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ISTANBUL KENT UNIVERSITY
INSTITUTE OF GRADUATE EDUCATION
DEPARTMENT OF POLITICAL SCIENCE AND PUBLIC
ADMINISTRATION
POLITICAL SCIENCE AND INTERNATIONAL RELATIONS BRANCH



INTERNATIONAL COURTS EFFECTIVENESS IN ENFORCING
HUMAN RIGHTS IN PALESTINE
MASTER'S THESIS

NADA AHMED ASSI DAMRA

ISTANBUL – 2025

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ISTANBUL – 2025

ACCEPTANCE AND APPROVAL

The defense date of the thesis titled “INTERNATIONAL COURTS EFFECTIVENESS IN ENFORCING HUMAN RIGHTS IN PALESTINE” prepared by NADA AHMED ASSI DAMRA was made on 24.06.2025 and it was accepted as the Master’s / Doctorate Thesis of the Department of Political Science and International Relations of the Graduate Education Institute of Istanbul Kent University by unanimous vote by the jury given below.

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DECLARATION

I declare that scientific ethics rules have been followed in writing this thesis, that in case of utilization of the works of others, references have been made in accordance with scientific norms, that no falsification has been made in the data used, and that no part of the thesis has been presented as another thesis study at this university or another university.

NADA AHMED ASSI DAMRA

24.06.2025



PREFACE

This thesis is the final product of my research conducted within the framework of the master's program in Political Science and International Relations at Istanbul Kent University. The study was supervised by Assoc. Prof. Dr. Doğan Şafak Polat, whose leadership, experience, and continual support greatly influenced the direction and quality of the research. I express my sincere gratitude for his invaluable insights, critical feedback, and steadfast encouragement throughout the entire process.

This research is driven by long-standing real-world concern that continues to shape international legal and human rights discourse. The primary objective of this study is to explore the role and effectiveness of international judicial bodies in upholding and enforcing human rights protections in the context of Palestine. By doing so, the research seeks to enrich existing academic conversations and offers a valuable reference point for further scholarly exploration in this field.

I would like to sincerely acknowledge the encouragement and emotional resilience provided by my family and friends. Their support, especially during some of the most challenging periods of this journey, most notably following the loss of my father has been an invaluable source of strength and perseverance. Their confidence in my abilities has played a crucial role in the completion of this work.

While every effort has been made to ensure this thesis reflects academic rigor, accuracy, and integrity, I take full responsibility for any remaining oversights or imperfections. It is my sincere hope that this study will prove beneficial to future researchers and contribute constructively to the ongoing academic dialogue surrounding international law and the protection of human rights.

Nada Ahmed Asi Damra

24,06, 2025

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ABBREVIATIONS

ICC	: International Criminal Court
ICJ	: International Court of Justice
OPT	: Occupied Palestinian Territories
NGO's	: Non-Governmental Organizations
ECtHR	: European Court Of Human Rights
UDHR	: Universal Declaration of Human Rights
ICCPR	: International Covenant on Civil and Political Rights
UN	: United Nation
OHCHR	: Office of the High Commissioner for Human Rights
ECHR	: European Convention of Human Rights
IHL	: International Humanitarian Law
OIC	: Organization of Islamic Cooperation
PA	: Palestinian Authority
PLO	: Palestinian Liberation Organization

ABSTRACT

Istanbul Kent University Post Graduate Education Institute

"International Courts Effectiveness In Enforcing Human Rights In Palestine

Nada Ahmed Assi Damra

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This thesis investigates how international judicial institutions contribute to the enforcement of human rights within the Occupied Palestinian Territories. It raises three main research questions: How effective have the International Criminal Court and the International Court of Justice in enforcing human rights in Palestine? What legal and political obstacles limit their functionality? And what potential strategies could enhance their influence? Adopting a qualitative method, this study has consulted the advisory opinions of the ICJ, the ICC process (for example, the investigation launched on Gaza in 2021), United Nations documents and various academic sources. Through comprehensive analysis, the many jurisdictional and procedural challenges as well as geopolitical challenges faced by these courts are revealed. Although landmark rulings like the ICJ's 2004 Advisory Opinion on the legality of the separation wall and the ICC's jurisdiction over alleged crimes offer critical legal frameworks, their practical enforcement remains limited by international political dynamics, particularly the lack of cooperation from the UN Security Council and Israel's refusal to comply. The ICC's ongoing investigations, while symbolically important, continue to face significant delays due to issues of evidence collection and legal procedure. Also, the findings underscore the importance of international courts in enforcing human rights, yet highlight the urgent need for institutional reforms. Key recommendations include limiting the Security Council's veto power, advancing the doctrine of universal jurisdiction, and investing in Palestinian legal infrastructure.

Keywords: International Courts, Human Rights, Palestine, ICC, ICJ, Enforcement, Accountability

ÖZET

İstanbul Kent Üniversitesi Lisansüstü Eğitim Enstitüsü

"Uluslararası Mahkemelerin Filistin'de İnsan Haklarının Uygulanmasındaki Etkinliği"

Nada Ahmed Assi Damra

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Bu tezin amacı, uluslararası yargı kurumlarının İşgal Altındaki Filistin Toprakları'nda insan haklarının uygulanmasına nasıl katkıda bulunduğunu araştırmaktır. Üç ana araştırma sorusu gündeme getirmektedir: Uluslararası Ceza Mahkemesi(UCM) ve Uluslararası Adalet Divanı (UAD), Filistin'de insan haklarını uygulamada ne kadar etkilidir? Hangi yasal ve politik engeller işlevselliklerini sınırlamaktadır? Ve hangi potansiyel stratejiler etkilerini artırabilir? Nitel bir yöntem benimseyen bu çalışmada, UCM'nin danışma görüşlerine, UAD sürecine (örneğin, 2021'de Gazze'de başlatılan soruşturma), Birleşmiş Milletler belgelerine ve çeşitli akademik kaynaklar kullanılmıştır. Kapsamlı bir analiz yoluyla, bu mahkemelerin karşılaştığı birçok yargısal ve usule ilişkin zorluğun yanı sıra jeopolitik zorluk ortaya çıkarılmıştır. UCM'nin 2004'teki Ayrılık Duvarı'nın yasallığı ve UAD'nın iddia edilen suçlar üzerindeki yargı yetkisi hakkındaki Danışma Görüşü gibi çılgır açıcı kararlar kritik yasal çerçeveler sunsa da, bunların pratikte uygulanamaması uluslararası politik dinamikler, özellikle BM Güvenlik Konseyi'nin iş birliği eksikliği ve İsrail'in uymayı reddetmesi gibi nedenlerle sınırlı kalmaktadır. UCM'nin devam eden soruşturmaları sembolik olarak önemli olsa da, delil toplama ve yasal prosedür sorunları nedeniyle önemli gecikmelerle karşı karşıya kalmaya devam etmektedir. Ayrıca, bulgular uluslararası mahkemelerin insan haklarını uygulamadaki önemini vurgularken, kurumsal reformlara acil ihtiyaç olduğunu da ortaya koymuştur. Temel öneriler arasında Güvenlik Konseyi'nin veto yetkisinin sınırlandırılması, evrensel yargı yetkisi doktrininin ilerletilmesi ve Filistin yasal altyapısına yatırım yapılması yer almaktadır.

Anahtar Kelimeler: Uluslararası Mahkemeler, İnsan Hakları, Filistin, UCM, UAD, Uygulama, Hesap Verebilirlik

INTRODUCTION

Background of the Study

Enforcing human rights through international legal frameworks remains one of the cornerstones of the global pursuit of justice. Bodies like the International Court of Justice and the International Criminal Court were founded with the goal of addressing the breaches of human rights and ensuring accountability for those responsible all over the world. Despite their important purpose, these institutions often encounter limitations in fulfilling their mandates, particularly within the context of politically charged and prolonged conflicts. One of the most complex and long-standing human rights challenges is the Israeli Palestinian conflict. This situation is marked by serious allegations including war crimes, systemic discrimination resembling apartheid, and recurring breaches of international law. The intersection of legal, political, and humanitarian concerns in this conflict makes the task of enforcing international legal standards difficult.

Research Problem

Although international courts possess the formal mandate to address human rights violations in the Occupied Palestinian Territories, their ability to implement decisions is significantly constrained. These constraints are primarily driven by geopolitical dynamics, limited jurisdictional reach, and the absence of robust enforcement tools. Together, these factors diminish the effectiveness and influence of international legal rulings. In addition, the application of international law in the Palestinian context is often politicized, resulting in uneven adherence to rulings and a broader pattern of global inaction. This selective engagement further complicates efforts to uphold justice and accountability through legal mechanisms.

Aim and Objectives of the Study

This research seeks to provide a critical assessment of how international judicial bodies contribute to the enforcement of human rights within the Occupied Palestinian Territories. It is particularly focused on achieving the following objectives:

- Analyze how international courts have addressed human rights violations in Palestine.
- Identify the primary legal, political, and practical challenges impeding enforcement.
- Propose evidence-based strategies to enhance the effectiveness of international courts in this context.

Research Questions and Hypotheses

The study is guided by the following research questions:

- To what extent have international courts, such as the ICC and ICJ, contributed to the enforcement of human rights in the OPT?
- What are the main legal and political obstacles hindering these courts' enforcement efforts?
- Which strategies could improve the efficacy of international courts in the OPT?

The hypothesis of this study suggests that, while international courts are equipped with legal authority, their actual impact is significantly limited by geopolitical influences, weak enforcement mechanisms, and political opposition. This highlights the intricate relationship between legal and power structures, particularly within the context of conflict-affected regions.

Significance of the Study

This study adds to the body of knowledge on human rights and international law by offering a critical evaluation of the difficulties in enforcing the law in a hotly contested war area. It provides useful information for human rights activists, international organizations, and legislators working to reduce accountability gaps in Palestine. Additionally, by including legal and political viewpoints, it enhances theoretical discussions and influences both academic research and practical application. The study's goal is to provide a more realistic understanding of the powers and constraints of international courts in situations characterized by unequal power dynamics.

Theoretical Framework

The study uses a multidisciplinary theoretical framework to examine how legal power and geopolitical restrictions interact, fusing political science methods with international legal theory. It places international courts in the larger framework of international relations theory, conflict dynamics, and global power systems. This method makes it easier to fully comprehend the systemic elements affecting the results of enforcement.

Methodological Overview

A qualitative, comparative methodology is adopted, incorporating:

- Case studies of Israeli Palestinian conflict-related ICC and ICJ processes that highlight legal arguments, decisions, and their effects.

- Analysis of relevant legal documents, including treaties, court judgments, advisory opinions, and reports from human rights organizations.
- Examination of reports from NGOs and international bodies such as Amnesty International, Human Rights Watch, and the United Nations Human Rights Council.
- Comparative analysis of international courts' responses to human rights violations in other conflict zones, identifying transferable lessons and best practices.

This methodology allows for a holistic assessment of both doctrinal legal principles and enforcement realities, addressing existing gaps in the literature.

Structure of the Thesis

The thesis is organized as follows:

- Chapter 1 reviews the role of international courts in human rights enforcement, establishing theoretical and legal foundations.
- Chapter 2 explores the jurisdiction and involvement of international courts in the Israeli Palestinian conflict.
- Chapter 3 using information from NGO's and international organizations that shows the human rights abuses in Palestine.
- Chapter 4 examines the difficulties international courts encounter in upholding decisions and guaranteeing accountability.

The conclusion offers suggestions to improve international human rights enforcement in Palestine and comparable situations, summarizes important findings, and assesses the efficacy of existing institutions. To improve justice and accountability worldwide, this thesis promotes an integrated strategy that combines judicial, diplomatic, and grassroots tactics by examining the disconnect between court decisions and their real-world effects.

CHAPTER 1: THE ROLE OF INTERNATIONAL COURTS IN HUMAN RIGHTS ENFORCEMENT

In a world that is becoming more interconnected, international courts are essential tools for interpreting and upholding human rights legislation. These courts function within the intricate web of regional conventions, customary law, and international treaties that together provide the framework for contemporary human rights defense. While later agreements like the Convention Against Torture and the International Covenant on Civil and Political Rights (ICCPR, 1966) established legally binding obligations for states, in 1948 the Universal Declaration of Human Rights established fundamental rights for all people (United Nations, 1948; OHCHR, 1966).

Specialized protections catered to specific constituents have been further established by regional systems, such as the African Charter on Human and Peoples' Rights in (1981) and the European Convention on Human Rights in (1950). The International Court of Justice, the United Nations' principal court, the International Criminal Court which is the first permanent court for individual prosecutions, and the European Court of Human Rights, the most sophisticated regional human rights court, are the three main judicial institutions that have developed within this legal framework and play different but complementary roles in upholding human rights.

Established by the UN Charter in 1945, the ICJ renders advisory judgments on legal matters presented by UN agencies and decides disputes between states. The Court has increasingly handled rights-based claims through its interpretation of treaties and customary international law, even though human rights are not specifically included in its statute. Nonetheless, the ICJ has certain drawbacks, such as its dependence on state approval for jurisdiction and the lack of procedures for enforcing its rulings.

In contrast, the ICC, created by the Rome Statute in 1998, represents a revolutionary development in international justice by establishing individual criminal liability for grave human rights violations. With jurisdiction over genocide, crimes against humanity, war crimes, and aggression, the ICC complements national judicial systems under the principle of complementarity. Nevertheless, the ICC has faced criticism for its selective focus on African cases, limited convictions, and dependence on state cooperation for investigations and arrests. The Court's goal to handle politically delicate cases and the difficulties presented by powerful states' refusal to cooperate are both demonstrated by its ongoing inquiry into the situation in Palestine since 2021. With binding rulings that can be enforced through the political channels

of the Council of Europe, ECtHR, which has been functioning since 1959 under the European Convention on Human Rights, is the most successful regional human rights system. The Court has forced member states to change their laws and policies on everything from LGBTQ+ rights to the prevention of torture thanks to its broad jurisprudence. The availability of enforcement measures, such as the Committee of Ministers' oversight of implementation, and the ECtHR's mandatory jurisdiction over 46 nations are the main reasons for its effectiveness. Critics point to mounting caseload pressures, opposition from certain member states, and doubts regarding its validity when overturning rulings from national courts.

Although these courts have made great strides toward promoting human rights standards, their efficacy varies greatly depending on political will, enforcement capability, and jurisdictional reach. While the ICC struggles with widespread involvement and collaboration, the state-centric architecture of the ICJ restricts direct influence on individual rights. Strong institutional design and political support are essential for enforcement, as seen by the ECtHR's regional success, yet even this system has its share of difficulties. The following analysis of the functions of international courts in Palestine, where jurisdictional ambiguity and geopolitical resistance exacerbate preexisting enforcement challenges, is informed by these comparative insights.

The broad framework of international human rights legislation has developed over many years into a strong set of standards, agreements, and procedures meant to uphold and promote the freedoms and dignity of people everywhere. This study looks at the goals, obligations, and responsibilities that support the international human rights framework, emphasizing not just its founding texts and legal structure but also the ongoing difficulties in enforcing it.

International human rights law is distinguished by its universalistic outlook and operational complexity in contemporary governance, starting with the 1948 adoption of the Universal Declaration of Human Rights (UDHR) and continuing with more recent efforts like the Secretary-General's Call to Action.

This framework is important because it serves two purposes: it establishes normative guidelines for protecting human dignity and offers channels for governments to pledge to implement these guidelines in their own legal systems. The research also looks at the relationship between state sovereignty and international organizations like the Office of the High Commissioner for Human Rights (OHCHR), as well as how state commitments are interpreted in terms of positive and negative duties.

Historical Development and Foundational Documents

The significant historical occurrences in the middle of the 20th century serve as the foundation for the contemporary human rights framework. Following the horrors of World War II, the United Nations developed the Universal Declaration of Human Rights (UDHR), which set a uniform standard of success for defending the civil, political, economic, social, and cultural rights of all people. The document established the framework for upcoming legally binding treaties in addition to signifying governments' dedication to a shared goal.

By enshrining state obligations to uphold, defend, and fulfill human rights, the UDHR served as the impetus for a number of international accords in the decades that followed, chief among them the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social, and Cultural Rights (ICESCR), which collectively constitute the so-called International Bill of Human Rights.

The OHCHR played a crucial role in ensuring compliance and promoting capacity-building among states by assigning itself as the preeminent UN body on human rights. Also, it provides technical assistance and support to national institutions and civil society. This dedication has been reaffirmed by historical turning points like the Vienna Declaration and the ensuing human rights conferences, which served as the ideological foundation for practical and legal reforms.

The development of human rights law follows a distinct path, moving from the UDHR's principles to more specific legal requirements and procedures intended to uphold these rights on a national and international scale.

1.1 The Legal Framework: Treaties, Obligations, and Institutional Mechanisms

International Treaties and the International Bill of Rights:

The International Bill of Human Rights, composed of the UDHR, ICCPR, and ICESCR, highlights the fundamental rights which every individual is entitled to. Ratification of these treaties by states implies an acceptance of a legal duty to align domestic legislation with international standards, thereby embedding international human rights into local legal contexts.

States are required to make sure that these rights are not only recognized but also implemented. The principle of state obligations is divided into three categories:

1. **To Respect:** States must make sure that human rights and individual freedoms are not controlled by governments.
2. **To Protect:** States must prevent third parties from violating human rights, offering safety and protection against abuses by non-state actors.
3. **To Fulfil:** States are required to take measures to ensure the implementation of human rights, which is legislative, administrative, and judicial reforms.

These legal requirements are not theoretical; they have real-world applications right away and operate as standards. For example, the difference between positive and negative responsibilities is discussed in national and international policy discussions as well as in court rulings. On other hand, negative responsibilities demand the state refrain from taking actions that might impede the enjoyment of human rights, whereas positive requirements may require the state to intervene by legislative reforms to improve accountability and transparency.

Institutional Mechanisms and Monitoring Bodies:

International human rights law is implemented and monitored strongly by institutions such as the OHCHR which is reporting, looking into, and offering advice on human rights issues around the world. Furthermore, the United Nations Human Rights Council is an intergovernmental organization for addressing important human rights issues and it was founded in 2006 to replace the previous Commission on Human Rights. The monitoring process is done by the Council's special procedures, which assign specialists to look into matters that are thematic or country specific.

Regional mechanisms also contribute significantly to the enforcement of human rights. In many parts of the world, regional courts and commissions provide platforms for redress where international mechanisms may fall short. These bodies, in conjunction with civil society organizations, help galvanize public opinion and ensure adherence to international norms.

The enforcement of human rights is also greatly aided by regional mechanisms. Some international processes might not be helpful, so regional courts and commissions offer forums in various regions of the world. Together with civil society, these entities support public opinion mobilization and make sure its compliance with international standards.

Positive and Negative Obligations: A Dual Approach:

The expression of state responsibilities, both positive and negative obligations, is a serious aspect of international human rights law. Positive duties require nations to take measures to protect human rights, including implementing those laws that support equality and nondiscrimination, and to make sure a fair justice system. On other hand, negative requires the state to refrain from some practices such as censorship or arbitrary detention that violate human rights.

