

The Israeli Blockade on Gaza from the Perspective of International Law

الحصار الإسرائيلي على غزة من منظور القانون الدولي

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Abstract

This article offers a detailed legal analysis of the Israeli blockade on the Gaza Strip within the framework of international humanitarian, human rights, and criminal law. It argues that the blockade constitutes unlawful collective punishment and may amount to war crimes, crimes against humanity, and potentially genocide. The article examines Israel's contested status as an occupying power and evaluates the legal standard of effective control. It further assesses the structural weaknesses of international justice mechanisms, including the ICC and ICJ, in the face of political pressure and selective enforcement. The study concludes with practical recommendations for states and legal institutions and highlights underexplored areas of research, including the psychological consequences of siege warfare, the role of corporate actors, and the broader implications for international legal accountability.

Keywords: Gaza; Palestine; Human Rights; International law; International justice.

الملخص

يقدم هذا المقال تحليلاً قانونياً دقيقاً للحصار الإسرائيلي المفروض على قطاع غزة، ضمن أطر القانون الدولي الإنساني، وحقوق الإنسان، والقانون الجنائي الدولي. ويبيّن أن الحصار يشكّل عقوبة جماعية غير مشروعة، وقد يرقى إلى جرائم حرب وجرائم ضد الإنسانية، بل وحتى إبادة جماعية. يناقش المقال الجدل القانوني حول صفة إسرائيل كقوة احتلال، ويقيم معيار "السيطرة الفعلية" في ضوء الممارسات الراهنة. كما يسلط الضوء على قصور آليات العدالة الدولية، ولا سيما

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المحكمة الجنائية الدولية ومحكمة العدل الدولية، أمام الضغوط السياسية وازدواجية المعايير. ويختتم المقال بتوصيات عملية للدول والمؤسسات القانونية، مع طرح آفاق بحثية مستقبلية تتناول الأثر النفسي لحرب الحصار، ودور الشركات في استدامة الحصار، وأوجه القصور البنيوي في مساءلة الانتهاكات الجسيمة للقانون الدولي.

الكلمات المفتاحية: غزة، فلسطين، حقوق الإنسان، القانون الدولي، العدالة الدولية.

Introduction

Since the imposition of a comprehensive land, sea, and air blockade on the Gaza Strip in 2007, the situation in this besieged territory has emerged as one of the most protracted and severe humanitarian crises in contemporary international affairs. The Israeli blockade—justified by its government under the guise of national security and counterterrorism—has raised pressing legal and moral questions regarding its compatibility with the fundamental principles of international law, particularly international humanitarian law (IHL) and international human rights law. More recently, the dramatic escalation of hostilities in and around Gaza since October 7, 2023, and the accompanying Israeli military operations, have further intensified scrutiny of the blockade's legality and its devastating human consequences.

This article undertakes a comprehensive legal examination of Israel's blockade on the Gaza Strip through the lens of international law, with a particular focus on the legal classification of the blockade, the status of Israel as an occupying power, and the compatibility of Israeli practices with the core prohibitions set out in the Geneva Conventions, the Rome Statute of the International Criminal Court, and customary international legal norms. Drawing on primary sources—including decisions of the International Court of Justice (ICJ), the International Criminal Court (ICC), UN human rights mechanisms, and scholarly legal commentary—this study aims to systematically assess whether Israel's policies and actions amount to grave breaches of international law, including war crimes, crimes against humanity, and potentially acts of genocide.

The first section of the article addresses the legal qualification of the blockade itself and its alleged inconsistency with the law of armed conflict. The second section explores the contentious debate over Israel's continued status as an occupying power post-2005, in light of its disengagement from Gaza. The third section investigates specific legal violations attributed to the blockade, including collective punishment, starvation of civilians, indiscriminate attacks on civilian objects and populations, and the unlawful displacement of Palestinians. The final sections assess the charge of genocide and analyze the response of international justice institutions—particularly the ICJ and ICC—while exploring the broader implications of political pressure on judicial independence and the enforcement of international law.

Through this multilayered legal analysis, the article contributes to a growing body of scholarship that challenges prevailing narratives and advocates for accountability,

protection of civilian populations, and the primacy of international humanitarian and human rights norms in situations of prolonged occupation and armed conflict. It ultimately argues that the blockade constitutes an illegal act of collective punishment and a tool of domination that is incompatible with international legal standards and obligations incumbent upon occupying powers and parties to armed conflict.

1. Legal qualification of the Gaza blockade

According to international law, a blockade is considered an act of war (*Declaration Concerning the Laws of Naval War*, 1909), and its use is prohibited under the United Nations Charter as it contradicts Article 2(4), which prohibits the use of force in international relations or the threat of its use except in two narrow circumstances: measures authorized by the Security Council under Chapter VII of the UN Charter and a legitimate act of self-defense as provided for in Article 51 of the same Charter. The practice of blockading outside of these two circumstances is prohibited under international law.

Israel claims that its military operations and blockade of the Gaza Strip are justified by security concerns and constitute a legitimate act of self-defense under Article 51 of the United Nations Charter, aimed at preserving national security (Stefanini, n.d.) against what Israel describes as terrorist activities by Hamas. According to this narrative, the blockade aims to prevent the delivery of weapons and a limited list of materials that terrorists could use in attacks against Israel (Israel Ministry of Foreign Affairs, n.d.). The UN Palmer's report takes this position and conclude that the blockade of Gaza is a "*legitimate exercise of the right of self-defense by Israel*" (United Nations, 2011.) A position severely criticized by a group of United Nations experts (United Nations, 2011.-a).

Israel's assertion is unfounded, as pointed out by Marco Milanovic. The legal basis used by Israel to legitimize its blockade is flawed, as the right to self-defense outlined in Article 51 of the UN Charter is an exception to Article 2(4), which prohibits the use of force in the relations between two states. As such, it cannot be applied to the Gaza Strip, which is not recognized as a state under international law. Furthermore, the blockade mentioned in the 1909 London Declaration and the San Remo Manual pertains only to international armed conflicts, and Israel initially denied the existence of an "international armed conflict" with Gaza, thereby invalidating any legal basis for this blockade (Milanovic, 2009.)

In 2004, the International Court of Justice affirmed in its advisory opinion regarding the legal consequences of construction of a wall in the occupied Palestinian territories that "*Article 51 of the Charter thus recognizes the existence of an inherent right of self-defense in the case of armed attack by one State against another State. However, Israel does not claim that the attacks against it are imputable to a foreign State*" (ICJ, 2004).

Professor Kevin Jon Heller from the University of Copenhagen explains that Israel finds itself in a serious dilemma in justifying its blockade of Gaza from a legal

perspective. As we have previously explained, international law considers a blockade to be an act of war employed by states involved in international armed conflicts. Article 01 (4) of the first Additional Protocol to the Geneva Conventions recognizes the peoples' fight against alien occupation as a form of international armed conflict. However, Israel refuses to consider itself an occupying power in Gaza to avoid the strict obligations imposed on it by the Fourth Geneva Convention on it. Therefore, Israel initially rejected to qualify its conflict with Hamas as an international armed conflict, making it difficult for it to legally justify its blockade of Gaza (Heller, 2010.)

In order to overcome this dilemma, the Israeli Supreme Court considered that Israel's conflict with Hamas is an international armed conflict but has come up with a new interpretation of international armed conflicts that has no legal basis. It considers that an international armed conflict should be interpreted as any armed conflict that extends beyond the territory of the state (Cf. Lesh, 2007). This strange interpretation aims to legitimize the blockade imposed by Israel on the Gaza Strip, while denying any responsibility as an occupying power, arguing that it does not exercise any effective control over the Gaza Strip.

