

Enforcement of Human Rights in Palestine Compared to Indonesia

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Abstract

This study examines the enforcement of human rights in Palestine and Indonesia, providing a comparative analysis to highlight key differences and derive insights. It delves into the human rights situation in both countries, particularly focusing on how the Israeli occupation systematically violates Palestinian rights, with special emphasis on recent developments after October 7, 2023. The research uses an analytical and comparative methodology and law case analysis. The findings indicate that while both Indonesian and Palestinian legislators recognize human rights as constitutional, enforcement varies significantly. In Indonesia, being an independent and democratic state with full sovereignty, human rights are better enforced. Furthermore, Indonesia has a dedicated human rights law, an independent court for human rights protection, and institutions held accountable by the people. On the other hand, Palestine faces substantial challenges under Israeli military occupation due to the lack of sovereignty and independence. Law enforcement efforts are further hindered by political division, disrupted democratic processes, and the absence of a dedicated human rights law and court. Additionally, the suspension of elections since 2007 has caused a stagnation in democratic transitions. Cultural differences also affect how rights are practiced. Indonesia's diverse cultural landscape means that the interpretation of human rights varies across regions, whereas Palestine's more homogeneous culture leads to a more unified approach. This difference underscores Indonesia's relative advancement in the enforcement of human rights compared to Palestine.

Keywords: Human Rights; Indonesia; Palestine; Culture, Israeli Occupation.

Introduction

Human rights are essential as they ensure the dignity, freedom, and equality of every individual, regardless of their background. They form the foundation for justice and peace in society, protecting people from abuse and discrimination while promoting fairness and respect for all.

Marks (2016) defines human rights as “a set of norms governing the treatment of individuals and groups by states and non-state actors on the basis of ethical principles regarding what society considers fundamental to a decent life. These norms are incorporated into national and international legal systems, which specify mechanisms and procedures to hold the duty-bearers accountable and provide redress for alleged victims of human rights violations.” Similarly, the Indonesian legislator defines human rights as “a set of rights bestowed by God Almighty in the essence and being of humans as creations of God which must be respected, held in the highest esteem and protected by the state, law, Government, and all people in order to protect human dignity and worth” (Indonesian Law No. 39 of 1999).

In this context, according to the International Bill of Human Rights (United Nations, 1966), human rights are classified as follows:

- A. Civil and political rights that include "Right to life, Freedom from torture and inhuman treatment, Freedom from slavery, servitude or forced labour, The right to liberty and security of the person, Right to humane treatment in detention, Freedom of movement and residence, Prohibition of expulsion of aliens, Freedom of thought, conscience, and religious belief, Freedom of expression, Right to privacy, Non-imprisonment for debt, Right to fair trial, Right to personhood under the law, Equality before the law, Freedom of assembly and association, Right to marry and found a family, Rights of children, Right to practice a religion, culture and language, Prohibition of war propaganda and hate speech constituting incitement and Right to hold office and vote in free elections" (International Covenant on Civil and Political Rights, 1966).
- B. Economic, social and cultural rights that include "The right to work, just and favorable conditions of work, Social the right to social security and insurance, The right to protection and assistance to the family, The right to an adequate standard of living and freedom from hunger, The right to the highest attainable standard of physical and mental health, The right to education, The right to culture and to benefit from scientific progress and Equality between women and men" (International Covenant on Economic, Social and Cultural Rights, 1966).

Recognizing the importance of human rights, the Palestinian legislator emphasized the protection of human rights and its commitment to the Universal Declaration of Human Rights of 1948 in the Declaration of Independence of the State of Palestine of 1988 and in Part Two of the Palestinian Amended Basic Law

of 2003. Likewise, the Indonesian legislator has enshrined universally accepted principles of International Bill of Human Rights in Article 28 of the Fourth Amendment to the 1945 Constitution and in Law No. 39 of 1999.

However, in Palestine, the political system of the entrenched rule of the Israeli occupation in the occupied Palestinian territories represents an apartheid regime based on systematic racial oppression and discrimination against the Palestinians, in front of the eyes of the international community without the punishment of Israel, the occupying power, for its criminal and racist actions towards the Palestinian rights (Lynk, 2022). Accordingly, this research provides an in-depth analysis of the situation, focuses on how the Israeli occupation systematically infringes upon Palestinian rights, with a particular focus on the most recent developments after the events of October 7, 2023. The study critically examines the legal, political, and socio-economic impacts of these violations and highlights the need for urgent international intervention in occupied Palestine.

On the other hand, cultural norms and values also play a significant role in shaping the perception and practice of human rights. Deeply rooted in traditions and community-centered values, Palestinian culture emphasizes collective identity, family honor, and social solidarity, which can sometimes influence how individual rights are viewed and prioritized. These cultural norms may impact areas such as gender equality, freedom of expression, and other personal freedoms, leading to a unique approach to human rights that balances communal expectations with individual needs.

