



# FREQUENTLY ASKED QUESTIONS: THE ISRAELI OCCUPATION OF THE WEST BANK AND GAZA STRIP

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## What is the definition of occupation under international law?

Occupation [occurs](#) when territory is “placed under the authority” of a “hostile army,” per the Fourth Hague Convention. Military occupations must be [temporary](#), and the inadmissibility of territorial acquisition by force is a fundamental principle of the [United Nations Charter](#).

## Does Israel occupy the West Bank? What about East Jerusalem?

Israel has occupied the West Bank, including East Jerusalem, since the Israeli army conquered it during the 1967 war. Israel’s Supreme Court [recognizes](#) that the law of belligerent occupation applies in the occupied territories, and Ariel Sharon acknowledged the occupation as a “[terrible thing](#)” while Prime Minister. Through legislation passed in 1967 and 1980, Israel effectively annexed East Jerusalem, while [denying](#) that the laws amounted to annexation. These actions were rejected internationally, [including](#) by the US government. Israel did not extend citizenship en masse to East Jerusalem Palestinians, and only five percent are Israeli [citizens](#). For others, Jerusalem residency status can be [revoked](#). In the rest of the West Bank, Palestinians live under Israeli [military rule](#) while Israeli settlers are subject to the Israeli legal system.<sup>1</sup>

## Does Israel occupy the Gaza Strip, even after its unilateral disengagement in 2005?

Despite dismantling its military installations and settlements there in 2005, Israel [maintains](#) direct external control over the Gaza Strip and indirect control over life inside it. While Hamas exercises *de facto* authority internally, Israel has exclusive control over Gaza’s airspace and coastline and, with Egypt, controls the movement of people and goods into and out of Gaza. Palestinians in the tiny, [destitute enclave](#) are dependent on Israel for water, electricity, utilities, and currency. Israel maintains ultimate authority over the Palestinian [population registry](#), determining who is classified as a Palestinian and who is a resident of Gaza or the West Bank. Most countries and international bodies and many independent experts conclude that Israel continues to occupy Gaza and bears [responsibilities](#) to it under international humanitarian law.

## Is there international consensus around the fact that Israel occupies the West Bank (including East Jerusalem) and Gaza?

In a litany of UN Security Council resolutions – including [242](#) (1967), [338](#) (1973), [446](#) (1979), [452](#) (1979), [465](#) (1980), [476](#) (1980), [478](#) (1980), and [2334](#) (2016) – the international community has affirmed that the West Bank (including East Jerusalem) and Gaza are “occupied” and Israel is the “occupying Power.” The International Court of Justice [concurred](#), with one judge writing, “Few propositions in international law can be said to command an almost universal acceptance and to rest on a long, constant and solid *opinio juris* as the proposition that Israel’s presence in

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<sup>1</sup> On the functions of the Palestinian Authority (PA) in the occupied Palestinian territory, see this [issue brief](#). The PA’s establishment pursuant to the Oslo Accords [does not relieve](#) Israel of its occupant status.

the Palestinian territory of the West Bank including East Jerusalem and Gaza is one of military occupation governed by the applicable international legal régime of military occupation.”

### **What is the position of the US government on occupation?**

The US voted for the unanimously adopted [UN Security Council Resolution \(UNSCR\) 242](#), recognizing that the territories conquered by Israel in the 1967 war were “occupied.” Until the Trump administration [stripped](#) references to the occupation from official US documents, the US government recognized and referred to the occupied territories as such. For example, the [2016 State Department report](#) on religious freedom has a section on “the Occupied Territories, which include the West Bank, East Jerusalem, and the Gaza Strip.” Previous administrations of both parties before Obama’s (including those of [George W. Bush](#), [Bill Clinton](#), and [George H. W. Bush](#)) also characterized the territories as occupied. After the Trump aberration, the Biden administration has [resumed](#) acknowledging the occupation.

### **What are Israel’s responsibilities as an occupying power under international law?**

The [obligations](#) of an occupying power include ensuring [civil life](#) and public order and safety, and respecting laws in force prior to occupation. It must also ensure the well-being of the occupied population, who are recognized as “[protected persons](#).” Specific responsibilities to that population [include](#): ensuring hygiene and public health standards and providing food and medical care, respecting cultural property, and providing those accused of criminal offenses with proceedings that adhere to international recognized judicial guarantees.

### **What are some activities that are illegal for Israel as occupying power?**

The occupier does not acquire sovereignty over the territory and [annexation](#) is prohibited. It is illegal for an occupying power to: forcibly transfer the occupied population from and within the occupied territory, enact collective punishment and reprisals, and demolish or seize property “unless absolutely required by military necessity.” [Settlements are illegal](#) since an occupying power may not “deport or transfer parts of its own civilian population into the territory it occupies.” An occupier “[cannot act in its own interests](#) beyond what is needed to provide either for the occupied population or the security of its own forces.”

### **How does Israel administer the occupation? Why does military or civilian control matter?**

From 1967 to 2023, the General heading Israel’s Central Command was the West Bank’s governing authority. Per international law, the occupying army [must administer](#) occupied territory. In February, Minister Bezalel [Smotrich assumed authority](#) over most aspects of civilian life in Israeli-controlled areas of the West Bank. Shifting authority to civilian control [asserts sovereignty](#) and [subordinates](#) management of the territory to Israel’s national considerations other than security needs. The Biden administration reportedly [told](#) Israeli officials it would view any transfer of West Bank authority to Smotrich as a step toward annexation.