

Airbnb Saga in the West Bank: Foreshadowing the Collapse of International Law in Gaza

Ömer Erkut BULUT^{1*} 

¹Boğaziçi Üniversitesi, Hukuk Fakültesi, Türkiye

Article Info

ABSTRACT

Article History

Received: 05.02.2026

Accepted: 02.05.2026

Published: 17.05.2026

Keywords:

International Law, Business
and Human Rights, Palestine

This article examines the selective application of international law to corporate activities in occupied territories through the case study of Airbnb's operations in the Israeli settlements in the Occupied West Bank. Although international humanitarian law and international human rights law clearly prohibit the acquisition of territory by force and restrict practices that sustain unlawful settlements, economic actors continue to operate in these areas with limited legal consequences. Airbnb's fluctuating policy (first permitting, then removing, and later reinstating listings in the settlements) illustrates how corporate conduct is shaped less by international legal standards than by domestic political and economic pressures.

The article argues that this inconsistency reflects structural shortcomings within international business and human rights law. The soft-law character, vague terminology, and uneven implementation of the UN Guiding Principles on Business and Human Rights create significant room for interpretation and avoidance, weakening their practical effect. More fundamentally, the very design of these soft and indeterminate frameworks enables double standards rather than constraining them. Similar conduct may therefore be condemned in some conflicts while tolerated in others.

The Airbnb episode therefore serves as a microcosm of a deeper problem: the gradual exposure of the selective application of international law and the corresponding erosion of its authority and credibility. The permissive environment surrounding corporate activity in the West Bank foreshadowed these systemic failures of the international legal order, which have become unmistakably visible in Gaza.



This article is licensed under a Creative Commons Attribution-NonCommercial 4.0 International License (CC BY-NC 4.0)

Batı Şeria’da Airbnb Meselesi: Gazze’de Uluslararası Hukukun Çöküşünün Habercisi

Makale Bilgisi

ÖZET

Makale Geçmişi

Geliş: 05.02.2026

Kabul: 02.05.2026

Yayın: 17.05.2026

Anahtar Kelimeleri:

Uluslararası Hukuk, İş
Dünyası ve İnsan Hakları,
Filistin.

Bu makale, şirketlerin işgal altındaki topraklarda yürüttüğü faaliyetlere ilişkin uluslararası hukuk kurallarının seçici biçimde uygulanmasını, Airbnb’nin Batı Şeria’daki hukuksuz İsrail yerleşimlerdeki faaliyetleri vakası üzerinden incelemektedir. Uluslararası insancıl hukuk ve uluslararası insan hakları hukuku, kuvvet kullanımı yoluyla toprak edinimini açıkça yasaklamakta ve hukuksuz yerleşimlere destek veren uygulamaları sınırlamaktadır. Buna rağmen ekonomik aktörler bu bölgelerde sınırlı hukuki sonuçlarla faaliyet göstermeye devam etmektedir. Airbnb’nin bu yöndeki değişken politikası (yerleşimlerdeki ilanlara önce izin vermesi, ardından kaldırması ve daha sonra yeniden yayımlaması) şirket davranışlarının uluslararası hukuk standartlarından ziyade siyasi ve ekonomik baskılar tarafından şekillendiğini göstermektedir.

Makale, bu tutarsızlığın uluslararası iş ve insan hakları hukukundaki yapısal eksikliklerden kaynaklandığını belirtmektedir. Birleşmiş Milletler İş Dünyası ve İnsan Hakları Rehber İlkeleri’nin bağlayıcı olmaması, muğlak terminolojisi ve düzensiz uygulanması, yorum ve kaçınma için geniş bir alan bırakmakta ve bu ilkelerin pratik etkisini zayıflatmaktadır. Daha temelde ise, bu yumuşak ve belirsiz çerçevelerin tasarımın kendisi, çifte standartları sınırlamak yerine mümkün kılmaktadır. Bu nedenle benzer davranışlar bazı çatışmalarda kınanırken diğerlerinde tolere edilebilmektedir.

Bu bağlamda Airbnb vakası, daha derin bir sorunun küçük bir yansıması niteliğindedir: uluslararası hukukun seçici biçimde uygulanmasının giderek daha görünür hâle gelmesi ve buna paralel olarak otoritesi ile güvenilirliğinin aşınması. Batı Şeria’daki şirket faaliyetlerine yönelik müsamahakâr ortam, uluslararası hukuk düzeninin bu yapısal zaaflarının adeta habercisi olmuş; söz konusu zaaflar Gazze’de artık inkâr edilemeyecek ölçüde görünür hâle gelmiştir.

To cite this article:

Bulut, Ö. E. (2026). “Airbnb Saga in the West Bank: Foreshadowing the Collapse of International Law in Gaza”, *Necmettin Erbakan Üniversitesi Hukuk Fakültesi Dergisi*, 9(1), s. 509-526. <https://doi.org/10.51120/NEUHFD.2026.203>.

*Sorumlu Yazar: Ömer Erkut Bulut, omererkut.bulut@bogazici.edu.tr

INTRODUCTION

This article examines the unfairness and double standards surrounding investments in occupied territories through the lens of Airbnb’s changing practices and explores the broader implications of such inconsistencies for the erosion of international law.

From oil magnates, such as Total operating in offshore Western Sahara, to ice-cream parlours,

such as Ben Jerry's operating in the Occupied West Bank, major well-known corporations operate and invest in occupied territories despite the legal, ethical and political controversies. Airbnb is one of them. The article will show how the company first resisted to remove the listings of illegal settlements in the West Bank, then removing them in the face of public pressure and the pressure from the rights groups such as Amnesty International and Human Rights Watch and then reinstituting them due to facing legal backlashes before the U.S. courts.

The Airbnb case clearly illustrates the double standard in practice and indifference to the norms of international human rights law and international humanitarian law regarding investments in occupied territories. Accordingly, this paper will examine the root causes of this unfairness. The paper will explain how the hegemonic status of certain states (both in the world economy and international organizations) and the lack of solid norms in international business and human rights law lead to investors' decisions to essentially ignore the international norms governing corporate human rights responsibility.

