Social, Economic, and Cultural Rights in Transitional Justice: 
A Case Study of Food Rights in Palestine

Gemma Daly

This article seeks to use the legal frameworks of international humanitarian law (IHL) and international human rights law (IHRL) to analyse legal obligations and violations of food rights in Palestine during and post-occupation. This analysis intentionally builds on critiques surrounding the relationship between IHL and IHRL, post-occupation obligations, and emerging concerns of food sovereignty. The author intends to apply existing literature around socio-economic rights to assess whether a transitional justice approach may provide appropriate remedies for the violations identified. The author acknowledges the importance of complementarity between different disciplines and hopes to offer a useful analysis of food issues in Palestine from a legal perspective.

1. INTRODUCTION

This article analyses social, economic, and cultural rights violations and remedies in an elusive post-conflict Palestine through a case study of food rights. Generally, I endeavour to further the discourse that social, economic, and cultural rights are essential to transitional justice processes, using the issue of food as a paradigm. Specifically, I hope to provide greater legal clarity on food issues in Palestine and the post-occupation duties of the occupier and emerging State. I consciously explore these issues amidst a climate of stale peace processes in Palestine and Israel, maintaining the standpoint that transitional justice considerations can play a valuable and necessary role in conflict resolution. Whilst my approach may be critiqued as utopian, I maintain that it is necessary to adequately address violations of international law, and break from the stagnant frameworks from which the occupation has been debated and peace agreements failed. The consequences of the Oslo negotiations have demonstrated that postponing key rights issues is not a productive approach to peace and human rights; I
endeavour to encourage discussion of human rights obligations, violations, and remedies throughout all stages of the peace-making process.

The scope of this project is necessarily limited and there are certain boundaries that I have had to impose. Firstly, despite a practical overlap between food, water, land, and other issues in occupied Palestine, this article is restricted to food issues alone. This is because I intend to build on social, economic and cultural rights which have been secondary in human rights discourse, and select food as an issue that has established norms in both international humanitarian law and international human rights law, as well as the emerging framework of food sovereignty. Secondly, the scope of the transitional justice mechanisms to be considered are restricted to post-conflict Palestine. Finally, I adopt a legal approach to these issues, whilst acknowledging the importance of complementarity across disciplines such as politics, economics, and conflict resolution. This project is based on the presumption that the Israeli-Palestinian conflict would result in two separate States. Whilst there is some overlap, generally I refer to the ‘occupied Palestinian territory’ (oPt) to signify Palestine during occupation and ‘Palestine’ as post-occupation. Although Palestine’s statehood has already been recognised by the UN,\(^1\) this is to explicitly acknowledge the infringements on Palestinian sovereignty under occupation and the consequent Israeli obligations. Transitional justice is understood to be the way in which a post-conflict society responds to legacies of past abuse,\(^2\) applying human rights and humanitarian law to the peace process.\(^3\)

This project begins by exploring the relationship between transitional justice and conflict resolution, followed by a brief exposition of social, economic, and cultural rights in transitional justice. Once these preliminary issues have been addressed the legal frameworks of International Humanitarian Law (IHL) and International Human Rights Law (IHRL) shall be outlined and their potential complementarity or dissonance explored. There shall be exploration of the food sovereignty framework and the emerging doctrine of ‘jus post bellum’. The legal obligations outlined shall then be applied to particular food issues in the oPt to

---

exemplify violations of food protections. Final transitional justice mechanisms can be discussed.

The key questions to be addressed and borne in mind throughout this project are:

- Who has or has had obligations in relation to food towards the Palestinian people?
- Who has violated food rights or obligations?
- Who is responsible for addressing and recompensing for these violations?
- Does an occupier’s obligations end when occupation ends?
- When does occupation end?
- What if occupation never ends?

The questions posed are not necessarily all answerable in the limited confines of this essay, but underlie the purpose of this project and shall be considered throughout.

2. TRANSITIONAL JUSTICE AND CONFLICT RESOLUTION

It is useful to consider transitional justice processes prior to the end of a conflict as they can contribute to conflict resolution and peace agreements. Transitional justice can even be understood as ‘particularised practices of conflict resolution’. Human rights violations can trigger conflicts, whilst their promotion can be a tool of conflict resolution, functioning as interdependent disciplines. It is thus appropriate to analyse violations of food rights and consider transitional justice in Palestine prior to any final resolution, as transitional justice plays a key role in its ‘attempt to apply the normative constraints of human rights and humanitarian law to peace agreement[s]’.

Linking human rights and transitional justice with conflict resolution is criticised for adding a further burden to the already stale negotiations, and can be problematic when the two

---

8 Bell, ‘The New Law of Transitional Justice’ (n 3) 239.
disciplines adopt ‘mutually exclusive approaches to the same problem’. Conflict resolution fundamentally seeks to end conflict with minimal loss of life, whereas transitional justice aims to incorporate human rights into the process of transition and peace agreements. However, I do not find these critiques undermine my approach as it is essential that IHL and IHRL grievances are considered and addressed prior to final settlement.

3. **SOCIAL, ECONOMIC AND CULTURAL RIGHTS IN TRANSITIONAL JUSTICE**

Transitional justice and human rights discourse have traditionally side-lined social, economic, and cultural rights in favour of civil and political rights violations. I maintain that there is no justification for a ‘hierarchy of rights’, as socio-economic rights are intrinsically linked to civil and political rights violations, which if unaddressed are likely to fuel the next conflagration. The Universal Declaration of Human Rights (UDHR) protects both sets of rights, which have been consistently affirmed as ‘universal, indivisible and interdependent and interrelated’. Disregard for this interdependence disadvantages societies because, as Barak-Erez and Gross expose, solely protecting civil and political rights without addressing material welfare cannot guarantee equal enjoyment of the civil rights themselves. This is the case with transitional justice in Palestine. If the underlying economic issues are not addressed then Palestinians’ rights will be unfulfilled and their food security threatened. Whilst ‘second generation’ rights have persistently been neglected in international human rights and transitional justice discourse, their use is gradually increasing to the benefit of emerging societies.

---

9 Lutz, Babbitt and Hannum (n 7) 173.
10 ibid.
11 ibid; Bell, ‘The New Law of Transitional Justice’ (n 3) 239.
13 ibid 26.
14 ibid 8.
15 ibid.
20 Arbour (n 12) 26.
Critics of addressing social, economic, and cultural rights violations in transitional justice, such as Lars Waldorf, argue:

First, those [transitional justice] mechanisms are already over-stretched and under-funded… Second, there is a danger of raising already inflated expectations of what transitional justice mechanisms can accomplish… Third, transitional justice mechanisms have a relatively short life-span during periods of political transition. By contrast, the remedying of socio-economic injustices is a long-term political project.  

Waldorf also suggests ‘victims often prioritize present economic needs’ over past socio-economic violations. However, this critique neglects that victims’ concerns with current socio-economic status may be connected to past wrongs and both may need to be addressed in tandem. The practical concerns do not prohibit socio-economic rights in transitional justice; they could be addressed by longer-lasting measures that are specifically aimed at addressing all rights violations. The failure to do so may leave Palestine comparable to South African ‘economic apartheid’.

Former United Nations High Commissioner for Human Rights Louise Arbour reasoned:

Many aspects of economic, social, and cultural rights are, nevertheless, as immediately realizable as many civil and political rights… Other aspects of economic, social, and cultural rights call for long-term investment; yet, contrary to widespread misconceptions, the same is true for many aspects of civil and political rights.

The proposition that these rights are non-justiciable is criticised by Arbour, and contradicted by recent court cases. Arbour acknowledges transitional justice measures which have

---

21 Waldorf (n 19) 9.
22 ibid 5.
24 Arbour (n 12) 11.
25 ibid 12.
26 ibid 13.
already addressed these rights. The prosecutions before the International Criminal Tribunal for the former Yugoslavia (ICTY); reparations programmes in South Africa, Guatemala, and Bosnia and Herzegovina; and recommendations for educational reforms in Guatemala and Peru. Commentators including Zinaida Miller, Ron Dudai, and Leila Hilal are similarly supportive of greater incorporation of social, economic, and cultural rights in transitional justice processes.

4. LEGAL FRAMEWORKS

There are various legal frameworks from which food rights and violations can be assessed. The key relevant structures are the human rights framework of a right to food and food-related obligations under international humanitarian law. Food security and food poverty are common terms for addressing food rights, but are incorporated into the broader right to food. Therefore, I shall not consider them independently. There are clear advantages of using a human rights framework with defined rights and obligations, but some would criticise my rights approach as based on Western liberal ideals, overestimated, not ‘fit for purpose’ and, specifically problematic in Palestine.

Zurayk and Gough propose a new approach to food security incorporating food sovereignty and food entitlements, but this is not an established framework. I maintain that an approach

27 ibid 15.
28 ibid 17.
29 ibid 18.
31 Definition of ‘Food security’: ‘When all people at all times have access to sufficient, safe, nutritious food to maintain a healthy and active life’. Food security includes physical and economic access to food, as with the RTF. World Health Organization, ‘Food Security’ (WHO) <<http://www.who.int/trade/glossary/story028/en/> accessed 21 March 2015.
32 Definition of ‘Food poverty’: ‘the inability to afford, or to have access to, food to make up a healthy diet.’ Department of Health, Choosing a Better Diet: A Food and Health Action Plan (Department of Health 2005).
37 Rami Zurayk and Anne Gough, Control Food Control People: The Struggle for Food Security in Gaza (Institute for Palestine Studies 2013) 18.
focused on international law is the most effective way to assess obligations, violations, and remedies.

