

# Alternative settlement of dispute between Israel and Palestine

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## Abstract

**Purpose:** This research purpose is to find an alternative dispute between Israel and Palestine so that human rights are not being deprived anymore.

**Research methodology:** The approach in this study was carried out by deepening research by reading literature related to the problem that became the topic, namely the dispute between Palestine and Israel.

**Results:** The results obtained from this study are that the dispute between Israel and Palestine is still experiencing obstacles in the implementation of resolution no. 181 so that there is a need for follow-up from the UN security council and the UN general assembly so that the dispute can be resolved immediately

**Limitations:** This research has not explained how the implementation of the solution that has been given.

**Contribution:** Analyze how the right way to resolve the conflict between Israel and Palestine.

**Keywords:** *Israel, Palestine, dispute*

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## 1. Introduction

Human rights are the main highlight in the conflict between these two countries human rights according to Law number 39 of 1999 in article 1 are a set of rights that are inherent in the nature and existence of humans as creatures of God Almighty and are his bestowal. must be respected, upheld, and protected by the rule of law, the government, and everyone for the sake of honor and the protection of human dignity. Human rights themselves are natural rights that are obtained from the womb until this individual dies and this right cannot be taken or used by others because this right is a basic right that is owned by each individual. These human rights have a very important role in regulating the basic rights of every human being and every individual has the right to equal freedom, protection, and peace (Khan & Sultana, 2021). The regulation of international human rights law here means the protection carried out on the rights of individuals or groups that are protected on an international scale from violations that are mainly committed by the government or its officials, including efforts to promote these rights. The Universal Declaration of Human Rights (UDHR) is a declaration of the United Nations General Assembly that is not in the form of creating binding international human rights law. The case between Israel and Pakistan shows that many human rights violations have occurred. Broadly speaking, it has violated several rights, including the right to life, the right to freedom, and the right to a place to live (Rudi, 2007).

## 2. Literature Review

Studies on alternative dispute resolution between Israel and Palestine have been analyzed by several authors, such as ZF Ardiata who is a UGM student, SH Azfa or a UIN student, and L Anggriani an UNTAR student. However, until now, there is still no suitable alternative solution. Through this paper, the author provides a real alternative solution that can be applied in resolving disputes. According to (Wirajaya, 2020), dispute resolution can be done by implementing UN resolution number 181.

However, Christofel has not included the efforts that must be made by the UN in realizing the resolution. Efforts in implementing the resolution still have several inhibiting factors that need to be resolved. Through this writing, the author provides a way or solution to implementing UN resolution number 181.

### **3. Research Methodology**

The method used in writing this paper is a qualitative approach. The author conducts an in-depth exploration of the dispute between Israel and Palestine through various existing journals. The researcher also draws generalizations from various journals obtained, as well as theories regarding dispute resolution in compiling this paper. In conducting the research, the authors used various journal sources such as Google Scholar and Scopus.

### **4. Results and discussion**

#### ***4.1 The Causes of The Palestine and Israel Conflict***

The conflict between Palestine and Israel is an issue that has spread widely and has not ended until now. The conflict has occurred since 1947. Where the conflict is getting heated because the Israeli population is always trying to control the territory that should be the right of Palestinian citizens (Muchsin, 2015).

The following are some of the causes of conflict:

##### **1. Want to get and control the same territory**

The background in the conflict between Palestine and Israel is none other than, between the two countries wanting to establish a state on the same territory or land. The area which is the object of dispute between the two countries is located between the Mediterranean Sea and the Jordan River. Where the area has now been marked as Israel on the map. In that area, there is a city called Jerusalem where the city is considered holy by Palestinian Arabs and Israeli Jews. Although this struggle for conflict is fairly simple, this problem raises the roots of other problems.

##### **2. The emergence of another conflict**

The various efforts and the many ways to solve the problems that have been going on for decades, it has given rise to other endless problems. As is the case in the relationship between Palestine and Israel, which are always opposite but side by side. Where Israel has carried out a military occupation that caused Palestinians to suffer, while militant groups from Palestine carried out terror on Israeli citizens. The conflict was exacerbated by the long history of violence for both. Moreover, both have reasons to justify what and why the conflicts or problems have occurred for more than 70 years. Therefore, peace between Palestine and Israel is very difficult to achieve. The peace process has been going on for decades.

