

# Violation of the Rights of Palestine People: A Legal Study

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**Abstract:** The conflict in Palestine and the violations of the rights of the Palestine people present a grave case study in the effectiveness of international law and international organizations. This study examines the different types of violated rights of Palestine people through a legal analysis. It contains a detailed study and the current situations faced by Palestinian citizens, providing a stark depiction of their plight. This study will focus on what kind of legal instruments have been violated for the Palestine people? This study will attempt to highlight the silent role of UN and other organizations. This is an analytical study with some real life case analysis. This study aims to contribute to the broader discourse on international law and protections and the need for robust mechanisms to ensure accountability and justice for affected populations with some specific recommendations.

**Keywords:** Palestine, International Laws, Violations of Rights and Legal Analysis

## 1.1 Introduction

Palestinians continue to experience grave violations of rights, such as violence, discrimination, and relocation, despite multiple resolutions and interventions. The purpose of this study is to provide a critical analysis on what kind of rights have been violated for Palestine people and functions in defending Palestinian citizens' legal rights. It will examine the international legal frameworks that have been developed, the historical background of the Israeli-Palestinian conflict, and the several UN actions and inactions that have impacted the situation, the study aims to comprehend the difficulties and limitations the organization has in this situation.

## 1.2 Background of the Study

The major objectives of the United Nations (UN), when it was founded in 1945, were upholding global peace and security and advancing human rights. It has been vital in resolving numerous international conflicts and humanitarian crises over the years. Its efficacy in some areas, including the defense of Palestinian citizens' rights, has drawn significant discussion and criticism, nevertheless.

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With origins in the early 1900s, the Israeli-Palestinian conflict has been a recurring and intricate problem for the UN. The conflict is still unsolved and the situation for many Palestinians is still grave despite multiple resolutions and peace attempts. The legal analysis of the UN's inability to uphold the rights of the Palestinian people looks at the organization's policies, international agreements, and legislative frameworks, pointing out the shortcomings and difficulties in providing adequate defense and justice for Palestinians.

### **1.3 Objectives of the Study**

The main goal of the study is to evaluate critically how Palestinian citizens' rights have been violated, what kind of rights have been violated, what are their safeguards etc. The following objectives may be highlighted:

- a) To assess how and what kinds of Palestinian rights have been violated.
- b) To mention the major UN resolutions and legal frameworks about Palestinian rights.
- c) To highlight the Gaza conflict with necessary justifications and address concerns about Palestinian rights.
- d) To offer some methods for improving the livelihood conditions of the Palestinian.

### **1.4 Research Methodology**

This study uses an analytical approach to conduct doctrinal research. This doctrinal research employs an analytical technique as its methodology. The research combines legal analysis with studies and evaluations of UN resolutions and documents. It also takes into account the opinions of major parties to the dispute, human rights groups, and international legal experts.

### **1.5 Key Protection of Rights of the Citizen**

One of the pillars of international human rights law is the defense of citizens' rights. These rights act as a barrier against injustice and oppression since they are protected by numerous international agreements and treaties. The purpose of this study is to examine such as the freedom from torture, the right to a fair trial, and the rights to life, liberty, and security that are granted to citizens by international human rights legislation.

It will examine how these rights are interpreted by national legal and legislative frameworks as well as the function of National Human Rights Institutions (NHRIs) in defending them.<sup>1</sup>

Under international human rights law, fundamental rights:

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<sup>1</sup> Evans, M. National human rights institutions and their governance role. *Human Rights Law Review*, 18(4), 675-703, 2018

