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GLOBAL PERSPECTIVE OF ISRAEL AND PALESTINE ISSUE- Shaurya Kohli¹**Abstract**

In the historical region of Palestine, both Jews and Palestinians have a right to self-determination. A Jordanian Arab state and an Israeli Jewish state have each been founded in parts of Palestine's western and eastern halves, respectively. The future of the West Bank, a territory located between Gaza and the West Bank, is still up in the air. But because most West Bank residents are Palestinian Arabs who are entitled to self-determination, Israel will be forced to give up its claims to this land, which was designated by the League of Nations as a Jewish national home. As for the Palestinians, they need to embrace Israel's Jewish right to self-determination. Clashes with the general populace exacerbated the situation, and it took several days of nonstop carnage before a truce was reached. Many people describe Israel's occupation of Palestinian land as "belligerent," particularly in light of international and humanitarian law. This necessitates gaining a thorough understanding of the legal aspects of the situation. Attempts are made in this page to grasp the many international treaties and regulations that pertain to this disagreement, as well as the approach taken by judicial authorities to this dispute.

Keywords- Gaza, International law, Self-determination, Palestine, West Bank, Israel

INTRODUCTION

For more than half a century, violence has plagued ties between the Palestinians and the Israelis. Israeli evictions and the resulting damage to a Palestinian mosque have caused recent tensions. The Arab-Israel dispute has mostly been resolved via international law. Legal concerns are revered in both Arab and Jewish communities because of their adherence to codified norms of conduct. Because "legitimacy and legal authority are fundamental components of political power," both sides in the dispute prefer to use international law as the foundation for all of their arguments, information campaigns, and negotiation stances. A single Israeli jurist cannot provide a complete explanation of international law problems due to Israel's

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democratic and diversified nature. Key concepts like Arab and Jewish nationalism, Palestinian sovereignty, the planned Jewish national home and allotted land for a Jewish National Home are discussed before moving on to topics such as Israel's declaration of independence and the country's boundaries with the West Bank and the Gaza Strip International law issues such as occupation, Israeli settlements in the West Bank and international law as an integral part of Israel's legal system are also discussed in the paper, along with Arab refugees and their right of return to Israel, and Israeli security fence measures against Hamas in Gaza against which international law is based. The last section of the paper lays forth a strategy for bringing about world peace.

AN OVERVIEW OF THE CONFLICT

Israel's 1948 declaration of independence, its following declaration of statehood on Palestinian territory, the DeirYassin massacre, and the resulting forced eviction of approximately 7,00,000 Palestinians are collectively referred to as the Nakba, literally meaning “catastrophe.” The Arab world saw this departure as a casus belli and declared war on Israel in 1948, starting the first Arab–Israeli conflict. Armistice Agreements between Israel and its neighbours Jordan, Egypt, Syria, and Lebanon brought an end to the conflict in 1949 and established the green line demarcations. Over half of Mandatory Palestine's Arab residents were forced to flee due to conflict, creating a massive refugee crisis in the surrounding countries.

Even though Israel has been at odds with the Arab world since the Six-Day war, they've had to deal with the most difficult conflicts inside their own borders. During the Six-Day War of 1967, Israel struck back hard and seized territory from all of its Arab neighbours well beyond the Armistice Lines, some of which it has maintained ever since Those occupied areas included Egypt's Gaza Strip and Sinai Peninsula (which had been exchanged for peace during the Yom Kippur war), Jordan's West Bank, and Syrian-controlled portions of the Golan Heights.

Israeli police caused damage to the Al Aqsa Mosque as a result of the eviction process in Sheikh Jarrah. Violence with the public exacerbated the situation, and only after days of killing was a truce possible. Many label Israeli occupancy of land as “belligerent,” particularly when weighed on the balances of international and humanitarian law. This necessitates gaining a thorough understanding of the legal aspects of the situation.