##### **3. The root of the problem of Palestine and Israel**

The problem between Palestine and Israel has been going on since the early 1900s when the area which is mostly inhabited by Arabs and Muslims is still part of the Ottoman Empire. After World War I, Britain received a mandate from the League of Nations to assist in establishing a state for the Jews in the region. Jews who numbered in the hundreds also migrated to the area as a Zionist movement. Zionism is considered by the Jews as an attempt to escape persecution and establish their state on the land that is considered their ancestral land. Most Middle Eastern Jews also immigrated to Israel, either to escape violence or because they were forcibly expelled. The communal violence that occurs between Jews and Arabs in Palestine is getting out of control. In 1947, the United Nations approved a plan to divide Palestine into 2 territories, namely for the Jews called Israel and for the Arabs called Palestine. On the other hand, Jerusalem is a holy city for both Jews and Muslims, and the city is a special international zone. However, the plan was not implemented. Arab leaders in the region regarded the plan as European colonial theft and invasion of Palestine. The Israeli troops who won the war in 1948 claimed the land as their own where the land crossed the boundaries set by the United Nations. Israel occupies land that has become part of Palestine, including the western part of Jerusalem. Israel also uprooted and expelled the entire Palestinian nation which resulted in the Palestinians numbering 700,000 people being displaced. Palestinian descendants who now reach 7 million people are still

considered refugees. The 1948 war ended with Israel controlling all of the territory currently marked on the map as Israel, except for the West Bank and Gaza, where Palestinians fled what is now considered Palestinian territory. Apart from that, many Palestinians are in refugee camps in neighboring countries. Now, several things are still being debated and contested. Such is the case with the borders of Palestine and Israel, as well as the status of Palestinian refugees and Jerusalem. The main dimension where the first conflict between Palestine and Israel began in 1948 was the struggle for territory. The conflict between Palestine and Israel began in 1967 when Israel placed the two Palestinian territories under military occupation.

#### ***4.2 The Article That was Violated***

In international law that has been in effect since World War II, there are norms relating to disputes between Israel and Palestine, namely:

1. Self-Determination Norm, which gives rights to territories that remain under colonial rule to be liberated.
2. Norm *Uti Possidetis Juris*, namely the boundaries of the liberated area should be similar to the boundaries of the colonial area. This principle is validated by the opinion of the International Court of Justice (ICJ) in the Advisory Opinion on Legal Consequences of the Separation of the Chagos Archipelago from Mauritius in 1965 (Verzijl, 1963). According to the ICJ, the norm of Self Determination also obliges the colony to be fully independent and not to be divided.
3. The norm of Non-Use of Force, namely using violence is no longer allowed in controlling the territory. This prohibition has been in effect since the 1945 Charter of the United Nations(1) and is emphasized through the Declaration on Principles of International Law concerning Friendly Relations and cooperation among States following the Charter of the United Nations.

According to the above norms, Israel's control of the territory from the beginning until now is a violation of International Law and also a denial of The Right of Self Determination of the Palestinian people towards the occupied Palestinian Territory. In this case, Israel is the party that has occupied (occupying power). The status of this violation of the law is reflected among others in:

1. ICJ's Decision in Advisory Opinion on Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory (Gray, 2004). Advisory Opinion on the Wall says that Israel has violated the right to self-determination of Palestine and has also carried out annexation by building a wall in the Occupied Palestinian Territory.
2. UN General Assembly Resolution Number A/RES/67/19 (2012) affirms the right of self-determination concerning the Palestinian territories which have been occupied since 1967.
3. Pre-Trial Chamber I of the International Criminal Court (ICC) in Situation In The State Of Palestine (ICC, 2021) which is aimed at the Gaza, West Bank, and East Jerusalem areas as Palestinian areas that have been occupied by Israel since 1967.

#### ***4.3 Impact of The Israel and Palestine Disputes***

Conflict is an attempt to gain power and advantage, by threatening the opponent or by using violence to gain power. An example of the conflict is the dispute between Israel and Palestine. The unresolved conflict to date has harmed both parties (Muchsin, 2015). The negative impacts obtained from the Israeli-Palestinian dispute conflict include:

1. Losing many lives between mankind
2. Causing disputes between religious communities
3. The depletion of public and state property
4. The collapse of a country's economy
5. Creates public fear and anxiety

#### ***4.4 Inhibiting Factors in Case Settlement***

All efforts to revive peace in the Middle East, especially Palestine depend on Israel's sincerity to resolve it. This is because Israel is the root cause of this endless dispute and is the determinant in the direction of peace. Various analyzes state that there are 2 realistic lines when discussing the conflict and efforts to resolve the peace in the Palestinian issue, the first is the US factor and the second is the Israeli factor. Every struggle with weapons or negotiations is always unsuccessful because of these two factors. Many

