



برنامج الأمم المتحدة الإنمائي
برنامج مساعدة الشعب الفلسطيني

International Conference “Palestine and International Law, New Approaches” 24-26 September 2010

Even if law is undoubtedly a part of the frame in terms of which actions are formulated, the question of the place and role of international law in the occupied Palestinian territory is paradoxically still to be answered more than 40 years after the beginning of the Israeli occupation of the West Bank and Gaza.

On the one hand, the traditional right-based approach considering the violations as a mere exception unable to undermine the effectiveness of the rule collides with the idea according to which violations are only significant as a proof of the inadequacy of the law of occupation in a situation of prolonged occupation or of the inadequacy of international humanitarian law, unable to face new urban warfare realities. From this point of view, the legal obligation is only seen as a *prima facie* duty which, as such, is likely to fall into conflict with other legal or moral duties in certain situations. The nature of the actions launched as well as the context in which they take place should retroact on the legal norm itself ; the classic conflict of norms is reduced to a choice between evils entailing a necessary "profit versus loss" balance, determined by the circumstances of each case. Whether this denial of the existing legal framework and the subsequent promotion of a new body of law is a first step toward a new paradigm in which the ends pursued by the parties plays the role of yardstick to measure their rights must thus be asked.

On the other hand, conceptualizing issues within an occupation context as a question of rights might result in a distorted discourse that sets aside the vertical implementation of the rule of law to promote a purely horizontal implementation obscuring the occupying power accountability. The question is simple, but still unanswered: is a rights analysis that places everyone on a supposedly equal plane at all possible in a situation that has structural inequality at its core? How can one assess violations in a context where the systematic invocation of the circumstances in which the rule does not apply makes it difficult to discern the circumstances in which it applies? To what models should one look to in trying to design strategies to correct for the effects of the current legal policy?

To address those issues and develop a better understanding of the legal policy led in the Occupied Territory, the Birzeit University Institute of Law organizes a conference focusing on the norm itself and on the legal relations between norms rather than on the consequences of their violations. The central assumption of this conference is that the choice of the legal grounds establishing the territorial jurisdiction exercised, the evolutions desired as well as the methods by which these evolutions come true allow to question the function attributed to international law in the occupied Palestinian territory.

Participants:

- Hadeel Abu Hussein (Lawyer, Ph.D. candidate, National University of Ireland, Galway)
- Moussa Abu Ramadan (Professor, Birzeit University);
- Issa Abu Sharar (former Head of the Palestine Supreme Court and former President of the Supreme Judicial Council, Chairman of the Palestinian Independent Investigation Commission established pursuant to the Goldstone Report)
- Hervé Ascensio (Professor, Paris 1 University);
- Raoul Bittel, (ICRC, Deputy Head of Delegation in Israel and the Occupied Territory)
- Kathleen Cavanaugh (Lecturer, National University of Ireland, Galway);
- Monique Chemillier-Gendreau (Emeritus Professor, Paris VII University) ;
- Jean d'Aspremont (Associate Professor, Leiden University) ;
- Omar Dajani (Professor, Pacific University)
- Barbara Delcourt (Professor, Free University of Brussels);
- François Dubuisson (Associate Professor, Free University of Brussels);
- Nicholas Gibson (Barrister, Member of Matrix Chambers, London)
- Hassan Jabareen (Director, Adalah — The Legal Center for Arab Minority Rights in Israel);
- Shawan Jabarin (General Director, Al Haq)
- Victor Kattan (Teaching Fellow, School of Oriental and African Studies, University of London);
- Michael Kearney (LSE Fellow, Law Department, London School of Economics)
- Jean-Philippe Kot (Research Coordinator, Birzeit University) ;
- Chantal Meloni (Research fellow, Università Statale of Milan/ Palestinian Center for Human Rights)
- Antonia Mulvey (Project Manager, Norwegian Refugee Council);
- Marco Sassoli (Professor, Geneva University);

Friday, September 24th

9h00-9h30

Reception and Registration

9h30-10h15

Introductory Session- Greetings

Panel 1	The Legal Discourse and the Israeli-Palestinian Conflict
Chair	Reem Al Botmeh , Researcher- Institute of Law/ Assistant Editor in Chief, Palestine Yearbook of international Law
10h25-10h50	Kathleen Cavanaugh : “Narrating Law”
10h50-11h15	Hassan Jabareen : “Exploring the Similarities Between the Palestinian and the Israeli Legal Discourses on the Law of Occupation: A Critical Approach”
11h15-11h40	Victor Kattan : “International Law and the Origins of the Israel-Palestine Conflict: New Approaches, New Findings”
11h40-13h30	Recess- Lunch
13h30-13h50	Debate

