

Water as a political tool? A Palestinian case study

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Abstract

The Occupied Territories of Palestine have seen their right to water compromised by aggressive policies implemented by Israel. Despite being a fundamental human right, Israel has included the Palestinians' access to safe and clean water in its apartheid¹ policies. They profit from the situation immensely, as the Palestinian authorities are heavily indebted to Mekorot, the Israeli national water company. Israel does not fulfil its duties as the entity that controls the Occupied Territories of Palestine, and violates many legal principles and accords. Thus, this article discusses the illegal use of water under international law by Israel.

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¹ Amnesty International. (2022). Israel's apartheid against Palestinians: Cruel system of domination and crime against humanity. *Amnesty International*. [online]. Available at: <https://www.amnesty.org/en/documents/mde15/5141/2022/en/> [Accessed 21 Oct. 2022].



Introduction

In 2002, the United Nations explicitly adopted the right to clean water as a human right in the General Comment 15 of the International Covenant on Economic, Social and Cultural Rights (ICESCR), which is part of the International Bill of Human Rights (1948). The General Comment states that "*The human right to water entitles everyone to sufficient, safe, acceptable [in colour, taste and odour], physically accessible and affordable water for personal and domestic uses*". The right to water is therefore a specific fundamental right, whereas it used to be inherent to other human rights such as the right to life, health or dignity. On the 28th of July 2010, the General Assembly of the UN adopted the resolution 64/292 that states, "*the right to safe and clean drinking water and sanitation as a human right is essential for the full enjoyment of life and all human rights*".

Thus, the right to water was constructed, first through the General Comment 15 of the ICESCR, which is a legally binding treaty. It was also adopted in other treaties, such as the Convention on the Rights of the Child². This right was then enforced through various mechanisms of soft law, such as conventions, forums, declarations, and resolutions of the United Nations General Assembly etc. Simultaneously, it was established through the various domestic actions taken by the state parties to the covenant to adopt this right as a definite norm and as a human right³. The adoption of this General Comment translates into the fact that the 171 states that ratified the ICESCR have to take the necessary measures to ensure that this right is enforced in their territory. They must provide enough water to sustain basic needs. The water ought to be safe and free from contamination, easily accessible in terms of pricing and distance, and accessible to all. However, some parts of the world such as the Arab Peninsula or the region of the Sahel suffer from water scarcity, which makes it troublesome to fulfil the Covenant's guidelines.

Water scarcity is defined by the World Health Organization as the moment when the impact of all the users negatively affects the supply and the quality of available water. This means that a country is in a state of hydric stress when the demand for water cannot be met. Quantitatively, the scarcity of water is attained when the annual water supplies of a state are less than 1000m³ per person. The WHO fixed a measure of 100 litres per day per person to fulfil basic needs, avoid health issues and live with dignity. The Middle East is a region of the world severely affected by water scarcity. Its aridity, coupled with climate change, have devastating effects on its access to water. In addition, the conflicts happening in this region worsen the issue, such as the conflict between Egypt and Ethiopia over the Renaissance Dam.

The access to water in parts of the Middle East can be used as a pawn to further agendas. This is the case with the way Israel uses the available water to assert dominance over the Palestinian people. Indeed, Israel uses various mechanisms to restrict the Palestinians' access to water, despite the fact that it violates many principles of international law. They profit from this situation in various ways, and these illegal policies are intrinsically tied to Israel's colonisation through settlements.

² Convention on the Right of the Child. (1989). Article 24C. "*To combat disease and malnutrition, including within the framework of primary health care, through, inter alia, the application of readily available technology and through the provision of adequate nutritious foods and clean drinking-water, taking into consideration the dangers and risks of environmental pollution*".

³ Salman. M. A. S, McInerney-Lankford. S. (2004). The Human Right to Water, Legal and policy dimensions. *Law, Justice and Development*. World Bank document n°30229. [online]. Available at: <https://openknowledge.worldbank.org/handle/10986/14893> [Accessed 26 Aug. 2022].

