



History of the Israel - Palestine Conflict

- Arya Mitkari (I B.A.LL.B.)

The Israel- Palestine conflict has been one of the oldest and the most baneful conflicts in history leaving thousands dead and injured and millions homeless. The conflict dates back to 1917 while Palestine was under the Ottoman Empire. That is when Britain issued the Balfour Declaration, which meant the establishment of a “national home for the Jewish People” and gained control over the region until the State could stand alone.

During this period, the rise of Anti-Semitic thought in Europe led to nationalist movements and insurgencies, leading to conflict. Thereafter, the Peel Commission was set up for solutions, which then reported that 2 separate - Jewish and Arab - States needed to be created.

On 29 November, 1947, the UN passed Resolution 181 to implement the partition. Immediately, a civil war broke out. On 14 May, 1948, Britain ended the mandate, Israel declared independence and the State was

immediately recognized by the USA and the USSR.

Israel was invaded by neighbouring Arab countries, but the Israeli forces eventually gained the upper hand. An Armistice agreement with Egypt, Lebanon and Jordan (Green Line) was reached with Israel getting 77 percent of the occupied territory. Israeli settlements were established by depopulating Palestinian villages and 700,000 Palestinians were dislocated.

In May 1967, Egypt blocked the Straits of Aqaba and entered into a military agreement with Jordan and Syria. Later, Israel launched a surprise attack on Egypt and Syria, and occupied the Sinai Peninsula and the Gaza Strip. The UNSC then called for a ceasefire and passed Resolution 242.

The US also played a major role in brokering peace negotiations, with a bias towards Israel. The US provided military, economic, and diplomatic aid to Israel. Its recognition of Jerusalem as the capital of Israel and mediating Arab-Israeli relations without significantly working on the Israel-Palestine front has led to further

News at a Glance

Canada launched an inquiry into allegations over the use of the Chinese minority Uyghur forced labor in Nike and Dynasty Gold production lines. While the initial evaluation stipulates that Nike has not engaged in the direct utilization of such labor, Nike's association with Chinese third-party entities does not absolve it of accountability. For more information, see [here](#).

The European Court of Human Rights (ECtHR) found that International Olympic Committee (IOC) rules that force female athletes to suppress their testosterone levels are discriminatory. Notably, the court's decision does not impose an obligation to revoke the IOC rules. As a result, participants may still be barred from participating unless they undergo suppression treatment. For more information, see [here](#).



disturbances. December 1987 saw a collision of an Israeli military truck with a civilian car killing 4 civilians. This started the First Intifada against Israeli occupation in the West Bank, Gaza Strip, and Israel. This led to a 5-year long protest, which came to an end with the Madrid Conference and the signing of the Oslo Peace Accords (1993).

The Cairo Agreement was also signed between the Palestine Liberation Organization (PLO) and Israel with the withdrawal of Israeli forces from the Gaza Strip and Jericho area in 1994. Thereafter, Oslo II Accord (1995) was signed which demarcated Israeli and Palestinian territory.

The Second Intifada lasted from 2000 to 2005, which resulted in the construction of the West Bank Wall, 85% of which violated the Green Line. The International Court of Justice (ICJ) ruled that the construction violated international law.

The history of the Israel-Palestine conflict is accompanied by death and violence. To solve this issue a clear two-State solution must be planned.

Recognition of Palestinian Statehood

- Sana Kulkarni (II B.A.LL.B.)

United Nations General Assembly Resolution 3236 recognised the right of the Palestinian people to self-determination, independence, and sovereignty in Palestine. The Palestinian Liberation Organization (PLO), recognised as the sole legitimate representative of the Palestinian people, was then accorded observer status in the United Nations. Since the establishment of the Palestinian Declaration of Independence, the main objective of the PLO has been international recognition of the State of Palestine.

State recognition has been accorded only declaratory character in contemporary times wherein a State is said to be in existence when it satisfies the elements of statehood prescribed in the Montevideo Convention. The criteria taken into consideration here is the existence of a defined territory, the concept of a permanent population, the presence of an effective government, and the international recognition by the global

News at a Glance

The European Commission issued an adequacy decision regarding data transfers to the US. The decision means that the US has officially adopted an adequate data protection standard for the EU to participate in the EU-US Data Privacy Framework. The decision eases the way for multinational corporations operating in both the US and the EU. For more information, see [here](#).

