المجلة الأردنية في القانون والعلوم السياسية

اسم المقال: الحرب العدوانية الاسرائيلية على قطاع غزة: دراسة تحليلية من منظور القانون الدولي
اسم الكاتب: أ.د. مخلد أرخيص الطراونة، أ.د. عمر صالح العكور، د. عميد عاصم خصاونة.
رابط ثابت: https://political-encyclopedia.org/index.php/library/8283
تاريخ الاسترداد: 2026/11/02 06:56 +03

الموسوعة السياسيّة هي مبادرة أكاديمية غير هادفة للربح، تساعد الباحثين والطلاب على الوصول واستخدام وبناء مجموعات أوسع من المحتوى العلمي العربي في مجال علم السياسة واستخدامها في الأرشيف الرقمي الموثوق به لإغناء المحتوى العربي على الإنترنت.
لمزيد من المعلومات حول الموسوعة السياسيّة - Encyclopedia Political، يرجى التواصل على info@political-encyclopedia.org

استخدامكم لأرشيف مكتبة الموسوعة السياسيّة - Encyclopedia Political يعني موافقتك على شروط وأحكام الاستخدام المتاحة على الموقع https://political-encyclopedia.org/terms-of-use

تم الحصول على هذا المقال من موقع المجلة الأردنية في القانون والعلوم السياسية جامعة مؤتة ورفده في مكتبة الموسوعة السياسيّة مستوفياً شروط حقوق الملكية الفكريّة ومتطلبات رخصة المشاع الإبداعي التي ينضوي المقال تحتها.

The Israeli Aggressive War on the Gaza Strip: An Analytical Study from the Perspective of International Law

Mekhled E. Altarawneh*\Professor of International Law, Police Academy/Police College, Qatar.
Omar S. Alokour\Associate Professor of International Law, College of Law, University of Jordan, Jordan.
Ameed A. Khasawneh\Assistant Professor of International Law, College of Law, Lusail University, Qatar

Received : 12/06/2024
Revised : 10/09/2024
Accepted : 11/09/2024
Published : 31 /03/2025

DOI: 10.35682/jjlps.v17i1.1080

*Corresponding author :
mekhledtarawneh@yahoo.com

©All Rights Resaved for Mutah University, Karak, Jordan

All Rights reserved. No part of this publication may be reproduced, stored in a retrieval system or transmitted in any form or by any means : electronic, mechanical, photocopying, recording or otherwise, without the prior written permission of the publisher

Abstract

This research discusses the Israeli aggressive war on the Gaza Strip from the perspective of international law and the extent of Israel's violation of the rules of international law, especially the rules of International Humanitarian Law (IHL). Since October 7, 2023, Israeli forces have committed many atrocities and crimes against Palestinian civilians. This brutal and unprecedented war in the history of the Israeli-Palestinian conflict has led to the death of more than 40,000 and injury of more than 90,000, most of whom were children, women, and the elderly. Israel has tried to justify this war based on the right to self-defence, particularly in accordance with Article 51 of the United Nations Charter. Some countries allied with Israel, such as the United States, Britain, and Germany, supported this idea. However, many countries, international organizations, jurists, and experts denied this pretext because Israel is an occupying power and has, accordingly, no right to use this argument to justify this aggression. This research discusses several topics, including the legal status of the Gaza Strip, previous Israeli wars on the Gaza Strip, and the impact of the October 7 attack on the current conflict. It also discusses examples of Israeli violations and crimes in the current war on Gaza. It refutes the idea of self-defence that Israel tries to rely on to justify its aggression. It also discusses the legal options available to prosecute Israeli war criminals for these violations and crimes against civilians in the Gaza Strip.

Keywords: Gaza Strip; violations; International Humanitarian Law (IHL); self-defence; International Court of Justice (ICJ); International Criminal Court (ICC)

الحرب العدوانية الاسرائيلية على قطاع غزة: دراسة تحليلية من منظور القانون الدولي

الأستاذ الدكتور مخلد أرخيص الطراونة/ أكاديمية الشرطة/كلية الشرطة، قطر

الأستاذ الدكتور عمر صالح العكور / كلية القانون/ الجامعة الأردنية

الدكتور عميد عاصم خصاونة /كلية القانون، جامعة لوسيل، قطر

تاريخ الاستلام: 2024/06/12
تاريخ المراجعة: 2024/09/10
تاريخ موافقة النشر: 2024/09/11
تاريخ النشر: 2025/03/31

الباحث المراسل:

mekhledtarawneh@yahoo.com

©حقوق النشر محفوظة لجامعة مؤتة، الكرك، الأردن.

جميع الحقوق محفوظة، فلا يسمح بإعادة طباعة هذه المادة أو النقل منها أو تخزينها، سواء أكان ذلك عن طريق النسخ أم التصوير أم التسجيل أم غيره، وبأية وسيلة كانت: إلكترونية، أو ميكانيكية، إلا بإذن خطي من الناشر نفسه

