

ENVIRONMENTAL OBLIGATIONS IN ARMED CONFLICT: ISRAEL’S RESPONSIBILITIES UNDER HUMAN RIGHTS LAW AND THE PARIS AGREEMENT

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This paper examines the environmental degradation and humanitarian crisis in Gaza resulting from Israel’s military actions during its conflict with Hamas. The key issue is the extensive destruction of critical infrastructure, which has caused severe ecological damage, worsened public health risks, and deprived the population of essential services. These actions have not only contributed to widespread suffering but also constitute violations of international legal frameworks, including International Humanitarian Law (‘IHL’), International Human Rights Law (‘IHL’), and the Paris Agreement. The legal problem arises from Israel’s status as an occupying power, which imposes specific responsibilities under the Hague Regulations and the Fourth Geneva Convention to protect the civilian population and their environment. Under IHL, Israel is required to ensure the safety and welfare of the population in the occupied territory, while under IHL, it is obligated to uphold fundamental human rights, including the rights to life, health, and self-determination. However, Israel has failed to meet these obligations, particularly regarding environmental protection and public welfare. Additionally, Israel’s disregard for its commitments under the Paris Agreement has exacerbated the region’s climate vulnerability, further undermining global environmental goals. This paper analyses these legal violations, highlighting how Israel’s actions contravene its duties as an occupying power and breach international obligations. It explores these violations, emphasising the need for accountability. Ultimately, the paper calls for holding Israel responsible for its actions to ensure compliance with international obligations and to address the environmental destruction and human rights violations inflicted on the Palestinian population.

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I. INTRODUCTION

On October 7, 2023, Hamas initiated “Operation Al-Aqsa Flood”, an unprecedented attack,¹ on Israel from Gaza. In response, Israel launched “Operation Swords of Iron” to eliminate hostile forces.² The war escalated over subsequent weeks, severely impacting the environment in Gaza. Israel’s control over crucial supplies has worsened the already dire environmental situation in Gaza. Moreover, the Israeli Minister of Defence announced a “complete siege” of Gaza by cutting supplies of food, electricity, fuel, water etc.³ This has led to hospitals in Gaza experiencing critical water shortages, leading to deteriorating sanitary conditions and increased infection risks.⁴

Even before the conflict, since 2005, ninety percent of the population lacked direct access to clean drinking water.⁵ The scarcity of a clean environment has extreme and devastating consequences, heightening the risk of diseases, exacerbating poor hygiene conditions, and causing climate change.⁶ The situation has reached a critical point, where

¹ Abbas A. Lawati, *Israel is at war with Hamas. Here’s What to Know*, CNN, October 15, 2023, available at <https://edition.cnn.com/2023/10/09/middleeast/israel-hamas-gaza-war-explained-mime-intl> (Last visited on February 11, 2025).

² THE JERUSALEM POST, *Operation Swords of Iron: What happened on Days 6–7?*, October 13, 2023, available at <https://www.jpost.com/israel-news/defense-news/2023-10-12/live-updates-767856> (Last visited on February 11, 2025).

³ Emanuel Fabian, *Defense Minister Announces ‘Complete Siege’ of Gaza: No Power*, THE TIMES OF ISRAEL, October 9, 2023, available at https://www.timesofisrael.com/liveblog_entry/defense-minister-announces-complete-siege-of-gaza-no-power-food-or-fuel/ (Last visited on February 11, 2025).

⁴ Maddie Burakoff, *Gaza’s Limited Water Supply Raises Concerns for Human Health*, AP NEWS, October 17, 2023, available at <https://apnews.com/article/gaza-israel-water-humanitarian-crisis-cfeabceda00fefdd03c2877495c4dcd09> (Last visited on February 11, 2025).

⁵ UNGA, Allocation of Water Resources in the Occupied Palestinian Territory, including East Jerusalem, G.A. Res. A/HRC/48/43, ¶47, U.N. Doc. A/HRC/48/43 (October 15, 2021).

⁶ Mark Zeitoun, *War on Water Prolongs Misery in Gaza*, JUST SECURITY, October 17, 2023, available at <https://www.justsecurity.org/89536/war-on-water-prolongs-misery-in-gaza/#:~:text=The%20decision%20to%20deny%20the,behind%20the%20conflict%20are%20dashed> (Last visited on February 11, 2025).

UNICEF has had to warn of imminent dangers of death and infectious disease outbreaks unless water and fuel are allowed to enter the area.⁷

Against this backdrop, it's important to understand the obligations of Israel to protect the environment of Palestine. In this paper, the author will make an attempt to link Human rights violations with Environmental concerns by making a three-fold argument to show that Israel has violated obligations under International Humanitarian Law ('IHL'), International Human Rights Law ('IHRL') and the Paris Agreement ('PA').

In Part II, the author will analyse the Protection of the Environment Under Laws of Occupation. Part III will focus on the protection of the environment under IHRL Treaties and its interrelation with its subsequent IHL obligations. Part IV will address the protection of climate change under the PA. Part V will conclude the paper.

II. PROTECTION OF THE ENVIRONMENT UNDER LAWS OF OCCUPATION

Before delving into the argumentation of IHL, it is important to determine whether IHL applies to the present case. The precondition for applying IHL is the existence of an armed conflict.⁸ The debate,⁹ surrounding the conflict between Israel and Hamas may seem to revolve around its classification as either an International Armed Conflict ('IAC')¹⁰ or a Non-International Armed Conflict ('NIAC').¹¹ While the relationship between Hamas and Palestine complicates the classification,¹² with arguments supporting both NIAC and IAC, one fact remains clear — there is a sustained armed conflict.¹³ Whether it is classified as an IAC or a NIAC, the intensity of the hostilities¹⁴ and the organisation of the armed groups¹⁵ involved mandate that IHL applies in full force, to regulate the conduct of hostilities and protect civilians of Palestine.

In this section the author argues, *first*, despite withdrawing ground forces, Israel maintains effective control over Palestine through its control of airspace and borders, meeting

⁷ UNITED NATIONS OFFICE FOR THE COORDINATION OF HUMANITARIAN AFFAIRS, *Hostilities in the Gaza Strip and Israel: Flash update #10*, October 16, 2023, available at [https://www.ochaopt.org/content/hostilities-gaza-strip-and-israel-flash-update-10#:~:text=Since%20the%20start%20of%20hostilities%2C%20%2C808%20Palestinians%20have%20been%20killed,days%20\(2%2C251%20Palestinian%20fatalities\)](https://www.ochaopt.org/content/hostilities-gaza-strip-and-israel-flash-update-10#:~:text=Since%20the%20start%20of%20hostilities%2C%20%2C808%20Palestinians%20have%20been%20killed,days%20(2%2C251%20Palestinian%20fatalities)) (Last visited on February 11, 2025).

⁸ INTERNATIONAL COMMITTEE OF THE RED CROSS, *Implementation Mechanisms*, available at <https://casebook.icrc.org/law/implementation-mechanisms#:~:text=Indeed%2C%20IHL%20applies%20between%20two,only%20in%20international%20armed%20conflicts> (Last visited on February 11, 2025).

⁹ Yola Verbruggen, *The Israel-Hamas Conflict*, INTERNATIONAL BAR ASSOCIATION, November 30, 2023, available at <https://www.ibanet.org/The-Israel-Hamas-conflict> (Last visited on February 11, 2025).

¹⁰ GC IV, Art. 2; Congressional Research Service, *Declarations of War and Authorizations For The Use Of Military Force: Historical Background and Legal Implications*, (April 2014), available at <https://www.everycrsreport.com/reports/RL31133.html> (Last visited on February 11, 2025).

¹¹ GC IV, Art. 3; Prosecutor v. Duško Tadić (Appeals Chamber), ICTY-94-1-1, Judgment, October 2, 1995, ¶688; Rome Statute of the International Criminal Court, 2187 U.N.T.S. 90 (adopted on July 17, 1998, entered into force on July 1, 2002) Art. VIII, ¶2(f) ('Rome Statute').

¹² Kevin Jon Heller, *Classification of the Israel-Palestine Conflict Under the Laws of War*, OPINIO JURIS, November 24, 2023, available at <https://opiniojuris.org/2023/11/24/classification-of-the-israel-palestine-conflict-under-the-laws-of-war/> (Last visited on February 11, 2025).

¹³ *Id.*

¹⁴ Prosecutor v. Tihomir Blaskic (Trial Chamber), Judgment, March 3, 2000, ICTY-95-14-T, ¶242; Prosecutor v. Jean-Paul Akayesu (Chamber I), Judgment, September 2, 1998, ICTR-96-4-T, ¶688.

¹⁵ *Id.*

the legal definition of occupation and thus triggering its obligations to protect the environment. *Second*, under the Laws of Occupation, there are two sub-arguments.

First, Israel is required to safeguard the environment by upholding environmental laws and maintaining public order, as stated in Article 43 of the Convention (IV) respecting the Laws and Customs of War on Land ('Hague Convention IV') and Article 64 of the Geneva Convention Relative To The Protection Of Civilian Persons In Time Of War ('GC IV'). *Second*, Israel's actions, including environmental destruction and resource exploitation, violate Article 53 and constitute the war crime of pillage under the Rome Statute ('RS').

A. A NUANCED VIEW OF EFFECTIVE CONTROL IN OCCUPATION: PALESTINE IS OCCUPIED BY ISRAEL

Occupation is defined under Article 42 of the Hague Convention IV.¹⁶ Under *jus ad bellum*, an occupation usually occurs after one state uses military force against another.¹⁷ The definition of occupation requires that it is temporary and that the Occupying Power ('OP') exercises 'effective control' over the territory. This definition has been consistently upheld by international tribunals and courts. The International Criminal Tribunal for the Former Yugoslavia applied it in *Prosecutor v. Naletilic and Martinovic*.¹⁸ Similarly, the International Court of Justice ('ICJ') cited the exact definition in its Wall Opinion,¹⁹ and in *DRC v. Uganda* ('Armed Activities').²⁰ However, one critical question arises regarding what would constitute effective control.

The 'effective control' test establishes the criteria for determining occupation, focusing on the authority exercised by foreign forces over a territory. This test comprises three key elements — the physical presence of foreign troops without the consent of the government in place, the inability of the existing government to exercise authority due to the foreign forces' presence, and the foreign forces' ability to substitute their authority for that of the government.²¹

First, the presence of foreign troops, or "boots on the ground", is considered a fundamental requirement for establishing occupation. This principle was affirmed by the ECHR in cases concerning the Nagorno-Karabakh region,²² confirming that physical presence is a *sine qua non* for occupation. However, multiple scholars, such as Yoram Dinstein,²³

¹⁶ Convention (IV) Respecting the Laws and Customs of War on Land and Its Annex: Regulations Concerning the Laws and Customs of War on Land, 36 Stat. 2277 (adopted on October 18, 1907, entered into force on January 26, 1910) Art. 42 ('Hague Convention IV').

¹⁷ J. F. R. Hosang, *Jus ad Bellum and Military Command* in RULES OF ENGAGEMENT AND THE INTERNATIONAL LAW OF MILITARY OPERATIONS, Chapter 2 (Oxford University Press, 2020).

¹⁸ *Prosecutor v. Mladen Naletilic aka "Tuta", Vinko Martinovic aka "Stela"* (Trial Chamber), March 31, 2003, ICTY-98-34-T.

¹⁹ Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory (United Nations General Assembly), Advisory Opinion, July 9, 2004, I.C.J. Rep. 136, ¶78 ('Wall Opinion').

²⁰ *Armed Activities on the Territory of the Congo, DRC v. Uganda*, Judgment on Merits, December 19, 2005, I.C.J. Rep. 168, ¶¶172–176 ('Armed Activities').

²¹ *Military and Paramilitary Activities in and against Nicaragua, Nicar. v. USA*, Judgment on Merits, June 27, 1986, I.C.J. Rep. 14, ¶115.

²² Nurlan Mustafayev, *Who Has Effective Control in Azerbaijan's Karabakh Region?*, EJIL: TALK!, July 4, 2022, available at <https://www.ejiltalk.org/who-has-effective-control-in-azerbaijans-karabakh-region/> (Last visited on February 12, 2025).

²³ Yoram Dinstein, *THE INTERNATIONAL LAW OF BELLIGERENT OCCUPATION* (Cambridge University Press, 2009); Peter Rowe, *The International Law of Belligerent Occupation. By Yoram Dinstein. Cambridge, Cambridge University Press, 2009. xxxii and 303 pp. £23.99, Vol. 80(1), BRIT. Y.B. INT'L L., 445 (2009).*

suggest that effective control may continue through airspace and maritime dominance, even in the absence of land forces, highlighting the evolving nature of occupation law.

