to the pre-said regulations of the Hague convention, which includes within its stated laws many regulations that emphasize the importance of protecting the environment during Armed Conflict as in articles 22 and 23.<sup>101</sup>

Moreover, the protection of environment is also included in Article 91 in the Additional Protocol I 1977 of Geneva Convention that also confirm Article 3 of the Hague Convention and includes same parts of Article 3. However, it upgrades it and it is more relatable to the context of the Protocol.

*A Party to the conflict, which violates the provisions of the Conventions or of this Protocol, shall, if the case demands, be liable to pay compensation. It shall be responsible for all acts committed by persons forming part of its armed forces.*<sup>102</sup>

This article states two important components. First, it ensure that any contracting party violates the Additional Protocol I provisions and approved regulations then the state shall be aware that it accepts any consequences the protocol decides and has already declared. The article states that in some cases the violating country is supposed to compensate the violated state that the same idea of making up for any sort of damage that has occurred on the assaulted country. So the consequences and results of breaking

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<sup>101</sup> Ibid

<sup>102</sup> Afrianssyah, Arie. State Responsibility for Environment Protection during International Armed Conflict. University of Otago. 2011.  
<https://ourarchive.otago.ac.nz/bitstream/handle/10523/4046/AfriansyahArie2013PhD.pdf?sequence=3&isAllowed=y>

the law of the treaties is also confirmed in article 3 which indicates to the importance of the treaties respect and consideration in case of taking any action during a conflict including the environmental violations.<sup>103</sup>

The Additional Protocol I includes direct statements that declare the states responsibility of protecting the environment and face any consequences in case of an environmental assault. The second part highlights the idea of taking responsibility for all acts with no exception that are taken by the state organs that are based in the other conflicting party or even executing armed operations against the opposing state. Hence, this part completes the idea of what occurs after in case of violation and in armed conflicts in specific. So the article states indirectly using “all acts” term that the environment violations in the time of war are prohibited and set the violating country accountable for its actions.<sup>104</sup>

These three previous articles from important sources of the IL focus on two important points, first the importance of respecting the treaties ethics of the high contracting parties keeping all their actions during Armed Conflict in respect of the all IL sources and regulations that would result in more stability of the world and protection of the states’ sanctity. The second point states the fact of the consequences existence in case of violations during Armed Conflict regardless of the type of violation as in article 91 confirms that all actions must be in respect of the additional protocol, which as a result includes the Environmental aspect and the importance of its protection.<sup>105</sup>

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<sup>103</sup> Afrianssyah, Arie. State Responsibility for Environment Protection during International Armed Conflict. University of Otago. 2011.  
<https://ourarchive.otago.ac.nz/bitstream/handle/10523/4046/AfriansyahArie2013PhD.pdf?sequence=3&isAllowed=y>

<sup>104</sup> Ibid

<sup>105</sup> ICRC, The protection of the environment in time of armed conflict. -No Year Available-.  
<https://casebook.icrc.org/case-study/environment-and-international-humanitarian-law>

Proceeding from the basic rules that are mentioned before of the respect of treaties' laws and not causing any kind of damage through all acts during an Armed Conflict by the armed forces. This following chapter lists environmental protective laws of war crimes that are now considered a customary law, which is one important source of the IL following them with other treaties and declarations that are all devoted to protect the Environment and natural resources during Armed Conflict.

War Crimes have been customarily recognized from old ages; however, the different international treaties have set a goal of setting them under an international umbrella that is recognized by the UN members. Many different international treaties have listed war crimes and each treaty would build upon the previous major one. For example, Rome Statue that was agreed on by all the states members of the UN and later recognized as a customary law source of the International law. It is one example of the treaties that list war crimes including environmental violations that also builds on Geneva Convention list of crimes. At the introduction of Article.8 of Rome Statue, it states the following *The Court shall have jurisdiction in respect of war crimes in particular when committed as part of a plan or policy or as part of a large-scale commission of such crimes.*<sup>106</sup> According to this introduction, war crimes are considered as ones in Rome Statue if they are committed using arm forces following a systematic purposeful plan that achieves political or military goals and targets for the violating state credits.

In this context, according to the quote, an act or violation is considered a war crime if that planned act causes a large effect on the violated state or territory. Therefore, these two important ingredients of planning and scale of affect are important to exist in an act in order to be considered a war crime. This part of Article 8 introduction gives an

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<sup>106</sup> Dormann, Knut. War Crimes of Rome Statue of the International Criminal Court, with a Special Focus on the Negotiations of the Elements of Crime. Koninklijke Brill, 2003.

indication towards the importance of the environment protection during armed Conflict. That is because the environmental violations against a territory or state are majorly planned to cause military, financial and environmental casualties on the enemy's side that would have a large effect on the quality of life and health of people on the harmed state relying on the fact that there is a huge connection between the humankind and environment.

Therefore, environmental violations that are systematic, repeated and planned to cause a "large-scale commission" are considered war crimes according to the introduction of Rome Statue.<sup>107</sup>

The Following is introduction of Article 8 from the Rome Statue, an important element of the same article states that

*Intentionally launching an attack in the knowledge that such attack will cause incidental loss of life or injury to civilians or damage to civilian objects or widespread, long-term and severe damage to the natural environment which would be clearly excessive in relation to the concrete and direct overall military advantage anticipated*<sup>108</sup>

The word "intentionally" that starts with the quote indicates purposeful planned and systematic acts by the violating state. This word goes along with the introduction of Article 8 that states a war crime component, which is related to a plan or policy that indicates to an intentional attack against a state. This stresses on the point that purposed environmental attacks and damages during an Armed Conflict and by the use of armed

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<sup>107</sup> Dormann, Knut. War Crimes of Rome Statue of the International Criminal Court, with a Special Focus on the Negotiations of the Elements of Crime. Koninklijke Brill, 2003.

<sup>108</sup> ICRC, The protection of the environment in time of armed conflict. -No Year Available-. <https://casebook.icrc.org/case-study/environment-and-international-humanitarian-law>

force fulfils the war crimes components. The first part of the quote states that any intentional attack on humans, civilians or their objects is considered a war crime.

In addition, the second part of the quote states that any attack that cause an intentional *widespread, long-term, and severe damage* on the environment. Which would be excessive and exaggerated in terms of impact and achievement of a military advantage for the credit of the attacking state on the account of environmental safety and protection of the assaulted state is considered a war crime. Hence, the two elements of a war crime are achieved in case of an environmental widespread, long-term, and severe damage assaults, which explains the word “large-scale” above. Moreover, the second component of the systematic acts, the introduction of Art.8 and the quote derived from it meet at the standard of the intentional and planned practiced acts against an object and the environmental aspects more specifically.<sup>109</sup>

After creating a base of the importance of the agreements’ laws respect, and the acknowledgement of not causing excessive systematic large-scale violations against the violated country, it is sensible now to turn to the International Humanitarian Law. According to the official site of the UN, IHL is considered as the *Law of Armed Conflicts*<sup>110</sup>, which also takes in consideration the importance of protecting the environment under and during armed conflicts and at wartimes as this is the IHL specialty and depth of research as well as accountability and drawing limits before the UN states members. IHL is a law that is counted as a one recognized customary law branch of the IL, which all UN states members have approved upon and binding to its

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<sup>109</sup> ICRC, The protection of the environment in time of armed conflict. -No Year Available-. <https://casebook.icrc.org/case-study/environment-and-international-humanitarian-law>

<sup>110</sup> United Nations Office on Genocide Prevention and the Responsibility to Protect. War Crimes, United Nations. <https://www.un.org/en/genocideprevention/war-crimes.shtml>.



laws and provisions. Relatively, under the section of War Crimes definition Rule 156 is included

*Launching an attack in the knowledge that such attack will cause widespread, long-term and severe damage to the natural environment which would be clearly excessive in relation to the concrete and direct military advantage anticipated.*<sup>111</sup>

All the International Law sources follow a strategic method of cumulatively building laws and provisions upon each preceding treaty or internationally recognized declarations and other sources of the IL.<sup>112</sup> Therefore, it is obvious throughout the thesis that some parts of the IL sources, articles, rules or any lawful legal texts include repeated parts as a way to assert on specific points and topics that the IL does not negotiate on or mediate with due to the severe damage that might be caused. In Rule 156 the first part of the rule states that launching an attack against a territory or state with the knowledge of actual practiced attack on ground would cause the elements (planned attacks and large-scale commissions) mentioned in the introduction of Art.8 and the war crime text that is related to the environmental violation.<sup>113</sup> This rule applies on the environmental violations of considering them as a war crime according to IHL, and draws the limits in front of the UN states members as a manual for the states to follow in case of armed conflicts and wartime. Moreover, as this rule is included in the IHL which is considered as the law of conflicts is an indication to the point that the environmental protection is a concern of the customary law and the IL as well as the responsibility of the violating states.<sup>114</sup>

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<sup>111</sup> ICRC, The protection of the environment in time of armed conflict. -No Year Available-. <https://casebook.icrc.org/case-study/environment-and-international-humanitarian-law>

<sup>112</sup> Thornton, Justine. Beckwith, Slias. Environmental Law. London, Sweet & Maxwell. Ps. 28-30. 1997.

<sup>113</sup> ICRC, The protection of the environment in time of armed conflict. -No Year Available-. <https://casebook.icrc.org/case-study/environment-and-international-humanitarian-law>

<sup>114</sup> Ibid

Rule 156 text according to the IHL also includes a statement that says *The inclusion of this war crime was not controversial during the negotiation of the Statute of the International Criminal Court.*<sup>115</sup> This statement shows that the type of violations that have are planned and cause a large effect on the violated territory is not something to be negotiated and or debatable at time of the law designing the statute of the Criminal Court of the International Law. This statement adds a value and volume on the IHL 156 rule that is concerned of the long-term, widespread, and severe damage on the territory. Which is related mainly to the environmental violations against the enemy's natural properties and preservation of the environment that would cause a severe humanitarian effect. Which is the most important concerning topic to the IHL taking in consideration the serious and factual connection between the humans' health, well-being and good quality of life with the environmental preservation and protection from any assault.

According to the Hague Convention 1907, article 53 talks about the state of occupation a country or a territory would be undergoing it in a period of time and what is the responsibility of the occupying force in preserving the environmental aspects of the territory at the time of war and arms forces practices.<sup>116</sup> Article 53 states that

*Any destruction by the Occupying Power of real or personal property belonging individually or collectively to individuals, or to the State, or to other public authorities, or to social or cooperative organizations, is prohibited, except where such destruction is rendered absolutely necessary by military operations.*<sup>117</sup>

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<sup>115</sup> ICRC, The protection of the environment in time of armed conflict. -No Year Available-.  
<https://casebook.icrc.org/case-study/environment-and-international-humanitarian-law>

<sup>116</sup> Ibid

<sup>117</sup> Ibid

Depending on the previous quote, any destruction that an occupying power would ever cause and commit in an occupied territory individual or joint mutual property is not allowed according to the Hague Convention 1907. This is due to the amount of harm that could be caused to the occupied people in their personal life specially that these individuals are not involved in armed forces or armed attack and are only under attack and threat. Therefore, the damage that is occurred in the occupied territories creates a humanitarian crisis, which is a prioritized issue to the international community during armed conflicts. Moreover, this quote confirms that the occupying power responsibility is to protect the occupied people's properties, which can surely include owned lands, trees, and water wells that are a fundamental part of the environmental elements. This indicates to the importance and binding responsibility of protecting the environment by the occupying power during the armed attacks and during all the time of occupation.

Moreover, Hague Convention includes an article that can also be considered foundational to the limits that are drawn and created to the conflicting parties in terms of protection and caution that they must take care of in order to be able to handle the responsibility of their existence and participation of the war between the different conflicting parties.<sup>118</sup> Article 23 confirms the article 53, which insists on the protection of the properties of the other conflicting parties and the prohibition to do so according to the international law as a way to achieve a credit to the attacking party. The Hague Convention Hague Convention that is related to the Laws and Customs of War on the lands issues and concerns at the time of war, it states that it is forbidden to any of the conflicting parties to destroy the other party's lands or any properties. Article 23 is the one of the highly referred laws to as it states the prohibition of damage which states

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<sup>118</sup> ICRC, The protection of the environment in time of armed conflict. -No Year Available-.  
<https://casebook.icrc.org/case-study/environment-and-international-humanitarian-law>

*that To destroy or seize the enemy's property, unless such destruction or seizure be imperatively demanded by the necessities of war* <sup>119</sup>.

