

Gaza, the crime of forced displacement and the need for humanitarian intervention.

غزة وجريمة التهجير القسري وضرورة التدخل الإنساني.

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Abstract:

The world has witnessed historical facts of crimes committed within wars and armed conflicts, where there are many forms, but the victim is one, namely civilians, in a manner that contradicts the purposes of international humanitarian law, which seeks to spare civilians the consequences of combat operations regardless of the nature of the armed conflict, and to ensure that the warring parties effectively control the battlefield, they conduct some military studies of a strategic nature, in which geographical areas vary in terms of their importance and show the need to control them in any way. Even if those areas are inhabited, However, the stage of control over the territory of the State party to the armed conflict places the controlling State in a different legal position, and carries obligations under the terms of the Fourth Geneva Convention of 1949, as it has now become an occupying Power. This prompts the occupying power to commit forced displacement of the population and replace them with residents loyal to the occupying power, which prompts us to address the study and drop it on the operations in Gaza.

Keywords: International law; international humanitarian law; forced displacement; crimes; International Criminal Court; Palestine.

ملخص

شهد العالم وقائع تاريخية لجرائم ارتكبت ضمن حروب ونزاعات مسلحة حيث تعددت صورها غير أن الضحية فيها واحد ألا وهم المدنيين، بشكل يتعارض ومقاصد القانون الدولي الإنساني الذي يسعى إلى تجنب المدنيين تبعات العمليات القتالية، ولتضمن الأطراف المتحاربة السيطرة الفعلية على ميدان المعركة فهي تعتمد إلى إجراء بعض الدراسات الحربية ذات الطابع الاستراتيجي، لتظهر الحاجة إلى السيطرة عليها حتى وإن كانت تلك المناطق مأهولة بالسكان، مما يدفع بدولة الاحتلال إلى ارتكاب عمليات تهجير قسري في حق السكان الأصليين واستبدالهم بسكان ذوا ولاء لدولة الاحتلال هو واقع من عمليات في قطاع غزة.

الكلمات المفتاحية: القانون الدولي؛ القانون الدولي الإنساني؛ التهجير القسري؛ الجرائم؛ المحكمة الجنائية الدولية؛ فلسطين.

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1. Introduction:

The concept of the right to life and the immunity of This right from any violation is based on the idea that the human spirit was characterized by sanctity, which has an impact on most religions and beliefs from antiquity to the present. This sanctity made the issue of death one of the forbidden things that need punishment just as much as the crime committed. This right kept evolving and drawing ideas of rights that are inextricably linked to the right to life, Therefore, in order to guarantee the right to life, sufficient protection had to be provided. If the right to life is allowed, then there is no need for the individual to enjoy the other rights.

In accordance with international human rights conventions, states have committed to ensuring that people in their territories enjoy these rights collectively. However, given the severity of the threats to humanity posed by shifting international relations, conflicts of interest, and ideological differences, these contradictions have helped to create an unstable environment rife with conflicts and wars, The Geneva Conventions for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field of 1864 are the rules of international humanitarian law that the international community has codified because of the destruction and devastation that all of humanity has experienced.

In order to finally reflect the Geneva Convention in its final form, the provisions of this Convention were revised and replaced by the 1906 and 1929 versions. These versions contained four agreements that ensured the proper protection of both military personnel and civilians outside of hostilities, as well as rules governing the conduct of hostilities between the parties to the conflict.

Following the Geneva Conventions, which were regarded as a significant turning point in the development of international law in its humanitarian aspect with a view to strengthening the necessary protection for victims of armed conflicts, especially civilians, in both international and non-international armed conflicts, the international community adopted two additional protocols in 1977 to further those goals.

Whether in internal armed conflicts or international wars, which frequently result in the commission of horrible crimes that result in the loss of thousands of bloody lives in violation of the UN Charter's goals, the international community will not effectively establish the necessary protection for civilians and spare them from the consequences of hostilities, In addition to the applicable international conventions, human rights, and international humanitarian law, those crimes may have been committed with the intention of advancing a strategy that benefits one of the conflict's parties, and the continuation of hostilities may have been used as a means to that end at the expense of civilian lives.

In the majority of wars and armed conflicts, one of the parties may attempt to evacuate a particular area as a preventative measure while attempting to increase its control over it. One of the most notable actions it takes later is the settling of a non-indigenous population, as was the case in Syria and continues to occur in occupied Palestine in violation of states' obligations under the 1949 Geneva Convention, particularly the Fourth Geneva Convention, which requires its members to uphold its terms and seek to protect individuals. subject matter of the Convention who are situated under the control of an occupying Power or a Party to the conflict (occupation).