In Indonesia, the Republic of Indonesia based on “Pancasila” and the Constitution of 1945 guarantees the dignity and value of each person according to the Universal Declaration of Human Rights. Considering that citizens are one of the basic elements of the state who have rights and duties that must be protected and ensure their implementation as stipulated in Article 26 of the Constitution of the Republic of Indonesia of 1945 (Aji, 2018). In this context, Pancasila, Indonesia's foundational ideology, comprises five principles: belief in God, just and civilized humanity, national unity, democracy through consensus, and social justice. Established in 1945, it fosters unity among diverse cultures, religions, and ethnicities while shaping the nation's laws, governance, and human rights approach (Wibisono et al., 2022). While the universal values of human rights are theoretically accepted by all countries, their implementation varies across nations due to cultural differences. Indonesia accepts the universal values of the Declaration of Human Rights but implements them in accordance with its own cultural and legal frameworks (Punia, 2020).

However, there is a difference in the human rights situation between Palestine and Indonesia, depending on the difference in the political, legal and cultural status of both countries. Accordingly, the purpose of this study is to examine the extent of human rights enforcement in Palestine compared to Indonesia by analyzing the human rights situations and comparing them in both countries in order to reach the most important differences between them in this regard, thus showing the most important obstacles facing the enforcement of rights in both countries, especially Palestine.

Methodology

This study uses an analytical and comparative approach, along with case law analysis, to examine the enforcement of human rights in Indonesia and Palestine. It involves a detailed analysis of legal frameworks, political contexts, and socio-economic factors that influence human rights conditions in both countries. Data was collected from various sources, including national legislation, government reports, United Nations documents, and scholarly articles, to provide a comprehensive overview of the human rights landscape. The study compares the legal structures and enforcement mechanisms in Indonesia, an independent sovereign state, with those in Palestine, which remains under Israeli occupation. By highlighting the differences in governance, cultural contexts, and external factors, the methodology aims to identify key areas where each country's approach to human rights enforcement diverges. Through this comparative analysis, the study seeks to draw insights that can inform international policy and support efforts to enhance human rights protection in Palestine.

Findings and Discussion

The study first examines the enforcement of human rights in Indonesia and Palestine, then identifies the key differences between the two countries in this context:

A. The Enforcement of Human Rights in Indonesia

The amendment of the Constitution of the Republic of Indonesia of 1945 led to significant progress in respecting, protecting and fulfilling human rights in Indonesia. The 1945 constitution is a tool for determining the standard of any law or government action whether or not it violates human rights. Therefore, the Constitutional Court, as the "protector of human rights," was given the power to review and judge any law that violated the rights guaranteed under the 1945 Constitution (Tibaka L., & Rosdian R., 2017). In addition, according to Presidential Decree No. 50 of 1993, the National Commission on Human Rights (Komnas HAM) was established in Indonesia and assigned four functions: research and assessment, monitoring, mediation, and dissemination (Act 39 of 1999).

Through the four functions assigned to the National Commission on Human Rights (Komnas HAM), it works to create conditions conducive to the

implementation and protection of human rights, thus the four functions can be gathered into two categories, reinforcement and implementation. The task of reinforcement is achieved through education and research, while enforcement is achieved through problem-solving through monitoring and mediation (Nuraini A. et al, 2016). However, the committee has no judicial power or even any effective authority over human rights violations in Indonesia, but it raises public awareness about the importance of human rights and documents human rights violations (Hadiprayitno, 2010).

Furthermore, due to the importance of protecting human rights, the Indonesian legislator issued Act No. 26 of 2000, according to which the Human Rights Court was established as a special court responsible for hearing and adjudicating gross violations of human rights issues (Act Number 26 Year 2000 on Human Rights Court). In this context, the Indonesian Human Rights Court has ruled on human rights cases including allegations of human rights abuses in East Timor after the 1999 independence referendum. In 2003, the court rendered a verdict, acquitting several high-ranking officials or imposing lenient sentences, citing insufficient evidence (Indonesian Human Rights Court, 2003).

In this regard, both the Indonesian Constitution and the Human Rights Law No. 39 of 1999 recognize the concept of human responsibility when exercising his/her rights, thus they obligate him/her to respect the rights of others and abide by legal restrictions (Hadiprayitno, 2010).

On the other hand, Jawana H. (2021) found that Indonesia has large and diverse cultural groups covering large areas, so the practice of human rights is also diverse, which is why it is difficult to establish a unified practice of human rights in Indonesia. He also found that law enforcement institutions often rely on what is contained in written legislation, and sometimes the enactment of such legislation not to address social issues faced by society but rather for political discourse, recognition by the international community, or to meet the demands imposed on Indonesia from the international community. Thus there are some new legislations that have introduced new concepts that require a sudden change in society's values, which creates a conflict between the law and some cultural concepts in the practice of human rights.

