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## **From Condemnation to Complacency: A Critical Review of the UN's Evolving Response to Israeli Settlements in the West Bank (2005–2024)**

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### **Abstract**

After the Second Intifada ended in 2005, developments of illegal Israeli settlements intensified in the self-governing Palestinian territory of the West Bank. The settlements displaced homes, harassed native villagers, restricted movements and obstructed access to critical resources, further damaging Palestinian livelihoods in the area. For the past two decades, these settlements have been widely condemned by international actors, notably by the United Nations (UN), which has stated in numerous official resolutions and statements that they violate international law. However, the UN's response has changed significantly between 2005 and 2024, reflecting shifts in global politics and challenges in compelling compliance with international law. These evolving responses have also gained significantly heightened global attention following the October 7 attack in 2023 and Israel's subsequent military actions in Palestinian territories. This paper reviews how the UN's response to the settlements has evolved, dividing it into two main phases. The first phase (2005–2012) was characterized by strong condemnation through resolutions and official statements that rejected the settlements. In the second phase (2013–2024), the response shifted toward a more passive and symbolic stance. This study relies on a historiographical and critical review of official UN documents and academic literature on the subject. By identifying these two key periods, we apply case studies to analyze the changing dynamics of the UN's response to Israeli settlements.

**Keywords:** Israeli Settlements; International Law; Human Rights; United Nations; International Court of Justice

### **Introduction**

Since 1967, Israel has had de facto control throughout most of the West Bank territory, which coexists with limited Palestinian self-rule. Israel's control over the area is enforced through a legal regime with different treatment of legal rights to Jewish Israelis and Palestinians. A report published in 2022 by the International Human Rights Clinic at Harvard Law School outlined that the Israeli regime in the West Bank has created a two-tiered structure of rights and protections by

systematically discriminating against Palestinians living in the area.<sup>1</sup> This situation further fuels mounting evidence of ‘settler-colonialism’ and apartheid practices.

The current consensus among international legal scholars is that these settlements violated existing international law and norms.<sup>2</sup> The 1949 Geneva Convention prohibits an occupying state from transferring its civilians to its occupied territory. According to the International Court of Justice, the West Bank was considered an occupied territory because it was not a part of Israel before the Israeli army conquered it in 1967.<sup>3</sup> On the other hand, this consensus was disputed by some Zionist-aligned scholars such as Ruth Lapidot, Avi Bell, and Eugene Kontorovich, who argued that the settlements had a legal standing.<sup>4</sup> The Israeli regime’s stance as a Geneva Convention signatory is that the law does not apply to the area because it only refers to a state occupying another state’s land, which it does not recognize Palestine as such. Therefore, Israel considers the West Bank “disputed territory”, not occupied territory.<sup>5</sup>

Since the escalation of hostilities since October 2023, Israel has significantly intensified both its territorial entrenchment and military campaigns across the occupied Palestinian territories. In the West Bank, Israeli forces have launched increasingly aggressive operations, including large-scale assaults involving tanks and armored vehicles for the first time in two decades. These operations have resulted in over 50 Palestinian deaths, the destruction of dozens of residential buildings, and the forced displacement of more than 40,000 people—the largest wave since 1967.<sup>6</sup> This military conduct is paralleled by a sharp rise in settler violence, mass arrests, and reports of extrajudicial executions, amounting to potential war crimes and crimes against humanity against the Palestinians. Simultaneously, settlement expansion has accelerated, with Israeli officials openly promoting annexation plans. Israeli Finance Minister Smotrich has called for the “application of de facto sovereignty,” while Prime Minister Netanyahu has asserted that “Judea and Samaria” are inseparable parts of the Jewish homeland, effectively rejecting Palestinian statehood.<sup>7</sup> These developments align with Israel’s broader strategy of asserting irreversible control over the West

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<sup>1</sup> The International Human Rights Clinic at Harvard Law School and Addameer Prisoner Support and Human Rights Association, “Apartheid in the Occupied West Bank: A Legal Analysis of Israel’s Actions,” February 2022.

<sup>2</sup> Dov Waxman, “Israel’s West Bank Settlements: 4 Questions Answered,” *The Conversation*, November 2019, <https://theconversation.com/israels-west-bank-settlements-4-questions-answered-127560>.

<sup>3</sup> The International Human Rights Clinic, “Apartheid,” p. 9.

<sup>4</sup> Ruth Lapidot, “The Advisory Opinion and the Jewish Settlements,” *SSRN Electronic Journal*, October 20, 2015, [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=2676723](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2676723); Eugene Kontorovich, “Israeli Settlements Are Not Illegal,” *Tablet Magazine*, August 10, 2023, <https://www.tabletmag.com/sections/israel-middle-east/articles/israeli-settlements-are-not-illegal>.

<sup>5</sup> M. Jacques, “Case Study: Israeli Settlements, the Separation Wall, and the Displacement of Civilians in the Occupied Palestinian Territory,” in *Armed Conflict and Displacement: The Protection of Refugees and Displaced Persons under International Humanitarian Law* (Cambridge: Cambridge University Press, 2012), 77–124.

<sup>6</sup> Tahani Mustafa, “Israel’s West Bank Incursions Highlight the Dilemmas of Palestinian Politics,” *International Crisis Group*, March 4, 2025, <https://www.crisisgroup.org/middle-east-north-africa/east-mediterranean-mena/israelpalestine/israels-west-bank-incursions>; Global Centre for the Responsibility to Protect, “Israel and the Occupied Palestinian Territory,” *Global Centre for the Responsibility to Protect*, December 1, 2024, <https://www.globalr2p.org/countries/israel-and-the-occupied-palestinian-territory/>.

<sup>7</sup> Ilias Bantekas and Safaa S Jaber, “The Human Rights Obligations of Belligerent Occupiers: Israel and the Gazan Population,” *Journal of Conflict and Security Law* 30 (January 6, 2025), <https://doi.org/10.1093/jcs/krac018>; Nour Kharouf, Joman Al Khateeb, and Arwa Abdel Moniam, “Palestine’s Legal Scene | Issue. 237 | | 14 - 20 July 2024 - Law for Palestine,” ed. Umamah Begg, *Law for Palestine*, July 22, 2024, <https://law4palestine.org/palestines-legal-scene-issue-237-14-20-july-2024/>.

Bank continuing a trend from the early 2000s, in defiance of International Court of Justice rulings deeming the occupation illegal and urging the dismantling of settlements.<sup>8</sup>

By tracing the historical development, some argue that the current problem stems from the historical Mandatory Palestine under British control from 1922 to 1948; it was during these years that the confrontation between Palestine's principal communities—the Arabs and Jews—reached its peak.<sup>9</sup> Historically, during the Roman era, the territories that now comprise the West Bank were identified not by a single name but as distinct regions—Galilee in the north, Samaria in the center, and Judaea in the south—each carrying their own historical and cultural significance. Moreover, the sacred narratives found in holy texts do not confine themselves solely to this core area but also include the high plateau east of Jordan, the expanse of the Negev, and even parts of the Sinai Peninsula.<sup>10</sup> This multifaceted historical geography avers that any serious analysis of the West Bank must consider not only its legal and political dimensions but also its deep-seated historical and cultural roots that continue to influence its contested identity today.

