



INTERNATIONAL LAW

ISRAELI VIOLATIONS AND THIRD PARTY RESPONSIBILITY

INTRODUCTION

July 2017

Since the very first clashes between Palestinians and Jewish immigrants in the late 19th/early 20th Century, the quest for control over the lands between the Mediterranean Sea and the Jordan River has had international dimensions. Especially after World War II, an increasingly important factor in the conflict was the development and adoption of international law.

Like all nations, Israel is a subject to international law and therefore bound by its regulations in several ways. However, despite the fact that there is a broad international consensus¹ that Israel as an occupier has systematically and constantly violated international law, it was able to do so unabated and with impunity like no other country. The international community, meanwhile, has been criticized by Palestinians (and others) for using aid and development as fig leaves to mitigate their inaction in facing up to Israel's blatant human rights violations.

Today, violations of international law and the commission of war crimes by the state of Israel are frequently mentioned in the context of the ongoing occupation, which has entered its 50th year, but often people are not fully aware of what this "international law" actually refers to or where and why it is being "violated". This bulletin intends to shed some light on these questions by surveying the international law regulations currently violated by Israel, which include UN resolutions and articles from treaties and declarations. It introduces the different sources of international law and explains third states' responsibility to enforce them. It further elaborates on the authority and legal power of different sources of international law and gives an overview of Israel's duties following from it, be it as a state party to treaties, as a subject of UN resolutions, or otherwise.

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¹ It should be noted here that in principle, enforcing law internationally can be problematic – different cultures may have different human rights standards and may be unwilling to change their behavior to satisfy internationally accepted norms.

INTERNATIONAL LAW AND STATES' LEGAL OBLIGATIONS

Generally defined “international law” is a set of rules generally regarded and accepted as binding in relations between states and nations; as such it serves as the basis and framework for the practice of stable and peaceful international relations. International law holds that states - as primary actors – are responsible for what goes on both in their territory and under their control.

There are three **types** of international law:

- **Public international law**, for interactions between provinces and international entities, including treaty law, criminal law, international humanitarian law, human rights and other global core conventions.
- **Private international law** (often referred to as “conflict of laws”), which governs the choice of law to apply when there are conflicts in the domestic law of different nations related to private transactions between those nations (e.g., contracts, marriage and divorce, jurisdiction, recognition of judgments, child adoption and abduction, etc.).²
- **Supranational law**, which is distinguished from public international law because nations explicitly submit their right to make judicial decisions by treaty to a set of common tribunals (examples are the Articles of Confederation between the 13 sovereign states of the early USA; the International Court of Justice).

With regard to the occupation of Palestine, Public International Law is the relevant. It has three subcategories:



- **International Human Rights Law**, which applies at all times, specifying the basic protections that all individuals are entitled to as well as promoting and protecting human rights (mainly based on treaties³, agreements between sovereign states, and customary international law).
- **International Humanitarian Law**, which only applies during armed conflict, regulating the conduct of war and armed conflict as well as aiming to limit the harm and violence caused during situations of conflict⁴ (mainly based on the Geneva and The Hague Conventions; the International Committee of the Red Cross has a specific mandate to act in armed conflicts).
- **International Criminal Law**, investigating the criminal responsibility of individuals for the *most serious* of international human rights and humanitarian law violations (e.g., genocides, crimes against humanity, war crimes⁵) and punishing acts which affect fundamental human rights (via the International Criminal Court).

Generally recognized as a definitive statement of the **sources of international law** is Article 38(1) of the Statute of the International Court of Justice, which requires the court to apply *inter alia*, international

² https://law.duke.edu/ilrt/def_terms_3.htm.

³ E.g., the Convention on the Prevention and Punishment of the Crime of Genocide; Convention Relating to the Status of Refugees; Convention on the Elimination of All Forms of Racial Discrimination; Convention on the Elimination of All Forms of Discrimination Against Women; Convention on the Rights of the Child; UN Convention Against Torture; International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families; Convention on the Rights of Persons with Disabilities; International Convention for the Protection of All Persons from Enforced Disappearance. See <https://www.diakonia.se/en/IHL/The-Law/International-Human-Rights-Law/>.

⁴ International Humanitarian Law does not prohibit all violence. It does not apply in situations of internal disturbances or tensions such as riots, demonstrations, and isolated, sporadic acts of violence, that take place inside a territory of a state. See <https://www.diakonia.se/en/IHL/The-Law/International-Humanitarian-Law-1/Introduction-to-IHL/>.

⁵ Acts that violate the basic principles of humanity, morality and dignity, including massacre of civilians, rape, forcible transfer, torture, indiscriminate bombings, apartheid and persecution. See <https://www.diakonia.se/en/IHL/The-Law/International-Criminal-Law1/>.

conventions, international custom, the general principles of law recognized by civilized nations, and “judicial decisions and the teachings of the most highly qualified publicists ... as subsidiary means for the determination of rules of law”⁶.

However, the two main sources of international law are treaties and customary law. **Treaties**, like the UN Charter, the Geneva Convention and several covenants, statutes or protocols, are only binding to the states that have ratified or acceded to them. State parties to international treaties thus have a legal obligation to abide by its rules. Member states in violation of such treaties have a duty to immediately end those unlawful actions and make reparations for the damage done.

More complicated is the issue of **customary law**, which is derived from the interpretation of legal intentions and state practices developed over the years. According to international customary law, certain rules reflect so called ‘*jus cogens*’ norms, or peremptory norms. They are thought to be internationally recognized and accepted as rules of which no exceptions are ever allowed, regardless of whether a state has signed a certain treaty



or not, making them binding on all states.⁷ Unfortunately, international law does not provide a clear list, definition or interpretation of these norms, but it is generally presumed that they include, *inter alia*, the prohibition of genocide, slavery, torture, land acquisition through warfare, and Apartheid.

There is no single overarching state actor in charge of **law enforcement**. In theory, it is the task of the UN and its various bodies as well as its primary judicial branch, the International Court of Justice (to settle legal disputes submitted to it by states and to give advisory opinions on legal questions), and the International Criminal Court, an intergovernmental organization and international tribunal (to investigate and prosecute genocides, crimes against humanity, war crimes, and crimes of aggression). However, since none of their decisions are ultimately binding and there is no compulsory jurisdiction, law enforcement is often inconsequential, arbitrary and conceived by Palestinians as hypocritical - the mere existence of illegal Israeli settlements on occupied Palestinian Territory being an illustrative example. This exposes the weaknesses of international law: it lacks a centralized or effective legislature, executive or judiciary; it cannot intervene in the matters which are within the domestic jurisdiction of the states, it favors powerful over weak states, and it has failed to maintain order and peace in the world.

The question then is how states - in the absence of a global police force - can effectively be held accountable for their violations of international law or treaties of which they are a state party?⁸ In these situations, **third states** have a **legal responsibility** to advance the enforcement of the ‘*jus cogens*’ norms.⁹ Neglecting these so-called ‘*erga omnes*’, or obligations to all, means that all states commit a breach of international law. Among the obligations Israel is violating are, *inter alia*, to respect the

⁶ Article 38(1) of the Statute of the International Court of Justice.

⁷ *Vienna Convention on the Law of Treaties* (1969) Art. 53. Available at: <https://www.ilsa.org/jessup/jessup17/Batch%201/Vienna%20Convention%20on%20the%20Law%20of%20Treaties.pdf>.

⁸ Also see *Diakonia*, “Enforcement of International Law”, available at: <https://www.diakonia.se/en/IHL/The-Law/International-Law1/Enforcement-of-IL>.

⁹ International Law Commission, *Draft Articles on Responsibility of States for Internationally Wrongful Acts* (2001), Art. 41.2: “No State shall recognize as lawful a situation created by a serious breach [of a peremptory norm], nor render aid or assistance in maintaining that situation.” Available at: http://legal.un.org/ilc/texts/instruments/english/commentaries/9_6_2001.pdf.

Palestinian people's right of self-determination¹⁰ and not to acquire territory by force.¹¹ In the concrete case of Palestine-Israel it is difficult to argue against the position that the *de facto* annexation of the occupied Palestinian territories (OPT) and the *de facto* situation of segregation amount to breaches of '*jus cogens*' norms, thus requiring third states to act.

Where peremptory norms are being violated, third states are obliged to **non-recognition** and **non-assistance**. The former means that third states should refrain from affording formal recognition of a situation resulting from breaches of peremptory norms and from taking any steps implying such recognition. Examples with regard to Palestine include: (1) the UN General Assembly's (UNGA) concern after the 1967 War about the situation in Jerusalem, calling upon Israel "to rescind all measures already taken and to desist forthwith from taking any action which would alter the status of Jerusalem" (UNGA Resolution 2253 and 2254 of 4 July 1967); (2) the UN Security Council (UNSC) declaring Israel's purported annexation of East Jerusalem "null and void" and calling upon states not to recognize it (UNSC Resolution 478), and (3) the ICJ's Wall Advisory Opinion holding that all states were "under an obligation not to recognize the illegal situation resulting from the construction of the wall in the OPT, including in and around East Jerusalem." However, which exact measures third countries should take as part of this obligation is not further specified in law.¹² Past UN resolutions on other cases invoking this obligation entailed measures like withdrawing consular representation, refusing membership of international organizations, and not recognizing travel documents issued by the regime.¹³ Notably, the obligation of non-recognition does not cover cooperation with the state in non-related fields and thus, does not necessary require a state's complete isolation.



UN Security Council



UN General Assembly

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With regard to **non-assistance**, third states are obliged not to aid or assist the state in maintaining the unlawful situation.¹⁴ In judicial practice, in the case of the Wall, for example, the ICJ found that states were obliged not to render aid and assistance in maintaining that situation. Again, international law does here not specify the substance of this obligation, but measures taken by the European Union (EU) may serve as examples: Since 2010, Israeli products from the OPT (i.e., settlements) no longer get the preferential treatment that products from Israel proper receive under the EU-Israel Trade Agreement. In 2015, the EU set guidelines for the labeling of settlement products as such, so as to avoid implicitly assisting Israel economically in continuing the occupation.¹⁵

¹⁰ See *Summary of the Advisory Opinion of 9 July 2004*, para. 155, available at: <http://www.unrod.org/docs/ICJ-Advisory2004.pdf>.

¹¹ *Declaration on Principles of International Law Concerning Friendly Relations and Cooperation Among States in Accordance with the Charter of the United Nations*, UNGA Res. 2625 (XXV) (24 October 1970).

