

ISRAEL AND SYRIA DISPUTE: THE LEGAL CONSEQUENCES OF THE EXPANSION OF THE OCCUPATION OF THE GOLAN HEIGHTS*

*İsrail ve Suriye Uyuşmazlığı:
Golan Tepeleri İşgalinin Genişletilmesinin Hukuki Sonuçları*

Ali Osman KARAOĞLU**

L&JR

Year: 16, Issue: 30
July 2025
pp.137-152

Article Information

Submitted : 22.04.2025

*Revision
Requested* : 26.05.2025

*Last Version
Received* : 04.07.2025

Accepted : 22.07.2025

Article Type

Research Article

Abstract

The principal source of contention between Syria and Israel is the Golan Heights, which Israel occupied during the 1967 Six-Day War. In that war, Israel launched an attack on neighboring Arab states, occupying the entire territory of Palestine, the Sinai Peninsula from Egypt, and the Golan Heights from Syria. Following the 1973 Yom Kippur War, negotiations began between Israel and neighboring states, but only Egypt and Israel managed to conclude a lasting peace agreement through the Camp David Accords. The dispute with Syria over the Golan Heights, however, remained unresolved. Only a Ceasefire Agreement was signed in 1974, but Israel retained its status as an occupying power. In 1981, Israel formally annexed the Golan Heights, an act that was recognized by the U.S. President in 2019. Syria, meanwhile, has not undertaken any major military operation to recover the territory since the 1973 Yom Kippur War. Furthermore, the Golan Heights dispute remained a secondary issue due to Syria's preoccupation with civil war from March 2011 until December 2024. During this time, Israel not only maintained but further entrenched its occupation through military means and the establishment of illegal settlements. In December 2024, with the fall of the Assad regime, Israel expanded its occupation to include Mount Hermon and the United Nations Buffer Zone established under the 1974 Ceasefire Agreement, thereby deepening the conflict. This study will first examine the international legal consequences of Israel's occupation of the Golan

* There is no requirement of Ethics Committee Approval for this study.

** Assoc. Prof. Dr., Yalova University Faculty of Law, E-mail: ali.karaoglu@yalova.edu.tr, ORCID ID: 0000-0003-2979-7001.

Heights since 1967, and the expansion of this occupation at the end of 2024. It will then assess the potential avenues for resolving the dispute. In this context, the paper will initially consider diplomatic avenues and subsequently explain the legal possibilities for the use of force within the framework of Article 51 of the UN Charter and General Assembly Resolution 3314 on the Definition of Aggression.

Keywords: International Law, Six-Day War, Syria, Israel, Golan Heights, Mount Hermon

Özet

Suriye ve İsrail arasındaki en büyük uyuşmazlık konusu 1967’de yaşanan Altı Gün Savaşı’nda İsrail tarafından işgal edilen Golan Tepeleri’dir. Nitekim 1967’de yaşanan savaşta İsrail komşu arap ülkelerine saldırmış ve Filistin’in tamamını, Mısır’dan Sina Yarımadası’nı ve Suriye’den de Golan Tepeleri’ni işgal etmiştir. 1973 tarihli Yom Kippur savaşından sonra ise İsrail ile bölge devletleri arasında müzakereler başlamış ancak bunlar arasında sadece Mısır ile yapılan Camp David görüşmeleri sonrası kalıcı barış andlaşması akdedilmiştir. Suriye ile olan Golan Tepeleri uyuşmazlığı ise çözülmemiş sadece 1974 yılında bir ateşkes anlaşması imzalanmış ve İsrail’in işgalci statüsü devam etmiştir. 1981 yılına gelindiğinde ise Golan Tepeleri İsrail tarafından ilhak edilmiş ve bu ilhak 2019 yılında ABD Başkanı tarafından tanınmıştır. Suriye ise 1973 Yom Kippur savaşından sonra Golan Tepeleri’ni geri almak için askeri bir operasyon yapamamıştır. Ayrıca Suriye Mart 2011 tarihinden Aralık 2024’e kadar iç savaş ile meşgul olduğundan dolayı Golan Tepeleri sorunu geri planda kalmıştır. İsrail ise geçen süre zarfında Golan Tepeleri’ndeki işgalini hem askeri açıdan hem de yeni illegal yerleşim birimleri kurarak tahkim etmiştir. Aralık 2024’te Esed rejiminin devrilmesi ile birlikte Golan Tepeleri’ndeki işgalini genişletmiş ve Hermon Dağı ile 1974 Ateşkes Anlaşması ile oluşturulan BM Tampon Bölgesi’ni de işgal etmiştir. Bu durum da iki devlet arasındaki sorunu derinleştirmiştir. Bu çalışma öncelikle İsrail’in 1967 tarihinden bu yana Golan Tepeleri üzerindeki işgalinin ve 2024 sonunda işgalin genişletilmesinin uluslararası hukuk bakımından sonuçlarını ele alacaktır. Çalışma daha sonra uyuşmazlığın çözümüne ilişkin ihtimalleri değerlendirecektir. Bu anlamda çalışma ilkin diplomatik yolları ele alacak, daha sonrasında ise BM Andlaşmasının 51. maddesi ve 3314 sayılı Saldırının Tanımına İlişkin Genel Kurul kararı çerçevesinde kuvvet kullanımı imkanını izah edecektir.

Anahtar Kelimeler: Uluslararası Hukuk, Altı Gün Savaşı, Suriye, İsrail, Golan Tepeleri, Hermon

INTRODUCTION

The conflict that erupted in Syria in 2011 rapidly evolved into a civil war in 2012¹, transforming the country into a fragmented territory over which neither the

¹ ICRC in Syria, Facts and Figures, (2012), p.1. <https://www.icrc.org/sites/default/files/external/doc/en/assets/files/2013/syria-facts-and-figures-2012-icrc-eng.pdf> accessed 28 May 2025.

