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Mohammad Yousef*

* Doktora adayı; Hukuk Fakültesi, Ankara Yıldırım Beyazıt Üniversitesi; mhm.yousef90@gmail.com; ORCID: 0000-0001-7201-483X.

The International Responsibility of Israel for its Settlement Operations in the Palestinian-Occupied Territories

States bear international responsibility for wrongful acts committed by their authorities, institutions, representatives, or individuals, violating international obligations. Israel's construction of settlements in occupied Palestinian territories constitutes an internationally wrongful act, incurring international responsibility for damages and necessitating compensation. This article sheds light on the ongoing Israeli settlement operations in Palestinian-occupied territories, analyzing Israel's behavior in the framework of international law, including customary law, and the Fourth Geneva Convention. Moreover, It studies triggering Israel's international responsibility, the consequences of settlement operations, and the obligation to halt activities, emphasizing compensation for Palestinian communities. Finally, it addresses collective responsibility and the international community's role in legally intervening to cease Israeli settlement operations.

Keywords: International Responsibility, International Law, Israel, Palestine, Occupied Territories.

İsrail'in İşgal Altındaki Filistin Topraklarındaki Yerleşim Faaliyetlerine İlişkin Uluslararası Sorumluluğu

Devletler, yetkilileri, kurumları, temsilcileri veya bireyleri tarafından uluslararası yükümlülükleri ihlal ederek işlenen haksız fiillerden dolayı uluslararası sorumluluk taşımaktadır. İsrail'in işgal altındaki Filistin topraklarında yerleşim yerleri inşa etmesi, uluslararası hukuka aykırı bir eylem teşkil etmekte olup, zararlar konusunda uluslararası sorumluluk doğurmakta ve tazminat gerektirmektedir. Bu makale, Filistinde işgal altındaki bölgelerde devam eden İsrail yerleşim operasyonlarına ışık tutup, İsrail'in davranışını, Uluslararası teamül hukuku ve Dördüncü Cenevre Sözleşmesi dâhil olmak üzere uluslararası hukuk çerçevesinde analiz etmektedir. Ayrıca İsrail'in uluslararası sorumluluğunu tetiklemesi, yerleşim operasyonlarının sonuçları ve Filistin topluluklarına tazminat verilmesine vurgu yaparak yerleşim faaliyetleri durdurma zorunluluğunu da incelemektedir. Son olarak, kolektif sorumluluğa ve uluslararası toplumun İsrail'in yerleşim operasyonlarını durdurmaya yasal olarak müdahale etmedeki rolüne değinmektedir.

Anahtar Kelimeler: Uluslararası Sorumluluk, Uluslararası Hukuk, İsrail, Filistin, İşgal Altındaki Topraklar.

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1. Introduction

The importance of the research lies in its novelty and uniqueness. It addresses a contemporary issue that has not been legally discussed or explored before: Israel's international responsibility for its settlements in the Palestinian-occupied territories (POT). The paper examines and emphasizes the consequences of raising the issue of Israel's international responsibility for its illegal settlements in the POT within the framework of international law. This is primarily based on the International Law Commission's (ILC) Articles on the Responsibility of States for Internationally Wrongful Acts 2001 and the relevant international treaties and conventions.

Research Questions:

Main Question

1-Does Israel bear international responsibility because of its settlement operations in the Palestinian-occupied territories (POT)?

Sub-Questions

1- What are the ways to trigger international responsibility against Israel regarding its settlements in Palestinian-occupied territories (POT)?

2-What are the consequences for Israel after proving its international responsibility for the settlement operations?

3-Are the Israeli settlements considered a violation of a peremptory rule of general international law? What are the implications?

Research Hypothesis

Israel commits an internationally wrongful act by establishing illegal settlements in the Palestinian-occupied territories and bears international responsibility accordingly.

2. Research Methodology

The paper follows a descriptive, analytical, and legal methodology. It describes and examines the legal status of Israeli settlements in the Palestinian-occupied territories in light of international law and legal instruments. Subsequently, it analyzes the relationship between Israeli settlement operations and international responsibility by highlighting the consequences of these actions within the framework of the ILC'S articles on responsibility of states for international wrongful act 2001.

