Endemic Impunity

Israeli Violations of International Law in the Jordan Valley

2013
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Introduction

Contrary to general belief, occupation in itself is not an illegal act. International law holds that occupation is one possible and natural result of conflict between nations. International humanitarian law (IHL), primarily the Hague Regulations of 1907 and the Fourth Geneva Conventions (IVGC) of 1949, regulates occupation by clearly dictating its rules. Additionally, recent international legal rulings have demonstrated that international human rights law (IHRL) is also applicable during situations of occupation. Treaties, conventions, and covenants, signed and ratified by the Occupying Power are held in force in the occupied territories, protecting the basic rights of the occupied population. Although the combination of IHL and IHRL leaves some legal ambiguity where these two legal regimes overlap, the result is a clearly defined set of obligations held by the Occupying Power and rights inherent to the occupied population. Illegal state action, then, is the violation of these rights and obligations; an occupation is illegal not by its nature, but by the systematic violation of the rules of occupation.

When Israel took control of the West Bank and Gaza as a result of the war of 1967, general international opinion held that these territories were occupied. Israel initially held the same view, though it soon reversed its opinion. Although the international community has maintained that the Palestinian territories are occupied, Israel has been able to withstand international pressure as well as prolong and deepen the occupation by claiming that such territories are not occupied but merely “disputed.” Over the course of the Israeli occupation of the Palestinian territories, the Israeli state has developed policies designed at acquiring and settling land and resources through the systematic deprivation of basic Palestinian rights. While there are certain policies, such as the settlement project, that have been repeatedly decried as illegal by the international community, a brief look at Israeli actions in every facet of the occupation reveals Israeli government policies that flagrantly contravene international law.

These fundamental breaches of international law are particularly axiomatic in the Jordan Valley, a resource-rich area of the West Bank that is strategically important for Israel and a geo-political imperative for any future Palestinian state. Because of the particularly contested nature of this region and the extreme violations of international law that take place there, this study will focus on Israeli policies in the Jordan Valley since the beginning of the occupation. This study contains two parts that together explore the scope of Israel’s violations of international law in the occupied territories. Part I is an analysis of several legal debates concerning the specific legal status of the occupied Palestinian territories (oPt) as well as an introduction to the basic legal instruments that should govern the behavior of Israel as the occupying power. Part II looks at the Jordan Valley and demonstrates how Israel’s policies of occupation, namely the discriminatory control over vital resources, break international law by ignoring a variety of legal responsibilities and denying basic rights to Palestinians.

It must be noted, however, that the list of Israel’s responsibilities and Palestinians’ rights developed in this study is in no way exhaustive. Rather, the rights and responsibilities, developed in Part I and explored in Part II, are those of particular relevance to Israeli actions in the Jordan Valley. A complete international legal debate surrounding the Israeli occupation would necessarily include, for example, the annexation of Jerusalem, the treatment of Palestinian prisoners in Israeli jails, and the siege of Gaza. This study will focus exclusively on the legal debates that are most relevant to the Jordan Valley, though it should be noted that many Israeli practices here are repeated elsewhere in the territories and inside Israel to varying degrees.
Part I:
International Law and the occupied Palestinian territories

International Humanitarian Law and International Human Rights Law in the oPt

The legal framework that supposedly governs Israel, as the Occupying Power, in the oPt is complex and often misinterpreted. As in any international conflict, international humanitarian law (IHL) and international human rights law (IHRL) are the primary legal regimes. IHL is comprised of several conventions, treaties, and other legal instruments, including the Fourth Geneva Convention of 1949 (IVGC), Protocol Additional to the Geneva Conventions of 12 August 1949, the Protection of Victims of International Armed Conflicts (Additional Protocols), The Hague Convention respecting the laws and customs of war on land of 1907 and the Attached Regulations (the Hague Regulations), as well as customary international law.1 On the other hand, the body of legal instruments that compose IHRL includes the Universal Declaration of Human Rights (UDHR), the International Convention on the Elimination of all Forms of Racial Discrimination (ICERD), the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights (ICESCR), and the Convention on the Rights of the Child (CRC).

The interaction between and applicability of these two legal regimes has been a source of confusion in the application of international law in the oPt. International humanitarian law was originally created to guide the behavior of states in situations of armed conflict (international or domestic),2 to provide minimum level of protection to non-combatants. The most comprehensive set of rules in IHL are defined through the IVGC, which regulate the treatment of people, territories, and goods during conflict. Importantly, the stipulations of the IVGC apply as soon as certain conditions have been met; no decision by any external party is needed for the Conventions to apply. Israel has accepted the applicability of the Hague Regulations in the oPt as the Regulations are customary in international law, but has denied its responsibility to uphold the IVGC in the oPt, as it claims that the oPt are not under occupation.

IHRL, on the other hand, is meant to govern the actions of states during times of peace. Israel is a signatory to many IHRL conventions such as the ICERD, ICCPR, ICESCR, and CRC. Generally, IHRL stipulates obligations of the state regarding the welfare of its own citizens. As with IHL, Israel has denied that its IHRL responsibilities apply in the oPt, arguing that IHRL only applies within a state’s boundaries and that there are no extraterritorial responsibilities demanded by the IHRL regime. General international consensus, however, holds that countries must fulfill IHRL obligations in all territories under their “effective” or “functional” control. Of the variety of IHRL treaties ratified by Israel, the ICCPR and the CAT contain specific clauses that extend state human rights obligations to all territory that the state effectively controls. Article 2(1) of the ICCPR states that signatories are required “to respect and to ensure to all individuals within its territory and subject to its jurisdiction, the rights recognized in the present Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.”3 Likewise, Article 2(1) of the CAT proffers that “[e]ach State Party shall take effective legislative, administrative, judicial or other measures to prevent acts of torture in any territory under its jurisdiction.”4

The conclusion that IHRL applies in whatever territory a state effectively controls was expanded upon by the Human Rights Committee (HRC)5 and the Committee on Economic, Social and Cultural Rights (CESCR).6 Moreover, the ICJ, in its 2004 advisory opinion on the construction of the Separation Wall, details how IHRL can and should be applied to the oPt the territory is effectively controlled by Israel.7 Understanding that IHRL should be extended to all territories under the effective control of a state, Israel should be held to all obligations in all IHRL treaties to which Israel is a State Party, in all areas considered to be under effective Israeli control.8
Moreover, the traditional view holds that IHL and IHRL are two mutually exclusive bodies of law. However, this traditional view of international law has been amended over time to allow for the applicability of both legal regimes simultaneously. The UN Security Council, in 1967, and the UN General Assembly, in 1970, issued resolutions affirming that the rules of international law regarding human rights – generally thought of as a legal regime for times of peace – must be upheld during times of war.9 The ICJ, in a 1996 advisory opinion, offered that the International Covenant on Civil and Political Rights – an essential component of IHRL – does not cease to apply during times of armed conflict.10 The ICJ and the ICRC have both reaffirmed the legal coexistence of IHL and IHRL, taking slightly differing views on the specific interplay of the two.11 The ICJ affirmed the joint applicability of both these legal regimes in the oPt specifically in its 2004 advisory opinion regarding the legality of Israel’s Separation Wall:

As regards the relationship between international humanitarian law and human rights law, there are thus three possible situations: some rights may be exclusively matters of international humanitarian law; others may be exclusively matters of human rights law; yet others may be matters of both these branches of international law.12

More specifically, the ICJ has argued that IHRL and IHL are both applicable during occupation, but noted that IHL was considered lex specialis.13 The role of IHL as lex specialis does not mean that IHRL is not applicable, but rather that the more specific IHL determines the scope of IHRL.14 The ICRC, on the other hand, provides a more complimentary interaction between the two legal regimes, advising that IHRL “infuses customary norms of IHL” and that “IHL and IHRL can be mutually influencing.”15

Unfortunately, the specific interaction between IHL and IHRL has not been legally clarified.16 Thus, the complex legal status of the oPt, as well as the interplay between IHL and IHRL, obfuscate the specific treaties, passages, and conventions that are applicable in the oPt. Consequently, Israel has been able to escape its legal responsibilities.17 General international consensus holds that IHL and IHRL can and should not be considered to be mutually exclusive. In addition, the UN Security Council18 and the UN General Assembly19 both recognized the applicability of the two legal regimes in the oPt at the outset of the occupation in 1967. For the purposes of this study, it is understood that both IHL and IHRL apply to the oPt and that neither individual legal regime is comprehensive nor sufficient in describing the rights of Palestinians or the obligations of the State of Israel in the oPt.

**Occupation and the Fourth Geneva Convention**

Immediately after Israel seized control of the West Bank (including East Jerusalem) and the Gaza Strip as a result of the war of 1967, the Israeli military authorities proclaimed that the territories had been occupied by Israel and that the rules concerning occupations existent in the IVGC ruled the actions of the military. Article 35 of Military Proclamation No. 3 of June 7, 1967 ordered Israeli military courts in these areas (in addition to the Golan Heights) to adhere to the Convention and that in any conflict between military rulings and the Convention, the Convention would prevail. Military order 144, issued in October of 1967, cancelled Article 35. Since this date, Israel has denied the applicability of the Geneva Convention in the oPt on the basis that the territory is not occupied by, but rather administered by, Israel.20

To this day, Israel has held that the Palestinian territories are not legally considered “occupied” and that the IVGC are not applicable. Israel’s insistence that the oPt are “disputed” territories stems from the so-called “reversioner” argument.21 This legal argument is based on the fact that the West Bank and Gaza, between 1948 and 1967, were held respectively by Jordan and Egypt. According to this argument, Jordan and Egypt had illegally acquired control over the West Bank and Gaza through the use of force during the 1948 war. As this was in violation of the UN Charter, the countries gained control of the Palestinian territories not as legal sovereigns, but as belligerent occupants. As there was thus no legitimate sovereign state that held legitimate rights to the territory, the argument
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In the absence of a prior sovereign, Israel's control of the West Bank and Gaza did not fall within the definition of "occupation" as such as a fundamental premise of the law of occupation—a prior legitimate sovereign—was lacking.

This argument is based on specific readings of Article 43 of the Hague Regulations and Article 2 of the Geneva Conventions. Article 43 of the Hague Regulations, which Israel considers to be customary in international law, states that:

The authority of the legitimate power having in fact passed into the hands of the occupant, the latter shall take all the measures in his power to restore, and ensure, as far as possible, public order and safety, while respecting, unless absolutely prevented, the laws in force in the country.

The inclusion of the term "legitimate," it is argued, precludes the Palestinian territories from being termed an occupied territory as Jordan and Egypt did not hold legitimate power over the territories. Applicability of the Geneva Conventions rests with the qualifiers stated in Article 2:

In addition to the provisions which shall be implemented in peace-time, the present Convention shall apply to all cases of declared war or of any other armed conflict which may arise between two or more of the High Contracting Parties, even if the state of war is not recognized by one of them.

The Convention shall also apply to all cases of partial or total occupation of the territory of a High Contracting Party, even if the said occupation meets with no armed resistance.

Israel has argued that these two paragraphs of Article 2 should be analyzed separately. Under this argument, Article 2 requires the application of the Geneva Conventions during armed conflicts in general (Paragraph 1) and during situations of occupation only when the occupied territory is that of a High Contracting Party (Paragraph 2). Using these interpretations, Israel has argued that the full application of the Geneva Conventions is based on the legitimacy of the status quo ante. As Israel holds that Jordan and Egypt were not legitimate sovereigns of the Palestinian territories it does not consider itself to be an Occupying Power in the territories, and it does not consider the Geneva Conventions to be applicable.

Consequently, although Israel accepts the customary nature of the Hague Regulations, it has rejected the applicability of the IVGC. The Israeli argument against the applicability of the IVGC in the oPt rests on an unfounded interpretation of Article 2. Indeed, there is no indication that the first two paragraphs of Article 2 should be read separately. Moreover, an interpretation of Article 2 that, without indication to do so, reads the first two paragraphs of the article separately clearly violates the spirit of the Convention. The IVGC is meant to protect the civilian population "in all circumstances" (Article 1).

Moreover, intermittent application of the IVGC to the oPt by the Israeli judiciary, military, and government demonstrates legal reluctance on behalf of Israel regarding its official position. In addition to the immediate acceptance of the IVGC in 1967, the Israeli Supreme Court has offered various rulings that have required adherence to various provisions of the IVGC.

Finally, broad international consensus rejects Israel's interpretation of international law. The official position of other State Parties to the Geneva Conventions, the UN General Assembly, the UN Security Council, the UN Economic and Social Council, the UN Commission of Human Rights, and the International Committee of the Red Cross is that Israel is acting as a...
belligerent occupant of the oPt and that the whole of the Geneva Conventions is applicable to the Palestinian territories. This position is further backed by a declaration issued during a Conference of High Contracting Parties to the IVGC in 2001 and by the International Court of Justice.

It is clear, noting the broad international acceptance of the applicability of the IVGC and the weakness of the Israeli argument, that Israel should be held to its legal obligations as a belligerent occupant of the oPt as stipulated in Hague Regulations and the IVGC.

The Oslo Agreements and the Legal Obligations of Occupation

As it has been established that Israel has legal obligations regarding the application of IHRL and IHL in areas controlled by Israel, it is essential to determine, particularly after the signing of the Oslo Accords from 1993-2000, what specific areas are effectively controlled by Israel. As the Oslo Accords shifted various governing responsibilities from Israel to the Palestinian National Authority, the legal landscape regarding Israeli responsibilities under IHRL and IHL had the potential to change drastically.

