

The Legal Regulations of the West Bank under the Oslo Agreements

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Abstract

This study examines the legal system in the West Bank under the framework of the Oslo Agreements; analyzing the complex legal reality resulting from the succession of ruling authorities over Palestine, including the Ottoman Empire, British Mandate, Jordanian rule, Israeli occupation, and the Palestinian National Authority. The paper focuses on the continued enforcement of Israeli military orders in Palestinian courts, despite the establishment of a Palestinian legislative framework, and explores the dual legal regime governing Israeli settlers and Palestinians living in the same geographic area. It further assesses the legal status of Israeli settlements in the West Bank under international law and discusses how this legal fragmentation undermines Palestinian sovereignty and the viability of a future Palestinian state. The study concludes that the existing legal framework is a major obstacle to Palestinian self-determination and proposes the one-state solution as a just and comprehensive alternative to resolve the Israeli–Palestinian conflict.

Keywords: *West Bank, Oslo Agreements, Israeli Military Orders, Palestinian Legal System, Legal Duality, Israeli Settlements, International Law, Palestinian Sovereignty, One-State Solution, Palestinian Authority*

الأنظمة القانونية للضفة الغربية في ظل اتفاقيات أوسلو

ملخص

تتناول هذه الدراسة النظام القانوني في الضفة الغربية في ظل اتفاقيات أوسلو، وتسعى إلى تحليل الواقع القانوني المعقد الناتج عن تعدد السلطات التي حكمت فلسطين عبر التاريخ، بما في ذلك الحكم العثماني، الانتداب البريطاني، الإدارة الأردنية، الاحتلال الإسرائيلي، والسلطة الوطنية الفلسطينية. وتركز الورقة على استمرار تطبيق الأوامر العسكرية الإسرائيلية في المحاكم الفلسطينية رغم إنشاء السلطة الفلسطينية، وتناقش الانقسام القانوني بين المستوطنين الإسرائيليين والفلسطينيين في نفس المنطقة الجغرافية. كما تستعرض الدراسة الوضع القانوني للمستوطنات الإسرائيلية في الضفة الغربية في ضوء القانون الدولي، وتبحث في تأثير هذه الازدواجية القانونية على سيادة الدولة الفلسطينية المرتقبة. وتخلص الدراسة إلى أن النظام القانوني الحالي في الضفة الغربية يمثل عقبة أساسية أمام بناء دولة فلسطينية ذات سيادة، وتقدم في النهاية خيار "الدولة الواحدة" كحل عادل وشامل للنزاع الإسرائيلي-الفلسطيني.

الكلمات المفتاحية: الضفة الغربية، اتفاقيات أوسلو، الأوامر العسكرية الإسرائيلية، النظام القانوني الفلسطيني، الازدواجية القانونية، المستوطنات الإسرائيلية، القانون الدولي، السيادة الفلسطينية، حل الدولة الواحدة، السلطة الوطنية الفلسطينية.

Introduction

The Palestinian legal system is one of the most complex legal systems in the world due to the number of authorities that have ruled over Palestine throughout history.

This paper describes the ramifications of laws in Palestine, by providing a brief overview of the legal history of Palestine. The Ottomans ruled over Palestine from 1516 until 1917; they were succeeded by the British mandate from 1918 until 1948, followed by Jordanian rule over the West Bank from 1948 till 1967, and the Egyptian Administration in the Gaza Strip from 1948 until 1967. After the 6-day war, Israel occupied the West Bank and Gaza Strip from 1967 till now, and finally the Palestinian National Authority from 1994 till present.

The paper will focus on the Oslo Agreements and the legal system it has created in the West Bank, including the continued implementation of Israeli military orders in the Palestinian judicial system.

Differences between the laws that apply to Israeli settlers in the West Bank and Palestinians will be explored, taking into consideration the consequences of applying such different laws in the same territories.

The paper will attempt to address the following questions: Does the legal situation imply that the West Bank should be part of Israel? Is the State of Palestine still going to happen, and what about the Jewish population in that scenario?

Finally, the study will link the statehood bid with the paper's core argument, recommendations, and conclusion: as a result of the failure of the Oslo agreements, the "One State" solution is the only viable answer to the Israeli-Palestinian conflict.

Importance of the Study

This study is significant because it tackles the uniquely complex legal system in the West Bank, shaped by a succession of governing authorities: Ottoman, British, Jordanian, Israeli, and Palestinian. It critically assesses how the Oslo Agreements failed to unify or replace these overlapping systems, especially the continued application of Israeli military orders in Palestinian courts. The study also underscores the legal and political implications of Israeli settlements, demonstrating how these parallel, and disparate, legal systems threaten the realization of Palestinian sovereignty and statehood. This work is therefore vital for understanding the de facto legal apartheid and obstacles to peace in the region.

Core Problem

The central problem this study investigates is the continuing enforcement of Israeli military orders in the West Bank under Palestinian jurisdiction, despite the establishment of the Palestinian Authority and its supposed legislative powers under the Oslo Accords. The study also addresses the

inconsistency and contradiction in applying two separate legal regimes—one for Palestinians and another for Israeli settlers—within the same geographic space, raising the question: Is the West Bank gradually being annexed into Israel through legal stratification rather than diplomatic consensus?

Study Questions

- From the central problem, the following research questions are derived:
- What legal reality did the Oslo Agreements create in the West Bank?
- Why are Israeli military orders still enforced in Palestinian courts despite the formation of the Palestinian Authority?
- How do dual legal systems—Israeli civil law for settlers and military orders for Palestinians—impact legal equality and sovereignty?
- Is Israel legally and practically annexing the West Bank through settlements and military orders?
- What implications does this fragmented legal framework have for the feasibility of a future Palestinian state?
- How can the Palestinian legal system be unified to overcome this legal duality?

