

International Environmental Responsibility under International Humanitarian Law: The Palestinian Case Study

المسؤولية الدولية عن الأضرار البيئية في إطار القانون الدولي الإنساني :

القضية الفلسطينية نموذجاً

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Abstract:

This study examines international environmental responsibility in armed conflicts, focusing on the adequacy of international legal mechanisms for addressing environmental harm caused by military operations, with Palestine serving as a case study. It argues that international environmental responsibility is primarily based on the theory of risk, where liability may arise without proving fault, provided that attribution and environmental damage are established. The study finds that international humanitarian law, particularly the Hague Law, Geneva Law, and Additional Protocol I, provides a legal foundation for environmental protection during armed conflicts and supports the accountability of parties responsible for widespread environmental damage. It further concludes that Israeli practices in the occupied Palestinian territories, especially in Gaza, demonstrate the existence of the elements of international environmental responsibility due to the scale and severity of environmental harm. However, the study highlights the limited effectiveness of international accountability mechanisms, whether political or judicial, because of institutional constraints such as the veto power and the weak binding force of certain international decisions. It therefore emphasizes the need to strengthen international legal frameworks to ensure more effective environmental protection and accountability during armed conflicts.

key words: International Environmental Responsibility - Armed Conflicts - Environmental Harm - International Humanitarian Law - Palestinian Territories

المخلص :

تتناول هذه الدراسة المسؤولية الدولية البيئية في سياق النزاعات المسلحة، من خلال تحليل مدى كفاية الآليات القانونية الدولية لمواجهة الأضرار البيئية الناتجة عن العمليات العسكرية، مع اتخاذ الحالة الفلسطينية نموذجاً تطبيقياً. وتنطلق الدراسة من أن المسؤولية الدولية البيئية تقوم على نظرية المخاطر، إذ يكفي لقيامها تحقق الفعل الضار وتوافر عنصري الإسناد والضرر البيئي دون اشتراط إثبات الخطأ. وتخلص الدراسة إلى أن قواعد القانون الدولي الإنساني، خاصة قانون لاهاي وقانون جنيف والبروتوكول الإضافي الأول، حيث توفر أساساً قانونياً لحماية البيئة أثناء النزاعات المسلحة وتدعم مساءلة الأطراف المتسببة في الأضرار البيئية الجسيمة. كما تبين أن الممارسات الإسرائيلية في الأراضي الفلسطينية المحتلة، ولا سيما في قطاع غزة، تعكس توافر عناصر المسؤولية الدولية البيئية بالنظر إلى حجم الأضرار البيئية وخطورتها. وفي المقابل، تكشف الدراسة عن محدودية فعالية آليات المساءلة الدولية، سواء السياسية أو القضائية، بسبب القيود المؤسسية كاستخدام حق النقض وضعف إلزامية بعض القرارات الدولية، مما يستدعي تعزيز الإطار القانوني الدولي لضمان حماية بيئية أكثر فعالية ومساءلة حقيقية أثناء النزاعات المسلحة.

الكلمات المفتاحية: المسؤولية، الدولي، المسلحة، الضرر البيئي، البيئة، الإنساني، الأراضي الفلسطينية.

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Introduction:

Environmental protection has become a central priority of the international community, as it is essential for sustaining human life and maintaining ecological balance. The environment is no longer viewed as a neutral natural element but as a shared global heritage and a collective interest, which requires effective international legal mechanisms for its protection.

The escalation of environmental threats, particularly in armed conflicts, has led international law to develop principles and mechanisms aimed at preventing and addressing environmental harm. This is reflected in several international conventions recognizing environmental degradation as an indirect violation of fundamental human rights, given the close link between the environment and the rights to life, health, and development.

Within international humanitarian law, the environmental dimension has been incorporated into rules regulating means and methods of warfare. Although these rules were not originally designed for environmental protection, they have indirectly contributed to limiting environmental damage caused by armed conflicts, particularly through reducing destruction of infrastructure and contamination of natural resources.

This evolution has consolidated legal obligations on parties to armed conflicts to respect specific environmental duties, giving rise to international responsibility in cases of breach, either in its civil form through compensation and reparation or in its criminal form regarding individual accountability for serious violations.

The Palestinian case represents a clear example of environmental harm in the context of occupation and armed conflict. Israeli practices in the occupied Palestinian territories, particularly in the Gaza Strip, demonstrate systematic environmental destruction, including land levelling, water and air pollution, and depletion of natural resources.

These acts constitute violations of applicable international legal norms and raise complex questions regarding the activation of international responsibility and reparation mechanisms.

The importance of this study lies in its contribution to clarifying the conceptual framework of international environmental responsibility, highlighting the interaction between international environmental law and international humanitarian law, and identifying gaps in international accountability mechanisms.

Practically, the study supports Palestinian legal efforts before international judicial bodies, strengthens accountability mechanisms, raises awareness of environmental crimes in armed conflicts, and contributes to the development of compensation and environmental reparation frameworks.

Accordingly, the study aims to analyze the conceptual framework of international environmental responsibility, examine its manifestations in the occupied Palestinian

territories, and assess the effectiveness of existing international mechanisms, while emphasizing the environmental dimension as a core element of the Palestinian issue.

The research question is: To what extent does the existing international legal framework enable the activation of international responsibility for environmental damage resulting from occupation and armed conflicts, in light of Israeli practices in the occupied Palestinian territories?

The study adopts both descriptive and analytical approaches to trace conceptual developments and analyze relevant international legal instruments, including the United Nations Charter, the Hague and Geneva Conventions, the Rome Statute of the International Criminal Court, and the Draft Articles.