The “Oslo Process” refers to a series of agreements between the State of Israel and the Palestinian Liberation Organization that took place from 1993-2000. The Oslo Accords were meant to create temporary interim conditions that would eventually lead to the withdrawal of Israeli forces from areas of the West Bank and Gaza. Signed in September 1993, the Declaration of Principles set out the basic Oslo framework. Discussion of core issues such as Jerusalem, settlements, borders, and refugees, was postponed until “permanent status” negotiations. The Declaration of Principles established the Palestinian Interim Self-Governing Authority and gave Palestinians authority over “education and culture, health, social welfare, direct taxation and tourism.” Israel was to maintain control over all issues not specifically delegated to the newly created PNA, in addition to defending against external threats and providing for the “overall security of Israelis” within the oPt. These agreements were amended by the Gaza–Jericho Agreement of 4 May 1994, the Annex to Gaza–Jericho (the Paris Protocols) of 29 April 1994, the 1995 Israeli–Palestinian Interim Agreement on the West Bank and Gaza Strip (Oslo II) as well as the Hebron, Wye River, and Sharm el Sheikh protocols.

The final framework of the Oslo Agreements, meant to be temporary, divided the West Bank into Areas A, B, and C: Area A consisted of the major Palestinian population centers and gave the Palestinian National Authority administrative control and control over basic internal security and public security; Area B consisted of Palestinian towns and villages and gave the Palestinian Authority administrative control while Israel maintained control over all security measures – the “overriding responsibility for security for the purpose of protecting Israelis and confronting the threat of terrorism”; Area C consisted of the rural areas of the West Bank, including all Israeli settlements and military bases and gave full administrative and security control to the Israeli military. Israel would maintain full control over Palestinian airspace, external borders, and the Gazan sea coast. Moreover, Israel was given a veto over all Palestinian legislative powers. Israel also gained further power over the Palestinian economy through control of the collection of customs revenues on imports, control over monetary policy through the adoption of the New Israeli Shekel as the official currency, and control over infrastructural development of essential resources such as water and electricity.

Finally, the Oslo framework requires that the Palestinian National Authority “cooperate with, provide data on, or secure Israeli permission regarding a myriad of matters, such as changes to the Palestinian population registry, the issuing of travel documents, land registration, transportation or exploration of fuel, water, telecommunications, use of the electromagnetic sphere and electrical infrastructural development, nature reserves, and archaeology.” These and other issues are often decided upon by Joint Committees, such as the Professional Joint Committee for Land Use or the Joint Water Commission. The Joint Committees give both Israeli and Palestinian representatives veto power on development projects, but have only addressed projects in Palestinian areas, thus giving Israel a full veto over Palestinian projects.
Many have made the argument that the signing of Oslo and the creation of the Palestinian National Authority as a governing unit have reduced Israel’s responsibilities as set forth in IHRL and IHL, specifically regarding the laws of occupation. In 1994, leading Israeli scholar Eyal Benvenisti argued that Israel was not responsible for Gaza and the Jericho area under the laws of occupation. In 2000, Geoffrey Watson agreed with Benvenisti’s claim, proffering that the occupation continued in Area C, but “probably not” in Areas A or B.

These arguments of decreased responsibility under IHL stem from specific passages in Article 6 of the IVGC and Article 42 of the Hague Regulations. Article 6 denotes that the Occupying Power is bound to the Convention “for the duration of the occupation, to the extent that such Power exercises the functions of government in such territory.” Likewise, Article 42 of the Hague Regulations commits that a “territory is considered occupied when it is actually placed under the authority of the hostile army” and that “the occupation extends only to the territory where such authority has been established and can be exercised.” The argument, therefore, holds that the signing of the Oslo Accords effectively ended the occupation in Area A of the West Bank.

However, despite the creation of the Palestinian National Authority and the designation of Palestinian governed areas, it is clear that the essential means of control remains with Israel. The Palestinian National Authority lacks most of the characteristics of a sovereign ruler – even within Area A. Notably, the overriding Israeli control over general security as well as the legislative veto held by Israel subverts the sovereign powers of the PNA in a way that negates any argument holding that Israel does not still control the entirety of the oPt. Joel Singer, a legal advisor to the Israeli Ministry of Foreign Affairs even noted that the status of the oPt would ‘continue to be that of areas subject to military government, with Israel remaining the source of authority therein’ and that the military government would also be the source of authority for the PA. Indeed, while the appearance of a significant transfer of power took place, “the Oslo Accords sustained (and conveyed putative legality to) legal and administrative arrangements that Israel had established over the preceding 24 years, many of which violated the laws of occupation.”

Therefore, arguments holding that the Oslo Process has reduced or eliminated Israel’s responsibility towards the Palestinians under international law are invalid. The continued military presence in all of Area C and the complete control over the borders of the oPt (both external and between Areas A, B, and C) in addition to the immense economic and legislative control guaranteed by the Oslo Accords demonstrates that the Israeli military occupation has continued in the entirety of the Palestinian territories. Therefore, Israel’s various responsibilities towards Palestinians in the oPt are still applicable, and this viewpoint has been upheld by international legal opinion. The ICJ, in its 2004 advisory opinion, made no mention of the Oslo Accords when reaffirming the applicability of the Fourth Geneva Convention. UN Security Council and General Assembly resolutions, as well as decisions taken by the Israeli Supreme Court, affirm the continuation of the occupation and thus the continuation of Israel’s obligations under IHL and IHRL.

**International Law in the occupied Palestinian territories**

Three important international legal opinions have been clarified and reaffirmed regarding the legal status of the occupied Palestinian territories:

1. International humanitarian law and international human rights law can and should be applied simultaneously in the entire oPt;
2. Effective Israeli control over the entirety of the Palestinian territories, including East Jerusalem and Gaza, equates to the continuation of the Israeli occupation of these areas;
3. The signing of the Oslo Accords and the creation of the Palestinian Authority has in no way reduced or eliminated the obligations of Israel towards the Palestinian people as enshrined in IHL and IHRL.

Using these three points as a foundation, it can be determined that the following legal instruments are applicable in the oPt:
1. The Hague Convention respecting the laws and customs of war on land of 1907 and the Attached Regulations (the Hague Regulations);^5^5
2. The Fourth Geneva Convention (IVGC);^5^6
3. Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Additional Protocols);^5^7
4. Customary International Humanitarian Law;^5^8
5. Universal Declaration of Human Rights (UDHR);^5^9
6. International Convention on the Elimination of all Forms of Racial Discrimination (ICERD);^6^0
7. International Covenant on Civil and Political Rights (ICCPR);^6^1
8. International Covenant on Economic, Social and Cultural Rights (ICESCR);^6^2

The interaction of these various legal instruments clearly defines a variety of Israeli obligations and Palestinian rights, summarized as:

1. The Right to Property
   a) Private property cannot be confiscated. If military necessity requires, confiscation of private property is allowed temporarily. (Article 46 of the Hague Regulations; Article 147 of IVGC)
   b) The Right to Own Property
      (1) All people have the right to own property (Article 17 of the UDHR)
      (2) No one can be arbitrarily deprived of their personal property (Article 17 of the UDHR)

2. The Laws of Settlements
   a) The Occupying Power cannot deport or transfer its own population to the occupied territories (Article 49 of the IVGC; Rule 130 of Customary law)

3. The Right to Life
   a) All actions that cause physical suffering of the protected population, including, but not limited to, collective punishment, pillaging, or indiscriminate attacks, are prohibited. (Article 32 of the IVGC; Article 33 of the IVGC; Article 51 of the Additional Protocols; Rule 103 of Customary law)
   b) The Right to Life, Liberty and Security of Person
      (1) Torture of any type is prohibited (Article 5 of the UDHR; Article 7 of the ICCPR)
      (2) All people are born free and equal and have the inherent right to life (Article 1 of the UDHR; Article 6 of the ICCPR; Article 6 of the CRC)
      (3) Arbitrary arrest or detainment is prohibited (Article 9 of the UDHR)
      (4) Discrimination based on race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status is prohibited (Article 2 of ICERD; Article 2 of ICESCR; Article 2 of CRC; Article 85 of the Additional Protocols; Rule 88 of Customary law)
      (5) The right to security of person and protection is inherent (Article 5 of ICERD; Article 9 of ICCPR)

4. The Right to Freedom of Movement (Article 13 of the UDHR; Rule 56 of Customary law)
   a) All people are allowed to move freely within their borders (Article 13 of the UDHR; Article 5 of the ICERD; Article 12 of the ICCPR)
   b) All people have the right to return to their own country (Article 13 of the UDHR; Article 5 of the ICERD; Article 12 of the ICCPR)
   c) All people have the right to leave any country (Article 12 of the ICCPR)

5. The Right to Self Determination
   a) All people have the right to take part in government (Article 21 of the UDHR; Article 5 of the ICERD)
All people have the right to freely determine their political status and pursue their economic, social and cultural development (Article 1 of the ICCPR; Article 1 of the ICESCR)

6. Independent Economic Development

a) The Right to Work (Articles 51 and 52 of the IVGC)
(1) All people have the right to work, the choice of employment, favorable conditions, and protections against unemployment (Article 23 of the UDHR; Article 6 of the ICESCR)
(2) All people have the right to equal pay for equal work without discrimination (Article 23 of the UDHR; Article 7 of the ICESCR)

b) The Right to Economic Development
(1) All people have the right to freely dispose of their natural wealth and resources (Article 1 of the ICCPR; Article 1 of the ICESCR)
(2) All people have the right not to be deprived of the means of subsistence (Article 1 of the ICCPR; Article 1 of the ICESCR)

c) Measures aimed at creating unemployment, particularly the destruction of objects or goods required for employment or survival are prohibited (Article 52 of the IVGC; Article 54 of the Additional Protocols)

7. The Right to an Adequate Standard of Living and Health (Article 11 of the ICESCR)

a) All people have the right to adequate health for himself and of his family, including food, clothing, housing and medical care (Article 25 of the UDHR; Articles 55, 56, and 59 of the IVGC; Rules 50, 55 of Customary law)

b) All people have the right to housing (Article 5 of the ICERD)

c) All people have the right to medical care (Article 5 of the ICERD; Article 24 of the CRC)

d) All people have the right to a decent living for themselves and family (Articles 7 and 11 of the ICESCR)

e) All people have the right to be free from hunger (Article 11 of the ICESCR)

f) All people have the right to care for physical and mental health (Article 12 of the ICESCR; Article 27 of the CRC)

g) All children have the right to not be economically exploited with work that would interfere with the child’s education, or to be harmful to the child’s health or physical, mental, spiritual, moral or social development (Article 32 of the CRC)

h) Forced transfer of the occupied population is prohibited (Article 49 of the IVGC)

8. The Right to Education (Article 5 of the ICERD; Article 13 of the ICESCR; Article 28 of the CRC; Article 50 of the IVGC)

a) All people have the right to free compulsory primary education (Article 26 of the UDHR; Article 13 of the ICESCR; Article 28 of the CRC)

b) All people have the right to available secondary education (Article 13 of the ICESCR; Article 28 of the CRC)

c) All people have the right to available higher education (Article 13 of the ICESCR; Article 28 of the CRC)

d) All people have the right to continuously improving educational institutions (Article 13 of the ICESCR; Article 28 of the CRC)

e) All children have the right to not be economically exploited with work that would interfere with the child’s education, or to be harmful to the child’s health or physical, mental, spiritual, moral or social development (Article 32 of the CRC)

As we can see, many of the rights accorded to Palestinians, as an occupied people protected by IHL, also correspond to those of IHRL. Indeed, these two legal regimes were created in order to protect the rights of civilians, at all times, while ensuring that during situations of occupation, the Occupying Power is fulfilling its legal obligations. In the oPt, IHL and IHRL are meant to guide the actions of Israel in a way that protects the collective and individual rights of the Palestinian people as a protected people and nation. Unfortunately, as will be discussed in Part II, Israel has greatly infringed upon the basic rights of the Palestinian people in the Jordan Valley and has ignored its obligations under international law.
**Part II:**

**The Jordan Valley and International Law**

The Palestinian Jordan Valley consists of the eastern section of the West Bank, extending along the Jordan River, from the Dead Sea and continuing approximately 70 km north to the border with Israel. From the Jordan River, the Jordan Valley runs 15-20 km west and covers around 28.5% of the West Bank. Fertile agricultural land, a temperate climate, and significant water resources offer enormous agricultural, economic, and political potential. Furthermore, this region is located entirely within the oPt, on the Palestinian side of the 1967 Green Line. However, Israel has invested enormously throughout the occupation in an attempt to facilitate Israeli civilian settlement and to confiscate important and valuable natural resources in the Jordan Valley. Using a variety of military orders and the antiquated land classification system of the Oslo Accords, Israel has denied the Palestinians of this important region many of their basic human rights. In fact, over the course of the occupation, Israel has completely ignored its obligations under international IHL and IHRL, while systematically impinging on the rights of the Palestinian population as a protected people.

This section will analyze the obligations of Israel, as the Occupying Power, as well as the rights of the Palestinian people, as set out in Part II, in an effort to determine how and where Israel has broken international law in the Jordan Valley.