Climate change has accelerated the rarefaction of water, with extraordinary high temperatures all over the globe. This situation will not improve itself if no changes to our lifestyle are made. The mismanagement of our resources by governments and big companies alike is the reason we are headed for a catastrophe. As water will become more precious and rarer, conflicts over its control will occur. This has already started, as we have seen with the conflict between Egypt and Ethiopia regarding the building of the Ethiopian Renaissance Dam. International Law does not regulate water ownership and water sharing efficiently, thus resulting in tensions that could possibly evolve into full-blown conflict due to the ever-running clock of global warming. As Anthony Turton, a water resource management specialist and scientist, argues, water wars can become a reality even though they have not escalated past intense diplomatic threats yet⁴. Thus, due to all these parameters (climate change, exponential growth of the population, water scarcity, etc.), water as a subject has shifted from a sanitary concern to an eminent political tool.

The establishment of dominance through the control of the water resources

A direct effect of the illegal occupation of Palestine by Israel is the control of all water resources by the latter. Indeed, Israel controls 97% of the water sources and water infrastructures in the occupied territories of Palestine. They use this fact as a tool of further oppression to regulate the access of the Palestinians to safe and clean water and drive Palestinians out of their homes. According to the European Heads of Mission in Israel, the population of Palestinians living in the Jordan Valley has dropped from 320 000 to 56 000. Simultaneously, the population of the Israeli settlers has grown from 1200 to 310 000. According to Amnesty International, the policies undertaken by the settler state prevent the Palestinian people from receiving enough water to respect the engagement Israel has agreed to respect under the ICESCR on December 19th, 1966⁵.

Indeed, as signatories who have control over the Occupied Palestinian Territories, they have the duty to provide them with sufficient water. The water quality and quantity should be in accordance with the World Health Organization guidelines, which is around 100 litres per person. But the Israeli authorities have refused to comply with the article 12(c)§iii of the covenant, which states that "*water and water facilities and services must be accessible to all, including the most vulnerable or marginalized sections of the population, in law and in fact, without discrimination on any of the prohibited grounds*".

The disparity between the illegal Israeli settlers and the Palestinians living in occupied territories is astonishing. Indeed, Amnesty International reported in 2017 that Israelis consume four times more water than Palestinians, who only consume around 73 litres per day per person, which is below the minimum set by the WHO. It drops to 20 litres per day in some rural regions of the West Bank. On the other hand, Israelis consume an average of 300 litres per day!

⁴ Turton. A, Solomon. H. (2000). *Water Wars: Enduring Myth or Impending Reality?*. pp 165-177. ACCORD. [online]. Available at: https://www.researchgate.net/publication/278965746_Water_Wars_Enduring_Myth_or_Impending_Reality [Accessed 26 Aug. 2022].

⁵ Amnesty International. (2017). The Occupation of Water. *Amnesty International*. [online]. Available at: <https://www.amnesty.org/fr/latest/campaigns/2017/11/the-occupation-of-water/> [Accessed 26 Aug. 2022].

Israelis have taken control of the resources through various military orders. A military order serves as law on the Occupied Territories. These orders are not issued by regular civil courts, but rather police and military courts. They apply exclusively to the Occupied Territories. Indeed, while Palestinians are subjected to military rules, the illegal Israeli settlers are under the Israeli civil law. Palestinian children as young as 12 can be prosecuted by these courts. Israel has been using this tactic to control and assert their dominance over the Palestinian population ever since they took over the land. For example, the military order number 92 of the year 1967 gives Israel full control over fresh water supplies in Gaza and the West Bank⁶.