Therefore, because of the different social and cultural structures in Indonesia, on the Independence Day of Indonesia in August 17, 1945, it was clearly emphasized that the system of government as a state is based on law, not on the authority of the ruler or the rules of the clan, so the law requires that every action in governance affairs be in accordance with the law and not only at the will of the ruling authority. (Surya, 2015).

However, Ersan and Erliyana (2018) identify systemic corruption within state institutions as a major obstacle hindering Indonesia's progress toward the rule of law and effective governance. Transparency International consistently ranks Indonesia high on the Corruption Perceptions Index, illustrating the prevalence of corruption. High corruption levels often correlate with weakened human rights

conditions, as seen in other nations where corruption compromises government accountability and institutional integrity (Transparency International, 2023; Human Rights Watch, 2023).

Nevertheless, Al-Hussein Z. R. the UN High Commissioner for Human Rights, said at the end of his official visit to Indonesia in a speech he delivered at a press conference on February 7, 2018 in Jakarta that since 1998, Indonesia has succeeded in transitioning to the stage of democracy and accompanying it with strong economic growth. Today, Indonesia is one of the most advanced countries in the region with regard to human rights, as well as added that the government has also adopted the sustainable development goals and worked to integrate them into its national human rights action plan. Indonesia also recorded significant progress in realizing the right to health and expanding universal health coverage, and secured space and resources for the Indonesian National Human Rights Commission, although there are still some gaps in the protection of the economic and social rights of Indonesians (United Nations, 2018).

B. The Enforcement of Human Rights in Palestine

Given the Palestinian leadership's realization of the great importance of human rights, the late President Yasser Arafat issued a presidential decree on September 30, 1993, establishing the Independent Commission for Human Rights (the Board of Grievances) as an official national institution dedicated to upholding the rights of Palestinian citizens (Independent Commission for Human Rights, 2021).

According to the presidential decree, the tasks and responsibilities of the commission were defined as: Follow up and ensure that the requirements for preserving human rights are met in the various Palestinian law and regulations, and in the work of the various bodies, departments, agencies and institutions in the State of Palestine and the Palestine Liberation Organization (Presidential decree No. 59 of 1995). The Commission began its activity at the beginning of 1994, coinciding with the establishment of the Palestinian Authority (Independent Commission for Human Rights, 2023). The Commission acquired a constitutional character according to Article (31) of the Palestinian Basic Law of 2002.

In this context, Articles (1) and (4) of the Palestinian Basic Law significantly impact the exercise of human rights in Palestine by establishing cultural and religious identity as core elements of Palestinian society. Article (1) states that Palestine is part of the Arab nation, which strengthens cultural ties and regional political support. This affiliation boosts Palestinian efforts to demand rights, presenting their cause as part of a broader Arab struggle, which often leads to regional and international backing for Palestinian rights.

Furthermore, Article (4) designates Islam as the official religion and Islamic Sharia as a primary source of legislation, while ensuring respect for other monotheistic religions. This approach to legislation impacts specific rights, including those related to women and religious minorities, where Islamic law is

applied in a way that also acknowledges religious diversity. By upholding respect for other religions, this framework promotes a degree of religious tolerance within Palestinian society. Article (4) also establishes Arabic as the official language, reinforcing Palestinian cultural identity and enabling citizens to express their issues in their native language. This focus on Arabic language and culture promotes awareness of human rights from an Arab perspective, fostering solidarity and support within the community for the pursuit of fundamental rights. Thus, these articles create a legal framework that supports national, religious, and cultural identity, directly influencing the nature of human rights activism in Palestine.

In this regard, in the Arab world the relationship between human rights and Islam is fundamental, as religion plays a central role in shaping cultural norms and values (Mohammed Almahfali & Helen Avery, 2023). This makes it unrealistic to consider human rights standards as completely independent from cultural influences, as these standards often reflect the beliefs and values rooted in religion. Essentially, how human rights are understood and practiced in these societies is influenced by what individuals and communities uphold through their religious and cultural perspectives.

Indeed, the enforcement of human rights in Palestine remains a critical global issue, shaped by a complex interplay of historical injustices, ongoing occupation, and political dynamics. The contemporary human rights crisis in Palestine is rooted in a century-long trajectory of displacement and occupation. The origins of the contemporary human rights issues in Palestine can be traced back to the **British occupation of Palestine in 1917**. The issuance of the Balfour Declaration on November 2, 1917, laid the groundwork for the establishment of a "national home for the Jewish people" in Palestine (Gutwein, 2016), leading to the systematic displacement of Palestinian communities (Alasttal et al., 2023a).