The history of Jewish settlement in Palestine, which began before the establishment of the Israeli occupation state and continued after it, confirms that the expansionist mentality and the theory of occupying all Palestinian lands is an age-old project that has been adopted by successive Israeli governments and confirmed in Israel—the nation-state of the Jewish People—through a law passed by the Knesset in 2018. (The Colonization & Wall Resistance Commission, 2018). The law considers settlements a national value. Article 7 of this law states that 'The State views the development of Jewish settlement as a national value and shall act to encourage and promote its establishment and strengthening.' From the Israeli perspective, the establishment of Israeli settlements along the borders of occupied Palestine is a preventive and defensive measure against potential attacks from neighboring Arab countries or resistance movements targeting vital centers in the Israeli depth. In the case of a ground attack by another state, these settlements serve a defensive function, preventing the attacking forces from penetrating deep into the occupied

territories, or they can delay and impede the advance of the attacking forces until Israeli support forces reach the area. On the other hand, the process of moving Jews to Palestine and settlement expansion in the occupied territories serves as an Israeli pressure card in peace negotiations, potentially hastening the establishment of peace and normalization of relations with Israel. Israeli settlement activity in Palestine violates Article 49 of the Fourth Geneva Convention and several United Nations resolutions, the latest being Security Council Resolution 2334 issued in December 2016. This resolution affirmed the illegality of Israeli settlements built on the occupied lands after the 1967 war. Furthermore, the UN Special Rapporteur on the situation of human rights in the Palestinian Territory occupied since 1967, Michael Lynk, has called on the international community to designate the creation of Israeli settlements as a war crime under the Rome Statute of the International Criminal Court (OHCHR, 2021).

The illegality of Israeli settlements is a widely accepted issue in modern international law, and the United Nations has consistently declared that the Israeli settlements in the occupied Palestinian territory are a 'flagrant violation' under international law (OHCHR, 2021). Israel does not abide by the law of occupation, which does not authorize the occupying power to be the ruler of the lands it has occupied but rather considers it bound by the temporary administration of these lands throughout the occupation period (OHCHR, 2021). International humanitarian law, the primary regulator for the actions of the occupying power during the occupation, seeks to limit the powers of the occupying state and imposes many obligations and pledges regarding providing protection to the inhabitants of the occupied territories and preserving their rights and human dignity. The continuation of the Israeli settlement in the occupied territories has serious consequences, represented in the consolidation of the idea of occupation. Additionally, there are negative humanitarian effects on the Palestinians, highlighted by their displacement from their lands and the settling of Jewish settlers in their place. This is supplementary to depriving Palestinians of their right to self-determination, which was guaranteed to them by the relevant rules of international law and by the United Nations Charter. Every state is internationally responsible for the violations committed by its institutions and individuals at the international level. It must bear the responsibility arising from the violation of law and compensate the affected country for the losses resulting from its wrongful act. Israel's construction of settlements on the occupied territories is considered an illegal act under international law, classified as an international violation that results in international responsibility. This article discusses, in the first section, the conditions for triggering Israel's international responsibility. Moreover, it examines the applicability of the international responsibility terms to Israel concerning its settlement operations in the occupied territories. Finally, it studies the consequences of establishing Israel's international responsibility and the forms of reparations.

3. The Ways of Triggering International Responsibility for Israel Concerning its Settlement Operations in Occupied Territories

To bring up the issue of international responsibility, a violation of the rules of international law must be established through the commission of an internationally prohibited act. International responsibility does not vary based on the nature of the perpetrators of the crime, whether they are associated with bodies of public law, such as legislative, executive, and judicial authorities, or bodies of the military and members of the armed forces, civilians, and ordinary people (International Law Commission, 2001, p. 2).

3.1. Elements of an Internationally Wrongful Act by a State

According to Article 2 of the ILC Draft Articles on the Responsibility of States for Internationally Wrongful Acts, "There is an internationally wrongful act of a State when conduct, consisting of an action or omission:

- (a) is attributable to the State under international law; and
- (b) constitutes a breach of an international obligation of the State" (International Law

Commission, 2001, p. 2).