Second, the exercise of authority by foreign forces raises another critical issue — whether actual control must be demonstrated or if the mere ability to exert authority suffices. While the ICJ’s Armed Activities case emphasised actual authority,²⁴ critics argue that this interpretation is overly narrow. The UK Manual of the Law of Armed Conflict supports the view that the ability to substitute authority meets the threshold of effective control.²⁵

Third, the question of exclusive authority is debated. The United States Military Tribunal, Nuremberg, in the Wilhelm List case, argued that occupation requires exclusive authority,²⁶ while authors like Tristan Ferraro contend that current law permits a vertical sharing of authority between occupying powers and local entities.²⁷ This interpretation aligns with provisions in the GC IV, specifically Articles 2, 42, and Part III, Section III. From the above discussion, it can be seen that the law has evolved beyond the traditional narrow interpretation, now recognising effective control through airspace, maritime dominance, or the ability to substitute authority without the necessity of exclusive or constant physical presence

In the present conflict, despite the withdrawal of the Israeli military from Gaza, Israel maintains authority over critical elements of Gaza’s sovereignty, including its maritime zones, airspace, and borders.²⁸ Israel’s advanced technological capabilities and ongoing control indicate its ability to reassert comprehensive control over Gaza at any time.²⁹ Moreover, due to the close geographical proximity of Israel and Gaza, Israeli authorities possess the capability to execute specific governmental duties from outside Gaza. Israel initially instituted these duties during a time of occupation post-2005.³⁰ Therefore, Israel has control over Gaza.

As the laws of Occupation apply in the present conflict, therefore Israel has violated its obligations in relation to Environmental protection.

B. LAWS OF OCCUPATION AND THE PROTECTION OF THE ENVIRONMENT

According to the International Committee of the Red Cross (‘ICRC’) Guidelines,³¹ those who occupy a territory must actively safeguard the natural environment of the occupied territory (‘OT’) against significant damage. Such powers must comply with the domestic environmental laws of the OT and are limited to making changes allowed within the confines of the Law of Armed Conflict.

²⁴ Armed Activities, *supra* note 20, ¶¶172–176.

²⁵ UK Ministry of Defence, THE MANUAL OF THE LAW OF ARMED CONFLICT (2005, Oxford University Press).

²⁶ The United Nations War Crimes Commission, LAW REPORTS OF TRIALS OF WAR CRIMINALS, Vol. VIII, 34–76 (His Majesty’s Stationery Office, 1949).

²⁷ Tristan Ferraro, *Determining the Beginning and End of an Occupation Under International Humanitarian Law*, Vol. 94, INT’L REV. RED CROSS, 133 (2012).

²⁸ Marwan Muasher et al., *Governing Gaza After the War: The Regional Perspectives*, CARNEGIE ENDOWMENT, available at <https://carnegieendowment.org/2024/02/16/governing-gaza-after-war-regional-perspectives-pub-91663> (Last visited on February 12, 2025).

²⁹ HUMAN RIGHTS WATCH, *Questions and Answers: The Israeli Military’s Use of Digital Tools in Gaza*, September 10, 2024, available at <https://www.hrw.org/news/2024/09/10/questions-and-answers-israeli-militarys-use-digital-tools-gaza> (Last visited on February 11, 2025).

³⁰ *Id.*

³¹ INTERNATIONAL COMMITTEE OF THE RED CROSS, *Guidelines on the Protection of the Natural Environment in Armed Conflict*, 27, September 25, 2020, available at <https://www.icrc.org/en/document/guidelines-protection-natural-environment-armed-conflict> (‘ICRC Guidelines’).

Principle 19 of the Draft Principles on Protection of the Environment in Relation to Armed Conflicts ('Draft Principles') of the International Law Commission ('ILC') delineates three specific duties incumbent upon an OP regarding the territories under their control — *first*, to respect and protect the environment of the occupied territory under international law, and, *second*, to prevent significant environmental harm that could affect the population's health and well-being, and third to respect existing environmental laws, limiting changes to those permitted under the law of armed conflict.³²

Israel has violated the following while exercising control over OT — *First*, it is imposed upon Israel to implement strategies that safeguard the OT against substantial environmental harm through the protection of civil and public well-being.³³ *Second*, any modifications to the environmental laws of the OT must be rigorously adhered to within the parameters set forth by the Law of Armed Conflict.³⁴

1. ENVIRONMENTAL PROTECTION AND THE LAW OF OCCUPATION: A LEGAL FRAMEWORK UNDER ARTICLE 43

Given these legal obligations, it is crucial to examine the legal framework governing environmental protection within occupied territories. The principles outlined above highlight the responsibilities of an occupying power, particularly in relation to the conservation and management of natural resources. To further contextualise these obligations, the following section will analyse the relevant legal framework under Article 43 of the Hague Convention IV and its application to the present conflict.

However, before delving into the argument, the author will first establish the applicability of the Hague Convention IV and the GC IV to the present conflict. *First*, Israel ratified the Geneva Conventions on July 6, 1951, making them fully applicable to its actions.³⁵ *Second*, although Israel has not signed or ratified the 1907 Hague Regulations, the Israeli High Court has recognised these Regulations as part of customary international law, which binds all states, including non-signatories.³⁶ Therefore, both treaties are applicable to the conflict.

Article 43 of the Hague Convention IV,³⁷ read with Article 64 of the GC IV,³⁸ delineates the "conservationist principle".³⁹ This principle mandates the OP to maintain a pre-occupation status of the OT. According to Article 43, OPs must uphold existing laws within the occupied territory while also safeguarding public order and safety.⁴⁰ Under Article 64 GC IV, OPs may only modify local laws as required to uphold the territory's lawful administration, adhere to their commitments under the Convention, or safeguard their administration or troops.⁴¹

³² International Law Commission, *Report of the International Law Commission on Seventy-Third Session*, ¶58, U.N. Doc. A/77/10 (August 12, 2022) ('Draft Principles').

³³ Draft Principles, *supra* note 32, Principle 19(1).

³⁴ Draft Principles, *supra* note 32, Principle 19(3).

³⁵ Israel ratified the Geneva Conventions with the reservation that Israel would use the Red Shield of David as the distinctive and inviolable emblem for its medical services. *The Obligations of Israel and the Palestinian Authority Under International Law*, Vol. 13(2), HUMAN RIGHTS WATCH, 14 (2001).

³⁶ *Suleiman Tawfiq Ayyub v. Minister of Defense*, H.C. 606/78, 6 (Israeli High Court of Justice).

³⁷ Hague Convention IV, Art. 43.

³⁸ GC IV, Art. 64.

³⁹ International Law Commission, *First Report on Protection of the Environment in Relation to Armed Conflicts by Marja Lehto, Special Rapporteur*, ¶13, U.N. Doc. A/CN.4/720 (April 30, 2018) ('First Report').

⁴⁰ Hague Convention IV, Art. 43.

⁴¹ GC IV, Art. 64.

The main obligation for Israel, as the OP, stems from Article 43 of the Hague Convention IV. It requires Israel to take all possible measures to prevent worsening conditions in the occupied territories. While Article 64 of the GC IV permits the occupying power to alter domestic laws to maintain order and secure its forces, Israel has not implemented such legal changes. Instead, it has primarily violated Article 43 by failing to uphold environmental protection and public order obligations in Palestine. To elaborate on the potential environmental safeguards outlined in Article 43 the author is dividing it into two parts. *First*, Israel has violated the first part of Article 43, which deals with the Environment under Public Order and Civil Life and second Israel has violated the second part of Article 43 which deals with upholding Domestic Laws in relation to the Environment

a. Israel has Violated the First Part Of Article 43, Which Deals with the Environment under Public Order and Civil Life

The first part refers to the OP's obligation to undertake every possible action to restore and safeguard "public order" and "civil life" in the OT to the greatest extent possible. As Marja Lehto, Special Rapporteur on the Protection of the Environment in Relation to Armed Conflict, stated in her First Report,⁴² the general obligation that stems from this is to "ensure that the occupied population lives as normal a life as possible".

Furthermore, the interpretation mentioned above is in line with the French interpretation, which contains the phrase "*l'ordre et la vie publiques*", which translates to public order and life.⁴³ Based on this phrase the same conclusion can be reached that it is the duty of the OP to ensure the regularity of the daily lives of the indigenous inhabitants residing within the OT. This necessitates that the OP uphold its obligation as stipulated in Article 43, which safeguards the occupied territory's welfare, public order, and civil life. Therefore, one must consider environmental factors to ensure compliance with this obligation.

As of May 31, 2024, the conflict in Gaza has resulted in the deaths of at least 36,284 Palestinians, with an additional 82,057 injured, according to the Ministry of Health in Gaza.⁴⁴ Approximately eighty-five percent of Gaza's 2.2 million Palestinian residents have been displaced, many of whom are now living in overcrowded shelters with limited access to essential resources such as water, sanitation, and food.⁴⁵ The ongoing siege imposed by Israel,⁴⁶ including the closure of border crossings and the disruption of vital resources like water and electricity, has further exacerbated the unfolding humanitarian crisis.

Apart from this, more than 450 structures have sustained damage, including twelve out of thirty-six hospitals that are only partially functional, while 14 hospitals have been

⁴² First Report, *supra* note 39, ¶13.

⁴³ Solomon Ukhuegbe & Alero Fenemigho, *Article 43 of the Hague Regulations of 1907 Revisited: The Past and the Future of Belligerent Occupation in International Law*, SSRN, 19, (2016), available at https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2802162 (Last visited on February 11, 2025).

⁴⁴ Zeina Jamaluddine et al., LONDON SCHOOL OF HYGIENE & TROPICAL MEDICINE, *Crisis in Gaza: Scenario-Based Health Impact Projections*, February 19, 2024, Report No. 1, available at https://gaza-projections.org/gaza_projections_report.pdf (Last visited on February 13, 2025).

⁴⁵ Press Release, SECURITY COUNCIL, *As Israel's Aerial Bombardments Intensify, 'There Is No Safe Place in Gaza'*, *Humanitarian Affairs Chief Warns Security Council*, U.N. Press Release SC/15564, January 12, 2024, available

at <https://press.un.org/en/2024/sc15564.doc.htm#:~:text=A%20staggering%2085%20per%20cent,proposing%20that%20Palestinians%20should%20be> (Last visited on February 13, 2025).

⁴⁶ *Id.*

rendered completely inoperative.⁴⁷ Additionally, seventy percent of primary health care centres — sixty-two out of eighty-eight — are no longer operational.⁴⁸ The remaining functional hospitals are overwhelmed with patients and are facing critical shortages of fuel, medicine, medical supplies, and staff. Of particular concern is the damage to the desalination plant, which supplies clean water to 250,000 people and has been impacted by Israeli airstrikes, further aggravating the dire humanitarian situation.⁴⁹ Significant environmental problems have resulted from this, especially for Gaza residents' access to clean water. Amnesty International describes the current situation as “truly staggering”.⁵⁰

Most cultivated fields have been destroyed by military action in Gaza. Factories and food warehouses have been bombed or shut down due to lack of basic supplies, fuel and electricity.⁵¹ Residents have long since exhausted stockpiles and water.⁵² As a result, nearly the entire population of the Gaza Strip is suffering from acute food insecurity. Famine is imminent, with the recent Integrated Food Security Phase Classification assessment revealing that half of the population — 1.1 million people — faces catastrophic food insecurity, and 677,000 are expected to face famine.⁵³ This represents the highest percentage of a population ever recorded globally. These are only some of the instances where Israel is destroying the environment, and due to this, people are not being able to live a normal life. This violates the first part of Article 43.

b. Israel has Violated the Second Part of Article 43 Which Deals with Upholding Domestic Laws in Relation to the Environment

The second part of Article 43 covers the upholding of the domestic law of the OT.⁵⁴ Numerous countries have implemented their own domestic laws in relation to environmental protection.⁵⁵ Article 43 requires the OP to enforce and comply with these laws unless doing so would be impracticable.⁵⁶ This is also supported by Principle 19(3) of the Draft Principles,⁵⁷ which supports preserving the institutions and legislation of the OT, including any

⁴⁷ Press Release, DIRECTORATE-GENERAL FOR EUROPEAN CIVIL PROTECTION AND HUMANITARIAN AID OPERATIONS, *Palestine: Statement on Attacks on Medical and Civilian Infrastructure in Gaza and the West Bank*, May 20, 2024, available at https://civil-protection-humanitarian-aid.ec.europa.eu/news-stories/news/palestine-statement-attacks-medical-and-civilian-infrastructure-gaza-and-west-bank-2024-05-20_en (Last visited on February 13, 2025).

⁴⁸ *Id.*

⁴⁹ AL JAZEERA, *Palestinian PM Shtayyeh Hands Resignation to Abbas Over Gaza 'Genocide'*, February 26, 2024, available at <https://www.aljazeera.com/news/2024/2/26/palestinian-pm-submits-resignation-to-mahmoud-abbas-over-gaza-aggression> (Last visited on February 13, 2025).