Panel 2

Civilians in Asymmetrical Warfare, The Israeli-Palestinian Pattern

14h00-15h10

Asymmetrical Warfare and the Israeli Military Doctrine

Chair

Saleh Abdel Jawad, Dean, Faculty of Law, Birzeit University

14h00-14h25

Omar Dajani: “The Dahiya Doctrine in Historical Context”

14h25-14h50

Nicholas Gibson, “Legal Issues Raised by the Dahiya Doctrine”

14h50-15h10

Debate

15h30-17h15

Asymmetrical Warfare and International Law

Chair

Khalil Karaje Al-Rifa’i, Deputy Minister, Ministry of Justice

15h30-15h55

Jean-Philippe Kot: “Duty to Spare Civilians vs. Duty to Protect Soldiers’ Lives: an Examination of the Kasher and Yadlin Doctrine”

15h55-16h20

Issa Abu Sharar: “The Palestinian Independent Investigations Established Pursuant to the Goldstone Report”

16h20-16h45

Barbara Delcourt: “The Qualification of Violence in the Israeli-Palestinian Conflict by the European Union”

16h45-17h15

Debate

Saturday, September 25th

Panel 3

Transformative Occupation and Annexation

9h30-10h45

Theoretical Perspective

Chair

Mustafa Mari, Professor in International Law, Birzeit University

9h30-9h55

Marco Sassoli: “The Concept of Transformative Occupation: Oxymoron, Fig Leaf for the Occupier or Entry Point for the Right to Self-Determination into International Humanitarian Law?”

9h55-10h20

Moussa Abou Ramadan: “From Humanitarian Law to Settlers’ Human Rights”

10h20-10h45

Debate

11h00-12h15

A Practitioner Perspective

Chair

Ahmad Arwaidy, Head of the Jerusalem Unit, President Office

11h00-11h25

Hadeel Abu Hussein: “The Case of Sheikh Jarrah- Jerusalem”

11h25-11h50

Antonia Mulvey: “House Demolitions, Eviction Orders and the Challenges Faced by Legal Practitioners Before Israeli Courts”

11h50-12h15

Debate

Panel 4

Secondary Norms and the Law of State Responsibility

13h30-15h15

State Responsibility in International Law

Chair

Yasser Amuri, Professor in International Law, Birzeit University

13h30-13h55

Francois Dubuisson : “The Applicability of the Right of Self-Defence in the Relations Between Israel and the Occupied Palestinian Territory”

13h55-14h20

Monique Chemillier-Gendreau: “The Weakness of the Law of Responsibility and the Flaws of International Law in Palestine”

14h20-14h45

Jean D’Aspremont: “State Responsibility in the Context of the Israeli-Palestinian Conflict: An Inevitable Question of Articulation between Primary and Secondary Rules”

14h45-15h15

Debate

15h30-17h15

Individual Responsibility

Chair

Moussa Dwaik, Professor in International Law, Al Quds University

15h30-15h55

Michael Kearney: “The International Criminal Court and the Israel-Palestine Conflict”

15h55-16h20

Chantal Meloni: “The Responsibility of Senior Leaders and Military Commanders and the Recourse to the Principle of Universal Jurisdiction”

16h20-16h45

Hervé Ascensio: “The Duty of Non-Recognition of Unlawful Situations in the Palestinian Context : What Effects for Private Businesses?”

16h45-17h15

Debate

Sunday, September 26th

Panel 5		Palestine and International Law, Stakes and Prospects	
Chair		Omar Dajani , Professor in International Law, Pacific University	
9h30-9h55		Shawan Jabarin : “International Law and the Advocacy Discourse: the Al Haq Experience”	
9h55-10h20		Jean D’Aspremont : “The Palestinian Legal Scholarship of the Future: Preserving Some Formalism in the Ascertainment of international Legal Rules”	
10h20-10h45		Raoul Bittel : “New Approaches to International Humanitarian Law? A word of caution”	
16h45-17h15		Debate	