THE LEGAL STANDPOINT ON THE ISSUE

- **The issue of self-determination**

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Among the primary international law concerns engaged in the dispute is the subject of the right to self-determination. The author would assert that international law acknowledges the right of self-determination of both the Jews and Palestinians. The essential parts of a 'people have been characterised as a history of independence or self-rule in an identified region, a distinct culture, and a desire and capacity to recover self-governance. "The Jews have a unique identity which includes the Hebrew language, the Jewish religion, a complex legal system, national and religious festivals, common cultural symbols, a body of literature, a shared history narrative and a continual feeling of common destiny and people-hood. The Bible was written in Hebrew and is largely situated in the land of present day Israel. The Jews have a history of independence and self-governance in the country of Israel stretching back thousands of years. During the lengthy span of time, the land has been subjugated by many empires but no nation, other than the Jewish people, has ever established an autonomous state in the area. Jewish independence endured until 135 A.D. when the Roman Empire defeated the Jewish rebellion, deported most of the Jewish inhabitants and renamed the territory Palestine." Throughout the decades that followed there always remained a Jewish presence in Palestine and the bulk of the population of Jerusalem has been Jewish for the past 200 years.

In legal terms, occupation is exercising effective authority over an area over which one's own sovereign title does not exist, without violating the sovereignty of that territory. Because the administrative responsibilities of a nation are carried out by a foreign body that has no control over it, regulation is essential. The relationship between the occupied population and the occupying authority is regulated in large part by international law.

Article 38(1) (b) of the Statute of the International Court of Justice defines customary international law as "general practise acknowledged as law." The fact that it's unwritten doesn't change the fact that it's binding on everyone. Following on from the Hague Conventions of 1899 and 1907 are the Hague Regulations. The Hague Regulations served as the foundation for international law concerning belligerent occupation when they were adopted. People's lives and liberties aren't given as much attention as property rights in occupied regions. Third, the 1949 Geneva Convention (GCIV) included sections on the treatment of foreign nationals by the belligerent party during armed conflict and provided measures for civilians' protection. "No occupying power shall deport or transfer sections of its civilian population into the occupied area," reads Article 43, para. 6 of the GCIV. De facto annexation of Palestinian territory by Israeli settlements and the construction of barriers breaches the Geneva Conventions on the International Sale of Goods. Additional Protocol 1, annexed to the GCIV, protects detained

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persons by enabling them to return home or be placed back in their former situation. Under international law, the rule of self-determination provides that sovereignty in an occupied territory belongs to the people who currently occupy it. The occupying military, which is tasked with maintaining public order, cannot ignore the civil lives of the occupied people. Since individuals change employment on a regular basis, no job can be considered permanent or endless. Because of these elements, the Israeli occupation does not meet the requirements of international law.

In 1979, Israel and Egypt signed a peace treaty, but no deal was reached on Israel's disengagement from Gaza. After Israel unilaterally withdrew from Gaza in 2005 as part of its "Disengagement Plan Implementation Law," the overall occupation continued. When Hamas took control of Gaza, new disputes occurred. Israeli troops are free to reenter the Gaza Strip whenever they choose for military reasons. An interim government in Gaza and Jericho as well as expanded Palestinian autonomy were part of the Oslo Accords in 1993, which marked a significant step forward. Because to unresolved disputes over Jerusalem and the withdrawal of Israeli soldiers, peace aspirations were never achieved, and violence in the region increased beyond the year 2000.

- **Doctrines of Uti Possidetis and relativity of title**

The West Bank is where the Jewish people have their national home in Israel, according to the League of Nations. It's possible that a Palestinian state may be established in the West Bank while Israel retains its legal rights there. Palestinians must embrace Jewish self-determination in Israel or face an Israeli invasion in return when it comes to their own country. Discourse is required when dealing with delicate matters such as the status of Jerusalem and security measures. Water resources are shared by Israel, Jordan, and any future Palestinian state. All three countries are experiencing water shortages. "The essence of the principle lies in its primary aim of securing respect for the territorial boundaries at the moment when independence is achieved. Such territorial boundaries might be no more than delimitations between different administrative divisions or colonies all subject to the same sovereign. In that case, the application of the principle of utipossidetis resulted in administrative boundaries being transformed into international frontiers in the full sense of the term."

