

**KIGALI INDEPENDENT UNIVERSITY**

**SCHOOL OF LAW**

**DEPARTMENT OF LAW**

**STATE LIABILITIES DURING INTERNATIONAL ARMED CONFLICTS: THE  
ISRAEL–PALESTINE CASE UNDER INTERNATIONAL HUMANITARIAN LAW**

A Dissertation submitted in partial fulfilment of the Academic requirements for the Award of  
Bachelor Degree of Laws.

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**Kigali, August 2024**

## **DECLARATION**

I, UWERA MUGISHA Denyse declare that to the best of my knowledge this dissertation is original. It has never been presented anywhere at KIGALI INDEPENDENT UNIVERSITY {ULK} or other universities and institutions. Where other individuals work has been used, References has been provided and in some cases quotation made. Therefore, I declare that the work presented is my contribution to the fulfillment of a Bachelor's degree.

**UWERA MUGISHA Denyse**

Signature.....

Date..... /...../.....

**APPROVAL**

I, **LECTURER ABAYO Divine**, hereby approve that, this work entitled: **“CRITICAL ANALYSIS ON ISRAEL–PALESTINE CASE UNDER INTERNATIONAL HUMANITARIAN LAW** has been conducted by **UWERA MUGISHA Denyse** under my supervision and guidance.

Date...../...../.....

**Me ABAYO Divine**

Signature of supervisor .....

## **DEDICATION**

To my parents

To my siblings

To my classmates

To all my intimate friends

I dedicate this study

## **ACKNOWLEDGEMENTS**

First and foremost, I express my deepest gratitude to the Almighty God for Her unwavering protection and guidance throughout my academic journey and for the achievements I have attained.

I am profoundly indebted to my Supervisor, Me ABAYO Divine, whose invaluable guidance and unwavering support were instrumental in shaping this dissertation. Her insightful criticisms and dedicated mentorship significantly enhanced the quality of this work, refining its focus and clarity. Without her guidance, this dissertation would not have reached the standards required for academic excellence.

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Lastly, I acknowledge with heartfelt gratitude all my friends, mentors, and co-workers, who have walked alongside me, offering their support and encouragement at every stage of this journey. I entrust them all to the benevolence of God.

May the Almighty continue to bless and guide each one of you.

Sincerely,

Denyse UWERA MUGISHA

## **LIST OF ABBREVIATIONS AND ACCRONYMS**

**IHL:** International Humanitarian Law

**ICC:** International Criminal Court

**UN:** United Nations

**IAC:** International Armed Conflict

**ICJ:** International Court of Justice (ICJ)

**ICTY:** International Criminal Tribunal for the former Yugoslavia.

**ICTR:** International Criminal Tribunal for Rwanda

**US:** United States

**UNSC:** United Nations Security Council

**AP:** Additional Protocol

**ICRC:** International Committee of the Red Cross

**ULK:** Kigali Independent University

**UNHRC:** Human Rights Council

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## I. GENERAL INTRODUCTION

Public international law can be described as having two layers: the traditional layer, which is made up of laws governing cooperation and coexistence between the States and other members of the international society, and the new layer, which is made up of laws governing the community of six billion people. Despite having originated as a regulation of belligerent inter-State relations within the traditional layer, international humanitarian law is now almost meaningless unless interpreted within the context of the second layer, which is a legal protection of war victims against States and other warring parties.

Thus, it is possible to comprehend the application of international humanitarian law from the perspectives of both tiers. The goal of developing procedures for a branch of law that governs inherently anarchic, unlawful, and frequently lawless situations like armed conflicts is and must always be prevention. The International Committee of the Red Cross (ICRC) serves as an institutionalized representation of war victims and a neutral go-between for States in the conventional implementation of international humanitarian law. It prevents and remedies transgressions at both levels, among other things, by taking the place of belligerents who neglect their humanitarian obligations. Rather than being violation-oriented, its methodology is victim-oriented. However, if a breach occurs in a legal system, there must be legal repercussions. Individuals are the ones who commit violations.<sup>1</sup> One of the few areas of international law that assigns blame for violations to specific people and imposes penalties on them is international humanitarian law. This method, which is common to the second tier of public international law, has advanced significantly in the last several years. International humanitarian law is part of the first tier since it is applied between States, even if it is increasingly being used both to protect and advance the interests of individuals. According to this conventional framework, States are held accountable for infractions, hence actions taken to halt, suppress, and make amends must be taken against the State in question. The norms on State accountability specify the inter-State repercussions of infractions.<sup>2</sup> This research delves into the subtleties of state obligations in the setting of global armed conflicts, emphasizing the legal and humanitarian aspects of the Israel-Palestine dispute.

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<sup>1</sup> Marco Sassòli "State responsibility for violations of international humanitarian law", IRRC June 2002 Vol. 84

<sup>2</sup> Id.

One of the longest-running and most acrimonious wars in contemporary history, the Israel-Palestine conflict offers a complex setting for analyzing state obligations under international humanitarian law. Numerous claims of violations of International Humanitarian Law have been made by both state and non-state parties in this war, which is marked by repeated conflicts. Thorough legal analysis and accountability measures are crucial because of the conflict's enduring character and the significant implications for regional and global peace.

## **I.1. BACKGROUND OF THE STUDY**

The Israel-Palestine conflict is deeply rooted in a complex history of territorial, religious, and political disputes. The conflict traces back to the late 19th and early 20th centuries, with the rise of nationalist movements among both Jews and Arabs. Zionism, advocating for a Jewish homeland, emerged among European Jews facing persecution and pogroms, while Arab nationalism grew in response to the waning Ottoman Empire and European colonial interests.<sup>3</sup>

After World War I and the collapse of the Ottoman Empire, Britain took control of Palestine under a League of Nations mandate. The Balfour Declaration of 1917 expressed British support for a "national home for the Jewish people" in Palestine, which intensified Jewish immigration and land purchases, leading to growing tensions and violence between Jewish and Arab communities.<sup>4</sup>

In 1947, the United Nations proposed a partition plan to create separate Jewish and Arab states, with Jerusalem under international administration. The Jewish community accepted the plan, but the Arab community and neighboring Arab states rejected it. The plan's implementation led to increased conflict.

Following the declaration of the State of Israel in May 1948, neighboring Arab states invaded, resulting in the first Arab-Israeli war. The war ended with armistice agreements in 1949, but no formal peace. Israel controlled 77% of the territory of mandatory Palestine, while Jordan and Egypt controlled the West Bank and Gaza Strip, respectively. This period saw significant displacement

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<sup>3</sup> <http://reliefweb.int/report/occupied-palestinian-territory/alleged-violations-international-humanitarian-law-israel-palestine-conflict-simple-explainer>.

<sup>4</sup> <https://www.aljazeera.com/amp/news/2023/11/27/palestine-and-israel-brief-history-maps-and-charts>

of Palestinian Arabs, an event known as the Nakba, where hundreds of thousands became refugees.<sup>5</sup>

The conflict continued with significant wars in 1956, 1967, and 1973. The Six-Day War of 1967 was particularly pivotal, as Israel captured the West Bank, Gaza Strip, East Jerusalem, the Golan Heights, and the Sinai Peninsula. Israel's occupation of these territories, especially East Jerusalem and the West Bank, became a core issue in the conflict.

In the 21st century, the conflict has seen recurrent escalations, particularly in Gaza, where Hamas, a militant Palestinian group, took control in 2007. This has led to several wars between Israel and Hamas, resulting in significant civilian casualties and widespread destruction, raising further IHL concerns.<sup>6</sup>

International humanitarian law (IHL) make it clear what an international armed conflict is. According to the Geneva conventions of 1949, common article 2 states that “all cases declared war or of any armed conflict that may arise between two or more high contracting parties, even if the state of war is not recognized, the convention shall also apply 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”.<sup>7</sup> This means that the occurrence of international armed conflict is clear, that is, it would be a conflict between the legal armed forces of two different states.

At the core of IHL is the principle of distinction, which obligates parties to an armed conflict to differentiate between combatants and non-combatants. This principle is crucial in mitigating harm to civilians and civilian objects. In the Israel-Palestine conflict, this principle has been repeatedly tested. Reports from various human rights organizations and international bodies have documented instances where both Israel and Palestinian armed groups have allegedly failed to adhere to this principle, resulting in significant civilian casualties and destruction of civilian infrastructure.

Another fundamental principle of IHL is proportionality, which prohibits attacks that would cause excessive civilian damage in relation to the anticipated military advantage. The densely populated areas in Gaza, frequent urban warfare, and the use of high-impact weaponry raise significant

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<sup>5</sup> <https://www.aljazeera.com/amp/news/2023/11/27/palestine-and-israel-brief-history-maps-and-charts> last accessed 29th July 2024

<sup>6</sup> <https://www.bbc.com/news/newsbeat-44124396> last accessed 29th July 2024

<sup>7</sup> Geneva Convention, 1949, common art.2

challenges in maintaining proportionality. Incidents such as the bombings of residential buildings, schools, and medical facilities have drawn international condemnation and have prompted calls for accountability under IHL.

The principle of necessity, which allows only those measures necessary to achieve a legitimate military objective, further complicates the legal landscape of the Israel-Palestine conflict. The frequent assertions of self-defense by Israel, juxtaposed against the right of resistance claimed by Palestinian groups, create a contentious environment where the boundaries of necessity are often blurred. Each side's military actions are scrutinized for their adherence to this principle, with numerous debates over the legitimacy and necessity of specific operations.<sup>8</sup>

State liability under IHL also encompasses the responsibility to prevent violations by forces under a state's control and to prosecute those responsible for such violations.<sup>9</sup> This aspect is particularly pertinent in the Israel-Palestine conflict, where accountability mechanisms are often viewed as insufficient or biased. The international community, through bodies such as the United Nations and the International Criminal Court, plays a pivotal role in addressing these gaps and ensuring that violators are held accountable.

Furthermore, the prolonged nature of the Israel-Palestine conflict has led to significant humanitarian crises, including displacement, deprivation of essential services, and economic hardship. These humanitarian impacts highlight the urgent need for comprehensive measures to protect civilians and ensure their rights under IHL. The blockade of Gaza, restrictions on movement, and the destruction of infrastructure are critical issues that exacerbate the suffering of the civilian population and pose serious challenges to IHL compliance.<sup>10</sup>

Under IHL, states and their leaders can be held accountable for violations, including war crimes and crimes against humanity. Mechanisms like the International Criminal Court (ICC) exist to prosecute such crimes, although jurisdictional and political complexities often impede their

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<sup>8</sup> <https://reliefweb.int/report/occupied-palestinian-territory/alleged-violations-international-humanitarian-law-israel-palestine-conflict-simple-explainer> last accessed 03 July 2024

<sup>9</sup> <https://www.jurist.org/news/2024/02/un-report-calls-for-accountability-for-violations-of-international-law-in-israel-and-palestine>

<sup>10</sup> <https://reliefweb.int/report/occupied-palestinian-territory/alleged-violations-international-humanitarian-law-israel-palestine-conflict-simple-explainer> last accessed 28th July 2024

effectiveness. The Israel-Palestine conflict presents a challenging case for IHL, balancing state security with the protection of civilians and the pursuit of justice for alleged violations.<sup>11</sup>

The Israel-Palestine conflict, characterized by prolonged occupation and recurrent violence, provides a complex backdrop for examining states' liabilities under International Humanitarian Law. The historical context of territorial disputes, nationalist movements, and international diplomatic efforts underscores the ongoing challenges in addressing violations and achieving a lasting peace.

## **I.2. INTEREST OF THE STUDY**

This study of state liabilities during international armed conflicts under International Humanitarian Law (IHL) is of paramount importance for several reasons. Firstly, it addresses fundamental questions of justice, accountability, and human rights protection in the context of warfare.

Secondly, understanding state liabilities under IHL is crucial for promoting compliance with international legal standards and norms.

Moreover, the study of state liabilities in international armed conflicts sheds light on the role and responsibility of states as key actors in the international legal system. By holding states accountable for their actions during wartime.

Lastly, the study of state liabilities during international armed conflicts has practical implications for policymakers, military commanders, and humanitarian organizations. By identifying best practices and areas for improvement in state conduct during wartime.

### **I.2.1. Personal interests**

As an individual deeply interested in international law and humanitarian affairs, the topic of state liabilities during international armed conflicts under International Humanitarian Law (IHL) resonates with several personal interests and motivations.

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<sup>11</sup> <https://www.jurist.org/news/2024/02/un-report-calls-for-accountability-for-violations-of-international-law-in-israel-and-palestine> last accessed 28th July 2024

The researcher passionate about promoting justice and accountability in situations of armed conflict. The study of state liabilities allows me to delve into the intricate legal frameworks designed to protect civilians and combatants during wartime and to critically analyze the extent to which states uphold their obligations under IHL.

### I.2.2. Academic interests

One of the primary academic interests in this topic lies in conducting a thorough legal analysis of the principles, rules, and precedents of IHL governing state conduct during armed conflicts. This involves examining treaties, conventions, customary international law, and jurisprudence from international courts and tribunals to understand the legal obligations and liabilities of states in situations of armed conflict<sup>12</sup>.

### I.2.3. Scientific interests

A specific interest lies in conducting a detailed examination of the legal obligations and liabilities of states under IHL during international armed conflicts. This involves analyzing specific provisions of international treaties, conventions, and customary international law that impose duties on states to protect civilians, prisoners of war, and other individuals affected by armed conflict.

Another specific interest revolves around the doctrine of command responsibility, which holds military commanders and civilian leaders accountable for violations of IHL committed by subordinates under their effective control.

## **I.3. SCOPE OF THE STUDY**

The scope of a study on the Israel-Palestine conflict under international humanitarian law (IHL) outlines the specific boundaries within which the research is conducted. This helps define what aspects are included and ensures a focused analysis.

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<sup>12</sup> idem



### I.3.1. Scope of the Domain

The study will critically examine the application of IHL in the Israel-Palestine conflict. It will explore legal principles such as the laws of armed conflict, rules of occupation, civilian protection, proportionality, distinction between combatants and non-combatants, and the treatment of prisoners.

The study will delve into key treaties like the Geneva Conventions, particularly the Fourth Geneva Convention relative to the protection of civilians, Additional Protocols, and customary international humanitarian law relevant to the conflict.

The focus is on a critical examination of how IHL has been applied or violated during the Israel-Palestine conflict, including the actions of both state and non-state actors. This will involve assessing compliance, enforcement mechanisms, and accountability measures<sup>13</sup>.

The study might integrate perspectives from international human rights law, the law of occupation, and international criminal law to provide a holistic critique of the conflict's dynamics under IHL.

### I.3.2. Scope of the Time

The study may include a brief overview of key historical events influencing the Israel-Palestine conflict's legal dimensions, such as the 1948 Arab-Israeli War and the 1967 Six-Day War, to understand the roots of legal disputes.

