

Milestone II:
Israeli-Palestinian Conflict

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Legal Challenges to Israeli Settlements in the West Bank: International Law, Geopolitics, and the Failure of Enforcement

Annotated Bibliography

1. Azarova, Valentina

Azarova, Valentina. 2017. "Israel's Unlawfully Prolonged Occupation: Consequences Under An Integrated Legal Framework." *European Council on Foreign Relations*. <http://www.jstor.com/stable/resrep21620>.

Azarova argues that Israel's prolonged occupation of Palestinian territories has become unlawful under international law, not merely because of its duration but because of Israel's systematic violations of fundamental legal principles, including the prohibition on the acquisition of territory by force, the rights of self-determination, and the prohibition of apartheid. She emphasizes that the international community's failure to enforce these norms allows Israel to maintain an illegal regime of *de facto* annexation, settlement expansion, and resource exploitation. Azarova calls for an integrated legal approach that combines occupation law with the laws on the use of force and self-determination, obliging third-party states to impose countermeasures such as sanctions and legal proceedings. Her analysis directly supports the central thesis of my research—that the apparent illegality of Israeli settlements has not led to enforcement because international law lacks both coercive mechanisms and political will to compel state compliance, especially when geopolitical interests are at stake.

2. Ben-Naftali, Orna, Aeyal Gross, and Keren Michaeli.

Ben-Naftali, Orna, Aeyal M. Gross, and Keren Michaeli. 2005. "Illegal Occupation: Framing the Occupied Palestinian Territory." *Berkeley Journal of International Law* 551-614.

Ben-Naftali, Gross, and Michaeli argue that Israel's occupation of the Palestinian territories has shifted from being a lawful temporary occupation to an illegal regime. This shift is primarily

due to its prolonged duration, systematic human rights violations, and de facto annexation. The authors criticize the international legal community for largely ignoring the question of the *legality* of the occupation itself, focusing instead on Israel's compliance with specific obligations under the law of occupation. They attest that Israel has blurred legal boundaries by treating the territories as both occupied and annexed, which has enabled the state to exercise control without assuming the responsibilities of sovereignty. This legal indeterminacy allows Israel to maintain an apartheid-like regime that denies Palestinians both the rights of an occupied population and the protections of citizenship. This article is foundational for my analysis, providing critical legal reasoning for why the settlements are illegal and symptomatic of a broader failure of legal enforcement and accountability.

3. Fourth Geneva Convention

Fourth Geneva Convention. 1949. "Geneva Convention IV: Relative to the Protection of Civilian Persons in Time of War of 12 August 1949." 75 *U.N.T.S.* 287. Geneva: Geneva Convention. 169–238.

The Fourth Geneva Convention, adopted in 1949, is a cornerstone of international humanitarian law, establishing legal protections for civilians in times of war and occupation. Article 49(6) is particularly significant for my research, as it explicitly prohibits an occupying power from transferring parts of its civilian population into the territory it occupies. This provision forms the legal basis for widespread condemnation of Israeli settlements in the West Bank, which constitute a breach of this rule. The Convention also outlines obligations for humane treatment, non-discrimination, and protection of property in occupied territories. In the context of my research, the Fourth Geneva Convention is essential for framing the legal argument. While the settlements are clearly illegal under international law, the Convention lacks enforcement mechanisms, allowing Israel to violate its provisions without consequence. This legal impotence

is a key factor in explaining the failure of international law to reverse or meaningfully challenge the settlement enterprise.

4. Galchinsky, Michael.

Galchinsky, Michael. 2004. "The Jewish Settlements in the West Bank: International Law and Israeli Jurisprudence." *Israel Studies* (Indiana University Press) 9 (3): pp. 115–136. <https://www.jstor.org/stable/30245641>.

Galchinsky explores the legal arguments used by Israel to justify the establishment of Jewish settlements in the West Bank, contrasting these domestic legal frameworks with international legal standards. He traces Israel's interpretation of key legal concepts—such as the “disputed” rather than “occupied” status of the territories—and examines how Israeli courts have upheld state policies that facilitate settlement expansion. Galchinsky demonstrates that Israel's legal reasoning diverges sharply from the international consensus, which sees the settlements as a violation of the Fourth Geneva Convention and a barrier to peace. For my research, this article is crucial for understanding how legal narratives within Israel enable the perpetuation of the settlement project despite its illegality under international law. It highlights the intersection of legal pluralism and political strategy, reinforcing my argument that legal clarity alone cannot compel compliance when national courts reinterpret or ignore international legal standards.