⁵⁰ AMNESTY INTERNATIONAL, *Israel and Occupied Palestinian Territory*, available at <https://www.amnesty.org.uk/issues/israel-and-occupied-palestinian-territory> (Last visited on February 13, 2025).

⁵¹ Kaamil Ahmed et al., *'Ecocide in Gaza': Does Scale of Environmental Destruction Amount to a War Crime?*, THE GUARDIAN, March 29, 2024, available at <https://www.theguardian.com/environment/2024/mar/29/gaza-israel-palestinian-war-ecocide-environmental-destruction-pollution-rome-statute-war-crimes-aoe> (Last visited on February 13, 2025).

⁵² *Id.*

⁵³ INTEGRATED FOOD SECURITY PHASE COLLECTION, *Gaza Strip: IPC Acute Food Insecurity Special Snapshot (1 May – 30 September 2024)*, June 25, 2024, available at <https://www.un.org/unispal/document/gaza-strip-famine-ipc-snapshot-25jun24/> (Last visited on February 13, 2025).

⁵⁴ For an understanding of Art. 43 of Hague Convention IV and its operation as two parts, see Yoram Dinstein, *Legislation Under Article 43 of the Hague Regulations: Belligerent Occupation and Peacebuilding*, PROGRAM ON HUMANITARIAN POLICY AND CONFLICT RESEARCH (Fall, 2004).

⁵⁵ First Report, *supra* note 39, ¶49.

⁵⁶ Hague Convention IV, Art. 43.

⁵⁷ Draft Principles, *supra* note 32, Principle 19.

environmental laws that have already been adopted.⁵⁸ Domestic law in relation to the environment becomes especially significant when the OT and the OP both have ratified a common Multilateral Environmental Agreement ('MEA'). This becomes more relevant if the OT incorporates the MEA into its domestic statutes.⁵⁹

In the present dispute, Israel must adhere to the Basel Convention, which Palestine is a signatory of and consequently forms a part of their domestic law. Israel, in its capacity as an OP, contravened the Basel Convention's obligations⁶⁰ by transporting and disposing of waste in the West Bank of Palestine.⁶¹ In doing so, it violated its obligation under the Basel Convention, thereby contravening Palestinian Environmental Law.⁶² As stated in Article 76 of the law, "any natural or juridical person who causes environmental harm through action or omission in contravention of the provisions of the signed treaties would be held liable".⁶³ Article 73 of Palestinian Environmental Law, when read with Article 43 of the Hague Convention IV requires Israel, as an OP, to comply with the domestic environmental law commitments. In this case, Israel has violated the law.⁶⁴

Moreover, the Secretariat of the Basel Convention stated that Israel's actions violated its responsibilities outlined in the convention, particularly in Articles 2(3) and 2(9).⁶⁵ It is a requirement of the Secretariat that waste generated in these industrial zones, which are under the jurisdiction of Israel, be transported to Israel exclusively for disposal, and not to the OT.⁶⁶ However, this was being disposed of in the West Bank.⁶⁷

Consequently, Israel has not only contravened the Articles of the Basel Convention, which criminalises the unlawful transportation of hazardous substances, but it has also fallen short of accomplishing the principal aim of Article 43.⁶⁸

2. PREVENTING SIGNIFICANT HARM AND PREJUDICE TO THE HEALTH OR WELL-BEING OF PROTECTED PERSONS

This section addresses Israel's breach of obligations to prevent significant harm and prejudice to the health or well-being of protected persons through a twofold argument. *First*, Israel has violated Article 53 of the GC IV by unlawfully destroying property and causing environmental harm in the OT. *Second*, Israel's exploitation of natural resources and

⁵⁸ John H. Knox, *Human Rights, Environmental Protection, and the Sustainable Development Goals*, Vol. 24(3), WASH. INT'L L. J., 517 (2015); First Report, *supra* note 39, ¶¶44, 46.

⁵⁹ Jutta Brunnée, *International Environmental Law: Rising to the Challenge of Common Concern?*, Vol. 100, PROCEEDINGS OF THE ANNUAL MEETING (AMERICAN SOCIETY OF INTERNATIONAL LAW), 308 (2006).

⁶⁰ Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal, 1673 U.N.T.S. 57 (adopted on March 22, 1989, entry into force on May 5, 1992) Arts. 2(3), 2(9) ('Basel Convention').

⁶¹ Hague Convention IV, Art. 43.

⁶² Law No. 7/1999 on the Environment, 1999, Article 76 (Palestine) ('Palestinian Environment Law').

⁶³ *Id.*

⁶⁴ Palestinian Environmental Law, Article 73.

⁶⁵ Basel Convention, Arts. 2(3), 2(9).

⁶⁶ AL-HAQ, *Environmental Rights Case Succeeds in Holding Israel Accountable for Illegal Hazardous Waste Dumping in Palestine*, August 25, 2016, available at <https://www.alhaq.org/publications/6392.html#:~:text=This%20is%20a%20significant%20victory,Palestinians%20and%20seek%20appropriate%20remedies> (Last visited on February 13, 2025).

⁶⁷ Jaclynn Ashly, *Israel Turns West Bank Into a 'Garbage Dump'*, AL-JAZEERA, December 5, 2017, available at <https://www.aljazeera.com/news/2017/12/5/israel-turns-west-bank-into-a-garbage-dump> (Last visited on February 13, 2025).

⁶⁸ Basel Convention, Art. 4(3).

degradation of ecosystems amounts to the war crime of pillage under the Rome Statute, denying Palestinians access to their natural assets and well-being.

a. Israel has Violated Article 53 of the GC IV

Article 53 of GC IV prohibits the OP from engaging in the destruction of private or public property of the OT.⁶⁹ The OP must not cause damage to property in the OT unless justified by an urgent military necessity. Given this mandate, preventing pillage is particularly important. This concept under Article 53 has expanded to include the protection of the environment due to two reasons.

First, Rule 14 of the ICRC Guidelines, though not legally binding are often referenced by courts, scholars, and international bodies.⁷⁰ It expands the prohibition on pillage to include the natural environment, recognising that this prohibition also applies to natural resources, which are considered property.⁷¹ Rule 15 governs the treatment of property in occupied territories, allowing confiscation of movable public property for military use, requiring immovable public property to be managed under usufruct principles, and mandating respect for private property, including the natural environment, except in cases of imperative military necessity.⁷²

Second, international and domestic courts have categorised activities such as unauthorised oil extraction and illicit water exploitation as pillaging. Such activities would be strictly prohibited in order to protect the environment.⁷³ The courts have rigorously prohibited raiding, plundering, or exploiting natural resources within its jurisdiction.⁷⁴ This emphasises the importance of protecting the natural wealth of occupied regions from infringements of this nature. This position of pillage was also reaffirmed in the case of Armed Activities.⁷⁵

The ongoing conflict, particularly in the West Bank, is exacerbated by Israel's unauthorised operation and construction of wastewater treatment facilities and refuse disposal sites.⁷⁶ As a result, the local population is unable to use their private property.⁷⁷ This encompasses residential dwellings, private properties, farmland, agricultural territories, vegetable gardens, livestock, and domestic animals.⁷⁸ Such activities have consequences for the region's biodiversity and ecosystem, which include contamination of air, soil, and water. Particularly with respect to resource exploitation, Israel has denied Palestinians access to shared water resources, estimated 1.5 billion barrels of oil reserves and 2.5 billion worth of

⁶⁹ GC IV, Art. 53.

⁷⁰ Maresca & Lavoyer, *The Role of the ICRC in the Development of International Humanitarian Law. International Negotiation*, Vol. 4(3), INT'L NEGOT., 503–527 (1999).

⁷¹ ICRC Guidelines, *supra* note 31, R. 14.

⁷² *Id.*, R. 15.

⁷³ Radics, Olivia & Carl Bruch, *The Law of Pillage, Conflict Resources, and Jus Post Bellum* in ENVIRONMENTAL PROTECTION AND TRANSITIONS FROM CONFLICT TO PEACE: CLARIFYING NORMS, PRINCIPLES, AND PRACTICES (Carsten Stahn et al. eds., Oxford University Press, 2017); D.A. Dam-de Jong & J. Stewart, *Illicit Exploitation of Natural Resources* in THE AFRICAN COURT OF JUSTICE AND HUMAN AND PEOPLES' RIGHTS IN CONTEXT: DEVELOPMENT AND CHALLENGES, 590–618 (Charles C. Jalloh et al. eds., Cambridge University Press, 2019).

⁷⁴ Prosecutor v. Blagoje Simic (Trial Chamber), Judgment, October 17, 2003, ICTY-95-9-T, ¶98; Armed Activities, *supra* note 20, ¶243.

⁷⁵ Armed Activities, *supra* note 20, ¶243.

⁷⁶ THE ISRAELI INFORMATION CENTER FOR HUMAN RIGHTS IN THE OCCUPIED TERRITORIES, *Foul Play: Neglect of Wastewater Treatment in the West Bank*, June 2009, available at https://www.btselem.org/publications/summaries/200906_foul_play (Last visited on February 13, 2025).

⁷⁷ *Id.*

⁷⁸ *Id.*

natural gas off the Gaza coast in the West Bank.⁷⁹ These actions amount to pillage as they involve the unauthorised exploitation and appropriation of natural resources in occupied territory for the benefit of the occupying power. Therefore, Israel has violated Article 53 of GC IV.

b. Israel has Committed the War Crime of Pillage Against OT

Apart from an Article 53 violation, it can be argued that Israel has committed an environmental war crime against Palestine. The RS's applicability extends to OT.⁸⁰ While the RS does not offer a precise definition of occupation, in regard to the definition of war crimes, in its "Elements of Crimes" the RS compares occupation situations to armed conflicts. This can be found in Article 8(2)(a) of the RS.⁸¹

Even though Israel is not a party to the RS, the International Criminal Court ('ICC') will still have jurisdiction over international crimes committed in the occupied Palestinian territories. This is because, in January 2015, the State of Palestine acceded to the RS by submitting its instrument of accession to the UN Secretary-General.⁸² Under the RS, the ICC can exercise jurisdiction over crimes committed in the territory of a State Party, even if the alleged perpetrator state, is not a party to the Statute. A similar situation can be seen in Turkey's occupation of Cyprus. Here Turkey, a non-State Party, occupies the territory of Cyprus, a State Party, and the ICC retains jurisdiction over crimes committed in the occupied area.⁸³ Therefore, despite Israel's non-membership, the ICC maintains the authority to investigate and prosecute crimes committed in Palestinian territories.

The RS ensures indirect environmental protection in OT by implementing property regulations. The RS stipulates that any act of extreme destruction and/or appropriation of property not required for absolute military purposes is illegal and constitutes a pillage war crime.⁸⁴ It is also against the law to "destroy or seize the property of the enemy except in cases where the necessities strictly require such action of war".⁸⁵ This is a war crime and a severe violation of the customs that apply to the conflict.⁸⁶ This is exemplified by actions taken during Uganda's occupation of the DRC.⁸⁷

The above-mentioned argument is also supported by the Office of the Prosecutor paper, which states that crimes committed through or leading to the destruction of

⁷⁹ AMNESTY INTERNATIONAL, *Q&A: Israel's Apartheid against Palestinians: Cruel System of Domination and Crime against Humanity*, February 1, 2022, available at <https://www.amnesty.org/en/latest/research/2022/02/qa-israels-apartheid-against-palestinians-cruel-system-of-domination-and-crime-against-humanity/> (Last visited on February 13, 2025).

⁸⁰ Assembly of States Parties to the Rome Statute of the International Criminal Court, September 3–10, 2002, *First Session*, 126, ¶4, U.N. Doc. ICC-ASP/1/3 ('First Session'); EJIL: TALK!, *Territorial Jurisdiction of the International Criminal Court over the Russian leadership: Locus Delicti in Complicity Cases*, March 24, 2022, available at <https://www.ejiltalk.org/territorial-jurisdiction-of-the-international-criminal-court-over-the-russian-leadership-locus-delicti-in-complicity-cases/> (Last visited on February 13, 2025).

⁸¹ First Session, *supra* note 80, 126, ¶4.

⁸² Press Release, INTERNATIONAL CRIMINAL COURT, *The State of Palestine accedes to the Rome Statute*, ICC-ASP-20150107-PR1082, January 7, 2015, available at <https://www.icc-cpi.int/news/state-palestine-accedes-rome-statute> (Last visited on February 11, 2025).

⁸³ Zeynep Erhan Bulut, *The Cyprus Issue and the International Criminal Court*, Vol. 18(72), INT'L RE., 73–86 (2021).

⁸⁴ Rome Statute, Arts. 8 ¶2(a)(iv), ¶2(b)(xiii) ¶2(b)(xvi), ¶2(e)(v); James G. Stewart, *CORPORATE WAR CRIMES: PROSECUTING PILLAGE OF NATURAL RESOURCES* (New York: Open Society Foundations, 2010).