The issue of double standards and unfairness of international law is indeed a complex issue. One can rightly question whether the problem is solely the result of a mis-design of the rules regulating corporate human rights responsibility and can be solved by "fixing the rules". While it is true that there could be more efficient and harmonized rules to ensure a consistent and compliant corporate conduct vis-à-vis peremptory norms of international law, the lack of 'good' rules is not the sole culprit. In this sense, the paper will evaluate the roots of the unfairness and double standards in two pillars: first, it will engage in a technical analysis of the substantive rules and how they might contribute to the (in)effectiveness of the corporate human rights responsibility. Secondly, the paper will focus on a broader problem regarding the respect to international law: increasingly selective and contradicting application of international law norms by hegemonic powers. These symptoms of selective implementation of international law as reflected in the Airbnb saga also foreshadowed a much bigger challenge that the humanity has been facing since October 2023: the humanitarian catastrophe and the plausible case of genocide in Gaza, with the non-existent to symbolic response of international community in preventing genocide. The paper therefore will examine this broader problem which has a direct impact on hindering the development and crystallization of the international norms of corporate social responsibility, in addition to the lack of clarity and enforceability of the substantive rules on the matter.

The focus on listing platforms is not intended to suggest that they are the most important actors in the Israeli-Palestinian conflict, nor that their conduct alone explains the broader crisis of international law. Their relevance is rather methodological. They provide a limited but revealing case study in which the contrast between legal clarity and political selectivity becomes unusually visible. In Crimea, even listings that could have belonged to members of the local population were removed once sanctions and legal consequences became clear. In the West Bank, by contrast, listings in settlements whose illegality under international law is far more clearly established were framed as part of a complex historical dispute. Airbnb's subsequent reversal also confirms the point: the company first removed the settlement listings after public criticism and human rights pressure, only to reinstate them following litigation and political pressure in the United States. The case therefore shows that corporate conduct in occupied territories is shaped less by the legitimacy of the underlying

conduct under international law than by the distribution of political and economic pressure surrounding it.

The listing-platform example is therefore not just an anecdote, but an early and concrete manifestation of a wider pattern: the selective translation of international legal norms into actual consequences. It exposed the same asymmetry that later became far more visible in the international response to Gaza. The article therefore uses Airbnb and similar listing companies not as isolated examples, but as a legally manageable lens through which the broader erosion of consistency, credibility and ultimately the authority of international law can be examined.

I. AIRBNB SAGA: SETTING THE STAGE

As it is general knowledge, Airbnb is a major San Francisco based company which operates as an intermediary between property owners who want to rent their space and the travellers who look for short term rentals.¹ In 2018, Airbnb extended its portfolio into the Israeli settlements in the Occupied West Bank and the Golan Heights by including the rental advertisements in the area, including the settlements. The company's decision directly provided economic benefits for the settlements established in occupied territories, which is in direct violation of the Fourth Geneva Convention as the paper will elaborate on. When the company received an intense backlash from the right groups over this highly controversial decision, it initially reiterated its position, stating “US law permits companies like Airbnb to engage in business in these territories” and “we are most certainly not the experts when it comes to the historical disputes in this region.”²

The statement of the company which had defended the company policy in the West Bank and Golan Heights contained several anomalies, suggesting that no expert of international law took part in its draft. Firstly, the company defined the Occupied West Bank as “disputed territories” even though the status of the West Bank as an occupied territory is clear in international law.³ Secondly, the company declared in the same statement that it had taken down the listings in the “Occupied Crimea” due to “the international sanctions.”⁴ Therefore, the company defended its position in the West Bank by paradoxically boosting that it was refraining to do the same conduct in Crimea.

Shortly after including the illegal settlements in its portfolio, Airbnb changes its practice and removes the Israeli settlements in the West Bank from its portfolio with the intense criticism from the right groups such as Human Rights Watch and Amnesty International, in addition to a public outrage against the company policy. The company declared the shift in this policy, stating: “[i]n the past, we made clear that we would operate in this area as allowed by law... Since then, we spent considerable time speaking to various experts — including those who have criticized our previous approach — about this matter.”⁵ The saga was not finished there though. A year after, Airbnb changed its policy

¹ Folger, Jean. “How Airbnb Works.” *Investopedia*, 23 September 2023, www.investopedia.com/articles/personal-finance/032814/pros-and-cons-using-airbnb.asp. (Accessed 8.02.2026).

² Airbnb. “Listings in Disputed Regions.” *Airbnb News*, 19 Nov. 2018, www.news.airbnb.com/listings-in-disputed-regions. (Accessed 8.02.2026).

³ For the status of the West Bank and the (il)legality of the Israeli settlements in the West Bank, see the following sections.

⁴ Airbnb. “Listings in Disputed Regions.”

⁵ Airbnb. “Listings in Disputed Regions.”

once again, reintroducing the settlements in its portfolio. This decision comes as a response to the class actions in the U.S., where the company is based, initiated by current and potential 'hosts' in the settlements.⁶

The U.S. litigation also adds a private international law dimension to the Airbnb saga and the broader question of corporate compliance with the peremptory norms of international law. Although the underlying wrong concerns economic activity in occupied territory, the practical consequences of corporate responsibility often depend on questions traditionally associated with private international law: where the company is domiciled or incorporated, which courts can exercise jurisdiction, which law is applied, and whether victims or affected communities can obtain an effective remedy before domestic courts. In this sense, the dispute demonstrates that violations of public international law do not operate in an institutional vacuum. Their legal consequences are frequently filtered through domestic litigation, jurisdictional gateways, applicable law rules and the procedural choices of the forum.⁷ Airbnb's reversal following proceedings in the U.S. therefore illustrates an additional systemic challenge: corporate compliance with international law may be shaped less by the substantive illegality of the conduct than by the private international law architecture through which such conduct is challenged.

The Airbnb story therefore cannot be dismissed as a merely anecdotal or incidental example. Its significance does not lie only in the fact that other tourism companies, including Expedia and Booking, have also listed properties in Israeli settlements in the West Bank and the Golan Heights.⁸ Rather, its importance lies in what the episode reveals about the selective translation of international law into practical consequences. In Crimea, international sanctions and domestic legal risks rapidly altered the behaviour of listing platforms.⁹ In the West Bank, by contrast, the clearer illegality of the settlements under international law (as it will be explained in the next section) did not produce the same result.