Assad regime nor the opposition could establish full control for thirteen years.² Support from Russia, Iran, and Hezbollah—despite expectations of Assad’s swift downfall—enabled the regime to remain in power far longer than anticipated. In this contested landscape, where terrorist organizations such as ISIS and the YPG were also present³, opposition forces failed to mount sufficient operations to topple the regime, and since 2019, the conflict had reached a state of semi-stability. However, the near-total elimination of ISIS, Russia’s partial withdrawal of forces due to the war in Ukraine, the assassination of Hezbollah’s senior leadership by Israel leading to its internal preoccupations, and the weakening of Iran’s regional influence together created a favorable environment for a long-planned offensive by the opposition. As a result, opposition forces successfully entered Damascus in a short time. With the collapse of external support for the regime, the fall of Assad’s government was swift. Thus, on 8 December 2024, the Assad regime—which had ruled Syria in an authoritarian and militarized manner for 61 years—was overthrown.⁴ Although the transition of power and the establishment of a new system in Syria will undoubtedly take time, developments concerning Israel during this period have rekindled longstanding questions about the future of the Golan Heights dispute, which has persisted since 1967.

During the transition of power on 8 December 2024, following the fall of the Assad regime, Israel exploited the political vacuum and expanded its occupation of the Golan Heights to include Mount Hermon (Arabic: Jabal al-Shaykh) and the United Nations Buffer Zone.⁵ Mount Hermon, Syria’s highest peak, offers a strategic vantage point overlooking a vast area from Damascus to Lebanon’s Bekaa Valley. Utilizing the collapse of the Assad regime, Israel first occupied the UN Buffer Zone established in 1974 and subsequently extended its control to Mount Hermon, thereby expanding its occupation from the Lebanese border to the outskirts of Damascus. This act, which Israel justified on security grounds, constitutes a clear violation of both relevant United Nations Security Council (UNSC) resolutions and the 1974 Ceasefire Agreement.⁶ The full unconditional support of the Trump administration undoubtedly emboldened Israel’s unlawful conduct. It is worth recalling that during his first presidential term, President

² Christopher Phillips, ‘The International System and the Syrian Civil War’ (2022) 78(3) *International Relations* 379.

³ Kasım İleri, ‘The Implications of Great Power Politics in the Decade Long Syrian Civil War’ (2024) 14(1) *İnsan ve Toplum Dergisi* 1.

⁴ See: Bilal Salaymeh, ‘Syria Under al-Assad Rule: A Case of Neopatrimonial Regime’ (2018) 10(2) *Ortadoğu Etütleri* 140.

⁵ Syria: UN chief calls for urgent de-escalation by Israeli forces, withdrawal from Golan buffer zone (2024). <https://news.un.org/en/story/2024/12/1158131> accessed 28 May 2025.

⁶ Separation of Forces Agreement Between Israel and Syria, May 31, 1974. https://avalon.law.yale.edu/21st_century/pal04.asp accessed 28 May 2025.

Trump cultivated close ties with the Netanyahu government, aligning with Israel on numerous issues, including the relocation of the U.S. Embassy from Tel Aviv to Jerusalem⁷ and the recognition of Israel's annexation of the Golan Heights. These actions flagrantly contravened binding UNSC resolutions that the United States itself had not vetoed.⁸ The Trump Administration's blatant violations of international law in favor of Israel reveal the strength of their bilateral alliance and have emboldened Israel to pursue further unlawful actions. Currently, the Netanyahu government seeks to create *fait accompli* by expanding the occupation of the Golan Heights during Syria's political transition. Yet, this occupation—which began in 1967 and has now been extended to encompass both the UN Buffer Zone and Mount Hermon—is unequivocally unlawful under international law. These territories must be returned to Syria, the rightful sovereign.

This study first addresses Israel's occupation of the Golan Heights following the 1967 Six-Day War and demonstrates the illegality of its subsequent annexation under international law. The analysis references the 1949 Geneva Conventions, relevant UNSC resolutions, and advisory opinions of the International Court of Justice (ICJ). Then, the legal implications of third states' recognition of Israel's occupation—particularly that of the United States—are examined, with special attention to documents such as the so-called “Deal of the Century” (Trump Peace Plan). Finally, the paper explores the legal avenues for the resolution of the dispute, including Syria's legitimate means to recover the occupied territories.

1. The Six-Day War and the Occupation of the Golan Heights

The conflict known as the Six-Day War, which began on 5 June 1967 and ended on 10 June 1967, was essentially an act of aggression by Israel against Arab states, resulting in the occupation of their territories.⁹ Although Israel justified its actions on the grounds of self-defense, subsequent developments and documents that came to light revealed that Israel had, in fact, launched a war of aggression. Indeed, Israel routinely invokes the doctrine of self-defense to justify its actions that are otherwise contrary to international law. Even assuming *arguendo* that the self-defense claim were valid, such justification does not permit the prolonged occupation of foreign territory.¹⁰ Abi-Saab and Kohen recently argue that the occupation regime loses its legal coherence when occupation becomes prolonged

⁷ Victor Kattan, ‘Why US Recognition of Jerusalem Could Be Contrary to International Law’ (2018) 47(3) *Journal of Palestine Studies* 72.

⁸ United Nations Security Council Resolution 478 (20 August 1980), S/RES/478(1980), para.5.3.