3.1.1. Committing a Wrongful Act Under International Law

International responsibility arises from committing a wrongful act that violates states' obligations under international law. The breach of these international obligations is considered a wrongful act, whether it is positive (act) or negative (omission) (El-Wadeya, 2009, p. 140), following Article 4 of the ILC's Draft Articles on Responsibility of States for Internationally Wrongful Acts (El-Wadeya, 2009, p. 141):

- The conduct of any State organ shall be considered an act of that State under international law, whether the organ exercises legislative, executive, judicial, or any other functions, regardless of its position in the State, and irrespective of its character as an organ of the unitary or territorial government of the State.
- An organ includes any person or entity that has that status under the domestic law of the State.

3.1.2. The International Responsibility of Israel for the Actions of its Legislative Authority

The Primary Function of legislative authority is to enact regulations and laws. When these laws conflict with international decisions and laws, they are deemed illegal, and the state bears responsibility for the consequences of issuing such laws and decisions, as outlined in Article 4 of the International Law Commission's Draft Articles on Responsibility of States for an Internationally Wrongful Act. Israel is issuing domestic laws and regulations as a means to annex outposts and large areas of the occupied territories, bringing them under its control. Examples of Israel's true intentions to override international law include the Jerusalem Annexation Law of 1980 (The Knesset, 1980) and the Syrian Golan Heights Law of 1981 (The Knesset, 1981). In 2017, Israel annexed 20 settlements to the lands under its control through the retrospective application of the law and within the framework of supporting and financing settlement projects. Additionally, Israel enacted three new laws, with 18 bills currently under consideration for similar purposes. (The Colonization & Wall Resistance Commission, 2018, P.12).

- The first law: The Judea and Samaria Settlement Regulation Law (West Bank)

The purpose of this law is to regularize the legal status of settlements constructed without obtaining a license from the competent authorities. The law is retroactively applied to such settlements, aiming to prevent the demolition of illegal structures built on Palestinian properties. Lastly, the law seeks to streamline and facilitate the processes of confiscating land and property from Palestinian owners (The Colonization & Wall Resistance Commission, 2018, P.12).

The second law: extending the validity of the emergency law in the West Bank and giving the Israeli courts jurisdiction over Palestinians and settlers in the West Bank and Jerusalem, "in other words, annexing the West Bank to Israel." (The Colonization & Wall Resistance Commission, 2018, P.13).

This law aims to expand the area of Jerusalem museums to encompass more lands under the sovereignty of the Israeli occupation. Consequently, given that both the 1980 Jerusalem Annexation Law and the 1981 Syrian Golan Heights Law were deemed illegal according to Security Council Resolutions 478 and 497, and were not recognized by the international community, Israel has committed an internationally wrongful act through its legislative authority. This authority attributes all its actions of issuing laws and regulations to the occupying power, thereby incurring international responsibility for this wrongful act. Moreover, the issuance of numerous resolutions by the United Nations in 1979 and 1980 affirms the illegality of constructing settlements in the West Bank, East Jerusalem, and the Syrian Golan Heights. These constructions are considered a flagrant violation of international laws and treaties (Roberts, 1990, PP. 34-103).

3.2. The International Responsibility of Israel for the Actions of its Executive Authority

The actions of the executive authority encompass all the practices and actions carried out by the President of the Republic, ministers, the prime minister, police agencies, government employees, officers, army commanders, and various military and police formations (El-Far, 2008, p. 332).

Article 4 of the International Law Commission's Articles on Responsibility of States for an Internationally Wrongful Act 2001, which addresses the actions of state agencies, states:

"The conduct of any State organ shall be considered an act of that state under international law, whether the organ exercises legislative, executive, judicial, or any other functions, regardless of its position in the organization of the State and its character as an organ of the central government or a territorial unit of the state" (International Law Commission, 2001, p. 2).

The state bears international responsibility for the illegal practices of its executive authority that violate the regulations of international law. This responsibility is incurred when these practices are committed by the state's authority (International Law Commission, 2001, p. 2).

The Sasson Report (UN, 2005) highlighted the flagrant violations of law by Israeli officials and institutions. More than 100 outposts were constructed with funding from the occupying power, complete with full infrastructure, including permanent residential buildings, roads, and electricity lines. This report noted that many outposts were erected on privately owned Palestinian lands, financed by Israel's Ministry of Housing. The Ministry of Housing provided the necessary budget for these constructions, while the land allocations were authorized by officials in the Ministry of Defense and granted to the quasi-official Jewish Agency (Lein, 2002, p. 21).