Since its establishment in October 1945, the United Nations (UN) has been actively involved in the settlement of the escalating conflict between Israeli and Palestinian armed groups. The British government did not impede the UN's peacekeeping activities, and in February 1947, it announced its decision to submit the Palestinian question to the UN General Assembly. On 29 November 1947, the UN General Assembly came to a seemingly reasonable decision, enshrined in Resolution 181/II, on the division of Mandatory Palestine into two states, the Palestinian and the Israeli State. This Resolution was supported by the majority of UN members at the time, with 33 countries voting in favor, 13 voting against, and 10 abstaining.<sup>11</sup> However, preserving the territorial integrity of Mandatory Palestine while maintaining the coexistence of the two communities was simply unrealistic. When the State of Israel was proclaimed on the night of 14–15 May 1948, the militaries of seven Arab states launched a large-scale offensive against Israel in the territory that had just been liberated from what had effectively been British colonial rule.<sup>12</sup>

The sharp situation after the Arab-Israel military confrontation produced a new problem: Palestinian refugees. In the conflict, approximately 750,000 Palestinians were forced to leave their homes.<sup>13</sup> Even after the confrontation, Palestine never became an independent country. It is estimated that approximately 40% of the territory assigned by the UN to Palestine was occupied by Israeli forces, while the remaining 60% was annexed between Egypt (Gaza Strip) and Jordan (West Bank).<sup>14</sup> The nature of the conflict changed on many occasions in the years that followed, and its scope expanded relentlessly. New actors emerged (for example, Britain and France in 1956), but one thing remained constant: throughout the whole affair, the United Nations was the party

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<sup>8</sup> Waxman, "Israel's West Bank Settlements."

<sup>9</sup> Alexander V Krylov, "the UN and the Middle East Settlement—Mission: Impossible," in *Turning Points of World Transformation: New Trends, Challenges and Actors*, ed. Marina Lebedeva and Vladimir Morozov (Singapore: Palgrave Macmillan, 2022).

<sup>10</sup> Charles K. Rowley and Jennis Taylor, "The Israel and Palestine Land Settlement Problem, 1948–2005: An Analytical History," *Public Choice* 128, no. 1-2 (July 6, 2006): 77–90, <https://doi.org/10.1007/s11127-006-9045-9>.

<sup>11</sup> Elad Ben-Dror, "The Arab Struggle against Partition: The International Arena of Summer 1947," *Middle Eastern Studies* 43, no. 2 (February 2, 2007): 259–93, <https://doi.org/10.1080/00263200601114117>.

<sup>12</sup> Rowley and Taylor, "The Israel and Palestine," p. 79.

<sup>13</sup> Mohammed Nijim, "Genocide in Palestine: Gaza as a Case Study," *The International Journal of Human Rights* 27, no. 1 (April 21, 2022): 1–36, <https://doi.org/10.1080/13642987.2022.2065261>.

<sup>14</sup> Krylov, "the UN and the Middle East Settlement—Mission: Impossible," in *Turning Points of World Transformation: New Trends, Challenges and Actors*.

responsible for resolving it. In this context, we can consider the critical role of the UN's role in the Israeli-Palestinian issue.

Entities within the UN, such as the International Court of Justice (ICJ), the United Nations General Assembly (UNGA), and the International Law Commission (ILC), have played a key role in the development, codification, and implementation of international law, including peace negotiations on the Israel-Palestine issue in the second half of the 20th century.<sup>15</sup> On a wider scale, the UN serves as a platform for ongoing dialog, creates international legal and policy instruments, provides mechanism settlements and collaborates with other international and regional organizations.

Data from the Institute for Middle East Understanding (IMEU) depict the scale of West Bank settlements and their damage to the livelihood of Palestinians. Approximately 700,000 Israeli settlers are living illegally on occupied Palestinian land, including estimates of more than 470,000 in the West Bank. The official settlements and settlement "outposts" were built without official approval but with the support of the Israeli government. A large proportion of Israeli settlers are heavily armed, violent religious extremists who cause severe hardships for Palestinians. Settlers terrorize and kill Palestinians, destroy their property, and displace them from their land. Israeli military checkpoints, Israeli-only roads and highways, and other physical obstacles intended to privilege the movement of settlers make it difficult and dangerous for Palestinians to travel from one place to another, even cutting access to essential resources such as clean water.<sup>16</sup>

Examining the UN's shifting approach to Israeli settlements in the West Bank offers vital insight into the evolving landscape of international legal legitimacy and its contested authority. The progression from declaratory condemnations to legal inaction reveals how international law has become both a tool of condemnation and a shield for state power—invoked selectively and shaped by geopolitical realities. The UN's inconsistent responses to Israeli settlement expansion, particularly amid rising global legal consciousness surrounding Palestine exacerbated by harrowing footage and images arising from Israel's military actions, exemplify how legal norms are strategically navigated rather than universally upheld.<sup>17</sup> Understanding this evolution is crucial not only to assess the efficacy of international legal institutions but also to expose how settler-colonial realities are managed through what Robert Knox describes as law's "abstract equality," which often obscures structural domination under the guise of neutrality.<sup>18</sup> Yet paradoxically, this impasse has catalyzed a resurgence of legal discourse in public and academic spheres alike, reaffirming the symbolic and strategic utility of international law in advancing claims to justice, sovereignty, and political recognition.

This paper aims to review the evolution of the UN response to the Israeli settlements in the West Bank and Gaza in two main phases using a historiographical and critical review approach. The first phase, in 2005–2012, was marked by a policy of "condemnation" through resolutions and statements that explicitly rejected the settlements. The second phase, in 2013–2024, showed a shift in the response toward "complacency" or a passive and symbolic attitude. The

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<sup>15</sup> Krylov, "the UN."

<sup>16</sup> IMEU, "Quick Facts: Israel's West Bank Settlement Enterprise," IMEU.org, 2020, <https://imeu.org/article/quick-facts-israels-west-bank-settlement-enterprise>.

<sup>17</sup> Marina Velickovic, "International Law and Failure in the Context of Gaza," *Critical Legal Thinking*, April 2, 2024, <https://criticallegalthinking.com/2024/04/02/international-law-and-failure-in-the-context-of-gaza/>.

<sup>18</sup> Tor Krever et al., "On International Law and Gaza: Critical Reflections," *London Review of International Law* 12, no. 2 (July 29, 2024), <https://doi.org/10.1093/lril/lrae012>.

methodological approach used in this paper involves the analysis of official UN documents—including resolutions and statements from the General Assembly and the Security Council—as well as a study of related academic literature. By identifying two critical phases (2005–2012 and 2013–2024), this analysis relies on case studies to illustrate the main turning points.

The timeframe of this article was chosen because the resolution of the Second Intifada in 2005 presented an opportunity for renewed international engagement with the Israeli-Palestinian conflict, including settlements. While the Palestinian Authority was established in parts of the West Bank, its autonomy remained limited because of ongoing occupation.<sup>19</sup> This analysis identifies Israeli settlements as a key obstacle to peace, particularly as subsequent peace efforts stalled. The article proceeds as follows: the first section outlines the theoretical framework for understanding condemnation and complacency in the body of literature. The second section examines the policy evolution during the first phase (2005–2012). The third section explores the policy changes during the second phase (2013–2024). Afterwards, we enter two sections that try to explain factors behind the shift and discuss the implications for international law and legal scholarship before concluding the article.

