



مركز الميزان لحقوق الإنسان
Al Mezan Center for Human Rights



Housing and Land Rights Network
Habitat International Coalition



Joint Urgent Appeal to the United Nations Special Procedures on the escalating water and sanitation crisis in the Gaza Strip, occupied Palestinian territory



Submitting organizations:

- Al Mezan Centre for Human Rights
- Al-Haq – Law in the Service of Man
- Cairo Institute for Human Rights Studies
- Habitat International Coalition – Housing and Land Rights Network

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I. Introduction

1. Insufficient access to clean and safe drinking water and sanitation in the occupied Palestinian territory (oPt) has been a feature of Palestinian life for decades, with resources overexploited and water quality consistently deteriorating in parallel and as a result of Israel's unlawfully pro-longed occupation and apartheid regime.
2. As a result of these policies and practices, today, Gaza's residents live in a protracted humanitarian catastrophe, with around 95 percent of residents not having access to drinkable water. The urgency of this situation has already been repeatedly noted by several United Nations Charter-based or treaty-based bodies, including the Human Rights Council,¹ the Special Rapporteur on the situation of human rights in the Palestinian Territory occupied since 1967,² the Human Rights Committee,³ and the Committee on the Elimination of Racial Discrimination.⁴
3. However, despite an already catastrophic situation, the water and sanitation crisis in Gaza continues to escalate. In August 2020, Israel further tightened its punitive measures against the civilian population, *inter alia*, by closing the Karam Abu Salem crossing and by unilaterally imposing a ban on fuel shipments into the blockaded Gaza Strip between 13-31 August, which led to an electricity shortage that dramatically heightened the water and sanitation crisis.
4. Gaza's residents are also struggling to stem the spread of COVID-19, thus adding another significant factor to the dire water and sanitation conditions in the Strip. On 24 August, the Palestinian Health Authority announced the detection of the first cases of COVID-19 outside of quarantine centers; a full lockdown was then imposed, keeping breadwinners at home. Without sufficient or clean water entering the home, or income to purchase trucked or bottled water, the sanitation conditions began raising new health and hygiene risks for the population of Gaza. Many of Gaza's residents cannot implement even basic safety and preventive measures for COVID-19, such as hand-hygiene, leaving the Strip's two million residents increasingly at risk.
5. As we enter the fourteenth year of Israel's illegal closure restrictions and regular military attacks, over two million Palestinians living in the Gaza Strip are currently struggling to counter a potentially devastating outbreak of COVID-19, with minimal water and electricity resources, and a healthcare system that is on the verge of collapse.

¹ Human Rights Council Resolution 43/32 of 17 June 2020, A/HRC/43/L.38/Rev.1.

² Report of the Special Rapporteur on the situation of human rights in the Palestinian Territory occupied since 1967, 30 May 2019, A/HRC/40/73.

³ Human Rights Committee, Concluding observations on the fourth periodic report of Israel, 21 November 2014, CCPR/C/ISR/CO/4.

⁴ Committee on the Elimination of Racial Discrimination, Concluding observations on the combined seventeenth to nineteenth reports of Israel, 27 January 2020, CERD/C/ISR/CO/17-19.

A. Background information

6. The Israeli system of racialized and institutionalized material discrimination (apartheid) in the water sector has operated through the 20th Century colonization of Palestine through the Mekorot organization (Hebrew: מקורות, lit. “Sources”), established in 1937. Three parastatal organizations chartered to serve only persons of “Jewish race or descendancy”—the Jewish Agency, Jewish National Fund and Histadrut—combined forces to extend corresponding Jewish-only privilege over the country’s water resources. In their continued operations today, these parastatals are what are called “national” institutions today, coordinating the tasks of controlling the resources of the country within their areas of specialization: Jewish Agency (with its sister World Zionist Organization), for development planning; Jewish National Fund, for funding and managing land acquisition; and Histadrut, organizing labor of and for the same racialized religious group.
7. After proclamation of the State of Israel, Mekorot (Israel National Water Co.) was joined in 1951 by the Tahal Group (named from the Hebrew initials for Water Planning for Israel, *Tikhnun ha-Mayim le-Yisrael*), combining the efforts of the Israel Ministry of Agriculture with Mekorot’s engineering division 1952. This implementation agency today operates with its majority shares (52 percent) held by the Government of Israel, with remainder divided equally between Jewish Agency and Jewish National Fund,⁵ the very agencies established for the purposes of benefitting “Jewish nationals,”⁶ an Israeli-constructed category not limited by geographical location, but distinct from and superior to Israeli citizens in the enjoyment of economic, social and cultural rights, including the human rights to water and sanitation.⁷
8. As of 1967, when the Israeli occupation began, Palestinians in the West Bank are denied access to the waters of the Jordan River, as the Israeli occupying forces destroyed at least 120 Palestinian wells along the Jordan Valley in 1967⁸ and control both the shoreline and

⁵ “Tahal” *Jewish Virtual Library* (2019), at: <https://www.jewishvirtuallibrary.org/tahal>.

⁶ Roselle Tekiner, “On the Inequality of Israeli Citizens,” *Without Prejudice*, Vol. I, No. 1 (1987), pp. 48–57, at: https://www.eaford.org/site/assets/files/1023/without_prejudice_vol_i_no1.pdf; and “Race and the Issue of National Identity in Israel,” *International Journal of Middle Eastern Studies*, Vol. 23, Issue 1 (February 1991), pp. 39–55, at: <https://www.jstor.org/stable/163931?seq=1>.

⁷ *Ibid.* This distinction has been twice adjudicated at the Israeli High Court in the cases of *Tamarin v. Ministry of Interior* CA630/70 (1970) and *Ornan v. Ministry of Interior* CA 8573/08 (2013). See *The Nakba Files*, at: <https://nakbafiles.org/nakba-casebook/tamarin-v-state-of-israel-ca-63070/>; Oscar Kraines, *The Impossible Dilemma: Who Is a Jew in the State of Israel* (New York: Bloch Publishing Co., 1976) and *Versa: Opinions of the Supreme Court of Israel*, at: <https://versa.cardozo.yu.edu/opinions/ornan-v-ministry-interior>. The category of “Jewish National” was also incorporated into the 2018 Basic Law —known also as the Nation-State Bill— and encompasses Jewish people residing inside and outside Israel’s territorial state. For concrete examples of preferences given to “Jewish nationals” over non-Jewish Israeli citizens, see Columbia Law School, ‘Citizenship and Nationality in Israel/Palestine’, at:

<https://web.law.columbia.edu/open-university-project/curricula/citizenshipnationalityisrael-palestine>.

⁸ Palestinian Authority Ministry of Agriculture and Palestinian Water Authority, *Development of the Palestinian Valley: Plan for Development of Water Sources in Valley Governates* (May 2010) [Arabic], pp. 3, 8, cited in Eyal Hareuveni, *Dispossession & Exploitation Israel's policy in the Jordan Valley & northern Dead Sea* (Jerusalem: B’Tselem, May 2011), p. 32, at: http://ecopeace.org/uploads/Btselem_Dispossession_and_Exploitation_Eng_201105.pdf. Other source report that Israeli forces either confiscated or destroyed 140 pumping units in the Jordan Valley in 1967. See Report on the situation of human rights in the Palestinian territories occupied since 1967, submitted by Mr. Giorgio Giacomelli, Special Rapporteur, E/CN.4/2000/25, 15 March 2000, para. 24, at: https://spinternet.ohchr.org/_Layouts/15/SpecialProceduresInternet/Download.aspx?SymbolNo=E%2fCN.4%2f2000%2

the flow of the water, which is diverted, along with the Jordan headwaters in the occupied Golan, via the National Water Carrier (designed by Tahal and constructed by Mekorot) from Lake Tiberias to Jewish settlements inside the Green Line. Israeli parastatal institutions—primarily Mekorot—also retain control over the waters of the Mountain Aquifer, diverting 89 percent of this resource to Israelis, despite the fact that 80 percent of the water recharging the aquifer originates in the Palestinian West Bank.⁹

9. Since its invasion and occupation, Israel has prohibited Palestinians throughout the whole oPt from drawing any of its waters, by declaring its riverbanks a closed military zone and by continuing its wartime military practice of destroying Palestinian pumps and irrigation infrastructure.¹⁰ Despite the prohibition against an Occupying Power altering the legal system in an occupied territory under Article 43 of The Hague Regulations—which are domesticated in Israeli law¹¹—the occupation regime has deployed a series of Military Orders to ensure the water sector’s conformity with Israel’s apartheid system.
10. Military Order No. 92 (August 1967) transferred to the Israeli military full authority over all water resources in the oPt, while Military Order No. 158 (November 1967) prohibited Palestinians from building any new water facilities—including water wells, water pumps, and desalinization infrastructures—without a permit granted by Israeli occupying authorities, otherwise, the infrastructure would be confiscated or demolished. It has been estimated that, between 1967 and 2000, Israel granted permits for the construction of only 23 wells.¹²

i. The water situation in the Gaza Strip

11. In the Gaza Strip, the total water supply for domestic use¹³ is 99,058,677 million cubic meters, which is supplied by either municipal or UN Relief and Works Agency for Palestine Refugees in the Near East (UNRWA)’s water wells, private desalination plants or other private vendors.¹⁴ As much as 95.4 percent of water comes from groundwater, 2.6 percent from desalinated water, and 2 percent is purchased from Mekorot.¹⁵ The main

f25&Lang=en; Fadia Daibes-Murad, *A New Legal Framework for Managing the World's Shared Groundwaters* (London and Seattle: IWA Publishing, 2005), p. 338.

