



Legal Manual for Environmental Complains in Palestine

Palestinian Environmental NGOs Network

January – 2025



Legal Manual for Environmental Complaints in Palestine

Under the Environmental and Climate Justice Program in Palestine (ECJP)

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The content of this manual does not necessarily reflect the views and opinions of the Organization or the Consulate

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Disclaimer:

- The legal reality of environmental protection in the Palestinian territories is thorny and complex, and the relevant authorities must study each case separately and in depth, examine all available legal possibilities, and choose the most appropriate means to defend the environmental rights of Palestinians and prosecute violators.
- The Manual does not aim to evaluate the role and performance of the various institutions and organizations working to address environmental violations and prosecute violators.
- The relevant authorities may use the Manual in a manner consistent with their political and strategic vision.
- The Manual does not reflect any political viewpoint of the researchers or the relevant organizations and institutions.
- The contents of this Manual do not necessarily reflect the views or opinions of the "We Effect" Foundation or the Swedish Consulate General in Jerusalem.

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Part One: Legal Manual for Environmental Complaints in Palestine

Forward

The environment in the State of Palestine is an integral part of the identity and heritage of the Palestinian people. The environmental rights of the Palestinian citizens represent basic rights that aim to protect them from environmental hazards and provide them with a healthy

and clean environment. These rights include a set of rights that enable the citizen to live in a safe and clean environment.

This Manual addresses environmental violations according to Palestinian and international laws, so that this legal Manual will constitute the primary reference for those affected by environmental violations in the State of Palestine. It will also benefit decision-makers, organizations, and legal professionals interested in environmental affairs to Manual them with all procedures, directives, and requirements to protect those affected by environmental violations and provide them with the required legal procedures before the competent authorities (Palestinian courts and international courts).

This Manual aims to set manuals for those affected by environmental violations on how to identify and document environmental violations and crimes based on the type of violation and its legal consequences. The Manual is divided into two main sections as follows:

- Environmental violations according to relevant Palestinian laws in terms of shedding light on environmental violations and crimes locally and clarifying the methods of legal protection in the event of violations and mechanisms for filing lawsuits before Palestinian courts and competent authorities.
- Environmental violations according to international laws, especially according to agreements and treaties that deal with environmental affairs and to which the State of Palestine has acceded, by shedding light on environmental violations according to international laws and treaties, and clarifying the documentation procedures that must be followed at the local and international levels within the framework of international agreements and the mechanism for filing lawsuits before international courts (the International Criminal Court and the International Court of Justice).

This Manual contains several appendices that help victims identify the type of environmental violation against them, the mechanisms for protecting their rights, and the penalties resulting from these violations.

Introduction

Ensuring environmental protection depends on respecting the system of laws and legislation regulating the environment at all local and international levels. All relevant authorities must protect the legal system related to environmental affairs and establish a continuous and ongoing monitoring system. Accordingly, the laws regulating the environment have been keen to take measures and follow up on environmental violations,

stating these violations and the penalties resulting from them. The objectives of this Manual are to state the environmental rights of the Palestinian citizen, state the legal frameworks regulating the environment in the State of Palestine, and state environmental violations and the penalties resulting from them in order to help those affected as well as the relevant authorities, each in its field of expertise.

Target Audience of the Manual

This Manual is designed to be a simple Manual and reference on environmental violations and to explain the legal framework for the environment locally and internationally, as well as to explain environmental violations according to Palestinian laws and international agreements. Accordingly, this Manual is directed to the following categories:

- Citizens.
- Civil society institutions and human rights institutions concerned with environmental issues.
- Local government bodies, civil institutions and the private sector related to environmental issues.

Objectives of the Manual

This Manual mainly aims to:

- Explain the environmental rights of citizens.
- Explain the competent authorities in environmental matters in the State of Palestine.
- Explain the legal framework regulating the environment locally and internationally.
- Explain environmental violations and infringements according to Palestinian laws and international agreements.
- Explain documentation mechanisms and procedures that must be taken in the event of environmental violations.

Significance of the Manual

The importance of this Manual lies in the fact that it:

- It constitutes a practical reference for Palestinian institutions in following up on environmental violations occurring on Palestinian lands.
- It contains an analysis of the legal systems concerned with the environment according to Palestinian laws and international treaties and agreements.
- It shows the types of environmental violations and the procedures followed to monitor and follow up on these violations according to local and international laws.

Methodology of the Manual

- This Manual was prepared in consultation with a number of official and unofficial Palestinian institutions, through holding a series of meetings and interviews with specialists in addition to workshops held to discuss the Manual with partners.
- All stages of preparing the Manual were based on laws, studies and publications related to the environment.

Key Words and Concepts According to Palestinian Law ¹

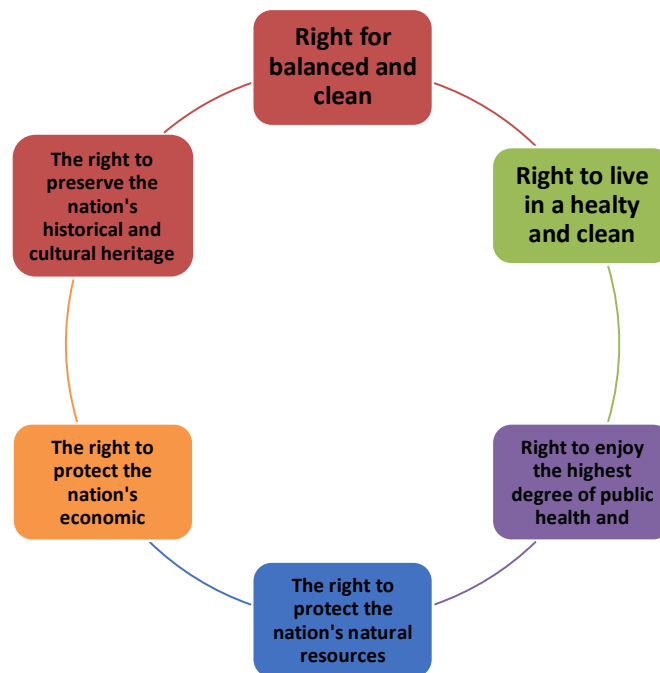
- **Environment:** The biosphere that includes living organisms and what it contains of air, water, soil, and the facilities on it, and the interactions between them. (Article 1 of the Palestinian Environmental Law No. (7) of 1999).
- **Environment as a human right:** A balanced, clean environment is a human right, and preserving and protecting the Palestinian environment for present and future generations is a national responsibility. (Article 33 of the Palestinian Basic Law of 2003).
- **Environmental protection:** Preserving the elements of the environment, reducing its pollution, improving it or deteriorating it, and preventing pollution or deterioration. (Article 1 of the Palestinian Environmental Law No. (7) of 1999).
- **Environmental pollution:** Any direct or indirect change in the properties of the environment that may lead to harm to one of its elements or disrupt its natural balance. (Article 1 of the Palestinian Environmental Law No. (7) of 1999).
- **Air pollution:** Any change in the properties and components of natural air that may pose a risk to the environment. (Article 1 of the Palestinian Environmental Law No. (7) of 1999).
- **Water pollution:** Any change in the properties and components of water that may lead to harm to the environment. (Article 1 of the Palestinian Environmental Law No. (7) of 1999).
- **Soil pollution:** Any foreign materials that pollute the soil and make it unsuitable for agriculture.
- **Environmental damage:** Damage resulting from practicing any activity that leads to harm to public health, public welfare and the environment. (Article 1 of the Palestinian Environmental Law No. (7) of 1999).
- **Compensation:** What is provided for damages caused by various pollutants resulting from any action by natural or legal persons with environmental elements, and this is pursuant to administrative decisions, judicial rulings or in implementation of provisions contained in international agreements. (Article 1 of the Palestinian Environmental Law No. (7) of 1999).
- **Judicial police:** A group of employees legally authorized to search for evidence and seize environmental violations and crimes. (Article 51 of the Palestinian Environmental Law No. (7) of 1999).

¹ According to Palestinian Laws.

1. How to Deal with Local Environmental Violations Committed by Palestinians?

Palestinian Legal and Institutional Framework for Environmental Protection

What are the environmental rights of the Palestinian citizen?



(Source: Article 33 of the Palestinian Basic Law of 2003, and Article 5 of the Palestinian Environmental Law No. (7) of 1999).

1. The right to a clean, balanced environment is considered a human right.

The Palestinian Basic Law of 2003 referred to the issue of the environment as a human right in the text of Article (33), which stated: “A balanced, clean environment is a human right, and preserving and protecting the Palestinian environment for present and future generations is a national responsibility.”

2. The right of every Palestinian citizen to live in a healthy and clean environment
3. The right of every Palestinian citizen to enjoy the greatest possible level of public health and well-being
4. The right of every Palestinian citizen to protect the country's natural wealth and economic resources and to preserve its historical and cultural heritage without any damage or side effects that may appear sooner or later as a result of various industrial, agricultural or urban activities on the types of life and basic environmental systems such as air, water, soil, marine, animal and plant resources. (Article 5 of the Palestinian Environmental Law).

The Palestinian Environmental Law No. (7) of 1999 clarified the environmental rights of the Palestinian citizen and stipulated this in Article (5) as follows: “A- The right of every human being to live in a healthy and clean environment and to enjoy the greatest possible level of public health and well-being. B- Protecting the country’s natural wealth and economic resources and preserving its historical and cultural heritage without any damage or side effects that may appear sooner or later as a result of various industrial, agricultural or urban activities on the types of life and basic environmental systems such as air, water, soil, marine, animal and plant resources.”

What sectors are involved in environmental issues?



(Source: Environmental Quality Authority, Sectoral Environment Strategy, 2021-2023, pp. 17-20).

Who are the authorities responsible for environmental protection in the State of Palestine?

Authority	Specialization
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Environment Quality Authority	Coordinates work on environmental issues, and is the body responsible for maintaining and protecting the environment, preserving human health, curbing the depletion of natural resources, monitoring environmental violations and developing plans to reduce them and prevent the exacerbation of climate change, reducing pollution, enhancing awareness and behavior on environmental issues, and ensuring the achievement of sustainable development of natural resources.
Water Authority	It is the body responsible for the water sector, including the development and management of groundwater and surface resources and their protection from pollution.
Energy Authority	It is the body responsible for the energy sector, including promoting the use of renewable energy sources, rationalizing energy use, raising its efficiency, and reducing energy losses.
Local Government Ministry	It is the body responsible for the local government sector and its direct relationship with the environmental dimension, protecting the environment, and observing environmental standards within the issues and sectors supervised by local government, including the issue of public and private government construction, solid waste, wastewater networks and their treatment, the issue of waste management and disposal in a proper manner, the issue of land use and classification, the development of structural plans and spatial planning, the infrastructure projects sector, and local development projects implemented by local government bodies, municipalities, and village councils.
Ministry of Transportation	It is the body responsible for the transportation and communications sector with regard to By encouraging public transportation and the use of electric and

	hybrid vehicles and monitoring and controlling vehicle exhaust emissions
Ministry of Public Works and Housing	It is the body responsible for the public works and housing sector with regard to the environmental dimension by promoting green construction and taking into account environmental standards when paving roads of all shapes and types
Ministry of Industry and Ministry of Economy	It is the body responsible for the industrial sector through the process of controlling factories and their production processes to be less polluting to the environment and taking into account environmental specifications and standards and ensuring that the general conditions issued by any competent authority are met, linking standards to licenses and commitment to implementation
Ministry of Agriculture	It is the body responsible for the agricultural sector, which is considered one of the sectors that uses the most natural resources such as land and water and what enters into the process of managing this sector from the use of fertilizers and agricultural pesticides and the solid and hazardous waste it leaves behind and the pollution it causes to the soil and water sources, so that environmental standards must be taken into account, in addition to the necessary interventions and procedures to combat desertification and take into account the environmental dimensions in land reclamation operations, in addition to working to regulate hunting and prevent overgrazing to preserve biodiversity
Ministry of Education and Higher Education	It is the body responsible for the education and higher education sector by following up on curricula and including the environmental dimension in them with the aim of creating a generation aware of environmental issues Able to interact with the principle of its protection, and interest in practical

	research on environmental issues at the level of schools and universities
Ministry of Finance	It is the body responsible for the public finance sector, as there are issues that intersect with the environmental dimension, including the public procurement system and its development to be sustainable and environmentally friendly, as well as the issue of imposing taxes on sectors that pollute the environment and providing tax exemptions or reductions for environmentally friendly sectors and encouraging green investments
Ministry of Tourism and Antiquities	It is the body responsible for the tourism sector, promoting the concept of ecotourism and following environmental standards in the management of tourist facilities
Ministry of Culture	It is the body responsible for the culture and heritage sector by addressing environmental issues by highlighting the environmental dimension through various cultural activities
Ministry of Health (Environmental Health Department)	It is the body responsible for the health sector by managing the medical waste resulting from this sector and health facilities and adopting environmental management systems in laboratories and medical centers and inspecting food industry sectors, and enhancing health control over the hospital environment. This is done through the Environmental Health Department, which is concerned with all environmental areas that affect human health and that are dealt with on a daily basis, such as drinking water quality, food safety, pest and rodent control, and solid waste, which also includes hazardous waste, including medical waste and wastewater, crafts and industries Chemical safety.
Ministry of Justice	It is the body responsible for the justice and judiciary sector through developing

	the legislative system for the environment and enforcing the law.
Ministry of Interior	It is the body responsible for the security sector, as environmental security is important for the citizen and his stability, and the necessary measures must be taken to protect the environment through the Palestinian Police Force, especially the Environmental Police, as well as the Palestinian Civil Defense. In addition to enhancing and deepening environmental awareness among security personnel, their camps, headquarters, detention and investigation centers, and their affiliated rehabilitation centers.
Ministry of Communications and Digital Economy	It is the body responsible for the communications and information technology sector, as the issue of cellular broadcasting, the installation of Internet towers, and booster stations must take into account the environmental dimension, and the same applies to electronic waste, which requires following environmental standards.
Ministry of Women's Affairs	It is the body responsible for the gender sector by targeting women and enhancing their activity in spreading environmental awareness, which contributes to enhancing environmental awareness.
Ministry of Social Development	It is the body responsible for the social protection sector by encouraging environmental projects and initiatives and enhancing the environmental dimension.
Ministry of Foreign Affairs and Expatriates	It is the body responsible for the international and foreign relations sector, as enhancing the awareness and knowledge of members of diplomatic bodies environmentally enhances the role of the State of Palestine in international agreements that concern the environment, which is extremely important for protecting the environment

What is an environmental violation?

They are illegal or unlawful activities and actions that affect and cause damage to the environment.²

What actions and activities constitute environmental violations according to the Palestinian Environmental Law?

Activity	Definition
Dredging	Removal of any part of the soil
Environmental Pollution	Any direct or indirect change in the properties of the environment that may lead to harm to one of its elements or disturb its natural balance
Air Pollution	Any change in the properties and components of natural air that may pose a risk to the environment and public health
Water Pollution	Any change in the properties and components of water that may lead to harm to the environment and public health
Soil Pollution	Any foreign materials that pollute the soil and make it unsuitable for agriculture
Use of Polluting Materials and Agents	Any materials, whether gaseous, liquid, solid, fumes, vapors, odors, radiation, heat, glare, noise, or vibrations that may lead to environmental pollution or deterioration
Use of Hazardous Materials	Materials or compounds of materials with hazardous properties that constitute harm to the environment, such as toxic materials, radioactive materials, biologically infectious materials, explosive or flammable materials
Use of Hazardous Waste	Waste of various activities and processes or their ash that retain the properties of hazardous materials and have no subsequent uses such as nuclear waste, medical waste, waste resulting from the manufacture of any pharmaceutical preparations, medicines, organic solvents,

² للمزيد، أنظر جوني عاصي، دليل اعداد ملف قانوني للجرائم البيئية، شبكة المنظمات البيئية الفلسطينية، 2018.
Environmental Investigation Agency, Environmental Crime: A threat to our future, 2008

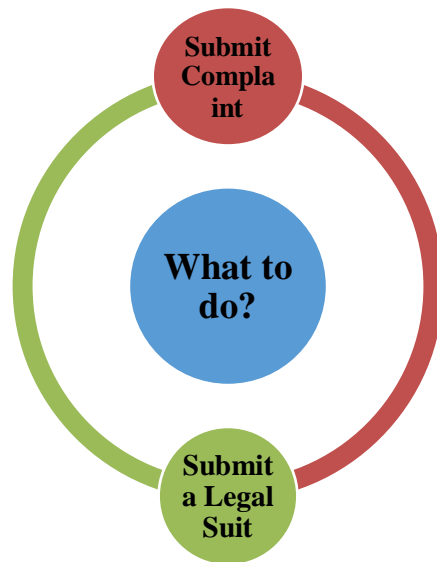
	dyes, paints, pesticides or other hazardous materials
Solid Waste	Any waste other than hazardous waste, or garbage resulting from various domestic, commercial, agricultural, industrial and urban activities and sediments resulting from wastewater treatment plants
Wastewater	Water polluted by solid, liquid or gaseous materials, energy or microorganisms resulting from or leaving behind homes, buildings, facilities or various factories.
Environmental Damage	Damage resulting from practicing any activity that leads to harm to public health, public welfare and the environment
Dumping	Dumping various polluting materials resulting from various facilities or means of transportation into internal or regional waters or the exclusive economic zone
Environmental Disaster	An accident caused by natural factors or human action that results in severe damage to the environment and requires capabilities that may exceed local capabilities to confront.
Environmental Nuisance	The distress or material or moral damage resulting from noise, vibrations, radiation or odors resulting from human activities, facilities, means of transportation, etc., which affects a person's practice of his normal life and his property.
Environmental Degradation	Any impact on the environment or its elements that leads to harming it, distorting its nature, depleting its resources, and harming living organisms.
Discharge	Direct or indirect dumping, leaking, emitting, pumping, pouring or discharging of any environmental pollutants into the air, land, internal or regional waters.