- **Right to Life, Liberty, and Security of Person:** Everyone agrees that everyone has the fundamental right to life. "Everyone has the right to life, liberty, and security of person," reads Article 3 of the Universal Declaration of Human Rights (UDHR). This right requires states to shield citizens from unjustified killings and forbids the willful taking of another person's life. This right is further strengthened by the European Convention on Human Rights (ECHR), which, in Article 2, ensures the preservation of life. Example: The European Court of Human Rights (ECtHR) declared in the *McCann and Others v. United Kingdom* case that the British Army's shooting of three IRA suspects violated Article 2 of the ECHR.<sup>2</sup>
- **Freedom from Torture:** According to international law, torture is strictly forbidden and cannot be tolerated. The Universal Declaration of Human Rights stipulates in Article 5 that "no one shall be subjected to torture or cruel, inhuman, or degrading treatment or punishment." In a similar vein, state parties are required by the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) to prohibit and punish torture. For instance: In the *A vs. United Kingdom* case before the ECtHR, the UK was found to have violated Article 3 of the ECHR by neglecting to look into claims of torture and maltreatment.
- **Freedom of Expression:** Democracies cannot run well without the freedom to express oneself. This right, which includes freedom of expression, press, assembly, and association, is guaranteed by Article 19 of the UDHR. It permits people to exchange views and seek information without intervention from governmental authorities. As an illustration, the *Handyside v. United Kingdom* case emphasized the value of free speech by stating that limitations must be appropriate for a democratic society and commensurate with the goal being pursued.
- **Right to a Fair Trial:** An essential component of justice is the right to a fair trial. This right is protected by Articles 10 of the UDHR and Article 6 of the ECHR, which cover ideas like the right to a public trial, the presumption of innocence, and access to legal counsel. Example: The European Court of Human Rights (ECtHR) ruled in *Airey v. Ireland* that Ireland had breached Article 6 of the ECHR by refusing to offer legal aid in civil proceedings involving marital breakup.

With origins dating back more than a century, the Palestinian-Israeli conflict is among the most persistent and intricate conflicts in contemporary history. Its effects on the region and the larger international community have been profoundly political, social, and humanitarian. Gaining an understanding of its history and complexities is essential to appreciating its importance and possible paths for resolution. The current state of affairs and the status of Palestinian citizens will be examined in this research.

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<sup>2</sup> Alston, P. No torture, no exceptions: The absolute prohibition of torture and cruel, inhuman, and degrading treatment or punishment. *Human Rights Quarterly*, 27(2), 242-281. 2005

This covers several topics, such as the creation of the State of Israel and its effects on Palestinian populations, the economic and humanitarian crisis in Gaza, the ongoing hostilities and conflicts between Israel and Palestine, pertinent international human rights legislation, and a final analysis of the state of affairs.

### **1.6 Establishment of the State of Israel and Displacement of Palestinian populations**

Over two millennia had passed since the original Palestinians first arrived in the area, and by the late 1800s, Palestine was home to over 500,000 of them. Under Ottoman rule, the area had an agrarian civilization with a mixed religious population: roughly 10% of people were Christians, 5-7 percent were Jews, and 80% of people were Muslims. An accord was reached by the Allied Associated Powers on the Ottoman Empire's future, particularly about Palestine, during World War I. 92% of the residents in the area were Palestinian Arabs at the time of declaration. Global political and economic elites of the period declared Palestine to be the new nation of Israel following World War II as a result of Jewish immigration into the area and aspirations for a Jewish state. The state of Israel was formally proclaimed on May 14, 1947.<sup>3</sup> Soon afterward, Israel's neighbors began to wage war on it, starting the 1948 Arab-Israeli War. As a result, Israel set up a military government in 1967 with the responsibility of running the Golan Heights, the Sinai Peninsula, the West Bank, and the Gaza Strip. Approximately one hundred states had acknowledged Palestine as a state by 1989. The support, however short-lived, resulted from negotiations over territory settlements with Israel. The late 19th-century Zionist movement served as the impetus for the founding of the State of Israel. Zionism sought to give the Jewish people, many of whom endured prejudice and persecution throughout Europe, a homeland. Palestine became the focal point of this movement because of its historical ties to Judaism. But there was already a sizable Arab community residing in Palestine for generations.<sup>4</sup> Tensions between the two groups were brought on by the growth of Zionism and Jewish immigration to Palestine. The position was made more difficult by the British Mandate over Palestine, which was established following World War I. To strike a compromise between the goals of the Jewish and Arab communities, the British eventually came up with a partition plan in 1947 that split Palestine into distinct states for Jews and Arabs. The Jewish leadership approved of the 1947 partition proposal, but the Arab leadership rejected it. Violence broke out the next year, which resulted in the Arab-Israeli War of 1948. Between 700,000 and 900,000 Palestinians are thought to have fled or were driven from their homes during this battle. Palestinians call this incident the Nakba, which translates to "catastrophe." The lives of the Palestinians were significantly impacted by their displacement.

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<sup>3</sup> Mazzawi, Quigley, Bisharat et al. Palestinians continue commemorating Al Nakba, or "the catastrophe" on May 15th, recognizing the Israeli invasion and subsequent cleansing and expulsion of Palestinians from their homeland that began on May 15, 1948.