The most notable of the acts that are forbidden to the States parties to the armed conflict is the crime of forced displacement, which was committed by the people of occupied Palestine during the years of occupation and was carried out in accordance with a long-term schedule. As a result, any act that violates the principles and objectives of the Convention is a violation of the signed obligation, based on a

strategy that does not elicit the international community's outrage or condemnation, which is happy to place the blame without actually wanting to stop it, but the occupying force has turned into It has recently paid no attention to such international viewpoints, and resistance activities have been used as an excuse for their excessive use of force against the Gaza Strip's inhabitants in an effort to hasten the attainment of its forced displacement goals.

Because the state is a party to the conflict, the crime of forced displacement is one of the most serious crimes that a regime can perpetrate against civilians, regardless of whether they are its citizens or citizens of an occupied territory that it controls, which might use an extreme strategy marked by racism and injustice against the populace to drive them from their land and seek safety in safer places. For this reason, it was crucial to address the crime of forced displacement and the perceptions that many warring or armed conflicting states rely on to accomplish displacement manifestations.

With reference to the current situation in Palestine and Gaza, specifically the hostile operations that have gone beyond the parameters of deterring resistance operations, we will discuss the nature of the crime of forced displacement, the motivation behind its commission, and its effects on international humanitarian law. Through this study, we will attempt to address the areas where the occupying authority committed heinous crimes that exposed the anticipated objectives, which are to depopulate the Gaza territory in order to establish other inhabitants from an expansionist standpoint.

2. the legal system for the crime of forced displacement in international law.

International humanitarian law aims to protect civilians from the effects of combat operations, regardless of the type of armed conflict. As a result, the world has witnessed historical facts of crimes committed during wars and armed conflicts, which can take many different forms, but always involve civilians as the victim, and they carry out certain strategic military studies, where geographical areas are ranked according to their significance and the necessity of controlling them in whatever way, to make sure that the warring parties have effective control over the battlefield. even if people live in those places.

However, because it has now turned into an occupying power, the controlling state is in a distinct legal position and is subject to responsibilities under the 1949 Fourth Geneva Convention when it comes to control over the territory of the State party to the armed conflict. We address the study and drop it on the activities in the Gaza Strip since this leads the occupying power to forcibly relocate the native population and replace them with occupying power loyalists.

2.1. the general framework of the crime of forced displacement.

Whether during armed conflicts or international wars, states frequently commit the crime of forced displacement. As we previously discussed, this crime is linked to strategic military and economic factors that force the state to maintain its territorial integrity and not neglect it, leaving it with two options: either administer the region, including its indigenous population, without discrimination based on race, sexual orientation, or ethnicity, or to work toward clearing the land of its occupants, which necessitates using repressive tactics to force them to do so.

Forced displacement is a complex crime that involves a number of acts that would result in the original inhabitants of a strategically important territory leaving it and work to settle other population

groups that have political or religious allegiance to the occupying power. This could drastically alter the demographic makeup of those territories, and among other actions meant to remove the population, the Rome Statute of the International Criminal Court has endeavored to define and restrict the crime of forced displacement. or forcibly relocate people to different regions from their place of origin, either by direct expulsion or by any other form of coercion that is allowed by international law without a valid reason (Suhail Hussein Al-Fatlawi 2011 . p. 113).

Since international humanitarian law forbids the commission of such acts under any circumstances other than the safety of civilians or the presence of urgent military necessities, the foundation of the crime of forced displacement is the cleaning up of a particular geographical environment and the forcible removal of its inhabitants without a valid reason (International Committee of the Red Cross 30/08/2002.), Palestine is the most notable instance of the occupying entity's acceptance of the crime of displacement. Armed conflicts and international wars have seen numerous instances pertaining to forced relocation. imposed on the Palestinians and still going strong today (Sawsan Tamr Khan Bakka 2006.p.423).

The occupying force has used a variety of strategies, such as enlarging the settlement circle at the West Bank level, which is counterbalanced by the destruction of property and a Palestinian facility in East Jerusalem, where construction is currently taking place to construct 10,300 of the 20,000 housing units in the occupying force's settlements, and 49 new settlement outposts have been created, along with efforts to build a road network that connects the settlements. However, this is counterbalanced by the fact that settlers are able to attack Palestinians while obstructing Palestinian movement, Along with tyranny, repression, and other cruel deeds against the Palestinian people, they have been forced to leave their homes and have had their property taken away from them. They have also been subjected to long-standing patterns of racial discrimination and segregation.