Middle Eastern observers regard the United States as an obstacle in the resolution of the Palestinian-Israeli conflict. Where one of them is starting July 26, 2002, when the United States proclaimed the Negroponte doctrine, which is a continuation of the Israel First Doctrine with the statement that America is always ready to oppose any UN Security Council resolution that always tries to punish Israel. This is evidenced by the number of vetoes issued by the United States to UN resolutions. Especially the Palestinian and Israeli conflicts, there are 82 United States vetoes, half of which are always related to the support given by the United States to Israel, which is 41 vetoes. If the United States is not firm in vetoing UN resolutions, the case in Resolution 1860 regarding the cessation of violence in Gaza, after being passed by the UN Security Council. Based on available data, regarding Arab and Israeli issues, 175 resolutions from the UN Security Council contain related to Israel, of which 97 resolutions are against Israel, with 74 neutral, and 4 in favor of Israel (Firdaus & Yani, 2021).

#### ***4.5 Dispute Settlement Efforts***

Settlement of disputes in international law can be done in several ways, namely through legal channels, diplomacy, or war (military or violent). Dispute resolution through war is an effort that has long been recognized and practiced. This is because war has become an instrument, policy, and tool in resolving disputes carried out by ancient countries. Dispute resolution through war is certainly different from settlement through legal way. In terms of dispute resolution carried out through the courts, they are divided into two categories, namely permanent courts and special courts (*ad hoc*). The final dispute resolution is the settlement through diplomacy or a political way carried out by agreement between the parties (Chirozva & Damba, 2021).

Along with the development of the era, knowledge, and human culture, dispute resolution through war or violence began to be minimized. This is evidenced by the international regulation of Human Rights and the principles of dispute resolution contained in international law. The regulation of human rights contained in the Universal Declaration of Human Rights, states the protection of human rights, which includes the right to life and the right to freedom. In line with the principle of dispute resolution, one of which is the principle of prohibiting the use of violence in resolving disputes. Thus, it is hoped that the resolution of international disputes can be carried out through diplomacy and legal way in achieving peace.

Peaceful settlement of disputes is divided into two types, namely legal and diplomatic. This settlement is one of the efforts to minimize the use of violence or war in resolving disputes. Dispute resolution through legal channels is divided into two categories, namely special courts and permanent courts. The permanent International Court of Justice has the authority of the International Court of Justice to adjudicate and resolve disputes between States, as well as to provide advice to requesting States and those requested by the General Assembly and Security Council of the United Nations (UN), as well as other institution of the United Nations as long as permitted by the General Assembly. In contrast to special or *ad hoc* courts which are authorized to hear certain cases. An example of dispute resolution through a special court is the ICC (International Criminal Court) which has the authority to prosecute crimes of international law consisting as genocide, crimes against humanity, war crimes, and aggression. However, dispute resolution through legal channels is the last resort taken if dispute resolution through diplomacy is not successful. Dispute resolution through diplomatic or political ways can be done through negotiation, inquiry, mediation, conciliation, and good offices. In this case, dispute resolution through a diplomatic way is prioritized because the settlement with this effort can protect the sovereignty of the disputing country (Adolf, 2020).

Matters that occur between Israel and Palestine, are resolved through violence or war that should end. As a reason, the use of settlements through war or violence resulted in many victims being deprived of their right to life, resulting in human rights violations. In this regard, the United Nations has made various efforts to resolve disputes, namely by providing resolutions and policies. The UN's efforts can be seen in UN resolution number 181 regarding the division of territory between Israel and Palestine. However, these efforts did not run effectively due to the non-compliance of the disputing parties and the lack of supporting factors from European and Arab countries. Therefore, it is necessary to take firm action from the UN Security Council, considering its authority in maintaining international peace and

security as stated in the UN charter. The UN Security Council can ask all UN members to cut off economic, sea, air, postal, radio communication, and diplomatic relations. This reason is that the UN Security Council has the authority to implement resolutions or policies militarily or in other ways. Not only that, another action that can be taken is by prosecuting international crimes committed by Israel against Palestine in a special court, namely the ICC (International Criminal Court) (Wirajaya, 2020).