5. Greenstein, Ran.

Greenstein, Ran. 2019. "Colonialism, Apartheid, and the Native Question: The Case of Israel/Palestine." In *Racism After Apartheid: Challenges for Marxism and Anti-Racism*, by Vishwas Satgar, 75–95. Wits University Press.

Greenstein examines the Israeli-Palestinian conflict through the lens of settler colonialism and apartheid, arguing that Israel's control over the occupied territories is not an anomaly but part of a broader system of ethno-national exclusion and domination. He contrasts Israel's model with South African apartheid, noting key differences such as Israel's demographic strategy of exclusion

rather than labor exploitation. Greenstein critiques the limitations of settler colonialism as a theoretical framework, suggesting a hybrid analysis combining colonial, apartheid, and indigenous perspectives. His work is crucial to my research as it reframes the legal debate on settlements within a larger system of systemic domination, showing how legal violations persist because they serve the structural objectives of the state. This reinforces my argument that the failure of enforcement is not accidental but a reflection of international complicity and power asymmetries.

6. Greenstein, Ran.

Greenstein, Ran. 2020. "Israel, Palestine, and Apartheid." *Insight Turkey* (SET VAKFI İktisadi İşletmesi, SETA VAKFI) 22 (1): pp. 73-92. <https://www.jstor.org/stable/10.2307/26921169>.

Greenstein examines the applicability of the apartheid framework to the Israeli-Palestinian context, arguing that while Israel's regime differs in important ways from South African apartheid, it nonetheless manifests key elements of apartheid as defined under international law. He identifies seven pillars of apartheid—ranging from legal segregation to territorial fragmentation—and shows how these are enforced in the West Bank, Gaza, and East Jerusalem, even if Israel's internal governance within the Green Line differs. Greenstein argues that Israel's system is best described as "apartheid of a special type," combining formal democratic structures for Jews with exclusionary, military rule over Palestinians. His work is critical to my paper's thesis, as it demonstrates that the systemic nature of Israel's policies sustains settlement expansion despite its illegality and that international legal frameworks often fail to compel accountability when states craft parallel legal narratives to mask ongoing domination.

7. Hareuveni, Eyal.

Hareuveni, Eyal. 2010. *By Hook and by Crook: Israeli Settlement Policy in the West Bank*. Edited by Yael Stein and Michelle Bubis. B'tselem.

Hareuveni's report, published by B'Tselem, provides a detailed empirical analysis of Israeli settlement policy in the West Bank. It reveals how a combination of legal manipulations, military orders, bureaucratic procedures, and selective law enforcement enables Israel to seize Palestinian land for settlement construction. The report documents how Israel classifies Palestinian land as "state land" based on outdated Ottoman laws and then allocates it for Jewish settlements, often under the guise of "security" needs. It also highlights how state institutions, including the judiciary, have legitimized land seizures while ignoring the rights of Palestinian landowners. For my research, Hareuveni's work is a critical case study that illustrates the gap between legal frameworks and political realities. It demonstrates how Israeli domestic legal strategies actively undermine international law, contributing to the systemic failure to reverse settlement expansion despite its clear illegality under international norms.

8. International Court of Justice

International Court of Justice. 2003. *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*. Court Proceedings, ICJ.

The International Court of Justice's Advisory Opinion (2004) is a foundational legal document that affirms the illegality of Israeli settlements and the construction of the separation barrier (the "Wall") in the occupied West Bank. The Court held that the Wall violates multiple aspects of international law, including the Fourth Geneva Convention, the Hague Regulations of 1907, and human rights instruments such as the International Covenants on Civil and Political Rights and Economic, Social and Cultural Rights. The Court further found that Israel's actions severely impede the Palestinian people's right to self-determination and that no justification, including self-defense or state necessity, can excuse these violations. This opinion is central to my paper's thesis, as it demonstrates that the legal framework condemning settlements and the Wall is

clear. However, enforcement has been systematically obstructed by geopolitical power dynamics, leaving violations unaddressed.

9. Kattan, Victor.

Kattan, Victor. 2020. "Israeli Settlements, U.S. Foreign Policy, and International Law." *Insight Turkey* 22 (1): pp. 47–58.

