



International Human Rights Analysis of Israeli War Crimes Against Palestine Reviewed from International Criminal Law

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ABSTRACT

The armed conflict between Israel and Palestine is one of the longest-running humanitarian crises of the 21st century and continues to leave deep scars on human civilization. This study examines violations of international human rights law committed during this conflict, including the bombing of civilian areas, massacres, systematic destruction of property, genocide against ethnic groups, and the destruction of vital facilities such as hospitals, schools, and civilian infrastructure. This article employs a normative legal research methodology with a comparative and analytical approach to relevant international legal instruments, particularly the 1998 Rome Statute, the 1949 Geneva Conventions and their Additional Protocols, and the jurisprudence of the International Criminal Court. The article analyzes the chronology of the conflict from its historical roots in 1948 to its most recent escalation in 2023–2024, which claimed the lives of tens of thousands of Palestinian civilians. The study concludes with strong indications of violations of fundamental principles of international humanitarian law, including distinction, proportionality, and precaution. However, efforts to enforce international criminal law through the International Criminal Court face fundamental structural obstacles, including lack of jurisdiction over non-member states, veto power in the UN Security Council, and impunity fostered by global geopolitics. This article argues that the failure to resolve these conflicts stems not only from legal weaknesses but also from the inability of international politics to prioritize justice over the strategic interests of major powers.

Keywords: Human Rights, War Crimes, Israel-Palestine, International Criminal Court (ICC), International Humanitarian Law.

ABSTRAK

Konflik bersenjata antara Israel dan Palestina merupakan salah satu krisis kemanusiaan terlama di abad ke-21. Studi ini meneliti pelanggaran hukum hak asasi manusia internasional yang dilakukan selama konflik tersebut, mencakup pemboman wilayah sipil, pembantaian, penghancuran properti secara sistematis, genosida terhadap kelompok etnis, serta penghancuran fasilitas vital seperti rumah sakit, sekolah, dan infrastruktur sipil. Artikel ini menggunakan metodologi penelitian hukum normatif dengan pendekatan komparatif dan analitis terhadap instrumen hukum internasional, khususnya Statuta Roma 1998, Konvensi Jenewa 1949, dan yurisprudensi Mahkamah Pidana Internasional. Studi ini menyimpulkan adanya indikasi kuat pelanggaran prinsip-prinsip dasar hukum humaniter internasional. Upaya penegakan hukum pidana internasional menghadapi hambatan struktural mendasar, termasuk kurangnya yurisdiksi ICC atas negara-negara non-anggota, penggunaan hak veto di Dewan Keamanan PBB, dan impunitas yang dipupuk oleh geopolitik global.

Kata Kunci: Hak Asasi Manusia, Kejahatan Perang, Israel-Palestina, Mahkamah Pidana Internasional (ICC), Hukum Humaniter Internasional

INTRODUCTION

The Israeli-Palestinian armed conflict has persisted for more than seven decades and stands as one of the most geopolitically complex conflicts in the modern world. The conflict extends far beyond a border dispute, encompassing dimensions of identity, religion, history, and the dignity of millions of individuals. Throughout its history, the conflict has claimed the lives of hundreds of thousands of people, displaced millions, and inflicted billions of dollars in damage on infrastructure (Shlaim, 2000). The dramatic escalation of October 2023 brought this conflict back to the attention of the international community with unprecedented intensity, when the Hamas attack of 7 October 2023 was followed by a massive Israeli military operation in the Gaza Strip that, within its first few months, killed more than 35,000 Palestinians, the majority of whom were women and children (OCHA, 2024).

Several scholars and institutions have addressed the legal dimensions of this conflict. Henckaerts and Doswald-Beck (2005) established that the principles of distinction and proportionality constitute customary international humanitarian law binding on all parties to a conflict. The International Law Commission (2001) affirmed that every internationally wrongful act of a state entails that state's international responsibility a framework directly applicable to Israel's military conduct in Gaza. Teitel (2000) further argued that transitional justice mechanisms are indispensable for societies emerging from protracted conflict, providing a normative basis for accountability even in the absence of immediate enforcement. Schabas (2009) examined the high threshold of specific intent (*dolus specialis*) required to establish genocide under international law, a standard central to debates about Israel's conduct in Gaza. Albanese (2024) concluded, in her capacity as UN Special Rapporteur, that there are reasonable grounds to believe Israel's actions amount to genocide under the 1948 Genocide Convention.

