



Arab American University – Palestine
Faculty of Graduate studies

**Compliance of International Humanitarian Law Provisions
with Prolonged Occupation: Case of Israeli Occupation of
Palestine**

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Deceleration

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So I signed:

A handwritten signature in blue ink, reading "Roshan Farid", with a horizontal line underneath it.

Dedication

It is with genuine gratitude and warm regard to dedicate this work to:

To Palestine my homeland. The warmest womb. With the hopes one day the freedom sunshine raises all over its land .To my father and dearest friend Faisal who has always loved me unconditionally and taught me to work hard for the things that I aspire to achieve. And to my beloved mother Lubna my safe haven. A special feeling of gratitude to my loving sister Mariam my heaven on earth and my brothers Mohammed and Ahmad who has never left my side. To my grandmothers (Mariam & Amina) who have always loved me I can't thank you enough. To my friends and beloved ones I dedicate this work

Acknowledgment

Thanks to Allah, my source of inspiration who made me believe in myself and thanks to him this thesis has been completed. First to my University and foremost I am extremely grateful to my supervisor, Prof. Raed Abubadawia for his invaluable advice, continuous support and guidance, and patience during my master study. To all who have taught me a single word along this journey. To the committee and examiners of this thesis. Last but not least, deepest thanks go to all beloved people who took part in making this thesis real.

Abstract:

The humanity has suffered from wars since ancient times, these wars were a means by which states control new states or territories, and the phenomenon of military occupation arose as a result of these wars, without any legal framework controlling or regulating these behavior and phenomenon, thus the need for a legal framework regulating both the duties of the occupier and the rights of the occupied people and territories arose. A legal framework that regulates this phenomenon emerged and it's called international humanitarian law. Although these rules organized the occupation and laid down characteristics, principles and controls for it, they are often violated, and the violation of one of the main principle of temporary nature of the occupation, resulted in the emergence of a new situation called prolonged occupation. There is nothing in these rules that stipulates in one way or another the regulation of this case due to its recentness and the lack of occurrence. This constitutes a major dilemma in determining the compatibility and compliance of the rules of international humanitarian law and their applicability to cases of long-term occupation, especially the case of the Israeli occupation of Palestine as it represents a unique situation in our contemporary time. This occupation spanned more than five decades and requires reviewing the actions of this occupation and their compatibility with the rules of international humanitarian law. Searching in means or interpretations for the rules that already exist that comply with the nature of this prolonged occupation. For the best interest of Palestinian considering the dangerous ramification of the longevity of Israeli occupation on Palestine.

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List of Abbreviations

IHL	International Humanitarian law
IHRL	international Human Rights Law
UNSC	United Nation Security Council
ICRC	International Committee of the Red Cross
ICJ	International Court of Justice
GC IV	the Fourth Geneva Convention
OPT	Occupied Palestinian Territories
HCJ	‘Israel’s’ High Court of Justice
UN	United Nation

1. Introduction

The law of armed conflict, often known as international humanitarian law IHL or *jus in Bello*. Govern belligerent or military occupation. These rules take effect as soon as a situation of occupation is established, as determined by the fulfillment of a set of criteria enshrined in IHL.

In addition to the United Nations Charter and customary international law, the occupation is frequently studied under the norms of The Hague Convention Concerning the Laws and Customs of Land Wars of 1907, the Fourth Geneva Convention of 1949, and its First Additional Protocol of 1977.

However International law continues to be murky when it comes to occupying foreign land. Occupation is clearly illegal if it derives from the use of illegal force; but, international humanitarian law, which includes law evolved since the United Nations Charter, contemplates and controls occupation regardless of its legality.

In general Occupation is supposed to be an administrative process this is why a set of general characteristics and principles of the law concerning occupation exists to mainly address and balance the duties of the occupier in addition to importantly the rights and protection of the occupied territories, in some cases it might be easy to examine the applicability of these rules and principles on occupation which merely in time was close to the years of setting the IHL rules, But today there is some of the most pressing difficulties confronting the application of the law of occupation, as well as concerns that have a direct influence on the people who live in territories under effective control of a foreigner army.

These difficulty of application of IHL rules comes to the light when its applied on contemporary occupation, more specifically when the temporary nature of occupation is

extended as a de facto situation and turns into a prolonged occupation. In this case IHL rules faces a main question of is these rules still applicable on the situation of prolonged occupation or a new set of rules is needed. The case of Israeli occupation of Palestine is the main contemporary case of prolonged occupation which makes it a worthy of study on the applicability of the IHL rules on this case.

2. Research Problem:

Mankind witnessed many wars, perhaps the most prominent mention of our time is the First and Second World War, despite the enormous losses that resulted from wars, it created new ways for powerful countries to impose their control on other regions and put them under a form of colonialism, which is known as "occupation". International humanitarian law contained most of the regulation regarding occupation in its provision.

It allows military occupation only if it is temporary and justified by military necessity. For example, a territory must be returned to its temporarily displaced sovereign, and the Occupying Power must be able to justify its continued control over the territory at all times on the basis of military necessity. The main issue arises when the factor of temporality is violated, resulting in a long-term occupation, in which an occupying power - whose authority as occupant may have been lawful at the outset - can cross a bright red line into illegality by acting in violation of the fundamental rules of international law regarding the laws of occupation. Would these international humanitarian rules still apply to the prolonged occupation and do they even develop to answer the needs of the occupied nation under the prolonged occupation. specifically

in the case of Israeli occupation of Palestine whereas the temporary nature of occupation is definitely violated and Palestinian suffer the ramification of the long duration. This is why the extent of the applicability of the rules on the long-term occupation is researched. And approaches on the interpretation of these rules is examined.

All of the principles, rules and approaches of interpretation are then applied to the case of Israel occupation of Palestine, whereas the fulfillment of Israel of its duties as occupier is studied on one hand. On the other the rights of the occupied Palestinian nation is addressed and examined. After a five decades occupation the light must be shed on the violation of such occupation of IHL rules in addition to advanced protection of the occupied nation rights is needed to be provided in light of the dangerous nature of this prolonged occupation. And interpretation for the best interest of Palestinian is examined. which was reached to from addressing the ramification of this occupation on Palestinian daily life and the future of independence. And how applying general principles with interpretation for the best interest of Palestinian should govern the Israeli occupation. And if applied correctly would aid in helping Palestinian and reach an end of this occupation.

3. Research Significance and Justifications

First: theoretical importance: Through searching for references and previous literature for the purpose of this study its noticeable the lack of sources and references that examined the topic of prolonged occupation and specially the compliance of it with international humanitarian law rules with the nature of such contemporary phenomenon. This is why it has a theoretical

importance as it will enrich the legal content in such recent topic, in addition to academic importance if this study considered as a cornerstone to go deeper into the topic further.

Second: Applied Importance: Applied importance revolves around the fact that this research deals with a problem addressed to it recently by scholars of international law, in an attempt to delve into the texts to find harmony that makes long-term occupation an issue combatable with the obligations and protection guaranteed by the international conventions of the occupied people. And will show how different new rules or changes among the existing one should be adapted in order to be applicable on the case of prolonged occupation.

This study will also address the extent to which the long-term occupation applies to the some important issues in the case of Palestine, in which the occupied people have suffered from the consequences of prolonged Israeli occupation and the lack of a clear set of rules regulating it , this study helps to reach some extent of understanding of the applicability of IHL rules on the case of Palestine considering the lack of such studies on the topic prolonged occupation and the case of occupied Palestine. In addition it would shed the light on the dangerous ramification of Israeli occupation on Palestine and its policy of using the time factor to make additional modification to the occupied Palestinian territories. Which could be useful in directing Palestinian policy maker toward internalizing the violations of this occupation and highlighting them on international level. also avoid taking any further steps that would result in a longer duration of occupation.

4. Research Objectives:

- Study the IHL rules governing occupation its origins and definition

- Examine the concept , origins and definition of prolonged occupation

- Determine the applicability of IHL rules on this type of "long-term" occupation as it has not been regulated in international law due to the absence of a temporary character.

- Determine the need for different approaches of applying IHL rules to prolonged occupation to an extent of adhering the occupier to its obligation in the same time protecting the rights of the occupied territories considering the grave breaches that could happen in the longevity of such occupation

- Studying the possibility of applying the rules of international humanitarian law to the occupied Palestinian territories.

5. Research Questions and Hypotheses

This research began on the idea of the illegality of the continuity of occupation , but in the cases that it had continued as a de fact situation and create the case of prolonged occupation , a set of rules has to be figured out, or developed from the original rules regarding occupation , in order to comply with the status quo. And for the best interests of the occupied nation hence Palestine in this case.

The main question is: To what extent is international humanitarian law applicable to a prolonged occupation and specifically relevant to Israeli occupation of Palestine?

Sub-questions for the purpose of answering the main question:

- 1: what is occupation in international law , its principle and characteristics?
- 2: what are the IHL rules governing occupation?
- 3: when occupation turn into a prolonged occupation?
4. How IHL rules concerning occupation could be applied on prolonged occupation and to the case of Israeli occupation of Palestine?
5. To what extent the Israeli occupation of Palestine complies with IHL rules concerning occupation in light of its prolonged nature?
6. What are the ramifications of prolonged Israeli occupation on Palestine?

6. Literature Review:

First study: The application of international humanitarian law and international human rights law in situation of prolonged occupation: Only a matter of time?

The impact of time factor on the implementation of international humanitarian law (IHL) and international human rights law (IHRL) in 'protracted military occupations' is discussed in this article. It illustrates that IHL applies to such circumstances in its completeness and that the

necessary improvements can be made by interpreting current IHL principles. The long duration of an occupation, emphasizes the need of respecting and implementing human rights. It cannot, however, be used to affect how the concept of a state of emergency is interpreted as an example, leading to the acceptance of some derogations from IHRL standards. (Koutroulis, Spring 2012)

The second study: International Law and the Prolonged Occupation of Palestine

The concept of "prolonged occupation" is not addressed in any of the governing international agreements under the law of armed conflict, and academic criticism has been minimal. The "prolonged occupation" of Palestine, in particular, raises legal difficulties. as this article argue. What are the legal constraints for Israel's exercise of the occupant's legislative authority over the region under Article 43 of the Hague Regulations plus Article 64 of the 1949 Geneva Conventions? And whether Israel's governance of Palestine has crossed the line into illegal jurisdiction. (Scobbie, *The Hague*. 20–22 May 2015)

The third study : Prolonged Occupation Under International Humanitarian Law

This research demonstrates how Israel's occupation of Palestinian areas was and continues to be the world's longest occupation. In such times, some people argue that public international law has become impracticable, useless, and worthless. One of these problematic interpretations is to excuse the Israeli occupation's long-term existence as a "prolonged occupation," despite the fact that the temporariness of an occupation is one of the conditions for its legality. As a result, the notion of "prolonged occupation" poses two major legal concerns..

The first is the use of international humanitarian law, which implies that the occupation is for a limited amount of time. The other issue is that occupation is based on the idea of preserving the status of the occupied population; however, if there is no end in sight, the status of the occupied population will undoubtedly change, because preservation will place the population in a legal and political limbo. (Khalil, 2017)

The fourth study: Occupation and Other Forms of Administration of Foreign Territory expert meeting:

This meeting was initiated by the international committee of the Red Cross. With a presence of approximately 21 expert in international law. The report is the result of an initiative that lasted from 2007 to 2011. In this meeting it's addressed how new types of military intervention have revitalized occupation law to some degree. They've also raised a number of legal issues, particularly in these 4 categories: designating the start and ending of an occupation; defining the rights and responsibilities of an occupying power; and determining the legal framework regulating any use of force within occupied territory. With broaching the concept of prolonged occupation. (Ferraro T. , 2012)

The fifth study: Determining the beginning and end of an occupation under international humanitarian law:

This article delves into the definition of occupation within IHL and its components, as well as legal criteria for determining when a circumstance classifies as an occupation in IHL. Providing a legal test for evaluating the existence of a occupation under International Humanitarian Law. In

addition to determining the beginning and end of occupation. Then it applies it on occupation by proxy and occupation resulting by a group of states or by various nationality forces. (Ferraro T. , 2012)

The sixth study: Fifty years of Israeli occupation of Palestinian territory – a legal balance sheet. An expert Opinion Relating to the Conduct of Prolonged Occupation in the Occupied Palestinian Territory

This study addresses the issues of a protracted occupation, Rang or extent of fundamental principles of the law of belligerent occupation. In addition to general evaluation to Israel's 50 years occupation, its policies and measures. And the application of treaty law such as Geneva convention and Hague regulation apply to such case of occupation. With concentrating on the right of self determination. And the fundamental interest of the occupied nation must be protected with the principle of good governance stemming from Hague regulation and Human rights law. (Bothe, 2017)

All these previous studies shared a side of addressing prolonged occupation. Some focused on legislative authority of occupation other on the general principle of occupation or the applicability of International human rights law on prolonged occupation in addition to focusing on the beginning and end of an occupation. And are a corner stone in building legal knowledge on this topic, and contributed for the start of this research as it adds for the existing knowledge. Yet this research differs in the sides and aspects of prolonged occupation that it address, especially that there is a lake in the knowledge in many aspects of this concept and the

applicability of international humanitarian law on it. With different approaches of interpretation and continue to apply it on the case of Israeli occupation of Palestine in many subjects which have not been focused on before. And concentrate on the best interest of Palestinian with addressing the ramification of this occupation

7. Research Methodology

The methodology used in this research is analytical descriptive: Descriptive for the parts describing the existing status of occupation in international humanitarian law its principles, criteria and origins even more it describe the case of Palestine and the Israeli occupation of it.

