Between the Sacred and the Law: Strategic Contours of the Israeli–Palestinian Conflict in the 21st Century



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Uzhhorod, 11 August 2025

Abstract. The article presents a comprehensive analytical framework for examining the Israeli–Palestinian conflict as a multi-layered phenomenon that integrates historical regimes of legitimacy (imperial mandate, national sovereignty, and religious sacralization of space) with contemporary norms of international law and the security architecture of the Middle East. Drawing on an analysis of recent decisions of the International Court of Justice, procedural actions of the International Criminal Court, official governmental steps toward the recognition of the State of Palestine, as well as the latest developments on the ground (the war in the Gaza Strip, the

expansion of Israeli settlements, and the regional projection of the Islamic Republic of Iran and its allies), the study concludes that the “classical” formula of territorial partition, without a model of shared sovereignty and legal co-ownership of space, cannot ensure sustainable peace. In this context, the article proposes the contours of a confederative approach as a de-escalation mechanism, combining two state entities, shared spaces, mutual security guarantees, and international oversight.

Keywords: Israel, Palestine, Gaza Strip, International Court of Justice, International Criminal Court, Israeli settlements, confederation, “two peoples — two state homes”.

Introduction: From Geography to Legal Status

The Israeli–Palestinian conflict is traditionally described as “territorial.” However, such a simplification reduces a multi-layered phenomenon to a one-dimensional plane. In the Holy Land, land is not only a geographical space but also a bearer of profound theological meaning and historical memory. This is why, for nearly a century, a mechanical partition has failed to produce a sustainable political settlement — from the declarative partition plan adopted by the UN General Assembly in 1947 [1; 2] to the unresolved “final status issues” of the Oslo peace process.

Over the past decade, the religious dimension has increasingly ceased to be merely an instrument of extreme radical nationalism and has instead become its core, further radicalizing political imagination and significantly narrowing the room for compromise.

In parallel, the international legal framework has evolved. On 19 July 2024, the International Court of Justice (ICJ), in its advisory opinion, found the ongoing Israeli occupation of Palestinian territories to be unlawful and determined that Israel is obligated to end it “as rapidly as possible,” including by halting and dismantling its settlement policy [4]. In 2024–2025, the ICJ issued several orders on provisional measures in the case South Africa v. Israel, obligating Israel to protect the civilian population in the Gaza Strip, including during operations in Rafah, and to guarantee unhindered access for humanitarian assistance [5–7].

On 21 November 2024, Pre-Trial Chamber I of the International Criminal Court (ICC) issued arrest warrants for Israeli Prime Minister Benjamin Netanyahu, Defence Minister Yoav Gallant, as well as several Hamas leaders. This move marked an important signal regarding individual criminal responsibility for actions in the armed conflict [8; 9].

Thus, as of early August 2025, the conflict exists in a context that combines:

- the sacred dimension of space;
- competing national projects;
- strict international legal constraints;
- a broader regional confrontation between Iran and Israel (including the unprecedented missile-and-drone strike by the Islamic Republic of Iran in April 2024) and secondary theatres of confrontation, such as the Red Sea [11; 24–26].

Historical Regimes of Legitimacy: Formation of the Current Configuration of the Conflict

The current configuration of the Israeli–Palestinian conflict originates from three key international legal acts that laid the foundation for its present dynamics:

- The Balfour Declaration (1917) — an official statement by the Government of Great Britain expressing support for the establishment of “a national home for the Jewish people” in Palestine, within the then imperial mandate system of administration [1].
- United Nations General Assembly Resolution 181 (1947) — a plan to partition Palestine into Jewish and Arab states, with Jerusalem given international status (corpus separatum). The proposed arrangement was accepted by the Jewish leadership but rejected by the Arab side, leading to the 1948–1949 war [2].
- United Nations Security Council Resolution 242 (1967) — enshrined the principle of “land for peace” following the Six-Day War. The legal ambiguity of the English-language formulation territories/territory allowed each side to interpret the scope of territorial concessions differently, creating decades of room for political manoeuvring and dispute [3].

The subsequent contractual architecture established by the Oslo Accords (1993–1995) partially replaced direct occupation administration with transitional self-governance mechanisms. However, it did not resolve a number of fundamental issues: final borders, the status of Jerusalem, the resolution of the Palestinian refugee problem, security guarantees, and the future of Israeli settlements. The absence of a final settlement, the expansion of the settlement network, and the hybrid nature of governance in fragmented territories have created a condition that can be described as “normalized temporariness” — a situation in which interim arrangements become a relatively stable yet legally undefined order.

