



An-Najah National University
Faculty of Graduate Studies

**WEAPONIZING WATER: ISRAEL'S USE OF
WATER AS A TOOL OF AGGRESSION ON
GAZA IN 2023**

By
Nourhan Khair Al-Din Barahmeh

Supervisors
Dr. Majd Odeh
Dr. Ahmed Beshtawi

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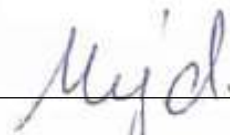
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This Thesis was Defended Successfully on 07/01/2026 and approved by

Dr. Majd Owda

Supervisor



Signature

Dr. Ahmad Beshtawi

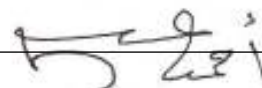
Co-Supervisor



Signature

Dr. Ahmad Abu Jaafar

External Examiner



Signature

Dr. Joni Aasi

Internal Examiner



Signature

Dedication

To my beloved parents, whose steadfast faith and sacrifices lit every step of my path.

To my partner, whose unwavering support and understanding gave meaning to perseverance.

To my family and Friends, for their patience, love, and quiet strength through every long night of writing.

And to the people of Gaza, whose endurance amid unimaginable hardship is a testament to human dignity and the unyielding pursuit of justice.

This work is for you, a small contribution to the truth, written in the hope that the law will one day serve humanity as it was meant to.

Acknowledgment

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My sincere appreciation extends to the academic staff of the Faculty of Law and Political Science at An-Najah National University, whose teaching and discussions greatly enriched my understanding of international law and its human dimensions.

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Finally, I am deeply thankful to my partner, family, and friends for their unwavering support, patience, and faith in me throughout this journey.

Declaration

I, the undersigned, declare that I submitted the thesis entitled:

WEAPONIZING WATER: ISRAEL'S USE OF WATER AS A TOOL OF AGGRESSION ON GAZA IN 2023

I declare that the work provided in this thesis, unless otherwise referenced, is the researcher's own work, and has not been submitted elsewhere for any other degree or qualification.

Student's Name: Nourhan Khair Al-Din Barahmeh

Signature: Nourhan Barahmeh

Date: 7/1/2026

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Abstract

This thesis examines the weaponization of water in the latest aggression on the Gaza Strip which Israel used as a deliberate and systematic policy of warfare and control. The thesis would be examining this policy by evaluating water weaponization's legality under “International Humanitarian Law (IHL)”, “International Human Rights Law (IHRL)”, and international criminal law. The thesis will address a main question, which is to what extent do Israeli practices targeting Gaza’s water infrastructure constitute violations of international law, and could they amount to “international crimes such as war crimes or genocide?” The thesis will also examine how the systematic deprivation of access to water through the destruction of infrastructure, and the deprivation of fuel and electricity, and the obstruction of humanitarian aid, all together, can affect the survival and dignity of civilians. It also seeks to determine the scope of Israel’s obligations as an occupying power and whether such practices breach the prohibitions on collective punishment and the protection of essential civilian resources. The thesis uses a qualitative legal analysis as it uses both primary legal instruments, such as the “Fourth Geneva Convention”, the “Additional Protocol I”, the “Rome Statute”, and the Genocide Convention, and secondary sources, such as United Nations reports, commentaries, and documentations from NGO's like Oxfam, and Al-Haq. Finally, the findings of the thesis will show that Israel’s actions constitute serious breaches of IHL, particularly Articles 33, 55, and 56 of the “Fourth Geneva Convention”, and can also amount to war crimes under “Article 8 of the Rome Statute”, it also argues that water deprivation can lead to the deliberate creation of life-threatening conditions, which could satisfy the elements of genocide under “Article II(c) of the Genocide Convention.”

Keywords: Gaza Strip, Weaponization of Water, International Humanitarian Law, Collective Punishment, War Crimes, Genocide, Right to Water.

Introduction

This thesis will shed light on an urgent and systematic strategy that Israel uses against Palestinians in Gaza, and that strategy is weaponizing water during armed conflicts. The thesis will specifically examine Israel using of water as a tool of aggression on Gaza in 2023, and it should be noted that this thesis will not discuss the crime of aggression itself, but it will evaluate Israel's use of water as a tool of aggression. The importance of this topic comes from the crucial role that water plays as a fundamental right that is necessary for human life and for a sustaining existence. And also because access to an enough supply of clean water is not merely a convenience but an integral component of human live and dignity. For the Palestinians, particularly the Palestinians of Gaza, the issue of water exceeds basic resource management, as it is deeply connected with the political status there, as water is recognized as a final resolution issue under the Oslo Agreement. The current water crisis in Palestine and especially in Gaza is a direct consequence of systematic practices and imbalanced power dynamics. This is evident in the water challenges faced daily by Palestinians, while Israel benefits from the significant power imbalance, it aims to impose an unfair water reality characterized by discriminatory practices against Palestinians, which overall turns water into an instrument of control and oppression.

Importance of the study

This thesis examines the actions of weaponizing water in Gaza Strip, it provides an analysis of the legality and practical dimensions of these actions. Also the thesis explains the practices that constitutes an action of weaponizing water such as the deliberate attacks on water infrastructure, and also the deprivation of essential repair materials, alongside with restrictions on resources access. These practices have critical implications on civilian populations, because they lead to widespread public health crises, and may result in the collapse of sanitation systems, and because they increase food and water insecurity. The thesis evaluates the Israeli actions within the framework of "International Humanitarian Law (IHL)", particularly the rules concerning the prohibitions of targeting civilian objects. It also assures that there should be effective accountability mechanisms, and to have that, it's necessary to understand the violations in order to create international legal discourse, advance accountability efforts, and

ensure the “protection of fundamental human rights in situations of armed conflict”. (Oxfam America, 2025)

Study Problem

Water is acknowledged worldwide as a fundamental right that is necessary for existence, so it has become a critical point of dispute among nations. Within the Palestinian context, particularly in the “Gaza Strip”, the control and access to water resources over recent decades have become a concern for human rights activists. Palestinians in Gaza face critical water scarcity, coming from the complex backdrop of historical agreements, as well as the difficulties of the development of infrastructure and the policies implemented by Israel. This situation got worse due to the deliberate actions that constitute the weaponization of water, including the systematic destruction of critical water infrastructure.

Reports showed that approximately 70% of Gaza's water infrastructure, which consists of desalination plants, pipelines, and water wells, all has been destroyed since October 2023. (Al Mezan Centre for Human Rights, 2025) Furthermore, over 1,000 miles of water and sanitation networks have been destroyed, and hundreds of water wells have become unusable, and that led to the deprivation of over a million people of clean water. (Oxfam, 2024) The destruction also extends to essential sanitation facilities, as Israel destroyed 70% of all sewage pumps and 100% of all wastewater treatment plants. As a result, Palestinians in Gaza have been receiving water in quantities that fall below the daily consumption recommendations set by the World Health Organization. Many reports shows that many Palestinian towns and villages are forced to rely on water deliveries by tankers which costs a lot or they suffer from intermittent access, which is in the first place is due to many limitations on their sovereignty over their own water resources and the systematic disruption and destruction of water infrastructure. (Oxfam America, 2025)

This study will critically examine the practices employed by the Israeli government in Gaza through the lens of water weaponization, it will investigate these actions, including “the deliberate destruction of water infrastructure”, with the concept of using water as a tool of aggression. This will include an analysis of the methods and impacts of such practices, and their implications within the context of the Aggression on Gaza.

Research questions

This thesis will evaluate whether the actions and policies of the occupying state, particularly those related to water management and access, constitute actions of weaponizing water in Gaza strip. It will focus on the 2023 aggression on Gaza. This requires answering the following questions:

First, is the right to water effectively protected and enforced under “IHRL” and “IHL”? particularly in contexts of armed conflict and occupation?

Second, is the Gaza Strip considered occupied so that we can talk about an “armed conflict” under IHL? If yes. What are the international legal frameworks and obligations that apply to the situation there, particularly those concerning “the protection of civilians” and “the conduct of hostilities”?

And finally, do the Israeli actions and policies in the 2023 Aggression on Gaza constitute actions of weaponizing water according to international law? This question requires examination of both the nature and the impact of these practices within the legal framework coming from international agreements. And it also requires explaining how water deprivation and infrastructure destruction contribute to weaponizing water during an armed conflict.

Aim of the study

This thesis aims to examine Israel’s use of water as a tool of warfare during the 2023 aggression on the Gaza Strip. It focuses on examining the legality of such actions under IHL and IHRL. Also, it examines if the deliberate targeting, restriction, or deprivation of water resources constitutes a violation to the “Geneva Conventions”, the “Additional Protocol I”, and the “Rome Statute”. Also, the thesis aims to evaluate the humanitarian consequences of these practices on “the civilian population of Gaza”. All that to finally explore ways of accountability under international criminal law, and propose recommendations for strengthening legal and policy frameworks to safeguard access to water in armed conflicts.

Research Methodology

This study adopts a descriptive-analytical methodology, where the concept of weaponizing water will be presented as an abstract legal and humanitarian issue, followed by its application to the actions carried out by Israel during the 2023–2024 Aggression on Gaza to determine the extent of their conformity with or violation of international law. This will be through dividing the research into three main parts. The first part discusses “the right to water” as a “fundamental human right”, and its recognition under “international covenants” and also the special protections afforded to water resources “under international law”. The second part of the thesis will examine the concept of weaponizing water in armed conflicts, and it outlines its legal implications and examines relevant international instruments. The third part will use an analytical approach as it applies the legal frameworks discussed in the previous chapters to “Israel’s” practices in “Gaza”. It evaluates the actions of destruction, restriction, and deprivation of water infrastructure. This chapter also focuses on whether these acts constitute prohibited methods of warfare such as “war crimes” and the “crime of genocide”, under the “Rome Statute”. Finally, the conclusion will present the findings of the research along with recommendations for accountability and policy responses to prevent the “weaponization of water” in future conflicts.

Literature Review

“Beshtawi, Ahmed. (2022). The human right to water and the realisation of water rights in the Occupied Palestinian Territory. *Utrecht Law Review*, 18(1). This article focuses on the situation of the “human right to water” in the “Occupied Palestinian Territory”, it argues that Israeli systematic policies limit “the Palestinian access to water”. In this article, Beshtawi base the discussion on HRL and IHL as it explains how water deprivation affects other rights, such as health and dignity. This article is important to my thesis because it provides a legal foundation for considering water a protected right under both HRL and IHL, unlike more general works, it directly applies these frameworks to the OPT, offering a detailed baseline for evaluating the weaponization of water in Gaza. But my thesis is different, as it discusses the weaponization of water as a breach to the right to water.

Oxfam International. (2024). *Water War Crimes: How Israel Has Weaponized Water in Its Military Campaign in Gaza*. This report documents the Israeli deliberate targeting and restriction of water supply during the 2023 aggression on Gaza. It considers that these actions amount to war crimes under international law. Oxfam in this report, discusses Israel's actions, starting with the cutoff of Mekorot pipelines, the denial of fuel for desalination plants, and the destruction of wells and wastewater facilities. The report is highly relevant to my thesis because it directly frames Israeli practices as the weaponization of water, providing factual evidence and linking it to legal accountability. My thesis is different because it is a legal research that evaluates the legal consequences of violating the "right to water" according to "international law".

ESCWA. (2023). *War on Gaza: Weaponizing Access to Water, Energy, and Food*. This is a report issued by the "UN Economic and Social Commission for Western Asia", it considers Israel's policies in Gaza as a part of collective punishment. It emphasizes how the denial of basic necessities functions as a weapon of war, it also argues that these practices violate IHL and also amount to crimes against humanity. This report is critical for my thesis because it expands the analysis beyond water itself, as it pictures water deprivation as a larger strategy of systematic domination and punishment. What makes this thesis different is that it's a legal research that evaluates the legal consequences of violating the water right by using water as a method of aggression.

Al-Haq. (2025). *World Water Day: Deprivation of water and destruction of water installations are tools of Israel's genocide against the Palestinian people*. This report by Al-Haq links the water deprivation directly to genocide. It cites UN experts who warn of massive outbreaks of waterborne disease in Gaza, it also argues that Israel's destruction of water infrastructure and the refusal to allow repairs are not incidental but part of an intentional strategy. For my thesis, this report provides crucial evidence for connecting the weaponization of water to the "elements of genocide", specifically Article II(c) of the "Genocide Convention". My thesis is different as it is legal research that evaluates the legal consequences of violating the right to water.