Analytical : In the parts concerning analyzing the Treaties and provision of international humanitarian law like Geneva Convention and its first protocol , to reach a conclusion of to what extent does prolonged occupation comply with IHL provisions .in addition to analyzing the whole concept of prolonged occupation and analyzing the outcome and its applicability on the case of Palestine.

8. Obstacles of the Study

This study, like others, is characterized by a set of challenges related to the topic of research due to the lack of available sources and references in this topic considering its recentness, in addition to the absence of similar cases that can be measured on it as the Israeli occupation of Palestine is one of a kind in contemporary international law, also the absence of a clear legal organization for the situation of long-term occupation in the texts of international law.

1. Chapter One

1.1 Occupation in International law

1.1.1 Overview and Origins

In 1874, the occupation regime first evolved internationally during the Brussels Peace Conference after the battles of the great powers of the 19th century, more precisely the Franco Prussian War of 1870 between France and Prussia backed up by Germany. Article (1) of the Brussels Declaration in 1874 sets the legal condition for the belligerent occupation, which is also found and remained unchanged in article (42) of The Hague Convention in 1907 (Khalil, 2017)

However before all of that. And before realizing the act of wars as occupation. The idea of occupation was normalized to an extent that it was a legitimate way of obtaining new territories. There were no actual codified rules that govern such acts. Which resulted in huge human loss in many occupied territories in addition o massive destruction and illegal acquisition of lands.

for example, what happened in the occupied Normandy lands with the knowledge of the English forces led by Edward III in the year 1341, when these forces spread throughout the Norman countries, burning, destroying and looting everything they found in these countries, as well as when France invaded Italy at the end of the fifth century The tenth and beginning of the sixth century and occupied its lands. French forces lived at the expense of the population and resources of the occupied lands, plundered their wealth and exploited their resources, and they were like locusts that eliminate what they find.

And a more serious example we find in the Thirty Years' Wars that started 1618 during the era of absolute monarchies. During these wars, most of the places that were found in the lands occupied by the invasion forces were destroyed. For example, in Bohemia, 1717 homes were destroyed in 59 villages, and about 5 million people of the countries that participated in these wars were destroyed. Invasion and military occupation of two million people (عشماوي, 1973)

Initially, occupation was thought to be an issue of inter-State relations. Occupation law, as embodied in the Hague Regulations of 1907, was primarily focused towards safeguarding the interests of the occupied State and its institutions, based on the idea that occupation was a temporary condition that did not cause or imply any devolution of sovereignty. It also assumed peaceful cohabitation between the occupation and the local populace, with the former interfering itself as little as possible in the lives of those who were temporarily under its control.

In its early phases, occupation law was not primarily concerned with assuring full protection for those living under occupation; rather, it was concerned with preserving the evicted government's full sovereignty until the combatants agreed on the terms of its return. Clearly, the facts that shaped occupation law in the nineteenth century are no longer true.) Conflicts between the occupying power and the native population (or at least some parts of the population) are becoming more common, as there are shifts in the occupying power's role in managing the occupied territory – which frequently allows complete exercise of foreign authority. People who live under occupation have increasingly suffered the negative consequences of occupation as a result of innovation, which can be exacerbated by the situation's persistence.

Following World War II, a number of significant opportunities to reform the law by concentrating on the wellbeing of those residing under occupation were made shortly after the war's end. The necessity to improve protection for these people became one of the principal goals of the 1949 Geneva Conventions, especially the Fourth Geneva Convention "relative to the Protection of Civilian Persons in Wartime," which filled up the legal gaps at the time.

I.A.I Definition of Occupation

War is an ancient human phenomenon that occurs from time to time for economic, social, ideological or political reasons, and often ends with one of the warring parties occupying the lands of the other party, wholly or partially, with the national institutions remaining in the occupied territory, and here we are facing a situation of occupation in different forms and patterns. Where empires were fighting wars to control the territories of other nations and peoples. The logic of force has been dominant in the past, and the least rules of justice and equity are violated. The occupier would create for itself rights to control and seize these lands, but then demanded to protect and defend them as if they were the occupier owned property. (السيد، رفيق) (صلاح محمد, 2018)

In the history of armed warfare, occupation has been a regular phenomenon. In order to subdue their opponents and achieve their goals, belligerents have frequently used effective control over a foreign territory (or parts thereof). Occupation was defined according to the text of Article 42 of The Hague Convention respecting the laws and customary rules of land war, which stipulates: "The land of the state is considered occupied when it is under the effective authority

of the enemy's army The occupation extends only to the territory where such authority has been established and can be exercised. (1907) " (CROSS, 04-08-2004) . or even When a state that is "not the acknowledged sovereign of the region" obtains "effective control" over a foreign region by force, it is considered an occupation. (Cross, 1949)

In other words, occupation can be defined as “a realistic and illegal situation imposed by one state on the territory of another state due to its victory in the armed conflict that erupted between them and whereby the victorious state was able to gain complete control over the territory of the defeated state or part of it, and its military authorities administer the occupied territory.” Within the framework of the legal obligation of the rights and duties towards the civilian population and its property in the occupied territory(داود، 2008)

Or as Oppenheim defined a military occupation as being more than an invasion in terms of appropriating enemy territories as something that exceeds the conquest of seizing the enemy's territory with the intention of acquiring it temporarily. And sets the difference between the invasion and the occupation from the fact that the occupier set up a kind of administration, which is not done by the invader (oppenheim, 1969)

As Hyde defined the military occupation by saying:

Military occupation is that phase of military operations in which the invading forces establish in a part of the enemy's territory when they are able to overcome the unsuccessful resistance of the enemy and establish their own military authorities on these lands. (Hyde, 1922) in this definition occupation is seen as the stage of the ability to exercise authority with no resistance met from the occupied nation. Which agrees with the previous definition in the part of the effective control of the occupying forces and establishing authority in addition to agreeing on

the start of occupation by invasion and armed forces which is intended merely for the forces of the belligerent state to enter territories of the enemy without actual control over it.

It must be clear that there is no one obvious formula for the definition of occupation. All of these definitions each on its own and together shape a definition for occupation. And each definition is affected by the era it was discovered in or even based on which side of the world it stems from. These differences in the definitions help to set the characteristics of occupation and when a situation is actually considered occupation. This helps due to the fact that there is no standard case or situation for occupation it could be in different forms and patterns and the differences in the definition could be used for benefit of the occupied territories in order to maintain their rights under any kind of occupation.

1.1.2 International Humanitarian Law Rules Governing Occupation

Wars have caused severe harm to human beings, which made it necessary to establish rules of responsibility aimed at protecting the lives of human beings and preserving their dignity during the period of war and the subsequent occupation. For all of this the emergence of the law of military occupation was nothing but an expression of the international community's desire to get rid of the brutal methods and barbaric actions that prevailed in the lands occupied by the invading forces over a long period of time that extended from the fourteenth century to close to the century.

The organization of the occupation began from old times. The first legal rules were in response to the instructions of Francis Lieber in 1863 during the American Civil War. These rules included regulating the behavior of American forces in the field, in addition to regulating the affairs of prisoners and the wounded of war (العباسي, 2009)

The rules that are considered the first nucleus of international humanitarian law in one way or another existed during armed conflicts, where they were spontaneous and not comprehensive as they were binding only on the contracting parties, and were temporary and applied during the period of conflict and calm only). The International Committee for Relief to the Wounded, which subsequently has become the International Committee of the Red Cross, which was founded after the publishing of 'Henry Dunant's' book Remembering Silverino, and after that the Geneva Convention of 1864 AD was signed in which the rules were laid down which the signatories saw as improving the condition of the wounded soldiers of the fighting armies in the field (بورى، 1987)

In view of the shortcomings in some aspects of this agreement, a new draft convention was prepared in 1868 to address the shortcomings of the previous convention regarding naval wars, and in the Petersburg Declaration of 1868 restrictions were placed on the use of weapons that cause needless suffering, and the idea of restricting the freedom of the belligerents to choose the means of harming the enemy appeared (ملوح، يوليو 1997)

Russia called in 1899 to the first Hague Conference, which resulted in many agreements, among them was the list of ground warfare derived from the Brussels Project, which stipulated the obligation of states to issue instructions to their soldiers in accordance with these regulations subsequently, the Second Hague Conference was held in implementation of the First Hague

Conference. The conference yielded in the elaboration of the convention on respect for the rules customs of land war (العباسي, 2009) .

In the late nineteenth century, the international community was interested in codifying the laws of war, and then the legal principles that govern and regulate the military occupation and the status of the occupied territories. A number of texts were drawn up that were derived from some customary international laws, and this case was regulated by the regulations appendixes to the Fourth Hague Convention of 1907, on the laws and regulations of land warfare, from Article (4) to (56), and the Fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War of 1949, which clarified the powers enjoyed by the occupier, his duties and obligations, and the rights and duties of the civilian population. (السيد، رفيق صلاح محمد، 2018)

However, the two world wars left behind a protection of unarmed civilians. The important role of the International Committee of the Red Cross was demonstrated at this stage by presenting draft agreements on the protection of civilians. Therefore, the government of the Swiss Confederation called for the Geneva Conference at the behest of the ICRC.

In 1974, Switzerland called for a gathering to discuss the two additional protocols, and the matter was limited to procedures only. For that, in 1975, a second session was held that dealt with the discussion of the two protocols, and progress occurred, but it was not sufficient, which made it necessary to hold a third session in 1976 and a fourth in 1977, and at the conclusion of the last session The delegates of the 102 countries present approved the first protocol, which includes 102 articles, while the number of countries that ratified and acceded to the second protocol in December 1990, and 9 countries (1997 يوليو، ملوح)

It should be noted the remarkable achievement of Protocol I, which included the struggle opposed to colonial domination, foreign occupation and racist regimes within the meaning of the Charter of the United Nations within the scope of application of the rules of international humanitarian law, while the International Committee of the Red Cross did not succeed in including this matter within international disputes because States refused it in 1949 AD, which led to the hindrance of relief to millions of people in the past five decades. Consideration was given to the possibility that any authority representing the Desk Division would announce its pledge to implement the conventions and protocol by declaring its intentions directed to the Swiss government.

The second protocol radically developed the common article between Four Geneva Conventions 1949, and it is the only article that applies to armed conflicts with a Non-international character that reach a certain degree of density and have a certain degree of persistence, This leads to reducing its application, but it is not hidden from its provisions that there is the will of the international community Aiming to reduce human suffering inflicted by internal wars.

So the concept of occupation became regulated in international law through The Hague Convention Respecting the Laws and Customs of Land War 1907, the Fourth Geneva Convention of 1949, and the First Additional Protocol to the Geneva Conventions of 1977, where these laws imposed legal and customary obligations on occupying powers , it must abide by, and it also provided Also protection for citizens in the occupied territories (ملوح, يوليو 1997)

1.1.3 The Applicability of IHL Rules on Occupation

Even if there is no armed opposition and no combat, the standards of international humanitarian law applicable to occupied territories apply whenever land comes under the effective authority of hostile foreign armed forces.

The concept of "control" can be interpreted in at least two ways. It could be interpreted to suggest that a circumstance of occupation exists whenever a conflicting party exercises authority or control over foreign territories. As a result, even during the invasion phase of hostilities, advancing soldiers could be considered obligated by the law of occupation. This is the approach advocated in the ICRC's Commentary to the Geneva Conventions.

A more limiting interpretation would be to suggest that an occupation situation exists only when a party to a conflict is able to exert sufficient authority over enemy territory to fulfill all of the obligations set by the law of occupation. A lot of military manuals follow this technique. On the other hand, the four Geneva Conventions of 1949, pursuant to their common Article 2, apply to any territory conquered during international warfare. They also apply where there is no violent resistance to the occupation of state territory.