The utipossidetis rule disallows any consideration of the land east of the Jordan River as relevant to the Palestinian Arab population's right to self-determination because of the 1922 administrative partition of Palestine and Transjordan. The use of utipossidetis may also be

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found in Jordan's 1946 declaration of independence and the 1994 Israel-Jordan peace treaty's Article 3 definition of Jordan's border with Israel. Because of this, questions of self-determination must only be addressed in reference to Palestine proper, i.e. the land west of the 1922 border.

- **The judicial take on the issue**

The Israeli Supreme Court has unquestionably affected legal disputes about Israeli control of Gaza and the West Bank since 1967, considering hundreds of petitions pertaining to Israeli government actions. It was established by the Supreme Court in **Tzemel v Minister of Defence** that the Court's jurisdiction comes from its statutory power and that it can issue orders to all bodies performing public functions under the law, which covers the acts and decisions of governmental authorities wherever they may occur. In more recent times, the Israeli Supreme Court has applied the German public law's tripartite proportionality test. The three issues are: Is there a reasonable relationship between the administrative act and its legislative purpose? Is it the least intrusive means to achieve that goal? And does the gain exceed the damage caused to others' interests? These are the three questions presented. By noting that this test had become the universal norm for both domestic and international law, the Court in Beit Sourik was referring to belligerent occupation. There aren't many nations that recognise their control over territory as "occupied," but Israel does, and the Supreme Court has avoided making any significant rulings about settlements in the meanwhile.

In 2003, the UN General Assembly used Article 96 of the Charter to seek the ICJ for an advisory opinion on the legal consequences of Israel's 708-kilometer wall around East Jerusalem in the occupied zone. Contrary to Israeli allegations, the ICJ ruled that Israel had violated international law by erecting the wall/fence. Israel was also accused of violating the Hague Regulations and GCIV in addition to UN requirements on state responsibility. Because Israel occupied Palestinian territory, the court decided, the country lacked the right to defend itself. This occupation, which denies the Palestinians their right to self-determination, violates the UN Charter and other resolutions that ban territorial intervention and annexation by force.

When the International Court of Justice (ICJ) referred to the 2001 articles on the Responsibility of States for Internationally Wrongful Acts, it stated that Israel could not use the term "necessity" to justify its wall or its occupation, nor could it be used to absolve Israel of its international law violations.

CONCLUSION

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In what was once known as Eastern Palestine, the Kingdom of Jordan has emerged as an Arab state, while in what was formerly Western Palestine, Israel has emerged as a Jewish state. The sovereignty of the West Bank, which lies in the middle of the two nations, is still up for debate. In the West Bank, the vast majority of people are Palestinian Arabs, who have a right to self-determination like everyone else. According to the League of Nations, the West Bank is where the Jewish people have their national home in Israel. For the time being, a Palestinian state might be created without Israel relinquishing its legal rights in the West Bank. With regards to Palestine, they should accept Jewish self-determination inside Israel or risk an Israeli invasion in return. It is necessary to engage in discourse when dealing with sensitive issues such as Jerusalem's status and security arrangements. Israel, Jordan, and a future Palestinian state all share water resources, and all three are suffering from water shortages. A solution to this problem will need negotiations. During negotiations, Olmert stated: "I believe that we will find the right way to create two states for two peoples: a Palestinian state seeking peace, a strong, democratic and terror-free state for the Palestinian people; and a Jewish, democratic Israel free from the threat of terrorism, living in security as the national home of the Jewish people." According to Prime Minister Netanyahu, "two free people living side by side in this small land, with good neighbourly relations and mutual respect, each with its flag and anthem and government, with neither one threatening the security and existence of its neighbour" is his vision. Prime Minister Netanyahu If the West Bank is to become an Arab state, it must be self-governing. Jordan and Palestine will make up around 80% of the original land of Palestine, with the rest divided between the two Arab republics. It's possible that they'll decide to come to an agreement on federal policy together. Nevertheless, the two Arab states will have exclusive authority to decide.

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