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BIRZEIT UNIVERSITY
معهد مواطن للديمقراطية وحقوق الإنسان
Muwatin Institute for Democracy and Human Rights

Policy Brief ورقة سياسات

Serious breaches of obligations arising from peremptory norms of general international law and consequences for Institutional Cooperation with Universities in Israel

Within the project "Emancipatory Human Rights"

Koen De Feyter, Gamze Erdem Türkelli and Thalia Kruger[1]

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[1] Professor Koen De Feyter was one of the co-authors of the original Legal Brief on which this Policy Brief was based. He passed away unexpectedly on 20 September 2024, only a few weeks after the Legal Brief was finalised. Gamze Erdem Türkelli and Thalia Kruger adapted the Legal Brief to this Policy Brief with respect for his work. All three authors are/were members of the Law and Development Research Group at the University of Antwerp.

Executive summary

Israel has been violating various fundamental tenets of international law over a prolonged period, as attested by the International Court of Justice (ICJ). Israeli universities and research institutions are inextricably embedded in the Israeli state's system of racial discrimination and apartheid. They have continued to deliver strategies and technologies that support Israel's practices, and some of them maintain close ties with the Israeli armed forces. Notwithstanding, Israeli institutions continue to benefit from cooperating with universities in Europe (and around the world). In a European context, such cooperation takes the form of (bilateral or multilateral) student and staff exchange, or of research projects, often as consortia with various partners and often funded by the European Commission under its Framework Programme funding schemes. Such cooperation provides additional funding for Israeli universities (not only for the research project at hand, but also overhead/indirect costs, that can contribute to other activities of the university). Moreover, it gives legitimacy not only to Israeli universities by adding to their reputation and networks but also to the Israeli state as a whole, which uses its research and innovation capabilities to bolster its international legitimacy, which in turn works to legitimize its unlawful occupation of Palestinian territories.

The ICJ has made clear that the international community has an obligation not to aid or assist Israel's violations of international law. Some norms of international law are so fundamental that they bind all members of the international community. This policy brief shows that this duty also extends to universities, as members of the international community and organs of society. Public universities can arguably be considered akin to state organs. Private universities also have duties in a way similar to corporations, for instance through the application of the UN Guiding Principles on Business and Human Rights. The policy brief argues that the risk of complicity in the international violations perpetrated by Israel is too great for European universities who continue to cooperate with Israeli universities. Therefore, they should halt cooperation until these violations come to a definitive end.

Bilateral cooperation can be contractually ended. In research projects, universities should discuss the continued participation of Israeli partners. They should use the mechanisms in their grant agreements and consortium agreements to invoke human rights clauses and end cooperation.

Introduction

In the context of the armed aggression in Gaza, questions arise with respect to the international law and human rights obligations of universities. Particularly, European universities cooperate in various ways with universities in Israel. The purpose of this policy brief is to consider the obligations of universities in relation to these cooperations. The focus is on universities in Europe, with Belgium as a specific example. The Policy Brief is not aimed at discussing boycotts from a moral perspective, but disengagement from a legal stance as a legal measure.

The Policy Brief is a shortened and adapted version of a Legal Brief that the authors wrote in August 2024. The armed aggression which was going on at the time, and is still continuing caused the confirmed death of more than 71.000 children, men and women.[2] The real number is much higher, as bodies are still being found under the rubble. Moreover, there are many more deaths caused indirectly, including through disease and starvation. In addition, thousands have been injured and disabled due to the armed aggression. In the first half of 2025, the entire population (100%) of the Gaza Strip (an estimated 2.1 million persons) faced high levels of acute food insecurity as a result of the total blockade imposed by Israel since 2 March 2025. 92% of housing units were destroyed, and 1,1 million people were in need of emergency shelter items.[3] Thousands of children still suffer acute malnutrition today.[4] The Health Cluster also confirmed more than 1.000 fatalities in the West Bank.[5]

This policy brief will first explain the international law framework and Israel's violations of these rules. It will then turn to the involvement of Israeli universities in these violations and the relevance of this fact to European universities. Lastly, the discussion turns to collaboration agreements and how to address international law violations in that context.

