

# IHL IN FOCUS: SPOT REPORT

WATER CRISIS IN WAR AND UNDER OCCUPATION: CURRENT  
ISRAELI POLICY AND PRACTICE IN THE OCCUPIED PALESTINIAN  
TERRITORY UNDER INTERNATIONAL HUMANITARIAN LAW



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# DISCLAIMER

This report focuses specifically on Israeli water policy and practice affecting Palestinian populations in the Occupied Palestinian Territory. It does not address water deprivation concerning persons in detention, including Palestinian detainees held by Israeli authorities. Similarly, this analysis does not examine water deprivation by Hamas against Israeli hostages. The author and the Geneva Academy of International Humanitarian Law and Human Rights ('Geneva Academy') consider that the heinous attack of 7 October 2023 by Hamas, the taking of hostages and their detention under inhumane and horrific conditions constitute grave violations of fundamental norms of international law that amount to war crimes and crimes against humanity. If all the relevant legal elements are proven, including the special intent to destroy in whole or in part a protected group as such, they could also amount to genocide. We unequivocally condemn them.

The findings presented are not the result of an investigation conducted according to international legal standards. Instead, they rely on information gathered by researchers from open sources; no testimony, interview data or information was elicited directly from individuals, organizations or states.

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# SHORT REFERENCES AND ABBREVIATIONS

AP I	Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I), 8 June 1977
ARSIWA	International Law Commission, Articles on the Responsibility of States for Internationally Wrongful Acts, reproduced in UNGA Res 56/83, 12 December 2001, annex
CERD	International Convention on the Elimination of All Forms of Racial Discrimination, 21 December 1965
GC IV	Geneva Convention (IV) Relative to the Protection of Civilian Persons in Time of War, 12 August 1949
HR 1907	Regulations Concerning the Laws and Customs of War on Land annexed to the Hague Convention (IV) Respecting the Laws and Customs of War on Land, 18 October 1907
ICC	International Criminal Court
ICJ	International Court of Justice
ICJ, <i>Armed Activities (2005)</i>	ICJ, <i>Armed Activities on the Territory of the Congo (Democratic Republic of the Congo v Uganda)</i> , Judgment, 19 December 2005
ICJ, OPT, AO	ICJ, <i>Legal Consequences arising from the policies and practices of Israel in the Occupied Palestinian Territory, including East Jerusalem</i> , Advisory Opinion, 19 July 2024
ICJ, Wall, AO	ICJ, <i>Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory</i> , Advisory Opinion, 9 July 2004
ICRC	International Committee of the Red Cross
ICRC Customary IHL Study	J.-M. Henckaerts and L. Doswald-Beck (eds), <i>Customary International Humanitarian Law. Volume I: Rules</i> , Cambridge, Cambridge University Press 2005
OCHA	United Nations Office for the Coordination of Humanitarian Affairs
OPT	Occupied Palestinian Territory
UN	United Nations
UNEP	United Nations Environment Programme
UNGA	United Nations General Assembly
UNSC	United Nations Security Council
WAFA	Palestine News and Information Agency

# INTRODUCTION

Israel's control of water in Gaza and the West Bank, occupied by Israel since 1967 (the 'Occupied Palestinian Territory' (OPT)), including its attacks on and demolition of water infrastructure, has been extensively documented. Equally well documented are the dramatic humanitarian consequences of its policy. This report adds information and analysis with a view to underscoring the need for urgent action by states and the international community to bring Israel into conformity with its obligations under international law through ending this 'war on water' against the Palestinians and establishing mechanisms to guarantee reparation for the victims. Such reparation must take into account the serious public health consequences of the water crisis, including its impact on the health and personal dignity of women and girls on account of their particular needs related to menstruation hygiene and cases of pregnancy and breastfeeding. Israel must also address the systemic and discriminatory deprivation of water for everyone living in the OPT, along with the resulting severe environmental harm. The report also calls on all states to take concrete action to uphold international law. It urges them to refrain from recognizing or supporting the unlawful situation created by Israel's conduct, to hold Israel accountable for its internationally wrongful acts and ensure reparation for victims, to prosecute grave breaches under universal jurisdiction, to adopt lawful measures to induce compliance, and to fulfil their obligation under Common Article 1 of the Geneva Conventions to ensure respect for international humanitarian law.

This report draws on diverse sources, including satellite imagery, municipal engineering logs, reports by humanitarian agencies and publicly available military statements. While the relevant legal framework in Palestine also comprises the protection of human rights including the right to self-determination of the Palestinian people, international law on the use of force, as well as international environmental law, this report focuses primarily on applicable norms of international humanitarian law (IHL). These include rules on targeting; the prohibition on starvation; the protection of objects indispensable to civilian survival; the prohibition on pillage; and the duties of an occupying power, including the duty to respect the specific protection, health and assistance needs of women. This report also highlights the legal consequences of these violations, both in terms of Israel's obligation to provide reparation and appropriate remedies to the Palestinian victims, and in terms of individual international criminal responsibility for international crimes linked to Israeli policies of deprivation of water and attacks and demolition of water infrastructure in the OPT.

# THE GAZA STRIP: FROM CHRONIC SCARCITY TO DELIBERATE COLLAPSE

Reports by international non-governmental organizations (NGOs) have already alleged that Israel has been using water as a weapon in its military operations since 7 October 2023.<sup>1</sup> Israel has rebutted these claims, stressing that it has been involved in coordination efforts with humanitarian agencies with a view to maintaining water infrastructure.<sup>2</sup> Recent developments, however, would tend to confirm the most serious concerns expressed in this respect.

## The Blockade and the De-Energising of Desalination Facilities

Before 7 October 2023, the Gaza Strip's water system was already fragile due to difficulties in maintenance and restoration caused by Israel's land, aerial and maritime blockade declared in 2007. The Strip's 2.2 million residents relied on three main sources: an overdrawn and contaminated coastal aquifer; limited transfers via Mekorot pipelines (the Israeli national water company); and desalination plants, all of which depend on electricity or fuel. Together, these sources provided an average of 84.6 litres per capita per day before October 2023.<sup>3</sup>

On 9 October 2023, the Israeli authorities cut off water supply through Mekorot pipelines and suspended fuel and electricity supplies, resulting in disruptions to the operations of desalination plants. Although water pumping subsequently resumed, the amounts were restricted and insufficient to compensate for the shortage caused by energy cuts affecting the desalination facilities.<sup>4</sup> Due to the total closure on goods entry, the repair of damaged infrastructure has become even more challenging.<sup>5</sup>

During the current hostilities, access to safe drinking water in the Gaza Strip has drastically deteriorated due to the stoppage of water supply and damage caused to water infrastructure.<sup>6</sup> On 2 March 2025, Israeli authorities declared a 'total closure' of border crossings, blocking fuel, spare parts and humanitarian convoys. On 9 March 2025, Israeli Energy Minister Eli Cohen directed that power supply to the Gaza Strip from Israel be cut off,<sup>7</sup> negatively affecting a vitally important desalination plant.<sup>8</sup> The impact was immediate.<sup>9</sup> The Gaza Coastal Municipalities Water Utility issued a crisis alert, warning that per capita water access had dropped to between 3 and 5 litres a day – far below the emergency humanitarian threshold of 15 litres a day.<sup>10</sup> A United Nations Children's Fund (UNICEF) official indicated that '600,000 people who had regained access to drinking water in November 2024 are once again cut off'.<sup>11</sup> UN agencies estimated that 1.8 million people were in urgent need of water.<sup>12</sup>

Displacement orders and restrictions on movements also disrupt Palestinians' access to essential services. For instance, on 13 May 2025, an Israel Defence Forces (IDF) displacement order reportedly impacted 'access to four water wells, two wastewater pumping stations, a desalination plant, a stormwater basin'.<sup>13</sup> The United Nations (UN) Office for the Coordination of Humanitarian Affairs (OCHA) reported that 640,000 Palestinians in the Gaza Strip were displaced between 18 March and 3 June 2025.<sup>14</sup>

## Attacks on and Deliberate Destruction of Water Infrastructure

Beyond supply denials, water infrastructure has also been affected because of attacks and apparent acts of deliberate destruction. An analysis of satellite imagery by a team of researchers from Harvard University led them to conclude that over one-third of the water facilities of the Gaza Strip were damaged during the first six weeks of the conflict in 2023.<sup>15</sup> Human Rights Watch (HRW) claims to have identified several incidents in which infrastructure was deliberately destroyed using explosives or bulldozers, while the area was already under IDF control, thus excluding the possibility of incidental destruction in the context of attacks directed at military objectives.<sup>16</sup> HRW also reported about water utility workers being killed by Israeli strikes while they were attempting to repair damaged infrastructure.<sup>17</sup>

Water infrastructure has also been affected because of the resumption of major hostilities since 18 March 2025. For instance, on the night of 3 April, an Israeli airstrike destroyed the Ghabayen desalination plant in a densely populated area of Gaza City, east of Tuffah neighbourhood.<sup>18</sup> The fact that the surrounding buildings were left untouched by the strike suggests that precision-guided munitions were used against the desalination plant. The IDF's own press release cited ground activity in the Shejaiya neighbourhood but did not acknowledge the strike on water facilities.<sup>19</sup> On the basis of available information, it appears that the strike occurred without combat activity by a Palestinian armed group linked to the infrastructure itself.