The situation in the Gaza Strip was entirely different from that in the West Bank, where the occupying power use various weapons of mass destruction to commit genocide against its people, destroy the infrastructure of the Gaza Strip, and subject the civilian population to a widespread campaign of aggression while creating an environment that makes life difficult for them, beginning with their forced relocation, followed by the destruction of homes and schools, attacks on hospitals, and blocking the flow of help, all of which worsen the suffering of the ill and injured. In addition to detaining civilians and torturing and mistreating them (United Nations 18 March 2025), By exposing the Gaza population to extinction or driving them to flee, the occupying Power's policy of famine forces them to live in conditions that would accomplish the objective of removing all of Gaza's residents.

2.2. the elements of the crime of forced displacement.

Forced displacement is one of the most serious crimes listed under the category of crimes against humanity, and the Statute gives a detailed description of the crimes that fall under the purview of its exercise of jurisdiction. These crimes are related to the prosecution of those who commit acts that are deemed crimes under this system and the applicable international conventions, It is one of the crimes that the world community is concerned about, as well as one of the reasons that motivates international criminal responsibility toward the offenders.

It necessitates the performance of actions or deeds that are forbidden by international law as well as deterrent measures, taking into consideration the availability of additional components of involvement and awareness of the extensive and well-planned assault on the civilian population, and the requirement that the perpetrators must be aware of all the features and specifics of the attack that the aggressor State adopted during the commission of crimes against humanity. These elements are referred to as the

elements of crime in legal studies and combine the material and moral elements within the framework of international law.

2.2.1. The material element.

The act intended to achieve the goal is the material element of the crime of deportation or forcible population transfer under the category of forced displacement. It is classified as a crime against humanity because the perpetrator forcibly relocates one or more people to another state or location by expulsion or by carrying out any other coercive act for reasons not recognized by international law, given that the victim or victims of the crime of forced displacement are legally residing in the region from which they were relocated or expelled.

Therefore, the offender is aware of the facts that demonstrate that it is legal for civilians to be present in the same area where they are being displaced, and they carry out the same act as part of a larger, coordinated assault on the local civilian population, as long as the offender intends for the actions to be a part of the attack or is certain that the actions form a large-scale assault against the civilian population (Article 07(1)(d) of the Rome Statute of the International Criminal Court).

2.2.2. the moral pillar.

Article 30 of the Statute of the Permanent International Criminal Court states that the moral element takes the form of criminal intent and is based on the crime of forced displacement as well as other crimes that fall under the categories of crimes against humanity, war crimes, crimes of genocide, or genocide, Unless otherwise specified, unless the necessary conditions are satisfied and the availability of intent is added to science, a person cannot be held criminally responsible for committing a crime within the court's jurisdiction or punished for it.

When an offender knowingly engages in such behavior, he may have criminal intent if he is aware of the consequences of his actions, meaning he is certain that the outcome will fall within the parameters of the chain of events. According to Article 7 of the Rome Statute, any of the crimes against humanity enumerated above must be carried out as a component of a large-scale, coordinated assault against any civilian population, It can be said that the element of intent must be the will to commit the crime so that it can be explained by proving the offender's intention to commit the intentionally prohibited acts. This is because the perpetrator of crimes against humanity, such as deportation or the forcible transfer of populations, is aware of the general context in which his act occurs and its association with the large-scale attack (Antonia Cassese 2015 . p. 232).

3. Report of international responsibility for crimes of forced displacement in Gaza.

Since international responsibility is primarily founded on illegal actions taken directly by the state, any behavior that could cause harm to others inevitably necessitates the establishment of international responsibility, regardless of the nature of the victims or whether they are natural persons who are citizens of the state or foreigners from it, Regardless of the legal status of the territory, such as the Gaza Region, the damage may impact the territory of another State. This creates a challenge in the application of justice in its criminal aspect, leading society to take steps to ensure that the criminal issue of the perpetrators continues.

3.1. stipulate the non-statutory limitation of war crimes and crimes against humanity.

The foundation of international criminal responsibility is a crucial element that guarantees that prosecution procedures continue regardless of the time and location of the offense, preventing the adoption of strategies to drop prosecution through the statute of limitations, one of the detrimental effects on criminal justice, in order that any criminal prosecution of those who are alleged to have committed war crimes and crimes against humanity that are deemed serious crimes under Articles 6 to 8 of the International Criminal Court's Statute bis (Rome Statute of the International Criminal Court), which, if war crimes and crimes against humanity are established, are thought to have an impact on the protection of war victims under the 1949 Geneva Convention.