Section I: The Concept of International Environmental Responsibility

The international community has witnessed a growing number of environmental challenges, highlighting the urgent need to establish clear legal rules governing States' responsibility for environmental damage¹, particularly damage whose effects extend beyond the territorial boundaries of the State responsible for causing it.

This trend has been reflected in a number of international conferences, global declarations, and international agreements aimed at protecting the human environment from increasingly serious threats, whether within the framework of international humanitarian law or international environmental law.

In light of the growing importance of this issue, this chapter seeks to examine the concept of international environmental responsibility by analysing its substantive dimensions, defining its meaning and conditions for engagement, and tracing its development within the framework of international law, particularly in relation to international humanitarian law.

This issue will be examined through the following Subtitles:

A) The Substance of International Environmental Responsibility:

Determining the substance of international environmental responsibility constitutes a fundamental starting point for understanding the conceptual framework of this emerging legal regime within the international legal order.

A proper understanding of the meaning of such responsibility and the conditions for engaging it contributes to clarifying the legal consequences arising from environmental harm, particularly in light of the increasing interaction between the traditional rules of international law and their contemporary developments.

This will be examined through the following two subsections.

1-Definition of International Responsibility:

There is little doubt that international responsibility constitutes one of the fundamental concepts of public international law, particularly in the context of environmental harm.

It concerns the legal consequences arising from unlawful or lawful conduct attributable to States or other subjects recognised under international law. Accordingly, the researcher examines both the traditional definitions of international responsibility and the more recent approaches that have emerged in response to technological developments capable of generating environmental harm, particularly in the context of armed conflicts.

This issue will be addressed as follows.

*** Traditional Definition of International Responsibility:**

Numerous definitions have been advanced in an attempt to explain the concept of international responsibility. Among these, reference may be made to the definition proposed by Professor Badvan, who described it as: "A legal regime under which a State that has committed an act prohibited by international law is required to compensate for the damage suffered by the State against which the act was committed".²

The researcher considers this definition to be excessively restrictive, as it focuses exclusively on States and overlooks conduct that may be attributable to other subjects of international law.

Moreover, it does not sufficiently clarify the criteria for determining the existence of an internationally wrongful act or the procedures and legal consequences through which responsibility may arise, thereby limiting its practical applicability.

*** Modern Definitions of International Responsibility:**

Given the limitations of traditional definitions in addressing challenges arising from the use of modern technologies, such as artificial intelligence, a number of international law scholars have sought to develop the concept of international responsibility so as to reflect contemporary developments.

Among the notable approaches is that advanced by the scholar Roeben, which conceptualises international responsibility as a normative legal relationship based on attributing the consequences and effects of an act or omission to a competent international actor in accordance with the rules of international law.

This approach requires the identification of the responsible person or entity, the subject matter of responsibility, and the entity before which responsibility is incurred.

It further requires determining the scope of responsibility in light of the international obligations and rules governing the conduct of the relevant actor, thereby making it possible to establish the legal consequences arising from a breach of those obligations.³

2-Conditions for the Establishment of International Environmental Responsibility:

The conditions governing international responsibility constitute the foundation upon which legal responsibility is established under international law in respect of States, international organisations, and individuals when conduct violates international rules and standards.

These conditions may be identified as follows.

*** The Constitutive Event Giving Rise to International Responsibility:**

The constitutive event giving rise to international responsibility encompasses international conduct that may either be unlawful, thereby constituting a breach of an international obligation, or lawful but nevertheless resulting in damage.

An internationally wrongful act consists of conduct that contravenes a rule of international law derived from international treaties, customary international law, or general principles of law.

Such conduct gives rise to the responsibility of the State when it fails to comply with its international obligations, as may occur in cases of aggression or failure to protect aliens and their internationally guaranteed rights.

As for lawful conduct causing damage, responsibility may arise on the basis of the risk theory, under which a State may bear the consequences of damage resulting from lawful activities of an inherently hazardous nature⁴, even in the absence of intent or unlawfulness, where the occurrence of damage gives rise to an obligation to assume responsibility.

*** Attribution:**

This condition concerns conduct attributable to State organs and officials exercising legislative, executive, or judicial functions, whether such conduct consists of acts or omissions, provided that it is carried out in the exercise of official functions or under the authority of the State. Such conduct is attributable to the State, which consequently bears international responsibility for it.

Attribution may also arise in respect of conduct that contravenes international law even where the relevant organ or official has exceeded the limits of its or his or her functional authority.

A comparable principle applies, within the relevant legal framework, to international organisations and their officials in the context of their official functions.⁵

*** Causing Harm to a Subject of Public International Law:**

Environmental harm constitutes one of the essential components of international environmental responsibility⁶. A State or international organisation cannot be held legally responsible unless it is established that the conduct in question, whether lawful or unlawful, resulted in the violation of a right or the impairment of a legally protected interest belonging to another international actor. Such an actor may be a State, an international organisation, or, under the applicable rules of international law, a national of one of these entities.

In the Palestinian context, environmental damage has occurred on a wide scale as a result of military operations in the Gaza Strip. These operations have reportedly resulted in the destruction of approximately 427 hectares of greenhouses⁷, damage to more than 40 per cent of water networks, and the destruction of more than 39,000 service and commercial facilities.⁸

They have also caused substantial losses to livestock, including the death of approximately 90 per cent of chickens and calves and the loss of thousands of sheep and goats⁹, thereby causing direct harm to food security and the environment.