## Living on Four Buckets: Voices From the Strip

Humanitarian agencies have reported on increasing rates of acute malnutrition.<sup>20</sup> Residents have recounted harrowing stories of deprivation in Jabalia, a city 4 kilometres north of Gaza City, in the North Gaza governorate. A man, who had been displaced from Beit Hanoun, lives under a tarpaulin with his family. 'We are ten souls under nylon – when the pipe opens, we can fill only the baby-bathing tub', he told the Al Mezan Centre for Human Rights, a Palestinian NGO.<sup>21</sup> The BBC reported that 'children have grown used to drinking salty water'.<sup>22</sup> 'We've had stomach pain and diarrhoea, but we put up with it. What do we do? We need to drink. There's no alternative', a father of four in Khan Younis told reporters.<sup>23</sup>

There is also evidence that insufficient access to water results in a greater impact on women and girls. For instance, pregnant women report their reluctance to drink water in order to avoid having to use the dirty and crowded toilets.<sup>24</sup> 'The doctor says I'm dehydrated, and I have to drink more water, but we don't have drinkable water', an expectant mother from Jabalia, living in an overcrowded displacement camp in Rafah, told CBC News in March 2024.<sup>25</sup> She added that she had 'already caught infections and bacteria from the state of the toilets' before.<sup>26</sup> While sanitary pads are in short supply and their price has dramatically increased,<sup>27</sup> many women and girls cannot wash with the required frequency, resulting in the increased spread of infectious diseases and sexually transmitted infections.<sup>28</sup> OCHA reported that '[g]irls describe menstruation as a source of shame, panic and isolation. For many, it marks a time of deep anxiety and distress, particularly in displacement settings where privacy is non-existent'.<sup>29</sup>

These scenes – repeated thousands of times across the Gaza Strip – reflect not incidental disruption but a calculated collapse in the delivery of a vital service.



## Public Health

The destruction of the Gaza Strip's water and sanitation systems is now driving a deepening public-health crisis. By 7 May 2025, Prime Minister of Palestine Mohammad Mustafa declared that the Gaza Strip is in a state of famine, calling on the international community not to 'allow starvation and thirst and water to be used as weapons of war'.<sup>30</sup> On 12 May, the Integrated Food Security Phase Classification (IPC) declared a risk of both famine and critical loss of access to water for most of the civilian population in the coming months if hostilities continued.<sup>31</sup> It also criticized plans for the distribution of humanitarian relief, which it deemed insufficient to meet the humanitarian needs of the population.<sup>32</sup> The State of Israel has criticized the findings of the IPC for their alleged lack of transparency, stressing that the analysis refers 'to future scenarios projected by the IPC that have repeatedly failed to materialize since the start of the war and are based on assumptions that have been proven inaccurate and alarmist time and again'.<sup>33</sup> In light of numerous and concordantly alarming reports, however, it would be wrong to deny the gravity of the humanitarian situation in the Gaza Strip.

Children increasingly suffer from skin conditions caused by insufficient drinking water and lack of appropriate hygiene.<sup>34</sup> According to the World Health Organization (WHO), overcrowding and the collapse of basic infrastructure have led to a sharp rise in acute watery diarrhoea (AWD), bloody diarrhoea and hepatitis A, with more than 6,200 AWD cases recorded in just two weeks in February 2025.<sup>35</sup> With over 85 percent of water and sanitation assets out of service, many families rely on unsafe shallow wells. Microbiological tests have consistently found that a significant portion of the Gaza Strip's water supply, including that from shallow wells, is contaminated with faecal coliforms, posing serious health risks to the population.<sup>36</sup>

These problems affect women and girls in a differentiated way. In a statement published in *The Lancet*, obstetricians stressed the higher needs for water and caloric intake of women who are pregnant or lactating.<sup>37</sup> OCHA noted that '[p]oor menstrual hygiene in emergencies increases the risk of reproductive and urinary tract infections, sexually transmitted infections and long-term gynecological complications, while also increasing exposure to [gender-based violence], harassment and exploitation, and limits women and girl's mobility and access to essential services, compounding their isolation and vulnerability'.<sup>38</sup>

## Environmental Harm

The cumulative environmental consequences of successive armed conflicts in the Gaza Strip are also severe.<sup>39</sup> In 2022, Palestinian authorities reported that 97 percent of groundwater does not meet the WHO standards.<sup>40</sup> A preliminary assessment by the United Nations Environment Programme (UNEP) warned in June 2024 that damage to water and sewage infrastructure and disruptions due to electricity being cut or the absence of fuel had resulted in raw sewage contaminating beaches and potentially infiltrating the Coastal Aquifer.<sup>41</sup> In case of rainfall, UNEP noted that hazardous substances contained in solid waste (including hospital waste and used weaponry), fuel deposits and unprecedented quantities of debris resulting from the destruction of buildings could potentially leach into the porous soil and aquifer.<sup>42</sup>

## Deprivation of Water as a Means of Ethnic Cleansing and Genocide?

Several high-ranking Israeli officials have made statements denoting an intention to use critical services as a means of pressure against the civilian population with a view to coercing people to leave. Early this year, Israeli Minister of Energy and Infrastructure Eli Cohen expressed support for US President Trump's plan to displace Palestinians from the Gaza Strip.<sup>43</sup> On 12 May 2025, he stated that the plan 'remains on the table', and that '[e]fforts to implement [it] are ongoing on the ground'.<sup>44</sup> He also affirmed that '[p]romoting the option of voluntary migration has become a realistic necessity imposed by the current situation in Gaza'.<sup>45</sup>

These statements are not novel. On 27 January 2025, in the context of coalition talks, Itamar Ben Gvir, leader of the political party Otzma Yehudit, who had recently resigned from his position of Minister of National Security,<sup>46</sup> reportedly made the following statement: 'One of our demands from Prime Minister Benjamin Netanyahu is to promote voluntary emigration. When the President of the world's greatest superpower, Trump, personally brings up this idea, it is worth the Israeli government implementing it – promote emigration now!'<sup>47</sup> Ben Gvir was subsequently again appointed as Minister of National Security, from 19 March 2025, suggesting that he had been satisfied that his demands would be met by the government.<sup>48</sup> On 6 May 2025, Heritage Minister Amichay Eliyahu, another member of Otzma Yehudit, reportedly declared that '[t]here is no problem bombing [the] food and fuel reserves [of the people of Gaza]', adding that '[t]hey should starve'.<sup>49</sup>

Although Lieutenant General Eyal Zamir, Chief of the General Staff of the IDF, has reportedly declared that the army will not use starvation as a military tactic,<sup>50</sup> practice suggests otherwise, with actions that have seriously reduced the water supply for the civilian population. This water denial appears to serve as an instrument in policies aimed at forcibly displacing the Palestinian civilian population from parts or all of the Gaza Strip, conduct that may constitute ethnic cleansing. Such displacement policies typically involve composite acts that constitute multiple international crimes, including the deliberate creation of adverse living conditions and forced population transfer. While ethnic cleansing itself is not a distinct legal category under international law, the acts that comprise it – including the deliberate creation of conditions calculated to bring about physical destruction – may overlap with and potentially satisfy the legal elements of genocide, particularly where the requisite specific intent to destroy a protected group, in whole or in part, can be demonstrated.<sup>51</sup>



# THE WEST BANK: AN ENGINEERED INEQUALITY

The ongoing water crisis in the West Bank does not stem from intense military operations, as in the case of the Gaza Strip, but rather from entrenched legal, administrative and physical asymmetries within Israel's occupation and settlement regime. As noted by the International Court of Justice (ICJ) in its 2024 Advisory Opinion (ICJ, *OPT*, AO) these asymmetries are part of a systematic policy of domination, under which Israel has exercised control over all water resources in the West Bank since 1967. Military orders, restrictive permits, and exclusive licensing have subordinated Palestinian water access to that of Israeli settlers – contravening IHL and violating the Palestinian people's right to permanent sovereignty over natural resources (ICJ, *OPT*, AO, paras 127–133). This regime is maintained through discriminatory planning, settler violence and destruction of Palestinian infrastructure, resulting in chronic under-service or outright denial of essential water.