⁸⁵ Rome Statute, Art. 8 ¶(2)(b)(xiii).

⁸⁶ Rome Statute, Art. 8 ¶(2)(b)(xvi).

⁸⁷ Armed Activities, *supra* note 20, ¶243.

protected objects or the environment may be utilised to demonstrate the presence of particular elements when evaluating how criminals are executed.⁸⁸ Through this, the RS strengthened environmental protection through property rights during the occupation by classifying unjustified military property destruction and seizure as the war crime of pillage.

In the present conflict, the Israeli occupation of OT was a contributing factor to the degradation of the region's ecosystems. Specifically, through intentional degradation of natural resources such as deforestation and tree felling, appropriation of agricultural territories, and contamination of groundwater, the OP impeded the indigenous population's ability to benefit from their natural assets.⁸⁹ Each of these policies affected the OT's biodiversity, specifically its vegetation and fauna.⁹⁰ A violation and overexploitation of the natural resources of the OT would probably amount to war crimes, of pillaging.

In addition, the scale and intensity of damage in Gaza from the use of explosives in densely populated areas during the current conflict is unprecedented. By January 2024, more than sixty percent of Gaza's physical infrastructure, excluding the water, sanitation, and hygiene sectors, had been damaged or destroyed.⁹¹ Approximately sixty-two percent of homes, equating to 290,820 housing units, have been affected, while the transport sector has suffered around USD 358 million in damages, impacting sixty-two percent of roads, including ninety-two percent of primary roads, along with a significant portion of vehicles.⁹²

These extensive damages have also facilitated the appropriation of valuable resources and infrastructure under the pretext of military necessity. Such acts, when carried out without justification amount to the war crime of pillage, as they involve the unlawful appropriation or destruction of property during armed conflict. The systematic targeting and exploitation of critical infrastructure highlight a broader pattern of resource exploitation and appropriation in Gaza.

Moreover, since November 2023, the United Nations Environment Programme has estimated that over thirty-nine million tons of debris have been generated — thirteen times the amount produced during previous Gaza conflicts since 2008.⁹³ For every square meter, more than 107 kilograms of debris has accumulated, potentially containing unexploded ordnance, hazardous materials, and human remains. This volume of debris is over five times greater than that produced during the 2017 ISIL conflict in Mosul.⁹⁴ The extensive destruction of housing, rapid debris generation, and high levels of unexploded ordnance contamination

⁸⁸ The Office of the Prosecutor, INTERNATIONAL CRIMINAL COURT, Policy Paper on Case Selection and Prioritisation, September 15, 2016, ¶41, available at https://www.icc-cpi.int/sites/default/files/itemsDocuments/20160915_OTP-Policy_Case-Selection_Eng.pdf (Last visited on February 13, 2025).

⁸⁹ UNITED NATIONS ENVIRONMENT PROGRAMME, *Desk Study on the Environment in the Occupied Palestinian Territories*, 2003, 81, 82, 95, 96, 113–118, available at <https://www.ircwash.org/sites/default/files/UNEP-2003-Desk.pdf> (Last visited on February 13, 2025).

⁹⁰ Human Rights Council, *Report of the Special Rapporteur on the Situation of Human Rights in the Palestinian Territories Occupied Since 1967*, ¶¶47, 61, U.N. Doc. A/HRC/40/73, (May 30, 2019) ('HRC/40/73').

⁹¹ UNITED NATIONS ENVIRONMENT PROGRAMME, *Environmental Impact of the Conflict in Gaza Preliminary Assessment of Environmental Impacts*, 2024, 23, available at https://www.un.org/unispal/wp-content/uploads/2024/06/environmental_impact_conflict_Gaza.pdf (Last visited on February 13, 2025) ('UNEP Report').

⁹² WORLD BANK et al., *Gaza Strip Interim Damage Assessment*, March 29, 2024, 15, available at <https://thedocs.worldbank.org/en/doc/14e309cd34e04e40b90eb19afa7b5d15-0280012024/original/Gaza-Interim-Damage-Assessment-032924-Final.pdf> (Last visited on February 13, 2025).

⁹³ UNEP Report, *supra* note 91, 23.

⁹⁴ *Id.*

underscore the severe environmental impact of the conflict, which may substantiate allegations of environmental war crimes of pillage.

III. PROTECTION OF THE ENVIRONMENT UNDER IHRL TREATIES

The Author will be presenting three arguments in this section. The first argument is based on the Existing Rights framework,⁹⁵ which recognises that environmental degradation can hinder the implementation of human rights such as the right to life. This perspective is supported by the UNHRC's decision in *Portillo Cáceres v. Paraguay*.⁹⁶ Second, environmental degradation hinders the right to health. Third, if the principle of self-determination is not followed, then it will lead to environmental degradation. These three arguments would suggest that the preservation of the environment, which is essential for the full enjoyment of almost all human rights, is seriously threatened by environmental deterioration.

Environmental protection is a fundamental tenet of contemporary human rights, as emphasised by Weeramantry J., in his separate opinion in the *Gabcikovo Nagymaros*.⁹⁷ He asserted that all the human rights guaranteed by the Universal Declaration of Human Rights and other human rights treaties might be undermined by damage to the environment.⁹⁸ Before proceeding with the substance of the argument, the author will prove that IHRL treaties apply extraterritorially during the occupation. This was one of the issues addressed by the ICJ in its advisory opinion *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*.⁹⁹ For this, a twofold argument is presented —

First, the World Court has permitted the extraterritorial application of HR treaties in numerous cases. For example, in *Wall Opinion*,¹⁰⁰ the court examined that the International Covenant on Civil and Political Rights ('ICCPR') would be applied extraterritorially based on its object and purpose. Similarly, in *Armed Activities*, the court followed the principle laid down in the *Wall Opinion* and allowed the extraterritorial applicability of IHRL treaties.¹⁰¹ In this case, the court also upheld the co-applicability of IHRL and IHL in the occupied territory.¹⁰²

Second, Professor Mueller posits that the extraterritorial application of IHRL treaties is contingent upon the clause of the treaty which allows the exercise of jurisdiction.¹⁰³ Jurisdictional clauses generally denote a state exerting authority over both a territory (spatial) and an individual (personal).¹⁰⁴ In such a scenario, IHRL treaties will have extraterritorial applicability.¹⁰⁵ For example, the ICCPR has a stringent jurisdictional clause.¹⁰⁶ The Covenant

⁹⁵ G. Le Moli, *The Human Rights Committee, Environmental Protection and the Right to Life*, Vol. 69(3), INT'L & COMPAR. L. Q., 735–752 (2020).

⁹⁶ *Portillo Cáceres v. Paraguay* (United Nations Human Rights Committee), Ruling, August 9, 2019, CCPR/C/126/D/2751/2016, ¶2.3 ('Portillo').

⁹⁷ *Gabčikovo-Nagymaros Project* (Hungary v. Slovakia), Order, Site Visit, February 5, 1997, I.C.J. Rep. 3, 88.

⁹⁸ *Id.*, 88.

⁹⁹ *Wall Opinion*, *supra* note 19, ¶¶109, 112.

¹⁰⁰ *Id.*

¹⁰¹ *Armed Activities*, *supra* note 20, ¶¶216, 345.

¹⁰² *Id.*

¹⁰³ Yutaka Ara, *Natia Kalandarishvili-Mueller, Occupation and Control in International Humanitarian Law*, Vol. 27(2), J. CONFLICT & SEC. L., 283–291 (2022).

¹⁰⁴ *Id.*

¹⁰⁵ *Id.*

¹⁰⁶ International Covenant on Civil and Political Rights, 999 U.N.T.S. 171 (adopted on 16 December 1966, entered into force on March 23, 1976) Art. 2 ('ICCPR').

requires both “territory” and “jurisdiction” for it to apply extraterritorially. If an ordinary meaning of interpretation is implemented,¹⁰⁷ the extraterritorial applicability of the ICCPR is compromised. The Human Rights Committee (‘HRC’), as a treaty body under the ICCPR, plays a key role in interpreting treaty obligations through its General Comments. In its General Comment No. 31, the HRC expanded the scope of state obligations by offering an “either-or” interpretation, clarifying that States must respect and ensure the rights outlined in the Covenant both within their own territory and, in some cases, beyond it. This interpretation emphasises that states are responsible for ensuring human rights protection in any territory where they have effective control, thereby broadening the application of the ICCPR.¹⁰⁸

In recent times, such expansive interpretation is universally applicable to all HR treaties.¹⁰⁹ Therefore, such treaties do apply in an extraterritorial manner. The following arguments will be based only on the ICCPR and the International Covenant on Economic, Social and Cultural Rights (‘ICESCR’), as Israel has only ratified these human rights (‘HR’) treaties.

A. *THE RIGHT TO LIFE AND ENVIRONMENTAL PROTECTION: OBLIGATIONS UNDER ARTICLE 6 OF THE ICCPR*

Article 6(1) of the ICCPR states that every human’s right to life is intrinsic. No human shall have their life arbitrarily taken away.¹¹⁰ Naturally, the state is forbidden under the right to life from taking the life of an individual.¹¹¹ However, the question in this section pertains to whether this right extends beyond the prohibition of terminating life and encompasses constructive responsibilities on the part of the OP to enhance the Environment within the OT.¹¹² For instance, preventing the contamination of water sources or other natural resources or ensuring the provision of water of decent quality could be obligations of the administration of the OT.¹¹³

The HRC has recognised the correlation between environmental protection and the right to life, as outlined in Article 6 of the ICCPR.¹¹⁴ HRC identified environmental pollution as violating the right to life, mainly affecting agricultural lands and water sources.¹¹⁵ Under the ICCPR, the HRC has stated that states must implement all feasible measures to increase life expectancy to safeguard the right to life.¹¹⁶ Moreover, HRC has consistently

¹⁰⁷ The Vienna Convention on the Law of Treaties, 1155 U.N.T.S. 331 (adopted on May 23, 1969, entered into force on January 27, 1980) Art. 31(b) (‘VCLT’).

¹⁰⁸ Human Rights Committee, *General Comment No. 31 [80] on The Nature of the General Legal Obligation Imposed on States Parties to the Covenant*, ¶10, U.N. Doc. CCPR/C/21/Rev.1/Add.13 (May 26, 2004).

¹⁰⁹ D. Palombo, *Extraterritorial, Universal, or Transnational Human Rights Law?*, Vol. 56(1), ISRAEL L. REV., 92–119 (2023).

¹¹⁰ ICCPR, Art. 6.

¹¹¹ Human Rights Committee, *General Comment No. 36 on Article 6 of the International Covenant on Civil and Political Rights, on the Right to Life*, ¶3, U.N. Doc. CCPR/C/GC/36 (October 30, 2018) (‘GC 36’).

¹¹² Office of the United Nations High Commissioner for Human Rights, *Mapping Human Rights Obligations Relating to the Enjoyment of a Safe, Clean, Healthy and Sustainable Environment: Individual Report on the International Covenant on Civil and Political Rights*, December 2013, Report No.2, ¶39, available at <https://www.ohchr.org/en/special-procedures/sr-environment/mapping-report> (Last visited on February 13, 2025) (‘Mapping Report’).

¹¹³ *Id.*, ¶46; Human Rights Committee (99th Session), *Consideration of Reports Submitted by States Parties under Article 40 of the Covenant*, ¶18, U.N. Doc. CCPR/C/ISR/CO/3 (September 3, 2010).

¹¹⁴ GC 36, *supra* note 111, ¶¶26, 62.

¹¹⁵ Portillo, *supra* note 96, ¶¶7.3–7.5.

¹¹⁶ Human Rights Committee, *General Comment 6, Article 6 (Sixteenth session, 1982), Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies*, U.N. Doc. HRI/GEN/1/Rev.1 ¶5 (1994).

pushed for state-specific environmental and public health initiatives throughout the periodic reporting process, such as provided under Article 40 of the ICCPR.¹¹⁷

HRC asserted in General Comment No. 36 the critical nature of state initiatives to protect the environment, stating that environmental degradation poses an imminent threat to the fundamental right to life of present and future generations.¹¹⁸ Additionally, the OP is obligated to uphold the Covenant and its responsibilities as outlined in IHL.¹¹⁹

Under IHL, OP's must respect and refrain from violating several IHL provisions safeguarding the right to life in occupation. For instance, IHL provisions such as Article 75(2)(a) of the Additional Protocol to the Geneva Conventions relating to the Protection of Victims of International Armed Conflict ('API'),¹²⁰ which is customary IHL,¹²¹ and Article 27(1) of the GC IV¹²² both prohibit the violation of the right to life. The OP's actions against the environment will be considered a violation of these rules. Therefore, the OP, in effective control of OT, is obligated to uphold the corresponding IHL and IHRL safeguards for the right to life.¹²³ In this case, the combined application of IHL and IHRL is significant since it protects people's right to life.

