

Arab American University
Faculty of Graduate Studies
Department of Legal Sciences



Master Program in International Law and Diplomacy

**The Legal Challenges of Israel's Seizure of Water
Resources in the West Bank and Its Impact on Human
Rights: An Analytical Study from an International Law
Perspective**

Sheeraz Khaled Mustafa Bzour

202216661

Supervision Committee:

Dr. Majd Owda

Dr. Omar Aamar

Dr. Yakub Halabi

**This Thesis Was Submitted in Partial Fulfillment of the
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and Diplomacy**

Palestine, 7/2025

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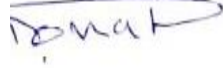
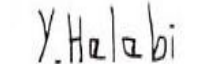
Thesis Approval

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Sheeraz Khaled Mustafa Bzour
202216661

This thesis was defended successfully on 26/07/2025 and approved by:

Thesis Committee Members:

Name	Title	signature
1. Dr. Majd Owda	Main Supervisor	
2. Dr. Omar Aamar	Member of Supervision Committee	
3. Dr. Yakub Halabi	Member of Supervision Committee	

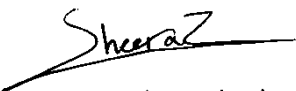
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Declaration

I declare that, except where explicit reference is made to the contribution of others, this thesis is substantially my own work and has not been submitted for any other degree at the Arab American University or any other institution.

Student Name: Sheeraz Khaled Mustafa Bzour

Student ID: 202216661

Signature: 
شیراز خالد بزور

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Dedication

To God Almighty, and to the land that bore the messages of His prophets.

To every land (Its soil, Its sky, Its water, Its youth and Its elders).

To steadfast Gaza, enduring hunger and hardship.

To all those who were martyred for the land of goodness, and to those who were not, and to those who entrusted It to us and passed on with It their love for this land.

To my family: Khaled Bzour, Rawand Aboushi, and my four remarkable sisters the pillars of support and bearers of responsibility: Rahaf, Hala, Sama, and Reemas; and to my grandmother, my role model and companion in perseverance since childhood, Najwa.

To the one with whom I pledged to love this land as it deserves from Jenin in the north to Hebron in the south, reaching the crown jewel, Jerusalem

my partner and companion on this journey, my constant and proud supporter, Engineer Eid Al-Salaymeh.

To the wheat preserved in granaries in times of scarcity;

to the supportive hands of friends: Nour, Raneen, Natalie, Jana, Sana, and Aya;

to the extended family, the sources of resilience,

and to everyone who has contributed, through their work, to this land and its freedom.

Sheeraz Khaled Mustafa Bzour

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Finally, I extend my gratitude to everyone who contributed, directly or indirectly, to the completion of this thesis.

The Legal Challenges of Israel's Seizure of Water Resources in the West Bank and Its Impact on Human Rights: An Analytical Study from an International Law Perspective

By: Sheeraz Khaled Mustafa Bzour

Supervision Committee:

Dr. Majd Owda

Dr. Omar Aamar

Dr. Yakub Halabi

Abstract

This legal study examines Israel's control over water resources in the West Bank as a core mechanism of prolonged occupation that violates jus cogens norms and undermines the fundamental rights of the Palestinian people. Utilizing a comparative legal framework, it interrogates the right to water under occupation, linking it to principles of permanent sovereignty over natural resources and the legal obligations of occupying powers. Water is analyzed not merely as an environmental asset but as a political tool that reshapes power dynamics between colonizer and colonized.

Special attention is given to the Oslo Accords particularly Article 40 of the 1995 Oslo II Agreement highlighting how transitional arrangements evolved into restrictive legal frameworks that entrenched structural dependency. Institutions such as the Joint Water Committee failed to safeguard Palestinian water rights and instead institutionalized asymmetry in favor of the occupying power.

The study also assesses the limited impact of international judicial mechanisms, noting the inaction of bodies like the ICC and ICJ, and stresses the need to expand the use of environmental legal advocacy and strategic litigation. In light of persistent violations including water denial and environmental harm the study calls for a comprehensive Palestinian legal strategy that reclaims water sovereignty as integral to the right of self-determination.

Ultimately, it offers a reorientation of international legal discourse toward confronting the colonial structure itself, advancing a rights-based approach to environmental justice under occupation.

Key Words: Hydropolitics – Occupation – Sovereignty – JusCogens

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Introduction

The persistent seizure of water resources by Israel in the occupied West Bank constitutes one of the most intricate and consequential legal challenges arising from the dynamics of prolonged occupation. This study approaches water not merely as an environmental or infrastructural concern, but as a legally protected human right and a strategic instrument through which broader systems of domination and dependency are institutionalized. Through a critical analysis of the legal frameworks governing the right to water including international humanitarian law, international human rights law, and bilateral arrangements such as the Oslo Accords this research interrogates the normative, institutional, and structural dimensions of water governance under occupation. It further explores how legal instruments are deployed not solely to regulate access, but to entrench geopolitical asymmetries that systematically marginalize the Palestinian population. In response, the study adopts a multidimensional legal methodology to assess the obligations incumbent upon the occupying power and to expose the limitations of existing international accountability mechanisms. Ultimately, it seeks to reconceptualize the question of water justice in occupied Palestine as a legal issue rooted in sovereignty, environmental entitlement, and the collective right to self-determination.

This research critically examines the legal characterization of Israel's seizure of water resources in the West Bank under the framework of international law particularly international humanitarian law, international human rights law. It aims to assess the legal foundations and legitimacy of Israel's water-related practices, while evaluating the effectiveness of judicial and diplomatic mechanisms available for holding Israel accountable and for restoring Palestinian water rights.

As the Main Research Question of the research is How can Israel's seizure of water resources in the West Bank be legally characterized under the rules of international law, and what legal mechanisms can be activated to ensure accountability and the restoration of Palestinian water rights?

Sub-questions:

1. Are Israel's water governance policies in the occupied Palestinian territory consistent with its legal obligations as an occupying power under the 1949 Fourth Geneva Convention?
2. Do Israel's discriminatory water distribution practices meet the legal definition of apartheid under the 1973 International Convention on the Suppression and Punishment of the Crime of Apartheid?
3. To what extent do the institutional arrangements establish under the Oslo Accords particularly the Joint Water Committee conflict with peremptory norms of general international law?
4. How should Israel's seizure and utilization of shared water resources be assessed under international environmental law, particularly in relation to transboundary watercourses?
5. What is the capacity of the International Court of Justice and the International Criminal Court to adjudicate Israel's seizure of Palestinian water resources as a breach of international law?
6. Can national courts exercising universal jurisdiction serve as viable venues for prosecuting violations arising from Israel's unlawful seizure of water in the occupied territory?

The significance of this research lies in its reframing of water in the occupied Palestinian territory as a legal issue grounded in international law, rather than a purely technical or developmental concern. Positioned at the intersection of prolonged occupation and structural legal violations, the study examines Israel's asserted legal justifications for water control and contrasts them with binding obligations under international humanitarian, human rights, and environmental law. These include the duties of occupying powers, the prohibition of discrimination, and the principle of permanent sovereignty over natural resources. The research further gains relevance through its assessment of international accountability mechanisms and its proposal for a hybrid Palestinian legal strategy that integrates public international law, treaty-based obligations, and environmental jurisprudence. In doing so, it aims to shift the discourse from water management to legal accountability.

Water rights in the West Bank are regulated by a multi-layered legal framework comprising international humanitarian law, human rights law, and environmental law all of which impose binding duties on Israel as an occupying power. These regimes collectively affirm the Palestinian right to equitable access and control over natural resources and prohibit discriminatory or extractive policies. Key instruments such as the ICESCR, the Fourth Geneva Convention, and relevant environmental treaties establish normative standards, further reinforced by ICJ jurisprudence on resource exploitation. While bilateral agreements like Oslo II and Article 40 are often cited *as lex specialis*¹, the study argues that they must be interpreted in harmony with jus cogens norms. Additionally, the research explores the potential classification of Israel's practices under international criminal law, particularly in relation to the crimes of apartheid and persecution. Together, this legal architecture forms the basis for evaluating the lawfulness of Israeli water policies and the obligations of the international community.

This academic work that has contributed to the legal understanding of water rights under international law, providing a foundation and point of departure for the present analysis.

A. The Human Right to Water and Sanitation: Milestones and Challenges by Salman Mohamed Ahmed Salman

This study traces the development of the human right to water from an implied obligation to a codified international norm. It highlights key legal instruments, including the ICESCR and General Comment No. 15, and emphasizes the right's increasing recognition as customary international law, interconnected with fundamental rights such as life and health.

¹ Lex specialist is a principle of international law whereby a more specific norm governs over a general one when both apply to the same subject matter.

¹ International Law Commission. (2006). Fragmentation of international law: Difficulties arising from the diversification and expansion of international law (UN Doc. A/CN.4/L.682), para. 56.

B. Power and Water in the Middle East: The Hidden Politics of the Palestinian-Israeli Water Conflict by Mark Zeitoun

Zeitoun introduces the concept of “hydro-hegemony” to describe Israeli control over Palestinian water resources. He critiques the Joint Water Committee as a mechanism of political dominance, revealing the asymmetrical power relations institutionalized through bilateral agreements.

C. Legal Theory on Environmental Apartheid and International Criminal Law by Mark Klamberg

Klamberg proposes “environmental apartheid” as a legal lens for viewing discriminatory access to resources. He argues that such practices may amount to crimes against humanity under Article 7 of the Rome Statute, offering a framework for criminal accountability in prolonged occupations.

While informed by prior works, this thesis diverges by applying international legal standards to the specific context of Israel’s water seizure in the West Bank. Salman’s analysis of the human right to water remains largely conceptual and does not address conditions of occupation; this research bridges that gap by grounding those rights in humanitarian obligations. Zeitoun’s notion of hydro-hegemony offers a political diagnosis but lacks legal depth; here, power asymmetries are framed as legal violations with actionable remedies. Klamberg introduces “environmental apartheid” in theory, while this thesis advances it as a potential crime against humanity under Article 7 of the Rome Statute through direct application to Israeli policies.

This study adopts a descriptive-analytical legal methodology to examine Israel’s seizure of water resources in the West Bank through the framework of international law. It first maps the applicable legal instruments such as the Fourth Geneva Convention, the ICESCR, and the UN Watercourses Convention alongside relevant bilateral agreements like the Oslo Accords. It then critically assesses Israel’s practices against core norms of humanitarian, human rights, and environmental law. The analysis is grounded in primary sources (e.g., treaties, legal texts, military orders) and supported by jurisprudence and scholarly commentary, enabling a comprehensive evaluation of legal violations, accountability gaps, and the potential for strategic Palestinian legal action.

The first chapter of this study lays the foundational legal framework for the protection of water resources in occupied territories, particularly focusing on the normative evolution and international recognition of the human right to water. It explores how this right has been progressively articulated in key legal instruments, including the International Covenant on Economic, Social and Cultural Rights, General Comment No. 15, and relevant UN resolutions, as well as its implicit and explicit integration within international humanitarian law and customary legal principles. The chapter further addresses the binding obligations of occupying powers, most notably those articulated in the Fourth Geneva Convention and the Hague Regulations emphasizing that the right to water is not merely a developmental or humanitarian concern, but a legal entitlement protected under both human rights and humanitarian frameworks. This legal foundation is critical to understanding how Israeli practices must be assessed under international law.

Building upon that, the second chapter transitions from the normative to the applied, offering a critical legal analysis of Israel's seizure and management of water resources in the West Bank. It examines the institutional mechanisms underpinning this control, especially those codified in the Oslo Accords most prominently Article 40 and assesses how these agreements, in practice, enable a persistent imbalance in water governance through structures such as the Joint Water Committee. The chapter highlights systematic disparities in access, project approvals, and aquifer allocation, linking them to broader patterns of discrimination and domination that may breach peremptory norms of humanitarian, environmental, and human rights law.

It concludes by evaluating the limited efficacy of current legal accountability mechanisms and proposes a set of strategic legal responses spanning litigation, international advocacy, and environmental justice tools that could strengthen Palestinian claims to equitable access and reinforce the broader legal struggle for sovereignty and self-determination.

1. The Legal Framework for the Protection of Water Resources in Occupied Territories

The protection of water resources in occupied territories occupies a central position within international legal discourse, particularly in contexts marked by prolonged military occupation and resource asymmetries. International humanitarian law (IHL), international human rights law (IHRL) collectively establish a normative framework that regulates the conduct of occupying powers with respect to natural resources, including water. This framework affirms the principle that occupation does not confer sovereignty and imposes clear duties on the occupying power to administer the territory for the benefit of the protected population. In the case of water, this includes obligations to prevent environmental harm, ensure equitable access, and avoid exploitation for the occupying power's benefit. This section critically examines the relevant legal instruments most notably the 1907 Hague Regulations¹, the 1949 Fourth Geneva Convention², and emerging norms of environmental protection³ under international law to assess the scope and limitations of legal protections afforded to water resources in occupied territories.

1.1 The Legal Basis for the Human Right to Water

This section investigates the legal foundations of the human right to water within the broader framework of international law. It examines how this right is articulated and enforced through human rights treaties, United Nations resolutions, and international standards, identifying both implicit and explicit recognitions. The section highlights the normative evolution of this right and its importance in achieving an adequate standard of living, public health, and human dignity.

¹ International Committee of the Red Cross (ICRC). (1907). Regulations concerning the Laws and Customs of War on Land (Hague Regulations). Annex to the Convention (IV) respecting the Laws and Customs of War on Land, The Hague, 18 October 1907, Art. 55.

² International Committee of the Red Cross. (1949). Geneva Convention Relative to the Protection of Civilian Persons in Time of War (Fourth Geneva Convention), 12 August 1949, 75 U.N.T.S. 287, Arts. 53–55.

³ United Nations Environment Program. (2009). Protecting the Environment During Armed Conflict: An Inventory and Analysis of International Law. Nairobi: UNEP, pp. 9–14.

1.1.1 International Recognition of the Human Right to Water Considering International Standards

The right to water is one of the fundamental human rights enshrined in international human rights law. Access to clean, sufficient, and affordable water is now recognized as indispensable for a life of dignity and health¹. The international recognition of this right has evolved progressively within the legal framework of international law and has been incorporated into a set of international treaties and conventions that form the legal basis for its protection.

A. Indirect Recognition of the Right to Water in Human Rights Treaties

Although the 1948 Universal Declaration of Human Rights does not explicitly mention the right to water, this right is implicitly derived from several provisions that oblige states to ensure the enjoyment of basic rights. Article 11 of the 1966 International Covenant on Economic, Social and Cultural Rights (ICESCR) affirms "the right of everyone to an adequate standard of living for himself and his family, including adequate food,"² which is interpreted to include access to water as a fundamental component of an adequate standard of living.