B'Tselem. (2025, July). *Our Genocide*. Israeli Information Center for Human Rights in the Occupied Territories. B'Tselem, which is one of Israel's leading human rights organizations, shared this important report, which makes a strong claim that the Israeli policies and military practices in Gaza amount to genocide. This report documents the

systematic destruction of civilian infrastructure, including water facilities. It also argues that the deprivation of the essential services such as clean water, is part of the Israeli deliberate strategy to impose life-threatening conditions on Palestinians, which is an act of genocide. Unlike many international reports that stop at identifying war crimes or collective punishment, B'Tselem directly applies the Genocide Convention framework to Israel's actions. For my opinion, this report is vital for my thesis because it demonstrates that even within Israeli civil society, there is acknowledgment of the genocidal dimension of water weaponization and related deprivations, lending both moral weight and legal authority to the argument. My thesis is different as it is legal research that evaluates the legal consequences of violating "the right to water" by using it as a weapon.

Chapter One

Contextual Background on the Situation of Gaza Strip

The Question of Palestine nowadays is a result of all the developments occurring since the Sykes-Picot Agreement in 1916, which was signed between “Great Britain and France”, and stipulated that whenever Palestine falls into “Allies during World War I”, it will be placed under “British rule”. Then, in 1917, Britain issued the controversial “Balfour Declaration” to the Jewish leaders in Europe, committing to support the Jewish to establish a homeland in Palestine. This declaration was against the promise that was made by Britain in 1915-1916 to “Sherif Hussein of Mecca”, wherein “Britain” promised to help all the “Arab regions” who was under the Ottoman empire rule in achieving independence in exchange for their support for the Allies during the war (Mari, 2005).

After Britain's occupied Palestine in 1917, the “League of Nations” published the “Palestine Mandate” in 1922, which on the surface aimed to guide Palestine and Palestinians, towards independence. During the British rule the Jewish immigration led to disturbances between the “indigenous Arab-Palestinian” population and “Jewish immigrants” which are mainly immigrating from Europe. Tensions escalated as the Palestinians were suspicious of the intentions of the “Jewish immigrants”. Then these suspicions were confirmed in 1947, after the “United Nations” recommended that the “British Mandate” over Palestine should end and that the land will be divided into two independent states: one Palestinian Arab and the other Jewish, with Jerusalem being an international city (Resolution 181 (II) of 1947). (United Nations General Assembly, 1988) Following this, Israel declared its independence. The British forces withdrew from Palestine six months later but the escalation of violence between Palestinians and Jewish settlers, led to the first “Arab-Israeli war” of 1948. This War resulted in Jewish forces occupying approximately 80 percent of the Mandate territory and turned nearly half of the Palestinian population, about 800,000 people, into refugees (United Nations General Assembly, 1988).

The remaining land which is the land that was not occupied in 1948 and was allocated to the “Arab State” under “Resolution 181” came under Jordanian and Egyptian control.

Then in the “1967 war”, Israel occupied these areas (the “West Bank” and “Gaza Strip”) along with “East Jerusalem”, which was later annexed. This war also caused a second wave of Palestinian displacement, with approximately 500,000 people becoming refugees. In response, the “UN Security Council adopted Resolution 242” (1967), which laid out principles for achieving a just and lasting peace, including Israel's withdrawal from “occupied territories”, a fair resolution to the “refugee crisis”, and the “cessation of hostilities” (UN, N.D).

After the 1973 War, the “Security Council in its Resolution 338” asked for peace negotiations among the involved parties. In 1974, the “UN General Assembly” “reaffirmed the Palestinian people’s inalienable rights to self-determination, national independence, sovereignty, and the right to return”. The next year, the “General Assembly” created the “Committee on the Exercise of the Inalienable Rights of the Palestinian People” and granted the “Palestine Liberation Organization” (PLO) observer status in the Assembly and UN conferences (UN, N.D).

1.1 The occupation of Gaza Strip

“The Gaza Strip” is a small piece of land, spanning 360 square kilometers, situated along the “Mediterranean Sea” between “Israel” and “Egypt's Sinai Peninsula”. With around 800,636 Palestinians living there, it is one of the most crowded regions in the world (World population Review, 2024).

“The Gaza Strip” was originally under British control as part of the Palestine Mandate until 1948. When the British forces left, the area became a battleground, leading to Egyptians taking control of Gaza until 1967. The war in 1948-49 caused significant demographic changes in Gaza, with tens of thousands of Palestinians fleeing from areas occupied by Israel and taking refuge in Gaza. This massive flow of people had a socio-economic effect on living conditions in the Strip. Then, during the “1967 Six-Day War”, Israel took control of “Gaza” along with the “Sinai”. But Israel returned Sinai to Egypt as part of the 1979 Peace Treaty. As Gaza remained under Israeli control, administered by the “Israeli Occupation Forces” (IOF) based on the 1907 Hague Regulations regarding belligerent occupation. It should be noted that Israel refused the application of the “Fourth Geneva Convention” to Gaza, using the absence of Egyptian

sovereignty over the area as an excuse, but it still agreed to follow the humanitarian aspects of the Convention concerning the local population at that time. Since the late 1960s, Israel allowed, and sometimes even encouraged, the building of “Jewish settlements in Gaza”, mostly along its northern and southern edges. Over time, these settlements became a consistent source of violence from Israelis on Palestinians, drawing harsh criticism from the international community toward Israel (Shany, 2006).

In 2004, the “Israeli government” devised a plan for “unilateral disengagement from the Gaza Strip” and northern West Bank¹, which was implemented the following year. This plan sparked debate within the Israeli parliament, as well as governmental and academic circles, regarding its impact on the legal status of Gaza and Israel's responsibilities towards Gazan Palestinians post-disengagement. (Shany, 2006)

This part of the thesis aims to address the “question of Israel's” ongoing responsibility, or lack thereof, towards the OPT and the status of these territories following the disengagement from “Gaza” and parts of the “West Bank”. Despite differing opinions, this thesis supports the majority scholarly view that Israel has retained the status of the “Occupying Power” over the OPT, including Gaza, contrary to its claims and the intended objectives of the disengagement announced by the Israeli government.

With the conclusion of the “1948 Israeli-Arab War”, the 20 percent that remained of Palestine came under “Arab control”, with Egypt administering the “Gaza Strip” and Jordan governing the “West Bank”, including “East Jerusalem”. However, following the 1967 Israeli-Arab War, Israeli forces occupied the entirety of the territory previously under the British Mandate of Palestine (Rabah, 1996).

Since the 1967 occupation of the “West Bank” and “Gaza Strip”, the international community has consistently regarded Israel as the “Occupying Power” of these territories, applying the provisions of both the “Hague Regulations of 1907” and the “Fourth Geneva Convention” of 1949. (Fourth Hague Convention , 1949) Israel’s extension of jurisdiction to occupied “East Jerusalem” in 1967, effectively an “annexation”, has also been deemed illegal under “international law”. Israel, however, has never fully accepted this international stance and has presented various arguments to

¹ For the full text of the disengagement plan, see (Addendum, 2004)

support its position. Before delving into and refuting Israel's claims, it is essential to address a fundamental question: when does occupation begin? This question is crucial for understanding the situation before "Israel's" disengagement from "Gaza" and the legal implications of the establishment of the Palestinian National Authority (PNA) in 1994. It is also relevant to the discussion of the "legal status of Gaza" following "Israel's disengagement from the territory" and limited areas in the northern "West Bank" (Mari, 2005).

After the "first intifada" (1987-1991), a "peace process" was initiated between the Israelis and the Palestinians, eventually leading in its end to the "Oslo Accords". These political agreements between "Israel" and the "PLO", which on the surface aimed for a peaceful resolution to the Israeli attacks on the OPT, and established "interim self-government arrangements", it created the Palestinian Authority (PA) to govern certain parts of the Occupied Territories. In the "West Bank", the land was divided according to the Oslo Accords into three areas, "Areas A, B, and C", each area with varying levels of control shared between Palestinians and Israel. On the other hand, the "Gaza Strip" was divided into two areas, as the PA was granted governing authority over Palestinian towns, while Israel retained control over Israeli settlements, major "roads", "borders" with "Israel" and borders with "Egypt", as well as Gaza's "territorial waters" and "airspace". Importantly, Israel maintained overall security control over the entire "Gaza Strip" (Shany, 2006).

This division of control between Israel and the PA led to uncertainty about the legal status of areas under Palestinian self-rule. As early as 1994, legal scholar Eyal Benvenisti argued that the occupation of most of Gaza had ended with the creation of the PA. However, other scholars, like Ardi Imseis, disagreed with this opinion, suggesting that while Israel's control had shifted from direct to indirect, it means that the area remained under belligerent occupation (Fourth Hague Convention, 1949).

The peace process was hindered in late 2000 due to the Israeli breach of the Oslo Accords, as numerous Israeli Occupation Forces (IOF) invasions of areas of the Gaza Strip that were supposed to be under the Palestinian control according to the Oslo Accords. Despite these invasions, Israel avoided establishing a long-term military presence in the Palestinian territories and refrained from deploying troops into Gaza's

most densely populated neighborhoods. In the summer of 2005, Israel began implementing its disengagement plan from Gaza, withdrawing all Israeli troops and settlers, a process completed on 12 September 2005 (Fourth Hague Convention , 1949).

Despite this withdrawal and the formal end of military rule, Israel still maintains significant control over life in Gaza. The IOF controls Gaza's airspace and territorial waters, regulates the movement of people and goods into Gaza from Israel (and the West Bank), and indirectly monitors the Rafah border crossing with Egypt. Additionally, Israel has not transferred the Gaza Strip's population registry to the Palestinian Authority and has not agreed to the reopening of Gaza's seaport and airport. In June 2006, following a Palestinian resistance attack on an IOF post inside Israel—resulting in the deaths of two soldiers and the kidnapping of an IOF corporal—as well as ongoing rocket attacks from Gaza, the IOF resumed short-term military incursions into PA-controlled areas of Gaza (Fourth Hague Convention , 1949).

According to “Article 42 of the Hague Regulations of 1907”, a “territory” is considered under occupation when it is under the control of a “belligerent army”, and the occupation is found only in areas where such control is established and can be exercised. (Second International Peace Conference, 1907) Thus, when an army intrude into and controls an enemy territory, occupation exists, and as a result IHL protections apply. “The Fourth Geneva Convention” sets a lower standard for the continued application of its protections for civilians than “The Hague Regulations”. Article 6 of “the Fourth Geneva Convention” states that its protections continue as long as the “Occupying Power” exercises governmental functions. In Article 2 of the mentioned convention specifies that the Convention applies in “all cases of declared war or other armed conflicts”, irrespective of whether the occupation is total or partial (International Committee of the Red Cross (ICRC), 1949).

Israel's stance on “the Hague Regulations of 1907” has differed from its position on “the Fourth Geneva Convention”. While the Israeli government has never formally accepted the applicability of the “Hague Regulations” to its administration of the OPT, the “Israeli High Court of Justice” has recognized “The Hague Convention” as fully applicable to the OPT, binding Israel as a “belligerent occupant”. Moreover, the “Hague Convention” is considered part of “customary international law”, thus binding Israel in

its relations with the OPT, regardless of the government's official position (Piski Din, 1979, p. 26).

Israel denies that the “Fourth Geneva Convention” applies to the OPT by de jure. The Israeli arguments that support this position often argue with the uncertain legal status of the “West Bank” and “Gaza” under Jordanian and Egyptian control before 1967. However, there is widespread Consensus that the Convention applies to occupied territories, regardless of whether the previous governing power had a legitimate title to the land. Israel has also used the issue of territorial title to argue against the Convention's applicability to the OPT (Permanent Observer Mission of Palestine to the UN, 1999).

Since 1968, the “International Committee of the Red Cross” (ICRC) has affirmed that an “occupation” exists, and therefore the Convention automatically applies when territory passes from one party's authority to an opposing party's control. The ICRC reaffirmed this in 2001. This interpretation has gained broad international acceptance, and in 1999, the “Conference of High Contracting Parties to the Fourth Geneva Convention” affirmed that the Convention applies to the OPT and that was in a statement issued in Geneva. (Kretzmer, 2012) In conclusion, Gaza has been under occupation since 1967 despite the withdrawal of the IOF, and therefore, the IHL applies to the situation in Gaza.

1.2 The International Court of Justice on the legal status of the OPT

Israel strongly opposed the involvement of the “International Court of Justice” (ICJ) in reviewing the “legality of its construction of the wall in the OPT” and made significant efforts to prevent the Court from issuing an opinion on the matter. Israel used both legal and political arguments to support its stance. Despite these objections, the ICJ proceeded and delivered its “Advisory Opinion” on 9 July 2004 (Legal consequences of the construction of a wall in the Occupied Palestinian Territory , N.D).