Furthermore, the use of airstrikes, explosives, and internationally prohibited weapons has contributed to widespread environmental contamination, accompanied by substantial carbon emissions estimated at approximately 60 million tonnes of carbon dioxide by the end of April 2024.¹⁰ This figure illustrates the magnitude of the environmental catastrophe associated with the conflict.

Such damage is not confined to material losses; it may also encompass non-material harm affecting national dignity and the international reputation of the Palestinian people, with potentially adverse implications for the stability of international relations.

Accordingly, damage constitutes an important basis for determining the scope of international responsibility, particularly insofar as the responsibility regime seeks to ensure reparation and prevent impunity.

For damage to qualify for compensation, it must be established and certain, and there must be a direct causal link between the damage and the conduct attributable to the responsible subject of international law. At the same time, double recovery for the same harmful event is not permissible.¹¹

From the researcher's perspective, the foregoing elements reflect contemporary developments in the concept of international environmental responsibility. They tend to broaden the range of actors addressed by international legal rules to include non-State actors, recognise harm as a central criterion for establishing responsibility, and require relevant actors to comply with mechanisms designed to ensure adherence to international obligations.

It follows that international environmental responsibility is distinguished by its direct connection to the particular nature of international obligations concerning environmental protection.

A breach of such obligations does not necessarily affect only the relationship between the parties concerned; its consequences may extend to the environment and its components, as well as to other States or future generations.

The distinctive character of environmental responsibility therefore lies in the nature of the harm protected against and the broad scope of its consequences, which requires the rules of international responsibility to be applied in a manner that takes account of the particular characteristics of environmental damage and the need for full reparation.

B) The Development of International Environmental Responsibility in the Context of International Humanitarian Law:

The growing international concern with protecting the environment during armed conflicts has contributed to the development of rules concerning international environmental responsibility within the framework of international humanitarian law.

This body of law comprises a set of rules aimed at limiting the effects of warfare and protecting persons who are not participating in hostilities, while also safeguarding civilian objects and the natural environment.¹²

This development has strengthened recognition of the environment as an international interest deserving legal protection, particularly in view of the increasing scale of environmental damage resulting from contemporary armed conflicts.

This development has proceeded along two principal directions, which will be examined in the following two subsections.

1- International Environmental Responsibility under Hague Law:

Hague Law constitutes one of the principal foundations of international humanitarian law. It encompasses the Hague Conventions of 1899 and 1907, together with subsequent instruments addressing the regulation of the means and methods of warfare.¹³

This body of law provides a basis for tracing the development of rules concerning international environmental responsibility in the context of armed conflicts, particularly through restrictions imposed on the use of weapons and methods of warfare capable of causing excessive damage.

This may be demonstrated as follows.

*** The St. Petersburg Declaration of 1868:**

The St. Petersburg Declaration established a humanitarian principle prohibiting the use of projectiles weighing less than 400 grams when they are explosive or incendiary in nature, in view of the unnecessary suffering that their use may cause.¹⁴

Although the Declaration does not expressly provide for environmental protection, the researcher considers it an early foundation for the principles of military necessity and proportionality, which may contribute to the development of rules governing international environmental responsibility, particularly in light of the extensive destruction of the natural environment that may result from modern weapons.

This development may provide a basis for considering the international responsibility of the Israeli occupying authorities for environmental damage. In this regard, it has been alleged that phosphorus munitions and depleted uranium have been used in successive conflicts, while international reports have emphasised the exceptional scale of the bombardment of Gaza, including comparisons with the destructive bombing experienced by Germany during the Second World War.¹⁵

*** The 1907 Hague Convention Respecting the Laws and Customs of War on Land:**

The Convention affirmed a fundamental principle of international humanitarian law by restricting the right of belligerents to choose the means and methods of warfare. It also prohibited the use of poison and poisoned weapons, as well as means of warfare calculated to cause superfluous injury or unnecessary suffering.¹⁶

Although the Convention does not directly regulate environmental damage, the restrictions it places on the nature of weapons employed constitute an indirect legal basis

upon which the development of international environmental responsibility may be constructed.

Many such means, particularly toxic weapons, may produce effects extending beyond the immediate humanitarian dimension to affect the environment through soil and water contamination and damage to biodiversity.

Accordingly, this legal framework provides a potential basis for holding the Israeli occupying authorities internationally accountable for serious environmental damage resulting from military operations in the occupied Palestinian territory, provided that the constituent elements of international responsibility and a causal nexus between the conduct and the damage are established.

*** The Arms Trade Treaty of 2013:**

The 2013 Arms Trade Treaty constitutes a contemporary international mechanism designed to regulate the international transfer of conventional arms, including ammunition, parts, and components, with the aim of reducing the humanitarian consequences associated with their use.¹⁷

The Treaty requires a State Party to prohibit an export where such export would violate its international obligations or where it has knowledge that the arms would be used in the commission of serious violations of international law or other grave offences. It also imposes an obligation to conduct a careful assessment of the risks associated with the end use of the weapons before authorising their export.¹⁸

In the researcher's view, these provisions may constitute an important legal entry point for connecting the Arms Trade Treaty with State responsibility for environmental damage resulting from the use of exported weapons, particularly in the context of armed conflicts.

Where the use of such weapons, especially incendiary or explosive munitions in populated areas, results in extensive environmental destruction, questions may arise concerning the responsibility of both the exporting State and the State employing the weapons.