The United Nations Charter and the law known as *jus ad bellum* govern the legality of any occupation. Whether the occupation is regarded legal or not, if a situation develops that amounts to an occupation, the law of occupation applies. As a result, it makes no difference whether an occupation has acquired Security Council sanction, what its goal is, or whether it is referred to as a "invasion," "liberation," "administration," or "occupation" for the purposes of applying the law of occupation. Because the law of occupation is largely motivated by humanitarian concerns, its application is exclusively determined by the facts on the ground.

And the end of the applicability of IHL rules comes with the end of occupation. The usual way for an occupation to end is for the occupying power to withdraw from or be pushed out of the occupied territory. The presence of foreign forces, on the other hand, does not always imply that the occupation is continuing. For example If the government agrees to the prolonged presence of foreign forces on its land, with a transfer of authority to a local administration re-establishing full and free exercise of sovereignty will typically end the state of occupation. The law of occupation, on the other hand, may reappear if the situation on the ground changes, that is, if the region is "really placed under the authority of the hostile force" once more. (CROSS, 04-08-2004)

1.2.1 Characteristics of Occupation

- **The Presence of Armed Forces with No Consent**

The military occupation is a stage of war that follows the stage of conquest and does not end the war, de facto or legally. The status of war continues preemptively despite the temporary defeat of enemy's forces occupying lands .The occupation phase is often followed by a new phase of armed fighting waged by the forces of the state that occupied its lands with the aim of expelling the occupying forces and liberating the occupied lands.

For example, the occupation of European lands by the Axis powers during the Second World War and the return of the Allied forces to fight until the occupied lands were liberated (فوده، 1969)

Military occupation is a stage immediately following the state of invasion, in which the state of war between the warring countries does not end despite the defeat of the side whose lands it occupied, whether the occupation of the territory is in whole or in part. Thus, the state of military occupation differs from the military occupation that occurs, in peacetime, in a state of non-war, and also differs from the case of foreign bases located on the territory of a country in peacetime, and which exist under a contract with local authorities, where their presence is within the limits of their duties military without interfering in the administration of the territory (الإنسان، (2008

However foreign armed forces to be present in a disputed territory. Later on was concluded as a requirement for the establishment of an occupation but not as a main characteristic for the continuity of occupation. Some scholars on the other hand, had a more complex perspective, stating that while belligerent presence was a prerequisite sine qua non for establishing an occupation, it was not always a condition sine qua non for maintaining it. Some have also discovered a direct correlation between the presence of foreign forces in a conflict zone and effective control (Ferraro T. , 2012). it was linked that the presence of these forces is an actual sign of effective control specially that occupation law extends only to parts were effective control of occupation power is exercised.

In addition to the presence of armed forces also the approval or consent of the occupied territories for the existence of these forces has been always taken into consideration in this character of occupation and differs it from other forms of administration or existing armed forces by contracts. The majority of experts thought that not having authorization was a crucial component and a requirement for starting occupation. The assent of the host state, according to these experts, would always render the occupation legislation inapplicable. Permission, experts

acknowledged, might play a more complex role in deciding the outcome of an occupation. The experts then looked at the characteristics of the concept of consent in the context of occupational law. In this regard, the majority of experts believed that such consent must be genuine, lawful, and unequivocal in order for occupation legislation to be inapplicable.)Ferraro T(2012 ‘.

▪ **Effective Control**

This character of occupation has a direct connection with last one and as expressed previously while a military presence was a requirement for establishing an occupation; it was not always a requirement for maintaining it. However a military presence on the ground will be required to maintain effective control of the respective territories if the occupation is to continue.

This does not by any means suggests that the presence of foreign forces on the ground necessitate their presence on every square meter of occupied territory for effective control., The strength of foreign forces cannot be forecast, according to US Field Manual 27-10 (1956), and will vary based on the circumstances, particularly the area's topography and population density. (Ferraro T. , 2012)

The occupying power is an actual authority and not legal or legitimate, since sovereignty does not transfer to the occupying country, and this is clear from the text of Article 42 (of the Hague Regulations of 1907 that “the land of the state is considered occupied when it is under the actual authority of the enemy army, and the occupation includes only land in which this authority can be exercised after its establishment, and the principle of the actual authority of the existing situation is taken into account. The occupation, in its definition, is not based on the perception of the concerned parties of the situation, but on an objectively tangible and realistic reality

represented in the actual subjection of an occupied land to the control of the authority of the enemy army. The occupation authority is considered as an effective authority in accordance with the text of Article 1 of the Fourth Geneva Convention, which stipulates the existence of this authority over all cases of total and partial occupation, even if it does not face any armed resistance. (ياسين، 1986).

The ideal size of an occupation army and the manner in which it is deployed cannot be determined a priori. Circumstances vary from one occupied territory to another, and the degree of effective control required may depend on terrain, population density and other factors. However, the issue of effectiveness and its availability led us to an important principle in determining the nature of a belligerent occupation. It was found to us that the effectiveness depends on the extent of the strength of the occupation authorities to maintain the authority that they established fixed. Occupy refers to enemy soldiers taking control of a foreign territory or sections of it in the absence of the territorial sovereignty. Foreign forces will be subject to occupation legislation not just when they have complete control over foreign land, but also when they have a lower level of authority. (Ferraro T. , 2012)

It might be argued that the idea of effective control occurs when the occupant prevent the occupied territories from establishing their own effective control or government on the occupied territories. These claims although they could make sense for a moment but the criteria of occupation and the enforcement of the law of occupation couldn't be build on a negative obligation which is the prevention of establishing government it is not enough for the status of occupation to be declared. Even when connecting the ability of occupation power to fulfill all of its duties and obligation by occupation law as a sign of the effective control it couldn't be actually accurate. this comes from the point of recognizing that effective control of occupation

could exist while not fulfilling duties further more in effective control could exist in situation where the occupying power is in denial of occupant's obligation.

- **Exercising Authority**

The whole concept of occupation is based on the phase in which an occupying power administers the occupied territories for a period of time, and deriving from the definition of occupation as Art. 42 of the Hague Conventions states that occupation only extends to territories where occupation power has established authority and could be exercised.

This character of occupation for the first look might seem to be the same as the previously discussed one which is effective control. However they are not. Effective control is more about the existence or the actual placement of occupation troops in the occupied territories on the other hand establishing authority and exercising it means that this territory is actually administered by the occupying power.

For example in the case of Uganda Occupation of Congo the ICJ stated: In order to determine whether a State's military forces are present on the territory of another State as a result of an intervention is a "occupying Power" in the sense of the term as understood in the jus in bello, the Court must first determine whether there is sufficient evidence to show that the intervening State's authority was established and exercised in the areas in question. In this case, the Court must be satisfied that the Ugandan armed troops in the DRC were not only stationed in specific regions, but also that they had replaced the Congolese government's authority with their own. (ICJ) (Camus.)

Also The US Military Tribunal in Nürnberg made this statement in terms of international jurisprudence in the Von List case: An invasion refers to a military action, but an occupation refers to the operation of governmental authority across an existing government. This needs the destruction of organized resistance and the establishment of a government to keep the peace. The land will be deemed occupied to the degree that the occupation maintains control while the civil government is abolished.. And he Tribunal also emphasized the importance of the Occupying Power's potential ability to effectively enforce its authority in the area in question (Ferraro T. , 2012) As stated in the UK manual of armed conflict law, occupation takes place and has authority over territories when: – First, the former government is rendered incapable of publicly trying to exercise its authority in that area; – Second, the occupying force is in a position to replace its own authority for that of the previous government. (manual, 2011)

1.2.2 Principles of Occupation

- **The Principle of the Temporary Nature of the Occupation :**

By reviewing the IHL treaties or rules, its captured how the intention of these rules where to temporarily regulate the status of occupation, and most of the rules show the direct restriction of occupation like the duty of not making any demographic changes or the prohibition of annexation or even concentrating on giving the authority back to the occupied nation after the end of occupation. all the rights and obligations of the Occupation directly heads toward the temporary nature of occupation.

Occupation law is premised on the idea that occupations are inherently temporary, Military occupation is only legal in international law if it is temporary and based on military necessity, and if it is followed by the return of effective control of the area to the evicted sovereign at the end of the conflict. The presumption that occupation is brief and exceptional is intended to protect against annexation, whether de jure or de facto. (Nicolosi)

as indicated by the jurisprudence, is manifested in the fact that this material act devoted to the territory of a country by an occupying country represented in the military occupation, remains only of a temporary nature, and this characteristic results in several legal consequences, among which is that the imposed sovereignty over this territory by the occupying state is actual and not original sovereignty, the latter which remains for the occupied territory, and thus the authority of the occupier in the occupied territory is a transitional and limited authority, and whatever the actual reality of the occupation, this new situation is not capable of another description, which is The annexation of this territory to the occupying state as it was previously

The International Court of Justice went in this direction with regard to the US occupation of Iraq, where it affirmed in its ruling that the occupying power in Iraq is a transitional and limited authority, which is limited to providing protection and assistance to the civilian population under occupation.(محمد، 2016) in the same case the UNSC Resolution 1483 (22 May 2003), dealing with the American-led occupation of Iraq, noted, the occupying powers committed to return the governance of Iraq to its people “as soon as possible.”) Indeed, affirming on the temporary status of the occupation of Iraq and that sooner or later it must come to an end (Resolutions, 2003)

This assures that Occupation is a temporary status that falls in the framework of the armed conflict, and it is an actual situation that does not entail transferring sovereignty over the occupied territory nor granting it to the occupier, (شحاتة, 1981) and the authority of the occupying state is a transitional and limited authority. Limited to providing protection and assistance to the affected population under occupation in emergency situations caused by war, and the occupation authority is the temporary administrative body of the occupied territories must support public services and administer temporary services for the benefit of the population first and without discrimination ART.2 (ICRC, 12 August 1949.) (وردة, 2018)

▪ **The Principle of Prohibiting Annexation of the Territory:**

The military occupation is a stage of the actual temporary war. It will inevitably end with the withdrawal of the occupying army from the occupied territories, whether this withdrawal is the result of a peaceful settlement of the conflict between the two warring states. Or as a result of renewed fighting and the restoration of the sovereign state's military capabilities and its ability to expel the occupying forces from its occupied lands

However, this principle did not stabilize until the late nineteenth and early twentieth centuries. Before that, specifically in the middle of the eighteenth century, military occupation was only a means of annexation. The conquest, military occupation, and complete subjugation of the lands of the enemies and their annexation to the lands of the invading country, were all of one permanent nature, from which the warrior aims to acquire new lands from the lands of the enemies. In ancient Rome, military occupation was the way to annex the lands and inhabitants of enemies to the empire) Picciotti(,1966 ‘ The occupying country was in charge of disposing lands

that it occupied as if it was owned . for example, Denmark sold the occupied lands of Sweden, the lands of Bremen and Verden to Hanover, before the end of the Northern War that took place in the period from 1700 to 1718 . (oppenheim, 1969)

In today's world, an occupying power cannot obtain the right to conquer, annex, or gain sovereign title over any part of the land it occupies under any circumstances. This is one of the most well-known principles of modern international law, and it is widely accepted.

Attempts to annex a territory would be in violation of international law, which prohibits the acquisition of territory by the use of force against the occupied area's geographical integrity and political independence. (Charter, 1945) Occupation law prohibits the occupier from artificially creating demographic changes there, for example by transferring its civilian population into the occupied territory¹ (Geneva, 1949.) This is what separates occupation from annexation, according to Jean Pictet on page 275. The occupying authority is banned from dominating the territory on a permanent or even indefinite basis due to the absolute prohibition against the acquisition of territory by force. Whereas the rules of occupation do not define a particular timeframe for the lawful length of an occupation, the purposeful conclusions that can be drawn is that the territory should be given back to the sovereign power – the citizens of the territory – as soon as possible, in order to respect the people's right to self-determination. (PICTET)

The principle of “prohibition of annexation of the occupied territory” is considered one of the most important principles of the law of occupation that arose, developed and enshrined in the framework of international jurisprudence and custom. If this happened and the territory was annexed before the end of the war, this is considered an illegal act in the eyes of international

law, and the same is true even if it is recognized by another country. It's also prevented the annexation of the occupied territory in the event of occupation or armed conflict, and this is the biggest obligation of the occupying forces after being able to control the region. (وردة, 2018)

In a precedent Poland Supreme Court ruled in the case of the German occupation of Poland:

A- That Germany annexed some occupied territories of Poland promulgated on October 8, 1939 and confirmed by a decree issued on 20 | September 1941, which considered that Poland had ended as a state as of this date, is illegal and has no effect

2 - That Germany, based on this annexation, established a new legal system in the occupied territories of Poland, its illegal and constitutes a violation of Article 43 and Article 46 of the Hague Regulations of 1957

3- the court affirms that the measures taken by Germany accordingly are void. (Court, 1961)

In the same way the French Court of Cassation also ruled on January 27, 1990 in the case of German occupation authorities had announced the annexation of the Alsace region in France in the year 1930 when they occupied it.