Hence, the case demonstrates a broader structural problem: corporate conduct in occupied territories is often shaped less by the objective content of international law than by the uneven distribution of political, economic and jurisdictional pressure. In this sense, the Airbnb saga foreshadowed graver examples of double standards in the response of many Western governments to breaches of basic international law norms, as well as the resulting outrage among many developing states.¹⁰

⁶ "Airbnb Reverses Ban on West Bank Settlement Listings." *BBC*, 10 Apr. 2019, www.bbc.com/news/world-middle-east-47881163 (Accessed 8.02.2026).

⁷ For a more detailed analysis, see Bonomi, Andrea. "Business and Human Rights: Issues of Private International Law." *Business and Human Rights: Emerging Challenges, Issues, and Trends*, Brill/Nijhoff, 2025, p. 291.

⁸ Amnesty International. "Destination: Occupation." *Amnesty*, Jan. 2019, www.amnesty.org/en/latest/campaigns/2019/01/destination-occupation-digital-tourism-israel-illegal-settlements/. (Accessed 8.02.2026).

⁹ UNIAN, "Booking.com bans Crimea reservations", 16 July 2018, <https://www.unian.info/economics/10189662-booking-com-bans-crimea-reservations.html> (Accessed 2.05.2026).

¹⁰ MacFarquhar, Neil. "Developing World Sees Double Standard in West's Actions in Gaza and Ukraine." *New York Times*, 23 Oct. 2023, www.nytimes.com/2023/10/23/us/ukraine-gaza-global-south-hypocrisy.html. (Accessed

II. SETTLEMENTS' POSITION UNDER INTERNATIONAL LAW

A. Prohibition of “Settlements” in International Law

This section will present a brief overview over the illegality of settlements in occupied territory. What is a “settlement” and why are their presence in occupied territories breaching international law? The understanding that the occupation is a temporary measure started to shape in the early 20th century in international humanitarian law. The Hague Regulations 1907 underlined the importance of the protection of the status quo by the occupying states. Art. 43 of the Hague Regulations underscored that the occupying power shall protect the existing legal order in the occupied territories, including the laws in force. The duty of the occupying state is to take the measures which are *absolutely necessary* to protect the “law and order” in the occupied territory, as the occupation itself is a practice which is ought to be temporary.¹¹ Therefore, the main function of the occupying state is to guard the status quo and not to make any changes in the legal order, unless in extreme situations such as military necessity or maintaining public order. In this sense, irrespective of the whether an occupation is lawful or not, the occupying state shall protect the status quo on the territory and not create “facts on the ground”.

The prohibition of the use of force as a peremptory norm has been crystalized with the enactment of the UN Charter. The Article 2(4) of the UN Charter invokes:

“All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations.”

Hence, the prohibition of the settlements derived from the prohibition of use of force in international law, which itself is regarded as a peremptory norm at this point. With the bitter memories of the Second World War, the wars of conquests were sought to be eliminated. Therefore, any benefit out of a war of conquest is also regarded as the fruit of the forbidden tree. Therefore, even if an occupation had initially started as legal, the establishment of the settlements might transform it effectively to a conquest of war, which is prohibited in modern international law.

Just a few years after the enactment of the UN Charter, the Fourth Geneva Convention expressly codified the prohibition against population transfers in the Occupied Territory. Art 49 of the Geneva Conventions. Article 49 of the Geneva Conventions both prohibited the forcible transfer of the indigenous population out of the occupied territory, while openly forbidding the transfer of the occupying state’s own civilian population into the occupied territory. Article 49 commands “[t]he Occupying Power shall not deport or transfer parts of its own civilian population into the territory it occupies.”¹²

8.02.2026).

¹¹ Art 43, Hague Convention (IV) Respecting the Laws and Customs of War on Land and its Annex: Regulations Concerning the Laws and Customs of War on Land, 18 Oct. 1907 (Hague Regulations).

¹² Geneva Convention Relative to the Protection of Civilian Persons in Time of War, art. 49, 12 Aug. 1949, 75 U.N.T.S. 287 (Fourth Geneva Convention).

As a result, what we refer to as 'settlements' are *fait accomplis*, contravening the peremptory norms of international law. Their creation and maintenance stand in defiance of international law. Moreover, it is widely acknowledged that contributing to their persistence also violates international law. The following sections will illustrate both state and non-state actors have duties in this context. However, there remains a contentious debate surrounding the definition of 'contribution,' as well as the nature and extent of remedies against those contributing to the sustenance of settlements. The lack of clarity in rules, compounded by the absence of effective platforms and the counterproductive actions of dominant powers, whether intentional or inadvertent, hinder the establishment of an effective mechanism within international law to curb unlawful economic engagements with settlements.

B. Status of the West Bank Settlements under International Law

The Mandatory Palestine was divided between a Jewish state and an Arab state in 1947 in a UN Partition Plan. In the following war over the issue of the partition of Palestine, the state of Israel was established in 1948 while the West Bank was annexed by the neighbouring Jordan, along with the historic East Jerusalem, while Gaza Strip was occupied by Egypt. Israel occupied the West Bank and Gaza on the course of Six Days War in June 1967 and has the effective control over the West Bank ever since.¹³

Israel started to establish settlements in Gaza and transfer its own population to these settlements, where the entry, let alone the residence, of the local Palestinian population is prohibited. Dubbed as “gated communities”, these settlements have their own web of transportation network which the Palestinians are forbidden to use, and the roads are designed in a way which isolated the local communities from each other, effectively turning the West Bank into an archipelago of disconnected enclaves for the local Palestinian population.¹⁴

While the settlements are prohibited as a general rule as the previous part of the section elaborated on, there are also specific decisions and judgments openly confirming the illegality of Israeli settlements in the West Bank. Shortly after the occupation of the West Bank and Gaza following the Six Day War, the UNSC convened and passed the Resolutions 242 and 338. The resolution 242, which is reaffirmed in the Resolution 338 “[emphasized] the inadmissibility of the acquisition of territory by war” with the reference to the Art 2(4) of the UN Charter, which is a peremptory norm of international law.¹⁵ The Resolution called for “[w]ithdrawal of Israel armed forces from territories occupied in the recent conflict.” The ICJ noted in the *Wall Advisory Opinion* that there were many subsequent UNSC resolutions failed solely due to the US veto which reconfirmed the illegality of the Israeli settlements in the West Bank and called for the dismantle of

¹³ For a more detailed historical account, see Bickerton, John. *The Arab-Israeli Conflict: A Guide for the Perplexed*, Bloomsbury Academic & Professional 2012.