<sup>4</sup> The Israeli–Palestinian conflict, [https://en.wikipedia.org/wiki/Israeli%E2%80%93Palestinian\\_conflict](https://en.wikipedia.org/wiki/Israeli%E2%80%93Palestinian_conflict)

Many fled to neighboring Arab nations, where they spent years living in camps for refugees. They frequently left their land and possessions behind.<sup>5</sup>

### **1.7 The Humanitarian and Economic Crisis in Gaza**

The fact that international institutions view the Gaza crisis as a political issue outside the purview of international law is one of the main reasons it persists. In humanitarian emergencies, the UN Security Council is empowered to act quickly, as it did in Somalia, Bosnia, and Herzegovina, but it hasn't done so in Gaza.<sup>6</sup> Political pressure from its permanent members, especially the United States, which utilizes its veto power to thwart important measures, has been blamed for this disproportionality. Between 2005 and 2010, there were only two resolutions about Gaza; nevertheless, neither resolution touched on international humanitarian law; the other resolution was mute, while the former only mentioned the embargo in passing. "Occupying an area of three hundred and sixty square kilometers, the Gaza Strip lies between Israel and Egypt and is the most densely populated area in the world."<sup>7</sup> Major "aspects of social, political, and economic life in Gaza" are now under the control of Hamas. By choosing its ministers without the Legislative Council's consent, Hamas has defied the Palestinian Authority's constitutional framework. In retaliation, Hamas has driven pro-Hamas members into NGOs and social clubs and stopped Fatah members from traveling from Gaza to the West Bank to attend congressional sessions. Teachers, judges, and civil personnel in Gaza have been replaced by Hamas representatives. More broadly, every area of society has suffered greatly as a result of the "effective entrenchment" in Gaza in terms of both humanitarian and economic issues. "Gazans are now, on average, worse off than they were in the 1990s," the United Nations states.<sup>8</sup> Prolonged military strikes have reduced water, sanitation, and agriculture, while import and export restrictions have stopped foreign exchange. Moreover, people in Gaza who are eighteen years of age or younger make up 51% of the population. In 2012, unemployment rose relative to the 1990s, with 58% of people between the ages of twenty and twenty-four and 47% of women unemployed. In addition, Gaza requires 71,000 homes to meet its population density and land scarcity. The region's lack of regular rainfall and natural streams that provide clean drinking water is partly to blame for Gaza's geographic location, which has also contributed to the region's water and sanitation crisis. Lastly, there are not enough schools in Gaza. Of the 677 schools there, 85% operate double shifts, have shorter school days, and just 30% of kindergarteners attend schools with a license. The ongoing devastation of houses and infrastructure in Gaza during the previous nine years, combined with the embargo, "amount to collective punishment" for the whole population.<sup>9</sup> The fundamental problem is the ideological divide

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<sup>5</sup> Palestine - Occupation, Refugees, Conflict, <https://www.britannica.com/topic/history-of-Palestine>

<sup>6</sup> Ibid.

<sup>7</sup> Solon Solomon, *Occupied or Not: The Question of Gaza's Legal Status After the Israeli Disengagement*, 2011

<sup>8</sup> UNITED NATIONS COUNTRY TEAM, *GAZA IN 2020: A LIVEABLE PLACE?* 4 August 2020

<sup>9</sup> Amnesty International Report, *THE CONFLICT IN GAZA*, 10 January. 2009

between the two political parties, but the political divisions between Israel and Palestine and the severe humanitarian situation in Gaza are also being exacerbated by the blockades imposed by Egypt and Israel.<sup>10</sup>

### **1.8 The Hospital Attack in Gaza**

Several Gaza hospitals were attacked in May 2024 as Israel and Hamas continued their fight. Notably, Israeli shelling severely damaged al-Awda Hospital and Kamal Adwan Hospital, two hospitals in the northern Gaza Strip. Artillery bombardment was directed at Al-Awda Hospital in Jabalia. There were reports of snipers hitting the facility and an artillery rocket striking the administration department. Safety concerns resulted in the forcible evacuation of patients and workers.

