

Looking at the complexities of the West Bank through the eyes of International Law

By Urjasvi Ahlawat^{1}*

Introduction

The aim of this paper is to analyze the applicability of international laws in the West Bank conflict. The first section will focus on the historical aspect of West Bank; what led to the formation and hence occupation of the Palestinian territory which is now known as the West Bank. The second section will focus on the current scenario of the West Bank and its possible (official) annexation by Israel. The third, fourth and the fifth sections will focus on the International Court of Justice Ruling of 2004, The Fourth Geneva Convention and the 1907 Hague Convention. The aforementioned three sections are further divided into three sections; the first subsection focuses on the relevance of the mentioned Convention in the West Bank conflict. The second subsection focuses on the international laws violated as per the mentioned Convention; it consists of a list of Articles violated in the Occupied Palestinian Territory by Israel as mentioned in the Convention. The third subsection focuses on the applicability of the international laws; Did Israel ratify the mentioned Conventions? Did the International Court of Justice's (ICJ) ruling come into effect? Did the Hague Convention come into effect as it is a customary international law? The drawbacks and limitations regarding the application of international laws, which range from structural issues of the Convention to political involvements, will be analyzed.

Historical Aspect

The Ottoman Empire ruled the West Bank from 1517 to 1917. The Treaty of Lausanne, signed by Turkey, the successor state to the Ottoman Empire, renounced its territorial rights in 1923, and the territory now known as the West Bank became an integral part of the British Mandate

** Urjasvi Ahlawat is a student at the Jindal School of International Affairs and Research Assistant at the Centre for Middle East Studies*

for Palestine. During the Mandate period Britain had no right of sovereignty, which was held by the people under the mandate. Nonetheless, as custodians of the land, Britain introduced the Ottoman Turks' land tenancy laws in Palestine (as specified in the Ottoman Land Code of 1858), extending these laws to both Arab and Jewish legal tenants and others. The UN General Assembly proposed that the territory that would become the West Bank be included in a potential Arab state in 1947, however, the Arab states were opposed at the time. Israel captured portions of what was designated as "Palestine" in the UN partition scheme during the 1948 war. On November 15 1948, the Coptic Bishop crowned Jordanian King Abdullah as King of Jerusalem. Jordanian citizenship and half of the Jordanian Parliament seats were awarded to Palestinian Arabs in the West Bank and East Jerusalem.

The 1949 Armistice Agreements established Israel's temporary border with Jordan (essentially reflecting the battlefield after the war). Transjordan occupied the region west of the Jordan River in 1950, calling it "West Side" or "Cisjordan," and the area east of the river "East Bank" or "Transjordan," after the December 1948 Jericho Meeting. From 1948 to 1967, Jordan (as it was then known) ruled over the West Bank. With the exception of the United Kingdom and Iraq, Jordan's occupation was never officially recognized by the international community. During the British mandate in the region, a two-state solution, splitting Palestine, rather than a binary solution, emerged. The UN Partition Plan called for two nations, one Jewish and the other Arab/Palestinian, but only one prevailed in the aftermath of the war. The West Bank and East Jerusalem were occupied by Israel after the Six-Day War in June 1967. The West Bank was not annexed by Israel, with the exception of East Jerusalem and the old Israeli-Jordanian no man's land; until 1982, it was under Israeli military rule.

Although the 1974 Arab League summit resolution at Rabat designated the Palestinian Liberation Organization (PLO) as the "sole legitimate representative of the Palestinian people", Jordan did not officially relinquish its claim to the area until 1988, when it broke both institutional and legal relations with the West Bank and stripped Palestinians in the West Bank of their Jordanian citizenship. The direct military rule was turned into a semi-civil authority, functioning directly under the Israeli Ministry of Defense, in 1982, as a part of the Israeli–Egyptian peace treaty, handing over jurisdiction of Palestinian civil affairs from the IDF to civil servants in the Ministry of Defense.