The Current War in Gaza: Facts, Law, Politics

Following the large-scale attack by the Hamas movement on 7 October 2023, the war in the Gaza Strip has become the most destructive stage of the Israeli–Palestinian conflict in recent decades. According to the Ministry of Health in Gaza, as reported by the United Nations Office for the Coordination of Humanitarian Affairs (OCHA) with appropriate caveats, as of 4 August 2025 at least 60,199 people have been confirmed killed; the figures are continuously updated and subject to verification [8–10]. Alongside the high casualty toll, there has been extensive destruction of civilian infrastructure, a severe shortage of humanitarian aid, and signs of famine. OCHA maintains open-access interactive dashboards containing source attribution and notes on the level of data verification.

Throughout 2024–2025, the International Court of Justice (ICJ) issued several orders on provisional measures in the case South Africa v. Israel, obligating Israel to protect the civilian population, ensure unhindered humanitarian access, and cease actions that could fall under the definition of genocide [5–7].

On 21 November 2024, Pre-Trial Chamber I of the International Criminal Court (ICC) issued arrest warrants for Hamas leaders (for crimes related to the events of 7 October 2023) and for Israeli officials, including Prime Minister Benjamin Netanyahu and Defence Minister Yoav Gallant, primarily on suspicion of using starvation as a method of warfare and carrying out attacks on civilian targets [6–9].

Meanwhile, Israel's political framework has shifted towards a long-term model of "control without direct governance." Official government plans envisage maintaining Israeli security control over the Gaza Strip on the condition of its demilitarization. On 7–8 August 2025, the Security Cabinet approved a plan to take control of Gaza City, and the Prime Minister publicly announced the intention to place the entire Strip under military control "without administering it as a government," despite criticism from several international actors [12–15]. This reflects a de facto rejection of the "classical" two-state model, at least in the short term, and an absence of a clearly formulated alternative for civilian governance.

Settlement Policy as a Structural Obstacle

Israeli settlement activity is not a secondary element of the conflict but a systemic mechanism that alters the de facto jurisdiction and demographic balance in the occupied territories. According to the position of the United Nations and numerous Security Council resolutions, Israeli settlements in the West Bank, including East Jerusalem, constitute a clear violation of the Fourth Geneva Convention (1949), which prohibits an occupying power from transferring its own civilian population into the territory it occupies.

On 29 May 2025, the Government of Israel decided to establish 22 new settlements in the West Bank, some of which involve the "legalization" of previously unauthorized outposts. According to government sources and independent monitoring, this marked the largest expansion of settlements in the past decade [16–19].

This step directly contradicts the advisory opinion of the International Court of Justice of 19 July 2024, which emphasized Israel's legal obligation to cease and reverse settlement activity in the occupied Palestinian territories [4]. Politically, such a development significantly narrows the space for implementing a "two-state" solution, as it complicates the delineation of viable and contiguous territories for a future Palestinian state.

Regional Overlay: Iran, the "Proxy Front," and the Sea as a Theatre

The 2023–2025 war has exposed a multi-layered "shadow war" in the Middle East. In April 2024, the Islamic Republic of Iran carried out an unprecedented direct large-scale strike with drones and missiles on the territory of the State of Israel in response to an attack on the Iranian consulate in Damascus. Most of the munitions were intercepted with the involvement of Israel's air defence systems and allied states; however, the very fact of such a massive attack became a political watershed, elevating the Iran–Israel confrontation to a new level of escalation [24; 27–28].

Simultaneously, in the Red Sea, the Yemeni movement Ansar Allah (Houthis) systematically attacked commercial vessels, which led to the adoption on 10 January 2024 by the UN Security Council of Resolution 2722 (2024) — United Nations Security Council Resolution 2722 (2024) "Maritime Security in the Red Sea". The document condemns attacks on international shipping, demands their immediate cessation, calls for the release of the seized vessel Galaxy Leader and its crew, and urges all parties to refrain from attacks on civilian vessels and from obstructing freedom of navigation [20–23]. Despite diplomatic and military pressure, the attacks periodically resumed, provoking retaliatory strikes by the international coalition and disrupting global supply chains [25–26].

Thus, the local Israeli–Palestinian conflict has become integrated into a broader regional confrontation, in which military actions in the Gaza Strip intertwine with Iranian proxy operations, threats to maritime routes, and the struggle for control over strategically vital transportation corridors.

International Response: From Law to the Politics of Recognition

In parallel with legal proceedings at the International Court of Justice and the International Criminal Court, the years 2024–2025 saw the emergence of a new wave of formal recognitions of the State of Palestine, which has become one of the key diplomatic trends amid the war.