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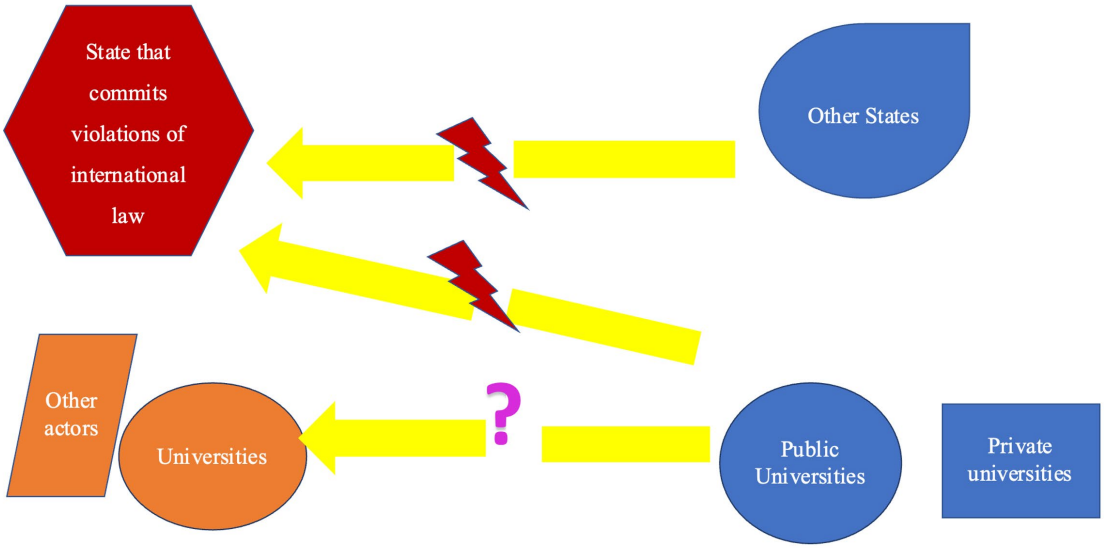
[2] Health Cluster, "Palestinian Casualties," *Health Cluster* (31 December 2025), https://bit.ly/4t0YQF3 (Accessed on 3 March 2026); United Nations Office for the Coordination of Humanitarian Affairs, *Humanitarian Situation Update #355 | Gaza Strip*, UN OCHA Report (28 January 2026), https://www.ochaopt.org/content/humanitarian-situation-update-355-gaza-strip (Accessed on 3 March 2026).

[3] United Nations Office for the Coordination of Humanitarian Affairs, *Reported Impact Snapshot | Gaza Strip,* OCHA Report (Jerusalem: United Nations, 28 May 2025), https://www.ochaopt.org/content/reported-impact-snapshot-gaza-strip-28-may-2025 (Accessed 3 March 2026).

[4] United Nations Office, *Humanitarian Situation Update #355 | Gaza Strip.*

[5] See: Health Cluster, *Palestinian Casualties*.

Figure 1 below illustrates the situation:



International law and Israel's violations and obligations of other States

Jus Cogens norms, also called peremptory norms of international law, are recognized by the international community as norms from which no derogation is permissible. Under international law, *jus cogens* are of a higher order and exist both independently of and concomitantly with obligations under various international legal regimes, including international human rights law. These norms are so fundamental that they bind the international community as a whole, particularly all States - even without contractual/treaty obligations - and do not allow exceptions or objections. A State cannot invoke any circumstances to justify actions that violate obligations arising from peremptory norms of general international law. Thus, neither consent, self-defense, countermeasures in respect of an internationally wrongful act, force majeure, distress nor necessity can be invoked to disrespect an obligation attached to a peremptory norm.

The International Law Commission (ILC)[6] recently drew up the following non-exhaustive list of peremptory norms of general international law: [7]

[6] The International Law Commission was established by the General Assembly, in 1947, to undertake the mandate of the Assembly, under Article 13 (1) (a) of the Charter of the United Nations to "initiate studies and make recommendations for the purpose of ... encouraging the progressive development of international law and its codification".

[7] International Law Commission, "Draft Conclusions on Identification and Legal Consequences of Peremptory Norms of General International Law (jus cogens)," Conclusion 19, A/77/10, *United Nations: Official Document System*, 12 August 2022, para. 43-44, https://docs.un.org/en/A/77/10 (Accessed 28 April 2026). According to the Commentary to the earlier ILC Articles on the Responsibility of States for Internationally Wrongful Acts (ARSIWA), the peremptory norms of international law included the prohibition of genocide, the prohibition of aggression, of racial discrimination, of crimes against humanity and torture, and the right to self-determination. See: International Law Commission, *Draft Articles on Responsibility of States for Internationally Wrongful Acts, with Commentaries* (New York: United Nations, 2001), https://legal.un.org/ilc/texts/instruments/english/commentaries/9_6_2001.pdf (Accessed 3 March 2026).

(a) The prohibition of aggression;

(b) The prohibition of genocide;

(c) The prohibition of crimes against humanity;

(d) The basic rules of international humanitarian law;

(e) The prohibition of racial discrimination and apartheid;

(f) The prohibition of slavery;

(g) The prohibition of torture;

(h) The right of self-determination.

The ICJ has ascertained that over the past decades, Israel has been violating several of these norms, first and foremost, the right of the Palestinian people to self-determination, the prohibition of crimes against humanity, respect for the basic rules of international humanitarian law and the prohibition of racial discrimination and apartheid.

