



Conflict 2023–2025: An Analysis of International Humanitarian Law and Challenges Settlement by the International Criminal Court (ICC)

Kurdi^{1*}, Muhammad Arbani²

^{1,2} Ilmu Hukum, Fakultas Hukum, Sekolah Tinggi Ilmu Hukum Adhyaksa, Indonesia

Abstract: The conflict between Israel and Palestine is a prolonged conflict that continues to this day. The conflict peaked again on October 7, 2023 and caused many casualties on the Palestinian side. This study aims to find out about Israel's military aggression against Palestine in 2023-2025 based on international humanitarian law. In addition, it also aims to analyze the role and challenges of the ICC in resolving Israeli-Palestinian aggression based on international law. This research is a type of normative legal research with a statutory regulatory approach and a conceptual approach. The results of the study show that in the 2023-2025 Israeli-Palestinian conflict, Israel violated the principles of international humanitarian law and also the rules of international law itself as regulated in the Geneva Conventions and their additional protocols, as well as the Rome Statute which regulates its enforcement. To resolve the conflict, the ICC plays a role by investigating the Palestinian situation and issuing arrest warrants against those responsible for enforcing international humanitarian law. However, in its implementation there are challenges faced by the ICC, namely the ICC does not have an executive force authorized to carry out the warrants that have been issued, Israel is not a party to the Rome Statute, and there is great pressure from various countries that support Israel. The suggestion based on the results of the study is that the ICC must act independently and not be influenced by political pressure from any country, so that it can enforce humanitarian law as it should.

Keywords: International Humanitarian Law, ICC, Palestine

1. Introduction

One of the world's longest-running conflicts that continues to this day is the conflict between Israel and Palestine. Several wars have occurred since Israel's founding, and the war is still ongoing in 2025. The factors causing this conflict are very complex, making it an unresolved conflict to this day. The war from 2023 to 2025 began with the launch of rockets and weapons by Hamas on October 7, 2023, as a form of protest against Israel's continued seizure of Palestinian territory and the military attacks by the Israel Defense Forces (IDF) (Ishamali, 2023). Successive retaliatory attacks were then carried out by Israel, resulting in a humanitarian crisis for the Palestinian people.

According to *the Palestinian Central Bureau of Statistics (PCBS)*, since October 7, 2023, approximately 36,000 Palestinians have died and 86,000 others have been injured. Of these, 15,162 were children and 10,018 were women. (National Commission on Violence Against Women, 2024) The majority of victims of these attacks were civilians. To resolve the conflict, several peace efforts have been made, one of which was the issuance of Resolution 2728 (2024) concerning a ceasefire in the Gaza Strip. (UN Security Council, 2024) The resolution issued by the UN Security Council was ignored, with Israel continuing its military operations.

The humanitarian crisis in Gaza during the 2023–2025 escalation has significant implications for the legitimacy and effectiveness of international humanitarian law (IHL)

Correspondence:

Name: Teguh Satria Putra Pratama

Sihotang

Email: teguh0206212045@uinsu.ac.id

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as a binding legal regime. The large-scale civilian casualties, destruction of essential infrastructure, and allegations of starvation as a method of warfare raise critical questions about whether IHL norms are being effectively upheld and enforced in contemporary armed conflicts. When serious violations occur without swift and effective accountability, the credibility of IHL as a universally binding framework risks being undermined. This situation not only challenges the authority of international legal institutions, including the ICC, but also exposes the gap between normative legal commitments and political realities. Consequently, the Gaza crisis serves as a crucial test case for assessing whether international humanitarian law functions merely as a moral standard or as an enforceable and respected legal regime within the international system.

In carrying out military attacks, every country should comply with international humanitarian law. International humanitarian law protects people who are not or no longer participating in hostilities and limits the means and methods used in warfare. Many experts have reminded Israel to comply with this international humanitarian law so that they do not cause enormous suffering to civilians in the occupied Palestinian territories and the surrounding area. (UNHR, 2024) The principles of international humanitarian law that must be followed include the principle of humanity, the principle of distinction between civilians and combatants, and between civilian objects and military targets, the principle of proportionality, and the principle of military necessity. (International Committee of the Red Cross, n.d.) Regarding the obligation to comply with these principles, there are strong allegations that Israel has committed violations by targeting civilians and civilian infrastructure, as well as preventing the provision of humanitarian assistance to victims.