In the UNSC's latest quarterly report regarding life in Afghanistan, the UN Secretary-General stated that Taliban authorities must ensure "inclusive governance," allow freedom of speech, and stop handing out corporal punishment in order to enter the global community. For more information, see [here](#).

Save the Children called attention to an "alarming" wave of rape and abduction in Sudan targeting women and girls as young as 12, as the conflict in the country continues to escalate. For more information, see [here](#) and [here](#).



community of States. Currently, 138 UN member States recognize Palestinian statehood.

The controversy surrounding its statehood stems primarily from disputed boundaries. The [1948 Arab-Israeli war](#) ended with Israel in control of major portions of the territory conferred to surrounding Arab States, including West Jerusalem. The war [broke](#) out when five Arab nations invaded territory in the former Palestinian mandate immediately following the announcement of the independence of the State of Israel. Over [half](#) of the Palestinian Arab population fled or were expelled. The Palestinians sought to establish an independent State in at least a part of historic Palestine but Israeli control of its borders, the West Bank, the Gaza Strip, and Palestinian internal politics made it impossible. Israel accepted the idea that a Palestinian State should be established, but refuses to accept the 1967 borders (Green Line), established by United Nations Security Council Resolution [242](#). The calls for a return to the Green Line are perceived as being a maximalist demand, arguing that the Palestinians should be prepared to

'[compromise](#)' over some parts of that territory.

Despite some headways that were made by former Israeli Prime Ministers, the current government, led by Benjamin Netanyahu and his Likud party, [prioritizes](#) the expansion and development of Israeli settlements in the occupied West Bank, which would significantly erode the prospects for a two-State solution. The United Nations Independent International Commission of Inquiry on the Occupied Palestinian Territory, including East Jerusalem, and Israel [found](#) this to mean that it "clearly has no intention of ending the occupation. In fact, it has established clear policies to ensure complete permanent control over the Occupied Palestinian Territory." It [further](#) concluded that the "impunity is feeding increased resentment among the Palestinian people in the Occupied Palestinian Territory, including East Jerusalem, and in Israel and is fuelling recurrent tensions, instability and protraction of conflict and an endless cycle of violence that compromises chances for sustainable peace and security."

[News at a Glance](#)

The UN has called on the Iranian government to stop executing individuals who were sentenced to death for participating in anti-government protests. The UN fact-finding mission urged Iranian authorities to release all those detained for exercising their right to peaceful assembly and freedom of the press to report on the protests. For more information, see [here](#).

Canada, Sweden, Ukraine, and the UK filed a joint application instituting proceedings against Iran before the International Court of Justice (ICJ), claiming that Iran violated its obligations under the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation as a result of Iran's involvement in the shooting down of a civilian aircraft over Ukraine. For more information, see [here](#).



The Oslo Accords

- Soumik Ghosh (II B.A.LL.B.)

The Oslo Accords, signed in 1993 and 1995, were a significant milestone in the quest for peace between Israel and Palestine. They aimed to establish a framework to resolve the Israel-Palestine conflict and to achieve a two-State solution. Let's delve into the key aspects and implications of this historic agreement.

They consist of two main agreements: the Declaration of Principles on Interim Self-Government Arrangements (DOP) and the Israeli-Palestinian Interim Agreement (Oslo II). The DOP outlined the principles for a transitional period of Palestinian self-government in the West Bank and Gaza Strip, leading to the establishment of a Palestinian State. It established the Palestinian Authority (PA) as an interim governing body and set forth provisions for security cooperation and the gradual transfer of powers from Israel to the Palestinians.

The Interim Agreement expanded on the DOP and covered additional areas such as territorial issues, Israeli military redeployment, and the status of Jerusalem.

It established three distinct areas in the West Bank: Area A: under full Palestinian control, Area B: under Palestinian civil control and Israeli security control, and Area C: under exclusive Israeli control.