⁹ John Quigley, ‘The Six-Day War and Israeli Self-Defense: Questioning the Legal Basis for Preventive War’ (New York: Cambridge University Press, 2013) 141-177.

¹⁰ James A Green, ‘The *ratione temporis* Elements of Self-defence’ (2015) 2(1) *Journal on the Use of Force and International Law* 114.

and entrenched. The erosion of the temporariness principle not only undermines the normative foundations of the law of military occupation but risks enabling the very forms of domination and annexation the law was designed to prevent.¹¹ Furthermore, UN Special Rapporteur John Dugard argued in his report that Israel's occupation has over the years become tainted with illegality.¹² Occupation law is premised on the idea that occupations are inherently temporary, are at all times based on military necessity, and eventually involve the transfer of effective control over the territory back to the ousted sovereign at the end of hostilities. The presumption that occupation is temporary and exceptional is meant to act as a bulwark against *de jure* or *de facto* annexation.¹³

Israel's conduct, both in the lead-up to the war and its subsequent statements and actions, unmistakably reveal its violations of international law. As Quigley has noted, following the Suez Crisis¹⁴, statements by the Israeli Prime Minister indicating that military operations would be expanded gave rise to concerns among Arab states—especially Syria—that Israel was preparing to launch attacks. These fears were compounded by intelligence reports shared by the Soviet Union with Arab states. For instance, the absence of tanks in Israel's Independence Day military parade on 15 May was interpreted by the Soviets as evidence that Israel had massed its armored divisions near the Syrian border and was poised for war. Acting on this intelligence, Egypt closed the Strait of Tiran to Israeli shipping and conducted a military buildup along its border with Israel. Egypt's objective was to deter Israel from attacking Syria. However, Israel construed these actions as evidence of an imminent assault by Egypt and

¹¹ Georges Abi-Saab and Marcelo Kohen, Is 'prolonged occupation' still 'military occupation' governed by IHL? May 5, 2025, EjiTalk, <https://www.ejiltalk.org/is-prolonged-occupation-still-military-occupation-governed-by-ihl/> accessed 28 May 2025.

¹² Report of the UN Special Rapporteur on the Situation of Human Rights in the Palestinian Territories Occupied since 1967, para. 8, U.N. Doc. A/62/275.

¹³ Salvatore Fabio Nicolosi 'The Law of Military Occupation and the Role of De Jure and De Facto Sovereignty', (2011) 31 Polish Yearbook of International Law, 165-187.

¹⁴ The Suez Crisis of 1956 was a major international conflict triggered by Egyptian President Gamal Abdel Nasser's nationalization of the Suez Canal, previously controlled by British and French interests. In response, Britain, France, and Israel launched a coordinated military intervention to regain control and topple Nasser. The crisis escalated tensions during the Cold War and drew sharp condemnation from both the United States and the Soviet Union. It was resolved through international legal and diplomatic pressure, particularly via the United Nations. See: Pnina Lahav, 'The Suez Crisis of 1956 and Its Aftermath: A Comparative Study of Constitutions, Use of Force, Diplomacy and International Relations', (2015) 95 Boston University Law Review 1297.

other Arab states.¹⁵ Israel's response, therefore, constituted a preventive strike¹⁶, which cannot be qualified as lawful self-defense under international law. As a result of the Six-Day War, Israel occupied the entire territory of Palestine, the Sinai Peninsula from Egypt, and the Golan Heights from Syria.

In response, the United Nations Security Council adopted Resolution 242, calling for Israel's withdrawal from the territories it had occupied.¹⁷ However, Israel refused to comply with this resolution. In 1973, Egypt and Syria launched the Yom Kippur War in an effort to recover their territories. The UNSC subsequently adopted Resolution 338, which called for an immediate ceasefire.¹⁸ Although neither the Sinai Peninsula nor the Golan Heights were recovered during the conflict, peace negotiations eventually commenced between the parties. These negotiations culminated in a peace treaty between Egypt and Israel in 1979.¹⁹ However, negotiations with Syria failed due to Israel's unwillingness to return the Golan Heights. Although a lasting peace treaty was never concluded between Syria and Israel, the two parties signed a ceasefire agreement in 1974—the Agreement on Disengagement between Israel and Syria. Under this agreement, the parties withdrew their forces and a demilitarized buffer zone was established between them. The agreement also stipulated that the withdrawal process would be monitored by the United Nations Disengagement Observer Force (UNDOF).²⁰ It should be noted, however, that ceasefire agreements do not determine permanent borders but serve only to suspend hostilities.²¹

Moreover, not only did Israel fail to return the Golan Heights to Syria, but it also enacted the Golan Heights Law through the Israeli Knesset in 1981, thereby unilaterally annexing the territory.²² This annexation was recognized in 2019 by U.S. President Donald Trump, who formally declared the Golan Heights to

¹⁵ John Quigley, *'The Case for Palestine: An International Law Perspective'* (Duke University Press 2005) 158–59.

¹⁶ See: Tom Ruys, *Armed Attack and Article 51 of the UN Charter: Evolutions in Customary Law and Practice* (Cambridge University Press 2010) 318–22.

¹⁷ UN Security Council Resolution 242 (22 November 1967) UN Doc S/RES/242 (1967) para 1.

¹⁸ UN Security Council Resolution 338 (22 October 1973) UN Doc S/RES/338 (1973) para 1.

¹⁹ Treaty of Peace between the Arab Republic of Egypt and the State of Israel (signed 26 March 1979, entered into force 25 April 1979) 1138 UNTS 59.

²⁰ Edmund Jan Osmańczyk, *Encyclopedia of the United Nations and International Agreements: A to F* (Taylor & Francis 2003) 2263.