In formulating its Opinion, the Court needed to determine the “legal status of the OPT” and the “international legal framework” that governs Israel's relationship with the territories. (Legal consequences of the construction of a wall in the Occupied Palestinian Territory , N.D, pp. 90-91) It thoroughly examined the arguments made by

Israel and several other participating countries, primarily in two sections of its Opinion “paragraphs 69-78 and paragraphs 89-101”.

While the Court considered Israel's arguments, it observed that Israel's position conflicted with that of "the great majority of other participants in the proceedings." The Court explicitly rejected Israel's stance, highlighting that although Israel is not a party to the “ Fourth Hague Convention”, the Convention and its annexed Regulations are considered part of “customary international law”. (Legal consequences of the construction of a wall in the Occupied Palestinian Territory , N.D, p. 93) Additionally, the Court emphasized that, according to “Article 154 of the Fourth Geneva Convention, it is supplementary to Sections II and III of The Hague Regulations” (Legal consequences of the construction of a wall in the Occupied Palestinian Territory , N.D, p. 89).

Israel's position has consistently clashed with that of the international community, as reflected in numerous resolutions passed by both the “UN Security Council” and the “General Assembly”. (Legal consequences of the construction of a wall in the Occupied Palestinian Territory , N.D, pp. 98-99) The Court observed that in 1967, the Israeli authorities issued “Order No. 3”, directing the military courts established in the OPT to follow the provisions of the “Fourth Geneva Convention”. However, later legislation regulating these courts omitted any reference to the Convention. Additionally, the Court highlighted that the “Israeli Supreme Court”, in 2004, determined that Israel’s military operations in Rafah at that time were “governed by the Geneva Convention Relative to the Protection of Civilian Persons in Times of War, 1949” (Legal consequences of the construction of a wall in the Occupied Palestinian Territory , N.D, 93+100).

In brief, the “International Court of Justice (ICJ)” interpreted “common Article 2” of the “Geneva Conventions” to mean that the “Fourth Geneva Convention” applies to “ all cases of declared war or of any other armed conflict which may arise between two or more of the High Contracting Parties” (Legal consequences of the construction of a wall in the Occupied Palestinian Territory , N.D, para. 97 (quoting para. 1 of Art. 2 GC IV)). The Court emphasized that the mere existence of an armed conflict between two such parties is enough to trigger the Convention’s application. (Legal consequences of the construction of a wall in the Occupied Palestinian Territory , N.D, pp. 92,94-95) This

view aligns with the intention of the drafters, as confirmed by States Parties on 15 July 1999 and again on 5 December 2001. The ICRC has maintained this position consistently since the occupation began in 1967 (Legal consequences of the construction of a wall in the Occupied Palestinian Territory , N.D, para. 95-97).

Lately, the ICJ reaffirmed this in its advisory opinion of 19 July 2024 regarding the legal consequences arising from the policies and practices of Israel in the OPT, as “the court” in this “advisory opinion” stated that in order to consider a territory occupied the criterion is not only the physical presence of the occupying power in that territory, but rather if its authority can be exercised on this territory. That court considered that Israel maintained its control over Gaza ever since the so-called disengagement plan (International Court of Justice, 2024).

From this, it is evident that despite Israel’s continued efforts to deny the legal applicability of the Fourth Geneva Convention to the OPT, it has been repeatedly reminded by the international community, the ICRC, and most recently by the ICJ, that its stance is incorrect. Israel, therefore, remains an Occupying Power in its dealings with the OPT; the West Bank (including Jerusalem) and Gaza Strip are occupied territories, and their inhabitants are protected civilians under IHL (As will explained in section 2.2 below).

1.3 The disengagement from the Gaza strip

In 2005, before Israel put its disengagement plan for the “Gaza Strip” and parts of the “West Bank” into action, it demolished a significant amount of property along the border between Gaza and Egypt. This was supposedly to create a “buffer zone” along the “Philadelphia route,” which, according to the plan, would still be under Israeli control (Addendum, 2004).

While it’s true that Israeli ground forces largely withdrew from most parts of the “Gaza Strip” after the disengagement, they never really left. Israeli naval vessels continued to patrol Palestinian waters, and the air force kept control over Gaza's skies. Israel also prevented Gaza’s only airport and seaport from operating. These are just a few of the ways Israel continued to exert control over Gaza. Even after the supposed disengagement, Israel only allowed the Rafah border crossing with Egypt to reopen

under very tight restrictions. It was managed by an EU force on behalf of Israel, and Israel maintained live video and data feeds from the crossing. Israel also set strict rules on which Palestinians could cross the border and demanded that all goods moving in or out of Gaza go through Israeli inspection, under threat of closing the border or other sanctions. (Mari, 2005) All of this makes it clear that Israel's plan for disengagement was never about fully letting go of Gaza. Instead, it was designed to reduce direct friction with the people living there, while still keeping tight control. In reality, it was more of a strategic shifting of troops than a true end to the occupation.

Chapter Two

Right to Water Under International Law

This chapter examines the “right to water” under two principal themes. The first one explores the nature and normative content of the “right to water”, including the specific obligations it imposes on states and the circumstances under which the “right to water” may be violated. The second section addresses the legal frameworks governing the “right to water” within international law, outlining relevant instruments, standards, and interpretative developments.

2.1 The Definition of the Right to Water

The UN Water ¹ states that “the right to water entitles everyone to have access to sufficient, safe, acceptable, physically accessible, and affordable water for personal and domestic use” (Water, 2010).

The “right to water” is a fundamental “human right” that focuses on getting safe, affordable, and dependable drinking water, and it is vital for preserving health, sustaining livelihoods, and for upholding human dignity. Ensuring the access to water is also essential for fighting poverty, fostering equitable and peaceful societies, and also important to achieve inclusive, and sustainable development. Under IHRL, States are obligated to realize the universal access to water steadily without discrimination, giving the priority to those in vulnerable and marginalized situations. The core components of the “right to water” include its “availability”, physical and economic “accessibility”, affordability, safety and quality, and cultural acceptability (OHCHR, N.D).

2.1.1 The Normative Content of The Human Right to Water

The “right to water” consists of both “freedoms” and “entitlements”. The freedoms require protections such as the right to uninterrupted access to existing water sources that are essential for personal and domestic use, as well as protection from interference, including arbitrary disconnection or contamination of water supplies. In contrast, the entitlements refer to the right to a water supply and management system that ensures equal opportunity for all individuals to enjoy this right. Moreover, the components of

¹ UN-Water functions as a coordination platform that brings together various United Nations agencies and international organizations engaged in water and sanitation. Its primary objective is to assist countries in advancing their efforts and achieving progress in these sectors.

the right to water must be adequate to uphold human dignity, life, and health, in line with Articles 11(1) and 12 of the “International Covenant on Economic, Social and Cultural Rights”. Adequacy must not be interpreted solely in terms of quantity or technology; rather, water should be regarded as a social and cultural good, not merely an economic commodity. The implementation of this right must be sustainable, guaranteeing its fulfillment for both current and future generations (General UN Economic and Social Council, 2003).

“General Comment No. 15” explains the entitlements built into the human “right to water”. The General Comment affirms that every individual must be entitled to a sufficient, safe, acceptable, physically accessible, and affordable supply of water for personal and domestic purposes. Access to adequate water is essential not only to prevent death through dehydration and reduce the spread of water-related diseases, but it is also essential to ensure the fulfilment of basic needs such as drinking, cooking, and maintaining personal hygiene. The General Comment particularly emphasis on prioritizing water for personal and domestic uses as the most immediate concern (Beshtawi, 2022).

Paragraph 12 of the General Comment further elaborates on the core dimensions of the “right to water”, which are availability, quality, and accessibility. The availability means that each individual must have access to a continuous and sufficient supply of water whether for personal or domestic use, in accordance with the standards established by the World Health Organization (WHO). while quality means that the water provided must be safe and free from harmful materials that could endanger health, and it should also meet acceptable standards of colour, smell, and taste (Beshtawi, 2022).

As for the meaning of accessibility, the General Comment 15 breaks it down into four linked components. First, the “physical accessibility” that requires that water services must be within safe “physical reach”, with no threat to the safety or security of individuals trying to access them. Second, “economic accessibility” requires that water and related services should be affordable for all without compromising other essential needs. Third, the principle of “non-discrimination” which obliges States to ensure that access to water services is guaranteed to everyone, particularly the most marginalized and vulnerable populations. Fourth, the “information accessibility” ensures that

individuals have the right to seek, receive, and share information concerning water-related matters, which results in enhancing transparency, and it encourages participation in decision-making processes, and it facilitates accountability in water governance (Beshtawi, 2022).

2.1.2 Obligations Correlative to the Right to Water

General Comment No. 15 outlines both general and core obligations that States parties must uphold with respect to the right to water, at both national and international levels. The fulfillment of this human right is contingent upon the identification and implementation of such obligations, which define the specific duties of States and provide a basis for assessing compliance. While the International Covenant on Economic, Social and Cultural Rights (ICESCR) permits the progressive realization of economic, social, and cultural rights, General Comment No. 15 identifies certain obligations regarding the right to water that require immediate implementation. Chief among these is the prohibition of discrimination in the exercise of the right to water, which must be ensured without delay (UN Economic and Social Council, 2003).

Moreover, States are required to adopt measures that are deliberate, concrete, and targeted towards the full realization of the rights set out in Articles 11 and 12 of the ICESCR, including the right to water. Importantly, General Comment No. 15 prohibits retrogressive measures that would undermine the enjoyment of the right to water. Should a State adopt such measures, it carries the burden of demonstrating that the decision was taken only after careful evaluation of all alternatives and that it is fully justified. As with all human rights, the right to water imposes three distinct categories of obligations on States: the obligation to respect (not to interfere with existing access), the obligation to protect (prevent third parties from interfering with access), and the obligation to fulfil (take active steps to facilitate, promote, and provide access to water) (UN Economic and Social Council, 2003).

2.1.2.1 Obligation to Respect

General Comment No. 15 defines the obligation to respect as the duty of States to refrain from any direct or indirect interference with the enjoyment of the “right to water”. This obligation includes several specific prohibitions. For example, states under this obligation must avoid taking any actions that would limit or deny equal access to

adequate and safe water. Moreover, states are also required not to interfere arbitrarily with customary or traditional water allocation systems, as they often serve as the primary means of water distribution in many communities. Furthermore, States must not illegally degrade or contaminate water sources, whether through state-owned enterprises or the use and testing of weapons. An additional dimension of this obligation prohibits States from deliberately restricting access to water or damaging water infrastructure as a form of punishment, especially in situations of armed conflict (UN Economic and Social Council, 2003).

It's important to point out that this aspect of the right to water also shares with principles of IHL, which prohibit both direct and indirect methods of that deprive people of their access to water. It also forbids acts such as the targeted destruction of water infrastructure and attacks on water resources. Moreover, it also forbids the indirect practices, including intentional pollution or creating conditions where individuals cannot safely access water due to conflict-related dangers. These provisions emphasize the protective role of the right to water even during situations of armed hostilities (Pejan, 2004).

2.1.2.2 Obligation to Protect

Under the obligation to protect, States parties are required to prevent third parties from interfering, in any manner, with the enjoyment of the right to water. General Comment No. 15 defines third parties broadly, encompassing individuals, groups, corporations, and other entities, including those acting with state authorization or under state direction. To fulfil this obligation, States must enact appropriate legislation and adopt additional measures to ensure that third parties do not engage in conduct that undermines equal access to adequate water. This includes preventing contamination of water sources and guarding against the inequitable extraction or exploitation of water from natural resources, wells, and other distribution systems (General UN Economic and Social Council, 2003).

Moreover, where third parties are involved in the operation or management of water services, such as piped water networks, tankers, or access to rivers and wells, States remain responsible for ensuring that these services do not compromise equitable, affordable, and physically accessible access to sufficient, safe, and acceptable water.

General Comment No. 15 in order to safeguard these standards, calls on States to establish strong regulatory frameworks in accordance with the ICESCR and the Comment itself. These frameworks should incorporate genuine public participation, independent oversight mechanisms, and also enforceable penalties for non-compliance (General UN Economic and Social Council, 2003).

The Comment also emphasized the protection of this obligation to such an extent that it considered that while the privatization of water services does not inherently violate human rights, States therefore must retain their protective obligations even under privatized arrangements. that means state actions must be guided by human rights-based approach, clarifying both the risks of privatization to the right to water and the necessary measures to mitigate potential adverse impacts on access, equity, and accountability (Beshtawi, 2022).