1. **The Right to Property**
   - Private property cannot be confiscated. If military necessities require, confiscation of private property is allowed temporarily. (Articles 46 and 55 of the Hague Regulations; Articles 53 and 147 of IVGC)
   - The Right to Own Property
     1. All people have the right to own property (Article 17 of the UDHR)
     2. No one can be arbitrarily deprived of their personal property (Article 17 of the UDHR)

At the beginning of the Israeli occupation, Israel took a number of steps to begin appropriating Palestinian land. Using a variety of confiscation techniques, ranging from designations of vast areas as “state land” to the misapplication of ancient Ottoman tax laws to the issuance of numerous military orders, Israel was able to take control of most of the Jordan Valley. Today private Israeli settlements control 50% of the Jordan Valley and the government, through military bases, empty state land, or natural reserves, controls another 45%.

According to Article 43 of the Hague Regulations, Israel has an obligation to respect “unless absolutely prevented, the laws in force in the country.” Prior to 1967, there was a mélange of legal regimes in the West Bank, combining British, Jordanian, and Ottoman laws. Legal ownership of the land rested with the State, but private and collective land rights were divided and registered through tax laws. Most landholders avoided proper land registration in order to avoid additional Ottoman taxes. Starting in the 1920s during the British Mandate and continuing through the period of Jordanian control, there was a push to register lands as private property. However, in 1967, Israeli military order No. 192 discontinued all Palestinian attempts at private land registration. The inability to register private land under Israeli rule facilitated the confiscation of land. Using antiquated Ottoman laws, Israel confiscated the unregistered land as “state land,” despite the historic presence of Palestinian families in these areas. Israel’s redefinition of “state land” also led to the confiscation of large pieces of Palestinians’ land that were registered as private property according to Ottoman usufruct and tax laws. When Israel took control of the oPt in 1967, only around one third of private Palestinian land was officially registered.

Israel also introduced a number of military orders that allowed for significant land confiscation. Military Order No. 58, in conjunction with the 1950 Absentee Property Law, for example, made it possible for Israel to confiscate the private land of anyone not present in the territory in 1967. This combination of laws allowed Israel to confiscate 430,000 dunums of private land and 11,000...
buildings over the first few years of the occupation.70 Article 5 of Military Order No. 58 also prevented Palestinians from appealing this type of land confiscation, stating:

Any transaction carried out in good faith between the custodian of absentee property and any other person concerning property which the custodian believed when he entered into the transaction to be absentee property, will not be void and will continue to be valid even if it is subsequently proved that the property was not at the time absentee property.

Israel has also relied on the idea of military necessity to justify the appropriation of Palestinian land. As is stated in IHL, expropriation of private property is legal if, and only if, it is required by military necessity. In the case that such appropriation is required, the property must be returned to the private owner as soon as possible.71 Using the guise of military necessity, private Palestinian land was often confiscated and turned over to Israeli settlers.72

Israel has used a number of tools to confiscate private land that are undoubtedly beyond the scope of international law. Article 147 of the IVGC states that “extensive destruction and appropriation of property, not justified by military necessity and carried out unlawfully and wantonly” is a “grave breach” of the IVGC. Article 46 of the Hague Regulations states unequivocally that “Private Property cannot be confiscated.” In the Jordan Valley, Israel’s illegal land grab throughout the occupation has led to an immense loss of land. Before the occupation began, Palestinians inhabited the entire Jordan Valley. Israel now controls approximately 95% of the region, including many of the most fertile agricultural areas and important access to natural resources. Much of this illegally confiscated land was later given to Israeli civilians for settlement development.

2. The Laws of Settlements

- The Occupying Power cannot deport or transfer of its own population to the occupied territories (Article 49 of the IVGC; Rule 130 of Customary law)

The Israeli settlement project is a flagrant violation of international law. Although the early settlement activities were often justified under the guise of “security measures,” there has been a consistent ideological and nationalistic drive for the continued expansion of Jewish settlements in the occupied territories. Although there has never been an official governmental settlement plan, there have been several unofficial plans developed by various Israeli leaders. Perhaps the most well-known plan was developed by Yigal Allon in 1967 and advocated using military and civilian settlements throughout the Jordan Valley in order to create a buffer between Israel and other Arab countries. According to the Allon Plan, the densely populated Arab areas would be given autonomy or given to Jordan for administrative control, and most of the Jordan Valley would be prepared for annexation to Israel. This was all with tacit approval from the Israeli government: “the government in fact went by [the Allon Plan] in its settlement policies in the occupied territories.”74

In the Jordan Valley, settlements have grown consistently, with extensive governmental aid, since the beginning of the occupation. There are currently 31 settlements and 7 outposts scattered throughout the Jordan Valley, housing approximately 11,679 settlers. While 95% of the Jordan Valley is already controlled by Israel, as it is designated as Area C under the Oslo Accords, Israeli settlements control a full 50% of the region.75

The Israeli government has defended the settlement enterprise in a variety of ways. Using the misnomer of “disputed” instead of “occupied” territories, Israel has denied that the settlements are contrary to international law. However, as was shown in Part I, the Palestinian territories of the West Bank, including East Jerusalem and Gaza, are unquestionably considered occupied territories according to international law. The Israeli government has also argued that Article 49 of the IVGC prohibits only forcible transfers of civilians, saying nothing about voluntary migration:

The provisions of the Geneva Convention regarding forced population transfer to occupied sovereign territory cannot be viewed as prohibiting the voluntary return of individuals to the towns and villages from which they, or their ancestors, had been ousted.76
This argument, however, distorts the wording of Article 49 of the IVGC, which does prohibit the forcible transfer of protected peoples (Palestinians), but does not differentiate between forced and voluntary transfer of civilians of the Occupying Power. Article 49 reads:

The Occupying Power shall not deport or transfer parts of its own civilian population into the territory it occupies.

In its 2004 advisory opinion, the ICJ proffered that Article 49 "prohibits not only deportations or forced transfers of population … but also any measures taken by an Occupying Power in order to organize or encourage transfers of parts of its own population into the occupied territory." The ICJ also clearly stated that "the Israeli settlements in the oPt (including East Jerusalem) have been established in breach of international law." That Israeli settlements are illegal under international law has been reaffirmed by the UN Security Council, the UN General Assembly, the High Contracting Parties to the Geneva Conventions, and the International Committee of the Red Cross.

Finally, Israeli settlements throughout the oPt clearly violate the territorial integrity of the Palestinian territories. As international law holds that territorial integrity is an essential component of self-determination, the Israeli settlement project undermines the basic Palestinian right to self-determination. According to the ICJ and the International Law Commission, self-determination has jus cogens (customary law) status and thus the denial of self-determination to a people would constitute a breach of customary international law.

In 1978 the World Zionist Organization (WZO), a quasi-governmental organization charged with land administration in the West Bank, published a "Master Plan for the Development of Settlement in Judea and Samaria [the West Bank]." In this Master Plan, the WZO stated that state and uncultivated land should be seized immediately for the purpose of settlement in the areas located among and around the population centres with the aim of preventing as much as possible the establishment of another Arab state in these territories. It will be difficult for the [Arab] minority to form a regional connection and political unity when split by Jewish colonies … everything will be decided on the basis of the facts that we create in these Territories.

Throughout the oPt, and particularly in the Jordan Valley, the settlement project was clearly designed to disrupt the territorial integrity of the oPt and violates the Palestinian right to self-determination. Consequently this disruption can and should be seen as a breach of customary law as well as international humanitarian law.

3. The Right to Life

- All actions that cause physical suffering of the protected population, including, but not limited to, collective punishment, pillaging, or indiscriminate attacks, are prohibited. (Article 32 of the IVGC; Article 33 of the IVGC; Article 51 of the Additional Protocols; Rule 103 of Customary law)

- The Right to Life, Liberty and Security of Person (Article 2 of the UDHR; Article 32 of the IVGC; Articles 51 and 52 of the Additional Protocols; Rule 87 of Customary law)

  1. Torture of any type is prohibited (Article 5 of the UDHR; Article 7 of the ICCPR)

  2. All people are born free and equal and have the inherent right to life (Article 1 of the UDHR; Article 6 of the ICCPR; Article 6 of the CRC)

  3. Arbitrary arrest or detainment is prohibited (Article 9 of the UDHR)

  4. Discrimination based on race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status is prohibited (Article 2 of ICERD; Article 2 of ICESCR; Article 2 of CRC; Article 85 of the Additional Protocols; Rule 88 of Customary law)

  5. The right to security of person and protection is inherent (Article 5 of ICERD; Article 9 of ICCPR)
A systematic or institutional breach of this inherent right by the Israeli government is far more difficult to prove than several other Israeli infractions of international law. This task becomes even more challenging when the analysis of Israeli practices is geographically limited to the Jordan Valley. In this region of the oPt, violent resistance against the Israeli occupation is rather low, leading to few examples of torture or disproportionate response by the Israeli military. In Gaza, for example, there are numerous examples of Israeli denying Palestinians the right to life.87 In the Jordan Valley, however, Israeli violations of this basic human right are less overt and direct, based on the active allowance of settler violence and the dual legal systems that govern and divide the population of the Jordan Valley on race and religion.

Settler Violence

In general, there is less settler violence in the Jordan Valley than elsewhere in the West Bank. However, the general lack of accountability, which has allowed settler violence against Palestinians to continue with impunity, flourishes in the Jordan Valley as in the rest of the oPt.88 Settler violence is a major problem throughout the West Bank, including East Jerusalem, and is a clear violation of the laws of occupation.

As mentioned above, the Palestinians in the oPt are considered “protected” peoples by the IVGC. As such, it is the responsibility of Israel, as the Occupying Power, to protect these Palestinians against all forms of violence. Specifically, Article 27 of the IVGC states that:

Protected persons are entitled, in all circumstances, to respect for their persons, their honour, their family rights, their religious convictions and practices, and their manners and customs. They shall at all times be humanely treated, and shall be protected especially against all acts of violence or threats thereof and against insults and public curiosity.89

Moreover, Article 32 prohibits any action that would “cause physical suffering” of the protected population, including “any measures of brutality whether applied by civilian or military agents.”90 Article 47 of the IVGC specifically notes that people under occupation cannot be deprived of these rights due to the political situation.84 It is the legal obligation of Israel, as the occupying power, to protect Palestinian civilians, as the protected population, from attacks from the settler population. Throughout the oPt, however, Israel fails to protect the Palestinian people.

In 2011, three Palestinians were killed and another 183 were injured through settler attacks. Approximately 10,000 Palestinian-owned trees were also destroyed by settler violence and settlers also use intimidation and violence to confiscate access to natural resources as well.92 A total of 379 incidents of settler violence were recorded in 2011.93 In the first six months of 2012, there were 244 incidents of settler violence.94 Throughout the West Bank, UNOCHA estimates that there are 315,000 Palestinians, living in 110 communities, who are highly vulnerable to settler violence.95 Indeed, settler violence is so encompassing that the United States government defined settler violence as terrorism in August of 2012.96

While the persistence of settler violence against Palestinians certainly is a violation of the Palestinian right to life, liberty, and security of person, the unwillingness of Israel to stop this violence and the apparent cooperation between violent settlers and the Israeli military and government are grave violations of international law. A 2011 Yesh Din report found that 91% of cases of settler violence were closed without any indictment; 84% of these premature closures were due to investigatory failures.97 This lack of accountability has led to apparent legal immunity for settlers who terrorize Palestinians. An EU report has noted that the lack of prosecution by Israel indicated that such violence “enjoys the tacit support of the state of Israel.”98

Dual System of Law

According to Article 43 of the Hague Regulations, all inhabitants of the oPt should be governed by the laws in place prior to the beginning of the occupation; that is, there should be one legal system governing all inhabitants of the oPt.99 Israelis living illegally in the West Bank, however, are not subject to military or local law, like Palestinians, but are
governed by Israeli civilian law. The channeling of Israeli civilian law to Israeli settlements is punctuated by the Extension of Emergency Regulations Law, which allows the 1950 Law of Return to apply to the oPt. This means that any Jewish person around the world can obtain Israeli citizenship, move to a settlement in the West Bank, and be protected by Israeli civilian law. In other words, Israel has created two distinct legal regimes in the same territory that differentiate and discriminate according to nationality.

This dual system leads to drastically different legal consequences for Jewish settlers and Palestinians in the oPt. Under military law, a Palestinian who is charged with manslaughter, for example, can be detained for up to eight days before being brought before a military judge in a military court. Pre-charge detention can be extended indefinitely by the judge and the maximum sentence is a life sentence. On the other hand, a Jewish settler charged with the same crime must be brought before a civilian court within 24 hours and faces a maximum penalty of 20 years in prison.

The extension of Israeli civilian law, specifically the protections of the Israeli Basic Law, to Jewish settlers in the oPt has blurred the legal distinction between illegal Israeli settlements and Israel proper, thus creating a “Jewish-Israeli society that is integrated legally, socially, and economically across the Green Line.” This legal conflation has allowed for a collective acceptance of the false legal dichotomy between Palestinians and Israelis in the same geographic area. A resident in the Jordan Valley settlement of Argaman, for example, “is supposedly subject to the Military Government and to the local Jordanian law, but in fact he lives according to the laws of Israel both with respect to his personal law and with respect to the local municipality wherein he lives. The Military Government is nothing more than a symbol, through which Israeli law and governance operate.”

