



Israeli War Crimes in Palestine from the Perspective of Human Rights and International Humanitarian Law

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ABSTRACT

Israel's war crimes against the Palestinian people have deep historical roots, and the conflict remains unresolved. Ceasefire agreements and peace negotiations frequently fail due to unilateral violations by Israel. This research aims to examine these war crimes through the lens of human rights and international humanitarian law. Using a normative legal research method with a literature study approach, the study finds that Israel has violated international humanitarian law, particularly the principles of military necessity, humanity, and proportionality. Repeated violations, such as the use of white phosphorus bombs and blockades on humanitarian aid, have escalated the conflict. These acts contravene the 1949 Geneva Convention and constitute war crimes, severe human rights violations, and acts of genocide. In conclusion, Israel's actions violate humanitarian values and international law, leading to war crimes and gross human rights abuses.

Keywords: Palestine, Human Rights, Israel, International Humanitarian Law, War Crimes.

INTRODUCTION

The ongoing conflict between Israel and Palestine continues to escalate despite numerous ceasefires and peace negotiations (Asali et al., 2024). These efforts, including the Camp David Agreement (1978), the Oslo Accords (1993 and 1995), and more recent talks like Trump's Peace Initiative (2020), have aimed to reduce tensions and address the political and territorial disputes between the two sides. However, the core humanitarian issues, particularly the protection of civilians under international law, remain unresolved.

The Gaza and West Bank conflict, which traces back to the 1967 Six-Day War, has deep historical roots. However, for the purpose of this study, the focus is on the severe humanitarian consequences that have emerged as a result of ongoing hostilities. Israel's military operations and Palestinian resistance tactics, such as rocket warfare, have contributed to a persistent state of violence, raising serious concerns about violations of international humanitarian and human rights law (Slesinger, 2022).

The humanitarian crisis is reflected in staggering civilian casualties, with 41,467 Palestinian deaths recorded in the past year, along with significant losses among Israeli civilians and military personnel (Ningsih & Nurbaiti, 2023). Children, women, and other vulnerable groups are disproportionately affected, with 10,018 Palestinian women reported dead and thousands missing (PCBS, 2024). Such figures underscore the gravity of the situation and the failure to safeguard civilian lives, as required by international humanitarian law.

The Israeli actions, under international law, amount to war crimes and human rights violations, particularly in the context of their aggression towards civilians. As outlined in the Universal Declaration of Human Rights (UDHR) and the Geneva Conventions, there is an obligation to protect individuals from inhumane treatment, particularly in conflict zones. Israel's continued disregard for these legal frameworks through its military operations highlights the critical need for accountability and reinforces the purpose of this research.

This study seeks to examine the violations of international humanitarian law, which includes the rules and methods agreed upon by the global community to minimize the adverse impacts of armed conflict, focusing particularly on the protection of civilians. The violations by Israel against Palestinian civilians present a clear breach of these laws, exemplifying crimes against humanity (Gaggioli, 2018).

In conclusion, the Israeli-Palestinian conflict illustrates the broader failure to enforce international humanitarian law and protect human rights in times of war. This research will analyze the specific war crimes committed and assess the international response, aiming to shed light on the legal mechanisms in place and how they have been either neglected or violated in this ongoing conflict. The main focus remains on studying these war crimes through the lens of humanitarian law and human rights, rather than delving deeply into the historical or political aspects of the conflict (Katz et al., 2024).

RESEARCH METHODS

This research employs a normative legal research method, using a literature review (Pohan & Hidayani, 2020) to analyze the emerging phenomena related to various forms of Israel's war crimes against the Palestinian people from the perspective of human rights and international humanitarian law. Data collection was conducted through a literature review of various sources such as journals, books, regulations, documents, articles, and other materials relevant to the objectives of this study. In this research, the researcher identifies problems following the research objectives (Naufal, 2024). Following this, a search for reference sources and applicable legal rules was carried out, adjusting to the issues to be examined to find their relevance. After the analysis, indicators were used to address the identified problems (Rofiah, 2022). The data and information collected were then qualitatively analyzed before the researcher concluded the key issues found (Marzuki, 2017). The data analysis technique follows the Miles and Huberman model through four stages: literature data collection, data reduction, data presentation, and conclusion drawing (Maulida, 2020; Thalib, 2022).