### **The duality of stances: defining condemnation and complacency**

Condemnation is not a newcomer to the global policy arena. Throughout history, states often use public denunciations as a two-headed dragon: a moral statement and a tool of political control over actions that violate international norms. However, defining condemnation is not an easy task, as Friman noted, “It is difficult to pin down what exactly the concept (condemnation) means.”<sup>20</sup> In previous studies, studies on “naming and shaming” laid the groundwork for understanding how public condemnation can pressure states to adopt behavioral changes by damaging their international reputation.<sup>21</sup>

Early works of condemnation often come into contact with human rights and their violation. One of the most well-known works is the study by Margaret E. Keck and Kathryn Sikkink, from their book *Activists Beyond Borders* published in 1998. They introduced “mobilization of shame,” where transnational activist groups use public exposure of noncompliance with human rights norms to mobilize support from other actors against the offending government—pressuring them to abandon their policies of violation.<sup>22</sup> This was one of the foundational texts that most closely resembled the later definition of condemnation.

Kinzelbach and Lehman found that collaboration between domestic and international actors, such as humanitarian organizations or the UN, was key to the effectiveness of condemnation. This is because international actors can ‘enable’ state actors to condemn or even

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<sup>19</sup> Rowley and Taylor, “The Israel and Palestine,” p. 88.

<sup>20</sup> Richard H. Friman, *The Politics of Leverage in International Relations Name, Shame, and Sanction* (Basingstoke: Palgrave Macmillan, 2015).

<sup>21</sup> JAMES H. LEBOVIC and ERIK VOETEN, “The Politics of Shame: The Condemnation of Country Human Rights Practices in the UNCHR,” *International Studies Quarterly* 50, no. 4 (December 2006): 861–88, <https://doi.org/10.1111/j.1468-2478.2006.00429.x>; Thomas Risse, Stephen C. Ropp, and Kathryn Sikkink, *The Power of Human Rights International Norms and Domestic Change* (Cambridge Cambridge University Press, 2007); Joshua W. Busby and Kelly M. Greenhill, “Ain’ T That a Shame? Hypocrisy, Punishment, and Weak Actor Influence in International Politics,” in *The Politics of Leverage in International Politics* (Palgrave Macmillan, 2015).

<sup>22</sup> Margaret E. Keck and Kathryn Sikkink, *Activists beyond Borders: Advocacy Networks in International Politics* (Ithaca, N.Y.: Cornell University Press, 1998).

use other human rights diplomacy instruments.<sup>23</sup> Condemnation serves a social function by communicating to society that the condemned act is unacceptable.<sup>24</sup> Thus, while often symbolic, condemnation plays a crucial role in establishing normative boundaries and reinforcing the international community's commitment to legal and ethical standards.

While much of the literature has focused on overt actions such as public condemnation and coercive diplomacy, recent academic literature has begun to discuss the implications of passive or symbolic responses in international relations. This shifting attitude resonates most likely with the concept of “complacency,” which advocates for minimal intervention that is often rooted in skepticism toward perceived threats and a belief in the declining utility of war. Complacency is generally understood as a diplomatic stance in which states or international organizations refrain from taking significant action in response to problematic behavior or violations of international standards and prefer rhetoric to concrete action.<sup>25</sup> Jentleson and Pape highlight the strategic use of inaction or symbolic gestures in policymaking, where states can avoid taking drastic action despite clear norm violations.<sup>26</sup> These responses are sometimes rooted in pragmatic considerations such as maintaining diplomatic relations, economic interests, or avoiding involvement in conflict. For example, states may choose to avoid issuing strong condemnations or imposing sanctions because they are concerned about the potential costs of engaging in a more direct confrontation with a powerful state.

Furthermore, some scholars have examined how complacent behavior can signal shifting priorities in international politics, particularly in cases where geopolitical calculations overshadow commitments to uphold international norms. In this sense, complacency has been linked to the concept of “selective engagement,” whereby states are willing to ignore certain violations if addressing them would undermine broader strategic goals, such as maintaining stable diplomatic relations or securing economic agreements.<sup>27</sup> This use of complacency is often seen in the context of power politics, where states with greater influence may choose to turn a blind eye to problems when faced with more pressing considerations.<sup>28</sup> While it can be viewed as a policy of avoidance or passivity, it has significant implications for the legitimacy of international institutions and the efficacy of international law.

### A. Condemnation in policy (2005–2012)

The most notable legal action taken by the International Court of Justice as a UN body is the 2004 ICJ Wall advisory opinion. In 2002, Israel started construction of a barrier with the stated purpose of preventing violent attacks by Palestinians entering Israeli lands. The wall stretches 445

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<sup>23</sup> Keck and Sikkink, *Activists beyond Borders: Advocacy Networks in International Politics*.

<sup>24</sup> Sharon Lamb, “The Psychology of Condemnation: Underlying Emotions and Their Symbolic Expression in Condemning and Shaming,” *Brooklyn Law Review* 68, no. 4 (2003).

<sup>25</sup> John E Mueller, *The Stupidity of War: American Foreign Policy and the Case for Complacency* (Cambridge, United Kingdom; New York: Cambridge University Press, 2021).

<sup>26</sup> Bruce W Jentleson, *American Foreign Policy: The Dynamics of Choice in the 21st Century*, 5th ed. (New York: W.W. Norton & Company, 2014), 27–55; Robert A Pape, “Soft Balancing against the United States,” in *The Realism Reader*, ed. Colin Elman and Michael Jensen (Routledge, 2014).

<sup>27</sup> Ayca Arkilic, *Diaspora Diplomacy* (Manchester University Press, 2022); Heng Wang, “Selective Engagement? Future Path for US–China Economic Relations and Its Implications,” *Journal of World Trade* 55, no. Issue 2 (April 1, 2021): 309–34, <https://doi.org/10.54648/trad2021012>; Xin Qiang, “Selective Engagement: Mainland China's Dual-Track Taiwan Policy,” *Journal of Contemporary China* 29, no. 124 (October 15, 2019): 1–18, <https://doi.org/10.1080/10670564.2019.1677363>.

<sup>28</sup> Mueller, *The Stupidity of War*.

kilometers long and consisting of fences, ditches, razor wire, groomed sand paths, an electronic monitoring system, patrol roads, and a buffer zone. The construction of the wall run inside the West Bank by dividing the Palestinian territories, including East Jerusalem.<sup>29</sup> The Court rejected Israel’s plea of self-defense as justification for the construction of the wall, arguing that the existing Israeli practice was an obstacle to the peace-making process. The court pronounces the following:

In the Wall Advisory Opinion, the principal obligation *era omnes* imposing responsibilities on the United Nations, particularly the General Assembly and Security Council, is self-determination, but what does this entail? The Court underlined that the General Assembly should encourage efforts aimed at reaching a negotiated solution to the Israel-Palestine conflict, which would lead to the creation of a Palestinian state,<sup>96</sup> and that both it and the Security Council should consider what further action is required to bring an end to the illegal situation resulting from the construction of the wall.<sup>30</sup>

Scobbie notes that in the Wall Advisory Opinion, the principal obligation of *era omnes* imposed responsibilities on the United Nations, particularly the General Assembly and Security Council, to guarantee Palestinian self-determination. The opinion further underlined that the General Assembly should encourage efforts in mediating the conflict and to work toward the creation of a Palestinian state, and the Security Council should also consider any further action required to bring an end to this illegal situation according to international law.<sup>31</sup>