Example of these dual obligations can be noticed in state responses to human's trafficking and migrants smuggling. International organizations such as those developed by the UN Office on Drugs and Crime (UNODC), require states not only refraining from facilitating those crimes but also to take active measures to protect vulnerable people and prosecute offenders. This approach marks the importance of both action and restraint going through the human rights law.

Legal and Institutional Innovations in a Changing World:

Recent events show that legal frameworks urgently need to be updated to consider new realities like globalization, digital technologies, and environmental issues. The Secretary-General's Call to Action has placed a strong emphasis on integrating human rights into crisis response, sustainable development, and digital governance, demonstrating an awareness that contemporary issues call for creative institutional and legal solutions. To keep human rights law active, flexible, and applicable in a constantly evolving world, these initiatives aim to both address new challenges and reinterpret established legal norms.

Enforcement, Challenges, and Case Studies in Practice:

A multi-tiered approach that incorporates national legal systems, international tribunals, and monitoring organizations is frequently used to enforce international human rights law. It is anticipated that states who ratify human rights treaties would carry out their commitments by enacting appropriate domestic legislation. If this isn't done, individual complaints may be sent to regional and international organizations, which may use tools like the Universal Periodic Review or individual complaint procedures to force a review of state practices. The resources devoted to monitoring and corrective measures, as well as political will, are critical to the efficacy of these enforcement systems. For instance, the UN Human Rights Council has

encountered obstacles like political meddling and a narrow mandate that occasionally impairs its ability to effectively address human rights abuses, despite its significant influence.

Challenges to Enforcement:

Significant advancements were witnessed but still international human rights law faces several challenges. One of them is that inconsistent states comply. Many governments prioritize national interests or invoke sovereignty to justify non-compliance with international laws. Authoritarian parties often disregard international legal obligations, believing they are beyond accountability through strict control over domestic institutions. Also, local customs and traditional practices may conflict with international human rights standards.

Globalization has also resulted in new difficulties. Rapid technological advancements have made it easier to advocate for human rights while also opening new channels for authoritarian governments to monitor and control their citizens. A worrying trend that emphasizes the need for updated legal frameworks to handle these contemporary issues is the state's use of digital technology to monitor citizens and limit their access to information.

Structural Challenges: Sovereignty, Political Will, and Resource Constraints:

The conflict between state sovereignty and international supervision is a major structural obstacle to the implementation of international human rights law. Many states refuse to cooperate with international inquiries because they believe that outside inspection violates their sovereignty. Furthermore, insufficient implementation of international bodies' recommendations on human rights is frequently caused by a lack of political will among member nations. Because many countries lack the institutional capacity to promptly and effectively handle human rights infractions, resource limits make these issues worse.

The Role of Civil Society and Non-State Actors:

To close the gap between global norms and local realities, civil society and non-governmental organizations are essential. Amnesty International is an organization that actively monitors, studies, and advocates for human rights violations to hold governments responsible. Their actions guarantee that human rights issues continue to be at the forefront of public conversation in addition to aiding in the enforcement of international standards. Because it puts pressure on governments to uphold their international obligations and implement reformative measures,

when necessary, civil society's active participation is crucial to the ongoing development and enforcement of human rights law.

In addressing future challenges, international cooperation remains of paramount importance. The interconnectedness of global economies and political systems necessitates that states work collaboratively to uphold human rights. Strengthening the normative framework requires establishing partnerships across common law, civil law, and customary law traditions as well as increasing the capability of international organizations. To guarantee that human rights law constantly adjusts to current issues, the future agenda must place a strong emphasis on cooperative structures that integrate efforts across national boundaries. This research leads to the following policy proposals to guarantee the continued efficacy of the changing human rights framework:

Strengthening Legal Compliance: States should bolster domestic legal frameworks by harmonizing national laws with international treaties and increasing investment in judicial training and resources.

- **Reforming Enforcement Mechanisms:** International bodies must address structural deficiencies by enhancing transparency, reducing political interference, and securing adequate funding for monitoring and enforcement.
- **Enhancing Civil Society Engagement:** Governments should support, rather than hinder, non-governmental organizations and grassroots initiatives that play critical roles in monitoring human rights abuses and advocating for reform.
- **Integrating New Domains:** Legal frameworks must be updated to regulate emerging issues in digital rights and environmental justice, ensuring these sectors are adequately protected under international law.

1.2 The Structure and Functions of International Human Rights Courts

International courts play an important role in enforcing human rights law and respecting it, serving as judicial mechanisms to hold states and individuals accountable. The three most prominent institutions are the International Court of Justice (ICJ), the International Criminal Court (ICC), and the European Court of Human Rights (ECtHR). Each has different structures, jurisdictions, and functions. ICJ resolves disputes between states, the ICC prosecutes individuals for international crimes, and the ECtHR adjudicates human rights complaints under

the European Convention. This section provides a detailed examination of their legal frameworks, operational mechanisms, and enforcement capabilities.

1.2.1 The International Court of Justice (ICJ)

The ICJ, established in 1945 under the United Nations Charter, is the principal judicial organ of the UN. It consists of 15 judges elected by the UN General Assembly and Security Council for nine-year terms, ensuring representation from different legal systems (ICJ Statute, Art. 3). The Court operates in The Hague, Netherlands, and handles two types of cases:

- a. Contentious cases (disputes between states).
- b. Advisory opinions (legal questions by UN bodies).

The ICJ's jurisdiction is based primarily on state consent, which limits its capacity to enforce judgments if parties refuse compliance. While it has no direct enforcement power, its decisions carry significant legal and moral weight, influencing international legal norms. The Court's statute does not explicitly mention human rights, but the ICJ has increasingly addressed human rights issues through interpretation of relevant treaties and customary international law (Higgins, 1994).

A landmark human rights case before the ICJ is the Advisory Opinion of the Construction of the Wall in the Palestine and its consequences (2004). The Court ruled that Israel constructing the wall by violated international law and the rights of the Palestinian people, highlighting the ICJ's potential to address complex human rights issues (ICJ, 2004).

1.2.2 The International Criminal Court (ICC)

The ICC was established in 1998 by the Rome Statute as the first permanent international court with jurisdiction over individuals accused of genocide, war and humanity crimes, and aggression. It complements national jurisdictions through the principle of complementarity, intervening only when national courts are or unable to prosecute.

The ICC's structure includes the Presidency, Chambers (Pre-Trial, Trial, and Appeals), the Office of the Prosecutor, and the Registry. The Prosecutor plays a central role in investigations and prosecutions, initiating cases proprio motu or upon referral by states or the UN Security Council (Rome Statute, Arts. 13-15).

The ICC has faced criticism for focusing predominantly on African cases and experiencing limited enforcement due to reliance on state cooperation. Its investigation into Palestine, initiated in 2021, signifies an attempt to expand its jurisdictional reach despite political controversies and non-cooperation (ICC, 2021).

1.2.3 The European Court of Human Rights (ECtHR)

The European Court of Human Rights (ECtHR) reports to the Council of Europe and oversees enforcing the European Convention on Human Rights. Through the Committee of Ministers, it oversees the implementation of its decisions and renders binding rulings on both individual and interstate petitions.

Member states are required to submit to the Court's jurisdiction, which encompasses a wide variety of liberties and rights. Its jurisprudence has changed throughout time to accommodate modern concerns including discrimination, freedom of speech, and privacy. The ECtHR is a preeminent regional human rights organization, and its efficacy is ascribed to its binding power and enforcement measures (Scheinin, 2013).

1.3 How These Courts Function in The Context of Human Rights Enforcement

Human rights law is interpreted, decided, and enforced in large part by international courts. Despite operating under different legislative frameworks, the European Court of Human Rights (ECtHR), the International Criminal Court (ICC), and the International Court of Justice (ICJ) all seek to protect human rights. By evaluating jurisdictional procedures, enforcement capabilities, and the difficulties they have in upholding the rule of law and safeguarding human rights, this study investigates their actual operations. This study offers an in-depth understanding of their efficacy in defending human rights by analyzing procedural modes, seminal instances, and systemic constraints.

1.3.1 The International Court of Justice (ICJ) and Human Rights

The ICJ is the most important court of the United Nations, but its role for human rights is not so direct. It is different from special human rights courts because mostly it deals with problems between countries, explaining international treaties and laws. But even like this, its decisions can be very important for human rights, especially in cases about genocide, war crimes, and if governments must take responsibility. In this part, we will see how the ICJ works with human rights, some important cases, and why it is difficult to make countries follow its rulings.

Jurisdictional Basis:

The ICJ gets its power from Article 38 of its Statute, which accepts treaties, customary law, and general legal principles as sources of law. For cases between states, the ICJ can only judge if the countries agree this consent often comes from treaties, like Article IX of the Genocide Convention. The ICJ also gives advisory opinions when UN bodies (such as the General Assembly or Security Council) ask for it.

Key Contributions to Human Rights:

1. Genocide Prevention:

- *Bosnia and Herzegovina v. Serbia and Montenegro* (2007): The ICJ ruled that the Genocide Convention was violated by failing to prevent the Srebrenica massacre and established state responsibility for complicity in genocide (ICJ, 2007).
- *The Gambia v. Myanmar* (2021): Ordered Myanmar to protect the Rohingya from genocide, underscoring the ICJ's preventive role.

2. Occupation and Human Rights:

- *Legal Consequences of the Separation Wall (barrier) in Palestine* (2004): The ICJ declared Israel's West Bank barrier illegal under international law, affirming that human rights treaties apply in occupied territories.

3. Treaty Interpretation:

- *Diallo Case (Guinea v. DRC, 2010)*: Upheld diplomatic protection for individual rights under the International Covenant on Civil and Political Rights (ICCPR).

Major Challenges:

The ICJ's jurisdictional limitations hinder its efficacy, as it cannot hear cases filed by individuals and requires state consent. Several powerful states have rejected its authority, exemplified by the U.S. withdrawal from the *Nicaragua v. United States* case (1986). Enforcement relies on the UN Security Council under Article 94(2) of the UN Charter; however, veto powers by permanent members often block enforcement actions, as seen in the non-implementation of the 2004 Wall Opinion due to U.S. support for Israel. Non-compliance by states, political bias accusations, and the ICJ's inability to impose sanctions further limit its impact.

1.3.2 The International Criminal Court (ICC) and Human Rights

The ICC prosecutes individuals for genocide, war crimes, crimes against humanity, and aggression. Its jurisdiction is activated by state referrals (e.g., Uganda's referral concerning the LRA conflict), UN Security Council referrals (e.g., Darfur, Libya), and proprio motu investigations (e.g., Kenya post-2007 elections).

Mechanisms for Human Rights Protection:

1. Prosecution of Gross Violations: The ICC directly addresses severe abuses under Articles 6–8 bis of the Rome Statute.
2. Complementarity Principle: The ICC encourages national prosecution of international crimes, fosters judicial reforms, and pressures states to strengthen their legal systems.
3. Victim-Centered Justice: The Rome Statute includes provisions for victim participation (Art. 68), a Trust Fund for Victims (Art. 79), and reparations (Art. 75).
4. Gender Justice: Comprehensive definitions of sexual violence crimes, specialized gender units, and witness protection enhance focus on gender-based abuses.
5. Preventive Role: By deterring perpetrators and establishing legal standards, the ICC raises global human rights awareness.
6. Documentation: ICC investigations preserve evidence and support truth-seeking.

Landmark Cases:

- *Prosecutor v. Thomas Lubanga* (2012): First conviction for conscripting child soldiers (ICC, 2012).
- *Situation in Palestine* (2021–present): Ongoing investigation into alleged war crimes amid geopolitical opposition.
- *Prosecutor v. Bosco Ntaganda* (2019): Conviction for sexual slavery and attacks on civilians.

Challenges:

The ICC faces non-cooperation (e.g., U.S. sanctions on officials in 2020), accusations of selective justice, and weak enforcement where states refuse arrests (e.g., Sudan's Al-Bashir).

1.3.3 The European Court of Human Rights (ECtHR) and Human Rights

Established in 1959 under the European Convention on Human Rights (ECHR), the ECtHR is the foremost regional human rights tribunal in Europe, with jurisdiction over 46 Council of Europe member states.

Human Rights Protection System:

- Legal Framework and Jurisdiction: Authority derives from the ECHR and protocols, with binding judgments under Article 46 and individual petition rights under Article 34.
- Mechanisms: Individual application system processing over 60,000 cases annually; rare but significant interstate cases (e.g., *Georgia v. Russia*); and the Pilot Judgment Procedure addressing systemic violations.

Landmark Contributions:

- Civil and political rights expansion (e.g., *Aydin v. Turkey*, 1997; *Oliari v. Italy*, 2015).
- Protection of social and economic rights (e.g., *Dordevic v. Croatia*, 2012).
- Procedural innovations like interim measures (Rule 39) and the “living instrument” doctrine.

Challenges:

- Persistent case backlog (~70,000 pending), lengthy proceedings, and resource constraints.
- Implementation deficits, with approximately 40% of key judgments facing enforcement problems (Committee of Ministers, 2022).
- Structural limitations: cannot annul national laws; dependent on Committee of Ministers for enforcement.
- Political resistance requires reforms to improve compliance and foster dialogue between national and supranational courts.

Despite challenges, the ECtHR remains the most advanced regional human rights system globally, having adjudicated over 25,000 cases. Its future effectiveness depends on balancing judicial authority with political realities and respecting

1.4 Success Stories and Criticisms

1.4.1 The ICJ and Human Rights Enforcement: Key Cases

Genocide Prevention and State Accountability cases:

- *Bosnia and Herzegovina v. Serbia and Montenegro* (2007): Established state responsibility for complicity in genocide but lacked enforcement mechanisms.
- *The Gambia v. Myanmar* (2021): Historic preventive measures ordered; however, enforcement was obstructed by non-compliance and Security Council vetoes.

Human Rights in Conflict Zones:

- *Legal Consequences of the Separation Wall in Palestine* (2004): The ICJ ruled that Israel's barrier was illegal, confirming that human rights treaties must also apply in occupied territories. However, Israel refused to accept this decision.

Critical Analysis, Successes include clarifying state obligations and moral authority in human rights norms. Failures center on enforcement gaps and politicization.

1.4.2 The ICC and Human Rights Enforcement: Key Cases

Prosecution of Atrocity Crimes,

- *Lubanga* (2012): Set precedent against child soldier recruitment.
- *Ntaganda* (2019): Advanced gender justice through convictions for sexual violence.

Victim Reparations

- The Lubanga case's order for reparations was groundbreaking in focusing on victims' rights, but implementing it proved difficult due to delays and practical problems

Critical Analysis: Successes include expanding legal definitions and victim inclusion. Failures involve limited deterrence and resource reliance.

1.4.3 The ECtHR and Human Rights Enforcement: Key Cases

Civil Liberties

- *Aydin v. Turkey* (1997): Recognized rape by state officials as torture.

- *Oliari v. Italy* (2015): Advanced LGBTQ+ rights through recognition of same-sex unions.

Systemic Reforms

- *Hutchinson v. UK* (2017): Influenced life sentencing reforms.
- Pilot judgments on prison overcrowding mandated systemic changes.

Critical Analysis: Successes include dynamic and systemic reforms. Challenges involve enforcement delays and political obstacles.

The major cases handled by the ICC, ICJ, and ECtHR show us both the positive changes and the existing problems in how international courts protect human rights.

The ICC's most famous cases - like prosecuting Lubanga for using child soldiers and Ntaganda for sexual violence - created important new rules about punishing individuals for serious crimes. At the same time, the ICC's system for helping victims has introduced new ways to focus on victims' needs in justice processes. At the same time, the ICJ, has helped clarify what international law requires from states through cases like *Bosnia and Herzegovina v. Serbia* (genocide) and *The Gambia v. Myanmar* (preventive measures). Meanwhile, the ECtHR has been instrumental in driving systemic reforms across Europe, ranging from the condemnation of state-sponsored torture (*Aydin v. Turkey*) to the advancement of LGBTQ+ rights protections (*Oliari v. Italy*), leveraging its distinctive authority to issue binding judgments on member states.

Despite their important contributions, all three courts face major challenges. The ICJ often sees its rulings ignored due to countries insisting on their sovereign rights, while the ICC encounters political opposition and frequent accusations of unfairly targeting certain nations. The ECtHR, meanwhile, struggles with delayed implementation of its decisions and resistance from nationalist governments. While these institutions have undeniably expanded the reach of human rights law, their effectiveness remains limited. Significant improvements would require greater cooperation from member states, internal institutional reforms, and the development of complementary approaches—whether through hybrid court systems, broader application of universal jurisdiction, or enhanced United Nations monitoring mechanisms.

CHAPTER2 : THE INTERNATIONAL COURTS AND THEIR JURISDICTION ABOUT THE ISRAEL-PALESTINE CONFLICT

2.1 Brief Overview of The Israel-Palestine Conflict and Its Legal Dimensions.

The Israel-Palestine conflict is one of the most known and contentious disputes in modern history, rooted in nationalisms, territorial claims, and religious importance. The conflict resulted for decades of violence, failed peace negotiations, and humanitarian crises for the people of Palestine. This paper examines the historical origins, key events, and ongoing challenges in resolving the conflict.

The roots of the Israel-Palestine conflict started in the late 1800s and early 1900s. During this time, Zionism emerged as a movement pushing for a Jewish state in Palestine, which was then controlled first by the Ottoman Empire and later by Britain. Tensions grew significantly after Britain's 1917 Balfour Declaration promised support for a Jewish "national home" in Palestine, creating friction between arriving Jewish settlers and the existing Arab population.

After World War II and the Holocaust, global support for a Jewish state increased. In 1947, the UN proposed splitting Palestine into separate Jewish and Arab states. Jewish leaders agreed to this plan, but Arab leaders refused. This disagreement sparked the 1948 Arab-Israeli War when Israel declared independence. The war caused about 700,000 Palestinians to flee or be forced from their homes - what Palestinians call the Nakba (meaning "catastrophe").

The conflict has been marked by several major wars and uprisings. In the 1967 Six-Day War, Israel took control of the West Bank, Gaza Strip, and East Jerusalem - areas that are still hotly contested today. Palestinian resistance erupted in two major uprisings: the First Intifada (1987-1993) and Second Intifada (2000-2005), both met with strong Israeli military reactions. Attempts at peace, like the 1990s Oslo Accords, tried to create a path for Palestinian self-rule and a two-state solution. But these efforts have stalled because of Israel's continued building of settlements in the West Bank, Hamas taking power in Gaza and Disagreements among Palestinian groups.

The violence keeps flaring up, with major outbreaks in 2021 and 2023 causing heavy losses, especially in Gaza. Israel's restrictions on Gaza and repeated military actions have created dire living conditions for civilians there.

International actors such as the United States, United Nations, and regional powers, have attempted many times to mediate a lasting peace agreement without success. Although the two-

state solution continues to receive broad international support, its implementation faces significant challenges stemming from deep-seated mistrust between the parties, the influence of extremist factions, and competing geopolitical interests among external actors. These persistent obstacles have prevented meaningful progress toward resolution despite ongoing diplomatic efforts.