²¹ See: James Crawford, *'The Creation of States in International Law'* (2nd edn, Oxford University Press 2006) 421.

²² Golan Heights Law, 5742–1981, available at https://main.knesset.gov.il/EN/about/history/Documents/kns10_golan_eng.pdf accessed 10 March 2025.

be part of Israeli territory.²³ The “Deal of the Century,”²⁴ unveiled by Trump and Prime Minister Netanyahu at the White House in 2020, also depicted the Golan Heights as part of Israel in its proposed maps.²⁵ However, the United States’ recognition of Israel’s annexation stands in direct violation of UNSC Resolution 497, which the United States itself did not veto. That resolution declared Israel’s annexation of the Golan Heights to be null and void under international law and affirmed that Israel remains an occupying power pursuant to the 1949 Geneva Conventions.²⁶ The resolution also called upon Israel to rescind its annexation measures.²⁷ Under customary international law, any acquisition of territory through the use of force or in violation of the right to self-determination must not be recognized by third states.²⁸ Indeed, Article 41 of

²³ Official Proclamation: “The State of Israel took control of the Golan Heights in 1967 to safeguard its security from external threats. Today, aggressive acts by Iran and terrorist groups, including Hizballah, in southern Syria continue to make the Golan Heights a potential launching ground for attacks on Israel. Any possible future peace agreement in the region must account for Israel’s need to protect itself from Syria and other regional threats. Based on these unique circumstances, it is therefore appropriate to recognize Israeli sovereignty over the Golan Heights. NOW, THEREFORE, I, DONALD J. TRUMP, President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim that, the United States recognizes that the Golan Heights are part of the State of Israel. IN WITNESS WHEREOF, I have hereunto set my hand this twenty-fifth day of March, in the year of our Lord two thousand nineteen, and of the Independence of the United States of America the two hundred and forty-third. Donald J Trump, ‘Proclamation on Recognizing the Golan Heights as Part of the State of Israel’ (White House, 25 March 2019) <https://trumpwhitehouse.archives.gov/presidential-actions/proclamation-recognizing-golan-heights-part-state-israel/> accessed 10 March 2025.

²⁴ White House, Peace to Prosperity: A Vision to Improve the Lives of the Palestinian and Israeli People <https://trumpwhitehouse.archives.gov/wp-content/uploads/2020/01/Peace-to-Prosperity-0120.pdf> accessed 10 March 2025.

²⁵ A closer look at the map reveals that Israel does not want to give up not only the Golan Heights but also East Jerusalem, as well as the illegal settlements.

²⁶ Articles 47 to 78 of the Fourth Geneva Convention are entitled “Occupied Territories” and regulate the obligations of the occupier.

²⁷ UN Security Council Resolution 497 (17 December 1981) UN Doc S/RES/497 (1981) paras 1–3.

²⁸ Stefan Talmon, ‘The Duty Not to “Recognize as Lawful” a Situation Created by the Illegal Use of Force or Other Serious Breaches of a Jus Cogens Obligation: An Obligation without Real Substance?’ in Christian Tomuschat and Jean-Marc Thouvenin (eds), *The Fundamental Rules of the International Legal Order: Jus Cogens and Obligations Erga Omnes* (Martinus Nijhoff Publishers 2006) 99. Martin Dawidowicz, ‘The Obligation of Non-Recognition of an Unlawful Situation’, in James Crawford, and others (eds), *The Law of International Responsibility*, Oxford Commentaries on International Law (2010; OUP), 677–686. Yaël Ronen, ‘The Obligation of Non-recognition, Occupation and the OPT Advisory Opinion’, *VerfBlog*, 2024/10/14, <https://verfassungsblog.de/the-obligation-of-non-recognition-occupation-and-the-opt-advisory-opinion/> accessed 28 May 2025.

the International Law Commission's 2001 Draft Articles on the Responsibility of States for Internationally Wrongful Acts provides that no state shall recognize as lawful a situation created by a serious breach of a peremptory norm of general international law (*jus cogens*), as elaborated in Article 40.²⁹ In this context, the annexation of the Golan Heights by force constitutes such a serious breach.

2. The Expansion of the Occupation: The Seizure of Mount Hermon and the UN Buffer Zone

Mount Hermon (Jabal al-Shaykh) is the highest peak in Syria and provides a vantage point with visibility extending from Damascus to Lebanon's Bekaa Valley. Seizing the opportunity created by the collapse of the Assad regime, Israel first occupied the United Nations Buffer Zone established in 1974, and then extended its control to include Mount Hermon, thereby expanding its occupation from the Lebanese border to the outskirts of Damascus. Though Israel justified its actions on grounds of national security, these acts clearly amount to an expansion of occupation and constitute violations of both United Nations Security Council (UNSC) resolutions and the 1974 disengagement agreement. Prime Minister Netanyahu's statements regarding respect for Syria's territorial integrity stand in stark contrast to the reality. As previously noted, Israel not only annexed the Golan Heights—a Syrian territory—but also incorporated it into maps as part of its sovereign territory (i.e. Deal of Century). It is likely that Israel will either formally annex the newly occupied areas in the future or maintain its occupation indefinitely under the pretext of security concerns. Indeed, the initial occupation of the Golan Heights on security grounds eventually turned into formal annexation, and the territory now hosts more than 35 illegal settlements with a population of nearly 25,000 settlers.³⁰

It must be emphasized that the national security rationale is frequently invoked by Israel to justify nearly all of its actions that are otherwise contrary to international law. From illegal settlements and military checkpoints to the construction of the separation wall in the West Bank and the ongoing blockade and incursions in Gaza, Israel has routinely cited security concerns to rationalize its conduct. Moreover, Israel refuses to apply provisions of the Fourth Geneva Convention on the ground that the territory is disputed. However, both the United Nations Security Council and General Assembly, as well as the International Court of Justice (ICJ)—one of the UN's principal organs—have consistently rejected this justification. In its 2024 Advisory Opinion on Israel's practices in

²⁹ International Law Commission, Draft Articles on Responsibility of States for Internationally Wrongful Acts (2001) UN Doc A/56/49(Vol I)/Corr.4, arts 40–41.