⁹ Al-Haq, “Geography and Hydrology of Water Resources in the OPT,” 22 March 2013, at: http://www.alhaq.org/cached_uploads/download/alhaq_files/images/stories/PDF/2012/A1%20Haq%20-factsheet%20_no_1_Geography%20and%20Hydrology_66.2013.pdf.

¹⁰ Report of the UN Special Rapporteur on the situation of human rights in the Palestinian Territory occupied since 1967, 15 March 2019, A/HRC/40/73, para. 44.

¹¹ Since the Beit El case, the Israeli High Court of Justice has ruled that The Hague Regulations (1907) are customary law, therefore, automatically part of municipal law and judiciable in Israel. High Court of Justice 606, 610/78, *Suleiman Tawfiq Ayyub et al. v. Minister of Defence et al, Piskei Din* 33(2), at:

<http://www.hamoked.org/Document.aspx?dID=3860>.

¹² Center for Economic and Social Rights, “The right to water in Palestine: a background,” at: <https://www.cesr.org/sites/default/files/Palestine.RighttoWater.Factsheet.pdf>.

¹³ According to the UNEP, domestic water use includes bathing, cooking, drinking, washing clothes and other household functions. See UNEP, “State of Environment and Outlook Report for the occupied Palestinian territory 2020”, p. 68.

¹⁴ Palestinian Water Authority, *Water Status Report June 2019*.

¹⁵ United Nations Environmental Program (UNEP), “State of Environment and Outlook Report for the occupied Palestinian territory 2020”, p. 66.

source of groundwater is the coastal basin or aquifer, which extends across Gaza's north-eastern border (see Figure 1).

12. The coastal aquifer is the source of about 86 percent of all water in the Strip.¹⁶ Already in 2012, a UN study warned that the aquifer could become unusable by 2017, with the



damage irreversible by 2020.¹⁷ Indeed, in the absence of a coordination policy between Israel and the Gaza water utility, the Coastal Municipalities Water Utility (CMWU), both have extracted an excessively large amount of water from the coastal aquifer. The UN Office for the Coordination of Humanitarian Affairs (UN OCHA) estimated that in 2018 the annual sustainable recharge of the aquifer, which is fed only by rainwater, was extracted almost three times over.¹⁸ Over-extraction, along with sewage infiltration and groundwater deterioration, have consistently contributed to the continued deterioration of water quality and quantity in Gaza.

13. In addition to issues relating to the costal aquifer as the main source of water for the two million Palestinians living in Gaza, the situation of water and the enjoyment of the human rights to water and sanitation in the Strip are affected by three underlying pressures directly related to the occupation of Palestine.

¹⁶ Report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967*, A/HRC/40/73,15 March 2019, para. 53.

¹⁷ UNICEF, "UNICEF seawater desalination plant helps head off Gaza water crisis," 6 April 2017, at: <https://www.unicef.org/stories/unicef-seawater-desalination-plant-helps-head-gaza-water-crisis>

¹⁸ UN OCHA, "Humanitarian Needs Overview," 2018, at: https://www.humanitarianresponse.info/sites/www.humanitarianresponse.info/files/documents/files/hno_20_12_2017_final.pdf.

14. The first of these is, of course, the consequences arising from the serious crime of population transfer¹⁹ conducted by Israel during and after the first Israeli–Arab War of 1947–48. The ethnic cleansing operations of Zionist Israeli forces²⁰ led to the expulsion of some 780,000²¹ Palestinians (85 percent of the total population) from 23 towns and 351 villages across Palestine, with 60–80,000 Palestine refugees fleeing into the Gaza Strip and quadrupling the population within weeks.²²
15. The Israeli military’s further destruction of 108 villages and village points in the nearby Naqab region, to Gaza’s east, and the concentration of the remaining population in a regulated enclosure (*siyaj*) in 1951–53²³ created another wave of internally displaced persons into the Gaza Strip. This added further pressure on the region’s water resources and sanitation infrastructure, whereas over 70 percent of the Gaza Strip’s current population is composed of those refugees and displaced persons.
16. The second causative factor affecting Gaza’s water scarcity is Israel’s diversion of the natural aquifer flowing toward the Gaza Coast from Jabal al-Khalil in the southern West Bank. This Israel has achieved through a series of deep wells and pumps to prevent the natural replenishment of Gaza’s ground water, which is vital for the densified population.
17. The third and more-recent pressure on Gaza’s water resources arises from the methods of colonization of the Gaza Strip that took place from 1972 through 2005. The Jewish Israeli settlers who established agricultural colonies in the Gaza Strip in that period consumed 400 times the land available to the Palestinian refugees, and 20 times the volume of water they used. These highly water-intensive farming enterprises were erected atop the three main deep pockets of fresh groundwater, depleting them irrevocably.²⁴ These factors combined are directly attributable to Israel’s colonization and further occupation of historical Palestine and emphasize how the Gaza Strip’s hydrology reflects the military, demographic and resource-management forces that Israel has introduced to the region.
18. In the Gaza Strip, the issues around water for Palestinians became more dire in 2007, when Israel imposed its land, air, and sea blockade and comprehensive closure, which forms part of the Israeli Government’s campaign to separate and fragment Palestinian communities within the oPt, and elsewhere, and to deny the Palestinian people their inalienable right to self-determination, including permanent sovereignty over natural

¹⁹ See “The human rights dimensions of population transfer, including the implantation of settlers,” E/CN.4/Sub.2/1993/17, 6 July 1993, at: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G93/142/08/PDF/G9314208.pdf?OpenElement>.

²⁰ Ilan Pappé, *The Ethnic Cleansing of Palestine* (Oxford: One World, 2006).

²¹ Janet L. Abu Lughod, “The Demographic Transformation of Palestine,” in Ibrahiom Abu Lughod, ed., *The Transformation of Palestine* (Evanston: Northwestern University Press, 2971).

²² Beryl Cheal, “Refugees in the Gaza Strip, December 1948–May 1950,” *Journal of Palestine Studies*, Vol. 18, No. 1, Special Issue: Palestine 1948 (autumn, 1988), pp. 138–57, at: <https://www.jstor.org/stable/2537600?seq=1>.

²³ Anthony Coon *et al.*, *The Goldberg Opportunity: A Chance for Human Rights-based Statecraft in Israel* (Cairo: HIC-HLRN, 2010), at: http://www.hlrn.org/img/publications/Naqab_FFM_report_2010.zip.

²⁴ Anders Jägerskog and David Phillips, “Managing trans-boundary waters for human development,” World Bank, January 2006, at: https://www.researchgate.net/publication/43244516_Managing_trans_-_boundary_waters_for_human_development.

wealth and resources. Considered a collective punishment under international law, the blockade and closure policy continue to this day.

19. These factors bear heavily on the normative content of the human right to water, as provided in the CESCR's General Comment No. 15²⁵ and how availability, affordability, acceptability and quality of water affect other human rights of the people in Gaza. At the nexus of the human right to water and the human right to health, the latter is affected by the availability and likely quantity of water that will be collected at different levels of service. The estimated quantities of water at each level of service may be reduced where water supplies are intermittent and the risks of ingress of contaminated water and/or sea water, as in Gaza, into domestic water supplies increase. Where optimal access is achieved, but the supply is intermittent, a further risk to health may result from the compromised functioning of waterborne sanitation systems.
20. The public health gains derived from use of increased volumes of water typically occur in two major increments. The first relates to overcoming a lack of basic access, where the distances and time involved in water collection result in use of volumes inadequate to support basic personal hygiene and may be marginally adequate for human consumption.
21. Where the basic access service level has not been achieved, hygiene cannot be assured, and consumption requirements may be at risk. Therefore, providing a basic level of access is the highest priority for the water and health sectors.²⁶ However, even the case of desalinated water in Gaza is a matter of institutionalized material discrimination and disparity.
22. While the Gaza Strip has been systematically denied its natural sources of water, combined with the consequences of past and ongoing population transfer, Israel currently desalinates so much seawater that its municipalities are unwilling to accept it. Excess desalinated water is being used to irrigate crops, and the country's water authority has even use it to refill Lake Tiberias itself,²⁷ which is ironic considering that the lake water continues to be pumped to Israeli populations in the arid south. There is now so much treated water that some Israeli engineers assert that "today, no one in Israel experiences

²⁵ Committee on Economic, Social and Cultural Rights (CESCR), General Comment No. 15 (2002): The right to water (Articles 11 and 12 of the International Covenant on Economic, Social and Cultural Rights), E/C.12/2002/11, 20 January 2003, at: https://www2.ohchr.org/english/issues/water/docs/CESCR_GC_15.pdf.

²⁶ Guy Howard and Jamie Bartram, "Domestic Water Quantity, Service Level and Health," WHO/SDE/WSH/03.02 (Geneva: WHO, 2003), Table S1, at: https://www.who.int/water_sanitation_health/diseases/WSH03.02.pdf?ua=1.