To resolve alleged violations by Israel, a report was made to the International Criminal Court (ICC). The ICC itself is an independent judicial body established under the Rome Statute, which was adopted in 1998 and entered into force in 2002. In accordance with the instrument of its establishment, this body was established to resolve serious international crimes when national justice systems are unable or unwilling to act. In this case, the ICC, with the support of the UN, issued arrest warrants for Israeli Prime Minister Benjamin Netanyahu and former Defense Minister Yoav Galant, as well as against a former Hamas commander on charges of war crimes and crimes against humanity. (United Nations, 2024) However, the arrest warrants issued by the ICC were not implemented by other ICC member states, and some ICC member states even rejected the warrants.

The failure to execute arrest warrants in the Israeli-Palestinian conflict demonstrates that, despite progress in the war crimes prosecution system, many crimes remain unpunished. Perpetrators of war crimes continue to benefit from complete impunity and act with impunity. Proving that high-ranking military commanders/officials are responsible for war crimes is time-consuming due to the numerous challenges involved. Proving this requires comprehensive information about the chain of command and an analysis of military actions to identify where in this chain of command military officials gave orders or facilitated the commission of war crimes. (Popov et al., 2025) This demonstrates that the application of international humanitarian law is extremely complex, despite its strong legal basis.

From the issues outlined above, questions arise about whether Israel's military actions violate international humanitarian law. Questions also arise about the extent of the ICC's jurisdiction in the conflict between Israel and Palestine, particularly between 2023 and 2025. This question arises due to the ongoing debate over the validity of the ICC's jurisdiction over this conflict. The ICC's jurisdiction is questioned because only Palestine accepts ICC jurisdiction, while Israel does not accept jurisdiction because it is not a party to the Rome Statute. This has led researchers to explore the role and challenges of the ICC in resolving the Israeli-Palestinian conflict between 2023 and 2025 based on international law, particularly international humanitarian law. This research is crucial given the broad impact of the conflict on Palestine, which is often referred to as a humanitarian crisis.

The conceptual gaps in previous studies that necessitate a re-examination of the ICC's role in this conflict lie in several key areas. First, most earlier research focuses on previous escalations of the Israeli-Palestinian conflict and does not adequately address the unique legal and political dynamics of the 2023–2025 escalation, particularly following the large-scale attacks of October 7, 2023 and subsequent military operations. Second, prior studies often examine violations of international humanitarian law separately from the institutional capacity and practical limitations of the ICC, without critically analyzing how issues such as enforcement constraints, lack of executive authority, complementarity, and jurisdiction over non-State parties affect the Court's effectiveness. Third, limited attention has been given to the broader question of whether the ICC functions merely as a mechanism of accountability or whether it can meaningfully contribute to conflict settlement in highly politicized and asymmetric conflicts. These conceptual limitations highlight the need to reassess the ICC's evolving role within the contemporary legal and geopolitical context of the 2023–2025 conflict.

This study aims to examine Israel's military aggression against Palestine between 2023 and 2025 based on international humanitarian law. It also aims to analyze the role and challenges of the ICC in resolving Israeli-Palestinian aggression under international law.

2. Materials and Methods

This research falls under the normative legal research category, which is a study conducted through literature review. This research can also be described as research that analyzes the object of study in the form of positive legal norms. These laws are viewed as institutionalized norms. Therefore, this research approach includes: a statutory regulatory approach that examines regulations related to the issues discussed, primarily using international humanitarian law instruments such as the Geneva Conventions, the Rome Statute, etc. Furthermore, a conceptual approach is also used, examining them based on views, doctrines, principles, and principles recognized in legal science. In this case, the principles of international humanitarian law are used.

The legal materials used consist of primary legal materials, including various regulations in the form of international humanitarian law instruments. Secondary legal materials consist of literature related to the issues discussed, such as books and journals on international humanitarian law and the 2023-2025 Israeli-Palestinian conflict. The technique used to collect these legal materials is a literature study. This technique involves gathering research materials using only published and previously available information.