The laws of the French Republic in the occupied territories were abolished, and Germany issued rulings and decisions on the basis of this actual annexation. The court affirmed that these rulings and decisions issued by the occupation authorities during the actual annexation must be repealed as soon as the legitimate sovereign authority returns to the original authority of the lands that were occupied. (France, 27 January 1960)

- **Acting in Good Faith**

Despite the lack of a precise definition of what is meant by "good faith" and the ambiguity surrounding the term. However, it is a notion that has become an intrinsic feature of practically all legal relationships in modern international law and is a core rule of treaty interpretation in the international legal system. The principle compels governments to carry out their duties and commitments in an honest, loyal, reasonable, conscientious, and fair manner, with the goal of achieving the legal responsibility's objectives, which include a treaty or agreement. The good faith concept, on the other hand, bans states from participating in conduct that would defeat the obligation's intent and purpose, or from abusing their powers in order to conceal an illegal act or avoidance of the undertaking. (Lynk, 2018)

The "cornerstone principle of the international legal system" has been the description of the principle of good faith. (Lynk, 2018) The ICJ earlier held in the Nuclear Tests Case of 1974 that "the norm of good faith is one of the essential principles controlling the formulation and fulfillment of legal obligations, whatever their source." (Case)The Good Faith principle, therefore, requires that the occupying power should, during its occupation, temporarily administrate the occupying territory in good faith and act in accordance with its duties and obligations established under international law while complying with international humanitarian law and human rights (Khalil, 2017)

- **Occupation Operates with the Best Interests of the Occupied People**

Throughout the duration of an occupation, the occupying power is expected to govern in the best interests of the population under occupation, subject only to the occupying military authority's legitimate security concerns. (Lynk, 2018)

In domestic and international law, this idea has been compared to a trust or fiduciary relationship, in which the dominant authority is obligated to act in the best interests of the protected person or entity above all else.: *The Writing on the Wall*, by A. Gross, pages. 26-29. The Hague Regulations of 1907, the Fourth Geneva Convention of 1949, and the current set of international human rights treaties contain a number of provisions that protect the people under occupation's lives, property, natural resources, institutions, civil life, fundamental human rights, and latent sovereignty, while limiting the occupying power's security powers to those that are truly required to safely administer the occupation. As a result, the occupying power is banned from acting in a self-serving or avaricious manner in administering the occupation, and it must behave in accordance with its trustee responsibilities. (Gross, 2017)

Furthermore, the Best Interest Principle is represented in international humanitarian law laws that establish prohibitions on occupied territory and limit the occupier's actions while protecting the occupied population by upholding their rights. (Khalil, 2017) all of these principles and specially the last two of the become more clear when discussing the rights and duties of occupation as they were set in the IHL rules . Moreover as these principles might seem theoretical in some parts in the actual application of these norms on an existing occupation its much needed. This with taking into consideration that it's nearly impossible to imagine that there is an clear one model of case of occupation that any principle could precisely regulate. But it's

good to have a starting point in which the occupation could be managed. Furthermore the flexibility of such principles could eventually lead to the best protection of the occupied nation as it's the most important part of regulating the norms and act of occupation.

1.2.3. Between Rights and Duties of Occupation

The normative framework that governs an Occupying Power's conduct strikes a balance between the military necessity of occupation and the humanitarian imperative of protecting the occupied territory's population. Occupation law norms allows the occupying power to use force if it is required for legitimate military purposes.. (Azarova, 2\7\2017) The special requirements of occupation law, on the other hand, establish responsibilities to respect and provide the essential and irrevocable rights of 'protected individuals,' i.e. the local population of the occupied territory. ((convention R. c.)

The occupier's authority in the occupied region is primarily administrative in character. The occupying state is prohibited from making decisions that are likely to jeopardize the lawful sovereign's ability to reclaim control of the territory or the local population's ability to exercise their internationally recognized right to self-determination in the future.

The Hague Regulations of 1907 (arts 42-56) and the Fourth Geneva Convention (GC IV, art. 27-34 and 47-78), as well as certain sections of Additional Protocol I and customary international humanitarian law, clearly out the occupying power's responsibilities. Even agreements between the occupying power and local authority cannot deprive the inhabitants of

occupied territory of the protection provided by international humanitarian law (GC IV, art. 47), and protected persons cannot surrender their rights under any circumstances (GC IV, art. 8).

The major rules of the law that apply in cases of occupation are as follows:

The region does not become the occupant's property. Occupation is merely a transitory position, and the occupant's rights are confined to that time frame. Unless the laws in force in the occupied area pose a threat to its security or obstruct the execution of international law of occupation, the occupying power must respect them. The occupying power must take steps to restore and maintain public order and safety as much as feasible. The occupying power must guarantee adequate cleanliness and public health standards to the full extent of its resources. The inhabitants of an occupied region cannot be compelled to join the occupier's military. Forcible population transfers from and within the occupied territory, whether collectively or individually, are illegal. Transfers of the occupying power's civilian population into the occupied territory, whether coercive or voluntary, are prohibited. (CROSS, 04-08-2004)

It is forbidden to use collective punishment. It is against the law to take hostages. Retaliation against protected individuals or their property is forbidden. It is illegal for the occupant to seize private property. The destruction or seizure of enemy property is forbidden unless it is absolutely necessary for military purposes during hostilities. Respect for cultural property is required. People accused of criminal offenses must have their cases heard in accordance with internationally recognized judicial standards (for example, they must be informed of the reason for their arrest, charged with a specific offense and afforded a speedy and fair trial). The International Red Cross/Red Crescent Movement's personnel must be able to carry out their humanitarian missions. (CROSS, 04-08-2004)

It is safe to say that all of these orders in addition to the general principles governing occupation with their interpretation shapes the duties of an occupier on the territories of the occupied nation. On the other hand the rights of the occupier is mainly stressed out in two articles of the Hague convention which are Art.43

“Now that the legitimate power has transferred into the hands of the occupant, he must do everything in his ability to re-establish and ensure as far as possible, public order and safety, while respecting, unless absolutely prevented, the laws in force in the country.”
(1907)

According to Article 43 of the Hague Regulations, the occupying power is responsible for restoring and maintaining public order and safety in the areas under its control. According to Article 27 of the Fourth Geneva Convention, the occupying power has the right to "take such measures of control and security in relation to protected people as may be necessary as a result of the war" in order to carry out this responsibility. Force may be used as one of these measures. However, any use of force by military or police personnel in non-combat situations must comply with international law enforcement norms.

Law enforcement officers' use of force and guns, whether by soldiers or police officers, must comply with international law enforcement standards, such as the UN Code of Conduct for Law Enforcement Officials (Code of Conduct) from 1979 and the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials from 1990. (Basic Principles).
(refworld.org)

In addition the second paragraph of art 64 of the fourth Geneva Convention read as

The Occupying Force, on the one hand, may subject the inhabitants of the occupied land to regulations that are necessary for the Occupying Force to meet its obligations underneath the present Convention, maintain orderly government in the region, and guarantee the security of the Occupying Force, its staffers and property, as well as the facilities and communication lines in use by them. (ICRC, 12 August 1949.)

Which affirms directly on art 43 of the Hague convention in the aspect of giving the occupying power the right to take measurements to maintain order and security however the wording of these article is way too general and gives a lot of leeway to the occupation in taking excessive steps towards the occupied nation

1. Chapter Two

2.1 Prolonged Occupation

2.1.1 Overview and Definition

Despite the fact that International Humanitarian Law anticipates the prospect of a long-term occupation, neither the Hague Regulations nor the Fourth Geneva Convention have set a limit on the period of effective control over a foreign territory. As a result, it appears that under IHL. An occupying force can keep control of an occupied territory for as long as it wanted to defend its military interests and enforce its terms of peace on the opponent.

It is important to note because neither conventional nor custom IHL distinguishes between 'short-term' and 'prolonged' occupations when examining what is meant by 'prolonged occupation.' Any attempt to define these concepts in the absence of a specific definition in conventional or customary international norms will be basically arbitrary. (Koutroulis, Spring 2012)

A prolonged occupation, according to Roberts, "is considered to be an occupation that last for more than 5 years and continues into a period of sharply diminished hostilities – i.e., a period at least approaching peacetime." Prolonged occupation has two attributes: one that is temporal (five years) and another that is significant (the lack of hostilities). (Adam Roberts). However, the question was if this occupation exceeded this period, what would it be called then? Some have resorted to calling this occupation a long-term occupation and considering it a descriptive and not legal concept, but the problem is that this concept is not organized in the rules of international law.

The concrete time constraint is determined by the legal concept of 'reasonable time,' which is drawn from the principle of law of 'reasonableness.' The "reasonable time" constraint does not always mean that a longer occupation is prohibited. "What makes a reasonable period of time for an action is influenced by the nature, aim, and circumstances of the action," says the author. The purpose of occupation as a kind of trust is to bring about a political shift that will end the occupation and allow individuals to exercise their right to self-determination peacefully. The occupation turns illegal due to a violation of the "reasonable time" requirement whenever an occupant operates for an extended amount of time in violation of this purpose and reasonableness . (Zemach, 2015)

Things become more complicated when the Fourth Geneva Convention is applied, as stated in Article 6, paragraph 3: The application of the present Convention to occupied territory will end one year after the general end of military operations; but, the Occupying Power will be obliged, for the duration of the occupation, to these obligations addressed in the provisions of the following Articles of the GC IV to exercise the functions of government in such territory in art.: 1 to 12, 27, 29 to 34, 47, 49, 51, 52, 53, 59, 61 to 77, 143. 38. However The 'one year' time restriction set forth in this Article has been universally regarded as outdated and irrelevant by legal analysts.. (David)

It has, however, been addressed by the ICJ advisory opinion concerning the Wall advisory opinion. that Article 3(b) of the First Additional Protocol of 1977 has replaced Article 6 paragraph 3 of the Fourth Geneva Convention, which abolishes the 'one-year' time limit and calls for the application of all IHL rules until the end of occupation; and, second, that, even if one clings to Article 6, paragraph 3 of the Convention,. This article does not establish a merely temporal criterion for when IHL obligations relating to occupation cease to apply.

As the International Court of Justice ruled that the military operations on the territories of 1967 had ended long ago. Therefore, Article 3 / B of Additional Protocol I came to abolish this time limit, and the experts of the Committee of the Red Cross confirmed this in their meeting in 2012 (الانسان, 2008)

2.1.2 IHL Rules Governing Prolonged Occupation

Prolonged occupations put IHL under a lot of strain since they call into question some of the underlying concepts of occupation law, such as the provisional nature of the occupation and the need to maintain the status quo. Many have argued that prolonged occupation necessitates specific regulations for guiding responses to the practical problems that arise from long-term occupation because neither the Hague Regulations nor the Fourth Geneva Convention specify any lawful deviation from existing law in such cases.

Occupation law principles, such as Article 43 of the Hague Regulations and Article 64 of the Fourth Geneva Convention, were created to regulate short-term Occupation . on the other hand, its acknowledged that IHL did not impose any time constraints on occupations. As a result, it was acknowledged that nothing in IHL prevents occupying powers from starting a protracted occupation, and that occupation law will remain to provide the legal mechanism governing such circumstances.

2.1.3 Time as a Factor of Permissive Interpretation of IHL Rules on Prolonged Occupation :

The ability of the occupying force to make more modifications to the occupied land is considered as a benefit of extended occupation. "If the occupation lasts over several years, the military government must be granted greater latitude in the exercise of its lawmaking power, for Yoram Dinstein its considered practically axiomatic. (Dinstein, 2009)

From the start, it was clear that protracted occupation would have an impact on how occupation legislation was applied, needing special procedures. In actuality, the length of the occupation was a factor that may lead to changes and transformations under the occupied territory that would not be required in a short-term occupation. In this regard, the majority of experts stressed the significance of using a liberal interpretation of occupational legislation when a profession endures and extends over a lengthy period of time. (Ferraro T. , 2012)

Adjustments on a far wider scale were essentially a foregone consequence during a long occupation, primarily as public policies would have to be changed to keep up with the flow of time. Stopping natural development in an occupied zone, according to some analysts, would inevitably lead to stagnation, which would be bad to the territory's population. In such conditions, the civilian population's changing needs would become even more acute.