The Israeli settlements, on the other hand, were later controlled directly by Israel as the Judea and Samaria Area. Since the 1993 Oslo Accords, the Palestinian Authority has been in charge

of a strategically non-contiguous region (known as Area A) in the West Bank, which is now prone to Israeli incursions. Area B (roughly 28%) is controlled by a combined Israeli-Palestinian military and civil authority. Area C (roughly 61%) is fully under Israeli influence. Though the West Bank, including East Jerusalem, is referred to as "Occupied Palestinian Territory" by 164 countries, Israel cites the United Nations as stating that only lands conquered in battle by "an existing and recognized ruler" are considered occupied.

The West Bank areas under Palestinian control are an exclusive part of the Palestinian authority, while the Gaza Strip is controlled by Hamas, following the 2007 split between Fatah and Hamas. The Israeli government's executive branch, through the Ministry of Foreign Affairs, has classified the West Bank as "disputed" territory, rather than "occupied" territory, the status of which can only be decided through mediation. According to the Ministry, occupied territories are territories conquered by force from an existing and recognized ruler, and the West Bank should not be considered an occupied territory because it was not under the legal and recognized jurisdiction of any state prior to the Six-Day War.

Current Scenario

When Trump was the President of the United States, a joint statement issued by the three nations (the US, Israel and the UAE) in 2020 said "Israel will suspend declaring sovereignty" over the occupied West Bank areas. Benjamin Netanyahu, the Prime Minister of Israel, explained the expected annexation of the Jordan Valley and mentioned that he was keen on annexing several parts of Jordan Valley. According to a map presented by Netanyahu in 2019, the areas to be annexed would comprise 95 percent of the Jordan Valley which makes up at least 22 percent of the West Bank. The implications of this annexation are imposed on the West Bank in the following ways: firstly, the annexation would enclose the Palestinians by the Israelis. Jordan is the West Bank's sole international boundary. If Israel occupied the Jordan Valley, Israel will completely encircle the West Bank. A Palestinian state cannot survive without the Jordan Valley, according to Palestinians.

Furthermore, it will result in suspension of water and agricultural resources; in the Jordan Valley, Israeli settlers obtain eighteen times more water than Palestinians in the West Bank. The majority of Palestinian farmers are not linked to the water grid and must rely on tankers for water. Palestinians would be physically cut off from the Jordan River if it were annexed. Lastly, it will increase the speed of the construction of the settlements; as of now, the permission of Israel's defense minister and Prime Minister is required for all new zoning or

development in the West Bank. This could take weeks, months, or even years. After annexation, Israel will declare the Jordan Valley to be part of its territory, rendering all development as a local matter.

If Israel annexes Jordan, it will be a most massive violation of the international law, however, as Israel has not officially recognised Jordan as its annexed land, it continues to be an occupied territory. However, several violations in the territories of the West Bank are subject to the violation of international laws and hence have to oblige to the Fourth Geneva Convention and 1907 Hague Convention. The next section of the paper will focus on the applicability of the aforementioned conventions along with the ICJ Ruling of 2004.

ICJ Ruling

After the Fourth Geneva Convention and the Hague Convention 1909, the International Court of Justice Ruling of 2004 is analysed concerning the West Bank conflict. The ruling was in response to a 90-8 vote by the United Nations General Assembly in December 2003 that requested the Court's advice regarding the legal aspects of Israel's construction of a barrier separating part of West Bank and East Jerusalem from Israel. [1] The argument focuses on the illegality of the existence of the West Bank barrier in the occupied Palestinian land from the lens of international law.

Before laying out the Advisory Opinion, the ICJ clarified its jurisdiction and judicial propriety concerning its involvement in the Israel Palestine conflict. The Court rejected Israel's contention that the Assembly had exceeded its competence under the Charter given the active engagement of the UN Security Council with the Palestinian question. Regarding this, the Court clarified that by the resolution 1515 of November 19 2003, the Security Council endorsed the 'Roadmap to a Permanent Two-State Solution to the Israeli-Palestinian Conflict'. It was observed that both the Roadmap and resolution 1515 did not consist of any provision regarding the construction of the barrier.