الملخّص

يناقش هذا البحث الحرب العدوانية الإسرائيلية على قطاع غزة من منظور القانون الدولي، ومدى انتهاك إسرائيل لقواعد القانون الدولي، وخاصة قواعد القانون الدولي الإنساني. منذ 7 أكتوبر 2023، ارتكبت قوات الاحتلال الإسرائيلي العديد من الفظائع والجرائم ضد المدنيين الفلسطينيين. وأدت هذه الحرب الوحشية وغير المسبوقة في تاريخ الصراع الإسرائيلي الفلسطيني إلى مقتل أكثر من 40 ألف شخص وإصابة أكثر من 90 ألف آخرين، معظمهم من الأطفال والنساء والشيوخ. وقد حاولت إسرائيل تبرير هذه الحرب على أساس حق الدفاع عن النفس بموجب المادة 51 من ميثاق الأمم المتحدة. وقد أيدت هذه الفكرة بعض الدول المتحالفة مع إسرائيل، مثل الولايات المتحدة وبريطانيا وألمانيا. إلا أن العديد من الدول والمنظمات الدولية والحقوقيين والخبراء نفوا هذه الذريعة كون إسرائيل قوة احتلال، وبالتالي لا يحق لها استخدام هذه الحجة لتبرير هذا العدوان. ويناقش هذا البحث عدة مواضيع منها الوضع القانوني لقطاع غزة، والحروب الإسرائيلية السابقة على قطاع غزة، وتأثير هجوم 7 أكتوبر على الصراع الحالي. كما يناقش أمثلة على الانتهاكات والجرائم الإسرائيلية في الحرب الحالية على غزة، وهو يدحض فكرة الدفاع عن النفس التي تحاول إسرائيل الاعتماد عليها لتبرير عدوانها. كما يناقش الخيارات القانونية المتاحة لمحاكمة مجرمي الحرب الإسرائيليين على هذه الانتهاكات والجرائم ضد المدنيين في قطاع غزة.

الكلمات المفتاحية: قطاع غزة، الانتهاكات، القانون الدولي الإنساني، الدفاع عن النفس، محكمة العدل الدولية، المحكمة الجنائية الدولية.

1. 1. Introduction:

The current Israeli war on Gaza has constituted a significant turning point in the history of the Arab-Israeli conflict in general and the Palestinian-Israeli conflict in particular. This brutal war, which modern history has never witnessed, differs from the previous wars on Gaza in terms of its duration, ferocity, the number of victims, the extent of the destruction it left behind, and the groups it affected and targeted.

This aggressive war includes multiple and different forms of violations of International Humanitarian Law (IHL), which constitutes one of the most prominent branches of international law (ICRC, 2004). This law aims to protect the victims of armed conflicts, including civilians, the wounded, prisoners of war and the sick on the battlefield. It also aims to protect civilian facilities, places of worship, and cultural property, as well as to regulate the behaviour of combatants and restrict their powers to use weapons during armed conflicts (ICRC, 2004). Western countries have played a significant role in formulating the rules and principles of this law for several decades (Altarawneh, 2022) .

There is no doubt that the current Israeli war on Gaza explicitly violates the rules of this law, which the free world has accepted to be the basis and standard by which states are binding in armed conflicts. This war was unprecedented, brutal, and barbaric in every sense of the word, despite the loud voices demanding that Israel should stop this war and be held accountable for the violations and crimes that it has committed during this war.

Many countries have strongly criticized the Israeli military operations, and some have begun to take legal steps at the international level to hold them accountable for these actions and violations, most notably South Africa. It has filed a lawsuit before the International Court of Justice (ICJ) based on the Convention on the Prevention and Punishment of the Crime of Genocide of 1948 due to the acts of genocide committed by Israel during this war (Ayop, 2023).

Some other countries, including Djibouti, Bolivia, Comoros, South Africa, and Bangladesh, have registered complaints before the Office of the Prosecutor of the International Criminal Court (ICC) against Israel due to the crimes and violations it has committed in Gaza (Baboolal, 2023) . However, Israel is continuing its aggression, rejecting all international calls and pressure to put an end to this war and providing humanitarian aid to the people of Gaza. At this stage, international law is at stake and in a real test before a country that challenges the world and seeks to undermine stable rules that the world has reached after humanity has paid heavy prices for them over decades and centuries (Ayop, 2023).

1.2. The Importance of the Research:

This research addresses the current aggressive war on the Gaza Strip, which has been going on for more than ten months now. This unprecedented war in the history of the Arab-Israeli conflict constituted a critical turning point in terms of its effects and repercussions on the Palestinian issue and the entire region. This war is the longest in terms of its duration and the bloodiest in the history of the conflict with Israel, as this war has so far killed more than 40,000 people and injured more than 90,000 people, in addition to the systematic destruction of the civilian infrastructure of the Gaza Strip, which exceeded 70%. Hence, it is essential for all people to understand the position of international law in general and IHL, particularly from this war, which is threatening international peace and security in the whole region. So, this research is an attempt to shed light on some legal issues, namely the causes of this war, the legal nature of this conflict, the legal status of the Gaza Strip by IHL, the Israeli violations of IHL, the Israeli claims of self-defence and how can we pursue and prosecute Israeli war criminals for these crimes and violations before international courts, especially the International Criminal Court?

1.3. The Problematic of the Research:

This paper aims to examine the legality of the Israeli aggressive war against the Gaza Strip from the perspective of international law. It examines the reasons for this war and discusses the arguments the Israeli government has presented to justify it, particularly the self-defence argument. This research attempts to address the problem related to Israel's lack of respect for the rules of international law, especially international

humanitarian law (IHL), its repercussions on the civilian population, and Israel's repeated claim that its war on the Gaza Strip is considered a just war because it is based on self-defence due to the attack on October 7. However, the research has proven that the Israeli arguments in this regard are incorrect and do not comply with international law and that the international community must hold Israeli leaders accountable for these violations and bring those responsible to criminal justice. The research has discussed many points related to this war, namely, the historical background of the last escalation, which came after the October 7 attack, and the legal status of the Gaza Strip from the perspective of international law. Furthermore, this research discusses the lawsuit filed by South Africa, its legal and political significance, and the importance of the decision issued by the International Court of Justice (ICJ) in this context. Finally, the study addresses the other legal options available to hold the Israeli war criminals accountable for the crimes that shook the human conscience, especially the role of the ICC in this context.