RESULTS AND DISCUSSION

Wars between nations in modern life are an extended part of human civilization, arising from emotional internal conflicts or as a means of self-defense against enemy threats (Sehrawat, 2017). War inevitably results in damage, including environmental destruction, the collapse of public

service infrastructure, and the loss of human life. The widespread use of modern weaponry in war leads to an increase in physical violence and the threat of death. This includes the ongoing war between Israel and Palestine, which persists due to both sides' failure to find common ground in negotiations that benefit both parties. In various ceasefire agreements, Israel often violates them under pretexts such as threats from the terrorist group Hamas and routine security operations, leading to forced occupation of Palestinian territories. Meanwhile, peace talks have failed because the substance of these negotiations often does not favor both sides. As a result, tensions continue to rise, impacting vulnerable groups who are generally not directly involved in the war.

To create a balance between the military interests of nations and the need to protect human life, the concept of international humanitarian law emerged (Ningsih & Nurbaiti, 2023). Through international humanitarian law, vulnerable populations not involved in war are expected to receive protection, prevention, and guarantees that they will not be directly affected by conflict. This aims to prevent violations of humanitarian principles such as murder, violence, abuse, and the use of firearms (Hanumsari, 2022). Since this law applies in wartime and armed conflict, its impact extends to the rights of individuals involved in war. The effects of violations, casualties, prisoners of war, and those in conflict, including military personnel, civilians, and vulnerable groups, are key concerns under international humanitarian law.

Pictet (2021) explains that international humanitarian law consists of both written and unwritten legal provisions aimed at respecting and ensuring the well-being of individuals involved in or victimized by war. According to Nugraha, this respect is provided in the form of protection and guarantees in armed conflict, reinforced through legal norms (Nugraha, 2019). International humanitarian law, formed by international treaties or customs, specifically addresses humanitarian issues arising from both international and non-international armed conflicts. For humanitarian reasons, it limits the rights of the parties in conflict to use any methods or means of warfare they choose, and it aims to protect people and property affected by the conflict (Setiyono, 2017).

In the context of the Israel-Palestine war, violations of international humanitarian law involve the principles of military necessity, humanity, and proportionality (Indriani & Desiandri, 2024). From a military necessity perspective, Article 57 of the Additional Protocol to the Geneva Conventions states that in armed conflict, the only permissible targets are military and combatant objects. However, Israel has been attacking Palestinian civilians and directing military strikes at strategic and critical infrastructure serving public interests. On several occasions, Israeli forces have targeted civilian settlements, schools, healthcare facilities, and power grids, leading to civilian casualties and deaths. These actions violate the Geneva Conventions and threaten the existence of the non-military Palestinian population.

Regarding the principle of humanity, violations of ceasefires constitute a humanitarian breach, resulting in numerous casualties. A ceasefire is meant to provide civilians with a temporary "rest" from war activities. However, Israel's unilateral violations of ceasefire agreements create sudden warfare conditions, leaving civilians unable to adapt. Another violation of humanity is Israel's blocking of humanitarian aid and healthcare services from entering conflict zones. The

forced halting of aid, including food and medicine, constitutes a war crime, sacrificing humanitarian values for political gain and the greed to occupy Palestinian land. As a result, Israel has exacerbated hunger and death by cutting off essential food and medical supplies to war victims.

Thirdly, the principle of proportionality, which seeks to balance the harm inflicted and the military advantage gained by parties involved in conflict, is often violated. Palestinian armed groups sometimes launch rocket attacks against Israeli forces, while Israel retaliates by destroying civilian homes, killing women and children, and dropping bombs from the air. The Goldstone Commission's human rights mission highlighted Israel's war crimes against Palestinian civilians, who are deprived of their freedom, security, and right to live peacefully. In general, Israel's actions amount to genocide, as they involve killing civilians and destroying public service facilities (Putra et al., 2022).