It is interesting in the article that the type of prohibition at the time of war on the enemy's side properties of their lands is only the complete damage that is not allowed, it is the seizing of the property that is also forbidden. In other words, the arbitrary confiscation of the enemy's property is not an allowed part during the armed conflict not only the destruction. This is due to the fact that holding people's and individuals' properties from being used or benefited from can cause a humanitarian crisis to the humans which would lead to undesirable results that threaten a whole nation at serious events. This article embedded the environmental elements such as lands, water wells, trees and many more elements that can be a property of individuals at the enemy's territories and should not be involved in the war targets due to the large-scale effect that could occur. Therefore, the protection of environment is included in one of the customary law considered treaties under the term of properties.<sup>120</sup>

Moving to Geneva Convention 1949 and as known regarding the treaties of how they are built cumulatively, Geneva Convention has built on Hague convention after years of implementation in order to keep up with the changes specially that it occurred after the WWII, which had brought new changes and committed violations that the world and countries have undergone. Article 147 lists that it is prohibited on the conflicting parties to commit any damage or destruction if there was no military need for it

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<sup>119</sup> ICRC, The protection of the environment in time of armed conflict. -No Year Available-.  
<https://casebook.icrc.org/case-study/environment-and-international-humanitarian-law>

<sup>120</sup> Ibid

*“extensive destruction and appropriation of property not justified by military necessity and carried out unlawfully and wantonly”.*<sup>121</sup> The extensive destruction that is mentioned in article 147 does not specify a specific type of destruction but says it generally which includes environmental violations and destructions such as agricultural lands, water wells, and any environmental element that is likely to be damaged. Therefore and according to previous articles mentioned in the previous pages such as article 2 and 3 that include the environmental protection due to the importance of the respect of laws and treaties that the conflicting parties should commit to them and all the additional protocols that go more in depth into the environmental protection.

Article 2 and 3 of Geneva Convention bind the parties directly to make the conflicting parties committed to all the environmental treaties that they have been part of them. Also it is binding to them to commit to the customary law that protects the environment such as article 8 of Rome Statute and many more rules and legal articles, as well as the general principles of law that are accepted generally in the international community to protect many aspects including the environment of the conflicting parties.<sup>122</sup>

In 1977 and following that with a few years two additional protocols were added to Geneva Convention due to the changes that have occurred and built on the original convention. They add different rules and articles that went through specific topics such as the environmental issues due to the level development and recent violations that have been committed during and outside the range of the use of arms between the conflicting parties. Articles 35 and 52 according to the first chapter they are assertive in terms of the protection of environment during armed conflict and wartime.<sup>123</sup> They both assert

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<sup>121</sup> ICRC, The protection of the environment in time of armed conflict. -No Year Available-.  
<https://casebook.icrc.org/case-study/environment-and-international-humanitarian-law>

<sup>122</sup> Ibid

<sup>123</sup> Ibid

on the idea of the prohibition of causing any “Long-term, widespread, and severe damage” to the environmental aspects of the conflicted parties under any circumstances due to the repeated justification of the threat that a damage in the environment could result and cause.

Moreover, article 23 asserts and specifies that the methods and means of war are not free from laws and regulations of use on the conflicted parties *In any armed conflict, the right of the Parties to the conflict to choose methods or means of warfare is not unlimited.*<sup>124</sup> In addition, articles 35 and 52 of the additional protocol I match with the article 147 mentioned before that all assert on the prohibition of the unnecessary damage the conflicting parties could cause on each other during armed conflict and wartime.<sup>125</sup> In addition, article 55 asserts the same idea of the previous 35, 52 articles of protecting the environment from the damage that could be occurred during the armed conflict.<sup>126</sup>

Accordingly, Article 48 of the Geneva Convention gives and states a circuitous preservation of the environment. It provides an important information that the armed attacks against any territory by one of the conflicting parties should be able enough to distinguish between the civilians and their objects with the military targets and differentiate between targets in the time of the military attacks. It states that *The Parties to the conflict shall at all times distinguish between the civilian population and combatants and between civilian objects and military objectives and accordingly shall direct their operations only against military objectives.*<sup>127</sup> article 48 goes side by side

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<sup>124</sup> ICRC, The protection of the environment in time of armed conflict. -No Year Available-.

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

<sup>125</sup> Ibid

<sup>126</sup> Ibid

<sup>127</sup> Ibid

to confirm the general principle of distinction. This principle also affirms on the importance of being accurate in targeting objects at the times of armed conflicts and armed attacks in case of implementing operations against the enemy. This basic rule is an explicit affirmation of the general principle of distinction. This principle is re-emphasized within the rule contained in Article 52, which explains what constitutes a military objective as opposed to a civilian object.<sup>128</sup>

Moreover, article 54(2) of the Additional Protocol I also protects the environmental components as they are part of the survival mode of the nations *objects indispensable to the survival of the civilian population*.<sup>129</sup>. Therefore, any destruction against the environmental elements such as forests, green lands, water resources and many, can have a huge impact on the safety of the people that is under armed attacks.

As the thesis mentions before, the International Humanitarian Law is considered to be the law of Armed Conflicts due to the concerns that it covers all humans' needs of protection during war time. Also, the IHL makes sure that all aspects of life that would affect the humans' quality of life is a concerning issue to the IHL. Therefore, the environmental issues are important to the IHL and it is responsible to protect the environment during Armed Conflict as the environment has a huge effect on the human's security. The IHL general principles have multiple rules and two of them were included in first chapter with specific analysis. Which are Rules 44 and 45 that are also considered as general principles of law. They assert and confirm on the idea of the preservation of environment, as rule 44 confirms that the war methods used in the time of Armed Conflict should be implemented under the restrictions that would guarantee

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<sup>128</sup> ICRC, The protection of the environment in time of armed conflict. -No Year Available-.  
<https://casebook.icrc.org/case-study/environment-and-international-humanitarian-law>

<sup>129</sup> Ibid

the security of environment with no occurred damage.<sup>130</sup> Also, rule 45 affirms that the if any of the military weapons and methods that are planned to be used, are expected or may cause a “widespread, long-term and severe damage” should not be implemented in order to assure the protection of the environment of the attacked territory<sup>131</sup>.

Another rule of the general principles of the IHL, which considers the environment, is rule 43 that asserts on three main points. The first point states that the natural resources of the environment shall never be attacked during armed conflict unless there is a military need for it.<sup>132</sup> And this should be read in light of the distinction principle that asserts on the point that the military targets should never be targeted randomly with no accuracy to distinguish between the military targets and the civilians objects that would threatens the humans’ security and life quality. The second point asserts that the military forces are forbidden from attack and damage the environmental components, which also connects with many other legal rules and articles of many parts of the International Law resources. Lastly, rule 43 confirms on the point that article 8 (2) (b) of the ICC Rome Statute which has been internationally recognized as a Customary Law that is one of the most important sources of the International Law.<sup>133</sup>

They both confirm the importance of protecting the environment and the prohibition of implementing any military attack against the natural elements in any intention of achieving a military target for the credit of any of the conflicting parties and their preferences that are related to their military plans<sup>134</sup>.

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<sup>130</sup> ICRC, The protection of the environment in time of armed conflict. -No Year Available-.  
<https://casebook.icrc.org/case-study/environment-and-international-humanitarian-law>

<sup>131</sup> Ibid

<sup>132</sup> Ibid

<sup>133</sup> Ibid

<sup>134</sup> Ibid



The ICRC rules offer an additional fundamental foundation of the environmental protection issue using and considering a number of the principles that the Stockholm Convention has stated and designed 26 of them for specifically protecting the environment.<sup>135</sup> Some of these 26 principles are mentioned in the first chapter, which are major and important for the protection of the environment as in the principles of distinction, proportionality and military necessity.<sup>136</sup> Which are designed in relation to the protection of the natural environment and now are considered as the general principles of the International Humanitarian Law that are concerned of the Armed Conflict, these principles in specific and the IHL in general.<sup>137</sup> In addition, all the previous rules, articles, and laws are now considered as general principles of the protection of the environment branch of the International Law. In addition, the general Principles of law come right after the customary law, which means that it has a respected level of acceptance by the International Law.<sup>138</sup>

The International Environmental Law treaties have been built on the foundation that the International Law and the UN have already build of humans' rights and accountability. Then the IEL has come to establish more specified laws concerning more specific issues and topics Water as one important component of the environment, almost treaties despite its type has a section that talks about the destruction of the natural sources as well as the civilians' properties, which includes water resources and water wells. A very basic right to the humans is to have a clear unrestricted access to clean

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<sup>135</sup> Andronico O. Adede, *The Treaty System from Stockholm (1972) to Rio de Janeiro (1992)*, Vols.13, Issue.1, digital commons, 1995.

<https://digitalcommons.pace.edu/cgi/viewcontent.cgi?article=1391&context=pehr>

<sup>136</sup> Ibid

<sup>137</sup> ICRC, *The protection of the environment in time of armed conflict*. -No Year Available-.

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

<sup>138</sup> Ibid

water, therefore it is well declared law all over the world and internationally as well as by the UN bodies. The most recent development plan (UN SDGs) has specific goal for *Clean Water and Sanitation*<sup>139</sup> that guarantees a 15 years plan that would result in full development to 17 goals and w specific goal is specified only for clean water. Therefore, the adoption of this plan of development is a one obligatory agreement that put all UN members under accountability in case of no commitment occurred.

Moreover, in 2010 the UN General Assembly stated a resolution that declares the right of the humans to water and sanitation, which was followed later with a declaration by the Human Rights as a basic right for the humans for a decent living<sup>140</sup>. In addition, due to the high use of water by the humans around the world, it was necessary to treat the already used water either in order to reuse it or make sure that it is not a source of pollution. As by Stockholm Convention stated under the paragraph Best Available Techniques<sup>141</sup> in terms of developing the techniques that has to do with the water usage and treatment, it has assured on the idea of well treatment strategy and methods in order to assure a more productive use of water. So, the water topic even after being used is still a vital concern to the world.

Adding to the protection point, the lands that are as a main source of the natural components to the environment is an important element to be concerned about its protection. Therefore, any unnecessary destruction against lands is considered as a war crime in different international conventions. And it can get even more serious and

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<sup>139</sup> General Assembly, Transforming our world: the 2030 Agenda for Sustainable Development, 2015. <https://sustainabledevelopment.un.org/post2015/transformingourworld>

<sup>140</sup> Isaac, Jad. Rishmawi, Khaldoun. *Statue of the Environment in the State of Palestine 2015*. Applied Research Institute, 2015. [https://www.arij.org/files/arijadmin/2016/SOER\\_2015\\_final.pdf](https://www.arij.org/files/arijadmin/2016/SOER_2015_final.pdf)

<sup>141</sup> Stockholm Convention (Amended), The Secretariat of the Stockholm Convention, 2010

destructive when the damaged lands are agricultural and can be a great support to the humans' living and having a decent life. In general destroying lands is not an accepted practice under the International Law in general and the Environmental Law in specific due to the importance of the lands and farms to the environmental balance. As the reduction of the CEO<sup>2</sup> is highly affected due to the amount of the green open lands and the destruction of these lands for no necessary reasons is not considered in the accepted norms.<sup>142</sup> Therefore, any destruction in the lands sector during Armed Conflict only for the sake of achieving a credit to the attacking country is considered a war crime and is against the legislations of the International Law, which as a result puts the violating state under accountability for destroying individuals' properties as in article 53 of the Hague Convention.<sup>143</sup>

In addition, in terms of the gas emission topic, it is also has been a well-considered topic lately in the world due to the high gas emission that high industrial countries are producing to the air and the atmosphere. Which is helping in building more complexity in the latest term of the "Greenhouse", where there is no release of the gas emissions from the people's used facilities around the world. Concerning the gas emission issue, there are many agreements and declarations as well as individual and collective efforts in order to reduce the emissions.<sup>144</sup> Nowadays, states race to be the first low gas emission producers where the highest industrial countries such as America and China has not given a real hand in this. Accordingly, in Paris Agreement there 25 paragraphs

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<sup>142</sup> Isaac, Jad. Rishmawi, Khaldoun. *Statue of the Environment in the State of Palestine 2015*. Applied Research Institute, 2015. [https://www.arij.org/files/arijadmin/2016/SOER\\_2015\\_final.pdf](https://www.arij.org/files/arijadmin/2016/SOER_2015_final.pdf)

<sup>143</sup> ICRC, The protection of the environment in time of armed conflict. -No Year Available-. <https://casebook.icrc.org/case-study/environment-and-international-humanitarian-law>

<sup>144</sup> United Nations. Paris Agreement. 2015. [https://unfccc.int/sites/default/files/english\\_paris\\_agreement.pdf](https://unfccc.int/sites/default/files/english_paris_agreement.pdf)

only regarding the reduction of the gas emission and its control,<sup>145</sup> which indicates the importance of the emissions' reduction and its high effect on the environmental aspect. In addition and one other factor that affects the environment in case of mismanagement is the Waste issue. The population of the humans is increasing as well as their remnants and their productions. And due to the dangerous effect of the waste on the environment, it can be a threat to some states if there was a violation in the waste management and cause a crisis in other country.<sup>146</sup>

Due to the damage and destructions that the waste could make in case of lack of management, many conventions have taken this issue seriously and given instructions to the countries around the world in their management methods of the waste. One of the common ways of treating the waste specially the solid waste is to use the landfills. However, in case of making a mistake in building and structuring the landfills, crises could occur and cause serious damage also miss dealing with the landfills in not being fully aware of what are the side effects of the landfills can lead to serious problems that needs decades to solve. Therefore, as an example of some international regulations that have been accepted by most of the UN states members is a regulation in Stockholm agreement in the paragraph related to chemicals release and how to prevent its releasement following the preventative principle of the convention.

So under this paragraph, there is a statement that warns from burning waste inducing burning landfills as it can produce and release very toxic chemicals in the atmosphere which would later cause severe damage as well as improve the management structure

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<sup>145</sup> United Nations. Paris Agreement. 2015.

[https://unfccc.int/sites/default/files/english\\_paris\\_agreement.pdf](https://unfccc.int/sites/default/files/english_paris_agreement.pdf)

<sup>146</sup> General Assembly, Transforming our world: the 2030 Agenda for Sustainable Development, 2015.