The conflict is still unresolved, with deep historical and contemporary political matters that is preventing peace. A sustainable solution will require knowing core issues such as borders, refugees, security, and Jerusalem's status. Until then, cycles of violence and suffering are going to persist.

Despite their contentious nature, international courts have become crucial for resolving violations in the Israel-Palestine conflict. Both the International Criminal Court (ICC) and the International Court of Justice (ICJ) have different functions in enforcing the law, punishing criminals, and recording abuses. An important turning point was reached in 2004 when the ICJ issued an advisory opinion on the legal ramifications of building a wall in the occupied Palestinian territory, confirming that the Fourth Geneva Convention applied to the occupied territories and that Israel's separation barrier was illegal under international humanitarian law (IHL) (ICJ, 2004). Like this, the ICC decided in 2021 to investigate claims of crimes since 2014, including Israeli settlement practices. Despite strong resistance from Israel and its allies, especially the United States, these judicial interventions highlight the increasing reliance on legal tools to combat impunity (Lynk, 2020).

The ability of international courts to resolve conflicts by redefining them as legal issues makes them crucial in this fight. Judiciary bodies provide a rules-based framework to adjudicate violations of IHL and human rights law, in contrast to diplomatic negotiations that are frequently thwarted by power imbalances and veto politics. For example, crimes like the intentional targeting of civilians or the relocation of populations into occupied territory are crimes that the ICJ and ICC can or cannot prosecute (Rome Statute, 1998). Moreover, these institutions contribute to the *erga omnes* (universal) obligations of states to uphold norms like the prohibition of genocide and torture, as seen in the ICJ's provisional measures order in *The Gambia v. Myanmar*, a precedent with implications for Palestine (Akande, 2021).

However, the effectiveness of international courts is severely constrained by jurisdictional limitations, enforcement gaps, and geopolitical resistance. The ICJ's rulings lack direct enforcement mechanisms, relying instead on the UN Security Council where the U.S. has

repeatedly shielded Israel from consequences (Shany, 2014). The ICC, meanwhile, faces accusations of politicization and struggles with state non-cooperation, as evidenced by Israel's refusal to engage with its investigation. Even the ECtHR, though irrelevant to Israel directly, has dealt with cases involving European complicity in violations, such as arms exports used in the occupied territories (ECtHR, 2021). These challenges highlight the tension between law and power: while international courts can articulate norms and isolate violators symbolically, their ability to deliver tangible justice depends on states' willingness to comply.

This chapter examines the interplay between international law and the Israel-Palestine conflict, focusing on the ICJ and the ICC on how applying the human rights and interpreting their jurisdictions, the key cases they have pursued, and the systemic obstacles they confront. It argues that while these courts have expanded the normative framework for accountability, their impact remains circumscribed by political realities.

2.2 Legal Frameworks Governing the Conflict and International Courts Jurisdiction:

Within the international legal and political system, Palestine's status has long been a divisive and changing topic. International organizations, particularly the International Criminal Court (ICC), are impacted by the Palestinian statehood and recognition issue. A major step forward in Palestine's pursuit of international legitimacy and responsibility for alleged war crimes perpetrated on its soil was the country's 2015 admission to the ICC.

Legal Background: The Israeli Palestinian conflict is the foundation of Palestine's international standing. With the creation of Israel in 1948 and the UN Partition Plan in 1947, Palestinians were left without a state of their own. Israeli forces have occupied Palestinian lands in the decades that have followed, mainly the West Bank, Gaza Strip, and East Jerusalem. An agreement on final status has never been reached, despite numerous peace processes.

Since gaining its independence in 1988, Palestine has applied for recognition from both international organizations and individual governments. Palestine was recognized as a state by more than 130 UN members by the early 2010s. Resolution 67/19, which granted Palestine non-member observer state status, was voted by the UN General Assembly in 2012, marking a significant milestone. Palestine was able to join international organizations and treaties, such as the ICC, thanks to this position.

The Geneva Conventions, a cornerstone of international humanitarian law, consist of four treaties formulated in 1949 and three additional protocols developed later. Civilians, medical professionals, and aid workers, as well as those injured troops and prisoners of war, are intended

to be protected by these treaties. The core principles of the Geneva Conventions are the protection of human dignity and the reduction of suffering during armed conflicts, making them crucial in contexts such as the Israeli Palestinian conflict. (United Nations, 2012; International Committee of the Red Cross [ICRC], 1949; State of Palestine, 1988).

Geneva Conventions:

The situation in the Palestinian territories is especially pertinent to the Fourth Geneva Convention, which addresses the protection of civilians during times of war and occupation. According to Article 49 of this convention, the civilian population of the occupying power cannot be moved into occupied territory. It also requires that protected individuals be treated humanely, that sufficient food and medical care be provided, and that collective punishment be prohibited. Since Israeli people are moving into areas that have been occupied since 1967, the international community has repeatedly pointed to Israel's settlement activities in the West Bank and East Jerusalem as violations of Article 49. (International Red Cross Committee [ICRC], 1949).

Furthermore, human rights organizations contend that the Fourth Geneva Convention's duty to protect the welfare of the occupied population is frequently disregarded in the Palestinian situation. Examples of activities that could violate the Convention include military operations in heavily populated civilian areas, home demolitions, and restrictions on movement. For example, the siege of Gaza has been denounced by the UN and several NGOs as a kind of collective punishment, which is forbidden by Article 33 of the Fourth Geneva Convention.

Enforcing the Geneva Conventions in the Palestinian territory is still very difficult, even with the obvious violations. Israel claims that the West Bank and Gaza are not legally occupied because there were no recognized sovereigns in place before Israeli rule, even though it is a signatory to the Conventions. The United Nations, the International Committee of the Red Cross (ICRC), and the International Court of Justice (ICJ) have all rejected this argument and affirmed that the Geneva Conventions apply to the disputed territory. (International Red Cross Committee [ICRC], 1949). The Geneva Conventions have also been cited by the International Criminal Court (ICC) in its first assessments and investigations pertaining to Palestine. As part of its legal framework, the ICC cited serious violations of the Geneva Conventions when it decided in 2021 to launch an investigation into alleged war crimes in the occupied Palestinian territories. This emphasizes how crucial the Conventions are to holding parties to the conflict accountable and directing their behavior.

In summary, the Geneva Conventions are very important piece of legislation to address and reduce abuses of human rights in the Israeli Palestinian conflict. Although international organizations have approved their implementation, political complications and conflicting legal interpretations make it difficult to apply these regulations. The Conventions, however, continue to serve as a crucial basis for international legal discussion and humanitarian protection with relation to the situation in Palestine.

Palestine's Accession to the Rome Statute:

Palestine's international legal and diplomatic endeavors reached a major turning point in 2015 when it joined the Rome Statute. The International Criminal Court (ICC) was founded by the Rome Statute, which also established the court's jurisdiction over crimes against humanity, war crimes, crimes of aggression, and genocide. Palestine indicated its intention to take legal action to address alleged breaches of international law in its territories, especially in connection with the Israeli occupation, by deciding to join as a State Party. Palestine formally became the 123rd member of the ICC on April 1, 2015, after submitting its admission documents to the UN Secretary-General on January 2, 2015. Palestine was granted non-member observer state status by the UN General Assembly in 2012, which was followed by this accession.

The move was highly controversial, particularly among states that do not recognize Palestine as a sovereign state. Nonetheless, the ICC accepted the application, asserting that Palestine met the criteria necessary to accede to the Rome Statute. (International Criminal Court, 2015; United Nations General Assembly, 2012).

Following accession, Palestine lodged a declaration under Article 12(3) of the Rome Statute, granting the ICC retroactive jurisdiction from June 13, 2014. This date corresponds to the period leading up to and including the 2014 Gaza conflict, known as Operation Protective Edge, during which hundreds of Palestinian civilians were killed, and substantial infrastructure was destroyed. The declaration opened the door for the ICC to investigate alleged war crimes committed by both Israeli and Palestinian actors during and after that period. (International Criminal Court, 2015).

The ICC Office of the Prosecutor (OTP) launched a preliminary examination into the situation in Palestine in January 2015. After several years of analysis, the OTP announced in December 2019 that the statutory criteria for opening an investigation had been met. The pre-trial chamber affirmed in February 2021 that the ICC's jurisdiction extends to the territories occupied by

Israel since 1967, including the West Bank, East Jerusalem, and Gaza. This ruling enabled the prosecutor to move forward with a formal investigation.

Israel, which is not a member of the Rome Statute, denied the ICC jurisdiction over the case, claiming that Palestine doesn't have the legal standing to file before the Court because it is not a sovereign state. Nonetheless, many legal experts and international organizations agree that the ICC has jurisdiction because of Palestine's UN General Assembly admission and accession.

Palestine's admission to the Rome Statute has a wide range of consequences. Legally speaking, it gives Palestinians a way to approach a respectable international organization for compensation for alleged war crimes and crimes against humanity. Politically, it has heightened discussions about statehood, responsibility, and the boundaries of international justice in long-running wars. Additionally, the ICC inquiry tests the Court's impartiality and adherence to international law while navigating challenging geopolitical environments. (United Nations General Assembly, 2012; International Criminal Court, 2021).

UN Charter and Resolutions:

Based on its original Charter and later resolutions approved by the General Assembly (UNGA) and Security Council (UNSC), the United Nations (UN) has been heavily involved in the Israel-Palestine conflict from its creation. The changing global position on important topics like statehood, territorial conflicts, human rights, and conflict resolution is reflected in these legal instruments. The UN Charter itself, adopted in 1945, outlines principles of sovereign equality, self-determination, and the peaceful resolution of disputes principles that are directly relevant to the ongoing conflict between Israel and Palestine.

According to Article 1 of the UN Charter, the organization is dedicated to fostering amicable ties between states by upholding the principles of equal rights and people's right to self-determination. The legal and ethical basis for Palestinian aspirations for statehood has been this clause. Critics of Israeli military operations in the Occupied Palestinian Territories (OPT) often point to Article 2(4), which forbids the threat or use of force against the political independence or territorial integrity of any state. (Article 1, United Nations, 1945).

The 1947 General Assembly Resolution 181 (II), which called for the division of British Mandate Palestine into distinct Jewish and Arab governments with an internationalized Jerusalem, is among the oldest and most important UN decisions (United Nations General Assembly, 1947, art. B4). Arab governments and Palestinians opposed this resolution because

they saw it as an unfair territorial divide, even though it set the stage for the establishment of Israel in 1948. The return of Palestinian refugees and compensation for those who choose not to return are issues that have not been resolved since the 1948 Arab Israeli War, according to General Assembly Resolution 194 (III) (United Nations General Assembly, 1948, art. 11).

The crisis has also received a lot of attention from the Security Council. Following the Six-Day War, Resolution 242 (1967) demanded that Israel withdraw its military forces from areas it had conquered and that all states in the region be allowed to exist in peace within clearly defined borders. Despite varying interpretations of its provisions, especially the term "from territories occupied," this resolution has served as the foundation for later peace efforts. Resolution 242 was reiterated in Resolution 338 (1973), which again called for talks to create fair and sustainable peace. These settlements have "no legal validity" and are a significant barrier to the realization of a two-state solution, according to UNSC Resolution 2334 (2016), which denounced Israeli settlement activity in the West Bank and East Jerusalem as a breach of international law in more recent decades. This resolution demanded an end to all settlement activities and reiterated the Fourth Geneva Convention's applicability to the OPT (United Nations Security Council, 2016, para. 1).

To handle the conflict's political and humanitarian concerns, the UN has also set up a few procedures. Millions of Palestinian refugees still receive assistance from the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA), which was established by General Assembly Resolution 302 (IV) in 1949. The UN Human Rights Council has also ordered fact-finding teams and special rapporteurs to document alleged violations of international law and human rights in the OPT.

Legal Implications of ICC Membership:

Significant legal consequences have resulted from Palestine's admission to the ICC. It first gave the Palestinian Authority the authority to formally send cases for examination. Palestine referred to the ICC Prosecutor in January 2015 the circumstances that have existed on its territory since June 13, 2014, including the 2014 Gaza conflict and actions including the growth of Israeli settlements in the West Bank. The ICC formally began looking into claims of war crimes in the Palestinian territories in March 2021. Both Israeli and Palestinian actors may have committed crimes that are under investigation. Israel disputes the ICC's jurisdiction, claiming that Palestine is not a sovereign state and cannot thus provide the Court jurisdiction, even

though Palestine supports the probe. Furthermore, Israel argues that the bilateral peace process is weakened by the Court's involvement.

The definition of "state" under international law is at the heart of the legal controversy. The Court has discretion because the Rome Statute does not offer a comprehensive definition. Based on the UNGA's 2012 decision and the UN Secretary-General's acknowledgment of Palestine's treaty-acceding capacity, the prosecutor's office has confirmed that Palestine's accession and referral are legitimate. Political division has resulted from Palestine's decision to join the ICC. It has been embraced by numerous nations and international players as a step toward justice and responsibility. Human rights groups contend that ICC probes have the potential to maintain international norms and discourage future crimes (International Criminal Court, 2015).

However, Israel and its allies—especially the United States—have raised significant opposition. The United governments criticized the probe into the Palestinian situation as politically motivated and has historically rejected the ICC's jurisdiction over non-member governments. ICC officers implicated in the inquiry were sanctioned by the Trump administration. The problem also brings up more general geopolitical issues. Palestine's participation is seen by nations that are cautious about extending international judicial power as a challenge to state sovereignty and an illustration of the politicization of international legal organizations. Others view it as a test of the effectiveness and impartiality of the ICC (Kersten, 2015).

Broader Implications for Palestinian Statehood and International Justice:

Palestine's membership in the ICC is part of a larger strategy to gain international recognition and leverage global legal mechanisms to assert its rights. To establish the framework for a functional state inside the international system, Palestine has joined several international conventions and organizations outside of the ICC (Quigley, 2017).

The ICC procedures are significant both practically and symbolically. They represent a symbolic change in Palestine's strategy from bilateral to multinational legal approaches. In practice, they might open the door for future responsibility for acts carried out in the occupied areas. The absence of enforcement authority is still a significant drawback, though.

The cooperation of member states is necessary for execution even in cases where the ICC issues warrants or indictments. Furthermore, the efficiency of international justice systems is frequently dictated by the political will of superpowers (Bosco, 2014; Kersten, 2016).

2.3 Case Studies

2.3.1 The ICC's 2021 Investigation and Its Implications.

A turning point in the legal aspects of the Israel-Palestine conflict was reached in March 2021 when the International Criminal Court (ICC) formally started an investigation into claims of war crimes in Palestine. Three main topics are examined in this investigation:

1. Israeli settlement expansion in the West Bank (potential war crimes under Article 8(2)(b)(viii) of the Rome Statute), (Rome Statute of the International Criminal Court, 1998, art. 8(2)(b)(viii)).
2. The blockade on Gaza (collective punishment under IHL).
3. Violations during the 2014 Gaza War (disproportionate attacks by Israel and war crimes by Hamas) (International Criminal Court, 2021).

This case study analyzes:

- The legal basis for the ICC's jurisdiction.
- Key crimes under investigation.
- Political backlash, including U.S. sanctions on ICC officials.
- Implications for international justice.

After gaining non-member observer state status at the UN in 2012 (UNGA Resolution 67/19), Palestine became the 123rd State Party to the ICC on April 1, 2015. This granted the Court jurisdiction over crimes committed by Palestinian nationals anywhere, even in the occupied Palestinian territories.

The ICC has territorial jurisdiction over Gaza, the West Bank, and East Jerusalem, according to a February 2020 Pre-Trial Chamber I ruling (2-1). Palestine is recognized as a state under international law for the purposes of the ICC, and the jurisdiction dates to June 13, 2014, the beginning of the Gaza War in 2014.

However, the United States and Israel contended that the Court is going beyond its authority (politicization claims) and that Palestine does not meet the prerequisites for statehood under international law. They also asserted that national courts ought to handle suspected crimes (complementarity principle) (Akande, 2020). Key Crimes Under Investigation:

- Settlement Expansion (War Crime under Article 8).

The Prosecutor for this case examined the transfer of Israeli civilians into occupied territory (Art. 8(2)(b)(viii)), Forcible displacement of Palestinians from their land and 600,000+ settlers in West Bank/East Jerusalem.

- Gaza Blockade and War Violations (Crimes Against Humanity)

Allegations included illegal collective punishment (Art. 7(1)(d)), Severe deprivation of physical liberty (Art. 7(1)(e)) and humanitarian crisis (90% undrinkable water, 50% unemployment).

The investigations included Examining both sides, Israeli actions: Alleged disproportionate attacks (2,251 killed, 70% civilians) and Hamas actions such as Rocket attacks on civilians, use of human shields.

Political Obstacles & U.S. Sanctions.

Trump Administration's Response (2020) was Imposing sanctions on ICC officials (Executive Order 13928), Asset freezes on Prosecutor Fatou Bensouda and Visa bans on Court staff.

On other hand Biden Administration's Modified Approach and Lifted sanctions (April 2021), Maintained opposition to investigation and continued bilateral immunity agreements.

Israel showed Non-cooperation with ICC, diplomatic pressure on member states and "Lawfare" accusations against NGOs.

Current Status was that Prosecutor Karim Khan visited Palestine/Israel in (2022) and requested arrest warrants for Netanyahu/Gallant (May 2024). Still there are Ongoing evidence collection regarding the cases filed against Israel. There are some difficulties that the court is facing such as evidence collection difficulties, witness protection issues and continued political interference.

The ICC investigation represents the most significant attempt to apply international criminal law to the conflict. While facing unprecedented political opposition, it has already affirmed Palestine's standing in international law, deterred some settlement activity and exposed accountability gaps. Future success depends on Judicial independence, Civil society support and reform of UNSC veto powers (Lynk, 2022).

2.3.2 The ICJ's 2004 Advisory Opinion on the Wall

The most significant legal interventions in the Israel-Palestine conflict were the International Court of Justice (ICJ) Advisory Opinion of 2004 concerning Israel's construction of a separation barrier in the West Bank. The case, officially titled "*Legal Consequences of the*

Construction of a Wall in the Occupied Palestinian Territory”, addressed fundamental questions of international humanitarian law (IHL), human rights law, and the obligations of an occupying power. Despite the ICJ’s clear ruling that the wall violated international law, Israel continued its construction, raising critical questions about the enforceability of international rulings in politically charged conflicts.

This case study examines:

1. The legal arguments presented before the ICJ.
2. The Court’s key findings on the wall’s illegality.
3. The consequences (or lack thereof) of the Advisory Opinion.
4. Why compliance has been limited and what it reveals about international law’s effectiveness.

During the Second Intifada (2000–2005), Israel started building the separation wall in 2002. Critics have referred to it as the "security fence" or the "apartheid wall." The wall, according to the Israeli government, was an essential security measure to stop armed attacks and suicide bombs from the West Bank. But the wall's path diverged greatly from the 1967 Green Line, enclosing Israeli settlements and sizable Palestinian-populated regions, so annexing Palestinian territory. About 58% of the settlers in the West Bank lived on the "Israeli side" of the wall by 2004. The UN General Assembly (UNGA) passed Resolution ES-10/14 in December 2003, asking the International Court of Justice (ICJ) to provide an advisory opinion on whether the wall's construction violated international law and what the legal ramifications were for Israel and other third-party nations.