The analysis of the Israeli Supreme Court cannot be acceptable, as Article 2 common to the four Geneva Conventions and Article 1 of the First Additional Protocol to the Geneva Conventions have specifically defined the categories of international armed conflicts, which include:

- All cases of declared war or of any other armed conflict which may arise between two or more of the High Contracting Parties, even if the state of war is not recognized by one of them.
- All cases of partial or total occupation of the territory of a High Contracting Party, even if the said occupation meets with no armed resistance.
- Armed conflicts in which peoples are fighting against colonial domination and alien occupation.
- Armed conflicts in which peoples are fighting against racist régimes in the exercise of their right of self-determination, as enshrined in the Charter of the United Nations and the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations.

Based on the above, it can be concluded that the maritime blockade imposed by Israel on the Gaza Strip has no reasonable legal justifications, making it an illicit international act that has caused a severe humanitarian crisis for the residents of Gaza since 2008.

2. Legal Dispute Regarding Israel's Status as an Occupying Power in the Gaza Strip

The legal characterization of Israel's presence in the Gaza Strip remains a subject of intense scholarly and institutional debate. While Israel maintains that its 2005

disengagement terminated its status as an occupying power, many international legal bodies and experts argue that the continued Israeli control over Gaza's borders, airspace, maritime access, and essential services amounts to effective control sufficient to sustain an occupation under international humanitarian law. This section examines the competing legal arguments regarding Israel's status in Gaza, analyzing both the formal Israeli position and the prevailing international consensus. It further explores how evolving interpretations of "effective control" reflect changes in modern warfare and occupation practices. The resolution of this legal dispute is critical, as it determines the scope of Israel's obligations toward the civilian population under the Fourth Geneva Convention and other applicable legal frameworks.

2.1 The Israeli position

According to international humanitarian law, there are legal and customary obligations that the occupying power must primarily regulate. These include three international conventions: the Hague Rules concerning the laws and customs of land warfare of 1907, the Fourth Geneva Convention of 1949 concerning the protection of civilians in times of armed conflict, which focuses on the population living under the impact of war, and the First Additional Protocol annexed to the four Geneva Conventions of 1977.

These conventions impose on the occupying power a set of obligations that must be fulfilled to provide protection for citizens in the occupied territories. There are also rules imposed by customary international law, which are rules that do not require the state to join international agreements but must be respected by all states under any circumstances.

Israel argues that describing it as an occupying power should be done according to legal basis rather than emotive rhetoric (Reid et Al, 2014.), and that according to both the 1899 Hague Convention and Geneva Conventions, Israel cannot be considered an occupier of the Gaza Strip.

To bolster its point, Israel argues that since its disengagement from Gaza in 2005, there have not been any permanent Israeli Defense Forces presence within the Gaza Strip. The regulation article 42 of the second Hague convention of 1899 states that a territory is considered "occupied" when it is actually placed under the authority of the hostile army. And that "*The occupation applies only to the territory where such authority is established, and in a position to assert itself.*" (The Hague II, 1899), the Fourth Geneva Convention defines a territory as occupied if it belongs to another "*High Contracting Party*" (Geneva IV, 1949, Art. 2) and the occupier "*exercises the functions of government*" in the occupied territory (Geneva IV, 1949, Art. 6), means that to be considered an occupier, Israel needs to have effective control over Gaza.

Researchers from the Jerusalem Center of Public Affairs argues that "It's worth noting that the Gaza Strip is currently governed by the elected Hamas government, which acts as the de facto sovereign and doesn't receive orders from Israel, Egypt, or any other state or proto state" (Reid et Al, p. 20.).

Elizabeth Samson from Hudson institute shares this point of view and base her argumentation on the ICTY decision in the case of “*The Prosecutor v. Mladen Naletilic and Vinko Martinovic*.” Which set several requirements to determine the existence of a situation of occupation inter alia (Samson, 2010, p. 958):

- The occupying power must be in a position to substitute its own authority for that of the occupied authorities, which must have been rendered incapable of functioning publicly (Roberts, 1984, p. 249).

- The enemy's forces have surrendered, been defeated, or withdrawn.

- A temporary administration has been established over the territory.

- The occupying power has issued and enforced directions to the civilian population (Fleck, 2008, p. 269 et Seq).

The International Court of Justice reaffirmed this position in its decision in the case of Democratic republic of Congo Vs Uganda, the ICJ held that “*In order to reach a conclusion as to whether a State, the military forces of which are present on the territory of another State as a result of an intervention, is an “occupying Power” in the meaning of the term as understood in the jus in bello, the Court must examine whether there is sufficient evidence to demonstrate that the said authority was in fact established and exercised by the intervening State in the areas in question. In the present case the Court will need to satisfy itself that the Ugandan armed forces in the DRC were not only stationed in particular locations but also that they had substituted their own authority for that of the Congolese Government*” (ICJ, 2005, p. 230).

Samson and some other scholars (Cuyckens, 2016; Shany, 2006, p. 379 et seq) contends that neither the ability to exercise military force nor the practices of certain powers allow one to claim that there is "effective control" according to the criteria set by the ICTY, nor "occupation" in the sense of Article 43 of the Hague Regulations which requires the transfer of power from the legitimate government to the occupying power, but this does not apply to the situation in the Gaza Strip, where Hamas has assumed control and exercises governmental authority (Samson, 2010, p. 359 et seq).

2.2 The position of international law

Despite Israeli authorities and forces having withdrawn from the Gaza Strip years ago, the international community still perceives Israel as exerting significant control over many aspects of daily life in Gaza. As a result, the Israeli position on disengagement from Gaza lacks substantial support at the international level.

The Palestinian leadership, via its principal negotiator Saeb Erekat, has declared its non-acceptance of the Israeli stance, as he stated that the disengagement may have put an end to Israel's colonization of Gaza, but it did not end the occupation (Merav, 2021, p. 284).

A report published by Gisha “an Israeli ONG” contends that the humanitarian law of occupation should be interpreted in light of changes in technology and in the use of force, The report cited the Advisory opinion of the ICJ in the nuclear weapons case

which affirmed that the principles of humanitarian law should be extended to cover new methods of force that have become feasible due to advances in military technology (GISHA, 2007, pp. 69-70).

Dr **Tristan Ferraro**, Legal advisor of the ICRC argues that the utilization of advanced technological tools made it possible for a belligerent to supervise and control significant aspects of the civilian life of the inhabitants of the occupied territory without having a continuous military presence in the area, which may suggest that the physical presence of foreign troops is no longer a requirement for an occupation to exist, conclusively, effective control can only be established if the foreign belligerent can replace the local authority in the occupied zone (Ferraro, 2012, p. 143), this can be indicated by the belligerent's ability to issue directives to civilians, administer the territory, or deploy sufficient troops to the area (Evan, 2021, p. 160).

The question of replacing the local authority by the authority of the occupying power as a condition to conclude the existence of an occupation was analyzed by **Ferraro** who gave an answer to an important question: Does the occupying power's authority need to be exclusive?, he highlighted that the authority of the occupying power may not be exclusive and can be shared with a local authority (Ferraro, 2012, p. 149), and this is exactly what applies to the Gaza Strip where Hamas controls the administration within the region, while Israel controls everything that enters and exits the Gaza Strip due to its protracted blockade that has been in place for years.

It is undeniable that Israel exercises an extensive control over many aspects of daily life in the Gaza Strip. The Israeli blockade of the Gaza Strip is a comprehensive land, sea, and air siege. The territory's six crossings represent the only outlets and exit routes for its inhabitants, with Egypt controlling solely the Rafah crossing. Israel maintains control over the remaining crossings, each intended for specific purposes (Zilber, 2014), such as the movement of workers or individuals, the supply of fuel and gas, commercial traffic, and the importation of building materials. Israel has consistently implemented a policy of closing these crossings to goods, services, and individuals, preventing the arrival of essential daily necessities in the Gaza Strip.