I shall also apply food sovereignty\(^{38}\) debates to Palestine because of its prevalence in the literature, and move away from conventional food security towards self-reliance and self-determination.\(^{39}\) Due to the differing levels of control by Israel, and contemplation of a post-occupation Palestine, it will also be relevant to consider post-occupation obligations. I prioritise food protections under both IHL and IHRL, as I acknowledge that the two frameworks overlap and ‘a comprehensive approach is necessary in order to strengthen respect, protection and fulfilment of the right to food’.\(^{40}\)

**4.1. The Human Right to Food**

The human right to food (RTF) is enshrined in various international instruments,\(^{41}\) but is particularly explicit in Article 11 of the International Covenant on Economic, Social and Cultural Rights (ICESCR)\(^{42}\):

1. The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food…

2. The States Parties to the present Covenant, recognizing the fundamental right of everyone to be free from hunger…

The ICESCR permits lawful limitations compatible with ICESCR rights ‘solely for the purpose of promoting the general welfare in a democratic society.’\(^{43}\)

---

\(^{38}\) ‘Food sovereignty’ is a ‘concept according to which peoples define their own food and own model of food production…’ OHCHR and FAO, ‘The Right to Adequate Food’ (United Nations 2010) Fact Sheet No.34 4.


\(^{40}\) Lorenzo Cotula and Margaret Vidar, ‘The Right to Adequate Food in Emergencies’ (FAO 2002) FAO Legislative Study 77 3.


\(^{42}\) International Covenant on Economic, Social and Cultural Rights (adopted 16 December 1966, entered into force 3 January 1976) 993 UNTS 3 (ICESCR)

\(^{43}\) ICESCR, art 4.
The UN Committee on Economic, Social and Cultural Rights (CESCR) has expanded on the human right to food in General Comment 12:

4. The Committee affirms that the right to adequate food is indivisibly linked to the inherent dignity of the human person and is indispensable for the fulfilment of other human rights enshrined in the International Bill of Human Rights. It is also inseparable from social justice, requiring the adoption of appropriate economic, environmental and social policies, at both the national and international levels, oriented to the eradication of poverty and the fulfilment of all human rights for all...

8. The Committee considers that the core content of the right to adequate food implies:

The availability of food in a quantity and quality sufficient to satisfy the dietary needs of individuals, free from adverse substances, and acceptable within a given culture;

The accessibility of such food in ways that are sustainable and that do not interfere with the enjoyment of other human rights.\(^4^4\)

Israel has signed and ratified the ICESCR and is thus obliged to ‘progressively realise’ the rights within,\(^4^5\) for its own citizens and ‘protected persons’ in Palestinian territory it occupies. But what about the areas where Israel has ceased to exercise effective control? According to Yuval Shany\(^4^6\) and Bashi and Feldman:

human rights standards apply to Israel irrespective of the question of effective control of the Gaza Strip... Israel owes obligations under human rights law everywhere actions taken by its official representatives have a direct and substantial effect on Gaza’s residents.\(^4^7\)


\(^4^5\) ICESCR, art 2(1); UN Committee on Economic, Social and Cultural Rights (CESCR), ‘General Comment No.3: The Nature of States Parties’ Obligations (Art.2, Para 1 of the Covenant)’ (14 December 1990) E/1991/23 (General Comment 3).


\(^4^7\) Sari Bashi and Tamar Feldman, ‘Scale of Control: Israel’s Continued Responsibility in the Gaza Strip’ (Gisha 2011) 61.
For example, because Israel continues to control Gaza’s borders and the movement of Gazans, it must protect their freedom of movement under the ICCPR and must protect their ICESCR rights where it exercises control relevant to these, such as movement of goods.\(^{48}\) Therefore Israel’s human rights obligations to Palestinians are concurrent to its IHL obligations where it occupies territory, and where the territory is no longer occupied, Israel continues to have human rights obligations to the population, if the residents are dependent on it, or it has a ‘direct and substantial effect’ on the residents.\(^{49}\)

Palestine acceded to various treaties in April 2014, including the ICESCR which entered into force in July 2014.\(^{50}\) Hamas, a non-State party to the conflict, is unable to ratify international treaties but nevertheless is under human rights obligations where it exercises control.\(^{51}\) The Optional Protocol to the ICESCR\(^{52}\) which allows for individual complaints to be submitted to the CESCIR has not been accepted by Israel nor Palestine;\(^{53}\) therefore individuals who claim that their ICESCR rights have been violated do not have recourse to the Committee.

Furthermore, it is arguable that the right to food ‘has presumptively attained the status of customary international law.’\(^{54}\) However, on further analysis this appears to be a ‘premature’ overestimation of the extent of a customary right to food.\(^{55}\) I support Smita Narula’s approach that ‘the right to adequate food… may not yet be part of customary law, but a strong case can be made that the right to be free from hunger has achieved this status.’\(^{56}\) This is supported by the FAO’s legislative study in 2002, which presented the argument that ‘the right to adequate food, at least in its basic form of right to be free from hunger, is part of customary international

\(^{48}\) Ibid.

\(^{49}\) Ibid.


\(^{51}\) Bashi and Feldman (n 47) 62.


\(^{56}\) Ibid 69.
law’, directly linked to the right to life. Narula and Niada refer to the proliferation of international ratification of the ICESCR and national rights to food with varying breadth. Nevertheless, Israel and Palestine have both ratified the ICESCR and are thus bound by its relatively extensive right to food provisions.

The international community – other State Parties to the ICESCR – also have obligations to ‘take steps to respect the enjoyment of food in other countries, to protect that right, to facilitate access to food and to provide the necessary aid when required.’

4.2. Food under IHL

The nature of the Israeli-Palestinian conflict remains disputed. It is broadly accepted, including by the ICJ in its 2004 Advisory Opinion on the Wall, but disputed by Israel, that the West Bank including East Jerusalem continues to be occupied territory. This is still the case since the Oslo Accords, despite the creation of the Palestinian Authority (PA). There is less consensus as to whether Gaza is occupied. The Israeli Supreme Court categorised the conflict in Gaza as an international armed conflict, whilst others have distinguished between periods of violence, or analysed the level of control Israel exerts to determine Israel’s responsibilities. Casey-Maslen defines ‘the conflict in Gaza in November 2012 was an armed conflict of a non-international character (NIAC)… within the context of a broader military

---

57 Cotula and Vidar (n 40) 6.
58 Narula (n 55) 67; Niada (n 54) 173–4.
59 Although Vite considers the ‘core content’ of the RTF is freedom from hunger and the right to adequate food must be progressively realised, the CESCIR outlined the core content included both availability and accessibility. CESCIR, General Comment 12, para 8. Sylvian Vite, ‘The Interrelation of the Law of Occupation and Economic, Social and Cultural Rights: The Examples of Food, Health and Property’ (2008) 90 International Review of the Red Cross 638.
60 CESCIR, General Comment 12, para 36.
66 Geneva Academy (n 64).
67 DeFalco (n 54) 19.
Firstly, I shall consider IHL obligations in circumstances of occupation, applying to the West Bank and arguably Gaza. Secondly, obligations during a non-international armed conflict will be discussed. Lastly, I shall consider the nature of post-occupation obligations.

**Food under Occupation**

The 1949 Fourth Geneva Convention and Hague Regulations 1907 constitute customary international law governing situations of occupation. Although the GCIV does not define an occupation, the Hague Regulations provide an early definition:

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

Whilst I concur with the consensus that the West Bank, including East Jerusalem, continues to be occupied post-Oslo as Israel exercises effective control, the situation in Gaza is less clear since Israeli ‘disengagement’ in 2005. Israel denies there is any ongoing occupation of the West Bank or Gaza, and the Israeli High Court held in the 2008 Al-Bassiouni case that Israel does not occupy Gaza. As noted by Benvenisti however: ‘declarations by the occupant on the establishment or dismantling of administration are legally irrelevant.’

Outside of Israel

---

69 At chapter 4.5.
73 Hague Regulations, art 42.
74 Bashi and Feldman (n 47) 5, 44.
the discourse focuses on whether Israel’s control of Gaza’s borders amounts to ‘effective control’, or for Benvenisti ‘potential control’.

I am interested in the development of a ‘functional approach’ to occupation; coined by Aeyal Gross and adopted by Bashi and Feldman:

…the law of occupation continues to apply to the Gaza Strip (in addition to the West Bank) in the areas in which Israel maintains control over the lives of Palestinian residents, while in the areas in which It has transferred or relinquished its powers and allows others to exercise them – its responsibility vis-à-vis the civilian population is diminished or extinguished.

This keeps in line with the Hague Regulations’ definition, but is more nuanced than declaring the entirety of Gaza occupied or not. Gross identifies international case law that adopts this ‘functional approach’ to occupation based on the principle that ‘accountability… should flow from the exercise of power.’ Therefore the occupier may have control, and thus, responsibility for certain areas, such as electricity and fuel in Gaza, but not for example for education, where Israel exercises no effective control and is within the responsibility of the Palestinian Authority and Hamas. Bashi and Feldman conclude that both the law of occupation and post-occupation duties apply to Israel concurrently, varying over time as the end of occupation is a gradual process. I find this functional approach useful to ensure occupation law ‘create[s] accountability rather than impunity’. For the purposes of this project I shall consider the laws that would apply both in circumstances of occupation and non-international armed conflict in Gaza, as well as post-occupation duties, as depending on the level of control over particular areas any may separately or concurrently apply.

