

# Settlement of the Palestine and Israel problem according to international criminal law and human rights

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## Abstract

This study aims to analyze the mechanisms used to resolve the conflict between Palestine and Israel, known as one of the most complex and enduring in the history of modern international interaction. One of the main elements of this dispute is Israel's annexation of Palestinian territories, which has raised various questions regarding sovereignty, human rights, and violations of international law. This study is juridical-normative and analyzes international legal instruments, United Nations resolutions, and decisions of international judicial institutions using a qualitative approach. The results show that Israel's seizure of territory can be categorized as a violation of international law, including the prohibition of forced annexation. However, due to the imbalance of global political power and the lack of international law enforcement, international dispute resolution mechanisms remain ineffective. This study emphasizes the need for reform of the international dispute resolution system and the active participation of the international community in upholding justice for the Palestinian people.

## Keywords

Palestine-Israel Conflict, International Criminal Law, Human Rights, Territorial Annexation, International Dispute Resolution

## Introduction

One of the most complex, sensitive and long-running conflicts in contemporary international political and legal history is between Palestine and Israel. The origins of this conflict can be traced back to the early 20th century, particularly after the end of Ottoman rule and the beginning of the British mandate over Palestine. The Balfour Declaration of 1917, which promised a "national home for the Jewish people" in Palestine, was a continuation of this conflict. As many Jews migrated to Palestine, tensions escalated. This reached a peak in 1947 when the United Nations passed Resolution 181, which divided Palestine into two states: one for Jews and one for Arabs.

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The Arabs rejected the resolution, leading to armed conflict that led to the creation of the state of Israel in 1948 and the mass exodus of Palestinians, known as the Nakba . Since then, numerous wars, peace agreements, and diplomatic efforts have been waged, but no just and sustainable solution has been achieved. One of the central issues in this conflict is Israel's territorial seizure. This includes building illegal settlements in occupied Palestinian territories such as the West Bank and East Jerusalem, carrying out de facto annexations, and forcibly evicting Palestinians from their homes and land.

The main principles of international law, notably universal human rights, the prohibition on the acquisition of territory by force, and the obligation to protect the civilian population in occupied territory under the Fourth Geneva Convention of 1949, all contradict this action.

Israel's seizure of Palestinian territory is not merely a political or military issue, but also a serious international legal issue. Within the context of international humanitarian law, Israel's actions can be classified as violations of provisions protecting civilians and opposing forced demographic change in occupied territories. Furthermore, under international human rights law, these actions systematically impact the Palestinian people's rights to housing, land, education, and access to public services. These actions have even raised allegations of international crimes such as war crimes and apartheid.

The world has attempted to resolve this conflict through law and diplomacy. This includes UN Security Council and General Assembly resolutions, the 2004 International Court of Justice (ICJ) recommendation regarding Israel's separation barrier, and the International Criminal Court (ICC) investigation into alleged crimes committed in the Palestinian territories.

However, these efforts often do not produce concrete results due to the lack of political commitment from major powers, vetoes in the Security Council, and the limited jurisdiction and implementation of international legal institutions. Amidst these conditions, it is crucial to examine in depth how international law responds to Israel's territorial seizures, as well as how international dispute resolution mechanisms can and should be implemented in this context. This study is not merely academic; it also has moral value in the Palestinian people's struggle for justice, the right to self-determination, and the recognition of their human rights. Furthermore, this research serves as a reflection on how effective the international legal system is in addressing the power imbalance caused by the significant power imbalance between the parties involved in the conflict.

Therefore, this research is very important to add to the international legal literature on dispute resolution and emphasizes the importance of changing the international law enforcement system to be more responsive and fairer in handling similar disputes in the future. This research aims to examine how the conflict between Palestine and Israel is resolved from an international legal perspective. It will focus on Israel's expansion of Palestinian territory, which violates human rights and international humanitarian law.

This research also aims to examine the extent to which international legal instruments, such as the UN Charter, the Geneva Conventions, and decisions of the International Court of Justice and the International Criminal Court, have been used or ignored in the process of resolving the conflict.