2.1.2.3 Obligation to Fulfill

The “obligation to fulfill” the “right to water” consists of three connected duties, which are First, the duty to facilitate which is represented in the responsibilities of States to support access, Second, the duty to promote by raising awareness, and third, the duty to provide which can be fulfilled by directly providing water where necessary. The obligation to facilitate requires States to adopt positive measures that enable individuals and communities to realise their right to water, including through infrastructure development, legal reforms, or administrative support. The obligation to promote entails raising public awareness about the protection of water resources, the hygienic use of water, and the prevention of water waste. Lastly, the obligation to provide obliges States to supply water directly to individuals or groups who, for reasons beyond their control, are unable to secure access to adequate water on their own (Beshtawi, 2022).

General Comment No. 15, particularly in Paragraph 26, further specifies the actions that States must take to fulfil this obligation. These actions include adopting comprehensive and targeted measures to progressively implement the right to water. such as recognising this right within domestic legislation and policy frameworks, and formulating a national water strategy and plan of action. Such plans should be designed to guarantee affordability and ensure that access to water services is sustainable and equitable, with attention given to rural and marginalized communities. These

obligations reinforce the importance for States to integrate human rights considerations into water governance and also to ensure that no one is excluded from access to this essential resource (Beshtawi, 2022).

2.2 The Legal Framework Applicable to the Gaza Strip Regarding the Protection of the Right to Water

In the previous chapter, this thesis discussed the idea that “Israel” continues to exercise its effective control over the “Gaza Strip” despite the 2005 disengagement plan, this control is represented in various dimensions, such as borders, airspace, and maritime access, and it also appears in controlling what comes in and goes out of the strip. This control shapes the humanitarian and security environment in Gaza. Now, after clarifying the status of the continuous control over Gaza, this chapter discusses the legal scope that governs the territory under these conditions.

When a power exercises its control in an “occupied territory”, the IHL plays a significant role in regulating the obligations and rules of the occupying power, specifically, the “Fourth Geneva Convention” and those provisions in the “Additional Protocol” related to occupation. Also, “customary international law”, which is formed by state practice and judicial decisions, offers critical insights into the rights and responsibilities of both the controlling power and the population under its authority. By examining these legal frameworks, it gains a clearer understanding of the obligations owed to Gaza’s civilians regarding water rights, as well as the permissible measures that can be taken for security reasons, and the balance that must be struck between military imperatives and humanitarian considerations.

In exploring these core principles, this chapter aims to define the relevant legal instruments that seek to protect the “right to water” of civilians in Gaza while recognizing the realities of Israel’s de facto control. The goal is to provide a structured overview of the laws and regulations that come into play, to clarify the obligations, and constraints embedded in IHRL and IHL, in addition to the associated legal norms.

2.2.1 International Human Rights Law

There are several “international human rights instruments” that mention the “right to water”, either explicitly or implicitly within the broader framework of the right to an adequate standard of living. Below are the conventions and authoritative interpretations that cover the “right to water”.

While it may appear obvious that water is a basic “human right”, the recognition of this right in “international law” was relatively recent. It was not until 2010 that the “United Nations General Assembly” formally acknowledged the human “right to water” and sanitation. Emphasizing that clean drinking water and sanitation are crucial for the fulfillment of all “human rights”. On July 28, 2010, the “United Nations General Assembly” affirmed the human right to water and sanitation through “Resolution 64/292”, emphasizing that safe drinking water and adequate sanitation are integral to the fulfillment of all human rights.

Through this resolution, member states and international bodies are urged to allocate funding, strengthen institutional capacities, and share relevant technologies, especially with developing countries, to broaden access to safe, clean, affordable, and readily available water and sanitation (Ufanisi, N.D):

a. International Covenant on Economic, Social and Cultural Rights

The “International Covenant on Economic, Social and Cultural Rights” (ICESCR, 1966) safeguards the right to water, whether through implicit or interpretative provisions. While the text of the ICESCR does not mention the “right to water” explicitly, the “United Nations Committee on Economic, Social and Cultural Rights” (CESCR) has clarified that the right to water is implicit in the Covenant’s guarantees of an adequate standard of living and the highest attainable standard of health. Below is an overview of how this protection is established:

Article 11(1) states that State Parties recognize the right of everyone to “an adequate standard of living ... including adequate food, clothing and housing, and to the continuous improvement of living conditions”.

While Article 12 declares “the right of everyone to the enjoyment of the highest attainable standard of physical and mental health” (Ufanisi, N.D, Article 12).

Within the scope of interpreting the previous articles, and according to the “Committee on Economic, Social and Cultural Rights” in the general comment No.15 concerning the “right to water” it is noted that the human right to water ensures that all individuals have access to sufficient, safe, acceptable, physically accessible, and affordable water for personal and domestic purposes. Access to an adequate quantity of clean water is critical to safeguarding life by preventing dehydration, minimizing the incidence of waterborne diseases, and fulfilling fundamental needs related to drinking, food preparation, and personal and household hygiene (UN Economic and Social Council, 2003).

Article 11(1) of the “International Covenant on Economic, Social and Cultural Rights” identifies several rights that are integral to achieving an adequate standard of living, specifically mentioning access to adequate food, clothing, and housing. Since this article uses the term "including" this indicates that this list is not comprehensive. It implicitly includes the right to water since the water clearly falls within the essential guarantees that are necessary to secure an adequate standard of living, due to its fundamental role in sustaining life. Furthermore, the Committee on Economic, Social and Cultural Rights has affirmed that the right to water is implicitly listed within Article 11(1). In addition, the right to water is highly linked to the right to the highest attainable standard of health that is protected under Article 12(1), as well as the rights to adequate housing and food under Article 11(1). It must also be interpreted alongside other rights set out in the International Bill of Human Rights, most notably the rights to life and human dignity (General UN Economic and Social Council, 2003).

The Committee emphasizes the critical role of sustainable access to water resources in fulfilling the right to adequate food, as outlined in General Comment No. 12 (1999). It underscores the necessity of ensuring that disadvantaged and marginalized farmers, particularly women, have fair access to water resources and water management systems, including sustainable methods such as rainwater harvesting and irrigation technologies. In light of the obligation set out in Article 1(2) of the Covenant, which prohibits depriving a people of their means of subsistence, States parties are required to guarantee sufficient access to water for subsistence farming and for supporting the livelihoods of indigenous populations (UN Economic and Social Council, CESCR, 1999).

During the drafting of Article 12 of the International Covenant on Economic, Social and Cultural Rights, the Third Committee of the United Nations General Assembly chose not to adopt the definition of health contained in the preamble to the Constitution of the World Health Organization, which characterizes health as "a state of complete physical, mental and social well-being and not merely the absence of disease or infirmity." Nevertheless, Article 12(1) of the Covenant, which refers to "the highest attainable standard of physical and mental health," is not limited to access to health care services. Rather, both the drafting history and the explicit language of Article 12(2) demonstrate that the right to health encompasses a broad array of socio-economic factors that enable individuals to live healthy lives. This includes the underlying determinants of health, such as access to adequate food and nutrition, housing, safe and potable water, sanitation facilities, safe and healthy working environments, and a healthy natural environment. (UN Economic and Social Council, CESCR, General Comment No. 14: The right to the highest attainable standard of health (art. 12 of the Covenant), 2000).

The Committee on Economic, Social and Cultural Rights adopted General Comment No. 15: The Right to Water on 20 January 2003, where the Committee states that the right to health, as articulated in Article 12(1) of the Covenant, as a comprehensive entitlement that encompasses not only access to timely and appropriate health care services but also the underlying determinants of health. These determinants include access to safe and potable water, adequate sanitation, sufficient supplies of safe food, proper nutrition, secure housing, healthy working and environmental conditions, and access to health-related education and information (UN Economic and Social Council, CESCR, 2000).

The right to health mentioned in the above article 12, in all its forms and at every level, encompasses several interrelated and essential components, the specific application of which depends on the conditions prevailing in each State party. One key element is availability, which requires States to ensure the existence of sufficient public health facilities, goods, services, and programs. While the particular nature of these may differ based on a State's developmental stage, they must necessarily include fundamental determinants of health such as safe and potable drinking water. Accessibility is another essential dimension, obligating States to make health facilities, goods, and services accessible to everyone without discrimination. Accessibility encompasses several

overlapping aspects: health services must be available to all individuals, especially the most vulnerable and marginalized, without discrimination based on prohibited grounds. Furthermore, physical accessibility demands that these facilities, along with basic determinants such as clean drinking water and adequate sanitation, must be within safe physical reach of all population groups, particularly marginalized sectors such as ethnic minorities, indigenous peoples, women, children, older persons, and persons with disabilities. Accessibility also requires that services extend to rural and remote areas and that health facilities are properly adapted to the needs of persons with disabilities. (UN Economic and Social Council, CESCR, 2000).

It's important to mention that, although Israel signed the ICESCR in 1966 and ratified it in 1991, it has consistently contested its extraterritorial applicability to the Occupied Palestinian Territory (OPT). However, the International Court of Justice (ICJ) in its 2004 Wall Advisory Opinion decisively held that: “The International Covenant on Economic, Social and Cultural Rights is applicable in respect of acts done by a State in the exercise of its jurisdiction outside its own territory” (International Court of Justice, 2004).

Thus, Israel is legally obligated to ensure that its actions or policies do not impair the right to water in Gaza, particularly given its control over key aspects such as water access, imports of equipment and materials, and movement of people and goods.

Customary international law also offers significant potential for affirming a universally binding human right to health. According to the criteria for developing customary norms, the broad ratification of UN and regional human rights treaties and instruments can contribute to the emergence of customary IHRL. These treaties, declarations, and related instruments serve as evidence of widespread and consistent state practice conducted with a belief in legal obligation (*opinio juris*). When such practice is established, the rights recognized in these instruments may attain the status of customary law. As such, the obligations derived from these human rights instruments would be binding even on states that have not formally ratified them. For instance, given its broad international endorsement, the ICESCR is often considered to reflect customary international law, and therefore may impose legal obligations on all states, including those that have not ratified it (Kinney, 2001).

b. Convention on the Rights of the Child (CRC) (1989):

The Convention on the Rights of the Child (CRC) (1989), while not explicitly stating a standalone “right to water,” nonetheless protects the right to water as an essential component of several key rights enshrined in the treaty. This protection emerges through a combination of specific provisions and interpretative guidance provided by the UN Committee on the Rights of the Child. Now here is a highlight of the most important articles that are related to the protection of right to water:

Article 24: Right to Health and Water Access

The most direct protection of the right to water appears in Article 24(2)(c) of the CRC, which obliges States Parties to: "combat disease and malnutrition, including within the framework of primary health care, through... the provision of adequate nutritious foods and clean drinking-water" (United Nations General Assembly, 1989).

This clause recognizes that access to clean drinking water is essential to child health and survival, thereby placing a positive obligation on States to ensure that water is safe, sufficient, and accessible, particularly within public health frameworks (UN Committee on the Rights of the Child, 2013).

According to general comment No. 15 on the right of the child to the enjoyment of the highest attainable standard of health, access to safe and clean drinking water, along with adequate sanitation, is fundamental to the realization of the right to life and all other human rights. Government bodies and local authorities charged with managing water and sanitation systems must acknowledge their responsibility in fulfilling children’s right to health. In doing so, they should incorporate child-specific indicators—such as rates of malnutrition, incidence of diarrhoeal and waterborne diseases, and household size—into the planning, expansion, and upkeep of infrastructure and services. These factors should also inform decisions related to the provision of minimum free water allocations and the regulation of service disconnections. Importantly, States retain their human rights obligations even when water and sanitation services are privatized (UN Committee on the Rights of the Child, 2013).

c. The United Nations General Assembly Resolution 64/292 regarding The human right to water and sanitation

In 2010, the United Nations General Assembly adopted Resolution 64/292, which marked a significant normative development in the evolution of IHRL. This resolution explicitly recognized the access to safe and clean drinking water and sanitation as a fundamental human right, and stated that this right is essential for the full enjoyment of life and for the realization of all other human rights. Although General Assembly resolutions are not legally binding, but this resolution carries considerable legal and political weight, as it reflects a growing international consensus and builds upon established legal foundations such as the ICESCR and the Committee on Economic, Social and Cultural Rights' General Comment No. 15 mentioned above. It also aligns with the jurisprudence of various international bodies that have affirmed the centrality of water access to human dignity, health, and survival. Furthermore, the resolution calls upon States and international actors to take concrete measures which include financial assistance, technology transfer, and capacity-building, to support the realization of this right, particularly in developing countries (Water, 2010).