This research uses secondary legal data consisting of primary legal materials, such as the Geneva Conventions of 1949 and their Additional Protocols, the Rome Statute of the International Criminal Court, United Nations resolutions, and official ICC documents

related to the situation in Palestine. Secondary legal materials include books, scientific journal articles, legal commentaries, and reports from credible international organizations discussing international humanitarian law and the ICC. The data were collected through a systematic literature review and document study. The analysis was conducted qualitatively using a normative juridical approach, by interpreting relevant legal provisions, examining their application to the 2023–2025 conflict, and assessing the consistency between humanitarian law norms and the practical enforcement mechanisms carried out by the ICC.

The collected legal materials are processed through an inventory, followed by identification, classification, and systematization. The analysis of these legal materials is conducted using qualitative analysis methods through interpretation of the previously processed legal materials, followed by drawing conclusions that may include the existence of normative gaps, unclear legal norms, or the occurrence of antinomies of legal norms.

3. Results and Discussion

3.1. *Israeli Military Aggression Against Palestine in 2023-2025 Based on the Principles of International Humanitarian Law*

Before conducting an analysis based on international humanitarian law, it is important to understand the history of the conflict between Israel and Palestine. Looking at its history, it can be seen that this conflict is inextricably linked to events in the 19th and 20th centuries, when Jews were persecuted in Europe. This event prompted a mass migration of Jews and the need for a place to live. They gradually migrated to the Palestinian territories, and in the process, resistance arose from the Palestinian people who had lived there since their inception. The Palestinian resistance from 1882 to 1903 is referred to as the First Aliyah, while the Second Aliyah refers to the popular resistance that took place in 1904. (Ishamali, 2023)

When World War I ended, the Ottoman Empire collapsed. In December 1917, British and allied forces under the command of Sir Edmund Allenby occupied Gaza and Jerusalem. Other Ottoman territories were also occupied by British forces. At the same time, a struggle for Palestinian territory broke out between the Palestinian people and the Jews who had settled due to migration. At that time, only Jews, not Israeli citizens, lived there. They fought for the territory based on the Balfour Declaration issued on November 2, 1917, by Arthur Balfour, the British Foreign Secretary. Based on the Balfour Declaration, a homeland for the Jewish people would be established. To facilitate Jewish migration to Palestine, the Jewish Agency was established. This gradually led to a large-scale migration, in the period from 1923 to 1948 alone, approximately 80,000 Jews migrated to the Palestinian territories. Furthermore, on May 15, 1948, Israel declared itself an independent state, although they did not define its borders. During that time, the Jewish population experienced a drastic increase, from an initial 6% to around 33%. This increase in population led to Israel's continued expansion.

Israel's continued expansion has undoubtedly fueled conflict with the Palestinian people. This expansion has resulted in the Palestinians losing their homes. To resolve the conflict, which has resulted in repeated uprisings, the UN issued UN Resolution 181 in 1947. This resolution essentially proposed the division of Palestine into an Arab and a Jewish state, with Jerusalem as its capital. The Palestinians rejected this UN resolution as unfair, as it gave Israel 56% of the Palestinian territory, primarily the fertile coastal areas.

Between 1947 and 1948, Israel expanded its territory, controlling 78% of Palestine. This expansion destroyed more than 500 villages, and killed approximately 15,000 Palestinians. The Palestinian defeat and ongoing conflict led to the formation of resistance movements. These more organized resistance organizations include Fatah, Hamas, and the Palestine Liberation Organization (PLO). They have staged several resistance movements, such as the first resistance in December 1987 in the Gaza Strip and the second resistance on September 28, 2000. Meanwhile, Israel has continued its military offensive in Gaza, resulting in the ongoing conflict despite several ceasefires, such as in 2005, 2012, and 2014.