²⁷ Jewish Telegraph Agency, "Sinking Kinneret to get infusion of desalinated water," *The Jerusalem Post* (19 December 2017), at: <http://www.jpost.com/Israel-News/Sinking-Kinneret-to-get-infusion-of-desalinated-water-518501>. 2018 <http://mideastenvironment.apps01.yorku.ca/2018/01/sinking-kinneret-to-get-infusion-of-desalinated-water-jerusalem-post/>.

water scarcity”²⁸ at the present time in which the damage to the coastal aquifer is projected to be irreparable.²⁹

23. But the same cannot be said for Palestinians, especially not those in Gaza. People there have resorted to various ingenious filters, boilers, or under-the-sink or neighborhood-level desalination units to treat their water. However, these sources are unregulated and of dubious quality, often germ laden and another reason for prescribing antibiotics to Gaza’s children, thus perpetuating a pattern of harm upon additional harm. Doctors, nurses and water maintenance crews meanwhile try to do the impossible with the minimal medical equipment at their disposal. The result is a combined water and health sector situation that, even without the global pandemic, some have called “toxic ecology” or a “biosphere of war.”³⁰

ii. Consequences of war

24. Israel’s full-scale military bombardments also compound the water and sanitation crisis in the Gaza Strip through the vast destruction of public and private infrastructure. The frequent attacks against civilian objects by the Israeli military severely damaged or destroyed hundreds of water and sanitation facilities. The first of which was in 2008–09, when Israel launched the so-called “Operation Cast Lead,” a 23-day military offensive on Gaza. In 2012, Israel launched the so-called “Operation Pillar of Defense,” the second military offensive on the Strip called. The third military offensive, so called “Operation Protective Edge,” was launched in 2014 and lasted fifty-one days.
25. UN OCHA reported that, between 2005 and 2010, 305 water wells were destroyed by Israeli attacks in the buffer zone.³¹ The Emergency Water, Sanitation and Hygiene Group (EWASH) estimated that the total cost of replacement amounts to 9 million USD.³² Al Mezan reports that in the framework of the 2008/9 military bombardment on the Gaza Strip alone, 919 water wells and 243 water pumps were destroyed.³³ During the 2014 Gaza war, 132 water wells were damaged or destroyed, while between 2016 and 2020, Israeli occupying forces destroyed three water wells in the Strip.

²⁸ Kirk D'Souza, “How Israel’s desalination technology is helping the world fight water shortage,” *The Next Web 2020* (5 July 2017), at: <https://thenextweb.com/syndication/2017/07/05/desalination-nation-israel-helping-world-fight-water-shortage/>.

²⁹ “Gaza: Ten Years Later,” United Nations Country Team in the occupied Palestinian Territory, July 2017, at: https://unsco.unmissions.org/sites/default/files/gaza_10_years_later_-_11_july_2017.pdf.

³⁰ Ghassan Abu-Sitta, in Andre Vltchek, “Middle Eastern Surgeon Speaks About ‘Ecology of War,’” *Counterpunch* (28 April 2017), at: <https://www.counterpunch.org/2017/04/28/middle-eastern-surgeon-speaks-about-ecology-of-war/>.

³¹ UN OCHA, “Between the Fence and a Hard Place: The Humanitarian Impact of Israeli-Imposed restrictions on Access to Land and Sea in the Gaza Strip,” August 2010 at: <https://www.ochaopt.org/content/between-fence-and-hard-place>.

³² EWASH, “Down the drain: Israeli restrictions on the WASH sector in the Occupied Palestinian Territory and their impact on vulnerable communities,” March 2012, at: <https://reliefweb.int/sites/reliefweb.int/files/resources/Down%20the%20Drain%20-%20Israeli%20restrictions%20on%20the%20WASH%20sector%20in%20the%20Occupied%20Palestinian%20Territory%20and%20their%20impact%20on%20vulnerable%20communities.pdf>.

³³ Al Mezan, “Cast Lead Offensive in Numbers,” June 2009, at: <http://www.mezan.org/en/uploads/files/8941.pdf>.

26. These indiscriminate attacks, carried out in violation of the principle of distinction between military and civilian objects, in conjunction with the devastating effects of the closure and blockade imposed by Israel since 2007, have seriously hindered the capacity of Gaza's water and sanitation facilities to meet the basic needs of the two million Palestinians living in the Strip.

II. Factual Circumstances

A. Fuel ban and electricity shortage

27. On 13 August 2020, Israel launched a series of additional punitive measures against Gaza, most notably, a total ban on fuel shipments to the Strip, that led to an acute shortage of electricity. These measures lasted until 31 August 2020, when Qatar mediated a ceasefire between Israel and the local Palestinian authorities in Gaza, with Israel's agreement to end the fuel ban and to re-open Karam Abu Salem crossing.
28. The fuel ban seriously hindered the capacity of the Gaza Electricity Distribution Corporation (GEDC) to run Gaza's sole power plant and to generate electricity. To meet the needs of its population of two million, Gaza requires around 500 megawatts of electricity. Before the fuel ban, the maximum production capacity of the GEDC was a little more than a third of the 500-megawatt demand.
29. On 18 August 2020, the GEDC was forced to shut down the Gaza Power Plant after the plant's fuel reservoir ran out. In the weeks following the ban, at the height of the crisis, Gaza's residents received just three/four hours of electricity at a time, often made available only at night, followed by at least 16-hours of power cut.
30. On 31 August 2020, the total ban on fuel entry was partially loosened and on 1 September 2020, Gaza Power Plant started working again. Only slightly ameliorated, today Gaza's residents receive eight hours of electricity at a time (usually interrupted by a two-hour cut), followed by an eight-hour power cut. This is not enough to guarantee residents the enjoyment of an adequate standard of living.
31. The current electricity crisis severely compounds the suffering of Gaza's residents and undermines the enjoyment of their economic, social and cultural rights. Without electricity, it is also impossible to provide adequate health, education and welfare services.
32. The severe shortage in the power supply touches upon every aspect of daily life of Gaza's population and strains their ability to perform everyday tasks, such as studying or working, or fulfilling basic needs, such as the safe preservation of food (a heightened risk during the hot summer months). Resorting to unsafe food storage heightens health risks and can lead to acute poisoning or long-term diseases. Regular power outages also make

it dangerous to perform essential activities that require the everyday use of household appliances, including cooking meals or lighting houses, because the population is forced to resort to crude methods of cooking and lighting.³⁴

33. Industries and businesses are also affected, as the present crisis is a severe blow to an economy already on its knees due to the Israeli closure on Gaza, with unemployment rates rising (45.1 percent in 2019, compared to 43.1 percent in 2018)³⁵ and 55 percent of people living below the poverty line.³⁶

34. A.T., 25, from North Gaza, spoke about his family's struggle with the electricity crisis:

Since Tuesday, 18 August 2020, the availability of electricity has declined from eight hours per day to only four hours. Since then, our suffering has escalated, mainly due to the summer heat. Following the Palestinian Ministry of Health's announcement on Monday, 24 August 2020, of the first cases of COVID-19 infections outside the quarantine designated locations, the security services have imposed a full lockdown on the Gaza Strip. My children are neither able to play outside nor able to pass the time comfortably at home. Our life now is like living in a grave.³⁷

B. Water crisis

35. As a direct consequence of the shortage in electricity, the operational capacity to run Gaza's public services dropped dramatically at the municipal level, especially across crucial sectors, such as water and sanitation, that were limited even before Israel's recent implementation of additional punitive measures.

36. Water is a pivotal issue in Gaza that is also inextricably linked to the humanitarian catastrophe caused by Israel's 13-year illegal closure. In his report on natural resources, the UN Special Rapporteur on the situation of human rights in the Palestinian Territory occupied since 1967 noted that "[t]he collapse of natural sources of drinking water in Gaza [...] has become a potent symbol of the systematic violation of human rights in the Occupied Palestinian Territory."³⁸

³⁴ On 1 September 2020, three children died in a fire broke out in their house in Al-Nuseirat refugee camp. The fire started from a candle that was lit during a power blackout. Since 2010, 35 Palestinians, including 28 children, have lost their lives in similar incidents. See Al Mezan Center for Human Rights (Al Mezan), "House fire claims the lives of three children in Middle Gaza," 2 September 2020, at: <http://www.mezan.org/en/post/23791>.

³⁵ Report on UNCTAD assistance to the Palestinian people: Developments in the economy of the Occupied Palestinian Territory, 5 August 2020, at: <https://www.un.org/unispal/wp-content/uploads/2020/09/TD.B.67.5.pdf>

³⁶ Palestinian Central Bureau of Statistics (PCBS), Levels of Living in Palestine, 2017.

³⁷ Al Mezan, "Children's quality of life amidst shortage of water and electricity," September 2020, available on <https://reliefweb.int/report/occupied-palestinian-territory/children-s-quality-life-amidst-shortage-water-and-electricity>.

³⁸ UN, "Israel's exploitation of Palestinian resources is human rights violation, says UN expert," 18 March 2019, at: <https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=24349&LangID=E>.