---

77 DeFalco (n 54) 19.
78 Benvenisti (n 76) 2.
80 Bashi and Feldman (n 47) 26.
81 Hague Regulations, art 42.
82 Gross, ‘Rethinking Occupation: The Functional Approach’ (n 75) 2; Gross, Rethinking the International Law of Occupation: The Writing on the Wall (n 79) ch 2.
83 Except where Israel’s effective control of other areas, such as movement, impacts on these issues. Gross, ‘Rethinking Occupation: The Functional Approach’ (n 75) 3.
84 Bashi and Feldman (n 47) 6.
85 ibid 37–8.
86 Gross, ‘Rethinking Occupation: The Functional Approach’ (n 75).
87 For a thorough analysis of the different approaches to the definition of occupation see: Gross, Rethinking the International Law of Occupation: The Writing on the Wall (n 79) ch 2.
The law of occupation under IHL, prescribed in The Hague Regulations and Fourth Geneva Convention, therefore applies to the West Bank and possibly Gaza. Article 43 of the Hague Regulations generally obliges an occupier to ensure protected persons’ safety and public order. Article 53 of GCIV prohibits destruction of individual, collective, or State property. Article 55 obliges the occupier to ensure and, if necessary provide adequate food and prohibit the requisitioning of foodstuffs without taking into account civilian needs. Article 59 requires the occupier to facilitate relief schemes for inadequately supplied populations. Nevertheless, Article 60 importantly prevents relief consignments from relieving the occupier of its aforementioned responsibilities. Certain limitations are permitted for military necessity. Nevertheless, the occupier has responsibility for the wellbeing, including with regards to food, of the occupied population.

Violations of certain GCIV articles amount to ‘grave breaches’ and require specific State action or remedy. Under Article 146, Contracting Parties are obliged ‘to enact any legislation necessary to provide effective penal sanctions for persons committing, or ordering to be committed, any of the grave breaches of the present Convention.’ Relevant Article 147 breaches include:

…any of the following acts, if committed against persons or property protected by the present Convention: wilfully causing great suffering or serious injury to body or health… extensive destruction and appropriation of property, not justified by military necessity and carried out unlawfully and wantonly.

Article 148 prevents any absolution of responsibility by a Contracting Party for a ‘grave breach’.

Despite these IHL rules, since the Oslo Accords the Palestinian Authority has had ‘explicit responsibility for Palestinian welfare and duties to control population’ whilst Israel has retained ‘overall territorial control and an overriding responsibility for security’; an arrangement that conflicts with the law of occupation. Due to this paradigm shift, Zinaida

---

88 GCIV, art 53 and 55.
Miller proposes that ‘thinking about the relationship between Israel and Palestine solely as one of occupation now hides more than it reveals’. Miller discusses post-Oslo as a period of ‘permanent transition’, wherein the framework of occupation has moved towards a ‘tripartite system of governance’ between Israel, the PA, and international involvement. Although the law of occupation continues to apply, the Oslo Accords have created a unique situation that construes a situation of ‘parity’ undermining IHL’s ‘protected person’ and imposing occupier obligations on Palestine. Al-Haq takes the stance that any agreement made during occupation that diverges from Palestinians’ legal protections ‘is illegal under international law and as such is null and void.’ Thus whilst it remains appropriate to apply the law of occupation to Palestine post-Oslo, ‘defending or denouncing the current dispensation in those terms alone misses the way that power and authority function today.’

I acknowledge this situation and accordingly focus in this article not only on Israeli occupier obligations, but also Palestinian, Hamas and international community obligations where relevant during and post-occupation.

*The Protection of Food during a Non-International Armed Conflict*

On the other hand, if Gaza is not conceived of as under occupation now or in the future, the situation is debated as either an international (IAC) or non-international armed conflict (NIAC). For example, The Turkel Commission construed an IAC, whereas academics Kevin Heller and Stuart Casey-Maslen define a NIAC. The relevance of different categorisations is that protection under IAC is greater than under NIAC, though less than under occupation law. Unfortunately neither framework adequately categorises Gaza outside of occupation. Israel could be engaged in an international armed conflict with Palestine, part of which involves an occupation of the West Bank and IAC in Gaza, or Israel could be involved in a non-international armed conflict with Hamas alongside the broader occupation context. I do

---

90 Ibid 335.
91 Ibid 336, 349, 383.
93 Miller (n 89) 412.
not agree that there is an IAC in Gaza without occupation; I side with Heller and Casey-Maslen and consider protection of food under NIAC IHL. In such circumstances, as outlined by DeFalco, this is problematic for protection of Gazans’ food under IHL. This is because the only relevant NIAC protections are under the second Protocol Additional to the Geneva Conventions. Protection is limited to the prohibition of ‘starvation of civilians as a method of combat’ under Article 14, and the obligation to allow humanitarian relief activities, including the provision of foodstuffs, under Article 18.

4.3. Human Rights and Humanitarian Law

IHRL applies concurrently with IHL in all cases of armed conflict and occupation. This position took some time to develop but is now generally accepted, including by international courts. Whilst this may initially appear advantageous to the population under occupation, Gross raises concerns that ‘the merging of IHRL into IHL, rather than expanding human protection may serve to undermine it as well as legitimize violations of the people living under occupation.’ Conversely, in Vite’s article on occupation and social, economic, and cultural rights, he assesses food rights to be complementary to occupation law, particularly in the long term. My analysis of food rights under IHL and IHRL demonstrates complementarity between the regimes; IHRL steps in where IHL is lacking such as movement rights, whilst occupation law is more comprehensive on land seizure or destruction.

---

97 ICRC, Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (adopted 8 June 1977, entered into force 7 December 1978) 1125 UNTS 609 (APII); DeFalco (n 54) 20. Common Article 3 does apply in circumstances of non-international armed conflict but provides no relevant protection for Palestinians’ food.
99 Vite (n 59) 630.
100 Pejic (n 96) 1097.
103 Vite (n 59) 637–640.
4.4. Food Sovereignty

Food sovereignty is a ‘concept according to which peoples define their own food and own model of food production…’\(^\text{104}\) Many construe food sovereignty as a form of political ‘resistance’,\(^\text{108}\) which Sa’da and Tartir advocate for Palestine.\(^\text{106}\) It is the ‘practice of, and quest for, self-determination’,\(^\text{107}\) both inextricably link people to territory,\(^\text{108}\) and natural resources.\(^\text{109}\)

For the purpose of this project, I focus on food sovereignty as opposed to the framework of self-determination because it is more specific on food issues and dominates the literature. Any violation of food sovereignty will most probably also violate the right to self-determination.\(^\text{110}\)

Whilst I acknowledge food sovereignty, my focus remains on the established legal frameworks of IHL and IHRL.

4.5. Post-Occupation Obligations

In a post-occupation Palestine, which might include current areas as well as a future incarnation of the State, the question arises as to when Israel’s occupier obligations will end? Critics such as Kirsten Boon perceive IHL as ‘limited’ in its ‘applicability to modern war-to-peace transitions’, and thus turn to the emerging doctrine of ‘jus post bellum’.\(^\text{111}\) This post-occupation law prevents a ‘vacuum of responsibility’,\(^\text{112}\) with obligations under the rules of occupation gradually lessening and post-occupation duties emerging.\(^\text{113}\) Bashi and Feldman apply the ‘jus post bellum’ to Palestine, in the current context of Gaza:

\(^{104}\) OHCHR and FAO, ‘The Right to Adequate Food’ (n 38) 4.
\(^{107}\) Uzondu (n 105) 3.
\(^{109}\) ibid 132.
\(^{110}\) For a full analysis of the Israeli occupation of Palestine from a right to self-determination perspective see: Drew (n 108).
\(^{112}\) Bashi and Feldman (n 47) 49.
\(^{113}\) ibid 37–8.
Israel continues to bear obligations toward residents of the Gaza Strip even in areas in which it no longer exercises direct control and even if it no longer occupies Gaza at all…

However, the specificities of a ‘jus post bellum’ remain unclear. Bashi and Feldman consider many factors affect post-occupation obligations:

…the duration of control; the level of fulfilment of [Israel’s] obligations under the law of occupation, including forward-looking duties; [Palestine’s] residual dependence; and the acts (or omissions) of other actors which assumed control.

It is very difficult to identify when occupation law obligations end and post-occupation begin, because defining occupation and its conclusion is itself controversial. Furthermore, according to Benvenisti, an occupier may have ongoing obligations under GCIV to ensure ‘the continuation of “public order and civil life” during and immediately after the termination of the occupation and the transition to indigenous rule’. Considering Bashi and Feldman’s assertion that ‘there will be areas in which Israel owes duties under the law of occupation and others in which it owes duties under post-occupation law’, the applicable law during transition becomes very uncertain. This is a concern as legal uncertainty can problematize enforcement.

Furthermore, Freeman and Djukic’s key questions remain unanswered: ‘would [jus post bellum] place higher or lower demands upon states than international human rights law?’ When do post-occupation obligations commence and end? Would post-occupation obligations be compatible with transitional justice? I question how food protections might be affected by post-occupation obligations? The literature acknowledges the potential usefulness of this emerging doctrine to provide transitional obligations and aim for ‘durable

---

114 ibid 49.  
115 ibid 57.  
116 Gross, ‘Rethinking Occupation: The Functional Approach’ (n 75); Benvenisti (n 76).  
117 Benvenisti (n 76) 4–7.  
118 Bashi and Feldman (n 47) 57.  
120 ibid 226.  
121 ibid 224.
peace’\textsuperscript{122}; goals akin to transitional justice. It remains unclear precisely what post-occupation obligations might be, and how they may be distinct from IHRL and transitional justice. Boon argues that ‘jus post bellum’ holds the former occupier accountable, whereas transitional justice seeks ‘accountability within populations’\textsuperscript{123}. However, I consider that transitional justice can incorporate post-occupation obligations and cross-State transitional justice could hold occupiers accountable.\textsuperscript{124} The crucial element of the post-occupation literature for my analysis is the affirmation that an occupier’s obligations do not end immediately with troop withdrawal and the decline of effective control.

5. **Food Rights Violations in Palestine**

There are many aspects of the Israeli-Palestinian conflict that affect Palestinians’ food rights under international law. I shall consider particular practices and aspects of the occupation regime which have a directly negative impact on Palestinian food. I acknowledge that in practice it is not possible to dissociate a restriction on food from the entirety of the conflict and occupation regime, but intend this theoretical analysis to contribute to debate on food rights in Palestine, and how violations may be addressed through transitional justice. There are also food issues for Palestinians in Israel, for example Bedouin in the Negev,\textsuperscript{125} but this article focuses solely on food issues in the oPt.