The primary focus will be on recent developments in the conflict, particularly from the 21st century onwards. This includes major incidents, hostilities, and occupation policies up to the present day. Key events such as the 2008-2009 Gaza War, the 2014 Gaza conflict, and more recent flare-ups will be analyzed under the framework of IHL<sup>14</sup>.

The study will consider also how international legal responses to the conflict have evolved over time, examining key resolutions, reports, and judicial decisions, especially those by the International Criminal Court (ICC) and United Nations bodies<sup>15</sup>.

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<sup>13</sup> <https://ihl-databases.icrc.org/ihl/INTRO/380> last accessed 5th June 2024

<sup>14</sup> <https://www.ochaopt.org/> last accessed 5<sup>th</sup> June 2024

<sup>15</sup> <https://www.icc-cpi.int/palestine>

### I.3.3. Scope of the Space

The study will primarily focus on the geographical areas directly impacted by the conflict, namely the State of Israel and the Palestinian territories (the West Bank, including East Jerusalem, and the Gaza Strip). The legal status of these territories under international law and the implications for IHL will be explored<sup>16</sup>.

Particular attention will be given to the status of the occupied Palestinian territories, examining Israel's responsibilities as an occupying power under IHL.

While the conflict is geographically centered in Israel and Palestine, the study will also consider the international dimension, including the role of other states, international organizations (like the United Nations), and courts (e.g., the International Criminal Court) in addressing the conflict under IHL<sup>17</sup>.

## I.4. PROBLEM STATEMENT

International humanitarian law (IHL), also known as the law of armed conflict, aims to regulate the conduct of warfare and protect individuals who are not participating in hostilities. One of the critical aspects of IHL is the determination and enforcement of state liabilities in cases of violations. The Israel-Palestine conflict presents a particularly complex and contentious case study for examining the application and challenges of IHL in international armed conflicts.<sup>18</sup>

The Israel-Palestine conflict has seen numerous alleged violations of IHL, including attacks on civilian populations, destruction of civilian infrastructure, and the use of disproportionate force. Determining the extent and nature of these violations is crucial for establishing state liabilities.<sup>19</sup>

In the context of Gaza, controlled by Hamas, differentiating between state actions and those of non-state actors is complex. While Israel is a recognized state with a clear chain of command,

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<sup>16</sup> <https://www.icj-cij.org/en/case/131> last accessed 5th June 2024

<sup>17</sup> Roberts, Adam. "Prolonged Military Occupation: The Israel-Occupied Territories Since 1967." *American Journal of International Law*, Vol. 84, No. 1, 1990.

<sup>18</sup> Peter Maurer, *Challenges to international humanitarian law: Israel's occupation policy*, Volume 94 Number 888 Winter 2012

<sup>19</sup> <https://reliefweb.int/report/occupied-palestinian-territory/alleged-violations-international-humanitarian-law-israel-palestine-conflict-simple-explainer> [last accessed 28 July 2024]

Gaza is governed by Hamas, which is designated as a terrorist organization by many countries but operates as the de facto government. This duality complicates the attribution of specific acts to official state entities, affecting the enforcement of liabilities.

The International Criminal Court (ICC) plays a key role in prosecuting individuals responsible for war crimes, crimes against humanity, and genocide. However, it faces different limitations in prosecuting all offenders of the crimes committed in international armed conflicts. For instance depending on the principle of complementary<sup>20</sup>, as provided in the article 17 of the Rome Statute, entails that judicial proceedings before the ICC are only if and when states which normally would have jurisdiction are either unwilling or genuinely unable to exercise their jurisdiction, lacking that capacity limit ICC in the implementation of its mission of eradicating impunity, because the states which have primary jurisdiction may conduct the case in a manner which, in the circumstances, inconsistent with an intent to hold accountable the perpetrators of core international crimes.<sup>21</sup>

In the context of Israel-Palestine conflict, Israel does not recognize the ICC's authority over its actions in Gaza, arguing that Palestine is not a sovereign state and therefore cannot delegate jurisdiction. This position creates a significant legal barrier to prosecuting alleged war crimes and other IHL violations. This is caused most of the time by the principle of immunities which have proven to be the greatest obstacle in the prosecuting the crimes committed in the armed conflicts, because those crimes are committed by the persons entitled immunity by ICC Statute.<sup>22</sup>

The Rome Statute contains two provisions related to immunities. Article 27(2) prescribes that immunities, whether under national or international law, shall not bar the Court from exercising its jurisdiction over a person<sup>23</sup>. Article 98(2) prohibits the Court from making a request would require the requested state or diplomatic immunities, unless the court can first obtain the cooperation of that third State for the waiver of the immunity as foreseen and planned by its founders, the Court is characterized by the structural weakness that it does have the

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<sup>20</sup> John T. Holmes, Complementarity: National Courts versus the ICC, in THE ROME STATUTE OF THE INTERNATIONAL CRIMINAL COURT: A COMMENTARY 607–16 (Antonio Cassese, Paolo Gaeta & John R.W.D. Jones eds., 2002).

<sup>21</sup> M.C. BASSIOUNI, Introduction to International Criminal Law: Second Revised Edition, Leiden/Boston, Martinus Nijhoff Publishers, 2013, 1

<sup>22</sup> <https://www.aljazeera.com/amp/news/2021/2/8/israel-to-tell-icc-it-does-not-recognise-courts-authority> last accessed 03 July 2024

<sup>23</sup> Rome Statute of the international Criminal Court, July 1998, common art 27

complementary, also in this respect it was the wish of the Court's creators that states' sovereignty should prevail.<sup>24</sup>

A necessary corollary of this study is that widespread or systematic violations of basic rights need to be treated as crimes against humanity and that the perpetrators must be subject to accountability. The problem is not that international law is irrelevant, but that it is not implemented.<sup>25</sup>

## **I.5. RESEARCH QUESTIONS**

Therefore from the challenges discussed above; this study seeks to address the following questions:

1. What are the specific IHL violations by state and non-state actors in the Israel-Gaza conflict?
2. Which mechanisms that should be used to hold powerful countries accountable for their actions?

## **I.6. RESEARCH HYPOTHESIS**

Hypothesis are defined as proposed answers to the problem statement of the study. These proposed answers must not only be short and concise but also they must respond directly to the questions. Hypotheses are anticipated answers to the research questions. They supposed to be dealt with or analyzed in through the chapters. Given that they are provisional answers, they have to be formulated as assumptions. Those assumptions are the following

1. Both Israeli and Palestinian armed group ( Hamas) have committed multiple violations of IHL, including targeting civilians, using disproportionate force, and attacking civilian infrastructure.
2. Strengthening International Institutions such as the International Criminal Court (ICC) to prosecute individuals responsible for violations, regardless of their nationality or position and Mobilize diplomatic efforts among like-minded countries to condemn violations and

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<sup>24</sup> lb

<sup>25</sup> Will International Humanitarian Law Survive the Israel- Hamas conflict, Rohin Haar and Saman Zia-Zarifi, April 8, 2024. <http://thinkglobalhealth.org>

collectively pressure the offending state to comply with IHL. Can be good strategies to enforce powerful countries being accountable for their actions.

## **I.7. RESEARCH OBJECTIVES**

This study has got the general objectives as well as the specific objectives.

### **I.7.1. General objective**

This study has general objectives which is to critically analyze the legal framework governing state liabilities during international armed conflicts under International Humanitarian Law (IHL).

### **I.7.2. Specific objectives**

To identify and analyze the key principles and provisions within IHL relevant to state liabilities, such as distinction, proportionality, and precautions in attack<sup>26</sup>.

To explore the challenges and gaps in the current legal framework regarding state liabilities during international armed conflicts.

## **I.8. RESEARCH METHODOLOGY**

Methodology is the systematic, theoretical analysis of the methods to a field of study, or the theoretical analysis of the body of methods and principles associated with a branch of knowledge.<sup>27</sup>

### **I.8.1. Research techniques**

Techniques are the means and procedures that enable the researcher to collect information about a certain topic, to answer the fundamental questions raised in problem statement; the researchers used the documentary technique which helped the researcher to collect the data through the reading

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<sup>26</sup> Critical Analysis on the criminal liability for Crimes committed during armed conflict, NDUGUTSE Sekaharaza, 2021

<sup>27</sup> My, S.I. and Rose, A.A. (2005) "Designing a Strategic Information Systems Planning Methodology for Malaysian"

of the written works, scientific works and the international instruments relating to this topic of the study.

This dissertation has based on the consultancy of the existing literature in international law and international criminal justice. The author drew on primary sources as international humanitarian law, various international instruments and the case law on the subject. The author relied also on secondary source such as books, articles and internet materials on international law in general and the use of force in particular.

#### I.8.1.1. Documentary technique

This study is based on desktop research. The documentary techniques is the use of literature which purpose is the scientific literature on the study and exploration of literature related to a problem. This technique involves the use of documents realized in the area studies. In this context, the documents from multiple sources which provides additional information for our subject will be exploited. Documentation technique will help us to determine a theoretical framework, to define the concepts of our research and identify source variables on the outcomes of our research.<sup>28</sup>

#### I.8.2. Research methods

Methods refers to a settled kind of procedure, usually according to a definite, established, logical and systematic plan. The scientific methods is a body techniques for investigating phenomena, acquiring new knowledge, or correcting and integrating previous knowledge. To be termed scientific, a method of inquiry is commonly based on empirical or measurable evidence subject to specific principles of reasoning. In our research, the following will be particularly used in order to achieve our target.

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<sup>28</sup> Critical Analysis on the criminal liability for Crimes committed during armed conflict, NDUGUTSE Sekaharaza, 2021

### I.8.2.1. Exegetic method

The exegetic is an adjective which from the word ‘exegesis’ in English derives from the Greek verb *exegeisthai* which means to lead or to show the way to expound, interpret or explain something, and the Greek noun *exegesis*, statement, narrative, explanation or interpretation. The task of exegesis involves looking at the biblical text and setting forth your understanding of the text in a way that is comprehensible to others and illuminating for yourself and for them. Exegesis is a critical explanation or interpretation of a text, particularly a religious text. Traditionally the term was used primarily for work with the Bible; however, in modern usage biblical exegesis is used for greater specificity to distinguish it from any other broader critical text explanation. This method will help us to analyze and interpret the legal texts and different jurisprudence<sup>29</sup>.

### I.8.2.2. Analytical method

The analytical method is a generic process combining the power of the Scientific method with the use of formal process to solve any type of problem. This method has enable us to make the systematic analysis of information and data collected<sup>30</sup>.

### I.8.2.3. Synthetic method

Synthetic is an objective that comes from the verb to synthesize, which means to form a substance by combining parts or elements. In research sometimes the data are found in global mage and need to be synthesized so as to be oriented in accordance with the research purpose. This method will help us to summarize the collected data in a very clear and concise manner<sup>31</sup>.

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<sup>29</sup> Under the literal (or gramatical) rule, the words of the statute are given their natural or ordinary meaning and applied without the judge seeking to put a gloss on the words or seek to make sense of the statute.

<sup>30</sup> <http://www.thwink.com/sustain/glossary/AnalyticalMethod.htm>[accessed on 15 May 2024]

<sup>31</sup> Reif, Noemi; Grieve, Richard. Hangartner, Dominik, Turner, Alex James; Nikolova, Silviya; Sutton, Matt (December 2016). “Examination of the Synthetic Control Method for Evaluating Health Policies with Multiple treated Units”. *Health economics*. **25** (12): 1514–1528

## **CHAPTER 1: CONCEPTUAL AND THEORETICAL FRAMEWORK**

This chapter has got two sections, one on generalities in which various concepts are to be defined and another on the theoretical framework which is made of the development of international humanitarian law.

### **1.1. Definitions of major concepts**

These concept will give a solid foundation for the legal framework and definitions necessary for analyzing the Israel-Palestine conflict under international humanitarian law.

#### **1.1.1 Armed conflicts**

The States parties to the 1949 Geneva Conventions have entrusted the ICRC, through the Statutes of the international Red Cross and Red Crescent Movement, “to work for the understanding and dissemination of knowledge of international humanitarian law applicable in armed conflicts and to prepare any development thereof ” Statutes of the International Red Cross and Red Crescent Movement, art 5, para. 2(g). it is on this basis that the ICRC takes this opportunity to present the prevailing legal opinion on the definition of “international armed conflict” and “non-international armed conflict” under International Humanitarian Law, the branch of international law which governs armed conflict.

##### **1.1.1.1. International armed conflicts**

According to art.1 of Additional Protocol II, IACs are those which oppose “High Contracting Parties”, meaning States. An IAC occurs one or more States have recourse to armed force against another State, regardless of the reasons or the intensity of this confrontation.<sup>32</sup> Relevant rules of IHL, may be applicable even in the absence of open hostilities. Moreover, no formal declaration of war or recognition of the situation is required. The existence of an IAC, and as a consequence, the possibility to apply International Humanitarian Law to this situation, depends on what actually happens on the ground. It is based on factual conditions. For example, there may be an IAC, even

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<sup>32</sup> E. SLIEDREGT, “The Curious Case of International Criminal Liability”, *Journal of International Criminal Justice*, Vol. 10, No. 5, 2012, 1172



though one of the belligerents does not recognize the government of the adverse party<sup>33</sup>. The Commentary of the Geneva Conventions of 1949 confirms that “any difference arising between two States and leading to the intervention of armed forces is an armed conflict within the meaning of Article 2, even if one the Parties denies the existence of a state of war. It makes no difference how long the conflict lasts, or how much slaughter takes place”<sup>34</sup>.

Apart from regular, inter-state armed conflicts, Additional Protocol I extends the definition of IAC to include armed conflicts in which peoples are fighting against colonial domination, alien occupation or racist regimes in the exercise of their right to self-determination (wars of national liberation).<sup>35</sup>

### 1.1.2. International Humanitarian Law

International humanitarian law (IHL) is the law that regulates the conduct of war (*jus in bello*). It is that branch of international law which seeks to limit the effect by protecting persons who are not participating in hostilities, and by restricting and regulating the means and methods of warfare available to combatants.

IHL, is inspired by considerations of humanity and the mitigation of human suffering. “it comprises a set of rules, established by treaty or custom, that seeks to protect persons and property/ objects that are (or may be) affected by armed conflict and limits the rights of parties to a conflict to use methods and means of warfare of their choice”.<sup>36</sup> It includes “the Geneva Conventions and the Hague Conventions, as well as subsequent treaties, case law, and customary international law”.<sup>37</sup> It defines the conduct and responsibilities of belligerent nations, neutral nations, and individuals engaged in warfare, in relation to each other and to *protect persons*, usually meaning

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<sup>33</sup> “It is irrelevant to the validity of international humanitarian law whether the States and Governments involved in the conflict recognize each other as States”: Joint Services Regulations (ZDv) 15/2Fleck, The Handbook of Humanitarian Law in Armed Conflicts, Oxford University Press, Oxford, 1995, p.45.