As a result, decisions in the social, economic, and occasionally political realms should not be put off indefinitely and should be considered in order to maintain as normal a life in the occupied zone as possible. Long-term occupation pressured the occupier to engage for the benefit of the occupied population when time and new conditions demanded it. Two examples from the situation in the occupied Palestinian territory – advancements to the electricity network

and highway construction – are used to illustrate how protracted occupation compelled the occupier to interact for the benefit of the occupied population when time and changes demanded.

Article 43 of the Hague Convention Rules 64 and Article 64 of the 1949 Fourth Geneva Conventions are the key IHL provisions whose implementation is modified in this way. (Convention 4. G., 1949) These articles provide that the status quo of the occupied territory must be respected. However, the obligation to do so has been interpreted rather fluidly and flexibly. (Sassòli M., 2005.) Article 43 of the Hague Regulations imposes the primary obligation to restore and maintain 'public order and safety', which is interpreted as encompassing 'the entire social, commercial, and economic life of the community'. (Appeal) The Occupying Power must do so while respecting the laws of the occupied area "unless absolutely prohibited." Article 2 of the Fourth Geneva Convention specifies these words in greater detail. The Occupying Power is not completely barred from enacting legislation to achieve order. By taking into consideration. It must first meet its obligations under the Fourth Geneva Convention; secondly, it must maintain order in the occupied zone; and third, it must protect the Occupying Power's security, and even the members and property of the occupying forces or administration.

In fact, the 'unless absolutely prohibited' exemption imposes far fewer constraints than its negative formulation suggests. The relationship between Article 43 of the Hague Regulations and Article 64, section 2 of the Fourth Geneva Convention supports this conclusion. As previously stated, the occupation shall hold public order and civil life without interference with local legislation unless it is absolutely necessary for the territory's orderly government, namely includes public order and civil life maintenance. In this case, there are two things to keep in mind. One is that the occupier's powers should be increased in order to help the local inhabitants.

(Israel S. C.). The second argument is that as a result of this evolution, the line between an occupation and a national government must not be blurred. (Israel S. C.)

A long-term occupation has an effect on how the occupying power's responsibilities and obligations under IHL are interpreted and understood. The most glaring examples of that dimension are the key IHL standards addressed, especially the obligations to restore and maintain public order, safety, and civic life, and the obligation to maintain local laws, with some exceptions. The notions of "public order," "safety," and, more significantly, "civil life" change over time by definition. When shifting away from combat-like circumstances, the occupying authority needs to adapt to the needs of the occupied people and go above and beyond what those ideas would require right after the occupation begins. (Sassòli B. D., June 2017)

The primary responsibility to preserve a territory's current legal framework has long been under threat for a variety of reasons. This seemingly straightforward rule must be evaluated in light of the facts of the situation as well as the particular nature of some laws. eg : Certain laws (such as those governing mandatory service and national elections) are regularly suspended during occupations. (ARMY) Moreover, during occupations of nations that were formerly under autocratic or extreme government, a variety of additional laws may be suspended. During their control of regions of Italy plus Germany at the end of World War II, the Allies abolished Nazi laws. They did so right from the start, during the belligerent occupation that led up to the Italian ceasefire and German surrender. This action could appear to be in breach of the letter of Article 43. However it was in the best interest of the occupied territories (Roberts A. , 2006).

Despite its undoubted significance, annexation is far from the only means of bringing substantial and long-lasting change to territories. One of the most typical methods for occupying

troops to alter occupied territory is changes among the political order. In is to attempt changes in the government's composition and the constitutional or legal system, rather than annexation. These changes could be aimed at achieving the inverse of annexation: the afflicted territory's full reinstatement of sovereignty (Roberts A. , 2006).

It must be noted that this approach does not by any means increase the rights , permission or power of the occupier on one hand. On the other it doesn't call for a less respect for the rights or protection of the occupied territories. On contrary for the main purpose of the development, protection and best interests of the occupied territories in cases of prolonged occupation and its longevity. this approach call for a permissive application for the already existing IHL rules concerning occupation for all the mentioned reasons . Especially in the cases were a restrictive application of these norms would result in depriving the occupied people of their natural rights.

in addition this approach is limited to all of the explained principles of occupation of good faith, best interest and the prohibition of annexation which makes the interpretation even as far as permissive as it could be must at the end meet all of these standards. Even all of the Articles that might by their wording open the door for a leeway for the occupier. Actually limit the leeway for the purposes of the security of the occupier troops, or for the own protection of the occupied nation and finally in cases were the restrictive approach would result in a difficulty of application of IHL rules on the occupied nation.

2.1.4 Time as a Factor of Restrictive Interpretation of IHL Rules on Prolonged Occupation

Time is a factor that allows the law of occupation to be applied more strictly. Aside from being a weapon against expanding the occupier's powers, the occupation's length may also be a justification for limiting these powers' freedom. In this regard, one scenario involving the implementation of A.43 of the Hague Laws has already been mentioned. The recognition that the long duration of an occupation entails certain positive obligations for the Occupying Power is the place to start for defining the occupier's freedom boundaries. Beginning with that the occupier's powers should be increased in order to help the local population.

As previously stated, prolonged occupations put this last consideration to the test. In short-term occupations, it may be enough to avoid making significant institutional changes in the seized territory to maintain the aforementioned distinction. In long-term occupations, however, the dependence on the Occupying Power from the occupied territories grows over time, simple omission may not be enough, and additional measures may be required to make sure of the occupier's measures' potential reversibility (is dependable on the sovereign's final decision). (Koutroulis, Spring 2012)

In an experts meeting held on the topic of Occupation and Other Forms of Administration of Foreign Territory:

Many scholars disagreed that a long occupation could justify radical changes in the occupied territory. They clearly said that such a viewpoint lacked any legal support. In necessary to undertake out the overall duty to uphold as normal a life in occupied territory as possible, the experts also stressed the significance of differentiating IHL authorized alterations from a

transformative agenda taking aim at making gross changes transforming the occupied territory's organizational and institutional landscape and political system. The experts came to the judgment that long-term occupation could not be used as a legal justification for changes that moved beyond what was authorized under occupation laws. As a result, the experts came to the conclusion that an occupying power can not utilize the longevity of its effective authority over occupied zone to excuse its breach of the conservationist principle. (Ferraro T. , 2012)

This is demonstrated by the advisory decision of the International Court of Justice (ICJ) on Wall. But besides Israel's repeated claims that such wall was a short term fix that Israel was "willing and able... to adjust or disassemble," the ICJ was cautious, choosing to believe that the wall's construction can indeed effortlessly become permanent, which would be tantamount to de facto annexation, notwithstanding Israel's formal categorization of the wall. this is demonstrated by the ICJ Wall advisory opinion:

The International Court of Justice remained hesitant, believing that the wall's building and its associated regime create a "fait accompli" in the occupied territories that could easily become long - lasting, in such case, despite Israel's formal categorization of the wall, it would be tantamount to de facto annexation. (Opinion, july 2004).

The risk of annexation through the Occupying Power on the occupied land could not be completely removed simply by reconfirming the temporary nature of the actions taken or the occupier's tendency to reverse them, despite the fact that the ICJ didn't explicitly bring up the long duration of the occupation. (Koutroulis, Spring 2012)

Proponents of the unlawful occupation method bypass the challenge of balancing interests by assuming that a policy of de facto annexation undertaken by an occupier in breach of rules of international law precludes any further consideration of the occupant's interests or its military and security needs. They proceed to conclude that the occupation is unconstitutional after concluding that the occupier acts amount to de facto annexation and security interest of this unlawful occupier should not be protected as gesture (Zemach, 2015)

It should be noted that:

For instance, the longevity of a battle or occupation cannot override the crucial rule of military necessity. Which cannot be used as an excuse or justification for conduct or crimes violating international humanitarian law. In the same vein, the protracted nature of an occupation cannot be taken advantage of to include the Occupying Power's political, demographic, or economic factors and modification into the concept of military necessity.

As for circumstances of extended occupation, Supreme Court of Israel suggests that the military necessity concept under Art.43 of the Hague Regulations could be understood with a narrowly interpretation: 'military and security needs dominate in a relatively short-term belligerent occupation.' In a prolonged-military occupation, however, evolving demands and requirements of the native population become more important.' (Israel T. S., 12 December 1983)

'When military activities are over, military requirements must unavoidably become less rigorous.' Depending on the relevant IHL standards, Military necessity exceptions will differ depending on whether or not military activities are conducted. In the absent of military operations, it's impossible to use the excuse of the essential need of military operations to legitimize devastation among private or public property as addressed in art.53 of the Fourth

Geneva Convention, it would be extremely difficult to assert. If the phrase "military actions" is interpreted strictly to include only "movements regular government," then mostly military necessity exceptions may be fully eliminated in cases of prolonged occupation. (ICJ., 30 January 2004)

It must be understandable that this approach of applying the rules of IHL rules in a restrictive way in the case of prolonged occupation stems originally from protective eyes of the occupied territories as they are the lower (weak) hand in the equation occupation. the fact that most of the precedents on the topic of occupation were the measures of the occupation were irreversible , arbitrary and mostly takes its measures based on the occupier needs more than the occupied rights or interests .

There are a number of countries that still until these days suffer from the effects of the occupation even after the end of it. For example the occupier drains the occupied territories natural resources which in some case were the main reason for the occupation in the first place. Or for more illustration when the occupation imposes major demographic changes among the territories to a point were it become impossible for the occupied country to restore or maintain its unity again. Further in such cases were the occupation is not restricted the amount of changes and violation it commits affect the occupied territories even after their alleged independents. To an extent were they find themselves subjected and dependent on the occupier for the sake of their development. In this case the independence is just a cover and the occupation eventually results in invalid sick states that will always depend on others for their development. Also the occupying country will always interfere in the internal affair of these countries for their knowing that they are dependant and subject to them.

2.2.1 Prolonged Israeli Occupation of Palestine

During the military conflict in the Middle East which started in June 1967, Israel conquered the remaining region designated to the Arabian State under the partition plan in United Nations 181 (2) resolution of 1947. This territory also encompassed Mandated Palestine, which included the West Bank which was under Jordanian administration, including East Jerusalem, and Gaza Strip. Which was under Egypt's control. In addition Israeli forces also occupied the Egyptian Sinai Peninsula and the Syrian Golan Heights. The borders of these areas were defined by the 1949 Armistice Agreements involving Israel and Jordan, and Israel and Egypt, respectively. As an outcome, Israel became a hostile occupier of those lands, and related international humanitarian law provisions were applied to the occupation's administration. (Palestine, 15th July 1999 Geneva)

The occupation of the West Bank by Israel occurred on June 7, 1967, when Israel gained possession of the West Bank. East Jerusalem included, during the Six-Day War, and has continued to this day. The West Bank's classification as an occupied territory was reaffirmed by the International Court of Justice. As a result related IHL rules continue to apply on the case of Palestine. Despite Israel's official position, which holds that the occupation rules does not apply, and the region is "disputed."

This occupation often cited as an example of a "intractable" conflict and aggressive occupation of Palestinian territory After 5 decades, Israel's occupation was already considered extraordinary, and it is currently the longest in contemporary history. Israel cited numerous reasons for keeping West Bank under this unjustified control, including excuses based on the concept of historic rights. Further the use of internal and external security concerns as claims for

maintaining administration and control. And a claim of religious symbolic importance of West Bank's for Jewish. but at this moment this occupation reached a point where Israel's rights and duties in one hand, and same for Palestinians, in consideration of the territory, are highly conflictual. This also hold true for the future of this territory. (Bothe, 2017)

The occupation of Palestinian territory by Israel has lasted 54 years, making it the longest occupation in recent times. The spread and maintenance of settlements and related facilities in the West Bank, the utilization and overdependence on Palestinian resources for the benefit of Israel's economy, and practices encouraging the transition of Israeli citizens in to Palestine's occupied territory ultimately resulted in the forceful transfer of Palestinians both within or inside the occupied land and outside. All resulted from the unprecedented longevity of an occupation. Furthermore all make reference to Israel's willingness to permanently completely change the status of Palestinian territories. (Azarova, 2\7\2017)

The Israeli occupation is unparalleled, and as soon as the occupation authority assumed control of the Palestinian lands, it began to establish settlements, monitor and exploit natural and financial resources, and the Israeli practices and violations on the Palestinian lands, represented by settling its residents, annexing lands, demolishing homes and destroying property, and other policies of violence, killing and families practicing against Palestinians since the existence of the Israeli occupation. Although the laws did not specify a period for the existence of the occupation, they prohibited these practices, as they constitute the greatest violation of the rules of international humanitarian law and human rights law. It is logical that the occupier has an obligation to return the lands to the sovereign authority within a reasonable and rapid timing. However, the Israeli occupation is different, so the longer its existence, the more justification for

its survival (عمار) , Eventually Israeli occupation has completed the de facto seizure and annexation of countless occupied Palestinian territories.