³⁰ Gideon Sulimani and Raz Kletter 'Settler-Colonialism and the Diary of an Israeli Settler in the Golan Heights: The Notebooks of Izhaki Gal' (2021), 21(1) Journal of Holy Land and Palestine Studies 48-71.

the Occupied Palestinian Territories, the ICJ reaffirmed that the expansion of territory under the pretext of security violates international law. According to the Court: “Israel’s claims of sovereignty and acts of annexation over certain territories, as set forth above, constitute violations of the prohibition on the acquisition of territory by force. This breach directly affects the legal status of Israel’s continuing presence as an occupying power in the Occupied Palestinian Territory. The Court concludes that Israel has no right to assert sovereignty or to exercise sovereign authority over any part of the Occupied Palestinian Territory. Furthermore, Israel’s security concerns cannot override the prohibition on the acquisition of territory by force.” In this Advisory Opinion, the Court also referred to the Golan Heights as “Occupied Golan,” thereby affirming its legal status under international law.³¹ The principle prohibiting the acquisition of territory by force—even for security purposes—therefore applies equally to the Golan Heights and to newly occupied Syrian territories. It is important to underscore that not only the Golan Heights but also the United Nations Buffer Zone—until now considered neutral territory—is in fact part of Syrian sovereign territory. The ceasefire line demarcated in 1974 was intended as a temporary measure and did not represent a permanent boundary. Likewise, the UN Buffer Zone was established as a provisional arrangement. Indeed, the United Nations, as an organization, cannot hold territorial sovereignty.

Furthermore, Prime Minister Netanyahu’s justification for the occupation of the UN Buffer Zone on the basis that it had fallen into the hands of “rebels” is legally unsustainable. Agreements of this nature do not become void due to changes in government, and more importantly, the Buffer Zone was established by a binding UNSC resolution. Legally, it remains part of Syrian territory. Once the UNSC resolution is lifted or amended, the administration of this territory shall revert to the then-existing Syrian government. Accordingly, Israel’s actions not only constitute an unlawful occupation of Syrian territory but also amount to a violation of a binding UNSC resolution. Prior to the regime change, Israel had based its security justification on the threat posed by Iranian influence in Syria.

³¹ Legal Consequences Arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, Including East Jerusalem (Advisory Opinion) [2024] ICJ Rep, para 254. In its Advisory Opinion, the International Court of Justice (ICJ) declared Israel’s continued occupation of the Palestinian territories—including the West Bank, East Jerusalem, and Gaza—as unlawful under international law. The Court found that Israel’s policies, such as settlement expansion, annexation efforts, and the transfer of its population into occupied areas, violate the prohibition against acquiring territory by force and infringe upon the Palestinian people’s right to self-determination. The Court concluded that Israel must cease all settlement activities, evacuate settlers, repeal discriminatory laws, and provide reparations for damages caused. It also emphasized that all states and international organizations are obligated not to recognize the legality of the occupation or assist in maintaining it, urging collective efforts to end Israel’s unlawful presence in the occupied Palestinian territory.

After the opposition forces—also opposed to Iran—took control, Israel shifted its rationale by portraying these new actors as threats as well. It is therefore evident that Israel's justifications are opportunistic and lack consistency, further undermining their credibility under international law. Both UN resolutions and ICJ advisory opinions emphasize that Israel's justifications are invalid in accordance with international law.

3. The Recovery of Occupied Syrian Territories

The legal implications of Israel's occupation of Syrian territory and the possible avenues for redress can be grouped under two main categories: non-forcible means (not including use of force) and forcible means (including use of force) of dispute resolution. The Charter of the United Nations³² provides a framework for both. Accordingly, peaceful methods such as negotiation, mediation, conciliation, arbitration, or judicial settlement are available, while in certain circumstances, the use of force may be permissible through the right of self-defense or by authorization of the Security Council. In general, under the UN Charter, peaceful means of dispute resolution are recommended to be exhausted before the use of force for self defense is contemplated if active hostilities are ceased.³³ Only when such means fail, a state may resort to self-defense or Security Council-authorized enforcement measures. However, this is a recommended practice rather than an absolute rule. Although Israel and Syria have occasionally engaged in diplomatic negotiations, these efforts have consistently failed, primarily due to Israel's unwillingness to return the Golan Heights. With the outbreak of the Syrian civil war in 2011, the Golan issue faded from the international agenda.

Donald Trump, who served as President of the United States between 2017 and 2021, was re-elected and is set to begin his second term in January 2025. As noted earlier, Trump had previously developed close ties with the Netanyahu government and consistently aligned himself with Israeli interests. His administration relocated the U.S. embassy from Tel Aviv to Jerusalem and formally recognized Israel's annexation of the Golan Heights—acts that flagrantly contravened binding Security Council resolutions that the United States itself had not vetoed. This open disregard for international law underscores the strength of the U.S.–Israel alliance and, more specifically, the alignment of Trump and Netanyahu's political agendas. In his second term, Trump is expected to continue supporting Israel's creation of *fait accompli*. Consequently, Israel may seek, with U.S. backing, to negotiate a diplomatic settlement under the guise of normalization, aimed at

³² Charter of the United Nations (adopted on 26 June 1945, entered into force on 24 October 1945) 1 UNTS 16.