37. Before the August 2020 crisis, the closure was already preventing Gaza's residents from accessing safe drinking water, with 95 percent of them not having access to clean water. According to the UN OCHA, 97 percent of water in Gaza is unfit for human consumption based on the standards of the World Health Organization (WHO).³⁹ Already in 2017, the Palestinian Water Authority had warned that only 3.9 percent of Gaza's wells (11 of 282 wells) met the WHO standards, while the others are qualified as polluted.
38. In the Gaza Strip, the average consumption of water per capita is 88.9 liters per day. However, since only 17.86 percent of the supplied water meets the WHO standards, the per capita share of drinkable water is only 22.4 liters per day.⁴⁰
39. In 2014, the Human Rights Committee shared its concerns about the situation in the Gaza Strip around access to water and sanitation for its residents.⁴¹ According to the European Parliamentary Research Service, in 2016, only 5.8 percent of families living there consider their water to be good enough to drink.⁴²
40. Under the current circumstances, the poor quality of the water has deteriorated. Indeed, the electricity shortage and the fuel ban have severely hindered the functioning of the 48 desalination plants⁴³ in Gaza. This malfunction has an additional impact on public health and environmental health, as poorly treated sewage water is being dumped into the Mediterranean every day, thus increasing pollution levels.⁴⁴

i. Water pumps

41. Due to the lack of electricity, municipal water is only available for two/three hours once every three days.⁴⁵ When water is available, Gaza's residents typically try to store it in roof-top tanks. However, since the power supply is being redirected to ensure the operation of the sanitation facilities, water is sometimes supplied to residential neighborhoods during a power cut, when municipal water pumps do not operate at full capacity. Without fully functional water pumps, it is almost impossible to pump water into the roof-top tanks.
42. As a consequence, most of Gaza's residents rely on low- and medium-quality trucked water that is 10-30 times more expensive than municipal water.⁴⁶ Still, many others, due

³⁹ UN OCHA, "Study warns water sanitation crisis in Gaza may cause disease outbreak and possible epidemic," 16 November 2018, at: <https://www.ochaopt.org/content/study-warns-water-sanitation-crisis-gaza-may-cause-disease-outbreak-and-possible-epidemic>.

⁴⁰ Palestinian Water Authority, *Water Status Report June 2019*.

⁴¹ CCPR/C/ISR/CO/4, paras. 12 and 17.

⁴² Eleni Lazarou, "Water in the Israeli-Palestinian conflict," European Parliamentary Research Service, 13 January 2016, at: http://www.europarl.europa.eu/RegData/etudes/_EN.pdf.

⁴³ UN, "Humanitarian Impact of the Gaza Electricity Crisis," May 2017, at: <https://reliefweb.int/sites/reliefweb.int/files/resources/Gaza%20Electricity%20Crisis.pdf>.

⁴⁴ UN Country Team in the occupied Palestinian territory, Gaza: Ten Years Later, July 2017, at: https://unsco.unmissions.org/sites/default/files/gaza_10_years_later_-_11_july_2017.pdf.

⁴⁵ Al Mezan, "No social safety net for daily wage workers," 16 September 2020, at: <https://almezancenter.blogspot.com/2020/09/no-social-safety-net-for-daily-wage.html>.

⁴⁶ Report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967*, A/HRC/40/73, 15 March 2019, para. 53.

to the poor financial situation and high levels of poverty in Gaza, cannot afford to buy filtered water as an alternative to tainted water from public taps.

43. Naim Abdul Latif Qawash, Head of the Water and Sanitation Department in Nuseirat Municipality, Gaza, during a phone interview with Al Mezan said:

The municipality cannot supply water regularly due to the electricity crisis. We are trying to overcome the power deficit by buying fuel to run the generators that are necessary to operate water pipes and pumps. This would entail the use of about 500 liters of diesel every day, and the municipality is struggling to afford the new daily expenses, with less than 12 percent of water bills being paid by residents. We have tried to pump water to residential houses in the area before the power supply runs out so that residents can pump water to their storage tanks. However, many families live in abject poverty and cannot afford storage tanks, let alone pumps to fill them with water. These families are particularly suffering amid the current crises.⁴⁷

44. J.S., 35, from Gaza's Middle District, testified:

In the past few days, my tanks ran out of water for two days, and due to my poor financial situation, I could not buy filtered water as an alternative to the municipal water, which is very salty and is not suitable for drinking. I am a taxi driver, and my daily wage ranges from 20 to 25 ILS [5.90 to 7.40 USD]. My family and I live off that income, and I do my best to meet all our needs with this money, but it's barely sufficient for our basic needs. I've been living in appalling conditions since Monday, 24 August 2020, when the Ministry of Interior imposed a lockdown due to the outbreak of COVID-19, as I lost my daily income. I did not receive aid from any governmental or civil bodies. I have no idea how I'm going to secure my family's basic needs in the coming days if the lockdown continues.⁴⁸

45. With Israel's control over Gaza's fuel destabilizing the power supply to households, and the COVID-19 safety measures limiting movement and work, even those who can afford to buy water from private vendors are facing additional barriers in obtaining drinkable water or in pumping it into their rooftop tanks. For instance, families who contract COVID-19 are strictly ordered to self-isolate at home, with police officers preventing them from leaving, which exacerbates their struggle to obtain drinking water.

46. The fact that the water pumps are not working at full capacity also results in long periods of time when toilets cannot be flushed, clothes cannot be washed, homes cannot be cleaned, hands cannot be washed, and food cannot be cleaned. All while residents are

⁴⁷ Al Mezan, Fact Sheet, Water Shortage in the Gaza Strip Amid COVID-19 Outbreak, September 2020, at: <https://www.mezan.org/en/post/23794/Fact+Sheet%3A+Water+Shortage+in+the+Gaza+Strip+Amid+COVID-19+Outbreak+>, page 4.

⁴⁸ Al Mezan, "No social safety net for daily wage workers," 16 September 2020, at: <https://almezancenter.blogspot.com/2020/09/no-social-safety-net-for-daily-wage.html>.

encouraged to remain inside and are desperately trying to combat the spread of the coronavirus in a territory that is woefully underequipped to manage a full-scale outbreak.

C. Sanitation crisis

47. Israel's closure of the Gaza Strip and control over the territory's access to electricity serves to undermine the population's access to sanitation. The restrictions on the movement of goods and materials under the closure prevent access to the construction material needed to build and develop wastewater treatment plants and sewage networks, and block access to the spare parts needed to operate and maintain the existing sanitation infrastructure. The electricity shortages in Gaza, which mean power cuts of 16 hours a day to 20 hours during times of increased restrictions, hinder the operation of the existing wastewater treatment plants and sanitation systems.
48. Israel's regular military bombardments contribute to the failure of the sewerage networks and sanitation systems due to the vast destruction of civilian infrastructure across the Gaza Strip,⁴⁹ that have included direct attacks on Gaza's only power plant.⁵⁰ These strikes, conducted as recently as 2018, hamper the functioning of sewage pumps and sewage treatment systems, and water purification, and risk bringing the vital public health facilities to a total halt. Families that are displaced to emergency shelters that are unequipped to facilitate proper hygiene live in degrading sanitary conditions and without access to safe and adequate water.
49. The continual water and power shortages in Gaza produce critical hygiene-sanitation conditions, including personal, food and safety hygiene. The lack of water supply, combined with the poor quality of water, also affects the possibility of implementing basic public health measures and raises the risk of disease, particularly for children, which is especially dangerous in densely populated areas like Gaza.
50. As of 2019, 44.5 percent of seawater in the Gaza Strip is contaminated.⁵¹ Following an analysis carried out by the Palestinian Health Ministry between 9-11 August 2020, the Environmental Quality Authority announced that along the coast of the Gaza Strip (length: 40 km), the seawater pollution rate is 63 percent.⁵² Still, the pollution rate is expected to increase amid the electricity crisis.

⁴⁹ Al Mezan, "Israeli Forces Destroy Wells, Public Infrastructure that is Indispensable to the Basic Needs of Protected Persons in Gaza," 13 August 2018, at: <http://mezan.org/en/post/23175>

See also here: <http://mezan.org/en/post/18510>. here: <http://mezan.org/en/post/19228> and here: <http://mezan.org/en/post/19477>

⁵⁰ Al Mezan, "Bloody Eid Al Fitr Day Due to IOF Attacks on Civilian Structures Al Mezan: Death Toll Reaches 1,194 Palestinians; 79% Civilians; 282 Children and 147 Women; Full Blackout across Gaza due to Attacks on Power Plant", 29 July 2014, at: <http://mezan.org/en/post/19281>

See also: <http://mezan.org/en/post/19286>

⁵¹ Al Mezan, 23 September 2020, "Annual Report on the Situation of Economic, Social, and Cultural Rights in 2019," at: <http://mezan.org/en/post/23812>.

⁵² The Environmental Quality Authority posted on Facebook on 19 August 2020 (available only in Arabic): <https://www.facebook.com/environmentquality/>.