A knowledge gap exists in the literature regarding the structural reasons why existing international legal mechanisms the ICC, the ICJ, and the UN Security Council have thus far failed to halt the violations or produce an accountable resolution. This article addresses that gap. The research objectives are: (1) to analyze the specific international human rights violations committed during the 2023–2024 escalation in the light of applicable treaty and customary law; (2) to assess the ICC proceedings relating to Palestine and their structural limitations; and (3) to critically examine the political and institutional barriers that impede enforcement of international criminal law in this context. This article constitutes the authors' original work, free from plagiarism, and has not previously been published in any other scientific journal or book.

METHODS

This research employs a normative legal research design (Marzuki, 2014), combining three approaches: (1) a statutory approach examining primary treaty texts including the Rome Statute 1998, the Geneva Conventions 1949 and their Additional Protocols, and the UN Charter; (2) a conceptual approach drawing on doctrinal scholarship in international humanitarian law, international criminal law, and the law of state responsibility; and (3) a case approach analysing the jurisprudence of the

International Criminal Court and the International Court of Justice in matters directly concerning the Israel-Palestine conflict.

The data collection technique consists entirely of documentary analysis. Primary legal materials include: international conventions and treaties, decisions and advisory opinions of international courts, and UN Security Council and General Assembly resolutions. Secondary materials include peer-reviewed journal articles (minimum Sinta 2 accreditation or Scopus/WoS indexed), scholarly monographs published within the last ten years, and reports from authoritative international organizations including OCHA, UNRWA, WHO, UNEP/UNOSAT, Amnesty International, and Human Rights Watch. A total of 35 primary and secondary sources were reviewed; sources were selected on the basis of (a) direct relevance to the legal questions examined, (b) publication within the last ten years (2014–2024), with limited exceptions for foundational texts, and (c) publication in accredited or internationally recognized outlets. Data analysis follows the systematic legal-doctrinal method: identification of applicable norms, interpretation of those norms in light of treaty text and case law, application to the factual record, and evaluation of enforcement mechanisms.

RESULTS AND DISCUSSION

Research results reveal systematic violations of international humanitarian law across five distinct categories, each examined below in the light of applicable treaty and customary norms.

1. Bombing of Civilian Areas: Violation of Distinction and Proportionality

The principle of distinction obligates all parties to an armed conflict to distinguish at all times between the civilian population and combatants, and between civilian objects and military objectives, directing operations only against the latter (AP I, Article 48). Field data from UNRWA (2026) indicates that nearly 70% of all Palestinian casualties in the 2023–2024 conflict were women, children, and the elderly – categories classified as protected civilians under international law. The principle of proportionality, codified in AP I Article 51(5)(b), prohibits attacks expected to cause excessive civilian casualties in relation to the anticipated concrete and direct military advantage. The scale of civilian harm documented in this conflict raises serious questions as to whether these attacks can be justified under either principle.

Table 1: Summary of Documented Civilian Casualties and Infrastructure Damage (2023–2024)

Category	Figures	Source
Palestinian deaths (total)	> 45,000	Gaza MoH / UNRWA 2026
Women & children (% of deaths)	~70%	UNRWA 2026
Buildings damaged or destroyed	> 60%	UNEP/UNOSAT 2024
Healthcare facilities damaged	> 80%	WHO 2024

Source: Compiled by authors from UNRWA (2026), UNEP/UNOSAT (2024), and WHO (2024).