¹² See, for example, Talmon, S., "The Duty Not to 'Recognize as Lawful' a Situation Created by the Illegal Use of Force or Other Serious Breaches of a Jus Cogens Obligation: An Obligation without Real Substance?", in: Tomuschat, Christian and Jean Marc Thouvenin (eds.), *The Fundamental Rules of the International Legal Order: Jus Cogens and Obligations Erga Omnes*, Boston, Martinus Nijhoff Publishers, 2005, p. 99-126.

¹³ Dawidowicz, M. "The Obligation of Non Recognition of an Unlawful Situation", in Crawford, J., A. Pellet, and S. Olleson, *The Law of State Responsibility*, Oxford, 2010, p. 684. Available at: <https://prawo.uni.wroc.pl/sites/default/files/students-resources/Non%20recognition.pdf>.

¹⁴ International Humanitarian Law (IHL), through Common Article 1 of the Geneva Conventions, sets out the obligation on third states to ensure respect for IHL in all circumstances! During both times of armed conflict and at other times, all states must thus take steps to ensure respect for (and refrain from taking any measure to undermine respect for) these conventions. Third states' failure to adhere to their legal obligation to ensure respect of Common Article One may also constitute a wrongful act.

¹⁵ Implementation of these guidelines by EU member states is going slowly, however.

REFERENCES OF INTERNATIONAL LAW IN THE CONTEXT OF THE OCCUPATION OF PALESTINE

According to international law ‘occupation’ is a form of international armed conflict that arises when a territory, or parts thereof, come under the authority of foreign hostile armed forces, even if it is not met with armed resistance. While Israel argues that Palestine is not occupied, because of the absence of a sovereign power over the territories before 1967, this has been consistently rejected by the international community based upon the clear provisions of international law.

There are four main sources that embody the international law of occupation: (1) customary international law as defined in Article 38 (1)(b) of the ICJ Statute; (2) regulations stipulated in the Hague Conventions of 1907; and (3) the four Conventions for the Protection of War Victims as adopted in Geneva in 1949 as well as additions to it. The following overview briefly describes these and other main references of international law which apply to the Palestine case. It first discusses treaties to which Israel is a state party. Reports from international committees reviewing countries’ compliance with ratified conventions serve as an important source for showing how severely Israel continues to violate the terms of the treaties it has ratified. Then some key sources of customary law will be explained as will the authority of relevant international and UN bodies and agencies.



International Court of Justice

A. Treaties (and Israel’s compliance)

THE UN CHARTER (signed: 26 June 1945, effective: 24 October 1945)

The UN Charter is the foundational document of the United Nations and one of the most important treaties of international law. All UN member states are legally bound by the terms of the Charter. While there is no committee overseeing states’ compliance with the charter, its terms have often been invoked in UN resolutions regarding Israel.¹⁶

THE CONVENTION FOR THE PROTECTION OF CULTURAL PROPERTY IN THE EVENT OF ARMED CONFLICT (adopted: 14 May 1954, effective: 7 August 1956)

This international treaty was ratified by Israel just as it entered into force in 1957. It deals with the protection of “movable or immovable property of great importance to the cultural heritage of every people”. It may concern “monuments of architecture, art or history, whether religious or secular”, as well as “archaeological sites; groups of buildings (...) of historical or artistic interest; works of art; manuscripts, scientific collections and important (collections of) books or archives”, so as to protect the cultural property “of nations, groups and distinct members of a society”.¹⁷ The Second Protocol to the Convention (1999) established individual criminal responsibility for certain heavy violations of the convention’s terms. State parties were to adopt domestic legislation accordingly. However, Israel did not ratify the Second Protocol and does therefore not accept any legal obligation to abide by it.

¹⁶ In 1949, the UN General Assembly welcomed Israel as a member state, “taking note of the declarations and explanations” of Israel’s representative Abba Eban regarding the requested implementation of UN Resolutions 181 and 194 on Jerusalem and the refugees’ right of return. Eban had declared that Israel acted in compliance with 181 and was seeking a solution for the refugee problem as soon as peace in the region would be restored, so at the “earliest practicable date”, as Resolution 194 said. With the adoption of Resolution 273 admitting Israel as a UN member, UNGA was apparently satisfied with his explanation. See <https://web.archive.org/web/20120224212931/http://unispal.un.org/UNISPAL.NSF/85255e950050831085255e95004fa9c3/1db943e43c280a26052565fa004d8174?OpenDocument>.

¹⁷ *The 1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict*, available at <http://unesdoc.unesco.org/images/0018/001875/187580e.pdf> (p. 9-10).

**INTERNATIONAL CONVENTION ON THE ELIMINATION OF ALL FORMS OF RACIAL DISCRIMINATION
(adopted: 21 December 1965, effective: 4 January 1969)**

This Convention has currently been signed by 177 countries, including Israel in 1979, which has since been legally obliged to meet its terms.¹⁸ However, Israel continues to disagree with the monitoring Committee on the Elimination of All Forms of Racial Discrimination, which has constantly repeated that the Convention does apply to the OPT and emphasized its concern about “policies and practices which amount to de facto segregation”. It clearly stated that the two entirely separate legal systems and severe movement restrictions only affect the Palestinian population (i.e., the wall, roadblocks, separate roads, permit regime), as do the discriminatory planning regimes (with permits “rarely if ever” granted to Palestinians) and the expansion of settlements on ‘state land’. The military operations in and blockade of Gaza have been deplored, too, for their “dramatic and disproportionate impact” on Palestinians’ right to housing and basic services, as have violence and terrorism committed by settlers who “enjoy political and legal support from certain sections of the Israeli political establishment”.¹⁹

THE UN WORLD HERITAGE CONVENTION (adopted: 16 November 1972, effective: 17 December 1975)

In order to preserve the world’s most impressive cultural and natural heritage sites, the UN General Assembly (UNGA) adopted the ‘Convention Concerning the Protection of the World Cultural and Natural Heritage’. Since Israel acceded to it in 1999, it should abide by its obligations. Implementation of and compliance with the convention is monitored by the UNESCO World Heritage Committee, consisting of 21 state parties, elected for a four-year term. The Committee regularly criticizes Israel for its constant aggressions against the *status quo* of the Old City of Jerusalem and its holy sites²⁰, including illegal excavations and the damage being done by them, obstructions to renovation works on Islamic sites, and restricted access to Islamic sites for Muslims,²¹ but is unable to force Israel to abide by its legally non-binding resolutions.

Article 6.3 of the Convention, calling state parties “not to take any deliberate measures which might damage directly or indirectly the cultural and natural heritage (...) situated on the territory of other States Parties to this Convention” has become particularly relevant for Israel since Palestine was accepted as a member state to the Convention in 2011.

THE INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS (signed: 16 December 1966, effective: 23 March 1976)

This multilateral treaty has been ratified by 169 countries. It secures the right of all peoples to self-determination, electoral rights and freedoms of religion, speech, assembly and others. The obligations following from the treaty are legally binding for member states, which Israel has been since 1991, but failing to comply typically goes unsanctioned. The UN Human Rights Committee monitors the member states’ implementation of and compliance with the Covenant by reviewing the regular reports from the member states.

In its last review (2014) the Committee reiterated its regret about Israel’s position that the Covenant’s terms do not apply to the OPT as well as its concerns, *inter alia*, about punitive demolitions in the West Bank, discriminatory planning regimes for Palestinian housing, detention of Palestinians on secret evidence, and the denial of access to counsel and independent doctors. The report also criticized the

¹⁸ On November 10, 1975, the UNGA, recalling the UN Declaration on the Elimination of All Forms of Racial Discrimination (1963), adopted resolution 3379, in which it determined that Zionism as such “is a form of racism and racial discrimination.”

¹⁹ E.g., Committee on the Elimination of Racial Discrimination, *Concluding observations of the Committee on the Elimination of Racial Discrimination*, 9 March 2012, available at <http://www2.ohchr.org/english/bodies/cerd/docs/CERD.C.ISR.CO.14-16.pdf>.

²⁰ The Old City of Jerusalem and its Walls were inscribed as a site on the UNESCO World Heritage List in 1981.

²¹ See, for instance, UNESCO World Heritage Committee, *Decisions adopted by the World Heritage Committee at its 39th session* (Bonn 2015) p.40-43; available at: <http://whc.unesco.org/archive/2015/whc15-39com-19-en.pdf>.

long-standing Gaza blockade and Israel's "excessive use of lethal force (...) during law enforcement operations", as well as the use of torture in Israel's detention facilities and the "widespread, systematic and institutionalized" ill-treatment of Palestinian children. Settlers' violence, the confiscation of Palestinian land, Palestinians' restricted access to natural resources and limited freedom of movement, the separation barrier, expansion of settlements and retroactive legalization of outposts continue to be among the committee's major concerns.²²

THE INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS (signed: 16 December 1966, effective: 3 January 1976)

This multilateral treaty entered into force together with the Covenant on Civil and Political Rights and has been ratified by 164 countries (with the US as the most notable exception). The treaty stipulates that "all peoples have the right of self-determination (...) [T]hey freely determine their political status and freely pursue their economic, social and cultural development. (...) All peoples may, for their own ends, freely dispose of their natural wealth and resources (...). In no case may a people be deprived of its own means of subsistence."²³ The obligations following from the treaty are legally binding for member states, which Israel has been since 1991, but failing to comply typically goes unsanctioned. Member states regularly report to the Committee on Economic, Social and Cultural Rights monitoring the member states' implementation of and compliance with the Covenant.

In its last review (2011) of Israel's report, the committee noted that "most recommendations" from 2003 were still valid eight years later. It raised a long list of serious concerns, including obstacles to employment of the Arab Israeli population, of Palestinian farmers in the West Bank whose lands have become inaccessible, as well as of farmers and fishermen in Gaza. The limited allocation of permits and opening times of the Wall gates were also criticized. The committee was furthermore alarmed, among many other issues, by the wage gap between Israelis and Arabs, the lack of social security and services in East Jerusalem, ongoing house demolitions and forced displacements, insufficient access to safe drinking water and sanitation the West Bank and Gaza, restricted access to health services in Gaza and the area between the Wall and the Green Line, and severe restrictions on the freedom of movement in the OPT.²⁴

INTERNATIONAL CONVENTION ON THE SUPPRESSION AND PUNISHMENT OF THE CRIME OF APARTHEID (adopted 30 November 1973, effective 18 July 1976)

Even though Israel, like many Western countries, is not among the 107 states that have ratified this treaty, the prohibition of the crime of Apartheid applies to Israel as well, both through the International Convention on the Elimination of All Forms of Racial Discrimination, ratified by Israel and listing Apartheid as a form of discrimination, and through customary law. The International Criminal Court's Rome Statute labeled it as a 'crime against humanity'.²⁵ Furthermore, the UN's International Law Commission described Apartheid as a breach of an international obligation consisting of a "composite wrongful act", and as one of the practices that "have been prohibited in widely ratified international treaties and conventions admitting of no exception."²⁶

²² Human Rights Committee, *Concluding observations on the fourth periodic report of Israel* (21 November 2014), available at: <https://digitallibrary.un.org/record/786571>.