Similarly, Article 12 of the same Covenant guarantees "the right of everyone to the enjoyment of the highest attainable standard of physical and mental health,"³ which necessitates the availability of safe and clean drinking water as an essential condition for maintaining public health. This interpretation was affirmed by the United Nations Committee on Economic, Social and Cultural Rights (CESCR) in General Comment No. 15 (2002), which stated: "The right to water clearly falls within the category of guarantees essential for securing an adequate standard of living and is inextricably related to the right to the highest attainable standard of health. It requires that water must be sufficient, safe, acceptable, physically accessible, and affordable for personal and domestic uses"⁴ (CESCR, 2002).

¹ UN Committee on Economic, Social and Cultural Rights (CESCR). (2002). General Comment No. 15: The Right to Water (Arts. 11 and 12 of the ICESCR), UN Doc. E/C.12/2002/11, 20 January 2003, para. 1.

² UN General Assembly. (1966). International Covenant on Economic, Social and Cultural Rights, 16 December 1966, United Nations, Treaty Series, vol. 993, p. 3, Art. 11.

³ Ibid., Art. 12.

⁴ UN Committee on Economic, Social and Cultural Rights, Op. cit., para. 2.

Scholars have reinforced this interpretation by emphasizing that the right to water is not only a derivative right but has increasingly been recognized as an autonomous and justiciable human right under international law, particularly through the evolving jurisprudence and interpretive guidance provided by human rights treaty bodies.¹

B. Explicit Recognition of the Right to Water in International Instruments

The right to water has been explicitly recognized in various international instruments that impose binding legal obligations on state parties. Article 14(2) of the 1979 Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) mandates that states ensure women, particularly in rural areas, have access to adequate living conditions, including clean water.²

Similarly, Article 24 of the 1989 Convention on the Rights of the Child (CRC) obliges states to provide safe drinking water as part of their responsibility to ensure the highest attainable standard of health for children and to reduce water-borne diseases³

Additionally, Article 28 of the 2006 Convention on the Rights of Persons with Disabilities (CRPD) requires states to ensure access to clean and affordable water for persons with disabilities as part of their right to social protection and an adequate standard of living⁴

Furthermore, UN General Assembly Resolution 64/292 (2010) marked the first formal recognition of the human right to water and sanitation as essential for the full enjoyment of life and all other human rights.⁵ The resolution urged states and international organizations to intensify efforts to provide safe, clean, accessible, and affordable drinking water for all.

The Human Rights Council reinforced this recognition in its Resolution 15/9 (2010), affirming that the right to water and sanitation is closely linked to the right to an

¹ Peter, Gleick, (1998). The human right to water. *Water Policy*, 1(5), 487–503, p. 489.

² Convention on the Elimination of All Forms of Discrimination Against Women, Dec. 18, 1979, 1249 U.N.T.S. 13, art. 14(2)(h)

³ Convention on the Rights of the Child, Nov. 20, 1989, 1577 U.N.T.S. 3, art. 24(2)(c).

⁴ Convention on the Rights of Persons with Disabilities, Dec. 13, 2006, 2515 U.N.T.S. 3, art. 28(2)(a).

⁵ UN General Assembly. (2010). Resolution adopted by the General Assembly on 28 July 2010: The human right to water and sanitation (A/RES/64/292).

adequate standard of living and must be respected and promoted in accordance with states' obligations under international human rights law¹.

In addition to treaty-based obligations, academic scholarship has increasingly highlighted the evolving normative character of the right to water within international law. Scholars argue that the cumulative effect of declarations, resolutions, and consistent state practice reflects a crystallization of this right as a binding norm of customary international law.

For instance, Stephen C. McCaffrey, a leading authority on international water law, asserts that the progressive development of UN General Assembly resolutions and their widespread acceptance by states contribute to the consolidation of a general legal obligation².

He further emphasizes that the incorporation of the human right to water into many national legal systems and regional human rights instruments demonstrates the maturation of this right into a customary legal norm, intricately linked with other fundamental rights such as the right to life, health, and human dignity. This academic framing not only reinforces the legal authority of instruments such as CEDAW and CRC but also emphasizes that water access is integral to the realization of a wide range of civil, political, and socio-economic rights.

B. International Standards on the Human Right to Water

International human rights standards have established clear principles that states must adhere to in ensuring the right to water. These include fundamental criteria defined by the World Health Organization (WHO), which are:

¹ UN Human Rights Council. (2010). Resolution 15/9: Human rights and access to safe drinking water and sanitation (A/HRC/RES/15/9).

² Stephen C, McCaffrey. (2016). The Human Right to Water: A False Promise? *Utah Law Review*, 2016(1), 119–145, pp. 125–127.

According to international standards established by the World Health Organization (WHO, 2017), the human right to water encompasses four essential dimensions: availability, quality, accessibility, and affordability.¹

Availability requires sufficient water to be provided to every individual to meet essential needs for drinking, cooking, and personal hygiene. To fulfill this, states are obligated to develop and maintain adequate infrastructure and allocate resources to ensure the long-term sustainability of water sources.

Quality dictates that water must be free from harmful substances and pollutants and must meet established international health standards. This requires states to implement systematic monitoring of water quality in accordance with WHO guidelines.

Accessibility demands that water be available within reasonable proximity to homes and workplaces and be free from physical or administrative barriers. It also entails a duty to ensure equal access for vulnerable populations, including children, the elderly, and people with disabilities, without discrimination.

Finally, affordability ensures that the cost of water does not restrict individuals from enjoying other human rights. States are thus required to provide financial assistance to low-income households to guarantee equitable and just access to water resources.

1.1.2 Protection of Water Resources in Occupied Territories under International Humanitarian and Customary Law

The right to water is recognized within both international human rights law and international humanitarian law, even though it was not initially enshrined as an independent right in early legal instruments. Over time, however, this recognition has developed into binding legal obligations for states to provide safe and sustainable water access for all, particularly in situations of armed conflict and occupation.

¹ World Health Organization. (2017). *Guidelines for Drinking-Water Quality: Fourth Edition Incorporating the First Addendum*. Geneva: WHO.

A. Legal Framework for the Protection of Water Resources

States' obligations to protect the right to water form a core component of international legal norms aimed at ensuring equitable and sustainable access to water resources. International treaties and resolutions have established legal standards to protect this right, especially during armed conflict and military occupation, where the right to water is intrinsically linked to economic and social rights, as well as humanitarian obligations.

The 1966 ICESCR remains one of the most significant legal instruments recognizing the right to water. Article 11 affirms that everyone has the right to an adequate standard of living, including food and water. This establishes a legal obligation for state parties to ensure fair and sustainable access to water¹

General Comment No. 15 by the CESCR in 2002 reinforced this obligation, asserting that access to safe water is indispensable for a life of dignity and health. Consequently, denying individuals or communities access to clean water constitutes a clear violation of human rights².

In 2010, UN General Assembly Resolution 64/292 explicitly declared water and sanitation as fundamental human rights, calling upon states to adopt the necessary measures to guarantee access to safe drinking water for all without discrimination³

Furthermore, international humanitarian law provides a legal framework for the protection of water resources during conflict and occupation. The 1949 Fourth Geneva Convention mandates the protection of essential civilian infrastructure, including water sources, to prevent civilian suffering due to thirst and lack of resources⁴.

Similarly, the 1907 Hague Regulations⁵ prohibit occupying powers from exploiting the natural resources of occupied territories in a way that violates the rights of the local population or leads to the depletion of those resources.¹

¹ United Nations General Assembly, Op. cit., Resolution 64/292.

² International Committee of the Red Cross, Op. cit., Art. 55.

³ International Committee of the Red Cross, Op. cit., Art. 55.

⁴ Ibid.

⁵ United Nations Human Rights Council, Op. cit. para 21

This legal framework highlights that the right to water is not merely a moral principle, but a legally binding obligation that requires ensuring fair and nondiscriminatory access to potable water, particularly during armed conflicts and under conditions of occupation, as in the case of the West Bank.

B. State Obligations to Protect the Right to Water

International law imposes clear obligations on states to protect the right to water, categorized under three main levels, as defined by international human rights law² :

1. Obligation to Respect

States must refrain from interfering with individuals' enjoyment of the right to water, in accordance with their obligations under international law.

This includes refraining from enacting legal or administrative barriers that obstruct personal or domestic access to water. Additionally, states must avoid any form of discrimination in the distribution of water based on race, gender, economic status, or geographic location, ensuring equal and equitable access for all. They are also obligated to abstain from cutting off water supplies as a punitive or political measure, a practice deemed a clear violation of international humanitarian law³. Moreover, states must avoid any actions that may lead to the pollution or unsustainable depletion of water resources, as such practices compromise public health and impede access to safe and sufficient water.⁴

Scholarly analyses have emphasized that denial of access to water whether through administrative obstruction or infrastructural sabotage constitutes a violation not only of the right to water but of broader rights enshrined in international law, including the right to life and health.

According to Salman, punitive restrictions on water access by states or occupying powers are incompatible with the principle of proportionality and often amount to

¹ Ibid., p. 24.

² United Nations Human Rights Council, Op. cit. para 10

³ Ibid., p. 24.

⁴ Salman Mohamed Ali Salman. (2018). *The Human Right to Water: Challenges and Prospects* (p. 144). Oxford University Press.

collective punishment under international humanitarian law, particularly when targeted at civilian populations in occupied territories¹.

2. Obligation to Protect

States bear the responsibility of protecting the right to water from violations by third parties, including private companies. This duty entails regulating the extraction of both groundwater and surface water to prevent the unsustainable depletion of resources in ways that negatively affect local communities². It also involves enacting robust legal and regulatory frameworks to safeguard water sources from pollution, particularly contamination caused by industrial and agricultural activities that involve hazardous chemicals.

Furthermore, states must closely monitor the practices of private water service providers to prevent monopolistic behavior or the imposition of excessive fees that could restrict access to water for low-income populations³. Legal scholars have stressed that weak regulation of private water suppliers can lead to the commodification of water, undermining its status as a human right.

Selby (2003) emphasizes that, particularly in conflict-affected regions like the West Bank, unregulated private-sector involvement often results in inequitable distribution and disproportionate harm to marginalized communities⁴.

Thus, ensuring state oversight is essential to uphold both social justice and international legal standards⁵.

To ensure long-term resource availability, states are also obligated to implement sustainability measures such as placing limits on unregulated construction near water sources and curbing overconsumption in industrial and agricultural sectors¹.

¹ UN Educational, Scientific and Cultural Organization. (2014). *The United Nations World Water Development Report 2014: Water and Energy* (pp. 50–51). Paris: UNESCO.

² UNESCO, Op. cit., pp. 50–51.

³ UN Committee on Economic, Social and Cultural Rights, Op. cit., para. 24.

⁴ Jan, Selby. (2003). *Water, Power and Politics in the Middle East: The Other Israeli–Palestinian Conflict*. London: I.B. Tauris, p. 112.

⁵ World Health Organization, Op. cit., pp. 3–14.

3. Obligation to Fulfill

This obligation requires states to take proactive and positive measures to ensure the sustainable provision of water for all. Such measures include investing in water infrastructure such as the development of modern distribution networks and the construction of reservoirs to secure reliable access to water across all². States must also provide financial and technical assistance to impoverished communities to eliminate economic barriers that hinder access to water³.

In addition, governments are expected to adopt and implement sustainable water management policies that consider the long-term impacts of climate change and population growth on water availability⁴.

Finally, states are encouraged to enhance regional and international cooperation in the management of shared water resources and to comply with international agreements regulating the use of transboundary rivers and lakes⁵.

1.2 The Legal Status of Water in the West Bank under Bilateral Agreements

The management and allocation of water resources in the West Bank represent a critical legal and political dimension of the Palestinian-Israeli conflict. Given the strategic and essential nature of water, bilateral agreements most notably the Oslo Accords, have sought to establish a legal framework regulating water rights and usage between the two parties⁶.

However, these agreements, while setting procedural and administrative arrangements, deferred the final resolution of water rights, leaving significant gaps in the recognition and satisfaction of Palestinian water needs. Consequently, complex legal and practical challenges have arisen concerning control, distribution, and equitable access to water resources in the West Bank.

¹ UNESCO. (2014). The United Nations World Water Development Report 2014: Water and Energy, Paris: United Nations Educational, Scientific and Cultural Organization, pp. 50–51.

² UN General Assembly, Op. cit., A/RES/64/292.

³ Ibid., pp. 50–51.

⁴ World Health Organization, Op. cit., pp. 3–14.

⁵ UN General Assembly, Op. cit., A/RES/64/292.

⁶ Oslo II Accord. (1995). Annex III, Article 40.

1.2.1 The Oslo Accords and the Regulation of Water Resources

The Oslo Accords constitute one of the central frameworks that established the legal basis for Palestinian–Israeli relations. They were the product of protracted negotiations between the Palestine Liberation Organization (PLO) and Israel, held under international auspices, with the aim of laying the foundations for a comprehensive political resolution to the conflict¹. The first accord was signed on 13 September 1993 in Washington, D.C. and resulted in mutual recognition between the two parties: Israel recognized the PLO as the sole legitimate representative of the Palestinian people, while the PLO committed to recognizing Israel and renouncing the use of armed struggle as a means of resolving the dispute².

The first Oslo Accord outlined the general framework for Palestinian self-governance in the West Bank and Gaza Strip but deferred the so-called “final status issues” including borders, Jerusalem, refugees, and water resources to future negotiations³. Nevertheless, the agreement paved the way for the signing of the second Oslo Accord on 28 September 1995, which introduced a territorial division of the West Bank into three administrative zones: Area A, under full Palestinian control; Area B, under Palestinian civil administration and Israeli security control; and Area C, under full Israeli control⁴. Notably, Area C encompasses the majority of the strategic water resources in the West Bank⁵.

One of the most sensitive aspects of these agreements concerned⁶ the management of water resources, particularly the allocation of groundwater between Palestinians and Israelis.

¹ Gordon, Neve (2008). *Israel's Occupation*. University of California Press, p. 125.

²United Nations. (1993). Declaration of Principles on Interim Self-Government Arrangements ("Oslo I Accord"), UN Doc. A/48/486, 13 September 1993, §1–2.

³ Baskin, Gershon (2003). *The Missing Piece: The Inside Story of the Fight for Middle East Peace*. John Wiley & Sons, pp. 147–148.

⁴ Shlaim, Avi (2001). *The Iron Wall: Israel and the Arab World*. W.W. Norton & Company, p. 512

⁵ B'Tselem. (2011). *Dispossession and Exploitation: Israel's Policy in the Jordan Valley and Northern Dead Sea*, p. 10.

⁶ Messerschmidt, C. (2021). Hydro-hegemony in the West Bank: A critique of the Israeli-Palestinian Joint Water Committee. In E. Weizman, N. Erakat, & R. Segal (Eds.), *Water Politics in the Middle East* (pp. 93–117).