This approach may contribute to the contemporary trend of recognising serious and long-term environmental damage resulting from the use of prohibited or highly destructive weapons as potentially constituting a serious violation of international humanitarian law, thereby creating further scope for the development of international environmental responsibility in armed conflicts.¹⁹

2- International Environmental Responsibility in Geneva Law:

Geneva Law comprises the four Geneva Conventions adopted in 1949, together with the two Additional Protocols adopted in 1977.²⁰

Accordingly, the researcher seeks to examine the legal development of international environmental responsibility that may arise in relation to a State conducting military operations in the territory of another State, by reviewing the principal relevant legal instruments as follows.

*** The First Geneva Convention of 1949 for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field:**

The Convention requires parties to the conflict to take all possible measures, without delay, to search for and collect the wounded, sick, and dead, provide them with medical care, and prevent the mutilation or despoiling of corpses.²¹

From the perspective of international environmental responsibility, the proper handling, burial, or disposal of the bodies of persons killed in armed conflict has an indirect environmental dimension. The decomposition of bodies in exposed locations may contaminate soil and water and contribute to the spread of disease, particularly in environments already severely affected by armed conflict.

In this context, the accumulation of thousands of bodies as a result of military operations in the Gaza Strip illustrates the scale of the environmental and public-health consequences that may arise from non-compliance with these obligations and may provide grounds for examining the international responsibility of the Israeli occupying authorities.²²

*** The Geneva Convention Relative to the Protection of Civilian Persons in the Time of War (1949):**

The Convention requires parties to the conflict, subject to military necessity, to facilitate the search for and protection of the wounded and dead.²³ It also prohibits the destruction or seizure of public or private property except where such destruction is rendered absolutely necessary by military operations.

Widespread destruction of civilian infrastructure may constitute a grave violation and, where the relevant legal elements are satisfied, may amount to a war crime.²⁴

In this context, universities form part of civilian infrastructure and possess an indirect environmental function, insofar as they contribute to the production of knowledge, the promotion of environmental awareness, and the advancement of sustainable development.²⁵

Consequently, the destruction of universities constitutes not only an interference with the right to education but may also have longer-term consequences for the knowledge infrastructure necessary for environmental protection.

In the context of the Gaza war, five of the six universities were reportedly damaged or destroyed, three of them completely. Such destruction may be viewed as contributing to the systematic erosion of the foundations of social and environmental sustainability²⁶, thereby broadening the scope of violations and reinforcing the need for meaningful international accountability.

*** Additional Protocol I to the Geneva Conventions (1977):**

Additional Protocol I represents an important development in international humanitarian law. It restricts the freedom of belligerents to choose the means and methods of warfare and establishes that such freedom is not unlimited but is subject to humanitarian and environmental constraints.

The Protocol prohibits the employment of methods or means of warfare that are intended, or may be expected, to cause superfluous injury or unnecessary suffering. It also expressly provides for the protection of the natural environment against widespread, long-term, and severe damage.²⁷

Accordingly, the researcher considers these provisions to provide a clear legal basis for examining the international responsibility of the Israeli occupying authorities for environmental damage resulting from their military operations in the occupied Palestinian territory, particularly in the Gaza Strip, where the constituent elements of international responsibility are established.

Nor can the Israeli authorities necessarily rely solely on the fact that they are not party to Additional Protocol I as a justification for disregarding all of its relevant rules.

A number of the Protocol's provisions are widely regarded as reflecting customary rules of international humanitarian law and may therefore apply independently of treaty ratification²⁸, insofar as they form part of the fundamental rules governing contemporary international humanitarian law.

Section II: International Accountability Mechanisms for Environmental Damage Resulting from the Practices of the Israeli Occupying Authorities in the Occupied Palestinian Territory

The international system comprises a multiplicity of bodies and institutions that may be employed as mechanisms to hold the Israeli occupation authorities accountable for environmental crimes committed in the occupied Palestinian territories. These mechanisms vary between political and judicial frameworks, reflecting the complex nature of the international legal system and the diversity of its enforcement tools.

In this context, this chapter aims to highlight the available legal and institutional mechanisms for holding occupation authorities accountable for environmental violations through an analysis of the most relevant mechanisms, which are structured in the following two subtitles:

A) Political Mechanisms of International Accountability:

The political organs of the United Nations play an important role in addressing violations that threaten international peace and security or affect the fundamental rights and interests of peoples. Their role, however, differs in nature from that of judicial bodies.

The Security Council, for example, possesses, in certain circumstances, the authority to adopt binding decisions, whereas the General Assembly primarily exercises deliberative, recommendatory, study, and advisory functions, including the power to request advisory opinions.

These mechanisms are particularly relevant to accountability for environmental damage in the occupied Palestinian territory from two complementary perspectives. The first concerns their capacity to exert political and diplomatic pressure, document violations, and call for their cessation.

The second relates to their ability to create the legal and institutional conditions necessary for activating mechanisms of international and judicial responsibility. Accordingly, the value of these mechanisms should not be measured solely by their capacity to impose sanctions, but also by their ability to generate decisions, documents, and international positions that may be relied upon in determining the nature of violations and their legal consequences.

1- The United Nations Security Council:

The Security Council is the organ entrusted by the Charter of the United Nations with primary responsibility for the maintenance of international peace and security.²⁹

Under Article 25 of the Charter, Member States agree to accept and carry out the decisions of the Security Council in accordance with the Charter, thereby giving the Council a distinctive position compared with the other political organs of the Organisation.

The effectiveness of the Security Council in addressing violations committed in the occupied Palestinian territory is closely connected, on the one hand, to its composition and voting procedures and, on the other, to the willingness of its permanent members to exercise the powers vested in it.