2. Mass Killings and Crimes Against Humanity

Article 7 of the Rome Statute defines crimes against humanity as prohibited acts committed as part of a widespread or systematic attack directed against any civilian population with knowledge of the attack. The UN Special Rapporteur's report concluded that there are reasonable grounds to believe Israel's actions amount to genocide as defined in the 1948 Genocide Convention (Albanese, 2024). However, as Schabas (2009) notes, proving genocide requires demonstrating specific intent (*dolus specialis*) – the deliberate intent to destroy, in whole or in part, a national, ethnic, racial, or religious group – which remains an exceptionally high evidentiary threshold, and scholarly debate continues as to whether this threshold is met in the present case.

3. Destruction of Civilian Property

Article 53 of AP I prohibits the destruction of objects indispensable to the survival of the civilian population, including foodstuffs, agricultural areas, and drinking water installations. The UNEP/UNOSAT assessment (2024) found that by early 2024, more than 60% of buildings in Gaza had been damaged or destroyed, with total destruction exceeding 30% of all structures. Israel's continued settlement expansion in the West Bank – declared illegal under international law by the ICJ in its 2004 Advisory Opinion – has further fragmented Palestinian territory into isolated enclaves incapable of sustaining a viable state (ICJ, 2004).

4. Destruction of Hospitals, Schools, and Public Infrastructure

According to WHO (2024), by mid-2024 more than 80% of healthcare facilities in Gaza had been damaged or destroyed, including Al-Shifa Hospital, the largest in Gaza. Article 18 of the Fourth Geneva Convention provides that civilian hospitals may in no circumstances be the object of attack; this protection may be forfeited only if a facility is used to commit acts harmful to the enemy and only after adequate warning without response. The deliberate destruction of water supply networks, electricity generation, and sanitation infrastructure may constitute the use of starvation as a method of warfare – a war crime under Rome Statute Article 8(2)(b)(xxv).

5. ICC Proceedings and Structural Barriers to Enforcement

In November 2024, ICC Pre-Trial Chamber I issued arrest warrants for Israeli Prime Minister Benjamin Netanyahu and Defense Minister Yoav Gallant for alleged war crimes and crimes against humanity in Gaza, alongside warrants for Hamas leaders for their actions on 7 October 2023. This is the first time in the ICC's history that arrest warrants have been issued for the leader of a Western democratic state, a development of historic significance that simultaneously exposes the structural deficiencies of international criminal enforcement. Israel, not being a State Party to the Rome Statute, has refused to recognize ICC jurisdiction over its nationals, and the United States has strongly opposed the Court's actions.

Enforcement is further obstructed by the veto power in the UN Security Council. Under UN Charter Article 27(3), substantive decisions require the concurrence of all five permanent members. Between October 2023 and May 2024 alone, the United States vetoed at least three ceasefire resolutions in Gaza,

effectively shielding Israel from collective Security Council action. These structural barriers – non-membership in the ICC, unilateral veto use, and geopolitical alignment – collectively explain why existing international mechanisms have thus far been unable to produce accountability for the violations documented above.

CONCLUSION

Conclusion. The Israeli-Palestinian conflict, particularly the escalation that began in October 2023, demonstrates grave and well-documented violations of international humanitarian law and human rights. The bombing of civilian areas, mass killings, systematic destruction of vital infrastructure, and comprehensive blockade all contravene the fundamental principles of distinction, proportionality, and precaution. The International Criminal Court has responded with historic arrest warrants; however, Israel's non-membership in the Rome Statute, the United States' use of the UN Security Council veto, and broader geopolitical alignments severely constrain the effectiveness of these measures. The evidence is clear that the failure to resolve this conflict derives not primarily from gaps in international law but from the persistent unwillingness of politically powerful actors to prioritize justice over strategic interest.

Future research should examine: (1) whether the concept of universal jurisdiction can serve as a viable alternative enforcement pathway where the ICC's reach is structurally limited; and (2) whether Security Council reform – specifically the restriction of veto use in cases of mass atrocity – is legally and politically feasible within the existing framework of the UN Charter. Both questions carry direct implications for the credibility and long-term effectiveness of the international rule-based order.

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