(Source: Article 1 of the Palestinian Environmental Law No. (7) of 1999).

What is the legal liability for violations and environmental damage?

Liability is represented by criminal liability (the material element represented by illegal acts that constitute an attack on the environment or human health, the moral element represented by the will and criminal intent of the perpetrator and the legal element), and civil liability represented by compensation for environmental damage, removing the damage and restoring the situation to what it was before the environmental damage occurred.

What to do in the event of any environmental violation?



Any person (natural or legal persons) may submit and follow up any complaint or specific legal procedures without regard to the conditions of private interest against any natural or legal person who causes harm to the environment. (Article 3 of the Palestinian Environmental Law No. (7) of 1999) This is done by:

1. Submitting the complaint through the competent official Palestinian institutions, including the Environmental Quality Authority, the Ministry of Agriculture, the Ministry of Health, and the Ministry of Local Government, within the scope of the jurisdiction of these bodies, in accordance with the central computerized government system for complaints.³ According to the forms prepared for this purpose (Form No. 1), stating the details of the complainant, the party being complained against, and the subject of the complaint. (Cabinet Resolution No. (8) of 2016 regarding the Complaints System).

- You can also submit a report or complaint to the Palestinian Police (Environmental Police).⁴

<https://cs.pmo.gov.ps/Users/Login.aspx>³

<https://www.palpolice.ps/complaints>⁴

- Then the case is initiated by the Public Prosecution.
2. Submitting a complaint through non-governmental organizations, which is done through:
- Submit an environmental complaint to the Environmental NGO Network⁵ via their website.⁶
 - A complaint can also be submitted to the Independent Commission for Human Rights (the Board of Grievances) in cases where the competent Palestinian authorities do not respond to the Commission's follow-up of these complaints through the complaints website.⁷ The Independent Commission for Human Rights has jurisdiction to follow up on complaints related to human rights and freedoms in all areas guaranteed by the Basic Law, national legislation, or international human rights conventions.
3. The possibility of taking legal action by filing a lawsuit before the competent courts, depending on the type of violation.

Who can initiate criminal proceedings regarding environmental violations?

Complaints are submitted and referred to the Public Prosecution (Economic and Environmental Crimes Prosecution) in order to initiate criminal proceedings (Article 1 of the Criminal Procedures Law No. (3) of 2001).

What are the penalties for environmental crimes?

These are the penalties included by the Palestinian legislator in the laws related to environmental affairs, represented by original penalties imposed on the natural person, such as penalties (1) deprivation of liberty (imprisonment and hard labor) and (2) financial penalties (fines), and penalties imposed on the legal person, such as (1) closing the facility, (2) canceling the license, (3) withdrawing the license, (4) removing the causes of the violation. And complementary penalties such as confiscation, deprivation of some rights and benefits, and withdrawal of licenses. (Articles 55 and 56 of the Palestinian Environmental Law No. (7) of 1999). And subsidiary penalties or precautionary measures such as prohibiting the practice of the activity, monitoring the activity, removing the damage or violation. (Articles 57 74 of the Palestinian Environmental Law No. (7) of 1999).

⁵ شبكة المنظمات الاهلية البيئية الفلسطينية (PENGON) هي هيئة تنسيقية بين مختلف المنظمات الاهلية الفلسطينية العاملة في مجال البيئة. تبلورت فكرة تأسيس شبكة للمنظمات البيئية الفلسطينية في عام 1996, عندما شعر عدد من المنظمات الاهلية الفلسطينية بالحاجة الماسة لتنسيق جهودها لخدمة القضايا البيئية الفلسطينية عبر التنسيق المتواصل بين مختلف المنظمات الاهلية الفلسطينية العاملة في مجال البيئة, وتطوير دور المؤسسات الشريكة, وتعزيز العلاقات مع غيرها من المنظمات المحلية والدولية العاملة في مجال البيئة. انظر، <https://www.pengon.org/sections/view/1/ar>

⁶ <https://portal.pengon.org/complaint>

⁷ <https://mail.ichr.ps/formz/complaint-registration>

What are the tools for monitoring, documenting and proving environmental crimes?

One of the most important principles of criminal evidence is the principle of freedom of evidence, whereby the parties may submit to the court all evidence and indications, such as oral evidence (witness testimony and confession) and material evidence (documents and papers, seizure reports, expert reports, inspection or any other indications). (Article 206 of the Criminal Procedures Law No. (3) of 2001).

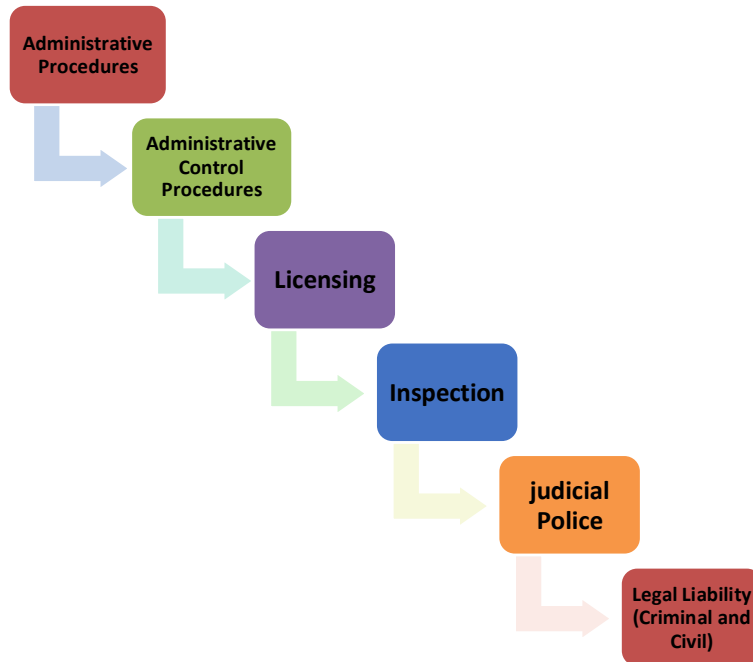
What are the administrative procedures undertaken by the competent authorities to preserve the environment?

The Palestinian Environmental Law includes legal texts to protect the environment, which are represented by the competent authorities taking administrative control measures represented by the legal and administrative procedures for enforcing the protection texts, including administrative procedures related to licensing and inspection, as well as using the powers of the judicial or judicial police in the event of an environmental violation, in addition to imposing legal responsibility resulting from environmental damage represented by criminal and civil responsibility.

The procedural and administrative texts for environmental protection are represented by the means of administrative control, represented by the comprehensive and periodic inspection of facilities, conducting inspections, collecting data and information related to the environmental performance of the facility, and identifying violations, if any, on the one hand. And by the means of judicial or judicial control, on the other hand, whereby the status of judicial or judicial police was granted to the inspectors of the Environmental Quality Authority and employees of the bodies concerned with environmental protection, and they have the right to enter and inspect facilities, seize environmental violations, take samples, collect evidence necessary for the investigation, and notify the Public Prosecution of environmental violations to pursue them criminally. In addition to the means of issuing environmental licenses and approvals for facilities and projects that may have an impact on the environment.

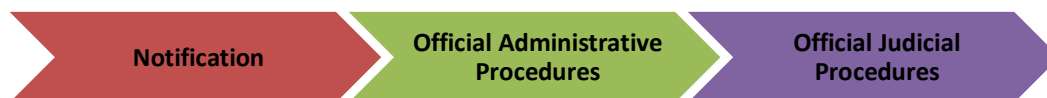
As for the legal liability resulting from environmental damage, the Palestinian Environmental Law included provisions related to criminal liability and followed it with civil liability, and assigned each of them to the administrative procedures that the competent authorities (executive and judicial) can carry out to oblige every violator or perpetrator of environmental violations to abide by them. The Palestinian law stipulates penalties that deprive the environment of freedom, including fines, imprisonment and hard labor, in the event that criminal liability is established by the material element of environmentally polluting acts, and the moral element represented by deliberate intent. The same applies to civil liability, which is represented by compensation for environmental damage, removing the effects of environmental damage and restoring the situation to what it was before the environmental damage occurred. The Palestinian Environmental Law

defined the concept of compensation in its first article as “what is provided in exchange for damages caused by various pollutants resulting from any action by natural or legal persons with environmental elements, and this is done by virtue of administrative decisions, judicial rulings or in implementation of provisions contained in international agreements.”



What are the procedures for monitoring and enforcing environmental violations by the competent authorities?

These are the procedures carried out by the Monitoring and Inspection Department at the Environment Quality Authority with the aim of achieving environmental compliance by individuals and establishments. These procedures include **direct obligation**, including:



- **Notification**, whereby the facility is notified of the environmental violation that does not pose a serious risk to health or the environment, and is obligated to correct the violation within a specified period of time, after conducting field visits and preparing inspection reports.
- **Official administrative procedures**, whereby the facility is officially notified of the environmental violations and is required to correct the violation within a specified period of time, after which a follow-up inspection is conducted. If the violation continues, more stringent measures are taken, such as obligating the facility to remove the violation at its own expense and stop the violating activity or claim compensation. If there is a serious risk to health or the environment, the facility is temporarily closed.

- **Official judicial procedures**, based on the preparation of a report by the inspectors of the Environmental Quality Authority who have judicial police powers and submitting it to the Public Prosecution in preparation for filing a lawsuit and taking civil or criminal judicial measures depending on the type of violation.

Licensing, inspection and administrative procedures for environmental conservation by the competent authorities

The Palestinian Environmental Law includes legal texts to protect the environment, which are represented by the competent authorities taking administrative control measures represented by the legal and administrative procedures for enforcing the protection texts, including administrative procedures related to licensing and inspection, as well as using the powers of the judicial or judicial police in the event of an environmental violation, in addition to imposing legal responsibility resulting from environmental damage represented by criminal and civil liability. The procedural and administrative texts for protecting the environment are represented by the means of administrative control represented by the comprehensive and periodic inspection of facilities, conducting inspections, collecting data and information related to the environmental performance of the facility, and identifying violations if any, on the one hand. And by the means of judicial or judicial control, on the other hand, so that the status of judicial or judicial control was granted to the inspectors of the Environmental Quality Authority and employees of the authorities concerned with environmental protection, and they have the right to enter and inspect facilities, seize environmental violations, take samples, collect the necessary evidence in the investigation, and notify the Public Prosecution of environmental violations to pursue them criminally. In addition to the means of issuing environmental licenses and approvals for facilities and projects that may have an impact on the environment. As for the legal liability resulting from environmental damage, the Palestinian Environmental Law included provisions on criminal liability and followed it with civil liability, and assigned each of them to the administrative procedures that the competent authorities (executive and judicial) can carry out to oblige any violator or perpetrator of environmental violations to abide by them. The Palestinian law stipulated penalties that deprive freedom to protect the environment, including fines, imprisonment and hard labor, in the event that criminal liability is achieved by the material element of acts that pollute the environment, and the moral element represented by deliberate intent. The same applies to civil liability, which is represented by compensation for environmental damage, removing the effects of environmental damage and restoring the situation to what it was before the environmental damage occurred. The Palestinian Environmental Law defined the concept of compensation in its first article as “what is provided in exchange for damages caused by various pollutants resulting from any action by natural or legal persons with environmental elements, and this is pursuant to administrative decisions, judicial rulings or in implementation of provisions contained in international agreements.”

The texts of the Palestinian Environmental Law referred to these administrative procedures as follows:

- The Environment Quality Authority, in coordination with the competent authorities, shall set standards to identify projects and areas subject to environmental impact

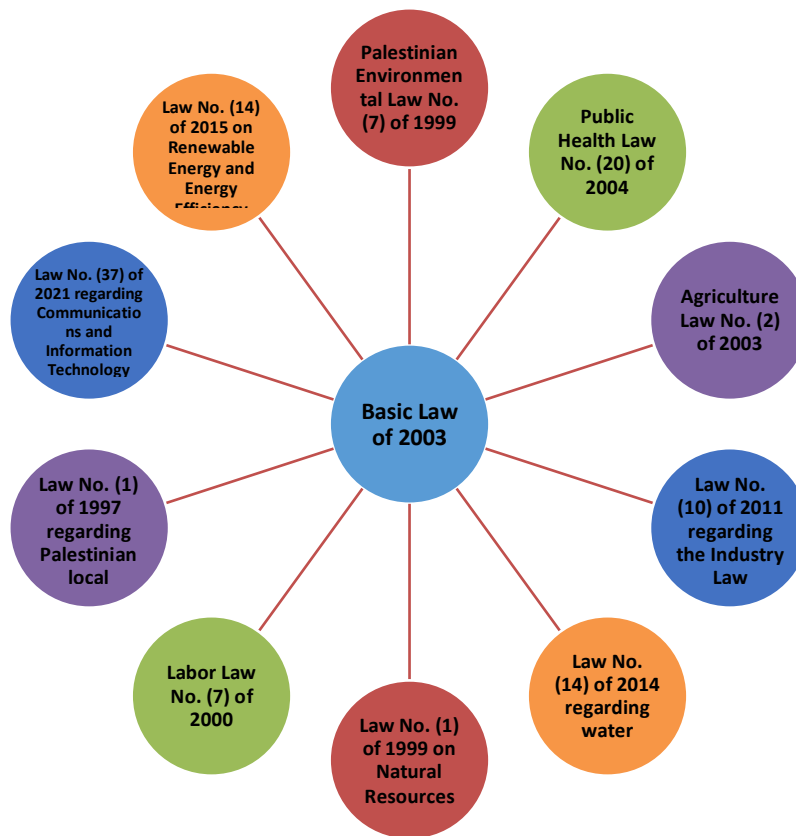
assessment studies and prepare lists of these projects, as well as develop environmental impact assessment systems and procedures. (Article 45 of the Environment Law).

- The competent authorities, when licensing any facility, shall work to avoid environmental risks by encouraging the transition to projects that use materials or processes that are less harmful to the environment and giving priority to these projects in accordance with the principles of economic development. (Article 46 of the Environment Law).
- The Environment Quality Authority, in coordination with the competent authorities, shall determine the activities and projects that must obtain prior environmental approval to obtain a license, as well as projects permitted to be established in restricted areas. (Article 47 of the Environment Law).
- The Environment Quality Authority shall issue environmental approval for projects and activities that may have an environmental impact (Article 48 of the Environment Law), so that the environmental approval is an official document issued by the Environment Quality Authority expressing the environmental opinion regarding the establishment or practice of any activity that requires environmental approval. (Article 1)
- The Environment Quality Authority shall coordinate with the competent authorities to monitor the institutions, projects and various activities to verify their compliance with the approved specifications, standards and instructions for protecting the environment and vital resources set by them. (Article 50).
- The inspectors of the Environment Quality Authority and other inspectors appointed in ministries and other authorities who have the status of judicial police in accordance with the law shall have the right to record environmental violations and crimes that occur in violation of the law. (Article 51).
- The inspectors of the Environment Quality Authority, in cooperation with the competent departments and authorities, have the right to enter facilities for the purpose of inspecting them, taking samples, conducting measurements and ensuring the application of standards and conditions for environmental protection and pollution prevention. (Article 52).
- The owners of various projects and activities shall enable the inspectors affiliated with the Environment Quality Authority and the competent authorities to carry out their duties and provide them with the information and data they deem necessary to obtain in implementation of the provisions of the law. (Article 53).
- Every facility owner must carry out self-monitoring operations according to the standards and conditions set by the Ministry in coordination with the competent authorities and submit reports according to the instructions of the Environment Quality Authority or any other authority specified by the executive regulations of the law. (Article 54).
- In the event that the facility or project violates the environmental conditions necessary to grant the license, the competent authority has the right to cancel the license or withdraw it for a specified period. (Article 55).

- The facility or project violating the environmental conditions may not resume its activity unless it removes the causes of the violation. If it does not remove the violation, the competent authority shall remove it at its own expense. (Article 56).
- The head of the Environment Quality Authority has the right to suspend work on any project or prevent the use of any machine or material, partially or completely, if the continuation of work on the project or the use of the machine or material poses a serious risk to the environment. The suspension or prevention shall be for a period not exceeding two weeks and may not be extended except by a judicial order from the competent court. (Article 57).
- Removing the damage and its effects at the expense of the violator. (Article 74).
- Any natural or legal person who causes any environmental damage as a result of an act or negligence in violation of the provisions of the Environmental Law or any international agreement to which the State of Palestine is a party is obligated to pay appropriate compensation in addition to the criminal liability stipulated in the law. (Article 76).

What are the most important Palestinian laws regulating the environment?

The Palestinian legislator has given the environment a great deal of importance in terms of legal regulation in a number of laws, including: the Basic Law of 2003, the Palestinian Environmental Law No. (7) of 1999 and its amendments for 2013 and 2021, the Public Health Law No. (20) of 2004, the Agriculture Law No. (2) of 2003, Decree-Law No. (10) of 2011 regarding the Industry Law, Decree-Law No. (14) of 2014 regarding water, Law No. (1) of 1999 regarding natural resources, Labor Law No. (7) of 2000, Law No. (1) of 1997 regarding Palestinian local authorities, Decree-Law No. (37) of 2021 regarding communications and information technology, Decree-Law No. (14) of 2015 regarding renewable energy and energy efficiency.



1. Basic Law of 2003

The Palestinian Basic Law addressed the issue of the environment as a human right and a fundamental pillar of sustainable development in Palestinian society in Article (33), which states: “A balanced, clean environment is a human right, and preserving and protecting the Palestinian environment for present and future generations is a national responsibility.”

2. Palestinian Environmental Law No. (7) of 1999

The Palestinian Environmental Law is considered the general legal framework that regulates the rights and duties in protecting the environment. This law aims to establish the basic rules and general principles regarding environmental protection in the State of Palestine, so that the law aims, as indicated in the text of Article (2), to the following:

- (1) Protecting the environment from pollution in all its forms and manifestations.
- (2) Protecting public health and social welfare.
- (3) Incorporating the foundations of environmental protection into economic and social development plans and encouraging sustainable development of vital resources in a manner that takes into account the rights of future generations.
- (4) Preserving biodiversity, protecting environmentally sensitive areas, and improving areas that have been environmentally damaged.