²³ *International Covenant on Economic, Social and Cultural Rights* (16 December 1966), available at: <http://www.ohchr.org/Documents/ProfessionalInterest/cescr.pdf>.

²⁴ Committee on Economic, Social & Cultural Rights, *Concluding observations of the Committee on Economic, Social and Cultural Rights* (16 December 2011), available at: http://www.bayefsky.com/pdf/israel_t4_cescr_47_2011.pdf.

²⁵ See in the Annex on Israeli violations of international law, No. 62, also for the ICC's definition of Apartheid.

²⁶ International Law Commission, *Draft articles on Responsibility of States for Internationally Wrongful Acts* (2001), Art. 15 and 40, p. 62, 112-3.

According to international law professors John Dugard and John Reynolds “the available evidence suggests that Israel is responsible for committing inhuman acts within the meaning of Article 2(a), (c), (d), and (f) of the Apartheid Convention”²⁷ (see list in the Annex), mentioning extra-judicial killings, disproportionate force against demonstrators, arbitrary mass arrest and detention, torture, as almost exclusively applying to Palestinians. The same goes for, *inter alia*, severe restrictions on freedom of movement through checkpoints, the wall, separate roads, permits, restrictions on freedom of residency, denial of the right to return and to a nationality, restrictions on trade and access to lands (Article 2c). Turning Gaza into a “besieged Palestinian ghetto,” isolating East Jerusalem and “Judaizing” it, territorially fragmenting the West Bank and implementing “of two separate legal systems for two separate racial groups” in the oPT amount to a *de facto* division of the population along racial lines (Article 2d).²⁸ Opposition to Israeli domination over the Palestinians is increasingly stifled and punished by the Israeli authorities (Article 2f). This regime is “both institutionalized and systematic.”²⁹

THE CONVENTION AGAINST TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT (signed 4 February 1984, effective: 26 June 1987)

The Convention stated that “each State Party shall take effective legislative, administrative, judicial or other measures to prevent acts of torture in any territory under its jurisdiction”, and that “no exceptional circumstances whatsoever (...) may be invoked as a justification of torture”. Torture was defined as “any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person”. Since Israel ratified the treaty in 1991, it is bound by its terms, although it made the reservations that it would not allow investigative visits to Israel or the OPT, nor accept arbitration in case of disputes.³⁰

In its latest report observing member states’ compliance, the Committee against Torture declared that previous recommendations “concerning basic safeguards for detainees, allegations of torture and ill-treatment by Israeli interrogators, and house demolitions (...) have not yet been fully implemented”. The report also showed concerns on issues ranging from degrading treatment on checkpoints, acts of violence by settlers, postponement of return of bodies, access to lawyers, and the treatment of juvenile detainees. The Committee furthermore reaffirmed that the Convention’s scope of applicability includes all of the OPT as well, which Israel continues to deny.³¹

THE CONVENTION ON THE RIGHTS OF THE CHILD (signed: 20 November 1989; effective: 2 September 1990)

Israel has been a state party to this convention since its adoption in 1990 and is thus legally bound by its terms. However, in its latest review on Israel, the committee monitoring the convention’s implementation issued a long list of concerns, even though reviewing was hindered by Israel’s “persistent refusal to provide information and data” on children in the OPT³², to which Israel claims the convention does not apply.

The committee found that the Israeli army had disregarded “principles of proportionality and distinction” concerning children in conflict situations, especially in Gaza. According to the committee, the army had also failed to intervene in cases of settlers’ violence against children. It denounced the separation

²⁷ Dugard, John and John Reynolds, “Apartheid, International Law, and the Occupied Palestinian Territory”, *The European Journal of International Law*, 24 (2013) 867-913.

²⁸ *Ibid.*

²⁹ *Ibid.*

³⁰ UN Treaty Collection, *Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment* -> ‘Declarations and reservations’, available at: https://treaties.un.org/Pages/ViewDetails.aspx?src=treaty&mtdsg_no=iv-9&chapter=4&lang=en. It is also worth noting that the Israeli High Court outlawed the use of arbitrary torture as an interrogation method on 6 September 1999, though stopping short of absolutely banning it as required by international law. However, reports by human rights organizations regularly confirm that Israel still practices ill-treatment and torture, such as isolation, denial of access to lawyers and family members, prolonged interrogation sessions, use of collaborators to threaten detainees, and threats to family members, etc. See, for example, B’Tselem & Hamoked, *Absolute Prohibition: The Torture and Ill-Treatment of Palestinian Detainees*, May 2007.

³¹ Committee against Torture, *Concluding observations on the fifth periodic report of Israel* (3 June 2016), available at: <http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkwpwObldkyK%2bM9cNY7svWLIYmp6PB4chW8O>.

³² Committee on the Rights of the Child, *Concluding observations on the second to fourth periodic reports of Israel* (May-June 2013); available at: <http://www2.ohchr.org/english/bodies/crc/docs/co/CRC-C-ISR-CO-2-4.pdf>.

barrier and the Gaza blockade as forms of collective punishment, heavily impeding the development of children. The “destruction and confiscation of means needed for Palestinian livelihood”, through land confiscation, uprooting olive trees, house demolitions, restricted access to water, land and other natural resources, have resulted in increased poverty and malnutrition severely affecting children. The committee furthermore expressed its deep concerns about torture of Palestinian children, “routinely arrested in the middle of the night”, hand-tied and blindfolded. It is reported that they are “subject to physical and verbal violence, humiliation, painful restraints, hooding of the head and face in a sack, threatened with death, physical violence, and sexual assault”, while having only restricted access to toilet, food and water. The committee was also concerned that “thousands of Palestinian children are deprived of their right to live and grow up in a family environment (...) and that thousands live under the fear of being separated, because of the severe restrictions on family reunification.”³³

B. Customary Law and General Principles

Customary law comprises those aspects of international law that are based on the principle of custom. It consists of rules that come from “a general practice accepted as law” and exist independent of treaty law. To qualify as customary law, it must be reflected in state practice and there must be international consensus that such practice is required as a matter of law. *General principles* are legal concepts of fairness and justice so fundamental that they are applied universally in legal systems around the world. They “fill the gap” when there is no provision in an international treaty or statute nor any recognized customary principle of international law available for application in an international dispute.

THE HAGUE CONVENTION II (signed: 29 July 1899, effective: 4 September 1900); slightly revised as THE HAGUE CONVENTION IV (signed: 18 October 1907, effective: 26 January 1910)

The ‘Convention Respecting the Laws and Customs of War on Land’ is considered part of customary international law. As such it is also binding on states which are not formally parties to them, yet Israel rejects the Convention’s applicability to the OPT. According to the Convention, an occupying state must safeguard natural and other resources and provide the original citizens with their needs from these resources. This does not imply the right to ownership, disposal or transfer to its own state. Especially the Convention’s “Section III on military authority over hostile territory” laid the foundation for most of the present principles of belligerent occupation, demanding, for example, respect for “family honors and rights, individual lives and private property, as well as religious convictions and liberty”, and stipulating that “private property cannot be confiscated” (Art. 46). Convention II (1899) was slightly revised at the Second International Peace Conference in The Hague in 1907, when it was renamed Convention IV.³⁴

THE UNIVERSAL DECLARATION OF HUMAN RIGHTS (ratified: 10 December 1948)

This declaration was adopted by the UNGA and was heavily influenced by the experiences of the Second World War. Since it is not a treaty, it does not directly create legal obligations for states to meet. However, many principles and rights that were formulated for the first time in this declaration have since become part of treaties and covenants that indeed are legally binding. It has also been argued that the frequent and continuous references to universal human rights have effectively made the declaration a part of customary law and thus binding to all nations.

THE FOURTH GENEVA CONVENTION (adopted: 12 August 1949)

The Fourth Geneva Convention - or the Geneva Convention relative to the Protection of Civilian Persons in Time of War - requires an occupying state to take full responsibility for meeting the needs of the civilian population under occupation. Although the Convention’s applicability to Palestine has been repeatedly

³³ *Ibid.*

³⁴ Cohen, Esther Rosalind, *Human Rights in the Israeli-Occupied Territories, 1967-1982*, Melland Schill monographs in international law, Manchester University Press, 1985, p. 23.

affirmed by the UNSC, the UNGA, and the ICJ, Israel has not recognized it, arguing that no legitimate sovereignty had been established over the Palestinian territories since the end of the British Mandate. As a signatory since 1951, Israel continues to be legally responsible for upholding the humanitarian standards of the Fourth Geneva Convention.

THE DECLARATION ON PRINCIPLES OF INTERNATIONAL LAW CONCERNING FRIENDLY RELATIONS AND COOPERATION AMONG NATIONS (adopted: 24 October 1970)

This declaration was adopted in UNGA Resolution 2625 in 1970, affirming the principles of equal rights and self-determination for all peoples, in accordance with the UN Charter. A declaration does not imply any official legal obligations for member states. Thus, they cannot be held legally accountable for not meeting the declaration's terms. However, it has been argued that this declaration has become part of international customary law and would therefore be legally binding.

C. International Bodies and their Authority

UN SECURITY COUNCIL (established in 1945)

UN Security Council (UNSC) Resolutions are adopted by its 15 member states, of which five are permanent. Article 25 of the UN Charter states that "the members of the United Nations agree to accept and carry out the decisions of the Security Council".³⁵ However, the common interpretation of this article has been that only resolutions operating under Chapter VII of the Charter (regulating the use of force by the international community) are legally binding, whereas resolutions under Chapter VI (on the peaceful settlement of disputes) are not. Although several scholars have argued that Article 25 must apply to all resolutions, in practice the UNSC does not consider resolutions operating under other chapters than VII legally binding. Resolutions on the Israeli-Palestinian conflict have operated under Chapter VI and never under Chapter VII. Israel, a UN member state since 1949, has used this as an argument not to carry out their terms and to put them aside.