51. The United Nations Country Team in the oPt warned several years ago that by 2020 “with the supply of water too low to meet the demand, the living and health conditions of the people of Gaza can only further deteriorate, exposing the population to water-borne illnesses, and other threats.”⁵³
52. Already in 2009, the Department of Health of UNRWA issued an Epidemiological Bulletin for the Gaza Strip reporting that “the risk of decreasing levels of hygiene, consequent to the infrastructure damage brought upon by the recent conflict, puts the Gazan population at risk of epidemics of food and water-borne diseases.”⁵⁴ More recently, in 2018, UN OCHA warned that the water sanitation crisis in Gaza might have caused the outbreak of diseases and possible epidemics.⁵⁵
53. Without water, for Gaza’s residents, it has become impossible to implement the necessary precautionary public health measures—such as hand hygiene—needed to combat the rapid spread of COVID-19 as well as other diseases transmitted by contaminated water. In particular, current COVID-19 restrictions are putting a heavier burden on Gaza’s residents as additional hygienical measures are required.
54. Ismail al-Tatari, 25, from North Gaza, said:

We are particularly worried because we are aware that proper hygiene, especially for our children, is a priority to fight the spread of the pandemic. However, without water, it is a huge challenge to shower, to keep the toilets clean, and to do laundry. We have purchased and stored drinking water to be used for cleaning instead of tap water. This is tremendously expensive, and I cannot afford it if the situation lasts any longer.⁵⁶

55. Similarly, Laila Ahmed Abu Shaweesh, 63, spoke about the implications of the dire economic situation, compounded by the current pandemic and power crisis, on Gaza’s residents’ access to sanitation. She said,

I live with my husband and son in a single-room tin-roofed house in Al-Nuseirat camp in Middle Gaza. We have two water storage tanks on the roof, but we don’t have ground tanks or pumps, so when the electricity supply worsened, I had to purchase water. It costs me 15 shekels [4.43 USD] to fill up one tank. I have also reduced my water consumption and used plastic bottles and containers to store

⁵³ UN Country Team in the occupied Palestinian territory, *Gaza in 2020: A liveable place?*, August 2012, at: https://unsco.unmissions.org/sites/default/files/gaza_in_2020_a_liveable_place_english.pdf.

⁵⁴ UNRWA, “Epidemiological Bulletin for the Gaza Strip,” 15 February 2009, at: https://www.who.int/hac/crises/international/wbgs/gaza_unrwa_epi_15feb2009.pdf

⁵⁵ UN OCHA, “Study warns water sanitation crisis in Gaza may cause disease outbreak and possible epidemic,” 16, November 2018, at: <https://www.ochaopt.org/content/study-warns-water-sanitation-crisis-gaza-may-cause-disease-outbreak-and-possible-epidemic>.

⁵⁶ Al Mezan, Fact Sheet, *Water Shortage in the Gaza Strip Amid COVID-19 Outbreak*, September 2020, at: <https://www.mezan.org/en/post/23794/Fact+Sheet%3A+Water+Shortage+in+the+Gaza+Strip+Amid+COVID-19+Outbreak+>, page 6.

water. My whole lifestyle has drastically changed; I can't clean the house as often and maintaining proper hygiene in this pandemic is a constant concern for all of us.⁵⁷

i. Spreading of COVID-19 in the Gaza Strip

56. This sanitation crisis coincides with the detection of the first COVID-19 cases in Gaza and the ensuing mandatory-lockdown issued on 24 August 2020 at 11 PM by the Palestinian Health Ministry, including a curfew.
57. Before then, according to the International Committee of the Red Cross (ICRC), "Gaza had managed to prevent community transmission of the virus through a strict quarantine regime that had seemingly worked well until this week. That changed on Monday, with the announcement of confirmed cases outside of quarantine centres."⁵⁸
58. According to the WHO, in the Gaza Strip between 5 March and 27 August 2020 were recorded 135 COVID-19 cases and three deaths.⁵⁹ In the following weeks, the number of people testing positive for COVID-19 continued to rise: as of 3 September, the total cases were 581, including 5 deaths;⁶⁰ as of 10 September, the total number of cases had reached 1,551, with 10 deaths.⁶¹
59. The full lockdown issued on 24 August was partially lifted on 6 September 2020, as local authorities have started to ease the restrictive measures in some areas of the Strip, except for those areas classified as endemic. Since then, in non-endemic areas, the population is allowed to move from 7 AM until 8 PM.
60. However, the total number of COVID-19 cases has not ceased to grow, quadrupling the numbers registered in early September: as of 30 October 2020, in the Gaza Strip alone have been recorded 6,347 cases, 3,937 hospitalizations and 33 fatalities. Of these, 5,288 were in the districts of Gaza and North Gaza.

ii. The precarious healthcare system in Gaza

61. A full-scale outbreak of COVID-19 in the Gaza Strip would overwhelm its healthcare system, which has been suffering from a significant shortage of equipment, medicines and qualified personnel as a direct consequence of the 13 years of Israel's illegal closure restrictions and repeated military attacks.

⁵⁷ Al Mezan, Fact Sheet, Water Shortage in the Gaza Strip Amid COVID-19 Outbreak, September 2020, at: <https://www.mezan.org/en/post/23794/Fact+Sheet%3A+Water+Shortage+in+the+Gaza+Strip+Amid+COVID-19+Outbreak+>, page 5.

⁵⁸ International Committee of the Red Cross, "Gazans face double crisis, need international support," 26 August 2020, at: <https://www.icrc.org/en/document/icrc-gazans-face-double-crisis-need-international-support>.

⁵⁹ WHO, "Coronavirus Disease 2019 (COVID-19) WHO Update 41" at: <https://www.un.org/unispal/document/coronavirus-disease-2019-covid-19-who-update-41/>

⁶⁰ WHO, "Coronavirus Disease 2019 (COVID-19) WHO Update 42" at: <https://www.un.org/unispal/document/coronavirus-disease-2019-covid-19-who-update-42/>

⁶¹ WHO, "Coronavirus Disease 2019 (COVID-19) WHO Update 43" at: <https://www.un.org/unispal/document/coronavirus-disease-2019-covid-19-who-update-43/>

62. Indeed, by restricting the movement of people and goods, the Israeli occupying authorities are blocking access to equipment, medicines and trained staff that is desperately needed in Gaza's healthcare system. The regular military bombardments have damaged and destroyed health infrastructure, including one entire hospital and five primary healthcare clinics in the summer of 2014 alone,⁶² adding to Israel's measures that have de-developed the healthcare system and pushed it to the brink of collapse.
63. The Palestinian Ministry of Health puts the system's drug deficit at 45 percent, while the deficit in medical supplies is 31 percent, with laboratory and blood bank supplies reaching a deficit of 65 percent.
64. Already on 26 August 2020, the ICRC had warned that "Gazans are facing a critical 'double crisis' as they struggle to cope with an acute electricity shortage just as COVID-19 has escaped containment and begun community transmission among the vulnerable population of the Gaza Strip."⁶³
65. Also, Ignacio Casares Garcia, the head of the ICRC's Gaza sub-delegation, pointed out that "Gaza healthcare system would not be able to deal with more than a few dozen coronavirus patients. The treatment of COVID-19 patients requires medical and laboratory equipment and special supplies and medications that are not available in hospitals and health centres in sufficient quantities."⁶⁴
66. Gaza's healthcare system lacks supplies that are specifically needed for treating COVID-19 patients. As of March 2020, hospitals in Gaza had only 70 places in the intensive care unit (ICU), that should serve a total of two million people.⁶⁵ The Ministry of Health in Gaza has further indicated that only a limited number of COVID-19 test kits have entered the Strip—with the majority of these kits already having been used.
67. The director of the Laboratories Department at the Ministry of Health pointed out that the prolonged power outages are hindering COVID-19 lab testing and has already led to the damage of COVID-19 test samples, which must be stored at -20 C. He explained that the use of unstable sources of electricity, such as generators, would affect the accuracy of the tests and also delay results, causing an immense waste of testing kits and high-cost consumables.
68. On 24 September 2020, the Palestinian Health Ministry announced that the lab equipment needed to run one of Gaza's COVID-19 testing devices had run out. As a result, Gaza's

⁶² Al Mezan *et al.*, "No More Impunity: Gaza's healthcare system under attack," 7 July 2016, at: <http://mezan.org/en/uploads/files/14683072331625.pdf>.

⁶³ International Committee of the Red Cross, "Gazans face double crisis, need international support," 26 August 2020, at: <https://www.icrc.org/en/document/icrc-gazans-face-double-crisis-need-international-support>.

⁶⁴ *Ibidem*.

⁶⁵ Physicians for Human Rights, "Corona in the Gaza Strip - Only 70 ICU Beds Available," 23 March 2020, at: https://www.phr.org.il/en/corona-in-the-gaza-strip-only-70-icu-beds-available/?utm_source=rss&utm_medium=rss&utm_campaign=corona-in-the-gaza-strip-only-70-icu-beds-available

central laboratory is currently operating at half capacity and might stop working entirely if the shortage in equipment persists. This situation drastically undermines the Health Ministry's efforts to contain and track COVID-19 cases in the Strip.