1.4. The Aims of the Research:

This paper aims to achieve the following goals:

1- Understanding the Legal Status of the Gaza Strip under International Law Rules.
2- Tracing the Israeli wars on the Gaza Strip and understanding the background and reasons for these wars, particularly the current war, which started on October 7/2023.
3- Mentioning some examples of Israeli Violations of IHL and its international responsibility in this context.
4- Analyzing the Israeli claim or plea of self–defence after the 7th of October attack from an international point of view and how the Israeli behaviour and actions do not comply with international law in this regard.
5- Identifying the most important crimes and violations committed by Israel in the Gaza Strip and how can we hold its leaders and officials accountable for these crimes before international courts such as the International Court of Justice and the International Criminal Court, and discuss some other legal options available to achieve this goal?

1.5. The Questions of the Research:

The Israeli war on Gaza has raised many questions about its legitimacy in light of the rules of international law. This unprecedented war has also raised some questions about the importance, feasibility, or benefit of IHL, especially since Israel did not adhere to the provisions of this law in its military operations against the Gaza Strip. Some also raised questions about the effectiveness of international criminal justice, represented by the International Criminal Court (ICC), in prosecuting Israeli war criminals, the issue of Israeli violations of IHL, and how can the ICC prosecute its perpetrators. Here are some questions that this research is trying to answer:

1. What does Israel commit the most prominent violations of IHL in its war on Gaza?
2. What is the legal status of the Gaza Strip from the perspective of international law?
3. Does Israel have the right to self-defence against the Gaza Strip as an occupying force?
4. What are the restrictions on the right to self-defence in accordance with the United Nations Charter and international custom?
5. What role should the International Criminal Court play now to prevent the continuation of these crimes? What are the obstacles that prevent this?
6. Why did the court (ICC) act, for example, in the case of the Russian war on Ukraine, issuing an arrest warrant against President Putin, and did not do so in Palestine?
7. What is the value, benefit, and feasibility of the lawsuit filed by South Africa against Israel before the court in this context?
8. What is the value of the ruling issued by the court regarding the temporary or interim measures taken by the court in this regard?

9. What other options are available to prosecute Israeli war criminals and bring them to trial for crimes that have shocked the human conscience?

1.6. The Research Methodology and Segmentation:

In this research, we will follow a scientific methodology based on the descriptive, analytical and comparative approach in analyzing international texts, rules and principles applicable to the Israeli war on the Gaza Strip, which began more than 11 months ago. We will try to answer the questions posed by this research, which relate to the extent of the legitimacy of this war from the perspective of international law, and refute the Israeli arguments in this regard, especially its argument of self-defence. In this research, The study also used the statistical method by presenting some figures and tables of some numbers related to the number of victims of previous Israeli wars compared to the current war, the size of the violations that occurred against the infrastructure in the Gaza Strip, and the attacks on some groups such as journalists, civil defence men, doctors, civilians, and others.

Therefore, to understand and analyze all the issues and aspects related to this important topic, we have divided this research into the following sections: the first is the introduction. The second section discusses the Israeli war on the Gaza Strip: background and reasons. The third section deals with the legal status of the Gaza Strip under international law rules. The fourth section discusses the Israeli claim or plea of self-defence after the 7th of October. The fifth section focuses on the options for prosecuting Israeli war criminals. The last section is the conclusion, which includes our remarks and recommendations.

2. 1. The Israeli War on the Gaza Strip: Background and Reasons

On October 7, the armed resistance movement Hamas and other Palestinian armed groups launched an armed attack on Israel, the repercussions of which reverberated throughout the world. This unprecedented and sudden attack led to the killing of about 1,200 people, the wounding of 2,400, and the capture of about 240 people, both military and civilians (Amnesty International, 2023). This attack, which has been the first of its kind in the history of the Palestinian struggle since the Israeli occupation of Palestine in 1948, had significant and dangerous political, military, and security implications.

Over the past months, this attack has distracted the world from other crises and conflicts, including the most dangerous and most prominent crisis yet, the Ukraine crisis, located in the heart of the European continent. After waking up from the horror of this attack, hours after it occurred, Israel responded with a devastating and comprehensive war on the Gaza Strip, in which it broke all the rules of war and violated all the principles and rules of international law, especially IHL, which is considered one of the most prominent and essential branches of international law (Altarawneh, 2022) .

This law regulates the relationship between belligerents during armed conflicts and the treatment of the victims of these conflicts, including the wounded, sick, shipwrecked, prisoners, and civilians. It also regulates weapons, the conduct of military operations, and the protection of civilian facilities and objectives (What is International Humanitarian Law?, 2004).

Before we mention examples of Israeli's violations of (IHL), we should first define and clarify the meaning of (IHL). There are many definitions for this law; one of these definitions is "a branch of public international law, whose customary and written rules aim to protect affected persons in the event of an armed conflict, and also aim to protect funds and property that are not directly related to military operations" (Altarawneh, 2022).

The ICRC defined this law as "the body of international rules derived from conventions or customs aimed specifically at solving humanitarian problems arising directly from international or non-international armed

conflicts. These rules restrict for humanitarian reasons the right of the parties to the conflict to use methods or means of warfare of their liking or the objects or persons affected, or they may be harmed by armed conflicts." (ICRC, 1974).

This law is divided into branches:

1- The Hague Law is a set of rules regulating the use of force and means and methods of combat. The Hague Conventions of 1899 and 1907 and the conventions concerned with the prohibition of weapons constitute its primary sources.