The consequences of ICJ’s action are first seen on 2 August 2004, with the General Assembly adopting Resolution ES-10/15, which, in its preamble, reaffirmed the right of the Palestinian people to self-determination and, *inter alia*, acknowledged the Advisory Opinion.<sup>32</sup> The Resolution also called upon all states party to Geneva Convention IV to ensure that Israel respected the provisions of the Convention and invited Switzerland to conduct consultations and report the results to the General Assembly.<sup>33</sup>

Early scholarship shows optimism about international law’s power in the issue of Israeli settlements. The Advisory Opinion marked the first time on which a prominent international judicial body addressed issues on this conflict. The clarity of the ICJ’s actions challenged the largely successful efforts by Israel and the United States as their main ally to exclude international humanitarian and human rights principles from peace-making efforts. This illustrates both the significance and the necessity of a rights-based approach as an integral part of any political process for any settlement in conflict. The Opinion also delivered clear and persuasive findings. The Palestinians’ right to self-determination was recognized. The West Bank, Gaza, and East Jerusalem were designated as occupied territories under international law. Israel’s obligations as an occupying power and the rights of the Palestinians as occupied people were spelled out. It also ruled that

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<sup>29</sup> OCHA, “In the Spotlight: 10 Years since the International Court of Justice (ICJ) Advisory Opinion,” United Nations Office for the Coordination of Humanitarian Affairs - Occupied Palestinian Territory, July 8, 2014, <https://www.ochaopt.org/content/spotlight-10-years-international-court-justice-icj-advisory-opinion>.

<sup>30</sup> Iain Scobbie, “Unchart(Er)Ed Waters?: Consequences of the Advisory Opinion on the Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory for the Responsibility of the UN for Palestine,” *European Journal of International Law* 16, no. 5 (November 1, 2005): 941–61, <https://doi.org/10.1093/ejil/chi150>.

<sup>31</sup> Scobbie, “Unchart(Er)Ed Waters?” p. 960.

<sup>32</sup> Scobbie, “Unchart(Er)Ed Waters?” p. 948.

<sup>33</sup> Scobbie, “Unchart(Er)Ed Waters?” p. 948.

Israel’s settlements were illegal, and the international community was responsible for enforcing humanitarian law obligations violated by the conduct of the occupying power.<sup>34</sup>

On other aspects, the Opinion highlights the centrality of the principle of self-determination and the need to refrain from abusing belligerent occupation law for unlawful purposes. The case involved an unprecedented number of State and non-State participants and was widely considered valuable in further legal avenues to advocate for Palestinian rights. The plaintiffs in this case successfully employed the language of international law, which has rarely been employed in previous attempts to uncover Israeli regime violations.<sup>35</sup>

Moving to other legal policies beside the ICJ ruling, preceding documents such as the UN Security Council (UNSC) Resolution 465 adopted in 1980 affirmed the settlements’ illegality.<sup>36</sup> The UNGA also regularly adopts resolutions such as Resolution 60/107 in 2006 to Resolution 66/77 in 2011 which repeatedly reiterates Israel’s human rights and humanitarian law violations in the territory.<sup>37</sup> These policies adopted by various entities within the UN represented a consistent stance on Israeli violations in this timeframe, including around the settlement issue in the West Bank.

In practice, the UN used multiple tools to act on its condemnation during this phase. These included fact-finding missions deployed by UN entities, comprehensive reporting systems, and cooperative diplomatic pressures. One such entities is the Human Rights Council (HRC) which on 12 January 2009 created the United Nations Fact Finding Mission on the Gaza conflict to investigate all violations of international human rights law and international humanitarian law by Israel, against the Palestinian people throughout the occupied Palestinian territory. This concluded with the Head of the UN Mission, Justice Richard Goldstone presenting the reports to the HRC in Geneva on 29 September 2009, urging the Council and the international community as a whole to put an end to impunity for violations of international law by Israel.<sup>38</sup>

The comprehensive reporting systems is managed by The UN Office for the Coordination of Humanitarian Affairs (OCHA) established by the UN Humanitarian Envoy, Catherine Bertini in 2003. This entity published detailed reports on settlement expansion’s humanitarian impacts, including restricted access to water and farmland. The OCHA found that Israeli actions in the West Bank has restricted Palestinian movement, safety and livelihoods. Israel has also created an environment of coercion in this territory, by deploying excessive use of force, demolitions, evictions, settlement expansion, and settler-related violence.<sup>39</sup> An attempt of diplomatic pressure

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<sup>34</sup> S. M. Akram and M. Lynk, “The Wall and the Law: A Tale of Two Judgements,” *Netherlands Quarterly of Human Rights* (2006), <https://ssrn.com/abstract=1884438>.

<sup>35</sup> M. Burgis, “Discourses of Division: Law, Politics and the ICJ Advisory Opinion on the Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory,” *Chinese Journal of International Law* 7, no. 1 (January 23, 2008): 33–63, <https://doi.org/10.1093/chinesejil/jmm046>; Yuval Shany and Amichai Cohen, “Another Brick in the Wall? The ICJ Advisory Opinion on Israeli Policies and Practices in the Occupied Palestinian Territory,” *The Lawfare Institute*, 2024, <https://www.lawfaremedia.org/article/another-brick-in-the-wall--the-icj-advisory-opinion-on-israeli-policies-and-practices-in-the-occupied-palestinian-territory>.

<sup>36</sup> United Nations, “Resolution 465 (1980): Adopted by the Security Council at Its 2203rd Meeting, on 1 March 1980,” United Nations Digital Library System (UN, March 1980), <https://digitallibrary.un.org/record/11767/?v=pdf>.

<sup>37</sup> United Nations, “Resolution 66/77: Adopted by the General Assembly on 9 December 2011,” United Nations Digital Library System (UN, 2011), <https://documents.un.org/doc/undoc/gen/n11/463/44/pdf/n1146344.pdf>.

<sup>38</sup> United Nations Human Rights Council, “United Nations Fact Finding Mission on the Gaza Conflict,” OHCHR, 2009, <https://www.ohchr.org/en/hr-bodies/hrc/special-sessions/session9/fact-finding-mission>.

<sup>39</sup> OCHA, “United Nations Office for the Coordination of Humanitarian Affairs - Occupied Palestinian Territory | Summary of the Crisis Context and Impact,” United Nations Office for the Coordination of Humanitarian Affairs, 2024, <https://www.ochoapt.org/country/opt>.

is created by The Middle East Quartet consisting of UN, EU, U.S., and Russia in 2003 which framed settlements as “obstacles to peace” in its Roadmap, urging a freeze as a precondition for negotiations.<sup>40</sup>

The last notable policy during this phase is the 2011 Palestinian statehood bid at the UN, which reframed the settlement violations as part of a broader Palestinian sovereignty struggle. The original bid for full membership in the UN for State of Palestine has failed before the UNSC. A year later, the Committee on the Exercise of the Inalienable Rights of the Palestinian People in the UNGA reported that there has been no breakthrough in direct Israeli-Palestinian negotiations, owing to Israel's consistent refusal to freeze its settlement activity and adhere to the long-standing terms of reference of the peace process. The UNGA acted on the report by receiving a new bid for recognition as a non-member state by Mahmoud Abbas as President of the Palestinian Authority to generate a new dynamic in the peace process and help safeguard the two-state solution.<sup>41</sup> Unlike a bid for full membership, recognition as a non-member state only requires winning a majority vote in the UNGA. The draft resolution A/67/L.28 on the Status of Palestine at the United Nations was adopted by a recorded vote of 138 in favour to 9 against, with 41 abstentions.<sup>42</sup>