The international community, including the General Assembly (UN General Assembly, 2009, 2010), the international court of justice (ICJ, 2024, paras. 93-94), the International Committee of the Red Cross (ICRC) (ICRC, 2022), the international criminal court (ICC, 2014), and United Nations human rights mechanisms, has recognized Israel's belligerent occupation of the Gaza Strip, and acknowledged its status as an Occupying Power. Richard Falk, the former UN special rapporteur on the situation of human rights in the Palestinian territories occupied since 1967 notes that *“Gaza remains occupied by Israel. The form of occupation changed, but the occupying power remains in full control of the borders and even buffer zones on the Gaza side of the borders; the entry and exit of all people, goods and services into and out of Gaza and thus the entire economic growth or stagnation of Gaza; and the coastal waters, air space and underground of the territory of Gaza”* (Human Rights Council, 2012).

Based on the above, it becomes clear to us the fragility of the legal arguments presented by Israel to disavow its obligations imposed by international humanitarian law, in contrast to the international community consensus that it remains an Occupying Power in the Gaza Strip, bearing all the responsibilities imposed by the Fourth Geneva Convention and its Additional Protocol I on the Occupying Power.

3. The Israeli blockade on Gaza: Multiple violations of international law rules

The grave and systematic violations of human rights stemming from Israel's crippling blockade of the Gaza Strip potentially constitute war crimes, acts of genocide, and crimes against humanity (Cf. Hathaway et Al, 2019, p. 70), the analysis herein examines the legal basis for classifying these violations as international crimes.

3.1 Collective punishment:

The blockade practiced by Israel on the Gaza Strip constitutes a breach of many of the obligations imposed on it by the Fourth Geneva Convention and Additional Protocol I as an occupying power. The Gaza Strip's living conditions have significantly deteriorated as a result of Israel's air, land, and sea blockade, preventing Palestinians from accessing essential services.

The Fourth Geneva Convention on the Protection of Civilian Persons in Time of War obliges the Israeli occupying state to provide the population with food and medical supplies and to import the required supplies if the occupied territories' resources are inadequate (Geneva IV, art. 55).

The first additional protocol added a further set of obligations to the occupying power to provide clothing, bedding, shelter, and other essential supplies for the survival of the civilian population of the occupied territories, and objects necessary for religious worship (Additional Protocol I to the Geneva Conventions API, 1977, art. 69).

The suffocating siege imposed by Israel has contributed to a sharp decline in the entry of goods into the Gaza Strip, where Israeli authorities only allow the entry and exit of goods through the Kerem Shalom crossing, despite its limited operational capacity compared to Sufa, Nahal Oz, and Karni crossings which were closed by the Israeli authorities.

According to statistics provided by the United Nations Office for the Coordination of Humanitarian Affairs, the number of trucks carrying goods that entered the Gaza Strip decreased from an average of 15,390 per month in 2005 to 6,819 per month in 2006. Since then, the average of trucks entering the Strip per month has never exceeded 10,000 trucks (United Nations Office of the coordination of humanitarian affairs OCHA, n.d.).

The harsh restrictions imposed by the Israeli blockade on the Gaza Strip constitute a gross violation of the obligations of the occupying power stipulated in Article 56 of the Fourth Geneva Convention, which held “*The Occupying Power may requisition civilian hospitals only temporarily and only in cases of urgent necessity for the care of military wounded and sick, and then on condition that suitable arrangements are made*

in due time for the care and treatment of the patients and for the needs of the civilian population for hospital accommodation”.

The Israeli occupation's strict restrictions on the movement of goods contributed to the failure to fulfil the Gaza Strip's needs on construction materials affecting the maintenance of facilities and hospitals that were badly damaged due to Israeli bombing of the sector.

The Gaza Strip relies on Israel for 90% of its energy requirements, as Israel provides both electricity and the fuel required to run power plants (Al-Haq et Al, 2016, p. 67). However, since the start of the blockade, Gaza has seen a decrease in fuel supplies (Human Rights Council, 2009, p. 259). Furthermore, Israeli airstrikes on power plants in the sector have destroyed them, resulting in a severe electricity shortage in Gaza.

The deficit has been aggravated by periodic power outages imposed by Israeli officials as a punitive measure (OCHA, 2017). All of these factors have hampered factory operations and resulted in deterioration of medical services in hospitals due to medical apparatus breakdown. Furthermore, food spoilage has occurred as a result of refrigerators shut down due to frequent blackout (Human Rights Watch, 2014). All of this constitutes a violation by Israel to its duties under the article 56 of the fourth Geneva convention which states *“To the fullest extent of the means available to it, the Occupying Power has the duty of ensuring and maintaining, with the cooperation of national and local authorities, the medical and hospital establishments and services, public health and hygiene in the occupied territory...”*.

Since the "Al-Aqsa Flood" attack on October 7, 2023, Israeli violations have escalated significantly, with the occupation authorities implementing a systematic and widespread policy of collective punishment against the residents of the Gaza Strip. This has been accompanied by an alarming rise in hate speech and incitement among Israeli elites.

Despite the International Court of Justice (ICJ) issuing orders requiring the Israeli occupation authorities to implement certain provisional measures (ICJ, 2024a, 2024b, 2024c), and despite an agreement between Hamas and Israeli authorities for a ceasefire (Arab Center, 2024), Israel has continued to impose severe restrictions on the entry of goods and services into Gaza. Notably, during the ceasefire period, Israeli authorities refused to grant permits for the entry of mobile homes through the Rafah crossing, despite the ceasefire agreement explicitly stipulating Israel's commitment to allowing the entry of 60,000 mobile homes and 200,000 tents into Gaza (Middle-East Eye, 2025). According to a statement from the Palestinian Ministry of Health, this failure resulted in the deaths of seven children due to exposure to extreme cold in early 2025, highlighting the dire humanitarian consequences of Israel's obstructionist policies (Palestinian Ministry of Health, 2025b).

On March 2, 2025, Israeli Prime Minister Benjamin Netanyahu announced a total ban on the entry of all goods and humanitarian aid into Gaza (Israeli Prime Minister's Office, 2025). This decision stands in blatant violation of Israel's obligations under

Articles 55 and 56 of the Fourth Geneva Convention, as well as the ICJ's provisional measures orders and the commitments enshrined in the ceasefire agreement, which was still in effect at the time. Numerous international organizations have condemned such measures as constituting collective punishment, which is strictly prohibited under international humanitarian law (UN News, 2025a).

It is regrettable that the Rome Statute of the International Criminal Court does not explicitly recognize "collective punishment" as a distinct war crime within its jurisdiction. This omission stands in contrast to the statutes of some earlier international criminal tribunals (United Nations & Government of Sierra Leone, 2002, art. 3; United Nations Security Council, 1994, art. 4), and is particularly concerning given that the exclusion of this crime from the Rome Statute was reportedly the result of proposals and pressure from states engaged in occupation and annexation of foreign territories (Darcy, 2010, p. 46). Nonetheless, acts of collective punishment and their consequences may still fall under other categories of crimes under the Rome Statute—most notably as acts of genocide, crimes against humanity or war crimes—depending on the context and severity of the acts in question.

Israel's consistent disregard for its international legal obligations underscores its blatant defiance of international law, presenting the international community with an urgent imperative: to act decisively and impose stringent measures against this "rogue state" to ensure its compliance with international legitimacy.

3.2 Starvation of civilians:

International humanitarian law requires that a blockade should have a legitimate military objective, and it will be considered illegal if its only aim is to starve the civilian population by depriving them of everything necessary for their survival (San Remo Manual on International Law Applicable to Armed Conflicts at Sea, 1994, art. 102).