Many medical facilities in Gaza have been partially or completely damaged, making the situation in the hospitals terrible. Numerous hospitals in Gaza have sustained significant damage, including major institutions like al-Shifa Hospital in Gaza City, which has been repeatedly raided by Israeli forces since October 2023, according to satellite pictures examined by Al Jazeera's Sanad verification agency.<sup>11</sup>

Furthermore, humanitarian activities have been badly impacted by the violence. The UN announced that one member of the security crew had died and another had been injured in Gaza. In addition to urging an inquiry, Secretary-General António Guterres has emphasized the necessity of an expedient humanitarian cease-fire and the release of all captives. The humanitarian crisis in the region has worsened as a result of the increase in Israeli military operations, which have resulted in considerable civilian casualties and disruptions to assistance deliveries.<sup>12</sup>

### **1.9 Conflict and Confrontation in Palestine & Israel**

Palestine and Israel have experienced sporadic increases in violence and tension in recent years, which have been caused by several issues such as border conflicts, settlement growth, and Jerusalem's status. Tensions between Israel and Palestinian militant organizations in Gaza flared in 2021, lasting 11 days of fierce combat that caused extensive damage to infrastructure and a large number of casualties. These intensifications are frequently the result of particular events, such as battles over Jerusalem's holy sites or Israeli airstrikes and Palestinian rocket fire that target civilians. A cycle of violence and conflict is exacerbated by the lack of a comprehensive peace deal and the diplomatic efforts to resolve underlying grievances failing. International attention has long been drawn to the Israeli-Palestinian conflict, and there have been many attempts to arbitrate and settle the issues involved. International players have pushed for a peaceful two-state solution based on the pre-1967 lines, with Jerusalem serving as the capital of both states.

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<sup>10</sup> Supra note - 07

<sup>11</sup> Satellite images reveal the destruction of hospitals in Gaza, By AJLabs and Sanad Verification Agency, Published On 18 Apr 2024

<sup>12</sup> Israel's war on Gaza updates: 83 killed in unrelenting Israeli attacks, By Maziar Motamedi and Usaid Siddiqui, Published On 18 May 2024

These actors include the United Nations, the European Union, and individual governments. Deep-rooted mistrust, conflicting political agendas, and the incapacity to resolve fundamental concerns like Jerusalem's status, Palestinian refugees' right of return, and the future of Israeli settlements in the occupied territories have hindered attempts to mediate a durable peace accord. Calls for moderation, humanitarian aid to impacted communities, and diplomatic measures to defuse tensions are common international reactions to violent outbursts. The success of these interventions has been hampered by differences among important parties, such as the US, Israel, and the Arab governments.

## 2.0 The Law of the Blockade

Significant moral and legal questions about the rights and welfare of Gaza's residents are brought up by the embargo. Guidelines for blockade conduct are provided by international humanitarian law, which emphasizes the protection of civilian populations and their access to necessities. Customary law often includes the international law of blockades.<sup>13</sup> The foundation of customary law is *opinio juris* and state practice. One important idea in international law is *opinio juris*, which has multiple dimensions and is essential to the formation of customary international law. Its essence is defined by the obligatory international responsibility that stems from its existence, as well as a state's subjective opinion of the legality of a specific usage. To objectify the subjective nature of *opinio juris* is a persistent issue in its application. *Opinio Juris* can be objectively manifested by a state's acts, comments, permission, acquiescence, protests, or lack thereof.<sup>14</sup> *Opinio Juris* is the result of state consent, resolutions, declarations, and other normative documents passed by international bodies, as well as verbal remarks made by government representatives to such organizations. During international military confrontations, sea blockades are a type of real and economic warfare used to prevent vessels from entering or leaving the area. Up until the current advancement and sophistication of technology and combat, international law governing blockades served as a source of equilibrium and a measure of protection from armed conflict. It is now evident that international regulations controlling the imposition of blockades have been conflicting and deceptive. The law of blockade is traditionally governed by the following principles: 1) appropriate establishment; 2) sufficient notice; 3) efficient enforcement; 4) unbiased application; and 5) respect for neutral rights. However, because of recent developments in technology, actors, objectives, and territory, blockade law in the modern era has become more complex. Naval blockades are unique because they serve as a tool for economic warfare, which is what happens when a country is cut off from the outside world, like in the Gaza Strip. The escalating global humanitarian crisis fueled by the air, sea, and land blockade of the Gaza Strip underscores the