Aims of the Study

The study aims to:

- Trace the historical evolution of the legal systems that have governed the West Bank.
- Analyze the legal consequences of the Oslo Agreements, particularly the continuation of Israeli military orders.
- Evaluate the legal status of Israeli settlements in the West Bank under both international law and Oslo Accords.
- Demonstrate the incompatibility of two legal regimes applied to two populations living within the same territory.
- Explore the possibilities for Palestinian legal sovereignty and suggest alternatives like the One-State solution.
- Provide legal and policy recommendations toward achieving a unified and just legal system.

Study Approach

The study adopts a historical, descriptive, critical, analytical legal approach, utilizing historical and doctrinal methods. It systematically reviews:

- Primary sources (Oslo I & II Agreements, military orders, Palestinian legislation).

- Secondary sources (academic books, international legal documents, ICJ rulings).
- International legal frameworks (Fourth Geneva Convention, Hague Regulations).

This interdisciplinary methodology allows the author to critically examine legal texts, treaties, and the implementation gap between law and practice in the West Bank context.

Breaking down the legal status of Palestine

A. The Ottoman rule over Palestine 15161917-

Up until 1917, the legal system in Palestine, as part of the Ottoman Empire, was based on principles of Islamic Law with influences from the Latin system in Europe. The history of the Ottoman legal system was divided into two basic periods: the first period was from the Ottoman Empire until the Regulations (Tanzimat) Era. During this period, the Ottoman legal system was based on Islamic Law principles, Islamic jurisprudence, as well as customs and decisions issued forth by the Sultan. As a result of the witnessed events throughout the 17th and 18th centuries that enfeebled the Ottoman Empire, the legal system saw the emergence of a period of reforms known as the Regulations Era. The second period extended from the Regulations Era until 1917. Since the beginning of 1839, the reason behind reforming the regulations was to centralize, modernize, and to some extent secularize the Ottoman Empire. Besides these laws, the Ottoman Empire also adopted a number of Western laws, such as its commercial French law, in order to increase the commercial activities with Europe. These reforms compelled the Ottoman Empire to codify the provision based on religion, customs, and Sultan Law, which resulted in the enactment of important pieces of regulation (Lawcenter. birzeit.edu, 2024)

From this period of time, key laws, such as the Land Law of 1857 and the Ottoman Civil Code “Al Majala Al Adleya”, are still in effect and were the first laws that formed our current legal system in Palestine (Al-Majallah Al-Adliyya, 1876).

B. British Mandate over Palestine 19181948-

Throughout history, and since the breakup of the Ottoman Empire, Palestine has been struggling to gain its own statehood. After World War I, Palestine, along with several other Arab nations, was placed under British rule (khalidi,2023)

In 1917, after the establishment of the British Mandate and the end of Ottoman rule, the legal system in Palestine was reformed, and the principles of the Anglo-Saxon system of common law were added to the legal system. Under the mandate, which lasted for 30 years, the British army occupied the entirety of Palestine in 1917. Many legislative activities took place, resulting in the promulgation of legislation in various fields in Palestine. The Ottoman laws were still valid with amendments made according to the British Mandate laws. The Mandate government reformed the legal system by converting it from a Latin-Ottoman system to the Anglo-Saxon system of “British

Common Law”. In 1933, the recorder of the Palestine government—Rober Harry Drayton—was delegated to collect and edit all British Mandate legislation in three volumes. Drayton complied and catalogued the laws, decrees, regulations, rules, etc., which were issued in Palestine in addition to the British Royal laws and decrees enforced therein. After the 1948 war, three-quarters of Palestine was controlled by Israel. Meanwhile, Jordan ruled over the West Bank, and Egypt ruled over Gaza Strip. (Lawcenter.birzeit.edu, 2024) From the British Mandate, we do not have any remaining laws that still apply in the West Bank or the Gaza Strip.

C. The Jordanian Rule over the West Bank 1948-1967-

After the 1948 war, Palestine was divided into two parts: the West Bank and East Jerusalem under the Jordanian rule, and the Gaza Strip under Egyptian Administration. In 1948, the Jordanian Military Governor declared that all laws and legislations that had been operating in Palestine would still be effective to the extent that they did not contradict the Law on the Defense of the Trans-Jordan of 1935. In 1949, and according to the Law of the Public Administration over Palestine, Jordanian Civil Administration restored civil rule over the West Bank. In 1950, it was official that the West and East Banks of the Jordan River were annexed. Additionally, the Jordanian Civil Administration confirmed that the laws which had been operative in the West Bank until the end of the British Mandate would remain valid until they are replaced by Jordanian laws. Between 1950 and 1967, the Jordanian Parliament was composed of an equal number of deputies from both the West Bank and the East Bank. This period also witnessed broad legislative activities, leading to a transformation of the legal system prevalent in the West Bank from the Anglo-Saxon system (the Common Law) into the Latin system (Lawcenter.birzeit.edu, 2024).

Until our present day, we have numerous Jordanian laws that apply to the Palestinian territories, such as the Jordanian Penal Code 1960 and many others.

D. The Egyptian Administration in the Gaza Strip 1948 – 1967

After the 1948 war, Egypt took over the administration of the Gaza Strip without annexing it to its territories. Hence, the Egyptian civil legislation had little effect on the legal system in the Gaza Strip. The Egyptian military forces controlled the Gaza Strip and ruled it; they managed everything related to public departments and civil affairs. In 1957, the Legislative Council was established in the Gaza Strip, and the Egyptian military authority was converted into a civil authority. The Legislative Council then appointed the first Palestinian President in 1962. At that time, the Egyptian Administration completed the legal authority transfer to Palestinian control. The Legislative Council of the Gaza Strip returned the constitutional capacity of two basic laws in 1962. First, the Law of 1955 and second, the Constitutional Regulation of 1962, which were published as a collection for the first time in the Middle East Gazette, Winter/Spring Issue, 1963. The existing constitution, with features of the Ottoman Law and British Common Law, was consequently changed. In brief, the

legal system in effect in the Gaza Strip before 1948 did not significantly change under the Egyptian Administration (Lawcenter.birzeit.edu, 2024).