2- The Geneva Law, which means the set of rules that aim to protect victims of armed conflicts who are outside the battle and those people who do not participate in hostilities. The Four Geneva Conventions of 1949 and their Additional Protocols of 1977 constitute its primary sources (Altarawneh, 2022). One hundred ninety-six countries have ratified the Geneva Conventions, which are the main element of IHL.

This law establishes some basic principles that States must adhere to when any armed conflict occurs, which we summarize as follows (Murad, 2021) :

1- The principle of humane treatment

2- The principle of distinction between civilian objects and military targets

3- The principle of military necessity

4- Prohibition of certain types of weapons

5- Respect for the safety of people who drop weapons from enemies or those who can no longer fight.

6- The occupation is a realistic and temporary situation that does not give the occupier the right of sovereignty over the occupied territories.

It should be noted that the Israeli attack on Gaza from October 7 until now has caused an unprecedented debate on the moral, political, and legal aspects of this war. However, this war on Gaza is not the first war of its kind. Since Hamas took over the Gaza Strip by force in 2007, Hamas and Israel have had several 'mini wars,' including in 2008-2009, 2012, 2014, 2021, and now the most recent full-scale war sparked by the October 7 attack (MARGOLIN & LEVITT, 2023).

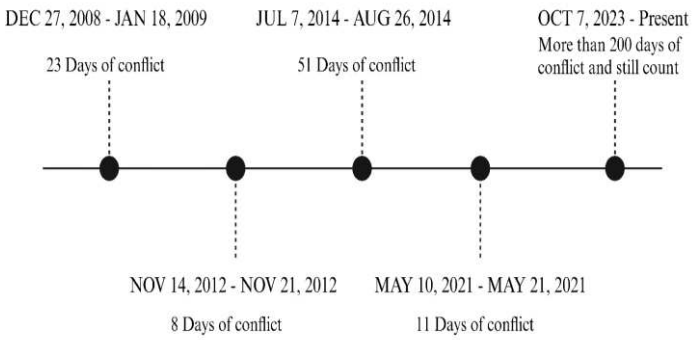


Figure 1. Timeline of the Israeli wars against Gaza.

The first war between the two parties launched in 2008 (December 27, 2008 - January 18, 2009). This war lasted for 23 days, and it resulted in more than 1,430 Palestinian martyrs, including more than 400 children, 240 women, and 134 policemen, in addition to more than 5,400 wounded. Additionally, more than 10,000 homes were

completely or partially destroyed. In turn, the occupation authorities admitted the killing of 13 Israelis, including ten soldiers, and wounding 300 others (Aljazeera Net, 2023).

The second war occurred in 2012 (November 14, 2012 - November 21, 2012) and lasted eight days. About 180 Palestinians, including 42 children and 11 women, were killed in this aggression, and around 1,300 others were wounded, while 20 Israelis were killed and 625 others were injured (Aljazeera Net, 2023).

The third war was in 2014 (July 7, 2014 - August 26, 2014) and lasted 51 days. This war resulted in 2,322 martyrs and 11,000 wounded. Israel committed massacres against 144 families, from each of which at least three members were martyred. At the same time, 68 Israeli soldiers and four civilians were killed, in addition to one foreign worker, and 2,522 Israelis were injured, including 740 military personnel (Aljazeera Net, 2023).

The fourth war took place (May 10, 2021 - May 21, 2021); it lasted for 11 days, with 250 Palestinian martyrs and more than 5,000 wounded. Israel also bombed several residential towers and announced the destruction of about 100 kilometres of tunnels in Gaza (this war was the first battle started by the resistance).

On the Israeli side, it resulted in the death of 12 Israelis and the injury of about 330 others, according to Israeli sources. In addition to these wars, there were also some other military operations and confrontations between Hamas and the Israeli Army in 2004, 2006, 2018, 2019, and 2022 (Aljazeera Net, 2023).

2.2. The October 7 Attack: Reading of Numbers and Statistics:

On Saturday, October 7, 2023, the Israeli occupation woke up with hundreds of Palestinian fighters storming some of its headquarters and settlements adjacent to the Gaza Strip, where they clashed with some of its forces and security services (Arab Center for Research and Policy Studies, 2023). This military operation by the Hamas movement resulted in the killing of 1,200 Israelis (and at least 32 American civilians) and the wounding of nearly 2400-3,785 soldiers and civilians (Congressional Research Service, 2023).

The Palestinian fighters were also able to capture several officers, soldiers, and civilians, their numbers ranging between 229-250 people. This attack by Hamas and other Palestinian armed factions marked a significant turning point in the history of the Palestinian-Israeli conflict. The Hamas attack tactically damaged Israel's long-held qualitative edge status- its image as a country possessing military superiority over all its enemies in the Middle East region (Jahshan, 2023). The Islamic Resistance Movement (Hamas) called this attack (Al-Aqsa Flood) an expression of its support for Al-Aqsa Mosque, which Israel has been trying to Judaize and deprive the Palestinians of performing their religious rituals there for an extended period.

This sudden and unexpected attack had significant effects on Israel, the Palestinians, and the entire region. Several observers have remarked that today's events have had an impact on Israelis similar to the effect the 9/11 attacks had on Americans (Affairs Foreign, 2023)

In response to the attacks, Israel's cabinet formally declared war on Hamas. Israeli Prime Minister Netanyahu formally announced a declaration of war against Hamas and a national state of emergency. "We are at war. Not an 'operation,' not a 'round,' but at war. He said, "This morning, Hamas launched a murderous surprise attack against the State of Israel and its citizens." "We have been in this since the early morning hours" (X platform, 2023). He added that "the enemy will pay an unprecedented price." (X platform, 2023). This declaration means that the Prime Minister and his defence minister can take decisions and actions going forward without consulting the cabinet regarding every specific action (Aljazeera Net, 2023).