Kattan explores the shifting U.S. legal position on Israeli settlements, focusing on Secretary of State Mike Pompeo's 2019 announcement that settlements are not "per se inconsistent with international law." This statement reversed decades of U.S. policy, which had consistently opposed settlements as a violation of Article 49(6) of the Fourth Geneva Convention. Kattan argues that the change was politically motivated and strategically timed to preempt the International Criminal Court's investigation into alleged Israeli war crimes. He demonstrates how U.S. veto power in the UN Security Council and diplomatic backing have shielded Israel from legal accountability, enabling the continued expansion of settlements despite international condemnation. For my research, Kattan's analysis underscores the central argument that while international law prohibits settlements, enforcement is subverted by geopolitical power dynamics—especially the U.S.-Israel relationship—leaving legal frameworks ineffective against state-backed violations.

10. Khalidi, Rashid.

Khalidi, Rashid. 2021. *The Hundred Years' War on Palestine: A History of Settler Colonialism and Resistance, 1917-2017*. New York: Metropolitan Books.

Khalidi's sweeping historical analysis frames the Israeli-Palestinian conflict as a settler-colonial project, tracing its roots from the British Mandate through the present. He argues that the Zionist movement's settlement project was not a response to security needs but a deliberate, systematic effort to establish exclusive Jewish control over Palestinian land, a process supported by imperial powers, particularly Britain and later the United States. Khalidi highlights the global

complicity in this project, linking the expansion of Israeli settlements to a broader system of Western-backed settler-colonial domination. Khalidi's work provides essential historical context for my research, situating the settlement issue within a century-long trajectory of displacement and resistance. It reinforces my thesis that the legal condemnation of settlements is undermined by entrenched geopolitical interests and historical patterns of imperialism, which have systematically shielded Israel from meaningful enforcement of international law.

11. Quigley, John.

Quigley, John. 2005. *The Case for Palestine: An International Law Perspective*. Durham: Duke University Press.

Quigley's book provides a comprehensive legal analysis of the Israeli-Palestinian conflict, arguing that the conflict is fundamentally a legal dispute over territorial rights rather than an intractable ethnic or religious struggle. He contends that international law—including the UN Charter, the Fourth Geneva Convention, and human rights instruments—supports the Palestinian right to self-determination and condemns Israel's occupation, settlements, and denial of refugee rights. Quigley traces the conflict's legal roots from the Balfour Declaration through the 1948 Nakba, showing how legal principles were consistently sidelined in favor of political expediency, especially by Western powers. His work is essential to my research, as it reinforces the argument that while the illegality of settlements is well-established under international law, enforcement has failed because political interests and power asymmetries, particularly U.S. backing of Israel, have systematically obstructed legal remedies.

12. Roberts, Adam.

Roberts, Adam. 1990. "Prolonged Military Occupation: The Israeli-Occupied Territories Since 1967." *The American Journal of International Law* (Cambridge University Press) 84 (1): pp. 44–103. <https://www.jstor.org/stable/2203016>.

Roberts examines the legal status of Israel's prolonged occupation of Palestinian territories, arguing that the international law of occupation, as codified in the Hague Regulations and the Fourth Geneva Convention, applies regardless of the duration of the occupation. He warns, however, that failure to adapt the law to the realities of prolonged occupation risks creating legal and political limbo for the occupied population, potentially resembling apartheid. Roberts critiques the Israeli position that specific international laws are inapplicable due to the unique circumstances of the occupation, refuting these claims and emphasizing that legal obligations persist. For my research, Roberts' analysis underscores the legal clarity regarding settlement illegality while highlighting the broader issue of legal paralysis—where the law applies but is ineffective in practice. His work supports my thesis that the problem is not legal ambiguity but the failure of international mechanisms to enforce the law against entrenched power.

13. Scobbie, Iain.

Scobbie, Iain. 2009. "Principle or Pragmatics? The Relationship between Human Rights Law and the Law of Armed Conflict." *Journal of Conflict & Security Law* (Oxford University Press) 14 (3): pp. 449–457. <https://www.jstor.org/stable/26294703>.