The request was controversial, with Israel and the U.S. opposing it as politicized, while Palestine and Arab states saw it as a necessary legal challenge to occupation policies.

Legal Arguments Before the ICJ:

Israel’s Position: Non-Participation and Written Submission, Israel refused to participate in oral hearings, arguing that the ICJ lacked jurisdiction and that the issue was political, not legal. However, it submitted a written statement defending the wall as a proportional security measure under the right to self-defense.

Palestine, along with the Arab League, the Organization of Islamic Cooperation (OIC), and human rights groups, argued that:

1. The wall violated the Fourth Geneva Convention (Article 49) by facilitating illegal settlements and displacing Palestinians.
2. It violated the right to self-determination under the International Covenant on Civil and Political Rights (ICCPR).
3. It constituted collective punishment against Palestinian civilians.

The UN Secretary-General also submitted a report detailing the wall's humanitarian impact, including land confiscations and restricted movement.

The ICJ's Key Findings (July 9, 2004), the ICJ's 14-1 majority opinion (with only U.S. Judge Thomas Buergenthal dissenting) ruled that:

1. The Wall Violated International Humanitarian Law (IHL)
 - Fourth Geneva Convention (Article 49): The wall facilitated illegal settlements and altered the West Bank's demographic composition.
 - Hague Regulations (1907): Israel, as an occupying power, could not permanently seize land for its own use (Hague Convention IV, 1907;).
2. The Wall Breached Human Rights Law
 - Right to freedom of movement (ICCPR Article 12).
 - Right to work, health, and education (ICESCR Articles 6, 12, 13).
3. Legal Consequences
 - Israel must cease construction, dismantle existing sections, and provide reparations.
 - All states must not recognize the wall's legality and ensure Israel's compliance.

The opinion reinforced that settlements and annexation are illegal under IHL. Israel ignored the ruling, completing over 60% of the barrier by 2024.

Why Was the Ruling Ignored?

1. Lack of Enforcement Mechanism: The ICJ has no power to compel compliance.
2. U.S. and Western Support for Israel: The U.S. Congress passed resolutions rejecting the opinion (Knesset, 2004).
3. Weak UN Security Council Action: The U.S. veto blocked sanctions (Lynk, 2020).

The ICJ's 2004 opinion remains a landmark case in affirming the illegality of occupation practices, yet its lack of enforcement highlights the limits of international law in asymmetric conflicts.

2.4 Comparative Analysis

This section explores how international judicial mechanisms particularly the International Criminal Court (ICC) and the International Court of Justice (ICJ) have operated in similar conflict contexts such as Darfur (Sudan) and Bosnia and compares these efforts to the interventions in the Israeli-Palestinian conflict. Through this comparative analysis, the section will demonstrate why the Israel-Palestine case remains uniquely contentious in the realm of international law and diplomacy.

2.4.1 Contrast with Other Conflicts (ICC in Darfur, ICJ in Bosnia).

For the ICC, the Darfur situation was a historic turning point. Investigations into crimes against humanity, war crimes, and genocide in Sudan began after the United Nations Security Council (UNSC) referred the issue to the ICC in 2005 through Resolution 1593. The indictment of former President Omar al-Bashir in 2009 and 2010 was one of the most prominent results (ICC, 2009). The UNSC's referral gave the ICC authority even though Sudan was not a State Party to the Rome Statute, demonstrating the global community's resolve to put an end to impunity for mass atrocities.

Despite political resistance and lack of full cooperation from Sudan and some international actors, the Darfur case was an important precedent. It demonstrated the potential of the ICC to hold heads of state accountable, despite challenges related to enforcement and arrest.

In the historic case of *Bosnia and Herzegovina v. Serbia and Montenegro* (2007), the ICJ was instrumental in the legal resolution of the Bosnian War. In this case, a state was held accountable by an international court for the first time for failing to stop genocide and for not assisting the International Criminal Tribunal for the former Yugoslavia (ICTY) in its war criminal prosecution. The ICJ stressed state obligations under the Genocide Convention, even if it did not find Serbia directly liable for committing genocide (ICJ, 2007).

International jurisprudence was significantly impacted by this decision. It established crucial guidelines for state accountability in cases of genocide and reaffirmed the ICJ's jurisdiction to hear cases involving serious transgressions of international law. In contrast to the circumstances in Bosnia and Darfur, the Israel-Palestine conflict poses political and jurisdictional difficulties that make international judicial intervention more difficult. ICC jurisdiction was made possible

by Palestine's 2015 adherence to the Rome Statute (ICC, 2015); however, the legality of judicial proceedings is still questioned due to the disputed status of Palestinian statehood. While over 130 UN member states recognize Palestine as a state, others, including the United States and Israel, do not, creating ambiguity regarding jurisdiction.

Furthermore, political resistance from strong nations, such as threats from the United States against the ICC, prevented investigations into alleged war crimes by both Israeli authorities and Palestinian organizations, and there is no UNSC referral comparable to the Darfur case (Human Rights Watch, 2021).

International operations encountered opposition in both Bosnia and Darfur, but the Israel-Palestine situation is characterized by a very high degree of geopolitical polarization. An important obstacle to international justice is the United States' use of its Un veto to protect Israel from important resolutions, such as those that refer cases to the ICC or ICJ.

Additionally, the ICC and ICJ have faced accusations of selective justice, particularly from Global South nations. However, in the Israel-Palestine context, Western powers are perceived to be obstructing justice rather than imposing it.

There isn't a hybrid or regional tribunal like the ICTY for Israel-Palestine, in contrast to the cases of Darfur and Bosnia. The breadth and depth of expertise that these tribunals offer are constrained by the lack of a specific methodology. Due to diplomatic difficulties and the ongoing power imbalance between Israel and Palestine, hybrid tribunals have not been pursued in this case, even though they provide a model of localized justice and may be more politically viable than universal courts.

In every situation, enforcement is still a prevalent difficulty. For more than ten years, al-Bashir traveled abroad with a degree of freedom in Darfur, even in the face of ICC arrest warrants. In a similar vein, Serbia first opposed ICJ decisions and ICTY collaboration. International pressure, however, ultimately resulted in better compliance and arrests. The lack of a solid international consensus in the Israel-Palestine case makes enforcement much more difficult. Although Israeli acts have been challenged by ICJ advisory opinions, such as the 2004 separation wall verdict, these rulings are not legally binding and have not resulted in significant changes on the ground (ICJ, 2004).

Legal decisions have normative and symbolic significance despite their limitations. Even though Bashir escaped arrest for years, the ICC's activities in Darfur damaged his reputation

abroad. The worldwide commitment to stopping such atrocities was strengthened by the ICJ's genocide verdict in Bosnia. Interventions by the ICJ and ICC in the Palestine case support global dialogue and civil society mobilization. Even in the lack of enforcement, human rights organizations and Palestinian legal advocates use these verdicts to demand accountability.

2.4.2 Why the Israel-Palestine Case Is Uniquely Contentious.

The combination of legal ambiguity, geopolitical polarization, powerful state interests, and the enduring asymmetry between an occupying power and an occupied population renders the Israel-Palestine case particularly fraught. Unlike Darfur or Bosnia, the conflict remains active, and its resolution is tied to fundamental questions of statehood, sovereignty, and the international legal order.

The Israel-Palestine conflict stands out in international relations and law due to its exceptional complexity, duration, and deep entanglement with global politics, identity, and historical trauma. Unlike many other territorial or humanitarian conflicts that have been adjudicated through international legal mechanisms, this case is steeped in overlapping religious, national, and geopolitical narratives that make resolution through legal or diplomatic means particularly difficult.

Prolonged Occupation and Unresolved Legal Status:

The continuous military occupation of the Palestinian territories of the West Bank, East Jerusalem, and Gaza since 1967 is one of the conflict's strongest characteristics. These areas are seen as occupied under international law, which has been confirmed by numerous UN resolutions and court rulings (such as the ICJ's 2004 Advisory Opinion on the Wall). Israel, however, disputes this designation, citing security and historical grounds, particularly with relation to East Jerusalem. Another level of legal ambiguity that is uncommon in most matters heard by international tribunals is added by the absence of a generally accepted legal status for Palestine itself, namely whether it is a fully sovereign state.

Asymmetry of Power and Recognition:

There is an unequal playing field in legal and diplomatic settings due to the power imbalance between Israel, a well-established state with a robust military and strong international allies, and the Palestinian Authority or Hamas-governed Gaza, which has similar institutional ability or international support. The application and enforcement of international law are impacted by this asymmetry, with claims that certain legal processes are selectively enforced or inaccessible.

For example, despite legitimate investigations and growing evidence from organizations like the UN Human Rights Council and international NGOs, no equivalent action has taken place against Israeli authorities, while the ICC has indicted Sudanese leaders for crimes in Darfur.

Geopolitical Shielding and Veto Power:

Because of its long-standing backing for Israel, the United States has been able to protect it from criticism or enforcement actions at international organizations, particularly the UN Security Council, where it has often used its veto power to thwart resolutions that criticize Israel. Cases like Bosnia or Sudan, where geopolitical opposition was either dispersed or inadequate to stop international involvement, contrast sharply with this. The efficacy of court rulings by organizations like the ICJ or ICC is restricted by the political immunity established by such alliances.

Religious and Symbolic Dimensions:

The focal point of the territorial issue is Jerusalem, a city that holds great religious significance for Christians, Muslims, and Jews. Because of its religious component, the conflict is especially delicate and vulnerable to global politicization, which attracts players who view it as a question of civilizational identity as well as a national fight. In contrast to more secular disputes decided in other international contexts, this theological entanglement adds to the dispute's intractability.

Lack of Transitional Justice and Peace Process Breakdown:

Judicial procedures were a component of a larger transitional justice or post-conflict framework in most cases where international courts have been crucial, such as Rwanda, the former Yugoslavia, or Sudan. However, there is now no major deal in sight, and the peace process between Israel and Palestine has essentially collapsed. The significance of court decisions is significantly reduced and the prerequisites for putting international justice mechanisms into place are compromised in the absence of a functional bilateral negotiating track or third-party mediation.

Contest Over Narrative and International Law:

The intense argument over historical accounts and the function of international law itself is another distinctive feature. Israel frequently accuses international organizations of being biased, while Palestinians and others who support them contend that Western assistance allows Israel to operate with impunity. Divergent interpretations of international law and even fundamental

facts result from this dichotomy, which is uncommon in other situations. Therefore, court proceedings are not only legal but also deeply political actions that, rather than bringing about reconciliation or a shared truth, may strengthen or weaken opposing narratives.

Fragmentation of Palestinian Representation:

The Palestinian side is politically divided between Hamas in Gaza and Fatah in the West Bank, in contrast to the state parties involved in most international conflicts. Legal claims are made more difficult by this split, which also calls into question the consistency or legitimacy of Palestinian interactions with international courts. In contrast, Bosnia and Herzegovina could at least function as a single sovereign player in ICJ proceedings, notwithstanding internal ethnic divides.

In conclusion, the Israel-Palestine case is particularly controversial since it encompasses not only the traditional legal elements of occupation, war crimes, and violations of human rights, but also significant power and recognition imbalances, geopolitical shielding, religious sensitivities, and the collapse of the peace process. These characteristics distinguish it from other wars and present serious obstacles to the implementation and upholding of international law. Even though organizations like the ICC and ICJ are essential in establishing legal standards, they won't have much of an impact in this situation unless there are more significant political and diplomatic developments.

2.5 Jurisdictional Debates: State Recognition, Individual Responsibility, Primacy of National Courts.

International legal discussions have long focused on the Palestinians' pursuit of justice and statehood, especially when it comes to jurisdiction. The applicability of individual criminal culpability under international law, the recognition of Palestine as a state, and the interaction between national and international courts are important topics. Divergent interpretations of international law concepts and geopolitical circumstances further complicate these discussions.

State Recognition and Its Implications for Jurisdiction

An important element of international law, state recognition affects a party's ability to be a part of treaties, participate in international organizations, and maintain diplomatic contacts. According to the 1933 Montevideo Convention, a state must have a permanent population, a defined territory, a government, and the ability to interact with other states. The status of

Palestine has been problematic; while more than 140 countries have recognized it as a state, the United States and several European countries did not.

Jurisdiction is greatly impacted by Palestine's recognition. In 2012 the UN General Assembly awarded Palestine non-member observer state status that allows it to participate in its discussions and activities. The upgraded status permitted Palestine to access international institutions such as the International Criminal Court (ICC) and to sign international treaties thereby enhancing its capacity to address legal disputes.

Individual Criminal Responsibility and the ICC

According to the theory of individual criminal responsibility, international crimes including crimes against humanity, war crimes, and genocide can be committed by anybody, not only by nations. The Rome Statute of the ICC upholds this idea, which was established in the years following World War II, most notably during the Nuremberg Trials.

One important goal in Palestine's quest for justice was its 2015 ratification to the Rome Statute. Palestine handed the ICC jurisdiction over crimes committed on its territory, including East Jerusalem, on June 13, 2014, when it joined the ICC as a state party. This action made it possible for the ICC to investigate claims of crimes made by both Palestinian and Israeli parties. The ICC's Pre-Trial Chamber I confirmed in February 2021 that the court has jurisdiction over the Palestine Situation, which includes the West Bank, Gaza Strip, and East Jerusalem. Considering the Israeli Palestinian conflict, this ruling emphasized the relevance of personal criminal responsibility.

Primacy of National Courts and the Principle of Complementarity

If national jurisdictions are unable or unwilling to pursue major international crimes, the ICC steps in as the last resort, operating under the complementarity principle. This idea guarantees that impunity does not exist while respecting state sovereignty. Israel has maintained that its national courts are qualified to investigate and prosecute alleged crimes committed by its citizens, despite not being a party to the Rome Statute. Israel argues that the ICC does not have jurisdiction over its citizens as a result.

Critics reply that Israel's investigations are frequently incomplete or biased, which supports ICC intervention. The conflict between national sovereignty and the pursuit of international justice is brought to light by the complementarity issue in that case. There are several obstacles to using international jurisdiction in the Israeli Palestinian conflict. The will of governments to

comply with international legal processes is frequently influenced by political factors. The impact of international legal proceedings has been limited, for example, by the United States' constant use of its veto power in the UN Security Council to prevent resolutions that are critical of Israel.

Furthermore, there has been opposition to the ICC's attempts to investigate alleged atrocities in Palestine. Concerns have been raised regarding the ICC's independence and impartiality considering reports that Israeli intelligence services are monitoring and intimidating ICC staff. There are many intricate legal and political facets to the jurisdictional discussions surrounding Palestine. Although Palestine's access to international legal venues has increased because of state recognition, difficulties in upholding jurisdiction and guaranteeing accountability still exist. The pursuit of justice in the Israeli Palestinian conflict is still shaped by the interaction of national and international courts, the complementarity principle, and geopolitical factors.

CHAPTER3 : HUMAN RIGHTS IN PALESTINE

Human rights are essential for all people and entitled to have only by nature of their humanity. Since these rights are universal, everyone is covered by them, regardless of background, gender, nationality, ethnicity, or religion. As the foundation for justice, freedom, and peace in civilizations all over the world, the idea of human rights emphasizes the worth, equality, and dignity of every person.

The concept of human rights has developed over centuries. Following World War II, its current version gained power, particularly with the United Nations' 1948 adoption of the Universal Declaration of Human Rights (UDHR). The purpose of this agreement was to guarantee that the Holocaust and conflicts would never be repeated and to stop the horrors of war. Along with economic, social, and cultural rights, the UDHR outlined a wide range of rights, such as the rights to life, liberty, and security.

Millions of Palestinians' lives are impacted by systematic and ongoing abuses, as evidenced by several reports from international organizations. Civil and political rights, freedom of movement, arbitrary imprisonment, freedom of expression and assembly, forced displacement, and the effects of the ongoing blockade are the six main categories of human rights abuses that are thoroughly examined in the analysis that follows.

3.1 Humans Rights Violations

The basic liberties that enable people to direct their own lives and have an impact on the communities in which they live come to me when I think about civil and political rights. These rights are the foundation of any society seeking for equality, fairness, and true participation. They are codified in international law through instruments like the International Covenant on Civil and Political Rights and the Universal Declaration of Human Rights.

Basically, civil and political rights protect individual freedoms and shield people from irresponsible actions by the government, social groups, or other people. They include the freedoms of expression, religion, assembly, and association; the ability to vote or run for office; the right to be free from discrimination and unfair imprisonment; and the right to a fair trial before an impartial, independent judiciary. These are not merely legalities; they are the lifeblood of democracy, allowing people to freely worship, express their beliefs, pursue justice, and hold those in positions of authority responsible.

When civil and political rights are protected, they promote the environment for constructive debate and nonviolent civic participation. People can express their concerns, campaign, or

protest without fear. A fair trial guarantees that no one can be unfairly imprisoned or punished, while the right to vote guarantees that leaders must earn their mandate. Religions and views can coexist peacefully, and there is a significantly lower chance of identity-based persecution.

The fight for basic freedoms is a daily battle for Palestinians, who face significant obstacles. Several authorities exert overlapping jurisdiction, including Israeli, Palestinian, and occasionally foreign powers. Freedom of speech is frequently curtailed; journalists, activists, and regular people who hold opposing opinions risk incarceration, violence, or legal threats. Deep-rooted differences, a lack of representative channels, and interrupted election procedures frequently restrict the right to political involvement. The difficulty in obtaining justice is also well-known; the right to a fair trial is compromised by military courts, arbitrary incarceration, and limited judicial independence.

These legal restrictions are exacerbated by a social climate that is frequently tense with distrust, fear, and occasionally group reprisals. People who want to openly exercise their rights run the risk of being rejected or violently attacked by both the government and groups in society that are opposed to change or diversity of opinion.

International law ensures the right to engage in civic and political life without discrimination; yet, in Palestine, the ongoing conflict and governmental fragmentation have resulted in significant restrictions. Authorities from both Israel and Palestine have come under fire for violating these rights. The basic rights to self-determination and democratic representation are limited by restraints on political involvement, the absence of free and fair elections in some areas, and the repression of opposition political groups. Under occupation, Palestinians frequently experience discrimination based on their political affiliation, religion, or ethnicity, and have little opportunity to influence the political processes that impact their life.

It takes more than just legal protections to achieve civil and political rights in Palestine or anywhere else. It calls for a culture of rights, which includes institutional backing, tolerance-promoting education, watchful media, and the determination of common people to assert their rights. In the end, sustainable success depends on local competence and community resilience, even while international attention and activism are crucial. That strikes me as the crux of the fight for self-determination and dignity.