The Israeli response to this attack came several hours after it occurred. The response this time was different from Israel's previous wars on Gaza; it was strong, destructive, and brutal. Israeli Army targeted

everything in Gaza. It destroyed the infrastructure, attacked schools, hospitals, and civilian places, and killed thousands of innocent people, especially children, women, and the elderly. Furthermore, all necessary means of life were cut off from Gaza, depriving the Strip of fuel and basic foodstuffs. Israel also imposed a strict siege on Gaza and practised a policy of starvation against the citizens of Gaza in retaliation for what happened on October 7. Defense Minister Yoav Gallant says he has ordered a “complete siege” of the Gaza Strip as Israel fights the Hamas terror group (CNN, 2023) . “I have ordered a complete siege on the Gaza Strip. There will be no electricity, no food, no fuel, everything is closed” (FABIAN, 2023) .

Gallant said following an assessment at the IDF Southern Command in Beersheba, “We are fighting human animals, and we are acting accordingly” (FABIAN, 2023).

Israel has also initiated efforts to recover hostages, started an aerial bombardment campaign against militants in Gaza, mobilized hundreds of thousands of reserve troops, and repositioned ground forces close to Gaza. Israel’s government almost wholly cut off the supply of electricity, food, water, medicine, and fuel to Gaza, which, before the conflict, had already faced crisis-level economic and humanitarian (Congressional Research Service, 2023).

Although more than eleven months have passed since the start of the war on Gaza, Israel is still practicing a policy of mass murder and genocide against innocent people and civilians in Gaza in a situation that modern history has never witnessed. This war is considered the most violent and aggressive war on the Gaza Strip since Israel withdrew its forces from the Strip in 2005. Israeli political and military leaders alike did not hide their goals for this war, which included eliminating the Hamas movement, freeing prisoners from Hamas, and taking revenge on Gaza after the attack (Arab Center for Research and Policy Studies, 2023).

The numbers of dead, wounded, missing, and displaced persons that resulted from this horrific war express the extent of the brutality of the Israeli occupation forces and their deliberate intention to commit these barbaric crimes against innocent people and civilians in Gaza. This war led to the death of more than 40,000 Palestinians and the wounding of more than 90,000 people, in addition to the destruction of nearly 70% of homes and infrastructure in the Gaza Strip (Palestinian Central Bureau of Statistics, 2024) .

The following graphs and charts indicate information and numbers related to the current war on Gaza. Figure 2 shows the number of martyrs killed in previous Israeli wars in the Gaza Strip compared to the current war. These numbers show the large amount of deliberate killing practised by Israel against civilians in Gaza in the current war. Figure 3 shows the number of casualties in the current Gaza war that came after October 7, as the percentage of deaths among children, women, the elderly, medical staff, civil defence staff, journalists, educational staff, and UNRWA employees.

Moreover, Figure 4 shows the extent of the Israeli attacks on property and civilian targets in the Gaza Strip in this war, as we notice the extent of the destruction and devastation that affected everything in the Strip, such as the attacks on hospitals, health centres, mosques, churches, schools, universities, government headquarters, and ambulances.

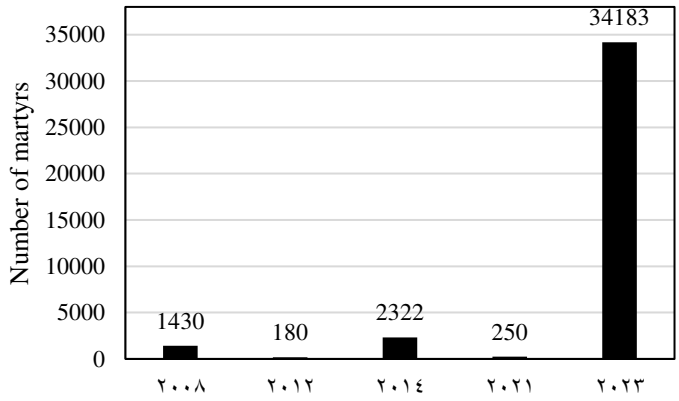


Figure 2. Number of martyrs during the past years of wars on Gaza (Source: Palestinian Central Bureau of Statistics, 2024).

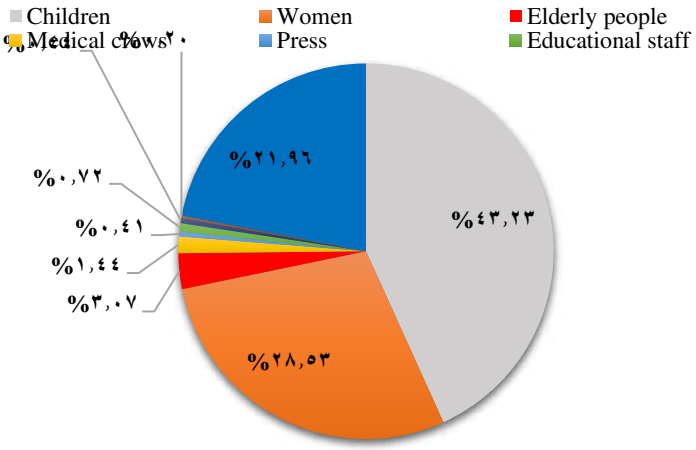


Figure 3. Percentages of casualties in the current Gaza war after October 7, 2023 (Source: Palestinian Central Bureau of Statistics, 2024).