Israel's restrictions prohibit many widely consumed foodstuffs such as coriander, paper, toys, baby formula, olive oil, fresh meat, chocolate, nuts, spices, and soft drinks (GISHA, 2012). After a legal battle led by Gisha against the Israeli authorities, the latter was forced to reveal the so-called "red lines document" prepared by the Israeli Ministry of Defense. The content of this document was shocking, as it calculated the number of calories required for the Gaza population to avoid malnutrition, and based on that, it calculated the number of trucks filled with foodstuffs that are permitted to enter the Strip daily (Cook, 2012).

According to the Palestinian ministry of health, the average number of calories needed by Gaza inhabitants to avoid malnutrition is 2279 calories by person which is equivalent to at least 170 truckloads of foodstuffs per day, but the Israeli authorities allow much fewer number of trucks to pass the crossings which cannot satisfy Gaza's food needs nor prevent its population from suffering the malnutrition (Cook, 2012).

This chronic shortage in food supply intersects with the already fragile socioeconomic conditions of the Gaza Strip. According to statistics provided by the Palestinian central bureau of statistics, 53% of the population of Gaza strip suffers a

poverty, and 33,8% suffers a deep poverty (Palestinian central bureau of statistics, 2025). The fall of living standards force the Gazans to reduce the quality and the quantity of food they ate, shifting a diet based on a low cost and high energy cereals, sugar, and oil. According to the world health organization, these changes in diet are likely to damage the long-term health of those living in Gaza, one of the most alarming indicators is the high level of anaemia, according to WHO 66% of new-born babies and 35% of pregnant women suffers anaemia (United Nations Human Rights Council, 2009, para. 1236).

As of early 2025, the humanitarian situation in Gaza has deteriorated to catastrophic levels, largely as a direct consequence of Israel's ongoing blockade and its systematic policy of collective punishment. The World Food Programme (WFP) has warned that hundreds of thousands of civilians are once again facing severe hunger and malnutrition, as food stocks in the besieged enclave continue to dwindle and border crossings remain tightly sealed. For over three weeks, no humanitarian or commercial food supplies have been allowed into Gaza, leaving WFP and its partners unable to replenish their stocks. At present, available food reserves can sustain operations for no more than two weeks, with bakeries producing bread for 800,000 people facing imminent shortages and food parcels being rationed to reach a broader portion of the population. Insecurity and displacement have further complicated distribution efforts, while food prices have soared by up to 400 percent (World Food Programme, 2025).

A 2009 investigation by a UN fact-finding mission examining the Gaza conflict found that certain Israeli measures linked to the blockade were intended to strip Gaza's residents of essential resources needed for daily life. This practice violates the rules of international humanitarian law, specifically the prohibition against using starvation as a weapon against civilians, as outlined in the 1977 Additional Protocol I to the Geneva Conventions. Such actions may qualify as a war crime under the legal framework of the International Criminal Court's Rome Statute (United Nations Human Rights Council, 2009).

On November 2024, the ICC issued warrants for the arrest of Israeli Prime Minister **Benjamin Netanyahu** and former Defense Minister **Yoav Gallant**. The court determined there was credible evidence suggesting their involvement in orchestrating policies that intentionally deprived Gaza's civilian population of sustenance, a war crime committed in coordination with others and under their oversight as civilian leaders (International Criminal Court, 2024.).

3.3 The Indiscriminate Attacks Against Civilians and Civilian objects

A core principle of international humanitarian law requires that those engaged in armed conflict differentiate between non-combatants and fighters, as well as between civilian infrastructure and military objectives. This obligation ensures that military actions target only legitimate strategic assets, sparing civilians and their property from harm.

This principle is often described as the "cornerstone of international humanitarian law," (Engeland, 2011, p. 28) as it determines who and what may lawfully be targeted,

and who and what must be protected based on their legal status. The protection afforded to individuals and objects under IHL is therefore contingent upon their classification within the framework of the conflict.

The 1977 Additional Protocol I to the Geneva Conventions, which addresses protections for victims of international armed conflicts, clearly requires parties engaged in hostilities to differentiate between non-combatants and fighters (API, 1977, art. 48), as well as between civilian infrastructure and military targets (API, 1977, art. 51(2)). It strictly mandates that military operations focus solely on strategic objectives, explicitly forbidding attacks on civilians or their essential facilities (API, 1977, art. 52).

The subsequent analysis highlights significant breaches by Israeli forces of this core IHL principle, detailing instances of unlawful strikes on civilians and civilian infrastructure that violate the protections established under international humanitarian law.

3.3.1 Israel's Violations of the Principle of Distinction Between Civilians and Combatants in Gaza

Israel's long-standing strategy towards the Gaza Strip may be aptly characterized as a doctrine of sustained blockade combined with recurrent, large-scale military offensives. This dual-pronged approach amounts to a systematic policy of collective punishment and demographic control, implemented through deliberate and calibrated destruction. Central to this strategy is what has come to be known as the Dahiya Doctrine, a military paradigm that endorses the large-scale targeting and destruction of civilian infrastructure as a means of coercing hostile entities and reshaping their cost-benefit calculations.

Originally articulated in the context of the 2006 Lebanon War, the Dahiya Doctrine has since evolved into a guiding principle of Israeli military operations in Gaza, justifying disproportionate use of force against civilian areas under the rationale of deterrence and domination. Within this operational framework, the targeting of civilians and civilian objects is not merely incidental but appears to function as a calculated tool of psychological and structural warfare. Such practices are designed to fragment the social fabric of Gaza, disrupt everyday life, and systematically undermine the population's resilience, thereby serving broader strategic aims of control, subjugation, and political immobilization (CF. Balpinar, 2018).

Israeli policies of violence have consistently resulted in high civilian casualties during each of its military operations in the Gaza Strip. During the Second Intifada (2000–2005), statistics indicate that over 3,000 civilians lost their lives (Filiu, 2014, p. 305). In the aftermath of Operation Cast Lead in 2008, more than 1,417 civilians in Gaza were killed over the course of a three-week offensive (Human Rights Council, 2009, para. 1275). Similarly, in the 2014 assault on the Strip -widely recognized for its unprecedented intensity-, over 1,400 civilians were reported killed in one month. Among these, 299 were women and 551 were children. Additionally, 11,231 individuals were

injured, with 10% of them sustaining permanent disabilities (Human Rights Council, 2015, para. 574).

Since October 23, 2023, Israeli attacks on the Gaza Strip have witnessed an unprecedented escalation in violence. The indiscriminate assaults and the use of overwhelming force have resulted in the deaths of more than 50,912 civilians and injuries to 115,981 others (Palestinian Ministry of Health, 2025a), according to figures released by the Palestinian Ministry of Health in Gaza as of April 12, 2025. However, a study conducted by a team of researchers led by Rasha Al-Khatib from the Advocate Aurora Research Institute suggests that the actual number of civilian casualties may be significantly higher, potentially exceeding 186,000 (Khatib et al., 2024, p. 237). In a related analysis, researchers from the Faculty of Epidemiology and Population Health at the London School of Hygiene & Tropical Medicine reported that the official death toll announced by the Palestinian Ministry of Health may underestimate the true figure by approximately 41% (Jamaluddine et al., 2025, p. 469), further underscoring the scale and severity of the humanitarian crisis.

A report issued by the Office of the United Nations High Commissioner for Human Rights (OHCHR) documented six major attacks carried out by the Israeli military in the Gaza Strip. The report observed the use of several types of guided bombs by Israeli forces, including the GBU-31 (2,000 lbs)*, GBU-32 (1,000 lbs), and GBU-39 (250 lbs). These munitions were deployed against locations of a predominantly civilian character, including a marketplace and a displacement camp in Jabalia, the Al-Taj residential tower, the Al-Bureij displacement camp, Al-Buraq School, and a residential area in Shuja'iyya (OHCHR, 2024).