¹⁴ Amnesty International. “Israel’s Occupation: 50 Years of Dispossession.” 7 June 2017, www.amnesty.org/en/latest/campaigns/2017/06/israel-occupation-50-years-of-dispossession/. (Accessed 8.02.2026); Liebermann, Oren. “What You Need to Know About the Israeli Settlements.” *CNN*, 3 Feb. 2017, edition.cnn.com/2017/02/01/middleeast/settlements-explainer/index.html. (Accessed 8.02.2026).

¹⁵ United Nations Security Council. *Resolution 242 (1967)*, 22 Nov. 1967.

the illegal settlements throughout the previous decades.¹⁶ With the UNSC failing on its duty to maintaining international peace and security on the matter, the UNGA stepped in to pass ‘Uniting for Peace’ Resolution pursuant to UNGA Resolution 377(A) on several occasions with the support of the vast majority of the UN members.¹⁷ These Resolutions condemned the "illegal Israeli actions" in occupied East Jerusalem and the rest of the Occupied Palestinian Territory, “in particular the construction of settlements in that territory.”¹⁸ Finally, the ICJ also issued its advisory opinion on the matter in the famous *Wall Advisory Opinion* and confirmed that the actions of Israeli government in the Occupied Palestinian Territory, the creation and expansion of the settlements in the area violated international law. Outlining the relevant principles of international law and referring to the previous UNSC and UNGA resolution on the matter, the ICJ “[affirmed] that Israeli settlements in the Occupied Palestinian Territory, including East Jerusalem, are illegal and an obstacle to peace and to economic and social development as well as those demanding the complete cessation of settlement activities.”¹⁹ The Court called the settlements in the area as “a ‘flagrant violation’ of the Fourth Geneva Convention.”²⁰

III. THE INSTRUMENTS OF THE DOUBLE STANDARDS: WHAT ENABLES THE PHENOMENON?

A. Lack of Solid and Consistent Rules: (In)effectiveness of UNGPs

To the date, international law lacks solid and enforceable rules regulating the conduct of the private actors engaging in the economic activities in illegal settlements. The closest norm to an enforceable international law rule regulating the corporate responsibility for the economic activities in occupied territories is the UN Guiding Principles on Business and Human Rights (‘UNGPs’). The UNGPs are a set of rules adopted by the UN Human Rights Council in 2011.²¹ They are a set of guidelines for states, but also for companies, to prevent, address and remedy human rights abuses. The UNGPs are regarded as the most important and detailed instrument in determining the human rights obligations of the private actors to the date. They were built on the extensive work of Professor John Ruggie during his tenure as the as Special Representative of the UN Secretary-General on the issue of human rights and transnational corporations and other business enterprises between 2005 and 2011. While the pioneer of the UNGPs Professor John Ruggie stated that the UNGPs integrated the existing norms of international law standards with respect to states and business into “a single,

¹⁶ International Court of Justice. *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, Advisory Opinion, 9 July 2004, paras. 31-35 (*Wall Advisory Opinion*).

¹⁷ United Nations General Assembly. *Resolution 31/20*, 24 Nov. 1976; *Resolution ES-7/2*, 29 July 1980; *Resolution A/ES-10/11*, 22 Apr. 1997.

¹⁸ U.N. General Assembly. *Resolution 31/20*; U.N. General Assembly. *Resolution ES-7/2*; U.N. General Assembly. *Resolution A/ES-10/11*.

¹⁹ *Wall Advisory Opinion*, para. 1.

²⁰ *Wall Advisory Opinion*, para. 120.

²¹ UN Human Rights Council, ‘Guiding Principles on Business and Human Rights: Implementing the United Nations “Protect, Respect and Remedy” Framework’, UN Doc A/HRC/17/31 (16 June 2011).

logically coherent and comprehensive template,”²² one can argue that they still yet to prove being effective set of rules.

There are several reasons contributing to this challenge. The vagueness of the content within the UNGPs allows for various interpretations. Additionally, the UNGPs fall under the category of soft law, representing a set of non-binding regulations that lack enforceability in international courts.²³ On the other hand, despite this characterization as soft law, they are still regarded as “the first authoritative source” in terms of the corporate human rights responsibility.²⁴

The contents of the UNGP were incorporated to the different domestic jurisdictions on different aspects, but its incorporation into the domestic legal systems is still fairly limited.²⁵ The application of the UNGP has two pillars: the first is the incorporation into the domestic legal system and the second is its application on international level.²⁶ Both applications are still in its developing stages and there is no consistent application with regard to neither.

In terms of the domestic application, several states incorporated the UNGPs into their domestic frameworks. On the other hand, their interpretations display wide variations in terms of its content. For instance, the UK and Australia legislations only focus on the reporting duties in terms of the human rights due diligence (‘HRDD’) and do not bestow any additional requirement for the corporations which take part in adverse human right impacts with their practice. Even the EU countries that are perceived to adopt a similar tone in the matters of human rights have diverting approaches in interpreting and applying UNGPs.²⁷ In this regard, there are calls to harmonize the EU approach in the national application of the UNGPs by the member states.²⁸ In line with these calls for harmonization, the EU adopted the Corporate Sustainability Due Diligence Directive, introducing hard-law duties for corporations with respect to adverse human rights and environmental impacts across their supply chains.²⁹ Yet, the subsequent Omnibus package approved in early 2026 cut back on certain aspects of these duties, once again illustrating the inconsistency and backlash in the

²² Ruggie, John. *Report of the Special Representative of the Secretary General on the Issue of Human Rights and Transnational Corporations and Other Business Enterprises*. UN Human Rights Council, Seventeenth Session, Special Item 3, United Nations, www.ohchr.org/sites/default/files/Documents/Issues/Business/A-HRC-17-31_AEV.pdf. (Accessed 8.02.2026).

²³ Macchi, Chiara, Claire Bright. “Chapter 10 Hardening Soft Law: the Implementation of Human Rights Due Diligence Requirements in Domestic Legislation.” *Legal Sources in Business and Human Rights Evolving Dynamics in International and European Law*, edited by Martin Buscemi et al., Brill Nijhoff 2020, p. 220.