2.2.2 Applying Occupation Principles and Interpretation Approaches to the Israeli Occupation of Palestine:

And by applying the previous mentioned occupation principles on the prolonged Israeli occupation of Palestine. Its noticeable how this occupation is mostly in compliance with IHL rules starting with **temporary nature of the occupation**. Israeli occupation, by virtue of its length, calls into question the primary assumption underlying the rules of belligerent occupation, which states that occupations are intended as a transitional and temporary by their nature. (Sassòli B. D., June 2017). In today's modern world, no other occupation has lasted as long as Israel's 54-year occupation. and even if the duration of occupation is not defined by IHL rules but the Israeli presence in Palestine through all of this duration seems unjustified and goes against the necessity standards Furthermore, even if Israel had an initial right to remain in the seized territory, the Security Council had already legally abolished that right in its Resolution 242, issued November 22, 1967. It stressed the ban of using force and, most crucially, "the inadmissibility of acquiring territory by war" without mentioning Israel. As a result, "removal of Israel's armed forces from territory occupied in the recent fighting" was required. (Bothe, 2017)

The problem with the concept of temporary occupation that its simply violated only by passing years and time even if the occupation is completely abiding its other duties and principles. It is dangerous because the continuity of occupation results eventually in changing the status quo in the occupied territories to an extent where it becomes nearly impossible for these changes or measures to be reversible after the end of the occupation. It should be noted that the Security Council first time use of the term "prolonged occupation" was to describe the Israeli occupation of the Palestinian territories, in its Resolution No. 471 of 1980, as this resolution condemned the Israeli policy of resettling a portion of its citizens and immigrants in the Palestinian territories occupied since 1967, as these actions were considered a gross violation of the Fourth Geneva Convention, and the Council also affirmed in its decision that the prolonged occupation by Israel of the Arab lands which is occupied since 1967, including Jerusalem, must be ended (UNSC, issued on June 5, 1980) .

All of this came from the point view or understanding the effects that a prolonged occupation could impose on the occupied territories. Further it's considerably shocking to notice that before 42 years the UNSC has identified the Israeli occupation as prolonged-occupation since 1980, hence only 13 year after the beginning of this occupation and it was clear that Israel had no intention in ending this occupation. On contrary all the signs show that Israel aim for a protracted existence in the occupied territories. Yet no actual effective international measures have been taken to end this occupation since then.

On the other hand this Israeli occupation reached a point where its undeniable that it's prolonged in addition to no actual signs of a close ending . its important to digest that in such situation the changing needs of the population here Palestinian should be taken into consideration. Although at the beginning of the Israeli occupation it would be more sensible to

call for a very restrictive approach of the application and interpretation of IHL rules , however the prolonged nature of the Israeli occupation made it difficult for the sake of welfare and development of the Palestinian them self to call for restrictive occupation law application for example

This rationale can also be used by the occupying force to justify the necessity for local laws to be changed. As when the Israeli Supreme Court, functioning as the High Court of Justice, put it, "a prolonged military occupation creates in its path social, economic, and commercial developments that oblige [the occupier] to adjust the legislation to adapt to the evolving needs of the population." (HCJ), A long-term occupation may thus alter how the occupying power interprets the scope of legislative actions to be taken in order to allow the occupied country to develop. However, such a strategy must adhere to the limits imposed by IHL norms (Sassòli B. D., June 2017). (Din, (1972).)

In *Christian Society for the Holy Places versus the Minister of Defense*, The Court considered in this case the possibility of if the Regional Commander of Judea and Samaria's order in this case violated Art.43 of the Hague Regulations, which states that the occupier must maintain "the laws in force in the country unless absolutely prevented." The case stemmed from an employment dispute, and the petition was about the order which amended to Jordanian legislation that allowed for the appointment of members of an arbitration panel. The petitioner's case was dismissed by vast bulk of the judges.

In maintaining the order's constitutionality, Justice Sussman pointed out that the occupant has a responsibility to the people's welfare:

Long-term military presence causes social, economic, and commercial modification , forcing him to adjust the legislation to the changing demands of the community. As a result, the terms "unless absolutely prohibited" in Article 43 should be construed in light of the responsibilities imposed on him in relation to the civilians, including the responsibility to manage economic and social relations. In this context, it's especially important to know whether the change was motivated by the occupier interests or concern for the civilian population's welfare. (court I.)

According to Sussman, the assignment of persons to the arbitration council was provided to enable an institution established by Jordanian laws to perform. the mechanism was created under Jordanian law but have been impossible to work . It was only completed by the Order of the commander so that this mechanism actually work . As a consequence, the Order did not go outside the court's jurisdiction. (Roberts A. , 1988)

In *Cooperative Society v. Commander of the IDF Troops in the Judea and Samaria Area*, the Court considered the occupier right to develop new roadways in the region and to expropriate privately owned land for that purpose. The petitioners' request for a hearing was denied. One significant question was if the occupier had the authority to initiate "a civil project with protracted irreversible ramifications that would last beyond the longevity of hostile occupation occupancy."

Consequently, "nothing hinders the development-within their framework-of regulations specifying the extent of a military government's administrative authority on circumstances of

extended occupation," even if the Hague Regulations were written in the context of a brief occupation. Barak concluded, "A military administration's authority extends to all means required to ensure growth, transformation, and progress." (court i. s., 1983)

As a result, a military administration has the authority to develop industrial sectors, education, commercial institution, agriculture, health-care, welfare, and other areas that normally falls within the responsibility of a regular government and are necessary to meet the developing changes and requirements of a population in a belligerently occupied region." (Roberts A. , 1988)

This is why a call for a permissive approach in the special case of Palestine in some aspects seems more sensible. although the laws of occupation garneted occupied territories various rights . but a lot of them were built on the basis of temporary nature of occupation . which means that a call for a restrictive application of these rules would eventually in some cases of prolonged occupation stand as a barrier between the occupied nation and their development and their best interest.

This holds true for the case of Palestine for example as its expressed in the case of changing an existing law by the occupying power seemed a little less intimidating. in a territory governed by the remaining laws of the ottoman empire or a stack of old Jordanian laws which are the least relevant laws to the actual nowadays needs of Palestinians . a change is definitely needed but only in the frame of the best interest of Palestinian. In order to ensure that this does not give Israel legitimacy as an absolute legislator by any means. It also hold true for the cases of developing roads which ensure the passage and ease of movement for Palestinian .

The call for this approach does not come unlimited or unrestricted. By the examination of the laws of occupation and the interplay between different articles. The applicability of this approach means that Israel due to its long existence and the absence of signs on the ending of its occupation. The best interest of the Palestinian should be the governing factor of the permissive application of the rules of occupation on the Israeli occupation. Although best interest is the main factor but for insuring the applicability of IHL rules. It must be protected by the idea of giving a leeway for the Israel must not by any means deprive Palestinian from the already protected rights as occupied territories and Israel must fulfill its commitments under the Fourth Geneva Convention and under international humanitarian law as occupier. It's quite the opposite a leeway is given to Israel to ensure a better application of IHL on the modern case of Israeli occupation of Palestine. In addition all these factors if applied collectively with the general principles of occupation which are acting in good faith, prohibition of annexation with the best interest must at the end act as the border and frame governing the permissive application.

Moving to the **prohibition of annexation** In most cases, modern practice, which is reflected in a number of international agreements, denies the ability of unilateral annexation of occupied territory—that is, to convert its legal status into a component portion of the occupier sovereign state. The occupant has no right of annexation even if the entire country is occupied and the legitimate government goes into exile and does not participate actively in armed operations. (CharterArt.2(4))

Which is the most critical issue in the Palestinian –Israeli conflict, as Israel has never abided by this principle of occupation. Actually and contrary to popular belief, every Israeli

administration since 1967 has pushed the expansion of settlements, and the volume of the financial, military, and political resources committed to the enterprise denies any aim to make the occupation or annexation temporary. In addition prohibition of annexation does not need a formal declaration by the occupier of annexation to be violated. What matters is the factual acquisition and seizure of lands, and it's well addressed in the Friendly Relations Declaration (Bothe, 2017)

The Israeli settlements on the territories of the West Bank are illegal. They violate the provisions of Art.49\ 6 of the Fourth Geneva Convention, and the ICJ , in an advisory opinion on the construction of the wall, confirmed the illegality of these settlements. The Israeli Supreme Court has always refused to rule on the legality of settlements, so it's an indication that even the Israeli Supreme Court does not want to legalize these settlements.

Despite the fact that settlements are illegal and are universally condemned by the international community, they continue to exist. The Israeli government continues to permit the expansion of settlements. Settlement development is occasionally done openly, with the Israeli government's blessing. for instance, it authorized the extension of the settlements of Beitar Illit, Kfar Sava, Maskiot, and Givat Ze'ev in 2006. (by Ha'aretz, May 21, 2006). Israeli settlements averaged 5.5 percent in comparison to the 7.1 percent average growing of Israeli cities. From the standpoint of Israeli legislation, settlements are sometimes expanded unlawfully, but no effort is being made to uphold the law. There are no unintended settlements, and demands to remove them are not carried out. (2019كانون الثاني 16: تم التعديل في 2017تشرين الثاني 11 م.م. المحتلة ب)

The number of settlers in the West Bank has risen to around 245,000, while the number of settlers in East Jerusalem has risen to almost 200,000 as a result of this development. As

previously stated, the wall is now constructed in both the West Bank as well as East Jerusalem in order to encompass the majority of settlements. Furthermore, the three primary settlements blocs – Gush Etzion, Ma'aleh Adumim, and Ariel – is effectively working on the partition of Palestinian land into cantons, jeopardizing the country's geographical integrity. 5 (المتحدة،
September 2006)

From 1967-2017, a number of 200 settlements were founded throughout the West Bank, with their “patterns” distributed as follows:

1- 131 settlements recognized as towns by the Minister of Interior affairs.

2- A 110 settlements were established with no official approval (“outposts”), but with the guidance and encouragement of government ministries; Hebron has a number of settlement enclaves inside the city;

3- In East Jerusalem, 11 neighborhoods were built on lands of West Bank annexed by Israel to the Jerusalem sphere of influence, as well as a number of settlement colonies or outposts in the quarter of Palestinian neighborhoods of East Jerusalem. One of the examples is what happened in Al-Kan al Ahmar in which Israel is evacuating Palestinians from their own homes and lands and transfer Israeli citizens instead of them to live in these houses with the support of the Israeli court in an attempt to annex the city of Jerusalem as a whole and surrounding it by settlements as this make it nearly impossible for Palestinian to reach Jerusalem without the full consent and control of Israel

4- There are 16 other settlements established in the Gaza Strip (تشرين 11، م. المحتلة ب)
(2019 كانون الثاني 16: تم التعديل في 2017 الثاني)

The number of settlers who live in the above-mentioned settlements is more than 620 thousand: 413,400 of them are in West Bank settlements, excluding East Jerusalem (accords by Central Bureau of Statistics data updated at 2017) and about 209,270 in West Bank lands that were seized to Jerusalem municipality (accords of Jerusalem Institute For Israel's Research, updated at the end of 2016). (المحتلة ب.، 11 تشرين الثاني 2017 تم التعديل في: 16 كانون الثاني 2019).

In all cases of occupation and specially in the case of Palestine the principles and rules governing the prohibition of annexation must be applied in the most restrictive approach. None of the measures taken by Israel considering the annexation of lands has in any means served the welfare nor the interest of Palestinians. It's the exact opposite. This enormous control of land by Israel made the unity of Palestine's land nearly impossible. Taking into consideration the number of settlements created on these lands its making all of these measures irreversible by any means. Making the annexation not only a violation of a principle of non annexation also the temporary nature of occupation. Its also a gross violation of Geneva convention which stressed on the prohibition of changing the status of the occupied territories.

For more illustration even Israel high court of justice went for a restrictive approach in these two cases, following the petition submitted by the Peace Now movement, the High Court of Justice ordered Israeli government to evacuate the outpost of Migron within eight months, until March 2012. This is the first time that a court has ordered the evacuation of a settlement since 1979 in which was the Issuance of the decision of the High Court of Justice named "Elon Moreh" (المحتلة ب.، 2011)

As for the President of the High Court of Justice, Judge Dorit Beinisch, she justified her request to evacuate the settlement outpost as one of the justifications by ruling infringing the

property rights of Palestinian landowners. Infringement of the right to property was also at the heart of the ruling of the High Court of Justice regarding the Elon Moreh settlement. After the ruling was issued in the "Elon Moreh" case, the government stated that it would not issue any more military orders to seize private lands of the Palestinians for the purpose of settlement. However, the state devised new means to control land in the West Bank for the purpose of establishing settlements, and thus continued to severely infringe the right of ownership of the Palestinians. (المحتلة ب.، 2011).