The first stage began in the spring of 2024: on 22 May, Norway announced its recognition; on 28 May, Spain and Ireland followed with similar decisions; and in June 2024, Slovenia joined the list [9–13; 29]. These states justified their actions by the need to "revive" the political track of the peace process and to demonstrate support for the Palestinian people's right to self-determination.

The second stage took place in 2025. In May, Belgium and Luxembourg made their recognition announcements, followed by Malta in June. The most notable development was the statement on 24 July 2025 by French President Emmanuel Macron declaring his intention to formally recognise Palestine at the UN General Assembly session in September 2025 [30–32]. This marked the first time that a G7 country and a permanent member of the UN Security Council confirmed such a step at the highest level. According to diplomatic sources, other Western states, including the United Kingdom and Portugal, plan to join this initiative ahead of the September session.

Although recognition does not automatically alter Palestine's legal status within the UN system, it carries substantial political and symbolic weight. The expansion of the group of states recognising Palestine creates additional diplomatic momentum, influences European and transatlantic debates on adjusting relations with Israel in the context of the war, and signals growing international support for the "two-state" solution.

Why a "Territorial" Partition Alone Does Not Work

An analysis of political, cultural-religious, and security factors shows that even if the parties formally agree on borders and sign a territorial partition agreement, the substantive aspects of the conflict will remain unresolved. This is due to three interrelated groups of reasons:

1. Sacralisation of space. For a significant part of Israeli society, particularly religious-nationalist movements, the entire Land of Israel is viewed as a divinely granted inheritance. For many Palestinians, this same territory has the status of waqf — sacred property entrusted by Allah for eternal preservation within the Islamic community. Both perspectives leave virtually no room for "final concessions" without deep spiritual trauma and internal rejection.
2. Factual geography. The existing settlement mosaic, the complexity of the road network, and the high degree of territorial fragmentation make it technically difficult and politically fragile to draw a clear and viable partition line [16–19].
3. Security as a constant condition. Since the events of 7 October 2023, the argument for preventive security has become dominant in Israeli political discourse, reinforcing demands

for the maintenance of long-term — or even indefinite — control over key areas, regardless of what civilian governance model might be proposed [12–15].

Thus, even if a territorial partition agreement is reached, key parameters of coexistence — including the movement of people, access to holy sites, the status of Jerusalem, the distribution of natural resources, border definitions, and the refugee issue — cannot be resolved "with a ruler on a map" without deeper mechanisms for shared living.

Moving Beyond "Either/Or": The Framework for Legal Co-Ownership of Space

In light of the above factors, a strategic vision for resolving the Israeli–Palestinian conflict must go beyond the classical dichotomy of "partition / rejection of partition." An alternative is the combination of two sovereignties within a shared legal framework for the use of space, where the decisive question is not the metaphysical "ownership" of the land, but the mechanisms by which both communities can lawfully and safely coexist while using shared resources and infrastructure.

There are models in global practice that are suitable for adaptation to the Middle Eastern context:

- Confederative solutions — "Two Homes, One Land." The concept advanced by the movement A Land for All / Two States, One Homeland envisions the creation of two states with an open border, symmetrical citizenship, and the right of citizens of each state to reside in the other under special permits. In this model, Jerusalem serves as a shared capital under a regime of divided sovereignty. Additional elements include joint security coordination bodies and an international guarantee mechanism to ensure compliance with agreements [30–33].
- The "Bosnian" and "Irish" lessons. This refers to institutional arrangements that provide for dual citizenship and/or identity, minority rights guarantees, the establishment of intergovernmental councils, and joint structures in security and justice operating at the intersection of jurisdictions. Examples include the provisions of the Good Friday (Belfast) Agreement in Northern Ireland and the Dayton Peace Agreement in Bosnia and Herzegovina, which — although not without shortcomings — demonstrate institutionalised partnership between former conflict parties [34–39].

Minimum Architecture of a Confederation (Practical Framework)

1. Two equal states — Israel and Palestine — with mutual recognition, the establishment of diplomatic relations, the exchange of embassies, and the conclusion of basic treaties on good neighbourliness.
2. Open border with controlled mobility: freedom of movement for citizens of both states through electronic permits; mutual recognition of driving licences and insurance documents; joint border crossing points with integrated inspection systems [30–33].
3. Jerusalem as a "dual capital": the creation of a municipal corporation with two national administrations and a unified coordination framework for managing holy sites; adoption of a special city statute; the presence of international guarantors.
4. Security matrix: the formation of a joint coordination headquarters; restrictions on the deployment of heavy weaponry in designated sensitive zones; deployment of an international monitoring mission (with a UN Security Council mandate or a coalition

mandate) authorised to monitor compliance with agreements and maintain demilitarised zones.