After clarifying its jurisdiction on the West Bank conflict, the judicial propriety and the judicial function of the Court were questioned; in spite of having jurisdiction, as per the ICJ Statute, the Court may use its power to refrain from giving an advisory opinion when asked for due to 'compelling reasons'. Being the UN's judicial organ, the Court illustrated that in principle they should not refuse to give an advisory opinion, and that it has never refused to do the aforementioned when asked by any competent UN organ.

In furtherance to the judicial propriety, the consent of the parties concerning the jurisdiction was raised; Israel did not give consent to the ICJ to exercise their jurisdiction. The Court clarified that the absence of consent is irrelevant to the Court's ability to exercise jurisdiction as the Court is merely giving an advisory opinion to the *UN organ which requested the advisory* rather than the States which are involved in the conflict. The Court further emphasized that its opinion was to be given to the General Assembly, and not to a specific state or entity; it is not limited exclusively to the bilateral relations between Israel and Palestine. The involvement of other states i.e. The United States was also taken into consideration as they claimed that the involvement of ICJ could result in a political disturbance in the Roadmap scheme; it had the potential to influence the negotiations concerning the Roadmap. The Court clarified that its involvement was restricted to the illegality of the construction of the wall.

After the ICJ clarified its right to exercise its jurisdiction while maintaining its judicial propriety, the rules and principles violated during the construction of the barrier are discussed. Israel argues that the purpose of the barrier is not political but rather focuses on the security of Israel against combat terrorist attacks from the West Bank and further claims that the barrier is not permanent.

The resolutions provided by the Security Council and the General Assembly referred to the customary international law which states that the acquisition of territory by war is impermissible i.e., the occupation of the Palestinian territory is inadmissible. In the Court's view, it is apparent that the wall's sinuous route has been traced in such a way as to include within the "Closed Area" between the Green Line and the wall the great majority of the Israeli settlements (and about 80% of the Israeli settlers) in the Occupied Palestinian Territory (including East Jerusalem).

As per the ICJ, the construction which resulted in destruction of the Palestinian properties which further breached the Article 53 of the Fourth Geneva Convention, which 'prohibits the destruction by the occupying Power of property, except where such destruction is rendered absolutely necessary by military operations.' Article 52 of the 1907 Hague Conventions, which 'prohibits requisition of properties except under certain circumstances' was also breached. The contravention of the aforementioned articles has had adverse implications on the Palestinian agriculture followed by lack of sufficient access to health services and deteriorating educational establishments; the demographic composition of the Occupied territory is changed in violation to the Security Council resolutions.

Furthermore, the construction of the barrier "severely impedes the exercise by the Palestinian people of its right to self-determination and is therefore a breach of Israel's obligation to respect that right." (Para. 122.). The aforementioned construction breached the Article 49(6) of the Fourth Geneva Convention, which states that the "Occupying Power shall not deport or transfer parts of its own civilian population into the territory it occupies". The larger issue with the breach of the Palestinian territory is that the construction of the barrier constitutes a situation of 'fait accompli' which could further result in de facto annexation of the occupied Palestinian territory.

The legal consequences of the breach of the aforementioned Articles under the international law lie upon Israel, which state the Israel: (i) is required to uphold its international commitments, including its duty to uphold the Palestinian people's right to self-determination, as well as its obligations under international humanitarian and human rights law (ii) must remove the restriction on the access to Holy Places that fall under its control of the Occupation since the 1967 war (iii) has a commitment to avoid breaching its diplomatic commitments in relation to the building of the wall in the Occupied Palestinian Territories (iv) must immediately stop constructing the barrier in the Occupied Palestinian Territories, including in and around East Jerusalem, and remove the pieces that are still standing (v) must revoke any and all legislative and regulatory acts adopted concerning the construction of the barrier (vi) is subject to make reparations for the natural and legal persons damage caused in the form of returning any seized land, orchards, olive groves and other immovable property for the purpose of building the barrier or, in the case of the aforementioned suggested act being materially impossible, compensate for all damages suffered by the concerned person (vii) has a moral duty to pay any natural or legal entities who have sustained substantial harm as a result of the building of the wall.