The situation escalated after Britain's withdrawal on **May 14, 1948**, when Zionist groups proclaimed the establishment of the State of Israel on 78% of the land historically known as Palestine (Jarrar Ahlam et al., 2015) (Alasttal et al., 2023a), leading to the mass displacement of over **750,000 Palestinians**, a process that was characterized by forced evictions, destruction of villages, and the imposition of military rule over Arab communities (Qabaha & Hamamra, 2021). The **1948 Nakba (catastrophe)** marked the beginning of extensive displacement and dispossession of Palestinians, which was further exacerbated by the Israeli military occupation of the West Bank, including East Jerusalem, and the Gaza Strip in **1967** (Bendix et al., 2022).

In this context, the area of historical Palestine is about 27,000 square kilometers. The area of Israel from historical Palestine is about 20,770 square kilometers, and the area of the lands occupied in 1967, which includes the Gaza Strip, the West Bank, including East Jerusalem, is approximately 6,020 square kilometers (Haddad, 2020). The West Bank and Gaza Strip constitute 22% of the area of historical Palestine, which remained with the Palestinians after the 1948 war, which was also occupied by Israel in the aftermath of the 1967 war.

The situation worsened following the 1967 Six-Day War, during which Israel occupied the West Bank, Gaza Strip, and East Jerusalem. Since then, systematic policies such as settlement expansion, land annexation, and control over resources have effectively deepened the occupation, undermining any prospect for Palestinian sovereignty. This prolonged occupation is marked by widespread and continuous human rights violations, a fact acknowledged by numerous **UN resolutions such as A/HRC/22/63, A/HRC/25/38, A/HRC/28/44.**

According to the United Nations, the human rights situation in the Palestinian territories has steadily and significantly deteriorated since Israel's occupation of these areas in 1967. This decline is attributed to serious violations of international law by Israel, which has implemented policies described as systematic apartheid and persecution. These actions manifest in various ways, including imposing strict restrictions on Palestinians' freedom of movement and curtailing their political and civil rights. Furthermore, Israel has denied many Palestinians the right to residency, nationality, and family reunification, exacerbating the fragmentation of Palestinian communities. Additional measures include the confiscation of Palestinian lands and property, forced evictions, and displacement, as well as unlawful killings and mass arbitrary arrests, targeting all segments of the population, including children and women. Israel's practices also obstruct humanitarian aid and impede the operations of international organizations, further deepening the crisis. Beyond these, Palestinians are denied access to their own natural resources, and face persistent violence from settlers and Israeli forces, who frequently use force to suppress peaceful resistance efforts. Collectively, these actions amount to a form of continuous collective punishment against the Palestinian people (UN General Assembly, 2022; UN Human Rights Council, 2020).

Furthermore, over the years, the United Nations has released numerous reports detailing the severe impact of Israeli settlements on the human rights of Palestinians within the occupied territories (for instance: A/HRC/22/63, A/HRC/25/38, A/HRC/28/44, A/HRC/31/42, and A/HRC/34/39). These reports highlight how the expansion of settlements has significantly altered the demographic composition of the Palestinian territories, severely undermining Palestinians' right to self-determination and development. The settlements have led to widespread human rights abuses, affecting nearly every aspect of Palestinian life. As settlements and their supporting infrastructure continue to expand on Palestinian lands, residents face major restrictions on their basic rights, including freedom of movement and the right to development. Additionally, Palestinians are denied access to their natural resources, livelihoods, and the ability to sustain family life, among other fundamental human rights. These settlements. Therefore, represent a serious and ongoing impediment to the Palestinians' pursuit of a secure and dignified existence (UN Human Rights Council, 2018). By **2021**, Israeli settlers constituted approximately **14%** of the population in the West Bank, residing in over

130 settlements, which are considered illegal under international law (European Union, 2022).

On the other hand, Since **2006**, the Gaza Strip has been under a comprehensive blockade, which restricts movement by land, air, and sea (UN Human Rights Council, 2020). This blockade has led to a humanitarian crisis, with severe impacts on health, education, and economic stability. The blockade, coupled with recurrent military operations, has resulted in significant loss of life, destruction of infrastructure, and an economy on the brink of collapse (Butt K. M., & Butt A. A., 2016).