The Oslo Accords represented a significant breakthrough, bringing the Israeli government and the Palestine Liberation Organization (PLO) to the negotiation table. The agreements aimed to foster mutual recognition, peaceful coexistence, and a comprehensive resolution to the conflict. However, implementation challenges and setbacks, including issues of territorial control, Israeli settlements, and security concerns, hindered the full realization of the Accords' objectives.

The Accords faced criticism from both sides, with some Palestinians expressing disappointment over the slow pace of statehood and ongoing Israeli control over key areas. On the other hand, certain Israeli factions raised concerns over security issues, particularly after a series of terrorist attacks carried out by Palestinian extremist groups.

In January 2020, the United States unveiled its Middle East Peace

News at a Glance

A Hague-based international prosecutorial team launched efforts to prepare case materials against Russia for the crime of aggression — a crime that is notoriously difficult to prosecute on the international stage. The center will gather evidence with the awareness that it remains unclear where the crime of aggression will ultimately be prosecuted — be it in national courts, a dedicated international tribunal, or within the ICC. For more information, see [here](#).

In a joint statement Australia, Canada, and the UK urged Israel to reverse its decision to expand settlements in the West Bank. They also expressed concern about the surge of violent attacks in the West Bank and the decreasing prospects for peace agreements between Palestine and Israel. For more information, see [here](#).



Plan, commonly referred to as the "Deal of the Century."

However, the Palestinian authorities rejected the plan, perceiving it as biased towards Israel. Consequently, the Palestinian Authority announced their decision to withdraw from the Oslo Peace Accord, citing a lack of progress in resolving the conflict.

Since the early 2000s, the Oslo Accords have remained largely dormant, with limited progress made towards a two-State solution. Recent developments, such as secret talks in 2013 and indirect negotiations mediated by Egypt multiple times, have offered glimmers of hope for a revival of the peace process. However, these efforts have not yet yielded significant breakthroughs. The Biden administration's willingness to revive the Oslo Accords in 2021 was met with obstacles, further hindering progress. Despite the current impasse, there are still proponents who believe in the potential revival of the Oslo Accords and the achievement of a two-State solution. The path towards lasting peace remains uncertain, but the hope for a resolution to the Israeli-Palestinian conflict persists.

Settlements vs. Sediments: Unraveling the Israeli- Palestinian Conflict

- Shreya Patni (V B.A.LL.B.)

The legality of Israeli settlements has long been the subject of controversy. It has been a crucial factor in deteriorating Israel-Palestine relations and perpetuating the conflict.

Israeli settlements began significantly in the Palestinian region post the historic Six-Day War in 1967. As per the Report of the Security Council Commission (1979), after the 1967 War till 1979, Israel had established around 133 settlements in the occupied territories, comprising the West Bank, Golan Heights, Gaza Strip, and Sinai. Out of these, only the ones in the West Bank region and some around East Jerusalem still exist.

The debate majorly revolves around whether the territory in question is occupied or disputed, which ultimately determines its legality. Israel has long argued that the territory is disputed since Palestine and Israel never agreed to a specific boundary or a proper demarcation under any instrument.

News at a Glance

International Criminal Court (ICC) prosecutor Karim Khan announced that the court has opened an investigation into human rights offenses committed by the Sudanese Armed Forces (SAF) and the Rapid Security Forces (RSF) 90 days after the conflict began in Sudan. For more information, see here.

The United Nations refugee agency (UNHCR) said it was concerned about reports that hundreds of Burkinabe refugees, including women and children, fleeing to Ghana were being deported. UNHCR called on Ghana to stop the deportations, saying that they amount to a violation of the non-refoulement principle. For more information, see here.



Furthermore, the Oslo Accords, signed between Israel and the Palestinian Liberation Organization (PLO), established a framework for the peace process, including interim agreements that allowed for limited Israeli settlement construction in specific areas. They argue that this demonstrates a mutual agreement between the parties regarding settlement activities. Israel also portrays its historical and religious connection to that region.

However, such a connection is not a considerable factor from the viewpoint of international law. Moreover, it is argued that the agreements were intended to be temporary during the negotiation process thus, do not determine the long-term legality of settlements. Recent negotiations and political developments have questioned the implementation and validity of these agreements. Thus, it is believed to be occupied, rather than disputed.