1.2.1.1 The Oslo Accords and the Regulation of Water Resources in the West Bank

The 1995 Oslo II Accord included a set of specific provisions for the management of water resources, including those in the West Bank, as outlined in Article 40 of Annex III. This article acknowledged Palestinian water rights, while deferring the resolution of the details of these rights to the final status negotiations. It also estimated the future Palestinian water needs at approximately 70–80 million cubic meters (MCM) annually¹. This figure is significantly lower than the actual needs of the population in the West Bank.

According to estimates by the World Bank and United Nations agencies, the real annual Palestinian water needs in the West Bank range from 150 to 200 MCM. This creates a minimum water deficit of about 21.3%, and a maximum gap of nearly 41%.²

A joint Israeli–Palestinian Water Committee was established to oversee water management and sanitation projects. However, this body has since evolved into a mechanism of control whereby the Israeli authorities can obstruct Palestinian water projects by withholding necessary approvals³.

Furthermore, the agreement allocated 9.5 MCM⁴ per year from Israeli-controlled sources for Palestinian use, while Palestinians were obligated to supply 19.2 MCM⁵ through extraction from the Eastern Aquifer. This illustrates a stark disparity in control over water resources.

1.2.1.2 Actual Water Allocation under the Oslo Accords

The Oslo II Accord stipulated the allocation of groundwater resources from the three shared aquifers between Palestinians and Israelis. The annual extraction quotas for each party were determined according to the capacity of each basin:

¹ Oslo II Accord. (1995). Israeli–Palestinian Interim Agreement on the West Bank and the Gaza Strip, Annex III, Article 40.

² World Bank. (2009). Assessment of Restrictions on Palestinian Water Sector Development, p. 22

³ Ibid.

⁴ Amnesty International. (2017). The Occupation of Water: The Human Rights Impact of Israel’s Settlements in the OPT. London: Amnesty, pp. 22–24.

⁵ Ibid.

The Western Aquifer, with an estimated annual capacity of approximately 362 million cubic meters (MCM), allocated only 22 MCM to Palestinians, while 340 MCM were designated for Israeli use, with no future Palestinian allocations provided. Similarly, the Northeastern Aquifer, with a total annual capacity of 145 MCM, saw 42 MCM allocated to Palestinians and 103 MCM to Israelis. In the case of the Eastern Aquifer, which has an annual capacity of 172 MCM, Palestinians were allocated 54 MCM and Israelis 40 MCM, leaving 78 MCM of the total capacity unallocated.¹

Thus, the total annual groundwater supply in the West Bank stands at 679 MCM, of which Israel controls 483 MCM, while Palestinians receive only 118 MCM representing just 17% of the total available resources². This is even though the Palestinian population in the West Bank significantly exceeds that of Israeli settlers.

1.2.1.3 Legal Challenges and Practical Implementation of the Oslo Accords considering International Law

Although the 1995 Oslo II Accord aimed to regulate the management of water resources in the West Bank through the Civil Affairs Protocol, specifically Article 40, the practical implementation of these provisions has revealed numerous legal issues that conflict with the fundamental principles of international human rights law and international humanitarian law.

One of the most pressing issues is the significant disparity between the theoretical commitments of the agreement and the realities on the ground. The water share allocated to Palestinians falls far below their actual needs, leading to a substantial gap that undermines their right to an adequate standard of living.

Among the most prominent legal issues is the inequitable distribution of shared water resources. The agreement grants Israel near-absolute authority to approve Palestinian water projects through the Joint Water Committee, which has frequently stalled or rejected Palestinian infrastructure development. This unbalanced framework violates the principles of non-discrimination and equality of access to natural resources,

¹ World Bank, Op. cit., pp. 12–15

² World Bank, Op. cit., pp. 12–15

both of which are guaranteed under the International Covenant on Economic, Social and Cultural Rights.

Multiple scholars have criticized the Oslo Water Regime as institutionalizing asymmetrical power relations rather than promoting equitable cooperation. Zeitoun (2008) argues that the Joint Water Committee, though ostensibly collaborative, effectively grants Israel veto power over all Palestinian water initiatives, leading to chronic delays and underdevelopment. This reflects a broader pattern of "hydro-hegemony," where water control functions as a tool of domination rather than coexistence.

Serious legal concerns also arise regarding the Oslo Accords' compatibility with the principle of "non-derogability of fundamental rights" under prolonged occupation. As a transitional agreement, Oslo failed to resolve water sovereignty, instead entrenching a status quo favoring the militarily dominant party contradicting Article 43 of the 1907 Hague Regulations' which requires the occupier to manage resources for the benefit of the civilian population and forbids exploitation.

Legally, the Oslo framework has been criticized for undermining the universal nature of human rights. Salman (2018) argues that bilateral agreements made under occupation cannot override peremptory norms, particularly those ensuring access to essential resources like water. Any agreement facilitating structural discrimination or obstructing humanitarian obligations is inherently incompatible with international humanitarian law and subject to review under *pacta sunt servanda* (agreements must be kept) only when consistent with *jus cogens* norms.

Additionally, Israel's continued restrictions on Palestinian well-drilling and infrastructure development clearly violate Article 55 of the 1949 Fourth Geneva Convention, which mandates the occupying power to provide essential supplies, including water, to the civilian population.

2. The Legal Implications of Israel's Seizure of Water Resources

Under the prolonged Israeli occupation of the Palestinian territories, control over water resources transcends mere technical or administrative dominance to become a strategic tool employed in entrenching structural dependency and systemic discrimination. Chapter Two of this study constitutes an attempt to understand the legal and political framework through which Israel manages this vital resource, and to analyze the repercussions of these policies on the water rights of the Palestinian population, based on international humanitarian law and human rights law. The chapter proceeds to assess the extent of Israel's compliance with bilateral agreements and the impact of these policies on the daily lives of Palestinians, focusing on legal accountability and judicial remedy mechanisms or their absence as an indicator of the international system's seriousness in addressing violations occurring under the auspices of occupation.

2.1 Analysis of Israeli Seizure of Water Resources in the West Bank

The strategic seizure and governance of water resources in the West Bank constitutes one of the most deeply entrenched and contested dimensions of the Israeli occupation¹.

This control extends far beyond technical or infrastructural concerns, representing a complex regime of structural asymmetry and territorial domination².

Far from a matter of resource management alone, the Israeli water regime operates as a mechanism of control, dependency, and fragmentation.

This section offers a legal and institutional analysis of how Israel exerts both direct and indirect control over water infrastructure, access, and allocation in the occupied Palestinian territory.

The analysis interrogates the compatibility of these practices with international law particularly international humanitarian law, human rights law, and environmental

¹ Mark. Zeitoun. (2008). *Power and Water in the Middle East: The Hidden Politics of the Palestinian-Israeli Water Conflict* (p. 43). I.B. Tauris.

²Iain, Scobbie. (2012). In *Natural Resources and Belligerent Occupation* (pp. 220–221). Routledge.

law and examines how the Israeli water regime contributes to the entrenchment of de facto annexation.

By employing an interdisciplinary legal approach, the chapter explores the military orders, administrative barriers, and bilateral arrangements that together construct a sophisticated system of hydro-hegemony.

It also addresses the intersection between hydro politics and legal accountability, framing Israeli water control not merely as a sovereign prerogative, but as a legally challengeable structure of domination with profound humanitarian consequences¹.

2.1.1 Early Water Planning and Foundational Policies (1953–1967)

Since the late 19th century, water has occupied a central role in Zionist strategic planning as both a material necessity and an ideological instrument for colonization². Water was never treated solely as a development concern but was viewed as a determinant of spatial and demographic control.³

The Zionist movement undertook early hydrological missions to assess the availability and quality of water resources in Palestine, particularly in the Jordan Valley and the highlands⁴. These findings were later used to lobby British and French authorities to redraw the borders of the Mandate to include vital headwaters most notably those of the Jordan River⁵.

This established a precedent wherein hydro-strategic considerations shaped political geography even before statehood.⁶ Following the establishment of Israel in 1948, water became deeply embedded in national security doctrine. In a 1955 speech, Prime Minister David Ben-Gurion emphasized:

¹ Al-Haq. (2013). *Water for One People Only: Discriminatory Access and ‘Water-Apartheid’ in the OPT* (pp. 30–31).

² Michael R, Fischbach. (2000). *State, Society, and Land in Jordan*. Brill, p. 75.

³ Julie, Trottier. (1999). *Hydropolitics in the West Bank and Gaza Strip*. PASSIA, p. 22.

⁴ *ibid*, p. 25.

⁵ Mark, Zeitoun. (2008). *Power and Water in the Middle East: The Hidden Politics of the Palestinian–Israeli Water Conflict*, pp. 47–49.

⁶ Michael R, Fischbach. (2000)., *Op. cit.*, pp. 81–82

"The Jews are engaged in a battle over water with the Arabs, and the outcome of this battle will determine the fate of Israel. If we fail in this battle, we will not remain in Palestine."¹

This articulation reflected how existential Israel considered the issue of water. It justified aggressive expansionist practices, including strategic interest in regional water sources such as the Litani River in Lebanon and the Yarmouk River in Syria².

Within this framework, water was not merely an economic resource it became a symbol and instrument of sovereignty. The logic of “hydro-sovereignty”³ came to define Israeli spatial policy, merging hydrological control with statecraft and territorial ambition⁴.

2.1.1.1 Strategic Logic and Anticipatory Control

The pre-1967 Israeli approach to water governance was not reactive but formed through long-term strategic anticipation. Even before the occupation of the West Bank, Israeli institutions had begun monitoring the Mountain Aquifer system, recognizing its hydrological centrality and future importance for national consumption and territorial consolidation⁵.

This early surveillance reflected a policy of “preemptive containment,”⁶ wherein hydrological mapping, technical reconnaissance, and legal-preparatory acts were deployed to facilitate immediate post-occupation control⁷. The Israeli Ministry of Agriculture and entities like Mekorot were instrumental in collecting data on Palestinian

¹ Amos, Tal. (2002). *Pollution in a Promised Land: An Environmental History of Israel*, p. 223

² Warner, Jason (2006). “Hydro-hegemony – a framework for analysis of trans-boundary water conflicts”, *Water Policy*, 8(5), pp. 449–451.

³ Hydro-sovereignty refers to a state's assertion and exercise of exclusive control over water resources within its territory, including decisions about allocation, management, and use—often transcending national borders and influencing regional power dynamics.

⁴ Erika Weinthal & Amal Marei (2002). “Water and Peace: The Past, the Present and Future of the Middle East Water Crisis”, *International Affairs Review*, 11(1), p. 5; Jan Selby (2013). “Cooperation, domination and colonization...”, *Water Alternatives*, 6(1), pp. 445–446.

⁵ Jan, Selby. (2003), *Op. cit.*, p. 148

⁶ refers to strategic actions taken to gain early control over water resources before competitors do, often by monitoring, restricting, or capturing resource information and infrastructure to secure future advantages.

⁷ Kreamer, D. K., & Usher, T. (2012). *The Past, Present, and Future of Water Conflict and International Security*. *Journal of Contemporary Water Research & Education*, 149(1), 10–21.

water resources ranging from recharge levels and well depths to consumption rates under the guise of scientific inquiry, but with clear political motives.¹

The foundational orientation of Israeli water policy thus laid the groundwork for a post-1967 regime of totalizing control, in which legal instruments such as Military Orders No. 92 and 158 transferred all water-related authority to the Israeli military administration². These measures demonstrate that water governance in the West Bank was never incidental to the occupation; it was, from the outset, a pillar of colonial planning and a critical component of Israel’s broader architecture of spatial domination³.

2.1.1.2 Early Policies of Water Control (1948–1967)

Since the establishment of the State of Israel in 1948, water has not merely constituted a developmental resource; it has served as a political and security cornerstone of the regional domination project. Within this framework, Israel adopted a series of policies aimed at securing its early control over water resources both within its borders and in neighboring regions, including the West Bank, prior to its formal occupation.

A. Diplomatic Leverage and Geopolitical Pressure

In its early water policies, Israel relied heavily on the colonial privileges granted by the British Mandate, most notably the concession granted to the Rutenberg Company in the 1920s, which gave it exclusive rights to exploit the waters of the Jordan and Yarmouk Rivers for hydroelectric production⁴.

With the rise of Arab water projects such as the “Jordan River Tributaries Diversion Project”⁵ in the 1960s Israel adopted a posture of total rejection, even issuing

¹ Anne, de Châtel. (2014). The role of water in the Israeli–Palestinian conflict. *The Ecologist*, 44(3), 10–14.

² Sharif, Elmusa. (1997). *Op. cit.*, pp. 95–96

³ Jan, Selby. (2003), *Op. cit.*, p. 148.

⁴ Sharif, Elmusa. (1997). *Water Conflict: Economics, Politics, Law and Palestinian–Israeli Water Resources* (p. 22). Washington, DC: Institute for Palestine Studies.

⁵ Alon, Tal. (2002). *Pollution in a Promised Land: An Environmental History of Israel* (pp. 221–224). Berkeley: University of California Press.

direct military threats. This approach reflects the centrality of water within Israel's national security doctrine.

Furthermore, Israel exerted pressure on states and international institutions to obstruct any Palestinian or Jordanian water development initiatives, frequently invoking claims that such projects would “disrupt the hydrological balance of the Western Aquifer” or “pose a threat to Israeli water security.”¹

B. Early Monitoring and Technical Interference in the West Bank

Despite the West Bank being under Jordanian administration prior to 1967, Israel began monitoring the area's water infrastructure through unofficial channels and regional organizations. This surveillance focused on well-drilling operations, groundwater recharge, and aquifer monitoring.

As de Châtel (2014) explains, this surveillance was not merely scientific; it was part of a broader strategic policy aimed at “securing future water sources” and expanding geopolitical control over shared aquifers². This data collection enabled Israel to assert immediate and sovereign control over Palestinian water resources following the occupation³.

C. Legal Preparations for Control: From Anticipation to Activation

Upon occupying the West Bank in 1967, Israeli authorities declared that “all natural resources, including water, fall under military jurisdiction.” This declaration was followed by a series of military orders most notably Military Order No. 92, which transferred all water management powers from Palestinian local bodies to the Israeli military administration⁴.

This swift legal maneuver demonstrates that Israel's water control strategy was not incidental, but the result of long-term planning and institutional preparation. It

¹ Mark, Zeitoun. (2008). Op. cit., pp. 56–57

² Anne, de Châtel. (2014). Op. cit., p. 12.

³ Clemens, Messerschmidt. (2012), Op. cit., p. 8

⁴ Sharif, Elmusa. (1997). Op. cit., pp. 95–96

marked the culmination of diplomatic and structural pressures that Israel had been exerting even prior to 1967¹.