This dual system of laws is a clear example of institutionalized discrimination, violating the general principle of equality before the law. As such, the dual legal system is a violation of the Palestinian right to life, liberty and security of person. Both IHL and IHRL explicitly condemn and prohibit discrimination "based on race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status." That such discrimination is legalized by the Israeli government and judicial system demonstrates an institutionalization of discrimination that contravenes IHL and IHRL.

4. The Right to Freedom of Movement (Article 13 of the UDHR; Rule 56 of Customary law)

i) All people are allowed to move freely within their borders (Article 13 of the UDHR; Article 5 of the ICERD; Article 12 of the ICCPR)

ii) All people have the right to return to their own country (Article 13 of the UDHR; Article 5 of the ICERD; Article 12 of the ICCPR)

iii) All people have the right to leave any country (Article 12 of the ICCPR)

Movement within the Jordan Valley and between the Jordan Valley and the rest of the West Bank is extremely limited for Palestinians. These restrictions on Palestinian movement have nearly eliminated Palestinian development in the Jordan Valley and have effectively separated the Jordan Valley from the rest of the West Bank. Numerous Israeli officials have stated the government’s intention to annex this strategic area to Israel proper. This intention was made clear in the planning process for Israel’s Separation Wall, which was meant to include an “eastern wall,” separating the Jordan Valley from the rest of the West Bank. While plans for the “eastern wall” are currently inactive, Israel has succeeded in effectively amputating the Jordan Valley from the rest of the West Bank. In response to Israeli restrictions on Palestinian movement, the World Bank stated that Israel had created an “Eastern Separation Zone … effectively putting [the Jordan Valley] beyond reach for future Palestinian use or expansion.”

The restrictions on the Palestinian right to movement in the Jordan Valley are enforced through a variety of mechanisms. Technically, travel to the Jordan Valley is illegal for Palestinians who do not hold residency in the region. While this law is no longer enforced by Israel, travel between
the Jordan Valley and the rest of the West Bank is limited through four main checkpoints (Tayasir, Hamra, Ma’ale Efraim, and Yitav) and a series of trenches and dirt mounds. In order to avoid crossing a checkpoint, Palestinians can enter the Jordan Valley from the south via Road 1; however, using this road greatly extends travel time. For example, the distance between Tubas, north of the Jordan Valley, and the village of Bardala, in the Jordan Valley, is 24 kilometers through the Tayasir checkpoint. However, to reach Bardala via Road 1, the journey would cover 176 kilometers.

Inside the Jordan Valley, the Palestinian right to freedom of movement is nearly nonexistent. Illegal Israeli settlements control approximately 50% of the Jordan Valley and the military controls another 44.37%. Consequently, Palestinians are prohibited from accessing nearly 95% of the region. These restrictions have reduced the amount of land available to Palestinian farmers and herders have created immense problems for Palestinian producers looking to sell goods to other Palestinian areas outside of the Jordan Valley. In addition, Palestinian villages are disconnected by Israeli settlements and military bases. Many Palestinian villages are located entirely in areas unilaterally declared free-fire zones by Israel. Children are often forced to walk around Israeli settlements to reach school, medical emergencies are often exasperated by ambulances being stopped at checkpoints, and Palestinian herders are forced to purchase expensive feed as access to all grazing areas is limited. The restrictions on Palestinian movement in the Jordan Valley are so great that the region has been dubbed “one of the most restricted places on earth.”

However, Israel completely protects and guarantees the freedom of movement of illegal Israeli settlers. Throughout the West Bank, there are approximately 480 kilometers of roads, used exclusively by settlers, that are meant to bypass Palestinian villages and connect settlements with Israel proper. These roads have a 50-75 meter buffer area on either side in which no construction is allowed. In the Jordan Valley, Jewish settlers have access to all settlement areas, including built-up areas and agricultural fields. Moreover, for settlers, movement in and out of the Jordan Valley is not hampered by checkpoints. Easy access for settlers to Jerusalem and Beit Shean is provided by the Egged bus company, connecting the settlements not only to each other, but also to Israel proper.

The contrast between the ability of settlers to move freely throughout the Jordan Valley and the restrictions placed upon Palestinians is striking. That such restrictions on movement are clearly confined only to Palestinians is, in addition to being a violation of the right to freedom of movement, a clear breach of the ICERD, which prohibits discrimination of any sort.

### 5. The Right to Self-determination

- **i)** All people have the right to take part in government (Article 21 of the UDHR; Article 5 of the ICERD)
- **ii)** All people have the right to freely determine their political status & pursue their economic, social and cultural development (Article 1 of the ICCPR; Article 1 of the ICESCR)

The ICJ has declared that self-determination is “one of the most essential principles of contemporary international law.” The ICJ has also affirmed that self-determination is a right _erga omnes_, meaning all UN member states have a responsibility to promote this basic right. Moreover, the International Law Commission ruled that self-determination had _jus cogens_ status in international law, meaning that the right to self-determination has achieved customary status. The right to self-determination is reaffirmed in the ICCPR and in the ICESCR.

In international law, self-determination means more than the right to choose one’s political status and leaders; it also denotes “the right to territorial integrity” and “the right to permanent sovereignty over natural resources.” In the Jordan Valley, Israel denies Palestinians both of these fundamental pillars of self-determination.

As is discussed above, the Israeli settlement project has completely divided the oPt. Settlements control 50% of the Jordan Valley and settlement infrastructure, including roads, electrical and water networks, and Israeli military bases, extends across the Palestinian territory. The moves for
annexation of the Jordan Valley mirror efforts to annex East Jerusalem, picking apart culturally and economically important and valuable areas and completely disrupting territorial integrity. The link between territorial integrity and self-determination has been repeatedly reiterated by the UNGA and the ICJ. Disruption of Palestinian territorial integrity, therefore, is a clear disruption of the Palestinian right to self-determination.

Moreover, the settlement initiatives in the Jordan Valley are accompanied by private and public Israeli exploitations of the Palestinian natural resources in the area. The Jordan Valley is economically important because of its rich and fertile soil and temperate climate that allow for year-round agricultural production. Perhaps the most important natural resource in the Jordan Valley, though, is water. The Jordan Valley sits atop part of the Mountain Aquifer and is a major source of water for the rest of the West Bank and Israel proper. The collective right to control natural resources is explicitly mentioned in the ICESCR and the ICCPR.

Immediately after taking control of the West Bank in 1967, Israel issued several military orders that, in contravention to international law, cancelled all existing water laws and gave the Israeli military complete authority over all water issues. The Israeli military, over the course of the occupation, has instituted a strict permit system for water structures and has destroyed hundreds of Palestinian wells and pumps while constructing a deep and modern water extraction system, essentially taking control of Palestinian aquifer water. Today, 69% of the water extracted from the West Bank by the Israeli National Water Carrier comes from the Jordan Valley, serving primarily the water-intensive settlement farms. Overall, Israelis pump three times more water from wells in the Jordan Valley than Palestinians do, despite the striking population difference.

The Israeli national water carrier, Mekorot, is charged with water extraction and delivery to both Israel proper and the West Bank. Approximately one third of Palestinian communities in the Jordan Valley are connected to a proper water network and pay Mekorot around 2.6 NIS per cubic meter of water. Israeli settlers, on the other hand, receive water subsidized by the Israeli government and pay around 1.8 NIS per cubic meter. For other settlements in the region, water is cheaper or completely free. Around 67% of Palestinian communities in the Jordan Valley are not connected to a water network and are forced to utilize expensive water tanks, costing anywhere between 14 and 37.5 NIS per cubic meter. Likewise, there is a great discrepancy in water usage between Israeli settlers and Palestinians. Settlers in the entire Jordan Valley consume approximately 487 liters per person per day – a figure that jumps to 727 liters per person per day for only the Northern Dead Sea Region, whereas some Palestinians in the Jordan Valley use as little as 10-20 liters per day per person. Per capita, settlers in the Jordan Valley were allocated 1,312 liters of water, most for agricultural use, a figure almost 18 times greater than the per capita quantity accessible to Palestinians in the West Bank. This disparity in water usage is a clear example of institutionalized discrimination, in contravention with Article 1 of the ICERD.

With the extreme discrimination between settler water prices and usage, as well as the military orders dictating water administration throughout the West Bank, it is easy to see how Israel has taken control of the Jordan Valley’s most precious natural resource. Without control over the water of the Jordan Valley, Palestinians are forced to depend on Israel for survival. Combined with the clear violation of Palestinian territorial integrity, the systematic practices of the Israeli occupation deny Palestinians the basic right of self-determination.

6. Independent Economic Development

- The Right to Work (Articles 51 and 52 of the IVGC)
  
  (1) All people have the right to work, the choice of employment, favorable conditions, and protections against unemployment (Article 23 of the UDHR, Article 6 of the ICESCR)
  
  (2) All people have the right to equal pay for equal work without discrimination (Article 23 of the UDHR, Article 7 of the ICESCR)
The Right to Economic Development

(1) All people have the right to freely dispose of their natural wealth and resources (Article 1 of the ICCPR; Article 1 of the ICESCR)

(2) All people have the right not to be deprived of the means of subsistence (Article 1 of the ICCPR; Article 1 of the ICESCR)

Measures aimed at creating unemployment, particularly the destruction of objects or goods required for employment or survival are prohibited (Article 52 of the IVGC; Article 54 of the Additional Protocols)

The right to work is a basic human right enshrined in Articles 51 and 52 of the IVGC, Article 23 of the UDHR, and Articles 6 and 7 of the ICESCR. This right is connected to the prohibition on measures aimed at creating unemployment, as dictated in Article 52 of the IVGC and Article 54 of the Additional Protocols. If Israel implements policies that foster unemployment among the Palestinians, Israel is denying the Palestinian people the right to work. For example, in the Jordan Valley, particularly in the areas north of Jericho — that is, predominately Area C — various Israeli measures and policies have made it impossible for Palestinians to freely pursue employment.

The right to work in the Jordan Valley is intimately linked with control over land and natural resources, namely water. Access to open and fertile land and adequate water is essential to the development of the Palestinian economy in the Jordan Valley, as the dominant sectors of employment are agriculture and animal husbandry. Palestinian agriculture is greatly constrained by the closures and restrictions enforced by Israel. The restrictions on land access and water have been detailed above; however, beyond violating the Palestinian right to freedom of movement and right to water, these restrictions have inhibited the potential of the Palestinian agricultural sector in the Jordan Valley.

Nearly all the agricultural land in the Jordan Valley is located in Area C and often farmers are required to obtain permits from the Israeli military in order to cultivate their land. The community of Zbeidat, for example, is located in the central Jordan Valley. Farmers from Zbeidat are issued permits to access their land from 6:00 in the morning until 6:00 in the evening; outside of these hours, the agricultural land becomes a military free-fire zone. The complex system of checkpoints also has a destabilizing effect on the Palestinian agricultural sector. Israeli movement restrictions have increased the costs of production for Palestinian farmers in the Jordan Valley. Transportation costs and time, for instance, have increased dramatically. In fact, transportation time for Palestinian agricultural distributors has increased by 40% and transportation costs have increased by 35.6% since 2000.

Lost profits from these movement restrictions are compounded by increased costs of agricultural inputs that must be brought into the Jordan Valley.

The discriminatory water system in the Jordan Valley, described above, also limits the productivity of the Palestinian agricultural sector. Israel controls more than 80% of all water sources throughout the West Bank. The unequal distribution of water to Israeli settlers and Palestinians has left the Palestinian agricultural sector dependent on Israel. A lack of water has also meant a shift in agriculture to cheaper rain-fed produce, which is vulnerable to weather shocks. The 2007-2008 drought season, for example, caused a 35-40% drop in the production of rain-fed crops, costing Palestinian farmers around USD 130 million in revenue.

These restrictions also have a serious impact on the productivity of Palestinian farmers. A 2006 survey in the north of the Jordan Valley found that 98.3% of Palestinian farmers were losing production capacity due to Israeli restrictions. The World Bank estimates that Israeli restrictions prevent Palestinians from cultivating approximately 60,000 dunums of land in the Jordan Valley. Overall, Israeli restrictions are limiting the Palestinian agricultural sector to 247,000 of 708,000 dunums of irrigable lands. Economically, the Palestinian agricultural sector in the Jordan Valley loses USD 58.9 million and 12,500 jobs per year due to Israeli restrictions. It is estimated that the Palestinian agricultural sector would add around USD 1 billion in agricultural exports if Israeli restrictions were lifted.
Israeli restrictions on Palestinians in the Jordan Valley have also decimated the potential for animal husbandry. Approximately 80% of Palestinian grazing land is located in the Jordan Valley and nearly 100% of this grazing area is located in Area C, under Israeli control. Most of this land is completely closed to Palestinians. The grazing area available to Palestinian herders provides around 1,700 tons of animal feed (0.075 tons/hectare over 22,500 hectare), around 2% of the required amount of feed for the Palestinian herds. To compensate for the lost grazing areas, Palestinian herders are forced to purchase expensive animal feed and water to sustain their flocks. This has caused many herders to sell their animals and to give up the traditional herding lifestyle. Herding and the Bedouin lifestyle in general play an important role in Palestinian culture and history. Steps taken by Israel to eliminate this lifestyle not only violate the Palestinian right to work, but are also violations of the right to cultural development as noted in Article 1 of the ICCPR and Article 1 of the ICESCR.