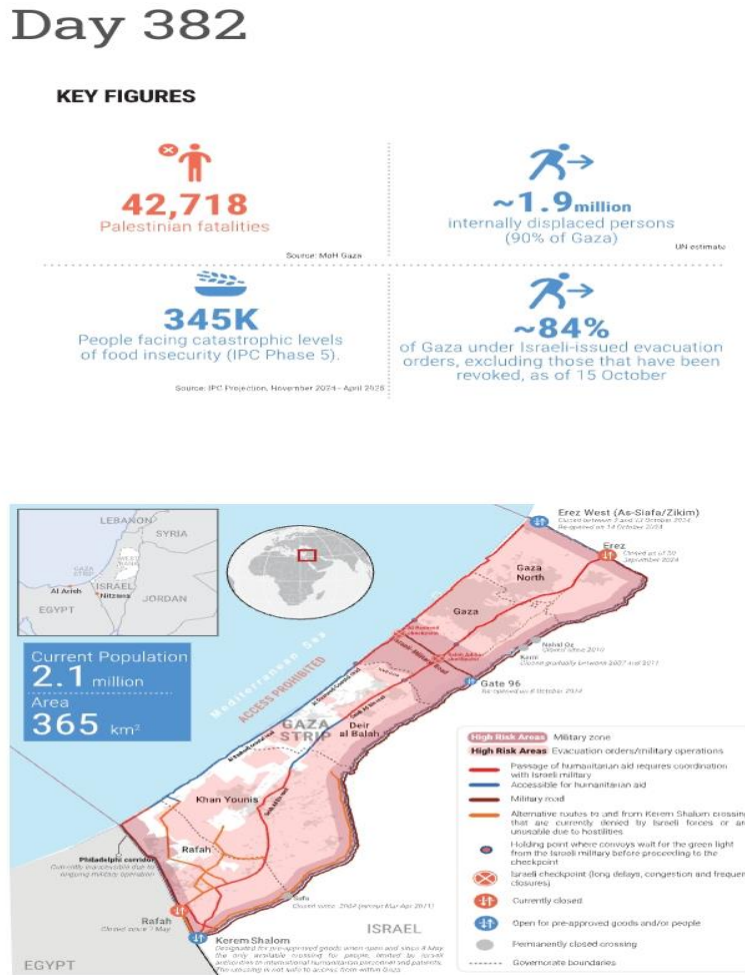
Accordingly, the situation in Gaza exemplifies the use of collective punishment, as previous UN reports have indicated, which describe the blockade as a violation of international law. The restrictions not only prevent the movement of people and goods but also limit access to essential resources like water, electricity, and medical supplies, worsening living conditions for the **2.3 million** residents of Gaza.

Intensified Human Rights Violations Post-October 7, 2023

The events of **October 7, 2023**, marked a significant escalation in violence between Israel, as occupying power, and Palestinian military factions, including Hamas. Following a large-scale attack by Palestinian factions, Israel launched an extensive military response, resulting in heavy bombardments and a complete siege on the **Gaza Strip**. This period has been characterized as the most intense military actions seen in recent years, exacerbating the humanitarian crisis, as the **total blockade** imposed by Israeli occupation after October 7, 2023, has led to catastrophic conditions in Gaza strip. The restriction of essential goods, including food, water, medicine, and fuel, has been described by human rights observers as a form of **collective punishment**. Under **Article 33 of the Fourth Geneva Convention**, collective punishment is prohibited.

Subsequently, the blockade has led to **widespread shortages** in essential services, with hospitals running out of medical supplies and fuel, exacerbating an already dire situation. The restriction on humanitarian aid has been condemned by various **UN agencies**, yet efforts to ease the blockade have been largely unsuccessful, reflecting the limited power of international law to enforce compliance. Furthermore, since the October escalation, the scale of destruction in Gaza has been unprecedented. Israeli airstrikes have targeted **residential buildings, hospitals, schools, and even UN shelters**, leading to mass displacement. According to **UNRWA** (United Nations Relief and Works Agency for Palestine Refugees in the Near East), over **1.9 million people** have been displaced within Gaza strip, with many taking refuge in already overcrowded facilities. This has created a severe humanitarian crisis, as these shelters are ill-equipped to handle such a large influx, leading to concerns over health, sanitation, and safety, look at figure 1 (United Nations: A/79/85-E/2024/60, 2024) (United Nations: A/HRC/56/26, 2024) (World Bank, the European Union, the United Nations, 2024).

Figure 1: It shows the current situation in the Gaza Strip after 382 days of the Israeli war.



Source: United Nations Office for the Coordination of Humanitarian Affairs (OCHA)

In this regard, the intentional targeting of civilian infrastructure raises serious concerns about **war crimes**, as defined by **Article 8 of the Rome Statute of the ICC**. Numerous human rights organizations, including **Amnesty International** and **Human Rights Watch**, have called for investigations into these actions, emphasizing the need for accountability.

On the other hand, while the focus remains on Gaza, the **West Bank** has seen an increase in settlement activity and land appropriation. Since the beginning of the recent war, there have been reports of **Israeli settlers**, under the protection of the Israeli Defense Forces (IDF), intensifying attacks on Palestinian

communities, resulting in property damage, arson, and even fatalities. The expansion of settlements into **Area C** of the West Bank, which is under full Israeli control, has continued, further shrinking the space available for Palestinian habitation and agriculture (United Nations: A/79/85-E/2024/60, 2024) (United Nations: A/HRC/56/26, 2024) (World Bank, European Union, United Nations, 2024).

The construction of **new settlement units** and the retroactive legalization of outposts that were previously considered illegal under Israeli law underscore a clear policy of land annexation. This strategy not only violates **international law** but also undermines any efforts towards a two-state solution.