*** The Composition of the Security Council and Its Impact on the Effectiveness of International Accountability:**

The Security Council consists of fifteen members:³⁰ five permanent members and ten non-permanent members elected by the General Assembly for two-year terms. The permanent members enjoy a special prerogative whereby they may prevent the adoption of substantive decisions through a negative vote, commonly referred to as the veto.³¹

The significance of this rule extends beyond procedural considerations to the effectiveness of the collective security system itself. Disagreement among the permanent members may prevent the adoption of measures that could otherwise contribute to ending violations or ensuring compliance with international law.

Thus, the existence of a legal framework empowering the Security Council to adopt binding measures does not necessarily mean that such powers can be exercised in every situation, since their activation remains dependent upon the Council's political structure and the positions of its permanent members.³²

In the Palestinian context, developments relating to the war in the Gaza Strip have clearly exposed this problem, as a number of draft resolutions concerning a ceasefire or the humanitarian situation in Gaza have been subjected to the exercise of the veto.

This practice reveals a fundamental paradox within the collective security system: whenever the Palestinian question becomes entangled with conflicting political interests among major powers, the gap between the legal possibility of accountability and the practical capacity to enforce it becomes wider.

As for the non-permanent members, although they do not possess veto power, they participate in voting and each has one vote. They may also influence the drafting of resolutions and the formation of collective positions within the Council.

During Algeria's membership of the Security Council for the 2024-2025 term, it played a role in a number of diplomatic initiatives concerning the situation in Gaza, illustrating the importance of non-permanent membership in promoting the inclusion of issues relating to civilian protection and respect for international law on the Council's agenda.³³

Nevertheless, such participation also demonstrates the limits of the influence that a non-permanent member can exercise when its position conflicts with that of a permanent member. The ability to introduce initiatives and negotiate them does not necessarily guarantee their adoption or implementation.

*** Powers That May Be Employed to Ensure Accountability for Environmental Damage:**

The powers of the Security Council are not limited to issuing political positions. Depending on the circumstances, it possesses a range of instruments that may have a direct or indirect impact on environmental protection in the occupied territory:³⁴

- The Council may address a situation within the framework of its responsibility for maintaining international peace and security and may call for the cessation of acts that threaten the lives of civilians or result in extensive destruction of civilian facilities and essential resources. This power is particularly significant where environmental damage results directly from military operations or from policies that have widespread effects on water, land, and natural resources.

- Where the conditions for the application of Chapter VII of the Charter are satisfied, the Council may determine the existence of a threat to the peace, breach of the peace, or act of aggression and adopt appropriate measures pursuant to the relevant provisions of the Charter. Such measures may initially consist of provisional measures aimed at preventing the deterioration of the situation and may subsequently extend to non-military measures, including economic and diplomatic measures, and, in exceptional circumstances, military measures.

The significance of these powers in the environmental context lies in the fact that environmental damage resulting from armed conflict may not be capable of being remedied merely by the cessation of military operations. The destruction of water networks, wastewater treatment facilities, industrial installations, or agricultural land may produce consequences lasting for years.

Early intervention by the Security Council may therefore perform a preventive function extending beyond the mere condemnation of damage after it has occurred.

- The Security Council may contribute to combating impunity by referring particular situations to the International Criminal Court where the requisite legal and political conditions are satisfied.³⁵ It may also establish subsidiary mechanisms or bodies to assist with investigation, documentation, or monitoring. This power is particularly relevant where environmental damage forms part of conduct that may constitute a war crime or another international crime falling within the jurisdiction of the International Criminal Court.

Nevertheless, an assessment of the Security Council's effectiveness in this field should not be confined to enumerating its powers. It must also take into account the political constraints that limit their exercise.

The fundamental problem does not necessarily lie in the absence of legal competence, but rather in the gap between the powers legally conferred upon the Council and the political capacity to activate them.

The researcher therefore considers the Security Council an important mechanism for preventive and enforcement-oriented accountability; however, its effectiveness in the Palestinian context remains dependent upon the Council's composition and internal balance of power, making recourse to other, more independent mechanisms essential.

2- The United Nations General Assembly:

The General Assembly assumes particular importance in the field of international accountability for violations committed in the occupied Palestinian territory, not because it possesses enforcement powers comparable to those of the Security Council, but because of its capacity to express the collective position of the majority of States, adopt recommendations, establish subsidiary organs and mechanisms, conduct studies, and request advisory opinions from the International Court of Justice.

Accordingly, the role of the General Assembly in the environmental field should not be assessed according to the criterion of the direct binding force of its resolutions, but rather according to its capacity to build international political and legal legitimacy for efforts aimed at protecting Palestinian rights, documenting violations, and calling for the remediation of their consequences.

*** The Legal Nature of the General Assembly:**

The General Assembly comprises all Member States of the United Nations and is based on the principle of equal voting representation, whereby each State has one vote.³⁶

This structure enables the General Assembly to serve as a global forum for presenting positions on international issues that may be difficult to resolve within the Security Council.

From a legal perspective, General Assembly resolutions differ from binding Security Council decisions adopted within the Council's powers under the Charter, as General Assembly resolutions are predominantly recommendatory in nature.³⁷

This does not, however, deprive them of legal and political significance. Certain resolutions may contribute to interpreting the general position of the international community, affirming or developing existing legal principles, mobilising international support, and providing an institutional basis for monitoring violations.

*** General Assembly Instruments for Accountability for Environmental Damage:**

The General Assembly may perform several functions relevant to environmental accountability.