It is important to underscore that the obligation under international humanitarian law to distinguish between civilians and combatants requires parties to an armed conflict to carefully select the means and methods of warfare, ensuring that those targeted are legitimate military objectives (ICRC, 1981, p. 130). This legal duty prohibits the use of inherently indiscriminate weapons, those incapable of distinguishing between military and civilian targets (ICJ, 1996, para. 78). Notably, the guided bombs GBU-31, GBU-32, and GBU-39 are classified as bunker-busting munitions designed to penetrate reinforced concrete and demolish multi-story structures. Their deployment in densely populated areas such as the Gaza Strip inevitably results in large-scale indiscriminate attacks, causing the deaths of thousands of civilians.

These brutal attacks, which blatantly disregarded the principle of distinction between civilians and combatants, have resulted in the deaths of over 50,000 Palestinians, according to official statistics. Among the victims were 8,304 women, 15,613 children, and 3,839 elderly persons. In addition, more than 115,000 individuals sustained injuries (OCHA, 2025). The Israeli military has also targeted medical and humanitarian personnel, in clear violation of the protections afforded to them under the four Geneva Conventions and Additional Protocol I concerning the protection of victims

* **GBU** = **G**uided **B**omb **U**nit, **lbs** = **l**ibra **p**ondo (1 lbs = 0,45359237 kilograms).

of international armed conflicts (API, 1977, art. 12, 14, 15, 71; Geneva I, 1949, art. 24, 25, 26; Geneva IV, 1949, art. 20). On March 23, 2025, fifteen medical workers were killed in Israeli attacks. Furthermore, the spokesperson for the United Nations, Mr. Stéphane Dujarric, reported that since the onset of hostilities, a total of 408 aid workers have been killed, including 280 humanitarian personnel. These acts represent a grave breach of international humanitarian law and undermine the foundational principles meant to shield those performing life-saving and relief functions in times of war (UN News, 2025b).

The targeting of Palestinian journalists in Gaza constitutes a grave breach of international humanitarian law and a direct assault on press freedom. According to the Committee to Protect Journalists (CPJ), as of April 11, 2025, at least 162 Palestinian journalists and media workers have been killed since the beginning of the conflict on October 7, 2023, making it the deadliest period for journalists since CPJ began documenting such data. Many of these deaths occurred under sustained bombardments and forced displacement, with CPJ verifying that at least 11 journalists and two media workers were deliberately targeted and killed by Israeli forces (Committee to Protect Journalists, 2025), classified as premeditated killings. These actions not only violate the principle of distinction but also aim to silence independent documentation of the conflict and hinder efforts toward accountability.

3.3.2 Israel's Violations of the Principle of Distinction Between Civilian Objects and Military Targets in Gaza

Article 52 of Additional Protocol I to the Four Geneva Conventions provides critical guidance to parties engaged in armed conflict regarding the distinction between civilian and military objectives. Paragraph 2 of this article offers the first codified definition of military objectives in international humanitarian law, describing them as “*those objects which by their nature, location, purpose or use make an effective contribution to military action and whose total or partial destruction, capture or neutralization, in the circumstances ruling at the time, offers a definite military advantage.*”

This definition operates *a contrario*, providing a negative definition of civilian objects: any object that does not make an effective contribution to military action, whether by nature, location, purpose, or use—cannot be deemed a legitimate military objective. This includes, *inter alia*, schools, places of worship, hospitals, museums, markets, refugee camps, and other objects that are *prima facie* civilian in character.

The special committee of the International Criminal Tribunal for the former Yugoslavia (ICTY), established to assess the legality of NATO's 1999 bombing campaign in the Federal Republic of Yugoslavia, observed that “ammunition factories are generally agreed to be military objectives.” (ICTY Committee, 2000, para. 37) In this vein, objects such as weapons and weapons systems, military barracks, transport vehicles, and arms storage facilities fall under the category of military objectives *by nature*. Other recognized military objectives include command and control centers, naval ports, shipyards, dry docks, raw materials intended for military use, military repair

facilities, military research and development centers, intelligence-gathering installations, and the premises of the Ministry of Defense (Dinstein, 2016, para. 296).

Certain locations may acquire the status of *military objectives* not *per se*, but *propter locum* -that is, by virtue of their location- due to their tactical significance within the enemy's military strategy. Even if such sites are not inherently military in nature, they may become legitimate targets if they contribute effectively to military operations by serving, for example, as points of retreat, concealment, or assembly. This category may encompass roads, bridges, tunnels, and similar infrastructural elements, the destruction of which offers a *definite military advantage* in accordance with Article 52 (2) of Additional Protocol I. Their neutralization may weaken the enemy's operational capacity or disrupt its strategic objectives (Jachec-Neale, 2015, p. 62).

Military objectives *ex usu*—by reason of their use—refer to objects or locations that, while not military *per se*, are being employed for military purposes. This includes the actual and current use of civilian objects for activities such as surveillance, concealment, communication, or troop movement. Consequently, civilian infrastructure such as railways, airports, communication networks, civilian ports, and broadcasting stations may lose their protection under international humanitarian law (*IHL*) if it is clearly established that they are being utilized by the adversary to advance military operations (Boothby & Von Heinegg, 2022, p. 87).

The Israeli occupying forces have consistently invoked this rationale to justify attacks on civilian objects, including schools, hospitals, and refugee camps, claiming their military use by Palestinian armed groups. However, it is imperative to emphasize that *IHL* imposes stringent conditions on the loss of protection for civilian objects when used for military ends. Under the presumption of civilian status, civilian objects are presumed to be protected, and in cases of doubt, military commanders are obligated to treat them as non-targetable.

In accordance with Article 52(3) of Additional Protocol I, no object normally dedicated to civilian purposes may be attacked unless and until it becomes a military objective *beyond reasonable doubt*. Thus, the burden of proof rests with the attacking party to produce *conclusive evidence* substantiating the object's military use. A mere suspicion -even if strong- is insufficient to reclassify a civilian object as a lawful military target. Commanders are therefore bound by the duty of *due diligence* to verify the military nature of the target before launching an attack, and any failure in this regard may constitute a grave breach of international humanitarian law.

A recent joint assessment conducted by the World Bank, the European Union, and the United Nations (February 2025) has revealed the staggering extent of destruction inflicted upon Gaza's civilian infrastructure between October 2023 and October 2024 (World Bank et al., 2025, p. 7). The report, entitled *Rapid Damage and Needs Assessment for Gaza and the West Bank*, estimates that the total cost of direct physical damage amounts to approximately USD 29.9 billion. This figure represents not merely a catastrophic economic loss, but also equates to 1.8 times the combined annual Gross Domestic Product (*GDP*) of the West Bank and Gaza, thus underscoring the profound

impact of the conflict on the region's physical and economic fabric World Bank et al., 2025, p. 3).

According to a report issued by the United Nations Office for the Coordination of Humanitarian Affairs (OCHA) in mid-April 2025, approximately 92 percent of all residential units in the Gaza Strip have sustained damage as a result of the Israeli military offensive. This includes 160,000 housing units that were completely destroyed, and a further 276,000 units that were partially or severely damaged, rendering over 430,000 homes uninhabitable (OCHA, 2025) out of a pre-conflict total of 472,660 units as of 8 October 2023 (World Bank et al., 2025, p. 26). As a consequence, more than one million individuals have been rendered *de facto* displaced, marking a humanitarian crisis of unprecedented scale since the onset of hostilities in October 2023 (World Bank et al., 2025, p. 8).