³³ Emilia Justyna Powell and Krista E. Wiegand, 'Legal Systems and Peaceful Attempts to Resolve Territorial Disputes' (2010) 27(2) Conflict Management and Peace Science 129.

securing Syrian recognition of Israel's sovereignty over the occupied territories. For instance, Israel might offer to relinquish control over Mount Hermon and the UN Buffer Zone in exchange for Syrian recognition of Israeli sovereignty over the Golan Heights. The Trump administration, consistent with this approach, may claim that Israel's actions in these territories are temporary and security-driven, rather than formal annexations. However, such a proposal would be legally untenable and politically unacceptable for Syria. It would also place the United States and Israel in continued violation of international law. Both Security Council resolutions and ICJ advisory opinions affirm the illegality of Israel's occupation and annexation of the Golan Heights and emphasize Israel's obligations under the Fourth Geneva Convention.³⁴

A second scenario involves the potential resumption of active armed conflicts between Israel and Syria. Under international law, a state whose territory has been occupied by another state retains the right to recover that territory by force. According to the 1974 United Nations General Assembly Resolution 3314 on the Definition of Aggression, military occupation—regardless of its duration—constitutes an act of armed attack.³⁵ The existence of an armed attack triggers the inherent right of self-defense under Article 51 of the UN Charter.³⁶ In other words, a prolonged occupation constitutes an ongoing armed attack, and the victim state retains the right to respond with force in self-defense. The timing, conditions, and means of exercising this right are left to the discretion of the state entitled to invoke it. A state's lack of immediate military or economic capacity, or the presence of unfavorable domestic or international political conditions, does not signify a waiver of its right to self-defense, nor does it amount to acceptance of the *status quo*. The mere cessation of hostilities cannot be construed as abandonment of sovereign territory. In fact, Syria once tried to recover Golan Heights. The 1973 Yom Kippur War is an example.³⁷ Israel

³⁴ Geneva Convention (IV) relative to the Protection of Civilian Persons in Time of War (adopted 12 August 1949) 75 UNTS 287.

³⁵ "The invasion or attack by the armed forces of a State of the territory of another State, or any military occupation, however temporary, resulting from such invasion or attack, or any annexation by the use of force of the territory of another State or part thereof". UNGA Res 3314 (XXIX) (14 December 1974) UN Doc A/RES/3314(XXIX), art. 3/a. For further information see: Julius Stone, 'Hopes and Loopholes in the 1974 Definition of Aggression' (1977) 71 *American Journal of International Law* 224. Taciano Scheidt Zimmermann, 'Critical Remarks on the ICJ's Interpretation of Article 3(g) of the Definition of Aggression' (UNGA Resolution 3314/1974) (2018) 14(1) *Revista Direito GV* 99.

³⁶ Yoram Dinstein, *War, Aggression and Self-Defence* (7th edn, Cambridge University Press 2017) 197–260.

³⁷ Françoise Dubuisson and Vaios Koutroulis, 'The Yom Kippur War – 1973' in Tom Ruys, Olivier Corten and Alexandra Hofers (eds), *The Use of Force in International Law: a Case-Based Approach* (Oxford University Press 2018), 189.

occupied the Sinai Peninsula from Egypt and the Golan Heights from Syria in 1967 and has not withdrawn from these territories despite being ordered to do so by UNSC Resolution 242.³⁸ Therefore, the Yom Kippur War, which Egypt and Syria launched in 1973 to recover their own territories under Israeli occupation, was essentially a war of self-defense. In the Falklands War between Argentina and the United Kingdom in 1982, the recovery of territory through self defense was also discussed.³⁹ Azerbaijan's recapture of Nagorno-Karabakh in 2020—after decades of Armenian occupation—serves as a contemporary example of a state exercising its right of self-defense against unlawful occupation. In this regard, Syria also retains the legal right to launch a military operation to recover the Golan Heights, Mount Hermon, and the UN Buffer Zone.

Although some commentators argue that the existence of a ceasefire agreement might preclude the use of force. According to Ruys and Silvestre, the right of self-defense cannot not be invoked if there is not an ongoing armed attack. Despite lacking a legal basis, a *status quo* has been established through occupation and the ceasefire. In such a case, the peaceful means of dispute settlement prescribed by the Charter must be employed. The preservation of peace remains a fundamental principle under international law.⁴⁰ However, In cases of occupation that are in breach of the prohibition on the use of force, there is no specific timeframe for determining when an armed attack is deemed to have ended. Similarly, Article 51 of the United Nations Charter does not prescribe a temporal limitation for the exercise of the right of self-defense. In this regard, the prolonged duration of an occupation does not extinguish the right of the affected state to invoke self-defense. According to Akande and Tzanakopoulos, the use of force to resolve a territorial dispute must not be conflated with the lawful exercise of the right of self-defense arising from an unlawful armed attack. United Nations General Assembly Resolution 3314, which defines aggression, explicitly states that military occupation constitutes an act of armed attack. In this respect, as long as the occupation persists, the armed attack is deemed to be continuing, and consequently, the right of self-defense remains in effect.⁴¹ Furthermore, this argument holds little weight given Israel's repeated

³⁸ UNSC Res 242 (22 November 1967) UN Doc S/RES/242.

³⁹ Etienne Henry, 'The Falklands/Malvinas War – 1982' in Tom Ruys, Olivier Corten and Alexandra Hofers (eds), *The Use of Force in International Law: a Case-Based Approach* (Oxford University Press 2018), 363-64.