The study is excluding the Gaza Strip legal system from the paper because it is complex and should be addressed in a separate study.

E. The Israeli Occupation in the West Bank 1967-Present

The Israeli forces occupied the West Bank, including Jerusalem, and the Gaza Strip after the 1967 war. The Commander of Israeli forces, “Commander of the Area”, announced full control over the three authorities: legislative, executive, and judicial in the occupied Palestinian territories. The Israeli forces issued Military Order no. 2 of 1967 that said: any effective laws in the Palestinian territories that did not contradict the Israeli military orders issued by the Administration of the Israeli Occupation will remain in effect. After Military Order no. 947 of 1981, all legal and administrative powers were transferred to what the Israelis called “Civil Administration”, which was established then. From the beginning of Israeli occupation, Israel created military courts and military commissions that had total jurisdiction over specific criminal issues and all disputes over lands, taxes, natural resources, and finance. In general, all military orders that were issued during the occupation period covered all aspects of life. There were differences between the Israeli military orders in the West Bank and the Gaza Strip. Since 1967, approximately 2,500 military orders have been issued in the West Bank and Gaza Strip. Many other orders were also issued but were not disseminated (Lawcenter.birzeit.edu, 2024).

This paper will analyze in detail the Israeli military orders that took place in the West Bank after the Oslo agreements to demonstrate how these military orders are still in effect and to see who is responsible for implementing such orders until now.

According to the military legislation since 1967, Israeli settlers in the occupied Palestinian territories have not conformed to the laws issued by the Israeli Commander of the Area or Civil Administration. Settlers are instead subject to the Israeli Domestic Law. Accordingly, the Israeli government has expanded the concept of Israeli citizenship to include settlements constructed throughout the occupied Palestinian territories. To achieve this end, the Israeli government claimed that settlements were not part of occupied Palestinian territories. In addition, the Israeli government separated the legal system applicable in the occupied West Bank and Gaza Strip from that enforced in the Israeli settlements (Lawcenter.birzeit.edu, 2024).

In this section, the study will describe the situation of the Israeli settlers in the Palestinian territories, which laws govern them, how applying two sets of laws within the same territory is unjust, and the consequences of this unique condition.

F. The Palestinian National Authority 1994-Present

After the Oslo agreements, which I will discuss in detail later in this paper, the Palestinians were given the right to start enacting laws by their own Palestinian legislative council. The first decision issued by the Palestinian Authority was on the 20th of May 1994, which stipulated that all legislation and laws that were effective before the 5th of June 1967 in the West Bank and Gaza Strip would remain effective. Since the 5th of July 1994, the Palestinian Authority council -which was the Executive Authority since the 5th of July 1994 and then the Palestinian Legislative Council since 7th of March 1996 started enacting laws which regulate the public life of the Palestinian society and establish a consolidation of laws between the West Bank and the Gaza Strip. The statistics indicate that until the summer of 2000, new Palestinian legislation amounted to approximately 48 laws as well as 200 other items of legislation. On the other hand, many Israeli military orders which had been issued by the Israeli occupation in the West Bank and Gaza Strip were annulled¹. (Lawcenter.birzeit.edu, 2024) In this paper, the author will analyze details about the Israeli military orders to show the type of military orders that are still implemented in the Palestinian territories.

All the Palestinian laws and legislation are now published in the Palestinian Official Gazette 'Al Wagae Al Falastineya'. Any other non-legislative issues can be published in the Official Gazette. The first issue of the Palestinian Official Gazette was published on 20th of November 1994. Notably, the focus of the Palestinian new legislation was on administrative, regulatory, commercial, and financial matters, issues related to land ownership and services, including health and education, and political issues such as elections and transfer of powers and authorities. Regarding the judicial level, the President of the Palestinian Authority issued a decision on the first of June 2000, to establish the High Judicial Council which is composed of a group of senior judges in the West Bank and Gaza Strip governorates. The courts are divided into regular, religious, military, and special courts, in addition to the Supreme Court of Justice, which examines the administrative disputes. After that, a few new courts were established in several Palestinian governorates, and now the Court of Appeals, which was established on a provisional basis in Ramallah, is considered the highest regular court, and all of its decisions are ethically binding on the lower courts (Lawcenter.birzeit.edu, 2024).

Nowadays, we have many Palestinian laws, such as insurance law, labor law, enforcement law, and the financial and administrative control laws, among others.

The Oslo Accords

Introduction

The Oslo Accords were the first direct face-to-face peace agreement between the Palestinian Liberation Organization and the Israeli government in Washington, DC, on the 13th of September 1993, is officially called the Declaration of Principles on Interim Self-Government Authority. The goal was to resolve the Israeli-Palestinian conflict; the Oslo Accords were the framework for the future resolution between the two parties. The accords were negotiated in Oslo-Norway, but they were signed in Washington, DC, in a public ceremony. The accords provided for the creation of the Palestinian National Authority, which would have responsibility for the administration of the territory under its control, with a withdrawal of the Israeli Occupation Forces from parts of the Gaza Strip and West Bank. From the start, the parties had agreed that this arrangement would last for a five-year interim period at the conclusion of which a permanent agreement would be negotiated. Permanent issues such as a position on Jerusalem, Palestinian refugees, Israeli settlements, security, and the borders, would be postponed and dealt with at a later stage. The Oslo records were signed in the presence of Palestinian Liberation Organization (“PLO”) Yasser Arafat, Israeli Prime Minister Yitzhak Rabin, and United States President Bill Clinton. The documents were signed by Mahmoud Abbas on behalf of the PLO, Foreign Minister Shimon Peres signed for Israel, Secretary of State Warren Christopher for the United States, and Foreign Minister Andrei Kozyrez for Russia (Miller, 2022).