1. The prohibition of genocide

The ICJ found on 26 January 2024 that Palestinians in Gaza were a significant part of the protected group of Palestinians, whose intentional destruction would 'have an impact on the group as a whole'.[8] Therefore, 'the right of the Palestinians in Gaza to be protected from acts of genocide and related prohibited acts' under the Genocide Convention was plausible. Due to the urgency and to prevent irreparable prejudice, the Court ordered three sets of provisional measures: Israel had to take all possible measures to prevent genocide and to enable the provision of basic services and humanitarian aid. In later additional provisional measures, the ICJ ordered Israel to ensure immediate access to food supplies and to halt its military offensive in Rafah as well as any other action which may result in the physical destruction in whole or in part of the Palestinian group in Gaza.[9] These court orders pointed to an exacerbating risk of genocide against the Palestinian population in Gaza.

The UN Special Rapporteur on the situation of human rights in the Palestinian Territory Francesca Albanese found in a series of reports, that Israel's conduct amounted to genocide and that third states as well as businesses bear responsibility for aiding and assisting this violation.[10]

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[8] Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip (South Africa v. Israel), No. 192 (ICJ), 26 January 2024 https://www.icj-cij.org/sites/default/files/case-related/192/192-20240126-ord-01-00-en.pdf (Accessed 3 March 2026).

[9] Request for the Modification of the Order of 26 January 2024 – Indicating Provisional Measures – Order of 28 March 2024 – Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip (South Africa v. Israel), No. 192 (ICJ), 28 March 2024. https://www.icj-cij.org/sites/default/files/case-related/192/192-20240328-ord-01-00-en.pdf (Accessed 3 March 2026).

[10] See the reports of the UN Special Rapporteur on the situation of human rights in the Palestinian Territory occupied since 1967:
Francesca Albanese, "Anatomy of a Genocide: Report of the Special Rapporteur on the Situation of Human Rights in the Palestinian Territories Occupied since 1967" (A/HRC/55/73), *United Nations: Official Document System*, 2024, https://documents.un.org/ (Accessed 28 April 2026); Francesca Albanese, "Genocide as Colonial Erasure:

UN Independent International Commission of Inquiry on the Occupied Palestinian Territory, including East Jerusalem, and Israel found in a Report of September 2025[11] that Israel committed a genocide in Gaza. It found that Israel committed four of the five acts which constitute genocide[12]: killing members of the group, creating serious bodily or mental harm to members of the group, deliberately inflicting upon the group conditions of life calculated to bring about its physical destruction in whole or in part, and imposing measures intended to prevent births within the group. They found that the Israeli authorities intentionally committed these acts.

2. The Prohibition of Crimes against Humanity

On 20 May 2024, the Prosecutor at the ICC applied for arrest warrants in the situation in the State of Palestine against both the Hamas leadership and against the Prime Minister and the then Defense Minister of Israel. On 21 November 2024, the Pre-Trial Chamber of the ICC issued three arrest warrants against Mr. Netanyahu and Mr. Gallant as well as Mr. Deif, a leader of HAMAS who was later ascertained to be dead. The Chamber found reasonable grounds to believe that Mr Benyamin Netanyahu, Prime Minister of Israel at the time of the relevant conduct, and Mr Yoav Gallant, Minister of Defense of Israel at the time of the alleged conduct, each bear criminal responsibility for the following crimes as co-perpetrators for committing the acts jointly with others: the war crime of starvation as a method of warfare; and the crimes against humanity of murder, persecution, and other inhumane acts. The Chamber also found reasonable grounds to believe that Mr Netanyahu and Mr Gallant each bear criminal responsibility as 'civilian superiors for the war crime of intentionally directing an attack against the civilian population'.

3. The Basic Rules of International Humanitarian Law

In its Advisory Opinion on 19 July 2024 the ICJ found that the Fourth Geneva Convention and the Hague Regulations are applicable to the Occupied Palestinian Territories (OPT), and that a significant number of Israeli policies and practices in the OPT are contrary to these instruments. These include inter alia:

Report of the Special Rapporteur on the Situation of Human Rights in the Palestinian Territories Occupied since 1967" (A/79/384), *United Nations: Official Document System*, 2024, https://documents.un.org/ (Accessed 28 April 2026); Francesca Albanese, "From Economy of Occupation to Economy of Genocide: Report of the Special Rapporteur on the Situation of Human Rights in the Palestinian Territories Occupied since 1967" (A/HRC/59/23), *United Nations: Official Document System*, 2025, https://docs.un.org/en/A/HRC/59/23 (Accessed 28 April 2026); Francesca Albanese, "Gaza Genocide: A Collective Crime: Report of the Special Rapporteur on the Situation of Human Rights in the Palestinian Territories Occupied since 1967" (A/80/492), *United Nations: Official Document System*, 2025, http://undocs.org/en/A/80/492 (Accessed 28 April 2026).

[11]Human Rights Council, "Legal Analysis of the Conduct of Israel in Gaza Pursuant to the Convention on the Prevention and Punishment of the Crime of Genocide" (A/HRC/60/CRP.3*), United Nations: Official Document System*, 16 September 2025, https://www.ohchr.org/sites/default/files/documents/hrbodies/hrcouncil/sessions-regular/session60/advance-version/a-hrc-60-crp-3.pdf (Accessed 28 April 2026).