<https://sustainabledevelopment.un.org/post2015/transformingourworld>

of the landfills due to the importance of securing the place in order to prevent any expected pollution.<sup>147</sup> Moreover, the UNEP has created a full guideline for the countries full of instructions, directions, legislations and regulations for the countries to follow just for the sake of preventing the occurrence of an environmental crisis. Which would not only cause a damage for a specific zone, but is most probably move to harm other areas and make the situation more complicated which would result in more health problems and humans' suffering.<sup>148</sup>

### **Environmental Protection during Armed Conflict in the OPT Context**

The OPT situation of the Armed Conflict that is active on the Palestinian territories is considered as an International Armed Conflict according to the ICRC 2004, which means that all the pre mentioned laws in the first and second chapters are applicable on this context. The Environment aspect in the Occupied Palestinian Territories (OPT) is a crucial issue due to the huge effect that it has on the vulnerable Palestinians that are undergoing Armed Conflict consequences and impact.<sup>149</sup> Therefore, the Environmental Protection legislations and regulations applicability in the OPT context is a vital part of this chapter.

The first part of this chapter includes a large set of laws and regulations using all sources of the International law that are devoted to protect the environment during an ongoing Armed Conflict. However, this part of the chapter examines the feasibility of these laws and regulations on the Palestinian cause during the active Armed Conflict on its lands

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<sup>147</sup> Stockholm Convention (Amended), The Secretariat of the Stockholm Convention, 2010. [https://www.env.go.jp/chemi/pops/treaty/treaty\\_en2009.pdf](https://www.env.go.jp/chemi/pops/treaty/treaty_en2009.pdf)

<sup>148</sup> Guidelines for Framework Legislation for Integrated Waste Management. UNEP. United Nations, 2016

<sup>149</sup> Isaac, Jad. Rishmawi, Khaldoun. *Statue of the Environment in the State of Palestine* 2015. Applied Research Institute, 2015. [https://www.arij.org/files/arijadmin/2016/SOER\\_2015\\_final.pdf](https://www.arij.org/files/arijadmin/2016/SOER_2015_final.pdf)

practiced by “Israel”. Going back to the main idea of what is the thesis trying to examine of the “Israeli” compliances with the IEL during Armed Conflict in the OPT. The first thing to question in this case is the direct participation of “Israel” of the International treaties that are concerned with the Environmental issues such as Stockholm Convention, Kyoto Protocol, Hague Convention, Geneva Convention...etc.

According to the first chapter, it is mentioned that “Israel” has been involved in different direct environmental treaties and as a result to that, it has created its Environment Protection Services (EPS) that was an early step of “Israel” in order to protect the environment and then founded the Environment Ministry.<sup>150</sup> These two steps can show a clear indication of the “Israeli” awareness of its responsibility and intention to keep up with the global concerns of protecting the environment nationally and internationally. Some of the International Conventions have been considered as part of the Customary Law branch and more of foundation like. This means that if a state has not been part of a treaty, yet it is considered a customary law then all UN states members are accountable according to their regulations and are expected to act upon the law restrictions.

Geneva Convention 1949 is considered part of the Customary Law and is binding on all UN states regardless of their participation in the convention.<sup>151</sup> Palestine is part of it, yet “Israel” has not signed it however, this does not keep “Israel” outside accountability referring to the consideration of the Customary Law respect. Geneva

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<sup>150</sup> Gabbay, Shoshana. The Environment in Israel, 1994. Ministry of the Environment, Jerusalem, Publications and Public Relations Unit. 2002  
<https://www.sviva.gov.il/English/ResourcesandServices/Publications/Documents/TheEnvironmentInIsrael2002.pdf>

<sup>151</sup> Thornton, Justine. Beckwith, Slias. Environmental Law. London, Sweet & Maxwell. Ps. 28-30. 1997.

Convention has stated article 2 that binds all UN members to be respect all the International Law treaties and the ones they are part of in specific and the prohibition of a state to ethically failed to keep the laws and regulations of these treaties applied and active.<sup>152</sup> Geneva directly in many articles states for example the importance of protecting the civilians and their objects and warns the conflicting states from attacking civilians or their objects, which can easily be a natural resource and pushes the conflicting parties to distinguish between targets and be accurate in time of launching attacks as article 48.<sup>153</sup> Referring to the fact that Geneva Convention is part of the Customary Law IL source then the rules and laws of this Convention is applicable of the OPT context in case of environmental violations against the Palestinian territories have been calculated by the “Israeli” conflicting arms user party.

Moreover, the Hague Convention, which is also considered as part of the Customary Law source of the International Law and a foundational treaty, as a result to that it, is a binding treaty on all UN states members regardless of their participation.<sup>154</sup> However, “Israel” is officially a state member of this convention, which gives this convention a higher weight in terms of obligatory; in other words, it is binding on “Israel” to follow all its laws and regulations.

Hague Convention that has been built on the previous international treaties have established a set of laws that declares the prohibition of violating several limits and restrictions that are drawn for all state members to keep.<sup>155</sup> Also the Hague Convention

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<sup>152</sup> Geneva Convention Relative To The Protection of Civilian Persons In Time of War of 12 August 1949. [https://www.un.org/en/genocideprevention/documents/atrocities-crimes/Doc.33\\_GC-IV-EN.pdf](https://www.un.org/en/genocideprevention/documents/atrocities-crimes/Doc.33_GC-IV-EN.pdf)

<sup>153</sup> ICRC, The protection of the environment in time of armed conflict. -No Year Available-. <https://casebook.icrc.org/case-study/environment-and-international-humanitarian-law>

<sup>154</sup> Thornton, Justine. Beckwith, Slias. Environmental Law. London, Sweet & Maxwell. Ps. 28-30. 1997

<sup>155</sup> Laws and Customs of War on Land (Hague, IV). 1907-1949/amendments and annexes. <https://bit.ly/34WKcU0>

has set a number of war crimes that violating them is directly considered a war crime against and turned to be a violation against the International Law as a whole. Article 23 is an example of a war crime, which states the prohibition of destroying individuals' objects that are under an armed attack, which can directly include natural sources destruction owned by the civilians of the attacked territories such as agricultural lands and water wells/sources<sup>156</sup>. So in case of any calculated violation against individuals' priorities as in Article 147 and article 23 and more of this convention alone, this Convention puts "Israel" under accountability.<sup>157</sup> Therefore, Hague Convention is applicable and feasible in the OPT context of the environmental protection and violations. In addition, the International Humanitarian Law which is intuitive to reserve all humans' rights to have a dignified and protected life and considered a Customary Law in the International Law sources and high referred to laws in times of accountability and calculated violations during armed conflicts or peacetime.

IHL makes sure that humans all over the world can have a good quality life and these laws according to the IL are unable to be negotiated under any circumstances as the human's rights to be free and protected are guaranteed rights and all states are expected and have to practice them under their authority<sup>158</sup>. Moreover, IHL works in all times, peace time or wartime, taking in consideration that the IHL is the law of the Armed Conflicts as most of its laws are considered to be protecting humans rights during armed attacks and wars. Referring to the fact that the humans' rights to have a good quality of life which can be effected by many aspects, environment in case of sever continuous

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<sup>156</sup> Laws and Customs of War on Land (Hague, IV). 1907-1949/amendments and annexes.

<https://bit.ly/34WKcU0>

<sup>157</sup> ICRC, The protection of the environment in time of armed conflict. -No Year Available-.

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

<sup>158</sup> Ibid



harm can be a severe threat to the nation living under armed attacks so the IHL protects these humans from any environmental violations.

As in Rules of 43, 44, 45, and 156, that in assure the prohibition of damaging environmental resources and elements in case of being properties or not it is forbidden according to the IHL to violate their preservation due to the amount of damage and effect the environmental assaults can leave on the humans' living and survival.<sup>159</sup> To be more specific, article 156 considers that the armed attacks against a territory which causes a "wide spread, long-term, and severe damage" is a war crime the International Law sets the violating state under accountability for it in case of violation<sup>160</sup>. As a result, the IHL is a binding law on all the UN states members including "Israel" and Palestine. In other words, IHL laws are applicable in case environmental violations are practiced in the Palestinian Territories by "Israel". In addition, Rome Statue and Article 8 in specific states that if any environmental armed attacks during war were committed it is then considered as a war crime according to Rome Statue.<sup>161</sup> This Statue according to the IL sources, it is considered as a Customary Law and is binding on all UN states members including "Israel" and Palestine.

Therefore, after collecting information about the Palestinian environmental condition and the committed environmental violations by the "Israeli" side were found during the ongoing armed conflict that the Palestinian Territories undergo up until this day, then Rome Statue laws and war crimes regulations in terms of the Environmental protection

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<sup>159</sup> ICRC, The protection of the environment in time of armed conflict. -No Year Available-.

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

<sup>160</sup> Ibid

<sup>161</sup> Dormann, Knut. War Crimes of Rome Statue of the International Criminal Court, with a Special Focus on the Negotiations of the Elements of Crime. Koninklijke Brill, 2003.

are applicable in the OPT context. As a result, “Israel” is accountable for any calculated environmental violation. Also, the most recent conference that all UN states members (including “Israel” and Palestine) have agreed on is the SDGs 15 years plan of development. As this conference guarantees the rights to humans regardless of their nationality, color or religion to have a good living. As the environment is part of that preserved right then “Israel” is directly accountable to achieve that right to its citizens and never be the reason to make other civilians suffer from an environmental violation.<sup>162</sup> Such as the right to have a Clean Water and Sanitation that the UN guarantees for each human as the main foundation for this plan is the main concept of the IL which calls for a better life of humans.<sup>163</sup>

Therefore, in case of an environmental violation that does not go along with the SDGs plan and is committed by “Israel” against the Palestinian Territories, then “Israel” is considered a violator of the development plan that the whole world is trying to achieve, and therefore this is an international concern, which puts “Israel” under accountability. As a result and as “Israel” is part of the SDGs plan and has promised to keep its rules and plans and be part of the international change, the SDGs plan is binding and applicable in the OPT context.

## **Conclusion**

Lastly, the International Environmental treaties that took the environmental issues as the main concern, all these treaties aim specifically to protect the environment and guarantee a good and acceptable life for humans and all the coming generations. So, in

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<sup>162</sup> General Assembly, Transforming our world: the 2030 Agenda for Sustainable Development, 2015.  
<https://sustainabledevelopment.un.org/post2015/transformingourworld>

<sup>163</sup> Ibid

case of violations against the environment then these violations do not only go against the IEL treaties but also against all the International Law regulations as they all aim to protect the human from having a trouble in living a good life and any environmental harm can directly and easily affect the humans quality of life. For example, the Kyoto Protocol that is concerned of reducing the emissions around the world includes “Israel” as a state member of the treaty, which sets Israel accountable in case of any environmental violations regarding this issue.<sup>164</sup> Moreover, some of Stockholm Protocols are now considered as part of the IL general principles, which are on the way to be Customary law, nevertheless that these principles and protocols guarantee a better life for humans. Which directly pours in the IHL and all Customary Law regulations, as a result to that they can be binding on “Israel”. Therefore, the core issue of applicability of all the laws that are concerned with the protection of the environment do not only depend on the fact that if “Israel” is part of the IEL direct environmental treaties or any protective international treaty or not. It is about the connectivity of the International Law in how comprehensive the laws are in protecting humans and their elements of survival. In other words, the IEL pours in the main core of the IL goals and aims, therefore they connect to protect. As a result, most of the environmental laws of the IEL are applicable in the OPT context during the ongoing Armed Conflict.

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<sup>164</sup> Valentine, Sarah & Smith, Reed. International Environmental Law. Advocates for International Development, 2011. <http://www.a4id.org/wp-content/uploads/2016/03/International-Environmental-Law.pdf>

## **Chapter 3**

- **Environmental Violating Practices and Legal Applicability**

### **Introduction**

It is sensible in this chapter to go through the most highlighted environmental violations that are practised by "Israel" on the Occupied Palestinian Territories. As the previous chapter has approved the applicability of the international laws that are devoted to protect the environment and preserve its natural resources during Armed Conflicts as well as in peacetime from any prospect or practised assaults against the environment. This final chapter applies the environmental laws on different environmental violations that are being practised on the OPT during the ongoing Armed Conflict by "Israel" more directly

This Chapter shows the connection between the law and the importance of the environmental protection that the International Law has not ignored and the environmental rights that it has guaranteed. It also shows cases the consequences of some environmental violations that the International Law has endorsed and adopted as a preventive method for any planned or unplanned violating act.

The chapter covers three important environmental fields in the OPT which are constantly attacked directly and indirectly by the "Israeli" occupation military forces and all its sectors such as the industrial sector with no enough supervisory and accountability in case of calculated violations were found. The first covered sector is Water, this is due to its high importance for the human's lives and survival. In Palestine, the water cause is very crucial as it is highly affected by the active Armed Conflict especially after signing Oslo accords in 1996 between the "Israeli" side and the

Palestinian Liberation Organization (PLO)<sup>165</sup>. As Oslo Agreement includes articles that give "Israel" more control on the water, which gives more profit to the “Israeli” settlers than what the Palestinian residents receive.<sup>166</sup> Regardless of the practised pollution acts that have poisoned many water wells and resources that this chapter discusses. Such situations go against the preserved rights that the International Law has promised to protect and defend.