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<sup>13</sup> Thomas David Jones, *The International Law of Maritime Blockade — A Measure of Naval Economic Interdiction*, 26 HOW. L.J. 759, 761, 1983; see also Michael G. Fraunces, Note, *The International Law of Blockade: New Guiding Principles in Contemporary State Practice*, 101 YALE L.J. 893, 1992

<sup>14</sup> Jo Lynn Slama, *Opinio Juris in Customary International Law*, 15 OKLA. CITY U. L. REV. 603, 656, 1990

legitimacy of the siege and occupation in that region. Israel's "sole control of Gaza's airspace and territorial waters" as well as the limitations on the flow of people and goods are blamed for this catastrophe. The present blockade of Gaza has been described as a "collective punishment of its entire population."

### **2.1 The Gaza Strip Blockade**

Many people view the blockade of Gaza as a kind of collective punishment that violates international humanitarian law and exacerbates the humanitarian disaster. Since its implementation in 2007, the blockade of Gaza has severely restricted the flow of goods and people into and out of the region, exacerbating the catastrophic humanitarian situation. The siege continues despite international pleas for its lifting, worsening the agony of Gaza's people. Five requirements must be met, according to the San Remo Manual, to legally proclaim a naval blockade: The blockade must: 1) be announced and announced; 2) be effective; 3) apply equally to all vessels; 4) not impede access to ports or natural states' expenses; and 5) adhere to specific humanitarian requirements.<sup>15</sup>

### **2.2 The Gaza Conflict in 2023**

In May 2023, there was another wave of unrest that left many civilians dead and damaged infrastructure. The UN raised concerns about possible war crimes as a result of random bombardment in crowded locations.<sup>16</sup> Significant civilian casualties and widespread infrastructure damage resulted from fresh violence in the Gaza conflict in May 2023. Potential war crimes by the Israeli military and Palestinian armed organizations have been referred to the UN.<sup>17</sup> Since October 2023, the UN Independent International Commission of Inquiry has been gathering evidence of war crimes, citing incidents like Hamas's intentional killing of civilians and Israeli forces' indiscriminate airstrikes that caused a great deal of destruction to civilian infrastructure and many civilian deaths. D The UN underlined that these actions can amount to collective punishment and other transgressions of international humanitarian law, including the denial of Gaza's basic supplies.<sup>18</sup>

### **2.3 The Mavi Marmara**

There have been two significant military invasions in Gaza in the past nine years.<sup>19</sup> On May 31, 2010, Israeli Defense Forces unlawfully captured multiple unarmed

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<sup>15</sup> Elizabeth Spelman, *The Legality of the Israeli Naval Blockade of the Gaza Strip*, 10 January 2013.

<sup>16</sup> Commission of Inquiry collecting evidence of war crimes committed by all sides in Israel and Occupied Palestinian Territories, <https://www.ohchr.org/en/press-releases/2023/10/commission-inquiry-collecting-evidence-war-crimes-committed-all-sides-israel>, since 7 October 2023

<sup>17</sup> Gaza: UN experts call on the international community to prevent genocide against the Palestinian people, <https://www.ohchr.org/en/press-releases/2023/11/gaza-un-experts-call-international-community-prevent-genocide-against>, 16 November 2023

<sup>18</sup> UN rights office says Israeli attacks on Jabalia could be 'war crime' <https://www.aljazeera.com/news/2023/11/2/un-rights-office-says-israeli-attacks-on-jabalia-could-be-war-crime>, 2 November 2023

<sup>19</sup> U.N. Report on S-21/1,

humanitarian supply vessels in international waters while purportedly attempting to enforce the maritime blockade. The incident provoked protests around the world,<sup>20</sup> leading to several international investigations concerning the legitimacy of the flotilla interception. Israel was obliged by international humanitarian law standards established in the Fourth Geneva Convention and customary international law as a result of the U.N. Human Rights Council's classification of Israel as an occupying power in its report on the incident. ultimately resulting in the Mavi Marmara's nine aid workers dying. Participants aboard the flotilla were trying to breach the barrier by bringing international attention to the blockade and the situation in the Gaza Strip to facilitate humanitarian assistance to Gaza, according to the study, which contains participant interviews. But the U.N. described the Mavi Marmara's foray into Gaza as essentially political. When passengers boarded the Mavi Marmara, the IDF opened fire with live ammunition, plastic bullets, and baton beanbags; nine people were murdered and twenty-four were critically injured.