<sup>34</sup> J. Pictet, Commentary on the Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field, ICRC, Geneva, 1952, p.32

<sup>35</sup> Additional Protocol I, art.1, para. 4: “armed conflicts in which peoples are fighting against colonial domination and alien occupation and against racist regimes 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”

<sup>36</sup> McCullough, A. (2015). The legitimacy of states and armed non-state actors: Topic guide. Birmingham, UK: GSDRC, University of Birmingham.

<sup>37</sup> [CRC, What is international humanitarian law? Archived 2007-03-20 at the Wayback Machine.](#)

non-combatants. It is designed to balance humanitarian concerns and military necessity, and subject warfare to the rule of law by limiting its destructive effect and mitigating human suffering.<sup>38</sup>

Serious violations of international humanitarian law are called war crimes. International humanitarian law, *jus in bello*, regulates the conduct of forces when engaged in war or armed conflict. It is distinct from *jus ad bellum* which regulates the conduct of engaging in war or armed conflict and its violation results in crimes against peace and of war of aggression.

Together the *jus in bello* and *jus ad bellum* comprise the two strands of the laws of war governing all aspects of international armed conflicts.

### 1.1.3. State liability

State liability during international armed conflict refers to the legal responsibility of states to comply with their obligations under international humanitarian law (IHL). This liability is imposed on states as soon as an armed conflict takes place, regardless of whether they are involved in it or not.

Under IHL, states have a number of obligations and responsibilities during an armed conflict, including:

- The obligation to respect the rules of IHL, including the prohibition of targeting civilians and civilian objects and the requirement to take all feasible precautions to avoid civilian casualties.
- The obligation to distinguish between combatants and non-combatants and to treat combatants humanely when captured.
- The obligation to provide humanitarian assistance to those affected by the conflict, including prisoners of war and civilians under their control.

If a state violates its obligations under IHL, it may be subjected to legal consequences, including criminal prosecution and civil liability.<sup>39</sup>

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<sup>38</sup> Ibidem

<sup>39</sup> [https://casebook.icrc.org/a to z/glossary/international-armed-conflict](https://casebook.icrc.org/a-to-z/glossary/international-armed-conflict)

#### 1.1.4. Jus in bello and jus ad bellum

Theorists differentiate between jus ad bellum and jus in bello. While the latter deal with the circumstances in which states can acceptably go to war, former sets of rules govern the conduct of war and how fairly the war is being fought<sup>40</sup>.

##### 1.1.4.1. Jus ad bellum

***Jus ad bellum*** (/ju:s/ YOOS or /dʒ^s/ in the Traditional English pronunciation of Latin; Latin for “right to war”) is a set of criteria that are to be consulted before engaging in war in order to determine whether entering into war is permissible, that is, whether it is a just war.<sup>41</sup>

##### 1.1.4.2. Jus in bello

*Jus in bello* is a Latin term which means “the law in waging war.” It is an aspect of the international law of war which address the practices forbidden to belligerents during a war. Jus in bello defines standards by which a country can conduct war and the actions during the war should be just and fair.

It is a group of principles intended as guidelines for the just prosecution of war. Jus in bello includes two principles of discrimination and proportionality, Discrimination defines legitimate targets and proportionality defines how much force could be used.<sup>42</sup>

#### 1.1.5. The Israel-Palestine Conflict

The Israel and Palestine conflict is a long-standing dispute between Israelis and Palestinians over land and self-determination. It involves competing claims to the same territory, with Israelis seeking to establish a Jewish state and Palestinians striving for an independent Palestinian state. The conflict has its roots in historical, religious, and political factors, and has resulted in numerous

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<sup>40</sup> [Oxford Academic https://academic.oup.com/ejil/article](https://academic.oup.com/ejil/article) last accessed on 28<sup>th</sup> August 2024

<sup>41</sup> [Crimes of War Jus ad Bellum/ Jus in Bello](http://www.crimesofwar.org). www.crimesofwar.org. Archived from the original on 2024-06-25

<sup>42</sup> <https://definitions.uslegal.com/j/jus-in-bello/>[accessed on 20 June 2024]

wars, conflicts, and acts of violence. It is a complex and deeply emotional issue, with both sides having valid claims and aspirations.

### 1.1.6. Geneva Conventions

The Geneva Conventions comprise four treaties, and three additional protocols, that establish the standards of international law for humanitarian treatment in war. The singular term Geneva Convention usually denotes the agreements of 1949, negotiated in the aftermath of the Second World War (1939-1945), which updated the terms of the two 1929 treaties, and added two new conventions. The Geneva Conventions extensively defined the basic rights of wartime prisoners (civilians and military personnel), established protections for the wounded sick, and established protections for the civilians in and around a war-zone. The treaties of 1949 were ratified, in whole or with reservations, by 196 countries.<sup>43</sup> Moreover, the Geneva Convention also defines the rights and protections afforded to non-combatants; however, because the Geneva Conventions are about people in war, the articles do not address warfare proper the use of weapons of war which is the subject of the Hague Conventions<sup>44</sup> and the bio-chemical warfare Geneva Protocol.<sup>45</sup>

### 1.1.7. Customary International Law

Customary international law refers to international obligations arising from established state practices, as opposed to obligations arising from formal written international treaties. It consists of rules that have become binding through a pattern of consistent and general practice accepted as law (*opinio juris*). Treaties can codify existing customary international law or contribute to its development by providing evidence of state practice and *opinio juris*<sup>46</sup>; in fact Many rules of the Geneva Conventions, such as the treatment of prisoners of war and the protection of civilians, are also customary international law. Moreover decisions of international courts and tribunals, such as the International Court of Justice (ICJ), help clarify and affirm customary international law.

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<sup>43</sup> State Parties / Signatories: Geneva Conventions of 12 August 1949". International Humanitarian Law. International Committee of the Red Cross. [Retrieved 25 June 2024].

<sup>44</sup> First Hague Conference, 1899; Second Hague Conference, 1907

<sup>45</sup> Protocol for the Prohibition of the Use in war of Asphyxiating, Poisonous or other Gases, and Bacteriological Methods of warfare, 1925

<sup>46</sup> Legal Information Institute, Cornell Law School, [https://www.law.cornell.edu/wex/customary\\_international\\_law](https://www.law.cornell.edu/wex/customary_international_law).

Because customary international law is binding on all states, regardless of whether they have ratified specific treaties embodying these rules<sup>47</sup>.

Examples of Customary International Law include Prohibition of Genocide which is reinforced by the Convention Against Genocide, Prohibition of Torture which is reinforced by the Convention Against Torture; Principle of Non-Refoulement which states that refugees and asylum seekers should not be returned to a country where they face serious threats to their life or freedom, this has also embodied in the 1951 Refugee Convention, etc.

Customary international law plays a crucial role in the international legal system by filling gaps not covered by treaties and providing a universal legal framework for state behavior.

### 1.1.8. Principle of Distinction

A key tenet of international humanitarian law is the principle of distinction, which states that parties to an armed conflict must "at all times distinguish between civilian objects and military objectives as well as between the civilian population and combatants and accordingly shall direct their operations only at legitimate military targets." Put differently, strikes must be commensurate with the expected military gain and measures must be implemented to reduce damage to individuals and property belonging to civilians. The foundation of the principle of difference is the notion that only individuals who are actively engaged in hostilities or who are a part of a military objective should be targeted, with civilians and civilian property being shielded from direct strikes<sup>48</sup>.

### 1.1.9. Principle of Proportionality

The principle of proportionality is a key norm that regulates the conduct of armed conflicts under international humanitarian law (IHL). It demands that the predicted military benefit of an attack must be greater than the anticipated harm to individuals or civilian property. Stated differently, the projected

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<sup>47</sup> International Committee Of The Red Cross, <https://www.icrc.org/en/war-and-law/treaties-customary-law/customary-law>.

<sup>48</sup> <https://casebook.icrc.org/a-to-z/glossary/distinction> last accessed on 28<sup>th</sup> july 2024

harm to civilians or civilian property must be proportionate to the expected military advantage of an attack.

The idea of military necessity and humanity are connected by the principle of proportionality. According to this principle, the direct and tangible military gain that is expected from military actions must not outweigh any incidental civilian damage. Preventing needless injury to civilians and ensuring that the tools and techniques of combat are in keeping with the values of humanity and the defense of essential human rights.

Parties to a conflict must therefore carefully consider the probable harm to civilians or civilian property as well as the projected military advantage of an attack. The strike would be seen as disproportionate and would go against IHL's tenets if the predicted military advantage did not surpass the expected harm<sup>49</sup>.

#### 1.1.10. Principle of Humanity

The principle of humanity imposes certain limits on the means and methods of warfare, and requires that those who have fallen into enemy hands be treated humanely at all times. It seeks to limit suffering, injury, and destruction during armed conflict; its purpose is to protect life and health and to ensure respect for the human being. This principle precludes the assumption that anything that is not explicitly prohibited by specific IHL rules is therefore permitted. For instance, using disinformation to mislead the enemy is not as such prohibited, as long as it does not infringe any specific rule of IHL and is not perfidious. Conversely, spreading false information designed to cause panic among the civilian population in times of armed conflict would conflict with the principle of humanity. This is because such actions – even if not covered by a particular rule of IHL – would be reasonably expected to lead to significant harm to civilians, which would be contrary to the demands of humanity.<sup>50</sup>

#### 1.1.11. International crime

There is no universally accepted definition of an international crime or general criteria for determining the scope and the content of an international crime. Nevertheless, various attempts have been made to define the general characteristics of international crimes.

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<sup>49</sup> <https://ihl-databases.icrc.org/customary-ihl/role14> last accessed on 28<sup>th</sup> July 2024

<sup>50</sup> International Committee of the Red Cross 19, avenue de la Paix 1202 Geneva, Switzerland, © ICRC, March 2023

In its Preamble, the Rome Statute of the International Criminal Court states that the world's first permanent international criminal tribunal will assert jurisdiction over "the most serious crimes of concern to the international community as a whole"<sup>51</sup>. To a significant extent, this one clause sets the agenda for international criminal law theory. Specifically, a theory of international criminal law must do at least two things. First, it must account for the seriousness of international crimes, by identifying the features of international crimes that contribute to their moral gravity and by explaining the contribution made by each feature<sup>52</sup>. Second, such a theory must explain why these crimes are of concern to the international community as a whole, by identifying the features of international crimes that justify the assertion of jurisdiction over those crimes by international tribunals (and perhaps by the criminal courts of uninvolved states). Sometimes, these two tasks will coincide, since sometimes the moral seriousness of international crimes justifies the assertion of international jurisdiction over them<sup>53</sup>. But sometimes the features of international crimes that justify international jurisdiction do not contribute to the wrongfulness of those crimes, and sometimes features of international crimes which both contribute to their wrongfulness and justify international jurisdiction over them do not justify international jurisdiction in terms of the wrongfulness of the crimes.

### 1.1.12. War crimes

A war crime is a violation of the laws of war that gives rise to individual criminal responsibility for actions by combatants in action, such as intentionally killing civilians or intentionally killing prisoners of war, torture, taking hostages, unnecessarily destroying civilian property, deception by perfidy during wartime. The Statute of the International Criminal Court defines war crimes as, *inter alia*, "serious violations of the laws and customs applicable in international armed conflict" and "serious violations of the laws and customs applicable in an armed conflict not of an international character"<sup>54</sup>. The Statutes of the International Criminal Tribunals for the former Yugoslavia and for Rwanda and of the Special Court for Sierra Leone and UNTAET Regulation

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<sup>51</sup> Rome Statute of the International Criminal Court, July 17, 1998, Preamble, U.N. Doc. A/CONF.183/9 [hereinafter Rome Statute]

<sup>52</sup> A. CASSESE, "Reflections on International Criminal Justice", *The Modern Law Review*, Vol. 61, No. 1, 1998

<sup>53</sup> *Id*

<sup>54</sup> ICC Statute, Article 8 (cited in Vol. II, Ch. 44, § 3)

No. 2000/15 for East Timor also provide jurisdiction over “serious” violations of international humanitarian law.<sup>55</sup>

### 1.1.13. Crimes Against Humanity

The legal definition of crimes against humanity, as they are understood today, can be found in the ICC Statute. A crime against humanity is one of the acts listed below when committed “as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack”: murder; extermination; enslavement; deportation; persecution on political, racial, national, ethnic, cultural, religious, gender or other grounds; apartheid; arbitrary imprisonment; torture; rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization or any other form of sexual violence; enforced disappearance of persons; or other inhumane acts intentionally causing great suffering or serious injury to the body or to mental or physical health<sup>56</sup>.

### 1.1.14. International Court of Justice

The ICJ, or International Court of Justice, is an international court that settles legal disputes between states. It is based in The Hague, Netherlands, and is the primary judicial organ of the United Nations. The ICJ was established in 1945 and is composed of 15 judges, who are elected by the UN General Assembly and Security Council for a term of nine years. The ICJ has the power to hear cases involving disputes between states, as well as disputes between states and international organizations. It can also provide advisory opinions on legal questions that are referred to it by other international organizations. The ICJ plays an important role in the international legal system by providing a neutral and impartial forum for the resolution of disputes between states<sup>57</sup>.

### 1.1.15. International criminal court

The international criminal Court (ICC) is a court of last resort that was created to investigate and prosecute individuals accused of genocide, war crimes, crimes against humanity and aggression

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<sup>55</sup> ICRC, International Humanitarian Law Databases

<sup>56</sup> International Committee of Red Cross, [https://casebook.icrc.org/a\\_to\\_z/glossary/crimes-against-humanity](https://casebook.icrc.org/a_to_z/glossary/crimes-against-humanity)

<sup>57</sup> [https://www.icj-cij.org/court#:~:text=The%20Court-,The%20Court,in%20The%20Hague%20\(Netherlands\).](https://www.icj-cij.org/court#:~:text=The%20Court-,The%20Court,in%20The%20Hague%20(Netherlands).)



crime. The ICC was established by the Rome Statute of the International Criminal Court in 1998, and it began sittings on July 1, 2002, after 60 countries had ratified its Statute. To date, 124 countries have ratified it. The ICC has jurisdiction over offenses committed after July 1, 2002, in a country that has ratified the Rome Statute or by an individual in one of the Member States, even if the individual is a national of a country that has not ratified it. The ICC, sits in the Netherlands at The Hague.<sup>58</sup>

### 1.1.16 International criminal law

The term International criminal law is used to refer to a body of international rules designed both to prescribe certain categories of conduct in war crimes, crimes against humanity, genocide and aggression, and to make those persons who engage in such conduct criminally liable<sup>59</sup>. It determines the ways of prosecuting those have committed one or more of the international crimes.<sup>60</sup>

International Criminal law is a discrete body of public international law and, as such, operates in the context of the international legal system<sup>61</sup>. In other words, international criminal law refers to that body of norms of public international law the breach of which will give rise to individual criminal responsibility.<sup>62</sup>

International criminal law is a part of public international law that deals with the criminal responsibility of individuals for international crimes<sup>63</sup>. Therefore, International criminal law also includes laws, procedures and principles relating to modes of liability, defenses, evidence, court

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<sup>58</sup> International Criminal Court is sometimes abbreviated as ICC to distinguish it from several other organizations abbreviated as ICC. However, the more common abbreviation ICC is used in this article.