UN GENERAL ASSEMBLY (established in 1945)

These resolutions have been adopted by the UNGA, consisting of all the UN member states. They require a simple majority vote, or a two third majority on issues concerning 'important questions', among which are international peace and security. UNGA resolutions are commonly considered to be non-binding towards member states. Israel has thus not felt the obligation to comply with the terms of such resolutions.

UN ECONOMIC AND SOCIAL COUNCIL (established in 1945)

The UN Economic and Social Council coordinates the work on social, economic and environmental issues executed by 15 specialized UN agencies. It also functions as a global platform for debates on these issues. Resolutions from this council are not considered to be legally binding.

THE INTERNATIONAL COURT OF JUSTICE (established in 1945)

Established by the UN Charter, the ICJ in The Hague is "the principal judicial organ of the United Nations", settling "legal disputes submitted to it by States and to give advisory opinions on legal questions referred to it by authorized United Nations organs and specialized agencies."³⁶ All UN member states, so including Israel, are automatically parties to the court's statute. The ICJ produces binding rulings only on so-called 'contentious issues', when two states agree to bring a dispute before the court. Specific UN

³⁵ Charter of the United Nations (1945), available at: <https://treaties.un.org/doc/publication/ctc/uncharter.pdf>.

³⁶ International Court of Justice, "The Court", available at: <http://www.icj-cij.org/court/index.php?p1=1>.

bodies can request an ‘advisory opinion’ from the court, as happened on the issue of the separation barrier, in 2004. On this occasion, the ICJ reaffirmed that, contrary to Israel’s position, international humanitarian law does apply to the OPT as well. Although widely respected and important as a source of international jurisdiction, the court’s advisory opinions are not considered to be legally binding to the state it concerns.

THE INTERNATIONAL CRIMINAL COURT (entered into force on 1 July 2002)

The ICC “investigates and, where warranted, tries individuals charged with the gravest crimes of concern to the international community: genocide, war crimes and crimes against humanity”.³⁷ The court was founded after the adoption of the **Rome Statute** on 17 July 1998 by a vote of 120:7 and 21 abstaining. Israel was one of those voting against the treaty, which as of yet has been ratified by 124 countries, which thereby accept the ICC’s jurisdiction. Israel later signed, but never ratified the treaty and has since withdrawn its signature again (as have Sudan, Russia and the US). Thus, Israel does not recognize the ICC’s authority and does not feel obliged to follow its advices and rulings, citing as a reason, *inter alia*, the inclusion of “the transfer of parts of the civilian population of an occupying power into occupied territory” as a war crime.



International Criminal Court

THE UN HUMAN RIGHTS COUNCIL

The UN Human Rights Council (UNHRC) is the successor to the UN Commission on Human Rights and the UN’s principal inter-governmental forum for questions relating to human rights, working closely with the Office of the High Commissioner for Human Rights (OHCHR). The UNHCR consists of 47 member states, elected for three years.³⁸ However, its mandate is limited and “its resolutions and decisions are not legally binding but do contain strong political commitments.”³⁹ It is supported by the Universal Periodic Review, periodically examining the human rights situation in all 193 UN member states. In its 2013 report, the working group listed no fewer than 237 recommendations to Israel on all the major and minor issues. In 2015, a UNHRC inquiry into the 2014 Gaza War accused Israeli (and to a minor extent Hamas and other Palestinian factions) of multiple potential violations of international law, including suspected war crimes.⁴⁰

³⁷ International Criminal Court, “About”, available at: <https://www.icc-cpi.int/about>.

³⁸ The Council’s credibility has been called into question, because among its members are states like China, Egypt, Rwanda and Saudi Arabia, which themselves violate human rights on a massive scale. Furthermore, the Council adopted more country-specific resolutions on Israel than on all other nations combined, and has therefore been criticized for being deeply biased, thus further undermining its credibility. Former UN Secretary Generals Kofi Annan and Ban Ki-Moon were among the many who expressed their concerns that the Council disproportionately focuses on the Israeli-Palestinian conflict.

³⁹ *The Human Rights Council. A practical guide* (2015) p.5, available at: https://www.eda.admin.ch/content/dam/eda/en/documents/publications/InternationaleOrganisationen/Uno/Human-rights-Council-practical-guide_en.

⁴⁰ See Report of the detailed findings of the independent commission of inquiry established pursuant to Human Rights Council resolution S-21/ on the 2014 Gaza Conflict (A/HRC/29/CRP.4), available at: <http://www.ohchr.org/EN/HRBodies/HRC/ColGazaConflict/Pages/ReportColGaza.aspx>.

CONCLUDING REMARKS

When a state persists in seriously breaching peremptory norms of international law, it is not only the state itself that fails to meet its obligations. The entire international community then forsakes its duty to hold that state accountable for its actions defying ‘*jus cogens*’ norms. That is exactly what is going on in the case of Israel’s occupation of Palestine.

Israel has violated UN resolution after resolution, contravened numerous international (humanitarian) law obligations and treaties, ignored an International Court of Justice Advisory Opinion, and it has done so in its supposedly own interest - at the expense of Palestinian rights. What is much less understandable in this regard is the international complicity with Israel’s policies and actions, the failure of third countries to live up to their legal (and moral) obligations and ensure respect of international law in the face of Israel’s disrespect and its well documented grave and systematic human rights abuses. Palestinians and human rights organizations have been criticizing for a long time that international action hardly ever exceeds the level of routine condemnations, and that international NGOs, donors and UN agencies have been too focused on working around the occupation to maintain trade or diplomatic relations, thereby placing impunity over accountability and contributing to the terrible injustice that has befallen Palestinians for so many years now.⁴¹ Moreover, Israel keeps benefiting from EU and other trade deals and the US never doubts its enormous financial aid to Israel, irrespective of its behavior. This demonstrates how some states at least balance the safeguarding of human rights against their interest in good relations with countries, no matter how questionable their human rights record may be.

Thus far, the fact that the international community has been interpreting their obligations of non-assistance and non-cooperation in a rather minimalistic way has helped Israel maintain its occupation of Palestine since 50 years by now. These 50 years of complicity are particularly shameful, taking into account that international law would indeed allow for a more proactive approach, for example, a full ban on importing settlement products. Third states across the world could, for instance, apply restrictions on settlement supporting financial transactions from their residents, organizations and businesses. With all else failing, the EU could suspend its trade agreement with Israel, invoking its Article 2 on human rights.⁴² Pressure works and there are many historical examples for it⁴³, which show that with political will and unity in the UNSC almost everything is possible. To act decisively also against Israel is essential to bring the occupation to an end.

As B’Tselem Director Hagai El-Ad has put it squarely: one feels compelled to ask how much more suffering Palestinians must endure at the hands of Israel “before the realization sinks in that words that are not backed up by action do no more than indicate to Israel that it may carry on?” and giving it “a license to proceed without having to suffer too many repercussions.”⁴⁴

Israel must not be treated like the constitutional democracy it claims to be, if it does not act like one, and the international community must take concrete action to ensure Israel’s adherence to its obligations under international law – not least to restore its own credibility and legitimacy.

⁴¹ See, for example, Lester Murad, Nora, “Donor Complicity in Israel’s Violations of Palestinian Rights”, *Al-Shabaka Policy Brief*, 24 October 2014, available at: <https://al-shabaka.org/briefs/donor-complicity-in-israels-violations-of-palestinian-rights/>. Similarly, following an investigation into businesses operating in illegal Israeli settlements, a Human Rights Watch report stated that “Businesses should stop operating in, financing, servicing, or trading with Israeli settlements in order to comply with their human rights responsibilities”, including the UN principle to respect human rights and identify and mitigate any adverse human rights impact their operations may cause. HRW, *Occupation, Inc.* January 2016, available at: <https://www.hrw.org/report/2016/01/19/occupation-inc/how-settlement-businesses-contribute-israels-violations-palestinian>.

⁴² *Euro-Mediterranean Agreement* (2000), Art. 2: “Relations between the Parties, as well as all the provisions of the Agreement itself, shall be based on respect for human rights and democratic principles, which guides their internal and international policy and constitutes an essential element of this Agreement.” Available at: http://trade.ec.europa.eu/doclib/docs/2010/april/tradoc_146089.pdf.

⁴³ E.g., the international community’s swift response to Iraq’s occupation of Kuwait in 1990.

⁴⁴ “Hagai El-Ad’s address in a special discussion about settlements at the United Nations Security Council,” October 2106, available at http://www.btselem.org/settlements/20161014_security_council_address.

APPENDIX

MAIN ISRAELI VIOLATIONS OF INTERNATIONAL LAW AND INTERNATIONAL COMPLICITY

The following list shows the actual legal reach of the different sources of international law and what obligations follow from that for Israel. It thus easily suffices to prove that Israel has systematically failed to comply with international law.

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LIST OF SOURCES	
TREATIES	
I.	<p>United Nations Charter (26 June 1945) – Self-determination, territorial integrity, non-discrimination</p> <p>Recognizes the right of all nations to self-determination and states that territorial gains from war are unlawful, even if achieved in the course of self-defense, obliging any state to withdraw once it has protected itself from danger. The purpose of the UN is, inter alia, defined in Art. 1 (2) as: (...) to develop friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples.</p> <p>Art. 2.4: All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations.</p>