Scobbie critically examines the relationship between international humanitarian law (IHL) and human rights law (HRL), focusing on the "lex specialis" principle and its limitations in regulating conflicts between legal norms. He argues that while IHL and HRL often complement each other, they also reflect fundamentally different purposes: IHL governs conduct in armed conflict, while HRL aims to protect individual rights more broadly. Scobbie's nuanced analysis demonstrates that legal frameworks cannot be mechanically applied without considering political, practical, and contextual factors. His work is crucial for my research, as it highlights how legal ambiguity and systemic fragmentation weaken the enforcement of international law. The case of Israeli settlements in the West Bank exemplifies how states exploit legal grey areas to evade

accountability and how the absence of precise, binding mechanisms—especially when significant power interests intervene—contributes to the ongoing violation of well-established legal norms.

14. Shany, Yuval.

Shany, Yuval. 2012. "Assessing the Effectiveness of International Courts: A Goal-Based Approach." *American Journal of International Law* 106 (Cambridge University Press) 106 (2): 225–70. doi:<https://doi.org/10.5305/amerjintlaw.106.2.0225>.

In this article, Shany introduces a goal-based framework for evaluating the effectiveness of international courts, arguing that traditional measures, such as compliance rates, are insufficient. He emphasizes the importance of assessing whether courts achieve their intended objectives, considering factors like judicial independence, legitimacy, and the broader impact on international law development. This perspective is particularly relevant to the challenges of enforcing international legal norms in politically sensitive contexts, such as the Israeli settlements in the West Bank. Shany's analysis provides a nuanced understanding of the structural and political factors that influence the efficacy of international legal institutions.

15. Sharon, Avinoam.

Sharon, Avinoam. 2011. "Why Is Israel's Presence in the Territories Still Called "Occupation"?" *Jewish Political Studies Review* (Jerusalem Center for Public Affairs) 23 (3/4): pp. 40–64. <https://www.jstor.org/stable/41575859>.

Sharon challenges the widespread use of the term “occupation” to describe Israel’s presence in the West Bank and Gaza, arguing that the situation does not meet the legal definition of occupation under international law. He contends that the establishment of the Palestinian Authority and Israel’s partial withdrawal from Palestinian territories under the Oslo Accords fundamentally changed the legal status of the areas in question. Sharon critiques the political use of the term “occupation” to delegitimize Israel’s claims and responsibilities, asserting that Israel has relinquished many governmental functions and, therefore, should not be considered an

occupying power in areas under Palestinian control. This article is essential for my research, as it exemplifies the legal arguments Israel uses to challenge international consensus and deflect accountability for settlement expansion, reinforcing the broader argument that legal clarity does not lead to enforcement when powerful states contest the application of norms for political reasons.

16. UN Security Council.

U.N. Security Council. 2016. *Resolution 2334*. Government Document, United Nations.

UN Security Council Resolution 2334 (2016) reaffirms the international consensus that Israeli settlements in the occupied Palestinian territories, including East Jerusalem, are a “flagrant violation” of international law and a significant obstacle to achieving a two-state solution. The resolution demands that Israel immediately and completely cease all settlement activities and emphasizes that the international community will not recognize any changes to the 1967 borders other than those agreed upon by both parties. Notably, the resolution calls on all states to distinguish in their relations between the State of Israel and the territories occupied since 1967. Although Resolution 2334 represents a significant legal reaffirmation of international norms, it lacks an enforcement mechanism, and Israel’s continued expansion of settlements highlights the gap between legal condemnation and political action. This resolution is central to my research, as it exemplifies the legal clarity on settlement illegality and the systemic failure of international law to compel compliance.

17. United Nations.

United Nations. 2021. Israeli Settlements Amount to a War Crime, Special Rapporteur Tells Human Rights Council. Meeting Summaries, United Nations. <https://www.ungeneva.org/en/news-media/meeting-summary/2021/07/les-colonies-israeliennes-constituent-un-crime-de-guerre-selon>.

This UN meeting summary outlines the report by Michael Lynk, the UN Special Rapporteur, who concludes that Israeli settlements in the West Bank amount to a war crime under the Rome Statute of the International Criminal Court. Lynk highlights the demographic engineering, forced evictions, and de facto annexation that violate core principles of international law, including the Fourth Geneva Convention. The report criticizes the international community for failing to hold Israel accountable, urging states to impose sanctions, end arms sales, and support the ICC's investigation. This source is critical to my research, as it demonstrates that while legal frameworks unambiguously condemn the settlements, enforcement is blocked by political inertia and power asymmetries. The report also reinforces my thesis by calling for concrete accountability measures—showing that legal clarity is not the issue but rather the failure of states to act on it.