(5) Encouraging the collection and dissemination of various environmental information and increasing public awareness of environmental problems.

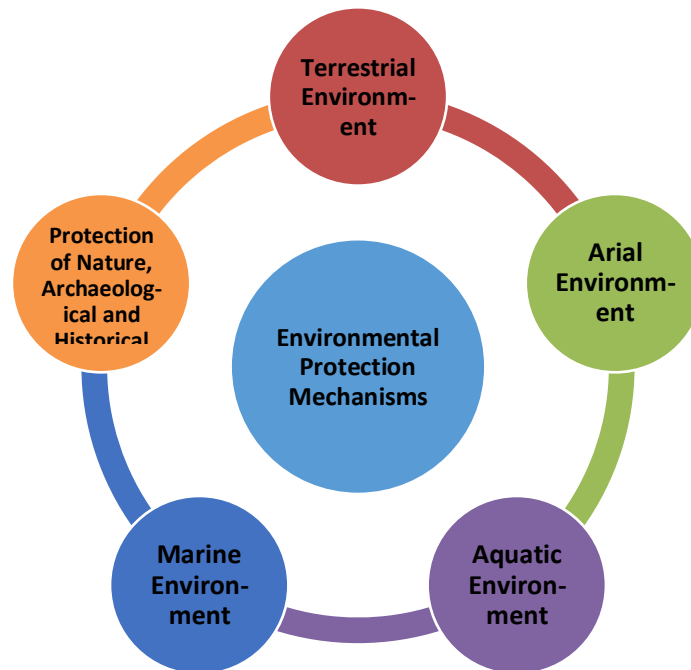
(6) Strengthening national capacities to achieve the following: A. The ability to deal with issues resulting from the phenomenon of climate change. B. Adapting to the negative effects resulting from the phenomenon of climate change to avoid or mitigate its damage. C. Reducing greenhouse gas emissions. (Article 3 of Decree-Law No. (31) of 2021 amending Law No. (7) of 1999 regarding the environment).

The implementation of the provisions of this law is based on the following general principles, which are referred to in Articles (3, 4, 5):

- Any citizen has the right to file and follow up any complaint or specific legal procedures without regard to the conditions of private interest against any natural or legal person who causes harm to the environment. (Article 3-A).
- Any citizen has the right to obtain the official information necessary to identify the environmental impacts of any industrial, agricultural, urban or other development program activity in accordance with the law. (Article 3-B).
- The Environment Quality Authority, in cooperation with the competent authorities, shall disseminate the concept and goals of environmental education through schools, universities, organizations and clubs and encourage collective and individual initiatives for voluntary work aimed at protecting the environment. (Article 4).
- Every Palestinian citizen has the right to live in a healthy and clean environment and enjoy the greatest possible level of public health and well-being. (Article 5-A).

Protecting the nation's natural wealth and economic resources and preserving its historical and cultural heritage without any damage or side effects that may appear sooner or later as a result of various industrial, agricultural or urban activities on the types of life and basic environmental systems such as air, water, soil, marine, animal and plant resources. (Article 5-b).

The law clarified the mechanism for protecting the environment (terrestrial, air, water, marine, nature protection, archaeological and historical areas) as follows:



○ Regarding the protection of the terrestrial environment

The Palestinian legislator aims to protect the terrestrial environment within the following rules, principles and objectives - texts of Articles (6-18):

- Preparing the general policy for land use in a manner that takes into account optimal use.
- Protecting natural resources and areas of special nature and preserving the environment.
- Developing a comprehensive plan for solid waste management at the national level, including determining methods and sites for its disposal, as well as supervising the implementation of this plan by local authorities.
- Taking appropriate measures to reduce the production of solid waste to a minimum, and reuse it whenever possible or recover its components or recycle it.
- Determining specifications for solid waste disposal sites.
- Issuing lists of hazardous materials and waste.
- Determining the environmental conditions for importing, distributing, manufacturing, using and storing pesticides, agricultural chemical materials and fertilizers that may pose a risk to the environment.
- Developing Manual lines and standards for agricultural chemicals that are permitted to be imported, manufactured and distributed in the State of Palestine and ensuring compliance with them.

- Developing appropriate environmental conditions for exploration, mining, quarrying, crushing and mine activities in a manner that ensures the protection of the environment from the risks of environmental pollution and the preservation of natural resources.
- Taking appropriate measures to combat desertification and prevent soil erosion and taking appropriate measures to encourage the cultivation of fallow lands.

○ **Regarding the protection of the air environment**

The Palestinian legislator aims to protect the air environment within the following rules, principles and objectives - texts of Articles (19-27):

- Determine the standards related to controlling the levels of air pollutants that may cause harm and damage to public health, social welfare or the environment.
- Work to reduce the depletion of the ozone layer in accordance with the provisions of international treaties to which the State of Palestine is committed by taking appropriate measures regarding the import, production or use of any chemical materials that cause harm to it.
- Set standards, instructions and conditions to reduce environmental disturbance resulting from various activities.

○ **Regarding the protection of the aquatic environment**

The Palestinian legislator aims to protect the aquatic environment within the following rules, principles and objectives - texts of Articles (28-30):

- Determine the standards and characteristics of drinking water quality.
- Set the necessary standards and criteria for how to collect, treat, reuse or dispose of wastewater and rainwater in a proper manner that is compatible with preserving the environment and public health.

○ **Regarding to the marine environment**

The Palestinian legislator aims to protect the marine environment within the following rules, principles and objectives - texts of Articles (31-39):

- Setting seawater quality specifications and determining the standards, instructions and conditions necessary to control marine pollutants.
- Determining the environmental conditions necessary for the establishment of any buildings or structures on the seashore or within its waters.
- Setting the necessary rules and regulations to prevent pollution of the marine environment and to preserve and control it from all that results from the various activities that occur in the exclusive economic zone or the continental shelf or the seabed subject to Palestinian jurisdiction.

- Setting the necessary rules and regulations to prevent pollution of the marine environment through dumping.
- Setting the necessary rules and regulations to prevent or limit pollution of the marine environment resulting from ships in Palestinian ports and territorial waters.

- **Regarding the protection of nature, archaeological and historical areas**

The Palestinian legislator aims to protect nature and archaeological and historical areas within the following rules, principles and objectives - texts of Articles (40-44):

- Establishing the foundations and standards for preserving, monitoring and announcing nature reserves and national parks, and establishing, defining and monitoring national parks.
- Determining the conditions necessary to preserve biodiversity in the State of Palestine.
- Establishing the foundations and standards that ensure identifying forest and wild plants and trees that are prohibited from being picked, harvested, destroyed or cut down temporarily or permanently in a manner that ensures their survival or continuity.

2. How to Deal with Environmental Violations Committed by Citizens of the Occupying State (and Settlers)

The legal and institutional framework for environmental protection in the Occupying State⁸

This Section of the Manual deals with the legal means and procedures available to prosecute perpetrators of environmental violations and crimes by citizens of the Occupying State (and settlers) in the Palestinian territories.

Since the vast majority of these violations are committed in Area C, which is under the legal and civil control of the Occupying State, it will be clarified that the laws of the Occupying State regarding the protection of environmental quality are the ones that apply in this area in reality to citizens of the Occupying State - as will be clarified later. Hence, the Palestinian can initiate legal proceedings against the violators through the law enforcement institutions of the Occupying State, including the courts of the Occupying State.

It will be clarified that the Palestinian courts do not have the authority to try citizens of the Occupying State except in certain cases, and the authority of the Palestinian police does not extend to Area C.

As for foreign companies and foreign individuals (except for those with the right of return - who are not Israelis), the Palestinian judiciary can adjudicate the cases brought against

⁸ This section aims to clarify the legal reality applicable to citizens of the Occupying State, with regard to environmental protection and environmental violations in the Palestinian territories, as it stands (de facto). The clarification of environmental rights according to the laws of the Occupying State does not in any way constitute legitimization. Concerned parties may use the guide in accordance with their political and strategic vision.

them. The same applies to Palestinians who cooperate with citizens of the Occupying State and participate in committing environmental violations and crimes that take place in the Palestinian territories.

For a detailed analysis of the law applicable in the context of environmental offenses committed by citizens of the Occupying State (and settlers), see Chapter Two – ‘The Legal Framework Regulating the Environment and Applicable to Israelis in the Palestinian Territories’ of this Manual.

What are the environmental rights of citizens according to the laws of the Occupying State?

The Occupying State's laws do not clearly define citizens' environmental rights, such as the right to a clean and quality environment, in contrast to Palestinian law. However, the laws do provide definitions for various environmental violations, and the right of the affected party to demand the cessation of damage and/or compensation. In addition, the issue of environmental justice has been referred to in the rulings of the Occupying State's courts, which have begun to adopt this term. However, this right remains uncoded in the Occupying State's legislation, particularly the Basic Laws.⁹

Who are the authorities responsible for environmental protection in the Occupying State?

There are several bodies responsible for protecting the environment in the Occupying State, the most important of which are the following:

- **The Ministry of Environmental Protection**¹⁰ (and the Civil Administration in Judea and Samaria - Nature Conservation and National Parks Affairs, see below): Coordinates work on issues related to the environment, on the preservation and protection of the environment, the preservation of human health, the curbing of the depletion of natural resources, the prevention of the exacerbation of climate change, the reduction of pollution, the promotion of awareness and behavior on environmental issues, and the ensuring of the sustainable development of natural resources.
- **Nature Conservation and National Parks Authority**
- **Local Authorities**

⁹ https://m.knesset.gov.il/Activity/Constitution/Documents/H29-12-2004_12-07-14_aichut1.rtf

¹⁰ <https://www.gov.il/he/departments/units/environment-unit>

The following entities:

What is an environmental crime?

According to the laws of the Occupying State, the most comprehensive definition of environmental nuisances/risks is contained in the Environmental Risks Prevention (Civil Lawsuits) Law of 1992, which defines “environmental hazard” as including the following: air pollution, noise, odor, water pollution, seawater pollution, waste pollution, hazardous materials pollution, radiation pollution, damage to the coastal environment, asbestos hazard, damage to a protected area, damage to a tree or mature tree, or damage to a forest or damage to a protected natural value, all when this is in violation of a law, order, plan, work permit or any other permit or license, or when there is harm to a person’s health or causing real suffering to a person.

Among the common environmental violations, they include environmental pollution of all kinds, which is mostly divided into three categories:

- Air pollution resulting from the emission of gases and chemicals.
- Pollution of water sources resulting from the discharge of industrial wastewater.
- Soil pollution due to the use of pesticides and fertilizers, Soil pollution due to the use of pesticides and fertilizers. This is only a partial list.



What are the environmental violations and infringements under the environmental law of the Occupying State?

Most of the terms for environmental offences are defined in Article 1 of the Environmental Risks (Civil Claims) Act, 1992, including: air pollution, noise pollution, odour pollution, water pollution, seawater pollution, waste pollution, hazardous substances pollution, radiation pollution, damage to the coastal environment, asbestos hazard, damage to a protected area, damage to a prepared tree or to a mature tree, damage to a forest or damage to a protected natural value, all when it is contrary to legislation, an order, a plan, a business license or any other permit or authorization, or when there is damage to a person's health or causing real suffering to a person.

Type of violation/type of environmental violation	Definition
Tree damage	“Destruction of a protected tree or mature tree” - cutting down a protected tree or mature tree contrary to the instructions contained in the Forestry Act; in this regard, “protected tree”, “cutting down”, and “mature tree” - as defined in the same order. ¹¹
Forest damage	“Forest damage” - committing an act in an area designated for forests as defined in the Forest Law, contrary to the provisions of Article 5 of this Order. ¹²
Air pollution	"Air pollution" – the presence of a pollutant in the air, including the presence mentioned above, that constitutes an exception to air quality values, or the emission of a pollutant that constitutes an exception to emission values. "Abnormal air pollution" – the presence of a pollutant in the air that constitutes an exception to warning values or poses a risk of harm to public health. ¹³
Water pollution	“Water pollution” - a change in the properties of water in a water source from a physical, chemical, sensory, biological, bacteriological, radiological or other point of view, or a change that makes the water

¹¹ Article 1 of the Environmental Hazards Prevention (Civil Claims) Act, 1992.

¹² Article 1 of the Environmental Hazards Prevention (Civil Claims) Act, 1992.

¹³ Article 1 of the Clean Air Act, 2008.

	<p>dangerous to public health, potentially harmful to animals or plants, or less suitable for the purpose for which it is used, or intended to be used.¹⁴</p> <p>“Water Damage Event” - an event that causes or may cause actual damage to the potable water supply, the quality of the water as stated, or the ability of the water source and potable water infrastructure to be used for its intended purpose.¹⁵</p> <p>“Seawater Pollution” - as defined in the Prevention of Seawater Pollution by Oil Act [New Version], 1980, the Prevention of Sea Pollution (Waste Disposal) Act, 1983, and the Prevention of Seawater Pollution from Land-Based Sources Act, 1988.</p>
Use of hazardous materials	<p>“pollution by hazardous substances” – pollution by hazardous substances mentioned in Part A of the First Addendum to the Control of Goods and Services (Transport and Towing Services) Order, 1978.¹⁶</p>
Waste pollution	<p>“Waste pollution” – throwing a solid, partially solid, liquid or gaseous substance into a container, in a place not provided for by law, and also burning waste as defined in Article 2A of the Maintenance of Sanitation Act, 1984, contrary to the provisions of this Article, for this purpose, “dumping” – including throwing, pouring, leaving, leaving or otherwise causing dirt.¹⁷</p>
Environmental disturbance	<p>No person shall cause loud or unreasonable noise, from any source, if it disturbs or may disturb a nearby person or passer-by.¹⁸</p>

¹⁴ Article 20A of the Water Law of 1959.

¹⁵ Article 18A of the Water Law of 1959.

¹⁶ Article 1 of the Environmental Hazards Prevention (Civil Claims) Act, 1992.

¹⁷ Article 1 of the Environmental Hazards Prevention (Civil Claims) Act, 1992.

¹⁸ Article 2 of the Prohibition of Hazards Act, 1961.

Odours	No person shall cause a strong or unreasonable odour, from any source, if it disturbs or may disturb a person nearby or a passer-by. ¹⁹
Radiation pollution	“Radiation contamination” - contamination by ionising radiation as defined in the Pharmacists (Radioactive Elements and Products) Regulations, 1980 or by non-ionising radiation as defined in the Non-Ionising Radiation Act, 2005. ²⁰
Asbestos pollution	“Asbestos hazard” - as defined in the Asbestos and Harmful Dust Prevention Act 2011. ²¹
Damage to a protected area	“Injury in a protected area” - any of the following: (1) A violation within the meaning of Article 30(d) of the National Parks Act, in contravention of the provisions of that Article; (2) Carrying out a construction operation or any other operation aimed at frustrating the designation of a specific area in the approved plan as a national park or nature reserve as defined in the National Parks Act, in contravention of the provisions of Article 25 of the said Act. ²²
Damage to the coastal environment	“Damage to the Coastal Environment” - as defined in the Coastal Environment Conservation Act, 2004. ²³
Damage to the protected natural value	“Damage to protected nature value” - damage to protected nature value as defined in Article 33(c) of the National

¹⁹ Article 3 of the Prohibition of Hazards Act, 1961.

²⁰ Article 1 of the Environmental Hazards Prevention (Civil Claims) Act, 1992.

²¹ Article 1 of the Environmental Hazards Prevention (Civil Claims) Act, 1992.

²² Article 1 of the Environmental Hazards Prevention (Civil Claims) Act, 1992.

²³ Article 1 of the Environmental Hazards Prevention (Civil Claims) Act, 1992.

	Parks Act, contrary to the provisions of this Article. ²⁴
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What is the legal liability arising from crime and environmental damage?

Environmental violations are subject to the law and entail civil and criminal liability.

See below for details on the legal measures that can be taken against violators under various laws.

What to do in the event of any environmental violation?

Available legal procedures:

International track:

The analysis described above about how the laws of the Occupying State are applied in the Palestinian territories can be used as a violation of international law and a failure to abide by international treaties, which can form the basis for filing a lawsuit in international courts against the Occupying State for not applying the environmental laws in force in the occupied territories and not protecting the environmental rights of citizens under occupation..

Also, any person affected by an environmental hazard (e.g., air pollution, noise, etc.) can file lawsuits against the polluters in several ways. The injured party has the right to file a civil lawsuit against the party polluting or causing an environmental hazard, and in the case of air pollution, causing a strong odor, or causing noise hazards, it is also possible to file a criminal complaint.

Civil track:

Claims filing options in the civil track include:

- a. **Filing a civil complaint with the relevant authorities:** such as the Ministry of Environmental Protection,²⁵ other environmental protection institutions, local authorities, or the police.
- b. **Filing a private lawsuit for damages:** Under Article 44(a) of the Torts Law (New Version), 1968²⁶ (hereinafter: "**the Torts Law**") ('nuisance to the individual'), or

²⁴ Article 1 of the Environmental Hazards Prevention (Civil Claims) Act, 1992.

²⁵ Link for submitting complaints by the public: <https://govforms.gov.il/mw/forms/ContactUsNew@sviva.gov.il - !contactUs>

²⁶ Article 44 of the Torts Act provides for the possibility of making a claim for compensation for nuisance to an individual, which is defined as follows: "Nuisance to an individual occurs when a person acts in a way that actually interferes with the use or enjoyment of another person's property. In order to claim compensation for nuisance to an individual, the

other laws that allow this possibility, a lawsuit may be filed for damages resulting from an environmental offense/crime committed. Compensation may only be claimed if the plaintiff suffered damage.

Note: Some environmental protection laws require that the Minister (of Environmental Protection) be notified of the plaintiff's intention to file a lawsuit, and an indictment has not been filed on behalf of the Attorney General within 60 days thereafter.