69. The added pressure on the healthcare system from the spread of COVID-19 heightens healthcare facilities' need for continuous and safe water, sanitation and hygiene materials. Without proper access to water, sanitation and hygiene, the ability of health care workers to carry out proper infection prevention and control measures, and provide even basic, routine services, is greatly compromised.

iii. Worsening socioeconomic conditions

70. In Gaza, access to adequate hygiene and sanitation is limited, natural sources of drinking water are largely contaminated, fuel and electricity supplies are insufficient, pollution is rampant, infrastructure is crumbling and living conditions are overcrowded in one of the most densely populated areas of the world, making it impossible to maintain social distancing.
71. With the breadwinners and daily-wage workers confined to their homes, the financial stability of more than half of Gaza's population has been severely compromised, leading to a potential increase in food insecurity, which was already at 70 percent before the imposition of the mandatory lockdown.
72. A.K., a 26-year-old daily-wage worker living in the Beach refugee camp, one of the most densely populated neighborhoods in Gaza, said:

I work in a candy factory. My income hardly covers my small family's basic needs. Back in March 2020, schools and kindergartens in Gaza were closed as a precautionary measure against the potential spread of COVID-19 in the community. Our work, 80 percent of which is destined for schools and kindergartens, was interrupted and I lost my job. When schools and kindergartens opened for the new academic year at the beginning of August, I got my job back at the candy factory. Soon after, on 24 August 2020, the Ministry of Health announced the detection of COVID-19 cases in the wider community which prompted a full lockdown this time. I lost my main source of income once more, and I cannot cover my family's basic needs.⁶⁶

73. Similarly, Tahsin, a 28-year-old (nurse by profession) who is working in a coffee shop as the sole breadwinner in his family of nine members, spoke about his inability to pay his electric bill during the mandatory lockdown:

⁶⁶ Al Mezan, "Food security of daily-wage labourers in Gaza," 14 September 2020, at: https://almezancenter.blogspot.com/2020/09/blog-post_68.html 3.

On 24 August 2020, and while I was at my work in the coffee shop, a number of police officers came in and said they have orders to close all the cafeterias and shops due to the spread of COVID-19 in the Gaza Strip. Accordingly, we were asked to stay at our homes until further notice. In the beginning, I thought that this situation would not last more than a couple of days, but when I realized that the lockdown was going to continue, I started losing my mind. I became worried about how I would be able to secure my family's basic needs without an income. After three days, I borrowed some money from the owner of the coffee shop and spent it all on basic needs. Now, I have nothing left. We have been living without electricity for two weeks as I cannot afford to recharge the prepaid electricity meter. We also can't afford cooking gas. As an alternative, my brothers light fires outside the apartment or in the kitchen in order to cook. The landlord has warned us many times that he would contact the police to evict us. I heard that some institutions distribute aid to daily-wage laborers, but I did not receive anything, not even a food parcel. We are an educated family; all my family members are college graduates, and with the exception of my disabled brother, all have the ability to work, but none of us have a stable job.⁶⁷

74. In 2019, unemployment and food insecurity rates rose to 45 and 69 percent, respectively. These data points are expected to grow as a result of the restrictive measures to prevent the spread of COVID-19. Even now, thousands of people in Gaza are living under the threat of eviction due to their inability to pay rent amid the lockdown.

75. M.M., a 39-year-old man living in Gaza City, said:

I live in the neighborhood of Al-Sheikh Radwan. I am married and the father of eight children. Five years ago, I ran a store selling electronics and cell phones, but with the tightening of the Israeli blockade, many of my clients who pay in installments have started not to pay. The business suffered losses so severe that I was unable to pay the rent and closed the store. Since then, I have always been in financial distress. In the last five years, I have been evicted from ten houses in total, moving from one place to another because I could not pay the rent due to lack of income. Since the introduction of the total lockdown on 24 August, I have been unemployed. In the last three weeks, we have not eaten anything except white cheese, and I borrowed money to buy flour to bake bread. Under lockdown, I cannot look for a job under because our neighborhood is classified as an endemic area. I do not know what I will do in the next few days. My children want to eat different kinds of food and buy candy. I keep telling them that the grocery store is closed because of the isolation, but I have no money to go to the store. Now we

⁶⁷ Al Mezan, "Poverty-stricken families unable to secure basic needs," 20 October 2020, at: <https://almezancenter.blogspot.com/2020/10/poverty-stricken-families-unable-to.html>.

are again under threat of eviction because I am unable to pay the rent. We have not received any assistance, and no one has contacted us to offer help.⁶⁸

III. Applicable Law

A. International humanitarian law

76. In contexts of armed conflict and/or occupation, water, water installations and resources are considered to be civilian objects and, as such, are protected under international humanitarian law. Moreover, as water constitutes an indispensable means of survival for the civilian population, it enjoys additional protections under both customary law and treaty law.
77. The occupation of the Palestinian territory, including Gaza due to Israel's effective control via its closure policy, entails the applicability of international humanitarian law in this territory.
78. Indeed, the effective control of the Israeli occupying forces over the Gaza Strip falls within the definition of occupation contained in Article 42 of the 1907 Hague Regulations. This legal determination has been also affirmed by the Security Council,⁶⁹ the International Committee of the Red Cross,⁷⁰ the 2014 Conference of High Contracting Parties to the Fourth Geneva Convention,⁷¹ and the UN General Assembly.⁷²
79. In addition to The Hague Regulations of 1907, which has been domesticated into Israeli law, the law of armed conflict applicable to the oPt also includes the Fourth Geneva Convention of 1949 as well as customary international humanitarian law.
80. According to Article 55 of the Fourth Geneva Convention, the Occupying Power should "bring in the necessary foodstuffs, medical stores and other articles if the resources of the occupied territory are inadequate."⁷³
81. Article 56 of the Fourth Geneva Convention provides that 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

⁶⁸ Al Mezan, "The blockade paved the way for Covid-19 to bring about a humanitarian catastrophe," 19 September 2020, https://almezancenter.blogspot.com/2020/09/blog-post_45.html?fbclid=IwAR0B9j4zjq5Fgf2RlWuXobtSgi1ixxqb6Wj-MVyujQ3MD8NvEsZ4dVysh0.

⁶⁹ Most recently by UN Security Council, Resolution 2334 of 23 December 2016, S/RES/2334.

⁷⁰ International Committee of the Red Cross (ICRC), *Fifty years of occupation: Where do we go from here?* at: <https://www.icrc.org/en/document/fifty-years-occupation-where-do-we-go-here>.

⁷¹ Declaration of Conference of High Contracting Parties to the Fourth Geneva Convention of 17 December 2014, at: <https://unispal.un.org/DPA/DPR/unispal.nsf/0/E7B8432A312475D385257DB100568AE8>.

⁷² UN General Assembly, Resolution 71/96 of 23 December 2016, A/RES/71/96.

⁷³ Geneva Convention (IV) relative to the Protection of Civilian Persons in Time of War (hereinafter: GC IV), Geneva, 12 August 1949, (entered into force on 21 October 1950), Article 55.

occupied territory, with particular reference to the adoption and application of the prophylactic and preventive measures necessary to combat the spread of contagious diseases and epidemics.”⁷⁴

82. Article 59 of the Fourth Geneva Convention holds that “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.”⁷⁵
83. Customary international humanitarian law also prohibits attacking, destroying, removing or rendering useless objects indispensable to the survival of the civilian population, such as water and sanitation systems.⁷⁶
84. Accordingly, Israel, as the Occupying Power, must ensure the welfare and provide for the needs of the inhabitants of the oPt—including the provision of food and medical supplies—and is obliged to guarantee water and electricity supply at a level sufficient to meet the basic needs of the civilian population.
85. When Israel began its occupation in 1967, all of the region’s water resources were put under Israeli control. As underlined by Special Rapporteur on the oPt, Professor Michael Lynk, “water, and its effective control and management, is an essential component for the exercise of sovereignty in the modern world. [...] Yet, as the Israeli occupation has become more entrenched, the deeply inequitable distribution of water imposed by Israel illustrates the utter lack of any substantive control Palestinians over their daily lives.”⁷⁷
86. In the Gaza Strip, the water situation was already at a critical point, and this is mostly attributable to the 53 years of occupation and the 13 years of closure imposed by Israel. Within this time, several water and sanitation installations, water desalination stations, as well as Gaza Power Plant—which are civilian objects protected under customary and treaty law—were either severely damaged or destroyed.
87. Notably, attacking objects that are indispensable for the survival of the civilian population—e.g. a water well—is deemed a war crime. Indeed, Article 8(2)(b)(iv) of the Rome Statute prohibits “intentionally launching an attack in the knowledge that such attack will cause widespread, long-term and severe damage to the natural environment which would be clearly excessive in relation to the concrete and direct overall military advantage anticipated.”⁷⁸

⁷⁴ GC IV, Article 56.

⁷⁵ GC IV, Article 59.

⁷⁶ International Committee of the Red Cross, Customary IHL Database, Rule 54 (https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1_rul_rule54).

⁷⁷ A/HRC/40/73, para. 43.

⁷⁸ Rome Statute of the International Criminal Court (hereinafter: Rome Statute), adopted on 17 July 1998, entered in force on 1 July 2002, Article 8(2)(b)(iv).