Israel has also forbidden any Palestinian endeavour to build water facilities. Indeed, in 1967, Israel adopted the Military Order number 158⁷. It is called “Order amending the Water supervision law” and states that every source of water such as wells, springs and water facilities are under the control of the Israeli military. It also states that any construction without prior authorization and appropriate permits will be confiscated and/or destroyed. Furthermore, it goes without saying that permits are extremely hard to obtain. Indeed, the Military Order number 58 of 1967 explains that building water facilities without a permit is prohibited, but the licensing officer can decide to reject applications for permits without justifying the reasons. These orders also translate into agricultural supervision. Military Order number 474 punishes by prison and/or fines any use of agricultural machinery without permission.

The Emergency Water, Sanitation, and Hygiene group (EWASH) and the Palestinian human rights organization Al-Haq submitted a Joint Parallel Report to the Committee on Economic, Social and Cultural Rights in 2011. These NGOs explained the illegal acts that Israel has done in their report titled *Israel's violations of the International Covenant on Economic, Social and Cultural Rights with regard to the human rights to water and sanitation in the Occupied Palestinian Territory*⁸. They explain that “*Israel's policies and practices in the West Bank have been to expropriate and assert control over Palestinian water resources as well as land, maintain an unequal and discriminatory allocation of water resources to benefit both Israeli citizens living in Israel and those living in West Bank settlements, which are illegal under international law, and prevent Palestinians from developing or accessing their own resources and thus undermining their right to self-determination*” in the article B(1)§20.

The report explains in article B(2)§24 that 13,000 Palestinians living in area C of the West Bank face a considerable risk of water scarcity because they do not have access to water facilities and are not linked to any water network. They can only depend on water delivery by truck, of which the quality is undetermined. According to Amnesty International, 180,000 to 200,000 Palestinians across the

⁶ JMCC. (1995). Israeli Military Orders In The Occupied Palestinian Westbank. *Jerusalem Media And Communication Center*. [online]. Available at: <http://www.jmcc.org/Documentsandmaps.aspx?id=622> [Accessed 26 Aug. 2022].

⁷ *Ibid.*

⁸ Sbeih, S, Mahmoud, T.H. (2011). *Joint Parallel Report submitted by the Emergency Water, Sanitation and Hygiene (EWASH) and Al-Haq to the committee on Economic, Social and Cultural Rights on the occasion of the consideration of the Third periodic Report of israel. Israel's violations of the International Covenant on economic, Social and Cultural rights with regard to the human rights to water and sanitation in the Occupied Palestinian Territory*. EWASH, Al-Haq. [online]. Available at: <https://www.ecoi.net/en/document/1076426.html> [Accessed 26 Aug. 2022].

occupied territories do not enjoy running water because they do not have access to a water network. And when they are in fact linked to one, it does not change anything because there is no water at the tap⁹.

Thus, the Palestinians are unable to dig wells or extract water by any means without an incredibly hard to obtain Israeli permission. Israel also controls and collects rainwater, so even this solution is denied to the Occupied Territories. Palestinian water tanks meant to collect rain are destroyed by the military forces. This leads to the Palestinians having to stock up on water through any means possible, in plastic bottles and barrels. They also dig private wells and informal small-scale desalination plants, but since they are unregulated, the safety of the water is largely questionable¹⁰. The EWASH and Al Haq report states in article B(1)§21 that Israeli soldiers and settlers “*routinely shoot holes in and consequently destroy water tanks on Palestinian homes*”. While the illegal Israeli settlements have created an efficient water circuit and enjoy full time running water, neighbouring Palestinian communities are deprived of this essential right.

In addition to these practices, the Oslo II Agreement of September 1995 gives Israel six times over the rights over the transboundary aquifers¹¹. The excessive pumping of these resources by Israel endangers the very sustainability of these underground pools of water. Amnesty International has reported that Mekorot, the Israeli state-owned water management company, has destroyed wells and redirected water from springs in the West Bank systematically to provide the settlements population instead. This redirected water is used in Israeli agriculture and industrial endeavours, as well as domestically in the colonies.

