

Israel's Unlawful Occupation and International Law:

Settlements as War Crimes, Apartheid and
Genocide

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The Importance of International Law

International Law is the Common Good of Humanity

Modern human rights law was created after WWII

- International Human Rights Law
 - * 9 Conventions, including Genocide, Racial Discrimination, Women and Apartheid
- International Humanitarian Law
 - * Governs the laws on war and occupation
 - * 1949 Geneva Conventions + 1977 Protocols
- International Criminal Law
 - * 1998 Rome Statute of the ICC

International Law, Israel and Palestine

International law is vital for securing the rights for the Palestinians.

There is a virtual wall-to-wall agreement by the international community regarding the application on international law to the Israeli occupation of Palestine.

- Palestine is occupied, the 4th Geneva Convention applies in full, and Israel's occupation is unlawful
- Israel's *de jure* and *de facto* annexation of Palestinian territory (the West Bank, including East Jerusalem, and Gaza) is illegal
- * The Palestinians are entitled to self-determination, which Israel is obstructing
- Israel's 300+ settlements in the OPT are all illegal
- * Israel's occupation must end completely by September 2025
- * Israeli rule over the Palestinians amounts to apartheid
- * Israel's military operations in Gaza amounts to a plausible genocide



The Israeli Settlements



Key Facts on the Israeli Settlements

- Primary Israeli tool for demographic growth, territorial control + claim for sovereignty in West Bank and East Jerusalem
- Single most visible feature of Israeli apartheid
 - 300+ Jewish-only settlements in the OPT
 - 2024 Settler Population:
 - West Bank: 517,000+ (2000 – 192,000)
 - East Jerusalem: 235,000 (2000 – 172,000)
 - Syrian Golan Heights: 29,000 (2000 – 16,000)
- Israeli settlements are in the 61 % of the West Bank (Area C) entirely controlled by Israel.
- 17,000+ new settlement housing units currently being planned by Israel

Human Rights Impact of the Israeli Settlements

The human rights impact of the Israeli settlements:

- Confiscation of Palestinian property
- Israeli settler violence
- Discriminatory planning laws
- Appropriation of natural resources
- Demolition of Palestinian homes
- Two separate and unequal legal regimes
 - * Forced Displacement
- Shrinking territorial space
 - * Denial of Self-Determination
 - * Apartheid + Annexation

International Law and the Israeli Settlements:

The UN Security Council

UNSC Res. 2334 (December 2016):

- “...the establishment by Israel of settlements in the Palestinian territory occupied since 1967, including East Jerusalem, has no legal validity and constitutes a flagrant violation under international law...”
- “Reiterates its demand that Israel immediately and completely cease all settlement activity in the occupied Palestinian territory, including East Jerusalem, and that it fully respects all of its legal obligations in this regard.”
- “Calls upon all States...to distinguish, in their relevant dealings, between the territory of the State of Israel and the territories occupied since 1967;”
- “Requests the Secretary-General to report to the Council every three months on the implementation of the provisions of the present resolution.”



Since the adoption of UNSC Resolution 2334 in December 2016, Antonio Guterres, the UN Secretary General has delivered 31 reports (every three months) to the Security Council regarding Israel's compliance with 2334.

- September 2024 Report:
- “Settlement activity has, nevertheless, continued”



- Volker Turk: UN High Commissioner for Human Rights
 - “The establishment and continuing expansion of settlements in the Occupied Palestinian Territory and the occupied Syrian Golan amount to the transfer by Israel of its own civilian population into the territories that it occupies, which is strictly prohibited under international humanitarian law, as consistently confirmed by competent United Nations organs, including the International Court of Justice.”
 - “Such transfers amount to a war crime that may engage the individual criminal responsibility of those involved.”
- Report to the UN Human Rights Council, March 2024

The Israeli Occupation is
Unlawful



Advisory Opinion on Israeli Policies and Practices in the OPT by the International Court of Justice (19 July 2024)

Para. 261: “The sustained abuse by Israel of its position as an occupying power, through annexation and an assertion of permanent control over the Occupied Palestinian Territory and continued frustration of the right of the Palestinian people to self-determination, violates fundamental principles of international law and renders Israel’s presence in the Occupied Palestinian Territory unlawful.”



Advisory Opinion on Israeli Policies and Practices in the OPT by the International Court of Justice (19 July 2024)

Para. 285: “...the State of Israel has the obligation to make reparation for the damage caused to all natural or legal persons concerned in the Occupied Palestinian Territory;” and

“...the United Nations, and especially the General Assembly, which requested this opinion, and the Security Council, should consider the precise modalities and further action to bring to an end as rapidly as possible the unlawful presence of the State of Israel in the Occupied Palestinian Territory.”



The United Nations General Assembly voted to welcome (124-14-43) the Advisory Opinion on *Israeli Policies and Practices in the OPT* by the International Court of Justice (18 September 2024)

- “Demands that Israel brings to an end with delay its unlawful presence...and do so no later than 12 months from the adoption of the present resolution...”
- “Demands...ceasing immediately all new settlement activity, evacuating all settlers from the OPT...”
- “...Making reparation for the damage caused to all natural and legal persons concerned in the OPT...”
- “...Calls upon all States...Not to recognize as legal the situation arising from the unlawful presence of Israel in the OPT...”
- “Strongly deplores the continued and total disregard and breaches by the Government of Israel of its obligations under the Charter of the United Nations, international law and the relevant United Nations resolutions...”

Apartheid

Israel, Apartheid and the OPT

- Ban Ki-moon, former UN S-G (2021): “What is increasingly clear in recent years is Israel’s intent to maintain its structural domination and oppression of the Palestinian people through indefinite occupation. This gives the dual legal regimes imposed in Palestinian territories...new significance...that arguably constitutes apartheid.”
- Amnesty International (2022): “Israel imposes a system of oppression and domination against the Palestinians across all areas under its control: in Israel and the OPT, and against the Palestinian refugees, in order to benefit Jewish Israelis. This amounts to apartheid under international law.”
- UN Special Rapporteur for human rights in the OPT (2022): “With the eyes of the international community wide open, Israel has imposed upon Palestine an apartheid reality in a post-apartheid world.”

Genocide

Israel, Genocide and its War on Gaza

- International Court of Justice (January 2024):

Para. 54: “In the Court’s view, the facts and circumstances mentioned above are sufficient to conclude that at least some of the rights claimed by South Africa and for which it is seeking protection are plausible. This is the case with respect to the right of the Palestinians in Gaza to be protected from acts of genocide and related prohibited acts identified in Article III [of the 1948 Genocide Convention] , and the right of South Africa to seek Israel’s compliance with the latter’s obligations under the Convention.”

- Special Rapporteur for human rights in the OPT (March 2024 report to the UN HRC):

Para. 93: “The overwhelming nature and scale of Israel’s assault on Gaza and the destructive conditions of life it has inflicted reveal an intent to physically destroy the Palestinians as a group...the following acts of genocide against Palestinians in Gaza has been met: killing members of the group; causing seriously bodily or mental harm to group members; and deliberating inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part...”



Accountability

International Law on Accountability

1. Common Article 1 of the *Four Geneva Conventions* of 1949: “The High Contracting Parties undertake to respect and to ensure respect for the present Convention in all circumstances”
2. Articles 40 & 41 of the 2001 Articles on State Responsibility: States shall cooperate to bring to an end, through lawful means, any serious breach of general international law, and no state shall recognize as lawful a situation caused by a serious breach
3. Article 25 of the Charter of the United Nations: “The Members of the United Nations agree to accept and carry out the decisions of the Security Council in accordance with the ... Charter.”