In turn I shall assess potential violations of IHL, IHRL, and where relevant food sovereignty, arising from:

- Destruction and seizure of food and agricultural land;
- Restrictions on freedom of movement and access to livelihoods;
- Restrictions on food and food aid in Gaza; and
- Culturally inappropriate food.

\textsuperscript{123} Boon (n 111) 78.
\textsuperscript{124} Dudai proposes both independent and joint transitional justice initiatives between Israel and Palestine. Dudai (n 30).
\textsuperscript{125} For example, Ahmad Amara, Ismael Abu-Saad and Oren Yiftachel (eds), *Indigenous (In)Justice: Human Rights Law and Bedouin Arabs in the Nagah/Negev* (Harvard University Press 2013).
These issues are by no means an exhaustive list of food problems in the oPt, and broader issues such as land confiscation generally and restrictions on access to water will also inevitably impact food. However due to the necessary confines of my research, I have selected these practices as demonstrative examples of how Palestinian food rights are being violated under occupation. I have consciously chosen issues with different relationships to international law. All four issues are not equally protected by IHL or IHRL, demonstrating the limits of international legal frameworks and that not every circumstance affecting Palestinians’ food equally amounts to a legal violation.

5.1. Destruction and Seizure of Food and Agricultural Land

For decades it has been widely reported that Palestinian land is seized and crops destroyed by the Israeli military and settlers.\(^{126}\)

Since the beginning of the occupation in 1967, Palestinians have seen over 1 billion square metres (m\(^2\)) of their land seized and placed within the jurisdictional boundaries of local and regional settlement councils.\(^{127}\)

In addition to land seized for illegal settlements,\(^{128}\) Israel has declared various areas military zones,\(^{129}\) ‘state land’,\(^{130}\) and ordered Palestinian farmers to destroy or uproot their own trees.\(^{131}\) MA’AN is just one organisation that concludes ‘these mechanisms are used as a means to forcibly displace Palestinian communities from their homes, in order to open these

---

\(^{126}\) WFP, ‘State of Palestine’ (World Food Programme, 2015) <http://www.wfp.org/countries/palestine> accessed 1 August 2015;

\(^{127}\) UN General Assembly, ‘Economic and Social Repercussions of the Israeli Occupation on the Living Conditions of the Palestinian People in the Occupied Palestinian Territory, Including East Jerusalem’ (General Assembly Economic and Social Council 2014) A/69/81-E/2014/13 para 35.


\(^{129}\) ibid 11; 17–19.

\(^{130}\) ibid 13.

areas up to illegal Israeli colonisation.’¹³² Former Special Rapporteur Jean Ziegler reported concern in 2003 about ‘the pattern of land confiscation’ based on ‘an underlying strategy of “Bantustanization”… reducing the capacity of the Palestinians to be able to feed themselves and amoun[ing] to the gradual dispossession of the Palestinian people.’¹³³

Israeli actors have also damaged Palestinian farmland.¹³⁴ In June 2015 the largest reported uprooting of olive trees in three years was conducted by the Israeli army on the basis that this land was allegedly Israeli ‘state land’ in the West Bank.¹³⁵ In addition to Israeli state actions, illegal Israeli settlements in areas such as the Jordan Valley have ‘monopolize[d] water and land resources’, which according to the MA’AN Development Center has ‘led to the impoverishment of Palestinians’.¹³⁶ Furthermore, Israeli settlers illegally colonising the West Bank frequently vandalise Palestinian crops and land. For example, in 2013, ‘settlers uprooted 13,097 trees and burned over 280,000m² of agricultural and grazing land.’¹³⁷ Additionally, many Palestinians in the West Bank have reported on destruction of their crops by settlers dumping wastewater into Palestinian water supplies.¹³⁸ With few exceptions, Israeli settlers responsible for attacking Palestinians and their property enjoy a high degree of impunity.’¹³⁹ Concurrently, bombings of Gaza have damaged agricultural lands and irrigation systems.¹⁴⁰ I shall apply the rules of IHL and IHRL to these acts to assess whether they constitute violations of international law.

¹³⁵ Lynfield (n 126).
¹³⁷ UN General Assembly (n 127) 49.
¹³⁹ UN General Assembly (n 127) 46.
IHL

Under the international humanitarian law provisions discussed above, the occupying power is responsible for the wellbeing, including food security, of the occupied population. The destruction of Palestinian property engages Article 53 of GCIV and requisition of foodstuffs Article 55.

Seizure of land and destruction of crops and trees in the West Bank by the Israeli military has been justified by the authorities on the basis that the area destroyed was ‘state land’. Under IHL, an occupying power cannot legally annex land and therefore this argument falls short of international humanitarian law. The peculiarities of Palestine post-Oslo mean that Israel has security and civil control over Area C, but nevertheless does not have legal title to the occupied land under IHL. Even if there was an agreement during occupation for land swap, as has been proposed by Israel and the PLO. Nevertheless Al-Haq’s Elizabeth Koek has argued that this land swap would not be permitted by international law and thus void. Israel cannot acquire territory by occupation, and the ‘inherent imbalance of power’ between Palestinians and Israel means that the PLO could not give valid consent to land swap. Palestinians retain legal title to the occupied land, regardless of any purported agreements. This is a fundamental tenet of the right to self-determination.

In other circumstances, Israel has claimed military necessity for seizures and destruction of land. However the location of these ‘military zones’ in close proximity to settlements amounting to 30.5% of the land in Area C, and leaked political comments, brings ‘the strategic nature of land requisition for military and training purposes in Area C […] into considerable question.’ If there is ‘extensive destruction and appropriation of property, not justified by military necessity and carried out unlawfully and wantonly’ this constitutes an Article 147

---

141 Lynfield (n 126); MA’AN Development Center, ‘Farming the Forbidden Lands: Israeli Land and Resource Annexation in Area C’ (n 128) 13.
142 ICJ Advisory Opinion on the Wall.
143 If land swap was part of a final settlement to end occupation this is a different matter.
144 Koek (n 92).
145 GCIV, art 47; Charter of the United Nations (24 October 1945) 1 UNTS XVI, art 2(4).
146 Koek (n 92).
147 ibid.
148 According to Drew’s understanding of self-determination a people’s right is linked to the territory. Drew (n 108) 135.
149 MA’AN Development Center, ‘Farming the Forbidden Lands: Israeli Land and Resource Annexation in Area C’ (n 128) 17–18.
grave breach’ of the Fourth Geneva Convention. Such breaches are non-absolvable\textsuperscript{150} and put the Contracting Party – Israel – under an obligation to bring those responsible ‘before its own courts’ with ‘effective penal sanctions’ under national legislation.\textsuperscript{151} If these violations constitute ‘collective punishment’, as surmised by Former Special Rapporteur Jean Ziegler,\textsuperscript{152} Israel violates GCIV Article 33. Grave breaches of IHL also engage other States’ international legal obligations: all States are obliged under customary international law not to recognise the situation as lawful nor provide aid or assistance that would maintain the situation.\textsuperscript{153}

The acts of settlers engage Israel’s state responsibility because Israel violates GCIV Article 49 by permitting and facilitating the ‘transfer [of] parts of its own civilian population into the territory it occupies’. Settler violence violates Israeli obligations to protect Palestinians as ‘protected persons’ under IHL.\textsuperscript{154}

Were Gaza not occupied then IHL for NIAC may apply. There is no provision in the APII for destruction or seizure of food, property, or land, unless it amounts to prohibited ‘starvation of civilians as a method of combat’.\textsuperscript{155} Israel may continue to have some GCIV obligations to the Gazan population post-occupation,\textsuperscript{156} but this would only be temporary. Non-occupied Gazans’ food rights are better protected by IHRL and past violations addressed by transitional justice.

\textit{IHRL}

Destruction and seizure of foodstuffs and agricultural land undermines the RTF requirement of ‘availability of food in a quantity and quality sufficient to satisfy the dietary needs of individuals’.\textsuperscript{157} Under occupation a third of Palestinian households are food insecure.\textsuperscript{158}

\textsuperscript{150} GCIV, Art.148.
\textsuperscript{151} GCIV, Art.146.
\textsuperscript{152} Ziegler (n 133) 3.
\textsuperscript{153} This is customary international law reproduced in the Draft Articles on Responsibility of States for Internationally Wrongful Acts, adopted by the International Law Commission at its fifty-third session (2001), Article 41.
\textsuperscript{154} GCIV, art 27; Hague Regulations, Article 43.
\textsuperscript{155} GCIV, art 14, Protocol II.
\textsuperscript{156} As discussed at chapter 4.5.
\textsuperscript{157} General Comment 12 [8].
\textsuperscript{158} UNRWA (n 126).
infringing the availability element of the RTF. Damage to Palestinian food quality further breaches the right to adequate food.

Israel as occupying power is responsible for ensuring the IHRL right to food alongside its IHL obligations. If Gaza is not occupied Israel still has to abide by human rights law. An emerging Palestinian State would also have responsibilities for Palestinians’ right to food, whilst the departing occupier ‘must do its utmost to alleviate the human condition it leaves behind’, and may have ongoing post-occupation obligations. The right to food therefore engages both Palestinian and Israeli obligations depending on who exercises control. Additionally, other States’ RTF obligations are engaged when they trade with illegal Israeli settlements that violate IHL and IHRL.

5.2. Restrictions on Freedom of Movement & Access to Livelihoods

The Israeli authorities implement a system of restrictions on movement of Palestinians and their goods which affects access to their livelihoods as well as access to food. Occupation’s negative impact on the Palestinian economy also adversely effects Palestinians’ access to livelihoods and thus food.