Controlling natural resources and denying Palestinians the means to subsistence in the Jordan Valley has indirectly led to the denial of the right to work. The means for expanded Palestinian employment are available in the Jordan Valley, but are being withheld by Israel. Due to the lack of water and land accessible to Palestinians, herders and farmers are being driven into poverty as traditional employment has become less viable. To escape the high levels of poverty, many Palestinians in the Jordan Valley are leaving the region for urban areas, a sort of indirect displacement caused by Israeli policies that unquestionably defies the spirit of international laws that guarantee the right to work and protect against displacement of protected persons. Indeed, it has been suggested that the “sheer number and scope of the restrictions on Palestinians living in the Jordan Valley and elsewhere in the West Bank suggest that they are part of a systematic policy to push Palestinians off their land, while increasing Israeli government control”.

The cumulative effects of Israeli government restrictions and a lack of donor and Palestinian investment mean that the poverty levels of Palestinians living in the Jordan Valley are almost double those in the rest of the West Bank. Combined with persistent human rights abuses, this is forcing many Palestinians to leave their homes in search of jobs, security, and essential services.

Many other Palestinians remain in the Jordan Valley but are forced to work in Israeli settlements due to a lack of other alternatives. Many of these Palestinian laborers are “tenant workers on what used to be their own land.” There are approximately 1,800 Palestinians working full-time in settlement farms in the Jordan Valley while between 10,000 and 20,000 work as seasonal workers. All are faced with “discrimination and violations of their rights.” Palestinian laborers receive salaries well below Israeli minimum wage and do not receive any of the benefits entitled to them by Israeli law, including holidays, overtime, insurance, or sick pay.

Although Israel has not explicitly enacted measures in the Jordan Valley that directly restrict employment opportunities for Palestinians, various restrictions on Palestinian movement and access have resulted in economic de-development, a clear violation of the right to economic development. By limiting the land and water available for Palestinian agriculture and animal husbandry through land confiscation and discriminatory water distribution, Israel has violated the economic rights guaranteed to Palestinians in Article 1 of the ICCPR and Article 1 of the ICESCR. By taking control of Palestinian water and land in the Jordan Valley, Israel has seized control of the most important Palestinian natural resource and has denied Palestinians the means to subsistence in the Jordan Valley. Without the means to economically develop, Palestinians are forced to either leave the Jordan Valley or find work in settlements. In settlements, Palestinians are denied the same benefits as Israeli workers.

While it is impossible to determine whether these damning Israeli restrictions are specifically designed to create unemployment among Palestinians, the inevitable consequence of such discriminatory measures is immense unemployment and poverty among Palestinians. Poverty levels in pockets of Area C reach over 60% while food insecurity levels have hit 79%. Such
measures, even if not specifically designed to create unemployment, are forcing Palestinians to work for Israeli settlements – a major breach of Article 52 of the IVGC and Article 54 of the Additional Protocols.163

7. The Right to an Adequate Standard of Living and Health (Article 11 of the ICESCR)

i) All people have the right to adequate health for himself and for his family, including food, clothing, housing and medical care (Article 25 of the UDHR; Articles 55, 56, and 59 of the IVGC; Rules 50, 55 of Customary law)

ii) All people have the right to housing (Article 5 of the ICERD)

iii) All people have the right to medical care (Article 5 of the ICERD; Article 24 of the CRC)

iv) All people have the right to a decent living for themselves and family (Articles 7 and 11 of the ICESCR)

v) All people have the right to be free from hunger (Article 11 of the ICESCR)

vi) All people have the right to care for physical and mental health (Article 12 of the ICESCR; Article 27 of the CRC)

vii) All children have the right not to be economically exploited with work that would interfere with the child’s education, or to be harmful to the child’s health or physical, mental, spiritual, moral or social development (Article 32 of the CRC)

viii) Forced transfer is prohibited (Article 49 of the IVGC)

The right to an adequate standard of living includes the right to food, shelter, and health care. Aspects of the right to an adequate standard of living are contained in Articles 1, 7, 11, and 12 of the ICESCR, Article 25 of the UDHR, Articles 55, 56, and 59 of the IVGC, Rule 55 of Customary law, Article 5 of the ICERD, and Articles 24, 27, and 32 of the CRC. Israeli restrictions on access to water and land, as described above, as well as the discriminatory permit process that effectively prevents Palestinian construction in Area C of the Jordan Valley have created a system that completely violates this general right as well as all of the specific rights contained therein. As described above, the discriminatory system which has illegally limited Palestinian access to important resources has resulted in immense levels of poverty and unemployment throughout the Jordan Valley, and particularly in Area C north of Jericho. Seventy-nine percent of herding communities in Area C are food insecure164 and poverty in the most marginalized parts of Area C is worse than in besieged Gaza.165

Although these are major contributing factors, the discriminatory distribution of and access to precious resources are not the only causes of Palestinian poverty in the Jordan Valley. Israel has instituted a strict permit system in Area C of the West Bank which effectively prevents Palestinians from any sort of development. According to the Oslo Accords, Israel controls security for and administers lands in Area C, forcing Palestinians to seek Israeli permits for any type construction, including schools, health clinics, roads, or water networks.166

However, it is nearly impossible for Palestinians to receive the proper Israeli permits needed to build in Area C:

Restrictions on zoning, planning, and construction, imposed by the Israeli authorities in order to support and protect settlements, prevent Palestinian communities from developing vital infrastructure and accessing basic services such as water, electricity, schools, and health clinics. Less than 1 per cent of Area C has been planned for Palestinian development by the Israeli Civil Administration, and 94 per cent of construction permits have been rejected in recent years.167

Without the ability to obtain building permits, Palestinians are forced to build “illegally,” that is, without a permit. Using the lack of permit as a justification, Israel demolishes hundreds of Palestinian structures each year, ranging from schools to cisterns to latrines.168 In 2010, the Tubas region in the northern Jordan Valley saw 51 home demolitions, leaving 219 people, including 94 children, homeless.169 In 2011, Israel demolished over 200 Palestinian structures in the Jordan Valley
In the first 11 months of 2012, Israel demolished 569 civilian structures, displacing 827 and effecting over 3,800 people. Since 1967, it is estimated that Israel has demolished over 25,000 homes, internally displacing over 160,000 Palestinians. Unsurprisingly, the demolition of Palestinian civilian structures, particularly homes, has left an indelible imprint on the Palestinian people. A survey by Save the Children in 2009 found that 31% of households had been temporarily or permanently displaced since the outbreak of the second Intifada (September 2000) due to Israeli house demolitions, military orders, and other restrictions.

Israeli demolitions of Palestinian civilian structures are clearly a major breach of international law. Article 53 of the IVGC 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.” Article 147 of the IVGC also considers “extensive destruction and appropriation of property, not justified by military necessity and carried out unlawfully and wantonly” to be a breach of the IVGC. As there is no evidence that Israel’s campaign of demolitions throughout the West Bank, and particularly in the Jordan Valley, is based on military necessity, the demolition of civilian structures is an absolute breach of the IVGC.

Moreover, as a considerable number of demolished structures are personal homes and result in the displacement of Palestinian families, the demolitions can be considered a breach of the Palestinian right to housing, as described in Article 53 of the IVGC, Article 5 of the ICERD, and Article 25 of the UDHR. Such wanton destruction of civilian infrastructure is also a violation of Rule 50 of customary law, which includes decisions from the IMT Charter (Nuremberg) and the International Criminal Court Statute.

In addition to the demolition of homes, Israel has demolished important agricultural land, equipment, water infrastructure, and other important materials necessary for survival. Often Israel has targeted entire communities, driving hundreds of Palestinians away from their homes. On 10 January 2013, for example, the Israeli military evicted 1,000 people from the al-Maleh region in the north of the Jordan Valley and on 17, 19, and 22 January 2013, destroyed 55 civilian structures displacing 11 families in the communities of Hammamat al-Maleh and Hammamat al-Meiteh. This type of mass eviction can only be seen as forced transfer and a grave breach of Article 49 of the IVGC.

These strict Israeli measures have also caused major health risks throughout the Jordan Valley. The closest hospitals are in Nablus and Jericho; the Nablus hospital is separated by the Hamra checkpoint and the Jericho hospital is prohibitively far for many of the northern Jordan Valley villages. Consequently, many Palestinians are forced to rely on small ill-equipped clinics available in some of the larger villages. Doctors are generally from Tubas, Nablus, or Jericho and are able to provide care for three or four days per week. Most village clinics are poorly equipped and nearly always understaffed. The poor health services situation in the Jordan Valley has left only 8% of Palestinians there believing that adequate health services are available, compared to 66% for the rest of the West Bank.

The lack of health services in the Jordan Valley is caused by the inability of Palestinians and/or aid organizations to receive Israeli permits to build new clinics as well as a severe lack of funding for the existing clinics. As the Occupying Power, Israel is obliged to ensure that the health services in the oPt are adequate and available to all Palestinians. Articles 55 and 56 of the IVGC state:

Art. 55. 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.

Art. 56. 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.

Moreover, Article 12 of the ICESCR guarantees the “right of everyone to the enjoyment of the highest attainable standard of physical and mental health” and Article 27 of the CRC affirms the “right of every child to a standard of living adequate for the child’s physical, mental, spiritual, moral and social development.” It is clear that the Israeli restrictions on Palestinians are obstacles to fair and adequate health care in the Jordan Valley.

The matrix of Israeli restrictions in the Jordan Valley greatly limits the rights of Palestinians. It is virtually impossible for Palestinians living in the Jordan Valley to receive the same standard of life and health as Israeli settlers. Israeli restrictions artificially lead to dangerous rates of poverty, unemployment, and food insecurity, forcing many Palestinians to leave the Jordan Valley. Such restrictions clearly violate a number of humanitarian and human rights laws that guarantee an adequate standard of living and health.

- The Right to Education (Article 5 of the ICERD; Article 13 of the ICESCR; Article 28 of the CRC; Article 50 of the IVGC)
  
  i) All people have the right to free compulsory primary (Article 26 of the UDHR; Article 13 of the ICESCR; Article 28 of the CRC)

  ii) All people have the right to available secondary education (Article 13 of the ICESCR; Article 28 of the CRC)

  iii) All people have the right to available higher education (Article 13 of the ICESCR; Article 28 of the CRC)

  iv) All people have the right to continuously improving educational institutions (Article 13 of the ICESCR; Article 28 of the CRC)

  v) All children have the right to not be economically exploited with work that would interfere with the child’s education, or to be harmful to the child’s health or physical, mental, spiritual, moral or social development (Article 32 of the CRC)

The right to education is enshrined in most international legal instruments. The general right to education includes the right to free primary education, available secondary education, available higher education as well as the right to continuously improve educational institutions. Moreover, according to the CRC, it is the duty of the State power to ensure these specific rights as well as to develop “different forms of secondary education, including general and vocational education” and to “take measures to encourage regular attendance at schools and the reduction of drop-out rates.” Finally, the right to education can be measured by what is universally known as the 4A scheme, which identifies the four main factors inherent in a proper education: availability, accessibility, acceptability and adaptability. Overall, the best interests of the student must always be the primary consideration.

Israel’s obligations regarding the Palestinian right to education have been reaffirmed by the ICJ, the Committee of the Rights of the Child, and the Committee on Economic, Social and Cultural Rights. Israel is also required by Article 50 of the IVGC to “facilitate the proper working of all institutions devoted to the care and education of children.” The ICRC reaffirmed the obligations of Israel as the Occupying Power, requiring that Israel “must not only refrain from adversely affecting educational institutions, but it must seek ‘to support them actively.’”

Despite the clarity of international law regarding education, Israel has completely ignored all of its obligations and has actively inhibited the autonomous improvement of education in the Jordan Valley by Palestinians. Many communities have highly inadequate schools due to the threat of demolition and the quality of education in most schools in the Jordan Valley is greatly hampered by “forced displacement, school overcrowding and lack of teaching materials, physical safety, [and] the deterioration of pupils’ mental health.” Twenty-four Area C schools are considered to be completely substandard, composed of tents or tin shacks. As mentioned above, the regularity of house demolitions in the Jordan Valley has led to nearly constant displacement of children. Displacement results in significant disruptions.
in education and negatively affects the quality of learning environments. Demolitions also place families under immense economic strain that often prevents the enrolment of children in school.

Moreover, house demolitions have a negative impact on the mental health of children:

Demolitions lead to a significant deterioration in living conditions, increased poverty and long-term instability, as well as limited access to basic services, such as education, health care and water and sanitation. The impact on children can be particularly devastating, including, for example, post-traumatic stress disorder, depression, anxiety and reduced academic achievement.

Israel has demolished or threatened to demolish entire schools throughout the Jordan Valley, leading to immediate and direct interruptions in education. Currently, 24 government schools in Area C are threatened with demolition or stop work orders. From 2007-2010, the village of al-Ka’abneh received six demolition orders for its modest caravan school; the village of Jiftlik saw a tent school dismantled seven times in five years before receiving a building permit; the mud brick school in Fasayal is fighting a demolition order.