After giving a quick summary about the Oslo records, in the next section, I will link to my main topic, the legislation and the right to start enacting the laws and the enforcement of applying the Israeli military orders in the West Bank and the Gaza Strip. The Declaration of Principles stipulated how to deal with the military orders.

Military Orders

In the Declaration of Principles on Interim Self-Government Authority:

Article IX: Laws and Military Orders:

- The Council ‘PLC’ will be empowered to legislate, in accordance with the Interim Agreement, within all authorities transferred to it.
- Both parties will review jointly laws and military orders presently in force in remaining spheres (United Nations, 2023).

The General Commander of the Israeli Army issued two separate Military Orders, one for the West Bank under the name of Military Order No.2 and the other one for the Gaza Strip under the name of Military Order No.1, soon after the occupation took place. These two Articles confirmed that the local laws were to remain in force insofar as they are not replaced or altered by military orders. In 35 years of occupation at the time of writing this article by Dr. Feras in 2004, the estimated number of

“legislations” exceeds 2500 in the West Bank and 2400 in the Gaza Strip. Out of this number, around 1500 and 1200 Orders were issued in the West Bank and the Gaza Strip, respectively. In 2002, the Military Authority subsequently issued several Orders, which have different serial numbers. These Orders are not all published yet in the pamphlet of the West Bank. It’s difficult to enumerate the Military Orders in the West Bank or in the Gaza Strip in an exact manner; there are dozens of these orders that have not been made public (Milhem, 2020).

These military orders provide a good source for the study of Israel’s changing policies in the occupied West Bank. These military enactments, referred to as ‘proclamations’ in the first days of the occupation and then as ‘military orders’, were passed by the Area Commander of the Israeli army who, according to Proclamation No. 2 issued the day the Israeli army entered the West Bank, held all legislative powers. To this day, this absolute power to legislate has not been circumscribed. The one-man parliament continues to produce amendments and additions to the Jordanian law in force when the Israeli army conquered the West Bank, without any process of consultation at any level with the local Palestinian inhabitants. (Shehada. 1993) In the West Bank of Palestine, we still apply these numerous Israeli military orders, and we are working through them in our Palestinian courts.

The effective Israeli military orders that we use permanently include: the amendment by the Israeli military governor of article number 421 from the Jordanian penal code (Jordanian Penal Code No.16. 1960) about writing a check without funds to cover it in the bank and article number 26 from the same code about the upper and lower limitation of the fine and prison sentences, and one of the most important military orders, the abolition of the death penalty. (Shehada. 1980) The military orders stated that whenever there is a death sentence, it must be replaced by life imprisonment.

In 1994, Chairman Arafat issued Decree No. 1 regarding the Continuation of Laws, Regulations and Rules Operating in the Palestinian Territories in the West Bank and Gaza Strip, before and since 5 June 1967, and this should be valid until replaced by a unified Palestinian Authority legislation. This decree came into force on 20 May 1994, the day of its ratification, but at the same time ignored all of the military orders and declarations in force in the occupied Palestinian territories since 1967. Despite the international law on occupation, there are sections where regulation is still carried out by military orders and declarations. After that Law No, 2/1995 came to revoke some resolutions and military orders, thus implying that other orders should remain in force unless specifically revoked or replaced. Then, to avoid further misunderstanding, the President adopted Law No. 5/1995 on the ‘Transfer of Authorities and Powers’, ratified on 20 May 1995, but retroactively effective as of 19 May 1994, that is, one day before Decree No. 1/1994. This law suggests that all previous legislation, including military orders, must remain in force unless revoked or replaced by the Palestinian legislators. The Israeli–Palestinian Interim Agreement on the West Bank and the Gaza Strip mentioned the amendment or abrogation of military orders according to article XVIII of Oslo II (Khalil, 2010).

Article XVIII of the Oslo agreements mentioned the ability to make amendments to the Israeli military orders:

While the primary legislative power shall lie in the hands of the Council as a whole, the Ra'ees of the Executive Authority of the Council shall have the following legislative powers:

Legislation, including legislation which amends or abrogates existing laws or military orders, which exceeds the jurisdiction of the Council or which is otherwise inconsistent with the provisions of the DOP, this Agreement, or of any other agreement that may be reached between the two sides during the interim period, shall have no effect and shall be void ab initio (United Nations, 2023)

But the Council cannot exceed the powers transferred to it. Since the establishment of the Palestinian Authority, the judges in Palestine have started to apply the Palestinian law where this exists, and they have avoided enforcing military orders whenever they can. After the establishment of the Palestinian Authority in the West Bank and Gaza Strip, Palestinians were able to exercise legislative power, but the exercise of this power by the 'Council' was strictly regulated by the Interim Agreement. The agreements with the Israelis forced the Palestinians to keep abiding by the legal documents from previous jurisdictions—Ottoman, British, Egyptian (Gaza), Jordanian (West Bank), and Israeli military orders, although they are often contradictory or overlapping. The main task of Palestinian Authority institutions, in particular the PLC, is the harmonization of texts in the Palestinian legal system. Until the unification of laws, judges applied the existing laws according to their discretion (Khalil, 2010)

Consequently, the president can amend or abrogate the Israeli military orders if he decides to do so. In the past, Yasser Arafat, the Palestinian president at that time, had abrogated many Israeli military orders, including decree number 2 in 1995 to abrogate some of the Israeli military orders. This decree contains about 46 military orders, such as the military orders about the jails, newspapers, the Israeli policemen, the invitation to the court after committing a crime outside the region, and many others (Birzeit University, Institute of Law, 2023).