²⁴ Macchi and Bright, p. 223.

²⁵ Macchi and Bright, p. 223.

²⁶ Rasche, Andreas, and Sandra Waddock. “The UN Guiding Principles on Business and Human Rights: Implications for Corporate Social Responsibility Research.” *Business and Human Rights Journal*, vol.6, no. 2, 2021, pp. 227-231.

²⁷ Macchi and Bright, p.220.

²⁸ Augenstein, Daniel. “Negotiating the Hard/Soft Law Divide in Business and Human Rights: The Implementation of the UNGPs in the European Union.” *Global Policy*, vol. 9, no. 2, 2018, p.254.

²⁹ Directive (EU) 2024/1760 of the European Parliament and of the Council of 13 June 2024 on corporate sustainability due diligence and amending Directive (EU) 2019/1937 and Regulation (EU) 2023/2859, OJ L, 2024/1760, 5.7.2024, <https://eur-lex.europa.eu/eli/dir/2024/1760/oj>. (Accessed 02.05.2026)

enforcement of international human rights standards in the face of political and economic pressure.³⁰

These harmonization efforts at least demonstrate an awareness of the problem and a degree of political will to address it, even though the back-and-forth nature of these measures reflects their vulnerability to geopolitical developments. Whether and how much those efforts will bear consequences are yet to be seen though. This phenomenon indeed contributes to the lack of clarity, especially for the corporations engaging in the cross-border investments and business transactions. A higher level of harmonization efforts might be instrumental in helping to tackle the problem and encouraging businesses to adopt a more ambitious position in terms of their due diligence to avoid adverse human rights impacts.

Also, the fairly mild language of the UNGPs is not effectively encouraging the companies in the direction of upholding the human rights standards. Deva argues that the UNGPs are a weak instrument due to its chosen terminology which do not bestow solid obligations, but instead acting more as an encouragement tool for the corporations to avoid participation in adverse human rights impacts.³¹ There are three pillars of the corporate human rights responsibility as set out in the UNGPs. These are called “protect & respect & remedy”. While the duties of protecting and respecting the corporate human rights responsibilities are more self-evident, there is a wide controversy with regard to the duty of remedying the breach of these principles. The UNGPs define three types of breaches in this regard, which is also called as “participation terms.”³² These are “causing”, “contributing” and “being directly linked to” adverse human rights impacts. The participation terms are set out in Article 13 of the UNGPs. Article 13 suggests an awareness and/or an intention to participate in the adverse human rights impacts.

There are different levels of remedial responsibility between causing & contributing and being directly linked to. Article 13(a) states “the companies should *avoid* or *cease* their activity when they are “causing and contributing” to the adverse human rights impacts. On the other hand, Article 13(b) bestows a milder remedial responsibility than the immediate cessation of activities in case of “being directly linked to”. In case of the direct link, Article 13 bestows a mitigating duty for the act that has adverse human rights impact, instead of an immediate cessation. It is more of a decoupling or divesting requirement for the businesses. On the other hand, Van Ho observes there is an uncertainty regarding the difference between “contribution” and “direct link”.³³ Van Ho suggests that this uncertainty creates a room to manoeuvre for the companies with structuring their businesses in a way that would amplify and exploit those “regulatory anomalies”. Let’s illustrate the difference between “contributing” and “being directly linked to” or the controversy over it, with an example. Let us consider a bank which finances an infrastructure project “entailing clear risks of forced

³⁰ Dempsey, Samuel. “EU rewrites its sustainability rulebook before it even takes effect: Omnibus I is here.” EU Perspectives, 18 March 2026, <https://euperspectives.eu/2026/03/omnibus-i-is-here/>. (Accessed 02.05.2026)

³¹ Deva, Surya. “Treating Human Rights Lightly: A Critique of the Consensus Rhetoric and the Language Employed by the Guiding Principles.” *Human Rights Obligations of Business: Beyond the Corporate Responsibility to Respect?*, edited by Surya Deva and David Bilchitz, Cambridge University Press, 2013, p. 84.

³² Van Ho, Tara. “Defining the Relationships: ‘Cause, Contribute, and Directly Linked to’ in the UN Guiding Principles on Business and Human Rights”, *Human Rights Quarterly*, vol. 43, no. 4, 2021, p. 1.

³³ Van Ho, p. 1.

displacements.” Is this a contribution or a direct link? Does the response of the bank to answer to mitigate the link matter for the classification within the contribution or the direct link part, therefore determining the remedial duty? Is the volume of the financial support relevant to invoke the corporate responsibility? All these are the questions which do not bring clear answers. The scholarship contains a detailed analysis over the lack of clarity for the interpretation of the participation terms and the remedial response in the UNGPs.³⁴ Rasche and Waddock observe that part of the reason for this unclarity is that the UNGPs tried to adopt “a ‘one size fits all’ approach that is difficult to contextualize.”³⁵ Therefore, while the UNGPs are an important first step which constitute a milestone in the responsibility of the corporations which had not been initially considered in international law, the unclarity of the substantive rules gives an opportunity to the corporations to surf over those regulatory unclaritys.

As for the Airbnb’s policy in the West Bank, the company did not have any complex business activity in the West Bank which could be “concealed” in a constant restructuring of the financing. It directly provided a financial benefit that was *exclusive* to the settlements. In that sense, it was undisputable that the company was “aware” that its practice violated its corporate human rights duties, or it did not contribute or have a direct link in the adverse human rights aspect. On top of it, the listing of the settlements provided not only a direct, but also an exclusive financial benefit to the settlements. There was no potential benefit for the indigenous Palestinian population from the practice of the company. The company simply followed the lead of the U.S. courts where it was incorporated, and which apparently did not give a high consideration on the matter. The only “remedial” response that Airbnb tried to adopt was the pledge to donate any profit generated by the listings of the settlements to “organisations dedicated to humanitarian aid that serve people in different parts of the world”.³⁶

Therefore, the disregard of the international norms by the company points out to a broader issue in international which hinders the development and crystallization of those norms: the reluctance of the hegemonical powers to allow this development and crystallization. The next section will elaborate on this broader acute challenge that international law faces and how it impacts the (dis)respect of the norms of international business and human rights in particular.