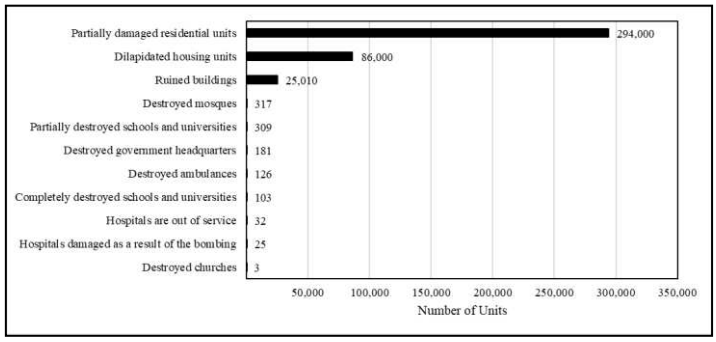


Figure 4. Israeli attacks on property and civilian targets in the Gaza Strip (Source: Palestinian Central Bureau of Statistics, 2024).

3. 1. The Legal Status of the Gaza Strip under International Law Rules:

The legal status of the occupied Palestinian territories, in general, and the Gaza Strip, in particular, is one of the issues that Israel always tries to raise to evade the implementation of the legal obligations it bears under the

rules of international humanitarian law, especially the Fourth Geneva Convention (Fourth Geneva Convention, 1949). Israel is still arguing that the Fourth Geneva Convention does not apply to the situation in the occupied Palestinian territories, claiming that these lands are not occupied but rather disputed between it and the Arab countries from which they were taken (International Humanitarian Law Series, 2008).

The West Bank was occupied by Israel in 1967 after it was under Jordanian sovereignty, while Gaza was administratively subordinate to Egypt and then occupied by Israel in 1967 (Shadid, 2023). Israel says that the sovereignty of Jordan and Egypt is illegal over these lands and that they have no right to sovereignty over them. It argues that at the time Israel controlled these lands, there was a political vacuum, and Israel filled this vacuum, as it claims (International Humanitarian Law Series, 2008).

Based on this claim, Israel entirety refuses to recognize the validity and application of the Geneva Conventions, especially the Fourth Geneva Convention of 1949, to these territories. It refuses to recognize that it is an occupying authority under international law and, therefore, does not acknowledge its legal responsibilities arising from the law of occupation, as determined by the Hague Law.

In this context, Israel claims that it applies the provisions and rules of IHL from a realistic (de facto) and not a legal (de jure) perspective (International Humanitarian Law Series, 2008). It also claims that it respects the rules related to the treatment of civilians by the law of military occupation, as they are customary rules, and is committed to them in its dealings with the Palestinian people. Moreover, Israel also claims that after implementing the withdrawal plan from the Gaza Strip in 2005, it is no longer legally responsible for the Strip. The purpose of the plan was to improve Israel's security and international status in the absence of peace negotiations with the Palestinians. With the implementation of the plan, IDF installations and forces were removed, and over 9000 Israeli citizens living in 25 settlements were evicted. By September 22, 2005, Israel withdrew from the entire Gaza Strip to the 1967 Green Line (Israel's Disengagement from Gaza and North Samaria (2005), 2024). Israel instead claims that the party responsible for running and managing the Gaza Strip and its residents is the Palestinian National Authority (Baldwin, 2023). This point was confirmed by the Israeli Supreme Court (The Case of Attiya Fathi al-Nabaheen, 2023).

In contrast to this illegal opinion, the international community has recognized, since Israel's occupation of the occupied Palestinian territories, that Israel is an occupying power under the rules of the law of belligerent occupation and the rules of IHL. In accordance with this opinion, Israel was the one that began the attack on June 5, 1967, against Jordan, Egypt, and Syria, occupying the West Bank from Jordan, the Gaza Strip from Egypt, and the Golan Heights from Syria (Wilsoncenter six-day-war, 2024) .

This war lasted only six days but indelibly changed the balance of power in the Middle East. Israel emerged as the unequivocal victor, establishing itself not only as a formidable but also as the USA's strategic ally in the Cold War struggle for regional hegemony. It also became the military occupier of Arab Lands whose jurisdiction extends across Egypt's Sinai Peninsula, Gaza Strip, Syria Height Golan, and the West Bank from Jordan. (NOURA, 2017) .

This sudden and rapid military operation has been considered by the international community and the United Nations to be an armed aggression that violates the United Nations Charter, especially the text of Article 2/4 of the Charter, which prohibits the use of force in a way that affects the territorial integrity and political independence of states or that conflicts with the principles of the United Nations (The UN Charter, 1945). This clear and explicit aggression also violates the resolutions of the General Assembly, especially the "Declaration on Principles of International Law Concerning Friendly Relations Among States in Accordance with the Charter of the United Nations," which was adopted by the General Assembly on October 24, 1970 (Declaration on Principles of International Law (2625 (XXV), 1970). Additionally, it violates the UNGA resolution related to the Definition of Aggression (3314) adopted on December 14, 1974 (The Definition of Aggression Resolution, 1974). This Resolution is one of the most important Resolutions the GA has ever adopted and is still one of the fundamental documents in the field of jus ad bellu.

Israel is an occupying power and is fully responsible for all the lands it occupied in 1967. It is obligated to respect and apply all rules related to the rules of belligerent occupation and the Geneva Conventions of 1949 in particular. Israel is one of the countries that joined the Geneva Conventions in 1951. It is, therefore, obligated to respect its contractual obligations under these conventions and the rules of customary international law. These rules oblige it to respect the rights of the civilian population, provide the necessary requirements for living, and prevent any actions that would change the status quo in the territories it occupies.

The Fourth Geneva Convention applies to all civilians in a war or under occupation, defined as "Protected Persons" in Article 4 of the Convention, which reads: "Persons protected by the convention are those who, at a given moment and in any manner whatsoever, find themselves, in case of a conflict or occupation, in the hands of a Party to the conflict or Occupying Power of which they are not nationals.