#### **2.4 The Effect of President Trump's Jerusalem Declaration**

On December 6, 2017, U.S. President Donald Trump mysteriously announced that the country would acknowledge Jerusalem as Israel's capital.<sup>21</sup> Following Trump's declaration, thousands of Palestinians protested in East Jerusalem's streets. As a result of Israel's harsh response, hundreds of protestors were hurt, dozens were taken into custody, and at least eight Palestinians lost their lives. Betty Herschman predicted that Trump's remarks would give Israel "more confidence to take its unilateral steps to intensify the occupation of East Jerusalem and its people, as well as steps to transfer them from the city." It is unclear what Trump's remarks will ultimately mean in terms of the law.

#### **2.5 The West Bank Raids in 2024**

Early in 2024, Israel's military raids in the West Bank resulted in several civilian casualties and arrests, including minors. According to reports, there is a consistent pattern of disproportionate force and group punishment. Concerns have been expressed by the UN and other human rights organizations about the increasing violence and the targeting of civilians in crowded locations, which may constitute grave breaches of international humanitarian law.<sup>22</sup>

#### **2.6 International Court of Justice (ICJ) Ruling 2023**

The International Court of Justice said in a historic decision in 2023 that the ongoing growth of Israeli settlements in the West Bank was illegal and condemned it.<sup>23</sup> The International Court of Justice demanded an immediate end to settlement operations and compensation for impacted Palestinians. The verdict emphasized that the

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<sup>20</sup> Isabel Kershner, After Deadly Raid at Sea, Israel is Sharply Criticized, N.Y. TIMES 1 June 2010.

<sup>21</sup> Full Video and Transcript: Trump's Speech Recognizing Jerusalem as the Capital of Israel, N.Y. TIMES, 6 December 2017.

<sup>22</sup> Supra note -18

<sup>23</sup> Supra note - 19

settlements are unlawful under international law and required Israel to stop building new settlements and begin dismantling those that already existed.<sup>24</sup>

## **2.7 Analysis of International Human Rights Law Applicable to the Palestinian situation**

To redress transgressions and defend the rights of Palestinians residing in the occupied territories and elsewhere, international human rights law is essential.<sup>25</sup> Even with these international legal frameworks in place, these ideals are frequently not upheld in daily life. Human rights abuses against Palestinians persist; these include executions without cause, arbitrary imprisonment, forced relocation, and limitations on their freedom of speech and travel. There are serious questions about Israeli military occupation, settlement growth in the West Bank, and Gaza blockade compliance with international law. The international community must continue to work toward a just and lasting resolution of the Israeli-Palestinian conflict based on the principles of equality, justice, and respect for international law to address these violations and uphold the rights of Palestinians. The international community must also encourage respect for humanitarian law and human rights.<sup>26</sup> The protection and advancement of fundamental rights and freedoms are facilitated by the strong framework that international human rights law offers. Regarding the circumstances of Palestinian citizens, several important agreements and conventions are relevant, such as:

**Universal Declaration of Human Rights (UDHR):** The Universal Declaration of Human Rights (UDHR), which was ratified by the UN General Assembly in 1948, lays forth essential human rights standards that are relevant to every person, regardless of nationality or citizenship. It includes rights like the freedom of movement, the right to life, liberty, and security of person, as well as the right to be free from discrimination.<sup>27</sup>

**International Covenant on Civil and Political Rights (ICCPR):** Adopted in 1966, this treaty imposes legally enforceable duties on states to uphold and defend civil and political rights, such as the freedom of religion, self-determination, and expression. 2014 saw Palestine's accession to the ICCPR.<sup>28</sup>

**International Covenant on Economic, Social, and Cultural Rights (ICESCR):** The ICESCR, which was adopted in 1966, guarantees people's rights to employment,

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<sup>24</sup> Gaza: Israeli Strike Killing 106 Civilians an Apparent War Crime, Governments Should Suspend Arms to Israel, Support ICC Probe, <https://www.hrw.org/news/2024/04/04/gaza-israeli-strike-killing-106-civilians-apparent-war-crime>, 4 April 2024

<sup>25</sup> Supra note - 08

<sup>26</sup> Human Rights Watch (HRW): <https://www.hrw.org/middle-east/north-africa/israel/palestine>

<sup>27</sup> Universal Declaration of Human Rights, UN General Assembly Resolution 217A(III), 10 December 1948.