2.1.1.3 The Seven-Year Plan (1953–1960): Early Planning for Dominance

The "Seven-Year Plan"² (1953–1960) was not merely a developmental program to strengthen Israel's economy. Rather, it constituted the launchpad of a long-term settler-sovereign project that instrumentalized water resources to fulfill geopolitical and structural objectives³. Initiated under Prime Minister David Ben-Gurion, the plan aimed to build an autonomous economy and expand settlement, but it rapidly evolved into a central mechanism for re-engineering the relationship between geography and resources by integrating the water sector into a broader national security strategy⁴.

The plan was centered on two principal axes:

A. the securing of sustainable water sources through the development of an extensive infrastructure network, which included inter-basin water transfer projects, deep well drilling, and the construction of distribution systems managed by the state-owned company Mekorot⁵.

B. the institutionalization of administrative and legal control over water resources by monopolizing their management and transforming them into a centralized system under state control by passing principles of decentralization or local rights of water access⁶.

1. Geopolitical Dimension – The West Bank in Early Water Planning

Israeli archival documents reveal that water considerations were not confined to the boundaries of the declared state. They extended to areas beyond Israel's immediate control, including the West Bank, which was under Jordanian administration at the time. As early as 1953, the Israeli Ministry of Agriculture identified what it termed

¹ Jan, Selby. (2003). Op. cit., p. 149

² refers to Israel's national water development strategy implemented between 1953 and 1960, which laid the groundwork for the expansion of the National Water Carrier project. It combined ambitious hydrological surveys, deep-well drilling, and infrastructural investments aimed at monopolizing key water resources—especially the Western Aquifer—to serve both agricultural and security objectives.

³ Jan, Selby. (2003). Op. cit., p. 144

⁴ World Bank. (2018). Op., pp. 5–7.

⁵ Ibid., pp. 150–151

⁶ Anne, De Châtel. (2014). Op. cit., p. 52.

“transboundary hydrological systems,” recommending specific attention to the Western Aquifer Basin, which is recharged in the central highlands of the West Bank and flows westward toward the coastal plain¹.

This outlook prompted institutions such as Mekorot and the Water Authority to undertake covert surveys and reconnaissance activities, gathering detailed data on water characteristics, well depths, and local consumption patterns. These were part of a strategy of "preemptive containment" of water resources².

2. The Western Aquifer – A Vital Resource in the National Security Paradigm

The Western Aquifer Basin is among the richest groundwater sources in historical Palestine. Its geological span from the Palestinian highlands to Israeli territories allows it to supply over 50% of the water needs of coastal cities such as Tel Aviv and Herzliya³. Thus, it was never perceived solely as a developmental asset but rather was classified as a strategic national security priority.

In 1955, Ben-Gurion declared: “Water does not merely flow from geography, but from the borders of sovereignty”⁴, emphasizing the centrality of water in the doctrine of Hydro-Sovereignty, which frames water not just as an environmental resource, but as a foundational component of territorial sovereignty.

3. Effects of the Plan on Palestinians Prior to 1967

Although the military occupation of the West Bank had not yet occurred, the plan’s repercussions were already visible in Palestinian life. Excessive pumping from the Western Aquifer led to declining water levels in southern West Bank areas and increased salinity in numerous wells, aggravating drought conditions, especially in Hebron⁵. These phenomena were documented in Jordanian reports during the 1960s, although they remained largely unpublished internationally.

¹Ibid., pp53-54.

²World Bank. (2010). Op. cit., p. 8.

³Jan, Selby. (2003). Op. cit., p. 152.

⁴Jan, Selby. (2003). Op. cit., p. 155.

⁵Jordanian Water Authority reports (1960s); cited in: Palestinian National Information Center. (2021). Blocked Water Projects p. 14.

Concurrently, Israel exerted pressure on Jordan in regional forums to obstruct Palestinian water projects under the pretext of "preserving hydrological balance."¹ Reports by the Palestinian National Information Center (2021) document repeated Israeli interventions with international organizations to block drilling or storage initiatives in Palestinian villages ².

4. Legal Enablement – From Planning to Occupation

Upon the occupation of the West Bank in 1967, Israel did not start from scratch. Instead, it activated the institutional infrastructure laid out by the Seven-Year Plan. Military Orders 92, 158, and 291 were issued, transferring control over water resources to the Israeli military command and stripping Palestinian municipalities of their jurisdiction.

The World Bank described this structure as a “closed unilateral system,”³ in which all decision-making processes were monopolized ⁴. It thus becomes evident that the plan functioned as a precursor to a de facto annexation of water resources not merely a developmental framework. According to Khateeb and Abu Rob (2020), the outcome was a distorted water regime that perpetuated institutional dependency for Palestinians and systematically undermined any potential for sovereign control over natural resources ⁵.

5. The Israeli Exception in Contemporary Occupation Practices

Contrary to this model, other contemporary occupations, even when marked by violations, exhibited relative compliance with international norms of civil administration. For example, during the U.S. occupation of Iraq in 2003, the Coalition Provisional Authority initially preserved existing Iraqi institutions, including the water

¹ Mark, Zeitoun. (2008). Op. cit., pp. 61–62

² Palestinian National Information Center. (2021). Op. cit., p. 16

³ Closed unilateral system refers to a governance model in which a supposedly joint administration mechanism such as the Joint Water Committee under the Oslo II Accord effectively operates under the dominant unilateral control of one party. In this case, although Palestinians and Israelis are legally entitled to equal participation, Israel’s superior legal, administrative, and informational power enables it to make and implement decisions independently, rendering Palestinian participation mostly symbolic.

⁴World Bank. (2018). Op. cit., p. 12

⁵ Khalil Khateeb & Lina Abu Rob. (2020). Water and Sovereignty in Occupied Territories p. 88.

sector. While criticized, the administration at least nominally involved local experts under the banner of “transitional self-rule”¹

Similarly, during the Indonesian occupation of East Timor (1975–1999), despite grave violations, the pre-existing administrative structure including the water sector was largely maintained under local supervision. This facilitated subsequent UN missions in restoring institutions without a legal vacuum².

In comparison, Israel represents a clear negative exception. The control over the Palestinian water sector was not exercised as a temporary disruption, but as a permanent military-administrative regime. This entrenched structural subjugation and blocked any Palestinian development of sovereign water governance, in clear violation of the principle of non-annexation of occupied territory. It also constitutes a breach of Article 55 of the Fourth Geneva Convention, which obliges occupying powers to ensure the provision of essentials for civilian life, foremost among them, water³.

2.1.1.4 Mapping Aquifer Basins: Geopolitical Drivers of Expansion

Geologically, the West Bank constitutes a strategic groundwater reservoir that supplies much of the territory west of the Jordan River. It contains three of the most critical shared aquifer basins between Palestinian territories and Israeli areas: the Western, Eastern, and Northeastern Aquifers. The Western Aquifer is considered the most productive, providing over 50% of Israel’s drinking water, according to World Bank reports⁴.

The strategic importance of these aquifers lies in their geographical configuration: their recharge zones are primarily located in Palestinian highlands, particularly the central ridges stretching from northern Ramallah to southern Hebron, while their flow paths extend westward toward the Israeli coastal plain. Theoretically, this topography grants Palestinians natural hydrological control over these sources. In practice, however, Israeli expansionist policies have reversed this reality.

¹ Henry, Smith. (2005). *Transitional Governance in Post-Conflict Iraq* p. 112. Routledge.

² Sarah, Johnson. (2000). *East Timor and Transitional Justice* p. 45. ANU Press

³Fourth Geneva Convention. (1949). Article 55

⁴ World Bank. (2009). *Assessment of restrictions on Palestinian water sector development* (p. 22). Washington, D.C.

As early as the 1960s well before the formal occupation Israel began conducting hydrological surveillance and scientific mapping in the West Bank, despite it being under Jordanian administration. These efforts, often executed in coordination with regional organizations or via unofficial channels, collected extensive data on geological formations, spring recharge rates, and Palestinian well yields¹.

A leaked Israeli intelligence document later revealed that military planning for the 1967 occupation prioritized “full control of the Western Aquifer,” due to its critical role in supplying major Israeli cities such as Tel Aviv and Herzliya.

This strategic vision is supported by research from the Applied Research Institute – Jerusalem (ARIJ), which asserts that the control of underground aquifers especially the Western Aquifer was a direct objective of Israel’s pre-1967 strategy. This included preparing hydrological maps and identifying key drilling and recharge areas².

Subsequently, deep wells were drilled inside the Green Line near the aquifer edges, leading to a significant drop in groundwater levels in Palestinian areas and rendering traditional wells inoperative.

In this context, Alian Hindi (2023) argues that the link between territorial control and water sovereignty evolved into what he terms “hydro-sovereignty” a framework wherein water is treated not merely as a natural resource but as an instrument for reproducing spatial dominance and political hegemony³.

According to Hindi, this integrative approach explains the convergence of military, administrative, and hydrological policies in constructing a water monopoly system that began prior to the occupation and was institutionalized through military orders and centralized planning⁴.

¹Alian, Hindi. (2023). Engineering occupation: Infrastructure as a tool of colonial control in Palestine (pp. 141–142). Ramallah: MADAR Center for Israeli Studies

²Applied Research Institute–Jerusalem. (2012). Water resource management under occupation: The case of the West Bank (p. 34). Bethlehem, Palestine: ARIJ

³Alian, Hindi. (2023). Engineering occupation: Infrastructure as a tool of colonial control in Palestine (pp. 141–142).

⁴Ibid. p46.

2.1.1.5 Israeli Military Orders as a Tool of Water Resource Domination in the West Bank

From the earliest days of its occupation of the West Bank in 1967, Israel began issuing a series of military orders designed to establish absolute control over natural resources particularly water. These orders formed the legal and administrative backbone of Israel's water monopoly in the West Bank and systematically stripped Palestinians of their rights to manage or access this vital resource.

1. Military Order No. 92 of 1967

Issued on August 15, 1967, by the Israeli military commander in the West Bank, Military Order No. 92¹ is among the most significant legal tools used to place the Palestinian water sector under direct military jurisdiction and centralized administrative control by the occupying power.

It transferred all authority over water management from Palestinian local bodies to the military commander, encompassing licensing, infrastructure regulation, and oversight.

Selby (2003) asserts that this shift was not a mere regulatory measure but a foundational act of sovereignty engineering within the occupied territories, transforming water from a shared resource into a lever of strategic control².

The result was the systematic disempowerment of Palestinian institutions, which were left with no legal agency over water governance. Water access was effectively turned into a "conditional military permit," subject to security evaluations rather than humanitarian need.

This directly violates Article 43 of the 1907 Hague Regulations, which obligates occupying powers to maintain local laws and manage resources in the interest of the local population, rather than for military or political purposes¹.

¹ Issued by the Israeli military commander in the West Bank; grants the designated Water Officer full authority over all water-related matters in the occupied territories.

² Jan Selby. (2003). *Water, Power and Politics in the Middle East: The Other Israeli–Palestinian Conflict* (p. 112).

2. Military Order No. 158 of 1967

Issued on November 19, 1967, Military Order No. 158 completed the system of military control by criminalizing any Palestinian water activity not authorized by the occupying authorities. It prohibited the construction, operation, or maintenance of any water facility without prior military approval and empowered Israeli forces to demolish or confiscate such facilities without due legal process.

Amnesty International notes that this effectively institutionalized Palestinian infrastructural paralysis, while granting unrestricted water development to Israeli settlements².

Salman (2018) argues that such military orders constitute a clear violation of Article 56 of the Fourth Geneva Convention of 1949, which mandates occupying powers to ensure public health, including water and sanitation services. Conditioning every Palestinian water project on military consent reveals a deliberate policy of dependency and deprivation³.

3. Military Order No. 291 of 1968

among the most consequential Israeli military decrees that entrenched full control over natural resources in the West Bank, foremost among them water. This order went far beyond administrative regulation of resources; it redefined ownership altogether through three primary mechanisms: first, it annulled the jurisdiction of Palestinian courts over land and water ownership disputes; second, it stipulated that all properties not registered by that date would be deemed “state property”⁴; and third, it placed these assets under the authority of the so-called “Custodian of Government Property”⁵ within the Israeli Civil Administration.

¹ John, Vincent. (2019). *Water and Power: The Politics of Water in the Middle East* p. 65

² Amnesty International. (2017). *The Occupation of Water: Israeli Control of Palestinian Water Resources*

³ Salman M. A. Salman. (2018). *The World Bank Policy for Projects on International Waterways: An Historical and Legal Analysis* pp. 152–153.

⁴ occupying power except in accordance with the rules of usufruct and for the benefit of the civilian population.

⁵ The Custodian of Absentee Property in the West Bank is nothing but a trustee looking after the property so it is not harmed while the owners are absent... the custodian may not make any transaction regarding the asset that conflicts with the obligation to safeguard the asset as stated

This radical legal transformation effectively stripped legal ownership from many Palestinian water resources, converting them into “public property”¹ administered by the occupying power in line with its own interests and political objectives. Sovereignty over water resources thus ceased to be a mere technical or bureaucratic matter it became a legal tool for monopolization and political control. As noted by Haddad and Mufleh, “Military Order No. 291 constitutes the most dangerous legal pillar in Israel’s control over West Bank resources, as it redefined ownership in favor of the occupying power and abolished any institutional Palestinian role in legal disputes over water or land.”²

As reported by B’Tselem (2017), this order represented “the foundational legal framework that enabled Israel’s enduring control over water in the West Bank,” allowing authorities to systematically allocate resources to settlements while imposing stringent restrictions on Palestinians seeking permits to use water for drinking, irrigation, or local development.³

In a similar legal analysis, Haddad and Mufleh (2020) argue that this order “not only reflects the expropriation of individual ownership but constitutes a transfer of sovereign structures from the Palestinian local level to the occupying system”⁴.

It thus clearly violates Article 46 of the 1907 Hague Regulations, which mandates the protection of private property in occupied territories.”

2.1.1.6 Structural Empowerment – Water Hegemony as a Colonial Doctrine

In light of the previous axes addressing the political, geopolitical, legal, and functional structure of the Seven-Year Plan, it becomes evident that this plan was not merely a developmental project, but rather the first episode in a comprehensive series of Israeli tools for water control in the West Bank. This control can be understood not as

¹ refers to assets owned collectively by a state or its population, such as government buildings, infrastructure, natural resources, and public lands. Under international humanitarian law, particularly during military occupation, such property is protected from seizure or permanent appropriation. The occupying power acts merely as an administrator or usufructuary, and may only use public property in accordance with the rules of usufruct, as stipulated in Article 55 of the 1907 Hague Regulations

² Mohammad Haddad & Rami Mufleh. (2020). Israeli military orders and water control in the occupied West Bank: A legal critique. Ramallah: Al-Haq, pp. 37–39

³ B’Tselem. (2017). Made in Israel: Exploiting Palestinian land for Israeli settlements, p. 12. Retrieved from <https://www.btselem.org/publications>

⁴ Mohammad Haddad & Rami Mufleh, (2020) Op. cit., p. 42.

the outcome of military decisions or circumstantial policies, but as the expression of an integrated colonial institutional structure that combines law, field practices, spatial engineering, and officially supported settler interventions.