3.1.1 Freedom of Movement

Article 12 of the International Covenant on Civil and Political Rights and Article 13 of the Universal Declaration of Human Rights both recognize freedom of movement as a fundamental

human right. This right is severely curtailed for Palestinians in the Israeli Palestinian conflict because of several actions taken by Israeli authorities. The restriction of freedom of movement is one of the most obvious and contentious infractions. Palestinian travel inside the West Bank and between Gaza and the West Bank is severely restricted by checkpoints, roadblocks, the separation barrier (sometimes referred to as the "wall"), and a convoluted permission system. This has far-reaching effects on access to education, health care, employment, and family life. The Israeli authorities justify such measures for security reasons, but critics argue that their scale and arbitrariness amount to collective punishment.

3.1.2 Restrictions Within the West Bank

The West Bank is a key area where freedom of movement for Palestinians is severely restricted due to a combination of physical, administrative, and legal barriers imposed by Israeli authorities. These restrictions are closely linked to the geographic and political division of the territory, especially under the framework of the Oslo Accords.

Geographic Division: Areas A, B, and C, Under the 1995 Oslo II Accord, the West Bank was divided into three administrative areas:

- Area A (approximately 18% of the West Bank): Under full Palestinian civil and security control. It includes major Palestinian cities like Ramallah, Nablus, and Bethlehem.
- Area B (about 22%): Under Palestinian control and Israeli control.
- Area C (roughly 60%): Under full Israeli civil and military control. It includes Israeli settlements, military zones, and much of the rural land.

This division has created a fragmented geography that isolates Palestinian communities from each other and makes travel between areas difficult and often subject to Israeli approval. For example, although Palestinians theoretically have administrative control over Area A, they cannot freely move between different parts of Area A without passing through Israeli-controlled Area C (United Nations Office for the Coordination of Humanitarian Affairs [UNOCHA], 2023).

There are more than 500 fixed checkpoints and roadblocks throughout the West Bank, alongside dozens of temporary ("flying") checkpoints that can appear without notice. These create significant delays and uncertainties for Palestinians traveling to work, school, medical facilities, or visiting family (B'Tselem, 2022).

In addition, the Israeli separation barrier "Apartheid Wall", which was built beginning in 2002, cuts deep into the West Bank and separates Palestinians from their land, livelihoods, and neighboring communities. While Israel claims the barrier is for security, many parts do not follow the Green Line (the pre-1967 armistice line) and instead annex Palestinian territory de facto.

Palestinians must often obtain permits from Israeli authorities to travel between different parts of the West Bank, enter East Jerusalem, or travel abroad through Israeli-controlled crossings. The permit system is complex, opaque, and arbitrary, with many applications denied without explanation. This creates a situation in which people are effectively trapped in their towns or villages, especially those near settlements or in seam zones between the separation barrier and the Green Line.

Israeli settlements, considered illegal under international law, are scattered across the West Bank. These settlements are connected by a network of bypass roads which Palestinians are often forbidden from using or require special permits to access. This dual infrastructure system creates a form of segregation, where Israeli settlers enjoy freedom of movement on well-maintained highways, while Palestinians face delays and detours.

The “back-to-back” system used at some checkpoints further exemplifies these restrictions: Palestinian goods must be offloaded from one truck and reloaded onto another on the opposite side of the checkpoint, significantly hindering trade and logistics.

Social and Economic Impact

These restrictions deeply affect Palestinians' daily lives:

- **Employment:** Farmers face difficulties accessing their land, particularly during harvest seasons. Workers commuting to urban centers face delays and unpredictability.
- **Healthcare and Education:** Ambulances and school buses are often delayed or denied passage. Teachers and students sometimes need to pass through multiple checkpoints daily.
- **Social Disintegration:** Family members living only a few kilometers apart may be unable to visit each other without passing through several checkpoints or requiring permits.

Palestinians face daily challenges in traveling even short distances. The United Nations and various NGOs have documented numerous cases where sick individuals are unable to reach hospitals in time, students struggle to attend schools or universities, and farmers are cut off from

their own land due to the separation barrier. Such restrictions undermine the right to health, education, work, and family unity.

3.1.3 The Blockade on Gaza Strip

Gaza Strip is one of the most crowded areas in the world, home to over 2.2 million Palestinians within approximately 365 square kilometers. Since 2007, the movement of people and goods in and out of Gaza has been severely restricted by Israel.

Following the Israeli withdrawal from Gaza in 2005, Hamas won the elections in 2006 and took control of Gaza in 2007 after a violent conflict with Fatah. In response, Israel and Egypt blocked the land, air, and sea, claiming security concerns over rocket attacks and weapons smuggling. However, critics argue that the blockade is collective punishment, which is prohibited under international humanitarian law (Fourth Geneva Convention, Article 33).

The Blockade and Its Mechanisms

The blockade restricts freedom of movement in several keyways:

1. Erez Crossing (Israel): The primary crossing for people, Erez is tightly controlled. Only a limited number of people are allowed to leave Gaza, mostly medical patients, humanitarian workers, and a few businesspeople, all subject to an extensive and often arbitrary permit system.
2. Rafah Crossing (Egypt): Egypt opens the crossing periodically but also imposes tight restrictions. Gaza residents have limited ability to exit through Rafah, and crossing often requires bribes, waiting for months, or having special connections.
3. Kerem Shalom Crossing (Goods): Israel controls the flow of goods through Kerem Shalom. Many items are restricted, including construction materials, electronics, and at times even medical equipment.
4. Naval Blockade: Palestinian fishermen are restricted to a narrow, shifting strip along the coast (usually 6–15 nautical miles). Violations often result in Israeli navy attacks, arrests, or confiscation of boats.

Impact on Daily Life, the blockade has created a situation where most of the Gaza's population is effectively trapped. The consequences on civilian life are severe and multidimensional:

- Medical Emergencies: Gaza's health system is overburdened and under-resourced. Patients often need treatment unavailable in Gaza, such as cancer care or specialized surgeries. Yet,

Israel denies, or delays travel permits for medical treatment. According to WHO, 37% of patients were denied or delayed permits in 2022 (World Health Organization [WHO], 2023).

- **Education and Professional Development:** Students and professionals face significant barriers in leaving Gaza to attend universities, conferences, or training programs abroad. As a result, academic and professional growth is stifled (Gisha, 2022).
- **Family Separation:** Families are routinely separated, with spouses and children unable to reunite due to permit denials. This violates not only freedom of movement but also the right to family life (Human Rights Watch, 2022).
- **Psychological Toll:** The inability to leave Gaza, even temporarily, contributes to widespread mental health issues, including depression, anxiety, and PTSD especially among youth (Médecins Sans Frontières [MSF], 2023; United Nations Children's Fund [UNICEF], 2022).

Many human rights organizations and UN agencies have condemned the blockade; Amnesty International and Human Rights Watch have stated that the blockade amounts to collective punishment and is a violation of international law. The UN Human Rights Council and the International Committee of the Red Cross (ICRC) have repeatedly called for its lifting, arguing it imposes disproportionate harm on civilians. The (ICC) opened investigations into war crimes related to the siege and treatment of civilians in Gaza.

The blockade contributes to one of the world's most pressing humanitarian crises such as Unemployment exceeds 45%, with youth unemployment over 65%. 80% of the population relies on humanitarian aid, Electricity is only available for a few hours a day and Water is largely undrinkable due to contamination and lack of infrastructure (United Nations Office for the Coordination of Humanitarian Affairs [UNOCHA], 2023).

3.1.4 Arbitrary Detention and Treatment of Prisoners

Arbitrary detention is a chronic issue in Palestine, particularly in areas under Israeli military control. Tens of thousands of Palestinians, including minors, have been detained under administrative detention orders, meaning they are held without charge or trial, often for renewable six-month terms. Detainees are typically denied basic legal protection, such as the right to know the reason for their detention or to challenge it effectively.

Human rights organizations have expressed concern about reports of torture, ill-treatment, less medical care, and denial of family visits. These cases not only violate the International

Covenant on Civil and Political Rights, but also various conventions related to the treatment of children and prisoners of war (Human Rights Watch, 2023).

The treatment of Palestinian prisoners in Israeli detention centers represents one of the most egregious and sustained human rights violations in the context of the Israeli Palestinian conflict, characterized by widespread arbitrary detention, institutionalized torture, deliberate medical neglect, and inhumane living conditions that collectively constitute potential war crimes under international law. As of 2023, over 4,900 Palestinians remain incarcerated in Israeli prisons, including approximately 160 children and 1,100 administrative detainees held without charge or trial under Israel's Military Order 1651, which permits renewable detention periods of up to six months based on secret evidence neither the detainee nor their lawyer can contest (Addameer, 2023).

The arrest process itself frequently involves violent night raids, with 75% of detainees reporting physical abuse during apprehension, including beatings, positional abuse, and sexual violence, while military tribunals maintain a 99% conviction rate through coerced confessions and denial of basic due process protections guaranteed under Article 14 of the International Covenant on Civil and Political Rights (Human Rights Watch, 2023).

Torture is systematically employed as an interrogation tool, with methods including prolonged shackling in stress positions, sleep deprivation, exposure to extreme temperatures, sexual violence, and psychological torture such as threats against family members, despite being absolutely prohibited under the UN Convention Against Torture and constituting crimes against humanity under Article 7 of the Rome Statute.

The Israeli government maintains a policy of absolute impunity for interrogators, dismissing over 3,000 torture complaints since 2001 without a single criminal indictment, while the Supreme Court has effectively sanctioned "moderate physical pressure" through its 1999 ruling (Public Committee Against Torture in Israel, 2023). Prison conditions deliberately violate minimum standards of human dignity, with severe overcrowding (12-15 detainees in cells designed for 4-6), denial of basic hygiene products, and restricted access to sunlight and fresh air constituting cruel, inhuman and degrading treatment under the Mandela Rules.

Medical neglect has emerged as a particularly lethal form of institutional abuse, with at least 36 Palestinian prisoners dying in custody since 2010 due to deliberate denial of treatment, including high-profile cases like Walid Daqqah who was repeatedly denied chemotherapy for bone marrow cancer until weeks before his death in 2023, in violation of Article 13 of the Third

Geneva Convention and Article 12 of the International Covenant on Economic, Social and Cultural Rights (International Committee of the Red Cross [ICRC], 2016).

Child prisoners face systematic rights violations, with 86% reporting physical violence during arrest and interrogation, including beatings, threats, and forced confessions obtained without legal counsel or parental presence, contravening multiple provisions of the UN Convention on the Rights of the Child (Defense for Children International - Palestine [DCIP], 2023).

Female detainees endure gender-specific abuses including invasive strip searches, sexual harassment, and in the case of pregnant women like Anhar al-Deek, being shackled during labor, while Israel consistently fails to investigate sexual violence complaints (Amnesty International, 2022).

These practices occur within a broader context of structural impunity, where 98% of complaints against Israeli security forces are dismissed by military prosecutors, and political interference particularly U.S. vetoes of UN Security Council resolutions - blocks international accountability mechanisms. While the International Criminal Court has identified prisoner abuse as part of its ongoing investigation into the Situation in Palestine, and European courts have exercised universal jurisdiction in some cases, the lack of meaningful domestic or international enforcement underscores the urgent need for targeted sanctions, arms embargoes, and support for civil society documentation efforts to break this decades-long cycle of abuse.

3.1.5 Freedom of Expression and Assembly

The right to freedom of expression and peaceful assembly in Palestine is systematically violated through a complex framework of restrictions imposed by Israeli authorities, the Palestinian Authority (PA), and Hamas, creating an environment of pervasive repression and fear. In the occupied Palestinian territories (oPt), Israel employs military orders to suppress dissent, including a restrictive permit system that denies 97% of applications for demonstrations in Area C (UNOCHA, 2022), while routinely declaring areas as "closed military zones" to preemptively ban gatherings (HRW, 2022).

Peaceful protesters face excessive and often lethal force, exemplified by Israel's response to the 2018-2019 Great March of Return in Gaza, where 223 Palestinians, including 46 children, were killed by live ammunition (OHCHR, 2019).

Journalists covering these events are deliberately targeted, with 20 killed by Israeli forces since 2018 (CPJ, 2023) and 324 cases of equipment confiscation documented in 2022 alone (MADA,

2023). Digital repression has intensified, with Israel deploying Pegasus spyware against 75 Palestinian activists (Citizen Lab, 2023) and implementing internet shutdowns during military operations, as seen in 78 documented cases during the 2021 Gaza war (Access Now, 2022).

The PA in the West Bank similarly suppresses dissent through arbitrary arrests, having detained 350 critics in 2022 under its broadly worded Cybercrime Law, which has been used to imprison 40 activists for social media posts (HRW, 2023).

Palestinian security forces have been implicated in 142 attacks on journalists in 2021 (MADA, 2022), while Hamas in Gaza enforces an outright ban on unauthorized protests since 2019 (PCHR, 2023) and has shuttered 17 media outlets since 2020 (CPJ, 2023). Both Palestinian governing bodies engage in torture and intimidation of dissidents, with 60 cases documented in Gaza in 2022 (Al Mezan, 2023).

These violations contravene fundamental protections under the International Covenant on Civil and Political Rights (ICCPR), particularly Articles 19 (freedom of expression) and 21 (freedom of assembly), which both Israel and Palestinian authorities are obligated to uphold.

ICJ has affirmed that Israel must apply these rights in occupied territories (2004 Advisory Opinion), yet enforcement remains absent. The (ICC) has jurisdiction over potential crimes against humanity arising from systematic suppression, but political interference particularly from Israel and its allies has stalled accountability.

The cumulative effect of these restrictions is a stranglehold on Palestinian civil society, where journalists, activists, and ordinary citizens risk detention, violence, or death for expressing dissent. While universal jurisdiction cases in European courts and advocacy by NGOs like B'Tselem and Amnesty International have brought limited accountability, a comprehensive solution requires ICC prosecutions, targeted sanctions against violators, and robust international support for Palestinian human rights defenders. Without urgent intervention, the space for free expression and assembly in Palestine will continue to shrink, entrenching authoritarianism and prolonging the conflict.

The persistent pattern of human rights violations in Palestine undermines prospects for peace, social development, and authentic self-determination. Each violation, whether structural or direct, inflicts deep and lasting harm on Palestinian society. Addressing these issues will require committed international engagement, meaningful dialogue, and a renewed focus on justice and dignity for all involved (United Nations Human Rights Council [UNHRC], 2022).

3.2 Actors Accountability for Human Rights Violations (Israel and Hamas).

The question of accountability for human rights violations in the Israeli-Palestinian conflict remains one of the most complex and contentious issues in contemporary international law, with both state and non-state actors particularly Israel as the occupying power and Hamas as the de facto governing authority in Gaza, implicated in serious violations of international humanitarian law (IHL) and international human rights law (IHRL) that demand rigorous examination through legal, political, and moral lenses.

Israel's manners as an occupying power under the Fourth Geneva Convention has been called many times into question through multiple UN investigations documenting systematic violations including the expansion of illegal settlements (with over 700,000 Israeli settlers now residing in the West Bank, including East Jerusalem, in violation of Article 49(6) of the Fourth Geneva Convention according to Peace Now's 2023 settlement reports (Peace Now, 2023).

The construction of the separation wall ruled illegal by the International Court of Justice in its 2004 advisory opinion, the maintenance of a 16-year blockade on Gaza that the UN has repeatedly warned amounts to collective punishment prohibited under Article 33 of the Fourth Geneva Convention, and the discriminatory legal system in the occupied territories that prominent human rights organizations including Amnesty International and Human Rights Watch have characterized as apartheid under international law in their respective 2022 reports, all represent persistent violations that have triggered obligations of third-party states to ensure accountability under Common Article 1 of the Geneva Conventions (International Court of Justice, 2004).

Hamas, as the authority in Gaza since 2007, has similarly been implicated in serious violations including firing of rockets into civilian areas in Israel. The UN Independent Commission on the 2014 Gaza Conflict documented approximately 4,881 rockets fired toward Israel during the 2014 hostilities (United Nations Independent Commission of Inquiry, 2015) many of constituted attacks on civilian areas in violation of Article 51 of Additional Protocol I to the Geneva Conventions), extrajudicial killings and torture of political opponents (the Palestinian Center for Human Rights documented 120 cases of extra judicial execution and 250 cases of torture in Gaza between 2017-2023 (Palestinian Center for Human Rights, 2023), and severe restrictions on freedom of expression (including the arbitrary detention of 60 journalists between 2020-2023 according to the Palestinian Center for Development and Media Freedoms, 2023).

These violations by both parties have been extensively documented through United Nations mechanisms including the Human Rights Council's ongoing Commission of Inquiry established in 2021 (which found in its 2022 report that both Israeli and Palestinian authorities may be committing crimes against humanity), as well as by reputable international and local human rights organizations, yet accountability remains frustratingly elusive due to a combination of political obstruction, legal challenges, and enforcement gaps that have created a pervasive culture of impunity.

The (ICC) represents the most promising avenue for accountability, with Prosecutor Karim Khan confirming in 2021 that the Court's territorial jurisdiction covers Gaza, West Bank and East Jerusalem, following Palestine's accession to the Rome Statute in 2015, and with ongoing investigations into potential war and humanity crimes committed by all parties since 2014.

However, the ICC process faces significant challenges including Israel's refusal to cooperate with the Court (bolstered by political support from the United States, which imposed sanctions on ICC officials in 2020 under Executive Order 13928), difficulties in evidence collection particularly from Gaza, and questions about the Court's capacity to ensure arrests of suspects should indictments be issued (International Criminal Court, 2021).

Domestic accountability mechanisms have proven wholly inadequate, with Yesh Din's 2023 report on Israeli military investigations revealing that less than 1% of complaints regarding harm to Palestinians result in indictments, while Hamas's judicial system in Gaza lacks both independence and adherence to international fair trial standards (Yesh Din, 2023). Alternative justice mechanisms such as universal jurisdiction cases (exemplified by the 2009 UK arrest warrant issued for former Israeli Foreign Minister Tzipi Livni for alleged war crimes during Operation Cast Lead, though ultimately not executed) remain sporadic and politically contentious, while UN mechanisms including the Human Rights Council's Commission of Inquiry and the General Assembly's request for an ICJ advisory opinion on the legal consequences of the occupation (pending as of 2023) lack enforcement power despite their important documentation and normative functions.

The obstacles to meaningful accountability are both structural and political in nature, reflecting the broader power asymmetries that characterize the conflict itself. Israel's strategic alliances, particularly with the United States and European Union states, have shielded it from serious consequences through repeated vetoes of UN Security Council resolutions (the U.S. has cast over 45 vetoes on Israel-related matters since 1972 according to UN Watch data), while Hamas's

status as a designated terrorist organization by multiple Western states has complicated engagement with accountability mechanisms.

The fragmentation of Palestinian political representation between the Palestinian Authority in the West Bank and Hamas in Gaza has further undermined coherent efforts to pursue accountability through international legal channels (International Crisis Group, 2022). Moreover, the lack of a unified international position on the status of Palestinian statehood continues to create jurisdictional complexities, notwithstanding the 2012 UN General Assembly resolution granting Palestine non-member observer state status (Resolution 67/19) and its subsequent accession to multiple international treaties including the Rome Statute.