<sup>28</sup> International Covenant on Civil and Political Rights, UN General Assembly Resolution 2200A(XXI), 16 December 1966.

education, and a sufficient standard of life. States need to take action to gradually realize these rights. 2014 saw Palestine's accession to the ICESCR.<sup>29</sup>

**Fourth Geneva Convention:** In times of armed conflict, civilians—including those living under occupation—are protected by this 1949-ratified convention. It upholds the rights of protected individuals to humane treatment and forbids the deportation or relocation of civilian populations.<sup>30</sup>

**Convention on the Rights of the Child (CRC):** The Convention on the Rights of the Child (CRC), which was adopted in 1989, describes children's rights, such as the right to be safe from violence, to education, and the right to maintain their identity. Parties to the CRC are Palestine and Israel.<sup>31</sup>

Examination of Violations of Human Rights Several human rights breaches characterize the plight of Palestinian citizens, including but not limited to:

- **Right to Life:** Armed warfare, military operations, and targeted strikes pose a threat to the lives of Palestinians, especially civilians. There have been civilian casualties as a result of arbitrary arrests, extrajudicial killings, and disproportionate use of force by Israeli security personnel.<sup>32</sup>
- **Right to Freedom of Movement:** The movement for Palestinians inside the occupied territories is severely restricted by obstacles like roadblocks, checkpoints, and the separation barrier. These limitations violate their right to freedom of movement as guaranteed by international law by making it difficult for them to obtain vital services, livelihood opportunities, education, and healthcare.<sup>33</sup>
- **Right to Adequate Housing and Property:** Particularly in areas set aside for Israeli settlements, Palestinian communities face land confiscations, forced evictions, and home demolitions. These acts violate both the right to appropriate shelter and international humanitarian law.<sup>34</sup>
- **Right to Health:** The barrier, which prevents medical supplies and equipment from entering Gaza, makes it extremely difficult for Palestinians to get treatment. Overcrowding in the hospital system exacerbates the humanitarian issue and violates people's right to health.<sup>35</sup>

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<sup>29</sup> International Covenant on Economic, Social, and Cultural Rights, UN General Assembly Resolution 2200A(XXI), 16 December 1966.

<sup>30</sup> Fourth Geneva Convention Relative to the Protection of Civilian Persons in Time of War, 12 August 1949.

<sup>31</sup> Convention on the Rights of the Child, UN General Assembly Resolution 44/25, 20 November 1989.

<sup>32</sup> Human Rights Watch, "Israel/Palestine: Events of 2022," 2023.

<sup>33</sup> Supra note - 16

<sup>34</sup> United Nations Office for the Coordination of Humanitarian Affairs (OCHA), "Occupied Palestinian Territory: Fragmented Lives - Humanitarian Overview 2023," 2023.

<sup>35</sup> World Health Organization (WHO), "Health Access in the Gaza Strip: Overcoming Challenges," 2023.

International organizations are vital in observing, recording, and resolving human rights abuses in the Palestinian territories. They also play a significant role in international tribunals. Organizations that carry out investigations, publish reports, and offer suggestions for accountability and redress include the Office of the High Commissioner for Human Rights (OHCHR) and the United Nations Human Rights Council (UNHRC).<sup>36</sup> Serious international crimes, including war crimes and crimes against humanity, committed in the Palestinian territories are subject to investigation and prosecution by tribunals like the International Criminal Court (ICC). The International Criminal Court's (ICC) decision to begin looking into the situation in Palestine shows how international accountability mechanisms can be used to combat impunity and provide victim justice.<sup>37</sup>

In the *South Africa v. Israel* case, which started in January after South Africa asked the World Court to examine its claims against Israel for violating the Genocide Convention on December 29, the International Court of Justice (ICJ) has issued multiple rulings for temporary remedies.<sup>38</sup> Additional interim measures were ordered by the International Court of Justice (ICJ) in March 2024 in this case. The dispute revolves around claims that Israel breached the Genocide Convention by acting in Gaza. An earlier order for temporary measures dated January 26, 2024, was followed by this ruling.<sup>39</sup>

## 2.8 Several Crucial Acts from Israel were Demanded

Israel needs to take all the required and practical steps to guarantee that Gaza receives humanitarian aid and essential services without hindrance.<sup>40</sup> Food, water, energy, fuel, shelter, clothes, hygienic goods, sanitation, and medical supplies and care are all included in this. Israel was given explicit instructions to expand the number and capacity of land crossing points and maintain their availability as needed. Israel was told to make sure that its armed forces do not carry out actions that infringe against the rights of Gaza's Palestinian population, who are recognized as a protected group by the Genocide Convention. This includes allowing humanitarian aid to be delivered without hindrance.<sup>41</sup> Within a month, Israel must provide a report

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<sup>36</sup> United Nations Human Rights Council, "Report of the Independent Commission of Inquiry on the Protests in the Occupied Palestinian Territory," 2023.