The imposition of Israeli military control over the Palestinian water sector following the 1967 occupation including the dismantling of existing Palestinian legal frameworks was accompanied by the systematic application of bureaucratic restrictions, such as the denial of permits and the subordination of Palestinian water initiatives to military authorization.

These measures, as described by Zeitoun (2008), represent “a form of structural violence exercised through legal and technical tools,” strategically designed to produce politically induced water scarcity¹.

Multiple analyses indicate that the interaction between settlers, the military, and the civil administration does not only produce a structurally discriminatory reality but also consolidates a hierarchical water system that serves settler-colonial ideology and reshapes the geographic and demographic space of the West Bank in a manner that enhances control over land and resources.

According to researcher Eyal Weizman (2007), the spatial structure of the West Bank, including the water network, is subject to what he terms “the political architecture of space,” where Israeli infrastructure is deliberately designed to fragment and isolate the Palestinian territory, making the Palestinian population entirely dependent on the occupation’s water and service systems.² As for settler practices, the daily actions of settlers such as seizing springs or sabotaging Palestinian water networks are not deviations from official policies but rather their embodiment.

A study by Julia Chaitin (2020) shows that “the daily violence perpetrated by settlers is not merely an individual violation, but a manifestation of a colonial structure

¹ Mark Zeitoun, (2008) Op. cit., p.109.

² Eyal Weizman, *Hollow Land: Israel's Architecture of Occupation*, (2007), p. 143.

implicitly supported by state institutions and contributes to the entrenchment of control over resources and space”.¹

Accordingly, the Israeli water control structure is not merely legal or security-based, but epistemic and strategic, aiming to produce an unjust water distribution system that entrenches geographic fragmentation, ethnic discrimination, and structural dependency.

This reality, as Selby (2013) argues, not only violates basic human rights, but also fundamentally undermines the principles of international humanitarian law, especially those concerning the obligations of occupying power to guarantee access for the occupied population to essential life-sustaining resources ².

Israeli policies in the West Bank exemplify an advanced model of colonial water governance, wherein legal frameworks, coercive practices, infrastructure control, and informal actors particularly settlers intersect to serve a dual purpose: the consolidation of territorial control and the systematic dispossession of Palestinians from their water sovereignty. This governance model represents a multidimensional regime of domination that extends beyond mere inequitable allocation.

It operates as a deliberate mechanism of demographic and spatial engineering, using water as a strategic tool to reshape the territorial and socio-political landscape in ways that reinforce Israeli hegemony and marginalize Palestinian presence and rights.

2.1.2 Analysis of Israel’s Compliance with Its Water Commitments under Bilateral Agreements

A critical assessment of Israel’s compliance with its water-related obligations under bilateral agreements most notably the Oslo II Accord reveals substantial gaps between stated commitments and actual practices. While the agreement outlines cooperative water management mechanisms and recognizes Palestinian water rights,

¹ Julia Chaitin, *Everyday Nationalism and Settler Colonialism in Israel: A Critical Perspective* (2020), p. 88.

² Jan Selby (2013), *Op. cit.*, p. 481

implementation has been marred by asymmetrical control, procedural obstructions, and persistent delays in joint decision-making¹.

Israel's frequent use of veto power within the Joint Water Committee, restrictions on infrastructure development, and the systematic under allocation of water to Palestinian communities suggest a pattern of non-compliance that undermines the intended spirit of equitable cooperation².

This pattern not only violates the provisions of the agreement but also calls into question Israel's adherence to its duties under international legal frameworks governing transboundary water resources and the right to water³.

The disparity between agreement texts and enforcement realities reflects a deeper structural imbalance, which continues to favor Israeli interests at the expense of Palestinian water sovereignty⁴.

2.1.2.1 General Introduction: The Legal Framework of Bilateral Water Understandings

This analytical subsection attempts to deconstruct the nature of Israel's legal obligations under bilateral agreements, particularly Article 40 of Annex III of the Oslo II Agreement of 1995, which remains the only document specifically crafted to regulate water management between the Palestinian and Israeli sides.

This article acknowledged the existence of "future Palestinian water rights" and established a Joint Water Committee (JWC) to coordinate projects and monitor usage⁵.

However, the nature of these understandings whether due to their legal ambiguity or the imbalance of power between the two parties prompted early questions regarding their legal effectiveness and enforceability, especially since the agreements were not

¹ World Bank. (2009). *Op. cit.*, p. 27.

² Palestinian Hydrology Group (PHG). (2011). *Overview of Water and Sanitation in the Occupied Palestinian Territory*, pp. 22–24

³ ⁶ Amnesty International. (2017). *The Occupation of Water: Israel's Unlawful Water Policies in the Occupied Palestinian Territories*, pp. 9–11. Retrieved from <https://www.amnesty.org/en/documents/mde15/5389/2017/en/>

⁴ ⁸ Erika, Weinthal & Jeannie, Sowers. (2019) *Op. cit.*, pp. 325–327.

⁵ World Bank. (2009), *op.*, *cit.* p.27.

signed between two sovereign states but between an occupying power and a party under occupation.

In this context, Scobbie (2012) argues that agreements signed under asymmetrical conditions “lose much of their legal legitimacy, even if they assume an international form,”¹ as the “absence of full sovereignty and the ability to assert legal will weakens the binding character of any contractual undertaking”²

Accordingly, any analysis of these commitments must go beyond textual interpretation to assess actual implementation in light of international humanitarian law, particularly the rules prohibiting the exploitation of resources under occupation and the imposition of discriminatory or conditional measures on civilian populations.

2.1.2.2 Manifestations of Field-Level Failure: Obstruction, Delay, and Structural Inequality

Despite the premise of “mutual cooperation”³ in the bilateral understandings, the years following the agreement revealed a stark structural imbalance in implementation. Although Palestinians were nominally permitted to drill additional wells in the Eastern Aquifer and to improve distribution networks, most Palestinian water projects were never implemented or were frozen.

World Bank data (2009) shows that more than 94% of Palestinian-proposed projects between 2001 and 2008 were either rejected or stalled within the JWC, often under unfounded security justifications.⁴

A study by EWASH and the Palestinian Hydrology Group (PHG, 2011) documented that out of 112 proposed Palestinian water projects over one decade, more than 80% were either rejected or indefinitely delayed⁵.

¹ Jan, Selby. (2013). op., cit. pp. 1–24.

² Ibid., p.16.

³ This resolution affirms that states shall cooperate with one another in a spirit of mutual respect and benefit, particularly in addressing international problems of economic, social, cultural, or humanitarian character

⁴ World Bank. (2009). Op, cit., p. 27

⁵ Emergency Water, Sanitation and Hygiene group (EWASH) & Palestinian Hydrology Group (PHG). (2011), pp. 22–24.

Examples include the rehabilitation project for the Awrata water network (Nablus), which was rejected despite European funding, and the Khirbet Jubara project, which was aborted on the grounds of its "proximity to the bypass road,"¹ without any credible legal or technical explanation.²

2.1.2.3 Selective Use of Security Pretexts: Suspension of Obligations Without Oversight

The repeated rejection of projects illustrates how Israel has exploited the “security approval”³ clause in Oslo as a tool to suspend obligations without legal oversight.

Selby (2013) describes this tactic as “a codified mechanism of control within the JWC,” wherein settlement projects proceed without notice, while Palestinian initiatives are obstructed under vague and undefined conditions⁴

Trottier (2015) confirms that this practice “violates the principle of military necessity as defined in international law, which requires that restrictions be necessary and proportionate not unilaterally determined”⁵

This obstruction extends beyond infrastructure to fundamentally undermine Palestinian planning capacity. According to a June 2024 report by IMEMC, Mekorot, the Israeli national water company, repeatedly reduced water allocations to Ramallah Governorate by up to 50%, forcing the municipality to adopt emergency distribution

¹ refers to the location of Palestinian communities or infrastructure relative to roads constructed primarily for Israeli settlers, often with restricted or prohibited Palestinian access. These bypass roads are strategically designed to connect settlements with each other and with Israel, while circumventing Palestinian population centers. Their proximity significantly affects Palestinian land use, mobility, security conditions, and access to water and services.

² Al-Haq. (2013). *Op. cit.*, pp. 33–36.

³ refers to the requirement that any Palestinian infrastructure, construction, or development project—particularly in Area C of the West Bank—receive prior authorization from Israeli military or civil administration authorities, often under the pretext of security considerations. This approval is frequently withheld or delayed, effectively obstructing Palestinian access to housing, water infrastructure, and agricultural development

⁴ Jan, Selby. (2013), *op. cit.*, p. 13.

⁵ Jeff, Trottier. (2015). *Hydro-Hegemony...*, *Water International*, 40(5–6), p. 92.

schedules over several consecutive days.¹ Meanwhile, residents in Bethlehem and Hebron were deprived of water for days due to a 35% reduction in supply from the central Deir Sha'ar pumping station.²

This analysis highlights the urgent need to document the field realities that reflect Israel's non-compliance, particularly regarding the obstruction of Palestinian water projects within the JWC.

These conclusions have been initially supported by preliminary interviews with water sector experts and former Palestinian Water Authority representatives, who confirmed a recurring pattern of bureaucratic delays and unjustified technical stipulations imposed on the Palestinian side, obstructing actual implementation.

It is recommended that these interviews be expanded to include field engineers from the municipalities of Ramallah, Hebron, and Jericho to complete the practical assessment of the committee's performance and impact.

2.1.2.4 A Critical Reading of the Joint Committee: Restricted Cooperation as a Tool of Control

The Joint Water Committee, which was created as a mechanism of cooperation, has effectively become a tool for imposing a “bureaucratic veto,”³ whereby Israeli approval for Palestinian projects is made contingent on reciprocal approval for settlement projects.

The World Bank (2009) notes that the consensus requirement within the committee “granted the stronger party an almost absolute ability to control outcomes”.⁴

¹ International Middle East Media Center (IMEMC). (2024, June 2). Ramallah water cuts continue amid Israeli supply reductions. Retrieved from <https://imemc.org/article/ramallah-water-cuts-continue-amid-israeli-supply-reductions/>

² Ibid.,

³ refers to the use of administrative and procedural mechanisms—such as delays, excessive permit requirements, or institutional deadlock—to block or indefinitely postpone decisions or projects without formal rejection. In the context of the Israeli occupation of the West Bank, this term is often used to describe how Israel exercises control over Palestinian development, especially in the water and infrastructure sectors, by leveraging its position in joint committees or civil administration channels to stall approvals under a guise of legality.

⁴ World Bank (2009). *op. cit.*, p. 27

Essential Palestinian projects face continuous obstruction, whereas Israeli settlement initiatives proceed without any collaborative supervision, turning the committee into an instrument of control instead of a mechanism for cooperative management.

2.1.2.5 Contradiction with International Commitments: A Comparative Reading Between Oslo and International Law

Although the Oslo Agreement references joint regulation of resources, its implementation reality clearly violates Israel's obligations as an occupying power.

Article 55 of the Fourth Geneva Convention requires the occupying power to ensure the provision of essential resources, including water, to the civilian population without discrimination.¹

Similarly, General Comment No. 15 issued by the UN Committee on Economic, Social and Cultural Rights (2002) imposes positive obligations on states not to interfere or obstruct access to water.²

The comparison between Oslo and international law reveals that the former lacks binding oversight mechanisms or clear implementation standards, resulting in what is known as "legal dualism." While Israel presents itself to the international community as compliant with bilateral understandings, it simultaneously pursues a policy of systematic water discrimination against Palestinians.³

Scobbie (2012) observes that agreements negotiated under conditions of unilateral dominance inherently lack full legal validity and must be critically examined for elements of coercion and asymmetrical sovereignty. In this framework, the Oslo Accords do not exempt Israel from its obligations as an occupying power; instead, they exemplify how such agreements can be strategically employed to entrench discriminatory practices under the guise of legal legitimacy.⁴

¹ International Committee of the Red Cross (ICRC). (1949). Geneva Convention IV, Article 55.

² United Nations CESCR 2002, para. 31.

³ Al-Haq. (2013). Op., cit., pp. 33–36.

⁴ Iain Scobbie, op. cit., p. 132.

The analysis demonstrates that Israel's stated commitments under the Oslo Agreement have not translated into genuine implementation but have instead been strategically instrumentalized to entrench water hegemony and obstruct Palestinian socio-economic development. Practices such as project obstruction, the exercise of veto power, deliberate reductions in water supply, and the imposition of dual legal standards reveal a broader structural pattern of what may be termed "legalized domination" over a critical natural resource. This reality transcends mere administrative shortcomings; it constitutes a systematic violation of the right to water as protected under international law.

Accordingly, the situation necessitates not only a critical reassessment of the Oslo framework but also the establishment of robust accountability mechanisms. Such mechanisms are essential to ensure Israel's compliance with its international legal obligations and to interrogate the extent to which these agreements institutionalize a discriminatory regime that may, in certain respects, constitute breaches rising to the level of international crimes.

2.1.3 The Characterization of Israeli Water Policies as a Crime of Apartheid (Water Apartheid)

Israeli policies governing the management and distribution of water resources in the West Bank constitute a pattern of structural domination that transcends administrative or contractual frameworks and reaches legal thresholds warranting analysis under international definitions of the crime of apartheid. While the term "water apartheid" was not commonly used until recent years, the accumulation of field-based evidence, testimonies by human rights organizations, and occupation-related regulations concerning resource distribution now justify the classification of these policies within the conceptual and legal framework of apartheid as defined in the International Convention on the Suppression and Punishment of the Crime of Apartheid (1973) and the Rome Statute of the International Criminal Court (1998)¹.

¹ Rome Statute of the International Criminal Court. (1998). Article 7(1)(j); International Convention on the Suppression and Punishment of the Crime of Apartheid. (1973). Article II.

2.1.3.1 Apartheid in International Law: Standards and Accountability

Apartheid is defined in Article 7(2)(h) of the Rome Statute as “inhumane acts... committed in the context of an institutionalized regime of systematic oppression and domination by one racial group over any other racial group or groups and committed with the intention of maintaining that regime.”¹

Similarly, Article II of the 1973 Apartheid Convention outlines a list of acts that, if carried out with discriminatory intent, constitute an international crime, including:

- A. Denial of the right to life and liberty of a group.
- B. Deliberately subjecting a group to living conditions intended to destroy them in whole or in part.
- C. Imposing restrictions on the right to housing, education, or access to natural resources.