A major conflict between Israel and Palestine re-emerged after Hamas launched 5,000 rockets and weapons at 22 locations outside Gaza on October 7, 2023, allegedly killing around 250 Israelis. (Putra et al., 2023) Israel then launched a military attack, which, according to the PCBS, resulted in around 36,000 Palestinians dying and 86,000 others being injured since October 7, 2023. The data showed that 15,162 of them were children and 10,018 were women. (National Commission on Violence Against Women, 2024) The majority of victims of this military attack were civilians, including journalists and medical personnel. Furthermore, the Israeli military attack caused damage to civilian infrastructure, including hospitals, houses of worship, and other civilian buildings. To date, this military attack targeting civilians and civilian buildings by Israel continues. Even as of this writing, June 29, 2025, at least 72 Palestinians have died as a result of Israeli military attacks. (Patoppoi, 2025)

Armed conflicts such as those between Israel and Palestine have their own regulations under international law, namely international humanitarian law. International humanitarian law is a subset of general international law, focusing on protecting individuals in situations of war or armed conflict. Humanitarian law is divided into two parts: *ius ad bellum* and *ius in bello*. The difference between the two is that *ius ad bellum* is the law of war, while *ius in bello* is the law applicable in situations of war.

Humanitarian law is necessary to guarantee the protection of human dignity. One way to protect this dignity is to regulate the use of force in armed conflict. The purpose of these regulations is to ensure that combatants who fall into enemy hands are treated humanely and do not experience fundamental or fundamental human rights violations. Combatants in enemy hands must be protected, cared for, and treated as prisoners of war. Furthermore, combatants and civilians must be protected from unnecessary suffering during conflict situations. Humanitarian law is also crucial to prevent wars that are waged cruelly and without boundaries, thus upholding the principle of humanity. (Harkrisnowo et al., 2015)

Israel and Palestine are parties to the Geneva Conventions because they have ratified them. (Sifana et al., 2024) Based on Articles 1 and 2 of the 1949 Geneva Conventions, participating countries are obliged to comply with these rules during war or armed conflict. However, from the military attacks carried out between 2023 and 2024, it can be seen that Israel has violated the principles of international humanitarian law. The principles in this study are limited to those related to the material aspects of humanitarian law. The principles violated include: (Pramono & Supartono, 2022).

a. Principle of Distinction Principle)

This principle requires a distinction between subjects and objects of the law of war. Subjectively, a distinction must be made between combatants (those directly involved in the fighting) and uninvolved civilians. Objectively, a distinction must be made between military targets and civilian objects such as hospitals, schools, places of worship, and refugee camps. Violations of this principle are evident in Israeli aggression against Palestine, such as attacks on UNRWA facilities and schools in Gaza that shelter civilians. Reports indicate that large swaths of civilian infrastructure were attacked, resulting in extensive damage and casualties, including among refugees and medical personnel. These attacks violate the provisions of the Geneva Conventions and their Additional Protocols, as well as the principle of non-discrimination against civilians.

b. The Principle of Arms Limitation (Limitation) Principle)

This principle prohibits the use of weapons and methods of warfare that cause excessive suffering, permanent injury, or major environmental damage. In the context of the Israeli-Palestinian conflict, a violation occurred through the use of white phosphorus in October 2023, which is classified as a prohibited chemical weapon under the Chemical Weapons Convention. Furthermore, the use of starvation as a weapon of war also occurs through the blockade of humanitarian aid and the destruction of food and water infrastructure. Human Rights Watch considers this action a war crime because it caused massive starvation in Gaza.

c. Principle of Proportionality Principle)

This principle emphasizes that military attacks must consider the balance between military advantage and harm to civilians. Even if there is a military objective, an attack is not justified if the impact on civilians is greater. In this conflict, the impact of Israeli military attacks shows a very large civilian toll compared to the recognized military advantages, such as the eradication of Hamas . This shows that the principle of proportionality has been systematically violated .

3.2. The Role and Challenges of the International Criminal Court (ICC) in Resolving Israeli-Palestinian Aggression in the 2023-2025 Period Based on International Law

The International Criminal Court (ICC) is referred to in Indonesian as the International Criminal Court. The establishment of the ICC was carried out based on the Rome Statute of 1998. Based on Article 1 of the Rome Statute, it can be seen that the ICC is a permanent institution and has the authority to exercise its jurisdiction in accordance with the Rome Statute. The jurisdiction of the Rome Statute is limited to those mentioned in Article 5, namely the most serious crimes of concern to the international community as a whole. The crimes in question are (a) The crime of genocide; (b) Crimes against humanity; (c) War crimes; (d) The crime of aggression. Based on these provisions, it can be seen that war crimes as occurred in the military aggression of Israel and Palestine are included in one of the ICC's jurisdictions.