For this reason, the first article of the Convention on the Non-Applicability of Limitations lists several acts that were passed starting with the Nuremberg Military Tribunals of 1945. These acts are deemed to be outside the purview of any statute of limitations for judicial prosecution in its penal section, and they include crimes against humanity and crimes related to war, regardless of whether they occur during times of peace or war, as well as the rules of domestic law of the State in which they are committed.

On the other hand, the States Parties commit to implementing all constitutionally mandated procedures and measures in order to ensure that war crimes and crimes against humanity are not subject to statutes of limitations. This is in line with the Convention's text, which could hinder the prosecution of the offenders or prevent them from facing any punishment for their crimes, and that the States Parties will implement the necessary laws in compliance with international law to allow those convicted to be extradited to face international courts.

3.2. the establishment of international responsibility for the commission of the crime of forced displacement.

International conflicts can undoubtedly turn into hostile acts started by the belligerent states if they are not preemptively contained in accordance with peaceful frameworks. In these cases, all available weapons and combat equipment are used, along with strategic studies and forward-looking plans related to the field, in order to achieve victory, since of its significance in the conflict, a particular region must be under control since it may actually be inhabited, changing the state's legal status from one of belligerence to one of occupation, additional duties imposed by law on citizens residing in areas under control.

However, the Geneva Convention permits the occupying Power to do so for reasons of necessity related to the nature of hostilities, which is matched by the duty to provide the necessary protection for the civilian population. From this perspective, the occupying Power takes care to ensure that the civilian population remains in their territories under its control. settling people in place of those who were displaced, therefore altering the demographic makeup of these regulated areas.

The Occupying Power must, however, employ strategies to force the civilian population to flee their homes and relinquish their property in order to accomplish this, which forces them to employ any means and strategies—even illegal ones—that would accomplish this goal. The illegal tactics used by the Israeli occupation state have differed in the West Bank, West Jerusalem, and Gaza Strip.

In certain regions, it purposefully employs tactics that create unlivable conditions, like starvation and siege, along with arrest campaigns that may lead to enforced disappearances or systematic torture of

detainees that may result in their release with the requirement that they leave the country, all while imposing harsh living conditions and interspersing military operations.

wherein a lot of conventional weapons are utilized extensively in addition to some that are prohibited by international law, like conventional weapons that might be deemed to be extremely harmful or indiscriminate in their impacts, or weapons of mass destruction like chemical weapons like white phosphorus (World Health Organization. 15 January 2024.), In accordance with a policy based on the complete purging of those areas of their indigenous population, which equates to the adoption of a policy of mass starvation of civilian citizens by preventing them from receiving medical assistance and continuing indiscriminate shelling with a high impact, forcing them to flee their homes and properties and relocate to safer areas.

3.3. legal basis for international responsibility for crimes of forced displacement.

Since each person of international humanitarian law is responsible for his conduct within the framework of international relations, which is one of the elements of the legal personality of the State within the international community, international responsibility for crimes against humanity, most notably the crime of forced displacement, is based on the unlawful act of the State party to the conflict or one of its organs in violation of the rules of international law, and this is supported by the International Court of Justice's 1949 advisory opinion, which states that a state's wrongdoing gives rise to international responsibility, especially if the act is illegal and comes under one of the crimes that the law forbids.

3.3.1.Unlawful act committed by the State contrary to the purposes of international law.

The theory of wrongful act is the most important and used legal basis for the establishment of international responsibility (Zaza Lakhdar 2011 . p. 83), because the theory's content is based on the views of the jurist **Charles Rousseau**, who establishes international responsibility in the face of the international directly related to the act issued by it. This is determined in two ways: first, the act attributed to the state, regardless of the position of the person from whom the act occurred in the state, is positive whether it is performed or abstained, Professor **Basted argued** that the State's failure to fulfill an obligation imposed by international law or its violation of an international duty constitutes the wrongful act. The second image is based on the nature of the act, which is wrongful based on the provisions of international law without referencing the legality of the act within the State's internal legislation.

Accordingly, international responsibility is predicated on the State committing an act that is wrong in relation to it, in violation of an obligation imposed by international law, either by a positive act issued by one of its organs that affects the ground or by not carrying out the State's act through one of its organs in a way that amounts to a breach or violation of an obligation established by the rules of international law, inflicting injury to another State, as long as the State is clearly identified as the perpetrator of the illegal act. International responsibility, which stems from an international treaty, a customary rule, or a general legal concept, must be established because interpretation is not permissible, whether through attendance or nonattendance (Salah El-Din Amer 2007 .p.808, 809, 810).