Amnesty International reports indicate that the illegal settlements and outposts established by the Israeli Government in the West Bank are primary contributors to groundwater pollution and the contamination of water sources. This issue is largely attributed to the lack of adequate sewage networks and waste management facilities in most settlements and outposts (Amnesty International, 2009). Consequently, the Israeli executive authority's support for constructing settlements and outposts in the occupied territories, along with providing the necessary financial backing, constitutes a blatant breach of international laws and treaties. This breach leads to Israel incurring international liability for these violations. Furthermore, Israel is responsible for offering compensation for the damage resulting from the contamination of water sources in the West Bank.

3.3. The International Responsibility of Israel for the Actions of its Judicial Apparatus

The independence of the judiciary is one of the most important principles guaranteed by constitutions, domestic laws, and international law. However, this does not absolve states from international responsibility for the decisions and regulations issued by their national courts. Israel continues to advance its policy of supporting new settlements in the occupied territories by legalizing outposts through the retroactive application of law. Since 2011, the Israeli occupation authorities have completed the process of legalizing outposts that lacked construction permits from the authorities. They legitimized these outposts by applying retroactive laws under their domestic legislation (Yesh Din-Volunteers for Human Rights, 2015). Approximately a quarter of the outposts in the occupied Palestinian territories were included in this retroactive application of the law and were legitimized by the occupation authorities. This ongoing process supports the general settlement policy, which ultimately aims to seize the remaining occupied Palestinian lands and place them under Israeli sovereignty (Yesh Din-Volunteers for Human Rights, 2015). Israel's objective is to circumvent international laws and decisions that prevent the construction of settlements and impose international responsibility. The Israeli authorities continue to legitimize illegal outposts by retroactively applying their domestic laws (UN/GA, 2016). The Israeli Supreme Court, as the highest judicial authority in Israel, ruled in the case of Kawasme and others (Israel

High Court, 1980) that Article 49 of the Fourth Geneva Convention cannot be considered completely customary. Consequently, the removal of Palestinian residents from Hebron and Hlul is not deemed a violation of Israeli domestic laws. In the same ruling, the Israeli Supreme Court clarified that Article 49 of the Fourth Geneva Convention applies primarily to mass expulsions in a manner similar to Nazi practices. Furthermore, in the case of Nazal and others in 1985 (Israel High Court, 1985), the Israeli Supreme Court reiterated that Article 49 of the Fourth Geneva Convention is not part of customary international law. Therefore, decisions to expel Palestinian residents from their lands are not considered violations of Israeli domestic laws.

Indeed, the judgments issued by Israeli courts reveal a complex interplay between international regulations and Israel's selective application of them. While Israel has accepted various international treaties and agreements, its implementation often appears tailored to protect its interests and justify specific actions. When it comes to violations against Palestinians in the occupied territories—such as expulsions from their lands, construction of settlements on those lands, and the replacement of indigenous Palestinian populations with settlers—these actions disrupt international decisions and treaties. The disregard for customary and implementation norms raises significant questions about Israel's international responsibility. The rules and regulations issued by Israel's judicial bodies and domestic courts, particularly when they violate international norms, carry implications beyond national borders. Israel's accountability extends beyond its own legal system, impacting the broader international community.

3.4. The Wrongful Act Must Violate an International Commitment to Which the State is Bound to

To invoke the international responsibility of a state, merely committing a wrongful act is insufficient; the act must also constitute a breach of an international commitment (Abu el-Wafa, 2016, p. 697). Membership in an international treaty or its ratification imposes a series of duties and obligations that the state agrees to uphold. The state is bound to ensure that its executive, legislative, and judicial authorities do not violate these commitments. According to the Charter of the United Nations and the Geneva Conventions, the actions of Israel, as represented by its executive, legislative, and judicial branches, are deemed violations of Palestinian rights and of international laws and treaties, thereby incurring international responsibility (El-Wadeya, 2009, p. 144).

3.5. The Applicability of the International Responsibility Terms to Israel

According to Article 4 of the ILC's Draft Articles on Responsibility of States for Internationally Wrongful Act:

- The conduct of any State organ shall be considered an act of that State under international law, whether the organ exercises legislative, executive, judicial, or any other functions, whatever position it holds in the organization of the State, and whatever its character as an organ of the Central Government or a territorial unit of the State.