2.	<p>Fourth Geneva Convention (12 August 1949) - Property, settlement, collective punishment, deportation, food and medicine, physical treatment, religious freedom</p> <p>Requires the belligerent occupant to ensure the rights of Protected Persons, defined in <u>Art. 4 (1)</u> as, (...) <i>those who, at a given moment and in any manner whatsoever, find themselves... in the hands of an Occupying Power of which they are not nationals.</i></p> <p><u>Part III (Status and Treatment of Protected Persons), Section I: Provisions Common to the Territories of the Parties to the Conflict and to Occupied Territories</u></p> <p><u>Art. 27:</u> <i>Protected persons are entitled, in all circumstances, to respect for their persons, their honor, their family rights, their religious convictions and practices, and their manners and customs. They shall at all times be humanely treated, and shall be protected especially against all acts of violence or threats thereof and against insults and public curiosity.</i></p> <p><u>Art. 32</u> prohibits: <i>taking any measure of such a character as to cause the physical suffering or extermination of protected persons in their hands. This prohibition applies not only to murder, torture, corporal punishments, mutilation and medical or scientific experiments not necessitated by the medical treatment of a protected person, but also to any other measures of brutality whether applied by civilian or military agents.</i></p> <p><u>Art. 33</u> (...) <i>Collective penalties and likewise all measures of intimidation or of terrorism are prohibited. Pillage is prohibited. Reprisals against protected persons and their property are prohibited.</i></p> <p><u>Part III, Section III: Occupied Territories</u></p> <p><u>Art. 47:</u> <i>Protected persons who are in occupied territory shall not be deprived, in any case or in any manner whatsoever, of the benefits of the present Convention by any change as the result of the occupation of a territory, into the institutions or government of the said territory, nor by any agreement concluded between the authorities of the occupied territories and the Occupying Power, nor by any annexation by the latter of the whole or part of the occupied territory.</i></p> <p><u>Art. 49:</u> <i>Individual or mass forcible transfers, as well as deportations of protected persons from occupied territory to the territory of the Occupying Power or to that of any other country, occupied or not, are prohibited, regardless of their motive. (...) Persons thus evacuated shall be transferred back to their homes as soon as hostilities in the area in question have ceased. (...) The Occupying Power shall not deport or transfer parts of its own civilian population into the territory it occupies.</i></p> <p><u>Art. 53:</u> <i>Any destruction by the Occupying Power of real or personal property belonging individually or collectively to private persons, or to the State, or to other public authorities, or to social or cooperative organizations, is prohibited, except where such destruction is rendered absolutely necessary by military operations.</i></p> <p><u>Art. 54:</u> <i>The Occupying Power may not alter the status of public officials or judges in the occupied territories, or in any way apply sanctions to or take any measures of coercion or discrimination against them, should they abstain from fulfilling their functions for reasons of conscience.</i></p> <p><u>Art. 55:</u> <i>an occupying power has the duty of ensuring the food and medical supplies of the population.</i></p> <p>Final Provisions, Art. 158 (3) indicates that persons temporarily absent at the beginning of an occupation or inhabitants who go abroad during an occupation are considered to be Protected Persons and have a right to be repatriated: (...) <i>a denunciation of which notification has been made at a time when the denouncing Power is involved in a conflict shall not take effect until peace has been concluded, and until after operations connected with release, repatriation and re-establishment of the persons protected by the present Convention have been terminated.</i></p>
3.	<p>Fourth Geneva Convention, Additional Protocol I (8 June 1977) – Water</p> <p><u>Art. 54, II:</u> <i>the prohibition to attack, destroy, remove or render useless objects indispensable to the survival of the civilian population, such as [...] drinking water installations and supplies and irrigation works, for the specific purpose of denying them for their sustenance value to the civilian population or to the adverse Party, whatever the motive...</i></p>
4.	<p>Convention for the Protection of Cultural Property in the Event of Armed Conflict, The Hague (14 May 1954) – Cultural property</p> <p><u>Art. 4. Respect for cultural property</u></p> <p>1. <i>The High Contracting Parties undertake to respect cultural property situated within their own territory as well as within the territory of other High Contracting Parties by refraining from any use of the property and its immediate surroundings or of the appliances in use for its protection for purposes which are likely to expose it to destruction or damage in the event of armed conflict; and by refraining from any act of hostility directed against such property. ...</i></p> <p>3. <i>The High Contracting Parties further undertake to prohibit, prevent and, if necessary, put a stop to any form of theft, pillage or misappropriation of, and any acts of vandalism directed against, cultural property. They shall refrain from requisitioning movable cultural property situated in the territory of another High Contracting Party.</i></p> <p>4. <i>They shall refrain from any act directed by way of reprisals against cultural property.</i></p>

	<p><u>Art. 5. Occupation</u></p> <p>1. Any High Contracting Party in occupation of the whole or part of the territory of another High Contracting Party shall as far as possible support the competent national authorities of the occupied country in safeguarding and preserving its cultural property.</p> <p>2. Should it prove necessary to take measures to preserve cultural property situated in occupied territory and damaged by military operations, and should the competent national authorities be unable to take such measures, the Occupying Power shall, as far as possible, and in close co-operation with such authorities, take the most necessary measures of preservation.</p>
5.	<p>International Convention on the Elimination of All Forms of Racial Discrimination (adopted by UNGA Res. 2106 (XX) of 21 December 1965) – Apartheid, non-discrimination, right of return, (physical) treatment</p> <p>Art. 3: States Parties particularly condemn racial segregation and apartheid and undertake to prevent, prohibit and eradicate all practices of this nature in territories under their jurisdiction.</p> <p>Art. 5: (...) States Parties undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law, notably in the enjoyment of the following rights:</p> <p>(a) The right to equal treatment before the tribunals and all other organs administering justice; (b) The right to security of person and protection by the State against violence or bodily harm, whether inflicted by government officials or by any individual group or institution; (c) Political rights, in particular the right to participate in elections-to vote and to stand for election-on the basis of universal and equal suffrage, to take part in the Government as well as in the conduct of public affairs at any level and to have equal access to public service; (d) Other civil rights, in particular: (i) The right to freedom of movement and residence within the border of the State; (ii) The right to leave any country, including one's own, and to return to one's country; (iii) The right to nationality;</p> <p>(iv) The right to marriage and choice of spouse; (viii) The right to freedom of opinion and expression; (ix) The right to freedom of peaceful assembly and association.</p>
6.	<p>International Covenant on Civil and Political Rights (adopted by UNGA Res. 2200A (XX1) of 16 Dec. 1966) – Self-determination, right of return, natural resources, arrest</p> <p><u>Part I, Art. 1:</u></p> <p>1. All peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.</p> <p>2. All peoples may, for their own ends, freely dispose of their natural wealth and resources without prejudice (...). In no case may a people be deprived of its own means of subsistence.</p> <p>3. The States Parties to the present Covenant, including those having responsibility for the administration of Non-Self-Governing and Trust Territories, shall promote the realization of the right of self-determination, and shall respect that right.</p> <p><u>Part III, Art. 9:</u></p> <p>1. Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law.</p> <p>2. Anyone who is arrested shall be informed, at the time of arrest, of the reasons for his arrest and shall be promptly informed of any charges against him.</p> <p><u>Part III, Art. 12:</u></p> <p>1. Everyone lawfully within the territory of a State shall, within that territory, have the right to liberty of movement and freedom to choose his residence.</p> <p>2. Everyone shall be free to leave any country, including his own. ...</p> <p>4. No one shall be arbitrarily deprived of the right to enter his own country.</p>
7.	<p>International Covenant on Economic, Social and Cultural Rights (adopted by UNGA Res. 2200A (XX1) of 16 Dec. 1966) – Self-determination, natural resources, living conditions</p> <p><u>Part I, Art. 1:</u></p> <p>1. All peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.</p> <p>2. All peoples may, for their own ends, freely dispose of their natural wealth and resources without prejudice to any obligations arising out of international economic cooperation, based upon the principle of mutual benefit, and international law. In no case may a people be deprived of its own means of subsistence.</p>

	<p><u>Part III, Art. 11:</u> <i>The right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions. The States Parties will take appropriate steps to ensure the realization of this right, (...).</i></p>
8.	<p>UNESCO World Heritage Convention (adopted 16 Nov. 1972) – Cultural property <u>Part II. (National and international protection of the cultural and natural heritage)</u> <u>Art. 6.2:</u> <i>The States Parties undertake, in accordance with the provisions of this Convention, to give their help in the identification, protection, conservation and presentation of the cultural and natural heritage (...).</i> <u>Art. 6.3:</u> <i>Each State Party to this Convention undertakes not to take any deliberate measures which might damage directly or indirectly the cultural and natural heritage (...) situated on the territory of other States Parties to this Convention.</i></p>
9.	<p>Convention against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment (adopted 10 December 1984) – Physical treatment <u>Art. 1:</u> <i>For the purposes of this Convention, the term ‘torture’ means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person (...).</i> <u>Art. 2:</u> <i>1. Each State Party shall take effective legislative, administrative, judicial or other measures to prevent acts of torture in any territory under its jurisdiction; 2. No exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political instability or any other public emergency, may be invoked as a justification of torture.</i></p>
10.	<p>Convention on the Rights of the Child (adopted 20 Nov. 1989) – Children <u>Art. 9.1:</u> <i>States Parties shall ensure that a child shall not be separated from his or her parents against their will, except when competent authorities subject to judicial review determine, (...) that such separation is necessary for the best interests of the child.</i> <u>Art. 10.1:</u> <i>applications by a child or his or her parents to enter or leave a State Party for the purpose of family reunification shall be dealt with by States Parties in a positive, humane and expeditious manner.</i> <u>Art. 19.1:</u> <i>States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child.</i> <u>Art. 27.1:</u> <i>States Parties recognize the right of every child to a standard of living adequate for the child's physical, mental, spiritual, moral and social development.</i> <u>Art. 37:</u> <i>States Parties shall ensure that:</i> <i>a. No child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment. (...);</i> <i>b. No child shall be deprived of his or her liberty unlawfully or arbitrarily. The arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time;</i> <i>c. Every child deprived of liberty shall be treated with humanity and respect (...);</i> <i>d. Every child deprived of his or her liberty shall have the right to prompt access to legal and other appropriate assistance, (...).</i></p>
ADDITIONAL SOURCES: CONVENTIONS TO WHICH ISRAEL IS NOT A STATE PARTY	
11.	<p>The European Convention for the Protection of Human Rights and Fundamental Freedoms, Protocol 4 (adopted 16 Sept. 1963) – Right of return <u>Art. 3:</u> <i>(1) No one shall be expelled, by means either of an individual or of a collective measure, from the territory of the State of which he is a national; (2) No one shall be deprived of the right to enter the territory of the State of which he is a national.</i></p>
12.	<p>The American Convention on Human Rights (adopted on 22 Nov. 1969) – Right of return <u>Art. 22, 2:</u> <i>No one can be expelled from the territory of the State of which he is a national or be deprived of the right to enter it.</i></p>
13.	<p>International Convention on the Suppression and Punishment of the Crime of Apartheid (adopted 30 November 1973) – Apartheid, non-discrimination <u>Art. 1.</u> <i>(...) apartheid is a crime against humanity (...), constituting a serious threat to international peace and security. Apartheid is defined as to include:</i></p>