In the present conflict, deterioration of the right to life as a result of environmental degradation may manifest in various ways.¹²⁴ Gaza has been bombarded with white phosphorus by Israel.¹²⁵ It is well known that this substance can cause fatal and grievous damage to animals, humans, and the environment.¹²⁶ The extremely toxic substances used ignite and consume human flesh, contaminate water sources, harm aquatic ecosystems, and degrade soil quality.¹²⁷ This has contributed to the genotoxic effects of pollutants from Israeli industrial settlements on residents of the northern West Bank.¹²⁸ Specialists report that these pollutants cause DNA and chromosome damage, leading to an increase in cases of miscarriage, cancer, and congenital birth defects.¹²⁹ Additionally, air and water pollution in the area has

¹¹⁷ ICCPR, Art. 40; Gabriella Citroni, *The Human Rights Committee and its Role in Interpreting the International Covenant on Civil and Political Rights vis-à-vis States Parties*, EJIL: TALK!, August 28, 2015, available at <https://www.ejiltalk.org/the-human-rights-committee-and-its-role-in-interpreting-the-international-covenant-on-civil-and-political-rights-vis-a-vis-states-parties/> (Last visited on February 13, 2025).

¹¹⁸ GC 36, *supra* note 111, ¶62.

¹¹⁹ Jean-Marie Henckaerts & Louise Doswald-Beck, *CUSTOMARY INTERNATIONAL HUMANITARIAN LAW*, Vol. I (International Committee of the Red Cross, 2005).

¹²⁰ Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of International Armed Conflicts (Protocol I), 1125 U.N.T.S. 3 (adopted on 8 June 1977) 280.

¹²¹ Ghanim Alnajjar, *Human Rights in a Crisis Situation: The Case of Kuwait after Occupation*, Vol. 23(1), HUM. RTS. Q., 209 (2001).

¹²² GC IV, Art. 27(1).

¹²³ Legality of the Threat or Use of Nuclear Weapons, Advisory Opinion, July 8, 1996, I.C.J. Reports 226, ¶¶24, 25.

¹²⁴ HRC/40/73, *supra* note 90, ¶¶7, 9, 10, 11, 26, 28, 56, 60, 61, 62.

¹²⁵ HUMAN RIGHTS WATCH, *Israel: White Phosphorus Used in Gaza, Lebanon*, October 12, 2023, available at <https://www.hrw.org/news/2023/10/12/israel-white-phosphorus-used-gaza-lebanon> (Last visited on February 13, 2025).

¹²⁶ *Id.*

¹²⁷ Mohammed Soulaïman, *Rivers of Sewage, Dirty Water, and Toxic Air: The Environmental Disaster Unfolding in Gaza*, EURONEWS, December 20, 2023, available at <https://www.euronews.com/green/2023/12/20/rivers-of-sewage-dirty-water-and-toxic-air-the-environmental-disaster-unfolding-in-gaza> (Last visited on February 13, 2025).

¹²⁸ K. M. Hammad & M. B. Qumsiyeh, *Genotoxic Effects of Israeli Industrial Pollutants on Residents of Bruqeen Village (Salfit district, Palestine)*, Vol. 70(4), INT'L J. ENV'T STUD., 2 (2013).

¹²⁹ *Id.*, 6.

caused other serious health issues, such as respiratory illnesses and gastrointestinal disorders.¹³⁰

A toxic environment can lead to a rise in birth defects and congenital malformations among newborns and young children, largely due to environmental contamination from toxic chemicals left behind after armed conflict.¹³¹ Exposure to these chemicals during critical stages of child development can alter gene expression, resulting in harmful or even fatal developmental outcomes.¹³² The Committee on the Rights of the Child emphasises that children's right to life is violated when the natural environment is not adequately protected.¹³³ Article 6(1) of the ICCPR recognises the inherent right to life and obliges states to protect it. General Comment No. 36 extends this to environmental protection, emphasizing that degradation poses imminent threats to the right to life of present and future generations, especially in conflict zones, where failure to address such risks constitutes a violation.¹³⁴

The situation for children in Palestine is already dire, as they and their families live amidst violence, poverty, and insecurity. According to the United Nations, 2.1 million Palestinians require humanitarian assistance, nearly half of whom are children.¹³⁵ The introduction of toxic waste into this already challenging environment would only exacerbate their suffering, worsening their health conditions and further undermining their fundamental right to a safe and healthy livelihood.

Consequently, the aforementioned examples would constitute a breach of the right to life as guaranteed in Article 6 of the ICCPR, Article 75(2)(a) of the AP1, and Article 27(1) of the GC IV.

B. ENVIRONMENTAL DEGRADATION AND THE RIGHT TO HEALTH UNDER ICESCR: OBLIGATIONS IN OCCUPIED TERRITORIES

According to Article 12 of the ICESCR, parties must implement all measures to enhance environmental and industrial hygiene. By doing so, it guarantees that every individual is able to experience optimal physical and mental well-being.¹³⁶ The implementation of this standard is perceived as a gradual process rather than an immediate one.¹³⁷ Parties have a specific and continuing obligation to move as expeditiously and effectively as possible towards the progressive realisation of the right to health.¹³⁸ Consequently, the right to health is contingent upon the availability of resources and its progressive realisation.¹³⁹ In essence, a

¹³⁰ *Id.*, 2.

¹³¹ *Id.*, 4.

¹³² *Id.*, 6.

¹³³ Committee on the Rights of the Child, *Report Of The 2016 Day Of General Discussion*, 4, 11, available at <https://www.ohchr.org/sites/default/files/Documents/HRBodies/CRC/Discussions/2016/DGDDoutcomereport-May2017.pdf> (May 2017).

¹³⁴ GC 36, *supra* note 111, ¶¶ 3, 62.

¹³⁵ SAVE THE CHILDREN, *Occupied Palestinian Territory*, available at <https://opt.savethechildren.net/#:~:text=Palestinian%20children%20and%20their%20families,half%20of%20whom%20are%20children> (Last visited on February 13, 2025).

¹³⁶ Committee on Economic, Social and Cultural Rights, *General Comment No. 14 on The Right to the Highest Attainable Standard of Health (Art. 12 of the International Covenant on Economic, Social and Cultural Rights)*, ¶12, U.N. Doc. E/C.12/2000/4 (August 11, 2000) ('GC 14').

¹³⁷ *Id.*, ¶¶30, 31.

¹³⁸ *Id.*, ¶31.

¹³⁹ International Covenant on Economic, Social and Cultural Rights, 993 U.N.T.S. 3 (adopted on December 16, 1966, entry into force on January 3, 1976) Art. 2(1).

developed state is expected to meet a higher standard of performance in terms of resource availability than a developing state.

Within the framework of occupation, the OP is required to employ all viable and easily obtainable resources in its control to guarantee the highest quality of health for the indigenous inhabitants of the OT, while also abiding by the regulations of the occupation.¹⁴⁰ Therefore, the evaluation of what is achievable is contingent upon the availability of resources within a given state.¹⁴¹

As stated by the Committee of ECSR, which monitors compliance with the European Social Charter and provides authoritative interpretations of its provisions, States are obligated to safeguard health through their compliance with legal prohibitions on air, water, and soil pollution, among other measures.¹⁴² In this case, the OP, must create and carry out policies that include measures meant to lessen and eventually eradicate pollution of the air, water, and soil.¹⁴³ The Committee's reading of Article 12(2)(b) and the reference to environmental hygiene make clear the specific environmental responsibility by which nations are bound under the ICESCR.

Therefore the ICESCR encompasses an environmental aspect, specifically with regard to its connection to the full realisation of the right to mental and physical health. This initiative promotes an environment that is both stable and supportive. This emphasises the responsibility of governments to implement all viable measures in order to protect and ensure the well-being of the residents within their jurisdiction. Consequently, situations involving occupation are subject to a similar obligation, on the condition that both the occupying state and the OP are state parties to the ICESCR. This is demonstrated in *Armed Activities*.¹⁴⁴

In the present conflict, due to limitations imposed by Israel, on digging wells, buildings and maintenance of infrastructure related to water and sanitation, the Palestinian population in the West Bank is disproportionately affected.¹⁴⁵ This has been stated by Israel's third periodic report on the current conflict.¹⁴⁶ There are two major health concerns in Gaza.

First, for years, untreated wastewater has been discharged into the Mediterranean, with the volume steadily increasing from 90,000 cubic meters per day in 2012 to 110,000 cubic meters per day by 2018.¹⁴⁷ Over-extraction of groundwater and declining rainfall have further exacerbated the pressure on freshwater resources. By 2020, the Coastal Aquifer's groundwater level had fallen over ten meters below sea level, with seawater intrusion threatening the region's primary water source.¹⁴⁸ These issues are exacerbated by Israel's restrictions on building and maintaining wastewater treatment plants, as well as its control over

¹⁴⁰ Marco Longobardo (2022), "The Duties of Occupying Powers in Relation to the Prevention and Control of Contagious Diseases Through the Interplay between International Humanitarian Law and the Right to Health", *Vanderbilt Journal of Transnational Law* 55, pp.757.

¹⁴¹ Hunt P (2016) "Interpreting the International Right to Health in a Human Rights-Based Approach to Health", *Health Hum Rights*. Dec;18(2):109-130.

¹⁴² GC 14, supra note 136, ¶36 (2003).

¹⁴³ *Id.*

¹⁴⁴ *Armed Activities*, supra note 20, ¶180.

¹⁴⁵ UNITED NATIONS ENVIRONMENT PROGRAMME, *State of Palestine*, available at <https://www.unep.org/state-palestine#:~:text=The%20report%20found%20that%20years,land%20degradation%20adding%20additional%20opressure> (Last visited on February 13, 2025).

¹⁴⁶ *Id.*

¹⁴⁷ UNEP Report, supra note 91, 23.

¹⁴⁸ Khaldoun Abualhin & Samar El-Khuzundar, *The Environmental Impacts of Wastewater Discharge on the Coastal Water Quality in the Gaza Nearshore Region*, Vol. 24, J. AL-AZHAR UNIVERSITY-GAZA (NATURAL SCIENCES), 14–35 (2022).

water infrastructure in the occupied territories, which has prevented Palestinians from addressing these environmental and public health crises effectively.¹⁴⁹ Due to this, clean water is unavailable; people are forced to drink and cook with tainted water, which is more likely to harbour bacteria that can lead to intestinal diseases, such as dysentery and cholera. This, in turn, might lead to an epidemic-like situation.

Second, solid waste management presents additional health risks. The Johr Edeek landfill has exceeded its capacity, leading to fires and waste accumulation, further deteriorating environmental and public health conditions.¹⁵⁰ Infectious medical waste is often not adequately segregated from regular waste, leading to contamination of land and water sources and increasing the risk of disease transmission. In addition, the presence of Israeli settlements further complicates waste management. In Gaza, the situation is more difficult due to the Israeli blockade imposed since 2007,¹⁵¹ which doesn't allow the entry of materials and prevents the development of infrastructure for solid waste, water and electrical power.¹⁵²

These environmental crises pose serious threats to the right to health in Palestine. Therefore, Israel should realise its obligation to health under ICESCR.

C. THE RIGHT TO SELF-DETERMINATION AND ENVIRONMENTAL PROTECTION: VIOLATIONS IN THE OCCUPIED PALESTINIAN TERRITORIES

The UN officially acknowledged self-determination as a principle of international law in 1945, explicitly following Article 1(2) of the UN Charter.¹⁵³ It was formally acknowledged as a human right in ICCPR and ICESCR a few years later.¹⁵⁴ As stated in Article 1 of both Covenants, "All peoples may, for their own ends, freely dispose of their natural wealth and resources". This article highlights that the right to manage and utilise natural resources freely must be exercised in a manner that ensures the satisfaction of basic needs. By guaranteeing this right, the Covenants aim to prevent external forces or exploitative practices from depriving communities of access to essential resources necessary for their subsistence and well-being.¹⁵⁵

ICCPR's Committee has emphasised that damage done to the environment can impede the exercise of Article 1 of the ICCPR, which guarantees the right to self-determination and the unrestricted disposal of natural resources and riches.¹⁵⁶ Furthermore, the Committee has stipulated that exploitation and environmental degradation may violate the obligations under Article 1.¹⁵⁷ In order to understand the correlation between environmental protection and

¹⁴⁹ AMNESTY INTERNATIONAL, *The Occupation of Water: Israel's Control of Palestinian Water Resources*, November 29, 2017, <https://www.amnesty.org/en/latest/campaigns/2017/11/the-occupation-of-water/> (Last visited on February 13, 2025) ('Amnesty').