2.2.2 International Humanitarian Law (IHL)

International Humanitarian Law is a legal framework specifically designed to regulate situations of armed conflict. It provides comprehensive rules regarding the conduct of hostilities and the treatment of individuals and objects under the control of parties to a conflict. Once an armed conflict has arisen, all actions related to it must comply with the principles and rules of IHL. In contrast, IHL does not cover conflicts between states that fall below the level of an armed conflict, nor does it apply to internal disturbances, including riots and sporadic violence, or similar situations that are not classified as armed conflicts (Melzer & Kuster, 2016).

While the occurrence of an armed conflict is a prerequisite for the general application of IHL, and despite the profound legal and humanitarian implications associated with recognizing the existence of an armed conflict, international treaties do not provide a single, comprehensive definition of what constitutes this type of conflict. As a result, the definition and interpretation of this concept relies heavily on state practice, the jurisprudence of international courts, and the analysis of legal scholars (Melzer & Kuster, 2016).

The classic form of armed conflict is one that occurs between two or more states and is therefore classified as international in nature. The legal framework governing such conflicts is primarily codified in the 1907 Hague Regulations, the four Geneva Conventions of 1949, and Additional Protocol I of 1977. In addition to these treaty instruments, a significant portion of customary IHL reinforces the legal obligations applicable in international armed conflicts (Melzer & Kuster, 2016).

Common Article 2 of the Geneva Conventions stipulates that the Conventions apply not only to situations of formally declared war, but also to any armed conflict that arises between two or more High Contracting Parties, regardless of whether one of the Parties recognizes the existence of a state of war. The article also affirms the applicability of the Conventions in situations where the territory of a High Contracting Party is totally or partially occupied, even in the absence of armed resistance (International Committee of the Red Cross (ICRC), 1949).

Furthermore, for States Parties to Additional Protocol I, the scope of international armed conflict is extended to include struggles waged by peoples to resist colonial domination, alien occupation or racist regimes, when such struggles are part of the exercise of their right to self-determination as recognized in the Charter of the United Nations and the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States. As mentioned in Article 1(4) which states that: “armed conflicts in which peoples are fighting against colonial domination and alien occupation and against racist régimes in the exercise of their right of self-determination, as enshrined in the Charter of the United Nations and the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations” (International Committee of the Red Cross (ICRC), 1977).

International Humanitarian Law applicable to international armed conflicts also regulates the partial or complete occupation of the territory of a High Contracting Party, even when the occupation meets with no military resistance (Geneva Conventions, Common Article 2). In practice, belligerent occupation arises when a State invades the territory of another State and establishes military authority over it, whether in whole or in part. According to Article 42 of the 1907 Hague Regulations, territory is considered occupied when it is actually placed under the effective authority of a hostile military

power. This occupation extends only to the areas where such authority has been effectively established and can be exercised (Second International Peace Conference, 1907).

For States Parties to Additional Protocol I, Article 1(4) expands the definition of an international armed conflict to include territories occupied by foreign forces, even when such territory is not part of a recognized State, provided that the population of such territory is engaged in a struggle against foreign occupation or colonial domination as part of their right to self-determination (Second International Peace Conference, 1907).

2.2.2.1 Effective Control Requirement

To determine whether a territory is occupied under IHL must be based on factual realities. The main criterion is whether the foreign power has established effective control over the territory, more particularly its ability to perform governmental functions such as maintaining public security and order. It should be noted that, the existence of an occupation does not depend on the occupying power's intention or willingness to assume these responsibilities, but it rather, depends on its actual capacity to do so. Thus, as long as a foreign state maintains effective control over a territory, it cannot legally evade its obligations under the law of occupation by abstaining from governing. (Second International Peace Conference, 1907) More important, direct military presence is not needed to say that there is a status of occupation, as a situation of occupation may constitute a belligerent occupation even when the foreign power controls the occupied territory indirectly through local authorities operating under its overall control, effectively acting as its agents. Therefore, states cannot avoid their responsibilities under the law of occupation by relying on proxy authorities to administer the occupied territory (Second International Peace Conference, 1907).

Article 42 of the 1907 Hague Regulations states that a territory is regarded as occupied only when the occupying power has actually established and is capable of exercising effective control over it. In practical terms, this means that determining the precise geographical scope of an occupation can be highly complicated. Nevertheless, the legal consequences of occupation do not depend on the duration or extent of the occupation, but rather it depends solely on the real existence of effective control over the territory. Once the effective control is established, the civilian population within that territory is

considered under the authority of the occupying power, which effects the full protections of the Fourth Geneva Convention (1949) (Second International Peace Conference, 1907).

2.2.2.2 Applicability of IHL in Gaza Strip

The easiest and legally unambiguous way to say that a belligerent occupation has come to an end is through the complete and voluntary withdrawal of the occupying forces, accompanied by the effective control given back to the displaced sovereign authority. The 1949 Geneva Conventions also recognize that armed resistance to occupation may emerge from within the occupied territory itself, including the formation of organized resistance movements.

However, the outbreak of internal resistance does not, in and of itself, bring an occupation to a legal conclusion. As long as the occupying power retains the military capacity to reassert control over the territory whenever it wants. Therefore, even the intense conflict or the temporary loss of territorial control does not free it from its responsibilities under IHL (IHL). The status of occupier, along with its attendant legal obligations, persists until the power is genuinely and durably deprived of its ability to exercise authority over the area in question¹.

Once an occupying power's military authority is completely over, and it no longer can impose control, the legal status of occupation ceases. In such cases, the former occupant's obligations toward the civilian population goes back to those of a party to the conflict under general IHL rules. Historical examples of the termination of occupation include the withdrawal of German and Japanese forces at the end of World War II (Second International Peace Conference, 1907).

A more legally contested case is Israel's 2005 disengagement from the Gaza Strip. Even though Israel withdrew the permanent ground forces and settlements from Gaza Strip, the legal and academic debate continues regarding whether Israel remains an occupying power due to its continued control over Gaza's borders, airspace, maritime access, and irregular military invasions. The ICRC has taken the position that in exceptional cases,

¹ "Trial of Wilhelm List and others, United States Military Tribunal, Nuremberg, 8th July, 1947, to 19th February, 1948 (The Hostages Trial)," in Law Reports of Trials of War Criminals, selected and prepared by the United Nations War Crimes Commission, Vol.VIII, His Majesty's Stationery Office, London, 1949, p. 56. Available at: http://www.loc.gov/rr/frd/Military_Law/pdf/Law-Reports_Vol-8.pdf.

occupation law may continue to apply even after the physical withdrawal of occupying forces, particularly when the former occupier retains key elements of authority or control over the territory. In such circumstances, the law of occupation would continue to apply, even if within defined territorial and functional limits (ICRC, N.D).

After establishing that the IHL is applicable to Gaza Strip, this section will examine the main legal instruments that protects the right to water:

a. Geneva Convention Relative to the Protection of Civilian Persons in Time of War (Fourth Geneva Convention)

Article 53 states that: “Any 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” (International Committee of the Red Cross (ICRC), 1949).

The initial intention behind the Stockholm Draft of Article 53 was to offer protection primarily to private property, with the goal of safeguarding civilians by ensuring that the personal possessions essential to their survival--such as housing, clothing, food, tools, and transportation--would not be destroyed unless strictly required by military necessity. However, during the Diplomatic Conference, some delegations highlighted the evolving understanding of property rights, noting that Article 23(g) of the 1907 Hague Regulations, which prohibits the destruction of "the enemy's property," does not limit this to the possessions of individual nationals. Responding to this perspective, the drafters of the Geneva Convention broadened Article 53 to include not only private property but also state-owned and collectively held property (International Committee of the Red Cross, 1958).

Under IHL, water installations--including wells, cisterns, pumping stations, and irrigation systems--are classified as civilian property and are therefore protected under Article 53 of the Fourth Geneva Convention. In the context of the right to water, this provision serves a critical protective function: it prohibits the deliberate targeting or disabling of water infrastructure and requires that such facilities be preserved to ensure continued access for the civilian population (Melzer & Kuster, 2016).

Article 55 states that: “1. To the fullest extent of the means available to it, the Occupying Power has the duty of ensuring the food and medical supplies of the population; it should, in particular, bring in the necessary foodstuffs, medical stores and other articles if the resources of the occupied territory are inadequate. 2. The Occupying power may not requisition foodstuffs, articles or medical supplies available in the occupied territory, except for use by the occupation forces and administration personnel, and then only if the requirements of the civilian population have been taken into account” (ICRC, N.D, Article 55).

Article 55 significantly expands the obligations of an occupying power in comparison to earlier legal instruments. While Article 43 of the 1907 Hague Regulations only required the occupier to ensure public order and safety "as far as possible," Article 55 imposes a much more robust duty: the occupying power must, to the fullest extent of its available means, guarantee the provision of food and medical supplies to the civilian population under its control (International Committee of the Red Cross, 1958).

This provision was developed in response to historical realities--particularly the widespread starvation and deprivation experienced by civilians during recent occupations. In many such cases, hardship was exacerbated by the occupying forces' requisitioning of local resources, leaving the population without essential supplies. The resulting lack of food, medicine, and hygiene conditions frequently gave rise to disease outbreaks and epidemics (International Committee of the Red Cross, 1958).

The underlying rationale of Article 55 marks a return to the humanitarian spirit of classical laws of armed conflict, which were originally intended to weaken the capacity of enemy states--not to inflict suffering on civilian populations. By placing a clear legal duty on the occupying power to maintain minimum material standards for the well-being of the occupied population, the article affirms that the protection of human dignity remains a central principle of IHL (International Committee of the Red Cross, 1958).

While Article 55 does not explicitly mention water, it is widely accepted in legal scholarship and ICRC commentary that access to clean and sufficient water is integral to both nutrition and public health. As such, water is implicitly included within the scope of the article's protections. Indeed, General Comment No. 15 (2002) of the UN

Committee on Economic, Social and Cultural Rights affirms that the right to water is indispensable for the realization of the rights to food and health, both of which are protected by Article 55. Therefore, the occupying power has a legal obligation to ensure access to water, particularly when local sources are insufficient or have been damaged due to conflict (General UN Economic and Social Council, 2003).

Article 56 states that: “To the fullest extent of the means available to it, the Occupying Power has the duty of ensuring and maintaining, with the cooperation of national and local authorities, the medical and hospital establishments and services, public health and hygiene in the occupied territory, with particular reference to the adoption and application of the prophylactic and preventive measures necessary to combat the spread of contagious diseases and epidemics...” (International Committee of the Red Cross, 1958).

Drawing on the humanitarian lessons of the Second World War, the ICRC emphasized the need for preventive public health measures following the end of hostilities to avert the recurrence of widespread suffering among civilian populations. Within this framework, Article 56 of the Fourth Geneva Convention places a clear obligation on the occupying power to maintain and support medical services, public health, and hygiene in the occupied territory (Melzer & Kuster, 2016, Article 56).

This includes implementing prophylactic measures to prevent the outbreak and spread of contagious diseases and epidemics, which are often exacerbated by conflict-related disruptions to essential services. Crucially, access to safe drinking water and sanitation is foundational to achieving the public health objectives of Article 56. As affirmed by General Comment No. 15 of the UN Committee on Economic, Social and Cultural Rights, the right to water is an essential component of the right to health. Thus, the obligation to preserve and restore water infrastructure, ensure water quality, and guarantee equitable access to sufficient water supplies is not only a humanitarian necessity but also a legal requirement under both IHL and IHRL. In this light, Article 56 reinforces the protection of the right to water as integral to the health and dignity of civilian populations under occupation (General UN Economic and Social Council, 2003).

b. The Hague Regulations

Article 23(a) of the Annex to the Fourth Hague Convention (1907) states that civilians are entitled to an adequate water supply under all circumstances, this provision prohibits any action that would deny civilians access to the water they need for survival no matter what the motive is. In other words, this article establishes that water installations and supplies essential for human life cannot be deliberately destroyed, damaged, or blocked, whether it was as a tactic of war or as a part of punishment (ICRC, N.D).

Over time, this principle has been expanded and strengthened to cover all vital human needs, with water explicitly recognized as fundamental for health and survival. This interpretation can be found in Article 54 of Additional Protocol I (1977) to the Geneva Conventions, as this article explicitly prohibits attacking, destroying, or rendering useless “objects indispensable to the survival of the civilian population,” including drinking water installations and supplies. Together, these provisions reflect a core principle of IHL, which is that combatants must not use starvation, deprivation, or the destruction of vital resources as a method of warfare, and that such actions directly endanger civilian lives and violate the humanitarian purpose of IHL (ICRC, N.D).