Palestinians are denied access to some parts of the Occupied Territories because the Israeli authorities have shut them down and branded them closed military areas. Within a few hundred meters, the apartheid can be witnessed; while Palestine struggles to have enough water to survive, Israeli settlers can enjoy swimming pools¹².

Amnesty International has spoken with Ihab Saleh, a Palestinian farmer that lives in the village Ein al-Beida¹³. It is located in the north of the West Bank and is populated by around 1600 people. He recounts the gradual disappearance of the local spring that dried up after the company Mekorot drilled new wells. These new facilities would provide an Israeli settlement called Mehola close to the village of Ein al-Beida and its surrounding area. The Israeli authorities dried up the spring and have in parallel reduced the volume of water granted to the village. This policy has also caused harm to the Bardala village near Ein el-Beida. Saleh explains that in 2017, the authorities suspended the provision of water for

⁹ Amnesty International. (2017). The Occupation of Water. *Amnesty International*. [online]. Available at: <https://www.amnesty.org/fr/latest/campaigns/2017/11/the-occupation-of-water/> [Accessed 26 Aug. 2022].

¹⁰ World Bank. (2018). Securing Water for Development in the West Bank and Gaza. *World Bank Washington, DC*. [online]. Available at: <https://documents1.worldbank.org/curated/en/736571530044615402/Securing-water-for-development-in-West-Bank-and-Gaza-sector-note.pdf> [Accessed 26 Aug. 2022].

¹¹ Sbeih, S., Mahmoud, T.H. (2011). *Joint Parallel Report submitted by the Emergency Water, Sanitation and Hygiene (EWASH) and Al-Haq to the committee on Economic, Social and Cultural Rights on the occasion of the consideration of the Third periodic Report of Israel. Israel's violations of the International Covenant on economic, Social and Cultural rights with regard to the human rights to water and sanitation in the Occupied Palestinian Territory*. EWASH, Al-Haq. [online]. Available at: <https://www.ecoi.net/en/document/1076426.html> [Accessed 26 Aug. 2022].

¹² *Ibid*

the village for five days. There was no water at the tap any more. They claimed that it was because the village had used more water than they were allowed to. The villagers had to go fetch water in a neighbouring village five kilometres away with trucks. Saleh's crops of squash and cucumber were destroyed, and he suffered immense financial loss. He explains that he lost approximately 3000 dollars because of this policy. Palestinians in the Occupied Territories have had to resort to low water consuming crops and dry climate friendly agriculture. Indeed, in comparison, while Palestinians have to resort to the harvest of low water requiring crops, such as squash or zucchini; Israeli settlers like the Psagot winery can grow grapes and produce wine. The production of the liquor requires an extremely thorough watering¹³.

Because of all these policies, Palestinian are denied a choice and have to comply with Israeli decisions. They are forced to buy Israeli provided water. This water is brought via trucks to the Palestinian communities, and their prices are between 4 and 10 dollars for one cubic meter. In comparison, Israelis pay an average of 2.12 dollars per cubic metre. In Gaza, according to Amnesty International, between 90% and 95% of the water supply Palestinians have access to is unsafe for human consumption. They must rely on the Coastal Aquifer for its water supply, but it is not sufficient for the growing population. The aggressive pumping renders it unsustainable, and the water becomes unsafe and undrinkable because of these practices. Indeed, pumping of the aquifer happens at three times the rate it should be happening to try to answer the growing demand.

As a result, the aquifer is contaminated by the infiltration of seawater and the seeping of sewage water because of the erosion of the soil. According to a report of the World Bank Group in 2018 “only 4% out of the 180m³ abstracted per year meets drinking water quality standards”¹⁴. Indeed, due to improper treatment, the water is too loaded in nitrate, which makes it dangerous especially for children and infants. In addition, Oxfam explains that wastewater can only receive partial treatments. This renders it unusable and unsafe for any type of consumption, as it requires additional processes to become drinkable¹⁵. They are thus evacuated to the sea, which then seeps back into the underground Coastal aquifer because of the erosion of the soil. The water rejected in the sea adds up to between 60 and 80 million litres of sewage and unclean water.