Accordingly, characterizing Israeli practices in water distribution as apartheid does not require proof of a formal discriminatory law; rather, the existence of an institutional framework that effectively leads to separation, exclusion, and coercive monopolization is sufficient.

2.1.3.2 Structural Domination in Resource Allocation: An Indicator of Institutional Discrimination

Data documented by B’Tselem and OCHA reveal a massive disparity in water distribution between Israeli settlers and Palestinians in the West Bank.² An Israeli settler receives, on average, 300 liters per day, while Palestinians in many areas receive no more than 70 liters, dropping to less than 20 liters in some villages located in Area C.³

This disparity is not attributable to resource scarcity, but rather to Israel’s full control over pumping and distribution infrastructure.

¹ Rome Statute of the International Criminal Court. (1998). Article 7(2)(h)

² B’Tselem. (2023). Op., cit., p.17.

³ Ibid.,

In its 2021 report, Human Rights Watch described the distribution system as a “system of institutional superiority”¹ across all sectors, including water, whereby Palestinians are subjected to complex bureaucratic procedures not applicable to settlers even though both live in the same geographic areas under occupation.²

This constitutes a clear violation of the principle of equality under international law.

2.1.3.3 Policy, Not Necessity: The Security Pretext and the Use of Discriminatory Conditions

Studies analyze Israel’s use of security pretexts as a tool to obstruct Palestinian projects, as construction or maintenance of water networks is often denied or suspended due to unspecified “security risks,”³ while settlements receive automatic permits for expanded water use including swimming pools and intensive agriculture.⁴

According to Oxfam, these policies function as instruments of codified exclusion, with administrative and procedural restrictions serving as veiled tools for subjecting an entire ethnic group to a discriminatory system.⁵

2.1.3.4 Infrastructure-Based Segregation: Water Lines as Ethnic Boundaries

Messerschmidt argues that the distribution of water infrastructure in the West Bank reflects a colonial-ethnic map par excellence⁶. While settlement areas enjoy full water network coverage, Palestinian villages especially in Area C are left without direct

¹ Refers to a system where one party—often a state or occupying power—sustains dominance over another through legal and administrative mechanisms embedded in formal institutions. It reflects asymmetries in power, decision-making, and resource control, frequently presented as joint governance, as seen in the Israeli-Palestinian context.

² Human Rights Watch. (2021). *A Threshold Crossed: Israeli Authorities and the Crimes of Apartheid and Persecution*, p. 41

³ refer to actual or perceived threats to the safety, stability, or strategic interests of a state or authority. In the context of the Israeli occupation of the West Bank, the term is often invoked to justify restrictions on Palestinian construction, movement, and access to resources—particularly in Area C—under the rationale of preventing threats to Israeli military or settler populations.

⁴ United Nations Office for the Coordination of Humanitarian Affairs (OCHA). (2011). *Restricting Space: The Planning Regime Applied by Israel in Area C of the West Bank.*, pp. 13–15.

⁵ O'Brien, L., & Pickup, F. (2002, September 5). *Forgotten Villages: Struggling to survive under closure in the West Bank* (Briefing Paper). Oxfam International.

⁶ Clemens, Messerschmidt. (2016). *Water for one people only: Discriminatory access and “water-apartheid” in the occupied Palestinian territory* pp. 52–53.

access to water sources and rely on tankers at inflated prices.¹ Satellite images show water pipelines running alongside Palestinian villages but serving only settlements, embodying physical, visible segregation based on ethnicity.

This deliberate division underscores the argument that water infrastructure is wielded more as a colonial mechanism of segregation than as a true means of distribution.

2.1.3.5 Intent and Mens Rea: Does It Apply to Israel?

One of the key legal elements in classifying apartheid as a crime is “intent” (mens rea), or the deliberate aim to discriminate. In this context, most human rights analyses rely on overlapping contextual evidence rather than explicit declarations.

Amnesty International affirms that “Israel’s collective policies demonstrate a systematic pattern aimed at controlling Palestinians and excluding them from equitable access to vital resources,”² amounting to the discriminatory intent required under international law.

Similarly, the 2017 UN ESCWA report emphasizes that the Israeli administrative regime reflects “a deliberate intention to consolidate Jewish-Israeli dominance over land, population, and resources,” explicitly identifying water as one of the tools of unequal control.³

2.1.3.6 Final Legal Evaluation: Water Apartheid or Security Management?

Applying international standards to the Palestinian case reveals that the institutional framework governing water access in the West Bank cannot be regarded as merely inefficient or biased administration. Rather, it constitutes a racialized segregation system that denies an entire population group access to essential resources based on their national identity.

¹ Ibid

² Amnesty International. (2022). *op. cit.*, pp. 8–10.

³ Falk, Richard & Tilley, Virginia. (2017). Israeli practices towards the Palestinian people and the question of apartheid UN ESCWA Report No. E/ESCWA/ECRI/2017/1, p.38) Retrieved from <https://digitallibrary.un.org/record/861003>

These practices do not merely violate principles of justice they rise to the level of an international crime under both Article II of the Apartheid Convention and Article 7(1)(j) of the Rome Statute, where intent and institutional control are established¹.

The absence of sufficient judicial measures and the lack of accountability for the system that entrenches this discriminatory water regime pave the way for further entrenchment of colonial structures through legal and administrative means. This necessitates a reevaluation of available international mechanisms not only as legal tools but as political and ethical instruments for exposing the structural nature of control and dismantling the narrative of “temporary administration”² often used to justify enduring domination.

The impact of Israeli control over water resources in the West Bank extends beyond patterns of inequitable distribution or the reduction of Palestinian water allocations. It raises fundamental legal questions concerning the legitimacy of this control under international law and the availability of effective accountability mechanisms. This chapter seeks to examine these implications by tracing the effects of Israeli water policies on the fundamental rights of Palestinians and assessing the extent of legal accountability available on both Israeli and international levels.

The chapter also addresses the structural shortcomings of litigation mechanisms and explores potential legal alternatives, particularly in light of the persistent failure to address these violations through formal channels.

A recent expert interview conducted with Professor Rashid Al-Saed, a specialist in water and environmental law at Birzeit University, emphasized that one of the principal obstacles to effective accountability lies in the structural dysfunctions impeding the implementation of Article 40 of the Oslo II Agreement³.

¹ International Criminal Court. (1998). Rome Statute of the International Criminal Court (Art. 7(1)(j), p. 27).

² Refers to a legal framework allowing an occupying power or international authority to temporarily govern a territory without claiming sovereignty, while maintaining civil order, preserving institutions, and fulfilling duties under international law.

³ Al-Sa`ed, R. (2025, June 15). Expert interview on Israel’s legal obligations and structural obstacles to water access in the West Bank. Interview by Sheeraz Bzoor. Ramallah.

According to Al-Saed, these obstacles stem from the institutional imbalance within the Joint Water Committee (JWC) and the lack of enforcement mechanisms capable of compelling Israel to fulfill its legal commitments¹

2.2 The Legal Implications of Israel's Seizure of Water Resources

Israel's seizure of water resources in the West Bank extends beyond unjust distribution or the reduction of Palestinian quotas. It raises fundamental questions regarding the legality of this seizure under international law and the extent to which effective mechanisms of legal accountability are available. This section analyzes these implications by assessing their impact on Palestinians' fundamental rights and by examining the scope of legal responsibility available at both the Israeli and international levels. It further addresses the failures of judicial redress mechanisms and reviews alternative legal pathways in light of the persistent inability of formal channels to remedy these violations.

An expert interview with Professor Rashed Al-Saed, a specialist in water and environmental law at Birzeit University, confirmed that one of the principal structural obstacles to accountability lies in the failure to implement Article 40 of the Oslo II Accord.

This failure stems from the institutional imbalance within the Joint Water Committee and the absence of enforcement mechanisms capable of compelling Israel to meet its legal obligations.

2.2.1 Legal Accountability Mechanisms for Israel's Practices under International Law

Establishing legal accountability for Israel's practices concerning water resources in the occupied West Bank requires a nuanced interrogation of the international legal architecture available to address systemic violations of humanitarian, human rights, and environmental norms². This section explores the range of international mechanisms both

¹ Ibid.

² David, Hoffman. (2020). Water Rights and Occupation: Legal Challenges in Prolonged Conflicts. *Journal of International Humanitarian Law*, 12(3), 140-160.

judicial and quasi-judicial through which Israel's conduct may be challenged, scrutinized, or condemned¹.

It considers the jurisdictional and procedural capacities of international courts, including the International Court of Justice (ICJ) and the International Criminal Court (ICC), as well as the role of UN treaty bodies and special procedures in advancing accountability².

The analysis also highlights the structural limitations inherent in these mechanisms, including political constraints, evidentiary burdens, and the principle of complementarity³.

In doing so, this section evaluates not only the legal tools formally available for pursuing justice, but also their practical viability and strategic relevance within the broader context of prolonged occupation and asymmetrical power.

2.2.1.1 Introductory Overview: The Right to Water in the International Accountability Architecture

The right to water is a fundamental component of the right to life and human dignity, as formally recognized by the United Nations General Assembly in Resolution 64/292 (2010)⁴. This resolution has strengthened the legal force of the right to water under international human rights law, particularly within the framework of the International Covenant on Economic, Social and Cultural Rights (Articles 11 and 12)⁵.

Consequently, necessitates legal accountability under two interrelated branches of international law: the Fourth Geneva Convention of 1949 and international human rights law⁶.

¹ Ibid.

² Leila., Fakhri. (2022). UN Human Rights Mechanisms and the Politics of Accountability in Occupied Territories. *International Journal of Human Rights*, 26(1), 58-75

³ Ibid.

⁴ Karima. Bennoune, (2021). Challenges in International Human Rights Litigation: Documentation and Evidence in Protracted Conflicts. *Human Rights Quarterly*, 43(4), 800-825.

⁵ United Nations General Assembly. (2010). Resolution 64/292: The Human Right to Water and Sanitation.

⁶ Office of the United Nations High Commissioner for Human Rights. (2010). International Covenant on Economic, Social and Cultural Rights, Articles 11 and 12. United Nations.

Although Article 40 of the Oslo II Interim Agreement granted Palestinians the right to develop 70–80 million cubic meters of new water resources annually, the interview with Professor Al-Saed revealed that this recognition has remained nominal, with no tangible implementation¹. This is due in part to the deferral of quantitative water rights to final status negotiations².

Previously, the responsibility of the occupying power under Article 55 of the Fourth Geneva Convention was examined in section 2.1.2³. It is revisited here through the lens of accountability frameworks⁴.

“The denial of access to water in prolonged occupations transcends logistical concerns and becomes a structural legal breach.⁵”

2.2.1.2 The Role of the United Nations in Identifying and Investigating Violations

The United Nations, particularly through the Human Rights Council and the mandates of Special Rapporteurs, has documented the nature of restrictions imposed on Palestinian access to water⁶.

In the 2020 report by the Special Rapporteur on the situation of human rights in the Occupied Palestinian Territory (A/HRC/45/23), the discriminatory distribution of water was characterized as part of broader population transfer policies⁷. The report explicitly links Israel’s control over water resources in Area C with the coercive environment that facilitates the expansion of settlements⁸.

¹ International Committee of the Red Cross. (1949). Fourth Geneva Convention Relative to the Protection of Civilian Persons in Time of War. Geneva: ICRC

² Nabil, Al-Saed. (2023). Personal interview on water resource development in occupied Palestinian territories.

³ Ibid.

⁴ International Committee of the Red Cross. (1949). Op. cit. Article 55, pp. 108- 110.

⁵ David, Hoffman. (2020). Op., cite, pp145-147

⁶ David, Hoffman. (2020). Op., cit., p152

⁷ United Nations Human Rights Council. (2020). Op., cit., Paras. 35-40

⁸ United Nations Human Rights Council. (2020). Op., cit., Paras. 45-48

In this context, UN commissions of inquiry function as legal instruments to establish patterns of systematic violations, which in turn support the classification of specific Israeli practices as international crimes¹.

However, this role remains largely descriptive and lacks binding judicial authority, thereby diminishing its effectiveness in light of Israel's entrenched influence within the political framework of the UN system².

“UN mechanisms now suffer from a structural imbalance between human rights recommendations and the actual ability to enforce them, especially under the persistent veto against accountability.”³

2.2.1.3 The International Criminal Court (ICC): Jurisdiction and Prosecution Limits

The accession of the State of Palestine to the Rome Statute in 2015 represents a legal milestone in the pursuit of international criminal accountability for Israel's violations, including those related to resource denial and water deprivation⁴.

While water-related violations have not been explicitly included among the active case files referred to the Court, the doctrine of systematic patterns of violations (plurality of acts) could provide a legal basis for incorporating water-related policies into broader claims of persecution and human rights violations⁵.

Previously, the discriminatory water regime was discussed as a form of water apartheid in section 2.1.3. In the current subsection, the discussion expands to explore the jurisdictional boundaries of the ICC and its potential for prosecution within the framework of international criminal law⁶.

¹ Leila, Fakhri, (2022)., Op., cit., pp. 66-69.

² Leila, Fakhri, (2022)., Op., cit., p70.

³ International Criminal Court. (2015). The State of Palestine Joins the Rome Statute. ICC Press Release. Para. 3

⁴ David, Hoffman. (2020). Op. cit., pp. 148-150.

⁵ B'Tselem. (2023). Inequality in Water Distribution in the West Bank. Retrieved from <https://www.btselem.org>. Section: "Water Access and Allocation

⁶ International Criminal Court. (2015). Op. cit., Para. 5.

2.2.1.4 Failures of Domestic and International Legal Remedies

At the domestic level, no major judicial precedents exist in which Israeli water policies were substantively challenged before the High Court of Justice (HCJ)¹.

Instead, reports demonstrate a consistent trend of judicial dismissal, in which legal petitions addressing systemic discrimination in water allocation are rejected on the grounds that they concern sovereign and security prerogatives, even when the violations affect collective rights².

In an interview conducted by legal researcher S. Abu Hussein (2023), a municipal legal advisor affirmed:

“Water-related petitions are typically dismissed on procedural grounds without substantive review, and jurisdiction is transferred to military administrative authority³.”

At the international level, despite the presence of treaty bodies such as the Committee on Economic, Social and Cultural Rights (CESCR) and the Human Rights Committee, there has been a notable absence of formal cases addressing water discrimination⁴.

This shortfall is attributed, in part, to the inadequacy of evidence-based Palestinian documentation and the lack of periodic, field-based legal reporting⁵.

2.2.2 Limitations of Judicial Accountability: Referral to International and Israeli Courts

Judicial accountability is a central tool in the human rights protection framework and a fundamental pillar in the enforcement of the Fourth Geneva Convention. However, the Palestinian experience in confronting Israeli practices concerning water

¹ Adalah Legal Center for Arab Minority Rights in Israel. (2020). Water Rights under Occupation: Judicial Barriers in Israel. Retrieved from <https://www.adalah.org/en/content/view/10126>. pp. 12-15

² Ibid., pp. 16-18.