The journey in carrying out these efforts still faces many obstacles, as can be seen from the opposition to prosecution, which is based on the fact that Israel is not a member of the ICC and Palestine does not qualify as a sovereign state. Palestine is considered to have no territory because the territory it currently owns is still in dispute. However, this prosecution must still be carried out because Palestine has citizens whose human rights must be protected. Therefore, despite Israel's objections to the prosecution, the ICC must continue to investigate and render judgments against crimes against Palestine. Not only that, efforts to implement UN resolution number 181 as well as decisive actions from the UN Security Council are also still experiencing obstacles due to the veto power. The veto right is a right owned by the UN Security Council that can be used to overturn decisions, policies, and resolutions. If one member uses this right, the policy cannot be implemented. Thus, it is necessary to take action from the UN General Assembly to limit the use of the veto which is carried out through voting. In this case, limiting the veto power is very necessary so that efforts to maintain international peace and security can run effectively and efficiently.

#### ***4.6 Indonesia's Role in Dispute Settlement***

Indonesia also has a role in efforts to resolve the dispute between Palestine and Israel in line with its free-active policy. This policy requires freedom in determining attitudes and policies towards international problems and not binding oneself to one world power, and actively participating in realizing world peace and order. In the dispute between Israel and Palestine, Indonesia has played an active role in supporting Palestinian independence.

Efforts that have been made by Indonesia are to call for unity in the forum so that the member countries of the forum participate in promoting the independence of Palestine through the affirmation of the implementation of UN resolution number 181 or the two-state solution. Thus, there are two countries in one area, which is the root of the dispute between Israel and Palestine. This is because Indonesia is an active member involved in various organizations both bilateral and multilateral in regional and international areas. In addition, efforts made by Indonesia are to urge the UN Security Council to immediately issue policies or resolutions to resolve the dispute. The Indonesian government also stated a joint statement carried out together with Malaysia and Brunei Darussalam. In this case, the joint statement is a joint statement regarding the independence of Palestine so that the human rights of its citizens can be protected and violations do not become more rampant. Another effort made by Indonesia is to play an active role in building trust in other countries to cooperate in promoting international peace and granting independence to Palestine. In its efforts, the Indonesian government also applies preventive diplomacy or prevention of interference from other countries that can lead to an increase in conflict. Not only that, but the Indonesian government also plays an active role in diplomatic efforts, which can be seen from the construction of hospitals in Palestine, the provision of economic assistance, to the mass media in its use so that awareness of the Palestinian people increases (Sumertha et al., 2017). Efforts to push for Palestinian independence are still experiencing obstacles, due to the closure of diplomatic relations by the Indonesian state against Israel, until Israel liberates Palestine. This becomes an obstacle considering that trust or diplomacy plays an important role in the peace process. The important role of diplomacy is to secure national interests, political interests, and territorial integrity. Therefore, it is hoped that trust will be formed between the state of Israel and Palestine as well as other countries so that the peace process can be realized (Herman & Nurdiansa, 2010).

## **5. Conclusion**

### ***5.1 Conclusion***

The conflict between the state of Palestine and Israel, there are several causes for the conflict. In this case, the territory becomes the object of seizure, namely the area between the Mediterranean Sea and the Jordan River, the struggle for this territory started in 1948. Now the area has been marked by Israel

on its map. In addition to seizing the territory of the two countries, they also always have endless problems, namely where Israel carries out a military occupation that makes Palestinians suffer, and also militant groups from Palestine carry out terror against Israeli citizens. The conflict is also made worse because the two countries have a long history of their conflicts. In this conflict, Israel has also committed several violations, namely the right to self-determination of Palestinians, annexation by building a wall in the Occupied Palestinian Territory, and occupation of the Palestinian area which has been carried out since 1967.

The conflict between the two countries also has a negative impact, namely destroying the country's economy, depleting public or state property, not having investors who will provide capital in the two countries, many disputes arising between religious communities, and many lives lost. In resolving this second conflict, there are also several inhibiting factors, namely factors from the US state and also from the state of Israel itself. Every struggle carried out with weapons and negotiations can never be successful because of these two factors. The resolution of the conflict between the two countries is carried out through war which actually must end and in this case, the United Nations has also made various efforts to resolve the conflict by providing resolutions and policies. However, these efforts did not run smoothly because many of the disputing parties did not comply with the policies implemented and also the lack of supporting factors from European and Arab countries. Indonesia also takes a role in resolving the conflict between the two countries, which is in line with Indonesia's free-active policy. The effort made by Indonesia is to call for unity in the forum so that the member countries of the forum participate in pushing for the independence of Pancasila through the affirmation of the implementation of UN resolution No. 181 or a two-state solution so that there are two countries in one area which are the roots of conflict between Israel and Palestine.

## 5.2 Limitation

This research has not explained how the implementation of the solution that has been given.

## 5.3 Suggestion

Future studies could analyze more about the implementation of the alternative settlement that has been given, it is expected that there will be in-depth research on whether the results of the discussion have been carried out effectively and efficiently.

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