Since the issuance "Elon Moreh" in (1979), on the prohibition of appropriation of Palestinian lands with private ownership for the foundation of civilian settlements, the settlement project was based on using of what is called state land. However, the lands that were registered in the Land Registry (Tabu) as state lands before the Israeli occupation in 1967, were limited and amounted to 527,000 dunams, or nearly 9% of the area of the West Bank, not including East Jerusalem. The majority of these lands were concentrated in the Jordan Valley, while the mountain range between Jerusalem and Hebron almost did not include state lands. (المحتلة ب.، 2012)

Following the decision of Elon Moreh case and in order to allow settlement construction throughout the West Bank, including the Mountain Platform, Israeli government declared about 900,000 dunams as state land. Overly B'Tselem with other human rights institutions have slate the Israeli policy of land declaration, as a result of procedural flaws that prevented Palestinians from submitting effective objections to the declaration of land, as well as the fact that these declarations are intended to advance the illegal purpose of establishing settlements. , prohibited by international laws as it creates permanent change in the occupied territories. (المحتلة ب.، 2012)

Thus, Israel plundered the lands of Palestinian absentees in the Jordan Valley for the purpose of establishing the first settlements in the area, and seized private lands for Palestinians in order to establish 42 settlements under the false pretext that the settlements are established for “military needs.” It distorted the instructions of the Ottoman Land Law in order to be able to Declaring hundreds of thousands of dunams as “state land” (most of which is agricultural land that has been cultivated by the Palestinians), and it has allowed the illegal control of Palestinian lands individually owned by at least 27 settlements(المحتلة ب، 2011)

And by coming through all the Israeli occupation violation of Palestinian people’s rights its clear how this occupation has not taken the **best interest of the Occupied Palestinian people** nor **Good faith** during the occupation. As Professor Gershon Shafir observes that the US occupation of Japan, the Allies occupation of western Germany, and the US-led occupation of Baghdad are current examples occupations that have mostly followed to the strict principles of temporariness, non-annexation, and "Temporary nature continues as Israeli smokescreen for producing irreversible measures and facts on the ground," (Shafir, 2017) Israel has been able to use the ostensibly undetermined character of the occupation's end-point to establish a 'continuous temporariness' that prevents the Palestinians from exercising their significant right of self-determination.. (Lynk, 2018)

Concerning Palestine, the International Court of Justice (ICJ) has stated in its Advisory Opinion on the construction of a wall in the OPT that any measure that alters the demographic population structure falls under this restrictions. Thus, even if certain such actions appear to be permissible occupying power measures, such as requisitions allowed under Art. 52 Hague

Regulations, they are nonetheless banned. If and because they amount to, or are designed to lead to a long lasting changes of territories, they contradict the concept of good faith and constitute a violation of rights. The law of military occupation doesn't really ignore an occupying power's rules of using occupation as a methods of territorial gain, whether that be through de facto annexation or other means that prevent a conflict resolution by putting States or individuals whom the land is occupied in a position where a sustainable resolution of the conflict or even a solution is impossible to accomplish. (Bothe, 2017) (Benvenisti)

Even Israel's supreme court went for a restrictive approach concerning the interest of the inhabitant and making permanent changes among occupied territories. The validity of the occupier's purchase of the undertaking that provided energy to the West Bank was addressed in *Jerusalem Electricity Company Ltd. versus Minister of Energy*. The notification on the transaction of the petitioner's commitment was deemed null and unlawful by the Supreme Court. In the absence of exceptional circumstances, Justice Cahan stated: [G]enerally, with the exception of measures undertaken for the advantage and best interest of the area's inhabitants, the Commander of the Region must not start introducing in an occupied area adjustments that, even if they do not change the current law, would have a far-reaching and protracted impact on it, for more than the period when the military administration will be terminated each way or another. (Israel s. c., 1981)

2.2.3 Ramifications of Prolonged Israeli Occupation and Palestinians Concerns of Permissive Application of IHL Rules.

Palestinians are concerned that IHL or the rules of law on occupations has given Israel a level of legitimacy by allowing it to interpret international law to suit its own alleged legitimate goals. Israel is portrayed as occupant who are ignoring part of their legal commitments, and as introducing who are claiming all belligerent rights under a temporary framework. Another point of concern established by laws on occupations it creates permanent control by placing inhabitants in a distinct legal category and preventing them from participating in regular political activity, continuing to keep them under Israeli occupation indefinitely, but also as second-class community members or worse. The longer the occupation seems to last, the further colonialist it appears from this perspective point.

On a daily basis Hundreds or more of closures imposed by the Israel's troops or army in the West Bank, by a settler-only checkpoints, by blocking roads, as well as a system of permits for a lot of cities, things that would have been a simple everyday affairs of Palestinians as trying to go to their jobs, universities or hospitals, turned into a kind of never ending hardship. Israelis always claim that building the wall, which extends about 700 km in length, is for the purpose of preventing alleged armed attacks by Palestinians against Israel. However, this is not an actual explanation of why approximately 85% percent of this wall is built on the territories of Palestine, this includes lands in the West Bank. Indeed, this wall is separating Palestinian folks from one another, tearing apart entire families, with a continuous deprivation of Palestinians access to essential services, detaching landowners from their land and other natural resources, putting the Palestinian economy on the verge of collapse. (الدولية, access date 4\1\2022)

Human Rights Watch estimates that there are approximately 90,000 Palestinians located in the Eastern side of Jerusalem and until these days live in buildings with threats everyday of demolition. It is important to note that the Israeli housing policies in Eastern Jerusalem take a discriminatory manner against the Palestinians, as only 12% were allocated to Palestinian facilities. In contrast, 35 percent of East Jerusalem lands were allocated for the building and constructing new Israeli settlements, and even in this small area, the Palestinians cannot bear the cost of completing this process. Issuing building permits, which is a complex and expensive process. It is noted that in 2012 the Netanyahu government re-established once again illegal outposts, so that out of the 134 outposts that were created: two outposts (Migron and Amona) were evacuated; 29 colonial outposts were approved (three as independent colonies and 26 as "neighborhoods" of existing colonies); And at least 35 sites are in the process of being certified.

(عوض)

There are many prevailing assumptions that have obscured the reality of entrenched discrimination in governmental Israeli rule of Palestinians, such as that the occupation is in nature temporary, that the "peace process" must soon end Israeli violations and occupation, and Palestinians should have the ability of truly controlling their lives in the West Bank and Gaza, and so that Israel is indeed a liberal democratic only within its borders. The occupation state of Israel have exercised military rule on a portion of the Palestinian communities throughout its 73-year history, with the exception of only six months. It has exercised this on an overwhelming majority of Palestinians living in occupied territories Israel's governs from 1967 to today. In a complete contrast, since 1948 of its establishment, Israel has ruled all Israelis specifically Jewish, even settlers, in the occupied Palestinian territories from the moment this occupation began in 1967, under a civil law that respects greater rights. Making Palestinian and settlers or Jewish

who live on the same Palestinian occupied territories ruled by two different legal system. This is only based on a discriminatory concept and no other reasoning.

It grants Israelis a higher status under the law than Palestinians who live in the same areas in terms of civil rights, entrance to lands, movement freedom and construction, and granting residential rights to relatives. Although the Palestinians have limited autonomy in parts of the Occupied Palestinian Territories, Israel has maintained basic control (Watch, نيسان/يريل 27, 2021) Israel granted it self a duality or duplicity of legislation. Whereas its Israel duty to abide by Geneva convention and maintain as possible the existing legislation. Israel has violated this and continued to rule the occupied territories –mainly the West Bank – under a military rule and made different changes under the name of military commanders. On the other side settlers whose existence in the occupied Palestinian lands is a violation and illegal in the first place does not abide by this military rule. It’s actually the opposite the Israeli legislation amend to apply on these settlers although they live in the occupied territories. this does only include a discriminatory basis.

These consistent violations do not only amount to concerns or worries it actually spot the light on the discriminatory system of Israeli occupation. In fact with all of this being said these measures taken by Israel makes it subject to the question is it a security measures or building an Apartheid system and these violation amount to war crimes. The crime of apartheid has three key parts, according to the Apartheid Agreement and the Rome Statute: an intent to preserve a system wherein one particular race dominates another; systematic institutional oppression of one ethnicity against another; An inhumane act or acts, as defined, are committed on a widespread or systematic basis pursuant to those policies. These inhumane acts were defined by the Apartheid Convention and the Rome Statute as “forced deportations,” “expropriation of real estate,”

“creating segregated detention centers and ghettos,” also depriving people from “the rights to leave and return to one’s homeland, in addition to the right of acquiring a nationality.” (Watch, نيسان 27, 2021). Although the Israeli occupation of Palestine has little been addressed or studied under the category of apartheid. these violation actually amount to the criteria of this crime . this argument is actually a worth of study further. In addition its important for Palestinian to shed the light on these violation as a apartheid crime and work on prosecuting Israelis on these bases.

The longevity of this occupation for Palestinian does not only amount to time factor or treating these years as only numbers in the history of this occupation. Its fateful the future of an actual independent state of Palestine is depending on the end of Israeli occupation. The longer the occupation continue its less likely for Palestinian to be independent or has their own state. This is not only about time. at this point time has become the main factor aiding Israel in making changes and taking measures which change the status quo of the Palestinian occupied territories . Creating an irreversible de facto situation in a number of cases.

Some of them led a huge devastating demographic changes among Palestinians across the whole occupied territories and became impossible to have their own integrate unity. the other made the occupied country in a consistent reliance and dependency on the occupying country in Nemours aspect of their lives making it questionable of who it would be possible to be independent and depending on occupation for their own independency. All of this became a constant policy of Israeli occupation toward Palestine. The longevity of occupation rises Palestinian concerns on a daily bases were they face the danger and violation of this occupation in every aspect of their life. And in the greater goal of their independent state is at risk with each

day the occupation lasts as its important for them to regulate their daily life matter under occupation.

After discussing all the repercussions of the prolonged Israeli occupation on the Palestinian territories on the daily lives of the Palestinians and the suffering they are forced to live through in their simplest jobs and their basic rights were violated. And the effects that were created based on the existence of Israel for an unjustified period of time, so that Israel measures rose to the level of international crimes not insignificant against the Palestinians. In addition to shedding light on the future ramification that the prolonged occupation creates on the legal status of Palestine at the international level, the most important of which is the dream of an independent state. its now time to address also the ramification of the expanded interpretation of the powers of the occupier in the Palestinian territories over the Palestinians and the expectable concerns.

In order to discuss this aspect, it is necessary to look primarily at the political approach that Israel has followed since the Palestinian catastrophe in 1948. Later, it occupied the West Bank and Gaza Strip and imposed unfair control over East Jerusalem. Since its inception, Israel has tried to consolidate the idea of the character of the Jewish state. And that Israel is based on a religious basis and the right of the Jews to live in these lands. At the same time, it constantly denies the right of the indigenous peoples present in the region, their right to live in it, and their right to self-determination.

This methodology began with the idea of forced displacement of Palestinians. Which resulted in huge numbers of Palestinian refugees who were unable to return to their country after the establishment of an occupying state on their lands. Despite the protection of international

conventions on the right of return and United Nations resolutions such as Resolution 194, which affirmed the Palestinians' right to return. Israel constantly evades recognition of this right and evades any obligation that restricts it to the return of the Palestinians. Especially since allowing these numbers of Palestinian refugees to return to what is now called Israel primarily threatens the Israeli vision and the dream of a Jewish state. And Israel's awareness of the demographic revolution that will occur with the presence of these numbers of Palestinians in an Israeli state. Israel has often staked its recognition of this right as a bargaining chip over the Palestinians' recognition of Israel as a Jewish state in the region.(بدوية، 2021)

This Israeli methodology continued in many aspects of Palestinian life, as was previously indicated. But it appeared in a deep and hidden way with regard to the issues of the permanent solution, especially Jerusalem and the refugees, and with regard to recognizing a Palestinian state or their right to exist in the region. Also, all attempts and negotiations to end this conflict and occupation failed thanks to this methodology and the unwillingness of Israel previously and until now to end this conflict in any way, it may be in the interest of the Palestinians. All this makes it important to consider the interpretation of the rules of international humanitarian law in a permissive way.