Article 49(6) of the Fourth Geneva Convention states that an occupying State cannot transfer its own population into the occupied territory. Similarly, Article 8 (2)(b)(viii) of the Rome Statute criminalizes any indirect or direct

population transfer into another's territory. In 2003, the UNGA adopted Resolution ES-10/13, requiring Israel to stop and reverse its construction of the wall and settlements out of the occupied territory in Palestine. Accordingly, The ICJ gave its Advisory Opinion to reaffirm this. Later on, the UNSC adopted Resolution 1515, which did not address this subject at all but merely called for a permanent two-State solution.

Due to the lack of a binding effect, the right of Palestinians to return to their homes and property, from which they have been uprooted and displaced, is merely reduced to the text of UNGA Resolution 3236.

It is evident that the legality of Israeli settlements can be clearly ascertained only if Israel and the Palestinians in the West Bank can demarcate a boundary between them. However, that is unlikely considering contentious issues like the status of Jerusalem, security of Israel, question of return of Palestinians, status of inhabiting Israelis, and the fact that multiple prior attempts to do so through mediation by the US and the EU have failed.

Upcoming Activities

Call for Papers: ASCOMARE Yearbook on the Law of the Sea

The 'Associazione di Consulenza in Diritto del Mare' (ASCOMARE) is pleased to launch the call for papers for the Third Volume of its Yearbook on the Law of the Sea (YLoS). The deadline for submission of abstracts is 31 July, 2023. For more information, see [here](#).

Call for Focus Sections and Papers: 100 Years of Research in Comparative Public Law and International Law

They will take a critical look back at the past, yet we also want to look forward by exploring topics, challenges, and methods for the next century. Proposals should include a short description of the topic and possible contributions (maximum of 1,000 words). For more information, see [here](#).



The ICJ Advisory Opinion on the West Bank Barrier

- Shreya Basu (II B.A.LL.B.)

The construction of the West Bank Barrier by Israel in Palestinian territory was recognised as a major source of concern when the United Nations General Assembly ([UNGA](#)) itself brought the case forward to the International Court of Justice ([ICJ](#)) in 2003. The Court claimed jurisdiction under Article 96 (1) of the UN Charter to give an advisory [opinion](#) on the matter.

Planned to be a little over 700 kms upon completion, the purpose of the wall was to establish a territorial demarcation between Israel and Palestine and provide security to the Israeli population. The wall was observed to have, however, deviated from its route along the 1949 Armistice Line and crossed into Palestinian cities such as East Jerusalem as [well](#). Israeli authorities [declared](#) 'closed military areas' in some regions between the wall and the Armistice Line where the entry and exit of people, supplies, vehicles, and even UN property were strictly policed to the point where even UN-sanctioned aid was blocked.

The issue gained prominence as the lawfulness of Israel's actions under international law was called into question by the global community. With Israel's violation of international law established by the severe restrictions placed on Palestinians' human [rights](#), the ICJ ruled that Israel was obliged to compensate them for their material losses, discontinue construction, and dismantle the barrier. Israel was also called upon to respect the Palestinians' right to self-determination, a right protected by the [ICCPR](#), which was continuously violated through the non-recognition of Palestine.

Israel argued that the wall was consistent with the right to self-defence contained in Article 51 of the UN Charter and in Security Council (UNSC) Resolutions [1368](#) and [1373](#). However, Article 51 was deemed irrelevant in this case as there was no threat through an armed attack against Israel itself; only through occupied territory. Subsequently raising the plea of [necessity](#) as a defence, the ICJ was unconvinced that the barrier was Israel's only means to safeguard its interests. With the Palestinians' right to life impacted, the Court observed that human rights violations could not be validated by