The ICJ's conclusion that "the obligations violated by Israel include certain obligations erga omnes" (Para. 155) is worth noting as since it documents the International Court of Justice concluding that Israel has violated the Palestinian people's inalienable right to self-determination as well as its international humanitarian law commitments. All other states have a legal interest in respectfully upholding those commitments. Under the UN Charter and the ICJ Statute, advisory opinions rendered by the ICJ in principle are non-binding. Since the legal rationale contained in those opinions expresses the Court's expert views on crucial questions of international law, their non-binding existence does not suggest that they have no legal impact. Furthermore, the ICJ meets exactly the same principles and procedures in shaping its

decisions as it does in making definitive rulings in disputes between sovereign states. The fact that an advisory opinion is the official pronouncement of the United Nations' principal judicial organ confers status and jurisdiction on it.

Fourth Geneva Convention

The applicability of the Fourth Geneva Convention to the Occupied Palestinian Territory, including Jerusalem, as well as all other Arab territories occupied by Israel in 1967, has been founded by all High Contracting Groups, the United Nations, and the International Committee of the Red Cross (ICRC). This applicability has been reaffirmed by the United Nations Security Council in 25 resolutions, as well as the General Assembly and other UN bodies in various resolutions.

Israel, a High Contracting Party to the Fourth Geneva Convention, has disobeyed its commitments under the Convention notwithstanding its specific legal obligations. Despite the existence of international consensus, Israel has failed to enforce the Convention and has committed grave abuses, breaches, and significant violations of its terms on a systematic and deliberate basis. It ratified the Geneva Conventions in 1950, without expressing any concerns, and deposited its letter of ratification on July 6, 1951. In furtherance to the aforementioned ratification, Israel has a legal obligation to cooperate with the Conventions with utmost sincerity and to bring their provisions into effect where necessary, such as in the case of its belligerent conquest of the Palestinian Territories, including Jerusalem, and the rest of the Arab territories captured in 1967. Furthermore, the fourth Geneva Convention's universality and humanitarian aspect binds the international community in the same way as The Hague Regulations bind the international community.

Israel has violated a list of Articles of the Fourth Geneva Convention concerning the Occupied Palestinian Territory. Article 47, which is Inviolability of Rights, states: "Protected persons who are in occupied territory shall not be deprived, in any case or in any manner whatsoever, of the benefits of the present Convention by any change introduced, as the result of the occupation of a territory, into the institutions or government of the said territory, nor by any agreement concluded between the authorities of the occupied territories and the Occupying Power, nor by any annexation by the latter of the whole or part of the occupied territory". Furthermore, Article 49, which is Deportations, Transfers, Evacuations states: "Individual or mass forcible transfers, as well as deportations of protected persons from occupied territory to

the territory of the Occupying Power or to that of any other country, occupied or not, are prohibited, regardless of their motive...The Occupying Power shall not deport or transfer parts of its own civilian population into the territory it occupies." It is to be noted that Article 47 and 49 are of utmost importance in terms of violations by Israel (which will be explained in the next section of the paper)

Furthermore, Article 52, which is Protection of workers states: "No contract, agreement or regulation shall impair the right of any worker, whether voluntary or not and wherever he may be, to apply to the representatives of the Protecting Power in order to request the said Power's intervention. All measures aiming at creating unemployment or at restricting the opportunities offered to workers in an occupied territory, in order to induce them to work for the Occupying Power, are prohibited." Article 53, which is Prohibited destruction, states: "Any destruction by the Occupying Power of real or personal property belonging individually or collectively to private persons, or to the State, or to other public authorities, or to social or cooperative organizations, is prohibited, except where such destruction is rendered absolutely necessary by military operations." Lastly, Article 64, which is Penal legislation, states: "The penal laws of the occupied territory shall remain in force, with the exception that they may be repealed or suspended by the Occupying Power in cases where they constitute a threat to its security or an obstacle to the application of the present Convention...".