The torture and violence inflicted on Palestinian civilians often surpass humane limits, leading to global outrage. For example, Israel's use of white phosphorus to kill Palestinian civilians is considered an unforgivable war crime. This violates the Hague Conventions of 1899 and 1907, which prohibit the use of poison, chemical weapons, and toxic substances in warfare. The aerial dissemination of white phosphorus in densely populated areas of Palestine has caused severe burns and violates concepts of personal security, health security, and environmental security, all aspects of human security (Henukh & Burhanuddin, 2024a). Meanwhile, the International Committee of the Red Cross (Setiyono, 2017) has condemned Israel's physical violence, such as terror and murder, as well as non-physical pressures, like military orders for Palestinians to evacuate their homes. In Tel Aviv, Israel also imposed a total blockade on food, water, electricity, and fuel, a situation described as "entirely incompatible with international humanitarian law" (Albuchari, 2017).

Israel's attacks on Palestinian civilians also violate the Geneva Conventions. Article 2 of the Additional Protocol I to the Fourth Geneva Convention of 1949 on the "Protection of Civilian Persons in Time of War" states, "In addition to the provisions that shall be implemented in peacetime, this convention shall apply to all declared wars or any other armed conflict that may arise between two or more High Contracting Parties, even if the state of war is not recognized by one of them." According to this legal provision, ceasefires serve as a temporary peace mechanism that must be respected by both parties in conflict. However, unilateral violations of ceasefire agreements undermine the peace efforts being established, reigniting warfare between the two nations.

The 1949 Geneva Conventions, through their additional protocols, prohibit indiscriminate attacks, including 1) attacks that are not directed at specific military targets, 2) attacks that use methods or means of combat that cannot be specifically directed at military targets, and 3) attacks that employ methods or means of combat whose effects are not limited as required by the protocol. These provisions are meant to ensure that civilians and critical objects in a country are not attacked, as such actions violate international humanitarian law.

Given its individual-focused nature, international humanitarian law is closely related to

human rights. For instance, Israel's attacks on the Palestinian people, using bombs supported by traditional allies like the United States, Germany, and Italy (Henukh & Burhanuddin, 2024b), have been widely condemned by the international community as severe war crimes and human rights violations, bordering on genocide. Article 5 of the Rome Statute defines serious human rights violations as "the Court's jurisdiction shall be limited to the most serious crimes of concern to the international community as a whole. The Court has jurisdiction under International Humanitarian Law concerning the following crimes: 1) genocide; 2) crimes against humanity; 3) war crimes; 4) the crime of aggression."

The indications of gross human rights violations involving Israel stem from the fact that Israel's military attacks on the Palestinian people have been systematic, targeting vulnerable civilian groups, many of whom have been wounded or killed. Israel's war crimes against Palestinians aim to eliminate certain religious and national identity characteristics of the Palestinian people. Human rights advocates and nations around the world are calling for swift, effective, and serious action to prosecute those responsible for these severe human rights violations and genocide. The war crimes, marked by systematic and planned atrocities such as murder and the erasure of a nation's history and identity, are being carried out by Israel deliberately and massively. In international law, genocide is commonly defined as acts intended to destroy, in whole or in part, a national, ethnic, racial, or religious group (Jaya & Anditya, 2020).

CONCLUSION

Based on the findings of this research, several recommendations can be made. First, the international community, particularly through the United Nations and the International Court of Justice (ICJ), should take immediate and concrete action to investigate and prosecute violations of international humanitarian law and human rights committed during the Israel-Palestine conflict. The establishment of independent, transparent investigations into war crimes, such as the use of white phosphorus and attacks on civilians, is crucial for accountability.

Further research is needed to explore the role of international actors in conflict resolution, specifically in terms of how global diplomatic efforts can be improved to create sustainable peace in long-standing conflicts like Israel-Palestine. Future studies could analyze the effectiveness of different peace-building strategies employed by international organizations, such as the United Nations, and explore new mechanisms for holding states accountable for war crimes and human rights violations.

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