In the Oslo Accords, there are no limitations on the Palestinian Authority to continue applying the Israeli military orders. They can replace them with any Palestinian laws by issuing a decree from the President of the Palestinian Authority; it is believed that the dereliction in this case is from the Palestinian part, which has, until now, issued this substantial number of Israeli military orders that apply in our courts.

We cannot argue that we do not have an effective Palestinian Legislative Council due to the absence of half of its members because they are from the Hamas movement, and the Israeli government has incarcerated them since 2006. Article XVIII of Oslo II gives the full right to the president to issue a decree to abrogate any law, legislation, or military order. On the other hand, half of these Israeli military orders that applied to the West Bank now are about the Penal code section, which means

if we had our own Palestinian penal Code soon, half of these military orders will be abrogated automatically. We have our own Palestinian penal bill, but the fact that we do not have an effective PLC rises again here, and we return to the same point from which we started.

On the other hand, if the president of the Palestinian Authority abrogates any of the Israeli military orders, we might be left without any legislation after that, since the only way of canceling these military orders is by replacing them with Palestinian ones. Since the Israeli military governor at that time issued laws that favor Israel, these orders are directed against us, as Palestinians. Therefore, when Arafat abrogated some of them, he cancelled military orders that are against the interest of the Palestinians. In addition, we can repeal the military orders without damaging the Palestinian legislature. According to the Oslo agreements, any kind of enactment of new laws or legislation or amendments must have an Israeli review, but the Palestinian Authority just passed this phase recently (Email from author - The Historical Emergence of the Legal Order in Modern Palestine – Jamal Qash- 2024).

When the president of the Palestinian Authority issues a decree about cancelling the Israeli military orders, the Palestinian Legislative Council can approve it. It will not take effect until it's published in the Palestinian official Gazette "Al Wagae Al Falastinaya" and signed by the President (Email from author - The Historical Emergence of the Legal Order in Modern Palestine – Jamal Al-Khatib- 2024).

As a result, we still apply the Israeli military orders in the Palestinian courts and heavily depend on them, as the paper illustrates in the discussion above. It is difficult to amend or to cancel these military orders without replacing them with Palestinian laws. In order to avoid a legislative gap, we hope to have the PLC back to work soon to start enacting the Palestinian laws and to end all of the other laws that have applied up until now in the Palestinian territories.

The Israeli Settlements in the West Bank

When we talk about the full jurisdiction over the West Bank of Palestine, according to article IV2 (United Nations, 2023) of the Declaration of Principles on Interim Self-Government Authority, this draws an image in the reader's mind that the PLC will have full jurisdiction over the Palestinian territories in the West Bank; meaning that Palestinian laws must apply to all of the residences in the West Bank. But when you mention the Israeli settlements on the West Bank, things must change. Because they have other laws, not the same laws that apply to the Palestinians, although they are living within the same area, which makes for a duplicity of laws that apply to the same area.

1. Background on settlements in the West Bank

It has never been possible to estimate the area of land sold to Jews in the West Bank. Most of these lands were bought by Jews during the British Mandate before 1948 until the Jordanian government

rule. Jordanian law-imposed restrictions on the sale of land to non-Jordanians at that time, all of the Palestinians were considered Jordanian citizens, and such sales became possible only after special permission was granted by the Council of Ministers. After 1967, the Jewish National Fund registered several branches in the West Bank without any kind of restrictions. Then after 1979, the Military Commander of the West Bank removed all the restrictions on the purchase of land in the West Bank by individual Jews (Shehadeh, 1988).

The most common justification for Jewish settlements in the West Bank is that it is necessary for Israel's security and safety. However, the retention of a strip of land as small as the West Bank is a poor guarantee of security from attack. In fact, stronger guarantees could come if a comprehensive peace agreement is reached between the two parties. In that way, only Israel will guarantee its safety (Shehadeh, 1988).

1. The Oslo Agreements and the Settlements

The activity of building the Israeli settlements in the West Bank began during Netanyahu's government, which announced in early 1997 that it would construct housing for Jews in a neighborhood in East Jerusalem called Har Homa or Jabal Abu-Ghuneim, which is what the Palestinians call it, with housing for Arabs in ten different Jerusalem neighborhoods. This action led to denouncing the construction plans by the Palestinian leadership, who considered this move to be a preliminary judgment for the final status negotiations on Jerusalem. Both the Palestinian and the Arab states condemned the Netanyahu government's acts, as well as the UN Security Council, of which fourteen of its members voted for a resolution condemning the Har Homa plan, but this resolution was not adopted because of the US Veto (United Nations Security Council, 1997). President Bill Clinton explained that his Veto did not constitute approval of the decision made by the Israeli Government. Also, the United States repeated its wishes many times that Israel not start with settlement construction (Watson, 2024).

After the Wye River Memorandum, the situation deteriorated when Ariel Sharon urged Israelis to establish hilltop encampments in the West Bank before the implementation of the Memorandum. At that time, about forty encampments were established, many without permits from Israel. (Haaretz, 2011) Global, after that Barak Obama's government announced that they would remove about a dozen of these settlements, by putting new plans to build new settlements in Ras EL Amoud in Jerusalem. From the Palestinian's point of view, this expansion of building the settlements violates the Oslo Accords specifically, and not just international law (Watson, 2024).

This leads us to think about the relationship between the Oslo agreements and building settlements, and whether the Oslo accords prevented building those settlements, not only from a general international legal point of view.

If we had a look at the Oslo Accords, we would not find any statements preventing the Israelis

from building new settlements in the West Bank, since they have agreed to discuss this topic in the permanent status negotiations. (United Nations, 2023) Since the Palestinian leadership has denounced the Har Homa project as illegal, Arafat has said that ‘the agreements between me and Mr. Rabin and, after that, Mr. Peres ... provide that not one single house may be added in any settlement (Watson, 2024).