Israel does not allow cement and concrete in Gaza¹⁶. This prevents the Palestinians in Gaza from building pipes and water treatment facilities to ensure an easier access to safe water. This is another explanation of the damage done to the Coastal aquifer. NGOs such as Oxfam have helped the population of Gaza rebuild the wells that were destroyed during the 2008 war. However, the process is slow, and the fact of

¹³ Amnesty International. (2017). The Occupation of Water. *Amnesty International*. [online]. Available at: <https://www.amnesty.org/fr/latest/campaigns/2017/11/the-occupation-of-water/> [Accessed 26 Aug. 2022].

¹⁴ World Bank. (2018). Securing Water for Development in the West Bank and Gaza. *World Bank Washington, DC*. [online]. Available at: <https://documents1.worldbank.org/curated/en/736571530044615402/Securing-water-for-development-in-West-Bank-and-Gaza-sector-note.pdf> [Accessed 26 Aug. 2022].

¹⁵ Klawiter. S, Martin. A. (2017). Treading Water: The Worsening Water Crisis and the Gaza Reconstruction Mechanism. *Oxfam*. [online]. Available at: <https://policy-practice.oxfam.org/resources/treading-water-the-worsening-water-crisis-and-the-gaza-reconstruction-mechanism-620218/> [Accessed 26 Aug. 2022].

¹⁶ *Ibid*

the matter remains: the water below the ground is unclean. They have to find new solutions to rationalize water, like the use of the drop-by-drop technique in agriculture. This consists of irrigating plants and crops drop by drop, instead of letting a constant stream of water.

Due to the heavy dependence of the Palestinian territories on Israel for its water, the Palestinian Water Authority (PWA) owes an ever-growing debt to the Israeli company Mekorot. Indeed, the PWA does not have the means to pay Mekorot for the bulk water the Gaza Strip purchases. In 2017, the debt was 335 million dollars. Therefore, according to the *2018 Securing Water for Development in West Bank and Gaza* report of the World Bank, Gaza should rely on desalination plants to protect the aquifer from being damaged to a point of no return. Desalination plants exist, such as the Short-Term Low Volume plant funded by the European Union that provide 6000 m³ per day. However, it is still not enough for the growing Palestinian population. According to the World Bank Group, the only solution to end the immense water scarcity problem Palestinians face is to increase and enhance the cooperation between Palestine and Israel to promote a dialogue “*toward better water resources management (...) mutual benefit that would support peace and stability*”¹⁷. Indeed, the issue Palestinians have with water does not truly lie in its unavailability and scarcity, but rather in the aggressive and discriminatory actions of Israel and the illegal Israeli settlements.

Conclusion

To conclude, Israel’s aggressive hoarding of water to the detriment of the Palestinian population is illegal and immoral. The Palestinians’ fundamental right to access clean water, despite being guaranteed by many covenants, treaties and legal agreements, is completely disregarded. The apartheid in the Occupied territories prevents the population from finding a solution to this issue, and Israel is profiting from a problem they created themselves, as the Palestinian authorities are heavily indebted to Mekorot. In addition, the damages done to the Coastal Aquifer are irreversible, and the Occupied Territories of Palestine are seeing their demography exponentially increase. This is really worrying about the future of Palestine and the access to clean water for its people. The military orders still in force in the occupied territories allow the Israeli authorities to breach their international obligations and prevent Palestinians from enjoying their fundamental rights guaranteed by numerous laws.

¹⁷ World Bank. (2018). Securing Water for Development in the West Bank and Gaza. *World Bank Washington, DC*. [online]. Available at: <https://documents1.worldbank.org/curated/en/736571530044615402/Securing-water-for-development-in-West-Bank-and-Gaza-sector-note.pdf> [Accessed 26 Aug. 2022].

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