The separation wall is one significant hindrance on West Bank Palestinians’ movement. The wall separates villages from agricultural lands and restricts Palestinians’ access to ‘farmland and water resources’. Restrictions on freedom of movement are even greater for Palestinians attempting to move outside the separation wall, controlled by Israeli military checkpoints. Significantly, Palestinians in the West Bank, East Jerusalem, and Gaza are separated; undermining the completeness of the territory of Palestine and the movement of people and commodities throughout the territory. The ICJ acknowledged the wall’s negative impact on

---

159 Benvenisti (n 76) 9.
161 Zurayk and Gough (n 37) 3, 24–25.
162 The impact of the wall on Palestinians’ right to food was briefly considered by the court in Mara’abe v The Prime Minister of Israel (2005) HCJ 7957/04 (unpublished), English translation http://elyon1.court.gov.il/Files_ENG/04/570/079/A14/04079570.A14.pdf, 30–31
163 UN General Assembly (n 127) 12.
food security in its 2004 Advisory Opinion. Palestinians’ freedom of movement is also inhibited within the West Bank, dependant on the different zones and road restrictions: ‘by September 2013, 65.12km of roads in the West Bank were classified by Israel for the sole, or virtually sole, use of Israelis’. Palestinians seeking to access their agricultural lands ‘inside or near settlements face regular restrictions on access and settler attacks against them and their properties’, which undermines their ability to work and access food.

Gazans have been similarly restricted from their lands and had their movement severely inhibited before, during, and since Israeli blockades on the Gaza Strip. The UN’s 2014 report confirms that the ‘import of essential goods and materials for public use in Gaza remains very limited’, and it is extremely difficult for Gazans to leave Gaza as Israel controls all crossings. Access to Gazan agricultural land is restricted by ‘no-go areas’ which has ‘a crippling effect on the land’s productive capacity.’ Gazans’ ability to access food is also limited by Israeli restrictions on sea borders and fishing. ‘[L]ongstanding access restrictions imposed by Israel have undermined Gaza’s economy, resulting in high levels of unemployment, food insecurity and aid dependency.’

I shall now assess the extent to which these practices may constitute violations of international law. Restrictions on the movement of food and food aid in Gaza, whilst also a problem of restrictions on movement, shall be discussed separately below.

IHL

---

165 ICJ Advisory Opinion on the Wall, 190-191.
166 UN General Assembly (n 127) 14.
167 ibid 16.
169 Zurayk and Gough (n 37) 20–21.
170 UN General Assembly (n 127) 12.
171 Dugard (n 54) 9–10.
172 Zurayk and Gough (n 37) 21.
173 UN Meetings Coverage and Press Releases (n 134); Zurayk and Gough (n 37) 29–30.
175 At chapter 5.3.
The ICJ classified land excluded from Palestinians’ access, located between the Green Line and the separation wall, as de facto annexed by Israel in violation of IHL. Generally, however, protected persons’ movement within the occupied territory is not protected under IHL, although it is unlawful to forcibly transfer protected persons outside the occupied territory. Therefore, we must look to IHRL for specific protections of Palestinians’ freedom of movement.

Connected to Palestinians’ freedom of movement is their livelihood and economic development, which Israel has obligations towards under both occupation and post-occupation law. Where Israel continues to occupy the West Bank and exercise control in Gaza, such as fishing areas:

...it bears direct responsibilities in these areas under the law of occupation. Israel must allow economic activity in these areas, specifically farming and fishing. This activity must be restricted only when absolutely necessary for security reasons.

If legitimately restricted, then Israel ‘would be obligated to provide alternative employment (for example, inside Israel) as well as nutritional and financial alternatives’. In areas of Gaza, and incarnations of postoccupation Palestine, Bashi and Feldman understand Israel to have post-occupation obligations as ‘a result of its omission in failing to facilitate appropriate and independent economic development throughout the years of direct physical control of the Gaza Strip’.

---

176 ICJ Advisory Opinion on the Wall, para 121.
177 GCIV, art 49.
178 Bashi and Feldman (n 47) 73.
179 ibid.
180 ibid 72.
Whilst international human rights law protects freedom of movement,\textsuperscript{181} I am interested in how restrictions on movement affect the right to food. Former Special Rapporteur Jean Ziegler surmised:

\begin{quote}
An unprecedented level of restrictions on the movements of Palestinians inside the Occupied Territories is depriving Palestinians not only of their freedom of movement, but also of their right to food.\textsuperscript{182}
\end{quote}

To an extent Israeli occupation policies restricting freedom of movement undermine the availability of food, but primarily they adversely impact food accessibility. The right to food includes physical and economic accessibility; restrictions on freedom of movement ‘are severely restricting the movement of people and economic trade, impeding physical and economic access to food and water and causing economic collapse.’\textsuperscript{183} Additionally, occupation is undermining the sustainability of Palestinian food, which undermines RTF requiring food ‘accessible for both present and future generations.’\textsuperscript{184} Israel fails to provide the necessary additional support to ‘indigenous population groups whose access to their ancestral lands may be threatened.’\textsuperscript{185}

Access to livelihoods is intrinsic to the right to food concept of economic accessibility.\textsuperscript{186} Therefore the impact on Palestinian economy and access to livelihoods by Israeli restrictions on freedom of movement contributes to further erosion of the right to food. Palestinians have restricted access to their farmlands which has led to many ‘abandoning agriculture altogether’,\textsuperscript{187} and they are constrained in finding alternative work due to Israeli movement restrictions. Furthermore, Israeli actions have contributed to increasing food prices and economic shocks,\textsuperscript{188} which has increased unemployment within the oPt, negatively affecting

\textsuperscript{181}Universal Declaration of Human Rights (adopted 10 December 1948 UNGA Res 217 A(III) (UDHR) art 13; ICCPR, Article 12.
\textsuperscript{182}Ziegler (n 133) 7.
\textsuperscript{183}ibid 2.
\textsuperscript{184}CESCR, General Comment 12, para 7.
\textsuperscript{185}CESCR, General Comment 12, para 13.
\textsuperscript{186}CESCR, General Comment 12, para 13.
\textsuperscript{187}Zurayk and Gough (n 37) 30.
\textsuperscript{188}UNRWA (n 126).
economic accessibility to food. This will affect the capacity of ‘any future viable Palestinian State with a functioning economy to be able to realize the right to food of its own people.’

Israel is evidently not fulfilling its positive obligations to ensure Palestinians’ RTF. Furthermore, Israel’s restrictions on freedom of movement violate the ‘obligation to respect existing access to adequate food [which] requires States parties not to take any measures that result in preventing such access.’

Equally, ‘the obligation to protect requires measures by the State to ensure that enterprises or individuals do not deprive individuals of their access to adequate food.’ Thus the actions of settlers and restrictions to Palestinians’ movement for the benefit of settlements contributes further to Israeli violations of Palestinians’ right to food.

5.3. Restrictions on Food and Food Aid in Gaza

Restrictions on the transport of food has been a particularly pertinent problem in Gaza before, during, and since the blockade. UNRWA, as well as the WFP and ICRC, provides food aid to Palestinians across the occupied territory. The unique circumstances in Gaza and the Israeli blockade have made food aid even more important but less accessible. According to the UN General Assembly:

A fully fledged food insecurity crisis has been prevented only by the large-scale humanitarian assistance provided. Since 2000, UNRWA has spent more than $900 million in food and cash assistance benefiting the poorest refugees in Gaza, where more than 800,000 refugees now depend on the Agency’s food assistance programme.

---

190 CESCR, General Comment 12, para 15.
191 CESCR, General Comment 12, para 15.
192 Zurayk and Gough (n 37) 1, 3–4.
194 UN General Assembly (n 127) 97.
The extent to which Israel has controlled and restricted the entry of food into Gaza has varied, yet the detrimental impact of occupation on Gazans’ food has persisted. During the blockade starting in 2007 food supplies were severely restricted and calculated to allow for an amount just above the humanitarian minimum. Before the blockade and since the restrictions on food were lifted in 2010 Israeli policies that ‘control through food’ continue. Israel’s 2014 bombardment of Gaza again pushed Gaza into a state of emergency. In addition to Israeli actions, Hamas was reported stealing food aid in 2009.

*IHL*

‘Israel’s siege of Gaza violates a whole range of obligations under both human rights law and humanitarian law.’ Israel violates GCIV Article 59 by not allowing the free passage of consignments of foodstuffs, and Article 43 of the Hague Regulations requiring the maintenance of civil life. Israel claims that its obligations to Gaza are “minimal”, whilst Gisha maintains that Israel continues to be bound by IHL. Following from my discussion of occupation and post-occupation obligations in Gaza, if we adopt Gross’ functional approach, Israel is bound by the law of occupation, and even if we adopt Benvenisti’s approach Israel continues to have post-occupation obligations. Where Israel effects control, such as the passage of goods, its responsibility flows from this power. This applies beyond the scope of the siege as Israel persists in its control of food through ‘underlying political and economic factors’.