### **B. Complacency in practice (2013–2023)**

In the second phase of complacency, the United States casts a long shadow behind the decline in UN support on this issue. The Barack Obama administration cast its veto in the Security Council in 2011, blocking a draft resolution that denounced Israel's settlement policy as an illegal obstacle to peace efforts in the Middle East. This action killed a resolution with backing from the UN, securing a 14–1 result. The defeated resolution outlined that the settlements built since 1967 “are illegal and constitute a major obstacle to the achievement of a just, lasting, and comprehensive peace.” It further demands that Israel “cease all settlement activities” in the West Bank and Jerusalem.<sup>43</sup>

Beaumont highlighted another major U.S. veto on a resolution calling for the withdrawal of the Trump administration's recognition of Jerusalem as Israel's capital, with a similar 14–1 result.<sup>44</sup> This follows Trump's decision to overturn decades of policy toward a two-state solution by declaring that the United States recognizes Jerusalem as Israel's capital and will move its embassy there. The unanimity of the rest of the council was a stark rebuke to the Trump administration over its unilateral move earlier this month, which upended decades of international

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<sup>40</sup> Red Sea Summit, “The Middle East Quartet Roadmap,” June 2003, <https://www.hlrn.org/img/documents/The%20roadmap.pdf>.

<sup>41</sup> United Nations, “General Assembly Votes Overwhelmingly to Accord Palestine ‘Non-Member Observer State’ Status in United Nations,” UN Press, November 29, 2012, <https://press.un.org/en/2012/ga11317.doc.htm>.

<sup>42</sup> Tim Hume and Ashley Fantz, “Palestinian United Nations Bid Explained,” CNN, November 28, 2012, <https://edition.cnn.com/2012/11/28/world/meast/un-palestinian-bid/index.html>.

<sup>43</sup> Colum Lynch, “Obama Administration Rejects Israel Resolution, Using U.N. Veto for First Time,” *Foreign Policy*, February 19, 2011, <https://foreignpolicy.com/2011/02/18/obama-administration-rejects-israel-resolution-using-u-n-veto-for-first-time/>.

<sup>44</sup> Peter Beaumont, “US Outnumbered 14 to 1 as It Vetoes UN Vote on Status of Jerusalem,” *The Guardian*, December 19, 2017, sec. World news, <https://www.theguardian.com/world/2017/dec/18/us-outnumbered-14-to-1-as-it-vetoes-un-vote-on-status-of-jerusalem>.

consensus.<sup>45</sup> The resolution did not specifically mention the U.S. but expressed “deep regret at recent decisions concerning the status of Jerusalem”.

In the final process of the U.S.-brokered ceasefire in Gaza, Israel planned the commencement of Operation Iron Wall in January 2025, intending to strike Palestinian resistance in the West Bank. Security advisors to Israel stated that the Israel Defense Forces (IDF) has relaxed the rules of engagement across the territory, noting that soldiers now make no practical distinction between armed militants and ordinary citizens. The UN criticized this approach by saying its use of force is more suited to war than policing, but did not present any concrete deterrence to Israel despite its actions in the internationally recognized Palestinian territory.<sup>46</sup> Israeli parliament also proposed a legislation to outlaw the operations of the UN Relief and Works Agency for Palestine Refugees in the Near East (UNRWA) in territories under Israeli control.<sup>47</sup> This agency serves as the main UN agency ensuring the livelihood of Palestinian refugees, therefore the legislation received strong condemnations from UN officials. Despite the indispensable role of the UNRWA for Palestinians, including women and children, the pressure exerted to reverse the ban has been insufficient, yielding no success to date.<sup>48</sup>

McBrien illustrates another case of the complacency, with the ICC’s investigation into the situation in the State of Palestine under then-Prosecutor Fatou Bensouda in March 2021.<sup>49</sup> This followed Palestine’s 2015 accession as a party to the Rome Statute. Only after years of deliberation on jurisdiction since 2014, the judges at the ICC ruled in February 2021 that the court did indeed have jurisdiction over Palestinian areas. Karim Ahmad Khan took over as prosecutor in June 2021 and faced early criticism for delaying the Palestine investigation for years. Khan’s case priorities appear only to be aligned with the foreign policy priorities of major global powers and show that the ICC follows the will of the states that are parties to it, and its actions often reflect the geopolitical reality that the court is working in.<sup>50</sup> While the prosecutor moved quickly to investigate possible war crimes in Ukraine, the Court only moved slowly on Palestine.

Critical legal scholars proposed a concept that further explains UN complacency, aptly named ‘Lawfare’. This phenomenon signals the irrelevance of law despite high politics or power politics. Moreover, it indicates that international law is misutilized in order to help socially construct, legitimize, and assess the use of lethal force, as shown in the self-defense argument commonly used by Israel. Israel routinely distorts international humanitarian laws by accusing Palestinians of using human shields and utilizing perfidy tactics (posing as a protected person such as medical personnel).<sup>51</sup> This narrative were used to justify bombings and destruction of essential

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<sup>45</sup> Beaumont, “US Outnumbered 14 to 1.”

<sup>46</sup> Mustafa, “Israel’s West Bank Incursions.”

<sup>47</sup> Global Centre for the Responsibility to Protect, “Israel and the Occupied Palestinian Territory.”

<sup>48</sup> Elaine Ruth Fletcher, “WHO Appeals to Israel: Reverse Decision Closing Headquarters of UN Palestinian Refugee Agency,” Health Policy Watch, November 2024, <https://healthpolicy-watch.news/who-appeals-to-israel-to-reverse-decision-closing-headquarters-of-un-palestinian-refugee-agency/>.

<sup>49</sup> Tyler McBrien, “Where Does the ICC Palestine Investigation Stand?,” The Lawfare Institute, 2023, <https://www.lawfaremedia.org/article/where-does-the-icc-palestine-investigation-stand>.

<sup>50</sup> McBrien, “Where Does the ICC.”

<sup>51</sup> Nahed Samour and Ntina Tzouvala, “Self-Defence in Israel and Palestine: Unsuspending Disbelief,” Research Society of International Law, November 27, 2023, <https://rsilpak.org/2023/self-defence-in-israel-and-palestine-unsuspending-disbelief/>; See the opinion of Ralph Wildem, Senior Counsel and Legal Advisor to the League of Arab States, in the *Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory* Advisory Opinion case before the International Court of Justice. Ralph Wilde, “Israel’s War in Gaza Is Not a Valid

infrastructures such as hospitals and schools. This Israeli practice reinforces settler-colonial practices while casting Palestinians as guilty of bringing disaster upon themselves as ‘terrorists’.<sup>52</sup>

### C. Explaining the UN’s shifting response

The shift of UN attitudes between the two phases reflects the limitations of international institutions in enforcing compliance with international law. In this specific case, accountability demands advocated by various UN entities routinely faced roadblocks stemming from geopolitical factors and systemic challenges in enforcing international norms against powerful states, in this case the U.S. as Israel’s primary backer. In this section, we will contextualize the phases to present a fuller picture in the case, favourable political dynamics behind the early UN condemnation stance, and its practical limitations, which will set the stage for the complacency in practice.

The aftermath of the Second Intifada presents a context behind the increasing attention from international communities during this period. The Second Intifada began in late September 2000, following the collapse of the Camp David Summit and a controversial visit by the far-right Israeli opposition leader Ariel Sharon to the Haram Al-Sharif, which is the site of Al-Aqsa Mosque. It is estimated that the violence resulted in more than 6,000 Palestinian and more than 1,000 Israeli combatants and civilians’ deaths.<sup>53</sup> The bloody conclusion of this period plays a role in keeping global attention on Palestinian rights.