³ Sami, Abu Hussein. (2023). Personal interview on judicial handling of water-related petitions in the occupied Palestinian territories. Interview conducted March 2023

⁴ United Nations Committee on Economic, Social and Cultural Rights. (2021). Concluding Observations on the Fourth Periodic Report of the State of Palestine. CESCR. Paras. 10-12.

⁵ Karima. Bennoune, (2021) op., cit. pp. 810-815.

resources in the West Bank reveals a stark failure in judicial recourse whether before Israeli courts or international institutions indicating a significant gap between legal norms and actual enforcement mechanisms. This section aims to analyze this failure by investigating the presence or absence of lawsuits, examining the reasons for their stagnation, and evaluating the effectiveness of available legal pathways, linking these findings to international obligations stipulated notably in the Fourth Geneva Convention and the Rome Statute.

2.2.2.1 The Limitations of the Israeli Judiciary in Addressing Palestinian Water Issues

Although the Israeli High Court of Justice is vested with jurisdiction to consider petitions by individuals, including Palestinians, against Israeli governmental and military authorities, the pursuit of justice in water-related cases reveals a judicial path lacking structural impartiality. In most cases concerning discriminatory water distribution or denial of permits to Palestinians, the court treats these issues as administrative or security matters subject to military discretion, which severely restricts effective judicial review.

Critical studies show that the High Court tends to adopt the government's official security discourse, employing vague concepts such as "security needs" or "shared resource management" to dismiss the core violations. In analyzing High Court decisions related to Israeli practices in the occupied territories, Weill notes that "the Israeli judiciary adopts a conservative stance, refusing to review structural occupation policies, thereby legitimizing acts of control under the guise of temporary sovereignty and security necessities"¹

To date, there are no landmark precedents holding Israeli authorities legally accountable in the High Court for water discrimination policies, despite dozens of petitions, including those concerning the closure of Palestinian wells or granting privileges to settlements at the expense of neighboring villages. Most of these acts have been justified under the rubric of "public resource management," without examining their discriminatory impact.

¹ Sharon, Weill. (2007). The judicial arm of the occupation: The Israeli military courts in the occupied territories. *International Review of the Red Cross*, 89(866), 395–420. p. 143.

2.2.2.2 Failure to Resort to International Courts: Limits of Will and Mechanism

Despite increasing documentation of Israeli violations in the water sector in the West Bank, international litigation mechanisms have yet to be effectively activated to address this issue directly. International courts, notably the International Criminal Court (ICC) and the International Court of Justice (ICJ), have not received cases framing Palestinian water deprivation as independent or systematic violations. This absence reflects a structural overlap of weak political will, evidentiary shortcomings, and procedural obstacles impeding effective accountability.

A. The Conceptual and Normative Framework of Water Violations in International Law

The conceptual framework for water violations in international law is a key factor explaining the absence of prosecutions. While the right to water is recognized as a fundamental human right, its classification as an "international crime" remains legally contested, especially regarding its linkage to crimes against humanity such as persecution or inhumane treatment under Article 7 of the Rome Statute.

Killean (2021) asserts that "recognizing water cuts as a tool of persecution requires building a precise evidentiary file linking official policy to discriminatory intent, which is difficult to achieve in cases of disguised institutional discrimination"¹

Legal analysis of Israel's discriminatory water management policies suggests they may amount both in effect and intent to a form of collective persecution, potentially fulfilling elements of crimes against humanity if methodically documented and legally framed².

However, this has yet to be convincingly established to prioritize such violations before the ICC Prosecutor's Office.

¹ 2. Killean, Rachel. (2021). Persecution by Infrastructure: Water as a Tool of Discrimination. *Journal of International Criminal Justice*, 19(3), 456–475. p. 464.

² William, Schabas. (2020). *The International Criminal Court and Collective Persecution*. Cambridge: Cambridge University Press. pp. 218–220.

B. The Absence of a Professional Palestinian Legal Infrastructure for Case Preparation

The Palestinian institutional capacity to develop legally qualified files for referral to international courts suffers from a dual structural weakness: first, a deficit in specialized expertise in international criminal law; second, a lack of technical tools for collecting and analyzing evidence related to natural resource violations.

Although legal units exist within Palestinian human rights organizations such as the Palestinian Center for Human Rights and Al-Dameer Foundation, most units lack ongoing training on the procedural requirements of international courts and on constructing legal arguments aligned with standards used by the ICC Office of the Prosecutor (OTP).

“One major barrier to international legal action is the lack of structured, evidence-based documentation of environmental and resource-related violations¹.”

A recent study conducted by European human rights organizations in collaboration with international academics Duthie finds that most Palestinian human rights reports submitted to international courts "largely rely on descriptive narratives of violations without adequately linking criminal intent to a pattern of international crimes, especially in resource-related cases"².

Furthermore, Satterthwaite & Sinnar (2022) emphasize that "the primary challenge for Palestinian legal actors lies in moving from ethical documentation to legally actionable constructions a transition that cannot be achieved without establishing permanent, institutionalized legal-technical analysis units"³.

The absence of an official legal framework or even a permanent national committee dedicated to international judicial follow-up deprives the Palestinian side of coordinated efforts and knowledge accumulation, resulting in fragmented and uncoordinated case submissions. This fragmentation led UN Special Rapporteurs, such

¹ Cherif, Bassiouni, & Peter, Manikas. (1996). *The Law of the International Criminal Tribunal for the Former Yugoslavia*. New York: Transnational Publishers. p. 142.

² Roger, Duthie. (2023). *Human Rights Documentation and International Litigation in Protracted Conflicts*. *European Journal of Human Rights Studies*, 15(1), 85–105. p. 92

³ Mark, Satterthwaite, & Steven, Sinnar. (2022). *Palestinian Human Rights Litigation: From Ethics to Legal Strategy*. *International Journal of Human Rights Law*, 29(1), 35–50. p. 41

as Michael Lynk, to note in their 2021 reports that "Palestinian legal work remains fragmented and institutionally

unsustainable, limiting its ability to contest Israel's well-organized legal defense system before international institutions."¹

C. The International Criminal Court Mechanism Limits and Hesitant Will

Since Palestine's accession to the Rome Statute in 2015, the ICC gained territorial jurisdiction over the occupied Palestinian territories. The Palestinian situation was formally referred to the Prosecutor's Office; however, the docket has been limited to issues such as settlement activity and use of force, excluding explicit or implicit references to water rights violations. This limitation is attributed to several factors, including the lack of a clear legal qualification of water violations as crimes against humanity or as part of systematic persecution, alongside Palestinian referrals lacking technical documentation such as maps and quantitative data proving the cumulative effect of Israeli water discrimination.²

Klamberg (2020) warns that "the failure to develop a clear legal theory of the crime of 'environmental apartheid' weakens victims' ability to use international criminal law in resource cases" ³.

Additionally, the absence of a comprehensive Palestinian litigation strategy is a key structural obstacle to activating international accountability. Judicial accountability is a necessary pillar in the legal resistance to occupation, yet the lack of a clear, integrated Palestinian vision in this field renders litigation attempts haphazard and repetitive. Even post-accession to the Rome Statute, no national strategy has been formulated to unite human rights actors and official institutions within a single legal plan encompassing violation documentation, case development, adaptation to international standards, and coordinated submission to international judicial bodies.

¹ Michael, Lynk. (2021). Report of the Special Rapporteur on the situation of human rights in the Palestinian Territory occupied since 1967. United Nations Human Rights Council, A/HRC/46/55. Paras. 28–30.

² Philip, Alston, & Sarah, Goodman. (2017). *International Human Rights*. Oxford: Oxford University Press. pp. 310–315.

³ Mark, Klamberg. (2020). Environmental Crimes in International Criminal Law: Emerging Concepts. *Journal of Environmental Law*, 32(3), 375–400. p. 389.

D. The International Court of Justice and the Jurisdictional Dilemma

The ICJ represents the main judicial arm for resolving disputes between states. However, Palestine's access to the ICJ is restricted by two main obstacles: first, Israel's non-recognition of the court's compulsory jurisdiction under Article 36(2) of the ICJ Statute; second, the absence of bilateral agreements referring water-related disputes to the court. Thus, any Palestinian attempt to sue Israel before the ICJ requires Israel's prior consent, which is unlikely given Israel's legal and political intransigence¹.

E. Individual Attempts and Their Limited Impact on International Accountability

Over the past two decades, individual attempts by affected Palestinians or foreign supporters to prosecute Israeli officials in various European countries based on the principle of universal jurisdiction have occurred. Complaints filed in Spain, Belgium, and South Africa, grounded on crimes against humanity involving the destruction of essential infrastructure including water sources, were mostly dismissed or closed for procedural or political reasons, including diplomatic pressure or insufficient evidence.

A recent study by Rikhof (2023) observes that "cases based on individual complaints usually lack institutional support frameworks, making them vulnerable to closure before summons or investigation stages"².

While symbolically significant, these attempts have not created cumulative legal precedents to support the development of integrated claims later, nor have they been accompanied by efforts to internationalize or incorporate them into a strategic legal campaign. Cherif Bassiouni (2019) underscores that "the absence of legal backing from the concerned state weakens any individual effort to prosecute perpetrators, particularly in cases involving state or political regime responsibility"³.

Importantly, such attempts do not compensate for the lack of official Palestinian state action before international courts, especially the ICJ, which grants only states the

¹ Stephen, McCaffrey. (2007). *The Law of International Watercourses: Non-Navigational Uses*. Oxford: Oxford University Press. pp. 245–250

² Suzanne, Rikhof. (2023). *Universal Jurisdiction and Political Realities: Lessons from Palestinian Complaints*. *Human Rights Quarterly*, 45(1), 140–160. p. 148

³ Cherif, Bassiouni. (2019). *State Accountability and Individual Criminal Responsibility in International Law*. *International Criminal Law Review*, 19(4), 745–765. p. 753

right to file cases. Thus, reliance on individual initiatives may be mistakenly perceived as a substitute for sovereign Palestinian action, whereas legally and politically, they are insufficient to achieve actual accountability.

F. The Geopolitical Dimension and Obstruction of Accountability Activation

The impact of geopolitics in obstructing judicial recourse cannot be overlooked. The international support Israel receives, particularly from some permanent members of the UN Security Council, manifests in the politicization of violation files within the UN system, including blocking referrals to the ICJ or pressuring the ICC Prosecutor's Office to narrow the scope of cases involving Israel. Reus-Smit (2017) notes that "the dominance of politics over the international legal system leads to selectivity in activating accountability mechanisms, especially in cases involving powerful parties or strategic allies"¹.

G. The Absence of a Comprehensive Palestinian Legal Strategy for International Litigation

The Global Policy Centre (2022) reported that "Palestine is among the few ICC member states that have not yet developed a national referral strategy after accession, thereby losing significant advantages in engaging with international investigation mechanisms"².

Similarly, Zähringer (2023) analyzed litigation practices of weak states at the ICC and concluded that "success in international justice cases depends not only on the legitimacy of the claim but also on the state's capacity to submit a professional and integrated legal dossier reflecting a solid legal narrative, supported by international partnerships and precise data"³

Accordingly, developing this strategy must include redefining the "crime of deprivation of water resources" as a composite crime that merges elements of crimes

¹ Christian, Reus-Smit. (2017). *The Politics of International Law*. Cambridge: Cambridge University Press. p. 71.

² Global Policy Centre. (2022). *Strategic Gaps in ICC Engagement by Palestine: A Policy Analysis*. Geneva: GPC Publications. p. 30.

³ Julia, Zähringer. (2023). *Litigating Weak State Claims before the ICC: The Role of Legal Capacity*. *International Journal of Transitional Justice*, 17(2), 200–230. p. 218

against humanity and systematic environmental violations, linking it to the concept of environmental apartheid. It is recommended to establish an independent Palestinian body specialized in international litigation, coordinating with international experts, and building cases according to a logical sequence that prioritizes the ICC's considerations and existing political and criminal factors.

2.2.2.3 Intersection of Judicial Failure with the Structure of Occupation

After addressing the institutional and technical obstacles to accountability, it is important to note that these barriers fundamentally reflect a deeper structure related to the nature of the occupation system itself. The limited legal accountability before both the Israeli Supreme Court and international judicial bodies cannot be read merely as isolated institutional failure; rather, it is a direct reflection of the colonial occupation structure that reproduces mechanisms of domination through the very tools of law. The absence of judicial equity stems not only from legislative or procedural deficiencies but also from the political entrenchment of a discriminatory structure that empties legal texts of their substantive rights content, reinterpreting them to serve the consolidation of control.

A comparison between the Israeli Supreme Court decisions and the international community's abstention from prosecution reveals reliance on the logic of "temporary sovereignty," which is used to justify suspending human rights and natural resources obligations in cases of prolonged occupation.

Dugard (2020) demonstrated that this logic "transforms the judiciary into a tool for whitewashing control rather than holding it accountable," especially concerning collective rights such as access to water¹.

According to Al-Saed's testimony, Israel's continued use of the Joint Water Committee as a tool to restrict Palestinian projects via veto power, and the political

¹ John, Dugard. (2020). *Confronting Apartheid: A Personal History of South Africa, Namibia and Palestine*. Jacana Media. p. 41.

linkage between sewage projects and security approvals, indicates the nature of institutional legal domination, rather than mere administrative malfunction¹.

Accordingly, the failure of judicial mechanisms to guarantee the right to water must not be separated from the broader political and legal structure of occupation; rather, it constitutes a foundational component of it. This reflects the need for alternative legal pathways that transcend traditional judicial spaces toward more comprehensive mechanisms of political and international accountability.

This judicial gap underscores the international community's failure to enforce Article 55 of the Fourth Geneva Convention, which explicitly obligates occupying powers to ensure the provision of essential resources including water for the population under occupation².

2.2.2.3.1 Advisory Opinions as a Temporary Alternative to Direct Litigation

Nevertheless, the State of Palestine may seek an advisory opinion from the court, as was the case in the 2004 advisory opinion concerning the Separation Wall³.

However, despite their legal and moral significance, these opinions lack enforceability and remain subject to the political will of United Nations member states⁴.

In summary, the Oslo water regime has been widely criticized for entrenching structural inequalities rather than promoting equitable cooperation. Scholars highlight how its mechanisms particularly the Joint Water Committee grant Israel disproportionate control, reinforcing patterns of hydro-hegemony and delaying Palestinian development⁵.

Legally, the framework raises serious concerns regarding its compatibility with international humanitarian and human rights law, particularly under conditions of

¹ Mohammad, Al-Saed. (2025). Personal testimony presented to the Independent Commission on Water Rights. Unpublished internal document, Ramallah.