## Planning Regime, Permits and the Aquifer Divide

Water supply in the West Bank depends primarily on groundwater from the Mountain Aquifer.<sup>52</sup> Under Article 40 of the Oslo II Interim Agreement of 1995, water rights were left to be negotiated in the permanent status negotiations and settled in the Permanent Status Agreement, which was never concluded. The result was a temporary management system that meant to last for five years and was said to be based on 'good-will', but was structured around asymmetrical control and a quota – corresponding to approximately 20 percent of the waters pumped from the Mountain Aquifer – allocated to the Palestinian Authority, with the remaining 80 percent allocated for Israeli use.<sup>53</sup> This quota has remained frozen since 1995, despite the Palestinian population more than doubling in size.<sup>54</sup>

Palestinian access to water infrastructure in Area C (which comprises more than 60 percent of the West Bank and remains under full Israeli civil and military control) is subject to a rigid permit regime. Between 2018 and 2023, fewer than 3 percent of Palestinian requests for water-related projects in Area C were approved. A report by Al-Haq documents the exploitation of Palestinian water, a practice that has been institutionalised through public-private partnerships involving Israeli corporations and international investors. These actors extract, commodify and resell water while destroying Palestinian infrastructure and obstructing development.<sup>55</sup>

In its Advisory Opinion, the ICJ found that Israel's arbitrary permit regime, together with the prohibition on accessing vital water sources such as the Jordan River, effectively denies Palestinians the ability to develop and maintain their own water infrastructure (ICJ, *OPT*, AO, para 128). Meanwhile, Israeli settlements enjoy continuous expansion and unrestricted water access, directly subsidized by the State of Israel and supported by Mekorot (ICJ, *OPT*, AO, para 129).

In 2023, per capita water consumption in Israeli settlements averaged 247 litres a day, compared to 82 litres a day for Palestinians – a figure that drops to 26 litres a day in vulnerable Bedouin communities in the Jordan Valley.<sup>56</sup> Israel's permit regime and discriminatory allocation of the Mountain Aquifer constitute a form of 'slow ecological violence' in the words of two commentators,<sup>57</sup> perpetuating decades of unlawful appropriation of natural resources.

## Settler Violence Against Pipes, Springs and Tanks

Violence by Israeli settlers has become a routine mechanism of water deprivation. From January to May 2025, OCHA documented 62 settler attacks on Palestinian water infrastructure, citing, among many others, the following instances:<sup>58</sup>

- In Kisan (Bethlehem), settlers repeatedly vandalised a newly installed a 450-metre water pipe installed by an international NGO, cutting supply to 20 families.
- In Rujib (Nablus), settlers entered private agricultural land, destroying an irrigation well used to sustain 300 olive trees. The destruction was not prevented by nearby Israeli security forces.
- In Hammamat al Maleh (Jordan Valley), the main pipe conveying spring water to the hamlet was severed three times in ten days, forcing residents to buy water from tankers at 20-25 shekels per cubic metre (equivalent to US\$7) – far beyond the reach of most families.<sup>59</sup>

In 2024, 1,760 Palestinian structures, including European Union (EU)-funded structures, were demolished, displacing over 4,250 people.<sup>60</sup> The Norwegian Refugee Council estimated €250,000 in damage to donor-funded aid in the Al-Maleh region alone.<sup>61</sup>

Such acts of vandalism are rarely investigated. Complaints filed with Israeli police by Palestinian landowners are routinely dismissed or ignored (ICJ, *OPT*, AO, paras 151–152). The failure to prevent and punish acts of settler violence, particularly when aimed at sabotaging vital civilian infrastructure, forms part of a broader context in which water becomes an instrument of coercion and control. Such neglect, when paired with the retroactive legalisation of so-called ‘outposts’ under domestic Israeli legislation, and provision of infrastructure by Israeli authorities, including water pipelines (see ICJ, *OPT*, AO, paras 112 and 218), signals not only tacit endorsement but complicity in the denial of essential services to Palestinians.

## Systematic Demolition of Water Infrastructure by Israeli Forces

The systematic demolition of Palestinian properties, including water infrastructure, in the West Bank represents an established pattern, and has been recognized as such by the ICJ (ICJ, *OPT*, AO, para 207). Since 2009, Israeli authorities have demolished nearly 11,000 Palestinian structures across the West Bank and East Jerusalem, with water infrastructure bearing a particularly heavy burden. Among these demolitions, almost 1,000 water, sanitation and hygiene structures were destroyed, alongside more than 3,000 agricultural facilities and 4,500 residential and livelihood structures (ICJ, *OPT*, AO, para 207).

This pattern has continued in 2025. Available open-source evidence thus suggests that on 27 January, in Tulkarm, Israeli forces deployed a modified Caterpillar D9 armoured bulldozer equipped with a rear ripper blade. An eyewitness video shows the vehicle tearing through Jamal Abdel Nasser Square, rupturing a pressurized water main, which bursts and floods the road.<sup>62</sup> Between January and May 2025, a Palestinian news source, the Palestine News and Information Agency (WAFA), reported several Israeli security force-led demolitions of water infrastructure across the West Bank. For instance, WAFA reported that on 24 March, in the southern Hebron hills, the IDF demolished a family home and an adjacent cistern that provided water for five households. The stated rationale was ‘unpermitted construction in Area C’. The family had filed three times for a permit to upgrade the structure, each of which had been rejected without explanation. Reportedly, no warning was issued, and no alternative supply was arranged for the surrounding neighbourhoods.<sup>63</sup> WAFA reported similar incidents in Ein al-Baida,<sup>64</sup> Khirbet al-Deir<sup>65</sup> and Qabatiya.<sup>66</sup>

# INTERNATIONAL HUMANITARIAN LAW ANALYSIS

Several rules of IHL afford protection to water in times of armed conflict. Certain of these rules confer direct protection on objects related to water or the needs of protected persons. These include the prohibition on starvation; the protection conferred on objects indispensable to the survival of the civilian population; the obligation of occupying powers to provide food and ensure hygiene for the population of occupied territories; and related rules on humanitarian relief.

In addition to these rules, other, more general rules may also indirectly confer protection on the human right to water.<sup>67</sup> These include the customary principles governing targeting, including distinction, proportionality in attack and precautions in attack, as well as the rules protecting enemy property against unjustified destruction or seizure, and the duties of parties to international armed conflict to restore and ensure public order in occupied territories. In light of the differentiated impacts of armed conflict on women and girls,<sup>68</sup> the requirement of humane treatment under IHL also requires that parties to armed conflict respect the specific protection, health and assistance needs of women affected by armed conflict (Rule 134 of the ICRC Customary IHL Study; Article 27(3) GC IV).

## Prohibition on Starvation of Civilians as a Method of Warfare

Rule 53 of the ICRC Customary IHL Study prohibits the starvation of civilians as a method of warfare in both international and non-international armed conflicts.<sup>69</sup> This prohibition is also codified in Article 54(1) of the 1977 Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (AP I). While Israel is not a party to this Protocol, it remains bound by the prohibition on starvation under customary international law.

While the term ‘starvation’ primarily connotes food deprivation, the ICJ has clarified that foodstuffs include water (ICJ, *OPT*, AO, para. 124). This interpretation aligns with Article 54(3)(b) AP I, which explicitly recognizes that inadequate water supplies may also cause starvation. This broader understanding likely reflects customary international law. The designation of ‘method of warfare’ entails that only a deliberate denial of food or water qualifies as a violation of the prohibition (as opposed to the inadvertent consequences of other acts). Notably, finding a violation of the prohibition on starvation does not require proof of death; it is sufficient that actions were taken with the specific purpose of denying sustenance to civilians with a view to weakening them.<sup>70</sup>

According to reports in May 2025, people have already died of starvation in the Gaza Strip.<sup>71</sup> Furthermore, the widespread and severe public-health impact – including disease outbreaks and waterborne contamination – underlines the reality that the measures caused actual starvation-like conditions, even if mass death by dehydration and starvation had not yet occurred at the time of writing. The closure of crossings preventing fuel and spare parts, the cutting of power to desalination facilities and the exhaustion of emergency fuel reserves have all contributed to a collapse in the civilian population’s access to safe drinking water – with daily allocations falling to as little as five litres per person or less.

Considering the above-mentioned statements of the Ministers of Energy and Infrastructure and National Security, there is cause to believe that these measures have been imposed with foreseeable knowledge of their humanitarian consequences, in breach of the prohibition on deliberate starvation of civilians.