- c. Filing a **private lawsuit** to stop environmental hazards: for example, to stop or prevent pollution. Through a civil lawsuit, the plaintiff may request the court to issue a **judicial order**, including the following:
- A prohibition order– to stop the polluting activity.
 - Order to remedy damage – Ordering the polluter to take a specific action to remedy the pollution.
 - Order to rectify disfigurement – Ordering the polluter to rectify the disfigurement or restore the situation to its original condition.

Articles 71-73 of the Torts Law allow the court to issue orders, as follows:

Article 71 states: "Every civil court within its jurisdiction may grant a judgment for violations under this Law, subject to the provisions of any law applicable to that court, and may issue an injunction for violations even if no compensation is sought, compensation is awarded, or any other judgment is made."

Article 72. "An order may be an order to do something or an order not to do something, for the time being or forever. Among the conditions for issuing an order, Article 73 states: "The court will not make an order for a period of time unless it is satisfied, in its opinion, based on a written statement or otherwise, that there is a genuine issue to be resolved, that the plaintiff will almost certainly be entitled to compensation, and that it will be difficult or impossible to achieve full justice at a later stage if an order for the time being is not made."

- d. Bringing a **claim against the directors of the company** that committed the environmental offense: A private claim against a polluting company may include the executives and directors of that company as additional defendants, and they will often have to prove that the offense was not committed with their knowledge and that they took reasonable measures to prevent it.²⁷
- e. Bringing a **class action** to address an environmental hazard, in accordance with the Class Actions Act 2006.²⁸

claimant must prove that he or she has suffered damage." Article 76 provides for the court's authority to award damages to the injured party.

²⁷ As many companies in the industry have started to operate internal control mechanisms to prevent environmental pollution.

²⁸ https://www.nevo.co.il/law_html/law00/74020.htm

- f. Bringing a **claim to represent a group** of affected persons: by a specific organization.²⁹

Other possibilities that must be examined:

- a. The possibility of filing a lawsuit against the local authority, the Ministry of Environmental Protection, or the state.
- b. The possibility of filing a lawsuit against the bank that provided the loan to the company and the insurance company that issued the insurance policy to the company causing the damage.
- c. The possibility of filing a lawsuit against a foreign company.
- d. Legal prosecution (civil and criminal) against any Palestinian entity (natural or legal person) cooperating with an entity from the Occupying State causing the damage.

Criminal track:

- a. Filing a **criminal complaint**: The affected party has the right to file a criminal complaint, for example in the case of air pollution or causing a strong or unreasonable odor.

Causal relationship:

When filing a civil lawsuit or a criminal complaint, the injured party/plaintiff must prove the following:

- a. **The damage** resulting from the environmental violation.
- b. **The causal relationship** between the hazard/violation and the damages suffered.³⁰

²⁹ The claim may be filed by the entities/institutions listed in the appendix to the law, or by a registered association whose primary purpose is to protect the quality of the environment and at least one of its members is a right holder - Article 6(c) of the Environmental Hazards Prevention (Civil Claims) Law, 1992. The entities listed in the appendix are the following: 'The Council for National Parks, Nature Reserves and National Sites', 'The Authority for the Protection of Nature and National Parks', 'The Society for the Protection of Nature', 'The Council for a Beautiful State of Israel', 'Adam Teva and Din - The Israeli Society for Environmental Protection', 'Life and Environment - The Umbrella Organization of Environmental Activists', 'The Israel National Fund (Kern Kemet)', 'Tzalul - The Association for Environmental Quality', 'Green Now' and 'Citizens for the Environment'.

³⁰ It is often difficult for a plaintiff to prove causation. Courts have previously rejected the Kishon divers' claim against Haifa Chemicals Ltd., the Haifa Municipality, and the oil refineries, as well as the claim of residents living near factories in Ramat Hovav who suffer from high rates of illness. The plaintiffs failed to prove a causal link between the pollution and their illnesses. In the court's view, it must be proven that the illness was not caused by another substance and/or factor, or by other places visited by the plaintiffs—a difficult or even impossible task. Meanwhile, in 2019, Citizens for the Environment filed a request for approval of a class action lawsuit against 30 entities and companies alleging that they were emitting hazardous pollutants into the air in Haifa Bay. This request was not immediately rejected—a first achievement for the plaintiffs and one that could open the door to further lawsuits.

Precautionary measures:

In most cases, before resorting to court with a civil suit, the injured party must first contact the local authority³¹ and the polluting party to demand that they stop the risks. If these measures do not help stop the environmental pollution, the request must be referred to the Ministry of Environmental Protection.³²

Who can initiate criminal proceedings regarding environmental violations?

The Ministry of Environmental Protection has multiple powers, as outlined in the Environmental Protection (Supervisory and Enforcement Powers) Law of 2011.

The Environmental Quality Unit of the Civil Administration is responsible for the area (extending from Mount Gilboa in the north to Mount Hebron in the south, and from the Jordan Valley in the east to the adjacent plains in the west). The office works to promote environmental protection and conservation in the area, and to manage the environment, natural resources, and environmental risks within the complex geographical and administrative context of a transboundary environment. The office works to regulate environmental issues, prevent and mitigate environmental risks, and increase awareness and cooperation among all parties involved in these issues. In addition, the office handles environmental planning and the implementation of environmental aspects and considerations within the Roads and Transport Authority and its subcommittees. It also provides professional opinions to various parties, reviews environmental plans, environmental impact reviews, and environmental documents. It also addresses environmental risks, develops environmental legislation adapted to the needs of the region, and implements and amends environmental legislation applicable in Israel in the Judea and Samaria region. The unit also works to implement environmental risks by the competent authorities in accordance with the laws in force in the region. To this end, the unit works in coordination and cooperation with representatives of the Palestinian Authority. In addition, local authorities have the right to file a criminal complaint in the event of an environmental violation within their jurisdiction.

³¹ Each local authority has a mandatory environmental quality committee: The Municipalities Law Amendment Act (No. 98) Establishing Environmental Quality Committees in Local Authorities provides for the establishment of an environmental quality committee whose role is to "direct and plan activities in areas related to preserving environmental quality and ensuring sustainable development and use of the environment" (Article 1149j).

³² The Ministry of Environmental Protection's executive powers and administrative procedures are codified in the Environmental Protection (Supervisory and Enforcement Powers) Law of 2011. Generally, the Ministry of Environmental Protection is the body supposed to address pollution, but it sometimes fails to do so due to multiple pollutants and lack of enforcement. After all these steps, if no action is taken by the authorities to prevent or remove the nuisance, the plaintiff or claimants may be able to resort to court. The Ministry's 2019 report indicates weaknesses in oversight procedures, insufficient administrative procedures, and insufficient enforcement, as well as in the context of monitoring and documentation. Furthermore, the majority (77%) of criminal cases between 2014 and 2018 were closed without a criminal case being opened. <https://www.mevaker.gov.il/sites/DigitalLibrary/Documents/69b/2019-69b-224-Sviva.pdf>

In addition to the above, according to Article 6(a) of the Environmental Hazards Prevention (Civil Claims) Law, 1992 (hereinafter: the "**Civil Claims Law**"),³³ a lawsuit may be filed by the entities/institutions listed in the appendix to the law, or by a registered association whose primary purpose is to protect environmental quality and at least one of whose members is a right holder - Article 6(c). The entities listed in the appendix are the following: the National Parks, Nature Reserves, and National Sites Council, the Nature and National Parks Authority, the Society for the Protection of Nature, the Council for a Beautiful State of Israel, Adam Teva and Din - The Israeli Society for Environmental Protection, Life and Environment - The Umbrella Organization of Environmental Activists, the Israel National Fund (Kern Kemet), Tzalul - The Association for Environmental Quality, Green Now, and Citizens for the Environment.

What are the penalties for environmental crimes?

Penalties for environmental crimes vary depending on the type of offense, and various violations are listed in the various laws mentioned above. This is in addition to fines stemming from a criminal sentence and fines imposed by local authorities and other competent authorities—see Chapter Two, The Legal Framework Regulating the Environment Applicable to Citizens of the Occupying State in the Palestinian Territories, below.

What are the tools for monitoring, documenting and proving environmental crimes?

It is important that monitoring and documentation tools help prove the basic components of a legal case related to an environmental violation/crime:

- a. The party causing the damage.
- b. The damage and its causal relationship to the environmental violation/crime committed.
- c. The plaintiff's relationship to the damage caused: for example, land ownership, presence near the site of the environmental damage resulting from the violation/crime committed, or use of the affected natural resources.

It is very important that documentation allows the court to determine the time and place of the environmental violation/crime. Regarding the type of evidence, the Evidence Law [New Version] of 1971³⁴ lists the different types of evidence. In general, all types of evidence are admissible in court unless the evidence was obtained through prohibited eavesdropping or a violation of privacy. It should be noted here that in many cases, the identity of the perpetrator of the environmental violation/crime cannot be determined.

³³ Environmental Hazard Prevention Law (Civil Claims), 1992

³⁴ Evidence Ordinance [New Version], 1971

Therefore, it is important to at least obtain evidence that will later help establish their identity, such as photographs, video recordings (tracking the perpetrator's movements), fingerprints, etc. In addition, it is important to record the names of witnesses to the environmental violation/crime and, if possible, obtain their signed written testimony.

What are the administrative procedures undertaken by the competent authorities to preserve the environment?

The Ministry of Environmental Protection and local authorities have oversight and inspection powers. They can request that environmental violations be amended. If they fail to do so, they can impose fines and initiate criminal proceedings.

What are the procedures for monitoring environmental violations by the competent authorities?

The Environmental Quality Unit of the Civil Administration, in cooperation with the Nature and Parks Authority, established in 2014 the "David Unit", which is entrusted with enforcing environmental laws at the crossings to prevent the illegal transfer of waste from the Occupying State across the Green Line. This waste is often transferred to pirate landfills and create environmental hazards, such as water, soil and air pollution. Since the beginning of the unit's activity, thousands of trucks carrying illegal waste have been seized, such as: electronic waste, iron, aluminum, batteries, excess dirt, construction, mixed, tires, oils, tree trimmings, thus avoiding serious environmental damage.

Responsibilities and services in Area C:

- Issuing licenses for the transfer of hazardous materials at the crossings between the Occupying State and the West Bank (Judea and Samaria)/Gaza.
- Issuing licenses for the entry of waste into controlled sites in the West Bank area (Judea and Samaria).
- Issuing licenses for the maintenance of controlled materials to farmers and industrialists in the West Bank area (Judea and Samaria).
- Pesticide treatment and pest control (leishmaniasis, mosquitoes, etc.).
- Monitoring the valleys of the region.
- Cleaning the sides of roads and valleys.
- Handling public inquiries about environmental risks.
- Environmental planning - Inspection and supervision after environmental impact reviews in the settlements of the Occupying State in the West Bank (Judea and Samaria) and the Palestinian Authority.
- Waste treatment - Promoting waste treatment, disposal, sorting and supervision sites.

- Preserving, protecting and managing the environment in the areas of noise, pollution, air quality and radiation.
- Preserving biodiversity, water resources and land resources.
- Maintenance and administrative/professional supervision in the field of cleaning, recycling, hazardous materials and dual-use materials.
- Promoting projects and infrastructure that support the environment in cooperation with the international community by the head of the department in the Civil Coordination Office, the United Nations Department and international institutions.
- Wastewater treatment - Inspection and preliminary approval of sewage plans, which include laying collection lines and final solutions (local/regional wastewater treatment facilities), coordination and guidance of local authority planners, coordination with the Ministry of Health, initiation and planning of infrastructure projects.
- Inspection and enforcement of crossings by the 'David Unit'.
- Supervision of organized waste disposal sites (Al-Minya, Zahrat Al-Finjan).

Note: The unit is not responsible for dealing with random landfills that are burned.

The office staff prepares systems daily to develop a wide range of projects, however, due to the needs of the area, the unit also implements infrastructure improvements and promotes projects, such as: establishing wastewater treatment facilities, preventing the discharge of wastewater into the Ma'ale Ephraim valleys in Hebron, a line for draining wastewater from oxidation ponds in Ramallah, establishing a Qalqilya sewage line, establishing a system for utilizing wastewater from the Nablus Police Station, establishing crossing stations in Al-Bireh and southwest Ramallah, requests to the Sanitation Fund to assist in transporting waste, a project to collect wastewater and prevent it from flowing into valleys, treating leishmaniasis and preventing fires in pockets, etc.

The local authorities also have an important role through supervision, inspection and licensing (works, construction and public services); each local authority has an 'Environmental Committee' specialized in local environmental affairs, and inspectors who carry out the inspection role.

What are the enforcement procedures for environmental violations by the competent authorities?

See above.

What are the most important laws of the Occupying State regulating the environment?

- The Water Law of 1959³⁵

Particularly the first Article of this law. Article 3 of the law recognizes the individual's right to water.

- The Environmental Hazards Prevention Law of 1961³⁶

Related regulations and laws:

- Nuisance Prevention Regulations (Unreasonable Noise from Construction Equipment)
- Nuisance Prevention Regulations (Unreasonable Noise)
- Nuisance Prevention Regulations (Noise Prevention)
- Environmental Nuisance Prevention (Civil Suits) Law of 1992
- Occupational Safety Regulations (Occupational Safety and Health of Workers in Noise)
- Business Licensing Law (Installation of Noise Meters in Wedding Halls and Party Parks)
- Public Health Law.
- Planning and Building Act, 1965³⁷
- Business Licensing Act, 1968³⁸
- Torts (New Version) Act, 1968³⁹
- Environmental Hazards Prevention (Civil Claims) Act, 1992⁴⁰
- Hygiene Maintenance Act, 1984⁴¹
- Waste Collection and Disposal for Recycling Act, 1993⁴²
- Hazardous Substances Act, 1993⁴³
- Beverage Containers Deposit Act, 1999⁴⁴
- Tire Disposal and Recycling Act, 2007⁴⁵

³⁵ https://www.nevo.co.il/law_html/law01/235_001.htm

³⁶ https://www.nevo.co.il/law_html/law01/251_001.htm

³⁷ https://www.nevo.co.il/law_html/law01/044_001.htm

³⁸ https://www.nevo.co.il/law_html/law01/p212m1_001.htm

³⁹ https://www.nevo.co.il/law_html/law00/73015.htm

⁴⁰ https://www.nevo.co.il/law_html/law01/251_002.htm

⁴¹ <https://www.nevo.co.il/laws/-/61fbf3a862743dff317b209a>

⁴² <https://www.nevo.co.il/laws/-/6328935165d78406408aa7fb>

⁴³ <https://www.nevo.co.il/laws/-/6481ad2b8b2fae0bd46a1633>

⁴⁴ <https://www.nevo.co.il/laws/-/6481ad2b8b2fae0bd46a1633>

⁴⁵ <https://www.nevo.co.il/laws/-/61fbd27a62743dff317b1d97>

- Environmental Protection (Supervisory and Enforcement Powers) Act, 2011⁴⁶
- Chapter 21 of the Economic Efficiency (Amendments to Legislation for Implementing the Economic Plan for 2009 and 2010) Act, 2009 - and any subsidiary legislation thereunder⁴⁷
- Packaging Regulation Act, 2011⁴⁸
- The Asbestos and Harmful Dust Prevention Law, 2011 (hereinafter: "the Asbestos Law"), excluding the Hazardous Materials Regulations) Import and Export of Hazardous Waste Materials, 1994 - as legislated in the Occupying State from time to time and with detailed amendments⁴⁹
- The Civil Defense Ordinance (Judea and Samaria) 2012⁵⁰
- The provisions of the Freedom of Information Law, 1998 (with amendments to suit the region) (with amendments to suit the region)⁵¹
- The Clean Air Law, 2008⁵²

For additional details on the above laws, see: Chapter Two - 'The Legal Framework Regulating the Environment and Applicable to Citizens of the Occupying State in the Palestinian Territories'.

⁴⁶ https://www.nevo.co.il/law_html/law01/500_473.htm

⁴⁷ https://www.nevo.co.il/law_html/law01/500_192.htm

⁴⁸ <https://www.nevo.co.il/laws/-/64a6a391179d8119a06e2f40>

⁴⁹ <https://www.nevo.co.il/laws/-/665eaf4075e72021dcc331a0>

⁵⁰ Civil Defense Order (Judea and Samaria), 2012

⁵¹ Provisions of the Freedom of Information Law, 1998

⁵² https://www.nevo.co.il/law_html/law00/4071.htm

~:text=%D7%97%D7%95%D7%A7%20%D7%96%D7%94%20%D7%9E%D7%98%D7%A8%D7%AA%D7%95%20%D7%9C%D7%94%D7%91%D7%99%D7%90%20%D7%9C%D7%A9%D7%99%D7%A4%D7%95%D7%A8,%D7%94%D7%A6%D7%99%D7%91%D7%95%D7%A8%20%D7%95%D7%9C%D7%9E%D7%A2%D7%9F%20%D7%94%D7%93%D7%95%D7%A8%D7%95%D7%AA

Part Two: The Legal Framework Governing the Environment and Applicable to Citizens of the Occupying State in the Palestinian Territories⁵³

⁵³ This section aims to clarify the legal reality applicable to citizens of the Occupying State, with regard to environmental protection and environmental violations in the Palestinian territories, as it stands (de facto). The statement of

Historical overview

The Legal reality analyzed in this chapter addresses the legal possibilities for confronting environmental violations committed by any citizen of the Occupying State, including individuals (residents of the Occupying State and settlers) and companies (i.e., legal entities); or the legal claims of the responsible institutions in this regard. In this context, the regulatory legal framework applicable to citizens of the Occupying State and its settlements in the occupied Palestinian territories will be analyzed with regard to these violations and the legal avenues available for prosecuting violators of applicable laws.

Determining the available legal means that can be used to prosecute perpetrators of environmental violations from citizens of the Occupying State (including settlers) in the occupied Palestinian territories requires an analysis of the reality and legal system applicable to citizens of the Occupying State in the Palestinian territories and how it has evolved over the decades since the occupation of the Palestinian territories in 1967.