The second field is Waste Management that is related to landfills that are being used or closed with no alternative solutions in the OPT lands. The conflict has affected this field very much due to the amount of waste that is being produced daily by the Palestinians in the OPT and the amount of waste that is being produced daily by the “Israeli” settlers which both groups do not live that far from each other yet they are treated differently in different ways.

There are many examples of the different landfills that were closed in the OPT by the “Israeli” occupation forces using many claims that are not counted or considered in different cases of dumpsites. As in the case of Al-Bireh dumpsite that was closed in 2000 for sanitary reasons regardless of the Settlers use of another two dumpsites (Ezariah Landfill and Azzoon) that are not sanitary qualified which shows a double standard strategy in which they can restrict the Palestinians freedom and attempts of developing their style of living.<sup>167</sup> This part takes in consideration the UNEP

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<sup>165</sup> Ministry of Foreign Affairs and Expatriates. “Israeli” Control of Water. Ministry Media Office, 2019. <http://www.mofa.pna.ps/en-us/mediaoffice/israeli-control-of-water>. 2019

<sup>166</sup> The Israeli-Palestinian Interim Agreement (Oslo II), Washington, DC, September 28, 1995. <http://www.acpr.org.il/publications/books/44-Zero-isr-pal-interim-agreement.pdf>

<sup>167</sup> Al-Khatib, Issam & Abu Safieh, Rula. “Solid Waste Management in Emergency: A Case Study from Ramallah and Al-Bireh Municipalities”. 2003, Birzeit University. <https://reliefweb.int/report/israel/opt-solid-waste-management-emergency-case-study-ramallah-and-al-bireh-municipalities>.

regulations and the multiple agreements that considered this cause in terms of finding solutions and prevention of pollution during armed conflict and occupation<sup>168</sup>.

The third field is considering the gas emission, which is a fundamental topic in Paris Agreement that includes 25 specific articles concerning the emissions cause that is with a huge effect to the air and is the main reason behind air pollution<sup>169</sup>.

Here in this chapter, there is a list of violations that the "Israeli" side has done against the OPT lands which has caused air pollution and as a result has caused severe damage in different ways on the quality of life of the Palestinians living in the assaulted areas. This chapter searches through the emissions assaults and their effects on the Palestinians to discuss their rights to live in a healthy life as well as check how the conflict has escalated such practices by the "Israeli" authority itself or maybe if individuals are involved in the violating emissions harmful acts. This part also mentions the sources of the gas emissions and if calculated their relation to the health damages that have occurred on the Palestinians conditions and increase of diseases. Then finally, it shows how the International Law deals with such harmful acts and treat them in which ways.

The last targeted sector is the settlements that are being constructed on the lands of the Palestinians without their permission or acceptance; in short, settlements are looked at as stolen lands.<sup>170</sup> Although settlements are considered illegal according to multiple UN resolutions and "Israel" have been requested directly -yet not responding- by the Security Council of the UN to stop expanding its settlements on the Palestinian lands

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<sup>168</sup> Guidelines for Framework Legislation for Integrated Waste Management. UNEP. United Nations, 2016

<sup>169</sup> United Nations. Paris Agreement, 2015.

[https://unfccc.int/sites/default/files/english\\_paris\\_agreement.pdf](https://unfccc.int/sites/default/files/english_paris_agreement.pdf)

<sup>170</sup> Jad, Isaac, Khaldoun, Rishmawi. Status of the Environment in the State of Palestine, Applied Research Institute – Jerusalem, 2015. [https://www.arij.org/files/arijadmin/2016/SOER\\_2015\\_final.pdf](https://www.arij.org/files/arijadmin/2016/SOER_2015_final.pdf)

as well as remove the build units, settlements are an environmental violation.<sup>171</sup> Settlements can be easily a reason for destroying natural resources in different ways and as a result, they can be considered as an environmental violation due to their effect on the stability and security of the natural resources. Therefore, this chapter searches into the violating acts that the building of settlements can cause and present the international legal applicability on these violations in how they are treated, looked upon and accountable.

Finally, this chapter is the tip of the pyramid and the final touches that draw the finishing lines of the thesis in which it is clearer to read the mapping of the research. Which starts with making a general background of the Environmental Law and violations legal treatment consider showing their connection, then creates a foundational legal framework that protects the environment; thereafter it applies the laws on actual calculated practised acts against the environment. It brings the research to a conclusion that there is a huge legal framework that is applicable on many environmental violating cases, which have been the main reason behind people's in Palestine suffering and living difficulties that they all have no hand in or even a reason behind any of the violations.

### **Israeli violations on Palestinian Territories.**

This section goes through four highly violated environmental sectors in the Occupied Palestinian territories, which are Water, Waste Management, Emissions, and Agricultural Lands.

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<sup>171</sup> Human Rights Watch. How Settlement Businesses Contribute to Israel's Violations of Palestinian Rights. The United States, 2016. <https://www.hrw.org/report/2016/01/19/occupation-inc/how-settlement-businesses-contribute-israels-violations-palestinian>

## **Water Violations**

Water and the Water Wealth is a vital element of the environment due to its fundamentality in forming a balanced secure environmental chain that as a result secures the humans' living in all aspects. It is also one part of the natural resources that the International Law has discussed repeated to indicate the importance of preserving it. Water is a fundamental sector for human beings living and quality of life; it is also one of the most basic rights for human's security. Therefore, any harm that is ever practised or affect the quality of the water supplies for the humans is a great violation of the Humanitarian Law and Environmental Law according to multiple recognized articles as in article 53 of the Hague Convention 1907.<sup>172</sup> Therefore, in case of any act of irreverence, it would affect a whole nation of territory and extends to be more fatal due to the impossibility of controlling its spread. In other words, water violations that go against the IEL in specific and IL in general, can be easily a very dangerous factor to cause deaths and incurable diseases.

According to the facts that are mentioned after and have occurred in the OPT in the water sector and all following sectors, water violations are committed by "Israel" and has been affecting the quality of people's lives and forms a huge threat to the environmental stability in the OPT. Through the following mentioned few practices, there is a list that proves the environmental violations practised by "Israelis" on the water sector from pollution to Destruction & Exploitation, Desalination, and enforced Restrictions, which all cause at the end of the day a water crisis.

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<sup>172</sup> ICRC, The protection of the environment in time of armed conflict. -No Year Available-.  
<https://casebook.icrc.org/case-study/environment-and-international-humanitarian-law>



The water crisis has started to face the Palestinians specifically after 1967 as this was the time when the “Israeli” occupation forces have put its hands on the Palestinian’s lands fully and controlled the resources by force. Therefore, as a way for them to secure their settlers and “state” stability, it was important for them to create a basement for their new founded “state” to bloom and prosper by using the natural resources regardless of the impact of the overuse and committed damage of the resources over the occupied nation -Palestinians-.<sup>173</sup>

There are many reasons for water pollution that depend on the situation and the geographic location of the assaulted zone. This is because it is different from Jerusalem to West Bank and Gaza due to the different circumstances that each zone face during the ongoing Armed Conflict. The Organization for Economic Co-operation and Development (OECD) has defined pollution as "the direct or indirect supply of substances or energy to the environment in a manner that would have adverse effects that could endanger mankind or affect biological resources or ecosystems in a way that would affect the legitimate use of the environment"<sup>174</sup>.

Therefore and according to the previous definition of the pollution, it means that any added substance or material to the original form of any environmental element that would affect the mankind quality of life and their survival then this is considered then this is a pollution act which is considered accountable under the international law legislative system. In other words, in case of the water, air, or soil has faced a change

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<sup>173</sup> Applied Research Institute – Jerusalem (ARIJ). The intensifying Water Crisis in Palestine. [http://www.arij.org/files/admin/The\\_Intensifying\\_Water\\_Crisis\\_in\\_Palestine.pdf](http://www.arij.org/files/admin/The_Intensifying_Water_Crisis_in_Palestine.pdf).

<sup>174</sup> Jad, Isaac, Khaldoun, Rishmawi. Status of the Environment in the State of Palestine, Applied Research Institute – Jerusalem, 2015. [https://www.arij.org/files/arijadmin/2016/SOER\\_2015\\_final.pdf](https://www.arij.org/files/arijadmin/2016/SOER_2015_final.pdf)

in their natural form due to direct or indirect reasons then resulted in a problem to the Palestinians it is then against the International –Environmental- Law.

The pollution of Palestinian water is one of the main reason behind the water crisis in the OPT.<sup>175</sup> The Palestinians depend on a few resources to provide water such as groundwater wells, springs, rainfall –rain collective constructed cisterns-, rivers as in the case of Jordan River...etc. Therefore, any act of pollution practised by "Israel" on any of these water resources is an act of threat against the Environmental Law and against the Palestinians' survival, which as a result is against the International Law and IHL/IHRL. However, "Israel" has planned to use its forces against the water security sector. For example, “Israel” uses the Lower Jordan River as a dumping site to the Tiberius Lake saline water and their industrial wastewater, which changes the natural formula of the river water.<sup>176</sup> The thing that would affect the pureness of the river water due to the uncontrolled spread of water to any source or riverbank.

Therefore, this would disable the Palestinians from using a good quality of water especially Palestinians who live near the river and can benefit from. However, and due to the polluted water, it is difficult to benefit from it. Things can get even worse and life-threatening if that water is ever used by animals in any way. Which would cause great harm on the stock life that would result in a transferrable range of despise in any interaction between animals and humans and would cause devastating cases of death to the animals which would affect the environmental balance generally. Adding to that, the polluted Jordan River water can be threatening in case it poured in a different water

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<sup>175</sup> Jad, Isaac, Khaldoun, Rishmawi. Status of the Environment in the State of Palestine, Applied Research Institute – Jerusalem, 2015. [https://www.arij.org/files/arijadmin/2016/SOER\\_2015\\_final.pdf](https://www.arij.org/files/arijadmin/2016/SOER_2015_final.pdf)

<sup>176</sup> Applied Research Institute – Jerusalem (ARIJ). The intensifying Water Crisis in Palestine. [http://www.arij.org/files/admin/The\\_Intensifying\\_Water\\_Crisis\\_in\\_Palestine.pdf](http://www.arij.org/files/admin/The_Intensifying_Water_Crisis_in_Palestine.pdf).

basin, which would lead to a bigger problem because water is not a thing to arrest or hold back from moving in anyway.

Also, it is important to mention that the Jordan River is not supposed to be under the "Israeli" control solely, the control over the river is supposed to be shared between four countries. It is internationally recognized that there are four riparian states (Syria, Jordan, Palestine, and Israel) that share the shores of the Jordan River that is being overused and exploited by "Israel" even though it is only one of the riparian states and not the only one to control it.<sup>177</sup> Such act goes under the prohibition of exploiting a state natural resource by misusing it order to destroy it during armed conflict and wartime unless there is a military need for it, yet there is no one mentioned military excuse for "Israel" to misuse the Jordan River water.

This as a result goes against the whole IL regulations and laws, including article 53 and 23 of The Hague Convention<sup>178</sup> and many more laws mentioned within the legal framework in the second chapter as well as in the legal framework specified of the water violations section. In the West Bank, water is polluted due to different reasons. Such as the sewage networks and infrastructure is not well developed as there are many restrictions enforced on the West Bank in developing its wastewater networks and facilities. According to ARIJ organization report on the environmental situation in Palestine, most of the sewage networks are old to cope with all the amount of wastewater and go back to the time of the Ottoman era. This type of undeveloped sector affects the management of the wastewater in many cases.

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<sup>177</sup> Applied Research Institute – Jerusalem (ARIJ). The intensifying Water Crisis in Palestine. [http://www.arij.org/files/admin/The\\_Intensifying\\_Water\\_Crisis\\_in\\_Palestine.pdf](http://www.arij.org/files/admin/The_Intensifying_Water_Crisis_in_Palestine.pdf).

<sup>178</sup> ICRC, The protection of the environment in time of armed conflict. -No Year Available-. <https://casebook.icrc.org/case-study/environment-and-international-humanitarian-law>

The overpopulated Palestinian West bank cities of an estimated number of 2.99 million<sup>179</sup> in such small space around 6000 km<sup>180, 2</sup> this is due to the “Israeli” continuous systematic unjustifiable confiscations of lands around the West Bank that goes against all the International Laws and Oslo agreement that has been signed between the two parties in 1995. The Palestinian population only in the West bank leads to produce a concentrated big amount of Sewage with no enough wastewater collecting networks to manage it. The percentage of the people who live in the main cities of the West Bank that have access to sewage collecting networks is 40-50%. Which is can be a great threat to the water resources as the other percentage of the people who are producing wastewater that needs to find its way out of their houses. Where the rest do not and the wastewater ends up flushed into Wadis, springs and wells of the West Bank and become a direct threat to the water resources of the Palestinians.

This would affect the quality of the groundwater, which by the continuous mismanagement of wastewater lead to a more complex dangerous situation of lack of clean water and clear access to wastewater collecting networks.<sup>181</sup> Moreover, the "Israeli" settlers that are illegally residing in their colonies that have been recognized in the international law as an illegal act. Yet in order to make it worse on the Palestinians to manage their lives other than just confiscating lands and restricting their normal life, the settler's wastewater is pumped into the West Bank lands and wastewater collecting networks with no permission or confirmation.