[12] United Nations, "Convention on the Prevention and Punishment of the Crime of Genocide" (A/RES/260(III)), *United Nations: Official Document System*, 9 December 1948, https://documents.un.org/ (Accessed 28 April 2026), Article II; International Criminal Court, "Rome Statute of the International Criminal Court" (A/CONF.183/9), *United Nations: Official Document System*, 17 July 1998, https://documents.un.org/ (Accessed 28 April 2026), Article 6.

- the transfer of settlers to the West Bank and East Jerusalem as well as the maintenance of their presence (para 119);
- not ensuring availability of water in sufficient quality and quantity in the OPT (para 133);
- the extension of Israel's law to East Jerusalem and the West Bank (para 139); the forcible transfer of the protected population (para 147); and
- violations of the right the life (para 149). The Court noted that Israel has systematically failed to prevent or to punish attacks by settlers against the life or bodily integrity of Palestinians, and has used excessive use of force against Palestinians (para 154).

The dire humanitarian crisis in Gaza is exacerbated by Israel's refusal to allow adequate humanitarian assistance to the Palestinian population has prompted a third process at the ICJ. The ICJ delivered an Advisory Opinion on 22 October 2025 finding that Israel must respect international humanitarian law, ensure that the Palestinian population has the essential supplies of daily life, including food, water, clothing, bedding, shelter, fuel, medical supplies and service, and cooperate in good faith with the United Nations (UN) (including UNRWA).

4. The Prohibition of Racial Discrimination and Apartheid

The ICJ held in its Advisory Opinion of 19 July 2024 that the prohibition of discrimination is part of customary international law.[13] The Court found that a broad array of legislation adopted, and measures taken by Israel in its capacity as an occupying Power treat Palestinians differently on grounds specified by international law. According to the Court, this differentiation of treatment could not be justified with reference to reasonable and objective criteria nor to a legitimate public aim. Accordingly, the Court was of the view that the regime of comprehensive restrictions imposed by Israel on Palestinians in the OPT constitutes systemic discrimination based on, inter alia, race, religion or ethnic origin. The Court also assessed the compliance of Israel with Article 3 of the International Convention on the Elimination of all forms of Racial Discrimination (CERD) that deals with 'two particularly severe forms of racial discrimination: racial segregation and apartheid'. The Court found that Israel's legislation and measures impose and serve to maintain a near-complete separation in the West Bank and East Jerusalem between the settler and Palestinian communities, and thus constitute a breach of Article 3 of CERD. However, the Opinion does not elaborate on whether Israel's legislation and measures amount to racial segregation or to apartheid. It becomes clear from the declarations and separate opinions attached to the Opinion that there was some difference of opinion within the Court on this matter. What is beyond doubt, however, is that Israel's legislation and measures were held to amount to a severe form of systemic racial discrimination. The UN OCHA confirmed in a Report of January 2026 the violation of Article 3 CEDR as well as "long-standing patterns of

[13] Legal Consequences Arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, Including East Jerusalem – Advisory Opinion, No. 186 (ICJ), 19 July 2024, https://www.icj-cij.org/sites/default/files/case-related/186/186-20240719-adv-01-00-en.pdf (Accessed 28 April 2026).

systemic discrimination, racial segregation, oppression, domination, violence and other inhumane acts".[14]

5. The Right to Self-Determination

The ICJ in its Advisory Opinion of 19 July 2024 also found that Israel was violating another peremptory norm of international: by violating the integrity of the Occupied Palestinian Territory, it was violating an essential element of the Palestinian people's right to self-determination. It moreover found that Israeli policies and practices in the Occupied Palestinian Territories are also contrary to peremptory norms of international humanitarian law.

The ICJ's other Advisory Opinion of 22 October 2025 on the Obligations of Israel in relation to the presence and activities of the UN, other international organizations and third States in and in relation to the Occupied Palestinian Territory, held that

The deprivation of a people of its essential means of subsistence threatens the fundamental conditions that are indispensable for that people to exercise its right to self-determination. Respect for the right to self-determination of the Palestinian people requires Israel not to prevent the fulfilment of the basic needs of the Palestinian people in the Gaza Strip, including by the United Nations, its entities, other international organizations and third States.[15]

6. Consequences of these breaches of Peremptory Norms

Peremptory norms give rise to obligations owed to the entire international community, i.e. *erga omnes* obligations. According to the ILC, serious breaches of such norms have the following particular consequences:[16]

1. States shall cooperate to bring to an end through lawful means any serious breach by a State of an obligation arising under a peremptory norm of general international law (jus cogens).
2. No State shall recognize as lawful a situation created by a serious breach by a State of an obligation arising under a peremptory norm of general international law (jus cogens), nor render aid or assistance in maintaining that situation.
3. A breach of an obligation arising under a peremptory norm of general international law (jus cogens) is serious if it involves a gross or systematic failure by the responsible State to fulfil that obligation.