Since the lesson here is what is sanctioned by international law, which emphasizes the supremacy of the international rule over the rules of national law, and this is what was emphasized according to the draft on international responsibility, there is no room to follow the rules of the State's internal law that

deny the criminalization of the act committed, We can assert that international responsibility resulting from an unlawful act that violates an international obligation under which the provisions of a convention or customary rules apply, since Article 3 states that the State's description of an act as unlawful at the international level is a matter for adjudication of international law (Zaza Lakhdar 2011 . p. 85), It, among other things, requires the Israeli occupying force to abide by the principles of international law.

3.3.2. Work to include the unlawful act as an international crime.

An international crime is committed when a State commits or fails to commit an act that violates an international obligation. This is based on the State's conduct and is interpreted by the jurist as a serious violation of the peremptory norms of public international law. The wrongful act is based on the State's explicit violation of an international obligation, which may be classified as a serious violation of the rules of international law. the jurist **Glacier** A transnational offense, and restricting it to actions that violate international law and cause harm to legally protected rights, characterizing them as criminal offenses that are punishable by law (Zaza Lakhdar 2011 . p. 155).

For this reason, the International Law Commission has provided a definition of an international crime based on the criterion of the seriousness of the criminal act that harms human societies and endangers their existence. The seriousness of the crime is determined by the level of cruelty and atrocity that accompany it, or by the magnitude of the consequences that result from the crime and the outcome that it produces, which impacts populations or peoples, as is the case in Gaza, necessitates the presence of will and desire as well as complete awareness of the expected outcome of the crime committed by the perpetrators. This leads to the genocide of a race or races based on religious or belief backgrounds, which results in the commission of various criminal acts that are deemed to violate international peace and security.

On this basis, the same crimes can only be achieved by committing a grave and widespread violation contrary to an international obligation of fundamental importance whose object is the protection due to the human being, by stipulating crimes that constitute a violation of an international obligation by prohibiting genocide and prohibiting the crimes of enforced disappearance as well as crimes of forced displacement, The International Criminal Court has jurisdiction over war crimes, crimes against humanity, and crimes of aggression in accordance with Article 5 of its Statute, which also lists crimes that are of extreme gravity and concern to the entire international community (Rome Statute of the International Criminal Court).

4. Conclusion

As previously stated, forced displacement is a complex crime that necessitates a number of criminal acts. These crimes can start with the civilian population being forced to leave their homes and property in order to be subjected to racist, cruel, and brutal treatment, or with tactics that involve the threat or actual use of force against them if they refuse to cooperate with the relocation project. mass killings or arrests, followed by their willful disappearance.

Forced displacement is one of the most heinous crimes against humanity, where the perpetrators use displacement as a means to further their goals. They may also intentionally prevent food from entering the population, which results in starvation, which is a deadly weapon in and of itself, or deny medical assistance to the civilian population, which worsens the situation of the sick and injured, This, in their opinion, supports the use of forceful tactics, even if it results in the extinction of an entire race, Naturally, this increases the offenders' criminal and international responsibility, which necessitates

removing the same offenses from the statute of limitations, which could eliminate accountability and prevent a fair punishment.

The most notable illustration of the seriousness of the crime of forced relocation is the egregious transgressions of international law in Gaza, where several transgressions against the Palestinian people have come together, beginning with the occupying power's siege. It is coupled with the blocking of food from crossing international borders and the targeting of civilians by air and ground military operations, resulting in the conduct of crimes against humanity, war crimes, and crimes of aggression. Without losing sight of the entity's targeting of aid organizations and medical personnel, this has resulted in the ongoing suffering of the sick and injured.

Therefore, the only way the judicial authorities can exercise their powers, regardless of their nature, is if a lawsuit has been brought before them. In this case, the authorities in question will start oversight procedures to determine whether there has been a violation of an international obligation that calls for the imposition of a just punishment for the crime committed. Based on this, the International Criminal Court will be able to carry out its duties with respect to the crimes listed in Article 5 of its Statute. The State of South Africa addressed the International Criminal Court about the crimes committed by the Israeli entity against the Palestinian people in Gaza, unless the Prosecutor receives a referral from a State Party in which it seems that a crime or more than the crimes within its jurisdiction have been proven to have been committed.

After receiving the request, the Criminal Court's prosecutor will begin looking into the case in order to confirm that it indeed happened and decide whether to charge one or more particular individuals with the charges. According to Article 14/1 of the International Criminal Court, a State must either be a party to the Statute to accept the Court's jurisdiction over the crimes committed or a non-party State must make a decision to accept the Court's exercise of jurisdiction over the crimes committed in accordance with Article 12 of the Statute of the International Criminal Court.

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