Israel has always taken the approach of interpreting general international law to suit its claims and aims. Taking advantage of the rights guaranteed by occupation law for the occupier and analyzed them to justify its crimes against Palestinian. And raising military concerns as excuse for excessive measures or use of force. On the other hand it has always tried to deny any right or obligation guaranteed for Palestinian as occupied territories with narrowing and stricting any application of them. This systematic methodology makes a call for a permissive approach of interpreting IHL rules seems frightening. Knowing that Israel in this approach would try to take

advantage of any leeway to justify its excessive measures and go further for new ones even. And use these interpretation to reinforce the Jewish state goals.

However the approach of permissive application of IHL if applied with humanitarian manners and consideration of the weakness of occupied nation and territories. Would actually be for the benefit of the occupied nation. to illustrate when Palestinian for the sake of their own development call for a permissive approach to take advantage of some of Israel adjustments to improve their day to day life. Specially with prolonged nature of Israel existence in the occupied Palestinian territories makes the matters of daily life become more important from life under short time occupation. Knowing that an occupation is coming to end soon makes the occupied people less concerned about these matters.

This why concerns from permissive application must be the engine power for butting limitation on this interpretation. And the essence of humanitarian law is the governing framework of Israel measures in the occupied Palestinian territories. In such case of occupation there is no place for interest of Israel as an illegally extended occupation to be taken into consideration and even military needs seems less realistic with prolonged occupation as most of times there is ceasing of fire. In contrary the best interest of Palestinian should be the main governing principles for the application of IHL rules. It aids mainly in improving their daily life. and if applied correctly will aid in ending this occupation. if Israel actually abides to rules of IHL even with a permissive application with the principles addressed previously of temporary nature of occupation. Prohibition of annexation, acting in good faith and in the best interest of the occupied territories would be for the benefit of Palestine. And the benefit of both parties by actually ending this occupation even if it seems difficult knowing the greedy nature of the occupation state and its systematic violation of standards rules of law

In addition when addressing the case of Israeli occupation of Palestine its noticeable how most of the resolutions by the UN security council including resolution 242 in addition to those issued by the general assembly calls Israel to abide by the rules of international law concerning occupation . further it demanded and insisted on Israel to withdrawal from the occupied Palestinian territories specially the city of Jerusalem regarding the creeping annexation and the continuous attempts of changing Jerusalem's status of the city. Also the status of the Palestinian territories has been affirmed to be occupied despite all of Israel's consistent attempts to deny the applicability of IHL rules on Palestine . more accurately its safe to say that a minimal application of these rules and resolution ensures the Palestinian a great protection without even urgent need for a permissive nor a restrictive approach of interpretation of them . until these days Palestinians and international organization call on Israel to comply with these minimum standards.

Conclusion:

Customary international law, International humanitarian law consisting of Hague regulation, Geneva Conventions and their additional protocol shape the legal framework governing occupation. The norms of them set out the characteristics that makes a situation classified as occupation. And laid main principles governing occupation. Although occupation varies in their nature and circumstances and there is no standard case of occupation. IHL tried to create minimal protection and general regulation concerning these situations of occupation. As a temporary administrative condition.

Prolonged occupation mainly happen when the temporary nature of occupation is violated by the occupier. also It must be noted that there is no specific digits of years that determine when an occupation turns into prolonged one. However the circumstance of the occupation like the unjustified long existence of the occupying power, excessive authority, irreversible changes among the occupied territories and reasonableness principle all help in identifying when occupation turn into prolonged-occupation. and this changes from one occupation to another. As there isn't one specific definition neither of occupation nor of prolonged occupation.

prolonged occupation is more of descriptive term for the existence of the occupier for a long period of time, more than its a distinct legal category, because such argument (being legal term) could be dangerous as it could be taken as a excuse for the continuity of occupation and normalize it. Rules that governs belligerent occupation says only a little about certain difficulties that undoubtedly arise during a long-term occupation, such as the preservation and encouragement of seized territory' economic activity. However this does not imply that the

relevant international agreements should no longer be applied by any means. It's also important to understand why these occupations happen and how the occupiers' and residents' interests might be balanced.

The necessity and circumstances that this type of occupation is going through may require an amendment to the laws governing the occupation, with the aim of providing greater protection for citizens living under this occupation and preserving their rights. This development was not expected under international humanitarian law or creating new treaties as its going to be nearly impossible. Any attempt to reach actual international formal agreement on a set of principles that is applicable to all extended occupations is likely to be met with failure, partially because Long-term occupations vary in character and objects, as recent and current situations (such as Kampuchea, Namibia, in addition to Cyprus). Furthermore, it has always been hard enough to persuade states to confirm on the present laws on vocations; attempting to amend, subdivide, or invent specific permutations of these regulations would lead to acrimony and legalistic confusion. For example It would be impossible to get occupying country like in our case ‘Israel’ to sign new treaty restricting its actions or authority.

Whether or not there are hostilities, a long-term belligerent occupation poses the issue of coordinating the application of all IHL rules for the benefit of the occupied nation. The underlying problem with such occupations is that even if the IHL norms that is applicable to occupations are applied too tightly, the occupied population's life will be "frozen," preventing them from evolution or development but at the same time limits the occupier from taking any excessive measure with claiming prolonged nature of the occupation as an excuse. Giving too much liberty, on the other hand, is. Providing the Occupying Authority too much power risks consolidating the occupation and allowing "creeping annexation" to take place. This is why the

regulations must be in all cases followed and interpreted with the aim to aid the occupied population in resuming a normal life while simultaneously subjecting the Occupying Power to the constraints of a legitimate government, decreasing the danger of abuse.

It is important to remember that it is impossible to make firm conclusions about eventual changes in applicable law on prolonged-term occupations because the vast bulk of state practice or even cases of law is focused on a single one case: Israel's possession of lands of Palestine. All prior enlightened interpretations of the principles of hostile occupation law must, in general, guide the policies of an Occupying Power in a long-term occupation situation including Palestine. Israel strategy that systematically obstructs a resolution of the conflict and hence leads to an oppressive continuation of the occupation, at best, or exploitation of the circumstances for the intent of annexation, at worst, is a breach of all the principles of IHL and the provisional or transitory character of occupation. And Israel's approach to Palestinian occupied land, which essentially consists of the creation of Jewish settlements and the establishment of a wall separating certain areas of the occupied region from others, suggests that this occupation has exceeded its limits

When Israel as occupying force seeks to significantly change the international status, administration, or ethnic character of the Palestinian territories, either through de jure or de facto annexation. Government-sanctioned growing annexation laws and procedures, is justified by Israel for the maintenance of its occupation not by military necessity, As a result, Israel's occupation of Palestine has gotten out of hand with excessive longevity. with no actual necessity. Other than coming to the conclusion that Israel from the moment of its occupation has never considered to end this occupation or even to reach a fair solution. Its violation of Palestinian rights became the systematic approach based on the Israeli vision of creating Jewish state on

these occupied territories and taking advantage of longevity to make factual and demographic changes in addition to changing the status of the lands.

The special case of Israeli occupation of Palestine has created a dilemma in the application of IHL rules on such long-term occupation. These rules if applied restrictively on Palestinian would stand as a barrier between their developments. Particularly in their daily lives. And if applied with too much leeway for the occupier. Israel would take advantage of it to create even additional changes to make the dream of Jewish state come true and commit crimes in the name of the authority of occupier. However the permissive approach of IHL application if understood and applied correctly it actually stems from the deep concerns of Palestinian from the excessive longevity of Israel's occupation. This means that this approach is only applied for the best interest of Palestinian and governed by the general principles of occupation law. And must never result in violation of the already protected rights of Palestinian on contrary it provides a greater protection. Because in prolonged occupation the interests of the occupier –Israel- become less relevant or important to protect as it violates the law by its protracted presence in the occupied Palestinian territories. And make use of the time factor to complicate this occupation and disable any opportunity of ending it.

The illegality of this protracted Israeli occupation of Palestine does not affect the application of IHL rules on this occupation. But in matter were the longevity of the occupation became a fact. It's important to adapt approaches of interpretation of these rules for the benefit and best interest of the occupied territories.

Recommendations:

- If a genuine international treaty on the challenges raised by long-term occupation seems unlikely to happen, may be its more fruitful to investigate other options for dealing with such issues.
- Whatever someone thinks of the numbers, quality, and accuracy status in IL of the numerous UN resolutions on specific occupations (specifically related to Israel occupation) the fact that they exist suggests that the international community already has machinery in place to transact with certain issues that arise in such cases. Given sovereign governments' reluctance of the acceptance of international scrutiny of how they employ their military forces, this apparatus will always require caution. And effective mechanism of executing these resolutions is needed
- International law jurists could tend to have a flexible approach of interpretation of the rules of IHL on occupation in favor of the occupied nation in order to make easier and possible for them to live or enjoy as nearly normal life as possible. same could be done by a more restrictive approach toward the application of occupation obligation in order to make sure that the occupying power does not exceed its limit in any way that would harm the occupied territories .
- International organizations can play a variety of vital functions in any occupation, including those that are long-term. They can try to convince all parties involved of their international legal obligations; identify which regulations or international legal provisions

are still significant and urgently need to be implemented; analyze and even interpretation of legal provisions in light of new situations; suggest appropriate measures where legal principles or provisions conflict; start engaging in fact-finding or negotiation in particular issues; as well as provide peacekeeping or examiner forces.

- Third-party states and international actors have a legal obligation to ensure that Israel's illegal activities are not recognized internationally. They must be at the front line of attempts to enhance Israel's adherence to international law. Palestine, too, must work on this issue.
- To hasten Israel's withdrawal from the land, rigorous adherence to all relevant international law, namely international humanitarian law(IHL), international human rights law(IHRL), laws on the use of force, plus laws on the right to self-determination,
- Awareness of IHL rules and their best interpretation must be increased for Palestine best interest. To enable Palestinian to stand for Israel's violation and put them to limits. And condemned the prolonged existence of Israel and the violation of this occupation by States and international organizations so that Israel does not guarantee the legitimacy of its violations by the silence of the international community about it.
- The dangerous ramification of Israel's occupation of Palestine must be highlighted on international level. Every violation and crime committed by the Israeli must not be

underestimated. With pointing the crimes and violation that longevity of this occupation creates. In order to aid ending this occupation soon.

- There must be a consistent insistence from Palestine on activating the application of the already existed rules of law concerning occupation. And take a better advantage from resolutions of the UN or international court and urge the implementation of them. For example the advisory opinion of the ICJ on the wall.
- Palestine future policy must be focused on taking measures or entering negotiation that would only result in ending the occupation soon or shortening the unexpected duration of this occupation. Without giving Israel the advantage of extra time for additional modification of Palestinian territories and more violations.
- Palestine must take a better advantage of international organization and their support of the Palestinian case. and has interest in IHL and the applicability of it on the Israeli occupation. This could help in the exposure of Israel violations in the same time encourage it to comply with these rules. Specially like the International Committee of the Red Cross who has played a major role in codifying IHL rules including Geneva Convention and additional protocols, initiating meetings on the best interpretation of these rules, and has tried to aid Palestinian in their daily lives matters facing the violation of Israel. And its consistent rejection of these violation.

ملخص :

لقد عانت النفس البشرية من الحروب منذ قديم الازل، وكانت هذه الحروب وسيلة تسيطر فيها الدول على دول او اقاليم جديدة ونشأت ظاهرة الاحتلال الحربي كنتاج هذه الحروب، دون وجود اي ضوابط قانونية تنظم هذه الافعال، وبذلك ظهرت الحاجة لاطار قانوني ينظم كل من واجبات الاحتلال وحقوق الشعب المحتل. يسمى الاطار القانوني الذي ينظم هذه الظاهرة بالقانون الدولي الانساني . ومع ان هذه القواعد نظمت الاحتلال ووضعت له اسس ومبادئ وضوابط الا انه يتم اختراقها في كثير من الاحيان ، ونجم عن اختراق احد المبادئ الرئيسية وهو الطبيعة المؤقتة للاحتلال ظهور حالة جديدة تسمى بالاحتلال طويل الامد . ولم يوجد في هذه القواعد ما ينص بشكل او باخر على تنظيم هذه الحالة نظرا لحدائتها ولقلة حدوثها .يشكل هذا معضلة رئيسية في تحديد مدى موائمة قواعد القانون الدولي الانساني وانطباقها على حالات الاحتلال طويل الامد ، وخاصة حالة الاحتلال الاسرائيلي لفلسطين كونها تمثل حالة فريدة في وقتنا المعاصر لاحتلال امتد اكثر من خمس عقود يستوجب مراجعة اعمال هذا الاحتلال ومدى موائمتها لقواعد القانون الدولي الانساني. والبحث في وسائل او تفسيرات للقواعد الموجودة اصلا لتوائم الطبيعة لمطولة لهذا الاحتلال. تصب في افضل مصلحة للفلسطينيين نظرا لتداعيات طول امد هذا الاحتلال وخطورته.

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