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[14] United Nations: Human Rights Office of the High Commissioner (OHCHR), *Israel's Discriminatory Administration of the Occupied West Bank, Including East Jerusalem*, Thematic Report, 7 January 2026, https://www.ohchr.org/sites/default/files/documents/countries/israel/20260105-thematic-report-israel-discrimin.pdf (Accessed 28 April 2026).

[15] Advisory Opinion on the Obligations of Israel in relation to the Presence and Activities of the United Nations, Other International Organizations and Third States in and in relation to the Occupied Palestinian Territory, No. 196 (ICJ), 22 October 2025, para. 220. https://www.icj-cij.org/sites/default/files/case-related/196/196-20251022-adv-01-00-en.pdf (Accessed 28 April 2026).

[16] International Law Commission, "Draft Conclusions on Identification and Legal Consequences," Conclusion 19.

4. This draft conclusion is without prejudice to the other consequences that any breach by a State of an obligation arising under a peremptory norm of general international law (jus cogens) may entail under international law.

In relation to Israel's violations of the peremptory norms, all States must cooperate with the UN to end Israel's illegal presence in the Occupied Palestinian Territory and attain the right of the Palestinian people to self-determination. All States must abstain from relations or dealings with Israel that recognize its illegal presence in the Occupied Palestinian Territories. They may not aid in recognizing this illegal presence in any manner. All States must refrain from providing support (material/logistical/military/economic) that can be used in the commission of violations or that can be used to 'legalize' violations by normalizing their context. They must also take all effective measures to respond to violations of peremptory norms of international law, including diplomatic measures and targeted economic, military or other sanctions.

Involvement of Israeli Universities and Consequences for Other Universities

1. The Actions of Israeli Universities

Israeli universities as institutions are embedded in the exclusivist nature of the Israeli political system and benefit from the occupation. Their inextricable involvement in the violations of peremptory norms of international law has been widely documented.[17] According to the Report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, Israeli universities "contribute to the ideological scaffolding of apartheid, cultivating State-aligned narratives, erasing Palestinian history and justifying occupation practices."[18] They have been putting their expertise at the disposal of governmental measures aimed at maintaining and expanding the occupation. For instance, Bar-Ilan's BESA Centre researches hybrid warfare and cooperates with the Israeli armed forces, co-hosting a conference.[19] The Australian Friends of the Hebrew University announces that "the Hebrew University is not only Israel's first and foremost university but it is also the university that has the most important ties and collaboration with the Israel Defence Force."[20] Tel Aviv University operated an "engineering war room to assist Israeli soldiers in Gaza."[21] Ben Gurion University is located close to the IDF Technology campus, which led the University's President Prof. Daniel Chamovitz to state: "The future growth and development of Ben-Gurion University of

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[17] See, Maya Wind, *Towers of Ivory and Steel: How Israeli Universities Deny Palestinian Freedom* (London: Verso Books, 2024).

[18] Albanese, "From Economy of Occupation to Economy of Genocide," para82.

[19] See: Bar-Ilan University, *Wining a Hybrid War| President's Report* (Bar-Ilan University, 2023), https://www.digipage.co.il/projects/2023/biu/president/12/ (Accessed 28 April 2026).

[20] See its Website: Australian Friends of the Hebrew University, "The Hebrew University in Times of War," *Australian Friends of the Hebrew University* (n.d.), https://austfhu.org.au/when-duty-calls-the-hebrew-university-is-always-there/ (Accessed 28 April 2026).

[21] Middle East Eye, "Tel Aviv University details its 'war room' work in video uploaded to social media," YouTube, *Middle East Eye* (6 December 2024), https://www.youtube.com/watch?v=aRKaEsY_3T4 (Accessed 28 April 2026).

the Negev into the North Campus is intimately tied to our growing relationship with the nascent IDF technology and intelligence bases springing up in and around Be'er-Sheva…"[22] The University of Haifa leads the Military Academic Complex, which houses three military colleges.[23] While these examples relate to the period since 7 October 2023, the embedded nature of the Israeli universities into and their benefit from the colonial structure is much older.

In light of the extent to which Israeli universities are enmeshed with the Israeli State and its violations, cooperating with them amounts to indirectly cooperating to the armed forces and and State actors. Institutional cooperation with these universities amounts *prima facie* to aid and assistance in maintaining a situation that breaches peremptory norms of international law.

2. Consequences for Universities in other countries

The next question is whether universities in other States are also bound by the obligation no to aid or assist in the violations of international law. According to some, universities are entities separate from the State. Some academics worry about academic freedom and/or about contractual obligations universities have assumed.

The response to these views is firstly that *erga omnes* obligations bind all members of the international community, as they would be rendered devoid of content otherwise. The prohibition of genocide would be meaningless if states were bound by the obligation but this prohibition did not apply to important societal actors such as universities. The preamble Universal Declaration of Human Rights perceives of human rights as:

> a common standard of achievement for all peoples and all nations, to the end that every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance, both among the peoples of Member States themselves and among the peoples of territories under their jurisdiction.