<sup>59</sup> ROBERT CRYER, ET AL., *an introduction to international criminal law and procedure* (2d ed. Landon, 2010,p., 123)

<sup>60</sup> M. c. BASSIOUNI, *Introduction to International Criminal Law: Second Revised Edition*, Leiden/Boston, Martinus Nijhoff Publishers, 2013, 16

<sup>61</sup> Ib

<sup>62</sup> Id

<sup>63</sup> Peace palace library date unknown international criminal law <http://www.Peacepalacelibrary.nl/research-guides/international> criminal law/international-criminal law, 4<sup>th</sup>, 8, 2016

procedure, sentencing, victim participation, witness protection, mutual legal assistance and cooperation issues<sup>64</sup>. Furthermore, international criminal law, as that phrase is used in this study.

### 1.1.17. Complementarity principle

The principle of complementary recognizes that states have the first responsibility and rights to prosecute. However, when state fails to exercise this jurisdiction a case becomes admissible before the International Criminal Court (ICC).

This distinguishes the ICC from ad hoc international criminal tribunals, as those of the former Yugoslavia and Rwanda (ICTY and ICTR), which both have primary jurisdiction over cases.

The objectives of the principle is to create an international system responds effectively to mass atrocity crimes, with the ICC only intervening when necessary in order to ensure these crimes never go unpunished.

The complementary principle on which the International Criminal Court is based entails that the ICC can only investigate and prosecute core international crimes when national jurisdiction are unable or unwilling to do so genuinely. The principle reflects a realization that it is preferable that such crimes are investigated and prosecuted in the country where they occurred. It was created as an admissibility principle of the ICC<sup>65</sup> only has jurisdiction to investigate and prosecute crimes when the State which has jurisdiction over it is “unwilling” or “unable” genuinely to carry out the investigation or prosecution.<sup>66</sup> Thus, the ICC has no jurisdiction when the case “is being investigated or prosecuted by a state which has jurisdiction over it”<sup>67</sup>. The jurisdiction of the ICC is complementary to national criminal jurisdiction and states retain the responsibility for the repression of international crimes<sup>68</sup> committed on their respective territory.

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<sup>64</sup> Gallant, k. s., *Legality in the modern international and internationalized criminal courts and tribunals in the principle of legality in international and comparative criminal law*, (Cambridge: Cambridge University Press, 2009), p.,23

<sup>65</sup> BASSIOUNI, “International Crimes: Jus Cogens and Obligatio Erga Omnes”, *Law and Contemporary Problems*, Vol. 59, No. 4, 1996, 65-66

<sup>66</sup> See article 17(1) of the Rome statute

<sup>67</sup> Ibidem

<sup>68</sup> Ibidem

### 1.1.17.1. Unwillingness of the state

In order to the court to determine when a state is unwilling genuinely carry out investigation, the court sets out three specific situations of unwillingness<sup>69</sup>:

The proceedings were or are being undertaken or the national decision was made for the purpose of shielding the person concerned from criminal responsibility for crimes within the jurisdiction of the court referred to in article 5<sup>70</sup>;

There has been an unjustified delay in the proceedings which in the circumstances is inconsistent which intent to bring the person concerned to justice;

The proceedings were not or are not being conducted independently or impartially and they were or are being conducted in a manner which, in the circumstance, is inconsistent with intent to bring the person concerned to justice.

### 1.1.17.2. Inability of the state

The notion of inability was inserted to cover situation where a state lacks a central government due to a breakdown of a state institution<sup>71</sup> (i.e. the situation of the failed state<sup>72</sup>), or suffer from chaos due to civil war or natural disasters or any other event leading to public order<sup>73</sup>. The state identifies three scenarios for inability (i) a state is unable to obtain the accused, (ii) a state is unable to obtain the necessary evidence and testimony for putting the persons allegedly responsible on trial or, (iii) the state is “otherwise unable to carry out its proceedings”<sup>74</sup>

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<sup>69</sup> Ibidem article 17(2)

<sup>70</sup> Article 5 of the Rome Statute

<sup>71</sup> M.M.ELZeidy, “The Principle of Complementarity: A New Machinery to Implement International Criminal Law”, Mich .J. Int’L.23(2002), 869 et Seq (903)

<sup>72</sup> Zimmermann, see note 65,220

<sup>73</sup> M.H. Arsanjani, “Jurisdiction and Trigger Mechanism of the ICC in: von Hebel/Lammers/Schukking,.”

<sup>74</sup> See article 17 of the Rome Statute

### 1.1.18. Immunity

Immunity from prosecution is a doctrine of international law that allows an accused to avoid prosecution for criminal offences. Immunities are of two types.

The first is functional immunity, or immunity rationemateriae. This is an immunity granted to people who perform certain function of state. The second is personal immunity, or immunity ratione personae. This is an immunity granted to certain officials because of the office they hold, rather than in relation to the act they have committed. Functional immunity arises from customary international law and treaty law and confers immunities on those performing acts of state (usually a foreign official). Any person who, in performing an act of state, commits a criminal offence is immune from prosecution. That is so even after the person ceases to perform acts of state. Thus, it is a type of immunity limited in the acts to which it attaches (acts of state) but ends only if the state itself ceases to exist. The immunity, though applied to the acts of individuals, is an attribute of state, and it is based on the mutual respect of states for sovereign equality and state dignity. State thus have a significant interest in upholding the principle in international affairs: if a state's officials are to be tried at all for anything, it will be at home.

State offices usually recognized as automatically attracting the immunity are the head of state of the head of government, senior cabinet members, ambassadors and the foreign and defense ministers<sup>75</sup>. Many countries have embodied the immunities in domestic law<sup>76</sup>.

States regularly assert that every official acting in an official capacity is immune from prosecution by foreign authorities (for non-international crimes) under the doctrine of *rationemateriae*<sup>77</sup> such officers are immune from prosecution for everything they do during their time in office. For example, an English court held that a warrant could not be issued for the arrest of Robert Mugabe on charge of international crimes on the basis that he was serving as head of state at the time that

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<sup>75</sup> See the Arrest Warrant Case, Pinochet Case (R v Bow Street Magistrates; ex parte Pinochet Ugarte (No 3) [2000] 1 AC 147, House of Lords)

<sup>76</sup> For example, the UK's Diplomatic Privileges Act 196

<sup>77</sup> As of April 2016, a current prominent example of use of the defence is in the case taken by Italy against India under the Law of the sea (Italy versus India, PCA case no, 2015-28), seeking to prevent the Indian government from prosecuting two Italian marines in connection with an incident which took place outside India's territorial waters but within its EEZ that resulted in the death of two Indian fishermen

the proceedings were brought<sup>78</sup> other examples are the attempts to prosecute Fidel Castro in Spain and Jiang Zemin in the US.<sup>79</sup>

However, once the accused leave their offices, they are immediately liable to be prosecuted for crimes committed before or after their term in office or for crimes committed whilst in office in a personal capacity (subject to jurisdiction requirements and local law).

### 1.1.19. Impunity

The inter-American Court of Human Rights has defined impunity as “the total lack of investigation, prosecution, capture, trial and conviction of those responsible for violations of rights”.<sup>80</sup> Impunity refers to the impossibility, de jure or de facto, of bringing the perpetrators of violations to account whether in criminal, civil, administrative or disciplinary proceedings given that they are often not subject to any inquiry that might lead to their being accused, arrested, tried and, if found guilty, sentenced to appropriate penalties, and to making reparations to their victims<sup>81</sup> on the day after the Rome Statute entered into force, the UN Secretary-General Kofi Annan commented that “

There must be no relenting in the fight against impunity... it [Rome Statute] reaffirms the centrality of the rule of law in international relations.

It holds the promise of a world in which the perpetrators of genocide, crimes against humanity and war crimes are prosecuted when individual States are unable or unwilling to bring them to justice. And it gives the world a potential deterrent to future atrocities.”<sup>82</sup>

Impunity stems from States’ failure to meet their obligations to investigate violations, inter alia: to take appropriate measures in respect of the perpetrators, particularly in the area of justice, by

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<sup>78</sup> See Lyal S. Sunga Individual Responsibility in International Law for Serious Human Rights Violations, Nijhoff (1992) 252 p. ISBN 978-0-7923-1453-0gabe, reported at (2004) 53 ICLQ 789

<sup>79</sup> W. A. SCHABAS, “Sentencing by International Tribunals: A Human Rights Approach”, Duke Journal of Comparative and International Law, Vol. 7, No. 1, 1997, 464-465

<sup>80</sup> UN Social and Economic Council, ‘Set of Principles for the protection and promotion of Human Rights Through Action to Combat Impunity’ E/CN.4/2005/102/Add.1 (Feb.8,2005).

<sup>81</sup> Kofi Annan, Press Release, UN Information Office, SG/SM/8293 L/T/4369 (Jul. 2, 2002)

<sup>82</sup> Diane Orentlicher, ‘report of the independent expert to update the Set of principles to combat impunity’ [the Orentlicher Report] UN Social and Economic Council E/CN.4/2005/102/Add.1 (Feb. 8,2005)

ensuring that those suspected of criminal responsibility are prosecuted, tried and duly punished; to people victims with effective remedies and to ensure that they receive reparation for the injuries suffered; to ensure the inalienable right to know the truth about violations; and to take other necessary steps to prevent a recurrence of violations.<sup>83</sup> The human rights Committee has confirmed that impunity, whether de jure or de facto, is incompatible with State violations under the ICCPR. It must be noted that de facto impunity exists, not only when authorities fail to investigate violations, but also when they fail to do so promptly, and effectively, in accordance with international standards. In Del Caracazo, for example, the Inter-American Court of Human Rights stated that investigations which persist for a long-period of time, without those responsible for gross human rights violations being identified or punished, constitute “a situation of State’s duty”<sup>84</sup>.

#### 1.1.20. Combatant

Combatant is the legal status of an individual who has the right to engage in hostilities during an international armed conflict. The legal definition of “combatant” is found at article 43(2) of Additional Protocol One (AP1) to the Geneva Conventions of 1949. It states that “Members of the armed forces of a party to a conflict (other than medical personnel and chaplains covered by Article 33 of the Third Convention) are combatants, that is to say, they have the right to participate directly in hostilities.”<sup>85</sup>

In addition to having the right to participate in hostilities, combatants have the right to the status of Prisoners of War when captured during an international armed conflict. “While all combatants are obliged to comply with the rules of international law applicable in armed conflict, violations of these rules shall not deprive a combatant of his right to be a combatant or, if he falls into the power of an adverse Party, of his right to be a prisoner of war.”<sup>86</sup>

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<sup>83</sup> Concluding observations of the Human Rights Committee – Lesotho, 8 April 1999, U.N. Doc. CCPR/C/79/Add. 106.

<sup>84</sup> J. Vervaele, “The Transnational *ne bis in idem* Principle in the EU: Mutual Recognition and Equivalent Protection of Human Rights” [2005] I Utrecht Law Review, p.100

<sup>85</sup> Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I), 8 June 1977. International Committee of the Red Cross

<sup>86</sup> API, Art 44(2)

### 1.1.21. Civilian

In general, a civilian is “a person who is not a member of the police, the armed forces, or a fire department”.<sup>87</sup> The definition distinguishes from persons whose duties involve risking their lives to protect the public at large from hazardous situations such as terrorism, riots, conflagrations, and wars<sup>88</sup>. Criminals are also excluded from the category, as members of the public, politicians, and the media want to distinguish between those who are law-abiding and those who are not.

Under the law of war, the term refers to the same who is not a combatant and is not a member of the military. It slightly differs from a non-combatant, as some non-combatants are not civilians (for example, military chaplains attached to the belligerent party or military personnel serving with a neutral country). Under international law, civilians in the territories of a party to an armed conflict are entitled to certain privileges under the customary laws of war and international treaties such as the Fourth Geneva Convention. The privileges that they enjoy under international law depends on whether the conflict is an internal one (a civil war) or an international one.

## **1.2. Theoretical framework on the development of International Humanitarian Law**

This section comprises the development of International Humanitarian Law:

### 1.2.1. Development of International Humanitarian law

International humanitarian law, as the *jus in bello* is currently described as imbued with a particular sense of its history. Sometimes, international lawyers locate international humanitarian law in a long history of codes of warfare that straddle different times and cultures. At other points, international lawyers might emphasize the contribution of Henry Dunant, who witnessed the Battle of Solferino and was inspired to create the International Committee of the Red Cross (ICRC) and instigate the tradition of the Geneva Conventions.<sup>89</sup> These histories help to inform the current understanding of the nature and purpose of international humanitarian law.

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<sup>87</sup> Civilian. Merriam-Webster. [Archived](#) from the original on 2024-06-25.

<sup>88</sup> Adam Plantinga (October 1, 2014). 400 Things Cops Know: Street-Smart Lessons from a Veteran Patrolman. Quill Driver Books. P. 104-112

<sup>89</sup> Geneva Conventions 1949, 1125 UNTS 3

The term ‘international humanitarian law’ refers to the current understanding of the jus in bello the laws concerning the conduct of warfare. The ICRC, which is considered to have a specific relationship with international humanitarian law as its guardian and promoter,<sup>90</sup> describes it in the following manner:

International humanitarian law is part of the body of international law that governs relations between states. It aims to protect persons who are not no longer taking part in hostilities, the sick and wounded, prisoners and civilians, and to define the rights and obligations of the parties to a conflict in the conduct of hostilities.<sup>91</sup>

The following year, at the urging the ICRC.<sup>92</sup> States agreed on the Geneva Convention, a set of ten articles that laid down rules designed to ensure that all soldiers wounded on the battlefield whatever side they were taken care of without distinction.