In addition, the aim of this study is to identify and evaluate how countries and international organizations such as the United Nations, the European Union, the Organization of Islamic Cooperation (OIC), and the Arab League carry out their duties in addressing the conflict, upholding justice, and protecting the Palestinian people.

This research is expected to provide academic and practical contributions to achieving just and sustainable conflict resolution. It is also expected to enhance our understanding of how international law can address asymmetric conflicts, which are fraught with political and humanitarian implications.

## Problem Formulation

1. How can international law be used to resolve the conflict between Israel and Palestine?
2. What is the role of the UN in resolving the Israeli and Palestinian issues?

## Method

This research uses a normative juridical method, namely an approach that relies on library studies to analyze the international legal norms applicable in the settlement of the dispute between Palestine and Israel. This approach is carried out by examining primary legal sources such as the Charter of the United Nations, the 1949 Geneva Convention IV, the Rome Statute of the International Criminal Court (ICC), resolutions of the UN Security Council and General Assembly, and decisions and legal opinions of the International Court of Justice (ICJ). In addition, this study also uses secondary legal materials in the form of scientific books, academic journals, reports of international organizations, and official documents of countries and related institutions. The analysis is carried out qualitatively with a descriptive-analytical approach, namely by systematically explaining how international legal norms are applied and responded to by countries and international organizations in the context of the Palestine-Israel conflict. This study aims to provide a comprehensive understanding of the effectiveness and challenges of enforcing international law in resolving asymmetric and political disputes.

## Results and Discussion

### *Settlement of the Palestine-Israel dispute according to international law*

1. State of Israel

One of the most complex and protracted international conflicts is the conflict between Palestine and Israel. It has significant political and humanitarian consequences and challenges the principles of international law. Israel's stance and policies, as the primary party in dispute resolution under international law, significantly influence the dynamics of the settlement.

Israel claims legitimacy over most of the territory now under its control on historical grounds, national security, and the results of the 1948-armed conflict and the 1967 Six-Day War. Israel views the West Bank and East Jerusalem as illegally occupied territories; they are also territories whose status is still disputed, and which have legitimate strategic and historical claims in Israel's view. Therefore, Israel frequently rejects various international legal instruments, including United Nations (UN) Security Council resolutions and *advisory bodies*. *opinion* The International Court of Justice (ICJ) has declared that settlement construction and the annexation of territory violate international law. Israel's approach to resolving this dispute prioritizes direct bilateral negotiations with the Palestinians, with mediation from certain countries, especially the United States as Israel's main ally, rather than using formal legal mechanisms in international forums. Israel also rejects the involvement of the International Criminal Court (ICC) on the grounds that the ICC has no jurisdiction over the disputed territory or Israel's actions, so that the ICC investigation process often faces obstacles and rejection from Israel.

This attitude has resulted in the low effectiveness of international law in controlling or ending the conflict, because international decisions and resolutions condemning Israel's actions are often not followed by real law enforcement. Nevertheless, Israel has been involved in peace processes, such as the 1993 Oslo Accords that paved the way for the establishment of the Palestinian Authority and subsequent negotiations. However, the continuity of the peace process continues to be hampered by Israeli actions that are considered detrimental to Palestine, including the continued expansion of settlements. Israel justifies its policies on national security grounds, including the construction of the separation wall and military operations in the disputed territory, to protect its citizens from attacks and security threats. Therefore, resolving the Palestine-Israel dispute under international law must consider Israel's security needs while guaranteeing the human rights and self-determination of the Palestinian people. Israel's preference for bilateral negotiations and avoidance of formal international legal processes demonstrates that the resolution of this dispute is heavily influenced by political and power factors, in addition to legal aspects. This emphasizes that although international law provides a normative framework and settlement mechanisms, its successful implementation depends heavily on the willingness and commitment of the parties, including Israel, to respect the rule of law and Palestinian rights. Therefore, resolving this dispute requires an integration of international legal efforts, strong diplomacy, and global political support to achieve a just and sustainable peace.