² International Committee of the Red Cross (ICRC). (1949). Geneva Convention Relative to the Protection of Civilian Persons in Time of War (Fourth Geneva Convention), Article 55.

³ International Court of Justice (ICJ). (2004). Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory: Advisory Opinion. <https://www.icj-cij.org/en/case/131>

⁴ Ibid

⁵ Jan, Selby. (2013op., cit. p.10

prolonged occupation. The denial of water sovereignty, restrictions on infrastructure, and disregard for non-derogable rights reflect a system that undermines *jus cogens*¹ norms and the protective duties of an occupying power. These findings underscore the urgent need for a comprehensive legal reassessment of the Oslo Accords' water provisions considering binding international obligations.

2.2.3 Legal Solutions to Enhance Palestinian Water Rights

The enduring Israeli restrictions on Palestinian access to water in the West Bank highlight the urgent need for effective legal strategies to safeguard and reclaim these rights. This section explores potential legal mechanisms both national and international that could enhance the Palestinian position. It focuses on institutional empowerment, strategic litigation, and the development of legal frameworks rooted in international humanitarian, human rights, and environmental law.

The aim is to outline practical, rights-based legal pathways capable of addressing structural inequality and ensuring just access to water under conditions of occupation.

2.2.3.1 Strengthening the Role of Human Rights Institutions in Demanding Water Rights

Palestinian and international human rights institutions constitute a fundamental pillar in the legal struggle to reclaim Palestinian water rights in the West Bank. They bear responsibility for documenting violations, raising global awareness, and activating legal and diplomatic pressure tools. One prominent challenge facing these institutions is the frequent lack of adequate technical and engineering capabilities to analyze and document Israel's violations of water rights as complex environmental crimes rather than mere resource deprivation².

Local institutions also face legal challenges due to fragmentation and absence of unified working mechanisms, which affects the effectiveness of reports submitted to international bodies such as the Human Rights Council. Therefore, legally and

¹ is a norm accepted and recognized by the international community of States as a whole as a norm from which no derogation is permitted.

² Shira, Roth, Hila, Nahmani & Itay, Fischhendler. (2022). Environmental Justice Under Occupation: The Case of Palestinian Water Inequality. *Environment and Planning E: Nature and Space*, 5(4), 1767–1786. p. 1772.

technically empowering these institutions through partnerships with international environmental justice research centers will enhance their ability to provide normative evidence usable before international forums ¹.

Palestinian institutions should also be integrated into international water governance and human rights networks to ensure access to global advocacy platforms. With increasing evidence of Israel's policy of "legalizing water as a colonial weapon," rights institutions must develop tools to document the linkage between water policies and the broader colonial system by submitting specialized legal memoranda to United Nations committees, such as the Committee on the Elimination of Racial Discrimination (CERD), which in its 2022 reports expressed concern over discrimination in water distribution.²

2.2.3.2 Activating Legal Diplomacy to Hold Israel Accountable Internationally and Ensure Water Justice for Palestinians

Legal diplomacy is a central tool in the Palestinian struggle for water justice, especially after the UN's 2010 recognition of water as an independent human right. This tool includes utilizing available legal mechanisms in international organizations, such as the International Court of Justice (ICJ) and contractual mechanisms under environmental and human rights treaties, to affirm Israel's legal responsibility for its discriminatory water policies.

However, recent analyses show that Palestinian use of legal diplomacy remains sporadic and uncoordinated. The Palestinian Authority has yet to initiate an advisory request to the ICJ concerning the legal status of Israel's control over water resources, similar to the 2004 advisory opinion on the Separation Wall ³.

This delay misses a critical opportunity to internationalize the water dispute.

¹ Mariam, Daoudy. (2020). *The Origins of the Syrian Conflict: Climate Change and Human Security*. Cambridge University Press. p. 98.

² Committee on the Elimination of Racial Discrimination (CERD). (2022). *Concluding Observations on Israel's Seventeenth to Nineteenth Periodic Reports*. United Nations. para. 34.

³ David, Caron. (2022). *International Law and the Israeli-Palestinian Conflict: Legal Possibilities for Change*. In: *Palestine and International Justice*, ed. by Valentina Azarova. Routledge. p. 129.

Moreover, Palestine has not yet activated individual complaint mechanisms available under certain international treaties, such as the International Covenant on Economic, Social and Cultural Rights, despite being a party to it. These mechanisms could provide tools to file collective complaints concerning deprivation of water access in Area C or destruction of infrastructure, thereby advancing symbolic and legal accountability.

Hence, there is an urgent need to establish a specialized legal diplomacy unit within the Palestinian Ministry of Foreign Affairs, tasked with compiling legal files, coordinating with concerned entities to activate Israel's international obligations under international humanitarian (the Fourth Geneva Convention) and environmental law, particularly Article 55 of the Fourth Geneva Convention, which obliges the occupying power to ensure water supplies for the occupied population¹.

2.2.3.3 Establishing an Integrated Palestinian Environmental Legal Framework for Litigation

Among advanced proposals to enhance Palestinian water rights is the introduction of a unified Palestinian environmental law that clearly criminalizes discrimination in water access and adopts the principle of "environmental justice" as a regulatory standard. This law should intersect with Palestine's international obligations under the Basel Convention, the Ramsar Convention, and the UN Convention on the Law of the Non-Navigational Uses of International Watercourses², enabling citizens and municipalities to pursue local and international litigation by activating the "public environmental litigation system."

This framework would also allow the creation of a "national water violations registry," institutionally managed by an independent body linked to the Supreme Council for the Environment or Ministry of Justice, documented with images, maps, and legal citations to enhance its utility in international courts.

¹ International Committee of the Red Cross (ICRC). (1949) Op. cit., Article 55.

² United Nations. (1997). Convention on the Law of the Non-Navigational Uses of International Watercourses. https://legal.un.org/ilc/texts/instruments/english/conventions/8_3_1997.pdf

The registry could be linked with open legal innovation platforms collaborating with global universities offering advanced legal and technical analyses of registered cases¹.

This tool would overcome the current fragmentation crisis and establish an effective and sustainable mechanism to accumulate evidence and litigate before various international bodies, including the European Court of Human Rights and courts specializing in transboundary environmental liability.

Despite the theoretical significance of available legal and institutional tools, several structural and practical challenges continue to hinder their effective deployment in the Palestinian context. First, human rights institutions remain critically underfunded, which undermines the sustainability of documentation efforts and legal advocacy. Second, Palestinian legal diplomacy often suffers from politicization and a lack of technical autonomy, particularly in the selection and prioritization of cases. Third, legislative initiatives originating from Palestinian institutions frequently encounter significant delays in both approval and implementation processes, thereby limiting their real-world impact. Moreover, engagement with international environmental and civil society organizations is notably limited, reflecting a missed opportunity for leveraging global support through cooperative frameworks in research, documentation, and strategic litigation.

2.2.3.4 Establishing a Regional Legal Alliance to Advocate for Palestinian Water Rights

A proposal exists to create a "Regional Legal Alliance for Water Justice in Palestine," comprising legal research centers in Arab countries, international organizations, and international environmental law experts. This alliance aims to:

Prepare specialized legal memoranda addressed to UN organizations.

File strategic lawsuits before national courts in European countries that recognize universal jurisdiction. Build a unified regional database of environmental and water rights violations.

¹ Shira, Roth, Hila, Nahmani & Itay, Fischhendler. (2022) Op. cit., p. 1772.

This alliance would provide a legal-political umbrella to enhance accountability efforts beyond the narrow Palestinian framework and grant the issue broader prospects for internationalization.

Guaranteeing the right to water represents one of the most complex and sensitive dimensions of the Palestinian struggle, involving intertwined legal, environmental, political, and colonial aspects. Activating legal accountability tools, strengthening human rights institutions, formulating an integrated legal diplomatic strategy, and establishing advanced Palestinian legislative frameworks are not complementary options but existential necessities to ensure water justice.

For these efforts to be effective, an integrative approach combining national institutional efforts and international alliances must be adopted under a comprehensive legal strategy that shifts the water issue from "crisis management" to "achieving historical justice."

Conclusion

This study has conducted a focused legal analysis of Israel's control over water resources in the occupied West Bank, demonstrating that the issue extends beyond resource scarcity or technical failure. Instead, water governance functions as a tool of structural domination, using legal, administrative, and infrastructural mechanisms to consolidate control over land and population. The evidence reveals a consistent pattern in which Israeli settlements are prioritized, while Palestinians—especially in Area C—face severe restrictions through military orders, discriminatory permits, and the paralyzed Joint Water Committee under Oslo.

Legally, these practices breach multiple international norms, including provisions of the Fourth Geneva Convention and the ICESCR. More significantly, the accumulated effect of Israel's water policies meets key elements of international crimes under Article 7 of the Rome Statute, including persecution and apartheid. The segregation of infrastructure and denial of development constitute deliberate strategies of exclusion rooted in national identity.

These conclusions align with findings by Amnesty International, the UN, and academic literature, which collectively frame water denial as a form of environmental apartheid. The study also exposes the failure of accountability systems—domestic Israeli courts show deference to state interests, and international mechanisms are hampered by political and structural limitations. As a result, violations persist without meaningful remedy.

In response, the study calls for a shift in legal strategy. Water should be understood as a right embedded in sovereignty and dignity, not merely a development challenge. Legal advocacy must target the dismantling of hydro-hegemonic systems and promote frameworks based on environmental justice, racial equality, and the prohibition of discrimination. In the Palestinian context, securing water justice is inseparable from confronting the broader architecture of occupation.

Findings

1. Israel's seizure of water resources in the West Bank constitutes a violation of Article 55 of the Fourth Geneva Convention, as it exploits a vital resource while neglecting the needs and protection of the occupied population, thereby breaching core norms of international humanitarian law.
2. Israeli water distribution policies reflect systematic discrimination based on national identity, meeting the definition of apartheid under Article 2 of the 1973 Apartheid Convention and constituting a crime against humanity under international criminal law.
3. The Oslo Accords' institutional arrangements particularly the Joint Water Committee are inconsistent with jus cogens norms, as they subject Palestinian access to water to the prior approval of the occupying power, thereby undermining the inalienability of fundamental human rights and legitimizing the seizure of water through unequal governance.
4. Israel's practices in the seizure and use of shared water resources violate key principles of international environmental law, including equitable and reasonable utilization and the obligation to prevent transboundary harm, as articulated in the 1997 UN Convention on the Law of Non-Navigational Uses of International Watercourses.
5. International judicial mechanisms remain limited in their capacity to address the seizure of Palestinian water resources, due to jurisdictional and procedural constraints, underscoring the need for a hybrid legal strategy that integrates litigation, documentation, and legal diplomacy.
6. Domestic courts exercising universal jurisdiction particularly in certain European states offer a feasible avenue for pursuing legal accountability for Israel's seizure-related water violations, provided that comprehensive and evidentiary-standard legal dossiers are prepared to demonstrate their institutional and systematic nature.

Recommendations

1. Establish a dedicated legal unit within the Palestinian Ministry of Foreign Affairs tasked with addressing the legal dimensions of Israel's seizure of water resources, responsible for evidence collection, preparation of legal files, and submission of structured memoranda to international legal bodies and UN mechanisms.
2. Activate legal proceedings before national courts exercising universal jurisdiction, particularly in jurisdictions that recognize environmental and human rights crimes, to litigate Israel's seizure of Palestinian water based on violations of international humanitarian, environmental, and criminal law.
3. Re-evaluate the legal implications of the Oslo Accords' water governance structures in light of the peremptory norms of international law, and formulate a legal discourse that challenges the institutional facilitation of water seizure under asymmetrical frameworks.
4. Enact a comprehensive Palestinian environmental legal code that explicitly prohibits discriminatory practices and unlawful seizure of water resources, while empowering local and national entities to pursue legal action through public environmental litigation tools.
5. Foster strategic partnerships with international civil society and legal research institutions to support the documentation and litigation of systematic water seizure and to mobilize global legal advocacy networks in UN forums and beyond.
6. Pursue a hybrid model of legal diplomacy that incorporates engagement with non-judicial UN mechanisms including treaty bodies and special procedures with an emphasis on obtaining advisory opinions from the International Court of Justice concerning the illegality of Israel's prolonged seizure of Palestinian water resources.

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التحديات القانونية لاستحواذ إسرائيل على مصادر المياه في الضفة الغربية وأثرها على حقوق الإنسان: دراسة تحليلية من منظور القانون الدولي.

شيراز خالد مصطفى بزور

د. مجد عودة، د. عمر اعمر، د. يعقوب حليبي

الملخص

تستعرض هذه الدراسة القانونية سيطرة إسرائيل على الموارد المائية في الضفة الغربية باعتبارها آلية مركزية للاحتلال الممتد، والذي ينتهك القواعد الأمرة ويقوض الحقوق الأساسية للشعب الفلسطيني. ومن خلال إطار قانوني مقارن، تبحث الدراسة في حق الحصول على الماء تحت الاحتلال، موصلة ذلك بمبادئ السيادة الدائمة على الموارد الطبيعية والالتزامات القانونية للقوى المحتلة. ويُنظر إلى الماء ليس كمورد بيئي فحسب، بل كأداة سياسية تعيد تشكيل ديناميات القوة بين المستعمر والمستعمر عليه.

ويؤلى اهتمام خاص لاتفاقيات أوسلو، وخصوصاً المادة 40 من اتفاق أوسلو الثاني لعام 1995، موضحةً كيف تحولت الترتيبات الانتقالية إلى أطر قانونية مقيدة رسخت الاعتماد الهيكلي. كما فشلت مؤسسات مثل اللجنة المشتركة للمياه في حماية الحقوق المائية الفلسطينية، بل قامت بتقنين حالة عدم التوازن لصالح القوة المحتلة.

وتقيم الدراسة كذلك التأثير المحدود للآليات القضائية الدولية، مشيرة إلى تقاعس هيئات مثل المحكمة الجنائية الدولية والمحكمة الدولية للعدل، وتشدد على ضرورة توسيع استخدام المناصرة القانونية البيئية واللجوء إلى التقاضي الاستراتيجي. وبالنظر إلى الانتهاكات المستمرة، بما في ذلك حرمان الفلسطينيين من المياه والإضرار بالبيئة، تدعو الدراسة إلى وضع استراتيجيات قانونية فلسطينية شاملة تستعيد السيادة على المياه كجزء لا يتجزأ من حق تقرير المصير.

وفي النهاية، تقترح الدراسة إعادة توجيه الخطاب القانوني الدولي لمواجهة البنية الاستعمارية نفسها، مع تعزيز نهج قائم على الحقوق لتحقيق العدالة البيئية تحت الاحتلال.

الكلمات المفتاحية: السياسة المائية - الاحتلال - السيادة - القواعد الأمرة