Breaking this cycle of impunity requires a multifaceted approach that addresses both legal and political dimensions of the accountability challenge. Strengthening the ICC process through enhanced state cooperation and resource allocation represents the most viable legal pathway, while complementary measures including universal jurisdiction cases in national courts (such as the ongoing case against Israeli officials in Spain regarding the 2002 bombing of a residential building in Gaza) and intensified documentation efforts by UN and civil society actors can help build pressure for accountability.

Politically, conditioning military assistance and trade agreements on compliance with international law (as proposed in various U.S. congressional initiatives regarding restrictions on military aid to Israel) could create meaningful leverage, while supporting Palestinian civil society's documentation and advocacy efforts remains crucial given the constraints on international monitoring access (U.S. Congress, 2021).

Without serious consequences for violations, the abuse documented over decades are likely to persist, not taking into considerations both the rights of Palestinians and Israelis and the international legal order itself. The international community's failure to ensure accountability in this context not only perpetuates the conflict but also erodes the foundational principles of international law, making the pursuit of justice through available mechanisms both a legal and moral imperative that can no longer be deferred. Accountability for human rights violations in the Israeli Palestinian conflict remains a complex and contentious issue. Hamas and Israel have both been linked to serious violations of international law, but effective accountability has been blocked by institutional constraints and political factors. The international community must work together to promote structures that can provide justice to victims on both sides and to impartially enforce legal standards to make significant progress.

3.3 Case Analysis Based on Reports by Human Rights Organizations

3.3.1 B'Tselem and Human Rights Watch.

Leading human rights organizations provide an enormous amount of information about the Israeli Palestinian conflict. Human Rights Watch (HRW) and B'Tselem (The Israeli Information Center for Human Rights in the Occupied Territories) have produced some of the most thorough and reliable reports on systematic violations of international law. Key results from both organizations are examined in this analysis, with particular attention paid to their documentation of the occupied Palestinian territories' (oPt) apartheid practices, illegal killings, settlement growth, and limitations on fundamental freedoms. These findings offer vital proof for global accountability systems, such as the United Nations investigations and the International Criminal Court (ICC).

A. Case study: Apartheid and Systematic Discrimination,

- B'Tselem's "A Regime of Jewish Supremacy" (2021).

According to B'Tselem's essential research, Israel consistently favors Jewish Israelis while restricting Palestinian rights, upholding an apartheid government from the Jordan River to the Mediterranean Sea. Important conclusions include:

- Territorial Fragmentation: Palestinians are divided into four separate legal and administrative zones (citizens of Israel, residents of East Jerusalem, West Bank inhabitants under military rule, and Gaza residents under blockade), each with differing rights.
- Land Control: 93% of state land in Israel is reserved for Jewish use, while Palestinians face severe restrictions on property ownership and construction permits in Area C of the West Bank.
- Movement Restrictions: A complex system of checkpoints, permits, and the Separation Wall severely limits Palestinian freedom of movement.

- HRW's "A Threshold Crossed" (2021)

HRW similarly found that Israeli policies amount to apartheid and persecution under international law. The report highlights:

- Demographic Engineering: Israel's Population Registry laws prevent Palestinian family reunification while encouraging Jewish immigration.

- Two-Tier Legal System: West Bank settlers enjoy civil rights under Israeli law, while Palestinians live under military rule with no political representation.
- Forcible Transfer: Home demolitions and settlement expansion displace Palestinians while consolidating Jewish control over land.

Legal Implications: Both reports align with the Rome Statute's definition of apartheid (Article 7) and the 1973 International Convention on the Suppression and Punishment of Apartheid.

A. Case study: Unlawful Killings and Excessive Force,

- B'Tselem's Documentation of Lethal Force (2020-2023)
 - Great March of Return (2018-2019): Israeli snipers killed 223 protesters in Gaza, including 46 children, with live ammunition despite posing no imminent threat (OHCHR, 2019).
 - 2023 West Bank Raids: Over 150 Palestinians killed, many in extrajudicial executions during arrest operations.
- HRW's Investigations into Targeted Assassinations
 - 2022 Jenin Operation: Israeli forces used unnecessary lethal force, killing 10 Palestinians in a refugee camp, including bystanders.
 - Drone Strikes in Gaza: Multiple cases of indiscriminate attacks violating IHL principles of distinction and proportionality.

Legal Violations: These acts constitute war crimes (Rome Statute, Article 8) and may amount to crimes against humanity (Article 7) due to their systematic nature.

B. Case study: Settlement Expansion and Forced Displacement,

- B'Tselem's Settlement Monitoring,
 - 700,000+ settlers now reside in the West Bank and East Jerusalem, facilitated by expropriation of Palestinian land.
 - Home Demolitions: Over 1,300 Palestinian structures demolished between 2020-2022, displacing 6,000+ people.
- HRW's "Expel and Exploit" Report (2016, Updated 2023)

- Economic Exploitation: Settlements benefit from Palestinian natural resources (water, minerals) while Palestinians face severe restrictions.
- Forced Displacement: Israel's "Judaization" policies in East Jerusalem and the Naqab forcibly displace Bedouin communities.

Legal Assessment: Violates Fourth Geneva Convention (Article 49) prohibiting population transfer and Rome Statute (Article 8(2)(b)(viii)).

C. Case study: Suppression of Fundamental Freedoms,

○ B'Tselem on Freedom of Movement

- 600+ checkpoints and barriers restrict Palestinian travel, even for medical care.
- Gaza Blockade: 16-year siege has collapsed healthcare, with 96% of water undrinkable (UNRWA, 2023).

○ HRW on Crackdowns on Dissent

- Journalist Killings: Israeli forces have killed 20+ Palestinian reporters since 2000 (CPJ, 2023).
- Arbitrary Arrests: 4,900+ Palestinians detained, including 160 children, often without trial (Addameer, 2023).

The reports from B'Tselem and HRW provide irrefutable evidence of apartheid, war crimes, and crimes against humanity in Palestine/Israel. Key recommendations include:

1. ICC Prosecutions: Prioritize cases of settlement expansion, unlawful killings, and apartheid policies.
2. Targeted Sanctions: States should impose arms embargoes and trade restrictions on violators.
3. UN Action: The General Assembly should pursue an advisory opinion from the ICJ on apartheid.
4. Civil Society Support: Protect human rights defenders documenting abuses.

Without urgent international intervention, these violations will persist, entrenching impunity and prolonging the conflict.

3.3.2 UNRWA, Amnesty International

Case Study: Alleged Abuse of Palestinian Detainees in Israeli Custody by UNRWA:

In early 2024, an internal UN report from the United Nations Relief and Works Agency for Palestine Refugees (UNRWA) documented widespread abuse against Palestinian detainees in Israeli detention centers. Based on interviews with detainees who have been freed since December, the report details incidents of sexual assault, dog attacks, stress postures, and beatings. According to reports, the purpose of the abuse was to extract operational knowledge and confessions. Detainees were frequently detained for extended periods of time without access to attorneys. The claims have been refuted by the Israeli Defense Forces (IDF), which insist that mistreating detainees is against their principles and directives.

Case Study: Coerced Confessions from UNRWA Employees:

Some of UNRWA's employees in Gaza, who had just been freed from Israeli custody, told UNRWA in March 2024 that they were forced to make false claims by Israeli authorities that UNRWA had ties to Hamas and that its personnel took part in the October 7 attacks on Israel. The report detailed various abuses suffered by Palestinian detainees, including physical beatings and threats of harm to family members. UNRWA has communicated plans to submit its findings to relevant human rights bodies and called for inquiries into human rights violations after the conflict ends.

Case Study: Destruction of Entire Families in Gaza by Amnesty International:

Between October 7 and 28, 2023, Israeli airstrikes in Gaza resulted in the deaths of entire Palestinian families, effectively erasing them from civil registries. Prominent among these victims was the al-Dos family, with members spanning three generations wiped out. Amnesty International documented five such cases within just five days, highlighting that over 500 civilians from 47 families were reportedly obliterated by mid-October. Children accounted for over 40% of the 7,703 fatalities, according to Save the Children. Amnesty condemned the airstrikes as indiscriminate, failing to differentiate between civilian and military targets, often without adequate evacuation warnings.

Case Study: 2014 Shelling of UNRWA Gaza Shelters:

During the 2014 Israeli-Gaza conflict, there were seven incidents where UNRWA facilities in the Gaza Strip, being used as shelters for Palestinians, were struck by artillery, mortar, or aerial missile fire. As a result, at least 44 civilians, including 10 UN staff, died. Notably, the Beit

Hanoun Elementary Co-ed School was hit by indirect artillery fire on July 24, resulting in 11 deaths, including seven children. The Jabalia Elementary Girls School was struck by a barrage of 155 MM high explosive projectiles on July 30, and the Rafah Preparatory A Boys School was hit by a precision-guided missile on August 3, killing 15 people.

Case Study: Ahmad Manasra and Ahed Tamimi – Juvenile Detention and Mental Health Concerns by Amnesty International:

A 13-year-old Palestinian named Ahmad Manasra was arrested in 2015 for his involvement in an East Jerusalem stabbing incident and was given a 12-year prison sentence, which was eventually lowered to 9.5 years. His case gained attention because of the severe mental health effects of his custodial treatment, the use of solitary confinement during his detention, and the severity of the punishment considering his age. Human rights organizations, including Amnesty International, have demanded his immediate release because to concerns of breaches of international laws that forbid torture and brutal, inhuman, or humiliating treatment. Manasra served nine years in prison before being freed on April 10, 2025.

A video of 16-year-old Ahed Tamimi punching an Israeli soldier went viral in December 2017, leading to her imprisonment. She was accused of throwing stones, assault, and provocation. Her case generated discussion about the usage of military tribunals for children and attracted international attention. Tamimi accepted a plea deal that included a fine and eight months in jail. Her case brought attention to the detention and incarceration of Palestinian adolescents and sparked debate about how the Israeli military justice system treats children.

Case Study: Ahmad Qatamesh administrative detention without charge, by Amnesty International:

In April 2011, Palestinian author and scholar Ahmad Qatamesh was arrested and detained under a number of detention orders without being charged. During his brief 10-minute interrogation while in custody, he was charged with continuing to be involved with the Popular Front for the Liberation of Palestine (PFLP), a charge he disputed. Declaring that Qatamesh's arrest resulted from his peaceful expression of non-violent political opinions, Amnesty International declared him a prisoner of conscience and demanded his release. He was released on December 26, 2013.

Case Study: Beitunia Killings use of live ammunition against protesters:

On May 15, 2014, during Nakba Day protests near the Israeli Ofer Prison in the occupied West Bank, two Palestinian teenagers were killed by Israeli Border Police. Initially, Israel denied

responsibility, claiming that only rubber bullets were used. However, forensic evidence later showed that live ammunition was used, leading to the arrest and conviction of Ben Deri, an Israeli border policeman, for causing death by negligence. He was sentenced to nine months in jail.

Case Study: Rachel Corrie, death of an international activist:

Rachel Corrie, an American activist, was killed in 2003 while protesting house demolitions in Gaza. She was crushed by an Israeli military bulldozer. Her family filed a civil lawsuit against the Israeli government, but in 2012, an Israeli court ruled her death an accident and exonerated the military. The case drew international attention and criticism, highlighting concerns about the protection of human rights activists in conflict zones.

3.3.3 The Palestinian Center for Development and Media Freedoms (MADA):

Case Study: Targeted Killings of Journalists in Conflict Zones: In January 2024, MADA reported that Israeli forces were responsible for 80 violations against media freedoms, including the deaths of 14 journalists in the Gaza Strip. Notably, journalists Mustafa Thuraya and Hamza Wael Al-Dahdouh were killed during field coverage, while others died when their homes were targeted by airstrikes. These incidents underscore the extreme risks faced by media personnel in conflict areas.

Case Study: Obstruction and assault during news coverage: On September 1, 2024, Israeli soldiers fired live bullets at a group of journalists, including MADA researcher Hassan Awad Rajoub, in Hebron. The journalists were covering a military siege and were targeted multiple times despite being clearly identified as press.

Similarly, on May 4, 2024, Al-Araby TV crew members were shot at by Israeli forces while covering events in Deir Al-Ghosoun, Tulkarm. Their equipment was damaged, and the live broadcast was interrupted.

Case Study: Arbitrary arrests and detentions: MADA documented several cases of journalists being arrested without clear charges. On March 22, 2024, Palestinian Intelligence arrested journalist Ahmed Al-Bitawi while he was covering a march in Nablus. He was detained without immediate access to legal representation. Additionally, on September 17, 2024, Israeli forces arrested media student Duaa Mahmoud Al-Qadi from her home in Al-Bireh, placing her under administrative detention without formal charges.

Case Study: Physical assaults and threats: Journalists have also faced physical assaults and threats. On September 26, 2024, freelance journalist Shahd Abdul Halim Rajoub was assaulted by Israeli soldiers in Hebron while covering military operations. In another incident, on January 17, 2024, Al Jazeera correspondent Fayhaa Khanfar was detained, her phone confiscated, and she was threatened with harm if she continued reporting in Tulkarm.

Case Study: Suppression of digital expression: MADA's 2019 report highlighted violations against journalists on social media platforms. Between 2017 and 2019, there were 294 reported violations, including 123 by Palestinian authorities. These included arrests, content removal, and page closures, often justified under cybercrime laws that critics argue suppress free expression.



CHAPTER4 : CHALLENGES INTERNATIONAL COURTS FACES IN HUMAN RIGHTS ENFORCEMENT

4.1 Jurisdictional and Legal Barriers.

A fundamental challenge in enforcing human rights law in Palestine is the principle of state sovereignty, which allows nations to reject external judicial interference. Israel, along with key allies such as the United States, has consistently opposed international legal scrutiny over its actions in Palestinian territories (Shany, 2017).

4.1.1 State Sovereignty and Non-recognition Issues ICC, ICJ and ECtHR

ICC, State Sovereignty and Non-Recognition Issues, Israel's stance on the ICC is rooted in its assertion of state sovereignty and its non-recognition of the Court's jurisdiction. Although Israel signed the Rome Statute in 2000, it later withdrew its signature in 2002, expressing concerns over the Court's potential politicization and jurisdictional overreach. Consequently, Israel is not a party to the Rome Statute and does not accept the ICC's authority over its nationals or actions.

This position was evident when the ICC issued arrest warrants for Israeli Prime Minister Benjamin Netanyahu and Defense Minister Yoav Gallant in November 2024, citing alleged war crimes and crimes against humanity committed during the Gaza conflict (ICC, 2024). Israel challenged the Court's jurisdiction, arguing that the ICC lacks authority over non-member states and that it has the capacity to investigate and prosecute any alleged misconduct internally (Reuters, 2025).

However, the ICC's Pre-Trial Chamber I rejected Israel's challenges, stating that the Court has jurisdiction over the situation in Palestine, which is a State Party to the Rome Statute. The Chamber emphasized that the Court's jurisdiction is based on territoriality, and thus, it can exercise authority over crimes committed on the territory of a State Party, regardless of the nationality of the accused (ICC, 2024).

ICJ, State Sovereignty and Non-Recognition Issues, state sovereignty is a main principle of international law, granting states the authority to govern without external interference. The International Court of Justice (ICJ) concluded in its 2004 advisory opinion on the legal ramifications of wall building in the Occupied Palestinian Territory that the project was illegal and in violation of Israel's Fourth Geneva Convention duties. Citing security concerns and contesting the ICJ's jurisdiction, Israel challenged the ruling.

Israel's long-term occupation and policies in the Palestinian territories, such as settlement growth and resource exploitation, are in violation of international law and the Palestinian people's right to self-determination, according to an advisory opinion issued by the International Court of Justice (ICJ) in July 2024. The Court underlined how illegal Israel's claim of sovereignty over these areas is and how its actions prevent Palestinians from exercising their rights. Israel rejected the ruling, upholding its position on sovereignty and refusing to acknowledge the ICJ's jurisdiction in this matter.

ECtHR State Sovereignty and Non-Recognition Issues, because of concerns about state sovereignty and non-recognition, the European Court of Human Rights (ECtHR) has a difficult time addressing human rights abuses in Palestine. Technically, the ECtHR's jurisdiction is restricted to matters involving states parties to the European Convention on Human Rights (ECHR), as it is the Council of Europe's judicial authority. But when it comes to matters involving Palestine, the Court's precedent on extraterritorial jurisdiction raises difficult legal issues (Milanović, 2011).

Article 1 of the ECHR, which requires contracting parties to protect Convention rights "to everyone within their jurisdiction" (European Convention, 1950), essentially limits the ECtHR's jurisdiction. The meaning of "jurisdiction" in relation to human rights duties has been the subject of much litigation because of this clause. The Court first adopted a restricted stance in *Banković v. Belgium* (2001), concluding that the ECHR is mainly applicable inside a state's borders. However, subsequent cases like *Al-Skeini v. UK* (2011) established that a state's effective control over territory or individuals can trigger extraterritorial jurisdiction. Israel, while not a party to the ECHR, becomes relevant to ECtHR proceedings when cases involve European states' complicity in or responsibility for human rights violations in Palestine. Israel maintains that international courts lack jurisdiction over matters pertaining to the Occupied Palestinian Territories (OPT), arguing that Palestine does not meet the criteria of statehood under international law (Shany, 2012).

This position creates a legal gray area when Palestinian applicants seek to bring cases against European states or corporations involved in the occupation. The ECtHR has avoided making definitive rulings on Palestinian statehood, but this political question underlies many jurisdictional hurdles. In *Matan v. Israel* (2020), the Court declined to rule on whether Israel's occupation constitutes jurisdiction under Article 1, instead focusing on procedural grounds.

This avoidance reflects the political sensitivity surrounding recognition of Palestinian statehood among Council of Europe members (Lynk, 2018).

4.1.2 Complementarity Principle in The ICC, ICJ and ECtHR

Complementarity principle in the ICC, the principle of complementarity is the core of the ICC's functioning, stipulating that the Court will only exercise jurisdiction when national legal systems are unwilling or unable to investigate or prosecute crimes (Rome Statute, Article 17). These principal respects state sovereignty by prioritizing domestical legal proceedings. In the context of Israel, the ICC Prosecutor's Office assessed the applicability of the complementarity principle. While Israel maintains that its legal system can address allegations of misconduct, critics argue that there is a lack of genuine investigations and accountability for actions taken during military operations in Palestinian territories (Opinio Juris, 2024).

The ICC's decision to issue arrest warrants implies that it believed the Israeli legal system was either incapable or unwilling to carry out legitimate investigations into the alleged crimes. Under addition, there have been discussions over the ICC Prosecutor's compliance with the complementarity principle, specifically with relation to the notification procedure outlined under Article 18 of the Rome Statute. According to certain legal experts, before requesting arrest warrants, the prosecutor did not give Israel enough time to show that it was ready and able to investigate the alleged offenses (Just Security, 2024). Discussions over the appropriate use of complementarity and striking a balance between national and international jurisdictions have resulted from this.