Second, universities are organs of society endowed with the responsibility to teach and educate. They have an important social responsibility in securing the universal and effective recognition and observance of human rights. This is *a fortiori* the case when universities are faced with a finding by the ICJ, the principal judicial organ of the UN and the so-called "World Court", that serious breaches of a variety of peremptory norms of international law (including but not limited to human rights norms) over a lengthy period of time have been committed by a given State. As an organ of society and a member of the international community, universities have a duty -at a minimum- to avoid aiding and assisting the commission of serious breaches of peremptory

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[22] Israel Defense, "IMOD, BGU Inaugurate First Building of IDF's New Technology Campus," Israel Defense, (27 June 2019). https://www.israeldefense.co.il/en/node/39140 (Accessed 28 April 2026).

[23] University of Haifa, "U of H First: 3 Elite Military College under 1 Roof," *University of Haifa Magazine* (Winter 2018), https://magazine.haifa.ac.il/index.php/winter-2018/113-university-of-haifa-to-lead-israel (Accessed 28 April 2026).

norms of international law created by Israel's illegal presence in the OPT, and to address such aid and assistance when it nevertheless occurs.[24]

Third, there is a strong argument that public universities, funded and governed under State supervision, can be considered organs of the State under international law. These universities are created by the State, and for many of their activities, they must act like a State organ, for instance in applying public procurement practices, rules on gender quotas, and in the treatment of some of their employees as civil servants. Some, have government commissioners or administrative oversight to guard over their management. Furthermore, the institution's activities consist of providing a service of importance to the public. Its operational and institutional independence is limited by its reliance on the State allocation of funding. This means, in turn that the State's international obligations would apply to these universities.

While we acknowledge that more research is needed on the status of entities such as universities under international law, we believe universities cannot be absolved from duties under international law. This is particularly true as regards negative obligations – to refrain from involvement in violations of international law, even if the respective State itself does not take measures or impose sanctions in a particular situation.

This does not mean that the universities cannot set their own policies. It does, however, mean that the respective State may be internationally responsible for the conduct of the university, and that the State's international obligations would in turn apply to the university.

The ILC Articles on State Responsibility indicate that an organ of the State may 'exercise legislative, executive, judicial or any other' functions. State organs definitely include entities that have the status of an organ under domestic law, but are not limited to them.[25] The European Court of Human Rights (ECtHR) has held that whether an act by a legal entity is an act attributable to the State depends on factors such as '[the entity's] legal status, the rights that such status gives it, the nature of the activity it carries out and the context in which it is carried out, and the degree of its independence from the authorities'. [26]

Moreover, arguing that universities cannot take any measures or do not have legal capacity to decide what partners they collaborate with would leave us in the untenable position that no-one can do anything: the university cannot do anything until the State acts, an EU Member State cannot do anything until the EU agrees, etc. This cannot be the correct position under international law while the ICJ has pronounced *erga omnes* obligations binding the entire international community and stated that all States must take all effective measures to respond to violations of peremptory norms of international law, including diplomatic measures and targeted economic, military or other sanctions. States may not provide any support of whatever

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[24] Human Rights Council, *Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework*, Resolution 17/4, 16 June 2011, https://www.undp.org/asia-pacific/bizhumanrights/publications/guiding-principles-business-and-human-rights (Accessed 29 April 2026).
[25] International Law Commission, *Articles on Responsibility of States,* Article 4.
[26] European Court of Human Rights, "Yershova v. Russia" (Application no. 1387/04), Judgment of 8 April 2010, HUDOC database, https://hudoc.echr.coe.int/rus?i=001-98130 (Accessed 4 July 2025), para. 55.

nature that could be used in the commission of violations, the continuation of violations or that could be used to 'legalise' violations by normalising their context.[27] Continuing business as usual, where Israeli institutions have access to financing among other benefits by cooperating with universities abroad, amounts to legalising and normalising the unlawful situation in the OPT.

From an international law perspective, the question is whether the State can be held accountable for the acts of the organ. The answer depends on the nature of the institution (university) as well as on the nature of the acts performed.[28] Universities perform a wide range of activities, including providing education, a right guaranteed by the International Covenant on Economic, Social and Cultural Rights. They also arrange international exchanges for their students; they get State funding and European universities also get funding from the EU.[29]

The situation of private universities is different, as they cannot a priori be considered organs of State. However, there are two compelling arguments concerning their duties and potential responsibility they may incur for aiding or assisting breaches of jus cogens. First, in a hybrid setting, they might be exercising public functions by providing higher education and using public funds to do so. Second, there is a growing recognition that private entities (such as businesses) have a duty to respect human rights. These duties are clearly elaborated in the non-binding but authoritative UN Guiding Principles on Business and Human Rights.[30] We argue these principles should apply by analogy also to private universities. They too are thus bound to respect human rights and certainly humanitarian law and peremptory norms of international law. It would run contrary to the meaning and spirit of international legal norms that embody *erga omnes* obligations to argue that these norms create no consequences for universities. As stated above, universities are at the very minimum organs of society and may also be argued to be organs of State when they have a public nature.