---

195 Zurayk and Gough (n 37) 3–4.
196 Although the siege on Gaza started in 2006. ibid 1.
198 Zurayk and Gough (n 37) 2.
201 Dugard (n 54) 26.
202 Bashi and Feldman (n 47) 67.
203 At chapter 4.5.
204 Gross, ‘Rethinking Occupation: The Functional Approach’ (n 75).
205 Benvenisti (n 76).
206 Gross, ‘Rethinking Occupation: The Functional Approach’ (n 75); Bashi and Feldman (n 47) 68.
207 Zurayk and Gough (n 37) 7.
Israel claimed security reasons for food restrictions, but ‘Gisha’s work demonstrate[d] that
the official policy included restrictions on food that had nothing to do with any direct and
<http://www.gisha.org/UserFiles/File/publications/redlines/redlines-position-paper-eng.pdf> accessed 8 July 2015.} Furthermore, it is of significant concern that the blockade on
Gaza may constitute collective punishment in violation of IHL.\footnote{GCIV, art 33; UN General Assembly (n 127) 55; Dugard (n 54) 26.} The Occupying Power is
obliged to allow relief schemes under Article 59, but nevertheless Article 55 ensures that
where Israel exercises control it continues to have ‘the duty of ensuring the food and medical
supplies of the population’.\footnote{GCIV, art 55.} However, the international community’s provision of food aid
means that ‘the Israeli state has never been forced to bear responsibility for its actions’,\footnote{Zurayk and Gough (n 37) 45.} and
international appeals ‘temporarily alleviate the crises... without confronting the
occupation.’\footnote{ibid.}

If Gaza is not occupied, then under NIAC IHL Israel may be accused of infringing Article 14
of APII prohibiting the starvation of civilians, and Article 18 on relief actions. Israel has always
claimed to permit enough food into Gaza to sustain the population on ‘a level of “just above
minimum”’,\footnote{Gross and Feldman (n 197).} but third party reports contradict this.\footnote{Gisha (n 208) 2, 7–8.} Gross and Feldman criticise such a
limited approach to Israeli actions for neglecting to consider the restrictions on foodstuffs
from the broader perspective of ‘food power’.\footnote{Macintyre (n 214).}

**IHRL**

Restrictions on food and food aid undermine both right to food principles of available and
accessible food. During the height of the Israeli blockade on Gaza from 2007 to 2010, Israel
let in far less supplies than required,\footnote{Gisha (n 208) 7–8; Donald Macintyre, ‘Chronic Malnutrition in Gaza Blamed on Israel’ (The Independent, 15 November 2008)
<http://www.independent.co.uk/news/world/middle-east/chronic-malnutrition-in-gaza-blamed-on-israel-1019521.html> accessed 8 August 2015.} resulting in chronic malnutrition,\footnote{Macintyre (n 214).} which
undermines RTF availability. Israel determined permitted food according to alleged security
needs and other considerations, such as ‘the perception of the product as a luxury or non-

\footnote{Gross and Feldman (n 197).}
luxury item’. However, ‘[s]ome food products were dropped from the [permitted] list for no apparent reason.’ Furthermore, during and after the blockade Israeli actions have ‘caused supply to be unpredictable and contributed to a significant rise in food prices in Gaza’, which inhibits accessibility to food and damages farming affecting long-term availability and sustainability of food.

In 2009 UNRWA temporarily ‘suspended all imports of desperately needed aid after Hamas confiscated hundreds of tons of food’. As a non-State actor Hamas has obligations to ensure human rights protection where it effects control. It is unclear whether the food reached Palestinians in need in Gaza as ‘Hamas said it would give out the aid itself’. In any case, seizure of food aid destined for Gazans infringes upon Palestinians’ right to available and accessible food.

5.4. Culturally Inappropriate Food

The availability of an adequate right to food also incorporates the concept of food that is ‘acceptable within a given culture’. Occupation generally, and the Israeli blockade in particular, have undermined Palestinian food culture in Gaza. Many of the excluded items during the siege were core foods in the traditional Palestinian diet; for example, fresh meat was prohibited in 2009 and sesame seeds to make traditional Gazan red tahini banned during certain periods. Furthermore, Zurayk and Gough criticise Israel’s appropriation of Palestinian foods, such as freekeh and olives, whilst Israeli policies reduce Gaza’s production capacity and increase its reliance on imports. Israel undermines Palestinians’ cultural RTF.

218 Gross and Feldman (n 197) 13.
219 ibid 11.
220 Gisha (n 208) 1.
221 ibid 7.
222 United Nations News (n 200).
223 Bashi and Feldman (n 47) 62.
224 United Nations News (n 200).
225 CESCR, General Comment 12, para 8.
226 Zurayk and Gough (n 37) 39–40.
227 Gross and Feldman (n 197) 11–12.
228 Zurayk and Gough (n 37) 40.
In addition to Israel’s restrictions affecting the cultural aspect of the right to food, Gross and Feldman have criticised international food aid as having an even greater impact on Gazans’ diet:

International aid agencies in Gaza distribute mainly white flour and less of the traditional grains, like frika (green wheat), burghul, and barley. Due to the Gazan population’s dependence on aid agencies for food, these nutritive grains have been almost entirely eliminated from their diet, undermining both the local cultural cuisine and nutrition.229

Food aid also prolongs dependency and ‘can reduce local capacity for food production’.230 The international organisations and States providing aid are responsible for undermining Palestinians’ RTF and food sovereignty, as well as Israel being responsible for causing the dependence on international aid which ‘prevented the residents of Gaza from enjoying their right to food sovereignty.’231 Gazans are clearly not enjoying sovereignty over ‘their own food systems, including their own markets, production modes, food cultures, and food environments’.232 Zurayk and Gough propose that Palestinian ‘[a]gricultural policies based on community goals and agroecology are crucial in resisting Israeli control’.233

As well as culturally inappropriate food, the other food issues discussed can also undermine Palestinians’ food sovereignty. Destruction and seizure of land and restrictions on movement have resulted in Palestinians only having use of ‘54.4% of possible agricultural land in the oPt’ and ‘herders are able to access only 31%... of Palestinian rangeland.’234 MA’AN report that ‘[t]he reduction of independent Palestinian agricultural, livestock, and fishing production demonstrates a lack of food sovereignty.’235 According to MA’AN this lack of food sovereignty has a directly negative impact on Palestinians such that ‘they are unable to create the economic and social conditions necessary to alleviate the effects of food insecurity.’236 The issues around food aid in Gaza discussed above are further evidence of a

229 Gross and Feldman (n 197) 12.
230 Zurayk and Gough (n 37) 31.
231 Gross and Feldman (n 197) 52.
232 ibid 54.
233 Zurayk and Gough (n 37) 44.
235 ibid 7.
236 ibid 10.
lack of Palestinian food sovereignty; reliance on food aid demonstrates the population does not have sustainable food self-sufficiency. Finally, the fundamental nature of occupation of Palestinian territory contradicts the principle of food sovereignty, as by definition the Palestinian people are not in control of their own territory.

6. TRANSITIONAL JUSTICE MECHANISMS

As discussed above, it is useful to consider potential transitional justice processes prior to the end of a conflict or occupation. However, transitional justice is criticised for allowing lesser forms of justice,²³⁷ being state-centric and neglecting victims.²³⁸ Others criticise the field as gendered,²³⁹ western liberal theory.²⁴⁰ The value of transitional justice is that it attempts to respond to a ‘legacy of mass abuse’²⁴¹ within the particular circumstances of a post-conflict State. Whilst some post-conflict societies bury the past in amnesties²⁴² and encourage forgiveness,²⁴³ this does not provide satisfaction.²⁴⁴ Even if violations of IHL and IHRL ceased upon the end of occupation, this would not provide adequate remedy for wrongs nor address the long-term economic effects of occupation on food rights. Transitional justice can include traditional and innovative devices; incorporating food rights violations into transitional justice discourse is itself rather unique.

With on-off peace negotiations the current feasible end to the Israeli-Palestinian conflict remains a negotiated settlement into two States. Thus a peace agreement will require ‘issues

²³⁷ Where criminal trials are not pursued; for example, apartheid victims’ families challenged the creation of the South African Truth and Reconciliation Commission and its conditional amnesty process. Aquinni People’s Organization (AZAPO) v President of the Republic of South Africa & Others (CCT17/96) [1996] ZACC 16.
²³⁹ O’Rourke analyses gender and feminist approaches to transitional justice in her book: Catherine O’Rourke, Gender Politics in Transitional Justice (Routledge 2013).
²⁴² There is a comprehensive list of countries that have used amnesties at: Leigh A Payne, Tricia D Olsen and Andrew G Reiter, Transitional Justice Database Project: Amnesty <http://www.tjdbproject.com/index.php?type%3A%3A3=Amnesty&startyear=&endyear=&go=Search> accessed 8 August 2015.
to be explored jointly by the two societies..." However, due to the limited confines of this project, I consider transitional justice within Palestine only. Peace agreements can cause difficulties for transitional justice if amnesties or other caveats are incorporated into the peace agreement. I propose that alternatively an Israeli-Palestinian peace agreement ought to include transitional justice arrangements to ensure remedies and future fulfilment of human rights.

I do not intend to undermine the violations of IHL and IHRL assessed above, nor civil and political rights violations ordinarily within the transitional justice remit, but aim to further discuss and inspect how transitional justice can address food violations. I consider post-occupation obligations will run concurrent, and possibly incorporated, to transitional justice. As I am working in the context of the unknown my analysis is inevitably predictive and conditional. I shall consider how particular transitional justice processes may address food violations in Palestine, after first considering the fundamental need to remedy the underlying economic impacts of occupation. I have selected mechanisms dominant in transitional justice literature which are feasible for Palestine:

- Truth commission;
- Reparations; and
- Constitutional reform.

I do not consider criminal trials because food rights violations do not clearly fit within the framework of international crimes and there would be other issues with greater prosecutorial priority.

---

245 Dudai (n 30) 249.
247 Dudai proposes transitional justice within a peace agreement to prevent further violence. Dudai (n 30) 253–4.
6.1. Economic Reform and Development

Palestine experiences high levels of poverty, unemployment, and dependency on aid,\textsuperscript{250} as a result of decades of occupation imposing an ""impermeable barrier"" to Palestine's economic potential.\textsuperscript{251} This inhibits Palestinians' food security and right to food which require economic accessibility to food and a sustainable food system,\textsuperscript{252} incorporating buying power\textsuperscript{253} and a functioning economy.\textsuperscript{254} Concurrently, 'food security brings economic growth'; Palestine needs to address the general economy and specifically provide a 'food security strategy' and 'multi-sectoral policies aimed at reducing inequalities and targeting vulnerable populations.'\textsuperscript{255} Food sovereignty might form part of this but Palestinians' economic accessibility to food depends on a functioning economy.\textsuperscript{256} Gaza is a prime example of how a weak economy inflicts food rights; inflated food prices and high unemployment have contributed to Gazans' food insecurity.\textsuperscript{257} South Africa demonstrates that without economic equality the population will not be universally food secure.\textsuperscript{258} Suffice it to say that Palestine's economy has been damaged by Israeli occupation; this would need to be addressed by transitional justice mechanisms to secure Palestinians' food rights.