2. Palestine

Palestine bases its demands on various principles of international law, particularly the right to self determination, protection of civilians in occupied territories, and respect for borders. Palestine's position and efforts are crucial in resolving the dispute between Israel and Palestine under international law. Palestine asserts that the West Bank, Gaza, and East Jerusalem are illegally occupied by Israel. Therefore, any form of occupation, including settlement construction or annexation, is contrary to international law and UN Security Council resolutions such as Resolutions 242 and 338. In its efforts to resolve the dispute, Palestine has used international legal mechanisms, for example by submitting *advisory requests*. An *opinion* was submitted to the International Court of Justice (ICJ) regarding the legality of Israel's construction of the separation wall and an allegation of violations of international law was brought to the International Criminal Court (ICC). Furthermore, Palestine is actively pushing for international recognition as an independent state; since 2012, it has obtained non-member observer state status at the UN. This is a strategic effort to strengthen its legal standing and provide access to various international legal institutions that help resolve disputes peacefully.

However, these efforts face significant challenges, particularly due to Israel and its allies' rejection of Palestine's full legitimacy and Israel's unilateral policy of continuing to expand the occupied territories. The negotiation process often experiences deadlock due to power imbalances, mistrust, and complex geopolitical factors. Therefore, for Palestine, resolving the dispute according to international law must be supported by fair and consistent application of the law, as well as strong international political and diplomatic support to pressure Israel to comply with international law and recognize the rights of the Palestinian people. A sustainable and just settlement can only be achieved if the international community is able to consistently uphold legal principles and exert effective pressure on violators, including Israel, and support the legitimate rights of Palestine to live side by side in peace and independence.

3. History of the Israeli-Palestinian Conflict

One of the longest-running and most complex conflicts in the world today is between Israel and Palestine. Both countries have different territorial claims and national identities. The history of this conflict began in the late 19th century, with the emergence of the Zionist movement, spearheaded by Theodor Herzl.

In the past, Palestine was part of the Ottoman Empire and inhabited primarily by Palestinian Arabs. Zionist ideology advocated the establishment of a Jewish state in the territory now known as Palestine. Tensions escalated with increasing Jewish migration to Palestine in the early 20th century, sparking conflict with the local Arab population, who opposed the establishment of a Jewish state in their territory.

Following a League of Nations decision after World War I, Britain took control of Palestine with the promise of establishing a Jewish national home and Arab



independence. Britain supported the 1917 Balfour Declaration to establish a "national home for the Jewish people in Palestine," but the Palestinian Arab population opposed it. In the 1920s and 1930s, these tensions escalated into unrest and violence. In 1947, the United Nations issued the Partition Plan for Palestine, dividing the mandated territory into separate Jewish and Arab states. The Jewish community welcomed UN General Assembly resolution 181, but the Arab community opposed it, viewing it as detrimental to the rights of the Palestinian Arab population. The 1948 Arab Israeli War occurred when Israel declared its independence on May 14, 1948. Arab states opposed Israel's existence and invaded the territory. Following this war, approximately 700,000 Palestinian Arabs fled to Palestine, a situation that became known as the Nakba (catastrophe).

The war ended with an armistice in 1949 and the establishment of a ceasefire line (Green Line) but did not result in a permanent settlement of territorial claims and the rights of Palestinian refugees.

Since then, the conflict has continued, with several wars and intifadas exacerbating tensions between the two sides. In 1967, Israel occupied the West Bank, Gaza Strip, and East Jerusalem during the Six-Day War. This occupation has raised legal and political issues due to the construction of settlements in the territories, which are considered a violation of international law and have been condemned by numerous UN Security Council resolutions.

Under international law, various efforts have been made to resolve the conflict, one of which is UN Security Council Resolution 242 (1967), which calls on Israel to leave the occupied territories and recognizes the right of all states in the region to live in peace. The 1993 Oslo Accords were a key milestone that paved the way for the emergence of the Palestinian Authority. These agreements also recognized the Palestinian people's right to limited self-determination. However, various human rights violations and military tensions have caused the conflict to continue.