<sup>37</sup> International Criminal Court, "Situation in the State of Palestine: Investigation Progress Report," 2023.

<sup>38</sup> Gaza: World court opens hearings on request to halt Israel's Rafah incursion, <https://news.un.org/en/story/2024/05/1149846>, 16 May 2024

<sup>39</sup> South Africa v. Israel, <https://www.icj-cij.org/case/192/orders>, case of 2024

<sup>40</sup> The ICJ's Modified Provisional Measures Order in South Africa v. Israel, <https://www.lawfaremedia.org/article/the-icj-s-modified-provisional-measures-order-in-south-africa-v.-israel>, 2 April 2024

<sup>41</sup> Comparing the ICJ's Provisional Measures Orders in South Africa v. Israel, <https://opiniojuris.org/2024/03/29/comparing-the-icjs-provisional-measures-orders-in-south-africa-v.-israel>, 29 March 2024

outlining the steps it has taken to abide by these directives.<sup>42</sup> The fast-worsening humanitarian conditions in Gaza which include the possibility of starvation and acute malnourishment as reported by the UN served as the impetus for the ICJ's orders. The court's directives are intended to meet these pressing requirements and stop more transgressions of international law.<sup>43</sup> Furthermore, grassroots movements, civil society organizations, and human rights defenders are essential in promoting Palestinian citizens' rights and holding other parties and governments responsible for human rights abuses.<sup>44</sup>

## 2.9 Findings and Recommendations

From this study it is clearly revealed that

- a) The UN became completely failure to protect the rights of Palestine people.
- b) The international organizations were completely silent and acted as visitor for the whole injustice.
- c) International law was completely overlooked in this matter.
- d) The normal life of Palestine people was completely damaged.
- e) There were no fundamental rights, human rights and humanitarian rights for the Palestine people.
- f) The whole picture occurred genocide, war crime for which the Israel Government and their military are completely responsible.

In this study after considering the real life case studies, there are some important recommendations:

- a) The UN has to be reformed, Un Charter need modifications and a legal mechanism is strongly needed to improve the enforcement power of UN.
- b) International organizations must be accountable and responsible by their approach and activities.
- c) Law relating to war, Law relating to genocide must be amended.
- d) The basic needs of the Palestine people must be fulfilled under the supervision of UN.
- e) There must be exemplary trial and punishment for the Israel military and concern decision maker for violation international law, committing war crime and genocide.
- f) UN, World Bank, IMF or other important organizations can impose injunction (economic) for the Israel Govt. and their military force.
- g) Israel army might be banned by UN as an example.
- h) ICC should pronounce exemplary trial and decision, by which the world will never see this kind of violation in future time.

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<sup>42</sup> ICJ Orders Additional Provisional Measures in South Africa v. Israel, Tyler McBrien, <https://www.lawfaremedia.org/article/icj-orders-additional-provisional-measures-in-south-africa-v.-israel>, 28 March 2024

<sup>43</sup> Supra note- 36

<sup>44</sup> Al-Haq, "Annual Report 2022: Defending Palestinian Human Rights," 2023.

- i) Israel Government must pay necessary compensation to the Palestine Government

## **2.9 Conclusion**

The necessity of addressing violations of human rights, particularly in conflict-affected areas like Palestine; stressing the role of the international community, including the UN, in promoting peace, justice, and respect for human rights; and finally, emphasizing the necessity of ongoing efforts to ensure the protection and fulfillment of human rights for all individuals, regardless of their nationality or background. In the end, despite the UN's tremendous efforts, the geopolitical realities of the conflict and a lack of agreement among its member nations have frequently impeded efforts to resolve the Palestinian question. To better support and defend human rights, the UN's policies and procedures need to be reevaluated.