The education system in the Gaza Strip has endured catastrophic damage as a result of the ongoing hostilities. Nearly 87.7% of school buildings have been either damaged or destroyed, including 212 schools that sustained direct strikes and 282 others that suffered moderate to minor damage. This widespread devastation has led to the complete closure of all schools, leaving 625,000 students without access to formal education for an extended period. Consequently, children have been deprived not only of their right to education but also of the daily structure and safe environment essential for learning, development, and emotional well-being amidst the violence of war. Institutions of higher education have also been severely affected. Out of 16 university campuses across the Gaza Strip, four have been entirely destroyed, while ten others have sustained significant to moderate damage. Tragically, more than 5,479 students and 261 teachers have been killed since the onset of the conflict (Save The Children, 2024).

As of early 2025, Gaza's healthcare system has suffered unprecedented devastation due to ongoing hostilities. According to the World Health Organization (WHO), only half of Gaza's 36 hospitals and 11 field hospitals remain operational, most functioning only partially. Additionally, fewer than 40% of primary health centers are still in service. The WHO has documented over 670 attacks on healthcare facilities, workers, and patients, severely disrupting medical services and leading to a dire humanitarian crisis (Balkhy & Ghebreyesus, 2025, p. 54).

In the realm of cultural heritage, the Palestinian Ministry of Awqaf and Religious Affairs reported that over 800 mosques and multiple religious sites in Gaza were destroyed or damaged during the conflict. This includes significant damage to Christian and Islamic religious sites, reflecting a broader pattern of destruction affecting cultural and religious landmarks (Wafa.ps, 2025). Furthermore, UNESCO verified damage to 102 sites, including 13 religious' sites, 69 buildings of historical and artistic interest, and 7 archaeological sites, underscoring the extensive impact on Gaza's cultural heritage (Unesco, 2025).

All of the above constitutes important documentation of systematic, widespread, and ongoing violations, reflecting the Israeli occupation's intent to violate international law obligations concerning the distinction between civilian objects and military targets.

This is aimed at making the Gaza Strip an uninhabitable place. These violations, taken together, constitute war crimes under the Rome Statute of the International Criminal Court (Rome Statute of the International Criminal Court, 1998, Art. 8). Undoubtedly, these reports will assist the Prosecutor of the International Criminal Court in his investigation into the crimes committed by the Israeli military in the Palestinian territories.

3.4 Forced Displacement and unlawful deportation of Palestinians in Gaza

The Israeli military operations in Gaza since October 2023 have resulted in the forced displacement of approximately 1.9 million Palestinians, constituting nearly 85% of the territory's population. This mass displacement, coupled with the deliberate destruction of civilian infrastructure and the establishment of buffer zones, indicates a systematic policy aimed at rendering large areas of Gaza uninhabitable. These actions raise serious concerns under international humanitarian law, potentially amounting to war crimes and crimes against humanity (UN Security Council, 2024d).

Israel's issuance of evacuation orders has been characterized by ambiguity and inconsistency. According to Nadia Hardman from Human Rights Watch, many of these orders were unclear, contradictory, and provided insufficient time for civilians to evacuate safely. Moreover, designated "safe zones" and evacuation routes were frequently subjected to military attacks, undermining their purported safety and exacerbating civilian casualties. Such practices suggest that evacuation orders served more as tools for forced displacement rather than genuine efforts to protect civilians (Hardman, 2024).

The extensive destruction of civilian infrastructure in Gaza by Israeli forces has significantly contributed to the forced displacement of Palestinians and has impeded their ability to return to their homes. According to a statement by the UN High Commissioner for Human Rights, Volker Türk, the Israeli military has reportedly demolished all buildings within one kilometer of the Israel-Gaza fence to establish a "buffer zone." This action, not justified by military necessity, constitutes a grave breach of the Fourth Geneva Convention and may amount to a war crime (OHCHR, 2024).

The UN Human Rights Office (OHCHR) has documented widespread destruction of civilian infrastructure, including residential buildings, schools, and universities, in areas where active hostilities are no longer taking place. Such demolitions have occurred in Beit Hanoun in northern Gaza, As Shujaiyeh in Gaza City, and at Nuseirat refugee camp in central Gaza, among other areas (OHCHR, 2024). The destruction appears to be aimed at, or has the effect of, rendering the return of civilians to these areas impossible, thereby entrenching the displacement of communities that were living in these areas before the escalation in hostilities (Human Rights Watch, 2024).

In addition to the aforementioned violations, Israeli airstrikes have targeted areas that had been explicitly designated as "safe zones" for displaced civilians, most notably the al-Mawasi region in Khan Younis. According to Mahmoud Basal, the official spokesperson for the Civil Defense in Gaza, these strikes resulted in the deaths of at least

16 individuals -primarily women and children- and injured 23 others. Further bombardments in Beit Lahiya and near al-Mawasi caused additional casualties, including the death of a father and his child. Basal further reported that civil defense teams faced severe obstacles in reaching the wounded due to the intensity of the attacks and the absence of secure access routes (AlJazeera, 2025). These incidents underscore the extreme vulnerability of displaced populations, even in zones that had been ostensibly designated for their protection, and raise grave concerns regarding the systematic targeting of civilians in breach of international humanitarian norms.

Under Article 8 of the Rome Statute of the International Criminal Court, the unlawful deportation of civilians in occupied territories, unless justified by military necessity or for the security of the civilians themselves, constitutes a war crime (Rome Statute of the ICC, 1998, art. 8(2)(a)(vii)). Furthermore, when such acts are part of a widespread or systematic attack against a civilian population, they may also qualify as crimes against humanity (Rome Statute of the ICC, 1998, art. 7(1)(d)). The deliberate nature of the displacement, the targeting of civilian infrastructure, and statements by Israeli officials indicating an intent to depopulate certain areas of Gaza support the characterization of these actions as both war crimes and crimes against humanity.

3.5 Genocide of Gaza people

According to Article 6 of the Rome Statute—mirroring verbatim Article 2 of the 1948 Convention on the Prevention and Punishment of the Crime of Genocide, genocide is defined as acts committed with intent to destroy, in whole or in part, a national, ethnical, racial, or religious group, as such.

Professor John Quigley from Ohio state university emphasizes that the *actus reus* of genocide must form part of a broader pattern of conduct evidencing an intent to destroy, *in whole or in part*, a protected group. In the context of the Israeli military operations in Gaza, including the imposition of a comprehensive blockade and targeted attacks on civilian infrastructure, such acts may potentially satisfy the material element of genocide. However, as Quigley underscores, the crux of the legal challenge lies in establishing the requisite *dolus specialis* -the specific intent to annihilate the Palestinian group as such- (Quigley, 2024).

The jurisprudence of international criminal tribunals, particularly the International Criminal Tribunal for Rwanda (ICTR), has underscored that genocidal acts are typically preceded by a broader sociopolitical context of dehumanization and incitement against the targeted group (International Criminal Tribunal for Rwanda, 1998, para. 126). Such dehumanization is often a precursor to exterminatory violence and may include direct and public incitement to genocide, mass killing, infliction of serious bodily or mental harm, deliberate imposition of living conditions calculated to bring about the group's physical destruction, imposition of measures intended to prevent births, or the forcible transfer of children.

There is no doubt that the population of Gaza constitutes a protected group under the 1948 convention. The overwhelming majority of Gaza's inhabitants are Muslim,

Arabs, with a distinct cultural, national, and religious identity. As such, they fall squarely within the categories protected under the Genocide Convention (ICJ, 2024a).

The socio-political climate in Israel preceding and during the military campaign against Gaza reveals a troubling pattern of dehumanizing rhetoric from high-ranking officials and public figures. Former Israeli Defense Minister Yoav Gallant's characterization of Gaza's population as "*human animals*," accompanied by the announcement of a full siege "*no water, no food, no electricity, no fuel*" (Fabian, 2023), constitutes a stark example of incitement to inhumane treatment and mass harm. Further inflammatory discourse was expressed by Israeli academic Dr. Mordechai Kedar, who stated that calling Gazans "animals" was an insult to animals, as -in his words- they are "worse." (LGcommaI, 2023) Additionally, Israeli Heritage Minister Amichai Eliyahu openly suggested the use of nuclear weapons against Gaza (Bachner, 2023), reinforcing perceptions of a widespread genocidal animus among sectors of the Israeli leadership.