- An organ includes any person or entity that has that status under the internal law of the State. Based on the general principles of state international responsibility for wrongful acts, the acts committed by Israel in the occupied territories are considered violations of international regulations and laws, making Israel responsible for the damage caused to the Palestinian people as a result of its settlement activities in the occupied territories. Moreover, the Israeli occupation government bears full responsibility for the wrongful acts committed by its representatives and institutions in the legislative, executive, and judicial authorities. The question that arises here is whether Israel bears international responsibility for the unlawful acts that violate international regulations, committed by its settlers, individually and collectively, against the Palestinians in the occupied territories. Article 5 of the ILC's articles on the responsibility of states for internationally wrongful acts addresses the conduct of persons or entities exercising elements of governmental authority. Specifically, it states that if a person or entity, not considered an organ of the State under

Article 4, is empowered by the State's law to exercise elements of governmental authority, their actions shall be considered acts of the State under international law, provided they are acting in that capacity in the particular instance. Regarding the settlement issue, it has long been a point of contention among various Israeli political parties, including the Labor Party and the Likud Party. These parties consistently strive to provide services and facilities to support settlement operations. For instance, they enhance security for settlers by constructing secondary roads and establishing military bases within settlements—often exceeding the number of settlers themselves. Additionally, lands adjacent to settlements are sometimes confiscated and used as buffer zones to ensure settlers' safety (Amnesty, 2001). Settlers, subject to Israeli criminal law and jurisdiction, wield military powers. They form armed militias, conduct security patrols on roads, and even arrest Palestinian civilians. Unfortunately, these actions occur without legal accountability before the Israeli judiciary (Independent Commission for Human Rights, 2001).

The settlers, who were illegally brought in by successive Israeli governments, constitute armed groups and militias that violate the rights of the Palestinian people and threaten their security. The effects arising from these violations, such as the illegal presence of settlers in these settlements, entail international responsibility for Israel, and these violations are considered war crimes in and of themselves (Darawi, 2009, p. 86). Israel is internationally responsible for the illegal actions of its settlers against the Palestinians and for its repeated failure to take the necessary measures to prevent these violations.

4. The Consequences of Establishing Israel's International Responsibility

By establishing Israel's international responsibility for the violations committed by its various legislative, judicial, and executive authorities, as well as its officials, representatives, and employees—including police and army officers—it becomes accountable for both material and moral damages resulting from these acts. This accountability imposes two primary obligations on Israel: first, to cease the violations and offensive actions against the Palestinian people; and second, to provide compensation for the losses suffered by Palestinians due to the settlement process and settler violations.

4.1. Commitment to Desist from Committing an Act Contrary to International Law and not to Repeat it

By acknowledging Israel's international responsibility for violations committed by its public legal entities and its legislative, executive, and judicial authorities, Israel must fulfill its international obligations to cease these unlawful acts that contravene international regulations and conventions. This includes Israel's commitment to halt violations of international law enacted by its legislative authority, which involves repealing laws that bolster settlement operations. Notable examples include the Jerusalem Annexation Law of 1980 and the Syrian Golan Heights Law of 1981. Through the enactment of these laws, Israel attempted to incorporate outposts and additional occupied territories into areas under its sovereignty (El-Wadeya, 2009, p. 146). The United Nations has deemed these laws null and void, without any legal effect, as they contravene United Nations resolutions and the principles of international law (Hindawi, 1998, p. 268).

Israel has the responsibility to halt violations of international law committed by its executive authority, represented by the president, the prime minister, ministers, other government employees, police agencies, and army officers. As previously mentioned, the Israeli executive bodies support settlement operations in the occupied territories and provide the necessary financial and logistical support for the outposts, in clear and flagrant violation of international regulations and obligations. This support entails Israel's international responsibility, including liability for all damage to Palestinian water resources and the contamination of groundwater in the West Bank. According to the Sasson Report, the wastewater emanating from the settlements and outposts triggers the international responsibility of the Israeli occupation government.