⁴⁰ Tom Ruys and Felipe Rodriguez Silvestre, 'Military Action to Recover Occupied Land: Lawful Self-defense or Prohibited Use of Force? The 2020 Nagorno-Karabakh Conflict Revisited' (2021) 97 International Law Studies 682. Muhammed Emre Hayyar, *Saving Homeland: The Legality of Unilateral Use of Force to Recover Occupied Territory* (LLM thesis, Ghent University 2021) 47–50.

⁴¹ Dapo Akande and Antonios Tzanakopoulos, 'Use of Force in Self-Defence to Recover Occupied Territory: When Is It Permissible?' (EJIL:Talk, 18 November 2020) <https://www.ejiltalk.org/use-of-force-in-self-defence-to-recover-occupied-territory-when-is-it-permissible/> accessed 16 April 2025.

violations of the 1974 agreement, rendering it effectively void. Nevertheless, given the recent regime change and the new government's immediate need to focus on internal reconstruction, economic recovery, and restoring the rule of law, the likelihood of renewed hostilities with Israel in the short term appears minimal. This, however, must not be interpreted as Syria's acquiescence to Israeli occupation. On the contrary, Syria's right of self-defense remains intact and may be exercised at a time and in a manner of its choosing, in accordance with international law.

CONCLUSION

One of the foremost priorities of Syria's new post-conflict administration is the restoration of the country's territorial integrity. The Golan Heights—occupied by Israel in 1967, formally annexed in 1981, and recognized as Israeli territory by the United States in 2019—remains legally under Syrian sovereignty. Therefore, both as a matter of law and of fact, Syria's territorial integrity requires that Israel terminate its occupation and return the Golan Heights to its rightful owner. However, instead of complying with this legal obligation, Israel has exploited the regime change in Syria to further expand its occupation, extending it to encompass Mount Hermon and the United Nations Buffer Zone. In doing so, Israel has, since 1967, consistently acted in violation of both binding United Nations Security Council resolutions and the Fourth Geneva Convention of 1949. These unlawful actions have most recently been reaffirmed as such by the International Court of Justice in its 2024 Advisory Opinion. The Golan Heights dispute between Israel and Syria may be resolved through two possible avenues. The first—diplomatic negotiations and peaceful settlement—has thus far proved unsuccessful. While sporadic talks have taken place, they have invariably collapsed due to Israel's refusal to return the Golan Heights. Following the outbreak of the Syrian civil war in 2011, these efforts ceased entirely. Given the current context, with Israel escalating the conflict through new territorial acquisitions, and given the rhetoric of Israeli leaders, the prospects for a peaceful resolution through dialogue remain ambiguous even in the long term.

This situation may ultimately compel Syria to pursue the second available option. According to United Nations General Assembly Resolution 3314, military occupation constitutes an act of armed attack regardless of its duration. Where there is an armed attack, the victim state possesses an inherent right of self-defense under Article 51 of the UN Charter. As long as the occupation persists, so too does the armed attack—and thus the right of self-defense. Syria may, at its discretion, invoke this right and lawfully use force to recover its occupied territory, including the Golan Heights, Mount Hermon and UN Buffer Zone. Although the exercise of this right is unlikely in the immediate future—due to Syria's ongoing post-conflict reconstruction—it is highly probable that it will be asserted once Syria regains sufficient capacity and strength. However, a

peaceful resolution is the best way for two neighbouring states. Accordingly, the most reasonable and equitable solution would be for Israel to restore the Golan Heights to Syria and dismantle the illegal settlements before the resumption of active armed conflict.

BIBLIOGRAPHY

Abi-Saab G and Kohen M, Is ‘prolonged occupation’ still ‘military occupation’ governed by IHL? May 5, 2025, EjilTalk, <https://www.ejiltalk.org/is-prolonged-occupation-still-military-occupation-governed-by-ihl/> accessed 28 May 2025

Akande D and Tzanakopoulos A, ‘Use of Force in Self-Defence to Recover Occupied Territory: When Is It Permissible?’ (EJIL:Talk, 18 November 2020) <https://www.ejiltalk.org/use-of-force-in-self-defence-to-recover-occupied-territory-when-is-it-permissible/> accessed 16 April 2025

Charter of the United Nations (adopted 26 June 1945, entered into force 24 October 1945) 1 UNTS 16

Crawford J, *The Creation of States in International Law* (2nd edn, Oxford University Press 2006)

Dawidowicz M, ‘The Obligation of Non-Recognition of an Unlawful Situation’, in James Crawford, and others (eds), *The Law of International Responsibility*, Oxford Commentaries on International Law (2010; OUP), 677-686

Dinstein Y, *War, Aggression and Self-Defence* (7th edn, Cambridge University Press 2017)

Dubuisson F and Koutroulis V, ‘The Yom Kippur War – 1973’ in Tom Ruys, Olivier Corten and Alexandra Hofers (eds), *The Use of Force in International Law: a Case-Based Approach* (Oxford University Press 2018), 189

Nicolosi SF, ‘The Law of Military Occupation and the Role of De Jure and De Facto Sovereignty’, (2011) 31 Polish Yearbook of International Law, 165-187

Geneva Convention (IV) relative to the Protection of Civilian Persons in Time of War (adopted 12 August 1949) 75 UNTS 287

Golan Heights Law, 5742–1981 https://main.knesset.gov.il/EN/about/history/Documents/kns10_golan_eng.pdf accessed 10 March 2025

Green JA, ‘The *ratione temporis* Elements of Self-defence’ (2015) 2(1) *Journal on the Use of Force and International Law* 114