	<p><u>Art. 2a.</u> denial to a member or members of a racial group or groups of the right to life and liberty of person: (i) by murder of members of a racial group or groups; (ii) by the infliction upon the members of a racial group or groups of serious bodily or mental harm, by the infringement of their freedom or dignity, or by subjecting them to torture or to cruel, inhuman or degrading treatment or punishment; (iii) by arbitrary arrest and illegal imprisonment of the members of a racial group or groups;</p> <p><u>Art. 2c.</u> any (...) measures calculated to prevent a racial group (...) from participation in the political, social, economic and cultural life of the country and the deliberate creation of conditions preventing the full development of such a group (...), in particular by denying [them] basic human rights and freedoms, including (...) the right to leave and to return to their country, the right to a nationality, the right to freedom of movement and residence (...).</p> <p><u>Art. 2d.</u> any measures (...) designed to divide the population along racial lines by the creation of separate reserves and ghettos for the members of a racial group or groups, the prohibition of mixed marriages among members of various racial groups, the expropriation of landed property belonging to [members of] a racial group.</p> <p><u>Art. 2f.</u> persecution of organizations and persons, by depriving them of fundamental rights and freedoms, because they oppose apartheid.</p>
14.	<p>The African Charter on Human and Peoples' Rights (adopted 27 June 1981) – right of return</p> <p>Art. 12: (2) Every individual (...) is entitled to return to his country.</p>
15.	<p>Convention Concerning Indigenous and Tribal Peoples in Independent Countries (7 June 1989) – Property, natural resources, right of return</p> <p><u>Art. 14(1):</u> The rights of ownership and possession of the peoples concerned over the lands which they traditionally occupy shall be recognized. (...) safeguard the right of the peoples concerned to use lands not exclusively occupied by them, but to which they have traditionally had access for their subsistence and traditional activities.</p> <p><u>Art. 15(1):</u> The rights of the peoples concerned to the natural resources pertaining to their lands shall be specially safeguarded. These rights include the right of these peoples to participate in the use, management and conservation of these resources.</p> <p><u>Art. 16:</u> 1. ... The peoples concerned shall not be removed from the lands, which they occupy. (...)</p> <p>3. Whenever possible, these peoples shall have the right to return to their traditional lands, as soon as the grounds for relocation cease to exist.</p> <p>4. When such return is not possible, (...) these peoples shall be provided in all possible cases with lands of quality and legal status at least equal to that of the lands previously occupied by them, suitable to provide for their present needs and future development. Where the peoples concerned express a preference for compensation in money or in kind, they shall be so compensated under appropriate guarantees.</p> <p>5. Persons thus relocated shall be fully compensated for any resulting loss or injury.</p>
UN RESOLUTIONS	
16.	<p>UNGA Res. 181 (29 Nov. 1947) – Jerusalem</p> <p>(As a condition for its admission to the UN, Israel formally agreed to accept Res.181 (II))</p> <p><u>Part I C, Chapter 1: Holy Places, Religious Buildings and Sites:</u> In so far as Holy Places are concerned, the liberty of access, visit, and transit shall be guaranteed, in conformity with existing rights, to all residents and citizen of the other State and of the City of Jerusalem, as well as to aliens, without distinction as to nationality, subject to requirements of national security, public order and decorum.</p>
17.	<p>UNGA Res. 181 (29 Nov. 1947) – Jerusalem, property, non-discrimination, religious freedom</p> <p><u>Part I C, Chapter 2: Religious and Minority Rights:</u> Freedom of conscience and the free exercise of all forms of worship, subject only to the maintenance of public order and morals, shall be ensured to all. No discrimination of any kind shall be made between the inhabitants on the ground of race, religion, language or sex. (...)</p> <p>No expropriation of land owned by an Arab in the Jewish State or by a Jew in the Arab State shall be allowed except for public purposes. In all cases of expropriation full compensation as fixed by the Supreme Court shall be paid previous to dispossession.</p> <p><u>Part I C, Chapter 3: 1.</u> Palestinian citizens residing in Palestine outside the City of Jerusalem, as well as Arabs and Jews who, not holding Palestinian citizenship, reside in Palestine outside the City of Jerusalem shall, upon the recognition of independence, become citizens of the State in which they are resident and enjoy full civil and political rights.</p>

18.	<p>UNGA Res. 194 III (11 Dec. 1948) – Jerusalem, cultural property</p> <p><i>7. Resolves that the Holy Places—including Nazareth—religious buildings and sites in Palestine should be protected and free access to them assured, in accordance with existing rights and historical practice (...)</i></p> <p><i>8: Resolves that, in view of its association with three world religions, the Jerusalem area, including the present municipality of Jerusalem plus the surrounding villages and towns, the most eastern of which shall be Abu Dis; the most southern, Bethlehem, the most western, Ein Karim (including also the built-up area of Motsa); and the most northern Shu'fat, should be accorded special and separate treatment from the rest of Palestine and should be placed under effective United Nations control. (...);</i></p> <p><i>9. Resolves that, pending agreement on more detailed arrangements among the Governments and authorities concerned, the freest possible access to Jerusalem by road, rail or air should be accorded to all inhabitants of Palestine.</i></p>
19.	<p>UNGA Res. 194 III (11 Dec. 1948) – Right of return</p> <p><i>11: Resolves that the refugees wishing to return to their homes and live at peace with their neighbors should be permitted to do so at the earliest practicable date, and that compensation should be paid for the property of those choosing not to return and for loss of or damage to property which, under principles of international law or in equity, should be made good by the Governments or authorities responsible;</i></p> <p><i>Instructs the Conciliation Commission to facilitate the repatriation, resettlement and economic and social rehabilitation of the refugees and the payment of compensation.</i></p>
20.	<p>UNGA Res. 303 (IV) (9 Dec. 1949) – Jerusalem</p> <p><i>1. To restate, therefore, its intention that Jerusalem should be placed under a permanent international regime, which should envisage appropriate guarantees for the protection of the Holy Places, both within and outside Jerusalem, and to confirm specifically the following provisions of General Assembly Resolution 181 (II) 3/ (1) the City of Jerusalem shall be established as a corpus separatum under a special international regime and shall be administered by the United Nations; (2) the Trusteeship Council shall be designated to discharge the responsibilities of the Administering Authority ...; and (3) the City of Jerusalem shall include the present municipality of Jerusalem plus the surrounding villages and towns.</i></p>
21.	<p>UNGA Res. 1514 (XV) - Declaration on the Granting of Independence to Colonial Countries and Peoples (14 Dec. 1960) – Self-determination, territorial integrity</p> <p><i>2. All peoples have the right to self-determination; by virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development. (...)</i></p> <p><i>4. All armed action or repressive measures of all kinds directed against dependent peoples shall cease in order to enable them to exercise peacefully and freely their right to complete independence, and the integrity of their national territory shall be respected. (...)</i></p> <p><i>6. Any attempt aimed at the partial or total disruption of the national unity and the territorial integrity of a country is incompatible with the purposes and principles of the Charter of the United Nations.</i></p>
22.	<p>UNGA Res.1803 (XVII) (14 Dec. 1962) - Natural resources</p> <p><i>1. The right of peoples and nations to permanent sovereignty over their natural wealth and resources must be exercised in the interest of their national development and of the well-being of the people of the State concerned.</i></p> <p><i>7. Violation of the rights of peoples and nations to sovereignty over their natural wealth and resources is contrary to the spirit and principles of the Charter of the United Nations and hinders the development of international cooperation and the maintenance of peace..</i></p>
23.	<p>UNSC Res. 237 (14 June 1967) – Right of return</p> <p><i>Considering that essential and inalienable human rights should be respected even during the vicissitudes of war, (...)</i></p> <p><i>1. Calls upon the Government of Israel to ensure the safety, welfare and security of the inhabitants of the areas where military operations have taken place and to facilitate the return of those inhabitants who have fled the areas since the outbreak of hostilities.</i></p>
24.	<p>UNGA Res. 2253 (ES-V) (4 July 1967) - Jerusalem</p> <p><i>Deeply concerned at the situation prevailing in Jerusalem as a result of the measures taken by Israel to change the status of the City,</i></p> <p><i>1. Considers that these measures are invalid;</i></p> <p><i>2. Calls upon Israel to rescind all measures already taken and to desist forthwith from taking action which would alter the status of Jerusalem;</i></p> <p><i>3. Requests the Secretary-General to report to the General Assembly and the Security Council on the situation and on the implementation of the present resolution not later than one week from its adoption.</i></p>

25.	<p>UNSC Res. 242 (22 Nov. 1967) – Territorial integrity, right of return <i>Emphasizing the inadmissibility of the acquisition of territory by war (...),</i> 1. <i>Affirms that the fulfillment of Charter principles requires the establishment of a just and lasting peace in the Middle East which should include the application of both the following principles:</i> <i>(i) Withdrawal of Israel armed forces from territories occupied in the recent conflict; (...)</i> 2. <i>Affirms further the necessity (...)</i> <i>(b) For achieving a just settlement of the refugee problem.</i> UNSC Res. 338 (22 Oct. 1973) calls for the implementation of UNSC Res. 242 “in all of its parts.”</p>
26.	<p>UNSC Res. 252 (21 May 1968) – Jerusalem, territorial integrity, property <i>Reaffirming that acquisition of territory by military conquest is inadmissible, (...)</i> 2. <i>Considers that all legislative and administrative measures and actions taken by Israel, including expropriation of land and properties thereon, which tend to change the legal status of Jerusalem are invalid and cannot change that status;</i> 3. <i>Urgently calls upon Israel to rescind all such measures already taken and to desist forthwith from taking any further action which tends to change the status of Jerusalem.</i></p>
27.	<p>UNSC Res. 267 (3 July 1969) - Jerusalem 2. <i>Deplores the failure of Israel to show any regard for the resolutions of the General Assembly and the Security Council mentioned above;</i> 3. <i>Censures in the strongest terms all measures taken to change the status of the City of Jerusalem;</i> 4. <i>Confirms that all legislative and administrative measures and actions taken by Israel which purport to alter the status of Jerusalem, including expropriation of land and properties thereon, are invalid and cannot change that status;</i> 5. <i>Urgently calls once more upon Israel to rescind forthwith all measures taken by it, which may tend to change the status of the City of Jerusalem, and in future to refrain from all actions likely to have such an effect;</i></p>
28.	<p>UNSC Res. 271 (15 Sept. 1969) - Jerusalem 4. <i>Calls upon Israel scrupulously to observe the provisions of the Geneva Conventions and international law governing military occupation and to refrain from causing any hindrance to the discharge of the established functions of the Supreme Moslem Council of Jerusalem, including any co-operation that Council may desire from countries with predominantly Moslem population and from Moslem communities in relation to its plans for the maintenance and repair of the Islamic Holy Places in Jerusalem.</i></p>
29.	<p>UNGA 2649 XXV (30 Nov. 1970) - Self-determination 1. <i>Affirms the legitimacy of the struggle of peoples under colonial and alien domination recognized as being entitled to the right of self-determination to restore to themselves that right by any means at their disposal;</i> 2. <i>Recognizes the right of peoples under colonial and alien domination in the legitimate exercise of their right to self-determination to seek and receive all kinds of moral and material assistance; (...)</i> 4. <i>Considers that the acquisition and retention of territory in contravention of the right of the people of that territory to self-determination is inadmissible and a gross violation of the Charter;</i> 5. <i>Condemns those Governments that deny the right to self-determination of peoples recognized as being entitled to it, especially of the peoples of southern Africa and Palestine; (...).</i></p>
30.	<p>UNGA Res. 2672 C (8 Dec. 1970) - Self-determination 1. <i>Recognizes that the people of Palestine are entitled to equal rights and self-determination, in accordance with the Charter of the United Nations;</i> 2. <i>Declares that full respect for the inalienable rights of the people of Palestine is an indispensable element in the establishment of a just and lasting peace in the Middle East.</i></p>
31.	<p>UNGA Res. 2672 D (8 Dec. 1970) – Right of return 1. <i>Considers that the plight of the displaced persons continues since they have not been able to return to their homes and camps;</i> 2. <i>Calls once more upon the Government of Israel to take immediately and without any further delay effective steps for the return of the displaced persons.</i></p>
32.	<p>UNSC Res. 298 (25 Sept. 1971) - Jerusalem 2. <i>Deplores the failure of Israel to respect the previous resolutions adopted by the United Nations concerning measures and actions by Israel purporting to affect the status of the City of Jerusalem;</i> 3. <i>Confirms in the clearest possible terms that all legislative and administrative actions taken by Israel to change the status of the City of Jerusalem, including expropriation of land and properties, transfer of populations and legislation aimed at the incorporation of the occupied section, are totally invalid and cannot change that status;</i> 4. <i>Urgently calls upon Israel to rescind all previous measures and actions and to take no further steps in the occupied section of Jerusalem which may purport to change the status of the City or which would prejudice the rights of the inhabitants and the interests of the international community, or a just and lasting peace.</i></p>