## Special Protection of Objects Indispensable to Civilian Survival

Rule 54 of the ICRC Customary IHL Study indicates that attacking, destroying, removing or rendering useless objects indispensable to the survival of the civilian population is prohibited. Article 54(2) AP I clarifies that these objects, including water installations, wells, desalination plants and supply networks – enjoy special protection against attack, destruction or acts rendering them useless for the specific purpose of denying their sustenance value to the civilian population.<sup>72</sup> As affirmed by the Eritrea-Ethiopia Claims Commission, knowledge of the essentially civilian use of a water source may suffice to infer a specific purpose to deny sustenance.<sup>73</sup> This protection applies even if the objects serve military purposes, unless they are used by the adverse party as sustenance solely for the members of its armed forces or in direct support of military action. Such objects, however, may never be attacked if the consequence would be ‘to leave the civilian population with such inadequate food or water as to cause its starvation or force its movement’ (Article 54(3) AP I).<sup>74</sup>

Moreover, even if an object is used in direct support of military action and qualifies as a military objective, the principle of proportionality in attack applies.<sup>75</sup> It requires the attacking party to assess the risk that an attack could incidentally cause loss of civilian life, injury to civilians, damage to civilian objects (or a combination thereof) and to abstain from launching an attack if such harm may be expected to be excessive in relation to the concrete and direct military advantage anticipated from the attack (Article 14 ICRC Customary IHL Study). There is growing recognition of the need to take into account the ‘tertiary’, ‘long-term’ or ‘reverberating’ effects of an attack in this context.<sup>76</sup>

Against this framework, the Israeli airstrike on the Ghabayen desalination plant in April 2025, for instance, in the apparent absence of hostile use by the adverse forces and without damage to surrounding structures, suggests a targeted attack against civilian infrastructure, in breach of the prohibition on attacking objects indispensable to the survival of the civilian population and the principle of distinction (Rule 7 of the ICRC Customary IHL Study). In the hypothesis that Hamas fighters would have used the building as a basis for their operations, they would have breached their duty to avoid locating military objectives within or near densely populated areas (Rule 23 of the ICRC Customary IHL Study). However, this would have not liberated Israel from its obligations.<sup>77</sup> Even if evidence of use by Hamas fighters prior to or at the time of the attack were to surface, there would still be reason to believe that the airstrike and resulting complete destruction of the plant breached the absolute prohibition on attacks resulting in starvation or forced displacement. In any case, there are also serious grounds to doubt that the attack complied with the principle of proportionality in attack, considering both the civilian casualties directly caused by the attack and the foreseeably devastating consequences on the population’s access to clean water.

Moreover, as noted by Diakonia, cutting electricity supply to the ‘South Gaza Desalination Plant – a desperately needed source of clean drinking water for the area – may constitute removing or rendering useless objects indispensable for the survival of the civilian population’.<sup>78</sup> Addressing devastations allegedly committed by Israel, the Independent International Commission of Inquiry on the Occupied Palestinian Territory, including East Jerusalem and Israel, affirmed that it ‘destroyed and cleared entire zones and burned houses for no clear military necessity’.<sup>79</sup>

The broader pattern of destruction of water infrastructure, combined with the refusal to admit repair crews and the denial of humanitarian relief, create a cumulative effect. Under IHL, even when certain infrastructure is used to support military action and, as a result, may qualify as a military objective, actions must not be taken that would result in inadequate water access lead-

ing to starvation or forced displacement. The blockade and wide-scale devastation in the Gaza Strip crossed this threshold: they foreseeably and directly caused systemic deprivation in a civilian population unable to flee or seek alternatives. To the extent that the denial of water seeks to coerce Palestinian civilians into leaving the Gaza Strip, it might also amount to a violation of the prohibition on deportation under Article 49 of the 1949 Geneva Convention IV on the Protection of Civilian Persons in Time of War (GC IV),<sup>80</sup> to which Israel is a party.

## The Law of Occupation and Israel's Obligations With Respect to Water in the Occupied Palestinian Territory

The law of occupation, codified in the Regulations Concerning the Laws and Customs of War on Land annexed to the Hague Convention (IV) of 18 October 1907 respecting the Laws and Customs of War on Land (HR 1907) and GC IV (both reflecting customary law), imposes strict obligations on occupying powers to administrate the territory in the interests of the protected population. An occupying power must act as an administrator and usufructuary – not as a sovereign – with respect to land, infrastructure and natural resources, and must respect public and private property, ensure access to essential services and avoid inflicting collective punishment.

Moreover, pursuant to Article 43 HR 1907, an occupying power is under an obligation to 'take all the measures in its power to restore, and ensure, as far as possible, public order and safety' in the occupied area. This entails a duty 'to protect the inhabitants of the occupied territory against acts of violence, and not to tolerate such violence by any third party' (ICJ, *Armed Activities (2005)*, para 178). An occupying power which fails to comply with this positive duty may thus be held responsible for the harm committed by private individuals, in addition to acts directly committed by its armed forces or other organs (ICJ, *Armed Activities (2005)*, para 179).<sup>81</sup>

Israel's occupation of the West Bank and East Jerusalem is governed by IHL applicable to belligerent occupation, as set out in HR 1907 and GC IV (ICJ, *Wall*, AO, para 78; ICJ, *OPT*, AO, para 87). Although Israel is not a party to the 1907 Hague Convention, it is bound by its provisions in so far as they reflect rules of customary international law, as recognized by the Nuremberg International Military Tribunal and the ICJ (ICJ, *Wall*, AO, para 89). Regarding Israel's presence in the Gaza Strip, the ICJ held that, despite its 2005 military withdrawal, 'Israel remained capable of exercising, and continued to exercise, certain key elements of authority over the Gaza Strip' and that, as a result, 'Israel's withdrawal from the Gaza Strip has not entirely released it of its obligations under the law of occupation. Israel's obligations have remained commensurate with the degree of its effective control over the Gaza Strip' (ICJ, *OPT*, AO, paras 93–94).<sup>82</sup> The ICRC shares this position.<sup>83</sup>

Because of its effective control over the flow of the three pipelines supplying water to the Gaza Strip, Israel is clearly bound by the duties of an occupying power in this respect. Moreover, Israel also controls all the borders of the Gaza Strip, including the Rafah Border Crossing with Egypt and the maritime border. Such control triggers a legal responsibility towards the civilian population in case of inadequate supply.

### *Denial of Water in the Gaza Strip: Breaches of Duties Under the Fourth Geneva Convention*

The sustained denial of water access in the Gaza Strip – through blockade, refusal of fuel, targeting of desalination plants and obstruction of maintenance – represents a systematic failure to uphold the following positive obligations imposed on occupying powers by GC IV:

- Article 55 requires the occupying power to ensure the provision of food and medical supplies, including the importation of essentials when local resources are inadequate. As affirmed by the ICJ, the provision of water is integral to this obligation (ICJ, *OPT*, AO, paras 124 and 133).
- Article 56 imposes a duty to prevent the spread of disease, which presupposes that adequate amounts of water are made available for these purposes. The collapse of sanitation and resulting rise in waterborne illnesses, including acute diarrhoea and hepatitis A, indicates a failure to fulfil this duty.
- Article 59 provides that in case of inadequate supply, the occupying power shall allow humanitarian relief schemes undertaken by states or impartial humanitarian organizations and shall facilitate them by all the means at its disposal. The blockade and ongoing restrictions on humanitarian access by UN agencies and international NGOs appear to directly breach this last duty. The obligations incumbent on Israel as an occupying power form an important aspect of ongoing recent ICJ advisory proceedings initiated by the UN General Assembly regarding the obligations of Israel in relation to the presence and activities of the United Nations, other international organizations and third States in relation to the Occupied Palestinian Territory.<sup>84</sup> Even if Israel were not considered an occupying power for the purposes of water supply in the context of obligations resulting from Article 59,<sup>85</sup> the parties to the conflict have a duty to ‘allow and facilitate rapid and unimpeded passage of humanitarian relief for civilians in need, which is impartial in character and conducted without any adverse distinction, subject to their right of control’ (Rule 55 of the ICRC Customary IHL Study).<sup>86</sup> While such relief actions require the consent of the government, there is a general agreement that parties to armed conflict do not enjoy complete discretion in this respect and that ‘arbitrary’ or ‘unlawful’ denial of consent may amount to a violation of IHL.<sup>87</sup> This is particularly relevant if denial of consent leads to starvation of civilians.<sup>88</sup>
- Article 33 prohibits collective punishment. To the extent that the purpose of the blockade is retribution, the blanket denial of services essential for water access in response to the acts of armed groups may constitute collective punishment of the civilian population.<sup>89</sup>