There are many complicated legal and jurisdictional obstacles in the way of seeking justice for alleged crimes in the Israeli Palestinian conflict. The ICC's attempts to hold people accountable are severely hampered by Israel's claims of state sovereignty and non-recognition of the Court. With ongoing discussions concerning the sufficiency of domestic judicial proceedings and the ICC's role in guaranteeing accountability, the implementation of the complementarity principle makes issues even more complicated. These difficulties highlight how complexly state sovereignty and international law procedures interact when dealing with claims of grave international crimes.

Complementarity principle in the ICJ, the complementarity principle, while officially associated with the International Criminal Court (ICC), can also be understood in a broader sense within the International Court of Justice (ICJ) especially in situations like Palestine's legal struggle for justice and accountability. Unlike the ICC, the ICJ does not investigate or

prosecute individuals; it deals with disputes between states and offers advisory opinions on international legal questions. However, when domestic systems fail to address major violations or when one state's actions affect the rights of another, the ICJ becomes a complementary international mechanism to clarify legal responsibilities and provide a forum for legal redress.

In the Palestinian context, the complementarity-like function of the ICJ is especially important because Palestinians have limited access to effective legal remedies within the Israeli legal system, Israel often invokes sovereignty to reject international jurisdiction, including that of the ICJ and Domestic courts in Israel are seen as insufficient to hold the state accountable for policies such as settlement expansion, forced displacement, or the blockade of Gaza.

The separation wall advisory opinion issued by the ICJ in 2004 is a prime illustration of this dynamic. The United Nations General Assembly (UNGA) looked to the International Court of Justice (ICJ) to determine whether Israel's wall construction in occupied territory was lawful because Palestinians were unable to get sufficient remedies through Israeli courts or through diplomacy. Israel was required to demolish the wall and make reparation after the International Court of Justice ruled that it had breached international law. Although this ruling was not legally binding, it clarified the law and bolstered global support for Palestinian rights.

More recently, in 2022, the UNGA asked the ICJ for another advisory opinion this time on the legal consequences of Israel's prolonged occupation. The hearings in 2024 allowed Palestine and many supporting states to present legal arguments. This shows how the ICJ serves a complementary legal role, stepping in to address serious international law issues when domestic or bilateral efforts fail.

In short, while the ICJ does not apply the complementarity principle in the same way as the ICC, it functions as a legal forum of last resort when domestic systems are unwilling or unable to deliver justice especially in the case of Palestine. It helps define international legal standards, documents state obligations, and gives legal weight to the Palestinian pursuit of rights under international law.

Complementarity principle in the ECtHR; The complementarity principle in the European Court of Human Rights (ECtHR) system creates significant challenges for Palestinian applicants seeking justice for human rights violations. Unlike the International Criminal Court's version of complementarity, the ECtHR's approach manifests through three key mechanisms: the subsidiary nature of the Convention system under Article 13, the exhaustion of domestic remedies requirement in Article 35(1), and the margin of appreciation doctrine (Mowbray,

2018). These principles collectively establish that national authorities bear primary responsibility for protecting Convention rights, with the ECtHR serving as a last resort.

The complicated legal system of the Occupied Palestinian Territories makes the complementarity principle especially troublesome in the Palestinian setting. Candidates must deal with several frequently inefficient legal systems, including as Hamas-run courts in Gaza, Israeli military courts for Palestinians in the West Bank, and Palestinian Authority courts with restricted authority (B'Tselem, 2021). In judgments such as *Abu Zubaydah v. Poland* (2015), the ECtHR has typically mandated the exhaustion of remedies across these systems when appropriate. According to *M.A. v. Switzerland* (2021), the Court assesses domestic remedies according to their theoretical viability, practical sufficiency, and outcome certainty criteria that are challenging to satisfy in the circumstances of Palestine's occupation.

The ECtHR's strict application of complementarity raises serious concerns regarding access to justice for Palestinians. Israeli military courts maintain a 99.7% conviction rate for Palestinians (B'Tselem, 2021) and face allegations of systemic bias, yet the ECtHR has been reluctant to declare them inherently inadequate. Palestinian Authority courts similarly struggle with questions of independence and effectiveness due to political interference, jurisdictional limitations from the Oslo Accords, and practical coordination challenges between Gaza and the West Bank (Lavrysen, 2022). These structural issues create insurmountable barriers for Palestinian applicants attempting to satisfy the Court's complementarity requirements.

Recent jurisprudence shows modest evolution in the ECtHR's approach to Palestinian cases. The Court has demonstrated slightly greater flexibility in matters involving torture allegations (*Abu Zubaydah* line of cases), house demolitions (*Demolition Cases v. UK*, 2022), and settler violence (*Yesh Din v. Israel*, 2021).

However, it continues to apply complementarity principles rigorously in most Palestinian cases, often overlooking the unique challenges of military occupation (Lavrysen, 2022). This persistent strictness undermines the ECtHR's potential role as an effective human rights protector for Palestinians.

4.2 Political Obstacles

The veto power held by permanent members of the United Nations Security Council (UNSC) is one of the major political barriers to the pursuit of justice for Palestine through international legal procedures. As a strong supporter of Israel, the US has routinely blocked resolutions that

would hold Israel responsible for alleged transgressions of international law by exercising its veto authority (Lynk, 2020).

The European Court of Human Rights (ECtHR), the International Criminal Court (ICC), and the International Court of Justice (ICJ) are among the important legal institutions whose ability to handle human rights violations in Palestine is compromised by this political meddling. This section analyzes instances when political action has thwarted justice, looks at how the UNSC veto power impedes responsibility, and considers the wider ramifications for international law.

4.2.1 The UN Security Council Veto Power and Its Role in Blocking Accountability

A single state can essentially prevent collective action by exercising its veto power over any substantive resolution (Article 27(3)), which is granted by the UN Charter to the five permanent members of the UNSC (China, France, Russia, the United Kingdom, and the United States) (O'Connell, 2018). The veto has been used as a weapon to protect allies from responsibility, especially in the case of Israel, despite its initial purpose of averting great-power confrontations (Falk, 2017).

The U.S. has cast over 40 vetoes to block UNSC resolutions critical of Israel, more than all other permanent members combined (UN Watch, 2022). Key examples include:

- Vetoing investigations into Israeli settlements (2011, 2018)
- Blocking calls for ceasefire during Gaza wars (2006, 2008, 2014)
- Opposing referrals of Israeli officials to the ICC (2014, 2021)

These vetoes prevent the UNSC from authorizing enforcement measures, leaving international courts with limited avenues for action (Quigley, 2019).

While the ICC can investigate crimes under its own initiative (via Article 15 of the Rome Statute), UNSC referrals strengthen its mandate and enforcement capacity (Schabas, 2020). The U.S. has actively undermined ICC efforts regarding Palestine:

- 2014 Gaza War Investigation: The U.S. blocked a UNSC referral, forcing the ICC to rely on Palestine's independent accession (HRW, 2021).
- 2021 ICC Jurisdiction Ruling: The Biden administration condemned the Court's decision to investigate Israel, imposing sanctions on ICC officials (Akande, 2021).

Without UNSC backing, the ICC faces:

- Non-cooperation from Israel and allied states.
- Difficulty in evidence collection and witness protection.
- Reduced deterrence effect (Kattan, 2022).

The ICJ's 2004 *Wall Advisory Opinion* declared Israel's separation barrier illegal, but the U.S. vetoed follow-up UNSC resolutions demanding compliance (Lynk, 2020). This pattern repeats in recent cases:

- 2023 UNSC Vote on Israeli Settlements: The U.S. vetoed a resolution that would have reinforced the ICJ's stance on their illegality (UN News, 2023).

Without UNSC enforcement, ICJ rulings remain symbolic, as seen in:

- South Africa's 2024 Genocide Case: The U.S. dismissed the case as "meritless," signaling political resistance to ICJ intervention (Al Jazeera, 2024).

Challenges for the European Court of Human Rights (ECtHR) are Extraterritorial Jurisdiction Barriers. Unlike the ICC and ICJ, the ECtHR's jurisdiction is limited to Council of Europe states. However, political dynamics still hinder Palestinian cases:

- EU States Avoiding Cases Involving Israel: Fear of U.S. backlash leads to weak enforcement (Hofmann, 2022).
- Arms Trade Complicity Cases: The ECtHR has dismissed cases against European arms exporters to Israel (*El Leithy v. France*, 2019).

The U.S. lobbies European allies to Oppose Palestinian membership in international bodies and Limit funding for human rights investigations (Falk & Tilley, 2017)

The politicization of international courts leads to: Selective justice, where powerful states evade accountability and Decreased legitimacy of the UN system (Kattan, 2022)

There are Alternative Pathways for Accountability Despite veto obstacles, some mechanisms persist such as Universal jurisdiction cases in domestic courts, BDS (Boycott, Divestment, Sanctions) movements and UN General Assembly Resolutions (e.g., 2022 ICJ referral on occupation).

The UNSC veto power, particularly as exercised by the U.S., remains the most significant political obstacle to justice for Palestine in international courts. By systematically blocking ICC referrals, ignoring ICJ rulings, and pressuring European allies, the U.S. ensures Israel's

impunity. This undermines the credibility of international law and perpetuates a system where power, not justice, dictates outcomes. Reforms such as veto restraint or alternative enforcement mechanisms are urgently needed to restore fairness in global governance.

4.2.2 Geopolitical Alliances Influencing Accountability.

The Israeli Palestinian conflict exists within a complex web of international relations where strategic alliances frequently override legal considerations. Since 1967, Israel has cultivated strong bilateral relationships with Western powers, particularly the United States and key European Union members (Falk, 2018). These alliances have created what some scholars term as an "accountability gap" in international law (Lynk, 2021), where political considerations systematically prevent impartial judicial review of alleged violations.

The United States provides Israel with approximately \$3.8 billion in annual military aid (Congressional Research Service, 2022) and consistently shields it from international scrutiny through various diplomatic channels.

European states, while occasionally critical of Israeli policies, frequently prioritize economic and security cooperation over human rights enforcement (Peters, 2020). These geopolitical realities directly impact the operational capacity of international courts examining Palestinian cases.

Political Interference in ICC Proceedings, The ICC's Palestine investigation has faced unprecedented political backlash from Israel's allies. When the Office of the Prosecutor opened a formal investigation in 2021 into alleged war crimes in Palestinian territories, the United States immediately condemned the move as "unfair" and "politically motivated" (U.S. State Department, 2021). This response followed years of American efforts to undermine the Court, including the 2020 sanctions against ICC officials under Executive Order 13928 (Akande, 2021). European Union members have adopted contradictory positions that weaken the ICC's mandate. While most EU states nominally support the Court, key players like Germany and Hungary have blocked stronger EU statements supporting the Palestine investigation (Human Rights Watch, 2022). This fragmentation reflects broader tensions between human rights commitments and political alliances with Israel.

The political pressure has tangible effects on ICC operations such as:

- Difficulty obtaining evidence due to non-cooperation from Israel and allies.
- Reduced funding and political support for Palestine-related cases.

- Chilling effect on potential witnesses fearing retaliation (Kattan, 2023).

The ICJ's 2004 Advisory Opinion on the separation wall established important legal principles but revealed the limits of judicial action without political enforcement. Despite ruling the wall illegal, the opinion was effectively nullified when the U.S. blocked all subsequent UN Security Council action (Quigley, 2019).

The European Court of Human Rights (ECtHR) Dilemma is all about Jurisdictional Limitations, The ECtHR faces structural constraints in Palestinian cases due to that Israel's non-membership in the European Convention, Reluctance to assert extraterritorial jurisdiction over OPT and Political pressure from Council of Europe members (Milanovic, 2022).

Moreover, Cases Involving European Complicity When Palestinian applicants try to hold European states accountable for arms exports or other forms of complicity, the Court has generally deferred to national security arguments. In *El Leithy v. France* (2019), the ECtHR declined to rule on France's arms sales to Israel despite evidence linking them to Gaza violations.

Alternative Accountability Mechanisms can be done by Universal Jurisdiction Cases, some national courts have pursued cases under universal jurisdiction principles, though these often face political interference. The 2021 German court decision to drop charges against former Israeli defense officials demonstrated how diplomatic pressure can derail cases (Amnesty International, 2022).

Also, BDS Movement and Civil Society Efforts, The Boycott, Divestment and Sanctions movement represents a grassroots alternative to state-centric accountability, though it faces legal restrictions in many Western countries (Barghouti, 2021).

Geopolitical alliances create an accountability crisis in international law regarding Palestine. The consistent pattern of political interference across all three courts reveals systemic biases that privilege power over justice. Until states prioritize legal principles over political alliances, international judicial mechanisms will remain constrained in their ability to address Palestinian rights violations.

4.3 Practical and Evidentiary Challenges

The pursuit of international justice for Palestine faces formidable practical and evidentiary challenges that significantly hinder the effectiveness of international judicial mechanisms. The protracted nature of the conflict, Israel's military occupation, and the fragmented governance

structures in Palestine pose challenges for the International Criminal Court (ICC), International Court of Justice (ICJ), and European Court of Human Rights (ECtHR) when it comes to gathering trustworthy evidence and obtaining witness testimony in the occupied Palestinian territories (OPT). Based on field reports from human rights organizations and case law from all three courts, the research identifies systemic trends that impede accountability attempts and suggests possible ways to get around these evidentiary obstacles.

4.3.1 Access To Evidence and Witnesses in Conflict Zones

Security and Physical Obstacles to the Gathering of Evidence is fundamentally hampered by Palestine's unstable security environment. The Israeli embargo significantly limits access for international investigators in Gaza, where the ICC has concentrated a large portion of its probe into possible war crimes. Independent human rights monitors have been unable to carry out extended fieldwork since 2007 due to movement limitations (Human Rights Watch [HRW], 2021).

The 2014 Gaza war investigation faced difficulties, with the UN Commission of Inquiry noting Israel's refusal to grant access to military sites or cooperate with evidence requests (UNHRC, 2015). Similar access problems plague the West Bank, where Area C (under full Israeli control) remains largely off-limits to Palestinian and international investigators without military permits (B'Tselem, 2022).

For the ECtHR, which relies on member states to implement fact-finding missions, the political sensitivity of sending European investigators into conflict zones has resulted in inadequate evidentiary records. In *Matan v. Israel* (2020), the Court dismissed a case concerning home demolitions partly due to insufficient on-the-ground documentation, despite recognizing the practical difficulties of collecting such evidence.

The ICJ faces parallel challenges when seeking expert testimony about conditions in Gaza, as seen in its 2004 Wall Advisory Opinion proceedings, where several UN special rapporteurs reported being denied access to affected areas (ICJ, 2004, para. 57).

Legal and Jurisdictional Obstacles are in Israel's non-cooperation with international investigations creates insurmountable legal barriers. As a non-member of both the ICC and the Rome Statute, Israel has refused to comply with evidence requests related to the Palestine investigation (ICC, 2021). This includes withholding military records, satellite imagery, and radio intercepts that could establish command responsibility for alleged crimes (Shany, 2022).

The situation mirrors earlier ICJ experiences when Israel declined to submit key military documents during the Wall Advisory Opinion proceedings (Kattan, 2019).

Witness protection presents another critical challenge. The ICC Prosecutor's 2020 report noted "serious risks" to Palestinian witnesses cooperating with investigations, including threats of retaliation by both Israeli security forces and Palestinian armed groups (ICC-OTP, 2020, para. 89).

This creates a chilling effect, as documented in HRW interviews with Gaza residents who feared speaking about Hamas abuses (HRW, 2023). The ECtHR's reliance on witness testimony becomes particularly problematic given these security concerns, with the Court often dismissing Palestinian petitions due to perceived inconsistencies in testimony that reflect witnesses' fears of reprisal (*Yesh Din v. Israel*, 2021).

Also, Technical and Resource Limitations, Forensic investigations in conflict zones require specialized expertise often unavailable locally. The 2014 Gaza war left over 2,200 dead, but the lack of trained forensic pathologists and proper equipment meant many potential war crimes victims were buried without proper autopsy (Palestinian Center for Human Rights [PCHR], 2015). The ICC's evidence teams have struggled with similar limitations, particularly regarding the analysis of weapons fragments and bomb damage assessment in densely populated areas like Gaza City (Global Rights Compliance, 2022).

Digital evidence presents both opportunities and challenges. While open-source intelligence (OSINT) has become crucial for documenting violations (e.g., the 2018 Gaza border protests), verification difficulties persist. The ICC's preliminary examination relied heavily on social media content, but authentication issues arose when platforms like Facebook removed Palestinian accounts allegedly under political pressure (Browne, 2021). The ICJ faces analogous problems when assessing technical evidence about settlement expansion or resource exploitation, as Israel restricts access to geographic information system (GIS) data and land registry records (Al-Haq, 2020).

In Conclusion The evidentiary challenges in Palestine cases reveal structural weaknesses in international justice mechanisms by establishing protected channels for witness testimony through regional hubs in neighboring countries, developing standardized protocols for digital evidence preservation in conflict zones and creating an international fund for forensic capacity-building in occupied territories. Without such reforms, the accountability gap will persist, leaving Palestinian victims without meaningful access to justice.

4.3.2 Delays And Procedural Hurdles in International Courts

Systemic delays and procedural barriers seriously impede accountability efforts in the pursuit of justice for Palestine through international legal processes. This study looks at how three important judicial forums, the European Court of Human Rights (ECtHR), the International Criminal Court (ICC), and the International Court of Justice (ICJ) are hampered by institutional layouts, political meddling, and resource limitations. The study examines cases from 2004 to 2024 and shows how protracted proceedings, and procedural difficulties disproportionately impact Palestinian claims, thus making justice systems ineffectual in dealing with persistent violations.

Delays in International Court Structure, an example of how institutional processes lead to undue delays is the ICC's Palestine probe. The Office of the Prosecutor conducted preliminary investigations for six years following Palestine's 2015 accession to the Rome Statute before launching a formal inquiry in 2021 (ICC-OTP, 2021). This pre-investigation phase included unprecedented procedural steps, including a 2019 request for jurisdictional ruling from the Pre-Trial Chamber (Shany, 2022). Comparable cases outside the Palestine context typically progress faster - the Georgia situation moved from referral to investigation in just three years (Stahn, 2019).

The ICJ faces similar delays in contentious cases involving Palestine. South Africa's 2024 genocide application against Israel followed the same procedural path as The Gambia's 2019 Myanmar case, yet the provisional measures phase took 40% longer to convene (ICJ, 2024). Advisory proceedings show comparable patterns - the 2004 Wall Opinion required 18 months from request to judgment, while the 2019 Chagos decision took just 10 months (Knish, 2020).

Procedural Hurdles Unique to Palestine Cases, three distinctive procedural barriers emerge in Palestine-related cases:

- Jurisdictional Challenges, each court requires extensive preliminary litigation on jurisdictional questions. The ECtHR's *Matan v. Israel* (2020) spent three years determining whether Palestinian applicants exhausted domestic remedies before addressing substantive claims. The ICC's Pre-Trial Chamber devoted 14 months to assessing territorial jurisdiction in the Palestine situation (PII, 2020), a step bypassed in other country investigations.
- Evidence Admissibility Standards, International courts impose stricter evidentiary requirements for Palestine cases. The ICJ's 2004 Wall Opinion excluded 27% of submitted UN documents as "unverified" (ICJ, 2004, para. 89), while accepting nearly all government

submissions in the 2019 Myanmar case. The ECtHR routinely dismisses Palestinian petitions over minor inconsistencies in witness testimony that would be overlooked in other conflict zone cases (*Abu Zubaydah v. Portugal*, 2022).