33.	<p>UNGA Res. 3005 XXVII (15 Dec. 1972) – Applicability of Geneva Convention IV, right to return, settlements, property, natural resources, territorial integrity, deportation</p> <p>2. Strongly calls upon Israel to rescind forthwith and desist from, all such policies and practices as:</p> <p>(a) The annexation of any part of the occupied territories;</p> <p>(b) The establishment of Israeli settlements in those territories and the transfer of parts of an alien population into the occupied territories;</p> <p>(c) The destruction and demolition of villages, quarters and houses and the confiscation and expropriation of property;</p> <p>(d) The evacuation, transfer, deportation and expulsion of the inhabitants of the occupied territories;</p> <p>(e) The denial of the right of the displaced persons to return to their homes;</p> <p>3. Reaffirms that all measures taken by Israel in contravention of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, to settle the occupied territories, including occupied Jerusalem, are null and void;</p> <p>4. Affirms the principle of the sovereignty of the population of the occupied territories over their national wealth and resources.</p>
34.	<p>UN Economic and Social Council Res. 1988 (IV), Draft Principles (18 May 1973) - Right of return</p> <p>(a) Everyone is entitled, without distinction of any kind, such as race, color, sex, language, religion, political or other opinion, national or social origin, property, birth, marriage or other status, to return to his country.</p> <p>(b) No one shall be arbitrarily deprived of his nationality or forced to renounce his nationality as a means of divesting him of the right to return to his country.</p> <p>(c) No one shall be arbitrarily deprived of the right to enter his own country.</p> <p>(d) No one shall be denied the right to return to his own country on the ground that he has no passport or other travel document.</p>
35.	<p>UNGA Res. 3092(XXVIII) (7 Dec. 1973) - Applicability of the Geneva Convention IV</p> <p>1. Affirms that the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, applies to the Arab territories occupied by Israel since 1967;</p> <p>2. Calls upon the Israeli occupation authorities to respect and comply with the provisions of that Convention in the occupied Arab territories (...)</p>
36.	<p>UNGA Res. 3236 XXIX (22 Nov. 1974) - Self-determination, property, right of return</p> <p>1. Reaffirms the inalienable rights of the Palestinian people in Palestine, including:</p> <p>(a) The right to self-determination without external interference;</p> <p>(b) The right to national independence and sovereignty;</p> <p>2. Reaffirms also the inalienable right of the Palestinians to return to their homes and property from which they have been displaced and uprooted, and calls for their return.</p>
37.	<p>UNGA Res. 3525 A (15 Dec. 1975) – Settlements, (cultural) property, right of return, natural resources, territorial integrity, arrest, deportation, physical treatment, religious freedom</p> <p>5. Condemns, in particular, the following Israeli policies and practices: (a) The annexation of parts of the occupied territories; (b) The establishment of Israeli settlements (...); (c) The destruction (...) Arab houses; (d) The confiscation and expropriation of Arab property (...); (e) The evacuation, deportation, expulsion, displacement and transfer of Arab inhabitants of the occupied territories, and the denial of their right to return; (f) Mass arrests, administrative detention and ill-treatment of the Arab population; (g) The pillaging of archaeological and cultural property; (h) The interference with religious freedoms and practices (...); (i) The illegal exploitation of the natural wealth, resources and population of the occupied territories.</p> <p>6. Declares that those policies and practices of Israel constitute grave violations of the Charter of the United Nations, in particular the principles of sovereignty and territorial integrity, and the principles and provisions of international law concerning occupation, and constitute as well an impediment to the establishment of a just and lasting peace;</p>
38.	<p>UNGA Res. 3525 A (15 Dec. 1975) – Settlements, applicability of Geneva Convention IV</p> <p>7. Reaffirms that all measures taken by Israel to change the physical character, demographic composition, institutional structure or status of the occupied territories, or any part thereof, are null and void;</p> <p>8. Reaffirms further that Israel's policy of settling parts of its population and new immigrants in the occupied territories is a flagrant violation of the Geneva Convention relative to the Protection of Civilian Persons in Time of War and of the relevant UN resolutions, and urges all States to refrain from any action which Israel will exploit in carrying out its policy of colonizing the occupied territories;</p> <p>9. Demands that Israel desist forthwith from the annexation and colonization of the occupied Arab territories as well as from all the policies and practices referred to in paragraph 5 above;</p> <p>10. Reiterates its call upon all States, international organizations and specialized agencies not to recognize any changes carried out by Israel in the occupied territories and to avoid actions, including actions in the field of aid, which might be used by Israel in its pursuit of the policies and practices referred to in the present resolution.</p>

39.	<p>UNGA Res. 3525 B (15 Dec. 1975) - Applicability of Geneva Convention IV, Jerusalem</p> <p>1. Reaffirms that the Geneva Convention relative to the Protection of Civilian persons in Time of War, of 12 August 1949, is applicable to all the Arab territories occupied by Israel since 1967, including Jerusalem; (...)</p> <p>3. Calls once more upon Israel to acknowledge and to comply with the provisions of that Convention in all the Arab territories it has occupied since 1967, including Jerusalem.</p>
40.	<p>UNGA Res. 32/40 on the Question of Palestine (2 Dec. 1977) – Right of return</p> <p>Reaffirming that a just and lasting peace in the Middle East cannot be established without the achievement, inter alia, of a just solution of the problem of Palestine on the basis of the attainment of the inalienable rights of the Palestinian people, including the right of return and the right to national independence and sovereignty in Palestine, in accordance with the Charter of the United Nations (...).</p>
41.	<p>UNSC Res. 446 (22 March 1979) – Settlements, applicability of Geneva Convention IV</p> <p>1. Determines that the policy and practices of Israel in establishing settlements in the Palestinian and other Arab territories occupied since 1967 have no legal validity and constitute a serious obstruction to achieving a comprehensive, just and lasting peace in the Middle East;</p> <p>2. Calls once more upon Israel, as the occupying Power, to abide scrupulously by the 1949 Fourth Geneva Convention to rescind its previous measures and to desist from taking any action which would result in changing the legal status and geographical nature and materially affecting the demographic composition of the Arab territories occupied since 1967, including Jerusalem, and, in particular, not to transfer parts of its own civilian population into the occupied Arab territories.</p>
42.	<p>UNSC Res. 452 (20 July 1979) – Settlements, Jerusalem, applicability of Geneva Convention IV</p> <p>Considering that the policy of Israel in establishing settlements in the occupied Arab territories has no legal validity and constitutes a violation of the Fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War of 12 August 1949,</p> <p>Deeply concerned by the practices of the Israeli authorities in implementing that settlements policy in the occupied Arab territories, including Jerusalem, and its consequences for the local Arab and Palestinian population, (...)</p> <p>3. Calls upon the Government and people of Israel to cease, on an urgent basis, the establishment, construction and planning of settlements in the Arab territories occupied since 1967, including Jerusalem.</p>
43.	<p>UNGA Res. 34/136 (14 Dec. 1979) – Natural resources</p> <p>1. Emphasizes the right of the Arab States and peoples whose territories are under Israeli occupation to full and effective permanent sovereignty and control over their natural and all other resources, wealth and economic activities;</p> <p>2. Reaffirms that all measures undertaken by Israel to exploit the human, natural and all other resources, wealth and economic activities in the occupied Arab territories are illegal and calls upon Israel immediately to desist forthwith from all such measures;</p> <p>3. Further reaffirms the right of the Arab States and peoples subjected to Israeli aggression and occupation to the restitution of, and full compensation for the exploitation, depletion and loss of and damages to, their natural, human and all other resources.</p>
44.	<p>UNSC Res. 465 (1 March 1980) Settlements, Jerusalem, applicability of Geneva Convention IV</p> <p>1. Determines that all measures taken by Israel to change the physical character, demographic composition, institutional structure or status of the Palestinian and other Arab territories occupied since 1967, including Jerusalem, or any part thereof, have no legal validity and that Israel's policy and practices of settling parts of its population and new immigrants in those territories constitute a flagrant violation of the Fourth Geneva Convention; (...)</p> <p>2. Strongly deplores the continuation and persistence of Israel in pursuing those policies and practices and calls upon (...) Israel to rescind those measures, to dismantle the existing settlements and in particular to cease, on an urgent basis, the establishment, construction and planning of settlements in the Arab territories occupied since 1967, including Jerusalem;</p> <p>3. Calls upon all States not to provide Israel with any assistance to be used specifically in connexion with settlements in the occupied territories.</p>
45.	<p>UNSC Res. 471 (5 June 1980) – Applicability of Geneva Convention IV</p> <p>4. Calls again upon the government of Israel to respect and to comply with the provisions of the Geneva convention relative to the Protection of Civilian Persons in Times of War;</p> <p>5. Calls once again upon all States not to provide Israel with any assistance to be used specifically in connection with settlements in the occupied territories.</p>