On the other hand, Israel argues that there is nothing in the Oslo accords that prohibits settlement construction in East Jerusalem, and they claimed that the Oslo accords and the related agreements have no commitment to refrain from settlement construction, nor neighborhood, houses, roads, or any building projects. Indeed, Israel claimed that there is a permit in the agreements to start constructions in those areas under the parties’ respective jurisdictions. Also they argue that there is no ban in the agreements on building settlements neither in the Palestinian territories nor in Jerusalem, unlike what was stated in the Camp David Accords, which explicitly mentioned that Israel should dismantle existing settlements (Watson, 2024) Taking a look at article XXXI of the Interim Agreements (United nations, 2023) shows that no side is allowed to make any changes on the ground, and outlaws any significant new settlement construction in the West Bank and Gaza Strip, since building those new settlements will change the status of the area (Watson, 2024)

As a result, there is nothing in the Oslo Accords that prevents existing settlements from expanding, but they do impose some restrictions on new settlements, especially in the West Bank and Gaza Strip. Even though there is nothing in the DOP that prevents the seizures and expansion of the settlements, by doing this, building the settlements on the West Bank of Palestine is contrary to the spirit of the DOP and its intent and letter. Also, it is clear that it is contrary to international law and the Geneva Conventions (Cotran, et al., 1996).

According to international law and the International Court of Justice, the Israeli settlements are illegal and violate international law.³ (International Court of Justice, 2011). But nothing serious has happened after six years of that decision being implemented. The ICJ also stated that “Israeli settlements in the Occupied Palestinian Territory, including East Jerusalem, are illegal and an obstacle to peace and to economic and social development [... and] have been established in breach of international law (International Court of Justice, 2011).

2. The Law Applied to the Israeli Settlements in the West Bank

The Israeli administration has applied most aspects of Israeli law to the settlers and the settlements; this act annexes them to the State of Israel. This has taken place despite formal terms; the West Bank is not part of Israel, and the laws that applied in the Palestinian territories are mixed between Jordanian and Ottoman laws and the Israeli military orders. This annexation resulted in a regime of legalized separation and discrimination. This regime is based on the existence of two separate legal

systems in the same territory, with the rights of individuals being determined by their nationality (Palestinian Observatory of Israeli Colonization Activities -POICA, 2024)

This action by the Israeli administration interferes with Palestinian sovereignty. It is as if you can put the law that suits you the best on your back and travel with it to any place you want and oblige the others to accept that you want to apply this kind of law on you without taking into consideration the law applied in that country or territory. This act does not accept any logical or legal aspects, only the Israelis do that without any kind of sense that what they are doing is illegal or morally wrong, and they do not respect the decisions by the ICJ and the Security Council of the UN. It is as if Israel is above any kind of law on this earth.

Local authorities for settlements were established similarly to versions inside Israel and were managed in a similar manner. They ignored the relevant Jordanian law that should be applied to the Israeli settlement on the West Bank. There are approximately twenty-three Jewish local authorities operating in the West Bank; they are divided into four municipalities, thirteen local councils, and six regional councils (Palestinian Observatory of Israeli Colonization Activities -POICA, 2024).

3. The Israeli Settlements According to International Law

The establishment of settlements in the West Bank of Palestine violates international humanitarian law, which dictates the principles that should apply during war and occupation. Furthermore, building the settlements leads to the infringement of international human rights law, the right to self-determination, equality rights, the right to own the land, the right to live in good conditions, and the right to move without limitations (Palestinian Observatory of Israeli Colonization Activities -POICA, 2024).

The Fourth Geneva Convention prohibits any occupation power from transferring citizens from its own territory to the occupied territory (International Court of Justice, 2004) The Hague Regulations prohibit an occupying power from undertaking permanent changes in the occupied area; temporary changes are permitted only if these changes serve military needs, or if they are undertaken for the benefits of the local population (Palestinian Observatory of Israeli Colonization Activities -POICA, 2024)

There are many consequences of applying different laws to the same area. You cannot find any place in the world that has the same legal system. When the Israeli government decided to create this legal system, they were trying to limit Palestinian sovereignty. It is as if Israel is trying to annex the West Bank to Israel in one way or another, and this action raises a question: Is the West Bank part of Israel? It is not possible to assess the situation in the West Bank and how the Israeli government treats the settlers in the Israeli settlements without thinking about whether they consider the West Bank as a part of Israel. What about the Palestinian state? Is it still happening under these circumstances? It is not possible to think about establishing the State of Palestine while you are discussing the Israeli

settlements in the West Bank; if Israel wants to apply their own law to the settlements, then this action will violate Palestinian sovereignty. The settlers have two options: to accept Palestinian law and its application within their settlement and therefore become Palestinian citizens. Or leave their settlements and go back to the Israeli territories and apply Israeli law on them. It is not acceptable to any state to have a large group of people who are living on the top of hills, carrying out their own laws, and who want these laws to apply to them solely.

The issue of settlements is considered a major point in all negotiations that aim to end the Israeli–Palestinian conflict. Any future peace agreements between the Israelis and the Palestinians based on territorial compromise must consist of the evacuation and removal of most if not all of those settlements. In the Oslo Agreements, both sides agreed to postpone discussion of the settlements until later. However, Israel decided to work on its own plan to redraw their east borders to increase Israeli settlements, either through territorial swaps or by the annexation of these territories. In 2002, Israel began to build the Segregation Wall as a part of its plan (Palestinian Observatory of Israeli Colonization Activities -POICA, 2024).