The deliberate starvation of Gaza's civilian population through the systematic denial of water, fuel, medical supplies, and humanitarian aid, combined with a sustained aerial bombing campaign that has killed tens of thousands, appears aimed at subjecting the population to life conditions calculated to bring about its destruction in whole or in part. These acts, viewed collectively and in light of the aforementioned inciting rhetoric, may amount to genocidal conduct under Article II(c) of the Genocide Convention.

The international non-governmental organization **Law for Palestine** has conducted a comprehensive documentation of public statements issued by Israeli political leaders, military officials, media figures, and intellectuals that constitute explicit incitement to commit genocide against the population of the Gaza Strip (Law For Palestine, 2024). This systematic incitement underscores Israel's failure to fulfill its obligation under **Article III(c)** of the *Convention on the Prevention and Punishment of the Crime of Genocide* (1948), which criminalizes direct and public incitement to commit genocide, irrespective of whether genocide is ultimately carried out.

Taken collectively, these statements provide compelling indicia of *dolus specialis* -the specific intent to destroy, in whole or in part, the Palestinian population in Gaza as a protected group under international law-. Such intent, when coupled with materially genocidal acts, fulfills both the *actus reus* and *mens rea* elements of the crime of genocide as articulated in **Article 6** of the *Rome Statute of the International Criminal Court*. The evidence thus substantiates a prima facie case for the commission of genocide under international criminal law.

4. Gaza and the Limits of International Justice

The Gaza crisis has placed significant pressure on the framework of humanitarian law and revealed the structural limitations of the international justice system. Although extensive documentation points to grave violations of international law in the Gaza Strip, efforts to establish accountability continue to face serious obstacles linked to geopolitical influence, selective application of legal norms, and institutional fragility. This section examines the challenges encountered by international judicial bodies, particularly the

International Court of Justice (ICJ) and the International Criminal Court (ICC), in addressing alleged crimes committed in Gaza. It analyzes the ways in which political interference, enforcement paralysis, and disparities in international power dynamics restrict the capacity of these institutions to uphold accountability and counter impunity. Through this analysis, the section highlights the broader difficulties of achieving justice within contexts shaped by entrenched power asymmetries and competing narratives.

4.1 ICJ's Gaza Rulings: Between Normative Force and Enforcement Paralysis

On December 29, 2023, the Republic of South Africa initiated proceedings before the International Court of Justice (ICJ) against the State of Israel, alleging violations of the 1948 Convention on the Prevention and Punishment of the Crime of Genocide during Israel's military operations in the Gaza Strip since October 2023. Invoking Article IX of the Genocide Convention, South Africa sought the Court's intervention through the issuance of provisional measures aimed at halting acts of genocide and incitement thereto, and ensuring the delivery of humanitarian assistance to Gaza (ICJ, 2023).

In response, the ICJ issued three orders in 2024 (ICJ, 2024a, 2024b, 2024c), mandating Israel to take all measures within its power to prevent acts falling within the scope of Article II of the Genocide Convention, including the killing of Palestinians, causing serious bodily or mental harm, and deliberately inflicting conditions of life calculated to bring about physical destruction. The Court also ordered Israel to prevent and punish direct and public incitement to commit genocide, to allow the provision of urgently needed basic services and humanitarian assistance, and to preserve evidence related to alleged acts of genocide. Despite the binding nature of these orders under Article 94 of the UN Charter, Israel has continued its military operations in Gaza, raising concerns about its compliance with international legal obligations.

The enforcement of ICJ decisions faces significant challenges, particularly when involving states with substantial geopolitical influence. While Article 94(2) of the UN Charter permits recourse to the Security Council in cases of non-compliance, the effectiveness of this mechanism is often impeded by the political dynamics within the Council. Historically, the United States has exercised its veto power to shield Israel from resolutions perceived as unfavorable, including multiple instances in 2024 where it vetoed Security Council resolutions calling for a ceasefire in Gaza (Nations Unis, 2024), despite overwhelming support from other members. This pattern underscores the limitations of international legal mechanisms in the face of political considerations.

Despite the significant challenges inherent in enforcing international judicial decisions, the provisional measures issued by the International Court of Justice (ICJ) carry substantial legal and symbolic weight. These orders not only reinforce the normative authority of international law, but also provide a formal record of alleged violations, thereby contributing to the growing international pressure on Israel. Importantly, the issuance of such measures sets a meaningful legal precedent, reaffirming the relevance and applicability of the Genocide Convention to contemporary armed conflicts and mass atrocity situations.

While the implementation of ICJ rulings may be hindered by geopolitical obstacles and the absence of direct enforcement mechanisms, a potential condemnation of Israel for committing acts of genocide would represent a watershed moment in international legal discourse. Such a finding would profoundly challenge the long-standing narrative of victimhood often invoked by pro-Israel lobbying groups to garner global civil society sympathy. It would also serve to diminish the persuasive power of this narrative, particularly within European and North American political and public spheres. The fact that both the provisional measures and any forthcoming judgment originate from the ICJ, a judicial body of the highest standing and legitimacy, further amplifies their legal and moral significance.

4.2 Espionage and Threats: Unprecedented Pressure on the ICC Amidst Palestine Investigation

The ICC's Prosecutor declared that the Pre Trial Chamber had received requests for arrest warrants targeting Benamine Netanyahu, Israeli Prime Minister, Yoav Gallant, Defence Minister, and Yahya Sinwar, Ismail Haniyeh, and Mohammed Deif (Hamas leaders). These were over crimes allegedly perpetrated on Palestinian territory (ICC, 2024c).

Subsequently, on 21 November 2024, the Chamber issued five arrest warrants. However, it later terminated proceedings against Ismail Haniyeh (ICC, 2024a) and Mohammed Deif (ICC, 2025) (Mohammed Ibrahim Diab al-Masri) and Yahia Sinwar (ICC, 2024b) following their deaths.

These arrest warrants marked a pivotal development within the ICC's inquiry into the situation in Palestine. They reflect a major step forward in advancing international criminal justice; nevertheless, the path to justice has been repeatedly obstructed by intense pressures and threats directed at the Court, primarily from Israel and its allies.

The ICC has come under substantial pressure from the moment it decided to pursue inquiries into alleged crimes occurring in the State of Palestine. This pressure has primarily manifested in two forms: sophisticated espionage targeting its operations, and overt threats emanating from Israeli authorities and their key ally, the United States.

4.2.1 Israeli Espionage Targeting the International Criminal Court

The gravity of the situation transcends mere procedural delays or standard concerns regarding political interference. The ICC operates within an environment characterized by unprecedented external pressures and direct threats. Investigations conducted by +972 Magazine (Abraham & Rapoport, 2024) and The Guardian (Guardian, 2024) have revealed a sustained, nine-year espionage and surveillance campaign orchestrated by Israeli intelligence agencies, specifically targeting the ICC and its personnel.

The investigation disclosed that Israeli intelligence has monitored senior ICC officials and Palestinian human rights advocates for nearly a decade. This covert operation was allegedly part of a strategic effort to obstruct the Court's investigation into crimes committed within the Palestinian territories.

Dating back to 2015—the year Palestine acceded to the Rome Statute—this espionage operation reportedly involved the monitoring of communications, correspondence, emails, and potentially privileged documents belonging to the current ICC Prosecutor, Karim Khan, his predecessor, Fatou Bensouda, and dozens of other ICC and United Nations officials. Furthermore, Israeli intelligence allegedly monitored materials submitted by the Palestinian Authority to the Office of the Prosecutor (OTP) and scrutinized key figures within four Palestinian human rights organizations whose reporting is considered foundational to the investigation (Abraham & Rapoport, 2024).