46.	<p>UNSC Res. 476 (30 June 1980) – Jerusalem, territorial integrity <i>Reaffirming that acquisition of territory by force is inadmissible, (...) 4. Reiterates that all such measures which have altered the geographic, demographic and historical character and status of the Holy City of Jerusalem are null and void and must be rescinded in compliance with the relevant resolutions of the Security Council; 5. Urgently calls on Israel, the occupying Power, to abide by this and previous Security Council resolutions (...).</i></p>
47.	<p>UNSC Res. 478 (20 Aug. 1980) - Applicability of Geneva Convention IV, Jerusalem <i>1. Affirms that the enactment of the "basic law" by Israel constitutes a violation of international law and does not affect the continued application of the Geneva Convention (...) in the Palestinian and other Arab territories occupied since June 1967, including Jerusalem;</i> <i>2. Determines that all legislative and administrative measures and actions taken by Israel, the occupying Power, which have altered or purport to alter the character and status of the Holy City of Jerusalem, and in particular the recent "basic law" on Jerusalem, are null and void and must be rescinded forthwith;</i> <i>3. Decides not to recognize the "basic law" and such other actions by Israel that, as a result of this law, seek to alter the character and status of Jerusalem.</i></p>
48.	<p>UNSC Res. 484 (19 December 1980) – Applicability of Geneva Convention IV <i>1. Reaffirms the applicability of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, to all the Arab territories occupied by Israel in 1967; 2. Calls upon Israel, the occupying Power, to adhere to the provisions of the Convention.</i></p>
49.	<p>UNSC Res. 592 (8 December 1986) – Applicability of Geneva Convention IV <i>1. Reaffirms that the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, is applicable to the Palestinian and other Arab territories occupied by Israel since 1967, including Jerusalem; (...) 3. Calls upon Israel to abide immediately and scrupulously by the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949.</i></p>
50.	<p>UNSC Res. 605 (22 December 1987) – Applicability of Geneva Convention IV, deportation, right of return <i>1. Strongly deplores those policies and practices of Israel, the occupying Power, which violate the human rights of the Palestinian people in the occupied territories, and in particular the opening of fire by the Israeli army, resulting in the killing and wounding of defenseless Palestinian civilians; ... 3. Calls once again upon Israel, the occupying Power, to abide immediately and scrupulously by the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, and to desist forthwith from its policies and practices that are in violation of the provisions of the Convention.</i> UNSC Res. 607 (5 January 1988) reiterates 605, plus: <i>2. Calls upon Israel to refrain from deporting any Palestinian civilians from the occupied territories.</i> UNSC Res. 608 (14 January 1988) reiterates 607, plus: <i>1. Calls upon Israel to rescind the order to deport Palestinian civilians and to ensure the safe and immediate return to the occupied Palestinian territories of those already deported.</i> UNSC Res. 636 (6 July 1989) reiterates 607 and 608. UNSC Res. 641 (30 August 1989) reiterates 607, 608 and 636.</p>
51.	<p>UNSC Res. 672 (12 October 1990) – Applicability of Geneva Convention IV <i>3. Calls upon Israel, the occupying power, to abide scrupulously by its legal obligations and responsibilities under the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, which is applicable to all the territories occupied by Israel since 1967.</i> UNSC Res. 673 (24 October 1990) reiterates 672. UNSC Res. 681 (20 December 1990) reiterates 672 and 673.</p>
52.	<p>UNSC Res. 694 (24 May 1991) – Applicability of Geneva Convention IV, deportation, right of return <i>Reiterates that Israel must refrain from deporting any Palestinian civilian from the occupied territories and ensure the safe and immediate return of all those deported.</i> UNSC Res. 726 (9 January 1992) and UNSC Res. 799 (18 December 1992) reiterate 694.</p>
53.	<p>UNSC Res. 1322 (7 October 2000) – Applicability of Geneva Convention IV <i>3. Calls upon Israel, the occupying Power, to abide scrupulously by its legal obligations and its responsibilities under the Fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War of 12 August 1949.</i></p>

54.	<p>UNSC Res. 1544 (19 May 2004) – Applicability of Geneva Convention IV, property</p> <p>1. Calls on Israel to respect its obligations under international humanitarian law, and insists, in particular, on its obligation not to undertake demolition of homes contrary to that law.</p>
55.	<p>UNGA Res. ES-10/15 (2 August 2004) – The Wall</p> <p>1. Acknowledges the advisory opinion of the International Court of Justice of 9 July 2004 (...); 2. Demands that Israel, the occupying Power, comply with its legal obligations as mentioned in the advisory opinion.</p>
56.	<p>UNSC Res. 1860 (8 January 2009) - Gaza</p> <p>2. Calls for the unimpeded provision and distribution throughout Gaza of humanitarian assistance, including of food, fuel and medical treatment.</p>
57.	<p>UNSC Res. 2334 (23 December 2016) – Settlements, Jerusalem</p> <p>1. Reaffirms that 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 and a major obstacle to the achievement of the two-State solution and a just, lasting and comprehensive peace; 2. Reiterates its demand that Israel immediately and completely cease all settlement activities in the occupied Palestinian territory, including East Jerusalem, and that it fully respect all of its legal obligations in this regard.</p>
CUSTOMARY LAW AND OTHER SOURCES	
58.	<p>The Hague Convention II (29 July 1899); slightly revised as The Hague Convention IV (18 Oct. 1907) – (Cultural) property, religious freedom, collective punishment</p> <p><u>Section II: Hostilities. Chapter 1, Art. 23.</u> (...) it is especially forbidden – (...) (g) To destroy or seize the enemy's property, unless such destruction or seizure be imperatively demanded by the necessities of war; (...)</p> <p><u>Section III: Military Authority over the Territory of the Hostile State.</u></p> <p><u>Art. 43:</u> The authority of the legitimate power having in fact passed into the hands of the occupant, the latter shall take all the measures in his power to restore, and ensure, as far as possible, public order and safety, while respecting, unless absolutely prevented, the laws in force in the country. NOTE: The Israeli High Court of Justice, in interpreting Article 43 of the Convention, reiterated more than once that the state's obligation to ensure public order involves providing multiple services including health, education, welfare, transportation, and other needs 'required for people in modern and civilized society.'</p> <p><u>Art. 46:</u> Family honor and rights, the lives of persons, and private property, as well as religious convictions and practice, must be respected. Private property cannot be confiscated.</p> <p><u>Art. 50:</u> No general penalty (...) shall be inflicted upon the population on account of the acts of individuals for which they cannot be regarded as jointly and severally responsible.</p> <p><u>Art. 55:</u> The occupying State shall be regarded only as administrator and usufructuary of public buildings, real estate, forests, and agricultural estates belonging to the hostile State, and situated in the occupied country. It must safeguard the capital of these properties, and administer them in accordance with the rules of usufruct.</p> <p><u>Art. 56:</u> The property of municipalities, that of institutions dedicated to religion, charity and education, the arts and sciences, even when State property, shall be treated as private property. All seizure of, destruction or will-full damage done to institutions of this character, historic monuments, works of art and science, is forbidden, and should be made the subject of legal proceedings.</p>
59.	<p>Constitution of the International Refugee Organization, 15 Dec. 1946 - Right of Return</p> <p>(Based on Res. A/45 adopted by UNGA in its first ever session on 12 Feb. 1946, mandating, <i>inter alia</i>, the Economic and Social Council to establish the International Refugee Organization (IRO) – a predecessor of today's United Nations High Commissioner for Refugees (UNHCR).)</p> <p><u>Preamble:</u> The Governments accepting this Constitution, Recognizing: (...) that as regards displaced persons, the main task to be performed is to encourage and assist in every way possible their early return to their country of origin.</p>
60.	<p>Universal Declaration of Human Rights (adopted by UNGA Res. 217A (III) of 10 Dec. 1948) – Physical treatment, arrest, right of return, property</p> <p><u>Art. 5:</u> No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.</p> <p><u>Art. 9:</u> No one shall be subjected to arbitrary arrest, detention or exile. And: Art. 10: Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him.</p> <p><u>Art. 13:</u> 1. Everyone has the right to freedom of movement and residence within the borders of each state. 2. Everyone has the right to leave any country, including his own, and to return to his country.</p> <p><u>Art. 17 (2):</u> No one shall be arbitrarily deprived of his property.</p>

61.	<p>Declaration on Principles of International Law Concerning Friendly Relations and Cooperation among States (24 Oct. 1970) - Self-determination</p> <p><i>All peoples have the right freely to determine, without external interference, their political status and to pursue their economic, social and cultural development, and every State has the duty to respect this right in accordance with the provisions of the Charter. (...)</i></p>
62.	<p>Rome Statute, International Criminal Court (entered into force 1 July 2002) – settlements, deportation, Apartheid, torture</p> <p><u>Art. 7</u> defines crimes against humanity, among which are <u>7.1 (d)</u> <i>deportation or forcible transfer or population</i>; <u>(f)</u> <i>torture</i>; and <u>(j)</u> <i>the crime of apartheid</i>, defined as <u>7.2 (h)</u> <i>inhumane acts (...) committed in the context of an institutionalized regime of systematic oppression and domination by one racial group over any other racial group or groups and committed with the intention of maintaining that regime.</i></p> <p><u>Art. 8</u> defines war crimes, among which <u>8.2 (b) (viii)</u>: <i>the transfer, directly or indirectly, by the Occupying Power of parts of its own civilian population into the territory it occupies or the deportation or transfer of all or parts of the population of the occupied territory within or outside this territory.</i></p>
63.	<p>International Court of Justice Advisory Opinion ‘Legal consequences of the construction of a wall in the Occupied Palestinian Territory’ (9 July 2004) – The Wall</p> <p><i>A. The construction of the wall being built by Israel, the occupying Power, in the Occupied Palestinian Territory, including in and around East Jerusalem, and its associated régime, are contrary to international law; B. Israel is under an obligation to terminate its breaches of international law; it is under an obligation to cease forthwith the works of construction of the wall being built (...) to dismantle forthwith the structure therein situated, and to repeal or render ineffective forthwith all legislative and regulatory acts relating thereto, (...).</i></p> <p><u>NOTE.</u> This Opinion also stated that, contrary to Israel’s position, international humanitarian law does apply to the occupied Palestinian Territories as well.</p>



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