Adding to that, the “Israeli” settlers are great exploiters in terms of the water use; according to a desk study that has been conducted by the UNEP in 2003 has stated that

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<sup>179</sup> WAFA Agency. About 13 million Palestinians in the Historical Palestine and Diaspora. Ramallah-Palestine. 2019 <http://english.wafa.ps/page.aspx?id=87Hw85a110891597289a87Hw85>

<sup>180</sup> Ibid

<sup>181</sup> Isaac, Jad & Qumsieh, Violet & Owewi, Maher. Assessing the Pollution of the West Bank Water Resources. Applied Research Institute – Jerusalem (ARIJ). (the year was not found)

the use of water by the settlers around the West Bank is double the water use of the Palestinians which would affect the amount of the wastewater production.<sup>182</sup> Moreover, the same desk study states that the settlements around the West Bank do not have a desalination system, which would make the situation worse in raising the chance of pollution the water resources of the West Bank.<sup>183</sup> As in the case of the springs and groundwater of many valleys in the West Bank, according to the same mentioned desk study, many water resources have been polluted and are now not suitable for human use due to the coliform bacteria that is a result of the mismanagement and untreated of the Settlements sewage production.<sup>184</sup>

On the other hand, the continuous destruction that is practised on many water provider infrastructures is also an ongoing environmental violation due to the huge effect of exploiting and destroying an environmental element, which affects the environmental balance and quality. For example, according to different studies and reports that have been conducted until the period of 2013, which have approved that there is a systemized and continues attacks committed by the "Israeli" military forces on the water structure such as the cisterns. Cisterns are an important source of water to the Palestinians especially that there is no secure water network; Palestinians use the cisterns to manage their domestic and agricultural need in terms of the water use.

Therefore, any destruction practised in this field is a practice against the environmental law due to water waste act. According to a study conducted in 2015 by Arij organization, which states, *among demolished structures, there were 113 demolished cisterns between 2010 and 2013. Around 46 of these were demolished in 2011*

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<sup>182</sup> UNEP, Desk Study on the Environment in the Occupied Palestinian Territories, 2003.  
<https://postconflict.unep.ch/publications/INF-31-WebOPT.pdf>

<sup>183</sup> Ibid

<sup>184</sup> Ibid

*alone*.<sup>185</sup> This type of action that targets objects, which preserves an environmental element is a threat to the environment that is connected to the human security that is one of the reasons why the IEL was firstly designed. Due to the amount of destruction practised on the individuals' objects that resemble no military signs is a true direct threat to the stability of the environment in all sectors. As in all the sense, cisterns cannot be a threat to the "Israeli" military forces nether its security in any way due to the proven human use of them, yet they are targeted.<sup>186</sup>

Moreover, Gaza Strip also faces serious problems in terms of water pollution and destruction of water wells and resources due to the use of weapons over civilian properties under the claim that these strikes are for military purposes. However, not all purposes are actually needed neither distinguished between civilians' properties and military targets as the International Law as stressed on this point and the prohibition of miss-targeting due to the large effect that would occur on the environment such as agricultural lands and water resources.

The Coastal aquifer is the main source of water for Gaza people due to the extent of restrictions that are enforced on the strip. As a result, according to OCHA office report conducted in 2018 which clarifies that the water resources are being used due to over-extraction because Gaza people cannot access other alternatives with convenient prices and good quality of water alongside easy access.<sup>187</sup> Therefore, Gaza people use a big amount of water from the Coastal Aquifer double the amount that is realistically being

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<sup>185</sup> Isaac, Jad. Rishmawi, Khaldoun. Statue of the Environment in the State of Palestine in 2015. Applied Research Institute, 2015. [https://www.arj.org/files/arjadmin/2016/SOER\\_2015\\_final.pdf](https://www.arj.org/files/arjadmin/2016/SOER_2015_final.pdf)

<sup>186</sup> Ibid

<sup>187</sup> OCHA, Study warns water sanitation crisis in Gaza may cause a disease outbreak and possible epidemic. 2018. <https://www.ochaopt.org/content/study-warns-water-sanitation-crisis-gaza-may-cause-disease-outbreak-and-possible-epidemic>

preserved by the rain. Which would result in more space for sewage to leak and get into the empty space.<sup>188</sup>

Moreover, due to the continues attacks on the resources of water and the number of restrictions that have resulted in an overpopulation case in which the number of people in Gaza rises and their wastewater production rises with no development of wastewater collecting networks to contain all the raised amount of wastewater in the small space of Gaza. This has caused to a massive leak of sewage to the coastal aquifer water and turned this main source of water into a polluted not suitable for the human use water provider. Moreover, the unjustified damaging that is caused by the "Israeli" forces in Gaza over the properties of the individuals have reached to destroy wastewater networks many times without having any proportionality that follows the international laws in terms of armed attacks against the opposing parties. For example on the 19<sup>th</sup> of August 2011, the Israeli jet-fighters raid over the Gaza Strip and damaged “Al Nussirat” sewage pumping station with no military need reported for it<sup>189</sup>. Which caused in raising the wastewater management strategy that Gaza uses to avoid pollution.

Moreover, According to the same report by OCHA office, it states that “Today 97 per cent of this water is unfit for human consumption based on World Health Organization (WHO) standards”<sup>190</sup> and by (this) the quote refers to the coastal aquifer water that is almost 100% unusable for humans and cause fatal and severe diseases for the humans of Gaza. Moreover, even after putting efforts in improving the water condition using

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<sup>188</sup> UNEP, Desk Study on the Environment in the Occupied Palestinian Territories, 2003.

<https://postconflict.unep.ch/publications/INF-31-WebOPT.pdf>

<sup>189</sup> Isaac, Jad. Rishmawi, Khaldoun. Statue of the Environment in the State of Palestine in 2015.

Applied Research Institute, 2015. [https://www.arij.org/files/arijadmin/2016/SOER\\_2015\\_final.pdf](https://www.arij.org/files/arijadmin/2016/SOER_2015_final.pdf)

<sup>190</sup> Ibid

many ways, it is still unfit for human use.<sup>191</sup> Which means that most of the water piped into houses are not fit for humans use.

According to the UNICEF organization in a report conducted in 2011 states that 26% of the childhood illnesses in Gaza were recognized by UNICEF as waterborne diseases<sup>192</sup>. As in the case of the child Mohammed Al Sayes who died in 2017 due to an infection that has got into his body after a normal swimming activity he had with his family in the sea in the Sheikh Ajlin area of Gaza.<sup>193</sup> That used water was and is polluted, he fell ill right in the next day then in a coma for 10 days until he sadly passed away. His case was reported later and identified as a death case caused of waterborne diseases due to polluted shores of Gaza and that leaks later to wells and the Coastal Aquifer, which as mentioned before is the main source of water for Gaza people.<sup>194</sup>

Moreover, the energy crisis that has been facing the Gaza Strip that has started since 2006 and now 2020 is in its highest rates of complexity. This added crisis has caused a problematic situation in treating the sewage and used water, as the desalination process needs energy to be implemented. However, due to the restrictions that are imposed on Gaza Strip by the "Israeli" forces, it has been more of a complicated process for the

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<sup>191</sup> OCHA, Study warns water sanitation crisis in Gaza may cause a disease outbreak and possible epidemic. 2018. <https://www.ochaopt.org/content/study-warns-water-sanitation-crisis-gaza-may-cause-disease-outbreak-and-possible-epidemic>

<sup>192</sup> Protecting Children from Unsafe Water in Gaza Strategy, Action Plan and Project Resources. UNICEF. 2011. [https://www.unicef.org/oPt/FINAL\\_Summary\\_Protecting\\_Children\\_from\\_unsafe\\_Water\\_in\\_Gaza\\_4\\_March\\_2011.pdf](https://www.unicef.org/oPt/FINAL_Summary_Protecting_Children_from_unsafe_Water_in_Gaza_4_March_2011.pdf)

<sup>193</sup> Medical Aid for Palestinians – MAP-. Child dies from water pollution in Gaza amid worsening medical referral restrictions. Gaza, 2017. <https://www.map.org.uk/news/archive/post/714-child-dies-from-water-pollution-in-gaza-amid-worsening-medical-referral-restrictions>

<sup>194</sup> Ibid



Palestinians in Gaza to treat their water which has caused to a more concentrated amount of sewage and more resulted pollution.<sup>195</sup>

- Legal framework

As mentioned before, the water sector is a vital field that is constantly full of "Israeli" violations regardless of the sensitivity of it in the humans living. However, all the mentioned violation in this chapter related to the water field are only small collected samples used as a proof for the "Israeli" environmental commit violations. The acts mentioned before that practice direct pollution acts as in the case of Jordan River or the villages' springs in Hebron due to the wastewater that is pumped into these springs and turned their pure water to suffer from serious pollution it is an act against the IEL in specific and the IL in general.

According to the International Law all resources -Customary Law and IHL in specific- the acts of polluting water and risking humans' survival are not accepted acts before the United Nations community and do not go along with the respect of the IHL agreements nor the Customary Law that is binding on all states of the UN.<sup>196</sup> According to article 53 of the Hague Convention 1907, it is prohibited for the occupying power to destroy the collective prosperity of the occupied people or even a state property.<sup>197</sup> Therefore, what "Israel" is still practising in the Jordan River, Gaza, West Bank and Jerusalem are illegal. Also, it is important to make sure that the benefit of the water sources in Palestine goes back to the Palestinians nation not only the "Israelis"<sup>198</sup>,

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<sup>195</sup> OCHA, Study warns water sanitation crisis in Gaza may cause a disease outbreak and possible epidemic. 2018. <https://www.ochaopt.org/content/study-warns-water-sanitation-crisis-gaza-may-cause-disease-outbreak-and-possible-epidemic>

<sup>196</sup> Ibid

<sup>197</sup> ICRC, The protection of the environment in time of armed conflict. -No Year Available-. <https://casebook.icrc.org/case-study/environment-and-international-humanitarian-law>

<sup>198</sup> Isaac, Jad. Rishmawi, Khaldoun. *Statue of the Environment in the State of Palestine in 2015*. Applied Research Institute, 2015. [https://www.arij.org/files/arijadmin/2016/SOER\\_2015\\_final.pdf](https://www.arij.org/files/arijadmin/2016/SOER_2015_final.pdf)

therefore any action against this right of the Palestinians is illegal due to the International Environmental Law of preserving the environmental resources laws.

Moreover, the saline water that is being pumped into the Lower Jordan River is not treated in anyway by the "Israeli" Desalination system and yet it was cheaper for "Israel" to just pump the Tiberius saline water into the river instead of treating it. Which goes against the regulations of the Stockholm convention that gives clear recommendations regarding the importance of treating the used or untreated water. Even if "Israel" has not signed on the Stockholm Convention, it is still binding because not treating the used water would threaten the survival and health of a whole nation. As a result, treating water is a binding requirement on "Israel" in the used water that is either produced by its population or produced naturally by nature.

Chosen alternative options have to go according to international customary standards that would keep the human's rights first. The same judgment goes with the pollution acts that are happening in the West Bank in the cases mentioned before, as "Israel" is not finding alternatives for its settlers who are illegally existing in the internationally recognized Palestinians lands and with no permission use their wastewater collecting networks that are not even fit for the Palestinian population.<sup>199</sup>

Therefore, that act is a huge reason behind the pollution of the water in the groundwater, wells and springs in the West Bank. Going back to some of the IEL main principles, the previously calculated violations are still being practised up until this moment, as the "Israeli" occupation has not ended; therefore, if the Palestinians have succeeded to collect a legal decision by the International Criminal Court then "Israel" is responsible in making it up to the Palestinians in all ways. For example, "Israel" should be

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<sup>199</sup> Isaac, Jad. Rishmawi, Khaldoun. *Statue of the Environment in the State of Palestine in 2015*. Applied Research Institute, 2015. [https://www.arij.org/files/arijadmin/2016/SOER\\_2015\\_final.pdf](https://www.arij.org/files/arijadmin/2016/SOER_2015_final.pdf)

responsible to compensate the Palestinians financially due to the continuous damage that is practised on the individuals' property and the Palestinian state properties. In general, as it is illegal to damage any property if there is no military need for it and, such compensation goes along as a way to fix the damage with IEL principle which is Polluter pays.<sup>200</sup>

Moreover, since the Palestinian Territories are treated by "Israel" upon the military law, then all the attacks that are practised fit under the armed attacks. Therefore, any damage that occurs in any water or environmental infrastructure is a war crime according to Article 8 of Rome statute<sup>201</sup>. That is because it states that any violation that causes damage to the individuals' properties and would cause "long-term and severe damage" is considered a war crime. Therefore, for example, what happened in 2011 in Gaza (sewage networks attack) is a war crime that the International Law accountable the violator for before the ICC.<sup>202</sup> As this attack would cause long-term damage to the groundwater around the attacked sewage network and create a complicated dangerous situation, which would threaten the environment security and, quality of water that as a result to that would be a reason behind deaths and diseases as in the case of Mohammed Al-Sayes in Gaza death incident in 2017.<sup>203</sup>

Moreover, all the destructions and violation concerning the water sector and infrastructure, which threatens the water good quality, go against the 17SDGs plan that the UN and all its member states members including "Israel" have guaranteed to fulfil

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<sup>200</sup> Thornton, Justine. Beckwith, Slias. Environmental Law. London, Sweet & Maxwell. P. 59. 1997

<sup>201</sup> ICRC, The protection of the environment in time of armed conflict. -No Year Available-.