This paper also argues that the Obama presidency since 2009 helped in allowing early U.N. condemnation policies to stay in force. Obama has a base of political support from the Palestinian-American community that few U.S. politicians achieve. This can be explained by Obama’s previous government post as an Illinois state senator with many Palestinian-American constituents. As the U.S. president, Obama signalled early in his term that his administration would take a more concerted and balanced approach to Israeli-Palestinian peace-making than his predecessors. Obama further appointed former U.S. Senate Majority Leader George Mitchell as his special envoy for Middle East peace. Mitchell himself is an Arab-American who had authored a report during the George W. Bush presidency calling on Israel to freeze its illegal settlements.<sup>54</sup>

As shown in this paper, Obama’s foreign policy attitudes also shifted due to American Israel Public Affairs Committee (AIPAC) lobbying pressure to the Democratic Party. Obama’s secretary of state John Kerry, testified to Congress in April 2013 warning about the impending demise of the two-state solution, due to the accelerated pace of Israel’s colonization of Palestinian land in the West Bank. Further negotiations collapsed in April 2014, and Kerry seemed to recognize that the prospects for a Palestinian state is in crisis. Afterwards, the negotiations were put on the back burner in which the Obama administration preferred, in its last two years, to keep the Israeli-Palestinian conflict as quiet as possible.<sup>55</sup>

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Act of Self-Defence in International Law,” *Opinio Juris*, November 9, 2023, <https://opiniojuris.org/2023/11/09/israels-war-in-gaza-is-not-a-valid-act-of-self-defence-in-international-law/>.

<sup>52</sup> Nicola Perugini and Neve Gordon, “Medical Lawfare: The Nakba and Israel’s Attacks on Palestinian Healthcare,” *Journal of Palestine Studies*, April 9, 2024, 1–24, <https://doi.org/10.1080/0377919x.2024.2330366>.

<sup>53</sup> Daoud Kuttub, “2000 - the Second Intifada,” *Arab News*, April 16, 2025, <https://www.arabnews.com/node/2597328>.

<sup>54</sup> Josh Ruebner, “Obama’s Legacy on Israel/Palestine,” *The Institute for Palestine Studies* 46, no. 1 (2017), <https://digitalprojects.palestine-studies.org/jps/fulltext/207365>.

<sup>55</sup> Ruebner, “Obama’s Legacy.”

In describing the favourable political dynamics behind the early UN condemnation stance, there are three important push factors to highlight. The first is U.S. diplomatic engagement, in which the U.S. initially aligned with international consensus, notably abstaining from a 2011 UNSC resolution condemning settlements.<sup>56</sup> The second factor is notable EU support, which backed resolutions and funded Palestinian institutions, indirectly countering settlement expansion.<sup>57</sup> The last factor is extensive efforts by Global South coalitions, which is demonstrated by the Non-Aligned Movement (NAM) and Arab League aggressive lobbying attempts within the General Assembly, framing settlements as a colonial project.<sup>58</sup>

Moving to the practical limitations of condemnation policy, the attempted pushback from various UN entities proved insufficient to halt settlement growth. Israel repeatedly dismissed resolutions as “politically motivated,” accelerating construction by providing incentives for citizens planning on relocating as 2013 approached.<sup>59</sup> The absence of enforcement mechanisms U.S. vetoes in the UNSC eventually rendered resolutions symbolic. By 2012, the settler population had grown almost double since before the start of the Second Intifada, underscoring the gap between normative international condemnation and realities happening in the West Bank.<sup>60</sup> While United Nations experts have issued unequivocal condemnations of Israel's actions, these have not been accompanied by enforceable measures or substantive punitive mechanisms.<sup>61</sup>

Some of the main drivers behind the shift towards the complacency practice were geopolitical fragmentation and Israel's diplomatic engagements. The rise of multipolarity and new disputes arising from China's and Russia's actions diluted global attention on this issue. The Trump presidency present a further setback by recognizing Jerusalem as Israel's capital and endorsing annexation plans in the Palestinian region. This emboldened Israel to accelerate settlement expansion, with U.S. tacit approval.<sup>62</sup> Simultaneously, EU cohesion fractured with conservative governments in Hungary and Poland or the Visegrád Group vetoed joint condemnations of Israel, while others maintained rhetorical opposition without any concrete action.<sup>63</sup> Meanwhile, rising global powers such as India prioritized economic ties with Israel over Palestinian anti-colonial solidarity, reflecting a broader global shift toward transactional diplomacy.<sup>64</sup>

This shifting global response not only emboldened Israel's political and territorial ambitions but also enabled the instrumentalization of its academic institutions to shield state practices from international censure. As Maya Wind argues, Israeli universities have become

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<sup>56</sup> Ruebner, “Obama's Legacy.”

<sup>57</sup> Charlotte Chelsom-Pill, “Settlements Condemned,” *dw.com* (Deutsche Welle, December 20, 2011), <https://www.dw.com/en/eu-nations-condemn-israeli-settlements/a-15617083>.

<sup>58</sup> Associated Press, “Arab League Backs Palestinian Bid for UN Membership,” *The Guardian*, July 14, 2011, sec. World news, <https://www.theguardian.com/world/2011/jul/14/palestinian-state-palestine-un-arab-league>.

<sup>59</sup> Mya Guarnieri, “Israeli Settlers Lured by Subsidies,” *Al Jazeera*, August 2012, <https://www.aljazeera.com/features/2012/8/23/israeli-settlers-lured-by-subsidies>.

<sup>60</sup> Harriet Sherwood, “Population of Jewish Settlements in West Bank up 15,000 in a Year,” *The Guardian*, July 26, 2012, sec. World news, <https://www.theguardian.com/world/2012/jul/26/jewish-population-west-bank-up>.

<sup>61</sup> United Nations, “The International Legal Order Is Breaking down in Gaza: UN Experts Mark One Year of Genocidal Attacks on Palestinians - Question of Palestine,” *Question of Palestine*, 2024, <https://www.un.org/unispal/document/un-experts-press-release-11oct24/>.

<sup>62</sup> Léa Desrayaud, “Trump Moves Favoured Israel,” *Reuters*, September 2019, <https://www.reuters.com/graphics/ISRAEL-PALESTINIANS/0100B284173/index.html>.

<sup>63</sup> Joanna Dyduch, “The Visegrád Group's Policy towards Israel,” *Stiftung Wissenschaft und Politik (SWP)*, 2024, <https://www.swp-berlin.org/en/publication/the-visegrad-groups-policy-towards-israel>.

<sup>64</sup> Vinay Kaura, “India's Israel Challenge” (*The Diplomat*, October 29, 2016), <https://thediplomat.com/2016/10/indias-israel-challenge/>.

central to a broader strategy of laundering state violence through the language and legitimacy of academia. By embedding military training programs within campuses, producing legal frameworks to justify military actions, and exporting expertise as apolitical scholarship, these institutions help recast acts of occupation and war as matters of security or scientific advancement.<sup>65</sup> Legal scholars and military ethicists from Israeli universities, for example, have authored doctrines that redefine international law to justify targeted killings and collective punishment—offering a façade of legality to actions widely condemned as war crimes.<sup>66</sup> This academic complicity allows Israel to deflect accusations of illegality by pointing to its universities as evidence of democratic vibrancy and intellectual freedom, when in reality they are key sites of ideological and material support for ongoing settler-colonial violence.