This period can be divided into the following stages:

- **The period of military rule that began in 1967:**

- Since the beginning of the occupation in 1967, a General Military Governor has been appointed for the occupied Palestinian territories. This general military governor is a high-ranking officer affiliated with the Occupying State's army. He administers the occupied territories in accordance with international treaties (most notably the Hague Convention of 1907) and international law. He is required to maintain the laws in force in the occupied Palestinian territories (laws inherited from the British Mandate and Jordanian and Egyptian laws).
- According to international law, the occupier can add additional laws aimed at protecting the rights of citizens in the occupied territories. The military governor has issued numerous circulars and military orders (in addition to the existing laws) that have become the laws governing citizens in the Palestinian territories (and are supposed to apply to all those present in the occupied Palestinian territories—including citizens of the Occupying State).
- In terms of law enforcement, the military courts, the Occupying State's army, and the Occupying State's police in the occupied Palestinian territories are responsible for law enforcement. However, over time, with the increasing number of citizens of the Occupying State (settlers) in the Palestinian territories and the expansion of settlements, the Occupying State's legislators, during the 1970s and 1980s, expanded the scope of application of the laws of the Occupying State to citizens of the Occupying State residing in the Palestinian territories. This was achieved by applying them individually and across borders, through the issuance of military orders, by adding provisions to the laws of the Occupying State, and also through the administration system of settlements and their local and regional councils.

environmental rights according to the laws of the Occupying State does not in any way constitute legitimization. Concerned parties may use the guide in accordance with their political and strategic vision.

- To strengthen this legal extension, the civil courts of the Occupying State adopted the approach that recognizes the application of the laws of the Occupying State to citizens of the Occupying State and settlers in the Palestinian territories, based on legal theories that meet the logical and 'majority of convergence' test of the court's jurisdiction, as stated in the decisions of the Occupying State's Supreme Court.
- As for East Jerusalem, it was subjected to the full application of the laws of the Occupying State.
- **The subsequent period starting from the Peace Agreements in 1994:**
 - The Peace Agreements, most notably the Oslo II Accords of 1995, laid the foundations for the distribution of powers between the Occupying State and the Palestinian side, and the responsibilities of each party. The Oslo II Accords included a Article on the commitment of both parties (the Occupying State and the Palestinians) to environmental protection, as well as legal aspects, judicial powers, and law enforcement.
 - The powers of the military governor were supposed to be transferred from the Occupying State to the Palestinian Authority and its institutions after the end of the transitional period.
 - Civilian powers were transferred to the Palestinian Authority in Areas A and B (with some limitations), but these powers were not transferred with regard to Area C.
 - In addition, the powers of the Palestinian judiciary were excluded from adjudicating cases in which one of the parties is from the Occupying State—except in special cases.
 - A joint committee was also established to monitor various affairs (civil liaison) between the Occupying State and the Palestinians—but its effectiveness diminished over time.⁵⁴
- **The period of expansion of the Occupying State's settlements in the occupied Palestinian territories:**
 - With the expansion of the Occupying State's settlements in the occupied Palestinian territories—as mentioned above—citizens of the Occupying State were exempted from the application of military government circulars and orders and from litigation in military courts.
 - With the Occupying State's refusal to transfer powers to the Palestinian Authority—as stipulated in the Oslo Accords (2)—and the outbreak of the Second Intifada, the implementation of the transitional phase of the Oslo Accords remained unchanged, and control was restored to the Occupying State to a greater extent—to this day.
 - During this phase, the Occupying State established specialized courts for local affairs in the West Bank (first instance and appeals) that replaced the Occupying State's civil courts in many legal matters related to the Occupying State's settlements in the West Bank. These courts were granted the authority to adjudicate

⁵⁴ <https://gaca.ps/index/aboutministry>

legal disputes arising in the West Bank, even if one of the parties involved was Palestinian.

- In addition, the West Bank was placed under the jurisdiction of the Occupying State's Ministry of Environmental Protection (Judea and Samaria). Following the approach of expanding the scope of application of the Occupying State's law to citizens of the Occupying State in the occupied Palestinian territories, which began before the Peace Agreements, numerous criminal and civil laws (approximately 80 laws) were added under the umbrella of this expansion, which was reinforced by decisions of the Occupying State's Supreme Court. This created a dual and separate legal system in the occupied Palestinian territories - the West Bank. The first concerns citizens of the Occupying State, who are subject to the laws of the Occupying State (mostly) and litigate in the Occupying State's civil courts or courts specializing in local affairs in the West Bank. The second concerns Palestinians, who are subject to military pronouncements and orders and litigate in military courts.
- In the context of the Occupying State's settlements in the West Bank, the Occupying State's environmental protection laws were applied there.

Based on the above, and assuming that most environmental violations occur in Area C, it can be concluded that there is a legal ambiguity regarding the legal prosecution of environmental violations committed by citizens of the Occupying State (the Israeli side) in the occupied Palestinian territories. Although the Israeli legislature has expanded the legal scope of many of the Occupying State's laws by applying them individually and across borders to citizens of the Occupying State in the Palestinian territories, and the Occupying State's courts have confirmed this trend through their decisions (using legal theories related to the legal jurisdiction of civil courts in the Occupying State, the 'majority of convergence indicators' test), with regard to environmental violations and legal disputes related to environmental violations in which one party is Palestinian (plaintiff) and the other Israeli (defendant), there are no legal precedents, and it cannot be asserted that Israeli law will be applied in these cases and that the Occupying State's courts will adopt this approach. There are legal studies focused on this context, indicating that the courts of the Occupying State adopt two tests in this context, the most important of which are studies by law professor Michael Kreni. However, they clarify that this approach is inconsistent with the principles of civil legal procedure and in the event of a conflict of laws. However, it is possible to utilize this approach and submit claims and lawsuits to the civil courts of the Occupying State and the courts of the Occupying State specializing in local affairs in the West Bank.

First: What is the legal framework governing the occupied Palestinian territories (West Bank) that applies to citizens of the Occupying State (settlers)

- a. Military rule (military publications and orders)

Immediately after Israel occupied the Palestinian territories (the West Bank, the Gaza Strip, and East Jerusalem), on June 7, 1967, the military commander issued a proclamation regarding the Israeli military's seizure of authority, establishing military rule in the area (the Palestinian territories). The military commander declared himself the new sovereign in the area and assumed all powers of "governance, legislation, appointment, and administration with respect to the area or its inhabitants"⁵⁵. Israel thus established a military government system in the occupied Palestinian territories, and under this system, a military judicial system was established in the West Bank⁵⁶. The rules of governance and applicable law were also declared, and the law that existed in the area until its occupation remained in effect, subject to promulgations and orders issued by the military commander.⁵⁷

- The Hague Convention respecting the Laws and Customs of War on Land of 18 August 1907⁵⁸ (hereinafter: ‘**The Hague Convention**’): Article 43 of the Regulations annexed to the Hague Convention stipulates that the military commander in occupied territory must comply with the local law applicable in the area prior to the occupation.

"If the authority of the legitimate power has effectively passed into the hands of the Occupying State, the latter shall, as far as possible, restore and ensure public order and security, while respecting the laws in force in the country, except in cases of extreme necessity that prevent this."

⁵⁶ Circular on Security Instructions (West Bank Area) (No. 3), 1967, Circular on Security Instructions, 1967, Circular on the Establishment of Military Courts (No. 3), 1967. [1163127.pdf \(hamoked.info\)](#)

⁵⁸ Under Article 43 of the Regulations Annex to the Hague Convention Respecting the Laws and Customs of War on Land of 18 August 1907, the Occupying State is under an obligation to take, as far as possible, all the measures within its power to restore and ensure public order and safety in the occupied territory, while at the same time observing the laws in force in the occupied territory unless strictly prevented. This obligation includes the duty to ensure respect for the applicable rules of international human rights law and international humanitarian law to protect the population of the occupied territory from acts of violence, and to refrain from permitting such violence by any third party. Convention Respecting the Laws and Customs of War on Land - International Committee of the Red Cross

- Geneva Convention relative to the Protection of Civilian Persons in Time of War of 12 August 1949⁵⁹ (hereinafter: ‘**Geneva Convention**’): The relevant articles are Articles 47, 49 and 56 in Part III: Occupied Territories:

- **Article 47:**

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

- **Article 49:**

"Individual or mass forcible transfers, as well as deportations of protected persons from occupied territory to the territory of the Occupying State or to that of any other country, occupied or not, are prohibited, regardless of their motive. Nevertheless, the Occupying State may undertake total or partial evacuation of a given occupied area if the security of the population or imperative military reasons so demand. Such evacuations shall not involve the displacement of protected persons except within the boundaries of the occupied territory, unless this is materially impossible. The population thus transferred shall be restored to its own homes as soon as hostilities in that sector have ceased. The Occupying State undertaking such transfers or evacuations shall ensure, to the greatest possible extent, that suitable accommodation is provided to receive the protected persons, that the removals are effected under satisfactory conditions of hygiene, health, safety, and nutrition, and that members of the same family are not separated. The Protecting Power shall be notified of such transfers and evacuations as soon as they take place. The Occupying State may not detain protected persons in an area particularly exposed to the dangers of war, unless The security of the population or imperative military reasons so require. The Occupying State shall not deport or transfer parts of its own civilian population into the territory it occupies.

In addition, the military governor issued a proclamation and a number of orders establishing the criminal law and military court system applied in the occupied Palestinian territories. Over time, the Israeli occupation effectively annexed East Jerusalem, and Israeli law became applicable to the residents of East Jerusalem, including Palestinians. Over the years, military law was enforced in the West Bank through the issuance of numerous proclamations and military orders. In 2009, these proclamations and orders were

⁵⁹ <http://hrlibrary.umn.edu/arab/b093.html>

consolidated into the Order Regarding Security Instructions [Consolidated Version] (Judea and Samaria) (No. 1651), 2009.⁶⁰

b. b. Application of Israeli law

Initially, military rule and the laws enacted were applied to the entire West Bank and its inhabitants. Initially, the settlers, citizens of the Occupying State, in the West Bank, like the rest of the local population, were subject to the Occupying State, the military governor, and military legislation. Justice Landau noted in the Alon Mura case: "[...] the basic criterion on which the Occupying State's governmental structure in Judea and Samaria was established in practice was [originally], as stated, and even today, the criterion of military rule, not the application of Israeli law, which encompasses the sovereignty of the Occupying State."

However, over time, and in parallel with the development of the military government system, the military governor, during the 1970s and 1980s, began expanding the application of the Occupying State's civil and administrative laws through orders applicable only to Jewish settlements in the West Bank. In this way, citizens of the Occupying State (settlers in the West Bank) were effectively excluded from the scope of military law, unlike the Palestinians, to whom military law continued to apply. Since Israeli law cannot be applied in the occupied Palestinian territories under international law, Israeli law has been applied **individually and extraterritorially** to citizens of the Occupying State residing in the West Bank, as visitors or permanent residents, and to Jews with a right of return residing in the 'Area' (the Palestinian territories), using the Emergency Regulations (Judea and Samaria - Judiciary of Offenses and Legal Aid) of 1967, which have been extended repeatedly, the most recent extension extending their validity until February 15, 2028⁶¹. This is in addition to the application of orders issued by the military governor to the settlements of the Occupying State in the West Bank and their residents, which expanded the application of an expanded set of laws of the Occupying State to various civil areas, the most important of which are the orders regulating the work of the settlement local councils: the Order Regarding the Administration of Local Councils⁶² and the Order Regarding the Administration of Regional Councils⁶³; and the Local Councils Regulations (the Regulations) (hereinafter: the "**Local Councils Regulations**"). See below for further details⁶⁴. The application of the 17 laws referred to in the appendix to the above-

⁶⁰ Order Concerning Security Instructions [Consolidated Version] (Judea and Samaria) (No. 1651), 2009 [nevo.co.il \(nyu.edu\)](https://www.nevo.co.il/nyu.edu)

⁶¹ Emergency Regulations Extension Law (Judea and Samaria - Judiciary of Offenses and Legal Aid), 1967 (Amendment No. 32), 2023 https://www.nevo.co.il/law/html/law01/319_067.htm#Seif1 • https://fs.knesset.gov.il/25/law/25_lsr_1659073.pdf (Extension until February 15, 2028).

⁶² Order Concerning the Management of Local Councils (Judea and Samaria) (No. 892), 1981.

⁶³ Order Concerning the Management of Regional Councils (Judea and Samaria) (No. 783), 1979.

⁶⁴ Local Councils Regulations (Judea and Samaria), 1981.

mentioned emergency regulations has also been expanded by adding provisions to multiple laws.⁶⁵

Through this approach, over time, approximately 80 Israeli laws were applied in various ways to the Occupying State's citizens in the settlements in the West Bank. Thus, the Israeli legislature granted the Israeli legal system parallel authority to the military government system with regard to the Occupying State's citizens in the West Bank, including criminal law, the government health insurance law, the national insurance law, tax laws, Knesset election laws, and other civil laws.

This reality led to the creation of two legal systems in the West Bank: the first applies to Palestinian cities and villages, subject to Jordanian law and military orders, and the second to Jewish local and regional councils, subject to Israeli law and enjoying the benefits and budgets provided by the Israeli legislature. This deepened the divide between Palestinian cities and villages and Jewish settlements, including in terms of resource distribution, services, infrastructure, and more. This situation created a new legal system, which Professor Amnon Rubinstein called the "Encircled Areas Law" ("Mashat HaMobalat")⁶⁶. This system has gradually been consolidated through decisions by the Occupying State's Supreme Court (Ha'aretz) and at its initiative over the past five decades. It has treated the Occupying State's settlements in the West Bank as separate islands, assuming that common sense requires the application of Israeli law there.

This approach has not been applied to Palestinians in the West Bank, who are excluded from this application, given that they are under military rule under international law and cannot be subject to Israeli law. Thus, Palestinians in the West Bank have been discriminated against, as the applicable military laws are much harsher and affect virtually all areas of life⁶⁷. This dual system has negatively impacted Palestinians' ability to seek legal representation before the military governor and their freedom of expression regarding decisions that affect their daily lives. This is reflected in various areas of life and individual freedoms: freedom of expression, freedom of movement, planning and construction, and more.

This dual system is currently in effect in the areas of the occupied Palestinian territories that remain under the authority of the military governor with regard to the civilian component (known as Area C, which constitutes 60% of the West Bank) based on The 'Peace Agreements,' in which the Occupying State's settlements were established. However, even with regard to Areas A and B, the military governor still has authority, in one form or another, and the Palestinian Authority effectively has legal jurisdiction only over Palestinians and non-citizens of the Occupying State. It should be noted here that Area

⁶⁵ Controversially, Israeli settlers in the West Bank have the right to vote in Israeli elections under the 1970 Parliamentary Elections Law, electing representatives who run the institutions that exercise the occupation, while Palestinians, who are the indigenous population subject to the Occupying State, are excluded from this right.

⁶⁶ Association for Civil Rights in Israel. 2014. 'One Rule, Two Systems of Law: Israeli Legal Systems in the West Bank'. <https://law.acri.org.il/he/33351>

⁶⁷ There are many critical writings on the duality of the legal system, but this report will not address them. Rather, the current status of the objectives of legal analysis of the system actually in effect on the ground is presented to draw conclusions and recommendations that are solely the concern of this study.

C includes Palestinian villages, uninhabited areas (which contain most of the land reserves designated for construction and development), and nature reserves.⁶⁸

See below for further details on the legal system emerging from the 'Peace Agreements.'

Here, the question arises: which laws apply to citizens of the Occupying State when they commit environmental offenses in the West Bank that result in harm to Palestinians:

- Within settlement areas (with local councils): Based on the detailed analysis above, it can be assumed that in this case, the laws of the Occupying State and the laws and local government system of the settlements apply.
- Outside settlement areas: It can be argued that Israeli law should also apply in this case. This approach can be strengthened by employing legal reasoning supported by the following legal claims:
 - Due to legal loopholes and the failure of military orders to address all matters related to environmental protection and the prosecution of violators.⁶⁹
 - The approach of expanding Israeli law and applying it to citizens of the Occupying State in the Palestinian territories, which was adopted in the context of other legal issues (as indicated in previous court decisions) - for example, labor relations between Palestinians and citizens of the Occupying State in the settlements.
 - The Israeli side's commitment to environmental protection in the Oslo II Accords.
 - The role of the Occupying State's Ministry of Environment in protecting the environment in the Judea and Samaria region - strengthens the claim that the Occupying State's institutions - including the Occupying State's courts - must fulfill their legal role in enforcing environmental protection laws in Area C of the Palestinian territories, even in cases where the plaintiff is Palestinian and the defendant is Israeli.

Second: Environmental Laws Applied to Citizens of the Occupying State (Settlers) in the Palestinian Territories (the West Bank)

There are four legal sources including legal materials related to the environment, military orders/publications, Peace Agreements, the laws of the Occupying State, and the laws of the local government of the Occupying State in the West Bank. First, all of these legal sources will be documented as follows:

a. Military orders

⁶⁸ The West Bank was divided into Areas A, B and C according to Article 11 of the Oslo II Accords.

⁶⁹ According to the Hague Convention, when there is a legal vacuum in the laws applicable in the occupied territories, the occupier may issue legal legislation to address the legal vacuum to protect citizens in the occupied territories.