Israel is committed to halting violations of international law endorsed by its judiciary, which supports settlement operations by legitimizing illegal settlements through retroactive law enforcement. The rulings issued by Israeli courts appear biased and are based on selective interpretations of international treaties that align with Israel's interests and support its settlement agenda. Regarding regulations and international treaties that prohibit the expulsion of residents from their lands, Israeli courts do not regard them as part of customary international law, nor do they acknowledge an obligation to enforce them. This stance places international responsibility on Israel for the legitimization of settlements and outposts by its judicial system. It also obligates Israel to cease all such violations by its various judicial, legislative, and executive authorities, as they contravene its international obligations and international law (El-Wadeya, 2009, p. 146).

4.2. Reparation

One of the most crucial outcomes of triggering international responsibility is the obligation to compensate for losses resulting from violations. According to Article 34 of the ILC's Draft Articles on the Responsibility of States for Internationally Wrongful Acts, which addresses the forms of reparation: "Full reparation for the injury caused by the internationally wrongful act shall take the form of restitution, compensation, and satisfaction, either singly or in combination.

4.3. Restitution

Based on Article 35 of the ICC's Statute on Responsibility of States for Internationally Wrongful Acts, a state responsible for an internationally wrongful act is under an obligation to make restitution, that is, to re-establish the situation that existed before the wrongful act was committed, provided and to the extent that restitution:

(a) is not materially impossible.

(b) does not involve a burden out of all proportion to the benefit deriving from restitution instead of compensation.

Regarding the restitution raised from Israel's international responsibility for its settlements in occupied territories, there are different forms of restitution

4.3.1. The Material Forms of Restitution

Israel must give back all property and lands that were unlawfully seized as a result of settlement operations. This includes the profits made from the exploitation of natural resources in the occupied territories, as well as historical monuments and cultural sites. Additionally, one of the material forms of reparation is Israel's commitment to dismantle the settlements built in the occupied territories.

4.3.2. The Legal Forms of Restitution

The legal forms of the response are as follows: Israel has a commitment to repeal all laws, regulations, and provisions that violate international law (Metwally & Ghannem, 2002, p. 211), such as the law of annexing Jerusalem. This law places the city under Israeli rule, violating the United Nations Charter and international law (UN/GA, 1980-1981). Additionally, the Absentees' Property Law of 1950 and the Land Acquisition Law of 1952 are domestic laws that Israel has used to confiscate Palestinian properties and use them for building settlements (Amer, 1997, p. 341).

4.4. Compensation

When it is impossible to reestablish the situation to its previous state before the wrongful act was committed, or if the compensation is not commensurate with the extent of the damages resulting from the wrongful act, the responsible state is obliged to pay a certain amount of money to compensate and redress the losses incurred from the wrongful act. This amount should not be less than the actual losses (El-Far, 2008, p. 339), including both direct and indirect losses, as well as material and moral damages

4.4.1. Compensation for Material Damages Resulting from Direct Loss

Each state shall pay compensation for material damage resulting from the direct loss of wrongful acts committed by its authorities, agencies, or individuals (Sarhan, 1969, p. 413). Professor Abdulaziz Sarhan restricted the effects of the international responsibility of states to compensating for material damage only (Article 91 of Protocol I of the Geneva Convention). Protocol I of the Geneva Conventions of 1977 affirmed the issue of compensation for material damages resulting from the international responsibility of a state that violated international conventions.

The Security Council, in its Resolution 687 issued in 1991, stated that Iraq is responsible under international law for all damage and losses to Kuwaiti natural resources, as well as damage to other countries resulting from the illegal occupation and invasion of Kuwait. Iraq bears international responsibility for these acts, which are deemed illegitimate under Chapter VII of the United Nations Charter (Zemmali, 1997, p. 98). Therefore, by analogy with the Security Council resolution, Israel is obligated to compensate for material damage resulting from the loss of Palestinian property, the destruction of residential homes, and the siege and restriction of movement due to its occupation of their lands and the establishment of illegal settlements on them (Independent Commission for Human Rights, 2001). Since moral compensation for this loss is not sufficient, financial compensation is required.