Moreover, the Israeli occupation has severely restricted the civil and political rights of Palestinians, with **freedom of movement, expression, and assembly** being systematically curtailed. The network of **checkpoints, the separation wall,** and the permit system severely restrict Palestinians' ability to travel within the West Bank and between Gaza and the West Bank. These restrictions affect access to health-care, education, and economic opportunities, further entrenching poverty and dependence. Furthermore, since the events of October 2023, there has been an increase in **arbitrary arrests** across the West Bank, including the detention of minors and political activists. The use of **administrative detention**, which allows for imprisonment without trial, has been a longstanding practice criticized by human rights groups. Recent reports indicate a surge in these arrests, often without due process, reflecting a strategy to stifle dissent and intimidate Palestinian communities (United Nations: A/79/85-E/2024/60, 2024) (United Nations: A/HRC/56/26, 2024) (World Bank, the European Union, the United Nations, 2024).

Moreover, the impact of the year-long war in Gaza and escalations in the West Bank has set development in the State of Palestine back by about 69 years. Indeed, since **1967**, the Israeli occupation has been marked by continuous violations of international law, including the **Fourth Geneva Convention**. Practices such as land confiscation, settlement expansion, and the imposition of movement restrictions have had severe implications for Palestinian human rights (United Nations, 2024).

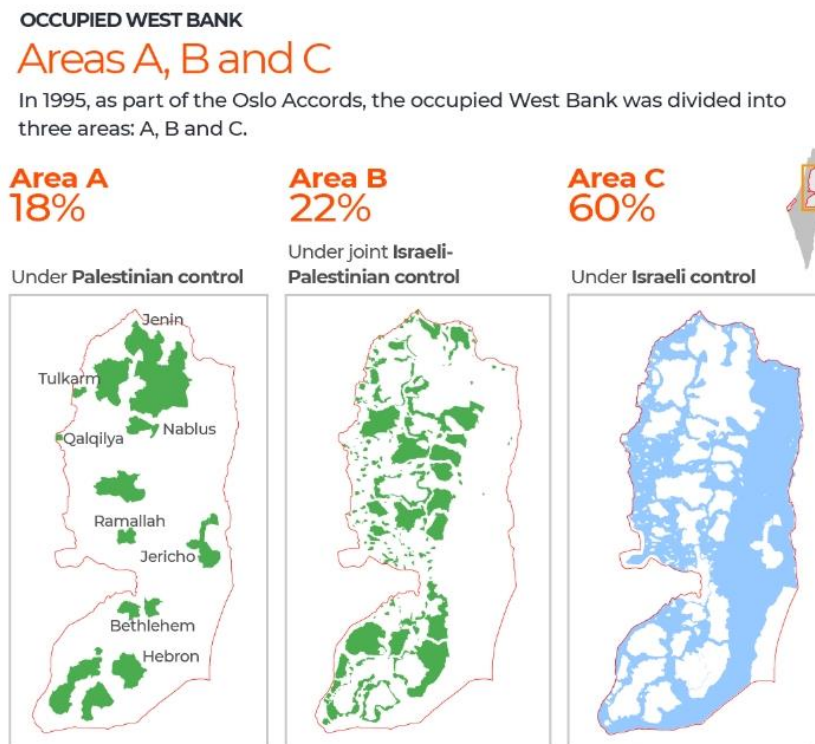
The Oslo Accords and the Challenges of Limited Autonomy

Despite the occupation, the Palestinian people continued their struggle, and the independence of the State of Palestine was proclaimed on **November 15, 1988**, by the **Palestine Liberation Organization (PLO)**, recognized as the legitimate representative of the Palestinian people (United Nation: A / 43/827 | S / 20278). In **1994**, the **Palestinian Authority (PA)** was established with limited powers over parts of Palestinian land for a **five-year transitional period**, during which Israel was expected to gradually withdraw from the occupied territories as outlined in the **Oslo Accords**. This transition was intended to lead to a final settlement that would grant full Palestinian sovereignty over all territories occupied in **1967**, including the **West Bank, East Jerusalem, and Gaza Strip**. The Oslo Accords defined a phased

transfer of governance, dividing the West Bank into **three areas** (Oslo I Accord, 1993, & Oslo II Accord, 1995 & Wye River Memorandum of 1998, & the Sharm Al-Shaykh Memorandum of 1999 (Wye II)):

- **Area A:** Under full Palestinian control, covering major population centers (about **18%** of the West Bank).
- **Area B:** Under Palestinian civil control but Israeli security control (about **22%** of the West Bank).
- **Area C:** Under full Israeli control, forming a contiguous area and comprising **60%** of the West Bank, look at figure 2.

Figure 2: It shows the divisions of the regions on the basis of which the powers were supposed to be handed over and the gradual withdrawal .