Intelligence gathered via this espionage was reportedly disseminated to a senior team of Israeli lawyers and diplomats. This provided them with a priori knowledge of the Court's intended actions prior to their engagements in The Hague, enabling them to strategically furnish the Prosecutor with information ostensibly aimed at casting doubt upon the Court's jurisdiction, potentially *ratione materiae* or *ratione loci*, concerning the Situation in Palestine.

A significant aspect of Israel's alleged exploitation of this intelligence involved its national judiciary initiating *ex post facto* investigations into incidents the ICC was preparing to examine. This action appears calculated to subsequently invoke the principle of complementarity, enshrined in the Rome Statute. Complementarity grants primacy (*ne bis in idem*) to national judicial systems provided they are genuinely investigating or prosecuting the same cases. Consequently, by undertaking domestic investigations, Israeli authorities could mount admissibility challenges based on complementarity should the Prosecutor formally proceed, potentially hindering or obstructing the ICC's proceedings *de novo* (Guardian, 2024).

4.2.2 Israeli and U.S. Threats Against the International Criminal Court

Journalistic investigations by The Guardian further reported that former ICC Prosecutor Fatou Bensouda faced personal intimidation. The former head of Israel's Mossad allegedly threatened her directly, stating words to the effect of: "You don't want to get into things that could compromise your security or that of your family." (Davies, 2024)

Obstruction of the ICC's mandate has not been confined to covert activities but has extended to overt political intimidation. On April 24, 2024, twelve U.S. Republican Senators dispatched a letter to ICC Prosecutor Karim Khan. The communication threatened sanctions and unspecified repercussions against him, Court officials, and their families should arrest warrants be issued targeting Israeli leaders (Mehdi & Al, 2024). Similarly, Democratic Senator John Fetterman warned that pursuing charges against Israeli officials would deliver a "fatal blow" to the ICC's judicial standing and moral authority (Fetterman, 2024.).

While political interference is not entirely novel in the realm of international justice (*Realpolitik* often intersects with *jus cogens* principles), the rhetoric surrounding the ICC's Palestine investigation has been exceptionally aggressive. Israeli Prime Minister Benjamin Netanyahu initially released a video implicitly encouraging

interference with the ICC probe (Israeli PM on Youtube, 2024). He has since escalated his condemnations, labelling the ICC a "weapon of criminals and terrorists." (UN Security Council, 2024a, p. 18) On September 10, 2024, Israel intensified its criticism, accusing the Prosecutor of acting in an "antisemitic" manner (Israeli Prime Minister's office, 2024).

Pressure on the Court arguably reached a zenith when the U.S. Senate advanced legislation effectively criminalizing cooperation with the ICC (US Congress, 2025). The proposed Act stipulates punitive measures, including sanctions, against any person or entity assisting the ICC in the investigation, arrest, detention, or prosecution of defined "protected persons." This legislation delineates two categories of protected persons:

- U.S. nationals, entities, and any individual resident in the United States.
- Any national or resident of a designated U.S. ally that is not a State Party to the Rome Statute.

The Act further prescribes visa denials and asset freezes for individuals implicated in any ICC attempt to investigate, arrest, detain, or prosecute a protected person. These visa-related sanctions are designed to extend to the immediate family members (*inter alia*) of any individual penalized under the law.

Confronted with these escalating pressures and unprecedented threats, the ICC issued a rare public statement. It firmly insisted that "*all attempts to impede, intimidate or improperly influence its officials must cease immediately.*" (ICC, 2024)

This resolute stance resonated with numerous international actors cognizant of the broader implications of such interference for the international legal order. United Nations experts, for example, warned that efforts to obstruct the ICC's mandate would precipitate far-reaching consequences, not solely for accountability concerning the Situation in Palestine, but for the integrity of the international justice system in toto (Multiple UN Mechanisms, 2024). This sentiment was forcefully echoed by Josep Borrell, the High Representative of the European Union for Foreign Affairs and Security Policy. He denounced what he characterized as hypocrisy within the international community and the attempts to exert undue influence on the Court regarding its Palestine investigation, contrasting this sharply with the widespread approbation following the ICC's issuance of an arrest warrant for Russian President Vladimir Putin (European Union Foreign Affairs Council, 2024):

"Enough is enough. When the International Criminal Court indicted President Putin, we applauded. So, either we respect the International Criminal Court or not. Stop trying to intimidate the judges of the ICC."

Furthermore, numerous States formally condemned the threats directed against the Court (UN Security Council, 2024b), while others reiterated their steadfast support for its judicial independence vis-à-vis the external pressures it faces. Reinforcing this commitment to the Court's mandate and the principle of universal justice (UN Security Council, 2024c, pp. 6-11), Chile emphasized the imperative that "*more countries should*

submit to the jurisdiction of the ICC.” justice (UN Security Council, 2024b). These expressions of international solidarity underscore the ICC's enduring and vital role in upholding international justice norms and affirm its fundamental responsibility to remain steadfast in executing its mandate *ad litem*, even amidst heightened geopolitical pressures.

Conclusion:

The Israeli blockade of the Gaza Strip, as examined in this article, represents a sustained violation of fundamental principles of international humanitarian and human rights law. The cumulative effect of Israel's policies—from the imposition of a comprehensive siege to the systematic targeting of civilians and essential infrastructure—amounts not only to collective punishment but to potentially prosecutable international crimes, including war crimes, crimes against humanity, and acts of genocide. Israel's persistent denial of its status as an occupying power, despite the overwhelming indicators of effective control, further entrenches its legal and moral responsibility for the humanitarian catastrophe unfolding in Gaza.

This article has demonstrated that the blockade cannot be justified under international law as a legitimate act of self-defense, nor can it be divorced from the broader context of domination and demographic engineering that underlies Israel's long-standing policies toward the Gaza Strip. In parallel, the analysis has shown the structural limitations of international justice mechanisms—such as the ICJ and ICC—in the face of political obstruction, selective enforcement, and overt threats to judicial independence. The Gaza case thus lays bare the profound asymmetries within the international legal system, where the enforcement of norms too often depends on political expediency rather than legal merit.

In light of these findings, several urgent recommendations are in order. First, the international community—especially third states parties to the Geneva Conventions—must fulfill their legal obligations to ensure respect for international humanitarian law by taking concrete measures, including sanctions and arms embargoes, to compel Israel to lift the blockade and cease its unlawful practices. Second, regional and international organizations must strengthen support for the ICC and ICJ, ensuring that investigations and rulings are not only issued but meaningfully enforced. Third, legal scholars and human rights advocates should continue to collect, preserve, and present evidence of violations to support ongoing and future accountability processes, including through universal jurisdiction mechanisms in domestic courts. These measures are not merely legal necessities, but urgent moral imperatives demanded by the gravity of the violations documented in this study.

Beyond the immediate legal ramifications, the Gaza blockade raises deeper normative questions about the resilience and universality of international law in the face of geopolitical realities. The situation also opens several important avenues for future research. These include examining the long-term psychological and developmental impact of blockade-induced deprivation on children and youth in Gaza, assessing the

role of corporate actors in enabling the siege infrastructure, and exploring comparative legal frameworks from other prolonged sieges or blockades to refine accountability standards. Furthermore, the strategic use of starvation, displacement, and infrastructure destruction as tools of warfare warrants deeper theoretical and empirical study across conflict contexts.

Ultimately, Gaza must not be viewed merely as a site of humanitarian crisis, but as a test case for the credibility of the international legal order itself. Ending the cycle of impunity requires not only robust legal scholarship but sustained moral and political engagement to restore faith in the universality of international law and to reaffirm the foundational principle that no state is above the law.

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