- It has the power to initiate studies and make recommendations concerning international cooperation in the economic, social, cultural, educational, and health fields, as well as in relation to the promotion of human rights and fundamental freedoms.³⁸ This

authority enables the General Assembly to address the environmental consequences of occupation and military operations and to connect them with fundamental rights, particularly the rights to life, health, water, food, housing, and a clean, healthy, and sustainable environment.

- The General Assembly may establish subsidiary organs and specialised mechanisms to assist it in carrying out its functions.³⁹ This power is of practical importance in the environmental field because effective accountability requires continuous documentation of damage, identification of affected areas, monitoring of the exploitation of natural resources, and assessment of the long-term consequences for populations, resources, and ecosystems.

- The General Assembly may rely on reports issued by various United Nations mechanisms and human rights bodies to develop an integrated institutional picture of violations.⁴⁰ The importance of such reports does not lie in their status as judicial judgments, but rather in their ability to provide an evidentiary and documentary basis that may subsequently be used before judicial mechanisms or in negotiations concerning reparation.

- One of the most significant instruments available to the General Assembly is its power to request advisory opinions from the International Court of Justice.⁴¹ The General Assembly exercised this power when it requested, pursuant to Resolution ES-10/14 of 8 December 2003, an advisory opinion concerning the legal consequences arising from the construction of the wall in the Occupied Palestinian Territory. The Court delivered its Advisory Opinion on 9 July 2004, concluding that the construction of the wall in the Occupied Palestinian Territory was contrary to international law and identifying a number of legal consequences arising therefrom.⁴²

The importance of this avenue lies in the fact that the General Assembly is thereby able to move beyond expressing a political position and bring a matter with political and humanitarian dimensions before an international judicial body for an authoritative legal assessment.

This approach was further strengthened through the request for an advisory opinion concerning Israel's policies and practices in the Occupied Palestinian Territory, on which the Court delivered its opinion on 19 July 2024.

Accordingly, the researcher considers that the real value of the General Assembly in the field of environmental accountability does not lie in its capacity to impose direct sanctions, but rather in its ability to internationalise the violation, document it, establish a legal and political basis for sustained accountability, and connect environmental damage with Israel's obligations under international law.

The limited enforcement force of General Assembly resolutions should therefore not lead to an underestimation of their importance; rather, the Assembly should be regarded as an essential link in the chain of international accountability.

B) Judicial Mechanisms of International Accountability:

Whereas political mechanisms play an important role in documenting violations, exerting political pressure, and preventing their continuation, judicial mechanisms are distinguished by their ability to move from political demands towards determining legal positions and the consequences arising from violations of international law.

However, the existence of several international courts does not imply that their jurisdictions are identical. The International Court of Justice primarily addresses State responsibility and advisory matters, whereas the International Criminal Court exercises jurisdiction over natural persons in respect of international crimes falling within its jurisdiction. Accordingly, conflating the international responsibility of States with individual criminal responsibility may lead to confusion when determining the legal basis for accountability for environmental damage.

1- The International Court of Justice:

The International Court of Justice is the principal judicial organ of the United Nations.⁴³ Its significance in the Palestinian context derives from its capacity to examine the compatibility of State conduct with international law, whether through its contentious jurisdiction in disputes between States or through its advisory jurisdiction in legal questions referred to it by authorised organs and bodies.

*** The Contentious and Advisory Jurisdiction of the Court:**

Within the framework of its contentious jurisdiction, the Court adjudicates legal disputes submitted by States⁴⁴, whereas its advisory jurisdiction enables it to provide opinions on legal questions at the request of entities authorised to make such requests under the Charter of the United Nations.⁴⁵

This distinction is important because an advisory opinion does not constitute a judicial judgment delivered in an inter-State dispute in precisely the same procedural sense. Nevertheless, it may possess considerable legal significance in interpreting international rules and determining the obligations incumbent upon the State concerned.⁴⁶

*** The Contribution of the International Court of Justice to Determining Responsibility for Environmental Damage in the Occupied Palestinian Territory:**

The 2004 Advisory Opinion concerning the wall represents one of the most significant examples of the potential use of international adjudication to determine the legal consequences of Israeli practices in the occupied Palestinian territory

The Court examined a number of rules of international humanitarian law and international human rights law and addressed the effects of the construction of the wall on land, property, freedom of movement, water resources, and the economic and social activities of the Palestinian population.⁴⁷

The significance of this Advisory Opinion for environmental accountability lies in the fact that environmental damage does not appear as an issue entirely separate from the occupation, but rather as one of the consequences of material policies and measures affecting land, natural resources, and the population.

This significance has been further reinforced by the Advisory Opinion delivered on 19 July 2024 concerning the policies and practices of Israel in the Occupied Palestinian Territory, including East Jerusalem. Among other matters, the Court considered the issue of the exploitation of Palestinian natural resources.

It concluded that Israel's use of natural resources in the Occupied Palestinian Territory and the diversion of a significant portion of those resources for the benefit of its population, including settlers, are inconsistent with its obligations under international law. The Court also addressed the severe restrictions imposed on Palestinians' access to water.

This demonstrates a fundamental point in the researcher's assessment: the legal significance of these opinions lies not merely in condemning particular conduct, but also in reconstructing the relationship between occupation, exploitation of natural resources, and environmental harm.

Control over land and resources is not merely an economic matter; when combined with policies of exploitation, deprivation, or destruction, it may become an element in assessing the extent to which the occupying power complies with its obligations under international humanitarian law and international human rights law.⁴⁸

Accordingly, the International Court of Justice provides an important basis for accountability for environmental damage. However, its role remains linked to the nature of its jurisdiction: it does not prosecute individuals criminally or impose criminal sanctions upon them, but rather contributes to determining whether State conduct is consistent with international law and the legal consequences arising from non-compliance.