The Abraham Accords brokered by the Trump administration in 2021 saw further engagements between the UAE, Bahrain, Morocco, and Sudan to Israel, eventually undermining the Arab League's historic consensus linking ties to Palestinian statehood. These states motivated by shared antipathy toward Iran and economic opportunities, deprioritized the Palestinian issue, reducing pressure on Israel in multilateral forums. This development consequently normalized Israeli occupation of Palestinian territory by notable states in the region and delayed a two-state solution to the conflict.<sup>67</sup> The outlined context in this section has explained that international community's retreat to symbolic gestures reflected not only shifting priorities but also a pragmatic recognition of Israel's entrenched territorial gains since 2006, the success of legal academic whitewashing from Israeli universities, and the diminishing returns of repetitive condemnation.

The contrasting dynamics between the assertive legal responses of the early 2000s and the muted diplomatic rhetoric of the 2010s until the 2020s can be effectively visualized by examining key UN actions across both periods. The following table summarizes these developments, highlighting the evolving nature and diminishing impact of the international legal response to Israeli settlements.

Table 1. Timeline of UN's shifting response

Period	Key UN Actions	Impact
2005–2012	ICJ Advisory Opinion (2004): Settlements violate international law.	Legally authoritative but unenforced; reinforced normative consensus against settlements.
	UNGA Resolution 60/106 (2005): Reaffirmed that Israeli settlements in the Occupied Palestinian Territory are illegal and an obstacle to peace.	Symbolic win; no enforcement mechanism.
	UNHRC Resolution 16/31 (2011): Expressed grave concern at the continuing Israeli settlement activities.	Unenforced; response to continued settlement expansions.

<sup>65</sup> Maya Wind, *Towers of Ivory and Steel* (Verso Books, 2024).

<sup>66</sup> Maya Wind, "How Israeli Universities and Legal Scholars Collaborate with Israel's Military," DAWN, March 14, 2024, <https://dawnmena.org/how-israeli-universities-and-legal-scholars-collaborate-with-israels-military/>.

<sup>67</sup> Dana El Kurd, "Assessing the Abraham Accords, Three Years On," Arab Center Washington DC, September 13, 2023, <https://arabcenterdc.org/resource/assessing-the-abraham-accords-three-years-on/>.

	U.S. vetoes of UNSC resolutions (2011, 2017, 2023) blocking their condemnation	Enabled settlement expansion; signaled U.S. immunity to accountability.
2013–2024	ICC investigation into settlements (2021): Delayed, limited to individual crimes	Minimal deterrence; ignored structural violence of occupation.
	UNGA resolutions (annual since 2013): nonbinding condemnations with no material consequences.	Normalized “empty gestures”; eroded public trust in UN efficacy.
	ICJ Advisory Opinion (2024): Illegality of Israel’s occupation, segregation, and apartheid.	Dissonance between international legal affirmations and the reality; did not give concrete or material recommendations to UN bodies.

#### D. Implications for international law and legal scholarship

The UN’s trajectory from assertive condemnation to fragmented complacency in addressing Israeli settlements exposes critical fractures in the international legal order, further eroding norms and institutions governing UN members. This shift is neither accidental nor legally justified; rather, it reflects the subordination of international law to geopolitical power dynamics or high politics. The implications are profound: by allowing violations to persist unchallenged, the UN risks normalizing the erosion of its own authority and undermining the foundational principles of the post-1945 legal regime.

The United States has played a critical role in diluting UN mechanisms. Repeated U.S. vetoes of Security Council resolutions, such as the 2011 and 2017 resolutions, illustrate how great-power politics paralyze enforcement.<sup>68</sup> This deference to powerful states creates a two-tiered system: international law binds weaker states but bends to the will of hegemons or superpowers. This situation could create a “culture of impunity” that incentivizes territorial aggression globally. This “culture of impunity” refers to a systemic pattern in which state actors persistently violate international norms without facing legal consequences, thereby eroding the legitimacy of international law itself.<sup>69</sup> In the case of Israel, the normalization of settlement expansion, in defiance of ICJ opinions and multiple UN resolutions, exemplifies how repeated inaction emboldens future violations.<sup>70</sup> Legal scholars have argued that impunity is not merely a product of

<sup>68</sup> Ruebner, “Obama’s Legacy.”; Beaumont, “US Outnumbered.”

<sup>69</sup> Zachary D Kaufman, “Transitional Justice as Genocide Prevention: From a Culture of Impunity to a Culture of Accountability,” *SSRN Electronic Journal*, January 1, 2014; Lionel Nichols, “Culture of Impunity,” in *The International Criminal Court and the End of Impunity in Kenya* (Springer, 2014).

<sup>70</sup> John Dugard, “Israel’s Impunity from Peremptory Norms,” in *Prolonged Occupation and International Law: Israel and Palestine*, ed. Nada Kiswanson and Susan Power (Leiden: Brill Nijhoff, 2023).

institutional weakness but a symptom of legal frameworks being co-opted by power politics.<sup>71</sup> When enforcement mechanisms are selectively applied, particularly under pressure from powerful states like the U.S., it signals to violators that international norms are flexible—or even optional.<sup>72</sup>

Scholarly discourse has mirrored institutional inertia. Early scholarship focused on reaffirming settlements' illegality, but debates during the second phase increasingly shifted to abstract discussions of “conflict management”, sidelining accountability.<sup>73</sup> Few scholars have interrogated the structural biases that enable UN inaction. Some scholars argue that Israel's actions are part of “self-defense” by calling Hamas' actions an “armed attack” and referring to Article 51 of the United Nations Charter.<sup>74</sup>

Critical voices, such as Noura Erakat contend that this apathy reflects legal academia's overreliance on liberal legalist frameworks that ignore colonial power asymmetries. Furthermore, Erakat argued that the Israel-Palestinian conflict should be analyzed through the intersection of power and control of international law.<sup>75</sup> The UN's failure to enforce its own rulings has emboldened Israel's settlement enterprise, with the settler population intensifying since 2005. This impunity sets a dangerous precedent: Russia cites Western hypocrisy on Palestine to deflect criticism of the Ukraine War, while Morocco leverages UN inaction to justify its hold on the Western Sahara.<sup>76</sup>

The Israeli settlement enterprise and accompanying military operations in the West Bank reveal profound structural shortcomings in international law's capacity to uphold justice in settler-colonial contexts. Despite successive UN resolutions and ICJ opinions affirming the illegality of the occupation, legal institutions remain constrained by geopolitical deference and doctrinal vagueness. Critics argue that the ICJ's 2024 Advisory Opinion, while symbolically important, failed to confront foundational questions of settler-colonialism, apartheid, and historical dispossession, thereby perpetuating a legal discourse that isolates legal violations from their systemic roots.<sup>77</sup> Scholars also contend that international law, shaped by Eurocentric liberal paradigms, tends to

<sup>71</sup> Noura Erakat, *Justice for Some: Law and the Question of Palestine* (Stanford, Calif.: Stanford University Press, 2019); Hanan Nanić, “The Effectiveness of Israel's Securitization Narrative on Its Impunity in the Context of UN Resolutions Violations” (Master's Thesis, Utrecht University, 2018); Nichols, “Culture of Impunity.”