Articles 43 and 55 of the 1907 Hague Regulations both impose clear obligations on an occupying power in regards to the management of resources and the provision of essential services. While article 43 requires the occupier to maintain public order and civil life, which necessarily includes ensuring the functioning of essential civilian services such as the drinking water supply and sanitation systems, article 55 complements this by affirming that the occupying power holds only a usufructuary role over public property, meaning it cannot exploit or exhaust water resources for its own benefit but must manage them as a trustee for the welfare of the local population. These provisions align with modern human rights standards, notably General Comment No. 15 (2002) of the UN Committee on Economic, Social and Cultural Rights, which recognizes access to water as a fundamental human right indispensable for life and human dignity (International Committee of the Red Cross, 2008).

c. Customary International Humanitarian Law

In 2005 there was a study issued by The ICRC on Customary IHL (CIHL) that underscores that water access and infrastructure enjoy strong protection under customary law, which binds all parties to a conflict regardless of treaty ratification. These rules are particularly relevant in contexts like Gaza, where hostilities directly impact civilian access to water.

A close reading of Rules 53 and 54 of the above-mentioned study reveals a clear collaboration of their normative objectives and their legal functions, particularly in the context of protecting access to water during armed conflict. To start with, Rule 53 prohibits the use of starvation as a method of warfare, (Henckaerts & Doswald-Beck, 2005) and even though it is a prohibition that is primarily associated with food deprivation, but it has been consistently interpreted to encompass the deliberate denial of water, due to its undeniable role in sustaining life. In this sense, Rule 53 sets out a substantive humanitarian standard, which is that belligerents must not weaponize deprivation to weaken civilian populations. Now, Rule 54 reinforces and activates this principle by prohibiting attacks against, or the rendering useless of, objects indispensable to the survival of the civilian population, explicitly including drinking water installations, irrigation works, and sanitation systems (Henckaerts & Doswald-Beck, 2005, Rule 54).

Although Rule 54 focuses on the means and conduct of hostilities, its purpose meets with Rule 53 by ensuring that civilians retain access to the resources necessary for survival. In practice, a violation of Rule 54, such as the destruction of water infrastructure, may constitute or lead to a breach of Rule 53, especially where such breach results in mass deprivation. Thus, the two rules are not only mutually reinforcing but are also grounded in a shared humanitarian rationale that is, safeguarding human life by protecting essential civilian needs, particularly access to water. Their combined effect affirms the principle that the right to water is implicitly protected under customary IHL, even absent an explicit treaty provision (Kebebew, 2025).

Furthermore, Rule 55 imposes an obligation where conflict parties must allow and facilitate rapid and unrestricted passage of humanitarian relief, including water, sanitation supplies, and related equipment. This ensures the idea that water is necessary

for life and also for public health, especially during crises, because right then existing infrastructure could be damaged or destroyed. (Henckaerts & Doswald-Beck, 2005, Rule 55) There is also Rule 56 that ensures this by stating that humanitarian organizations such as the ICRC, UN agencies, and NGOs should be granted access to deliver these essential supplies, ensuring that humanitarian assistance reaches civilians in need (Henckaerts & Doswald-Beck, 2005, Rule 54)

While these rules together form a coherent framework for safeguarding water in times of armed conflict, the significance of these rules goes beyond the abstract protection of civilian objects. Because water systems and infrastructures are a necessity for civilian survival. Which means that damaging or blocking them is not simply to harm property, it is to harm life itself. This approach agrees with modern human rights thinking. The UN Committee on Economic, Social and Cultural Rights, in General Comment No. 15 (2002), has explicitly stated that access to safe water is not a luxury, nor a policy choice, but an indispensable condition for preserving life and safeguarding human dignity. The convergence of these legal regimes underscores a simple truth that is without water, all other rights become fragile promises.

Finally, and after determining the legal framework of the right to water, it should be noted that, while the core legal framework applicable to the Gaza Strip -regarding the protection of the right to water- is basically found in IHL and IHRL, The influence of soft law instruments plays an increasingly critical interpretive and normative role in contexts of armed conflict. Under IHL, Israel--as explained in the previously--bears obligations under Articles 43 and 55 of the 1907 Hague Regulations and Articles 53, 55, and 56 of the Fourth Geneva Convention, which collectively impose duties to preserve essential civilian infrastructure, and also to ensure the provision of food, medical supplies, and, by implication, access to water in occupied territories. While the above mentioned forms a part of hard law, soft law instruments clarify and expand the interpretation of state obligations regarding water. (General UN Economic and Social Council, 2003) For example, General Comment No. 15 assures that the right to water is necessarily linked to the right to life and dignity and imposes on states the duties to respect, protect, and fulfill this right, even in conflict-affected settings. (General UN Economic and Social Council, 2003) Likewise, UN General Assembly Resolution 64/292 (2010), although it's non-binding, represents a near-universal consensus

recognizing the human right to water and sanitation, it further supports that the denial of water access in Gaza—through destruction of infrastructure, blockade, or restriction of repair materials—constitutes a violation of both legal and ethical obligations. (Water, 2010) Soft law also interacts with IHL in light of the ICRC’s Customary International Humanitarian law Study (2005), particularly Rules 53–56, which affirms that water infrastructures are necessary for civilian survival, and must not be attacked or obstructed, and that humanitarian access to such resources must be ensured. (Henckaerts & Doswald-Beck, 2005) Moreover, the Berlin Rules on Water Resources (2004), which was adopted by the International Law Association (ILA), even though it’s not binding, determine the principles of water justice, including equitable use, no significant harm, and a duty to protect water in situations of occupation and armed conflict. (International Law Association, 2004) Soft law norms amplify the interpretation of binding IHL and IHRL obligations, which strengthen the legal imperative for water protection and humanitarian relief. While soft law lacks enforceability in itself, the job it does with treaty and customary norms strengthens the legal and moral accountability of the occupying power under international law.

Chapter Three

Legal Evaluation of Israeli Practices Against Gaza's Water Infrastructure

Having established in the preceding chapter the applicable international legal framework governing the protection of the right to water in situations of occupation and armed conflict, the analysis now turns to its practical application to the Gaza Strip. This chapter examines Israel's conduct in relation to Gaza's water infrastructure, with a focus on acts of destruction, restriction, and deprivation, and evaluates whether these measures are compatible with the obligations imposed by IHL, IHRL, and international criminal law.

Israel through along time had control over water resources in the OPT which includes Gaza, the West Bank, and East Jerusalem. for example, after the 1967 Six-Day War, Israel consolidated control through military orders, specially the Military Order No. 158 (November 1967) and the Military Order No. 498 (4 November 1974), which effectively integrated Palestinian water systems into the Israeli administration. These orders prohibited the construction of new water installations or the extraction of water from new sources, because in order to do so, people will need a prior authorization from the Israeli military which is a permit regime that is almost impossible for Palestinians to get (Abdul Samad et al., 2024).

By 1982, Palestinian water infrastructure in the West Bank had been transferred to be under the authority of Israel's national water company, Mekorot. The following Oslo Accords of 1993 and 1995, which stated provisions on Israeli–Palestinian cooperation in water management and also a recognition of Palestinian water rights, reinforced Israeli control. The agreements also allocated Israel 87 percent of the West Bank's groundwater resources, leaving Palestinians with just 13 percent—a division that remains unchanged despite substantial population growth (Abdul Samad et al., 2024).

For over two decades, Gaza has endured an acute potable water crisis. Around 90 percent of the Strip's well water is drawn from the Coastal Aquifer Basin, which is a source that has been severely over-used, especially along the coastline. This overuse has caused water levels to drop, which allows the sea water from the Mediterranean to leak to the aquifer. the rising in sea levels linked to climate change have further aggravated

this intrusion. (Cole, 2024) what makes the situation even worse, is the Israeli blockade has repeatedly disabled sewage treatment facilities, leading to the leakage of untreated sewage into the aquifer, along with chemicals from manufacturing workshops and there's also the blockade's restrictions on the importation of construction materials have significantly affected the infrastructure in Gaza, particularly those facilities that has been damaged during repeated military escalation. (ESCWA, 2023) Moreover, Israel's irrigation practices using treated wastewater near Gaza's border have contributed to saline return flows contaminating the aquifer. As a result to all that, only about four percent of the groundwater is safe for drinking (ESCWA, 2023).

In response to this problem, potable water has been sourced whether through private tanker trucks, small desalination plants within Gaza, or limited pipeline supplies from Israel's Mekorot water authority, which accounts for roughly 12 percent of the Strip's water supply. Some observers characterised. The deliberate restriction and manipulation of water access in Gaza by Israel as weaponization of water which is considered as an act amounting to a war crime (ESCWA, 2023).

3.1 Israel Using Water as weapon in Gaza following October the 7th

The deliberate use of water and related infrastructure as a tool of warfare has become increasingly clear in recent armed conflicts, which put civilian populations under risk, particularly vulnerable groups such as children. After October the 7th, Israel escalated its measures by imposing a "total" blockade on the already sieged Gaza Strip, which is home to around 2.3 million residents. since the beginning of the war after October 7th, the average daily water available for individuals in Gaza has dropped to approximately 4.74 liters per person for all purposes, including drinking, cooking, and hygiene. (Oxfam, 2024) whereas the World Health Organization (WHO) recommends during humanitarian responses and emergencies a minimum of 15 liters person a day, for drinking, basic hygiene and cooking (Lim, 2022).

On 9 October, Israeli Defense Minister Yoav Gallant declared that Israel will impose a complete siege on Gaza, stating that there would be "no electricity, no food, no water, no gas – it's all closed (Nagheeby et al., 2023), This declaration violates by all means article 55 of the fourth Geneva convention.

As the Israeli government declared its intention to stop the supply of water and electricity to Gaza. In the following months, this policy was supported by unprecedented destruction of vital water and sanitation infrastructure. Israel also implemented measures to prevent the entry of fuel and essential water and sanitation materials. all that along with continuous bombardment, have effectively stopped the humanitarian agencies from delivering even the most basic lifesaving emergency services, and have seriously hindered efforts to resume water production. The damage has also led to extensive sewage contamination, posing grave risks to the health and lives of Palestinians, (Lim, 2022) which comes as a breach of both Article 53 of the Fourth Geneva Convention and Article 23 of the Hague Regulations.

On the 18th of November, more than a month into Israel's war on Gaza, the United Nations World Food Programme (WFP) issued an urgent warning about severe shortages of food and water in Gaza. in a press conference, Abeer Etefa who is a WFP senior spokeswoman stated that cases of dehydration and starvation had already begun to appear and were rising at an alarming rate. (ESCWA, 2023) the Israeli military operations in west of Gaza aggravated life-threatening conditions for civilians.

The Office for the Coordination of Humanitarian Affairs (OCHA) noted that, Palestinians in western Gaza called for aid after they ran out of their food and drinking water supplies. and also they weren't able to leave their homes due to the presence of Israeli forces and the ongoing bombing. By the of mid-November, the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA) declared that 70 percent of Palestinians in southern Gaza including men, women, and children, had no access to clean water, and that sewage is flowing through the streets in some areas (ESCWA, 2023).

In northern Gaza at that time, there was reportedly no access to clean drinking water, as the local desalination unit was not able to operate and the Israeli water pipeline had been shut off since October. Furthermore, bottled water had not been delivered, which forced residents to consume polluted surface water or polluted aquifer water. The lack of clean water also contributed to the closure of bakeries (ESCWA, 2023).

By mid-February 2024, a report by Doctors Without Borders (MSF) estimated that around 70 percent of Gaza's population had no choice but to consume either polluted or

salted water, both of which cause serious health risks. MSF emphasized that while an individual requires around 3 liters of safe drinking water per day, in addition to nearly four times that amount for hygiene and other daily needs, there were entire families in Gaza surviving on just 3 liters per day in total. The organization further estimated that health conditions had collapsed to the point where there was only one functioning toilet for every 500 to 700 people (Peoples Dispatch/Globetrotter News Service, 2024).

Ala' al-Hilu, who is a Palestinian journalist in Gaza, reported that the streets of Gaza were facing a serious environmental crisis as rainwater is mixed with untreated sewage, which leads to flooding many areas due to continuous overflows. He explained that this crisis is because of the Israeli military's targeting of infrastructure, and the lack of fuel and a complete electricity blackout, which prevented the proper drainage of wastewater. Also, Hosny Muhana, spokesperson for the Gaza Municipality, noted that Israel's assault had disabled essential municipal services, including the repair of roads and the management of rainwater and wastewater systems (Cole, 2024; Al-Hilu, 2024).