2- The International Criminal Court:

The International Criminal Court differs from the International Court of Justice with respect to the nature of the responsibility falling within its jurisdiction.

It does not adjudicate the responsibility of States, but rather the individual criminal responsibility of natural persons for international crimes within its jurisdiction.

Accordingly, examining its role in the environmental field requires determining whether acts resulting in environmental damage may fall within one of the crimes established under the Rome Statute.

*** The Legal Basis of the Jurisdiction of the International Criminal Court:**

The International Criminal Court was established by the 1998 Rome Statute as a permanent court with jurisdiction over the most serious crimes of concern to the international community. These include genocide, crimes against humanity, war crimes, and the crime of aggression, subject to the conditions and limitations established by the Statute.⁴⁹

The Court does not operate as an automatic substitute for national courts, but rather on the basis of the principle of complementarity.

Accordingly, it intervenes in cases where the conditions established under the Rome Statute concerning a State's unwillingness or inability genuinely to carry out an effective investigation or prosecution are satisfied.⁵⁰

This characteristic is particularly significant in the Palestinian context because responsibility before the International Criminal Court concerns individuals whose personal criminal responsibility may be established, rather than the responsibility of Israel as a State.

*** The Possibility of Holding Individuals Accountable for Crimes with Environmental Consequences:**

From a methodological perspective, the concept of "environmental crimes" should not be employed before the International Criminal Court in an unrestricted manner, since the Rome Statute does not establish a general autonomous offence under this designation. Rather, environmental damage may form part of the conduct constituting certain war crimes where the legal elements of the relevant offence are satisfied.⁵¹

Of particular relevance is the provision of the Rome Statute concerning the intentional direction of an attack with knowledge that it will cause incidental loss of life or injury to civilians or damage to civilian objects, or widespread, long-term, and severe damage to the natural environment, where such damage would be clearly excessive in relation to the concrete and direct overall military advantage anticipated.

Accordingly, the mere occurrence of environmental damage is not, in itself, sufficient to establish a war crime. It is necessary to establish all the legal elements required for the relevant offence, including the nature, scale, duration, and severity of the damage and its relationship to the anticipated military advantage.

This distinction is particularly important in the Palestinian context. Damage to water resources, agricultural land, civilian infrastructure, or the natural environment may constitute relevant evidence in assessing certain military operations.

However, one cannot move directly from establishing environmental damage to concluding that individual criminal responsibility exists without establishing all the constituent elements of the crime in accordance with the applicable evidentiary standard before the Court.

*** The Territorial Jurisdiction of the Court in the Palestinian Situation:**

Although Israel is not a State Party to the Rome Statute, the Court's jurisdiction in the Palestinian situation is based on the legal status of the State of Palestine and its accession to the Rome Statute.

The Pre-Trial Chamber I of the Court concluded in its decision of 5 February 2021 that the Court's territorial jurisdiction in the situation in Palestine extends to the territories occupied by Israel since 1967, namely the Gaza Strip and the West Bank, including East Jerusalem.⁵²

Accordingly, the Court's jurisdiction in this situation does not depend upon Israel being a State Party to the Rome Statute, but rather derives from the territorial basis of jurisdiction under the provisions of the Statute.

The judicial process in the Palestinian situation was further advanced in 2024 when the Prosecutor submitted applications for the issuance of arrest warrants against a number of individuals.

The Pre-Trial Chamber subsequently issued arrest warrants on 21 November 2024 against Benjamin Netanyahu and Yoav Gallant, and, on the same date, issued an arrest warrant against Mohammed Diab Ibrahim Al-Masri, also known as Mohammed Deif.⁵³

These developments demonstrate the progression of accountability in the Palestinian situation from the investigative stage towards a more advanced judicial stage, while the determination of criminal responsibility remains subject to the Court's assessment of the evidence and the applicable procedural and substantive rules.

In this context, the researcher considers that the particular circumstances of occupation should occupy a central position in assessing the conduct under investigation, since international law does not treat all parties to a conflict as possessing identical legal statuses.

The existence of a military occupation imposes specific obligations upon the occupying power towards the population, territory, and resources under its control. These obligations should therefore be taken into account when assessing the conduct attributed to the individuals concerned.

Nevertheless, emphasising the particular legal context of occupation does not, conversely, exempt any party from criminal responsibility for conduct satisfying the constituent elements of crimes established under the Rome Statute.

A sound legal analysis therefore requires a distinction between the right to self-determination and the legal status of occupation, on the one hand, and individual criminal responsibility for the commission of an international crime, on the other.

*** Limitations on the Effectiveness of the International Criminal Court:**

Despite the developments witnessed in the Palestinian situation before the International Criminal Court, the Court's effectiveness faces a number of practical and political challenges.

The Court does not possess an independent enforcement apparatus for executing arrest warrants and relies to a considerable extent on State cooperation in implementing its decisions.⁵⁴ The international political environment may also affect the Court's ability to obtain access to individuals and evidence and to execute its arrest warrants.⁵⁵

These difficulties should not, however, lead to the conclusion that the Court is ineffective. The legal value of criminal proceedings also lies in establishing individual responsibility, documenting conduct, and narrowing the scope for impunity, even where the enforcement of judgments and the arrest of suspects may take considerable time.