The most important military publications and orders are the order that unified all orders under one roof in 2009, the Order Regarding Security Instructions [Consolidated Version] (Judea and Samaria) (No. 1651), 2009⁷⁰. The validity of which was extended until 2028.⁷¹

b. Peace Agreements

The accepted reference (to date) for the legal relationship between any Palestinian side and the Israeli side remains the 'Interim/Provisional Agreement on the West Bank and the Gaza Strip,' known as the 'Oslo II Accords,' and its annexed protocols, signed in 1995⁷² (the '**Oslo Accords**'), particularly Annex IV: The Protocol Concerning Legal Affairs⁷³ (the '**Legal Annex**'). Here, it is necessary to first clarify some relevant definitions according to the agreement:

- **Israeli:** According to the agreement, the definition of 'Israeli' also includes institutions or companies registered in Israel (Question: Can foreign companies registered in Israel be sued?) (Article 20).
- **Palestinian 'territories':** Includes all areas of the West Bank except Area C and the Gaza Strip, excluding settlements and military zones (Article 1 of the Legal Annex).
- **Areas A, B, and C:** Defined in Article 1.
- **'Army forces of the Occupying State'** includes the **'police of the Occupying State'** (Article 10).

According to the Oslo II Accords, the legal scope of the Council (i.e., the Palestinian Legislative Council) in terms of territory and the effectiveness of its powers applies to all persons except citizens of the Occupying State, unless otherwise indicated in the agreement (Article 17.2 - Legal Scope). It was added that the occupying military government will retain legislative, judicial, and executive powers and responsibilities, in accordance with international law, without detracting from the application of Israeli law to citizens of the Occupying State personally (Article 17 - Legal Scope). The agreement also referred to several issues related to the application of law, including cooperation between the Israeli and Palestinian sides (Article 17.7). From the Palestinian legal scope, it includes all areas of the West Bank and the Gaza Strip (Article 17.1), and the scope includes the land, subsoil, and waters of the area. However, authority remains with the Israeli side, through the military government, in areas not included within the scope of the areas under the legal

⁷⁰ Order Concerning Security Instructions [Consolidated Version] (Judea and Samaria) (No. 1651), 2009 nevo.co.il (nyu.edu)

⁷¹ https://www.nevo.co.il/law_html/law01/319_067.htm#Seif
https://fs.knesset.gov.il/25/law/25_lsr_1659073.pdf

⁷² The peace treaties were adopted into Israeli law through the 'Implementation of the Interim Agreement on the West Bank and the Gaza Strip (Jurisdiction and Other Regulations) Law, 1995, and the Proclamation on the Implementation of the Compromise (Judea and Samaria) (No. 7), 1995., [https://he.wikisource.org/wiki/%D7%9E%D7%A0%D7%A9%D7%A8_%D7%91%D7%93%D7%91%D7%A8_%D7%99%D7%99%D7%A9%D7%95%D7%9D_%D7%94%D7%A1%D7%9B%D7%9D_%D7%94%D7%91%D7%99%D7%A0%D7%99%D7%99%D7%9D_\(%D7%99%D7%94%D7%95%D7%93%D7%94_%D7%95%D7%94%D7%A9%D7%95%D7%9E%D7%A8%D7%95%D7%9F\)](https://he.wikisource.org/wiki/%D7%9E%D7%A0%D7%A9%D7%A8_%D7%91%D7%93%D7%91%D7%A8_%D7%99%D7%99%D7%A9%D7%95%D7%9D_%D7%94%D7%A1%D7%9B%D7%9D_%D7%94%D7%91%D7%99%D7%A0%D7%99%D7%99%D7%9D_(%D7%99%D7%94%D7%95%D7%93%D7%94_%D7%95%D7%94%D7%A9%D7%95%D7%9E%D7%A8%D7%95%D7%9F))

⁷³ Oslo II Accord: Israeli-Palestinian Interim Agreement on the West Bank and the Gaza Strip (a.k.a. "Oslo II") - Question of Palestine (un.org)

authority of the Palestinian Council, or wherever authority and responsibility have not been transferred to the Council, and also with regard to citizens of the Occupying State—as mentioned above. In this regard, the military government of the Occupying State must retain legal authority and responsibility, both judicial and executive, in accordance with international law (Article 17.4). It was clarified that this provision does not derogate from the laws of the Occupying State applicable to the citizens of the Occupying State.

It is important to note that several clauses of the agreement clarify that Israel and the Council must exercise their powers and responsibilities under this agreement, taking into account accepted international standards and principles of human rights and the rule of law (Article 19).

Despite the clarifications referred to above, the Oslo II Agreement has not been implemented in practice, and powers have not been fully transferred to the Palestinian Authority. Despite the passage of years, the situation remains unchanged, and we are still in the transitional phase. Even the joint committees have officially ceased to function.

The legal authority to prosecute Israel (as a state) and its institutions by the State of Palestine was also excluded. But can it be prosecuted by Palestinians as individuals or institutions?

Despite the Peace Agreements, the legal system governing most of the Palestinian territories remains military rule, as detailed above.

c. Laws of the Occupying State:

Laws relating to environmental quality (protection):

These laws are referred to in Appendix No. 9 - Environmental Quality Laws to the Ordinance Regarding the Administration of Local Councils, in the Volume of Laws of Local Authorities in Judea and Samaria - Amendment of 2022. Article (2) of the Appendix states that anyone authorized to act under the environmental laws of the Occupying State is entitled to act as such—meaning that the powers available to those authorized within the Occupying State extend to the local authorities in the West Bank. Article (3) of the Appendix also states that wherever the environmental laws refer to "Magistrate's Court," it shall be replaced with "Local Affairs Court of First Instance," and wherever the phrase "District Court" is written, it shall be replaced with "Local Affairs Court of Appeals." The definition "Local Authority" shall be added—the local council and the regional council as defined in the Ordinance Regarding the Administration of Regional Councils (Judea and Samaria) (No. 783), 1979. In other words, the scope of application of the laws applicable to local authorities within Israel has been expanded to include the local and regional councils of the settlements. The most important of these laws (in chronological order):

- The Water Act of 1959

Particularly the first Article of this Act. Article 3 of the Act recognizes the individual's right to water.

- The Environmental Hazards Prohibition Act of 1961

This Act aims to prohibit the emission of noise or strong odors, as defined in Articles 2 and 3 of the Act, and to punish anyone who violates the order. Article 9 of the Act requires consideration of the prohibition in this Act when granting licenses to factories.

One of the most important provisions of the Act is Article 10, which defines evidence in any legal proceeding under this Act as follows:

- "(1) A hazard defined as strong or unreasonable in the regulations under Article 5, presumed to cause annoyance to a person in the vicinity, unless the contrary is proven;
- (2) The fact that the accused or defendant has done everything prescribed by the instructions contained in Article 8 shall constitute a good defense."

The court's powers, as stated in Article 10A, are: "(a) If an indictment or conviction is made for an offence under this Act, the court may make an order to do or an order not to do, and such other relief as it considers appropriate in the circumstances before it, including the execution of a danger removal order in accordance with Article 1B, all to prevent, stop or reduce the risk of strong or unreasonable noise or odors. (b) For orders made by the court under Subsection (a), the provisions of Articles 23(b) to (h) of the Water Act, 1959, shall apply, with the required changes. (c) A court which has convicted a person of an offence under this Article may, in its judgment, in addition to any penalty it imposes, order that he pay the expenses incurred in removing the danger, if the plaintiff or the person removing it has applied to the court. (d) If more than one person is convicted of an offence, the court may, in the order referred to, order all or some of the expenses to be paid jointly or severally or apportion the payment between them separately, as it considers appropriate in the circumstances. The order.

The penalties for violating the law are set forth in Article 11, which includes imprisonment for a period of up to six months or a fine, as stipulated in Article 61(a)(4) of the Penal Code of 1977. If the offense is committed by a company, the penalty shall be double the aforementioned fine. If the offense is committed in an aggravating manner or under aggravating circumstances, the penalty shall be three years' imprisonment or double the fine stipulated in Article 61(a)(4) of the Penal Code. If the offense is committed by a company, the penalty shall be four times the fine stipulated in Article 61(a)(4) of the Penal Code.

Article 11A1 grants a police officer the authority to enter a place to stop the noise. If the resident of the place refuses to stop the aforementioned offense after being instructed to do so, the police officer may take the necessary measures to stop the offense.

Article 11B of the law also authorizes the Minister (the Minister of Environmental Quality) to order the person who caused the damage or the owner of the property from which the damage occurred to stop it or remove it to a specific location, in the manner and within the period stipulated in the order. The person who caused the damage or the owner of the property where the damage occurred, in accordance with the order mentioned in paragraph (1), shall be ordered to restore the property to its original condition, if possible and according to the circumstances.

Article 11C imposes liability on company officials (a director or partner, excluding limited partners) if a crime is committed under this law by a company, unless it is proven that they did everything possible to fulfill their duty.

Article 11E grants the right to anyone harmed (a person, a local authority, or one of the public and professional bodies established in the Annex to the Environmental Hazards

Prevention (Civil Actions) Law, 1992) due to a violation of the law to file a complaint with the court pursuant to Article 68 of the Criminal Procedure Code (after notifying the Minister of their intention to do so and an indictment is not filed on behalf of the Attorney General within 60 days thereafter).

Article 13 also allows anyone who has been the victim of a nuisance to file a claim pursuant to the Civil Torts Law, 1944, as any violation of the provisions of this law is considered 'nuisance to the individual'. Finally, it is worth noting that the law applies to the state, i.e. the State of Israel, according to Article 11(a)(1), but does not apply to the following entities, Article 11(b)(2): (1) Facilities of the Atomic Energy Commission (2) To security or operational activity or to the results of said activity, of - (a) Units under the Prime Minister's Office, whose main activity is in the field of state security or its foreign relations; (b) Units under the Ministry of Defense, whose main activity is in the field of state security; (c) Forces of the Occupying State's army, except that such activity will be carried out, as far as possible, in accordance with the provisions of this law. The provisions of this law shall not apply to any government company to which the business areas of any of those mentioned in paragraph (b)(2) were transferred after April 1, 1997.

Relevant regulations and laws:

- Nuisance Prevention Regulations (unreasonable noise from construction equipment)
- Nuisance Prevention Regulations (unreasonable noise)
- Nuisance Prevention Regulations (noise prevention)
- Environmental Nuisance Prevention (Civil Suits) Law of 1992
- Occupational Safety Regulations (Occupational Safety and Health of Workers in Noise)
- Business Licensing Law (Installation of a Noise Meter in a Wedding Hall and Party Park)
- **Public Health Law.**
- **The Planning and Building Act, 1965**
- **The Business Licensing Act, 1968**
- **The Torts (New Version) Act, 1968**

The definition of 'nuisance to a person' is defined in Article 44(a) as follows: "A nuisance to a person is when a person acts, conducts his business, or uses the land he occupies in such a way as to interfere with the reasonable use or enjoyment of another person's land, having regard to his rights, position, and nature; but no person shall be liable for damages unless he suffers damages from the person." Article 76 of the Act also provides for the court's authority to award damages to the injured party.

- **Environmental Hazards Prevention (Civil Claims) Act, 1992**

This Act is one of the most important environmental protection laws, and defines "environmental hazard" in Article 1 to include- "air pollution, noise, odour, water pollution, seawater pollution, waste pollution, hazardous substances pollution, radiation pollution, damage to coastal environment, asbestos hazard, damage to protected area, damage to a tree or mature tree, damage to forest or damage to a protected natural value, all when it is contrary to a legislation, order, plan, work permit

or any other permit or licence, or when there is harm to a person's health or causing real suffering to a person". The above terms are clarified in the definitions in the same Article of the Act.

The powers are granted in Article 1 of this Act to the Minister of Environmental Protection.

One of the most important provisions of the law is that it allows, in Article 2, anyone who has been harmed or may be harmed by an environmental hazard or upon the request of an entity or association (as mentioned in Article 6) to submit a request to the court (Magistrates Court) to issue an order requiring the person who caused or is about to cause an environmental hazard (hereinafter: "the cause of the hazard") to take one or more of the following actions - Article 2(a):

- (1) Avoid the act that causes or is about to cause an environmental hazard, or stop doing it;
- (2) Correct the distortion or restore the situation to its original state before causing the environmental hazard (hereinafter: "correct the distortion");
- (3) Do everything necessary to prevent the recurrence of the environmental hazard.

Article 2(b) emphasizes that the definition of "act" - including omission - includes failure to do what is required.

Article 6(a) adds that the lawsuit may be filed by the entities/institutions mentioned in the appendix to the law, or by a registered association whose main objective is to protect environmental quality and at least one of its members is a right holder - Article 6(c).

The law stipulates in Article 5 that no person may file a lawsuit in accordance with Article 2, except after 60 days have passed from the day the Authority (Minister of Environmental Protection) and the offending party have been notified of their intention to file the lawsuit, and these two conditions are met: (1) The risk-taker has not taken actual steps to stop the environmental risk or prevent its recurrence or correct the distortion, as the case may be; (2) The Authority has not taken actual steps within its powers to stop the environmental risk or prevent its recurrence or correct the distortion, as the case may be.

Article 3 indicates that when deciding on the request to issue an order in accordance with Article 2, the court shall consider the degree of harm that has been or may be caused to the plaintiff or to the public interest, compared to the harm that may be caused to the offending party or the public. That is, the benefit due for issuing the order.

The court may, according to Article 8(a), impose on the person causing the damage to correct the distortion, within a specified time, and on the person causing the damage to implement it; and the court will not order what is mentioned except after giving the authority an opportunity to present its point of view.

In the event of a 'recurring environmental hazard', the court may, in a recurring environmental hazard claim, require the person causing the hazard to compensate the plaintiff for the damages he suffered due to the recurring environmental hazard.

The law also allows for a class action, whereby a person who has been harmed or is about to be harmed by an environmental hazard, as well as the authority or association as mentioned in Article 6, may demand the issuance of an order as mentioned in Article 2 on behalf of a group of persons who have been harmed or are about to be harmed by this hazard.

Article 16 imposes liability on the company's officials (a director or partner - excluding a limited partner) if an act that caused damage according to this law was committed by a company, unless it is proven that the act occurred without his knowledge and that he took all reasonable measures to prevent the act.

- [The Maintenance of Hygiene Act, 1984](#)
- [The Waste Collection and Disposal for Recycling Act, 1993](#)

Article 2 stipulates that a local authority is responsible for allocating premises within its jurisdiction for the establishment of recycling centers, installing recycling facilities and designated containers, and establishing arrangements in its bylaws for the collection and removal of waste for recycling within its area. Article 3 also stipulates that business owners and homeowners may be required to install a designated container or recycling facility. Article 7 prohibits any person from removing, transporting, or transferring waste for recycling except in accordance with the arrangements or by a person authorized by the local authority. Violation of this Act is subject to fines under Article 8 of the Act, and if the violation persists, an additional fine may be imposed under Article 61(c) of the Penal Code 1977. Under Article 10, the court may order a person convicted of violating the Act, in addition to any penalty imposed, to pay expenses incurred as a result of committing, preventing, or reducing the violation—that is, damages resulting from the violation. Article 11 imposes liability on company officials (managers or partners, excluding limited partners) if a crime is committed by a company under this law, unless it is proven that the crime was committed without the company's knowledge and that it took all reasonable measures to ensure compliance with the provisions of this law. It is important to note that this law applies to the state—meaning the State of Israel. According to Article 13, the Penal Code applies to violations of this law.

- [Hazardous Substances Law, 1993](#)

This law deals with the handling of hazardous substances, including harmful chemicals and toxic substances (harmful chemicals and toxic substances are defined in Appendices 1 and 2 of the law). The Minister of Environmental Protection is empowered to classify these substances. According to Article 3 of the law, anyone who wishes to handle poisons must obtain a "toxic substances permit" from the Commissioner (the official responsible for the matter) without first obtaining the permit (except for a licensed pharmacist who sells medicinal poisons for medical purposes), including importing, marketing, and storing them. According to Article 14A, the law also imposes a tax on the disposal of hazardous waste (including burial, submersion, or burning in a manner that does not lead to resource extraction). In the event of a violation of legal procedures (related to handling, storing, and preserving hazardous substances, or in violation of the granted permit, or failure to maintain a poison register), according to Article 14B, a financial penalty may be imposed by the director of the Ministry of

Environmental Protection, the amount of which is specified in Article 14E (up to NIS 62,350 for individuals, and ranging from NIS 249,400 to NIS 997,600 for companies, depending on the company's sales volume). Article 14C of the law also stipulates that a violation of the law may lead to criminal liability (for a period of (ranging from six months to three years)). According to Article 15A, the court has the power to issue an order to do or not do something, as it deems appropriate under the circumstances, including implementing a detoxification order pursuant to Article 16A, and any other measure to prevent, stop, or mitigate the violation. Article 15B grants anyone harmed (a person, a local authority, or one of the public and professional bodies established in the Annex to the Environmental Hazards Prevention (Civil Actions) Law, 1992) by a violation of the law the right to file a complaint with the court pursuant to Article 68 of the Criminal Procedure Code (after notifying the Minister of his intention to do so and after no indictment is filed on behalf of the Attorney General within 60 days thereafter). According to Article 16B, company officials (manager or partner) are liable in the event of a violation of the law. According to Article 16C(a), the Minister may appoint an inspection committee to ascertain the causes and circumstances of a hazardous materials incident. Finally, it is worth noting that the Law applies to the State, i.e., the State of Israel, according to Article 16D(a), but does not apply to the following entities, Article 16D(b): (1) Facilities of the Atomic Energy Commission (2) To the security or operational activity, or to the results of said activity, of - (a) Units subordinate to the Prime Minister's Office, whose principal activity is in the field of State security or its foreign relations; (b) Units subordinate to the Ministry of Defense, whose principal activity is in the field of State security; (c) Forces of the Occupying State's army, except that such activity will be carried out, to the extent possible, in accordance with the provisions of this Law. The provisions of this Law also do not apply to a government company to which the areas of work of any of those mentioned in paragraph (a)(b) were transferred after April 1, 1997.