B. Obscurities by Hegemonic Powers: “Rules-Based Order” or International Law?

The lack of clarity and enforceability of UNGPs is indeed a major cause for the inconsistent corporate practice. This alone cannot explain why the double standards frequently rise in the corporations’ record in respect to their human rights responsibilities. There is a deeper root cause which might explain the enabling the private economic actors, or even forcing them to engage in the

³⁴ Macchi, Chiara, Tara Van Ho, and Luis Felipe Yanes, *Investor Obligations in Occupied Territories: A Report on the Norwegian Government Pension Fund – Global*. University of Essex, Human Rights Centre, Apr. 2019; Rasche and Waddock, “The UN Guiding Principles,” p. 227.

³⁵ Rasche and Waddock, p. 227.

³⁶ “Airbnb Reverses Ban on West Bank Settlement Listings” *BBC*, 2019, <https://www.bbc.com/news/world-middle-east-47881163>. (Accessed 8.02.2026)

double standards. And this root cause might be defined as “intentional obscurities” by the hegemonic powers in their choice of terms. This section will elaborate on how the hegemonic powers, primarily the US, adopts a certain language which is seemingly emphasizing respect to international law, while at the same allowing them to change their conduct and application of the objective rules of international law according to their perceived interests.

International business and human rights law is arguably a newer section of international law in its early developing stages. There is both lack of clear and enforceable rules governing corporate social responsibility. Even if there were more solid and binding rules, there is still the lack of effective judicial platforms to uphold those rules. One can question whether this is a negligence which was not thought upon by the states, which are still the main actors in codifying and shaping the norms of international law, or whether there is an interest for some in the lack of clarity and enforceability of these rules. Whether this is a warranted or baseless speculation can be evaluated through the record of the hegemonic powers in *consistently* upholding “international law”.

The fact that the hegemonic states, led by the US, refrains even from relying on the term “international law” for the breaches of international law is illustrative regarding the roots of double standards and lack of solid rules in corporate human rights responsibility.

John Dugard, who is an eminent international law jurist, points out to the choice of language by the state officials of the “leading” states in evaluating the breaches of peremptory international law rules. Dugard observes that a brand-new term, expressed as “rules-based order”, gains prominence over the term “international law” within the statements of several states, primarily the US.

Dugard questions whether the choice of the term “rules-based international order” (RBO) over the term international law is an intentional choice for the US in order to pre-empt the conditions of adhering to the objective and well-shaped rules of international law which are not easily vulnerable against conflict interpretations or deviations from such norms. He aptly observes that the substance of RBO is ambiguous and contextual, allowing the hegemonic powers to assume one interpretation in one conflict and different one in another without a legal basis.³⁷

There are two ways of looking at the RBO. One is more of an optimistic approach. This optimistic approach perceives the RBO as an embodiment of the liberal international order that is itself supposed to be based on the democratic values, protection of fundamental human rights, economic openness, multilateralism, the lifting of trade barriers, free movement of goods and collective security.³⁸ In this sense, the RBO is comprehended as a progressive term which goes beyond the positivist interpretation of international law. In fact, Dugard observes that most European countries use the term “rules-based order” or “rules-based international order” synonymous to international law.³⁹

³⁷ Dugard, John SC. “The Choice before Us: International Law or a ‘Rules-Based International Order’?” *Leiden Journal of International Law*, vol. 33, 2023, p. 229.

³⁸ Dugard, p. 225.

³⁹ Dugard, p. 225.

On the other hand, certain scholars point out that the seemingly innocent term of RBO might have another, and rather cynical function. Hegemonic states, especially the US, resorted to using the term RBO to deviate from compliance with international law in many instances and justifying these deviations and even apparent breaches of international law. Talmon observes that the term RBO is largely broad, open to allow for “sui generis” cases in “special circumstances”.⁴⁰ Dugard states that the US is not party to many international legal instruments including UNCLOS, Genocide Convention, 1977 Protocols to the Geneva Conventions on the Laws of War, the Rome Statute of the International Criminal Court, the Convention on Cluster Munitions, and the Anti-Personnel Mine Ban Convention. Therefore, he rightly observes that when condemning China’s conduct in the South China Sea, the US is compelled to call China to respect the “rules-based order” rather than the international law that it avoids binding itself. Therefore, Dugard aptly observes that it is plausible for the US to invoke the abstract RBO whose content is unclear rather than adhering to the relatively stricter rules of international law.⁴¹ He elaborates on how this abstract term whose content and limits are subject to arbitrary and convenient changes were instrumental in justifying indifference or even support to the violations of the basic international law rules by the US and its allies, including Israel.⁴²

Perhaps the clearest articulation of this hierarchy so far came not from an academic critique, but from the pressure reportedly exerted on the International Criminal Court (ICC) itself. In discussing the response to the request for arrest warrants against Israeli officials, ICC Prosecutor Karim Khan stated that a senior figure had told him that the Court was “for Africa and thugs like Putin” and “not for democracies like Israel and the United States.”⁴³ This statement is striking precisely because it says openly what usually remains implicit: that even the gravest crimes under international law are treated as fully justiciable when attributed to adversaries, weaker states or actors outside the Western political sphere, but are relativised, resisted or politically insulated when attributed to allies.

Against this background, the reference to the RBO becomes more than a rhetorical preference; it operates as a mechanism through which actual rules of international law may be bypassed, softened, or reinterpreted according to supposedly “sui generis” circumstances. While this debate extends beyond economic activity in occupied territories, it is nevertheless illuminating for the present inquiry, as it reveals the broader modus operandi through which hegemonic powers justify differential treatment of materially similar conduct by different actors.

The “rules-based order” might require the immediate cessation of economic activity in the Occupied Crimea for the private businesses following Russia’s annexation of the peninsula, but at the same time, it might not have a problem in allowing, or even pushing for the exact same conduct in the West Bank settlements due to the “sui generis” and “complex” character of this specific

⁴⁰ Talmon, Stephen. “Rules-Based Order v International Law?”, *German Practice in International Law*, 20 Jan. 2019, www.gpil.jura.uni-bonn.de/2019/01/rules-based-order-v-international-law. (Accessed 8.02.2026)

⁴¹ Dugard, p. 225.

⁴² Dugard, p. 228.