The correlation between transitional justice and development is not unique to Palestine, with many countries emerging from conflict in need of development.\textsuperscript{259} What is unusual is that another State is responsible for the economic troubles and will thus have ongoing obligations,
which should be cemented in a peace agreement. Economic reform in post-conflict Palestine would require Israel’s collaboration to fulfil post-occupation obligations and remedy the violations committed. I am interested in how transitional justice mechanisms may be able to incorporate economic reform and development to lay the foundations for Palestinian food rights.

6.2. Truth Commission

Post-conflict Palestine may choose to implement a truth commission, following in the footsteps of South Africa and a number of South American States. Truth commissions can fulfil the right to truth, as well as make recommendations for ‘systemic transformations’. Hecht and Michalowski summarise that in the current literature ‘scholars advocate truth commissions as the most appropriate framework to address structural violence,’ but warn that ‘truth commissions so far largely avoided [economic inequalities].’ Nevertheless, truth commissions have recommended reforms of institutions ‘strongly linked with development’, and could have broader mandates to address violations of social, economic, and cultural rights.

The particular circumstances of a two-State solution would raise difficulties for the legitimacy of a truth commission’s truth, if a Palestinian institution lacked input from Israeli actors. A truth promulgated by one side of the conflict may lack legitimacy, even if valid and based on accurate evidence, as it may appear to silence other narratives and debate. A truth commission in Palestine could in theory acknowledge food violations and make recommendations for remedy and reform, including economic transformation. It appears

260 Dudai supports incorporating economic relations into a peace agreement. Dudai (n 30) 264.
261 Hayner’s book provides a comprehensive review of a number of truth commissions. Hayner (n 243).
265 de Greiff (n 259) 36.
267 Hayner (n 243) 75–84.
unlikely, however, that the truth process itself would be truly ground-breaking or reconciliatory without Israeli involvement; in such circumstances implementation of a Commission’s recommendations for reparation and reform may be most valuable.

6.3. Reparation & Restitution

Reparations could be recommended by a Palestinian truth commission or the Palestinian government,270 or incorporated into a peace agreement. As Hilal identifies, the obligation on States to make reparations for breaches of international law involves ‘restor[ing], to the extent possible, the situation that existed before the illegality occurred.’271 Bashi and Feldman attribute the former occupier with responsibility for restoring infrastructure ‘to the level to which Israel developed its own civilian institutions in its sovereign territory.’272 Reparation includes restitution of appropriated property or compensation for the market value.273 Hilal focuses on restitution for refugees, but the same principles could apply to Palestinians whose agricultural lands were seized or destroyed in violation of international law.274 Land swaps might form part of a peace agreement, possibly with compensation for loss,275 which could also be considered to remedy restrictions on access to food and agricultural lands. Reparations can contribute to development, but land redistribution and reparations alone may not address occupation’s underlying economic issues undermining food security.276 Furthermore, land reform is rarely implemented extensively enough to address economic inequalities; South Africa’s limited land reform has left property ‘concentrated in the hands of a largely white minority’.277

270 The UN Principles, para 15.
271 Hilal (n 30) 7.
272 Bashi and Feldman (n 47) 56.
273 Hilal (n 30) 7–8.
274 De Greiff proposes the expansion of reparations for economic crimes. de Greiff (n 259) 38.
Zinaida Miller is wary of reparations masking the ‘lack of significant redistribution during or after transition,’ critical that transitional justice institutions addressing ‘economic questions… focus primarily on reparations or compensation for a victim group defined by the institution.’ Miller conceives that this narrow ‘focus on reparations makes structural factors doubly invisible, as they are not only backgrounded in the project as a whole but also reduced to a singular definition for resolution.’ Reparations may be too narrow to address ‘resource and power inequality’. It is foreseeable that Palestinians would seek restitution and reparation from Israel for land appropriation and human rights violations. Reparations would need to address development, as well as specific food violations, to ensure sustainable Palestinian food rights. However, Arbour cautions:

...individual reparations and collective reparations to individual victims will never substitute for more broad-based and longer term socio-economic policies that aim to redress and prevent widespread inequalities and discrimination.

The possible ‘spillover effect’ of reparations on long-term development can only be achieved if a well-designed programme is properly implemented. In many post-conflict societies recommendations for reparations are inadequately implemented, undermining their potential value. For example, the South African Truth and Reconciliation Commission (SATRC) made recommendations for reparations that were unsupported politically, and thus inadequately fulfilled. These recommendations were made by South Africa’s TRC to South Africa’s government and unimplemented; one can imagine the implementation problems of recommendations from a Palestinian institution to Israel. This exposes the importance of including reparations, and other transitional justice measures, in an Israeli-Palestinian peace agreement. Reparations and development could support constitutional and legislative

278 Miller (n 30) 280.
279 ibid 278.
280 ibid.
281 ibid 279.
282 Laplante (n 267) 351–2; Roht-Arriaza and Orlovsky (n 276).
283 Arbour (n 12) 20.
284 Roht-Arriaza and Orlovsky (n 276) 205.
285 Miller (n 30) 278.
286 Hayner (n 243) 31.
287 ibid 176–7.
reforms to ensure practical improvements to the Palestinian economy to address social, economic, and cultural rights generally, and food rights specifically.

6.4. Constitutional Reform

A peace agreement is ‘a form of transitional constitution’, 288 which could be particularly pertinent in the Israeli-Palestinian two-State context. This could be supplemented with a Palestinian Constitution, protecting human rights including the right to food as in the South African Constitution, 289 and a right to food strategy. 290 It is important that a Palestinian constitution does not neglect Israeli obligations for human rights and humanitarian law violations, including the right to food and underlying economic impact of occupation. Thus the combination of an Israeli-Palestinian peace agreement and Palestinian constitution may be required.

However, the value of an obligation-based peace agreement and human-rights protecting constitution depends on implementation. Whilst this may seem obvious, it is important to acknowledge the South African legacy that constitutional protection is worthless without effective implementation. 291 In addition to constitutional protection Palestine needs enforcement mechanisms such as judicial recourse, a national human rights institution, 292 and ratification of the ICESCR Optional Protocol to permit complaints to the CESC R. Even with these tools 293 a South African RTF is unfulfilled because of inadequate enforcement and underlying economic factors that need to be concurrently addressed. 294 With the additional Palestinian complication of two States, constitutional reform alone appears inadequate transitional justice. A combination of mechanisms would be required to remedy and protect Palestinian food rights, connected to the broader economy, with contribution from both Israel

293 Excluding the Optional Protocol which South Africa has not ratified.
and Palestine. These would be best addressed prior to and within a peace agreement to ensure Israeli responsibility for food violations.

7. CONCLUSION

In this article I have sought to analyse the legal frameworks around food in Palestine and identify violations of food law. I have sought to consider obligations during and post-occupation, adopting a transitional justice approach. The purpose of this work is to focus oft-neglected attention on social, economic, and cultural rights in contemplation of transitional justice for Palestine, with a particular focus on food issues.

The questions posed at the start of this process were:

- Who has or has had obligations in relation to food towards the Palestinian people?
- Who has violated food rights or obligations?
- Who is responsible for addressing and recompensing for these violations?
- Does an occupier’s obligations end when occupation ends?
- When does occupation end?
- What if occupation never ends?

I have identified food-related legal obligations in chapter 4; potential violations and responsibility in chapter 5; and transitional justice possibilities in chapter 6. The end of an occupation and the extinguishing or continuation of occupier’s duties were analysed in the context of a potential ‘jus post bellum’ at the end of chapter 4. I have also acknowledged and explored the potential dissonance between IHL and IHRL; my analysis exposes that protection of Palestinians’ food rights can be greater under IHL or IHRL, depending on the issue at hand.

My research for this article has exposed that it would be valuable for further academic discussion and research on the end of occupation and post-occupation obligations. It would be beneficial for there to be further exploration of social, economic, and cultural rights in potential transitional justice processes for Palestine. There is also a lack of dialogue around
the question ‘what if occupation never ends?’ I have endeavoured to contribute to the existing literature by engaging in a case study of food rights in Palestine, which I intend to serve as one example of how transitional justice measures may begin to address some IHL and IHRL violations in Palestine. These considerations can usefully begin prior to the end of occupation as part of the conflict resolution process and contribute to peace agreements according to IHL and IHRL standards.