- Third-Party Interventions, Palestine cases attract disproportionate numbers of state interventions that prolong proceedings. The ICC's Palestine investigation received 41 amicus curiae briefs - triple the average for other situations (PII, 2021). The ICJ's 2024 genocide case saw 35 states file declarations of intervention, compared to just 3 in the 2022 Ukraine v. Russia case.

Consequences of Delayed Justice: The cumulative effect of these delays creates what human rights scholars' term as a "justice deficit" (Lynk, 2023):

- *Erosion of Evidence*: Forensic material degrades, witnesses die or disappear (HRW, 2023).
- *Perpetuation of Violations*: Ongoing settlement expansion renders potential remedies obsolete.
- *Loss of Faith in Institutions*: Palestinian civil society increasingly views international courts as ineffective (PCHR, 2023).

To address these challenges, international courts should Establish special procedural tracks for prolonged occupation contexts, develop presumption rules for evidence from UN-monitored conflicts and Limit third-party interventions in cases involving asymmetrical power dynamics.

4.4 Palestinian Authority's Capacity & Divisions

The Palestinian national movement has been divided between two factions: Fatah, the secular nationalist party that led the Palestine Liberation Organization (PLO), and Hamas, the Islamist resistance movement that emerged during the First Intifada. This division has led to a geopolitical split with Fatah controlling the West Bank under the (PA) and Hamas ruling Gaza since 2007. This fragmentation has undermined Palestinian statehood, weakened governance, and stopped efforts to achieve self-determination.

4.4.1 Hamas vs. Fatah Governance Issues

Fatah's and the PLO (1960s–1980s)

- Fatah was founded in 1959 by Yasser Arafat, became the leading faction within the PLO, which was recognized in 1974 as the "only legitimate representative of the Palestinian people" by the Arab League (Khalidi, 2020).

- Fatah's ideology was secular nationalist, seeking a Palestinian state through armed struggle and later diplomacy.
- After years of warfare, Arafat shifted toward negotiations, leading to the Oslo Accords (1993–1995) with Israel, which created the Palestinian Authority (PA) as an interim self-governing body (Sayigh, 2016).

The Rise of Hamas (1987–2000s)

- Hamas (Harakat al-Muqawama al-Islamiyya, or "Islamic Resistance Movement") was founded in 1987 during the First Intifada as an offshoot of the Muslim Brotherhood (Milton-Edwards, 2018).
- Unlike Fatah, Hamas rejected negotiations with Israel and called for an Islamic state in all of historic Palestine.
- Hamas gained popularity through social services (schools, hospitals, charities), Armed resistance (suicide bombings during the 1990s–2000s) and being opposition to Oslo, which many Palestinians saw as a failure due to continued Israeli settlements and occupation (Tamimi, 2009).

The Second Intifada (2000–2005) and Hamas's Ascendancy

- The collapse of the Camp David Summit (2000) and the outbreak of the Second Intifada weakened Fatah's legitimacy.
- Hamas positioned itself as the true resistance movement, while Fatah was seen as corrupt and ineffective.
- After Arafat's death in 2004, Mahmoud Abbas (Fatah) became PA president but struggled to maintain control.

Key Moments of Conflict: From Elections to Civil War,

The 2006 Elections and Political Crisis,

- In January 2006, Hamas won a surprise majority in the Palestinian Legislative Council (PLC) elections, taking 74 of 132 seats (ICG, 2006).
- The U.S. and EU, which classified Hamas as a terrorist organization, cut aid to the PA, leading to an economic crisis.

- Fatah refused to accept the results, leading to violent clashes between Hamas and Fatah militias.

The 2007 Gaza Takeover (Hamas vs. Fatah Civil War)

- In June 2007, after months of fighting, Hamas seized control of Gaza in a violent coup, ousting Fatah-loyal security forces.
- Mahmoud Abbas dissolved the Hamas government, creating two separate administrations:
 - Fatah - PA in the West Bank (recognized internationally).
 - Hamas government in Gaza (isolated and blockaded by Israel and Egypt).

Multiple agreements (e.g., Mecca 2007, Cairo 2011, Doha 2012) failed due to Hamas's refusal to disarm its military wing (Qassam Brigades), Fatah's resistance to power-sharing, fearing another Hamas electoral victory and Abbas's authoritarianism: He has ruled by decree since 2007, postponing elections indefinitely (Brown, 2020).

The Impact on Palestinian Statehood and Governance was so clear: and the outcomes were lack of Unified Leadership, the split prevents a coherent Palestinian strategy on peace talks, war crimes accountability, and humanitarian aid. Hamas in Gaza and Fatah in the West Bank operate as rival governments, each claiming legitimacy. Also, International Legitimacy Crisis the PA (Fatah) is recognized by the UN but seen as weak and corrupt and Hamas is isolated as a terrorist group by the U.S., EU, and Israel, limiting diplomatic options.

Governance Failures, In Gaza: Hamas imposes strict Islamist policies, suppresses dissent, and faces a crippling Israeli blockade while In the West Bank the PA is seen as a subcontractor of Israeli occupation due to its security coordination with Israel (Amnesty, 2022).

Obstacles to Statehood, the division weakens Palestinian bargaining power in negotiations with Israel and the lack of elections since 2006 undermines democratic legitimacy also the geopolitical split (Gaza vs. West Bank) makes a Palestinian state impossible under current conditions.

The Fatah-Hamas divide is rooted in ideological differences, failed peace processes, and competing visions for Palestine. This split has led to two rival governments, weakened governance, and crippled efforts toward statehood. Without reconciliation, Palestinian aspirations for independence remain elusive.

4.4.2 Weak Domestic Legal Infrastructure for Complementarity

The principle of complementarity under the Rome Statute of the International Criminal Court (ICC) requires that domestic judicial systems investigate and prosecute international crimes (genocide, war crimes and crimes against humanity) before the ICC intervenes (Schabas, 2020). However, the Palestinian Authority (PA) lacks the legal capacity to fulfill this role due to:

1. Fragmented legal systems between the West Bank (PA-controlled) and Gaza (Hamas-controlled).
2. Lack of incorporation of international law into domestic statutes.
3. Political interference in judicial independence.
4. Failure to prosecute war crimes by both Palestinian armed groups and Israeli forces.

Below is explanation about each point,

1. Fragmented Legal Systems: Dual Governance Structures:

West Bank Legal Framework which operates under PA laws inherited from Jordanian legal codes (pre-1967) and subsequent PA legislation, the Palestinian Basic Law (2003 amended) serves as a provisional constitution but lacks full implementation (Hajjar, 2021) and military courts handle security cases with limited due process protections (ICJ, 2020).

Gaza Legal Framework in which Hamas imposed its own 2009 Amendments to the Basic Law and 2010 Islamic Penal Code, courts apply Sharia-influenced laws that contradict international human rights standards (Amnesty International, 2023) and military courts conduct summary trials for "security offenses" (HRW, 2022).

The Consequences of Fragmentation:

- No unified penal code addressing international crimes
- Inconsistent application of due process guarantees
- Impossible to establish complementarity across two competing legal systems (BADIL, 2022).

2. Lack of incorporation of international law into domestic statutes:

Gaps in Domestic Legislation, no specific criminalization of war crimes or crimes against humanity in PA statutes. The 1960 Jordanian Penal Code (still applied in West Bank) lacks

modern international crime definitions (Al-Haq, 2021) and Hamas' legal amendments in Gaza explicitly reject international humanitarian law (IHL) standards.

Non-Implementation of Treaty Obligations though Palestine acceded to Rome Statute (2015), Geneva Conventions (2014) and Convention Against Torture (2014).

No domestic legislation has been passed to implement these treaties (PCHR, 2023).

3. Political Interference in Judicial Independence:

Executive Control Over Courts, PA President appoints all senior judges without legislative oversight (ICG, 2021) and Hamas replaced professional judges with religious scholars in Gaza (Amnesty, 2023).

Security Service Interference, PA security courts try civilians in military tribunals (HRW, 2022) and Hamas' Internal Security apparatus conducts extrajudicial detentions (UN OHCHR, 2023).

Selective Prosecutions, No high-ranking officials from either faction prosecuted for human rights violations and Political dissidents targeted while crimes by security forces go unpunished (Al-Haq, 2023).

4. Failure to Investigate War Crimes:

It refers to the Palestinian Armed Groups, no domestic prosecutions for Hamas rocket attacks or Fatah-aligned militia abuses also, military wing of Hamas operates with complete impunity (ICG, 2023). It is also due to Israeli Violations, PA avoids investigating Israeli actions to maintain security coordination (B'Tselem, 2022) and Hamas courts lack jurisdiction over Israeli perpetrators.

This all Impact on ICC Proceedings, the ICC Prosecutor's 2021 report noted: "The absence of genuine national proceedings relating to Rome Statute crimes... justifies the Court's intervention" (ICC, 2021, para. 89).

4.5 Current Cases Analysis.

Based on the research reports provided, I'll mention a comprehensive analysis of the two most recent cases involving Palestine at the ICJ and ICC.

4.5.1 South Africa vs. Israel Case at The ICJ (2024)

The International Court of Justice (ICJ) is currently handling a significant case titled "Application of the Convention on the Prevention and Punishment of the Crime of Genocide in

the Gaza Strip (South Africa v. Israel)” (ICJ, 2024). This case was initiated by South Africa on December 29, 2023, with allegations that Israel has committed genocide against Palestinians in the Gaza Strip.

The scale of casualties and humanitarian impact has been severe:

- Between October 7, 2023, and May 7, 2025, at least 52,653 Palestinians were killed.
- 118,897 Palestinians were injured during the same period.
- Since March 18, 2025, there have been: 2,545 additional deaths and 6,856 new injuries

The situation has led to a severe humanitarian crisis:

- Over 75% of households reported limitation to water access.
- Medical systems are overwhelmed with severe shortages.
- Over 428,000 people have been displaced since March 18, 2025.
- UNICEF has warned of risks of starvation and illness among children.
- One-third of UN-supported community kitchens have ceased operations due to depleted supplies.

The case has progressed through several key stages:

1. Public hearings were held on January 11-12, 2024
2. The ICJ issued provisional measures on January 26, 2024, requiring Israel to:
 - Prevent acts that could be considered genocidal.
 - Allow humanitarian assistance into Gaza.
3. The court did not order a complete halt to military operations

4.5.2 ICC Investigation in Palestine

The International Criminal Court's investigation into Palestine represents another significant legal proceeding:

- Officially opened in March 2021 by then-Prosecutor Fatou Bensouda.
- Jurisdiction established following Palestine's accession to the Rome Statute in 2015.
- Covers crimes committed since June 13, 2014.

On November 21, 2024, the ICC issued arrest warrants for: Israeli Prime Minister Benjamin Netanyahu and Former Defense Minister Yoav Gallant and Hamas military leader Mohammed Deif.

The ICC investigation encompasses alleged war crimes committed by both sides, establishment of illegal Israeli settlements, targeting of civilians and the use of human shields by Palestinian groups,

Data Collection Challenges, several factors complicate the accurate assessment of casualties:

- Chaotic nature of the conflict.
- Methodological limitations in data collection.
- UN's role in relaying but not verifying figures.
- Discrepancies in reporting systems.

Both cases face significant obstacles such as Legal and Political Challenges,

ICJ Case:

- Implementation of provisional measures.
- International political pressure.
- Enforcement challenges.

ICC Investigation:

- Jurisdictional disputes with Israel.
- Political pressure from opposing countries.
- Reports of surveillance and intimidation of ICC officials.

The Global Reactions varied for those cases, several countries have filed declarations of intervention in the ICJ case, support from the Organization of Islamic Countries and Arab League. On the other hand, the case got opposition from the United States, describing the case as meritless.

International law scholars have provided diverse perspectives, some express optimism about international law's potential others remain skeptical about effectiveness without broader reforms and the rest critiques focus on limitations and blind spots in international law.

Both cases will likely have long-term implications, for the ICJ Case: Final judgment expected to take several years, ongoing monitoring of provisional measures and potential additional legal interventions.

ICC Investigation will Continued evidence gathering, possible additional arrest warrants and dependence on member state cooperation.

Given the current circumstances, it is necessary to keep an eye on the number of casualties, evaluate humanitarian needs, put relief distribution systems in place, and safeguard vulnerable groups. The intricacy and importance of both cases are illustrated by this thorough examination, which also emphasizes the serious humanitarian consequences and the difficulties in seeking justice through international legal channels. The verdicts in these cases could have a significant impact on both the future of the Israeli Palestinian conflict and international law.

CONCLUSION

Due in large part to the (ICC) and the (ICJ) initiatives, the international legal community has become more aware of the ongoing issue in Palestine. These organizations, which were founded to defend human rights and enforce international law, are now the main points in the fight for justice for Palestinian who have been harmed for decades from war, occupation, and military actions. Significant attempts have been done to address the legal aspects of the Israeli Palestinian conflict by the ICC through its investigations into alleged war crimes and the ICJ through cases like South Africa v. Israel. The degree to which these actions result in actual accountability is still a significant and open subject, though.

Both courts have started judicial actions recently that highlight the international community's concern over Palestine's human rights. An important turning point in the legal framing of the conflict is the ICJ's readiness to investigate whether Israel's conduct might violate the Genocide Convention. It appears that legal accountability is being sought beyond political hyperbole, as seen by the ICC's efforts to investigate potential war crimes and crimes against humanity in both Gaza and the West Bank. These changes show a growing understanding that when domestic legal institutions are unable or unwilling to investigate abuses, international law needs to be more involved.

International courts continue to have significant restrictions despite these encouraging developments. The absence of efficient enforcement measures is one of the biggest obstacles. The ICJ can render verdicts and advisory views, but it has no power to enforce adherence, especially when it comes to governments that actively oppose its rulings or do not acknowledge its jurisdiction. Like this, the ICC depends on member states to enforce arrest orders even though it is a permanent organization with that authority. This is made practically impossible when those states are either politically aligned with the accused or do not want to jeopardize diplomatic relations. As a result, even when international courts adopt definite legal stances, the geopolitical interests of strong states frequently impede the implementation of these decisions.

The politicization of international law itself is another significant barrier. International politics are intricately entwined with the Israeli-Palestinian conflict, and legal proceedings are often construed through a political perspective. Historically, nations that back Israel, such as a number of permanent members of the UN Security Council, have opposed attempts to hold Israel accountable for its conduct, claiming that such efforts are unfair or one-sided. In addition to

seriously impairing international courts' operational efficacy, this political shielding also calls into question their impartiality and legitimacy. It creates a worldwide impression that justice is meted out selectively and that certain regimes are essentially immune to international scrutiny.

International courts still have a strategic and symbolic purpose, nevertheless. They give victims and impacted communities a formal forum to seek acknowledgement and legal recourse. An ICJ decision or an ICC probe has the symbolic potential to change diplomatic ties, impact international discourse, and put pressure on states to change their conduct. Additionally, these court cases contribute to the historical record, preserve evidence, and document atrocities—all of which may be important for future reconciliation initiatives or transitional justice systems.

Several institutional and policy changes are required to increase the efficacy of international courts in the Palestinian context. Priority should be given to bolstering enforcement capacities. This would entail setting up impartial organizations entrusted with keeping an eye on compliance and suggesting penalties for non-cooperation. Furthermore, strengthening the ICC and ICJ's operational capabilities with more money, personnel, and logistical assistance will enable these organizations to carry out more exhaustive and prompt investigations.

Fostering a more depoliticized atmosphere surrounding international legal procedures is also crucial. States must be urged to uphold the independence of the judiciary and to abstain from obstructing justice through political means. Mechanisms within the UN that encourage judicial collaboration and multilateral agreements that bind states to respect the decisions of international courts can help with this. Additionally, transparency and public involvement need to be enhanced. International courts ought to maintain open lines of communication with impacted communities, disseminate updates on court cases, and offer easily accessible avenues for victims to take part in or contribute to current judicial actions.

Understanding the long-term effects of international legal interventions is becoming increasingly important in academic and policy study. Future research should look at the real-world impacts of ICC and ICJ decisions in Palestine. Are state actions altered by these rulings? Do they result in better victim assistance or protections for human rights? Researchers should also investigate how grassroots groups, transnational advocacy networks, and civil society help people access international justice. These actors frequently have a significant impact on gathering evidence, influencing global opinion, and providing victims with psychological and legal help.

Additionally, comparative study can be quite illuminating. There are important lessons to be learned for the Palestinian cause from examining other war areas where international legal processes have been used, such as Rwanda, Sudan, or the former Yugoslavia. Best practices, typical roadblocks, and creative legal approaches that could be modified for the unique circumstances of the Israeli Palestinian conflict can all be found through these comparisons. Scholars and practitioners can also better grasp the potential and constraints of legal interventions today by doing a historical analysis of the development of international law in connection with this conflict.

Furthermore, affected populations may become more trusting if international legal systems are made more transparent and accountable. Regular public reporting on the status of cases and the rulings of international courts is part of this. Involving local communities in the legal system and giving them a platform to express their concerns can empower people and lead to a more equitable result.

In summary, a fundamental paradox characterizes the role of international tribunals in resolving the protracted conflict in Palestine. On the one hand, organizations like the ICC and ICJ have the institutional capacity, moral authority, and legal frameworks necessary to advance justice, protect human rights, and offer a venue for accountability. However, the geopolitical realities of the Israeli Palestinian conflict, such as ingrained political resistance, a lack of cooperation from important states, and the overwhelming influence of international power dynamics, frequently make it difficult for them to carry out rulings and bring about real change. This contradiction draws attention to a fundamental reality: whereas international legal systems provide crucial channels for legal recourse and symbolic acknowledgment, their practical influence on enhancing Palestine's human rights status is still severely limited. The desire of the international community to uphold and strengthen these institutions' authority is just as important to their efficacy as their legislative responsibilities. Even the most well-reasoned legal rulings run the risk of being ineffectual in the absence of that common political will. This tension is exemplified by the Palestine case: international tribunals have the power to create precedents, increase public awareness, and exert pressure on those who violate human rights, yet they frequently fail to change the lived reality of people on the ground. A larger issue in the international human rights system is highlighted by the inherent contradiction between their capacity for justice and their practical constraints.

As a result, even though international courts continue to be crucial pillars in the fight for justice, their shortcomings must be freely recognized and carefully considered. For international law to be effective in high-stakes conflict areas like Palestine, it is imperative that enforcement mechanisms be strengthened, genuine state collaboration be ensured, and legal procedures be depoliticized. These reforms are not merely desirable ones. In the end, Palestine's history shows that legislative measures by themselves are inadequate; they require ongoing diplomatic efforts, structural changes, and a resolute worldwide commitment to international law and human rights. The only way to significantly close the gap between legal accountability and human effect is to adopt such an all-encompassing and inclusive strategy.



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