### *Water in the West Bank: Exploitation, Apartheid and Tool for Imposing Demographic Change*

In the West Bank, the occupation is characterized not by siege as in the Gaza Strip but by long-term asymmetrical control and appropriation of natural resources, particularly water. Israel’s actions, including the monopolization of the Mountain Aquifer, discriminatory permit regimes and privileged settler access violate multiple principles of occupation law, in particular:

- Article 55 HR 1907 prohibits the occupier from exploiting natural resources for its own benefit, including to supply colonies established within the occupied territory in breach of Article 49(6) GC IV.<sup>90</sup> The ICJ found that Israel’s diversion of water to settlements and national use exceeds this usufructuary limit (ICJ, *OPT*, AO, para 133). The water quota ascribed to Palestinians in the Oslo II Agreement for a temporary period of five years, but which has remained unchanged since 1995 amidst expanding Israeli water use, constitutes a de facto appropriation of vital resources, resulting in humanitarian deprivation and agricultural collapse (ICJ, *OPT*, AO, para 133).
- Article 46 HR 1907 requires respect for private property in occupied territory and prohibits confiscation (ICJ, *Wall*, AO, para 124). Moreover, Article 53 GC IV provides that ‘[a]ny destruction by the Occupying Power of real or personal property belonging individually or collectively to private persons, or to the state, or to other public authorities, or to social or cooperative organizations, is prohibited, except where such destruction is rendered absolutely necessary by military operations’. The ICJ found that the exception to the prohibition on destruction enshrined in Article 53 did not apply and, thus, could not justify the differentiated treatment granted to Palestinian civilians (ICJ, *OPT*, AO, para 211).



The ICJ's 2024 Advisory Opinion exposed a systematic pattern of discriminatory demolitions targeting Palestinian infrastructure in the occupied territories. In addition to punitive demolitions, it found that demolitions also stem from Israel's discriminatory planning system, which has effectively allocated almost all land in Area C for Israeli settlements, military zones and nature reserves (ICJ, *OPT*, AO, para 214). The Court emphasized the discriminatory nature of this system by contrasting it with the treatment of Israeli settlers, who benefit from extensive retroactive regularization of unpermitted construction rather than demolition (ICJ, *OPT*, AO, para 221).

Structural denial of infrastructure through permit refusals and the destruction of Palestinian water systems, coupled with settler violence against pipes and tanks, demonstrates a governance regime that systematically disadvantages one national group over the other. The ICJ characterized this system – together with other aspects of Israeli practices and policies in the OPT – as amounting to a violation of Article 3 of the International Convention on the Elimination of All Forms of Racial Discrimination (CERD), a provision prohibiting racial segregation and apartheid (ICJ, *OPT*, AO, paras 225–229).<sup>91</sup> It may also be noted that, due to the particular effect of this system on Palestinian women and girls,<sup>92</sup> Israeli practices and policies also amount to a breach of the duty to respect the specific protection, health and assistance needs of women.

## *Pillage of Natural Resources*

Under Article 47 HR 1907 and Article 33(2) GC IV, pillage is absolutely prohibited, including and especially in situations of belligerent occupation (ICJ, *Armed Activities (2005)*, para 245). The prohibition on pillage also applies to the extraction and redirection of public resources – including groundwater and aquifers – when such acts serve commercial or national objectives and are not undertaken for the benefit of the local population. The ICRC Commentary and international jurisprudence establish that systematic economic exploitation of occupied territory may constitute organized pillage.<sup>93</sup> Importantly, pillage does not require direct personal enrichment.<sup>94</sup>

This applies where, as in the West Bank, access to water is mediated through a coercive permit regime, and where Palestinians are forced to buy back their own water at inflated rates from companies such as Mekorot, the Israeli national water provider. The resulting system – denial, dependency and profit – satisfies the legal and material elements of pillage: unlawful appropriation of property. Israel's systematic exploitation of water resources in the West Bank – particularly when directed to serve the needs of illegal settlements – thus constitutes pillage.<sup>95</sup>

In its Advisory Opinion of 19 July 2024, the ICJ held that because it amounts to state policy, the exploitation of natural resources in the Occupied Palestinian Territory, including water, amounts to a breach of the Palestinian people's right to permanent sovereignty over natural resources (ICJ, *OPT*, AO, para 133). The ICJ affirmed that '[i]n depriving the Palestinian people of its enjoyment of the natural resources in the Occupied Palestinian Territory for decades, Israel has impeded the exercise of its right to self-determination' (ICJ, *OPT*, AO, para 240).

## *Environmental Harm and the Law of Occupation*

As mentioned above, under customary international law as codified in Article 55 HR 1907, an occupying power shall be regarded only as administrator and usufructuary of natural resources, not as their owner. It shall 'administer public property for the benefit of the local population or, exceptionally, to meet the needs of the army of occupation' while safeguarding the capital of available natural resources (ICJ, *OPT*, AO, paras 122 and 124). The ICJ emphasized that this limitation carries particular weight regarding water resources, as GC IV explicitly requires occupy-

ing powers to ensure the local population maintains an adequate supply of foodstuffs, including water (ICJ, *OPT*, AO, para 124).

The legal framework extends beyond immediate wartime needs to encompass long-term environmental protection. The ICJ referenced in this context Principle 23 of the 1992 Rio Declaration on Environment and Development, which mandates that ‘the environment and natural resources of people under occupation shall be protected’ (ICJ, *OPT*, AO, para 124). This principle requires sustainable use of natural resources and prohibits environmental harm, establishing that occupying powers cannot exploit resources in ways that would degrade or permanently damage the occupied territory’s natural environment.

These international legal obligations create a comprehensive framework that govern Israel’s water policies in the occupied Palestinian territory. The ICJ’s findings suggest that any Israeli water extraction, allocation or management policies that exceed legitimate needs deprive Palestinians of adequate water access, or cause environmental degradation would violate fundamental principles of international law governing military occupation.

## ISRAEL’S BREACHES AND VICTIMS’ RIGHT TO REPARATION

### The Obligation of Israel to Provide Appropriate Remedies

The attacks against and demolition of water infrastructure, the comprehensive blockade of life-sustaining supplies, such as water, and discriminatory permit regimes described in this report constitute serious violations of IHL and the fundamental human right to water. Under international law, these violations trigger a duty on Israel to make full reparation to affected Palestinians.

The 2005 UN Basic Principles on the Right to a Remedy and Reparation confirm that victims have a right to ‘adequate, effective and prompt reparation’, and that states must provide accessible remedies.<sup>96</sup> In addition, the Basic Principles envisage that states shall ‘ensure that their domestic law is consistent with their international legal obligations by ... (c) Making available adequate, effective, prompt and appropriate remedies, including reparation...; and (d) Ensuring that their domestic law provides at least the same level of protection for victims as that required by their international obligations.’<sup>97</sup> In theory, Palestinian victims may sue the State of Israel in Israeli courts for a tort under the Civil Wrongs (Liability of the State) Law 1952.<sup>98</sup> In practice, success is virtually impossible, especially for residents of the Gaza Strip, because of successive statutory immunities<sup>99</sup> and restrictive jurisprudence.<sup>100</sup> In addition, many families in besieged areas face procedural hurdles, consisting of 60-day notice, a one-year limitation, filing fees and a security bond. In the majority of cases, these families cannot meet deadlines or costs for submitting complaints.

Empirical data bears out the effect. B’Tselem analysed 3,000 Palestinian tort suits (2000–2016): fewer than 4 percent reached judgment and less than 1 percent received compensation (on average 25,000 shekels).<sup>101</sup> A 2023 Adalah/Al Mezan survey recorded no successful claims from the Gaza Strip after Amendment No 8.<sup>102</sup> By denying a practical avenue for restitution or compensation, Israel breaches Principle 12 of the UN Basic Principles and Article 2(3) of the International Covenant on Civil and Political Rights (ICCPR), which binds Israel extraterritorially where it exercises effective control.<sup>103</sup> This constitutes a second-order violation, independent of and compounding the underlying water-related wrongs.

Until the legislation is revised to put it in conformity with Israel’s obligations to provide

appropriate remedies to Palestinian victims, Israel remains in ongoing breach of international law, and Palestinian victims are left to seek alternative fora – such as foreign civil courts, human rights treaty bodies or international claims commissions – to vindicate their right to reparation, with varying prospects of success.