"Therefore, the Israeli authorities' interpretation of the provisions of the Geneva Convention contradicts the essence and spirit of this convention, the provisions of which Israel must adhere to as it is an occupying power under the rules of IHL (Human Rights Watch (HRW), 2024).

Furthermore, the United Nations and its various branches have affirmed that Israel is an occupying power and that it is responsible for the situation in these territories and rejected the Israeli arguments that attempt to circumvent this matter.

In July 1999, the High Contracting Parties to the Fourth Geneva Convention convened a conference in Geneva to discuss issues related to the application and enforcement of the Fourth Geneva Convention in the West Bank and Gaza Strip. The statement of common understanding that the participating High Contracting Parties adopted "reaffirmed the applicability of the Fourth Geneva Convention to the Occupied Palestinian Territory, including East Jerusalem," and "the need for full respect for the provisions of the said convention in that Territory (Human Rights Watch (HRW), 2024). The Conference of High Contracting States Parties also decided in 2001 that the Fourth Geneva Convention applies to the territories occupied by Israel. The ICJ also affirmed this idea in its advisory opinion issued in 2004 (International Humanitarian Law Series, 2008) . The International Committee of the Red Cross (ICRC), the international body charged with monitoring and promoting adherence to the Geneva Conventions, takes the position that the Fourth Geneva Convention fully applies to Israel's conduct in the West Bank and Gaza Strip. (Human Rights Watch (HRW), 2024) .

Therefore, Israel, as an occupying power, has specific legal obligations that it must respect, including providing security and public health, prohibiting the forced transfer of population, preventing settlement, prohibiting the taking of hostages and retaliation against civilians, and protecting private and public property. Attacking cultural property and places of worship is not permissible, prohibiting the confiscation of property, providing legal guarantees to try the accused, respecting humanitarian and relief organizations, and not obstructing their work (Altarawneh, 2005).

As for the issue of the withdrawal plan, Israel claims that once it withdrew from the Gaza Strip in 2005, it was no longer responsible for the Gaza Strip and the civilian population. It is, therefore, not obligated, according to international law, to do anything towards the Gaza Strip. This argument is incorrect from a legal and practical standpoint. Israel, despite its withdrawal more than 19 years ago, is still the one that controls the Gaza Strip in practice. It controls its crossings, air, and water (AlKheloot & Hedya, 2023). It carries out air surveillance of the Strip around the clock and also carries out bombing and assassination operations against the population through its planes and boats, mainly the civilians. It has also imposed a complete siege on the Strip for more than 16 years, preventing the entry of many goods and exercising strict control over these goods. It appears that the blockade has become a seemingly permanent aspect of Gaza's fate" (Abusalim, 2023). This illegal collective punishment targeting Palestinian civilians is a blatant and clear violation of IHL and the International Law of Human Rights. It amounts to a war crime and a crime against humanity (Arab Center for Research and Policy Studies, 2023).

Therefore, one can say that Israel's withdrawal from the Gaza Strip has made this Strip an entity or an independent, sovereign state. Israel, as we know, is still the controlling force that controls everything in the Gaza Strip. As we said, it controls and dominates all its sea, land, and air borders. Effectiveness does not mean the presence of occupation forces inside the occupied territory. However, this control is achieved once the occupying power can exercise control in the region whenever it wants.

There is no doubt that the Gaza Strip, despite the presence of the Hamas movement, the entity which is responsible for administering the Strip after it took power in 2006, cannot provide the basic and necessary life necessities for the population (The Guardian Newspaper, 2006). It is also unable to create a port or airport, enter goods or humanitarian aid, or move across the border without the approval of the Israeli authorities.

In conclusion, the Israeli arguments that claim the non-subjection of the occupied Palestinian territories, including the Gaza Strip, to IHL and the law of belligerent occupation are inaccurate and contradict the rules of international law, including the United Nations resolutions and declarations. It also contradicts the position of ICRC and other human rights organizations. All international Organizations recognize the application of the law of occupation and the Geneva Conventions, particularly the Fourth Geneva Convention, on these territories, including the Gaza Strip (HRW, 2023).

The official opinion prevailing currently and for several decades by ICRC, the Commission of Inquiry for the Occupied Palestinian Territories, SC and General Assembly resolutions, regional organizations such as the European Union, the African Union, ICC, non-governmental organizations such as Human Rights Watch and Amnesty International, and many legal experts acknowledges that the Gaza Strip is an occupied territory subject to the law of belligerent occupation under the Hague Conventions and the Geneva Conventions of 1949, especially the Fourth Convention (AlKheloot & Hedya, 2023).

Therefore, Israel, as the occupying power, must respect this legal status and fulfil its legal obligations resulting from this status, especially its responsibilities to provide the basic needs of the population, such as water, electricity, food, medicine, and other materials required by IHL. Israel cannot abdicate its responsibility under these binding rules to which itself is a party because Israel, in practice, is the one that controls the entire Gaza Strip and is the one that effectively dominates all of the border crossings, the air, the sea, its soldiers can enter Gaza at will, so on and so forth (Milanovic, 2009).

Additionally, Israel controls the population registry, the departure and entry of people, trade, and goods. It has not transferred sovereignty over this region to the Palestinians, as it claims. However, it is still the one that administers and controls it, which imposes legal obligations on it under the rules of IHL and the International Law of Human Rights. Contrary to what the Israeli government claims, Israel's withdrawal of its ground forces from Gaza in 2005 did not end its occupation of Gaza (Baldwin, 2023).