¹⁵⁰ UNITED NATIONS DEVELOPMENT PROGRAMME, *A Silent Threat: Gaza's Struggle with Solid Waste Management*, March 28, 2024, available at <https://stories.undp.org/a-silent-threat-gazas-struggle-with-solid-waste-management> (Last visited on February 13, 2025).

¹⁵¹ Marta Castillo Sánchez, *Waste Management Challenges in Palestine*, REVOLVE MEDIA, February 9, 2023, available at <https://revolve.media/opinions/waste-management-challenges-in-palestine#:~:text=In%20addition%2C%20the%20presence%20of,waste%2C%20water%20and%20electrical%20power> (Last visited on February 13, 2025).

¹⁵² *Id.*

¹⁵³ Charter of the United Nations (signed on June 26, 1945) Art. 1(2).

¹⁵⁴ Thomas Musgrave, *SELF-DETERMINATION AND NATIONAL MINORITIES*, 62 (Oxford University Press 1997) ('Musgrave').

¹⁵⁵ ICCPR, Art. (1).

¹⁵⁶ Mapping Report, *supra* note 112, 19, ¶33.

¹⁵⁷ *Id.*, ¶¶36, 37.

self-determination, we need to examine three terms — “deprived of”, “freely dispose of”, and “means of subsistence”.

The interpretation of “freely dispose” can be situated within the framework of Article 47 of the ICCPR, which affirms that every individual is entitled to entirely and unrestrictedly benefit from and employ their natural resources and wealth.¹⁵⁸ However, this does not preclude the imposition of restrictions or limitations on utilising natural resources. For instance, ecological considerations must be given due attention while utilising such resources.¹⁵⁹ This reasoning applies to situations involving occupations and the obligations of the OP’s administration in the OT. One could argue that the purpose of the context of Article 1(2) is to warn against unauthorised exploitation by foreign powers, which could violate the covenantal rights of peoples, particularly when it deprives them of their means of subsistence.¹⁶⁰ Additionally, natural resources must be shielded from the environment in order to be disposed of without restriction.¹⁶¹

The term ‘deprived of’ pertains to a circumstance in which external forces undermine the community’s resource foundation.¹⁶² Some argue that when assessing an individual’s right to self-determination, the word “deprived of” is most appropriate.¹⁶³ An example of such could be when a foreign force uses natural resources against the will of the indigenous population and keeps them from reaping the benefits of their usage.¹⁶⁴ Foreign powers, including the occupying power, must ensure that the local populace retains their means of subsistence, including their domains, when exerting effective control over another state’s territory as per Article 1(2).¹⁶⁵

Finally, “means of subsistence” encompasses more than just the resources explicitly associated with human consumption. It must also comprise all essential means that sustain and bolster human existence.¹⁶⁶ Illustratively, mineral resources and water resources, both valuable and finite while constituting a significant portion of the earth’s surface environment, can be sold to generate financial resources in the form of income. Furthermore, they can generate lucrative employment prospects for the indigenous populace, thereby serving as viable sources of livelihood.¹⁶⁷ These resources indisputably represent a significant economic asset for any nation endowed with them.¹⁶⁸

¹⁵⁸ ICCPR, Art. 47; Paul Taylor, *A COMMENTARY ON THE INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS: THE UN HUMAN RIGHTS COMMITTEE’S MONITORING OF ICCPR RIGHTS*, 130–132 (Cambridge University Press, 2020).

¹⁵⁹ Jérémie Gilbert, *Sovereignty, Self-Determination, and Natural Resources: Reclaiming Peoples’ Rights in NATURAL RESOURCES AND HUMAN RIGHTS: AN APPRAISAL* (Oxford University Press, 2018) (‘Gilbert’).

¹⁶⁰ Special Rapporteur of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, *The Right to Self-Determination — Historical and Current Development on the Basis of United Nations Instruments*, 8, U.N. Doc. E/CN.4/Sub.2/404/Rev.1 (1981).

¹⁶¹ Gilbert, *supra* note 159.

¹⁶² Hans Morten Haugen, *The Right to Self-Determination and Natural Resources: The Case of Western Sahara*, *Law*, Vol. 3(1), ENV’T AND DEV. J., 77 (2007) (‘Hans Morten’).

¹⁶³ Leif Wenar & Jeremie Gilbert, *Fighting the Resource Curse: The Rights of Citizens Over Natural Resources*, Vol. 19(2), NW. J. HUM. RTS., 30 (2020).

¹⁶⁴ Hans Morten, *supra* note 162, 77.

¹⁶⁵ *Id.*

¹⁶⁶ Musgrave, *supra* note 154.

¹⁶⁷ Gilbert, *supra* note 159.

¹⁶⁸ *Id.*

In the present conflict, Israel has violated the right to self-determination. Israel has built unlawful structures in the West Bank.¹⁶⁹ These structures violate the right to dignity of the Palestinian people by degrading the environment. Furthermore, this limits their ability to fully and unrestrictedly utilise their resources, especially water supplies.¹⁷⁰

Moreover, the environmental repercussions of the expropriation of lands to make way for Israeli settlements in the West Bank are particularly severe in the areas surrounding these settlements.¹⁷¹ Furthermore, the establishment of settlements in the OT has resulted in the contamination of groundwater sources, primarily as a consequence of the discharge of refuse and effluent water from these settlements onto Palestinian territories and agricultural lands.¹⁷² This has resulted in the contamination and depletion of water and soil, among other natural resources.¹⁷³ Recognising that such actions by the Israeli occupation violate not only its obligations under the IHRL but also Article 49(6) of the GC IV.¹⁷⁴ Moreover, the inability to exercise the right to self-determination may result in restrictions on the free disposal of natural resources.

IV. PROTECTION OF CLIMATE CHANGE UNDER PARIS AGREEMENT

The author here will be analysing the PA and its subsequent obligations to Israel to demonstrate the international legal impacts of this conflict.

Climate legislation, commonly referred to as climate change legislation, encompasses the legal frameworks and policies that provide the foundation for addressing climate change.¹⁷⁵ It is a compilation of multilateral organisations, accords, and principles that aim to promote collaborative endeavours in the fight against climate change. Since its adoption in 1992, the United Nations Framework Convention on Climate Change ('UNFCCC') has been the cornerstone of international climate change law.¹⁷⁶ In addition to climate change adaptation, the UNFCCC establishes general principles and objectives, such as stabilising greenhouse gas concentrations in the atmosphere to minimise human interference with the climate system, which affects it adversely.¹⁷⁷

The 2015 PA, the successor protocol to the UNFCCC, provides a more comprehensive definition of the objective of climate change adaptation.¹⁷⁸ Article 7(9) of the

¹⁶⁹ NORWEGIAN REFUGEE COUNCIL, *West Bank: Israeli Settlement Wastewater Destroys Palestinian Lands and Livelihoods*, March 21, 2024, available at <https://www.nrc.no/news/2024/march/west-bank-israeli-settlement-wastewater-destroys-palestinian-lands-and-livelihoods> (Last visited on February 13, 2025); AL JAZEERA, *Israel Built 2,630 Illegal Homes in West Bank Last Year*, March 22, 2017, available at <https://www.aljazeera.com/news/2017/3/22/israel-built-2630-illegal-homes-in-west-bank-last-year> (Last visited on February 13, 2025).

¹⁷⁰ *Id.*

¹⁷¹ UNITED NATIONS ENVIRONMENT PROGRAMME, *State of Palestine*, available at <https://www.unep.org/state-palestine#:~:text=The%20report%20found%20that%20years,land%20degradation%20adding%20additional%20pressure> (Last visited on February 13, 2025).

¹⁷² Amnesty, *supra* note 149.

¹⁷³ *Id.*

¹⁷⁴ GC IV, Art. 49.

¹⁷⁵ Grantham Research Institute on Climate Change and the Environment, *What Is Climate Change Legislation?*, LSE, October 4, 2022, available at <https://www.lse.ac.uk/granthaminstitute/explainers/what-is-climate-change-legislation/> (Last visited on February 13, 2025).

¹⁷⁶ United Nations Framework Convention on Climate Change, G.A. Res. 48/189, U.N. Doc. A/RES/48/189 (January 20, 1994) ('UNFCCC').

¹⁷⁷ *Id.*, Art. 2.

¹⁷⁸ Paris Agreement to the United Nations Framework Convention on Climate Change, 3156 U.N.T.S. 54113 (adopted on December 12, 2015, entry into force on November 4, 2016) ('PA').

PA, one of its legally binding provisions, mandates that “each party shall, as appropriate, engage in adaptation planning processes and the implementation of actions”.¹⁷⁹ This encompasses the formulation and implementation of nationwide adaptation strategies, evaluation of climate change vulnerabilities and consequences, and fortification of socioeconomic and ecological systems. Under Articles 7(10) and 7(11),¹⁸⁰ States Parties are obligated to provide and revise adaptation communications that comprehensively outline the necessary adjustments and the measures implemented.¹⁸¹ However, issues emerge regarding the applicability of such obligations during an armed conflict, including belligerent occupation.¹⁸²

Over the last ten years, the applicability of international environmental law in conflicts arising from territorial occupations has increasingly been recognised.¹⁸³ The ILC, in its Draft Articles on the Effects of Armed Conflicts on Treaties, specifically Article 7 in conjunction with entry (g) of the annexure, concluded that there is a rebuttable presumption in favour of the applicability of international environmental law in such circumstances.¹⁸⁴ The ILC’s recent Draft Principles on Protection of the Environment in Armed Conflict also deliberated on this interplay between IHL and environmental law.¹⁸⁵ Notwithstanding the presumption of environmental treaty continuity during periods of armed conflict, evaluating the practical feasibility of such treaties necessitates a case-by-case approach.¹⁸⁶ Certain conventions, including the Convention on Wetlands of International Importance, permit their continued application during armed conflict, either explicitly or indirectly.¹⁸⁷ The PA and the UNFCCC, among others, are silent on the subject. However, they still are applicable during times of armed conflict.

The author asserts that PA is applicable during times of occupation. On examining the obligations of the PA and the UNFCCC in light of the factors outlined in Articles 6 and 7 of the ILC’s Draft Articles, it becomes evident that the object and purpose of the treaties, the number of parties involved, and the specifics of the armed conflict — such as the protracted occupation in this instance — are among the key elements to consider.¹⁸⁸ A sizable majority of nations have ratified UNFCCC and the PA; they are intended to address “climate change and its detrimental consequences” as a “common concern of humanity”, and these should be applied to prolonged occupation situations.¹⁸⁹ Voneky argues that treaties that protect a common good in the interest of the state community as a whole remain relevant in times of armed conflict, supporting the UNFCCC regime’s ongoing applicability.¹⁹⁰ Based on this, I

¹⁷⁹ PA, Art. 7(9).

¹⁸⁰ PA, Arts. 7(10), 7(11).

¹⁸¹ *Id.*

¹⁸² R.E. Pezzot, *IHL in the Era of Climate Change: The Application of the UN Climate Change Regime to Belligerent Occupations*, Vol. 105(923), INT’L REV. RED CROSS, 1071–1091 (2023) (‘Pezzot’).

¹⁸³ M. J. Lawrence et al., *The Effects of Modern War and Military Activities on Biodiversity and the Environment*, Vol. 23(4), ENV’T REV., 443–460 (2015).

¹⁸⁴ *Draft Articles on the Effects of Armed Conflicts on Treaties*, Vol. 23(2), Y.B. INT’L L. COMM’N, Art. 7 (2011) (‘Draft Articles’).

¹⁸⁵ International Law Commission, *Provisional Summary Record of the 3504th Meeting*, 15, U.N. Doc. A/CN.4/SR.3504 (October 31, 2019).

¹⁸⁶ Silja Vöneky, *A New Shield for the Environment: Peacetime Treaties as Legal Constraints of Wartime Damage*, Vol. 9(1), REV. EUR. CMTY. & INT’L ENV’T L., 20 (2000) (‘Silja’).

¹⁸⁷ Convention on Wetlands of International Importance especially as Waterfowl Habitat, 996 U.N.T.S. 245 (adopted on February 2, 1971, entry into force on December 21, 1975); M. Wang, *The Unprecedented Ramsar Resolution: Ukrainian Wetlands Protection in Armed Conflict*, Vol. 70, NL INT’L L. REV., 323–357 (2023).

¹⁸⁸ Draft Articles, *supra* note 184, Arts. 6, 7; Pezzot, *supra* note 182.

¹⁸⁹ Pezzot, *supra* note 182, 1085, 1086.

¹⁹⁰ Silja, *supra* note, 186.

will make the following arguments — The following section analyses certain normative components of the PA, with particular emphasis on (i) The degree of determination in the Nationally Determined Contributions (‘NDC’), which are each country’s national plans to reduce emissions and adapt to climate change, regarding mitigation ambition in relation to Articles 2(1)(a) and 4(1); (ii) the normative obligations outlined in Articles 4(3); and (iii) the implementation of domestic mitigation strategies to accomplish the goals outlined in the NDC, as mandated by the second clause of Article 4(2).