Source: United Nations Office for the Coordination of Humanitarian Affairs (OCHA)

However, Israel did not fulfill its obligations under the Oslo agreements, obstructing the process and failing to complete the phased withdrawals. Consequently, the intended final settlement, which was to lead to the establishment of an independent Palestinian state on **1967 borders** within five years (by **1999**), was never realized. Israel's continued occupation has prevented the full realization of Palestinian self-rule and sovereignty as envisioned in the accords (Alasttal et al., 2023b).

Palestinian governance in the Gaza Strip and parts of the West Bank remains limited, disarmed, and lacking real authority. The areas under Palestinian control have been fragmented into isolated, closed, and open cantons, dictated by Israeli security measures. This arrangement has effectively stripped the Palestinian Authority of sovereignty over borders, airspace, and maritime access, as well as over the majority of West Bank territories classified as Area C, which are rich in natural resources. Additionally, Palestinians have been barred from establishing both a seaport and an airport, while the civil registry remains under Israeli control, preventing many Palestinians from obtaining official Palestinian identification (Alasttal et al., 2023b). In addition, the **Paris Economic Protocol (1994)** further constrained Palestinian economic autonomy by subjecting Palestinian foreign trade and customs to Israeli control, thus reinforcing economic dependency and limiting development opportunities.

On the other side, the Palestinian division between the two main Palestinian political parties, Fatah and Hamas, in 2007 deepened the political and geographical division between the West Bank and the Gaza Strip, as Hamas controlled the Gaza Strip while the West Bank remained under Fatah rule, which led to the existence of two independent regimes in the two parts of the country (Murtaja, 2014), which obstructed the election process and the smooth transfer of power, thus the democratic process has been disrupted since the beginning of the division, since 2007. All this had a negative and serious impact on the human rights situation in Palestine.

The Role of International Law and Israel's Non-Compliance

The Israeli occupation has been widely condemned as a violation of international law, particularly the **Fourth Geneva Convention**, which prohibits an occupying power from transferring its own population into the territories it occupies. Despite this, the **Israeli settlement enterprise** has continued unabated. Settlements are considered illegal under **international law**; yet, the expansion persists, facilitated by government incentives, security infrastructure, and military protection.

In this regard, the United Nations Human Rights Council (UNHRC) and International Criminal Court (ICC) have repeatedly addressed Israel's actions, identifying patterns of violations that amount to war crimes and crimes against humanity. In addition, on July 19, 2024, the International Court of Justice (ICJ) issued an advisory opinion declaring that Israel's ongoing presence in the Occupied Palestinian Territory (OPT) is illegal.

The Court asserted that Israel is obligated to end its unlawful occupation of the OPT as swiftly as possible, halt all new settlement activities, evacuate settlers, and provide reparations for damages caused. The ICJ also emphasized that all states and international organizations, including the United Nations, must refrain from recognizing the legality of Israel's continued presence in these territories and must avoid supporting or maintaining the situation. The UN General Assembly and

Security Council were specifically urged to consider appropriate measures and strategies to accelerate the termination of Israel's unlawful occupation. Despite this, enforcement remains weak, with major global powers often blocking punitive measures due to political alliances (International Court of Justice, 19 July 2024).

Indeed, the international response to the recent escalations has been mixed. While the **UN** and most countries have called for a **ceasefire** and immediate humanitarian aid access, other powers have shown support for Israel's right to self-defense. However, this narrative often overlooks the **asymmetric nature** of the conflict, where one side, as an occupying power, exercises overwhelming military power, leading to disproportionate casualties and destruction.

Moreover, efforts to pass resolutions condemning Israel's actions in the **UN Security Council** have frequently been met with vetoes, primarily by the **United States**, which has historically provided political and military support to Israel. (UN General Assembly, 2019). This has limited the ability of international institutions to hold the Israeli government accountable for actions that constitute violations of international law (Alasttal et al., 2023b) The continued settlement expansions, military aggression, and blockade measures indicate a deliberate policy aimed at altering the demographic and territorial landscape to ensure long-term Israeli control.

In conclusion, the enforcement of human rights in Palestine cannot be achieved without addressing the root causes of the occupation and ensuring the protection of Palestinian sovereignty. The events following **October 7, 2023**, have highlighted the urgent need for a renewed commitment to peace that prioritizes human rights and international law.

C. Key Differences in the Enforcement of Human Rights Between Indonesia and Palestine

After examining the situation of human rights in Indonesia and Palestine, several crucial differences emerge, influenced by each country's political, legal, and cultural contexts:

1. State Sovereignty and Governance:

Indonesia: As a fully independent and sovereign state, Indonesia benefits from centralized governance under a single authority. Its democratic system ensures regular elections and a smooth transition of power. Consequently, law enforcement and human rights institutions operate under public scrutiny, enabling citizens to hold their leaders accountable. This structure supports the establishment and enforcement of dedicated human rights laws and institutions.