⁴³ Gokmen, Berk Kutay. “ICC chief prosecutor says he is ‘exonerated’ in alleged misconduct probe.” Anadolu Agency, 30 April 2026, <https://www.aa.com.tr/en/americas/icc-chief-prosecutor-says-he-is-exonerated-in-alleged-misconduct-probe/3923157>. (Accessed 02.05.2026)

conflict. One might immediately notice how many times the U.S. officials, including the top diplomats, make reference to the rules-based order or rules-based international order when condemning Russian aggression against Ukraine while simultaneously avoiding any reference to the RBO, let alone international law, when it comes to Israel's occupation of the West Bank and Golan Heights and instead sticking to a narrative where the sui generis character and "complexities" of the conflict are underlined.⁴⁴ International law in its totality, and the subsections such as business and human rights would require equality before the law, like in any branch of law. On the other hand, RBO conveniently accommodates inquiries into the identities of the rule-breakers and the specific rules violated when determining whether the integrity of the rules-based order itself has been compromised.

As the saying goes, when all you have is a hammer, everything looks like a nail. Hence, this article does not aim to attribute every challenge or anomaly in international law solely to the 'cynical' intentions of hegemonic powers. However, the historical record that are coupled with the weak response of many Western states to the drastic escalation of violence in Gaza since October 2023 unfortunately substantiates such claims. Critics point out that the U.S. administration's indifference against the grave violations of human rights also showed the difference between RBO and international law.⁴⁵

In this sense, the Airbnb saga is also important in foreshadowing more blatant examples of indifference and double standards in the application of corporate social responsibility norms. Again, the same governments that swiftly invoked the Geneva Conventions and peremptory norms to justify comprehensive sanctions against Russia for its invasion of Ukraine long interpreted Israel's prolonged occupation and large-scale military operations in Gaza through the prism of the "right to self-defence." This shift in framing once again reveals how the so-called "rules-based order" operates as a political instrument; one that adapts and bends depending on who the actor is, rather than a neutral reflection of international law itself.

CONCLUSION

This article has used the Airbnb saga not as an isolated controversy, but as a concrete illustration of how international legal norms are selectively translated into practical consequences. The illegality of Israeli settlements in the Occupied West Bank is not seriously doubtful under international humanitarian law. Nor is the relevance of corporate responsibility entirely absent from the existing business and human rights framework. Yet Airbnb's shifting policy (first allowing settlement listings,

⁴⁴ "Secretary Antony J. Blinken at a Virtual Panel Session on 'A Just and Lasting Peace in Ukraine'." *U.S. Department of State*, www.state.gov/secretary-antony-j-blinken-at-a-virtual-panel-session-on-a-just-and-lasting-peace-in-ukraine/. Accessed 8 Feb. 2026; "Blinken Evades Answering if Biden Administration Endorses Trump's Recognition of Golan Heights" *i24NEWS*, www.i24news.tv/en/news/international/americas/1612843063-blinken-evades-answering-if-biden-administration-recognizes-israeli-sovereignty-over-golan-heights. (Accessed 8.02.2026)

⁴⁵ Ackerman, Spencer. "Gaza Shows the Difference Between International Law and the 'Rules-Based International Order'." *The Nation*, 17 Nov. 2023, www.thenation.com/article/world/rules-based-international-order-israel-gaza/. (Accessed 8.02.2026)

then removing them under public and human rights pressure, and later reinstating them following litigation and political pressure in the United States) demonstrates that corporate conduct in occupied territories is often shaped less by the objective content of international law than by the political, economic and jurisdictional pressures surrounding it.

The article has argued that this outcome is enabled by two interconnected factors. The first is the weakness of the existing business and human rights framework. The UNGPs have played an important role in articulating corporate human rights responsibilities, but their soft-law nature, flexible terminology and uncertain remedial consequences leave considerable room for avoidance. The distinction between causing, contributing to, and being directly linked to adverse human rights impacts remains particularly vulnerable to strategic interpretation. In the context of occupied territories, where economic activity may directly sustain unlawful settlements, this ambiguity becomes especially problematic.

The second and deeper factor is the selective attitude of powerful states towards international law itself. The contrast between Crimea and the West Bank shows that the practical consequences attached to similar legal situations do not necessarily depend on the clarity or gravity of the underlying international law violation. They often depend instead on the identity of the actor, the geopolitical context, and the willingness of powerful states to impose costs. In this sense, the language of the “rules-based order” risks functioning not as a reinforcement of international law, but as a substitute for it: a flexible vocabulary through which materially similar violations can be treated differently.

Thirdly, and as a consequence of these two factors, the Airbnb case foreshadowed a broader crisis. The same pattern of selective legality that appeared in corporate practice in the West Bank has become far more visible in the international response to Gaza. The muted and inconsistent reactions of many powerful states to allegations of grave violations of international law, including genocide, have exposed the fragility of an order that claims universality while applying its rules unevenly. The problem is therefore not merely the absence of clearer corporate responsibility rules, although such rules are necessary. The deeper problem is whether those rules, once articulated, will be applied with equal seriousness across conflicts, actors and victims.

For this reason, the Airbnb saga matters beyond the conduct of one company. It reveals how the authority of international law is eroded not only when rules are violated, but also when violations are selectively named, enforced or ignored. Clearer corporate responsibility rules and more effective remedies are necessary, but they cannot by themselves cure a deeper pathology: an international legal order that applies its most fundamental norms unevenly depending on the identity of the violator and the political convenience of enforcement. Hence, the problem is not merely one of regulatory design within business and human rights law. It is rather a symptom of a broader systemic failure. Without a genuine commitment to equal application, international law risks becoming not a common language of legality, but a vocabulary of selective condemnation. Gaza has made that moral collapse impossible to ignore.