In exercising its authority, the ICC adheres to the Principle of Complementarity. This principle is stipulated in Article 17 of the Rome Statute, which essentially states that when a state has jurisdiction to try a case, the ICC will defer to that country's domestic judicial authority. The ICC will only exercise its jurisdiction when the national legal system has truly failed to do so, indicated by an unwillingness or inability to carry out legal action seriously. In the Israeli-Palestinian conflict, Israeli authorities have been proven to have failed to apply their national legal system to resolve violations of humanitarian law committed by their military officers, allowing the ICC to exercise its jurisdiction.

The ICC's authority to enforce humanitarian law, within national legal systems, demonstrates an unwillingness and inability to provide justice to victims. This authority will end impunity for perpetrators of humanitarian law violations or war crimes, thereby realizing international justice. Humanitarian law enforcement through the ICC is carried out to prosecute those who commit humanitarian law violations regardless of their position, whether head of government, head of state, member of parliament, government official, or member of the House of Representatives. The positions attached to those who commit humanitarian law violations will hinder the enforcement process, both during investigations and prosecutions in national courts. This obstacle will often occur, considering that perpetrators of humanitarian law violations are generally people who hold positions. ("The Implementation of Immunity Rights of Heads of State Before the International Criminal Court (ICC) Reviewed from the Perspective of International Law (Case Study of the Attempt to Arrest Sudanese President Omar Al-Bashir by the ICC)," 2014) The removal of immunity in the enforcement of humanitarian law by the ICC is seen in Article 27 paragraph 2 of the Rome Statute, where the ICC does not recognize the privileges held by public officials that will complicate the enforcement of humanitarian law. The consequence is that the immunity rights held by a person will not hinder the examination process until the imposition of sanctions against people who violate humanitarian law.

In addition to the existence of the principle of complementarity, there are prerequisites for the implementation of ICC jurisdiction regulated in Article 12 of the Rome Statute. Based on these rules, it can be seen that the jurisdiction of the ICC is limited only to the state party to the Rome Statute, the state party to the Rome Statute where the act occurred and the person accused of committing the crime is a national of the state party to the Rome Statute. The jurisdiction of the ICC can also be applied to a state that is not a state party to the Rome Statute but through a statement submitted to the Registrar accepts the jurisdiction of the ICC. In relation to this prerequisite, the ICC should be able to apply jurisdiction. Because even though Israel is not a state party to the Rome Statute, Palestine is a state party because it ratified the Rome Statute in 2015. The State of Palestine agreed to the Rome Statute by submitting its instrument of approval to the UN Secretary-General. The Rome Statute entered into force for the State of Palestine on April 1, 2015. (International Criminal Court, 2024) Thus, Article 12 (2) (a) of the Rome Statute can be applied, according to which the ICC can have jurisdiction because Palestine as a state party is where war crimes occurred. (Hadi et al., 2024)

By having jurisdiction, the ICC can play a role in resolving the Israeli-Palestinian conflict that occurred in the period 2023-2025. The ICC's role in this case is demonstrated by conducting an investigation into the Palestinian situation due to alleged violations of the Rome Statute. This action was conveyed by the ICC Prosecutor in a statement dated November 17, 2023 and in a statement dated May 20, 2024. In addition, the ICC issued arrest warrants (SPP) on November 21, 2024 for Benjamin Netanyahu, who served as Prime Minister of Israel, and Yoav Galant, who served as former Minister of Defense of Israel. The arrest warrants were based on alleged crimes against humanity and war crimes committed from at least October 8, 2023, until at least May 20, 2024, the day the Prosecutor filed the arrest warrant application. Pre-Trial Chamber I also issued an SPP for Mohammed Diab Ibrahim Al-Masri, who served as Supreme Commander of the military wing of Hamas. (International Criminal Court, 2025).