A. ISRAEL HAS VIOLATED THE LEVEL OF MITIGATION AMBITION OF 1.5 °C UNDER ARTICLE 2(1)(A)

States must understand their responsibilities under IHL in relation to international environmental law principles and treaties. This argument is consistent with the Preamble of the PA, which states that “Parties should respect, promote, and consider their respective obligations to human rights when undertaking measures to tackle climate change”.¹⁹¹ Moreover, Article 31(2) of the Vienna Convention on the Law of Treaties outlines the treaty interpretation to which this provision applies.¹⁹²

Since the implementation of the PA, there has been deliberation regarding whether the 1.5°C temperature target imposes a legally binding duty on the involved parties.¹⁹³ However, the author argues here that such a standard is legally binding on contracting states. The provision in Article 2(1)(a) of the PA suggests focusing on the 2°C benchmark. Simultaneously, all parties acknowledge that imposing a 1.5°C limit above pre-industrial levels would substantially mitigate the hazards and consequences of climate change.¹⁹⁴ However, it is crucial to remember that Article 2(1) PA seeks to strengthen the global reaction to the peril of climate change by improving the execution of the UNFCCC, including its aim.¹⁹⁵ The object and purpose,¹⁹⁶ as delineated in Article 2 of the UNFCCC, is to prevent perilous human-induced disruptions to the climate system.¹⁹⁷ The UNFCCC’s Subsidiary Body for Scientific and Technological Advice decided in 2015 that the 2°C temperature target contradicted the organisation’s mission, advocating for limiting warming to well below 2°C and, in vulnerable areas and ecosystems, to 1.5°C above pre-industrial levels.¹⁹⁸ Therefore, States must align with the language of Article 2 of PA and conform to the objective set forth by the UNFCCC.

If we focus solely on the PA, the use of the phrase “aims to” in Article 2(1) suggests that the article outlines the purpose of the Agreement rather than imposing a binding legal obligation. Unlike provisions that directly address specific actors such as “Each Party” or “All Parties”, Article 2(1) identifies a collective goal for the Agreement as a whole.¹⁹⁹

Moreover, Article 2 sets out additional overarching goals beyond the temperature target, situating it within the broader context of the Agreement’s purpose.²⁰⁰

¹⁹¹ PA.

¹⁹² VCLT, Art. 31(2).

¹⁹³ Intergovernmental Panel on Climate Change (IPCC), *GLOBAL WARMING OF 1.5°C* (Cambridge University Press, 2022) (‘IPCC Special Report’).

¹⁹⁴ PA, Art. 2(1)(a).

¹⁹⁵ UNFCCC, Art. 2.

¹⁹⁶ VCLT, Art. 31(1).

¹⁹⁷ *Id.*

¹⁹⁸ IPCC Special Report, *supra* note 193.

¹⁹⁹ PA, Art. 2(1).

²⁰⁰ Navraj Singh Ghaleigh, *Paris Agreement, Article 2: Aims Objectives and Principles*, SSRN (2020) available at https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3530991 (Last visited on February 13, 2025).

During negotiations, many developed countries emphasised mitigation, advocating for the temperature limit as the primary goal. However, the final text reflects a more holistic approach, incorporating that each party should try to address climate change comprehensively.

However, under IHL's intersection with environmental law, courts are currently considering this analysis in cases before the European Court of Human Rights.²⁰¹ The courts are delineating the responsibilities of states in implementing preventative measures against a global temperature rise exceeding 1.5°C. This pertains to the Grand Chamber-referred case *Duarte Agostinho v. Portugal*.²⁰² In this case, it is asserted that the state breached Articles 2 and 8 of the ECHR by not taking the proper steps to keep the temperature below 1.5°C as required by Article 2 of the PA.²⁰³ The court held that state parties would be liable if, due to HR violations, the goal set out in Article 2 of the PA is not fulfilled. However, such liability is case-specific.

Therefore, in the present conflict, since 2005, the temperature in the vicinity of Palestine has increased by 1.5°C due to the ongoing conflict.²⁰⁴ Whereas, worldwide temperatures have risen by 1.1°C since the pre-industrial era.²⁰⁵ Around the turn of the century, temperatures are projected to rise by an estimated 4°C.²⁰⁶ A recent study on greenhouse gas emissions from Israel and Gaza ('study') provides stark evidence of the environmental devastation caused by the ongoing conflict, revealing that emissions from just the first 120 days of the conflict exceed the annual emissions of twenty-six countries.²⁰⁷ Israel is responsible for ninety percent of these emissions, while Gaza's limited emissions are derived from fuel, rockets, electricity production, and the transport of humanitarian aid.²⁰⁸

Gaza is especially vulnerable to the climate crisis, with temperatures increasing twenty percent faster than the global average.²⁰⁹ The region, already densely populated and with eighty-five percent of its population displaced, faces compounded challenges from both conflict and climate degradation.²¹⁰ The study categorises emissions from pre-conflict construction, e.g., Hamas' tunnels, Israel's Iron Wall, current war activities, and the future

²⁰¹ EUROPEAN COURT OF HUMAN RIGHTS, *Environment and the European Convention on Human Rights*, available at https://www.echr.coe.int/documents/d/echr/fs_environment_eng (April 2024).

²⁰² *Duarte Agostinho v. Portugal (relinquishment)*, Application No. 39371/20, June 30, 2022 (Eur. Ct. H.R.) ('Agostinho').

²⁰³ *Id.*, ¶25.

²⁰⁴ ISRAEL METEOROLOGICAL SERVICE, *Climate Change in Israel: The Effects of Climate Change on Precipitation and Temperature in Israel*, 2019 Report, https://ims.gov.il/sites/default/files/inline-files/ClimateChangeInIsraelReport_20191128_new_1.pdf (November 28, 2019); Amali Tower, *The Not-So-Hidden Climate Risks for Gaza's Displaced*, CLIMATE REFUGEES, January 11, 2024, available at [https://www.climate-refugees.org/spotlight/2023/1/11/gaza#:~:text=Disease%2C%20starvation%20and%20winter%20weather,miles%20\(365%20sq](https://www.climate-refugees.org/spotlight/2023/1/11/gaza#:~:text=Disease%2C%20starvation%20and%20winter%20weather,miles%20(365%20sq) (Last visited on February 13, 2025).

²⁰⁵ *Id.*

²⁰⁶ *Id.*

²⁰⁷ H. R. Hapgood, *Jet Fuel, Bombs and Concrete: The 60 Million Tonnes of Carbon Generated by Israel's War on Gaza*, EURONEWS, June 7, 2024, available at <https://www.euronews.com/green/2024/06/07/jet-fuel-bombs-and-concrete-the-60-million-tonnes-of-carbon-generated-by-israels-war-on-ga> (Last visited on February 13, 2025); Benjamin Neimark et al., *A Multitemporal Snapshot of Greenhouse Gas Emissions from the Israel-Gaza Conflict*, SSRN (2024), available at <https://ssrn.com/abstract=4684768> (Last visited on February 13, 2025) ('Neimark').

²⁰⁸ *Id.*

²⁰⁹ Amali Tower, *The Not-So-Hidden Climate Risks for Gaza's Displaced*, CLIMATE REFUGEES, January 11, 2024, available at [https://www.climate-refugees.org/spotlight/2023/1/11/gaza#:~:text=Disease%2C%20starvation%20and%20winter%20weather,miles%20\(365%20sq](https://www.climate-refugees.org/spotlight/2023/1/11/gaza#:~:text=Disease%2C%20starvation%20and%20winter%20weather,miles%20(365%20sq) (Last visited on February 13, 2025).

²¹⁰ *Id.*

reconstruction of Gaza's infrastructure.²¹¹ The largest carbon output, between 46.8 and 60 million tonnes of carbon dioxide equivalent ('CO₂e'), is expected from rebuilding efforts — more than the annual emissions of over 135 countries.²¹²

Israel's offensive has severely damaged essential infrastructure, including power plants, roads, water and sewage facilities, and approximately 200,000 buildings.²¹³ Prior to the conflict, twenty-five percent of Gaza's electricity came from solar power, but with much of that capacity destroyed, Gaza now relies on diesel generators, emitting an additional 58,000 tonnes of CO₂e. War-related emissions alone range between 420,265 and 652,552 tonnes of CO₂e., comparable to burning over 1.5 million barrels of oil.²¹⁴ Combined with reconstruction and pre-war activities, total emissions exceed sixty-one million tonnes of CO₂e.²¹⁵

Despite this environmental harm, Israel continues its operations. To date, Israel has dropped 25,000 tonnes of explosives on Gaza, with 29,000 deployed in just the first 120 days.²¹⁶ This is comparable to the 29,199 explosives used by the US in Iraq over the course of an entire year. A significant proportion of the explosives have had a mass of 2,000 pounds, and their effects have been widespread.²¹⁷ Since October 2023, 25,000 tonnes of explosives have been dropped on Gaza, according to one human rights monitor.²¹⁸ In addition to this, Israel has committed violations of the right to life, the right to health, and pillage.²¹⁹

Each of these elements has contributed to the rise in the carbon footprint. As the OP and a party to the Paris Agreement, Israel should take ethical responsibility under the umbrella of the PA and limit its carbon emissions in accordance with its international obligations.

B. ISRAEL HAS VIOLATED THE EXPRESSION OF A DUE DILIGENCE STANDARD UNDER ARTICLE 4(3)

In the PA, "highest possible ambition" is not defined. The provision's negotiating history indicates that there was once a plan to incorporate a specific obligation of due diligence in the terms of the agreement.²²⁰ A Norwegian intervention at a February 2015 UNFCCC meeting in Geneva proposed to include due diligence under the PA.²²¹ However, the stakeholders deemed the explicit reference to "due diligence" (a seemingly higher standard)

²¹¹ Neimark, *supra* note 207.

²¹² *Id.*

²¹³ Nick Clark, *Jet Fuel, Bombs and Concrete: The 60 Million Tonnes of Carbon Generated by Israel's War on Gaza*, EURONEWS, June 7, 2024, available at <https://www.euronews.com/green/2024/06/07/jet-fuel-bombs-and-concrete-the-60-million-tonnes-of-carbon-generated-by-israels-war-on-ga> (Last visited on February 13, 2025).

²¹⁴ *Id.*

²¹⁵ *Id.*

²¹⁶ Tamir Qiblawi et al., *Israel Dropped Hundreds of 2,000-Pound Bombs on Gaza, Analysis Shows*, CNN, December 22, 2023, available at <https://edition.cnn.com/gaza-israel-big-bombs/index.html> (Last visited on February 13, 2025).

²¹⁷ *Id.*

²¹⁸ Hanna Duggal et al., *Israel's Attacks on Gaza: Weapons and Scale of Destruction*, AL JAZEERA, November 9, 2023, available at <https://www.aljazeera.com/news/longform/2023/11/9/israel-attacks-on-gaza-weapons-and-scale-of-destruction> (Last visited on February 13, 2025).

²¹⁹ See *supra* Part III on "Protection of the Environment Under IHRL Treaties".

²²⁰ Christina Voigt, *The Compliance and Implementation Mechanism of the Paris Agreement*, Vol. 25(2), REV. EUR. COMP. AND INT'L ENV'T L., (2016) ('Voigt').

²²¹ *Id.*

unacceptable and dropped it while still acknowledging its valuable underlying significance. The parties incorporated it into the agreement's final text under "highest possible ambition".²²²

It could be argued that Article 4(3) provides a substantive obligation that each party should prepare each subsequent NDC with its best effort.²²³ Although the imperative word "will" carries more significance than the derogatory "should", it in no way constitutes a legally enforceable "shall". Instead, it can be perceived as a benchmark of conduct, an indication of thoroughness, and an indication that each party will employ suitable measures of action.²²⁴

The chapter on international cooperation of the IPCC Working Group III acknowledged this, stating, "Although the Paris Rulebook does not specify or prescribe what constitutes a party's ambition and advancement, these obligations may be construed as a due diligence standard". The term "highest possible ambition" has been defined as a level of ambition that does not impose an undue economic burden or render the attainment of said ambition unattainable.²²⁵

In order to adequately demonstrate their dedication to exerting their utmost effort, parties developing their NDCs conduct a comprehensive assessment of all potential mitigation measures across pertinent sectors.²²⁶ When defining "highest possible ambition", one must also consider the broader ramifications of policies and regulations extending beyond a single nation's confines.²²⁷ For example, a nation highly dependent on oil and gas exports can only assert that it has the most ambitious climate policy objectives if it pays attention to tackling the emissions linked to these exports. In order to establish exhaustive NDC objectives, parties must utilise every accessible political, legal, socio-economic, financial, and institutional resource at their disposal.²²⁸ Furthermore, it is anticipated that parties will harmonise their levels of ambition with their obligations and capabilities while considering the specific conditions in each country.²²⁹ It is important that parties formulate long-term, integrated climate strategies that guarantee adherence to the overarching objective of attaining sustainable levels of greenhouse gas emissions.