Hayyar ME, *Saving Homeland: The Legality of Unilateral Use of Force to Recover Occupied Territory* (LLM thesis, Ghent University 2021)

Henry E, ‘The Falklands/Malvinas War – 1982’ in Tom Ruys, Olivier Corten and Alexandra Hofers (eds), *The Use of Force in International Law: a Case-*

Based Approach (Oxford University Press 2018), 363-64

ICRC in Syria, Facts and Figures, (2012), p.1. <https://www.icrc.org/sites/default/files/external/doc/en/assets/files/2013/syria-facts-and-figures-2012-icrc-eng.pdf> accessed 28 May 2025

ILC, *Draft Articles on Responsibility of States for Internationally Wrongful Acts* (2001) UN Doc A/56/49(Vol I)/Corr.4

İleri K, 'The Implications of Great Power Politics in the Decade Long Syrian Civil War' (2024) 14(1) *İnsan ve Toplum Dergisi* 1

International Court of Justice, *Legal Consequences Arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, Including East Jerusalem (Advisory Opinion)* [2024] ICJ Rep

Kattan V, 'Why US Recognition of Jerusalem Could Be Contrary to International Law' (2018) 47(3) *Journal of Palestine Studies* 72

Lahav P, 'The Suez Crisis of 1956 and Its Aftermath: A Comparative Study of Constitutions, Use of Force, Diplomacy and International Relations', (2015) 95 *Boston University Law Review* 1297

Ośmańczyk EJ, *Encyclopedia of the United Nations and International Agreements: A to F* (Taylor & Francis 2003)

Peace to Prosperity: A Vision to Improve the Lives of the Palestinian and Israeli People (White House) <https://trumpwhitehouse.archives.gov/wp-content/uploads/2020/01/Peace-to-Prosperity-0120.pdf> accessed 10 March 2025

Phillips C, 'The International System and the Syrian Civil War' (2022) 78(3) *International Relations* 379

Powell EJ and Wiegand KE, 'Legal Systems and Peaceful Attempts to Resolve Territorial Disputes' (2010) 27(2) *Conflict Management and Peace Science* 129

Ronen Y, 'The Obligation of Non-recognition, Occupation and the OPT Advisory Opinion', *VerfBlog*, 2024/10/14, <https://verfassungsblog.de/the-obligation-of-non-recognition-occupation-and-the-opt-advisory-opinion/> accessed 28 May 2025

Quigley J, *The Case for Palestine: An International Law Perspective* (Duke University Press 2005)

Quigley J, 'The Six-Day War and Israeli Self-Defense: Questioning the Legal Basis for Preventive War' (Cambridge University Press, 2013)

Report of the UN Special Rapporteur on the Situation of Human Rights in the Palestinian Territories Occupied since 1967, para. 8, U.N. Doc. A/62/275

Ruys T, *Armed Attack and Article 51 of the UN Charter: Evolutions in Customary Law and Practice* (Cambridge University Press 2010)

Ruys T and Rodriguez Silvestre F, 'Military Action to Recover Occupied Land: Lawful Self-defense or Prohibited Use of Force? The 2020 Nagorno-Karabakh Conflict Revisited' (2021) 97 *International Law Studies* 682

Salaymeh B, 'Syria Under al-Assad Rule: A Case of Neopatrimonial Regime' (2018) 10(2) *Ortadoğu Etütleri* 140

Separation of Forces Agreement Between Israel and Syria, May 31, 1974. https://avalon.law.yale.edu/21st_century/pal04.asp accessed 28 May 2025

Stone J, 'Hopes and Loopholes in the 1974 Definition of Aggression' (1977) 71 *American Journal of International Law* 224

Sulimani G and Kletter R, 'Settler-Colonialism and the Diary of an Israeli Settler in the Golan Heights: The Notebooks of Izhaki Gal' (2021) 21(1) *Journal of Holy Land and Palestine Studies* 48

Syria: UN chief calls for urgent de-escalation by Israeli forces, withdrawal from Golan buffer zone (2024). <https://news.un.org/en/story/2024/12/1158131> accessed 28 May 2025

Talmon S, 'The Duty Not to "Recognize as Lawful" a Situation Created by the Illegal Use of Force or Other Serious Breaches of a Jus Cogens Obligation: An Obligation without Real Substance?' in Christian Tomuschat and Jean-Marc Thouvenin (eds), *The Fundamental Rules of the International Legal Order: Jus Cogens and Obligations Erga Omnes* (Martinus Nijhoff Publishers 2006)

Treaty of Peace between the Arab Republic of Egypt and the State of Israel (signed 26 March 1979, entered into force 25 April 1979) 1138 UNTS 59

Trump DJ, 'Proclamation on Recognizing the Golan Heights as Part of the State of Israel' (White House, 25 March 2019) <https://trumpwhitehouse.archives.gov/presidential-actions/proclamation-recognizing-golan-heights-part-state-israel/> accessed 10 March 2025

UNGA Res 3314 (XXIX) (14 December 1974) UN Doc A/RES/3314(XXIX)

UNSC Res 242 (22 November 1967) UN Doc S/RES/242 (1967)

UNSC Res 338 (22 October 1973) UN Doc S/RES/338 (1973)

UNSC Res 478 (20 August 1980), S/RES/478(1980)

UNSC Res 497 (17 December 1981) UN Doc S/RES/497 (1981)

Zimmermann TS, 'Critical Remarks on the ICJ's Interpretation of Article 3(g) of the Definition of Aggression' (UNGA Resolution 3314/1974) (2018) 14(1) *Revista Direito GV* 99