One of the most important things to have peace agreements between the Israeli and the Palestinians is to evacuate the Israeli settlements in the West Bank. Though this process will take time and will be complicated enough, at least there are lots of procedures that can be taken to limit the Israeli's infringements on Human Right and International Law, such as stopping settlement construction, building new settlements, and the expansion of existing settlements. Furthermore, Israel must stop plans to build new bypass roads and seize land intended for the bypass roads, and must surrender back confiscated land to Palestinian villages where Israel was planning on building new settlements. In addition, the Israeli government must stop giving motivation for the Israelis to encourage them to move the settlements in the West Bank; on the contrary, they must encourage the settlers to move back inside Israel's borders (Palestinian Observatory of Israeli Colonization Activities -POICA, 2024).

On the 15th of November 2011, a group of Palestinian Freedom Riders attempted to board segregated settler buses heading to Jerusalem through the occupied West Bank; it was an act of civil disobedience that took inspiration from the US Civil Rights Movement Freedom Riders aimed at challenging Israeli's apartheid policies. That day, the Israeli occupation army arrested five of the Palestinian Freedom Riders and did not allow them to continue to Jerusalem on these buses; the 5 were released at the end of that day (Palestinian Freedom Riders, 2024).

This is additional proof that what the Israelis are doing in the West Bank and especially in the settlements is an act of segregation against the Palestinians, and it has nothing to do with the security of the State of Israel. These Freedom Riders came with peaceful civil actions to end this segregation between the Palestinians and the Israeli settlers.

III.

A. The Palestinian Statehood bid

As a result of the Oslo agreements' failure, Mahmoud Abbas, the Palestinian president, went to the Security Council of the UN on the 27th of September, 2011 to request that the UN accept Palestine as a member of the UN. A year earlier at the UN, Barack Obama, the American president said: "When we come back here next year, we can have an agreement that will lead to a new member of the United Nations - an independent, sovereign state of Palestine, living in peace with Israel. (Mozgovaya, 2011) He also said in the memorable Cairo address of 2009: "America will not turn its back on the legitimate Palestinian aspirations for dignity, opportunity and a state of their own. (Global Post, 2011) Based on what Obama has said to the Palestinians, and as a result of the failure of the Oslo Accords, Palestine moved to the UN with their statehood bid. Although Abbas expected the US to veto his bid, he persisted with his demand of having a state with full membership in the United Nations.

The Israelis refused this Statehood bid and tried to force the Palestinian president to withdraw his request from the UN, along with many other European and Arab countries. Results of the statehood bid in the Security Council were expected before the end of 2011. The bid only got eight votes out of fifteen in the Security Council, and the Palestinians moved to plan B and requested an observer state status without membership in the UN (UNESCO, 2011).

From the author's point of view, even if we had our own Palestinian state on 22% of the historical Palestine, we will never have full sovereignty as long as there are Israeli settlements in the West Bank. The roads linking these settlements with Israel are under Israeli control, and Israel remains in control of the borders with Jordan, the only country that has borders with the West Bank of Palestine. Moreover, Israel controls all critical infrastructure in Palestine: water, electricity, gas, seaport in Gaza Strip, and electromagnetic field which controls mobile phone service. Any company that wants to start its services in Palestine must get permission from Israel to bring the needed equipment to start operating. Even the roads between the West Bank and Gaza Strip are under the full control of the Israeli military by way of checkpoints.

A state requires land, people, and sovereignty to exist. Palestine has land and people, but does not have sovereignty. Sovereignty means full jurisdiction and control over the land, the seaports, and airspace. It is evident that Israel, through its current policies, will not abandon control over the West Bank; checkpoints dot roads between West Bank cities, and they will never give up control over the seaport in the Gaza Strip. Furthermore, Israel will not give the Palestinians the right to have their own airport. In 1998, Palestinians had their own airport in the Gaza Strip; it came after long negotiations with the Israelis. However, in 2001 during the second Intifada, the Israeli occupation

army damaged it, and finally, in 2006 they completely destroyed it. (Shaath, 2024). Even when the Palestinians had this airport, Israel controlled it. These actions indicate that even if the Palestinians ask for an airport, Israel must give approval and surely will have control over it.

B. Internal Dynamics of Palestinian Governance Under the One State Solution

Regarding the Palestinian security forces, according to the Oslo agreements, they can only use a specific type and amount of weapons. (United Nations, 2023) This action in itself is an infringement of any state's sovereignty, and since we cannot talk about annulling the Oslo agreements, it is impossible for anyone to imagine the Palestinian state with all of these limitations.

One of the most important things that Israel has taken control of is taxation. The tax that the Palestinians pay, Israel collects and keeps about 3 percent of it and transfers the rest to the Palestinian Authority. On many occasions, the Israelis refused to transfer the taxes to the Palestinians which led to the Palestinian Authority being unable to pay the salaries of their employees, stifling economic growth in Palestine. Lack of salaries has a snowball effect on the economy; government employees limit their spending to essential items, and merchants suffer with goods staying on shelves, causing economic stagnation. Israel has withheld taxes on many occasions. In October 2011, when Palestine became a member of UNESCO, Israel refused to transfer taxes to the Palestinian Authority as punishment for joining UNESCO.

Regarding the Palestinian Legislative Council, when the Hamas movement won the Palestinian elections in 2006, half of the PLC members were from Hamas. The Israeli occupation army arrested most of them, ignoring that as PLC members, they have diplomatic immunity and Israel cannot arrest them. As a result of this action, Palestine doesn't have an effective PLC and the whole legislation process is out of work.

If we want to know when the first time was that international community talked about the Palestinian State, we must look at the Road Map of May 2003. This plan intended to establish the Palestinian state as a solution to the Israeli- Palestinian conflict; this idea got overwhelming endorsement by the international community. This plan called for the establishment of an independent, democratic, and viable Palestinian State living in peace with its neighbors. Four years later, Al- Aqsa Intifada resulted in the killing of over 3,500 Palestinians and 989 Israelis, and the Palestinian's entire infrastructure was damaged. The Israeli government then decided to disengage from the Gaza Strip while continuing to build the separation wall in the West Bank. These acts destroyed the vision of a viable, contiguous, and sovereign Palestinian state in the Occupied Territories (Farsakh, 2023).