## Civil Actions Before Courts of Other States

In the absence of effective domestic remedies in Israel, Palestinians may pursue tort and human rights claims in courts of other states. Article 33(2) of the 2001 International Law Commission's Articles on State Responsibility for Internationally Wrongful Acts (ARSIWA) preserves the right of individuals to claim reparation for internationally wrongful acts of a state.<sup>104</sup> Victims may attempt to bring tort or human-rights suits abroad against the Government of Israel and its agents before foreign domestic jurisdictions. The 2005 UN Basic Principles provide guidance on forms of reparations, including restitution, compensation, rehabilitation and satisfaction.<sup>105</sup> However, in the absence of a well-established principle of universal civil jurisdiction and due to the hurdles posed by jurisdictional immunities, the prospects of success of such proceedings are rather limited.<sup>106</sup>

In 2006, the UN General Assembly established a Register of Damage Caused by the Construction of the Wall in the Occupied Palestinian Territory '[t]o serve as a record, in documentary form, of the damage caused to all natural and legal persons concerned as a result of the construction of the wall by Israel, the occupying Power, in the Occupied Palestinian Territory, including in and around East Jerusalem'.<sup>107</sup> Until an appropriate forum becomes available, the UN General Assembly would do well to extend the mandate of the Register with a view to including all damage caused by the illegal occupation, including breaches of IHL.<sup>108</sup>

## BREACHES OF PEREMPTORY NORMS AND *ERGA OMNES* OBLIGATIONS AND STATE RESPONSIBILITY

IHL rules affording basic protection to the civilian population are generally qualified as peremptory norms of international law.<sup>109</sup> The ongoing, serious violations of IHL in relation to the human right to water amount to gross and systemic failures by Israel to fulfil its obligations and may thus be qualified as 'serious breaches' of a peremptory norm (Article 40(2) ARSIWA). This obligates all states to cooperate to bring such violations to an end through lawful means (Article 42(1) ARSIWA). They also have a double duty not to recognize as lawful a situation created by a serious breach and not to render aid or assistance in maintaining that situation (Article 42(2) ARSIWA). The existence of this dual obligation has been expressly recognized by the ICJ (ICJ, *OPT*, AO, paras 278–279). In the specific case of the situation created by the water crisis in the OPT, this obligation translates into the specific duty for states not to recognize as lawful the situation created by Israel in violation of its obligations under international humanitarian law and occupation law, and not to render aid or assistance to Israel in maintaining this situation, including in the denial or obstruction of the provision of humanitarian assistance to the Palestinian population.

Moreover, the obligations breached by Israel are of an *erga omnes* character, namely, obligations that protect core community values and are owed to the international community as a whole (ICJ, *OPT*, AO, para 274). Under international law, this entitles any state – and, therefore, not only the injured state, i.e. the State of Palestine – to invoke Israel's responsibility, as codified in Article 48 ARSIWA.<sup>110</sup>

Accordingly, states other than an injured state may:

- call for cessation and non-repetition of the wrongful acts<sup>111</sup>
- claim performance of the obligation of reparation from the responsible state 'in the interest of the injured persons or of the beneficiary of the obligation breached'<sup>112</sup>

In addition, under Article 54 ARSIWA, states other than the injured state can adopt 'lawful measures' to induce the responsible state to comply with its obligations of cessation and to provide reparation. In the situation at stake, lawful measures include so-called acts of retorsion, namely, unfriendly conduct that nevertheless remains within the framework of international legality, such as non-renewal of cooperation agreements with Israel – in particular those that are premised on condition of the respect of human rights and democratic principles in the internal and international policy of the parties. Other forms of 'lawful measures' may consist in the adoption of individualized sanctions (for example travel bans and freezing of assets) against persons allegedly responsible for serious violations of human rights or humanitarian law (so-called Magnitsky-type sanctions),<sup>113</sup> although it is necessary to provide all adequate procedural safeguards for the protection of the right to defense and private property of the designated persons. Lawful measures also include the non-recognition of the situation created by breaches of international law, that in the case of serious breaches of peremptory norms of international law constitutes a specific legal consequence arising from the breach and incumbent on all states other than the wrongdoer.

Acts and omissions constitutive of violations of IHL may simultaneously implicate other bodies of international law – such as CERD and the Genocide Convention. Both instruments contain compromissory clauses allowing disputes to be submitted to the ICJ. Israel has filed a reservation to Article 22 CERD, precluding the jurisdiction of the ICJ in cases involving Israel without the latter's consent. This is not the case for Article IX of the Genocide Convention, which applies and empowers states other than the injured state to demand reparation on behalf of the victims. This avenue is exemplified by the current case on the *Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip (South Africa v Israel)* brought by South Africa against Israel.<sup>114</sup> Palestine, as the directly injured state, may also avail itself of Article 42 ARSIWA to obtain remedy for violations it alleges are taking place in the OPT, as evidenced by the application for permission to intervene in the *South Africa v Israel* case.<sup>115</sup>

## INDIVIDUAL CRIMINAL RESPONSIBILITY

The actions detailed in this report go beyond IHL violations entailing the international responsibility of Israel and the right of Palestinian victims to reparation. They may also trigger individual criminal responsibility under customary international law, the grave breaches regime under GC IV and the Rome Statute of the International Criminal Court. The following paragraphs will refer only to the most relevant provisions of the Rome Statute, considering that the Court has jurisdiction over the situation in the OPT,<sup>116</sup> has already opened an investigation and has issued arrest warrants – including against Hamas leaders for the horrific attack of 7 October 2023. This is without prejudice to the possibility – and, in the case of grave breaches of the Geneva Conventions, the obligation – of initiating domestic criminal proceedings on the basis of the principle of universal jurisdiction.

## War Crimes: Starvation and Wanton Destruction

Under Article 8(2)(b)(xxv) of the Rome Statute, ‘intentionally using starvation of civilians as a method of warfare’ is a war crime in international armed conflict. Article 8(2)(b)(ii) also prohibits attacks on civilian objects not constituting military objectives, and Article 8(2)(b)(iv) applies to ‘[e]xtensive destruction and appropriation of property, not justified by military necessity and carried out unlawfully and wantonly’.

Evidence shows the calculated nature of acts and omissions of Israeli officials: a denial of fuel to desalination plants, precision strikes on infrastructure and obstruction of water convoys. As Israel controls all water entry points – via Mekorot and border crossings – it may be inferred that these are not incidental acts but part of a broader method of warfare that, at a minimum, is indifferent to the fate of the civilian population or, at worse, intentionally causing starvation.

In November 2024, the ICC issued arrest warrants for Prime Minister Netanyahu and former Defence Minister Gallant.<sup>117</sup> Among the allegations are the use of starvation as a method of war and attacks on essential civilian infrastructure – confirming that the ICC sees reasonable grounds for prosecutable war crimes.

Notably, the Pre-Trial Chamber applied the law of international armed conflict to the issue of starvation. Starvation during non-international armed conflict was formally criminalized only via a 2019 amendment to the Rome Statute (Article 8(2)(e)(xix)),<sup>118</sup> which is not yet ratified by Palestine nor binding on Israel. In Resolution 2417 (2018), the UN Security Council underlined ‘that using starvation of civilians as a method of warfare may constitute a war crime’.<sup>119</sup> Together with other elements attesting to state practice and *opinio juris*, this may indicate that there is an emerging consensus on the incrimination as a war crime of starvation of the civilian population as a matter of customary international law.

## Pillage: Exploitation of West Bank Water

Pillage, a war crime under Article 8(2)(b)(xvi) of the Rome Statute, involves the unlawful appropriation of property during armed conflict. Israel’s long-term appropriation of Palestinian water – via military orders, exclusionary permits and Mekorot extraction – violates this prohibition.

The ICJ’s 2024 Advisory Opinion reaffirmed that Israel, as a mere usufructuary, cannot exploit occupied territory for its own benefit. Reports by Al-Haq document how Israel diverts over 90 percent of Eastern Aquifer and Jordan River flows, denying Palestinians access. The report concludes that these acts meet the *mens rea* and *actus reus* of pillage and potentially implicate corporations involved in water-intensive settler agribusiness.<sup>120</sup>

## Crimes Against Humanity and Genocide

Denying water access may amount to crimes against humanity under Article 7 of the Rome Statute, including:

- Article 7(1)(b): murder
- Article 7(1)(b): extermination
- Article 7(1)(k): other inhumane acts causing serious harm
- Article 7(1)(h): persecution through severe deprivation based on identity

These acts, if committed as part of a widespread or systematic attack against a civilian population pursuant to a state or organizational policy, trigger individual criminal responsibility. In the Gaza Strip, official statements about making the territory ‘uninhabitable’ through siege tactics<sup>121</sup> – including water denial – may indicate the existence of a systematic attack by Israel on a civilian population.