After justifying the application of the fourth Geneva Convention in the West Bank conflict, the practical applicability of the aforementioned convention is analysed as both the parties- the UN and Israel- have contrasting views on the involvement and application of the fourth Geneva Convention, which will be analysed further. The contrast exists due to two reasons: the absence of the unanimity, transparency and clarity present in the articles of the Geneva Convention and challenges posed by political biases.

Meir Shamgar, the Attorney General at the time, explained in his article *The Observance of International Law in the Controlled Territory*, written in 1913³ that there is no provision of international law specifying that the Fourth Geneva Convention extends to any armed conflict, regardless of the position of the parties to the conflict; conquered territory should not necessarily constitute or equal to an occupied territory as per the application of the articles of the Fourth Geneva Convention. In relation to the Geneva Convention's applicability to the territories, the author wrote:

In my view, de lege lata, the automatic applicability of the Fourth Convention to the territories administered by Israel is at least use an understatement, and automatic application would raise complicated judicial and political problems.

In furtherance to the aforementioned claim regarding the status of the occupied territory, arguments were made regarding the legitimate sovereignty of the territory before and under occupation. The Israeli Law Review 1968 mentioned that the international laws regarding the belligerent occupation of territory is based on two assumptions: the rightful sovereign was forced out of the occupied territories and that in terms of the territory, the ousting side constitutes as a belligerent occupant. According to Glahn, “belligerent occupation... as regulated by customary and conventional international law, presupposes a state of affairs in which the sovereign, the legitimate government of the occupied territory of both an ousted legitimate sovereign and a belligerent occupant lies at the root of all those rules of international law, which, while recognizing and sanctioning the occupant’s rights to administer the occupied territory, aim at the same time to safeguard the reversionary rights of the ousted sovereign. It would seem to follow that, in a case like the present where the ousted State never was the legitimate sovereign, those rules of belligerent occupation directed to safeguarding that sovereign’s reversionary rights have no application.”

It supported the argument made by Shamgar; he went on to argue that in Judea and Samaria and the Gaza Strip, there is no Jordanian or Egyptian sovereignty, and that it is this absence of sovereignty that the Israeli government has sought to differentiate between theoretical legal and political questions, and further acknowledges the observance of humanitarian provisions of the Fourth Geneva Convention on the other. Shamgar’s explanation and justification nullified the applicability of the Fourth Geneva Convention. The nullification extended for a time period between 1967 and 1985; the Israeli Government clarified its rejection of the applicability of the Fourth Geneva Convention to the International Committee of the Red Cross in 1985. Since Israel was rejecting the application of the Convention with respect to the territorial occupations, Israel expressed its respect for the Convention's "humanitarian" clauses in order to alleviate international pressure. The Geneva Conventions, on the other hand, allow no difference between "humanitarian" and "non-humanitarian" provisions. On a whole, the Geneva Conventions represent a body of international humanitarian law, and Israel's stance is without substance.

It was Israel's approach to shift the acceptance of the application of the Convention towards the humanitarian laws; had Israel accepted the Convention's intervention in the territorial occupation, it would have resulted in a geopolitical loss for Israel. It was afraid that mandatory enforcement of the Fourth Convention would unwittingly result in a shift in the diplomatic status quo by giving Egypt and Jordan sovereign status, which Israel would be obligated to respect because of their "reversionary privileges." It refers to a state's territorial territory that has been invaded by another state, and therefore accepting its applicability to the territories could be viewed as acknowledging that the territories are under international jurisdiction. This approach is based on the contents of Geneva Convention Article 2 which states, among other things: "The Convention shall also apply to all cases of partial or total occupation of the territory of a High Contracting Party; Israel, Jordan and Egypt are parties to the Convention."