As mentioned above, Gaza already had a fragile water infrastructure before October 2023. Prior to the war, clean water as explained previously had been supplied by three desalination plants; however since the beginning of the war, Israel shut them down, restoring only limited production in December 2023 after the strong diplomatic pressure from the Biden administration. While the people of Gaza depend on about 284 groundwater wells, yet the water extracted is frequently salt and polluted. While boiling could reduce some of these risks, however displaced families who lives in temporary shelters often lacked both fuel and facilities to do so (ESCWA, 2023).

By February 2024, only 17 percent of the wells remained operating, As Israeli airstrikes completely destroyed 39 well, and 93 others were damaged. The situation was even worse by April 2024, when satellite images showed that nearly 63 percent of Gaza's water and sanitation infrastructure had been either damaged or destroyed, which assures the scale of the humanitarian crisis and the intentionally destruction of the essential civilian services (ESCWA, 2023).

During the winter months of the war, Gaza City, Rafah, and other municipalities were unable to operate wastewater treatment facilities. All treatment systems had either been damaged by Israeli bombardment or rendered inoperable due to the chronic lack of fuel.

as wastewater management was destroyed, that meant raw sewage inundated residential areas, which resulted in the widespread gastrointestinal and skin diseases, there were cases of watery diarrhoea, and even polio (ESCWA, 2023).

OCHA documented that two of Gaza's desalination plants were out of operation, while the third was functioning, and it was supplying 2,400 cubic metres per day after the completion of a 3-kilometre transmission line. But unfortunately, distribution remained impossible because, many pipelines that previously carried desalinated water were either without fuel to operate pumping stations or had been physically damaged by Israeli airstrikes (OCHA, 2024). OCHA further reported that by February 2024, two of the three pipelines operated by Israel's national water company, Mekorot—which historically controlled all water resources in the West Bank and supplied roughly 12 percent of Gaza's water—were out of service. The third, the Bani Saeed pipeline, remained functional but was operating at only 42 percent of its capacity, producing just 6,000 cubic metres per day (OCHA, 2024).

An Oxfam assessment of Gaza's water systems in 2023–2024 stated that approximately 80 percent of the water that used to be drawn from lines, wells, and springs which were controlled by Mekorot was lost through leakage, much of it caused by pipeline damage from Israeli bombardment (Abdul Samad et al., 2024).

According to OCHA, by the first quarter of 2024, only 5.7 percent of water is being produced from all the water sources in Gaza, compared to the production levels before the war. Safe water whether it was for drinking or domestic use or personal hygiene, remains very limited. The situation was so dire that rainwater flow and the fractured pipes contaminated surface water, forcing some displaced people to resort to drinking directly from the sewage-filled streets. (OCHA, 2024) The efforts by UNICEF to improve sanitation were also hindered. In February, the agency initiated the construction of 80 family latrines; however, its spokesperson stated that “the sanitation coverage remains very low. WASH [water, sanitation and hygiene] partners continue to construct family latrines, but the lack of cement, wood, and other construction materials slows the progress.” and the restrictions that were put by Israel on the entry of essential construction materials further obstructed the rehabilitation of water and sewage infrastructure (OCHA, 2024).

By July, Israeli forces had intensified the systematic demolition of groundwater wells, destroying 30 in that month alone. At the same time, all three of Gaza's desalination facilities had been rendered non-functional, while nearly 88 percent of the water wells had been either damaged or completely destroyed (Khalid , 2024).

3.2 Systematic Weaponization and Intentional Deprivation of Water

Water can serve as a weapon in armed conflict in multiple ways. The destruction of dams, for example, can turn water into a physical weapon to kill, injure. In the case of Gaza, as someone could tell from the Israeli's practices shown above, that Israel has weaponized water against civilians by systematically destroying and polluting aquifers, wells, groundwater resources, desalination plants, and wastewater treatment facilities. (Abdul Samad et al., 2024) The Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People has noted that “Since the escalation of the conflict, Israeli officials have publicly supported policies depriving civilians of food, water, and fuel, indicating their intent to instrumentalize the provision of basic necessities for political and military objectives and retribution” (United Nations, 2024).

The operations of the Israeli military, have consistently violated IHL by intentionally and systematically depriving Palestinians of access to water which is a resource essential for survival, and that was through the destruction of infrastructure, contamination of supplies, and blocking of materials needed for water production. These actions have effectively destroyed Gaza's water system, and hindered repair efforts, which exacerbate public health risks, by increasing the likelihood of waterborne diseases, which may be a reason to the death of people (Abdul Samad et al., 2024).

In July, Israeli soldiers posted a video where they celebrated the destruction of the Canadian Well Reservoir in Rafah, which is a solar-powered treatment facility built by Canada that had supplied clean water to thousands of displaced people. (ESCWA, 2023) According to UNICEF spokesman James Elder, “Until recently, that reservoir served thousands and thousands of internally displaced people who had sought refuge in Rafah in the area. Now without it, vulnerable children and families are likely to be forced again increasingly to resort to unsafe water, so putting them again at all those risks that

we see time after time, day after day in Gaza — dehydration, malnutrition, diseases” (Schlein, 2024).

Another point that proves the Israeli intention to weaponize water and deprive palestinians of clean water is that; the government of Israel systematically obstructed the requests from the UN and humanitarian agencies for the entry of additional fuel, generators, submersible pumps, and spare parts—which could have more than doubled water output from 40,810 m³/day to over 100,000 m³/day— especially that water production in Gaza is heavily dependent on fuel to operate desalination plants, pumping stations, and related infrastructure (WASH Cluster, 2024).

But instead of enabling restoration of essential services, Israel deliberately restricted fuel allocations, allowing an average of only 12,416 litres per day for water and sanitation needs. This level was never enough, which ensures that water shortage is persisted. Furthermore, Fuel was not the only way Israel used to weaponize water, as the Israeli decision to stop the electricity supplies and block the operation of Gaza’s sole power plant directly crippled the Strip’s capacity to produce and distribute clean water (Times of Israel, 2023).

There is also the declaration that came out of the Defense Minister Yoav Gallant to cut the supplies of food, water, fuel and electricity in the beginning of the war on Gaza. That declaration was immediately followed by the cut off the Mekorot water supply to Gaza, which in itself constitutes a direct breach of IHL. Such an act violates the obligation of an occupying power to ensure access to resources essential for the survival of civilians and contravenes the absolute prohibition on collective punishment. (Abdul Samad et al., 2024) Taken together, these measures reveal not accidental neglect but a conscious strategy of weaponizing water—denying civilians access to an indispensable resource as a method of warfare and collective punishment which is considered a violation to both the Hague regulations and Geneva convention As mentioned before.

3.3 Health Crisis Resulting from Weaponizing Water

Although water is recognized as a fundamental human right, however access to safe drinking water and sufficient sanitation has become impossible in Gaza, which turned what should be a basic necessity into a luxury that is hard to get. This deprivation has exposed the population to an immediate and long-term health risks. (World Health

Organization, 2024) The intensity of hostilities has further disabled the healthcare sector, and that by restricting its ability to monitor and report disease outbreaks. as a result, and by 28 May 2024, water- and sanitation-related illnesses had surged dramatically, with 727,909 reported cases. Among these, the most alarming figures include 485,300 cases of acute watery diarrhea—112,880 of which were in children under five—alongside 9,700 cases of severe bloody diarrhea, likely dysentery, and 81,000 cases of severe jaundice syndrome, that was even suspected to be hepatitis A (Abdul Samad et al., 2024).

Starvation is threatening the entire population of Gaza, as more than two million people are experiencing severe food insecurity (Integrated Food Security Phase Classification (IPC, 2024), malnourished children under the age of five suffering from diarrhoeal diseases face a high risk of death. (World Health Organization, 2024) According to UN Women, 337,057 boys and girls under five are particularly vulnerable to illnesses related to water and sanitation, while approximately 107,000 elderly individuals are at an increasing risk of catching hepatitis A. (UN Women, 2024) Although the comprehensive data on deaths from these diseases in Gaza is not yet available, their lethality in the absence of clean water and adequate healthcare is well established (ESCWA, 2023).

It should be noted that, the damage didn't stop at the civilian houses and their infrastructure, as examination of incident reports that were collected by the UN-led Health Cluster between 7 October 2023 and 29 February 2024 reveals that water and sanitation infrastructure in and around hospitals were damage as a result of Israeli military operations. Five out of seven documented incidents involving such damage, were attributed to direct attacks, which reveals the extent to which essential health-related infrastructure has been deliberately or indiscriminately targeted. (ESCWA, 2023) This violates Article 56 of the Fourth Geneva Convention.

Adding to the many deaths and injuries caused by the ongoing bombardment and the Israeli military operations, civilians in Gaza are going through serious health impacts resulting from the lack of safe water. Médecins Sans Frontières (MSF) at health care centers in Al-Mawasi and Khan Younis reported that the most treated conditions in those centers are cases of jaundice, diarrhea, and scabies, which comes directly from the lack of access to clean water and sanitation. Between January and February 2025 alone,

MSF teams carried out nearly 16400 health consultations, linked to illnesses arising from water scarcity and poor hygiene conditions (Médecins Sans Frontières, 2025).

The MSF medical team coordinator in Gaza Chiara Lodi stated that: “In addition to treating adults and children who have severe war injuries, our staff are treating an increasing number of children with entirely preventable skin diseases like scabies, which is not only uncomfortable, but in severe cases, [causes them to] scratch their skin until it bleeds, which can lead to infection. This is a result of children being unable to bathe, spreading scabies and other infections and leaving lasting scars” (Médecins Sans Frontières, 2025).

The catastrophe is also evident in the spread of polio, which is a disease that had been absent from the Gaza Strip for 25 years, and is a direct result of the destruction of water and sanitation infrastructure by Israeli forces during the war which resulted in creating difficult life conditions (Médecins Sans Frontières, 2025).

Al-Haq in a report that came out in March 2025, assures that Israel’s restrictions on access to water in addition to the destruction of water infrastructure constitute violations of IHRL. As these measures do not only undermine the right to safe, affordable, and accessible water but also constitutes a breach to the right to health (Al-Haq, 2025).

The report also mentions, that UN experts have raised particular concern over Gaza, noting that the absence of clean water has already resulted in an estimated 1.7 million cases of infectious disease primarily diarrhoea, dysentery, and hepatitis A, which was affecting children more, alongside outbreaks of polio, smallpox, and other illnesses capable of spreading large-scale epidemics. All that and along side with the collapse of medical care, this situation has caused preventable deaths, especially among infants and young children. As the experts warned, the scarcity and contamination of water act as a “silent bomb”, which less visible than the explosives that collapse buildings, but equally lethal in their impact (Al-Haq, 2025).

3.4 The Legal Consequences of Weaponizing Water

The intentional targeting, destruction, and restriction of access to water infrastructure in Gaza constitutes a violation of the humanitarian obligations discussed earlier, and it may also be a part of the most serious forms of international criminal responsibility. the

weaponization of water may amount to war crimes. Especially when such measures are carried out in a systematic or widespread manner against a civilian population. the practices of weaponizing water may also fall within the scope of collective punishment or crimes against humanity. Finally, when these the deprivation of water is imposed with the specific intent to destroy, in whole or in part, a protected group, these methods may reach the threshold of genocide, as defined in Article II of the Genocide Convention and Article 6 of the Rome Statute. This section therefore evaluates the legal consequences of Israel's practices by examining them through these three serious crimes: war crimes, collective punishment and crimes against humanity, and genocide.

3.4.1 Weaponizing Water as a War Crime

The Israeli Practices of using water as a warfare method starting from the deliberate targeting or destruction of water pipelines, or the sewage networks, and the desalination facilities violates the fundamental protections under IHL. Such actions not only contravene the prohibitions against starvation of civilians and the safeguarding of civilian objects, but also breaches the rules that were found to protect the natural environment during armed conflict. Under the Rome Statute, these measures constitute war crimes, which include intentionally directing attacks against civilian objects and knowingly launching attacks that cause widespread, long-term, and severe environmental damage (Gaeta & Henry, 2025).

By reviewing the Rome Statute, particularly Article 8, which addresses war crimes, it can be concluded that the aforementioned Israeli practices, which aim to use water as a means of warfare, are likely to cause serious injury to the health of civilians, which constitutes a war crime according to Article 8(2)(a)(iii). (United Nations General Assembly, 2010) Furthermore, targeting water infrastructure and destroying desalination and sewage plants constitutes a direct targeting of civilian objects, which constitutes a war crime under Article 8(2)(b)(ii) and (iv) (United Nations General Assembly, 2010).