The Convention also established the neutrality of medical personnel and adopted a single, neutral emblem to protect them and the medical facilities treating the wounded: the red-cross on a white ground. (The red-crescent emblem was introduced in the 1870s).<sup>93</sup>

### 1.2.1.1. The role of the ICRC

Since then, the development of both the ICRC and what becomes known as international humanitarian law (IHL) has remained closely entwined. As the ICRC’s own role evolved, bringing it into direct and continuous contact with the realities of war, it constantly urged governments to

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<sup>90</sup> See, e.g., Dormann and Maresca, ‘The International Committee of the Red Cross and Its Contribution to the Development of International Humanitarian Law in Specialized Instruments’, 5 *Chinese Journal of International Law* (Chinese J Int’l L) (2004-2005) 217, at 217; Sandoz, ‘The International Committee of the Red Cross as Guardian of International Humanitarian Law’ (31 December 1998), available at [www.icrc.org/eng/resources/documents/misc/about-the-icrc-311298.htm](http://www.icrc.org/eng/resources/documents/misc/about-the-icrc-311298.htm) [last visited 25 June 2024]

<sup>91</sup> International Committee of the Red Cross (ICRC), *War and International Humanitarian Law* (29 October 2010), available at [www.icrc.org/eng/war-and-law/overview-war-and-law.htm](http://www.icrc.org/eng/war-and-law/overview-war-and-law.htm) [last visited 25 June 2024]

<sup>92</sup> ICRC was founded in 1863

<sup>93</sup> J. M. KELDER, B. HOLA and J. VAN WIJK, “Rehabilitation and Early Release of Perpetrators of International Crimes: A Case Study of the ICTY and ICTR”, *International Criminal Law Review*, Vol. 14, No. 6, 2014, 1184-1185



expand the reach of the law, which gradually came to cover warfare at sea, prisoners of war and civilians.<sup>94</sup>

The scope of the Geneva Convention reflected the ICRC's own concerns, which centered on the needs of war victims. But towards the end of the 19<sup>th</sup> century, in a separate stream of law, governments began to introduce international rules (the Hague Conventions) governing the way wars were conducted.<sup>95</sup>

Towards the end of World War I, the ICRC appealed for an end to the use of chemical warfare. The discussions that followed led to the adoption of treaty (1925) to outlaw chemical weapons a set of rules still in force.

The ICRC's intensive efforts, after World War I, to expand the protection of war victims resulted in new Geneva Convention covering prisoners of war, in 1929. But it was unable to persuade governments to adopt a treaty covering civilians before the outbreak of World War II, thus leaving tens of millions of people without specific protection.<sup>96</sup>

#### 1.2.1.2. Breakthrough of 1949

The breakthrough on this issue came after the war, when governments adopted the four Geneva Conventions of 1949. These re-wrote the existing Conventions and added a fourth, for the protection of civilians who found themselves under enemy control. In 1977, after much preliminary work and persuasion by the ICRC, governments adopted Protocols I and II additional to the Geneva Conventions, which combine elements of Hague and Geneva law. Among their many major innovations, the protocols include provisions to protect civilians from the effects of hostilities for example by outlawing attacks that could affect civilians indiscriminately. Protocol I deals with international armed conflicts, Protocol II with conflicts of a non-international nature.<sup>97</sup>

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<sup>94</sup> J. D. OHLIN, "Towards a Unique Theory of International Criminal Sentencing" in G. SLUITER and S.VASILIEV (eds.), *International Criminal Procedure: Towards a Coherent Body of Law*, London, Cameron May, 2009, 382 (available at: [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=12667020](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=12667020)[accessed on 16/06/2024])

<sup>95</sup> *ib*

<sup>96</sup> *ib*

<sup>97</sup> B. HOLA and J.VAN WIJK, "Life after Conviction at International Criminal Tribunals. An empirical overview", *Journal of International Criminal Justice*, Vol. 12, No. 12014, 112

The Geneva Conventions of 1949 have been adopted by every country in the world; the Protocols have very broad acceptance and their provisions are considered as customary law.<sup>98</sup>

### 1.2.1.3 Ensuring implementation of the law

Since the 1980s, the ICRC has put its energies into measures to encourage governments to implement IHL and to teach its provisions at relevant levels within the state administration notably, within the armed forces. The ICRC also works with governments and national Red Cross and Red Crescent societies to promote knowledge of the law in academic circles, youth and the media<sup>99</sup>

The red-cross and red-crescent emblems are enshrined in the Geneva Conventions. In order to make the protection they represent more easily acceptable to a diverse global audience, an additional emblem the red crystal was introduced in 2005, in Protocol III additional to the Geneva Conventions.<sup>100</sup>

### 1.2.1.4 Formation of international humanitarian law

Two separate legal currents have, up until 1977, contributed to this evolution: the Geneva Law, mainly concerned with the protection of the victims of armed conflicts- i.e. the noncombatants and those who no longer take part in the hostilities, and The Hague Law, whose provisions relate to limitations and prohibitions of specific means and methods of warfare. These two legal currents were practically merged with the adoption of the two Additional Protocols of 1977,<sup>101</sup>

### 1.2.1.5 Sources of International Humanitarian Law

Since IHL is an integral part of Public International Law, its sources correspond logically enough to those of latter, as they are defined in article 38 of the Statute of International Court of Justice.

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<sup>98</sup> *ib*

<sup>99</sup> S. STOLK, "The Victim, the International Criminal Court and the Search for Truth. On the Interdependence and Incompatibility of Truths about Mass Atrocity", *Journal of international Criminal Justice*, vol.13, No 5, 2015, 975-978

<sup>100</sup> *Id*

<sup>101</sup> Y. NAQVI, "The right to the truth in international law: fact or fiction?", *International Review of the Red Cross*, Vol. 88, No. 862, 2006, 247

Treaties and customs are the main sources of international law, in respect to IHL, the most important treaties are the Geneva Conventions of 1949, the Additional Protocols of 1977, and the so-called Hague Conventions. While treaties are only binding upon parties to a treaty, States can also be bound by rules of customary international law<sup>102</sup>. However, this requires that there is a usage to be found in the practice of states and considered by those states as practice. There is a wide consensus among scholars that the rules contained in the four Geneva Conventions of 1949 for the Protections of Victims of War and in the Hague Convention (IV) of 1907 on the laws of war on land reflect customary international law. There is also agreement that many provision of addition protocol I, to a lesser degree, that the rules contained in additional protocol II reflect custom.<sup>103</sup>

States are also bound by general principles of law, in regard of IHL one may think of the fundamental principles of IHL such as the principle of distinction or the principle of proportionality.

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<sup>102</sup> A. BIANCHI, "State Responsibility and Criminal Liability of Individuals" in A.CASSESE (eds.), *The Oxford Companion to international Criminal Justice*, Oxford, Oxford University Press, 2009, 16

<sup>103</sup> *Ib*

## **CHAPTER II VIOLATIONS OF INTERNATIONAL HUMANITARIAN LAW IN PALESTINE AND ISRAEL**

International Humanitarian Law (IHL) is designed to ensure a minimum protection even during the most profound catastrophe of human society, namely war. During armed conflict, the combatants have a license to kill combatant elements of the adversarial conflict. IHL seeks to salvage what realistically can be protected notwithstanding the clash of arms.

The Israeli-Palestinian conflict may be a conflict that takes a long time after the Crusades that occurred between the East and West around the twelfth century. This conflict that has lasted for six decades has become quite an acute conflict that has captured the attention of the world community.

### **2.1. Poor respect of laws and customs in Israel-Palestine conflict**

The poor respect for laws and customs in the Israel-Palestine conflict stems from violations of international humanitarian law including issues like targeting civilians, use of excessive force, and failure to protect human rights. Both sides have been accused of disregarding treaties like the Geneva Conventions, resulting in continued violence and humanitarian crises.

#### **2.1.1. Targeting of Civilians and their properties**

Repeated reports, particularly by international organizations such as the UN and NGOs, accuse Israeli forces of failing to distinguish between military targets and civilians during operations in Gaza and the West Bank. Airstrikes and artillery attacks have resulted in significant civilian casualties, suggesting potential violations of the IHL principle of distinction.

In addition Palestinian Armed Groups (e.g., Hamas): Rocket attacks targeting Israeli civilian areas also demonstrate a disregard for the principle of distinction. These indiscriminate attacks are a violation of IHL as they do not specifically target military objectives.

By taking an example in Operation Cast Lead<sup>104</sup>, the Israeli military attacks on public facilities are not always the result of negligence and the Israeli military's efforts to not respect human rights and International Humanitarian Law. Because Hamas often uses public buildings or infrastructure to provoke Israel to attack a UN school where Hamas launched its rockets. In article 51, paragraph 7 of additional Protocol I explains that: "The presence or movement of the civilian population or individual civilians may not be used to make certain places or areas free from military operations, especially / in efforts to protect military objectives from attacks or to protect, support, or hinder military operations. The parties to the conflict may not direct the movement of the civilian population or individual civilians with the aim of protecting military objectives from attacks or to protect military operations."

The actions taken by the Hamas paramilitary show a violation of the rules of IHL, in addition to that, if seen from article 28 of the Geneva Conventions, there have also been violations committed by the Hamas military that civilians will not be the object of attacks as reflected in article 51 paragraph 2 of Additional Protocol I. Meanwhile, it relates to buildings and civil infrastructure. The basic rules of the IHL regarding attacks on buildings and infrastructure are contained in article 52 of Additional Protocol I "General Protection of Civilian Objects". This article is a codification of customary law applicable to both international and non-international armed conflicts. In IHL it categorically rejects attacks on buildings and infrastructure that do not have an effective contribution to military action. However, when looking at the condition that it was Hamas that carried out attacks on Israel using civilian buildings and infrastructure, it puts Israel in a state of necessity to carry out attacks on buildings that have an effective contribution to Hamas' military interests.

### 2.1.2. Disproportionate Use of Force

There are allegations that Israeli military actions violate the principle of proportionality. For instance, in operations like "Operation Protective Edge" and "Operation Cast Lead," critics argue

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<sup>104</sup> International Law Discourse in Southeast Asia Volume 1 Issue 1 (January-June 2022), pp. 23-42 ISSN XXXX-XXXX (Print) XXXX-XXXX (Online) <https://doi.org/10.15294/ildisea.v1i1.56873> Published biannually by the Faculty of Law, Universitas Negeri Semarang, Indonesia and managed by Southeast Asian Studies Center, Universitas Negeri Semarang, INDONESIA, Analysis of the Palestinian and Israeli Conflict in the Perspective of International Humanitarian Law.

that the force used by Israel in densely populated civilian areas (such as Gaza) was excessive relative to the intended military advantage, leading to high numbers of civilian casualties.

While their military capabilities are far more limited, Palestinian groups have also been accused of excessive force, especially in situations where civilians may be at risk as a result of their rocket and tunnel operations.<sup>105</sup>

### 2.1.3. Blockades and Siege Tactics

The Israeli blockade of Gaza, which has been in place since 2007, severely restricts the movement of goods and people. While Israel justifies the blockade as a security measure, critics argue that it amounts to collective punishment, which is prohibited by IHL. The blockade has caused widespread economic hardship and restricted access to essential services, leading to a humanitarian crisis.

While the blockade is primarily an Israeli action, Palestinian militants have exacerbated the situation by continuing rocket fire, which fuels the justification for the blockade. Their tactics, while less significant in terms of scale, also contribute to the humanitarian consequences in Gaza.<sup>106</sup>

### 2.1.4. Detention and Torture

The Israeli government has been accused of violating IHL regarding the treatment of detainees, particularly Palestinian prisoners. Reports have surfaced of mistreatment and torture during interrogations, as well as the use of administrative detention without charge, which violates fair

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<sup>105</sup> International Law Discourse in Southeast Asia Volume 1 Issue 1 (January-June 2022), pp. 23-42 ISSN XXXX-XXXX (Print) XXXX-XXXX (Online) <https://doi.org/10.15294/ildisea.v1i1.56873> Published biannually by the Faculty of Law, Universitas Negeri Semarang, Indonesia and managed by Southeast Asian Studies Center, Universitas Negeri Semarang, INDONESIA, Analysis of the Palestinian and Israeli Conflict in the Perspective of International Humanitarian Law.

<sup>106</sup> As opposed to the 'law of Geneva', the 'law of the Hague' is a colloquial term that refers to a body of law mainly dealing with rules of conduct of hostilities and establishing limitations or prohibitions of specific means and methods of warfare. The term derives its name from the Hague Conventions of 1899 and 1907. It comprises rules protecting persons who are not in the power of a party to the conflict. With the adoption of Additional Protocols to the 1949 Geneva Conventions that codify and develop rules on conduct of hostilities, the dichotomy between the terms 'law of Geneva' and 'law of the Hague' has largely lost its relevance.

trial guarantees under the Geneva Conventions. For example in the case of Ayman Nasser, a Palestinian human rights defender, who was detained by Israel authorities multiple times under administrative detention, a procedure that allows detention without trial.

And also in the case of Samer Arbeed, a Palestinian accused of leading a terror cell, was arrested in 2019. During his interrogation by the Israel Shin Bet (Internal security), he was reportedly tortured, resulting in severe injuries that led to his hospitalization in critical condition. Arbeed was reported to have suffered broken ribs and kidney failure due to the interrogation methods used on him.

Moreover Palestinian authorities has been also reported for violations of human rights including arbitrary detentions and torture of political opponents or individuals accused of collaborating with Israel. By taking an example after Hamas took control of Gaza in 2007, many members of the rival Fatah party were arrested and detained. Multiple reports indicate that detainees were subjected to severe torture, including electric shocks, beatings and being hung in painful positions. Amnesty International and Human Rights Watch have condemned the use of torture by Hamas security forces against political opponents..<sup>107</sup>

#### 2.1.5. Denial of Humanitarian Access

Restricting the movement of humanitarian aid, personnel, and essential supplies into Gaza has led to accusations that Israel is in breach of its obligations under IHL. For example during the 2014 conflict between Israel and Hamas, Israel forces were accused of denying humanitarian access to certain areas of Gaza, the United Nations Relief and Works Agency (UNRWA) reported that Israeli military actions and security blockades made it extremely difficult to deliver humanitarian aid to civilians trapped in conflict zones, especially in place like Shuja'iyya and Rafah, where there were heavy bombardments.

On the other hand Hamas has also been accused of obstructing humanitarian access in Gaza, particularly during periods of internal strife. In 2008 for instance when tensions between Hamas and Fatah escalated into violence, Hamas reportedly restricted access to areas controlled by Fatah,

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<sup>107</sup> Gilad Shalit: Released after 5 years in terrorist captivity, Ministry of foreign affairs 18.10.2011

making it difficult for humanitarian organizations to deliver aid to injured civilians and displaced families<sup>108</sup>.

### 2.1.6. Failure to Investigate Violations

There is ongoing criticism that Israel fails to properly investigate and hold accountable those responsible for IHL violations. Investigations into civilian deaths and other misconduct by Israeli forces are often seen as lacking transparency or independence. For example During the 2014 conflict between Israel and Hamas, over 2,200 Palestinians were killed, including many civilians, in Israeli airstrikes and shelling. The United Nations and various human rights organizations accused Israel of potentially committing war crimes, particularly in densely populated civilian areas such as Shuja'iyya and Rafah, where indiscriminate bombardments killed large numbers of civilians.