What to do with Cooperation Agreements

Cooperation can take various forms, such as bilateral agreements between institutions (for instance for student and/or staff exchange), or research cooperation, often in consortia of various universities. The EU provides funding for the latter type of cooperation through its research and innovation Framework Programme (current Framework Programme is called

[27] International Court of Justice, "Legal Consequences arising from the Policies," para 275-279.
[28] Vitanyi, B.K.J., "Internationale aansprakelijkheid door Staten voor hun rechtsbedeling," Archived Lecture, (Nijmegen: Catholic University of Nijmegen, 6 May 1983), 2 https://repository.ubn.ru.nl/bitstream/handle/2066/306683/306683.pdf?sequence=1 (Accessed 6 July 2025). (غير محقق)
[29] Eva Brems, Laurens Lavrysen, and Lieselot Verdonck, "Universities as Human Rights Actors," *Journal of Human Rights Practice* 11, no. 1 (2019) 229-238, https://2h.ae/VBGcf (Accessed 6 July 2025).
[30] Human Rights Council, *Guiding Principles on Business and Human Rights.*

Horizon Europe). Israel participates in this Framework Programme, on the basis of an agreement,[31] that is founded upon the EU-Israel Association Agreement.[32]

This section shows how the participation of Israeli partners in project under the Framework Programme can and should be terminated. Projects can cover a broad range of topics. The mere nature of a project cannot be a justification to continue collaborating with Israeli parties that pose the risk discussed above. The collaboration itself is problematic, even if the research is on a seemingly political neutral topic such as cancer research. One exception exists, however, and that is where the topic of the project is exactly to terminate the gross violations of international law by Israel. In such projects the collaboration does not carry the risk of complicity explained above, as its very aim is the respect for international law. Examples of such type of projects include: the development of a scheme for the transition towards the end of the occupation; the development of laws, practices and policies that ensure compliance with the prohibition of racial discrimination and the respect of basic rules of international humanitarian law; measures ensuring the enforcement of obligations to prosecute individuals that have committed international crimes; the setting up of reparation schemes for persons having suffered from breaches of peremptory norms of general international law; practices and policies aiming at preventing such breaches in the future and at reconciliation.

For research cooperation under the Framework Programme, European model Grant Agreements[33] and Consortium Agreements[34] exist.

The EU Model Grant Agreement refers to ethics and values.

Article 14.2 on **values** provides:

The beneficiaries must commit to and ensure the respect of basic EU values (such as respect for human dignity, freedom, democracy, equality, the rule of law and human rights, including the rights of minorities).

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[31] European Union, "Agreement between the European Union, of the One Part, and Israel, of the Other Part, on the Participation of Israel in the Union Programme Horizon Europe – the Framework Programme for Research and Innovation," *Official Journal of the European Union*, L 95/143, 23 March 2022, http://data.europa.eu/eli/agree_internation/2022/323/oj (Accessed 29 April 2026).

[32] European Council, "Euro-Mediterranean Agreement Establishing an Association between the European Communities and Their Member States and the State of Israel," 20 November 1995, https://www.consilium.europa.eu/en/documents-publications/treaties-agreements/agreement/?id=1995061 (Accessed 29 April 2026).

[33] European Commission, "General Model Grant Agreement (Horizon Europe / Euratom Programme)," *EU Funding & Tenders Portal*, 1 June 2021, https://ec.europa.eu/info/funding-tenders/opportunities/docs/2021-2027/common/agr-contr/general-mga_horizon-euratom_en.pdf (Accessed 29 April 2026). While the agreement refers to the Horizon Europe Programme, it is also sometimes used for other EU-funded projects.

[34] DESCA Core Group, *DESCA Model Consortium Agreement for Horizon Europe, Version 2.0* (Brussels: DESCA, February 2024), https://www.desca-agreement.eu (Accessed 29 April 2026).

Beneficiaries from any State are thus held to respect human rights. Where beneficiaries do not respect human rights or contribute to the violation of such rights by their State or arms of their State, they are thus violating their obligations under the contract with the funder.

Annex 5 of the EU Model Grant Agreement further specifies that:

The beneficiaries must carry out the action in compliance with:

- ethical principles (including the highest standards of research integrity)

and

- applicable EU, international and national law, including the EU Charter of Fundamental Rights and the European Convention for the Protection of Human Rights and Fundamental Freedoms and its Supplementary Protocols.

No funding can be granted, within or outside the EU, for activities that are prohibited in all Member States. No funding can be granted in a Member State for an activity which is forbidden in that Member State.

…

The beneficiaries must ensure that the activities under the action have an exclusive focus on civil applications.

This Annex is considered of high importance in the interpretation of the grant agreement, as it takes precedence over the terms and conditions (Art. 37).