The lack of implementation of the Convention is evident as Israel continues to illegally annex the area of the West Bank. The United Nations Security Council responded to the announcement by passing two resolutions denouncing the deportations as violations of international law, particularly the Fourth Geneva Convention (pg 613)Relative to the Protection of Civilian Persons in Time of War (the Geneva Convention or Convention).² Although the Security Council has consistently declared that Israel shall adhere to the Convention's criteria, Israel refuses the Convention's application to the administered territories. Resolution 607 of the United Nations Security Council, adopted on January 5, 1988, urged Israel to refrain from deporting all Palestinian citizens from the occupied territories as per the Geneva Convention (Article 49 as mentioned above) and abide by its commitments arising as an Occupying Power. The UN Secretary-General sent a letter to the Security Council proposing that it write to all High Contracting Parties to the Geneva Convention, asking Israel to rethink its stance on the Convention's applicability to the administered territories. The resolutions, along with Israel's denial of the Geneva Convention's applicability to the administered territories, demonstrate the legal tools' limited efficacy in resolving the complex political, religious, and cultural problems of a Jewish state in the midst of an Arab region. The decisions of the Security Council have had no impact on the insurgency in the administered territories.

Despite Security Council resolutions, the unrest has escalated, as have the harsh Israeli Army security measures that have followed it.

If the Security Council is to be successful in putting an end to the instability in the administered territories, its resolutions must be legally sound, especially when they relate to the Geneva Convention's applicability. The resolutions must therefore have a legally binding effect on Israel's actions in the administered territories and should provide legal interpretation based on the humanitarian spirit of the Convention. The aforementioned arguments further study three questions concerning the resolutions: (i) the power of the Security Council to view international treaties such as the Geneva Convention; (ii) the Convention's general applicability to Israel's existence in the administered territories; and (iii) interpretations of the Convention's particular clauses as they relate to the administered territories.

Hague Convention

The Hague Convention has been accepted as customary international law, making it legally binding. In essence, international humanitarian law is an integral aspect of international law that must be recognised and practiced, particularly by conflict parties.

The fourth Geneva Convention includes rules unique to cases of occupation in Articles 47 through 78, in addition to general rules and provisions covering the care of civilians. These provisions are identical to those listed in the 1907 Hague Rules, which are also in force and must be viewed in accordance with the above provisions. One such Hague regulation, Article 42, defines occupation as follows: "*Territory is considered occupied when it is actually placed under the authority of the hostile army.*" Under international law, occupation is considered temporary in nature and involves no transfer of sovereignty. The occupation of territory during war does not confer upon the Occupying Power "state authority" over the population of the occupied territory or over the occupied territory itself. When a region is occupied, the enforcement of international humanitarian law, specifically the fourth Convention, stops only when the occupation is fully terminated or a substantive political resolution of the conflict is found in compliance with general international law.

The related clauses of the Hague Regulations are found in Articles 42-56, under the heading "Chapter III. Territoire de l'Etat Ennemi¹⁷," i.e., the Hague Regulations specifically extend the rules of war to territories belonging to an enemy State. As a result, the Rules extend to "the

occupant" on the one hand, and Israel and Arab countries on the other. The ICRC claims that the Fourth Convention's requirements for implementation are

Article 43 states "The authority of the legitimate power having in fact passed into the hands of the occupant, the latter shall take all the measures in his power to restore, and ensure, as far as possible, public order and safety, while respecting, unless absolutely prevented, the laws in force in the country.". Furthermore, Article 46 states: "Family honor and rights, the lives of persons, and private property, as well as religious convictions and practice, must be respected. Private property cannot be confiscated.'" Article 50 illustrates "No general penalty, pecuniary or otherwise, shall be inflicted upon the population on account of the acts of individuals for which they cannot be regarded as jointly and severally responsible." Moreover, Article 55 explains "The occupying State shall be regarded only as administrator and usufructuary of public buildings, real estate, forests, and agricultural estates belonging to the hostile State, and situated in the occupied country. It must safeguard the capital of these properties, and administer them in accordance with the rules of usufruct. "Lastly, Article 56 states that "The property of municipalities, that of institutions dedicated to religion, charity and education, the arts and sciences, even when State property, shall be treated as private property. All seizure of, destruction or willful damage done to institutions of this character, historic monuments, works of art and science, is forbidden, and should be made the subject of legal proceedings."