Israel conducted internal investigations, but these were widely criticized as lacking transparency and independence. The Israeli military cleared itself of wrongdoing in several cases involving civilian casualties, leading human rights organizations like Human Rights Watch and Amnesty International to call the investigations inadequate and insufficient to meet international standards. The UN Human Rights Council also criticized Israel for not holding those responsible accountable.

Moreover multiple instances of Palestinian journalists and medics being killed or wounded by Israeli forces during protests or military operations have been reported. For example, Yaser Murtaja, a Palestinian journalist, was shot and killed by an Israeli sniper during the 2018 Great March of Return protests in Gaza.

In many of these cases, Israel failed to carry out thorough investigations. Investigations were either closed quickly or did not lead to charges. Human Rights Watch and the Committee to Protect Journalists (CPJ) have repeatedly called for independent investigations into the targeting of journalists and medics, but no significant progress has been made.

On the other hand imilar criticism applies to Palestinian actors. Hamas, in particular, has been accused of failing to investigate or prevent violations of IHL by its own forces, including abuses

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<sup>108</sup> <https://www.ynetnews.com/articles/0,7340,L-5134824,00.html>



against both Israelis and Palestinians<sup>109</sup>. Palestinian armed groups, including Hamas and Islamic Jihad, have frequently launched rockets from Gaza toward Israeli civilian areas. These indiscriminate attacks are a violation of international humanitarian law, which prohibits targeting civilians. During the 2014 Gaza War, thousands of rockets were fired into Israel, killing civilians and damaging civilian infrastructure.

Hamas, which governs Gaza, has not conducted any investigations into the actions of its armed groups concerning these rocket attacks. Despite repeated calls from international organizations for accountability, Hamas has not held anyone responsible for the indiscriminate targeting of Israeli civilians.

Additionally During the 2014 conflict and other periods of internal strife, Hamas has been accused of extra judicially executing individuals accused of collaborating with Israel. These executions were often carried out without any form of due process. In one instance, in August 2014, Hamas executed over 20 Palestinians in Gaza, accusing them of collaboration.

Hamas has not conducted any investigations into these extrajudicial killings. These acts have been widely condemned as violations of both international humanitarian law and international human rights law, but no action has been taken to hold perpetrators accountable.<sup>110</sup>

## **2.2. Impact of Israel-Palestine conflict**

The Israel-Palestine conflict has long been marked by a failure to adhere to international laws, human rights standards, and customs, leading to numerous impacts on civilians, the economy, infrastructure, and the overall stability of the region. The following is a detailed look at the various consequences<sup>111</sup>.

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<sup>109</sup> Hamas has released the videos of some of the hostages, see for instance <https://www.wsj.com/livecoverage/israel-hamas-war-gaza-palestinians/card/hamas-releases-video-of-21-yearold-hostage-GmzQdRjYDOGvYqm2forQ>

<sup>110</sup> <https://reliefweb.int/report/occupied-palestinian-territory/hostilities-gaza-strip-and-israel-flash-update-16>

<sup>111</sup> <https://www.icrc.org/en/document/joint-statement-jagan-chapagain-secretary-general-ifrc-and-robert-mardinidirector-general>

### 2.2.1. Impact on Civilians

The ongoing conflict has led to significant civilian casualties, including deaths, injuries, and psychological trauma. Violations of International Humanitarian Law (IHL), including the principles of distinction (between civilians and combatants) and proportionality (minimizing harm to civilians during military operations), have resulted in high numbers of civilian deaths, particularly among children. The use of force in densely populated areas, such as the Gaza Strip, has led to severe human suffering<sup>112</sup>.

The conflict has also caused mass displacement, with many Palestinians becoming refugees both within the occupied territories and in neighboring countries. The forcible transfer of populations, destruction of homes, and land confiscation have left thousands of families homeless. The United Nations Relief and Works Agency (UNRWA) currently provides aid to millions of Palestinian refugees, highlighting the scale of this humanitarian crisis<sup>113</sup>.

Not only that but also the conflict has led to numerous human rights violations, including arbitrary arrests, torture, restrictions on freedom of movement, and discrimination. The blockade on Gaza has severely limited access to essential services, healthcare, education, and economic opportunities, resulting in widespread poverty and a declining quality of life. And the continuous exposure to violence, uncertainty, and fear has had a profound psychological impact on civilians, especially children. High levels of stress, anxiety, depression, and post-traumatic stress disorder (PTSD) are prevalent in communities affected by the conflict.<sup>114</sup>

### 2.2.2. Economic Impact

The conflict has resulted in the destruction of essential infrastructure, including schools, hospitals, homes, water facilities, and power plants. This has caused a severe economic setback in the

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<sup>112</sup> Impacts of the Conflict in the Middle East on the Palestinian Economy, December 2023.

<sup>113</sup> <https://reliefweb.int/report/occupied-palestinian-territory/israel-destroys-quarter-northern-gaza-strippalestinian-death-toll-exceeds-4000-enar>; <https://reliefweb.int/report/occupied-palestinian-territory/hostilitiesgaza-strip-and-israel-flash-update-13>

<sup>114</sup> Impacts of the Conflict in the Middle East on the Palestinian Economy, December 2023, <https://documents1.worldbank.org/curated/en/099721412142313834/pdf/IDU043992ccb0c283048bd0941e073dbfc46633b.pdf>

affected areas, disrupting daily life and the delivery of basic services. Reconstruction efforts face ongoing challenges due to restrictions on the importation of construction materials.

Movement restrictions, such as checkpoints, roadblocks, and the Gaza blockade, have impeded trade, access to markets, and labor mobility. The separation barrier (wall) constructed by Israel has also fragmented the West Bank, limiting economic growth and development. These restrictions have led to high unemployment rates, particularly in Gaza, and have crippled local economies.

Moreover the conflict has had a devastating impact on agriculture, fishing, and other livelihoods. Land confiscation, settlement expansion, and restrictions on access to farmland and fishing zones have limited Palestinians' ability to sustain their livelihoods. This has exacerbated poverty and food insecurity in the region<sup>115</sup>.

Thus Due to the economic hardships and destruction of infrastructure, many Palestinians in Gaza and the West Bank have become dependent on international humanitarian aid. While aid provides short-term relief, it does not address the underlying causes of the conflict, leaving the economy in a state of chronic dependency and underdevelopment.

### 2.2.3. Impact on Governance and Political Stability

The conflict has led to a fragmentation of Palestinian territories, with the West Bank and Gaza Strip governed by different political factions (the Palestinian Authority in the West Bank and Hamas in Gaza). This division has weakened Palestinian political representation and hampered efforts to achieve a unified national strategy in peace negotiations.

The ongoing conflict has undermined legal institutions in the Palestinian territories. The lack of effective law enforcement, judicial independence, and respect for human rights has resulted in lawlessness in some areas, weakening governance and the rule of law<sup>116</sup>.

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<sup>115</sup> <https://www.ochaopt.org>

<sup>116</sup> *Ibidem*.

#### 2.2.4. Impact on Regional and Global Relations

The Israel-Palestine conflict has contributed to regional instability in the Middle East. It has exacerbated tensions between Israel and neighboring countries, influenced the policies of regional actors, and contributed to the rise of extremist groups that use the conflict as a rallying point.

Internationally, the conflict has led to divisions within the United Nations and among global powers, impacting diplomatic relations and international cooperation. Repeated violations of international law have resulted in widespread condemnation and debate over the appropriate response from the international community<sup>117</sup>.

#### 2.2.5. Impact on Future Generations

The protracted nature of the conflict has profound implications for future generations. The disruption to education, lack of economic opportunities, and exposure to violence and discrimination have hindered the development of children and youth. This situation raises concerns about a "lost generation" of individuals who may continue to face challenges in achieving stability, prosperity, and peace<sup>118</sup>.

### 2.3. Ceasefires given to Israel and Hamas

Hamas and Israel have engaged in multiple ceasefires over the years, particularly during major conflicts such as the wars in Gaza in 2008-2009, 2012, 2014, 2021, and the ongoing conflict in 2024. These ceasefires have been temporary and often brokered by international actors like Egypt, the United States, and the United Nations. However, most of these ceasefires have eventually collapsed, leading to renewed hostilities between the two sides. The exact number of ceasefires is challenging to quantify, as many have been short-lived or informal<sup>119</sup>.

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<sup>117</sup> <https://www.amnesty.org/en/location/middle-east-and-north-africa/israel-and-occupied-palestinian-territories/last> accessed 9th sept 2024

<sup>118</sup> <https://www.hrw.org/middle-east/n-africa/israel/palestine> last accessed on 9th sept 2024

<sup>119</sup> <https://english.wafa.ps/Pages/Details/138321> last accessed 9th sept 2024

### 2.3.1. Hamas' violations of ceasefires

Israel has adhered to numerous ceasefires ever since Operation Protective Edge began. The majority of these were humanitarian pauses for the benefit of Gazans. Hamas broke every ceasefire and humanitarian lull before the ceasefire of 10-13 August 2014. Even Hamas-initiated lulls were quickly broken by the terrorists themselves. Hamas also broke the ceasefire on July 15 that was set up by Egypt and was supported by the majority of nations, including the Arab League. This ceasefire was accepted by Israel. Israel would not have had to begin its ground operation and would have avoided ninety percent of the deaths in this conflict if Hamas had also accepted it. This equivalent truce was acknowledged later by Hamas on 5 August.

The timeline of Hamas's 2014 ceasefire breaches is as follows:

- 15 July: At 0900, Israel ceased all hostilities after accepting the cease-fire that Egypt had imposed. Still, terrorists struck Israeli neighborhoods with around fifty missiles. The IDF didn't react for six hours straight following missile assaults.<sup>120</sup>
- 26–27 July: On Saturday, July 26, from 8:00 to 10:00, Israel complied with a humanitarian ceasefire sought by the UN. After declaring its willingness to extend the truce till midnight, Israel saw that Hamas had resumed shooting rockets at Israeli citizens just minutes after.
- At 14:00 on July 26, Hamas declared a humanitarian truce that would last for 24 hours. A moment later, Hamas broke their own truce. Israel chose to prolong the humanitarian truce a second time, this time from midnight on Saturday to midnight on Sunday, in spite of Hamas' unrelenting assault.
- 28 July: In observance of the Muslim holiday of Eid al-Fitr, Israel granted Hamas' plea for a truce. Despite orders to stop military operations, Hamas persisted in firing missiles against Israel.
- 30 July: Israel declared a humanitarian ceasefire that will last from 15:00 until 19:00. Shortly after the cease-fire was declared, Hamas launched missiles into several Israeli settlements and the southern cities of Ashdod and Ashkelon.

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<sup>120</sup> Protective edge: hamas'violations of ceasefire – achronology, august 2014, <https://www.gov.il>

### 2.3.2. Israel violations of ceasefire “No Gaza ceasefire until Israel war aims achieved, Netanyahu says”

Benjamin Netanyahu, the prime minister of Israel, stated on June 1st, 2024, that there will not be a long-term truce in Gaza until Hamas's military and political capacity is destroyed and all captives are freed. His remarks follow US President Joe Biden's announcement that Israel had presented Hamas with a three-phase plan intended to achieve a long-term truce. The BBC was informed by a prominent Hamas lawmaker that the group "will go for this deal" if Israel does. The discussions take place while violence in Rafah rages on, with reports of Israeli airstrikes in the city on Egypt's border with Gaza on Saturday<sup>121</sup>.

Mr. Biden's public pressure on Israel and Hamas to embrace the proposal is not a guarantee that an agreement will be reached. The Israeli government stated that their "conditions for ending the war have not changed" in a statement. It defined these as "the destruction of Hamas military and governing capabilities, the freeing of all hostages and ensuring that Gaza no longer poses a threat to Israel" . No agreement could be signed before these requirements were satisfied, the statement said, adding that Israel will "continue to insist these conditions are met" before consenting to an indefinite ceasefire.

Hamas's main demand for talks to begin has been the complete cessation of the fighting. After Mr. Netanyahu restated his goals for the conflict, a Hamas official stated that the organization would support the plan if Israel carried it out. Basem Naim, a Qatar-based member of Hamas's political bureau, stated on BBC World Service's Newshour that while the organization applauded the proposal, Israel was ultimately responsible for the next move. He responded to Mr. Netanyahu's remarks by pointing out that while Israel's goals may not have altered, it had also not succeeded in achieving them. "If he tries to continue, he will not find anything except the readiness of the Palestinians - all Palestinians - to resist the occupation," said Mr. Naim.<sup>122</sup>

Mr. Netanyahu's administration released a statement that appeared to be sufficiently ambiguous to allow him to assert that his goals had been met. It's interesting that it avoided discussing "total victory," which he has said the Israeli military's goal in Gaza on several occasions. This absence may help Mr Netanyahu to refute charges that the accord delivers big concessions to

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<sup>121</sup> No Gaza ceasefire until Israel war aims achieved, <https://www.bbc.com/news/articles.c888p5p2zvxo>

<sup>122</sup> Ibidem.

Hamas. In recent weeks, Israel has increased its attacks in the strategic city of Rafah, claiming operational control over the whole Egyptian border.

## **2.4. UN Inquiry Of June 2024 About Israeli And Palestine Conflict**

According to a UN investigation, war crimes and other serious transgressions of international law are committed by both Israeli government and Palestinian armed organizations. 12 June 2024, Geneva – The UN Independent International Commission of Inquiry on the Occupied Palestinian Territory, including East Jerusalem, and Israel stated in a new report today that Israeli authorities are accountable for war crimes and crimes against humanity committed during military operations and attacks in Gaza since October 7, 2023. The Commission also concluded that war crimes in Israel are the product of Palestinian armed groups<sup>123</sup>.

"All of the people who have committed crimes must be held responsible, according to Commission Chair Navi Pillay. "Ensuring strict adherence to international law is the only way to stop the recurring cycles of violence, including aggression and retribution by both sides." "It is imperative that Israel ceases its military activities and assaults in Gaza, particularly the attack on Rafah, which has resulted in the deaths of hundreds of civilians and has once more forced hundreds of thousands of people to flee dangerous areas devoid of basic amenities and aid," stated Pillay. "All captives must be released immediately, and rocket assaults by Hamas and other Palestinian armed factions must stop. Hostage-taking is considered a war crime<sup>124</sup>.