International law, through instruments such as the UN Charter, the Geneva Conventions, and decisions of the International Court of Justice and UN resolutions, serves as the normative basis for dispute resolution efforts. However, the effectiveness of this law is often hampered by power politics, the bias of major powers, and Israel's non-compliance with several international rulings. Thus, the history of this conflict is not only a record of a humanitarian tragedy but also a reflection of the failure of the international legal system to resolve territorial disputes and the conflicting rights of nations.

4. UN Security Council Resolution 181

United Nations General Assembly Resolution 181 of 1947 was a significant milestone in efforts to resolve the Palestinian-Israeli dispute under international law. Although it was a decision of the UN General Assembly, not the Security Council, Resolution

181 had a significant impact on establishing the legal and political framework for the division of territory and the establishment of a state in the Palestinian territories.

Resolution 181 proposed that the Mandatory Palestine be divided into two states: a Jewish state and an Arab state. The international regime would grant Jerusalem a special status. This resolution was approved by a majority vote on November 29, 1947, and stipulated a division of the territory based on geographic and demographic factors. It was also intended to end the conflict between the Jewish and Arab communities in the region. However, this resolution was considered coercive and a violation of the Palestinian people's right to their land, leading to its rejection by both Arab states and the Palestinian community. This rejection sparked a war between the Jewish and Arab communities, which ultimately resulted in the creation of the state of Israel in May 1948 and the mass exodus of Palestinians from the region.

Under international law, Resolution 181 is not legally binding like a Security Council resolution, but it has significant moral and political force. This resolution became the basis for the international legitimacy of the establishment of the state of Israel, and also marked the beginning of a territorial dispute that has not been fully resolved to this day. The subsequent conflict that emerged after the adoption of Resolution 181 demonstrated the limitations of international law in resolving disputes quickly, especially when there is strong resistance and conflicting interests between the disputing parties.

In addition, numerous resolutions have been passed by the UN Security Council and other international organizations in an effort to ensure that the principles contained in Resolution 181 are implemented and enforced. UN Security Council Resolution 242 of 1967 is one of the most significant, recognizing Israel's right to leave the territories occupied during the Six-Day War and the right of all states in the region to live within secure and recognized borders. Resolution 242 is frequently referred to in peace negotiations, although its interpretation and implementation remain a source of contention between Israelis and Palestinians.

The influence of Resolution 181 in international law also reflects the principles of self-determination and respect for territorial integrity, which have become the foundation of the Palestinian struggle in international forums. While this resolution represents an important initial effort, political realities and imbalances in military power have hampered its implementation, and dispute resolution has required the involvement of various legal and political mechanisms such as mediation, diplomacy, and litigation at the international level.

Thus, UN General Assembly Resolution 181 is one of the main foundations in understanding the legal aspects of resolving the Palestinian-Israeli dispute, while also illustrating the complexity of applying international law in conflicts involving historical claims, nationalism, and strong geopolitical interests.

### *International organization to resolve the conflict between Israel and Palestine*

Resolving the dispute between Palestine and Israel poses a serious challenge to the international community, as it involves human rights violations, territorial occupation, and violations of fundamental principles of international law. International law has established various methods for peaceful dispute resolution through instruments such as the United Nations (UN) Charter, the 1949 Geneva Conventions, and judicial bodies such as the International Court of Justice (ICJ) and the International Criminal Court (ICC). However, the implementation of law in Palestine and Israel depends heavily on the active participation of states and international organizations in mediation and law enforcement processes.

Israel's occupation of Palestinian territories, including the construction of settlements in the West Bank and East Jerusalem, contravenes Article 49 of the Fourth Geneva Convention, which prohibits occupying powers from transferring their citizens to occupied territory.

International Court of Justice in *Advisory The 2004 Opinion* stated that Israel's construction of the separation wall in the occupied territories violates international law and worsens the conditions for the Palestinian people. However, the opinion is non-binding and lacks a robust enforcement mechanism, requiring the support of states and international organizations for its implementation.