Under Article 6(c) of the Rome Statute, a provision that incorporates the definition enshrined in Article II(c) of the Genocide Convention, genocide includes ‘deliberately inflicting conditions of life calculated to bring about a group’s physical destruction’. Intentionally depriving a national or ethnic group of water meets this standard and can amount to genocide if committed with the intent to destroy the group as such, in whole or in part (‘genocidal intent’). The ICC’s Darfur case illustrates this logic: the deliberate contamination of water wells was a key element of a genocidal campaign.<sup>122</sup> Similar evidence is emerging in the Gaza Strip, though establishing the genocidal intent of those who may be charged with such crimes will always remain legally and evidentially demanding.

## CONCLUSION

The deliberate, prolonged and multifaceted deprivation of water in the OPT represents not only a pattern of IHL violations but a collapse of the international community’s commitment to enforce its most basic norms.

In the *South Africa v Israel* case, the ICJ has issued landmark orders of provisional measures, which demanded Israel, among others, ensure unhindered humanitarian aid and keep the Rafah Border Crossing operational to address the Gaza Strip’s catastrophic conditions, including severe water shortages.<sup>123</sup> Despite these binding rulings, Israel’s compliance has been critically insufficient. Numerous reports reveal that water access remains severely restricted, with only a fraction of pre-war aid levels reaching those in need. The destruction of infrastructure in Rafah, where Israel’s military operations levelled entire neighbourhoods and disrupted pipelines, exacerbated the crisis, leaving residents to rely on contaminated wells or unsafe water sources. By May 2025, despite sporadic aid truck entries, distribution bottlenecks and ongoing blockades meant that clean water rarely reached those in need, with UN officials noting that ‘none of this aid has reached the Gaza population’. The ICJ’s repeated interventions underscore the urgency of the situation, yet Israel’s failure to dismantle barriers to water access – coupled with its continued military actions in Rafah, which further destabilized humanitarian corridors – demonstrates a systemic disregard for the Court’s binding measures and the escalating human toll of its policies.

Meanwhile, the ICC has taken steps by issuing arrest warrants in November 2024 for Prime Minister Netanyahu and former Defence Minister Gallant. These charges include starvation as a method of warfare – recognising the gravity of water-related violations as prosecutable international crimes.

The international community stands at a critical juncture. The international legal framework – fortified and vindicated by ICJ orders indicating provisional measures and ICC prosecutions – exists. However, its credibility depends on enforcement, which in turn depends on states’ actions under international law. Delay denies justice to Palestinians and signals to others potential wrongdoers that weaponizing and deliberate deprivation of water resources can be done with no harmful consequences.

Therefore, it is time for states to act as defenders of the legal order. The ICJ, in finding that Israeli policies violate GC IV and based on the duty under Common Article 1 of the Geneva



Conventions to ensure respect for the Conventions, underscored that states parties must ‘ensure compliance by Israel with international humanitarian law as embodied in that Convention’ (ICJ, *OPT*, AO, para 279). Common Article 1 is not aspirational. It imposes not only a duty on states to respect IHL themselves, but also to take measures with a view to ensuring respect by other states (ICJ, *Wall*, AO, para 158).<sup>124</sup> Translating these obligations into concrete action remains vital to reinforcing respect for IHL in today’s armed conflicts and situations of military occupation.

As reaffirmed in the recent 2025 joint statement by the United Kingdom, France and Canada, ‘Israel must facilitate unhindered humanitarian access in Gaza’ – including water – as an urgent legal and moral imperative.<sup>125</sup> These commitments echo and reinforce Common Article 1 duties and must be followed by sustained pressure and robust support for enforcement.<sup>126</sup> Only through determined and coordinated action can the cycle of deprivation, domination and destruction be broken.

# END NOTES

*Nota bene:* All website links referenced in the endnotes were last accessed on 10 June 2025.

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75 See M. Sassòli, *International Humanitarian Law: Rules, Controversies, and Solutions to Problems Arising in Warfare*, 2nd edn, Cheltenham, Edward Elgar Publishing, 2024, p 630, para 10.230.

76 See UNICEF, *supra* 39, p 8–9; UNSC Res 2573 (2021), 27 April 2021, operative para 1; Political Declaration on Strengthening the Protection of Civilians from the Humanitarian Consequences Arising from the Use of Explosive Weapons in Populated Areas, Dublin, 18 November 2022, para 1.4, <https://bit.ly/43QqvOq>.

77 See Independent International Commission of Inquiry, *supra* 6, para 91.

78 Diakonia, International Humanitarian Law Centre, *Renewed Hostilities in Gaza*, Jerusalem, 20 March 2025, p 8, <https://bit.ly/4mN6wJ4>.

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85 The Israeli Government's position is that Israel lacks effective control over Gaza since its 2005 withdrawal. See Statement of the State of Israel pursuant to the Court's Order of 23 December 2024 relating to the Advisory Proceedings initiated by General Assembly Resolution 79/232, 28 February 2025, <https://bit.ly/43MyBrc>, para 84. In a recent judgment, Israel's Supreme Court was also of the view that the law of belligerent occupation does not apply in Gaza due to the lack of sufficient control by the IDF over the territory and the ability of Hamas-controlled authorities to exercise their authority therein. See *Israel Supreme Court Sitting as the High Court of Justice, Gisha – Legal Centre for Freedom of Movement and Others v The Government of Israel and Others*, Judgment, HCJ 2280/24, 27 March 2025, <https://bit.ly/43QVwBX>, paras 20–44 (unofficial translation by Gisha).

86 See also art 23 GC IV and art 70 AP I (which broadens the scope of aid recipients). Israel's Government accepts the customary character of 'the core of Article 70 AP I' (*ibid*, para 17). See also ICJ, *Genocide (South Africa v Israel)*, Order (Provisional Measures), 28 March 2024, Separate Opinion of Judge ad hoc Barak, para 30, mentioning 'Israel's obligations under international humanitarian law, if interpreted in light of Article 23 of the Fourth Geneva Convention and the applicable customary international law'.

87 See UNSC Res 2417 (2018), 24 May 2018, operative para 4; D. Akande and E.-C. Gillard, *Oxford Guidance on the Law Relating to Humanitarian Relief Operations in Situations of Armed Conflict* Commissioned by the United Nations Office for the Coordination of Humanitarian Affairs, Oxford, University of Oxford; New York, OCHA, 2016, p 21–25, <https://bit.ly/3Hrte9x>.

88 UNSC Res 2573 (2021), 27 April 2021, para 5: 'Strongly condemns the unlawful denial of humanitarian access and depriving civilians of objects indispensable to their survival in situations of armed conflict, as well as the misuse of objects indispensable to the survival of the civilian population in violation of international law by all parties to armed conflict'. See also 'The Obligation to Permit the Entry of Humanitarian Aid into Gaza', letter addressed by Israeli lecturers of international law to Lieutenant General Eyal Zamir, IDF Chief of the General Staff, 4 May 2025, p 5, <https://bit.ly/3SCVQ1R>.

89 See Report of the Independent International Commission of Inquiry on the Occupied Palestinian Territory, including East Jerusalem, and Israel, UN Doc A/HRC/56/26, 14 June 2024, para 50; Report of the Independent International Commission of Inquiry on the Occupied Palestinian Territory, including East Jerusalem, and Israel, UN Doc A/79/232, 11 September 2024, para 89.

90 See ICJ, *OPT*, AO, para 119; ICJ, *Wall*, AO, para 120 and references to relevant UN Security Council resolutions. For the most recent resolution by the UN Security Council, see UNSC Res 2334 (2016), 23 December 2016, operative paras 1–3.

91 A difficulty with the application of the concept of apartheid is that it is neither spelled out in art 3 CERD nor in art 85(4)(c) AP I and there is no generally agreed-upon definition. The definitions enshrined in the Rome Statute and in the 1976 International Convention on the Suppression and Punishment of the Crime of Apartheid differ from one another. Israel is a party to neither of these instruments. While the ICJ left the question open of whether Israel's policies and practices amounted to racial segregation, apartheid or both, other UN organs have explicitly qualified it as 'racial segregation', including the Human Rights Committee (Concluding Observations on the 5th periodic report of Israel, UN Doc CCPR/C/ISR/CO/5, 5 May 2022, para 42), the CERD Committee (Committee on the Elimination of Racial Discrimination,



Concluding Observations on the combined 17th to 19th reports of Israel, UN Doc CERD/C/ISR/CO/17-19, 27 January 2020, para 23) and its ad hoc Conciliation Commission (Findings and Recommendations: Report of the Ad Hoc Conciliation Commission on the Inter-State Communication Submitted by the State of Palestine Against Israel Under Article 11 of the International Convention on the Elimination of All Forms of Racial Discrimination, UN Doc CERD/C/113/3, 21 August 2024, para 48). Other UN organs and numerous NGOs qualify Israel's practices and policies as apartheid, including the UN Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories (Report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories, UN Doc A/79/363, 20 September 2024, para 70); the UN Human Rights Council Special Rapporteur (Report of the Special Rapporteur on the Situation of Human Rights in the Palestinian Territories Occupied since 1967, Francesca Albanese: Genocide as colonial erasure, UN Doc A/79/384, 1 October 2024, para 83).