4.4.2. Compensation for Material Damages Resulting from Indirect Loss

Since the international judiciary adopted the standard of proximate cause as a basis for compensation for indirect losses borne by the state, when the damage is a natural and foreseeable result of its wrongful act and not linked to an external factor, Israel is internationally responsible for compensating for the indirect damages suffered by the Palestinians and the occupied territories due to settlement operations. According to the Sasson Report, the damage to Palestinian water resources and groundwater in the West Bank is a result of Israeli outposts, which places international responsibility on the occupying power and obliges it to compensate for the indirect damage caused to Palestinian natural resources. Owing to its settlements, Israel is obligated to compensate for the moral damage it has inflicted on the Palestinian people, such as the general closure policy and military surveillance that disrupts cities and restricts travel and population movement, as occurs in the West Bank, especially after the construction of the Apartheid Wall. The wall's main purpose was to connect settlements built on the West Bank with other occupied lands under occupation authority. Furthermore, communication between Palestinian families living inside and outside the borders of this wall is deteriorating and becoming more complicated, negatively impacting the morale of the Palestinians (Karam, 2017, pp. 887-910). Israel must also compensate for the disruption of Palestinian communities caused by their settlements and military outposts. For instance, Palestinian families have been forced apart by the apartheid walls, making communication and basic life functions extremely difficult for Palestinians (Karam, 2017, pp. 887-910).

4.5. Satisfaction

States, courts, and international judicial bodies have long resorted to satisfaction as a remedy or a form of reparation (in the broadest sense) in relation to breaching international obligations. This practice is particularly related to the moral or legal harm that directly affects the state. Based on Article 37 of the ILC's Draft Articles on Responsibility of States for Internationally Wrongful Acts, it states the following:

- The State responsible for an internationally wrongful act is under an obligation to give satisfaction for the injury caused by that act insofar as it cannot be made good by restitution or compensation.
- Satisfaction may consist of an acknowledgment of the breach, an expression of regret, a formal apology, or another appropriate modality.
- Satisfaction shall not be out of proportion to the injury and may not take a form humiliating to the responsible State.

The Israeli settlement policy in the occupied territories has resulted in grave moral damage to the Palestinian people. This harm cannot be repaired through restitution or compensation alone. The violations include attacks on human dignity, demoralization of the population, and the severing of social relations between Palestinian families. Additionally, there is geographical separation between Palestinian areas, and Palestinians face humiliation at military checkpoints while going about their daily lives. All of these practices obligate Israel to provide satisfaction to the Palestinian people (El-Wadeya, 2009, p. 151).

5. Israel's International Responsibility for Serious Breaches of its Obligations Under a Peremptory Norm of General International Law, and Their Consequences

The Israeli settlements in occupied territories must breach a jus cogens rule to be considered a serious breach. Article 40 of the ILC's Draft Articles on Responsibility of States for Internationally Wrongful Acts states, "applies to the international responsibility resulting from a serious breach by a state of an obligation arising under a rule of peremptory norms of general international law." The article further provides that "A breach of such an obligation is serious if it involves a gross or systematic failure by the responsible state to fulfill the obligation." In the following discussion, Israeli settlements will be addressed as a serious breach of the general rules of international law and the consequences thereof.

5.1. The Responsibility Should Arise from a Breach of a Peremptory Norm (Jus Cogens) of General International Law

The territories that Israel occupied after the Six-Day War in 1967 are considered occupied territories by the international community and international law. Since these occupied territories are governed by international humanitarian law, the occupying power is obligated not to intervene and make changes to the legal and regulatory status of this land. One of the main responsibilities of the occupying power in the occupied territories is to preserve the demographics of the local population. "Prohibiting the forced expulsion or transfer of the local population from their lands to outside it and the prohibition of the occupying power from transferring and resettling its inhabitants in the lands it occupied" (The Fourth Geneva Convention, 1949). Unfortunately, Israeli settlement operations in the occupied territories have led to the transfer of Jewish settlers into these areas and forced Palestinian citizens to leave their lands, evacuating them abroad in violation of international treaties and obligations.