The Commission came to the conclusion that Israel's "total siege" of the civilian population constitutes a kind of collective punishment. Israeli officials have weaponized the siege and exploited the denial of basic necessities—such as fuel, food, water, electricity, and humanitarian aid—for geopolitical and strategic advantage. Pregnant women and those with disabilities have been disproportionately affected by the siege, and significant harm done to children has resulted in avoidable child fatalities from malnutrition, including infants. According to the research, certain types of violence against women and girls are routinely carried out by the Israeli Security Forces. The Commission concluded that Israeli soldiers had engaged in

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<sup>123</sup> ibidem

<sup>124</sup> <https://www.ohchr.org/en/press-releases/2024/06/israeli-authorities-palestinian-armed-groups-are-responsible-war-crimes>

war crimes in the West Bank, including sexual assault, torture, inhuman or cruel treatment, and violations of human dignity. The Commission also discovered that an Israeli government and Israeli military campaign of settler violence against Palestinian villages in the West Bank was approved. The study concluded that the military wing of Hamas and six other Palestinian armed groups were accountable for war crimes related to the October 7 attack in Israel. These crimes included taking hostages, including children, destroying or seizing an adversary's property, murder or wilful killing, torture, inhuman or cruel treatment, and purposely directing attacks against civilians.<sup>125</sup>

## **2.5. International Humanitarian Law Perspective on Israel-Palestinian Violations**

Humanitarian law violations in the military confrontation between Israel and Palestine Palestinian civilians were the victims of armed conflict as a result of many Israeli strikes on Palestine during the Palestine-Israel conflict. Violence and cruelty are commonplace in Israel. The Geneva Convention was one of the agreements broken in the conflict between Israel and Palestine. The Geneva Convention is a legally binding agreement that governs the safety of civilian society, injured soldiers, and prisoners of war. Turler (2017)<sup>126</sup>. Following an alleged incident in Jenin where they allegedly tossed an improvised explosive device at a Palestinian house and set it on fire, two Israeli Defense Forces soldiers have been prosecuted. Charges brought forth by military prosecutors included the manufacture of explosive devices, deliberate assaults, and deliberate property destruction. Since November 28, 2022, the two soldiers have been in custody (Berlianto, 2022). Furthermore, Israel has acknowledged employing chemical weapons in its attacks on Palestine—specifically, white phosphorus bombs—despite the fact that doing so is prohibited due organizations—have violated international humanitarian law, particularly when it comes to human rights. This breach of humanitarian law is actually an act of self-defense against Hamas rocket strikes that jeopardize Israeli people' safety and stability<sup>127</sup>.

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<sup>125</sup> ibidem

<sup>126</sup> [indriantialghinahabiba701@gmail.com](mailto:indriantialghinahabiba701@gmail.com); ardiyodevara [ianto@gmail.com](mailto:ianto@gmail.com), Violations of Humanitarian Law, "Consistence of The Geneva Conventions in the Palestine – Israel War", University of Muhammadiyah Yogyakarta, Brawijaya Street, Bantul, Yogyakarta, Indonesia, 1 December 2023, <https://doi.org/10.51200/manu.v34i2.4768>

<sup>127</sup> id



The 1948 Geneva Convention of International Humanitarian Law further reinforces this rationale. Israel has violated humanitarian law in this instance by violating the principles of distinction, proportionality, and military necessity in relation to human rights breaches. Regarding the Palestinian side, Hamas has broken Additional Protocol I to the Geneva Convention by using civilian residential areas and buildings as military operations, battlefields, and hiding places in the Gaza Strip (Aswir F Badjodah, Mahmud Husen, & Saiful Ahmad, 2021).

The following are some of the reasons why people don't follow international humanitarian law, according to Arlina Permanasari: application of the law at the wrong time, when a nation's security and stability are in jeopardy; comprehension of the terminology and organizational framework of the law, which is complicated and still hard for the general public to understand because it was created by diplomats and legal experts; several provisions of the law that don't work as intended, like those that deal with violations of the law and are meant to punish those who do so.

In addition to the fact that there exist obstacles that make it difficult to apply international humanitarian law, there is an inherent mistrust or cynicism about its efficacy. It can be said that there is a general disregard for humanitarian law among those who serve in the military services. the primary reason behind this mindset. They generally believe that applying humanitarian law can make it more difficult for them to carry out their (combat) duty. They contend that professionals in law who are ignorant of the nature of war or its context compiled humanitarian law. Additionally, since the other side also disobeys humanitarian law, there is no purpose in upholding it (Pratama, Novianti, & Pebrianto, 2021)..<sup>128</sup>

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<sup>128</sup> [indriantialghinahabiba701@gmail.com](mailto:indriantialghinahabiba701@gmail.com); ardiyodevara [ianto@gmail.com](mailto:ianto@gmail.com), Violations of Humanitarian Law, "Consistence of The Geneva Conventions in the Palestine – Israel War", University of Muhammadiyah Yogyakarta, Brawijaya Street, Bantul, Yogyakarta, Indonesia, 1 December 2023 <https://doi.org/10.51200/manu.v34i2.4768>

## **CHAPTER III: MECHANISMS THAT SHOULD BE USED TO HOLD POWERFUL COUNTRIES ACCOUNTABLE FOR THEIR ACTIONS**

The implementation of the duty to ensure respect for international humanitarian law, as stated in Article 1 common to the Geneva Conventions of 1949 and their Additional Protocol I of 1977, is the focus of the current study, which addresses a particular facet of the larger problem of determining ways and means to improve respect for this law. It is predicated on the uncontested interpretation of common Article 1, which states that every High Contracting Party is obligated to ensure respect for international humanitarian law and therefore must take action against any other High Contracting Party that violates this law.

As such, the research does not address this problem; instead, it lists and briefly discusses the different kinds of actions that States can take to fulfill their duty to guarantee respect. The examples provided for each measure are just meant to serve as illustrations; they should in no way be interpreted as the author's opinion of their validity in the context of the decisions that led to their adoption.

This study's primary goal is to identify, categorize, and quickly review specific legal aspects of actions that States have taken in a variety of settings to guarantee respect for international law in general, and thereby provide a list of measures that States could consider adopting, as appropriate, in order to fulfil to their obligation under common Article 1.<sup>129</sup>

### **3.1. State Responsibility For Violations Of International HRL And IHL**

State responsibility for violations of international human rights and humanitarian law has long been a foundation of international law. State responsibility stems from the principle of *pacta sunt servanda*, which means that every treaty in force is binding upon the parties to it and must be performed by them in good faith. Even beyond treaty obligations, the International Law Commission's draft articles on State responsibility recall the general principle of international law that the breach of a State's international obligation constitutes an international wrongful act, which

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<sup>129</sup> Umesh Palwankar, Implementation of International Humanitarian Law, Measures available to States for fulfilling their obligation to ensure respect for international humanitarian law

entails the international responsibility of that State (draft arts. 1–2). In this context, it is useful to recall that a State is responsible for violations of international human rights and humanitarian law in the context of armed conflict if the violations are attributable to it, such as:

- Violations committed by its organs, including its armed forces;
- Violations committed by persons or entities empowered to exercise elements of governmental authority;
- Violations committed by persons or groups acting in fact on its instructions, or under its direction or control;
- Violations committed by private persons or groups which it acknowledges and adopts as its own conduct.<sup>130</sup>

A State may also be responsible for lack of due diligence if it has failed to prevent or punish violations of international human rights and humanitarian law committed by private actors.

Both international jurisprudence and regional jurisprudence have established that a finding of State responsibility for violations of international human rights and humanitarian law should lead to the adoption by the State of measures to repair the damage it may have caused and to prevent future violations. Such measures range from paying reparations to the victims and their families, and giving assurances of non-repetition, to the adoption of legal mechanisms to prevent future abuses. The Inter-American Court of Human Rights and the European Court of Human Rights refer to international customary rules on State responsibility to order the payment of compensation to victims of human rights abuses.<sup>131</sup>

It should be noted that, under international law, the fact that an individual is found guilty of gross abuses of international human rights and humanitarian law does not exonerate the State from international responsibility and vice versa.<sup>132</sup>

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<sup>130</sup> Vienna Convention on the Law of Treaties, art. 26.

<sup>131</sup> Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Serbia and Montenegro), Judgment, I.C.J Reports 2007, p.43.

<sup>132</sup> International legal protection of human rights in armed conflict, United Nations office of the High Commissioner, New York and Geneva, 2011.

### 3.2. The Obligations Of States Regarding International Crimes

Where violations of international human rights and humanitarian law constitute international crimes, States have a series of legal obligations and responsibilities that stem from international criminal law. States have the duty to investigate violations and, if there is sufficient evidence, the duty to submit to prosecution the person allegedly responsible for them and to punish the perpetrator in accordance with the law, to exclude the possibility of amnesty for certain perpetrators, and to offer remedy and reparation to victims or their families. Their obligation to extend jurisdiction for prosecution of such crimes beyond their territory will be discussed in the next subsection. The obligation to seek accountability includes a responsibility for States, in accordance with international law, to cooperate with one another and assist international judicial organs competent in the investigation and prosecution of these violations.

Furthermore, resolutions adopted by the General Assembly and the Commission on Human Rights, the reports of United Nations special procedures and the jurisprudence of human rights treaty bodies have all consistently affirmed that States have a duty to investigate and prosecute violations of international human rights and humanitarian law.<sup>133</sup>

In international humanitarian law, a distinction is made between international and non-international armed conflicts. Regarding international armed conflicts, all States have the responsibility to respond to grave and other breaches of the Geneva Conventions and of Protocol I. Under the Geneva Conventions, States undertake the obligation to respect and to ensure respect for the Conventions in all circumstances. Specifically, States undertake to enact legislation to provide effective penal sanctions for perpetrators of grave breaches of international humanitarian law. In contrast, neither common article 3 nor Protocol II makes specific provision for the prosecution of serious violations of their rules or for grave breaches.

However, the jurisprudence of the International Criminal Tribunal for the former Yugoslavia and the International Criminal Tribunal for Rwanda has established that war crimes may also be committed in non-international armed conflicts<sup>134</sup>. Moreover, taking into account the complementary nature of the International Criminal Court's jurisdiction, the inclusion in its Rome

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<sup>133</sup> *Id.*

<sup>134</sup> See in particular, *Prosecutor v. Dusko Tadic*, paras. 86-136.

Statute of war crimes committed in non-international armed conflicts means that States also have an obligation to investigate and prosecute serious violations of common article 3 of the Geneva Conventions, as well as other serious violations of the laws and customs applicable in armed conflicts not of an international character.<sup>135</sup>

The International Court of Justice dealt with the obligation to prevent and punish genocide. It determined that “one of the most effective ways of preventing criminal acts, in general, is to provide penalties for persons committing such acts, and to impose those penalties effectively on those who commit the acts one is trying to prevent.” Furthermore, the Court recalled that, under the Convention on the Prevention and Punishment of the Crime of Genocide, States parties have an obligation to “arrest persons accused of genocide who are in their territory—even if the crime of which they are accused was committed outside it—and, failing prosecution of them in the parties’ own courts, that they will hand them over for trial by the competent international tribunal.”<sup>136</sup>

### **3.3. Legal and Regulatory Mechanisms**

States can be held accountable for violations of humanitarian law through various legal and regulatory mechanisms as follow

#### **3.3.1. United Nations Charter (1945)**

- Article 2(3) regarding Peaceful Settlement of Disputes stipulate that States are obligated to resolve their disputes through peaceful means in such a manner that international peace, security, and justice are not endangered. Failure to do so, leading to armed conflict, could result in state liability.
- Article 94 regarding International Court of Justice (ICJ) Compliance. It implies that States must comply with the decisions of the ICJ in cases where they are parties. If a state fails to

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<sup>135</sup> Rome Statute, art. 8.2 (c) and (e).

<sup>136</sup> Application of the Convention on the Prevention and Punishment of the Crime of Genocide, paras. 426 and 443.

comply with an ICJ judgment regarding reparations or other liabilities arising from an armed conflict, it may face enforcement actions by the UN Security Council<sup>137</sup>.

### 3.3.2. International Court of Justice (ICJ) Statute

Article 38 of ICJ identifies the source of international law that the ICJ may apply, including international conventions, international custom, and general principles of law recognized by civilized nations. The ICJ has jurisdiction over dispute that involve breaches of these laws, including cases of unlawful use of force

### 3.3.3. Rome Statute of the International Criminal Court (ICC)

- Article 8 of ICC defines war crimes to include serious violations of the laws and customs applicable in international armed conflict. It criminalized actions such as internationally directing attacks against civilians, launching attacks against civilians, launching attack causing excessive civilian damage, and employing prohibited weapons<sup>138</sup>.
- Article 25 explains that while the Rome Statute primarily deals with individual criminal liability, states may also face consequences for failing to prevent or prosecute international crimes such as war crimes, genocide, and crimes against humanity committed by individuals under their jurisdiction<sup>139</sup>.
- And also according to Article 75, The ICC may order reparations directly against individuals, but states may also be implicated if they are found to have supported or tolerated the crimes, thus leading to their liability under international law.

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<sup>137</sup> UN Charter common Art 94

<sup>138</sup> Rome Statute of the ICC article 8

<sup>139</sup> Rome Statute of the ICC article 25

### 3.3.4. Geneva Conventions (1949)

- Article 1 regarding the Responsibility to Respect and Ensure Respect talks about how States are responsible for ensuring that the Geneva Conventions are upheld. Failure to do so can result in state liability, especially if they fail to prevent or punish breaches of the conventions.
- Article 3 (Common to the Four Conventions): explained that even in non-international conflicts, state parties are liable for breaches of the minimum standards of humane treatment and protection of persons not taking an active part in hostilities.
- Article 91 of the First Additional Protocol (1977) regarding Responsibility for Breaches stipulate that A state party that violates the provisions of the Geneva Conventions or the Additional Protocols is liable to pay compensation. Additionally, the state is responsible for any acts committed by persons forming part of its armed forces<sup>140</sup>.

### 3.3.5. Hague Conventions (1907)

Hague Convention (IV) Article 3 regarding Responsibility for Damages, implies that A belligerent party that violates the regulations of the Hague Conventions is liable to pay compensation. It is also responsible for all acts committed by its military forces that violate these regulations<sup>141</sup>.

### 3.3.6. International Law Commission's Articles on Responsibility of States (2001)

- Article 1 regarding General Rule of State Responsibility implies that every internationally wrongful act of a state entails its international responsibility. This includes acts committed during armed conflict that violate international law<sup>142</sup>.

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<sup>140</sup> Geneva Convention common Article 1, Article 3, Article 91, (1949)

<sup>141</sup> Hague Convention (IV), Article 3, (1907)

<sup>142</sup> International Law Commission's Article 1 (2001)

- Article 31 regarding Reparation implies that a state responsible for an internationally wrongful act is under an obligation to make full reparation for the injury caused, including damages, restitution, compensation, and satisfaction<sup>143</sup>.
- Article 33 regarding Scope of Obligations implies that the obligations of a state responsible for an internationally wrongful act extend to the reparation of injury caused to another state or to any other person or entity in accordance with international law<sup>144</sup>.

### **3.4. Strengthening Institution Mechanism**

Strengthening institution mechanisms to effectively hold powerful countries accountable requires addressing current limitations, ensuring enforcement, and promoting a more equitable application of international law. Here are some key institutional mechanisms and the way to enhance them.