The Israeli violation of the Palestinian right to freedom of movement, discussed above, also infringes on the Palestinian right to education. As most communities in the Jordan Valley are unable to build schools due to the inability to receive an Israeli building permit, many children are forced to travel long distances to reach their schools. For primary and secondary school students, this generally means long walks around Israeli settlements and free-fire areas. University students are forced to cross Israeli checkpoints to reach school. The UN Committee of the Rights of the Child highlighted the obstacles to education caused by Israeli closures and obstructions to movements in 2002:

Finally, the harsh economic conditions induced by the Israeli restrictions placed upon Palestinians in the Jordan Valley encourage higher dropout rates. With families deep in poverty, many Palestinian children are forced to leave school in order to work in Israeli settlements. Additionally, schools in the Jordan Valley are generally underfunded and have inadequate facilities, causing many children to lose hope in a good education.

Israelis, on the other hand, are given significant support in education from the Israeli government. The Israeli government funds 90-100% of transportation costs for students and provides an annual budget for settler schools that is 54% higher than in Israel proper. Teachers in settlements receive salaries higher than in Israel proper as well while the government also contributes to the educators’ continuing education fund. The striking juxtaposition between the well-funded settlement schools and the makeshift Palestinian structures demonstrates a clear discriminatory policy that completely ignores the needs of the Palestinian people while prioritizing Jewish settlers. Institutionalized discrimination in education that actively inhibits the Palestinian right to education while concurrently prioritizing Jewish settlers is not only a violation of the ICESCR, the CRC, and the UDHR, but is also an unquestionable violation of Article 5 of the ICERD, which guarantees “the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law, notably in the enjoyment of...the right to education.”
Conclusion

The occupation of the Palestinian territories is not an illegal act in itself. Rather, it is the adoption of policies by Israel that fundamentally violate international law as depicted through international humanitarian law and international human rights law. Israeli violations of international law are woven deeply into the structure of the occupation; that is, Israeli breaches of international law are not isolated incidents, but are institutional and systematic.

In the Jordan Valley, Israel has denied Palestinians their most basic rights as guaranteed by IHRL as well as IHL. Closure and seizure of land and the discriminatory distribution of water has created an untenable situation for Palestinians. The denial of building permits has allowed Israel to falsely justify the demolition of schools, homes, and medical clinics. The closure of land through military zones, settlements, and checkpoints has greatly limited Palestinian economic potential and drastically increased unemployment and poverty. The meager allocation of water to Palestinians has destroyed traditional lifestyles and left many families unable to survive. Not only has Israel violated the most basic of Palestinian rights and completely ignored its legal responsibilities as the Occupying Power, Israel has actively prevented Palestinians from independently securing their basic rights. Efforts by local, regional, and national Palestinian governmental units to improve the livelihoods of Palestinians and to protect their basic human rights are prevented under the guise of military necessity or a lack of permits.

Combined, these restrictions have decimated the ability of Palestinians to develop. The Palestinian economy in the Jordan Valley has stalled and perhaps shrunk; education standards pale in comparison to Palestinian urban areas; and the general standard of living has dropped significantly. The harsh restrictions placed on Palestinians in the Jordan Valley are magnified when juxtaposed with the soaring success of the illegal Israeli settlements. Immense governmental subsidies that have guaranteed the continued economic and social
development of settlements are accompanied by high quality education, medical care, security, and quality of life.

Indeed, Israel has cultivated two separate classes of people based purely on nationality and race. Israeli settlers, by virtue of being Jewish, are given clear and tangible benefits regarding land, water, technology and more while Palestinians are denied equal access to these vital resources simply because they are not Jewish. This duality is extended into every facet of life: Israeli settlers are able to take advantage of Israeli civilian laws while Palestinians are made subject to military rule; settlers are able to easily receive permits for development while Palestinian requests are systematically denied; settlement infrastructure is subsidized by the Israeli government while Palestinian infrastructure is routinely demolished. Consequently, Israel has violated international law on three distinct levels.

On the first level, Israel has overtly violated international law by confiscating Palestinian land and creating Israeli settlements. IHL unquestionably prohibits the creation of settlements in occupied territory and allows the appropriation of land only in cases of urgent military necessity. Moreover, occupation, while not inherently illegal, is legally understood to be a temporary condition. The creation of Israeli settlements on illegally confiscated Palestinian land, private or public, can only be seen as a permanent alteration of the occupied territories and a means of illegal land annexation.

On the second level, Israel has developed a set of restrictions on movement and access, resource allocation, and economic development have created a situation in which Palestinians are denied nearly all of the basic rights afforded to them in international law. Israeli policies have resulted in poor education and health standards, high unemployment and poverty, and a stagnated economy that has forced many Palestinians to work for meager pay in Israeli settlements. While less tangible than the illegal Israeli settlements, the creation of such devastating living standards is an unquestionable violation of international law.

Finally, on the third level, the difference in the quality of life between settlers and Palestinians living in the same area is a clear result of discrimination based on race and nationality. Such discrimination is a major violation of many major treaties and conventions, most notably the International Convention on the Elimination of all Forms of Racial Discrimination and the Universal Declaration of Human Rights.

Until now, Israel has been able to avoid any legal repercussions for its blatant violation of international law throughout the occupied Palestinian territories, and particularly in the Jordan Valley. The illegality of Israel’s policies has consistently been decried through United Nations resolutions, both by the General Assembly and the Security Council. More recently, the UN Human Rights Council (UNHRC) has suggested Israel may be brought before the International Criminal Court after Israel became the first country to refuse to participate in the UNHRC’s ‘universal periodical review’ of human rights.204 These attempts at legal condemnation have generally focused on the tangible violation of international law, the second level of Israeli legal transgressions: the settlement project.

However, for Palestinian rights to truly be protected, international condemnation of illegal Israeli actions must target the entirety of Israeli policy. All three levels of Israeli violations of international law must be exposed and acted upon by the international legal community. While it is productive to take initial steps to hold Israel responsible for its illegal settlement project, international attention must be brought to the systematic denial of Palestinian rights through deliberate Israeli policies.
### Annex 1

**Relevant Articles of the Hague Regulations**

- **Article 42**
  a. Territory is considered occupied when it is actually placed under the authority of the hostile army.
  b. The occupation extends only to the territory where such authority has been established and can be exercised.

- **Article 43**
  a. The authority of the legitimate power having in fact passed into the hands of the occupant, the latter shall take all the measures in his power to restore, and ensure, as far as possible, public order and safety, while respecting, unless absolutely prevented, the laws in force in the country.

- **Article 46**
  a. Family honor and rights, the lives of persons, and private property, as well as religious convictions and practice, must be respected. Private property cannot be confiscated.

- **Article 50**
  a. No general penalty, pecuniary or otherwise, shall be inflicted upon the population on account of the acts of individuals for which they cannot be regarded as jointly and severally responsible.

- **Article 55**
  a. The occupying State shall be regarded only as administrator and usufructuary of public buildings, real estate, forests, and agricultural estates belonging to the hostile State, and situated in the occupied country. It must safeguard the capital of these properties, and administer them in accordance with the rules of usufruct.

- **Article 56**
  a. The property of municipalities, that of institutions dedicated to religion, charity and education, the arts and sciences,
even when State property, shall be treated as private property.

b. All seizure of, destruction or willful damage done to institutions of this character, historic monuments, works of art and science, is forbidden, and should be made the subject of legal proceedings.

Annex 2- .................................

Relevant Articles of the Fourth Geneva Convention

- Article 32
  a. The High Contracting Parties specifically agree that each of them is prohibited from taking any measure of such a character as to cause the physical suffering or extermination of protected persons in their hands. This prohibition applies not only to murder, torture, corporal punishments, mutilation and medical or scientific experiments not necessitated by the medical treatment of a protected person, but also to any other measures of brutality whether applied by civilian or military agents.

- Article 33
  a. 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.
  b. Pillage is prohibited.
  c. Reprisals against protected persons and their property are prohibited.

- Article 46
  a. In so far as they have not been previously withdrawn, restrictive measures taken regarding protected persons shall be cancelled as soon as possible after the close of hostilities.
  b. Restrictive measures affecting their property shall be cancelled, in accordance with the law of the Detaining Power, as soon as possible after the close of hostilities.

- Article 49
  a. Individual or mass forcible transfers, as well as deportations of protected persons from occupied territory to the territory of the Occupying Power or to that of any other country, occupied or not, are prohibited, regardless of their motive.
  b. The Occupying Power shall not deport or transfer parts of its own civilian population into the territory it occupies.

- Article 50
  a. The Occupying Power shall, with the cooperation of the national and local authorities, facilitate the proper working of all institutions devoted to the care and education of children.

- Article 51
  a. Workers shall be paid a fair wage and the work shall be proportionate to their physical and intellectual capacities.

- Article 52
  a. All measures aiming at creating unemployment or at restricting the opportunities offered to workers in an occupied territory, in order to induce them to work for the Occupying Power, are prohibited.

- Article 53
  a. 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.

- Article 55
  a. 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.
- Article 56
  a. 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.

- Article 59
  a. If the whole or part of the population of an occupied territory is inadequately supplied, the Occupying Power shall agree to relief schemes on behalf of the said population, and shall facilitate them by all the means at its disposal.

Annex 3- .................................
Relevant Articles of the Additional Protocols

- Preamble
  a. “... Reaffirming further that the provisions of the Geneva Conventions of 12 August 1949 and of this Protocol must be fully applied in all circumstances to all persons who are protected by those instruments, without any adverse distinction based on the nature or origin of the armed conflict or on the causes espoused by or attributed to the Parties to the conflict...”

- Article 1
  a. “...3. This Protocol, which supplements the Geneva Convention of 12 August 1949 for the protection of war victims, shall apply in the situations referred to in Article 2 common to those Conventions.208

- Article 3
  a. (b) the application of the Conventions and of this Protocol shall cease, in the territory of the Parties to the conflict, on the general close of military operations and, in the case of occupied territories, on the termination of the occupation...

- Article 51-
Protection of the civilian population
  a. “... 2. The civilian population as such, as well as individual civilians, shall not be the object of attack...”
  b. “... 4. Indiscriminate attacks are prohibited...”
  c. “... 6. Attacks against the civilian population or civilians by way of reprisals are prohibited.”

- Article 52
  a. “1. Civilian objects shall not be the object of attack or reprisals...”

- Article 54
  a. “... 2. It is prohibited to attack, destroy, remove or render useless objects indispensable to the survival of the civilian population, such as foodstuffs, agricultural areas for the production of foodstuffs, crops, livestock, drinking water installations and supplies and irrigation works...”

- Article 85
  a. “...3. In addition to the grave breaches defined in Article 11, the following facts shall be regarded as grave breaches of this Protocol, when committed willfully, in violation of the relevant provisions of this Protocol, and causing death or serious injury to body or health:

  (a) making the civilian population or individual civilians the object of attack; ...

  (b) launching an indiscriminate attack affecting the civilian population or civilian objects in the knowledge that such attack will cause excessive loss of life, injury to civilians or damage to civilian objects

b. the transfer by the Occupying Power of parts of its own civilian population into the territory it occupies, or the deportation or transfer of all or parts of the population of the occupied territory within or outside this territory, in violation of Article 49 of the Fourth Convention
Annex 4 - Relevant Rules in International Customary Law

- Rule 55. The parties to the conflict must allow and facilitate rapid and unimpeded passage of humanitarian relief for civilians in need, which is impartial in character and conducted without any adverse distinction, subject to their right of control.
- Rule 56. The parties to the conflict must ensure the freedom of movement of authorized humanitarian relief personnel essential to the exercise of their functions. Only in case of imperative military necessity may their movements be temporarily restricted.
- Rule 87. Civilians and persons hors de combat must be treated humanely.
- Rule 88. Adverse distinction in the application of international humanitarian law based on race, colour, sex, language, religion or belief, political or other opinion, national or social origin, wealth, birth or other status, or on any other similar criteria is prohibited.
- Rule 103. Collective punishments are prohibited.
- Rule 130. States may not deport or transfer parts of their own civilian population into a territory they occupy.

Annex 5 - Relevant Articles in the Universal Declaration of Human Rights

- Article 1
  a. All human beings are born free and equal in dignity and rights.
- Article 2
  a. Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty.
- Article 3
  a. Everyone has the right to life, liberty and security of person.
- Article 5
  a. No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.
- Article 9
  a. No one shall be subjected to arbitrary arrest, detention or exile.
- Article 13
  a. Everyone has the right to freedom of movement and residence within the borders of each state.
b. Everyone has the right to leave any country, including his own, and to return to his country.
- Article 17
  a. Everyone has the right to own property alone as well as in association with others.
b. No one shall be arbitrarily deprived of his property.
- Article 21
  a. Everyone has the right to take part in the government of his country, directly or through freely chosen representatives.
b. Everyone has the right of equal access to public service in his country.
- Article 23
  a. Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment.
b. Everyone, without any discrimination, has the right to equal pay for equal work.
- Article 25
  a. Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.

- Article 26
  a. Everyone has the right to education.
  Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit.