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

<sup>202</sup> OCHA, Study warns water sanitation crisis in Gaza may cause a disease outbreak and possible epidemic. 2018. <https://www.ochaopt.org/content/study-warns-water-sanitation-crisis-gaza-may-cause-disease-outbreak-and-possible-epidemic>

<sup>203</sup> Medical Aid for Palestinians – MAP-. Child dies from water pollution in Gaza amid worsening medical referral restrictions. Gaza, 2017. <https://www.map.org.uk/news/archive/post/714-child-dies-from-water-pollution-in-gaza-amid-worsening-medical-referral-restrictions>

all the requirements that would achieve these 17 goals on the ground.<sup>204</sup> The Clean Water and Sanitation SDG is a fundamental human right and one of the SDGs that "Israel" is responsible to keep. However, according to the "Israeli" practices that are directly against the IEL, it does not keep its word in preserving the water goal. It also shows a huge contradiction sense in its made promises in front of the International Community and the UN in comparison with its real acts on the ground, which takes down a lot of its credibility in front of the fulfilment of its plans and promises in front of the ICC.

### **Solid Waste Violations**

Waste management is a crucial topic to the Palestinian Occupied Territories administrations. As the Palestinians are packed up in small zones and territories due to the "Israeli" practised policies against the Palestinians in their own lands. According to Oslo agreement in 1995, the Palestinians can live in the West Bank, Gaza Strip and East Jerusalem, however, and due to the continues restrictions that are being practised daily on the Palestinians, now they live with big population number in small not enough spaces with no final decision made by them.<sup>205</sup> So the Palestinians in the three territories are packed in limited areas and their production of solid waste needs to be treated or managed in many ways that include the dumpsites as a management method. However, the practised "Israeli" policy on the West Bank and East Jerusalem in specific with the

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<sup>204</sup> General Assembly, Transforming our world: the 2030 Agenda for Sustainable Development, 2015. <https://sustainabledevelopment.un.org/post2015/transformingourworld>

<sup>205</sup> The Israeli-Palestinian Interim Agreement (Oslo II), Washington, DC, September 28, 1995. <http://www.acpr.org.il/publications/books/44-Zero-isr-pal-interim-agreement.pdf>

closing that the settlements are imposing on these Palestinian territories make it more difficult for the Palestinians to manage their own waste.<sup>206</sup>

The West Bank population is nearly 3 million in a space that is less than 6000 km<sup>2</sup>, whereas Gaza population is nearly 2 million located in less than 400 km<sup>2</sup> with huge military systemized restrictions practised on the strip<sup>207</sup> and East Jerusalem that is being isolated from the Palestinian authorization due to the Israeli practices. Yet the Palestinians are only living in small space that is not enough for a decent life compared to the “Israelis” *not including the recent changes that were made of the added areas to widening East Jerusalem to change the city structure.*<sup>208</sup>

These numbers of the population of the Palestinians distributed in different areas is an indicator to a big production of Solid Waste despite the source in small zones, which can also be an indicator of a dispute regarding the waste management in the case of lands lacking and settlements restrictions. And as settlements are surrounding the Palestinians territories then there is also another waste production by the settlers that need to be managed in any possible method. Therefore, either the "Israeli" side must take a waste management procedure or the Palestinian side, however, according to the International Law "Israel" as an occupying power is responsible to manage all the occupied people and land issues, which includes environmental causes, and issues according to Geneva Convention the Fourth.<sup>209</sup> Which means, if “Israel” does not consider this rule by the Customary Law and one of the most fundamental treaties of the IL then in case of violation in the waste management aspect is considered illegal

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<sup>206</sup> Isaac, Jad. Rishmawi, Khaldoun. *Statue of the Environment in the State of Palestine in 2015*. Applied Research Institute, 2015. [https://www.arij.org/files/arijadmin/2016/SOER\\_2015\\_final.pdf](https://www.arij.org/files/arijadmin/2016/SOER_2015_final.pdf)

<sup>207</sup> Palestinian Central Bureau of Statistics, Indicators of 2017.

[http://www.pcbs.gov.ps/site/lang\\_en/881/default.aspx#Population](http://www.pcbs.gov.ps/site/lang_en/881/default.aspx#Population)

<sup>208</sup> B'teselm. East Jerusalem, 2017. <https://www.btselem.org/jerusalem>

<sup>209</sup> Geneva Convention Relative To The Protection of Civilian Persons In Time of War of 12 August 1949. [https://www.un.org/en/genocideprevention/documents/atrocities-crimes/Doc.33\\_GC-IV-EN.pdf](https://www.un.org/en/genocideprevention/documents/atrocities-crimes/Doc.33_GC-IV-EN.pdf)

and a war crime. That may include restriction of any development sector, damaging any property of the occupied land; change any of its original structure, and providing the occupied people with all their needs. In other words, if “Israel” is calculated to be an obstacle against the environmental infrastructure development and protection then it is working against and violating all the sectors of the IL.

The West Bank and Jerusalem suffer from the spread of Illegal settlements and colonies. which tightens the space for the Palestinians and put more pressure on the consumption of the natural resources –illegally- and on the all kinds of production waste which as a result carats more challenges for the Palestinians to face and manage under all the drawn restrictions by the "Israeli" illegal polices.<sup>210</sup> According to a study made by the GIZ organization which states that the main reason behind all the poor waste management and environmental problems in the oPt is the political situation that is the result of the ongoing Armed Conflict and occupational practices against the Palestinians.<sup>211</sup>

West Bank and Jerusalem face a great problem with the practised restrictions on the Waste Management that result in difficulties to control and develop all the methods of Waste Management. According to a study conducted by the Human Rights Watch in 2006, it stated that there is always a huge problem with the permits to build and construct suitable landfills. It also states that most appropriate sites for the landfill's construction are in Areas C which is a bit far from the houses and the habilitated areas in order to avoid any interaction or health problems. However, as most of Areas-C

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<sup>210</sup> Musleh, Reem. Country Report on Solid Waste Management in Occupied Palestinians Territories. GIZ, 2014.  
<http://www.environment.pna.ps/ar/files/Country%20report%20on%20the%20solid%20waste%20management.pdf>

<sup>211</sup> Ibid

which are announced to be military lands by the "Israeli" military forces as the West Bank and Jerusalem are controlled under the military law, which is illegal according to the International Law.<sup>212</sup>

Moreover, usually permits on constructing landfills takes a long time and are delayed several times by the "Israeli" occupation administration. It also puts many conditions on the Palestinian applications for the "Israeli" administrations which results in many consequences.<sup>213</sup> One type of challenges that Israel put on the Palestinians attempts of building the landfills is the condition of dumping the settlements waste in any Palestinian landfill or else such applications get usually rejected. Which would result in many negative results on the Palestinians health and environmental security. However, the Palestinians are not allowed to do the same, in other words, the Palestinians are not allowed and can face many severe consequences if they even attempt to dump their waste in "Israeli landfills" which is mainly impossible due to the intensive number of military checkpoints that are filling the Palestinian territories made up borderlines.

On the other hand, the "Israeli" settlements are growing fast which puts more pressure by the growth of the raising settlements on the waste management procedures. An example to such cases is the landfill near Bethlehem, as the Palestinians have applied for its construction permit to the "Israeli" administration and were answered with

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<sup>212</sup> Musleh, Reem. Country Report on Solid Waste Management in Occupied Palestinians Territories. GIZ, 2014.  
<http://www.environment.pna.ps/ar/files/Country%20report%20on%20the%20solid%20waste%20management.pdf>

<sup>213</sup> Ibid

rejection by them.<sup>214</sup> Also, the acceptance is always conditioned by taking the settlers waste in that proposed landfill. However, the landfill donors, and Palestinians refused that from happening and did not accept that condition. Therefore, the "Israelis" have delayed the application process for 2 months then it was accepted with an "Israeli" declaration of no enforcement of the settlers waste.<sup>215</sup> However, once the landfill was constructed the World Bank has reported that waste settlers started to be dumped in the landfill under the protection of military involvement, regardless of their declaration breaking the International laws and their made promises on signed papers of the application approval.<sup>216</sup> Which would put more pressure and consume out the landfill that is devoted to the Palestinians only, which puts the Palestinians under the risk of the unavailability of landfills and health problems as the dumped waste is not being observed or monitored which can include many types of prohibited waste –there is no guarantee or reported materials-.<sup>217</sup>

Another point that is worth mentioning is that all the built landfills in the West Bank and Jerusalem as well as in Gaza are all funded internationally and not by the “Israelis”<sup>218</sup> which has two important views. First is that according to the IL “Israeli” is responsible to develop the occupied country which apparently it is not doing and second is that “Israeli” is benefiting from the occupied country’s fund and money in a way of exploiting their resources with no contribution which are both illegal. Another example of restrictions is what happened with Al Bireh landfill that the Palestinians

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<sup>214</sup> Human Rights Watch. How Settlement Businesses Contribute to Israel’s Violations of Palestinian Rights. 2016. <https://www.hrw.org/report/2016/01/19/occupation-inc/how-settlement-businesses-contribute-israels-violations-palestinian>

<sup>215</sup> Ibid

<sup>216</sup> Ibid

<sup>217</sup> Ibid

<sup>218</sup> Ibid



was forced to use and establish without any permit and the Palestinians as well as the “Israeli” settlers to dump both of their wastes.<sup>219</sup>

However, the "Israeli" forces have closed the landfill leaving the Palestinians with no alternative option of dumping sites. The thing that leads to too many consequences as they found another problem in dumping their waste and not allowed to build another landfill which made them distribute their waste on different landfills that are far from Ramallah, Al Bireh and East Jerusalem.<sup>220</sup> According to the Human Rights Watch, it is more dangerous to transfer Waste from one area to far areas than dumping it in unregulated dumpsites.<sup>221</sup> Despite the closure, two interesting facts are related to this dumpsite. First is that the settlers are still using the same landfill illegally and with no permits, although the "Israeli" claim to close it was that the landfill is not sanitary, yet settlers still have access to it taking in consideration that the Al Bireh landfill is located in the Palestinians areas.<sup>222</sup>

Second according to the Human Rights Watch states that in 2010 the amount of the dumped waste by the Palestinians and "Israelis" vary, as the Palestinian waste was calculated to be 13,380 and the “Israelis” waste was calculated to be more than the double only in that year.<sup>223</sup> This shows a great violation against the Palestinians waste management violations as they continue overusing their resources leaving them

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<sup>219</sup> Al-Khatib, Issam & Abu Safieh, Rula. “Solid Waste Management in Emergency: A Case Study from Ramallah and Al-Bireh Municipalities”. 2003, Birzeit University.  
<https://reliefweb.int/report/israel/opt-solid-waste-management-emergency-case-study-ramallah-and-al-bireh-municipalities>

<sup>220</sup> Ibid

<sup>221</sup> Human Rights Watch. How Settlement Businesses Contribute to Israel’s Violations of Palestinian Rights. 2016. <https://www.hrw.org/report/2016/01/19/occupation-inc/how-settlement-businesses-contribute-israels-violations-palestinian>

<sup>222</sup> Ibid

<sup>223</sup> Ibid

helpless facing all the environmental violation consequences alone with no solutions provided. Moreover, Jordan Valley has been a popular case on the dumpsites cause in the oPt. The Jordan Valley is located in the Palestinian territories according to many international declarations.

However, “Israel” has built a landfill in that zone with the permission of the Palestinians agreeing that this landfill would serve the Palestinians and the “Israelis”, however, it is now only used by the “Israelis” and the settlers around that area keeping the Palestinians waste outside the whole cause with no allowed access to their waste.

The restrictions and lack of development by "Israel" on the Palestinian territories can be a great reason behind too many health problems that can lead to too many health problems. For example, in the case of the waste pressure in the Palestinian lands in undeveloped landfills due to "Israeli restrictions, the waste hazardous liquid leaks into the Palestinian agricultural lands. Which would easily result in affecting the farms and then pollute the food in which would be later sold to Palestinians as the environmental effect does not stop at any level of leakage. Such cases have occurred and documented many times according to a report by Al-Najah National University.<sup>224</sup> Which can result in dangerous effects on the environment and the natural balance of the environment of the Palestinians natural resources.

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<sup>224</sup> El. Hamouz, Amer. Final Report on The Development of a National Master Plan for Hazardous Waste Management for the Palestinian National Authority (PNA). Najah National University/Nablus, Palestine. 2010.  
[http://environment.pna.ps/ar/files/Part\\_one\\_Final\\_Report\\_on\\_The\\_Development\\_of\\_a\\_National\\_Master\\_Plan\\_for\\_Hazardous\\_Waste\\_Management\\_for\\_the\\_Palestinian\\_National\\_Authority\\_en.pdf](http://environment.pna.ps/ar/files/Part_one_Final_Report_on_The_Development_of_a_National_Master_Plan_for_Hazardous_Waste_Management_for_the_Palestinian_National_Authority_en.pdf)

Nevertheless, chemical, and radioactive waste pollution have occurred and cause serious damage. For example, Business settlements have affected the surrounding areas severely. According to the study that the Human Rights Watch have conducted in 2016 it stated that that waste is polluting the lands of the Palestinians as many of these waste is dumped in the Palestinians dumpsites or even in civilian lands.<sup>225</sup> This happens without any permission given to the settlements administrations neither with the knowledge of the Palestinians that such things have occurred so they would take caution and be careful with their use of these lands and any other violated natural resources.<sup>226</sup> Radiation is known as "leakage of radioactive elements resulting from nuclear accidents in the environment, which are considered very harmful to the biosphere and can affect Large areas with long-term impact on the environment, and the risks associated with nuclear accidents associated with radioactive waste."<sup>227</sup>

*La Pollution Nucleaire* is one of the most dangerous types of pollution known to humans in our time. It does not see nor smell or feel, and it can easily infiltrate living organisms everywhere without any resistance, without any evidence of its presence, without any trace. At first, when the radioactive material reaches the cells of the body, it causes visible and internal damage, which often leads to human life.<sup>228</sup> A sample case is what happened in Hebron and the nuclear toxic waste that has been dumped in

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<sup>225</sup> El. Hamouz, Amer. Final Report on The Development of a National Master Plan for Hazardous Waste Management for the Palestinian National Authority (PNA). Najah National University/Nablus, Palestine. 2010.