BIBLIOGRAPHY

- Ackerman, Spencer. "Gaza Shows the Difference Between International Law and the 'Rules-Based International Order'." *The Nation*, 17 Nov. 2023, www.thenation.com/article/world/rules-based-international-order-israel-gaza/. (Accessed 8.02.2026).
- "Airbnb Reverses Ban on West Bank Settlement Listings." *BBC*, 10 Apr. 2019, www.bbc.com/news/world-middle-east-47881163. (Accessed 8.02.2026).
- Airbnb. "Listings in Disputed Regions." *Airbnb News*, 19 Nov. 2018, www.news.airbnb.com/listings-in-disputed-regions. (Accessed 8.02.2026).
- Amnesty International. "Israel's Occupation: 50 Years of Dispossession." 7 June 2017, www.amnesty.org/en/latest/campaigns/2017/06/israel-occupation-50-years-of-dispossession/ (Accessed 8.02.2026).
- Augenstein, Daniel. "Negotiating the Hard/Soft Law Divide in Business and Human Rights: The Implementation of the UNGPs in the European Union." *Global Policy*, vol. 9, no. 2, 2018, p.254.
- Bickerton, John. *The Arab-Israeli Conflict: A Guide for the Perplexed*, Bloomsbury Academic & Professional 2012.
- "Blinken Evades Answering if Biden Administration Endorses Trump's Recognition of Golan Heights" *i24NEWS*, www.i24news.tv/en/news/international/americas/1612843063-blinken-evades-answering-if-biden-administration-recognizes-israeli-sovereignty-over-golan-heights. (Accessed 8.02.2026).
- Bonomi, Andrea. "Business and Human Rights: Issues of Private International Law." *Business and Human Rights: Emerging Challenges, Issues, and Trends*, Brill/Nijhoff, 2025, pp. 291–313.
- Dempsey, Samuel. "EU rewrites its sustainability rulebook before it even takes effect: Omnibus I is here." *EU Perspectives*, 18 March 2026, <https://euperspectives.eu/2026/03/omnibus-i-is-here/> (Accessed 02.05.2026).
- Deva, Surya. "Treating Human Rights Lightly: A Critique of the Consensus Rhetoric and the Language Employed by the Guiding Principles." *Human Rights Obligations of Business: Beyond the Corporate Responsibility to Respect?*, edited by Surya Deva and David Bilchitz, Cambridge University Press, 2013.
- Directive (EU) 2024/1760 of the European Parliament and of the Council of 13 June 2024 on corporate sustainability due diligence and amending Directive (EU) 2019/1937 and Regulation (EU) 2023/2859, OJ L, 2024/1760, 5.7.2024, <https://eur-lex.europa.eu/eli/dir/2024/1760/oj> (Accessed 02.05.2026).

- Dugard, John SC. “The Choice before Us: International Law or a ‘Rules-Based International Order’?” *Leiden Journal of International Law*, Vol. 33, 2023.
- Gokmen, Berk Kutay. “ICC chief prosecutor says he is ‘exonerated’ in alleged misconduct probe.” Anadolu Agency, 30 April 2026, <https://www.aa.com.tr/en/americas/icc-chief-prosecutor-says-he-is-exonerated-in-alleged-misconduct-probe/3923157> (Accessed 02.05.2026).
- Hague Convention (IV) Respecting the Laws and Customs of War on Land and its Annex: Regulations Concerning the Laws and Customs of War on Land, art. 43, 18 Oct. 1907 (Hague Regulations).
- Folger, Jean. “How Airbnb Works.” *Investopedia*, 23 September 2023, www.investopedia.com/articles/personal-finance/032814/pros-and-cons-using-airbnb.asp (Accessed 8.02.2026).
- Geneva Convention Relative to the Protection of Civilian Persons in Time of War, art. 49, 12 Aug. 1949, 75 U.N.T.S. 287 (Fourth Geneva Convention).
- International Court of Justice. *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, Advisory Opinion, I.C.J. Reports 2004, p. 136. (*Wall Advisory Opinion*).
- Liebermann, Oren. “What You Need to Know About the Israeli Settlements.” *CNN*, 3 Feb. 2017, edition.cnn.com/2017/02/01/middleeast/settlements-explainer/index.html. (Accessed 8.02.2026).
- Macchi, Chiara, Claire Bright. “Chapter 10 Hardening Soft Law: the Implementation of Human Rights Due Diligence Requirements in Domestic Legislation.” *Legal Sources in Business and Human Rights Evolving Dynamics in International and European Law*, edited by Martin Buscemi et al., Brill Nijhoff 2020.
- Macchi, Chiara, Tara Van Ho, and Luis Felipe Yanes, *Investor Obligations in Occupied Territories: A Report on the Norwegian Government Pension Fund – Global*. University of Essex, Human Rights Centre, 2019.
- MacFarquhar, Neil. “Developing World Sees Double Standard in West’s Actions in Gaza and Ukraine.” *New York Times*, 23 Oct. 2023, www.nytimes.com/2023/10/23/us/ukraine-gaza-global-south-hypocrisy.html. (Accessed 8.02.2026).
- Rasche, Andreas, and Sandra Waddock. “The UN Guiding Principles on Business and Human Rights: Implications for Corporate Social Responsibility Research.” *Business and Human Rights Journal*, vol.6, no. 2, 2021.

- Ruggie, John. *Report of the Special Representative of the Secretary General on the Issue of Human Rights and Transnational Corporations and Other Business Enterprises*. UN Human Rights Council, Seventeenth Session, Special Item 3, United Nations, www.ohchr.org/sites/default/files/Documents/Issues/Business/A-HRC-17-31_AEV.pdf. (Accessed 8.02.2026).
- “Secretary Antony J. Blinken at a Virtual Panel Session on ‘A Just and Lasting Peace in Ukraine’.” U.S. Department of State, www.state.gov/secretary-antony-j-blinken-at-a-virtual-panel-session-on-a-just-and-lasting-peace-in-ukraine/ (Accessed 8.02.2026).
- Talmon, Stephen. “Rules-Based Order v International Law?”, *German Practice in International Law*, 20 Jan. 2019, www.gpil.jura.uni-bonn.de/2019/01/rules-based-order-v-international-law (Accessed 8.02.2026).
- United Nations General Assembly. *Resolution 31/20*, 24 Nov. 1976;
- United Nations General Assembly. *Resolution A/ES-10/11*, 22 Apr. 1997.
- United Nations General Assembly. *Resolution ES-7/2*, 29 July 1980.
- United Nations Security Council. *Resolution 242 (1967)*, 22 Nov. 1967.
- UN Human Rights Council. *Guiding Principles on Business and Human Rights: Implementing the United Nations “Protect, Respect and Remedy” Framework*, UN Doc A/HRC/17/31, 16 June 2011.
- Van Ho, Tara. “Defining the Relationships: ‘Cause, Contribute, and Directly Linked to’ in the UN Guiding Principles on Business and Human Rights”, *Human Rights Quarterly*, Vol. 43, No. 4, 2021.