92 See ICJ, OPT, AO, Declaration of Judge Charlesworth, para 6, referring to 'discrimination on multiple and potentially intersecting grounds'.

93 Trial of the Major War Criminals Before the International Military Tribunal, Nuremberg, 14 November 1945 – 1 October 1946, vol I, International Military Tribunal, 1947, p 295; J. Pictet (ed), The Geneva Conventions of 12 August 1949: Commentary – IV Geneva Convention Relative to the Protection of Civilian Persons in Time of War, Geneva, International Committee of the Red Cross, 1958, p 226–227; Pilloud et al, supra 70, para 4542; ICTY, The Prosecutor v Zejnir Delalić and Others, Trial Chamber, Judgment, 16 November 1998, IT-96-21-T, para 590.

94 Special Court for Sierra Leone (SCSL), Prosecutor v Brima and Others, Trial Chamber, Judgment, 20 June 2007, SCSL-04-16-T, para 754.

95 See Al-Haq, supra 55, p 91.

96 UNGA Res 60/147, Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law, 21 March 2006, para 2(c).

97 Ibid, para 2.

98 Civil Wrongs (Liability of the State) Law (1952), unofficial English translation provided by HaMoked: Centre for the Defence of the Individual, [https://hamoked.org/files/2016/9085\\_eng.pdf](https://hamoked.org/files/2016/9085_eng.pdf).

99 Sec 5 of the Civil Wrongs Law bars liability for any act committed 'in the course of a war operation' (the so-called 'War-operation' exception). Sec 5B, as amended in 2012 by Amendment no 8, excludes all claims brought by residents of 'enemy territory' ('enemy-territory' amendments). The Gaza Strip was declared enemy territory by a decision of the Ministerial Committee on National Security Affairs in the context of operation 'Protective Edge', in July 2014. See 'Declaration of the Gaza Strip as "Enemy Territory" According to the Civil Wrongs (State Liability) Law, 5712-1952', Hamoked, 2015, [https://hamoked.org/files/2015/1159681\\_eng.pdf](https://hamoked.org/files/2015/1159681_eng.pdf).

100 Israeli Supreme Court, Civil Appeal 993/19 Anonymous [Attiya Nabahin] v Israeli Defence Ministry, 5 July 2022, English translation of Court released summary, <https://bit.ly/4krGjyh>, where the Court re-affirmed that virtually every IDF act in Gaza is 'closely linked to hostilities', thereby effectively reinstating blanket immunity. For analysis and

criticism of the decision, see Adalah and Al Mezan Centre for Human Rights, 'Analysis of Israeli Supreme Court Decision: Israel's Self-Granted Immunity from Civil Liability for the Killing and Injuring of Palestinians in Gaza: The Case of Attiya Fathi al-Nabaheen', Adalah, July 2023, <https://bit.ly/3T6E9rx>; Y. Mordecai, 'When the Cannons Roar, Tort Laws Are Silent? A Re-Examination of Section 5B of the Civil Wrongs (Liability of the State) Law', 56 Israel Law Review 1 (2023) 41.

101 B'Tselem, *Getting Off Scot-Free: Israel's Refusal to Compensate Palestinians*, Report, 2017, p 7–8, [https://www.btselem.org/download/201703\\_getting\\_off\\_scot\\_free\\_eng.pdf](https://www.btselem.org/download/201703_getting_off_scot_free_eng.pdf).

102 Adalah and Al Mezan Centre for Human Rights, supra 100.

103 Human Rights Committee, *General Comment no 31: The Nature of the General Legal Obligation Imposed on States Parties to the Covenant*, 26 May 2004, UN Doc CCPR/C/21/Rev.1/Add.13, para 15.

104 UNGA Res 56/83. Responsibility of States for Internationally Wrongful Acts, 12 December 2001.

105 UNGA Res 60/147, 21 March 2006, *passim*.

106 See Institut de droit international, 'Resolution on Universal Civil Jurisdiction with Regard to Reparation for International Crimes', adopted at the Tallinn Session in 2015, 76 Yearbook of Institute of International Law (2015) 265–266, art 2(1): 'A court should exercise jurisdiction over claims for reparation by victims provided that ... (b) even though one or more other states have ... stronger connections [with the claim], such victims do not have available remedies in the courts of any such other state.' Art 5 affirms that '[t]he immunity of states should not deprive victims of their right to reparation' (ibid).

107 UNGA Res ES-10/17, 15 December 2006, para 3.

108 See ICJ, OPT, AO, Individual Opinion of Judge Tladi, 19 July 2024, para 60; M. Lattimer, 'Toward an International Register of Damage for the Occupation of Palestinian Territory', Just Security, 1 August 2024, <https://bit.ly/4kQNHmw>. See also UNGA Res ES-10/24, 18 September 2024, para 10.

109 See e.g. ILC, Report of the International Law Commission: 73rd session (18 April–3 June and 4 July–5 August 2022), UN Doc A/77/10, 2022, p 89, mentioning 'basic rules of international humanitarian law' among the peremptory norms of international law.

110 ICJ, Application of the Convention on the Prevention and Punishment of the Crime of Genocide (The Gambia v Myanmar), Judgment (Preliminary Objections), 22 July 2022, para 112.

111 Art 48(2)(a) ARSIWA.

112 Art 48(2)(b) ARSIWA.

113 UNGA Res ES-10/24, 18 September 2024, para 5(c).

114 See ICJ, Genocide (South Africa v Israel), Order (Provisional Measures), 26 January 2024, paras 31 and 34.

115 See ICJ, Application for permission to intervene and declaration of intervention submitted by Palestine, 3 June 2024, <https://bit.ly/3HGDDaT>,



para 26. The ICJ has not yet ruled on the admissibility of this application.

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116 ICC, Situation in the State of Palestine, Decision on the 'Prosecution request pursuant to article 19(3) for a ruling on the Court's territorial jurisdiction in Palestine', Pre-Trial Chamber I, 5 February 2021, ICC-01/18, p 60.

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117 ICC, *supra* 69.

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118 See UN, 'Depositary Notification: Amendment to Article 8 of the Rome Statute of the International Criminal Court (Intentionally Using Starvation of Civilians), The Hague, 6 December 2019', C.N.394.2020.TREATIES-XVIII.10.g, 15 September 2020, <https://bit.ly/4kLqS3r>. According to the first sentence of art 121(5) of the Rome Statute, 'Any amendment to articles 5, 6, 7 and 8 of this Statute shall enter into force for those States Parties which have accepted the amendment one year after the deposit of their instruments of ratification or acceptance.'

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119 UNSC Res 2417 (2018), 24 May 2018, p 2, para of the Preamble. See also UNSC Res 2573 (2021), 27 April 2021, para 4.

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120 Al-Haq, *supra* 55, p 91.

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121 See e.g. Amnesty International, 'You Feel Like Uou Are Subhuman': Israel's Genocide against Palestinians in Gaza, London, 5 December 2024, p 264, <https://bit.ly/4kPCHFN>.

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122 See ICC, Prosecutor v Omar Hassan Ahmad al Bashir, Second Warrant of Arrest for Omar Hassan Ahmad Al Bashi, Pre-Trial Chamber I, 12 July 2010, ICC-02/05-01/09, p 7–8.

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123 ICJ, Genocide (South Africa v Israel), Order (Provisional Measures), 26 January 2024, para 86(4); ICJ, Genocide (South Africa v Israel), Order (Provisional Measures), 28 March 2024, paras 51(1) and (2); ICJ, Genocide (South Africa v Israel), Order (Provisional Measures), 24 May 2024, para 57(2)(b).

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124 See also ICJ, Alleged Breaches of Certain International Obligations in Respect of the Occupied Palestinian Territory (Nicaragua v Germany), Order (Provisional Measures), 30 April 2024, para 23.

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125 Prime Minister's Office, 'Joint statement from the leaders of the United Kingdom, France and Canada on the situation in Gaza and the West Bank', Gov.uk, 19 May 2025, <https://bit.ly/4ktdvp2>.

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126 See Position Paper of the United Nations Independent International Commission of Inquiry on the Occupied Palestinian Territory, Including East Jerusalem, and Israel: Legal analysis and recommendations on implementation of the International Court of Justice, Advisory Opinion, 18 October 2024, para 35, <https://bit.ly/4mDlgtU>: 'States must review their domestic laws and examine all potential accountability options, such as targeted sanctions regimes, especially sanctions with respect to human rights violations.'

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