3.4.2 Weaponizing Water is a Collective Punishment

The deliberate destruction of water infrastructure, when coupled with the denial of fuel and electricity essential for its operation and the obstruction of repair works, constitute a violation of Article 56 of the Fourth Geneva Convention, which requires the occupying

power to safeguard and maintain public health and hygiene in the occupied territory (International Committee of the Red Cross (ICRC), 1949). In addition, the persistent obstruction of humanitarian relief, manifested in attacks on water sector workers and restrictions on the entry of spare parts and supply convoys, implicates Israel's duties under Article 59 of the same Convention. (International Committee of the Red Cross (ICRC), 1949, Article 59) Taken together, these measures deprive the civilian population as a whole of access to water and therefore risk amounting to collective punishment, a practice expressly prohibited by Article 33, which states that "No protected person may be punished for an offence he or she has not personally committed. Collective penalties and likewise all measures of intimidation or of terrorism are prohibited...Reprisals against protected persons and their property are prohibited." (International Committee of the Red Cross (ICRC), 1949, Article 33).

3.4.3 Weaponizing water Constitutes Genocide

This Part of the thesis will examine whether weaponizing water constitutes a crime of genocide or not. Since the crime of genocide requires a high level of proof due to its nature, there will be a brief explanation of the elements of genocide and how they apply to weaponizing water.

Article (2) of the Convention on the Prevention and Punishment of the Crime of Genocide gives a legal definition of genocide as "Any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such: (c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part..." (United Nations General Assembly, 1948).

This definition has also been adopted and inserted into Article 6 of the Rome Statute of the International Criminal Court (ICC), (United Nations General Assembly, 1998) which assures the ICC's jurisdiction over genocide. It also should be noted that, because the State of Palestine accepted ICC jurisdiction on June 13, 2014, acts that constitute genocide and committed on its territory fall within the jurisdiction of the Court (Center for constitutional rights (CCR), 2016).

Based on the previously mentioned definition of genocide, there are three main elements to the crime of genocide that could be pointed as: 1- a prohibited act

mentioned in the genocide convention 2- a protected group 3- the requirement of intention.

The first element means that, one of the acts that were mentioned in article (2) must be committed. Even though those acts are limited because to consider that an act constitutes genocide it should be one of the specifically five acts mentioned in article (2). As the Israeli airstrikes targeted water facilities that was intended for drinking, hygiene, irrigation, and sewage treatment, also systematically damaging those facilities and preventing their repair as the Israeli airstrikes destroyed approximately 84% of Gaza's water facilities. In addition, the Israeli military stopped the entry of the materials necessary for the maintenance of the damaged water systems, which includes filtration units, tanks, and other infrastructure essential for reconstruction. Also, this policy extended to blocking humanitarian assistance related to water provision for civilians. Combined with the widespread destruction of Gaza's sewage system, all these measures forced the population to rely on polluted water sources. According to expert assessments, this situation has resulted in the spread of waterborne diseases and contributed to the deaths of thousands. (B'Tselem, 2025) All that alongside with the practices stated previously, the first element of the crime of genocide applies to Israel's actions aimed at weaponizing water, as all of the aforementioned actions that Israel has taken since October 7 and continues to take create difficult living conditions for Palestinians in Gaza that are likely to claim many lives.

The second element of genocide, is the requirement of intent to destroy the protected group in whole or part. genocide is the crime that requires the highest level of proof of mens rea, as it requires a dolus specialis of intent, which is the intent to destroy in whole or in a part one of the protected group that are mentioned in the genocide convention (Alexander , 2011).

The International Criminal Tribunal for the former Yugoslavia (ICTY) stated that, the special intent means that the victim of genocide shall belong to an identified group, and that the perpetrator committed the crime as a part of a wider plan to destroy that identified group. (Prosecutor , 1999, Para 66) this element does clearly apply to the case of weaponizing water, and that is obvious through the Israeli government statements. some of those statements are: The Minister of National Security, Ben Gvir stated that "123 days I oppose the introduction of any humanitarian aid to the killers from Gaza"

(Law for Palestine, 2024). In a Knesset debate the Minister for the Advancement of Women, May Golan made a speech saying "I am personally proud of the ruins in Gaza.... every baby, even 80 years from now, will tell their grandchildren what the Jews did". (Law for Palestine, 2024) Orit Strook the Minister of Settlements and National Missions stated also in a Knesset meeting that "there is no such thing as a Palestinian people" and that "there will never be a Palestinian state in the land of Israel." (Law for Palestine, 2024) There was also statements from IOF soldiers that reflects their warfare methods. For examples, Yehuda Lopez said "There are no innocents there. We have to get that into our heads." "No innocents, yes." "That no one remains" (Law for Palestine, 2024).

The third element is to commit one of the mentioned acts against a national, ethnical, racial or religious group whether in whole or in part. Another key phrase in the Convention's definition is "in whole or in part," which indicates that the crime of genocide does not necessitate the annihilation of the entire protected group. Instead, targeting a subset of such a group is sufficient to meet the legal definition. (Steven & Jensen: Genocide, 2003) And that what is happening with Palestinians in Gaza.

In conclusion, the intentional destruction of water facilities, alongside with the denial of essential fuel and humanitarian supplies, creates conditions of life calculated to bring about the physical destruction of the Palestinian population in Gaza, which meets the material element of genocide under Article II(c). And as the public statements by Israeli officials evidencing intent, and the fact that Palestinians constitute a protected national group, the elements of genocide are arguably fulfilled. While the definitive legal determination lies with judicial bodies such as the ICC, the weaponization of water in Gaza can plausibly be understood as a genocidal practice under international law.

Chapter Four

Conclusion and Recommendations

4.1 Conclusion

This thesis has examined the intentional destruction, restriction, and deprivation of Gaza's water infrastructure and demonstrated how these practices constitute the weaponization of water in violation of international law. The analysis has shown that the right to water is firmly embedded in IHL, IHRL, and international criminal law. Water is not merely a civilian object but a life-sustaining resource indispensable for survival, and its protection is a matter of both humanitarian necessity and legal obligation.

By giving a brief look on the Israeli long-standing control over Palestinian water resources and by studying closely the escalation of these measures after October 7, 2023, the thesis has established that water has been used as a tool of warfare, and collective punishment. The consequences are visible in Gaza's public health collapse, the outbreaks of preventable diseases, malnutrition, and also the conditions that made the Strip nearly uninhabitable. In legal terms, these practices fall within the prohibitions on targeting civilian objects and starvation as a method of warfare, amount to collective punishment of a civilian population, and, when viewed in light of stated intent and their devastating impact, may reach the threshold of crimes against humanity and genocide.

The broader implication relays in, the use of water as a weapon violates the very foundations of international law. It also undermines the humanitarian purpose of IHL, violates non-derogable human rights, and makes everyone question the credibility of accountability mechanisms. If the intentional deprivation of water to millions of civilians can happen without consequences, the integrity of international law itself is at risk.

4.2 Findings

The key findings of this thesis can be summarized as follows:

1. Legal Protection of Water:

- IHL expressly prohibits attacks on civilian objects, especially those which are necessary for survival, including water installations.
- IHRL recognizes water as a human right essential to life and dignity (ICESCR, General Comment 15).
- ICL criminalizes starvation and the targeting of civilian infrastructure, extending to water systems.

2. Israeli Practices in Gaza:

- Through history there has always been an Israeli Long-term control over Palestinian water resources, through military orders, permit regimes, and Mekorot entrenched structural domination.
- Since October 2023, Israel has been weaponizing water systematically through, destroying wells, and pipelines, disabling desalination plants, and destroying sewage facilities. All that, along side with blocking fuel, electricity, and repair materials.
- The Israeli Practices and actions reduced the available amount of water to levels way below humanitarian standards, which led to a severe public health crisis.

3. The Legal Consequences: The Israeli practices related to weaponizing water in Gaza constitute a war crime according to the Rome Statute (Article 8). It also breaches Article 33 of the Fourth Geneva Convention, as those practices amount to collective punishment. Finally, when these practices are combined with the intent to destroy a protected group in the genocide convention, they may constitute a crime of genocide.

4.3 Recommendations

1. Accountability

- The International Criminal Court should prioritize investigation of water weaponization in Gaza under the war crimes of starvation and targeting civilian infrastructure.
- The International Court of Justice should clarify state responsibility through advisory opinions and contentious proceedings.

- States should exercise universal jurisdiction to prosecute individuals responsible for grave breaches relating to water deprivation.
2. Development of International Law
- The international community should codify stronger protections for water in armed conflict, drawing on the Berlin Rules and the Geneva List of Principles on the Protection of Water Infrastructure.
 - There should be an explicit recognition of water weaponization as a violation to jus cogens. in order to close existing legal gaps.
3. Policy and Humanitarian Measures
- Humanitarian access to water, fuel, and repair materials must be secured and should be isolated from political interference.
 - International actors must prioritize the reconstruction of Gaza's water and sanitation systems in post-conflict recovery plans.
 - Access to water must be depoliticized and treated as a non-negotiable humanitarian necessity, protected even in times of hostilities.

4.4 Final reflection

The weaponization of water in Gaza is not only an attack on a civilian population but also a challenge to the credibility of international law. It demonstrates the urgent need for accountability, for the strengthening of legal protections, and for decisive international action to ensure that water remains what it must always be: a source of life, not a weapon of war.

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جامعة النجاح الوطنية
كلية الدراسات العليا

تسليح المياه: استخدام إسرائيل للمياه كأداة عدوان ضد غزة في 2023

إعداد

نورهان خيرالدين مصطفى براهيمة

إشراف

د. مجد عودة

د. أحمد بشتاوي

قدمت هذه الرسالة استكمالاً لمتطلبات الحصول على درجة الماجستير في القانون الدولي وحقوق الإنسان،
من كلية الدراسات العليا، في جامعة النجاح الوطنية، نابلس - فلسطين.

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الملخص

تستكشف هذه الأطروحة استخدام المياه كسلاح في العدوان الأخير على قطاع غزة، كسياسة حرب وسيطرة منعمدة، من خلال تقييم مدى قانونيتها بموجب القانون الدولي الإنساني، والقانون الدولي لحقوق الإنسان، والقانون الجنائي الدولي. وتتناول الأطروحة سؤالاً محورياً، وهو: إلى أي مدى تُشكل الممارسات الإسرائيلية التي تستهدف البنية التحتية للمياه في غزة انتهاكات للقانون الدولي، وهل يُمكن أن ترقى إلى جرائم حرب أو إبادة جماعية؟ تبحث الأطروحة في كيفية تأثير الحرمان الممنهج من الوصول إلى المياه، من خلال تدمير البنية التحتية، وحرمان السكان من الوقود والكهرباء، وعرقلة وصول المساعدات الإنسانية، مجتمعةً، على بقاء المدنيين وكرامتهم. كما تسعى إلى تحديد نطاق التزامات إسرائيل كقوة احتلال، وما إذا كانت هذه الممارسات تُخالف حظر العقاب الجماعي وحماية الموارد المدنية الأساسية. منهجياً، تعتمد هذه الرسالة تحليلاً قانونياً نوعياً يجمع بين الصكوك القانونية الأساسية، مثل اتفاقية جنيف الرابعة، والبروتوكول الإضافي الأول، ونظام روما الأساسي، واتفاقية منع جريمة الإبادة الجماعية ومعاقبة مرتكبيها، ومصادر ثانوية، بما في ذلك تقارير الأمم المتحدة، وتعليقات اللجنة الدولية للصليب الأحمر، ووثائق من منظمة أوكسفام، ومنظمة أطباء بلا حدود، ومؤسسة الحق. تُظهر النتائج أن أفعال إسرائيل تُشكل انتهاكات جسيمة للقانون الدولي الإنساني، ولا سيما المواد 33 و55 و56 من اتفاقية جنيف الرابعة، وقد ترقى أيضاً إلى جرائم حرب بموجب المادة 8 من نظام روما

الأساسي. كما تُجادل الدراسة بأن التسبب المتعمد في ظروف تُهدد الحياة من خلال الحرمان من المياه

يُمكن أن يُليي أركان الإبادة الجماعية بموجب المادة الثانية (ج) من اتفاقية منع جريمة الإبادة الجماعية.

الكلمات المفتاحية: قطاع غزة، تسليح المياه، القانون الدولي الإنساني، العقاب الجماعي، جرائم الحرب،

الإبادة الجماعية، الحق في المياه.