88. The fuel ban unilaterally and deliberately imposed by Israel between 13-31 August has only exacerbated the pre-existing water and sanitation crisis in Gaza. Indeed, the shortage of fuel has not allowed for the production of enough energy for a proper, efficient and sufficient distribution of public water amongst the civilian population. Adding a further critical factor to this situation is, of course, the spread of the coronavirus pandemic in the Gaza Strip.
89. Articles 55-56 of the Fourth Geneva Convention lay out clear obligations for the Occupying Power with respect to the health conditions of the civilian population under its control. However, the scarce availability of water impedes the civilian population in adopting the necessary preventive measures to combat the spread of COVID-19, first and foremost handwashing. It does not allow Gaza's public health system to function properly and to provide the services that are needed to treat patients who contract COVID-19. As a result, the survival rate for COVID-19 patients entering the ICU is zero.
90. Moreover, Article 33 of the Fourth Geneva Convention also prohibits the Occupying Power from the use of collective punishment against the civilian population. Yet, Israel's practices that collectively make up the closure regime not only amount to unlawful collective punishment but also evidence the institutionalized, continuous perpetration of the crime against humanity of persecution under Article 15 of the Rome Statute of the International Criminal Court.⁷⁹

B. International human rights law

91. As the Occupying Power, Israel also holds obligations towards Gaza's population under international human rights law.
92. The right to water and sanitation is explicitly recognized in the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW),⁸⁰ the Convention on the Rights of the Child (CRC),⁸¹ and the Convention on the Rights of Persons with Disabilities (CRPD).⁸² Israel has ratified these treaties and, as the Occupying Power, is legally bound to respect, protect and fulfill its obligations in the oPt, which includes Gaza.

⁷⁹ Rome Statute, Article 15. See Al Mezan *et al.*, *Palestinian Human Rights Organizations & Victims' Communication to the International Criminal Court Pursuant to Article 15 of the Rome Statute Requesting Investigation and Prosecution of The Illegal Closure of the Gaza Strip: Persecution and Other Inhumane Acts Perpetrated against the Civilian Population as Crimes against Humanity* (November 2016), at: <http://mezan.org/en/post/21630>

⁸⁰ Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), adopted on 18 December 1979, entered into force on 3 September 1981, Article 14(h).

⁸¹ Convention of the Rights of the Child (CRC), adopted on 20 November 1989, entered into force on 2 September 1990, Article 24(2)(c).

⁸² Convention on the Rights of Persons with Disabilities (CRPD), adopted on 13 December 2006, entered into force on 3 May 2008, Article 28(2)(a).

93. The human rights to water and sanitation were also explicitly recognized as such by the UN General Assembly on 29 July 2010 with the adoption of Resolution 64/292⁸³ as well as by the UN Human Rights Council on 28 September 2011 with the adoption of Resolution 18/1⁸⁴.
94. Moreover, the right to water and sanitation is implicitly included in the right to an adequate standard of living and the right to health, enshrined respectively in Articles 11 and 12 of the International Covenant on Economic, Social, and Cultural Rights (ICESCR).⁸⁵ This claim was re-affirmed by the Committee on Economic Social and Cultural Rights (CESCR) in its General Comment No. 15 on the right to water.
95. In General Comment No. 15 the CESCR found that the human right to water is inextricably linked to the right to the highest attainable standard of health (Article 12(1) ICESCR) and the rights to adequate housing and adequate food (Article 11(1) ICESCR),⁸⁶ as well as a prerequisite for the realization of other human rights and indispensable for leading a life in human dignity.⁸⁷
96. Notably, amongst other human rights is the right to development. Indeed, the UN General Assembly affirmed that “in the full realization of the right to development, inter alia, the rights to food and clean water are fundamental human rights and their promotion constitutes a moral imperative both for national governments and for the international community.”⁸⁸
97. In this regard, it is worth recalling that the individual, collective, domestic and extraterritorial human rights obligations of States and responsibility of international organizations require stakeholders operating in the humanitarian and development fields to align short-term, emergency humanitarian policy and action with longer-term and institution-building development approaches within the over-arching framework of human rights and corresponding duties.⁸⁹

⁸³ A/RES/64/292.

⁸⁴ A/HRC/RES/18/1

⁸⁵ International Covenant on Economic, Social, and Cultural Rights (ICESCR), adopted on 13 December 1966, entered into force on 3 January 1976, Articles 11–12.

⁸⁶ Committee on Economic Social and Cultural Rights (CESCR), General Comment No. 15: The Right to Water, adopted on 20 January 2003, E/C.12/2002/11, para. 3.

⁸⁷ *Ibid.*, para. 1.

⁸⁸ UN General Assembly, Resolution 71/96 of 15 February 2000, A/RES/54/175, para 12.

⁸⁹ See Maastricht Principles on Extraterritorial Obligations of States in the Area of Economic, Social and Cultural Rights, 2011, [https://undocs.org/A/66/10](https://www.etoconsortium.org/nc/en/main-navigation/library/maastricht-principles/?tx_drblob_pi1%5BdownloadUid%5D=23#:~:text=The%20Maastricht%20Principles%20were%20issued,the%20United%20Nations%20Human%20Rights; International Law Commission, Draft articles on the responsibility of international organizations, with commentaries, A/66/10, Sixty-third session (26 April–3 June and 4 July–12 August 2011), at: <a href=); General Assembly, Transforming our world: the 2030 Agenda for Sustainable Development, A/RES/70/1, 21 October 2015, paras. 3, 7–8, 10, 19, 29, 35, 74(e) and Goal 6: Ensure availability and sustainable management of water and sanitation for all, at: <https://undocs.org/A/RES/70/1>; and Committee on World Food Security, Framework for Action for Food Security and Nutrition in Protracted Crises, CFS/2015/42/4, paras. 15–16 and, with regard to water and sanitation, Principles 1.x and 2.ii, at: <http://www.fao.org/3/a-bc852e.pdf>.

98. General Comment No. 15 defines the right to water as the right “to sufficient, safe, acceptable, physically accessible and affordable water for personal and domestic uses.”⁹⁰ As can be evinced from this definition explaining the elements of the right to water, the CESCR identifies three factors that apply in all circumstances: (a) availability, (b) quality and (c) accessibility.⁹¹

99. In addition to the CESCR, the former Special Rapporteur on the human rights to safe drinking water and sanitation dealt with the progressive realization of the human rights to water and sanitation.⁹² In his 2020 Report, Special Rapporteur Heller provided conceptual and empirical elements for complying with the minimum core obligations of the human rights to water and sanitation. These elements include criteria already mentioned in General Comment No. 15, such as availability, accessibility, affordability and safety.

Availability

100. The availability of water and sanitation consists of having access to a minimum and essential water supply. According to the CESCR, “the water supply for each person must be *sufficient* and *continuous* for personal and domestic uses,” where “continuous” refers to the regularity of a sufficient water supply.⁹³

101. As for the minimum essential amount of water, the CESCR indicated it to be approximately 20–25 liters per day per person.⁹⁴ However, the Special Rapporteur specified that it might vary according to different personal or collective economic, social and environmental contexts. For example, during the COVID-19 pandemic, the minimum essential amount of water should increase as to allow frequent handwashing and other measures to prevent the spread of the disease.⁹⁵

Quality

102. Water to be consumed must be safe for consumption and other uses such that it does not constitute a threat to human health.⁹⁶ Water quality is usually assessed through a wide range of standards and parameters. For instance, the *WHO Guidelines for drinking-water quality* provides for internationally recognized standards and parameters to determine water safety.

103. In the mandate’s 2020 report, the former Special Rapporteur made explicit mention of the standard of safety referring to both water and sanitation. In particular, he recalled that “States are required to take measures to prevent the transmission of diseases through

⁹⁰ CESCR, General Comment No. 15, para. 2.

⁹¹ *Ibid.*, para. 12.

⁹² Report of the Special Rapporteur on the human rights to safe drinking water and sanitation, 8 July 2020, A/HRC/45/10.

⁹³ Report of the Special Rapporteur on the human rights to safe drinking water and sanitation, 8 July 2020, A/HRC/45/10 (emphasis added).

⁹⁴ CESCR, General Comment No. 15, para. 14.

⁹⁵ A/HRC/45/10, para. 36.

⁹⁶ Special Rapporteur on the human rights to safe drinking water and sanitation, “What are the Rights to Water & Sanitation?” at: https://sr-watersanitation.ohchr.org/en/rightstowater_1.html.

water, sanitation and hygiene. [...] Regarding the safety of sanitation, the adequate disposal of excreta, wastewater and sludge needs to be regulated and implemented in order to protect people's health and safeguard the right of sanitation workers to just and favorable working conditions."⁹⁷

Accessibility

104. According to the CESCR, accessibility has four overlapping dimensions: physical accessibility, economic accessibility, non-discrimination and information accessibility.
105. Physical accessibility presupposes that “water, and adequate water facilities and services, must be within safe physical reach for all sections of the population” and that “physical security should not be threatened during access to water facilities and services.”⁹⁸
106. Economic accessibility requires that water, water facilities and services “must be affordable for all”⁹⁹ and that access to water and sanitation shall not compromise the ability to pay for other essential needs guaranteed by human rights law.¹⁰⁰ The Special Procedures mandate on water and sanitation also speaks of affordability as a human rights criterion requiring “that water sanitation and hygiene facilities and services be accessible at a price that is affordable to all.”¹⁰¹
107. Non-discrimination entails that water, water facilities and services have to 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.”¹⁰² Lastly, information accessibility “includes the right to seek, receive and impart information concerning water issues.”¹⁰³

i. Human rights to water and sanitation in Gaza

108. In the oPt, the enjoyment of the human rights to water and sanitation has been in jeopardy since 1967, when the Israeli occupation began. Ever since, Israel has prohibited the Palestinians from drawing any of its waters by declaring its riverbanks a closed military zone and by destroying Palestinian pumps and irrigation ditches.¹⁰⁴
109. Since Israel controls more than 85 percent of water sources throughout the oPt, the water consumption rate per capita of Palestinians is still below the internationally recommended level.¹⁰⁵

⁹⁷ A/HRC/45/10, para 42.