[http://environment.pna.ps/ar/files/Part\\_one\\_Final\\_Report\\_on\\_The\\_Development\\_of\\_a\\_National Master Plan for Hazardous Waste Management for the Palestinian National Authority en.pdf](http://environment.pna.ps/ar/files/Part_one_Final_Report_on_The_Development_of_a_National_Master_Plan_for_Hazardous_Waste_Management_for_the_Palestinian_National_Authority_en.pdf)

<sup>226</sup> Ibid

<sup>227</sup> Jad, Isaac, Khaldoun, Rishmawi. Status of the Environment in the State of Palestine, Applied Research Institute – Jerusalem, 2015.

[https://www.arij.org/files/arijadmin/2016/SOER\\_2015\\_final.pdf](https://www.arij.org/files/arijadmin/2016/SOER_2015_final.pdf)

<sup>228</sup> Ibid

Hebron, which is a Palestinian territory; this would cause great pollution to the lands and the environmental base of the oPt and the Palestinians health and life security.<sup>229</sup>

In the case of Jerusalem waste is even sometimes more complicated because the Palestinians in the "East Jerusalem" areas do not know to which municipality they belong and refer to it. This is due to the result that the "Israeli" municipality of Jerusalem does not fulfil all its duties and the waste production never stops because there are humans living life and produce waste.

Therefore, the Palestinian Authority tries to manage that crisis, however, the "Israelis" do not help in managing this especially that Al Bireh landfill used to serve the Jerusalemite people as well as a way the Palestinian authority manages Jerusalem waste crisis.<sup>230</sup> On the other hand and years after the closure of Al Bireh landfill, the "Israeli" forces decided to construct a landfill that would serve the Jerusalemite people and "Israelis" around them, however, this would happen on the account of 120 Bedouins who own the proposed lands and evacuate them by force.<sup>231</sup> Which as a result would break too many International Laws that are clarified later in the legal framework of these violations.

Moreover, in the case of Gaza three main landfills were constructed on the finance of the international funds. However, and due to the siege that is imposed on the city, no development has occurred or even maintained. Which would lead to different failures

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<sup>229</sup> Musleh, Reem. Country Report on the Solid Waste Management in Occupied Palestinians Territories. GIZ, 2014.

<http://www.environment.pna.ps/ar/files/Country%20report%20on%20the%20solid%20waste%20management.pdf>

<sup>230</sup> Al-Khatib, Issam & Abu Safieh, Rula. "Solid Waste Management in Emergency: A Case Study from Ramallah and Al-Bireh Municipalities". 2003, Birzeit University.

<https://reliefweb.int/report/israel/opt-solid-waste-management-emergency-case-study-ramallah-and-al-bireh-municipalities>.

<sup>231</sup> Jad, Isaac, Khaldoun, Rishmawi. *Status of the Environment in the State of Palestine*, Applied Research Institute – Jerusalem, 2015.

[https://www.arij.org/files/arijadmin/2016/SOER\\_2015\\_final.pdf](https://www.arij.org/files/arijadmin/2016/SOER_2015_final.pdf)

that are dangerous on the environmental and humanitarian levels as the population of Gaza people is increasing with no outside options for waste management and with no development or enough rehabilitation for the people to manage all the production waste.<sup>232</sup> Not mentioning the military operations that were and still being executed on the Palestinian lands in Gaza Strip with no accuracy. Which results in many destructions on Palestinian lands and C&D production as in the GIZ report of 2014 that states, “This is the case in Gaza strip, where between December 2008 and January 2009 over 3,000 sites were impacted by Israeli military actions leading to about 600,000 tons of debris”<sup>233</sup>

#### - Legal Framework

According to the International Law in general and all its major resources in specific, many laws and legal articles of highly respected conventions are broken due to the "Israeli" environmental violations against the Palestinians. In the case of the intentionally applied restrictions against the management of the Palestinian waste procedures, the "Israeli" side broke main international legislations. One of the major law is the one considering the regulations of occupation in the occupied land, article 47 of The Fourth Geneva Convention, which ensures the importance of the occupying power responsibility on the civilians' protection no matter what are the conditions. It also stresses on the prohibition of damaging any of the occupied land and people properties to benefit the occupying power in any case. Even if such thing –what violated the environmental security- is agreed on in a treaty between the parties, that treaty is

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<sup>232</sup> Musleh, Reem. Country Report on the Solid Waste Management in Occupied Palestinians Territories. GIZ, 2014.  
<http://www.environment.pna.ps/ar/files/Country%20report%20on%20the%20solid%20waste%20management.pdf>

<sup>233</sup> Ibid

declined due to the huge impact on the humans living in the occupied territories as in the case of the oPt and Oslo agreement as an example.<sup>234</sup>

Moreover, according to article 2 of Geneva Convention, it asserts the importance of not breaking the agreement's regulations that were agreed on by the contracting parties; however, "Israel" has done that plenty of times in every environmental and humanitarian violation it has committed and still commits which puts it under the legal accountability of the International Law legislative system.<sup>235</sup> Besides rules, 34, 44 and 45 of the IHL that guarantee environmental protection for all the lands and civilians if the world and are binding on "Israel" have been broken with every environmental violation "Israel" intend to violate. Which also make "Israel" accountable for all the environmental violations according to the IL and IEL laws and is considered an IL violator.

Moreover, articles 3 of The Hague Convention and Article 91 of the Additional Protocol of Geneva Convention<sup>236</sup> asserts on the responsibility of the violator which in this case is "Israel" to pay the compensations for all the damages that it occurs on the violated state which in this case is the oPt. However, "Israel" chose to use a cheaper way. Which is summarized in using all the waste management methods that the Palestinians are using in their territories, damage them in other cases, exploit them by overusing the landfills, pollute lands by dumping illegal nuclear waste and make it

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<sup>234</sup> Geneva Convention Relative To The Protection of Civilian Persons In Time of War of 12 August 1949. [https://www.un.org/en/genocideprevention/documents/atrocities-crimes/Doc.33\\_GC-IV-EN.pdf](https://www.un.org/en/genocideprevention/documents/atrocities-crimes/Doc.33_GC-IV-EN.pdf)

<sup>235</sup> ICRC, The protection of the environment in time of armed conflict. -No Year Available-.  
<https://casebook.icrc.org/case-study/environment-and-international-humanitarian-law>

<sup>236</sup> Ibid

worse by not even contributing in their constructing, yet depend on the international fund provided to the Palestinians in order to help in managing the produced waste.<sup>237</sup>

Moreover, due to the military administration that oPt is undergone, and then all acts are practised by military forces. Which in many cases article 8 of Rome Statute that states the prohibition of any military attacks executed on civilians' properties and caused severe damage that would affect the humans living is a war crime, which can include all the environmental violations that "Israel" has committed in the waste management sector or any natural sector.<sup>238</sup> According to Rome statue Article 8 in specific, "Israel" is a one war criminal state that must face serious consequences due to the destruction that it has caused which are mentioned throughout all this part of the violations of the agricultural land as the article stresses on the prohibition of attacking or destroying any personal/individual propriety.

Accordingly, the UNEP has created a well designed and detailed guideline for all countries to follow in terms of waste management procedures and was later published to all the UN states member, as a way to educate and regulate this sector in a way that would protect all the living creatures. This legal framework sets "Israel" accountable to all the environmental violations that it has practised against the oPt lands in terms of Waste violations and management.

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<sup>237</sup> Human Rights Watch. How Settlement Businesses Contribute to Israel's Violations of Palestinian Rights. The United States, 2016. <https://www.hrw.org/report/2016/01/19/occupation-inc/how-settlement-businesses-contribute-israels-violations-palestinian>

<sup>238</sup> Dormann, Knut. War Crimes of Rome Statute of the International Criminal Court, with a Special Focus on the Negotiations of the Elements of Crime. Koninklijke Brill, 2003.

## **Agricultural Lands violations and Air Pollution**

The original reason behind the whole Palestinian cause is the stealing of Palestinians' lands for the benefit of the occupational forces in order to achieve political and military goals as well as provide homes for their illegal "Israeli" settlers. Therefore, the settlements have played a major role in damaging the lands of the Palestinians due to the use of lands to build huge settlements on them. Then they secure them and isolate the Palestinians by announcing hundreds of dunums around them as military lands with no possible use for the Palestinians of them although these lands belong to the Palestinians themselves as civilians and most of their owners depend on them for harvesting and agricultural income, yet they were left helpless.<sup>239</sup>

According to a study made in 2017 by B'teselm research organization about the spread of settlements and it states the following "At present, settlements cover 538,130 dunams – almost 10% of the West Bank. Their regional councils control another 1,650,370 dunams, including vast open areas that have not been attached to any particular settlement. This brings the total area under the direct control of settlements to 40% of the West Bank, and 63% of Area C."<sup>240</sup>

This amount of illegally confiscated lands can definitely harm the agricultural sector and the green areas as this help in reducing the climate change problems by increasing the green areas do not destroy them. However, "Israel" has worked hard on damaging this Palestinian base, which resulted in many agricultural lands damage, and reducing the green zones. As an example to this is a recent act in 2019 has been practised by the

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<sup>239</sup> Human Rights Watch. How Settlement Businesses Contribute to Israel's Violations of Palestinian Rights. The United States, 2016. <https://www.hrw.org/report/2016/01/19/occupation-inc/how-settlement-businesses-contribute-israels-violations-palestinian>

<sup>240</sup> B'teselm. Settlements, 2017. <https://www.btselem.org/settlements>



"Israeli" military forces in the West Bank, as the "Israeli" bulldozers destroyed 145 dunums of agricultural lands of Al Hajjah Village in order to provide that illegally confiscated space to widen the industrial settlement Kari Shomro that was built on Palestinians' agricultural lands<sup>241</sup>. The settlements have been a great impact on the Palestinian environmental balance in general, due to the intended lack of monitoring on the settlements neither their ethical values.

Adding to all the previous damages that are caused only due to the settlements hazardous impact, here comes the gas emissions problem. Due to the high security of the settlements where there is no way to enter these zones due to the continuous military protection, the gas emission measurement is not as easy as it is supposed to be. However, there is a need for numeric proofs in this field due to its actual impact on air quality and security. As some obvious effects are resulted due to the emissions of many resources. Such as the smog that is produced by uncontrolled factories inside the settlements or even by many "Israeli" factories, which are carried by the wind to settle in the ozone layer of the West Bank areas, the thing that would result in great problems and is a great negative impact on the climate change cause.<sup>242</sup> This has mainly affected Jerusalem, Bethlehem and Nablus due to the wind movement and direction.<sup>243</sup> According to "Israeli" Ministry of Environment, it states that these factories that are based in the business settlements do not meet the regulations that are imposed on the

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<sup>241</sup> Wafa Agency. A Large Area of Palestinian land in the North of West Bank Razed to Expand the Illegal settlement. Palestine, 2019.

<http://english.wafa.ps/page.aspx?id=9L8kd0a111594942756a9L8kd0>

<sup>242</sup> Institute of Community and Public Health, Birzeit University. Air Pollution in Palestine.

<https://www.birzeit.edu/en/blogs/air-pollution-palestine>

<sup>243</sup> Ibid

factories inside “Israel” which asserts the fact that these factories are not monitored enough to be safe.<sup>244</sup>

Another reason for air pollution is the illegally quarries construction inside the West Bank with no protection standards as the ones followed by the "Israeli" quarries constructed inside "Israeli" areas. As in the West Bank itself, there are six quarries based in the West Bank that cover 80% of the stones need of "Israel". This is a great reason behind the air pollution due to the huge amount of dust that is produced during the stone's manufacturing, which lastly lands on agricultural lands and crops resulting in polluting the air and causing health problems for the residents of the affected areas as well as reduce the quality of air.

Also, due to the amount of the produced dust, it is dangerous on the agricultural lands and their environmental balance. Such problems have been reported many times and a lawsuit has actually been executed, however, it was the high court decision of building that quarry of Betah Tekfah settlement quarry that pollutes the air of the surrounding areas due to the wind direction that was not considered from the beginning.