Reflections on the One State Solution

For the foregoing reasons, the author believes that the only remaining solution for the Israeli-Palestinian conflict is the one, binational, secular state solution. Since most Palestinians and Israelis

will never accept the division of land and the percentage for each side, the one state solution represents the only viable conclusion to the conflict (Satin, 2024). In actuality, Israel and the Palestinian territories are already functioning as a single state with the same aquifers, electricity grid, and so on (Satin, 2024). Although the Israelis will never accept this solution, as they are concerned about demographics and the fact that the Palestinian population is larger than the Israeli population (Al-Quds Newspaper, 2024) and the concern about what this single state will be called. However, regardless of the legal system, flag, and national anthem, they will be concerned that in the next elections, the Palestinians will win and can change everything.

Israel will never accept this solution, in spite of it being the optimal solution, because the result will be Israeli citizens and Palestinian citizens having the same rights and responsibilities. These rights cover security issues, health insurance, passport, no checkpoints, and no travel restrictions.

After all, and as the Israelis keep repeating, anything pertaining to the final solution between the Israelis and the Palestinians must be based on negotiations between the two. This is why the Israeli government refused the Palestinian statehood bid in September of 2011; they argued that Abbas went to the United Nations without a prior agreement between the two, and this, according to the Oslo Accords, was not acceptable. Since then, everything must be agreed upon after negotiations between the two sides.

IV.

Results

From what has been discussed in this paper, the study can outline the following results:

- Palestine has experienced several authorities that have ruled over it throughout history; this has led to Palestine having one of the most complicated legal systems in the world, with ramifications on the laws in Palestine until now.
- The Oslo agreements have created a new legal situation in the West Bank. Although the Oslo records give the Palestinians the right to start enacting laws, they have obligated the Palestinian Authority to keep working with the Israeli military orders until this day. The Palestinian president can amend these military orders, but they must obtain the PLC approval after amendment.
- The Israeli settlements in the West Bank are illegal, according to international law; these settlements threaten the establishment of a Palestinian State in the future, and limit the sovereignty of the Palestinian state over its territories. The different laws that apply to Palestinians in the West Bank and laws that apply to settlers in the settlements create a disparate situation, which is unacceptable for anyone, especially for the international community.
- The Oslo agreements were detrimental to the Palestinians, but they had a couple of benefits.

First, the Oslo Accords allowed more than half a million Palestinian refugees around the world to go back to Palestine. Second, these accords forced the international community to deal with the Palestinians as people, not just as residents in this land, which was a positive development in the Palestinian case.

- The Oslo agreements did not provide any solution to date, despite all of the concessions from the Palestinian side.
- Discussing the Palestinian State seems impossible with the Israeli's actions in the West Bank and Gaza Strip, by limiting sovereignty, and will always do so even if the Palestinian Authority establishes their own state in the future.
- The only solution left for the Israeli – Palestinian conflict is the one state solution, for the reasons mentioned in this paper.

Recommendations

Based on this paper, several recommendations can be made for the situation in Palestine:

- Palestine has one of the most complex legal systems in the world; we should work on unifying the laws in the West Bank and Gaza Strip by working on the projects for the new laws and enacting them in the Palestinian Legislative Council.
- Working on negotiations with the Israeli side to remove and evacuate all of the settlements on the West Bank in order to reach a final peaceful solution between the Israelis and the Palestinians.
- In the end, the author believes that the conflict will turn into a demographic conflict, so the only solution would be the one binational secular state. Each citizen has a voice to vote in the elections, with a democratic peaceful way of living side by side.
- There is a responsibility upon the Palestinians themselves regarding the establishment of their State. The Palestinians must be ready for the national reconciliation between the biggest political parties. Fateh and Hamas, because it is impossible to establish the Palestinian State with conflict between the two parties.
- There are many problems in the current judicial system in Palestine that must be resolved by empowering this system and working on the judicial system's independence. This way we can be ready for the establishment of the State of Palestine.
- Empowering the role of women in Palestine, which is approximately half of the educated population. We must give women the chance to participate in this process and in the establishment of the state.

Conclusions

Finally, the study can conclude with the following points:

- We have mapped the laws over Palestine throughout history, with rough descriptions for each period, starting from the Ottoman Empire until the Palestinian Authority and the Israeli Occupation, to show that the current legal system now in Palestine is one of the most complex legal systems in the world.
- Then the paper moved to summarize the Israeli military orders that are currently taking place, with a high-level description of every aspect of these military orders and their legal status in the Palestinian territories. Based on this description, I have concluded that it is the Palestinian's inaction that has kept the Israeli military orders valid in the West Bank.
- After that, the paper described the Israeli settlements in the West Bank historically, how they took the lands in the past, and what was their reason for building such settlements in the West Bank. Then it moved to describe the legal status for these settlements and what message such settlements make when they are in the West Bank, and consideration of options for such legal status. Then it explained the settlements within the Oslo agreements and the status of settlements under international law. It ended this section with the optimal solutions in regards to settlements: the evacuation of these settlements as the only way to start thinking about real peace solutions between the Palestinians and the Israelis.
- The paper ended up with a discussion about the statehood bid and what are the possibilities to have our own state with recognition from the United Nations, what the obstacles are to establish the State of Palestine in the presence of the Israeli State, and what they are doing and controlling until now.
- Finally, the paper suggested, from the author's point of view, the acceptance of the one state solution between the Israelis and the Palestinians, as the optimal solution for both sides to end this conflict, offering a just solution with equal rights for all.

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