The International Court of Justice affirmed that the basic rules of international humanitarian law are based on the essence that they are inviolable and are considered peremptory rules of international law (ICJ, 1960, pp. 90-102). Therefore, given that the

International Court of Justice has considered the basic rules of international humanitarian law as peremptory, Israel, through its settlement activity in the occupied territories, has violated a peremptory rule of international law. Moreover, the occupying state's transfer of its settlers to the occupied lands and the expulsion of the Palestinians, the original inhabitants of these lands, is a violation of the Palestinians' right to self-determination on their lands (Aminzadeh & Siah Rostam, 2010, pp. 35-48). Self-determination is considered part of the peremptory norms of international law, based on the International Law Commission's interpretation of Article 53 of the Vienna Convention on the Law of Treaties of 1969; therefore, Israel again violates one of the peremptory rules of international law.

5.2. The Breach Must be Serious

According to Article 40 of the ILC's Draft Articles on Responsibility of States for Internationally Wrongful Acts, a breach of such an obligation is serious if it involves a gross or systematic failure by the responsible state to fulfill the obligation. Given that Israeli settlement operations in the occupied territories have continued unabated and even more systematically since the date of occupation, the Israeli settlement activity in the occupied lands can be considered a serious violation based on Israel's systematic breach of its duties and obligations with respect to decisions and international treaties.

5.3. The Particular Consequences of a Serious Breach of a Peremptory Rule of General International Law

According to article 41 of the ILC's Draft Articles on Responsibility of States for Internationally Wrongful Act states:

- States shall cooperate to bring to an end through lawful means any serious breach within the meaning of Article 40.
- No State shall recognize as lawful a situation created by a serious breach within the meaning of Article 40, nor render aid or assistance in maintaining that situation.
- This article is without prejudice to the other consequences referred to in this part and to such further consequences that a breach to which this chapter applies may entail under international law.

Article 41 clarifies in its first section that in the event of a serious violation, states must cooperate to bring an end to such a violation. The second section imposes a dual negative obligation on other countries: firstly, not to recognize the legitimacy of the situation resulting from the serious breach, and secondly, to abstain from assisting in maintaining this situation

Given that Israel, through its settlement operations in the occupied territories, violates jus cogens rules of international law, states must cooperate to take legal measures to end settlement operations in the occupied territories. They must not legitimately recognize the situation resulting from settlements, such as the Israeli annexation of the occupied territories and the legalization of settlement operations on Palestinian lands and private property. Additionally, states should refrain from providing any assistance to the occupying power that would enable it to maintain its settlements and continue its settlement activity. This includes avoiding trade exchanges, import and export of goods to and from settlements, or providing services that could contribute to the continuation of settlements. The United Nations Security Council, in its Resolution No. 2334 issued in 2016, called on states and the international community to deal with settlements in a legal form consistent with the spirit of Article 42 of the international responsibility proposition (Human Rights Watch, 2021). Furthermore, it urges all countries to cooperate in finding legal measures that would end settlement operations and prevent any assistance to the occupying power in maintaining and building settlements.

6. Conclusion

Israeli settlement operations conflict with Israel's international obligations and commitments. These acts violate a wide range of human rights in the Palestinian-occupied territories. The Israeli settlements are considered the main obstacle to the establishment of a Palestinian state. The policy of Israel, as the occupying power, is manifested in expelling Palestinian citizens from their lands, bringing in Jewish settlers in their place, and building settlements for them on Palestinian lands. These acts violate customary international law, the Fourth Geneva Convention, and the Additional Protocol of 1977. Furthermore, Israeli settlements are considered a war crime according to UN expert (Michael Lynk, Special Rapporteur on the situation of human rights in Palestinian territories).

Israel has obligations under international law to halt settlement activities in the occupied Palestinian territories and to compensate the Palestinian communities residing there for the direct and indirect, material and moral damages caused by the Israeli settlements. This includes restoring the situation to its state prior to the settlements, ensuring satisfaction and reparation.

Although Israeli settlements violate international humanitarian law and the Palestinians' right to self-determination—rights that are deemed peremptory norms (*jus cogens*) that cannot be violated and are accepted by the international community of states as norms allowing no derogation—Israel continues to disregard this and persists with its settlement operations and expansionist policies.

The international community is obligated under Article 41 of the ILC's Draft Articles on Responsibility of States for Internationally Wrongful Acts to take measures, including not recognizing the legality of Israeli settlements and not providing any support to help the occupying state maintain its settlements or continue its settlement activity. Countries and the international community must cooperate to take legal measures to end settlement operations in the Palestinian occupied territories.

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