⁹⁸ CESCR, General Comment No. 15, para. 12.

⁹⁹ *Ibidem*.

¹⁰⁰ Special Rapporteur on the human rights to safe drinking water and sanitation, “What are the Rights to Water & Sanitation?” at: https://sr-watersanitation.ohchr.org/en/rightstowater_1.html.

¹⁰¹ A/HRC/45/10, para 39.

¹⁰² CESCR, General Comment No. 15, para. 12.

¹⁰³ *Ibidem*.

¹⁰⁴ Report of the UN Special Rapporteur on the situation of human rights in the Palestinian Territory occupied since 1967, 15 March 2019, A/HRC/40/73, para. 44.

¹⁰⁵ Palestinian Central Bureau of Statistics, press release, 19 March 2020, at: <http://www.pcbs.gov.ps/post.aspx?lang=en&ItemID=3690>.

110. In addition, throughout decades of occupation, repeated military attacks have critically damaged or destroyed several water and sanitation installations, water desalination stations, as well as the Gaza Power Plant—all of which are civilian objects protected by customary and treaty law. At present, the ongoing electricity crisis has prevented the municipal water network, including the three main water storage tanks and 13 water wells, from operating sufficiently.
111. In the Gaza Strip, 13 years of suffocating closure have led to the collapse of natural sources of drinking water. As a result, today Gaza's residents live in a protracted humanitarian catastrophe, with 95 percent of them not having access to drinkable water. These conditions already did not meet the standards necessary to fully enjoy the rights to water and sanitation, first of all, the quality standard, as 97 percent of water in Gaza has been declared unfit for human consumption.
112. For Palestinians living in the Gaza Strip, the daily per capita share of drinkable water amounts to 22.4 liters. This number is at the threshold of the minimum essential amount of water indicated by the CESCR in General Comment No. 15. Yet, as recalled by the former Special Rapporteur on water and sanitation, the CESCR's indicators might vary according to different personal or collective economic, social and environmental contexts, e.g. the battle against the spread of COVID-19.
113. The scarce amount of water supply, which even in normal circumstances is not sufficient to guarantee respect for the human rights to water and sanitation, means that Gaza's residents cannot bathe, wash the dishes, do the laundry or clean the house as needed. This seriously hinders the possibility of implementing basic public health measures necessary to prevent the spread of COVID-19, first and foremost handwashing, considered by the WHO as the primary means of prevention.¹⁰⁶
114. The acute electricity shortage caused by Israel's fuel ban run from 13 to 31 August 2020 has further compounded the living conditions of Gaza's two million inhabitants, including the enjoyment of their human rights to water and sanitation as enshrined under international human rights law.
115. During this time, the supply of water to residential houses in Gaza has dramatically decreased. In terms of availability, the lack of electricity has not provided for either a sufficient or continuous supply of water for over two weeks. At the height of the crisis, municipal water was available only a couple of hours once every three days. At the same time, municipal water pumps were not able to work continuously, thus making it almost impossible to pump the little amount of available water into roof-top storage tanks. Moreover, this also has apparent effects in terms of physical accessibility of the water supply.

¹⁰⁶ WHO, "Save lives, clean your hands in the context of COVID-19," at: https://www.who.int/infection-prevention/campaigns/clean-hands/WHO_HH-Community-Campaign_finalv3.pdf?ua=1.

116. As the electricity crisis has severely hindered the functioning of the dozens of desalination plants in Gaza—where 86 percent of all water comes from the coastal aquifer—the already low quality of municipal water has declined. These conditions expose the population to water-borne illnesses as well as other diseases transmitted by contaminated water, with potentially devastating effects.¹⁰⁷
117. Another direct consequence resulting from the water supply system working beyond capacity is the daily discharge of poorly treated wastewater and sewage into the Mediterranean, which, in addition to increasing pollution levels, poses a severe threat to the right to sanitation.
118. In conditions that—after 13 years of closure—have become normalized in Gaza, the sewage stations are usually supplied with eight hours of power, followed by eight hours of cut. However, from the second half of August, power is available only for four hours, followed by a 16-hour power cut. Due to this decrease in power supply, municipalities in the Gaza Strip had to pump 575,000 cubic meters of untreated sewage directly to the sea every day. This has serious consequences both from a health and environmental point of view.
119. The scarce availability and decreased quality of water also had consequences as regards to accessibility standards. The fact that municipal water pumps cannot work at full capacity not only affects the quality of the water but, at the same time, hinders physical accessibility to water supplies. Moreover, this also has clear effects in terms of economic accessibility.
120. Indeed, the energy crisis, to which must be added the mandatory lockdown imposed with the outbreak of the first COVID-19 cases, is a serious blow to an economy in the midst of collapse, like Gaza's. The purchase of drinkable water costs 10-30 times more than municipal water, depending on quality. But, with the highest poverty rate in the world, the largest share of Gaza's population cannot afford to buy drinkable water and has to rely solely on tap water—when available.
121. Lastly, water accessibility also encompasses the principle of non-discrimination in the distribution of water. In this regard, it must be noted that the scarcity of water in the oPt does not stem from the absence of natural sources, but rather from the discriminatory distribution policies put in place by the Occupying Power, which controls more than 85 percent of water sources in the oPt.¹⁰⁸ The result of these discriminatory water policies is

¹⁰⁷ According to the WHO, microorganisms in contaminated water cause diseases such as: diarrhoea, Arsenicosis or Fluorosis, Schistosomiasis, Soil-transmitted helminthiasis, Malaria, Dengue fever and legionellosis, at: https://www.who.int/water_sanitation_health/diseases-risks/diseases/en/.

¹⁰⁸ For more information on this issue, see Al Mezan et al., 10 November 2019, Joint Parallel Report to the United Nations Committee on the Elimination of Racial Discrimination on Israel's Seventeenth to Nineteenth Periodic Reports.

a disparity in water consumption between Israelis and Palestinians by a factor estimated between 3.5 and 5 in favor of Israeli consumers.¹⁰⁹

122. It can therefore be concluded that, under these conditions, the fulfillment of the human rights to water and sanitation explicitly recognized at Article 14(h) of the CEDAW, Article 24(2)(c) of the CRC, and Article 28(2)(a) of the CRPD, and implicitly encompassed under Articles 11 and 12 of the ICESCR, cannot be met.

IV. Recommendations

123. In light of the analysis and information provided above, the submitting organizations urge the Special Rapporteur on the human rights to safe drinking water and sanitation, Mr. Pedro Arrojo-Agudo, to take the following actions:
- i. Release a statement on the humanitarian catastrophe suffered by the population of the Gaza Strip and the current water and sanitation crisis, both of which are purely human-made.
 - ii. Submit an allegation letter to the State of Israel, urging the Occupying Power to:
 - a. Guarantee electricity supply at a level sufficient to meet the needs of the civilian population as enshrined in international humanitarian law and to end the destruction or damage of civilian objects, including water, sanitation and electricity services.
 - b. Respect the human rights to water and sanitation of Palestinians, and to end the discriminatory allocation of water resources.
 - c. Immediately and unconditionally end Gaza's illegal closure and the collective punitive measures taken against the civilian population.
 - iii. Urge the international community to ensure that, during emergencies, such as times of full-scale military hostilities or pandemic, the provision of water and sanitation infrastructure meets the basic needs of the population of the Gaza Strip, particularly for those living or seeking temporary shelter in dire water and sanitation conditions.
 - iv. Remind all stakeholders operating with effect in Palestine, in general, and the Gaza Strip, in particular, to align short-term humanitarian policy and action with longer-term and institution-building development approaches within the over-arching framework of human rights and corresponding obligations.

¹⁰⁹ Eleni Lazarou, "Water in the Israeli-Palestinian conflict," European Parliamentary Research Service, 13 January 2016, at: http://www.europarl.europa.eu/RegData/etudes/_EN.pdf; B'Tselem, "The Gap in Water Consumption between Palestinians and Israelis," 1 January 2011, at: <https://www.btselem.org/gap-water-consumptionbetween-palestinians-and-israelis>, with statistics as of 4 July 2018, at: <https://www.btselem.org/water/statistics>.

- v. Further investigate the ongoing violations of the human rights to water and sanitation in the Gaza Strip, including by undertaking an urgent mission to Israel and the occupied Palestinian territory, and to include the findings of such investigations in his next report to the Human Rights Council.
- vi. Provide the High Commissioner for Human Rights with information on the results of the investigations into the violation of the human rights to water and sanitation in the Gaza Strip so that it can be included in the High Commissioner's upcoming report on the allocation of water resources in the oPt, as requested by Human Rights Council Resolution 43/32.
- vii. Take these actions with a view to ensuring accountability and justice and breaking the cycle of violations of international law.¹¹⁰



¹¹⁰ A/HRC/43/L.38/Rev.1, para. 28.