- **The Beverage Containers Deposit Law of 1999**

This law concerns the recycling of soft drinks and the importers and producers of beverage containers/bottles filled with beverages. The law requires importers and producers to place a 'duty-paying' sign on containers, collect a fee of 30 cents per container from buyers (Article 2). They are also required to collect containers for recycling. The law sets a target of collecting containers of no less than 77% of the containers sold by the supplier or producer (Article 7A), recycle 90% of what is collected, and submit periodic reports on this matter. The supplier/producer must transfer the collected fee payments to a fund (Article 7C). In the event of a violation of the law, the official may impose a fine on the supplier/producer. The law imposes criminal liability on violators, and holds managers and partners of a company liable if the company violates the law.

This law can be relied upon to prosecute suppliers and producers (citizens of the Occupying State) who fail to fulfill their obligations under this law, fail to collect containers, or dispose of them (in the Palestinian territories) in a manner that violates the law and does not recycle them at the rates required by law.

- **Tire Disposal and Recycling Law, 2007**
- **Environmental Protection Law (Supervision and Enforcement Powers), 2011**

- Chapter 21 of the Economic Efficiency Law (Amendments to Legislations for Implementing the Economic Plan for 2009 and 2010), 2009 - and any subsidiary legislation pursuant thereto
- Packaging Regulation Law, 2009
- Asbestos and Harmful Dust Prevention Law, 2011 (hereinafter: "Asbestos Law"), except for the Hazardous Substances Regulation) Import and Export of Hazardous Waste, 1994 - as legislated in Israel from time to time and with detailed changes
- Civil Defense Ordinance (Judea and Samaria) 2012
- Provisions of the Freedom of Information Law, 1998 (with amendments to suit the region) (with amendments to suit the region)
- Clean Air Law, 1998 2008

This law aims to improve air quality as well as prevent and reduce air pollution, among other things by setting prohibitions and obligations in accordance with the precautionary principle, all in order to protect human life, health and quality of life of human beings and protect the environment, including natural resources, ecosystems and biodiversity, for the public and future generations and taking into account their needs - Article 1.

This law allows for the filing of lawsuits by those affected, Article 70, as an act or omission that violates the provisions of this law is considered a civil violation, and the provisions of the Tort Law [New Version], 1992, shall apply to them, taking into account the provisions of this law.

Article 71(a) also allows bodies concerned with preserving the quality of the environment (a body entitled to file a lawsuit under Article 6 of the Environmental Hazards Prevention (Civil Lawsuits) Law, 1992), to file a lawsuit due to violations under this law by, provided that if the cause of the lawsuit is an act or omission that caused harm to a specific person, the person agrees to it.

Article 16 imposes liability on a company officer (a director or partner - except a limited partner) if an act causing damage under this law is committed by a company, unless he proves that the act was committed without his knowledge and that he took all reasonable measures to prevent the act. Article 72 imposes liability on a company officer for damage, if he was at that time an active director of the company, a partner (except a limited partner), or a senior employee. Unless he proves both: (1) the act was committed without his knowledge; (2) he took all reasonable measures in the circumstances to prevent the act.

d. Local government laws of the local authorities of the Occupying State in the West Bank

As explained above, the legal system in the West Bank (Judea and Samaria—in the context of Israeli law) is based on a complex legislative foundation that differs from that of Israel. It is primarily composed of the security legislation of the military commander in the West Bank. According to the laws of war, the military commander in the West Bank acts as a "substitute for sovereignty" and has legislative powers in the

area. However, as a general rule and in accordance with international law, he must maintain the local law that existed in the area prior to the entry of Israeli military forces. He must not amend or add to it unless there is a need to update it, such as to maintain security or to ensure the normal lives of the people living in the area. The local legal heritage consists of several sources: Ottoman legislation, mandatory (British) legislation, and Jordanian legislation, in addition to the security legislation imposed by the military commander. This set of diverse legislative rules is subject, among other things, to international law. However, the development of the Occupying State's settlements in the West Bank has led to the formation of a unique legislative fabric, aimed at regulating the civil aspects of the population, citizens of the Occupying State, living in the West Bank settlements. The main trend has become to adopt Israeli law and apply it to the settlements of the Occupying State in the West Bank, with the necessary modifications. This approach to legislation (security legislation) similar to Israeli laws is called the "Encircled Areas Law."

Since the beginning of settlement in the West Bank, and with the first proclamations issued by the military commander in 1967, a variety of Israeli legal rules have been adopted, creating parallel systems relating to various aspects, including the local government sector. Subsequently, and following the establishment of local authorities in the West Bank (Judea and Samaria), the Military Commander issued a Circular/Order Regarding the Administration of Regional Councils (Judea and Samaria) (No. 783) of 1979 and a Circular/Order Regarding the Administration of Local Councils (Judea and Samaria) (No. 892) of 1981, pursuant to which the Local Councils (Judea and Samaria) Regulations, 1981, and the Regional Councils (Judea and Samaria) Regulations, 1979 (hereinafter: "**the Councils' Regulations**" or "**the Regulations**") were issued.⁷⁴

In addition to the Military Governor, a supervisor for the settlements of the Occupying State in Judea and Samaria was appointed by the commander of the Israeli army forces in the area, in accordance with Article 1 of the Regional Councils' Regulations (Judea and Samaria), 1979, and Article 1 of the Local Councils' Regulations (Judea and Samaria), 1981.

As a general rule, the regional application of the Councils' Regulations is limited to the territory of the local authorities. The regulations are based on legislation, most of which adopts applicable Israeli law and focuses on laws relevant to the administration of local authority councils and the lives of their residents. The legal approach used in these regulations is either to replicate Israeli law with the necessary modifications or to directly refer to Israeli law.

In addition to these regulations, there is other legislation published over the years and issued by the military commander that also pertains to local governance and the lives of citizens of the Occupying State residing in the areas of local authorities in the West Bank.

As previously mentioned, there are several pieces of Israeli legislation that apply directly to citizens of the Occupying State residing in the West Bank by expanding their

⁷⁴ https://www.gov.il/BlobFolder/legalinfo/local-council-regulations-1981/he/legal_info_takanon_moatsot.pdf

application both personally and externally, including the Law Amending and Extending the Validity of Emergency Regulations (Judea and Samaria - Criminal Justice and Legal Aid), 2007⁷⁵, which directly implements Israeli legislation.

There is another practice of indirectly applying Israeli legislation to settlements and their residents, citizens of the Occupying State, living in the West Bank, such as the application of the administrative law of the authorities and labor laws.

The circulars and regulations for the local authorities of the settlements detail the formation of the local authority, its responsibilities, and its powers. Also within the context of environmental protection, they apply the laws mentioned below. Among the duties of the local authorities is municipal oversight of the settlement.

For example, the council must elect an 'Environmental Committee,' whose role is to initiate and plan actions in areas related to preserving environmental quality and ensuring sustainable development and use of the environment. The committee will submit its plans for approval to the council and will monitor the implementation of the approved plans—Article 38A of the Local Council Regulations.

From here, it is possible to examine the possibility of legal action against the local authorities in the event of a breach of their responsibilities and duty to supervise facilities in the settlement, which may commit environmental violations and cause environmental damage.

Article 118 of the Local Council Regulations also refers to the powers of the "commissioner" (the responsible person appointed as supervisor by the regional commander for the purposes of these regulations) to demand that the local authority fulfill its duties. From here, it is also possible to examine the possibility of approaching the official and demanding that he monitor the local authority's performance of its duties.

One of the most important provisions of the regulations is Appendix No. 9 - Environmental Quality Laws to the Ordinance Regarding the Administration of Local Councils, in the Volume of Local Authorities Laws in Judea and Samaria - Amended for the year 2022⁷⁶. Article (2) of the Appendix states that anyone authorized to act under environmental laws in Israel is entitled to act in this manner - meaning that the powers available to responsible commissioners within Israel extend to local authorities in the West Bank. Article (3) of the Appendix also states that wherever the environmental laws refer to "Magistrate's Court," it shall be replaced with "Local Affairs Court of First Instance," and wherever the phrase "District Court" is written, it shall be replaced with "Local Affairs Court of Appeal." The definition "Local Authority" will be added - the local council and the regional council as defined in the Ordinance Regarding the Administration of Regional Councils (Judea and Samaria) (No. 783), 1979. In other words, the scope of application of laws applicable to local authorities within Israel has been expanded to include the local and regional councils

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<https://main.knesset.gov.il/activity/legislation/laws/pages/lawprimary.aspx?t=lawlaws&st=lawlaws&lawitemid=2157502>

⁷⁶ https://www.gov.il/BlobFolder/reports/yosh-2022/he/elections_2023_07_yosh-2022.pdf

of the settlements. Hence, all of the environmental laws of the Occupying State, referred to above and their most important provisions explained, can be considered applicable to the settlements of the Occupying State in the West Bank.

The case of *Atzmon Givrin v. Minister of Defense*: This case addressed the need to protect the environment in the occupied territories, with the Supreme Court pressuring the Occupying State to apply the environmental standards in force within Israel to the settlement areas, albeit partially.

e. Responsibility of the Ministry of Environmental Protection

The West Bank (Judea and Samaria) falls under the jurisdiction of the Ministry of Environmental Protection, extending from Mount Gilboa in the north to Mount Hebron in the south, and from the Jordan Valley in the east to the Green Line bordering it in the west. The unit operates in the Judea and Samaria region, Gaza, and the Ministry of Environmental Protection's border crossings, and as the Environmental Protection Affairs Headquarters Officer Unit in the Civil Administration of Judea and Samaria. In addition, the unit implements the Ministry of Environmental Protection's policy in the Judea and Samaria region, pursuant to security legislation, within an administrative framework coordinating government activities in the territories and the Civil Administration. The unit works to promote environmental protection and conservation in the Judea and Samaria region, and to manage the environment, natural resources, and environmental risks in a complex geographic and governmental reality of environmental and cross-border pollution.

Military Order 917 is one of the orders implemented by Israel in the West Bank, granting broad regulatory authority to the Occupying State's authorities regarding the management and protection of natural resources. However, reports by local and international human rights organizations have confirmed that these laws are not strictly enforced, and there is evidence that settlement factories and the Occupying State's landfills violate environmental standards and cause air and water pollution beyond what is acceptable within the Occupying State.

In addition, based on the regulations of the local councils (of the settlements), the Director General of the Ministry of Environmental Protection issued a 2005 mandate authorizing employees of the Ministry of Environmental Protection of the Occupying State, authorized under the Business Licensing Law of 1968, to carry out their responsibilities in the Judea and Samaria area.

Third: Jurisdiction of the courts

a. Commander of the Occupying State's army

The Commander of the Israeli Armed Forces in the Area and any person appointed by him or acting on his behalf shall continue to have the powers and areas of responsibility, including legislative, judicial, and administrative powers, for each of the following:

(1) Settlements and military locations.

(2) Area C.

(3) Nationals of the Occupying State.

(4) All matters related to the external security of the Area and the security and public order of the settlements and military locations of the Occupying State.

(5) Security and public order in places under the security responsibility of the Occupying State.

(6) Other forces and areas of responsibility granted to the Army Commander of the Occupying State in the Area under the Interim Agreement, including forces and areas of responsibility not transferred to the Council in this Agreement.

b. Military courts in the West Bank - their powers:

The mandate of the military courts in the Judea and Samaria area is to enforce the rule of law by prosecuting defendants accused of security offenses or other criminal offenses committed in or intended to harm the area, and by conducting judicial review of administrative decisions, in accordance with the powers granted to them. This is done while maintaining judicial independence and ensuring a fair trial.

Under Military Order No. 1651, issued in 2009 and amending previous military orders, Israeli settlers, citizens of the Occupying State, in the West Bank are subject to the jurisdiction of the Occupying State's military courts for security matters, while the Occupying State's civil courts apply its laws in civil matters, granting settlers a legal system similar to that within Israel itself. This creates a legal distinction that affords settlers legal protection, preventing the Palestinian Authority from holding them accountable or subjecting them to Palestinian law.

Although the military orders allow Palestinians to file complaints against Israeli citizens through the Occupying State's military courts, the practical obstacles are significant. The discrimination between the rights of Palestinians and citizens of the Occupying State to access justice is pervasive, with Palestinian cases facing significant obstacles, including limited legal resources, discrimination in the courts, and challenges in gathering evidence and accessing witnesses. Reports by human rights organizations show that the percentage of cases brought against settlers that reach trial is extremely limited, and these cases often end in non-conviction or are closed due to "lack of evidence."

c. Courts competent for local affairs - their powers:

With the expansion of settlements in the West Bank and the application of a large part of the law of the Occupying State within their jurisdiction, and the adoption of legislation for local and regional councils (the above-mentioned circulars/orders) and

subsequent regulations, special courts for local affairs were established in the West Bank with two levels, first instance and appeal⁷⁷.

Three local affairs courts were established for the settlements in each of: Ariel, Kiryat Arba and Ma'ale Adumim; and one local affairs appeals court in: Jerusalem.

According to the Decree on the Jurisdiction of Courts Specialized in Local Affairs, No. 1564 of 2005, these courts have jurisdiction to adjudicate cases involving citizens of the Occupying State⁷⁸ (individuals and companies) in the area (the West Bank - defined as all parts of the West Bank) in relation to the orders referred to in the appendix to this decree, which include the civil and criminal aspects:⁷⁹

Article 126 of the Local Councils Regulations also states that (despite what is stated in any law and security law) the courts specializing in local affairs have jurisdiction to adjudicate the following cases:

- (a) According to the law and security legislation in the matters detailed in the appendix to the regulations when the subject of discussion is in the area of settlements;
- (b) In any other matter included in the regulations and their appendices;
- (c) Violation of the regulations and laws in their appendices and in any violation of the internal regulations, including violations established as a fine violation, established by the council as well as in any violation committed in the settlement area in violation of the law and the security orders detailed in the appendix to the regulations.

However, it was clarified that the matters within the jurisdiction of the courts competent in local matters, in the appendix to the publication regarding the jurisdiction of the courts competent in local matters (No. 1564), 2005⁸⁰, relate to the following:

1. The Town and Village Planning and Building Law (No. 79), 2017.
2. The Decree regarding the Town and Village Planning and Building Law (Judea and Samaria) (No. 418), 2017.
3. The Order regarding the Transportation of Goods (Judea and Samaria) (No. 1252), 1988.
4. The Decree regarding Unlicensed Buildings (Temporary Order) (Judea and Samaria) (No. 1539) - Ministerial Resolution No. 2883, 2006.
5. The Order regarding Building Supervision (Judea and Samaria) (No. 393), 1978.

⁷⁷ Proclamation establishing the Local Affairs Court of First Instance and determining the place of residence and jurisdiction (No. 3) - dated July 8, 1992, and Proclamation regarding the headquarters of the Municipal Courts of Appeal - dated June 22, 1981. See the previous reference 11 above, Local Councils Regulations, pp. 777-778,

⁷⁸ An "Israeli" is defined as one of the following: (1) a person registered in the Population Registry in Israel under the Population Registration Law, 1965, as in force in Israel; (2) a person whose place of residence is in the Area and who is a citizen of the Occupying State or is entitled to immigrate to Israel under the Law of Return, 1958, as in force in Israel; (3) a company registered in Israel or a company established under the law in Israel.

⁷⁹ Article 4A of this Order states that in a criminal trial under this Order, the prosecutor shall be the commander of the IDF forces in the area.

⁸⁰ https://www.gov.il/BlobFolder/generalpage/laws-yosh/he/District_planning_institutions_Judgment_order.pdf

Therefore, these courts are competent in local matters such as planning, building and licensing.

d. Civil courts within the Occupying State - their powers:

As mentioned in the previous sections, civil courts within Israel have, in many cases, adjudicated cases related to settlers and settlements, and even to the relationship between Palestinians and settlers, for example, in labor cases.

In addition, jurisdiction was granted to the courts of the Occupying State through the Emergency Regulations Amendment and Extension of the Validity of the Regulations (Judea and Samaria - Judiciary of Crimes and Legal Aid), 2007⁸¹, which affirmed the following:

"(a) In addition to what is stated in any law, the court of the Occupying State shall be empowered to adjudicate, in accordance with the law in force in Israel, any person present in Israel due to his acts or omissions that occurred in the area, as well as an Israeli person due to his acts or omissions that occurred in the territory of the Palestinian Council, in all cases if the act or omission constitutes an offense within the jurisdiction of the courts of the Occupying State.

(b) The provisions of the law in force in Israel regarding offenses under the rules of choice of legal jurisdiction and administrative offenses also committed by citizens of the Occupying State in the area or the territory of the Palestinian Council, which, had they occurred in the Occupying State, would have been considered offenses in this regard.

(c) These regulations shall not apply to those who, at the time of the act or omission, were residents of the area or residents of the territory of the Palestinian Council who were not citizens of the Occupying State.

(d) The authority to try a person under this regulation shall be in the hands of the regional court, and the trial shall be held in the district court closest to the place where the offense was committed." In which the crime or in the court, the place of residence of the accused or the place where the accused was arrested must be within its jurisdiction.

(e) No person shall be tried in Israel for an act or omission for which he was acquitted or convicted in a judgment rendered before him by a military court or another court in the Area. However, if the act or omission caused the death of a person, he shall also be tried for that act if he was convicted, as aforementioned, of another crime for the same act or omission.

(f) Prosecution for an act that a court in Israel is entitled to hear, and these regulations do not require the approval of the Attorney General.

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<https://main.knesset.gov.il/activity/legislation/laws/pages/lawprimary.aspx?t=lawlaws&st=lawlaws&lawitemid=2157502>

2A. (a) A court in Israel shall have all the powers granted to it by the law in force in Israel with respect to offenses for which it is entitled to judge under any law, including with respect to orders to be executed in the Area, or to be executed in the areas of the Palestinian Council, according to Chapter Three, point two.

(b) A court in the Occupying State may authorize a wiretap order, in accordance with Chapter Three of the Wiretap Law, 1979, on a citizen of the Occupying State who is present in the Area or the territories of the Palestinian Council.

2B. (a) The court may not refrain from hearing the claim of any Israeli, and it may be heard in accordance with the law, due to an act, omission, or any other action that occurred in the territory of the Palestinian Council, in which a resident of the territory of the Palestinian Council is a defendant or party.