If a beneficiary **breaches** any of these obligations, the funder may reduce (Art. 18.2 and Art. 28) or suspend (Art. 31.2) the grant, or terminate the grant in whole or with respect to one beneficiary (Art. 32.3). The conditions and procedure for such reduction, suspension and termination are set out in Articles 28, 31.2 and 32.3 respectively. Annex 5 specifically refers to the possibility to reduce the grant concerning a breach of its obligations (on ethics and values). It does not refer to suspension, but Article 31.2 on suspension and Article 32.3 on termination by the funder refer to a *serious breach of obligations under this Agreement (including… breach of ethics…)*. Art. 32.3 also refers to *gross professional misconduct.*

The coordinator may request a **suspension** or amendment to the funder if exceptional circumstances make implementation impossible or excessively difficult (Art. 39). The coordinator may also request termination of the grant agreement (Art. 32.1) or of the participation of a beneficiary (Art. 32.2), giving reasons and in the latter case submitting the opinion of the beneficiary concerned. The grant agreement will then have to be amended concerning the tasks and payments.

The DESCA Model Consortium Agreement does not enlist the same obligations as those in Annex 5 of the EU Model Grant Agreement, but provides that [*e*]*ach party undertakes to… perform and fulfil, promptly and on time, all of its obligations under the Grant Agreement…* (Art. 4.1). It thus **incorporates** as between the partners the obligations set out in the Grant

Agreement. The DESCA Model Consortium Agreement further provides that the General Assembly is responsible for identifying any breach of the obligations by the partners (Art. 6.3.7). The General Assembly consists of a representative of each partner and is chaired by the coordinator, who is the intermediary between the partners and the funders (art. 6.1 and 6.2).

Both the EU Model Grant Agreement (Art. 7, second paragraph) and the DESCA Model Consortium Agreement (Art. 4.1) provide that parties have to fulfill their obligations in **good faith**. This concept is a cornerstone of contract law in various legal systems based on civil law, including Belgian law[35] (see 5.3. below on Belgian law).

The EU Model Grant Agreement allows parties to **terminate** the contract or to terminate the participation of a beneficiary (Art. 32). As mentioned above, the DESCA Model Consortium Agreement sets out the procedure for decision-making within the consortium (Art. 6). Therefore, the General Assembly should discuss issues concerning the continued participation of Israeli partners and the performance of the research in good faith and in accordance with national, EU and international law.

The EU Model Grant Agreement is governed by the EU law, supplemented if necessary by the law of Belgium (Art. 43.1). The DESCA Model Consortium agreement is also subjected to Belgian law (Art. 11.7). International law is part of the Belgian legal order,[36] and thus also governs the agreements.

Recommendations for universities

In order to avoid all risks of complicity in these breaches of peremptory norms of international law, universities should take effective measures as have been taken by some higher education institutions to:

1. Ensure full compliance with obligations of the respective State under international law, international human rights law and international humanitarian law as well as its obligations under domestic law which as the ICJ order outlines, includes *erga omnes* obligations:
    - not to recognize as legal the situation arising from the unlawful presence of Israel in the OPT
    - not to render aid or assistance in maintaining the situation created by Israel's illegal presence in the OPT;

[35] Sophie Stijns and Sébastien De Rey, *Het nieuwe verbintenissenrecht in Boek 5 BW* (Rechtskundig Weekblad, 2022–2023), Universiteit van Amsterdam, 24–25 (2023): §36 (UvA Pure Repository), https://pure.uva.nl/ws/files/116978122/RW2023_FINAL_Boek_5_nieuw_verbintenissenrecht_S._Stijns_en_S._De_Rey.pdf (Accessed 29 April 2026).(غير محقق)

[36] Belgian Court of Cassation, "Drecoll," Judgment of 25 January 1906, *Pasicrisie belge* (3rd series), I: 95–111; Jan Wouters and Dries Van Eeckhoutte, "Doorwerking van internationaal recht in de Belgische rechtsorde: een overzicht van bronnen en instrumenten," in *Doorwerking van internationaal recht in de Belgische rechtsorde: recente ontwikkelingen in een rechtstakoverschrijdend perspectief*, eds. Jan Wouters and Dries Van Eeckhoutte (Antwerp: Intersentia, 2006), 14–17. (غير محقق)

2. End any and all collaborations with academic and other institutions directly or indirectly implicated in the violations of international law, international human rights law and international humanitarian law in Gaza and in the OPT, more generally;
3. Put on the agenda and discuss with other partners in research collaborations the legal consequences of cooperating with Israeli universities, examine the correct ways to terminate the participation of Israeli institutions, and communicate the issue to the funder of the research project;
4. Depart from a precautionary principle and not initiate any new collaborations with Israeli academic and other institutions until such a time that the violations of international law by Israel are brought to an end.
5. By way of a single exception: Set up of a credible form of carefully negotiated inter-university cooperation that aims specifically at bringing to an end serious breaches by Israel of obligations arising under a peremptory norm of general international law as recently established by the ICJ.

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