Moreover, another source of air pollution is the used weapons against the civilians as in the case of Gaza in the last decade with the number of wars and genocides that it has undergone forcefully and caused thousands of deaths and a huge number of casualties. Also, the severe overuse of Tear Gas bombs in the West Bank which has caused many environmental problems and mainly the toxic air pollution issues that result in humanitarian violations as in diseases and other health issues. According to a study done by ARIJ research organization, the number cancer cases and the number of

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<sup>244</sup> Karaeen, Mohammad. Air Pollution in Palestine – This Week in Palestine. The MIDEASTENVIRONET, 2012. <http://mideastenvironment.apps01.yorku.ca/2012/10/air-pollution-in-palestine-this-week-in-palestine/>

miscarriages without any reported problems with the mothers nor babies have raised in the West Bank after the second uprising in Palestine due to the tear gas bombs.<sup>245</sup>

Moreover, in the case of Gaza, the military attacks and aircraft bombarding of the building and civilians' properties have caused many air pollution problems. For example, the bombarding of the building of the civilians causes huge destruction and produces a huge amount of dust, which invades the air pureness that is normally required for a safe environment and to avoid the greenhouse phenomenon. Moreover, that destruction causes a massive amount of debris that causes another type of pollution and environmental violation, which goes under the solid waste genres, that creates another type of pressure on the Palestinians in their waste management under the highly strict siege where they have no windows to the outside to find extra spaces for the uncontrolled waste production.

On the other hand, the used weapons by the “Israeli” military forces against Gaza in the ongoing war have caused many types of violations. First, the type of weapons are generally internationally prohibited such as the white phosphorus, yet they are massively used violating and not considering the International Law and the humanitarian values.<sup>246</sup>

#### - Legal Framework

Paris agreement has dedicated 25 articles regarding air pollution and gas emissions<sup>247</sup>, nevertheless all the environmental laws that assert the importance of saving and

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<sup>245</sup> Issac, Jad & Ghanyem, Mohammad. Environmental Degradation and the Israeli - Palestinian Conflict. Applied Research Institute – Jerusalem (ARIJ). –year not available-  
<http://www.arij.org/files/admin/2003/2003%20environmental%20degradation%20and%20the%20israeli-palestinian%20conflict.pdf>

<sup>246</sup> Human Rights Watch. Rain of Fire Israel Unlawful Use of White Phosphorus in Gaza. 2009.  
<https://www.hrw.org/report/2009/03/25/rain-fire/israels-unlawful-use-white-phosphorus-gaza>

<sup>247</sup> United Nations. Paris Agreement. 2015.  
[https://unfccc.int/sites/default/files/english\\_paris\\_agreement.pdf](https://unfccc.int/sites/default/files/english_paris_agreement.pdf)

preserving the environment. However, all the previous acts practised by "Israel" on the oPt are all environmentally violating acts which set "Israel" accountable of all its violations according to the IL, IHL and IEL which are all connected and derived from each other to pour for the same values. Going back to specific articles, many articles work on the destruction prohibition as in all the mentioned articles in chapter two or in the previous legal frameworks, as in article 3 of the Hague Convention and Article 8 of Rome Statue regarding the cause damage of civilians properties and target them by military attacks are stated as a war crime which makes "Israel" as a result a war criminal.<sup>248</sup> Therefore, destruction of civilians' properties is 100% illegal and prohibited as in the case of the settlements' construction on Palestinian lands in order to benefit the occupying power "Israel"<sup>249</sup>.

IEL, in general, was created firstly to protect any environmental aspect including water, air, land, crops... etc, which means that the intended damage caused by "Israel" in the time of the ongoing war is violating all the general principles of law, Customary law regarding the occupation stated regulations by the IL to the occupying powers and the IEL are violating acts that can set "Israel" accountable for all its violating acts against the environment of the Palestinian territories.

## **Conclusion**

The protection of the environment is an international responsibility regardless of the violated area or the violating powers. Therefore, all the previously mentioned practices done by "Israel" on the Palestinian territories are the responsibility of the international community to implement the legal prosecution and the legal provisions. As the

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<sup>248</sup> ICRC, The protection of the environment in time of armed conflict. -No Year Available-.  
<https://casebook.icrc.org/case-study/environment-and-international-humanitarian-law>

<sup>249</sup> Geneva Convention Relative To The Protection of Civilian Persons In Time of War of 12 August 1949. [https://www.un.org/en/genocideprevention/documents/atrocities-crimes/Doc.33\\_GC-IV-EN.pdf](https://www.un.org/en/genocideprevention/documents/atrocities-crimes/Doc.33_GC-IV-EN.pdf)

International Law intends to do with all its legal sources have promised and still promising in keeping the peace and security of human beings and their states' rights of a dignified quality of living preserved.

Moreover, this chapter proves with legislative facts and proven laws that "Israel" is an environment violator with different means and wises. Which brings us back to the first box of the whole puzzle in relation to the International responsibility in keeping the environment protected and preserved. In addition, as the legal framework has been proven and tracked in this thesis regarding the "Israeli" in-commitment of the environmental protection under the provisions of the International Environmental Law. Accordingly, the Palestinian side has the legal foundation prepared for it to follow and depend on and are expected to start a legal tracking to save, protect and prove serenity over people's well-being and a protected environment.

In other words, the Palestinians are more likely to lose their people's rights if there was no legal follow up which would guarantee their rights in living in a healthy prosper environment.

## Chapter 4

### General Conclusions and Recommendations

- Conclusion

Israel was not accountable to any of its violations to the Palestinian territories due to the disability of the Palestinians internationally, and lack of awareness to their rights in this field. Moreover, the Israeli political weight gives it more power to keep the wheel going according to its interests, not the treaties standards that it has signed. As the Israeli until this moment has not paid anything to any pollution damage it committed in the Palestinian lands according to the IEL main principles. It is ironic that "Israel" is actually part of important agreements; however, its actions say more than what the papers have. "Israel's" always attempts to look keen and protective on the regional and international environmental affairs, despite being a member of international environmental organizations and a party to major agreements of the environment protection. Such as Barcelona agreement and agreements to protect biodiversity and heritage, including the Ramsar Convention, Basel treaty, Rotterdam and Stockholm Conventions materials, as well as the charters of air quality, and climate change. Moreover Vienna Convention and the Montreal Protocol, they are violating all of these treaties in the occupied Palestinian territories 67 years without accountability and control.<sup>250</sup>

Palestinian Authority is almost a member of all of these pre-mentioned conventions before as a sign to its recognition of the IEL rule and the legal formation not to be broken. However, the "Israeli" side always makes sure, it pollutes the Palestinian side

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<sup>250</sup> Jad, Isaac, Khaldoun, Rishmawi. Status of the Environment in the State of Palestine, Applied Research Institute – Jerusalem, 2015. [https://www.arij.org/files/arijadmin/2016/SOER\\_2015\\_final.pdf](https://www.arij.org/files/arijadmin/2016/SOER_2015_final.pdf)

with all possible ways regardless of any law or any ethical value. This would weaken the Palestinian position of collecting their rights, as the "Israeli" side never commits to an International Agreement if it does not go with its own standards. Oslo is a live example to prove the deficiency of the Israeli performance of the Agreement as it has failed to follow most of the regulations of Oslo including the environmental regulations such as the water distribution and protection. Which lead for the agreement to be dropped and not to be a valid legal reference anymore as it was severely continuously broken, although that the main claimed the reason behind signing the agreement was to spread peace as it was a peacebuilding method in the region. Despite all of that, peace and protection were ignored and lack of commitment by the "Israeli" side, leading to a more complicated situation in the region.

- Recommendations

#### *Researching Wise*

- The researcher recommends that the fellow researches to give a highlighting focus on the gas emissions and air pollution field of the environmental violations in the oPt as there is a shortage of numeric and analytical resources on this field.
- Fellow researchers are recommended to intensify the researching efforts in the “Israeli” Environmental Violations in the oPt as a way to create a national pressure which would later be part of grabbing the attention of the International community on solving such factual situation.
- The researcher recommends that fellow researches create a free academic platform in order to publish papers, which would be later as a reference for the external researchers. Alternatively, seek international agencies to publish papers in order to reach the highest number of those who consider the topic.

#### *Palestinians Governmental Institutions (PGI) Wise*

- The researcher recommends that the governmental institutions put more efforts on filling the gaps in some numeric shortage regarding the environmental protection aspect in the oPt and be up to date as much as possible especially the PCBS, due to its importance as a credible source of information.
- The researcher recommends that the Palestinian governmental institutions to intensify the researches to cover all the topics related to the Environmental Violations against the oPt and not depend on the NGOs to do this mission as they have imposed on them which can affect the coverage of the information.



- The researcher recommends the PGI to seek the Palestinian and International decision-makers to share their research papers or reports on the environmental violations against the oPt, in order to be part of the advocacy mission that would make a change after a systemize advocacy work.

#### *Palestinians Decision Makers Wise*

- The researcher recommends the Palestinian decision-makers to repeatedly highlight the Environmental document and archive on the negotiation table more with a clear legal framework to present on different levels of the negotiations phases.
- The researcher recommends that the Palestinian decision-makers must include more continuously updated numeric facts in their presented papers and reports at the time of international public speeches, meetings, negotiations ... etc
- The researcher recommends that the Palestinian decision-makers be more visualized in terms of the international laws as there is no one ICC decision regarding the Environmental Violations has been taken for the Palestinian credit, therefore the Palestinian academics are a great reference to consider to create an advocacy halo.

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## - خلاصة

هذه الدراسة التي تحمل عنوان "مدى التزام إسرائيل بقانون البيئة الدولي في الأراضي الفلسطينية المحتلة 1995-2019" تهدف بشكل أساسي إلى دراسة مدى الالتزام "الإسرائيلي" بقانون البيئة الدولي في الأراضي الفلسطينية. وتدرس أوضاع الأمن البيئي في الأراضي الفلسطينية المحتلة في ظل ممارسات الاحتلال "الإسرائيلي". حيث تدور مشكلة البحث الرئيسية حول السؤال الذي يناقش إلى أي مدى تتوافق الممارسات البيئية الإسرائيلية مع قانون البيئة الدولي في الأراضي الفلسطينية المحتلة من عام 1995 حتى عام 2019؟

وللوصول إلى النتائج، استخدمت الباحثة بيانات الأساسية ذات مرجعية قانونية كما في الأحكام القانونية والاتفاقيات الدولية وقرارات الأمم المتحدة من أجل بناء إطار قانوني سليم للممارسات الإسرائيلية في الأراضي الفلسطينية المحتلة. بالإضافة إلى ذلك، استخدمت الباحثة مصادر دولية / محلية ، ومجلات موثوقة، وتقارير / منشورات بيئية من شأنها أن توثق الانتهاكات البيئية التي تقوم بها الممارسات الإسرائيلية. كما استخدمت الباحثة منهجاً تحليلياً شاملاً لتحليل الأحكام القانونية المتعلقة بسياق الرسالة.

يتضمن هذا البحث مقدمة وأربعة فصول. تناولت الباحثة في الفصل الأول (مقدمة ومخطط الرسالة) مقدمة كاملة تتضمن مقدمة عن موضوع الرسالة ومبرراتها وأهميتها بالإضافة إلى الأهداف وأسئلة البحث والدراسات السابقة التي تناولت الجانب البيئي في سياقات مختلفة. كما يقدم الفصل مقدمة شاملة حول مصادر القانون الدولي بشكل عام وقانون البيئة الدولي بشكل خاص ، من أجل خلق قاعدة قوية لقراء هذه الأطروحة. الفصل الثاني (تحليل الأحكام التشريعية الدولية) قسمته الباحثة إلى ثلاثة أجزاء رئيسية ، تعريف النزاع المسلح وأنواعه ، وأحكام التشريع البيئي ، وتطبيق القوانين المختارة والمحلة على السياق الفلسطيني. وتناولت الباحثة القوانين الدولية التي تشمل حماية البيئة وأمنها في أوقات السلم والحرب. كما حرصت الباحثة على أن كافة القوانين التي تم تحليلها تنطبق على السياق البيئي والسياسي الفلسطيني. في الفصل الثالث،أكدت الباحثة من أن الممارسات "الإسرائيلية" المخالفة يتم تناولها بشكل شامل ضمن إطار قانوني ذي صلة ومستمد من قانون البيئة الدولي الذي تم تحليله بالكامل من قبل. يتضمن الفصل الأخير الخاتمة الشاملة للأطروحة. إلى جانب ذلك، تقسم الباحثة الفصل الرابع إلى ثلاثة أقسام يتم توجيهها إلى أفراد ومجموعات مختلفة معنية بموضوع الرسالة.

وختمت الباحثة بعدد من النتائج، وتذكر أهمها:

- "إسرائيل" غير ملتزمة بالقانون البيئي الدولي.
- يفتقر القانون الدولي إلى الأداة التنفيذية التي تلزم أعضاء الأمم المتحدة بموجب قوانينه وأحكامه.

- الأراضي الفلسطينية المحتلة مُنتهكة بيئيًا وإنسانيًا.
- قانون البيئة الدولي يعارض الممارسات البيئية "الإسرائيلية" المخالفة ضد الأراضي الفلسطينية المحتلة.
- يترتب على الانتهاكات "الإسرائيلية" البيئية أضرار بيئية وصحية وبشرية وسياسية لا تعد ولا تحصى في الأراضي الفلسطينية المحتلة.
- لم تتم محاسبة "إسرائيل" على ممارساتها المخالفة للبيئة في الأراضي الفلسطينية المحتلة.
- لم تتخذ السلطة الفلسطينية خطوة جادة مدروسة في محاسبة "إسرائيل" على انتهاكاتها البيئية.
- افتقار المجتمع الفلسطيني والدولي إلى الموارد والإحصاءات الكافية حول انتهاكات انبعاث الغازات في الأراضي الفلسطينية.