(b) The provisions of Sub-Regulation (a) do not violate the power of a court or judicial body to avoid hearing a claim in the following cases:

(1) The subject of the claim is an ongoing business activity of an Israeli conducted in the territory of the Palestinian Council.

(2) The subject of the claim is real estate located in the territory of the Palestinian Council.

(3) The subject of the claim is a contract that explicitly stipulates jurisdiction, as the place of jurisdiction will be outside Israel.

(4) There is a pending proceeding on the same matter between the parties.

As stated above, the aforementioned law clarifies the court's authority to adjudicate cases concerning offenses committed by citizens of the Occupying State in the Palestinian territories. Based on this approach, claims and demands may be brought before courts within Israel, based on the environmental quality/protection laws mentioned above, even if the offense occurred in the Palestinian territories.

e. The Occupying State police and its role:

The Occupying State's police and military commander play a role in receiving complaints and enforcing the laws in the West Bank. Complaints may be filed with the police at police stations in the West Bank regarding any environmental violation committed in the Palestinian territories by a citizen of the Occupying State. Although experience indicates that the laws are not enforced when it comes to citizens of the Occupying State, it is imperative to follow up on these matters and submit complaints that may be used as evidence in court when lawsuits and claims are brought before the courts in the Occupying State.

The Palestinian police and judiciary and their role:

According to the Oslo Accords, the powers of Palestinian law enforcement authorities were defined, including the following:

- Palestinian Police: The Palestinian police must coordinate with the police of the Occupying State when detaining and interrogating citizens of the Occupying State.
- Palestinian Judiciary: According to the Oslo Accords, the Palestinian judiciary has no jurisdiction to adjudicate cases against citizens of the Occupying State, except in the following cases:
 - a. The subject of the lawsuit is an ongoing Israeli business located in the area (registration of an Israeli company as a foreign company in the area is evidence of the fact that it has an ongoing business located in the area).
 - b. The subject of the lawsuit is real estate located in the area (known as Areas A and B).
 - c. The Israeli party is the defendant in the lawsuit and has consented to this jurisdiction by written notice to the Palestinian court or judicial authority.
 - d. The Israeli party is the defendant in the lawsuit, and the subject of the lawsuit is a written agreement, and the Israeli party has consented to this jurisdiction under a specific clause in that agreement.
 - e. The Israeli party is the plaintiff who has filed a lawsuit in a Palestinian court. If the defendant in the case is an Israeli, his consent to this jurisdiction in accordance with subparagraphs c or d above is required, or
 - f. Cases relating to other matters as agreed upon by the parties.

Summary

We would like to offer some recommendations regarding the most important legal procedures that can be resorted to in the event of an environmental violation/crime committed in the Palestinian territories by a citizen of the Occupying State. These procedures constitute legal jurisprudence—as they have not been used to date, to our knowledge—as follows:

- a. Filing a lawsuit with international courts against the Occupying State for violating international treaties, failing to implement environmental laws in the occupied territories, and failing to protect the environmental rights of citizens under occupation.
- b. Utilizing all legal approaches related to environmental protection laws (including the laws of the Occupying State, publications, and military orders)—mentioned above.
- c. Filing a complaint with the Ministry/Environmental Protection Authority—in the event of any environmental violation, submit the complaint directly and through civil liaison.
- d. Filing a complaint with the military governor/police of the Occupying State in the West Bank.
- e. Filing a complaint with the civil courts within the Occupying State:

- Compensation may be claimed by any injured party (the lawsuit must be filed before the Ministry/Environmental Protection Authority is notified, 60 days have passed, and the violation has not been stopped).
 - Filing a request with the court to stop environmentally harmful activities.
 - A class action lawsuit may be filed by an organization concerned with environmental protection issues against any party violating the law that has caused harm.
- f. Filing a lawsuit against the Ministry/Environmental Quality Authority for failing to fulfill its role in protecting the environment.

Part Three: The legal framework governing the environment according to international law

First: The international environmental agreement to which the State of Palestine is a party



Article (10, Clause 2) of the Palestinian Basic Law⁸² stipulates that the Palestinian National Authority shall work without delay to join regional and international declarations and charters that protect human rights. Article (77) of the Environmental Law No. 7 of 1999 also stipulates that international or regional treaties and agreements, the provisions of international bodies to which the State of Palestine is a party, or any other laws related to the environment in force in the Palestinian territories shall be considered a complementary part of the Environmental Law unless explicitly stated otherwise. Accordingly, the State of Palestine has joined a number of international environmental agreements, including:

- **Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal (the State of Palestine joined in 2015)**

This Convention aims to protect human health and the environment from the harm caused by hazardous wastes. Its scope of application includes a wide range of wastes that are known to be hazardous. This Convention recognizes the sovereign right of states to prohibit the entry or disposal of hazardous wastes and materials within their territories.

- **Stockholm Convention on Persistent Organic Substances (POPs) (the State of Palestine joined in 2017)**

This Convention aims to protect public health and the environment from persistent organic pollutants by regulating their production, use and disposal.

<http://muqtafi.birzeit.edu/pg/getleg.asp?id=14138>⁸²

- **- Minamata Convention on Mercury (the State of Palestine joined in 2019)**

This agreement aims to reduce the dangerous effects of mercury by requiring countries to completely ban the use of mercury by 2020. The agreement also includes reducing the use of mercury in all areas and adopting measures to control its emissions and reduce human and environmental exposure to this toxic substance.

- **- Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade (the State of Palestine acceded to it in 2018)**

This agreement aims to encourage shared responsibility and cooperative efforts among parties involved in the international trade of hazardous chemicals and pesticides. Its primary purpose is to protect health and the environment from potential harm caused by the handling of these substances and to contribute to their environmentally sound use.

- **Vienna Convention on Substances that Deplete the Ozone Layer and the Montreal Protocol (the State of Palestine joined in 2019)**

This agreement aims to protect the ozone layer and establish a general framework for international cooperation in protecting the ozone layer from harmful chemicals. It is followed by the Montreal Protocol, which aims to phase out ozone-depleting substances.

- **United Nations Framework Convention on Climate Change (UNFCCC) (the State of Palestine joined in 2016)**

The overall framework of the United Nations Framework Convention on Climate Change, including the Paris Agreement, aims to maintain a stable global climate system that does not adversely affect the development and adaptation of natural ecosystems. The agreement works to reduce greenhouse gas emissions and adopt sustainable policies and practices to protect the global climate.

- **Barcelona Convention for the Protection of the Mediterranean Sea (the State of Palestine joined in 2017)**

The Barcelona Convention, along with the Mediterranean Action Plan, aims to protect the marine environment and coastal areas of the Mediterranean. The Convention also aims to strengthen regional and national plans for sustainable development in the region.

- **The United Nations Convention on Biological Diversity (CBD) and the Cartagena Protocol on Biosafety (the State of Palestine joined in 2015)**

This agreement aims to conserve biodiversity, the sustainable use of its components, and the fair and equitable sharing of benefits arising from the use of genetic material. What distinguishes this agreement is that it contains special mechanisms for resolving disputes, which can be used to hold the occupying state accountable for its practices of destroying biodiversity in the State of Palestine.

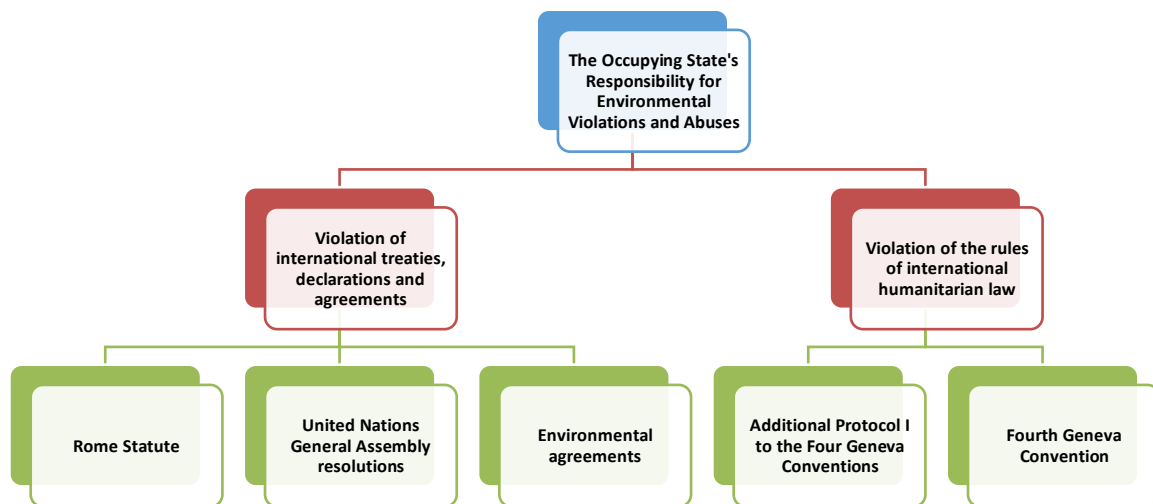
- **United Nations Convention to Combat Desertification (the State of Palestine joined in 2019)**

This agreement aims to combat desertification, mitigate the effects of drought in arid lands, and address the multiple causes of desertification, land degradation and drought in an integrated and sustainable manner.

- **United Nations Convention on the Law of the Sea (the State of Palestine joined in 2015)**

The agreement aims to coordinate relations between countries regarding marine issues and environmental protection.

Second: The responsibility of the Occupying State for environmental violations and breaches based on these agreements



1. Violation of the rules of international humanitarian law

(These are the rules that concern the protection of civilians in times of war and the resulting effects.) Accordingly, the occupying state must respect the rules of international humanitarian law and is prohibited from using the occupied territories and their resources. It is also obligated to ensure public health and preserve the environment. Article (56) of the Fourth Geneva Convention on the Protection of Civilians in Time of War of 1949 stipulates that "the occupying power has the duty to ensure the maintenance of medical and hospital facilities and services, as well as public health, and to take preventive measures to combat the spread of contagious diseases and epidemics." However, the occupying state of Israel is causing the spread of diseases and epidemics by transporting and disposing of solid and liquid hazardous waste in the occupied Palestinian territories.

The Occupying State violates the rules of environmental protection, particularly the provisions of Articles 35 and 55 of Additional Protocol I to the four Geneva Conventions of 1977. Article 35, paragraph 3 of the Protocol stipulates that "it is prohibited to employ methods or means of warfare which are intended, or may be expected, to cause widespread, long-term and severe damage to the natural environment." Article 55 of the Protocol stipulates the necessity of protecting the natural environment. "1. Care shall be taken in

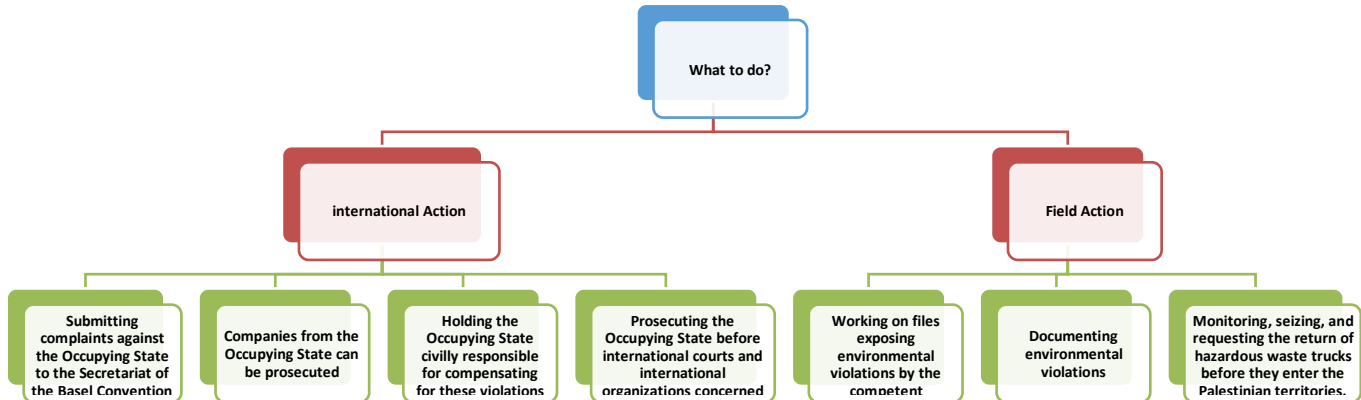
hostilities to protect the natural environment against widespread, long-term and severe damage. This protection includes the prohibition of the use of methods or means of warfare that are intended or may be expected, to cause such damage to the natural environment and thereby to prejudice the health or survival of the population. 2. Attacks launched by reprisals against the natural environment are prohibited."

2. Violation of international treaties, declarations and agreements.

The occupying state must abide by international treaties, declarations and agreements, most importantly the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal, in terms of reducing the generation of hazardous waste to a minimum, not allowing the export of hazardous waste to another country, and the necessity of monitoring the management of hazardous waste in a manner that protects the environment and human health. The occupying state must also abide by the resolutions of the United Nations General Assembly, including Resolution No. (71/247) of 2016, in terms of its commitment under international law and international humanitarian law, as well as Article (6) of this resolution, which obliges the occupying state to cease all acts harmful to the environment. The war crime stipulated in the Rome Statute of the International Criminal Court (ICC) may also be present. Article 8, paragraph 2 (b) (4) states that "serious violations of the laws and customs applicable in international armed conflicts within the established framework of international law, and acts causing widespread, long-term and severe damage to the natural environment and in violation of the principle of proportionality, constitute war crimes requiring accountability and punishment." In 2018, the ICC Prosecutor confirmed the court's jurisdiction to adjudicate environmental cases. This opens the door to prosecuting the occupying state for environmental violations and cases. These violations involve elements of ecocide, theft of natural resources, or the exploitation of the local economy for the benefit of the occupation. The ICC has previously prosecuted economic leaders or company managers, based on the experiences of previous courts, particularly the Nuremberg Tribunal.

The 1976 Convention on the Prohibition of Military or Any Other Hostile Use of Environmental Modification Techniques also prohibits, in Article 1, paragraph 1, "the use of environmental modification techniques with widespread, long-lasting or severe effects for military or any other purposes to cause destruction, damage or injury to any other State Party." Moreover, Principle 23 of the Rio Declaration stipulates "the protection of the environment and natural resources of peoples under oppression, domination and occupation."

Third: What should be done in the event of such violations by the Occupying State?



The competent Palestinian authorities, including the Environmental Quality Authority, must work to prepare specific files on the occupying state's violations of the Palestinian environment, including cases of smuggling hazardous waste into Palestinian territories by the occupying state or its settlements established on Palestinian land, and documenting cases of settlement expansion, wall construction, solid waste burial, and wastewater discharge into Palestinian lands and valleys. Accordingly, the occupying state's violations of the Palestinian environment can be stopped by pursuing the occupying state in international courts for the serious damage it causes to the Palestinian environment. In addition, it can be held civilly liable for compensation for the resulting damages, as well as legal prosecution through international organizations concerned with the environment. Likewise, companies belonging to the occupying state and the government of the occupying state can be pursued for engaging in activities that harm the Palestinian environment before competent bodies, including the European Court of Human Rights and the European Court of Justice, given that the occupying state is a member of the Organization for Economic Cooperation and Development and must respect European rules on environmental protection.

To do this, the relevant Palestinian authorities must take action on the ground by monitoring, seizing, and requesting the return of hazardous waste trucks before they enter Palestinian territory. International action is also possible, by submitting complaints against the occupying state to the Secretariat of the Basel Convention on the Control of the Movement of Hazardous Wastes and Their Disposal (a number of complaints have been submitted by Palestinians in this regard).

Fourth: Legal tools and mechanisms provided by international environmental agreements and treaties.



Among the legal tools and mechanisms provided by international environmental agreements and treaties, particularly those to which the State of Palestine has acceded, are the Secretariat and the Conference of the Parties to these agreements. The Secretariat plays an important role in the process of exchanging information and notification. Article 19 of the Basel Convention stipulates that the Secretariat may be approached if a State believes that another State is acting or has acted in a manner that constitutes a violation under the Convention. "Any Party which has reason to believe that another Party is acting or has acted in a manner that constitutes a violation of its obligations under this Convention may notify the Secretariat. In such an event, it shall simultaneously and immediately notify the Party against which the allegations are directed, directly or through the Secretariat. The Secretariat shall provide the Parties with all relevant information." This is what the State of Palestine had previously implemented regarding the issue of halting the transfer of hazardous waste to Palestinian territories by the occupying Power. Therefore, involving a third party such as the Secretariat strengthened the Palestinian position in negotiating directly with the occupying Power's government, rather than with the Civil Administration in the Palestinian Territories. It also obligated the occupying Power to recover trucks transporting hazardous waste.

The civil liability of an occupying state for an environmental crime may also be invoked if it violates legal rules. It is responsible for compensation for damages resulting from environmental violations and pollution damages. This can be invoked in accordance with Principle 22 of the Stockholm Declaration: "States should cooperate to the best extent possible to develop international law on liability and compensation for victims of pollution and other environmental damage caused by activities within their jurisdiction or control in other States or areas beyond their jurisdiction." The occupying state or companies within the occupying state may also be required to compensate for environmental damage in accordance with the "polluter pays" principle, which was affirmed in Principle 16 of the 1992 Rio de Janeiro Declaration.

● **Recommendations**

- Establish a unified national monitoring system to monitor the occupying state's environmental violations, provide the necessary data, and accurately document this to ensure legal prosecution of the occupying state and demand compensation for the damage it causes to the Palestinian environment.
- Work to prepare files on the occupying state's violations of the Palestinian environment and pursue them before international courts.
- Intensify efforts to limit the violations of the occupying state—the settler state—against Palestinian lands and crops and prevent them from launching attacks that cause blatant environmental damage.
- Compel the occupying state to consider complaints submitted by Palestinians harmed by the environmental violations perpetrated by the occupying state through its various arms.
- Compel the occupying state to redress the environmental damage it causes to Palestinians and their property.