5. Settlement clusters: three possible settlement regulation tracks —
    - return of residents to the territory of their state of citizenship;
    - (b) long-term leasing of land in the other state for those remaining as "foreign residents" under the host country's laws;
    - (c) purchase or exchange of plots through an international compensation fund. Any new construction after "Day X" is prohibited [4, 16–19, 30–33].
6. Refugees and restitution: voluntary return of refugees to the Palestinian state; individual compensation or restitution of property from an international fund; a limited quota for family reunification within Israel.
7. Economic space: creation of a "confederation" customs union; joint infrastructure projects in the fields of energy, water supply, and port logistics; the establishment of special economic zones along the "open border."
8. Justice and human rights: two national jurisdictions plus a joint appellate chamber for interstate disputes; direct applicability of a basic catalogue of rights and freedoms; creation of the institution of an independent Confederation Ombudsman.
9. Phases and verification: introduction of a "security ↔ openness" rhythm, whereby each step in the security sphere (ceasefire, disarmament of illegal formations) automatically triggers a corresponding step in mobility or economic cooperation. Non-compliance leads to an automatic pause and arbitration with the involvement of international guarantors.

This model is not a "romantic utopia" but a pragmatic response to three key challenges:

- the sacralised status of the land is addressed through mechanisms of co-ownership rather than expropriation;
- (b) the settlement mosaic is redefined into a legal regime of residence "as foreign nationals" without extraterritorial sovereignty;
- (c) security risks are mitigated not through "perpetual occupation" but through verifiable restrictions and international monitoring.

Risks and Preconditions for Success

Risks

Implementing the model of legal co-ownership of space is associated with a number of significant challenges:

1. Domestic political resistance from the extreme flanks of the political spectrum on both sides, which may perceive compromises as a betrayal of national interests.
2. Spoiler sabotage — political actors or armed groups interested in disrupting agreements.
3. Outbreaks of violence during transitional phases that could undermine trust and halt the implementation of agreements.
4. Legal conflicts between a state of emergency and the protection of fundamental rights and freedoms, which may arise during security crises.

Preconditions for Success

To enhance the viability of the proposed model, it is necessary to ensure:

1. Halting settlement expansion and adopting a roadmap for the dismantling of illegal outposts [4, 16–19].
2. Stable humanitarian supply and the reconstruction of the Gaza Strip on terms of demilitarisation rather than collective punishment [5–10].
3. Creation of an international guarantee consortium involving the EU, the US, and key Arab states to finance a compensation fund and maintain a permanent monitoring mission.
4. Internal institutional reforms in the future Palestinian state aimed at strengthening the rule of law, accountability, and transparency in governance.
5. Clear definition of “red lines” for regional actors (Iran, its proxy groups, and others) based on UN Security Council resolutions and existing sanctions regimes [20–23, 24–28].

Conclusion

No number of “territorial maps” or border demarcation agreements between Israel and Palestine can substitute for effective institutions that guarantee both peoples the ability to live in a shared, sacredly significant space without mutual subjugation or the imposition of unilateral development models. For both Israelis and Palestinians, this land holds unique national, religious, historical, and cultural value; therefore, the question of peaceful coexistence cannot be reduced solely to the division of territory.

Contemporary international law clearly prohibits prolonged occupation, forced demographic changes, and other actions that violate fundamental human rights. The current political and demographic reality demonstrates that establishing a clear, final, and viable line of partition between Israel and Palestine is practically impossible due to the interwoven nature of territories, the settlement mosaic, shared religious centres, and resources.

Security realities after 7 October 2023 require a model that guarantees the safety of citizens in both states while avoiding “perpetual” external control of one side over the other. In this context, a confederative approach may not be a universal solution but represents a realistic tool for de-escalation.

Such a model envisions the existence of two sovereign states — Israel and Palestine — that mutually recognise each other, maintain an open but controlled border, share Jerusalem as a capital, establish security coordination mechanisms, and develop joint economic and infrastructure projects. Its essence lies in the legal co-ownership of space, whereby both parties have equal rights to its use and development, and all disputes are resolved through agreed institutional mechanisms.

Only under such conditions will the “neighbour” cease to be perceived as a threat and become a partner in the shared, secure, and stable development of both Israelis and Palestinians.

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Note on data: Humanitarian indicators for the Gaza Strip are updated daily; the UN (OCHA/UNRWA) publishes them with source attribution and relevant disclaimers. The text uses the latest releases as of 6–11 August 2025 [10–11].