In the present conflict, Palestine's NDC submission to the UNFCCC emphasises the substantial obstacles that the Israeli occupation and related policies — illegal settlements, annexation, and the expansion wall — have imposed upon the region.²³⁰ The aforementioned factors significantly undermine Palestine's adaptive capacities, intensifying its vulnerability to climate change. The NDC underscores the significant obstacles that Israel's restrictions present to Palestine's capacity to adjust, specifically the acquisition of novel

²²² *Id.*

²²³ PA, Art. 4(3).

²²⁴ Duncan French & Tim Stephens, INTERNATIONAL LAW ASSOCIATION (ILA), *Study Group on Due Diligence in International Law*, March 7, 2014, available at https://www.ila-hq.org/en_GB/documents/first-report-washington-dc-2014 (Last visited on February 14, 2025).

²²⁵ Phillip Paiement, *Reimagining the Energy Corporation: Milieudefensie and Others v Royal Dutch Shell PLC*, SSRN (2022), available at https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4218965 (Last visited on February 14, 2025).

²²⁶ René Lefeber, *TRANSBOUNDARY ENVIRONMENTAL INTERFERENCE AND THE ORIGIN OF STATE LIABILITY*, 65 (Kluwer Law International, 2015).

²²⁷ Agostinho, *supra* note 202.

²²⁸ PA, Art. 4(19).

²²⁹ *Id.*

²³⁰ W. P. Pauw, *Conditional Nationally Determined Contributions in the Paris Agreement: Foothold for Equity or Achilles Heel?*, Vol. 20(4), CLIMATE POL'Y, 468–484 (2020).

technologies, import-export operations, and the advancement of infrastructure.²³¹ Failure to remove these restrictions could potentially impede Palestine’s ability to acclimatise effectively to the anticipated impacts of climate change. As a result, Israel’s actions present significant obstacles to Palestine’s capacity to formulate and execute the highest possible NDC.²³² Because of the restrictions, Palestine faces significant obstacles in evaluating mitigation alternatives thoroughly, harmonising levels of ambition, and formulating sustainable emission strategies. Constraints on access to resources, technologies, and infrastructure development further impede Palestine’s capacity to tackle climate change effectively.

While it can be counter-argued that the PA primarily focuses on each nation’s individual commitments, meaning Israel’s actions may only act as obstacles rather than a direct breach, the PA also requires states to promote international cooperation and consider human rights when implementing climate action. By imposing significant obstacles to Palestine’s access to resources, technologies, and infrastructure, Israel’s occupation directly hinders Palestine’s capacity to fulfil its NDC. This obstruction can be interpreted as a breach of the overarching objectives of the PA, as it prevents Palestine from contributing to the global effort to combat climate change. Thus, Israel’s actions not only affect Palestine’s ability to meet its obligations but also undermine the collective ambition required under the PA, constituting a breach of the treaty’s spirit and aims.

Therefore, the persistent Israeli occupation and the restrictions it entails present significant obstacles to Palestine’s ability to meet its obligations under the PA and have a substantial impact on international climate initiatives.

C. DOMESTIC MITIGATION MEASURES ARE NOT BEING FULFILLED DUE TO ISRAEL’S OCCUPATION

Parties widely acknowledge the requirement to develop, disseminate, and uphold an NDC, but the extent of their obligation to achieve the goals in their NDCs remains uncertain. This matter was highly contentious during the negotiations for the PA.²³³ The first sentence of Article 4(2) states that “Parties should have intention [...]” The second sentence also says, “Parties shall pursue [...]” These two sentences seem to have settled the argument about the legal status of NDCs.²³⁴ This provision does not impose a result-oriented obligation on any party to execute or accomplish its NDC.²³⁵

The legal requirements of the agreement do not apply to the implementation and fulfilment of NDCs. In order to accomplish the goals outlined in their NDCs, parties must implement domestic mitigation mechanisms as required by the second clause.²³⁶ Furthermore, the argument is that this provision establishes a benchmark for appropriate behaviour. Parties must take appropriate actions, known as “shall”, to achieve the goals outlined in the NDCs,

²³¹ *Id.*

²³² Louis Verchot, *Nationally Determined Contributions to the 2015 Paris Agreement Goals: Transparency in Communications from Developing Country Parties*, Vol. 24(2), CLIMATE POL’Y, 211–227 (2024).

²³³ Joeri Rogelj et al., *Understanding the Origin of Paris Agreement Emission Uncertainties*, Vol. 8 (15748), NAT. COMM’NS, 8 (2017).

²³⁴ PA, Art. 4(2); Lavanya Rajamani & Jutta Brunneé, *The Legality of Downgrading Nationally Determined Contributions under the Paris Agreement: Lessons from the US Disengagement*, Vol. 29(3), J. ENV’T L., 537–551 (2017).

²³⁵ *Id.*

²³⁶ *Id.*

even if they are not legally obligated to do so.²³⁷ States should adhere to this due diligence standard when pursuing measures to attain their NDC.

Ethically, involved parties must implement effective, timely, necessary, and meaningful measures to achieve the intended purpose. This suggests that political and legislative processes and the adoption of regulatory frameworks and laws may be required for the parties to establish, implement, administer, and enforce the NDC's stated objectives.²³⁸ According to Article 4(8), the information that parties must submit when communicating their NDC may indicate expected conduct.²³⁹ This encompasses details regarding implementation strategies, including domestic institutional arrangements, public participation and engagement arrangements, and engagement with indigenous peoples and local communities, if accessible.²⁴⁰

By providing updates on the progress of NDC implementation and achievement in accordance with the enhanced transparency framework, particularly Article 13.7 (b), further clarity is brought to the level of effort that is necessary to ensure the effective implementation and achievement of NDCs.²⁴¹ According to the reporting modalities, procedures, and guidelines, each party must “provide information on legal, institutional, administrative, and procedural arrangements about the achievement of its NDC under Article 4 and domestic implementation, monitoring, reporting, information archiving, and stakeholder engagement”.²⁴²

Moreover, it is imperative that each party provide exhaustive information concerning the actions, policies, and measures that aid in the achievement and implementation of its NDC. Particular attention should be given to sectors and organizations that contribute significantly to greenhouse gas emissions, ensuring transparency and accountability in mitigating climate change.²⁴³ When providing such information, parties must select indicator(s) to track their progress towards implementing and achieving their NDC.²⁴⁴ An unbiased technical expert is required by Article 13(11) to assess the progress made and examine the information in a facilitative multilateral manner.²⁴⁵ It is imperative to recognise that although the PA does not impose any obligation on any party to fulfil its NDC, it does demand that parties furnish information pertaining to the implementation and fulfilment of the NDC.²⁴⁶ The aforementioned particulars shall undergo technical and political scrutiny. Winkler states that there may be cause for concern regarding a party's compliance with its Article 4(2) conduct

²³⁷ *Id.*

²³⁸ Conference of the Parties Serving as the Meeting of the Parties to the Paris Agreement, *Decision 4/CMA.1 on Further Guidance in Relation to the Mitigation Section of Decision 1/CP.21*, 6, ¶4, U.N. Doc FCCC/PA/CMA/2018/3/Add.1 (March 19, 2019) ('UNFCCC Decision').

²³⁹ PA, Art. 4(8).

²⁴⁰ *Id.*; UNFCCC Decision, *supra* note 236, ¶6.

²⁴¹ PA, Art 13(b).

²⁴² Manasvini Vaidyula & Marcia Rocha, *Tracking Progress Towards NDCs and Relevant Linkages Between Articles 4, 6 and 13 of the Paris Agreement*, 7, 18 (OECD/IEA Climate Change Expert Group Papers, Working Paper No. 2018/04, 2018) available at https://www.oecd.org/en/publications/tracking-progress-towards-ndcs-and-relevant-linkages-between-articles-4-6-and-13-of-the-paris-agreement_358aae24-en.html (Last visited on February 14, 2025).

²⁴³ *Id.*

²⁴⁴ Yamide Dagnet et al., 2018. *Setting the Paris Agreement in Motion: Key Requirements for the Implementing Guidelines*, 7 (Washington, DC: Project for Advancing Climate Transparency, Working Paper, August 2018) available at <https://newclimate.org/sites/default/files/2018/08/PACT-Setting-the-Paris-Agreement-in-Motion-Key-Requirements-for-the-Implementing-Guidelines.pdf> (Last visited on February 14, 2025).

²⁴⁵ PA, Art. 13(11).

²⁴⁶ UNFCCC, *Key Aspects of the Paris Agreement*, available at <https://unfccc.int/most-requested/key-aspects-of-the-paris-agreement> (Last visited on February 14, 2025).

duty if the transparency framework results indicate that the party is employing internal methods that do not advance the objectives outlined in its NDC.²⁴⁷ The technical expert evaluation, however, would not account for this.

In order to address the issues of climate change and lower CO2 emissions, Palestine ratified the PA and described its NDCs. International assistance in the form of funding, technology transfer, and capacity building is needed for these NDCs to be met. Nonetheless, Palestine describes two possible endings in its NDCs: one in which Israel continues to occupy Palestine and the other in which Palestine takes independence.²⁴⁸

Palestine covenants to decrease its CO2 emissions by 12.8 percent by 2040, assuming the Israeli occupation continues.²⁴⁹ Despite delineating this scenario, Palestine emphasises that, in its eyes, the occupation is not an acceptable solution. Israel's practices, which include devastation of property and control over water and land resources, impede Palestine's access to arable lands, and restrict access to water, are manifestly detrimental to the effective implementation of Palestine's NDCs.²⁵⁰ Israel's regulation of water resources through the Joint Water Committee hinders the Palestinians' access to essential water sources, complicating the implementation of critical adaptation strategies for enhancing climate resilience.²⁵¹ Moreover, the demolitions and restrictions imposed by Israel exacerbate the challenges that the Palestinians encounter in their pursuit of the NDC's goals.²⁵²

Given the circumstances, it is evident that Israel's discriminatory actions greatly hinder Palestine's capacity to implement the adaptation and mitigation strategies delineated in its NDCs. Such actions undermine Palestine's ability to fulfil its commitments under the PA. This emphasises the necessity of considering the ecological consequences and the broader socio-political elements contributing to the region's susceptibility to climate change.

V. CONCLUSION

Israel often denies committing violations in Gaza to avoid the negative connotations and obligations associated with its status as an occupying power. However, as discussed, Israel's actions constitute violations of IHRL, IHL, and the PA. Given the significant damage inflicted on Gaza's infrastructure, Israel should be held responsible for environmental destruction and violations of the laws of war.

This paper has outlined a framework for applying the law of occupation under IHRL to the protection of the environment during periods of occupation. The Hague Convention IV, the GC IV, and the RS provide key legal foundations for this framework. While these legal instruments may offer indirect protection, they nonetheless impose clear limitations and obligations that an occupying power must observe while administering an occupied territory. By adhering to these obligations, the occupying power can ensure the protection of the environment.

²⁴⁷ Voigt, *supra* note 220.

²⁴⁸ United Nations Framework Convention on Climate Change, *State of Palestine — Nationally Determined Contributions*, 2, 3, available at https://unfccc.int/sites/default/files/NDC/2022-06/State%20of%20Palestine_NDC_SPM.pdf (Last visited on February 14, 2025).

²⁴⁹ *Id.*, 4.

²⁵⁰ Suha Jarrar, AL-HAQ, CLIMATE CHANGE VULNERABILITY IN THE OCCUPIED PALESTINIAN TERRITORY 9 (Al-Haq Publishing, 2019).

²⁵¹ *Id.*

²⁵² *Id.*

The analysis of IHRL in this paper highlights the relationship between human rights treaties and environmental protection in times of occupation. Although treaties such as the ICCPR and ICESCR do not explicitly guarantee an independent right to a clean or healthy environment, they recognise that environmental degradation can severely impact the rights these treaties protect. Human rights bodies, such as the UNHRC, have strengthened environmental protections by ensuring that states uphold their obligations to respect, protect, and fulfil these rights.

Moreover, Israel's failure to adhere to the PA's objectives, particularly the obligation to mitigate climate change impacts, has further aggravated environmental and climate vulnerability in the region. The occupation has led to significant emissions due to conflict and reconstruction efforts, which contravenes global climate commitments under the PA. Israel's actions not only harm the local environment but also undermine global climate objectives, contributing to instability in the region.

Therefore, Israel must be held accountable for its environmental degradation and broader human rights violations. Comprehensive restitution measures and strict adherence to international legal obligations are essential to protect both the environment and the people of Palestine.