Palestine’s challenge is first and foremost the end of occupation, but I maintain that it is not in Palestinians’ long-term interest to neglect rights issues for a peace that may not be durable and a society that will be plagued by the legacy of occupation. I have sought to use food to demonstrate how social, economic, and cultural rights are protected in international law, but also the limits of legal frameworks and remedies available. As well as directly addressing food issues, Palestine will need Israeli collaboration to address the underlying economic situation that undermines food security. Importantly, I seek to encourage dialogue around issues that are neglected but have a significant impact on Palestinians’ current and future wellbeing. Social, economic, and cultural rights need to be confronted in Palestinian transitional justice to address specific violations as well as the underlying economic impacts of occupation.
BIBLIOGRAPHY

Books & Book Sections


Bell C, Peace Agreements and Human Rights (Oxford University Press 2000)


Bentley K, Nathan L and Calland R (eds), Falls the Shadow: Between the Promise and the Reality of the South African Constitution (University of Cape Town Press 2013)


Oxfam, *Hidden Hunger in South Africa: The Faces of Hunger and Malnutrition in a Food-Secure Nation* (Oxfam 2014)


Williams S, *Hybrid and Internationalised Criminal Tribunals* (Hart Publishing 2009)


**Journal Articles**


Social, Economic, and Cultural Justice: A Case Study of Food Rights in Palestine


Rubin B, ‘Disengagement from the Gaza Strip and Post-Occupation Duties’ [2010] International Law Forum from the Hebrew University of Jerusalem Law Faculty


Reports


Azarov V, ‘Institutionalised Impunity: Israel’s Failure to Combat Settler Violence in the Occupied Palestinian Territory’ (Al-Haq 2013)

Bashi S and Feldman T, ‘Scale of Control: Israel’s Continued Responsibility in the Gaza Strip’ (Gisha 2011)

Bekdash H, ‘Reconciliation: Lessons for Peace and Justice in Palestine (Part One)’ (The Jerusalem Fund 2009) Information Brief

Cotula L and Vidar M, ‘The Right to Adequate Food in Emergencies’ (FAO 2002) FAO Legislative Study 77

Department of Health, ‘Choosing a Better Diet: A Food and Health Action Plan’ (Department of Health 2005)


FAO, ‘The Right to Food in Practice: Implementation at the National Level’ (FAO 2006)


Hilal L, ‘Transitional Justice Responses to Palestinian Dispossession: Focus on Restitution’ (ICTJ 2012) Case Studies on Transitional Justice and Displacement


Human Rights Watch, ‘Rain of Fire: Israel’s Unlawful Use of White Phosphorus in Gaza’ (2009)


Koek E, ‘Exploring the Illegality of Land Swap Agreements under Occupation’ (Al-Haq 2011)


MA’AN Development Center, ‘Cultivating Dispossession: Israeli Settlements in the Jordan Valley’ (2012)

MA’AN Development Center, ‘Limited Opportunities: The Labor Market for Palestinian Youth in the Jordan Valley’ (2013)

MA’AN Development Center, ‘Uprooted Livelihoods: Palestinian Villages and Herding Communities in the Jordan Valley’ (2013)

MA’AN Development Center, ‘Farming the Forbidden Lands: Israeli Land and Resource Annexation in Area C’ (2014)


MA’AN Development Center, ‘Moving Nowhere: Firing Zones and Forcible Transfer in the Jordan Valley’ (MA’AN Development Center 2015)

MA’AN Development Center, ‘Food Security in the Occupied Palestinian Territories’ (2015) <http://reliefweb.int/sites/reliefweb.int/files/resources/FS.pdf> accessed 1 August 2015

Nicoletti C and Hearne A-M, ‘Pillage of the Dead Sea: Israel’s Unlawful Exploitation of Natural Resources in the Occupied Palestinian Territory’ (Al-Haq 2012)


OHCHR and FAO, ‘The Right to Adequate Food’ (United Nations 2010) Fact Sheet No.34

OHCHR, UN Habitat and WHO, ‘The Right to Water’ (United Nations 2010) Fact Sheet No. 35

Pimbert M, ‘Towards Food Sovereignty’ (Gatekeeper 2009) 141


Save the Children and Medical Aid for Palestinians, ‘Gaza’s Children: Falling Behind - the Effect of the Blockade on Child Health in Gaza’ (Save the Children & Medical Aid for Palestinians) <http://www.savethechildren.org.uk/sites/default/files/docs/Gazas-Children-Falling-Behind.pdf> accessed 8 August 2015

‘The Right to Food: Report by the Special Rapporteur, Jean Ziegler’ (Economic and Social Council 2003) Addendum: Mission to the Occupied Palestinian Territories


UN General Assembly, ‘Economic and Social Repercussions of the Israeli Occupation on the Living Conditions of the Palestinian People in the Occupied Palestinian Territory, Including East Jerusalem, and of the Arab Population in the Occupied Syrian Golan’ (General Assembly Economic and Social Council 2014) A/69/81-E/2014/13


Conference Papers & Theses

Hecht L and Michalowski S, ‘The Economic and Social Dimensions of Transitional Justice’, 

ETJN Concept Paper (ETJN 2012)


Uzondu CAK, ‘The Imperial Relations of Food: Food Sovereignty and Self-Determination in World Politics’ (Doctoral Articles, Paper AAI3451310, University of Connecticut 2010)

**News Articles**

Associated Press, ‘UN Halts Aid into Gaza after “Hamas Steals” Thousands of Tonnes of Aid’ (*the Guardian*, 6 February 2009)


‘Chronic Malnutrition in Gaza Blamed on Israel’ (*The Independent*, 15 November 2008)


‘South Africa’s Zuma Outlines Land Reform Plans’ *(BBC News, 14 February 2015)*


**Online Sources**

‘Apartheid’s Legacy Lingers on’ *(DW.COM, 22 April 2014)*

Atuahene B, ‘South Africa’s Land Reform Crisis’ *(Foreign Affairs, August 2011)*

Benvenisti E, ‘The Law on the Unilateral Termination of Occupation’ *(Tel Aviv University Law Faculty, 2008)*


ICAHD UK, ‘Home’ (The Israeli Committee Against House Demolitions) <http://icahduk.org/> accessed 1 August 2015


ICRC, ‘Treaties and States Parties to Such Treaties’ (ICRC)


Jabarin S, ‘Land Swaps Should Be Off the Table in Israel-Palestine Negotiations’ (The Huffington Post, 6 November 2013) <http://www.huffingtonpost.com/shawan-jabarin/land-swaps-should-be-off-_b_3424145.html> accessed 1 August 2015


OHCHR, ‘Status of Ratification: Interactive Dashboard’ (OHCHR)

<http://indicators.ohchr.org/> accessed 17 August 2015

Payne LA, Olsen TD and Reiter AG, ‘Transitional Justice Database Project’


Payne LA, Olsen TD and Reiter AG, ‘Transitional Justice Database Project: Amnesty’


UN Meetings Coverage and Press Releases, ‘Agricultural Development, Food Security
Unattainable without Self-Determination, Sovereignty of Palestinian People, Speakers
Say in Second Committee’ GA/EF/3410

UNRWA, ‘Food Insecurity in Palestine Remains High’ (UNRWA, 3 June 2014)
<http://www.unrwa.org/newsroom/press-releases/food-insecurity-palestine-remains-
high> accessed 11 May 2015

UNRWA, ‘Food Aid’ (UNRWA) <http://www.unrwa.org/ar/tags/food-aid> accessed 21
August 2015

WFP, ‘State of Palestine’ (World Food Programme, 2015)
<http://www.wfp.org/countries/palestine> accessed 1 August 2015

WFP, ‘State of Palestine: WFP Activities’ (WFP) <https://www.wfp.org/countries/state-of-
palestine/operations> accessed 21 August 2015

World Bank, ‘Fact Sheet: Gaza Strip Water and Sanitation Situation’ (7 January 2009)
NKGAZAEEXTN/0,,contentMDK:22279205~pagePK:1497618~piPK:217854~theSitePK:29
4365,00.html> accessed 18 July 2015

World Health Organization, ‘Food Security’ (WHO)

International Law, Resolutions, & Agreements
Charter of the United Nations (24 October 1945) 1 UNTS XVI
Convention on the Elimination of all Forms of Discrimination Against Women (adopted 18
December 1979, entered into force 3 September 1981) 1249 UNTS 13 (CEDAW)
September 1990) 1577 UNTS 3 (CRC)
Declaration of Principles on Interim Self-Government Arrangements (13 September 1993)
(Oslo I)
Declaration on the Granting of Independence to Colonial Countries and Peoples (14
December 1960) GA Res 15/1514

Future Government of Palestine (29 November 1947) GA Res 181 (II)

Geneva Convention Relative to the Protection of Civilian Persons in Time of War (adopted 12 August 1949, entered into force 21 October 1950) 75 UNTS 287 (Fourth Geneva Convention or GCIV)


Israeli-Palestinian Interim Agreement on the West Bank and the Gaza Strip (28 September 1995) (Oslo II)


Permanent Sovereignty of the Palestinian People in the Occupied Palestinian Territory, including East Jerusalem, and of the Arab Population in the occupied Syrian Golan (19 December 2014) GA Res 69/241

Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (adopted 8 June 1977, entered into force 7 December 1978) 1125 UNTS 609 (APII)


Status of Palestine in the United Nations (4 December 2012) GA Res 67/19

The Human Right to Water and Sanitation (3 August 2010) GA Res 64/292

The Right of the Palestinian People to Self-Determination (18 December 2014) GA Res 69/165


UN Committee on Economic, Social and Cultural Rights (CESCR), ‘General Comment No.12: The Right to Adequate Food (Art.11 of the Covenant’ (12 May 1999) E/C.12/1999/5. (General Comment 12)


Universal Declaration of Human Rights (adopted 10 December 1948) UNGA Res 217 A(III) (UDHR)

UNSC Res 242 (22 November 1967)

**National Law**


Constitution of the Republic of South Africa, no.108 of 1996 (South Africa)

Declaration of the Establishment of the State of Israel, 1948, 1 L.S.I 3, 4 (1948)

**International Jurisprudence**


Cyprus v Turkey (App no 25781/94) ECHR 10 May 2001.


**National Jurisprudence**

Azanian Peoples Organization (AZAPO) & Others v President of the Republic of South Africa & Others (CCT17/96) [1996] ZACC 16

HCJ 3239/02, Ma’arab v The IDF Commander in Judea and Samaria, 57(2) PD 349

HCJ 7957/04, Mara’abe v The Prime Minister of Israel (21 June 2005) (unpublished)

HCJ 9132/07 Al-Bassiouni v Prime Minister (30 January 2008) (unpublished)

The Public Committee Against Torture in Israel, & Palestinian Society for the Protection of Human Rights and the Environment v The Government of Israel et al [2005] The Supreme Court sitting as the High Court of Justice, HCJ 769/02