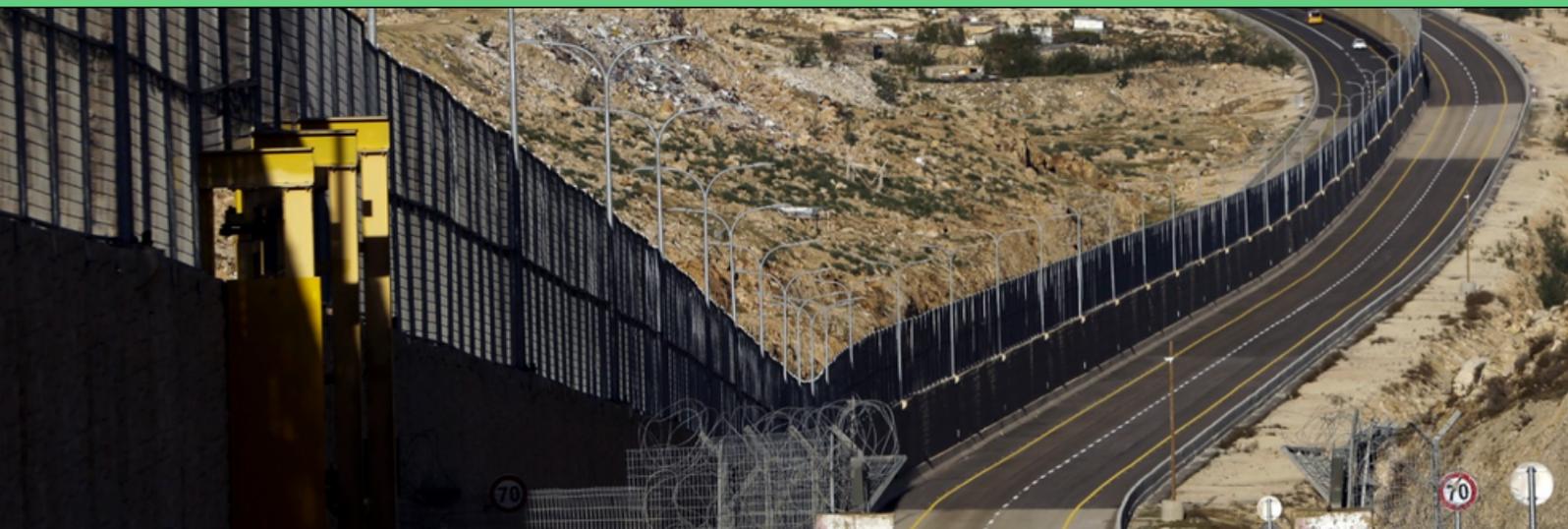
Upcoming Activities

Trade, Law & Development – Call for Submissions

The Board of Editors is pleased to invite original, unpublished manuscripts for publication in the General Issue of the Journal (Vol. XV, No. 2). The submission deadline is 5th August, 2023 for manuscripts pertaining to any area within the purview of international economic law. For more information, see [here](#).

Special Edition 2023-2024: The Environment and Human Rights

The Harvard Human Rights Journal is accepting submissions for its special issue on 'The Environment and Human Rights' in the form of articles, essays, and case/policy commentaries. For more information, click [here](#).



armed conflict. Since the wall also interfered with the efforts of the UN in maintaining international peace and security, the issue could not be considered of bilateral nature and the consent of the parties was disregarded.

The ICJ opined that other States should not recognise the legality of Israel's construction and withdraw/refrain from sending aid and assistance. It emphasised that human rights in the region could only be restored through the implementation of all relevant UNSC resolutions, particularly [242](#) and [338](#). The Court thus gave an almost unanimous decision on the matter. However, the non-binding nature of the ICJ's advisory opinion must be noted; Israel has continued constructing the barrier after accusing the ICJ of sponsoring terrorist activities through its advisory opinion.

Upcoming Activities

Call for Papers: Latin American SIL Biennial Conference

SLADI has issued a call for papers for its biennial conference on "Latin American International Law," which will take place from 29 November, 2023 - 1 December, 2023. For more information, see [here](#).

Call for Applications: Centre for Studies and Research in International Law and International Relations of The Hague Academy of International Law

Applications are open for the 2024 edition of the Centre for Studies and Research in International Law and International Relations of The Hague Academy of International Law. The topic is 'International Institutions in the Face of International Crises.' For more information, see [here](#).

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