Palestine: In contrast, Palestine remains under the Israeli military occupation, lacking full sovereignty and independence. This occupation severely restricts the Palestinian Authority's ability to enforce laws, including those related to human rights. Additionally, the political division between the West Bank (governed by Fatah) and the Gaza Strip (governed by Hamas) disrupts the

democratic process, preventing regular elections and the smooth transfer of power. As a result, human rights institutions face significant challenges in carrying out their mandates effectively.

2. Cultural Diversity and Its Impact on Human Rights:

Indonesia: Indonesia's rich cultural diversity, with over 700 local languages and numerous ethnic groups, influences the practice of human rights. Cultural norms and values vary widely across regions, which sometimes leads to inconsistencies in how rights are understood and upheld. Accordingly, differences in regional customs can affect the enforcement of laws related to gender equality and freedom of expression. For example, citizens who live in the city of Bali differ in their customs and lifestyle from citizens who live in the city of Makassar.

In this regard, to show the link between Cultural Norms and Human Rights Enforcement, the Indonesian Constitutional Court, according to its decision No. 35/PUU-X/2012, ruled in favor of recognizing indigenous land rights under customary (adat) law. This decision emphasized that indigenous communities have the right to their traditional lands, which is integral to their cultural heritage. This case highlighted the Court's role in balancing respect for cultural practices with human rights, particularly the right to property (Arizona, 2015).

Palestine: Palestine has a unified culture that brings together both Muslims and Christians, with some small differences between them. However, Arabic culture plays a significant role in shaping the Palestinian identity, which strengthens the cultural closeness and cohesion among all segments of society. This cultural unity allows for a more consistent approach to the practice and understanding of human rights across different communities. However, this consistency does not necessarily translate into stronger enforcement due to the overarching issues related to occupation and governance.

3. Women's Rights and Gender Equality:

Indonesia: In Indonesia, women generally work in most professions. They can pursue careers in diverse fields, and cultural attitudes in many regions allow for greater personal autonomy. For example, it is common for women to work in professions ranging from healthcare to government, and societal norms in urban areas support more liberal views on gender roles.

Palestine: While there are strong legal frameworks for women's rights, cultural norms and ongoing socio-political challenges often limit their enforcement. In practice, women in Palestine, West bank and Gaza Strip, tend to have opportunities in certain areas such as health-care, education, and public services, in order to protect women's privacy. Cultural expectations around family and modesty also restrict personal freedoms, such as movement and social interactions, compared to women in Indonesia. For example, the woman in Indonesia has the freedom to leave the house at night without a mahram (alone), this is not permitted in Palestine, as well as there are many Indonesian families that do not mind

friendship between the young man and the girl before marriage, this is not permitted in Palestine. Thus, we find how culture has a significant effect on the way of exercising human rights.

However, to prevent the misuse of certain customs that may limit women's rights, the Palestinian courts often set aside these customs during hearings and rulings to ensure women's rights are upheld in accordance with the law. For example, The Palestinian Supreme Court has ruled in cases where women's inheritance rights, protected by the Basic Law and Sharia, were compromised due to cultural norms. These rulings underscore the Court's role in upholding gender equality despite traditional pressures, advocating that inheritance rights must not be diminished by cultural practices (Hijab & Zoughbi, 2019).

4. Development and Stability:

Indonesia: As a stable, sovereign state, Indonesia has been able to pursue sustained economic development, which is closely tied to the improvement of human rights. The presence of stable governance structures has allowed for consistent policy implementation, leading to enhanced living standards and stronger social protections.

Palestine: The lack of stability, largely due to ongoing conflict and the Israeli occupation, has hindered development in Palestine. Restrictions on movement, resource control, and frequent disruptions to infrastructure have led to a stagnant economy and inadequate public services. Consequently, the ability to improve human rights remains limited, as development and human rights are closely interconnected.

5. Legal Frameworks and Judicial Systems:

Indonesia: Indonesia has established comprehensive legal frameworks for human rights, including specific laws and an independent Human Rights Court. These institutions provide a structured approach to address violations, offering avenues for legal redress and accountability.

Palestine: Despite recognizing human rights within its legal documents, Palestine lacks a dedicated human rights law and an independent judicial body to address violations comprehensively. The fragmented political environment, coupled with occupation, prevents the establishment of a fully functional legal system to protect and enforce human rights effectively.

Conclusion

The study reveals that enforcement of human rights in Indonesia stems from its sovereignty, stable governance, and comprehensive legal frameworks. As a democratic state, it ensures accountability and consistent protection of rights across its diverse regions. In contrast, Palestine faces significant challenges due to the ongoing Israeli occupation, lack of sovereignty, and political fragmentation between the West Bank and Gaza. These factors hinder the establishment and

enforcement of robust human rights protections. Despite efforts to enshrine human rights in legal documents, external constraints limit Palestine's progress. The study emphasizes the need for international support to address these challenges and promote the protection of human rights in Palestine.***

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