#### **3.4.1. Reform the International Court of Justice (ICJ) and International Criminal Court (ICC)**

Expand the ICC's jurisdiction to include crimes by non-member states without requiring Security Council referrals. This would prevent powerful states that have not ratified the Rome Statute from evading prosecution.

Address the influence of political considerations in the ICC and ICJ processes. This could involve developing a more independent and impartial selection process for judges and prosecutors to minimize the influence of powerful states on court proceedings<sup>145</sup>.

Empower these courts to enforce their rulings by establishing an international enforcement body. Such a body could execute arrest warrants and ensure compliance with judgments, reducing reliance on state cooperation.

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<sup>143</sup> International Law Commission's Articles on Responsibility of States for Internationally Wrongful Acts, Article 31, (2001)

<sup>144</sup> International Law Commission's Articles on Responsibility of States for Internationally Wrongful Acts, Article 33, (2001)

<sup>145</sup> Shaw, Malcolm N. International Law. Cambridge University Press, 2017.



States that ratify treaties related to international crimes should automatically fall under the ICC's jurisdiction. This would close loopholes where states can commit violations without facing ICC prosecution<sup>146</sup>.

### 3.4.2. Strengthen the UN Security Council and Human Rights Council

Reform the UN Security Council's veto system to prevent its misuse by powerful countries to block accountability measures. For example, introducing a rule where permanent members cannot veto resolutions addressing crimes like genocide or gross human rights violations.

Establish a permanent, independent investigative body within the UN Human Rights Council to examine violations, independent of state influence. This body could provide evidence to international courts, reducing the chances of cover-ups by powerful states.

Unarmed countermeasures, Article 41 of the United Nations Charter lists a series of measures that the Security Council may decide to take if it determines the existence of one of the three situations referred to in Article 39, that is, any threat to the peace, breach of the peace, or act of aggression. An analysis of actual practice, however, reveals a certain reticence and an empirical approach on the part of the Security Council, which has not always found it necessary either to refer expressly to the articles on which it bases itself or to declare formally in the preamble or operative part of a resolution whether the situation in question corresponds to one of the three designated in Article 39.<sup>147</sup> Consequently, when the Security Council places itself in the context of Chapter VII of the Charter, it is implicitly acknowledging that it is in the presence of one of the three situations designated in Article 39. Use of armed force: It is generally accepted that all military countermeasures by a State are unlawful, and that the sole body competent to impose a sanction involving armed force today is the United Nations and in principle, within that organization, the Security Council.<sup>148</sup> Although the aforementioned action, with allowance for the use of force, was decided upon by the Security Council with a view to ensuring respect for international humanitarian law in an armed conflict situation (provision of humanitarian assistance in this case),

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<sup>146</sup> <https://www.icc-cpi.int/sites/default/files/RS-Eng.pdf> last accessed 29 August 2024

<sup>147</sup> La Charte des Nations Unies: Commentaire article par article, Jean-Pierre Cot and Alain Pellet (eds.), Paris/Brussels, Economica/Bruylant, 1985, p. 651 ff.

<sup>148</sup> Supra note 5.

it was taken, firstly, on the basis of the United Nations Charter and not of international humanitarian law, and secondly, with the primary goal (and the only one permitted under Chapter VII of the Charter) of restoring (or maintaining, as the need may be) international peace and security.<sup>149</sup>

### 3.4.3. Empower Non-Governmental Organizations (NGOs) and Civil Society

Enhanced Role for NGOs, Give NGOs a formal role in international legal processes, allowing them to submit evidence and reports directly to international courts and UN bodies. This could help bring violations to light and apply pressure for action.

Strengthen international protections for human rights defenders and activists to ensure they can operate freely and safely, providing critical information on violations.

Increase awareness campaigns through international media to educate the public on human rights violations and the legal mechanisms available. Global public pressure can influence governments and international bodies to take stronger action.

### 3.4.4. Increase State Accountability through International Partnerships

Make membership in international organizations (e.g., the World Trade Organization, the International Monetary Fund) conditional upon a country's adherence to international human rights and humanitarian law. Non-compliance could result in suspension or penalties.

Encourage the development of multilateral agreements that compel states to investigate and prosecute serious violations domestically, thereby preventing impunity.

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<sup>149</sup> For this reason, international humanitarian law applies equally to all parties in an armed conflict situation, and independently of considerations relating to the legality of the use of force (Statements by the ICRC on the applicability of international humanitarian law to United Nations Peace-keeping Forces, 47th and 48th sessions of the General Assembly, 1992 and 1993 respectively). See also "Report on the Protection of War Victims" prepared by the ICRC for the International Conference for the Protection of War Victims, published in *International Review of the Red Cross*, No. 296, September-October 1993, at 3.1.3.

## **GENERAL CONCLUSION AND RECOMMENDATION**

The Israel-Palestine conflict particularly as it pertains to armed conflict, has been one of the prolonged and deeply rooted conflict, the conflict not only involves local disputes but also intersects with broader global legal and political how violations are addressed and how justice pursued. The following is general conclusion and recommendations.

### **General Conclusion**

The political realities of international relations frequently make it difficult for international humanitarian law to be enforced, despite the fact that it offers a strong foundation for controlling behavior during armed conflicts. Powerful governments might avoid responsibility because of their influence on the world scene, as the Israel-Palestine conflict demonstrates poignantly. This is one of the limits of international humanitarian law. Thus, the need for States to fulfill their commitment to maintain respect for international humanitarian law has become both acute and urgent in a world where concerns about violations of the law are growing and in certain circumstances are occurring on an unacceptable scale.<sup>150</sup>

States must leave armed confrontations just as frequently as they join them. Recent withdrawals from hostilities have brought attention to the necessity of thinking about how States withdraw. The laws of armed conflict, which impose a number of enduring obligations aimed at preventing needless suffering and guaranteeing certain minimal measures of accountability, have been demonstrated in this article to be relevant to this question. As a result, States are required to reasonably comply with their end-of-participation obligations. Certain obligations are linked to certain timeframes specified in international humanitarian law treaties<sup>151</sup>. States do have access to a vast array of measures that they have previously taken in a variety of situations and circumstances. Therefore, they must do everything in their power to "ensure the effectiveness of international humanitarian law and take resolute action, in accordance with that law, against States bearing responsibility for violations of international humanitarian law with a view to terminating

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<sup>150</sup> Measures available to States for fulfilling their obligation to ensure respect for international humanitarian law, Implementation of International Humanitarian Law, Umesh Palwankar.

<sup>151</sup> Jus ex bello and international humanitarian law: States' obligations when withdrawing from armed conflict, International Review of the Red Cross (2020)

such violations," as stated in the Declaration of the International Conference for the Protection of War Victims (30 August-1 September 1993).

## **Recommendations**

This is my recommendations phase as a final student from the law department:

- Article 1 of Responsibility of States for Internationally Wrongful Acts regarding General Rule of State Responsibility implies that every internationally wrongful act of a state entails its international responsibility. This includes acts committed during armed conflict that violate international law<sup>152</sup>.
- Article 31 of the same law regarding Reparation implies that a state responsible for an internationally wrongful act is under an obligation to make full reparation for the injury caused, including damages, restitution, compensation, and satisfaction<sup>153</sup>.
- Article 33 regarding Scope of Obligations continue suggesting that the obligations of a state responsible for an internationally wrongful act extend to the reparation of injury caused to another state or to any other person or entity in accordance with international law<sup>154</sup>.
- Suspension of air transport (or other) agreements. As it happened On 26 December 1981, the United States suspended the 1972 US Polish Air Transport Agreement following the Polish government's repression of the Solidarity movement;

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<sup>152</sup> International Law Commission's Article 1 (2001)

<sup>153</sup> International Law Commission's Articles on Responsibility of States for Internationally Wrongful Acts, Article 31, (2001)

<sup>154</sup> International Law Commission's Articles on Responsibility of States for Internationally Wrongful Acts, Article 33, (2001)

## Bibliography

### I. Legal instruments

- State Responsibility And International Liability Under International Law, by Sompong Sucharitkul Golden Gate University School of Law, [ssucharitkul@ggu.edu](mailto:ssucharitkul@ggu.edu) (1996)
- First Hague Conference, 1899;
- Second Hague Conference, 1907;
- Protocol for the Prohibition of the Use in war of Asphyxiating, Poisonous or other Gases, and Bacteriological Methods of warfare, 1925.

### II. International conventions

- Geneva Convention (1949);
- Additional protocol I (1977);
- Additional protocol II (1977);
- Rome Statute of the international Criminal Court, July 1998;
- The Oslo Accords (1993, 1995);
- The Roadmap for Peace (2023);
- The Quartet on the Middle East;
- The Hague Conventions (1899, 1907);

### III. Books

- State responsibility for violations of international humanitarian law, Vol. 84 by Marco Sassòli IRRC June 2002;
- Measures available to States for fulfilling their obligation to ensure respect for international humanitarian law, by Umesh Palwankar;
- Challenges to Compliance with International Humanitarian Law in the Context of Contemporary Warfare by Morgan Kelley (2013);
- Implementation of International Humanitarian Law, Measures available to States for fulfilling their obligation to ensure respect for international humanitarian law by Umesh Palwankar;

- International legal protection of human rights in armed conflict, united nations Human Rights Office of the Commission (2011);
- Remedies for victims of violations of international humanitarian law by Liesbeth Zegveld (2003).
- Various mechanisms and approaches for implementing international humanitarian law and protecting and assisting war victims, Volume 91 by Toni Pfanner (874 June 2009);
- An introduction to international criminal law and procedure by Robert Cryer, et al., (2d ed. Landon, 2010,p., 123)

#### IV. Case laws

- The hostages affair at the United States embassy in Tehran (1979-1980);
- The Falklands/Malvinas armed conflict (1982);
- The cases of Afghanistan, southern Africa, El Salvador and Israel;
- A report prepared by experts designated by the Secretary General in 1984 to investigate the Islamic Republic of Iran's allegations concerning the use of chemical weapons (S/16433, 26 March 1984);
- General Assembly resolution A/45/172 of 18 December 1990, concerning the situation of human rights and fundamental freedoms in El Salvador, referred to international humanitarian law.

#### V. Doctrines

- Martens Clause: introduced in the 1899 Hague Convention.
- The Law of State Responsibility;
- The Doctrine of Sovereign Equality;

#### VI. Policies

- International Law Commission's Articles on State Responsibility (2001);
- UN General Assembly Resolution 56/83 (2001);
- International Court of Justice (ICJ) Jurisprudence;

- United Nations Security Council Resolutions;
- International Humanitarian Law (IHL).

## VII. Reports and other publications

- Israel and Palestine: “ A Ceasefire Agreement” by the International Crisis Group (ICG) (2018);
- “The Israeli-Palestinian Ceasefire: A New Hope?” by the Carnegie Endowment for International Peace (2019);
- “The Ceasefire in the Israel-Palestinian Conflict: A Comprehensive Analysis by the Middle East Institute (2020);
- International law commission’s (ILC) Draft Articles on the Responsibility of States for International Wrongful acts (2021);
- International Committee of the Red Cross (ICRC) Report on “State Responsibility for Violations of International Humanitarian Law” (2011)
- “State Responsibility and the European Court of Human Rights: An ill-Fitting Suit?” by Marko Milanovic (2013);
- “The law of International Responsibility” edited by James Crawford, Alain Pellet, and Simon Olleson (2010);
- “The Responsibilities to Protect” State Responsibility and Prevention” by Alex J. Bellamy (2009);
- United Nations Human Rights Council Reports on Accountability for Violations of International law in Conflict Situations.

## VIII. Electronic source

- Crimes of War Jus ad Bellum/ Jus in Bello”.[www.crimesofwar.org](http://www.crimesofwar.org). Archived from the original on 2024-06-25;
- <https://definitions.uslegal.com/j/jus-in-bello/>[accessed on 20 June 2024];
- Legal Information Institute, Cornell Law School, [https://www.law.cornell.edu/wex/customary\\_international\\_law](https://www.law.cornell.edu/wex/customary_international_law);

- International Committee Of The Red Cross, <https://www.icrc.org/en/war-and-law/treaties-customarylaw/customary-law>;
- International Committee Of The Red Cross, <https://www.icrc.org/en/war-and-law/treaties-customarylaw/customary-law>;
- <https://casebook.icrc.org/a-to-z/glossary/distinction>;
- International Committee of Red Cross, [https://casebook.icrc.org/a\\_to\\_z/glossary/crimes-against-humanity](https://casebook.icrc.org/a_to_z/glossary/crimes-against-humanity);
- Peace palace library date unknown international criminal law [http://www.Peacepalacelibrary.nl/researchguides/international\\_criminal\\_law/international-criminal\\_law,4th,8,2016](http://www.Peacepalacelibrary.nl/researchguides/international_criminal_law/international-criminal_law,4th,8,2016);
- International Committee of the Red Cross (ICRC), War and International Humanitarian Law (29 October 2010), available at [www.icrc.org/eng/war-and-law/overview-war-and-law.htm](http://www.icrc.org/eng/war-and-law/overview-war-and-law.htm);
- International Committee of the Red Cross (ICRC), War and International Humanitarian Law (29 October 2010), available at [www.icrc.org/eng/war-and-law/overview-war-and-law.htm](http://www.icrc.org/eng/war-and-law/overview-war-and-law.htm);
- Hamas has released the videos of some of the hostages, see for instance <https://www.wsj.com/livecoverage/israel-hamas-war-gaza-palestinians/card/hamas-releases-video-of-21-yearoldhostage-GmzQdRjYDOGVYqm2forQ>;
- The Situation In Israel And Gaza, “Legal Analysis”, 31 Oct 2023 <https://reliefweb.int/report/occupiedpalestinian-territory/situation-israel-and-gaza-legal-analysis-eminent-professors>
- list of international law violations by the state of Israel, itISapartheid.org,<https://itisapartheid.org> ›
- ICRC, Rule n. 103 <https://ihl-databases.icrc.org/en/customary-ihl/v1/rule103>;
- ICRC, Rule n. 55, <https://ihl-databases.icrc.org/en/customary-ihl/v1/rule55>;
- Impacts of the Conflict in the Middle East on the Palestinian Economy, December 2023, <https://documents1.worldbank.org/curated/en/099721412142313834/pdf/IDU043992ccb0c283048bd0941e073dbfc46633b.pdf>;
- No Gaza ceasefire until Israel war aims achieved, <https://www.bbc.com/news/articles.c888p5p2zvxo>
- indriantialghinahabiba701@gmail.com; aridityodevara ianto@gmail.com, Violations of Humanitarian Law, “Consistence of The Geneva Conventions in the Palestine – Israel War”,



University of Muhammadiyah Yogyakarta, Brawijaya Street, Bantul, Yogyakarta, Indonesia,  
1 December 2023, <https://doi.org/10.51200/manu.v34i2.4768>.