Accordingly, the role of the International Criminal Court should be assessed realistically. The Court cannot, by itself, address all environmental damage resulting from the occupation, nor does it possess jurisdiction over the international responsibility of the State for environmental harm.

Rather, it may contribute to holding individuals criminally accountable where acts producing environmental consequences constitute elements of, or means employed in the commission of, crimes falling within its jurisdiction.

In the final analysis of political and judicial mechanisms demonstrates that the international legal order does not, in principle, suffer from an absence of institutional mechanisms capable of addressing environmental violations occurring in the occupied Palestinian territory.

The Security Council may, within the scope of its powers, adopt measures relating to the maintenance of international peace and security. The General Assembly may document violations, mobilise international support, establish appropriate mechanisms, and request advisory opinions from the International Court of Justice.

The latter may determine the legal status of conduct attributable to a State and the legal consequences arising therefrom, while the International Criminal Court may hold individuals accountable where their conduct satisfies the constituent elements of crimes falling within its jurisdiction.

However, the multiplicity of these mechanisms does not necessarily entail effective coordination among them. There is a crucial distinction between the existence of legal jurisdiction and the ability to activate it and enforce its consequences.

This distinction is particularly evident in the Palestinian context, where political considerations within the Security Council, reliance on State cooperation by certain mechanisms, and the specific jurisdictional limits of each court constrain the ability to transform legal rules into immediate practical outcomes.

Accordingly, the researcher considers that the principal challenge does not lie in the need to establish new international mechanisms, but rather in ensuring the effective use of existing mechanisms and integrating them into a coherent accountability framework.

Documentation of environmental damage by international mechanisms may contribute to establishing responsibility; advisory opinions may clarify the State's legal obligations; judicial jurisdiction may produce legal consequences for violations of those obligations; and individual criminal accountability may help combat impunity where environmental conduct forms part of international crimes.

On this basis, achieving international accountability for environmental damage in the occupied Palestinian territory requires moving beyond an approach limited to condemning violations or merely presenting legal provisions.

Instead, it requires an analytical approach based on identifying the internationally wrongful act, the international rule violated, the responsible entity, the resulting damage, the causal nexus, the legal consequences of the violation, and the available mechanisms for reparation and enforcement of responsibility.

Such a shift from description to analysis constitutes a fundamental prerequisite for transforming environmental protection in the occupied Palestinian territory from a mere political and legal discourse into a genuine process of international accountability.

Conclusion:

International environmental responsibility has constituted one of the most significant recent developments in international law. It is based on the theory of risk, which dispenses with the requirement of fault and is satisfied by the existence of the event, which gives rise to responsibility, together with the establishment of attribution and environmental damage.

When this theory is applied to the Palestinian context, Israeli practices clearly demonstrate the existence of the legal elements necessary to establish the international environmental responsibility of the Israeli entity, particularly in light of the severity of the environmental harm inflicted upon the Palestinian people. This, in turn, necessitates holding this entity accountable at the international level.

In light of the above, the study has reached the following set of findings and proposals:

First: Findings

1. International legal persons—either States or international organizations—are subject to legal obligations under international law, which give rise to responsibility whenever they commit acts or omissions constituting a breach of international environmental standards. This entails the obligation to compensate the injured party for damage resulting from pollution or other harmful environmental acts.
2. International environmental responsibility is grounded in the general rules of responsibility under both branches of international law—Hague Law and Geneva Law—which prohibit the destruction or damage of property and require the proper handling of the dead. In addition, additional protocols prohibit the use of means or methods of warfare that cause widespread, long-term, and severe damage to the natural environment.
3. The establishment of international environmental responsibility against the Israeli entity may give rise to international sanctions ranging from nonmilitary measures (such as diplomatic and economic restrictions) to military measures, in accordance with the provisions of the United Nations Charter.
4. The Israeli entity may be held accountable through international political mechanisms, primarily the United Nations Security Council and the General Assembly, as well as through judicial mechanisms, notably the International Court of Justice and the International Criminal Court.
5. International political mechanisms suffer from a clear deficit in holding the Israeli entity accountable due to the use of veto power by permanent members of the Security Council, which significantly undermines its effectiveness. Meanwhile, resolutions of the General Assembly remain nonbinding in legal terms.
6. International judicial mechanisms also lack effective enforcement tools. International Court of Justice rulings are predominantly advisory in nature and require the consent of the concerned State. Similarly, although the International Criminal Court has issued arrest warrants—including against the Israeli Prime Minister and the former Chief of Staff of

the Israeli army—it continues to face political and enforcement obstacles, particularly pressure and sanctions imposed by major powers, especially the United States.

Second: Proposals

1. The necessity of amending the United Nations Charter to reform the Security Council limits the use of veto power, particularly in cases involving grave violations of human rights and environmental crimes that threaten international peace and security.
2. The development of an alternative or complementary mechanism for referring cases to the International Criminal Court, thereby reducing the Security Council's monopoly over this function and strengthening the independence of international criminal justice in relation to the Palestinian issue.
3. Conducting in-depth studies on ways to separate the political nature of the Security Council from the independent judicial character of the International Criminal Court to achieve the required balance and prevent the politicization of international justice.
4. The Rome Statute of the International Criminal Court needs to be amended to include additional categories of international crimes, particularly environmental crimes, to reduce restrictions on case referrals and expand the Court's temporal and territorial jurisdiction.
5. The establishment of an international enforcement body affiliated with international judicial mechanisms tasked with implementing the rulings and decisions of these judicial bodies regardless of the status or power of the responsible state, thereby ensuring the effectiveness of the international environmental liability system and the protection of affected populations.

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