Annex 6– ........................................
Relevant Articles of the International Convention on the Elimination of all forms of Racial Discrimination

- Article 2
  a. States Parties condemn racial discrimination and undertake to pursue by all appropriate means and without delay a policy of eliminating racial discrimination in all its forms and promoting understanding among all races, and, to this end:
  ▪ Each State Party undertakes to engage in no act or practice of racial discrimination against persons, groups of persons or institutions and to en sure that all public authorities and public institutions, national and local, shall act in conformity with this obligation;
  ▪ Each State Party undertakes not to sponsor, defend or support racial discrimination by any persons or organizations;
  ▪ Each State Party shall take effective measures to review governmental, national and local policies, and to amend, rescind or nullify any laws and regulations which have the effect of creating or perpetuating racial discrimination wherever it exists;

- Article 3
  a. States Parties particularly condemn racial segregation and apartheid and undertake to prevent, prohibit and eradicate all practices of this nature in territories under their jurisdiction.

- Article 5
  a. In compliance with the fundamental obligations laid down in article 2 of this Convention, States Parties undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law, notably in the enjoyment of the following rights:
  ▪ The right to equal treatment before the tribunals and all other organs administering justice;
  ▪ The right to security of person and protection by the State against violence or bodily harm, whether inflicted by government officials or by any individual group or institution;
  ▪ Political rights, in particular the right to participate in elections—to vote and to stand for election—on the basis of universal and equal suffrage, to take part in the Government as well as in the conduct of public affairs at any level and to have equal access to public service;
  ▪ Other civil rights, in particular:
    • The right to freedom of movement and residence within the border of the State;
    • The right to leave any country, including one’s own, and to return to one’s country;
    • The right to own property
alone as well as in association with others;
- Economic, social and cultural rights, in particular:
  - The rights to work, to free choice of employment, to just and favorable conditions of work, to protection against unemployment, to equal pay for equal work, to just and favorable remuneration;
  - The right to housing;
  - The right to public health, medical care, social security and social services;
  - The right to education and training.

Annex 7- ...........................................................
Relevant Articles of the International Covenant on Civil and Political Rights

- Article 1
  a. All peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.
  b. All peoples may, for their own ends, freely dispose of their natural wealth and resources without prejudice to any obligations arising out of international economic co-operation, based upon the principle of mutual benefit, and international law. In no case may a people be deprived of its own means of subsistence.

- Article 6
  a. Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life.

- Article 7
  a. No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In particular, no one shall be subjected without his free consent to medical or scientific experimentation.

- Article 9
  a. Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law.

- Article 12
  a. Everyone lawfully within the territory of a State shall, within that territory, have the right to liberty of movement and freedom to choose his residence.
  b. Everyone shall be free to leave any country, including his own.
  c. No one shall be arbitrarily deprived of the right to enter his own country.

Annex 8- ...........................................................
Relevant Articles of the International Covenant on Economic, Social and Cultural Rights


- Article 1
  a. All peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.
  b. All peoples may, for their own ends, freely dispose of their natural wealth and resources without prejudice to any obligations arising out of international economic co-operation, based upon the principle of mutual benefit, and international law. In no case may a people be deprived of its own means of subsistence.
- Article 2
  a. The States Parties to the present Covenant undertake to guarantee that the rights enunciated in the present Covenant will be exercised without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

- Article 6
  a. The States Parties to the present Covenant recognize the right to work, which includes the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts, and will take appropriate steps to safeguard this right.

- Article 7
  a. The States Parties to the present Covenant recognize the right of everyone to the enjoyment of just and favorable conditions of work which ensure, in particular:
     - Remuneration which provides all workers, as a minimum, with:
       - Fair wages and equal remuneration for work of equal value without distinction of any kind, in particular women being guaranteed conditions of work not inferior to those enjoyed by men, with equal pay for equal work;
       - A decent living for themselves and their families in accordance with the provisions of the present Covenant;
     - Safe and healthy working conditions

- Article 11
  a. The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions. The States Parties will take appropriate steps to ensure the realization of this right, recognizing to this effect the essential importance of international co-operation based on free consent.
  b. The States Parties to the present Covenant, recognizing the fundamental right of everyone to be free from hunger, shall take, individually and through international co-operation, the measures, including specific programs, which are needed [in order to secure this right.]

- Article 12
  a. The States Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.

- Article 13
  a. The States Parties to the present Covenant recognize the right of everyone to education.
  b. The States Parties to the present Covenant recognize that, with a view to achieving the full realization of this right:
     - Primary education shall be compulsory and available free to all;
     - Secondary education in its different forms, including technical and vocational secondary education, shall be made generally available and accessible to all by every appropriate means, and in particular by the progressive introduction of free education;
     - Higher education shall be made equally accessible to all, on the basis of capacity, by every appropriate means, and in particular by the progressive introduction of free education;
     - The development of a system of schools at all levels shall be actively pursued, an adequate fellowship system shall be established, and the material conditions of teaching staff shall be continuously improved.
Annex 9 - Relevant Articles of the Convention on the Rights of the Child

- Article 1
  a. For the purposes of the present Convention, a child means every human being below the age of eighteen years unless under the law applicable to the child, majority is attained earlier.

- Article 2
  a. States Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status.

- Article 6
  a. States Parties recognize that every child has the inherent right to life.
  b. States Parties shall ensure to the maximum extent possible the survival and development of the child.

- Article 24
  a. States Parties recognize the right of the child to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health. States Parties shall strive to ensure that no child is deprived of his or her right of access to such health care services.
  b. States Parties shall pursue full implementation of this right and, in particular, shall take appropriate measures:
     - To diminish infant and child mortality;
     - To ensure the provision of necessary medical assistance and health care to all children with emphasis on the development of primary health care;
     - To ensure appropriate pre-natal and post-natal health care for mothers;
     - To develop preventive health care, guidance for parents and family planning education and services.

- Article 27
  a. States Parties recognize the right of every child to a standard of living adequate for the child's physical, mental, spiritual, moral and social development.

- Article 28
  a. States Parties recognize the right of the child to education, and with a view to achieving this right progressively and on the basis of equal opportunity, they shall, in particular:
     - Make primary education compulsory and available free to all;
     - Take measures to encourage regular attendance at schools and the reduction of drop-out rates.

- Article 32
  a. States Parties recognize the right of the child to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development.
  b. States Parties shall take legislative, administrative, social and educational measures to ensure the implementation of the present article. To this end, and having regard to the relevant provisions of other international instruments, States Parties shall in particular:
     - Provide for a minimum age or minimum ages for admission to employment;
     - Provide for appropriate regulation of the hours and conditions of employment;
     - Provide for appropriate penalties or other sanctions to ensure the effective enforcement of the present article.
Customary law is a set of rules that are applied to all states and are derived from common international norms, traditions, or legal precedent. Customary law is applied to all states without regard for treaties, conventions, or other international agreements. Similarly, a law that has reached jus cogens — Latin for compelling law — is a law that has reached customary status and is considered non-derogable.

Common Article 2(1) and (2), Geneva Conventions 1949.


"[E]ssential and inalienable human rights should be respected even during the vicissitudes of war" in UNSC Resolution 237 of 14 June 1967; "Fundamental human rights, as accepted in international law and laid down in international instruments, continue to apply fully in situations of armed conflict" in UNGA Resolution 2675 of 9 December 1970.


In full, lex specialis derogat legi generali, meaning that a more specific rule will trump more general rules. For example, the right to the freedom of movement, a staple in IHRL, must be respected in times of war unless it is can be temporarily impinged upon due to military necessity as stipulated by the specific of IHL. See: Program on Humanitarian Policy and Conflict Research (2007), Part II.


The ICRC suggests that the interaction between IHL and IHRL be determined on a case by case basis. See ICRC (2012). Occupation and Other Forms of Administration of Foreign Territory, p. 12.

That the oPt is not legally designated a state as well as various agreements between the Palestinian Authority (PA) and the Israeli government, including the Oslo Accords, create the legal grey area that Israeli expouls to refute its legal responsibilities in the oPt.


See UNGA Resolution 2675 of 9 December 1970.


See, for example, Jeff Halper (13 September 2012). In the Name of Justice: Key Issues Around a Single State. Available at icahd.org/node/423.


HPCR (2004), p. 3.


HPCR (2004), footnote 29.

ICJ (2004), para. 100. See also the statement from former Israeli legal advisor to the Israeli Foreign Ministry, Theodor Meron, in which Meron accepts the applicability of the IVGCs. Meron, in which Meron accepts the applicability of the IVGCs. Theodor Meron (1967). Israeli Ministry of Foreign Affairs Internal Document [declassified]. Subject: Settlement in the Administered Territories. English Translation available at http://www.soas.ac.uk/lawpeacemideast/resources/file4885.pdf.


From 1967 to 2013, the UN General Assembly passed 786 resolutions concerning Israel/Palestine, many of which reaffirmed the applicability of the 4th Geneva Conventions. As early as 4 July 1967 (A/RES/2522 (ES-V)), the General Assembly confirmed the applicability of the Geneva Conventions. Most recently, UNGA Resolution A/RES/67/119 of 14 January 2013 reaffirmed 4th Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, is applicable to the Occupied...
Palestinian Territories, including East Jerusalem, and other Arab territories occupied by Israel since 1967 and demanded that “Israel accept the de jure applicability of the Convention in the Occupied Palestinian Territories, including East Jerusalem, and other Arab territories occupied by Israel since 1967, and that it comply scrupulously with the provisions of the Convention.” For a list of all Palestine related UNGA resolutions, see http://unispal.un.org/unispal.nsf/GARes/Op enView&start=1&Count=150&Collapse=1#1.


It is also important to note that the unilateral withdrawal from Gaza and the annexation of East Jerusalem have created many of the same questions regarding Israeli responsibility. The specifics of legal responsibility under international law in Gaza and East Jerusalem remain out of the scope of this particular study. However, it is important to make two brief notes regarding these areas. Firstly, the annexation of East Jerusalem by Israel is unquestionably a breach of international law, as such a move violates the territorial integrity of the oPt – a vital component of the right to self-determination (see: UNGA 2649 (XXV) of 30 November 1970; UNGA Resolution 2672 (XXV) of 8 December 1970; UNGA Resolution 3376 of 10 November 1975; UNGA resolution 33/24 of 29 November 1978, and UNGA resolution 36/9 28 October 1981). The centrality of territorial integrity to the right of self-determination in Palestine was reaffirmed through the Oslo Accords, which stipulated that the oPt represented one territorial unit whose integrity must be preserved, and the ICJ in its 2004 ruling on the legality of the separation Wall. Moreover, the annexation of Jerusalem unquestionably constitutes the acquisition of territory through military conquest as it was seized by Israel from Jordanian rule during the 1967 Six Day War. The acquisition of territory through force is explicitly prohibited by the UN Charter and reaffirmed through UNSC Resolution 242. Secondly, as responsibilities under IHRL and IHL only cease after the cessation of effective control, it is impossible to say that Israel no has legal responsibilities under these two legal regimes regarding Gaza. The Israeli withdrawal from Gaza in 2005 gave Palestinian control over the internal matters of the small strip, but, due to intense Israeli control over the land and sea borders, effective control has not been ceded by Israel. See, the Agreed Minutes to Art. IV, para. 2, of the DOP: “[It is understood that:] 2. The Council’s jurisdiction will apply with regard to the agreed powers, responsibilities, spheres and authorities transferred to it.” See also, the Agreed Minutes to Art. VII, para. 5: “The withdrawal of the military government will not prevent Israel from exercising the powers and responsibilities not transferred to the Council.”

See : Virginia Tilley (2012). Chapter 2, Section 3ci (The Oslo Accords and Palestinian governance), Paragraph 7. (Location 1629).


In 1994, Gaza and Jericho, as per Oslo I, were governed by the Palestinian Authority. The current division of territory into Areas A, B, and C were distinguished in Oslo II in 1995. See Eyal Benvenisti (1994). Responsibility for the Protection of Human Rights Under the Interim Israeli-Palestinian Agreement. Israel Law Review, vol. 28, p. 312.

HPCR (2008).

HPCR (2008).


See Virginia Tilley (2012), Chapter 2, Section 3ci (The Oslo Accords and Palestinian governance), para. 8. (Location 1638).

See, for example, UNSC Resolution 904 of 18 March 1994; UNSC Resolution 1544 of 19 May 2004.

See, for example, UNGA Resolution 56/50 of 10 December
From 1967 to 2002 Israel issued around 1500 military orders. Israel ratified the CRC in 1991. See Annex 9 for a list of several articles that are of particular relevance to the oPt in general and the Jordan Valley in particular.

Specifically, the IVGCs provides protections for “persons taking no active part in the hostilities” and “who, at any given moment and in any manner whatsoever, find themselves, in case of a conflict or occupation, in the hands of a Party or Occupying Power of which they are not nationals.” The basis of the Convention, as stated in Article 27, is simple: all civilians are fundamentally “entitled, in all circumstances, to respect for their persons, their honor, their family rights, their religious convictions and practices and their manners and customs.” Thus, the Convention protects against basic injustices such as arbitrary violence against civilians, deportation, the transfer of civilians, and general “outrages upon personal dignity.” In addition to a more general set of rules for the treatment of civilians during times of war, the Conventions stipulate specific rules of occupation, Articles 47 through 78, that, together with the Hague Regulations, regulate occupation. See Annex 2 for a list of several articles that are of particular relevance to the oPt in general and the Jordan Valley in particular.

See Annex 3 for a list of several articles that are of particular relevance to the oPt in general and the Jordan Valley in particular.