<sup>72</sup> Muhammad Alfian Maulana, “Comparative Analysis of Western Nations' Actions in Russia-Ukraine and Israel-Palestine Conflicts,” *Nation State/Nation State* 7, no. 1 (June 24, 2024): 29–52, <https://doi.org/10.24076/nsjis.v7i1.1558>; Dugard, “Israel's Impunity from Peremptory Norms.”

<sup>73</sup> Scobbie, “Unchart(Er)Ed Waters?”; Akram and Lynk, “The Wall and the Law”; United Nations, “Report of Special Rapporteur on Situation of Human Rights in Palestinian Territories (Michael Lynk) - (A/72/556),” UN Question of Palestine, October 2017, <https://www.un.org/unispal/document/report-of-special-rapporteur-on-situation-of-human-rights-in-palestinian-territories-michael-lynk-advance-unedited-version/>.

<sup>74</sup> Eric A Heinze, “International Law, Self-Defense, and the Israel-Hamas Conflict,” *Parameters* 54, no. 1 (March 7, 2024), <https://doi.org/10.55540/0031-1723.3273>; Farid Shukurly, “The State of Israel's Right to Self-Defence” (Master's Thesis, University of Hull, 2024).

<sup>75</sup> Erakat, *Justice for Some: Law and the Question of Palestine*.

<sup>76</sup> Oliver Stuenkel, “Why the Global South Is Accusing America of Hypocrisy,” *Foreign Policy*, November 2, 2023, <https://foreignpolicy.com/2023/11/02/israel-palestine-hamas-gaza-war-russia-ukraine-occupation-west-hypocrisy/>; Patrick Wintour, “Why US Double Standards on Israel and Russia Play into a Dangerous Game,” *The Guardian*, December 26, 2023, sec. US news, <https://www.theguardian.com/us-news/2023/dec/26/why-us-double-standards-on-israel-and-russia-play-into-a-dangerous-game>; Dimitris Bouris and Irene Fernández-Molina, “The International Norm–Practice Relationship, Contested States, and the EU's Territorial (Un)Differentiation toward Palestine and Western Sahara,” *Global Studies Quarterly* 4, no. 2 (April 1, 2024), <https://doi.org/10.1093/isagsq/ksae041>.

<sup>77</sup> Solon Solomon, “The Limits of the ICJ Advisory Opinion on Israel's Occupation and the West Bank,” *Default*, 2024, <https://www.lawfaremedia.org/article/the-limits-of-the-icj-advisory-opinion-on-israel-s-occupation-and-the-west-bank>.

fragment the Palestinian experience into siloed legal claims—occupation, apartheid, genocide—while neglecting the continuity of the Nakba and the settler-colonial structure underpinning it since the previous century.<sup>78</sup> Moreover, targeted sanctions against West Bank settlers, while a rare example of external accountability, are largely political gestures that fall short of the criminal prosecutions needed to confront systemic impunity.<sup>79</sup> This exposes a deeper crisis: international law, in its current form, is ill-equipped to restrain power asymmetries or to deliver meaningful redress for enduring colonial violence.

One promising countermeasure to institutional complacency is the strategic use of transnational litigation, a legal action pursued across jurisdictions by individuals or civil society groups to hold state actors accountable.<sup>80</sup> Such efforts are already emerging through lawsuits filed in national courts under universal jurisdiction statutes, targeting Israeli officials for war crimes and crimes against humanity.<sup>81</sup> Complementarily, coalitions of civil society actors, including Palestinian advocacy groups, international human rights NGOs, and diaspora legal networks, have increased pressure through public campaigns and legal interventions.<sup>82</sup> Together, these mechanisms offer alternative pathways for accountability outside the UN system, signalling a growing movement to dismantle the impunity architecture and reassert the primacy of international legal norms in the Israeli-Palestinian context.

## Conclusion

Over the past two decades, UN responses to this problem have shifted from condemnation to complacency, driven by the dominance of power politics over legal and ethical frameworks. Geopolitical maneuvering by influential states has diluted the enforcement of international law, particularly in cases of unlawful occupation, enabling aggressors to avoid accountability. This trend risks casting the organization as a platform for selective justice rather than a guardian of universal norms. Such inconsistency risks normalizing violations and setting dangerous precedents for future conflicts. These developments have grown increasingly significant amid rising international

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<sup>78</sup> Rabea Eghbariah et al., “Seven Perspectives on International Law and Palestinian Liberation,” LPE Project, October 28, 2024, <https://lpeproject.org/blog/seven-perspectives-on-international-law-and-palestinian-liberation/>.

<sup>79</sup> Larissa van den Herik, “Israel – Hamas 2024 Symposium – Targeted Sanctions against West Bank Settlers,” Lieber Institute West Point, May 2024, <https://lieber.westpoint.edu/targeted-sanctions-west-bank-settlers/>; Tom Dannenbaum and Janina Dill, “International Law in Gaza: Belligerent Intent and Provisional Measures,” *American Journal of International Law* 118, no. 4 (October 1, 2024): 659–83, <https://doi.org/10.1017/ajil.2024.53>.

<sup>80</sup> Cassandra Burke Robertson, “Transnational Litigation and Institutional Choice,” *SSRN Electronic Journal*, March 22, 2010.

<sup>81</sup> Sajjad Abbassi, “The Decision of the International Criminal Court in the Palestine Situation: A Beginning in the Prevention of Impunity for Israeli Crimes,” *The Iranian Review for UN Studies (IRUNS)* 4, no. 1 (2023); Michael Ramsden and Tomas Hamilton, “UNITING against IMPUNITY: THE UN GENERAL ASSEMBLY as a CATALYST for ACTION at the ICC,” *International & Comparative Law Quarterly* 66, no. 4 (October 1, 2017): 893–921, <https://doi.org/10.1017/S0020589317000318>; Irit Ballas, “Territoriality and Status in Human Rights Litigation: The Case of Israel/Palestine,” *Social & Legal Studies* 32, no. 4 (September 10, 2022): 096466392211243, <https://doi.org/10.1177/09646639221124397>; Hassan Jabareen, “Transnational Lawyering and Legal Resistance in National Courts: Palestinian Cases before the Israeli Supreme Court,” *Yale Human Rights & Development Law Journal* 13, no. 1 (2010): 239–80.

<sup>82</sup> Suraya Khan, “Transnational Alliances: The AAUG’s Advocacy for Palestine and the Third World,” *Arab Studies Quarterly* 40, no. 1 (2018): 53, <https://doi.org/10.13169/arabstudquar.40.1.0053>; Anna Maistrelli, “Palestinian Transnational Advocacy Network: A Comparative Analysis of the Three Most Powerful Network Actors and Their Discursive Practices on Twitter” (Dissertation, Bournemouth Universityssrn 2019); Ruba Salih, Lynn Welchman, and Elena Zambelli, “The Palestinian Youth Movement (PYM): Transnational Politics, Inter/National Frameworks and Intersectional Alliances” (School of Oriental and African Studies (SOAS): Power2Youth, 2017).

calls to leverage international law as instruments to address Israeli humanitarian violations since October 2023. The current situation calls for urgent, innovative action from the legal community. Scholars must transition from descriptive critiques to crafting actionable strategies that pressure international bodies to uphold accountability, especially in the wake of genocide investigations into Israel in Gaza. This could include leveraging transnational litigation and mobilizing civil society coalitions. International legal frameworks must adapt to confront power imbalances, ensuring institutions like the UN fulfil their mandate and not just serve as instruments of geopolitical interests.

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