There is evidence that the role of major powers in this conflict has had both positive and negative effects. For example, the United States frequently uses its veto power in the UN Security Council to protect Israel from sanctions or resolutions condemning the Israeli occupation. This hampers the UN's effectiveness in carrying out its mandate to maintain international peace and security. Conversely, countries such as Norway, Sweden, and South Africa have demonstrated support for Palestinian rights by officially recognizing the State of Palestine or providing significant diplomatic and humanitarian assistance.

Meanwhile, international organizations, particularly the United Nations, the European Union (EU), the Arab League, and the Organization of Islamic Cooperation (OIC), have played a key role in pushing for a peaceful resolution. The UN officially recognizes the Palestinian people's right to self-determination and has adopted various resolutions condemning illegal Israeli settlements and calling for the return of territories occupied since 1967. The European Union, while cautious due to its economic and political ties with Israel, continues to condemn unilateral annexation and supports a two-state solution.

In a landmark ruling in 2021, the International Criminal Court (ICC) ruled that it has jurisdiction over crimes committed in the Palestinian territories, including the West Bank, Gaza, and East Jerusalem. Although Israel is not a state party to the Rome Statute, the ICC's jurisdiction remains in place because Palestine joined as a member in 2015.



However, Israel and several of its allies continue to exert political pressure and campaign to undermine the legitimacy of ICC investigations.

The Organization of Islamic Cooperation (OIC) consistently voices solidarity with the Palestinian people and condemns Israeli actions in international forums. While lacking legal force, diplomatic pressure and solidarity from Muslim-majority countries generates significant political support for Palestine.

Although various countries and organizations have attempted a peaceful resolution through negotiation, diplomacy, and international pressure, the effectiveness of resolving this dispute remains hampered by the imbalance of power between the two parties, as well as politicization within international institutions. Therefore, resolving the Palestine-Israel conflict requires synergy between international legal instruments and active support from states and international organizations to create justice and sustainable peace.

## Conclusion

The dispute between Palestine and Israel is a multidimensional conflict, involving complex political, humanitarian, and international legal issues. Based on international legal studies, Israel's actions in the occupation of Palestinian territory, the construction of illegal settlements, and the disregard for the Palestinian people's right to self-determination, contradict various international legal instruments, such as the UN Charter, the Fourth Geneva Convention, and the basic principles of international humanitarian law. Although the international community has repeatedly issued resolutions and legal statements, their effectiveness is greatly influenced by the imbalance of power and global geopolitical interests, especially the role of powerful countries such as the United States, which often uses its veto power to protect Israel from international pressure. International organizations such as the UN, the European Union, the Arab League, the Organization of Islamic Cooperation (OIC), and the International Criminal Court have a crucial role to play in promoting a peaceful settlement. However, their contributions are often hampered by political constraints, a lack of coercive instruments, and the absence of adequate enforcement mechanisms against Israeli violations. Legal efforts, diplomacy, and multilateral pressure have not been able to concretely end the occupation or guarantee the fundamental rights of the Palestinian people. Based on the findings and analysis of this study, the international community, particularly the United Nations and the International Criminal Court, must strengthen their law enforcement mechanisms against Israeli violations in the Palestinian territories, including violations of international human rights and humanitarian law. United Nations member states must demonstrate a stronger commitment to the principle of global justice by no longer allowing political forces to obstruct the process of a just settlement.

Furthermore, the UN Security Council must be structurally reformed, particularly regarding the use of its veto power, to prevent it from further obstructing the legal

process and conflict resolution. Instead, it is recommended that the Palestinian government and its supporters continue to advocate for international diplomatic support, strengthen their legal standing in international forums, and fully utilize international legal instruments to defend their rights. It is hoped that international civil society, including academics and the media, will play an active role in raising global awareness of the importance of fair and non-discriminatory enforcement of international law for a peaceful and sustainable resolution of the Palestinian-Israeli conflict that respects international justice.

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