In addition to the Hague Regulations and the IVGCs, a number of general laws and regulations have achieved customary status under international law and are thus applicable to any and all situations of armed conflict and occupation. See Annex 4 for a list of several rules that are of particular relevance to the oPt in general and the Jordan Valley in particular.

The UDHR, adopted by the UN General Assembly on 10 December 1948, has been incorporated into the body of customary international law and is thus applicable to the oPt. See “http://untreaty.un.org/cod/avl/ha/udhr/udhr.html” for a list of several articles that are of particular relevance to the oPt in general and the Jordan Valley in particular.

Israel ratified the ICERD in 1979. See Annex 6 for a list of several articles that are of particular relevance to the oPt in general and the Jordan Valley in particular.

Israel ratified the ICCPR in 1991. See Annex 7 for a list of several articles that are of particular relevance to the oPt in general and the Jordan Valley in particular.

Israel ratified the ICESCR in 1991. See Annex 8 for a list of several articles that are of particular relevance to the oPt in general and the Jordan Valley in particular.

Israel ratified the CRC in 1991. See Annex 9 for a list of several articles that are of particular relevance to the oPt in general and the Jordan Valley in particular.

From 1967 to 2002 Israel issued around 1500 military orders pertaining to the West Bank. COHRE and BADIL (2001). See Annex 1 for a list of several rules that are of particular relevance to the oPt due to their customary nature. See Annex 1 for a list of several articles that are of particular relevance to the oPt in general and the Jordan Valley in particular.

The Hague Regulations are an integral part of IHL and are considered to be customary in international law. Israel has acknowledged the applicability of the Hague Regulations in the oPt due to their customary nature. See Annex 1 for a list of several articles that are of particular relevance to the oPt in general and the Jordan Valley in particular.

Specifically, the IVGCs provides protections for “persons taking no active part in the hostilities” and “who, at any given moment and in any manner whatsoever, find themselves, in case of a conflict or occupation, in the hands of a Party or Occupying Power of which they are not nationals.” The basis of the Convention, as stated in Article 27, is simple: all civilians are fundamentally “entitled, in all circumstances, to respect for their persons, their honor, their family rights, their religious convictions and practices and their manners and customs.” Thus, the Convention protects against basic injustices such as arbitrary violence against civilians, deportation, the transfer of civilians, and general “outrages upon personal dignity.” In addition to a more general set of rules for the treatment of civilians during times of war, the Conventions stipulate specific rules of occupation, Articles 47 through 78, that, together with the Hague Regulations, regulate occupation. See Annex 2 for a list of several articles that are of particular relevance to the oPt in general and the Jordan Valley in particular.

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The Hague Regulations Art 43.


Virginia Tilley (2012), Chapter 4, Part II, Section 7ciii (Expropriation of Landed Property; Israeli practice in the OPT), para. 9. (Location 6072).

Order Concerning Absentee Property (Private Property), 23 July 1967.


See Article 23(g) of the Hague Regulations.

See: Virginia Virginia Tilley (2012). Chapter 4, Part II, Section 7ciii (Expropriation of Landed Property; Israeli practice in the OPT), para. 9. (Location 6072).


MAAN Development Center (2010), p. 3.


ICJ (2004), para. 120

Wall advisory, para. 120

In UNSC Resolution 465, the UNSC “Determines that all measures taken by Israel to change the physical character, demographic composition, institutional structure or status of the Palestinian and other Arab territories occupied since 1967, including Jerusalem, or any part thereof, have no legal validity and that Israel’s policy and practices of settling parts of its population and new immigrants in those territories constitute a flagrant violation of the IVGC relative to the Protection of Civilian Persons in Time of War and also constitute a serious obstruction to achieving a comprehensive, just and lasting peace in the Middle East.” In UNSC Resolution 465, the Security Council stated that “Israel’s policy and practices of settling parts of its population and new immigrants in [the occupied] territories constitute a flagrant violation of the IVGC.” “See also UNSC Resolution 446 of 22 March 1979, UNSC Resolution 452 of 20 July 1979, and UNSC Resolution of 5 June 1980.


See: Declaration of the High Contracting Parties to the Fourth...
Article 26(3) states that: “Protected persons who are in occupied territory shall not be deprived, in any case or in any manner whatsoever, of the benefits of the present Convention by any change introduced, as the result of the occupation of a territory, into the institutions or government of the said territory, nor by any agreement concluded between the authorities of the occupied territories and the Occupying Power, nor by any annexation by the latter of the whole or part of the occupied territory.”


UNOCHA (2011a). Israeli Settler Violence in the West Bank Fact Sheet.


IVGC 27.

IVGC Article 32.

Article 47 states that: “Protected persons who are in occupied territory shall not be deprived, in any case or in any manner whatsoever, of the benefits of the present Convention by any change introduced, as the result of the occupation of a territory, into the institutions or government of the said territory, nor by any agreement concluded between the authorities of the occupied territories and the Occupying Power, nor by any annexation by the latter of the whole or part of the occupied territory.”


UNOCHA (2011a). Israeli Settler Violence in the West Bank Fact Sheet.


Virginia Tilley (2012), Chapter 2, Section 2 (Application of Israeli Law in the OPT), Paragraph 4. (Location 2346).


That is, any person of Jewish descent. See Virginia Tilley (2012). Chapter 2, Section 4 (Application of Israeli Law in the OPT), Paragraph 5. (Location 2346).


See: Article 2 of ICERD; Article 2 of ICESCR; Article 2 of CRC; Article 85 of the Additional Protocols; Rule 88 of Customary law.

There have been various opinion pieces urging annexation of the Jordan Valley in Israeli newspapers. See, for example: Michael Harris (7 January 2013). Israel Should Annex the Jordan Valley. The Jerusalem Post. Available at http://


111 The Ma’ale Efraim checkpoint is accessible only to Israelis and foreign passport holders.


113 MA’AN Development Center (2010), p. 3.


115 See the al-Ka’bneh area, for example

116 Hospitals are located in Nablus and Jericho. Villages in the north of the Jordan Valley must pass through the Hamra checkpoint to arrive in Nablus. Ambulances travelling from the Jordan Valley to the rest of the West Bank are forced to transfer the patient, regardless of the condition, to a secondary ambulance before proceeding to the hospital. Palestinian Trade Center, The Jordan Valley: Challenges and the Lost Potential October 2010, 9


122 Article 1.

123 Article 1.


125 The phrase “Stressing the need for respect for and preservation of the territorial unity, contiguity and integrity of all of the Occupied Palestinian Territories, including East Jerusalem” is found, for example, in UNGA Resolution 62/146 of 4 March 2008, 63/165 of 19 February 2009, 64/150 of 26 March 2010, 65/202 of 11 March 2011; 66/146 of 29 March 2012, and 67/456 of 7 December 2012. A list of all UNGA resolutions dealing with the Palestinian right to self-determination can be found at http://unispal.un.org/unispal.nsf/Web%20Search/620 Simple2OLD?OpenForm&Seq=2.


127 Article 1.

128 Article 1.

129 Specifically in violation of Article 43 of the Hague Regulations.


133 B’Tselem (2011a), p. 25


136 MAAN Development Center Interview (2012)


138 B’Tselem (2011a), p. 25


141 The discriminatory allocation of water between Israeli settlers and Palestinians in the West Bank in general and the Jordan Valley in particular is yet another clear violation of the various IHRL and IHL laws that ban discrimination “based on race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.” See Article 2 of ICERD; Article 2 of ICESCR; Article 2 of CRC; Article 85 of the Additional Protocols; Rule 88 of Customary law.


144 UNOCHA (2010), p. 22.


In 2011, 560 Palestinian-owned structures, including 200 residential structures and 46 rainwater collection cisterns and pools, were demolished by the Israeli authorities in Area C of the Jordan Valley and Dead Sea Area, as specified in OCHA (2011a). The destruction of property itself remains a violation of Article 33 of the IVGC and Article 53 of the UDHR. Furthermore, the demolition of homes of Palestinians suspected of violent acts against Israel is considered a war crime under the Hague Regulations. See B’Tselem (2011d) and Palestinian House Demolitions from the Perspective of International Law. Available at http://www.btoislem.org/punitive_demolitions/legal_basis/

Article 6(b) of the 1945 IMT Charter (Nuremberg) lists "wanton destruction of cities, towns or villages, or devastation not justified by military necessity" as a war crime. See IMT Charter for Nuremberg (1945). Available at http://avalon.law.yale.edu/imt/mcstmcht.asp#art6.

Under Article 8(2)(a)(iv) of the 1998 ICC Statute, "[e]xtensive destruction and appropriation of property, not justified by military necessity and carried out unlawfully and wantonly" is a war crime in international armed conflicts. Under Article 8(2)(b)(ix), "[d]estroying or seizing the enemy’s property unless such destruction or seizure be imperatively demanded by the necessities of the conflict" is also a war crime in international armed conflicts. Under Article 8(2)(e)(ix), "[d]estroying or seizing the property of an adversary unless such destruction or seizure be imperatively demanded by the necessities of the conflict" is a war crime in non-international armed conflicts. See ICC Statute (1998). Available at http://untreaty.un.org/cod/icc/statute/english/rome_statute(e).pdf.


A breach of Article 1 of the ICCPR; Article 1 of the ICESCR; Article 5 of the UDHR; Articles 1, 6 and 7 of the ICESCR; Article 1 of the ICCPR, and Rule 129 of Customary law.


In addition to demolishing homes without Israeli permits, Israel has engaged in the demolition of homes of Palestinians suspected of violent acts against Israel. These putative demolitions are also strictly and unquestionably against international law. As the punishment is inflicted based merely on suspicion without a trial and without proof of guilt, putative demolitions violate Articles 2 and 71 of the IVGC. The destruction of property itself remains a violation of Article 53 of the IVGC. As such, putative demolitions could be considered to be collective punishment against the informally accused and his family, such procedures would also be a violations of Article 33 of the IVGC and Article 53 of the Hague Regulations. See B’Tselem (2011d), Putative House Demolitions from the Perspective of International Law. Available at http://www.btoislem.org/punitive_demolitions/legal_basis/


"A breach of Article 52 of the IVGC states: "All measures aiming at a breach of Articles 51 and 52 of the IVGC; Article 23 of the UDHR; Articles 1, 6 and 7 of the ICESCR; Article 1 of the ICCPR, and Rule 129 of Customary law."


Israel has argued that the evictions in the al-Maleh region were necessitated by the need for military training in the area. This argument, however, is little more than superficial justification as the Israeli military has sufficient room for military exercises elsewhere.


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MAAN Development Center (2012), p. 34.

Save the Children UK. (2009), p. 4.

See Article 5 of the ICERD; Article 13 of the ICESCR; Articles 28 and 32 of the CRC; Article 50 of the IVGC; Article 26 of the UDHR.

CRC Article 28.

“Availability – meaning that human, material and budgetary
resources should be sufficient and adequate to ensure education for all. Individuals should also be free to choose or seek out schools in accordance with their religious and moral convictions and with minimum standards set by the State.” See The Right to Education Project (2012). Entitled to Education. Funded by UNESCO. P. 21-22.

“Accessibility – that is to say that the education system should not discriminate on any ground and positive steps should be taken to reach the most marginalized. It also includes physical and economic accessibility.” See The Right to Education Project (2012), p. 21-22.

“Acceptability – requiring that the content of education and teaching methods should be relevant, culturally appropriate and of quality. It also entails that the human rights of all those involved should be upheld in education.” See The Right to Education Project (2012), p. 21-22.

“Adaptability – whereby education should be flexible so as to respond to the needs and abilities of students, meet the best interests of the child and adapt to different contexts and changing societies.” See The Right to Education Project (2012), p. 21-22.


ICJ (2004), para. 106.


MAAN Development Center (2012b), p. 2.

MAAN Development Center (2012), p. 18.

ICERD Article 5 (c). (v).


The protection against confiscation of personal property is detailed further in the IVGCs, under which it is permissible to expropriate private property only if doing so is an absolute necessity. If private property is confiscated for military means, the rightful owner much be compensated fairly.

According to Article 55, Israel, as the Occupying Power, has the right to confiscate public movable goods (such as arms, means of transport, supplies, etc.) For the duration of the occupation (which, according to the laws of occupation, is inherently temporary) Israel may administer and use all public immovable property (Immovable property is generally defined as tangible things which are located in the occupied territory and ‘which cannot be transferred from one place to another without being externally damaged,’ such as roads, bridges, public cultural centers, etc. See: http://unpan1.un.org/intradoc/groups/public/documents/unte/unpan018400.pdf) but is prohibited from confiscating such property. Such property is meant to be transferred back to the legitimate authority of the oPt upon the termination of the occupation. Article 55 is also enshrined in international customary law, see Rule 51: http://www.icrc.org/customary-ihl/eng/docs/v2_rul.

The Conventions also note that the Occupying Power can evacuate civilians in circumstances where ‘imperative military reasons so demand.’ Although what constitutes a military necessity is not defined, the Occupying Power is required to return civilians to their homes as soon as possible and are required to ensure proper accommodation, including ‘satisfactory conditions of hygiene, health, safety and nutrition.’ Under no circumstances is the Occupying Power allowed to transfer civilians outside of the national borders.

Article 2 of the 1949 Geneva Conventions states that “the Convention shall also apply to all cases of partial or total occupation of the territory of a High Contracting Party, even if the said occupation meets with no armed resistance.”
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