In carrying out its role in resolving Israeli-Palestinian aggression during the 2023-2025 period, the ICC faces challenges that hinder the effective enforcement of humanitarian law. One such challenge is that the ICC lacks a police force or executive branch authorized to enforce the Court's decisions and orders. Therefore, there are no special forces to enforce arrest warrants issued by the ICC. The execution of these arrest warrants depends entirely on participating States' willingness to cooperate with the ICC. Unfortunately, participating States have been unwilling to cooperate, and some have even rejected the SPP, including the United States, Argentina, Hungary, France, and Paraguay.

In this context, the challenges facing the ICC include the fact that Israel is not a state party to the Rome Statute, allowing Israel to argue that it does not accept the ICC's jurisdiction. This could create a legal and political loophole that would complicate the ICC's enforcement of the law, as Israeli authorities would refuse to cooperate with the ICC in handing over responsible individuals. Regarding this challenge, the ICC stated that Israel's acceptance of the Court's jurisdiction is unnecessary, as the Court can exercise its jurisdiction on the basis of Palestine's territorial jurisdiction as stipulated in Article 12 (2) (a) of the Rome Statute. (International Criminal Court, 2024) However, this challenge remains in the ICC's enforcement of international law due to support from countries that side with Israel.

Another challenge the ICC faces in its process is the significant pressure from various Israeli allies, such as the United States. (Ali, 2024) It cannot be denied that the enforcement of international law is greatly influenced by international politics. This is in accordance with Oppenheim's opinion, which previously explained that international law is *weak law* due to its weak enforcement. (Sefriani, 2011) Looking at international politics, the US has long supported Israel, according to data from the Stockholm International Peace Research Institute (SIPRI), the US was the largest supplier of Israeli arms imports in the 2020–2024 period and this support continues, despite increasing political pressure from other countries over the Gaza attack. By looking at the conditions of international politics, it can be said that the ICC will receive pressure from the United States as a superpower that supports Israel, although on the one hand it also receives pressure from other countries and the international community that supports the enforcement of humanitarian law for the sake of humanity.

In resolving this case, the ICC experienced pressure from various sides, both external and internal. The form of pressure applied, such as that experienced by former ICC prosecutor Bensouda, the United States exerted pressure by making it difficult for her to access global banking services, to the point that banks outside the US were unwilling to provide services and she had difficulty contracting with commercial providers. (Hendrajit, 2025) Karim Khan, as ICC Prosecutor, also felt other pressure, he experienced slander, defamation, and intimidation in the process of issuing arrest warrants for Netanyahu and Yoav Galant. (Anderson, 2024) From this explanation, it can be seen that even though violations of humanitarian law have been committed, law enforcement remains difficult due to political reasons in the form of pressure from superpowers.

Given the current situation, the ICC must act independently and not be influenced by political pressure from any country, so that it can enforce humanitarian law in accordance with the facts. This means the ICC should be able to fulfill its role as an institution that enforces international law under the Rome Statute. In this regard, the ICC must be able to punish those responsible and found guilty of violating international humanitarian law .

4. Conclusions

The 2023–2025 Israeli military actions against Palestine demonstrate serious violations of fundamental principles of international humanitarian law, including the principles of distinction, proportionality, and the prohibition of starvation as a method of warfare. Civilians and civilian infrastructure were significantly affected, raising strong indications of breaches of the Geneva Conventions and their Additional Protocols. In response, the International Criminal Court (ICC) has undertaken investigations into the situation in Palestine and issued arrest warrants against individuals allegedly responsible. However, the enforcement of these legal measures faces substantial obstacles, including the ICC's lack of executive enforcement power, Israel's non-membership in the Rome Statute, and considerable geopolitical pressure from powerful supporting states. To bridge the gap between humanitarian law norms and the reality of their enforcement, further research should focus on strengthening international enforcement mechanisms beyond formal legal frameworks. Future studies need to explore innovative models of international cooperation to enhance compliance with ICC decisions, examine the effectiveness of universal jurisdiction as a complementary mechanism, and analyze how political influence shapes the implementation of international criminal justice. Additionally, research should assess the role of regional organizations, sanctions regimes, and diplomatic accountability mechanisms in reinforcing humanitarian law norms. Such directions are essential to move beyond normative legal analysis and toward practical solutions that ensure accountability and effective enforcement in contemporary armed conflicts.

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