The Israeli High Court had a different perspective, calling the 1967 territories annexed by Israel "occupied territories." The Hague Regulations of 1907 is accepted by the Court as customary international law in this regard. However, it viewed the rules in such a way that any action taken by the Israeli military was essentially allowed. The Court denied taking a stand on the applicability of the fourth Geneva Convention, instead arguing that the Convention was not justiciable before Israeli municipal courts because it had not been adopted into domestic law by the Israeli Parliament. Overall, the Court's prevailing inclination has been to refuse to enforce international law, and it has often engaged in legal formalism that limits the effect of international law on the actions of the occupying powers.

The government is yet to express a clear stance on the Hague Regulations' applicability. However, a review of the Government's general approach to the applicability of occupation laws to the territories shows that the Government's stance on the Hague Regulations is similar to its position on the applicability of the Geneva Conventions. The government has stated on many occasions that, regardless of its theoretical stance on the applicability of the Geneva

Convention to the territories, it implements the humanitarian provisions of the Convention in effect and will continue to do so. This tends to be the government's stance on the humanitarian provisions of the Hague Legislation as well. While we have no proof of the Government's express opinion on the issue, the general approach to the enforcement of belligerent occupation laws in the territories shows, as previously reported, that the Government's position on the applicability of the Hague Regulations is identical to its position on the applicability of the Fourth Geneva Convention.

Although we have no evidence of the Government's express opinion on the matter, the general approach to the implementation of the laws of belligerent occupation in the territories indicates, as mentioned above, that its position on the applicability of the Hague Regulations is identical to its position on the applicability of the Fourth Geneva Convention. In this respect, the reference to the Hague Regulations can be found in both Meir Shamgar's 1971 essay and Chaim Herzog's 1977 speech to the General Assembly.

Conclusion

The territorial position is thus *sui generis*, and the Israeli Government tried therefore to distinguish between theoretical juridical and political problems on the one hand, and the observance of the humanitarian provisions of the Fourth Geneva Convention on the other hand. As mentioned above, the ICJ ruling was a mere advisory opinion, which is non-binding in nature, hence, the arguments made by them, irrespective of the legality of the claims, are ineffective as they cannot be put into immediate effect on Israel. Even though it ratified the Convention, Israel is avoiding confrontation on the issue regarding the legality of the application of the Articles of the Fourth Geneva Convention as its geopolitical aims and national interest might get hampered on the aforementioned Convention's applicability, which further allows Israel to refuse the Convention. To further strategize, Israel rather accepts the intervention of the Convention in the Humanitarian aspect.

As a result, the Israeli government distinguished between the legal question of the Fourth Convention's applicability to the territories under review, which, as stated, does not extend to these territories in my view, and agreed to behave *de facto* in compliance with the Convention's humanitarian provisions. The Hague Convention is an customary international law, which illustrates that the absence of ratification of the States to be a party to the Convention is irrelevant as it applies to all States due to its customary nature. However, due to constant

political involvement and non-binding nature of the convention (irrespective of the convention being customary), the international laws were not implemented in the most effective way, which has resulted in the prospects of the official annexation of the West Bank.

On the current annexation strategy of Netanyahu, Michele Bachelet, the United Nations High Commissioner, warned Israel; she claimed that annexation would result in “entrench, perpetuate and further heighten serious human rights violations, that have characterized the conflict for decades.” She added “Annexation is illegal. Period. Any annexation. Whether it is thirty percent of the West Bank, or five per cent.” The words of the United Nations High Commissioner reflect that the UN is monitoring the conflict and would, however, as observed in the past, the lack of effective legal tools and flaws in the framework of the UN Security Council or the ICJ (non-binding resolutions/judgements) make the UN powerless. Furthermore, the aforementioned lack has allowed several violations to take place and might just allow annexation, one of the biggest violations including that of the civil liberties, to take place without the UN being able to execute its plan of action effectively.

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