Wilde says that the Israeli removal of "settlements and deployment of its military presence as part of the operation of a land, sea, and air blockade of the Gaza Strip, as well as its Oslo-based allowance of qualified components of Palestinian self-determination in certain areas of the West Bank, amounted ultimately to a reconfiguration, not a partial ending of this military occupation" (Wilde, 2023).

3. 2. Examples of Israeli Violations of IHL

Since the beginning of this war, Israel has committed many violations of the rules of IHL. It has committed war crimes, genocide, and crimes against humanity through a policy of killing, destroying, and targeting civilians throughout the Gaza Strip. Perhaps the large number of casualties that occurred as a result of Israel's military operations confirms Israel's failure to comply with its obligations under this law. The number of victims has so far exceeded 40,000 people, most of whom are children and women (UN OCHA, 2024).

This war also led to the destruction of the infrastructure of the Gaza Strip and the destruction of homes, mosques, educational institutions, schools, and hospitals in an unprecedented manner. Israel's practice of a policy of siege, starvation, and preventing the arrival of aid violates the rules of IHL. It amounts to being considered genocide and war crimes under the Geneva Conventions of 1949, the First Additional Protocol, and the Rome Statute of 1998 (Human Rights Watch and Oxfam Submission to Biden Administration's NSM-20 Process, 2024).

When comparing Israel's behaviour in this war and its previous wars and the extent of its commitment to the rules of IHL, we find that Israel did not adhere to many of the international conventions related to this vital law, namely the Saint Petersburg Declaration of 1868 on Banning Missiles, the 1907 Hague Convention Relating to Restrictions on the Use of Weapons, the Geneva Protocol on the Use of Poisonous Weapons 1925, the Chemical Weapons Convention 1993, the Geneva Conventions of 1949, the First Additional Protocol 1977, the Genocide Convention 1948, the Statute of the International Criminal Court (ICC) 1998, the Convention on the Protection of Cultural Property and its Supplementary Protocol 1954 (AlKheloot & Hedya, 2023).

We will identify some of Israel's most prominent violations in this table, which will show the type of these violations and the most prominent articles that Israel violated in the Geneva and Hague Conventions and other agreements.

Table 1. Examples of Israeli violations of (IHL).

Behavior or action	Name of the Convention	Number of the Articles
Targeting civilians (women, children, elderly...)	1.The Fourth Geneva Convention 2. The ICC statute 3. The Hague Convention 4. Geneva Conventions	Art 27, 47, and 147 Geneva 4 Art 48, 51/1 and 2, Art 52 The First Protocol At 46 from The Hague Convention
Targeting medical personnel	The First Protocol	Ar12.1
Targeting hospitals and health care centers	ICC Statute	Art 8
Targeting relief convoys and ambulances	The First Protocol	Art 79
Targeting places of worship	ICC Statute	Art 8
Targeting journalists	The First Protocol	Art 79
Targeting power plants and water desalination plants	ICC Statute	Art 8
Targeting and bulldozing agricultural lands and Assaulting corpses and exhuming graves	The First Protocol International Covenant on Economic, Social and Cultural Rights ICESCR	Art 54
Targeting infrastructure such as roads, bridges, residential buildings and apartments	The Fourth Geneva and The First Protocol	1. Art 53 And 147 2. Art 52/1and 2
Use of internationally prohibited weapons	The Hague Convention 1907, Saint-Petsbarugh declaration 1868, ICC Statute	Art 22 Art 8
Mistreatment of detainees and prisoners	The Third Geneva Convention	Art 1, Art 12, 13
The policy of deportation and exile	The Fourth Geneva	Art 49 and 147
Arresting and torturing prisoners	The Third Geneva Convention	Art 12, 13 and 17
Destruction the Environment	The Fourth Geneva	Art 56
Targeting cultural and educational places, such as schools and universities	The Hague Convention 1907	Art 27 Art 53

	The First Additional Protocol The Hague Convention for the protection of Cultural Properties of 1954 ICC Statute	Several Articles Art 8
Forced Transfer	ICC Statute	Art 7/1 ICC
Collective Punishment Policy	Geneva Convention	1. Art 33 2. Art 50 3. Art 75/2
Starvation policy	Geneva Convention The First Additional Protocol	54/1 The First Protocol
Siege and Closure Policy	Geneva Convention	1. Art 33, 55, 56
Arbitrary detention policy	Geneva Convention	Art 76

4. The Israeli Claim or Plea of Self –Defence After the 7th of October:

In its violent and unjustified response to the Gaza Strip after the October 7 attack, Israel vehemently claimed the idea of self-defence to justify this blatant aggression against the civilian population in the Gaza Strip. Israel has insisted that the bombings are justified because it has the right to self-defence in response to the October 7 Hamas attacks that killed 1,200 people and injured more than 5,600 in southern Israel (Purohit, 2023). Notably, this is not the first or only time that Israel has resorted to justifying its military operations against the Palestinians or Arab countries in general on this ground. Israel repeatedly used this argument in its previous wars against some Arab countries, such as in the 1956 war against Egypt and the 1967 war against Jordan, Egypt, and Syria, which ended with the occupation of parts of territories of these countries, such as the West Bank from Jordan, the Gaza Strip from Egypt, and the Golan Heights from Syria (Baldwin, 2023).

Israel also used the same argument when it attacked Lebanon in 1982 and its five previous wars on the Gaza Strip since its withdrawal from the Strip in 2005 (Ryan, 1982). The question that arises here is whether Israel has the legal right to self-defence in light of the rules of international law and whether what happened on October 7 gives Israel the right of self-defence or not.

We will not delve into Israel's previous wars, given that the majority of jurisprudence has agreed on the illegality of such wars such as the 1967 war, in which Israel claimed that it exercised the so-called right of preventive self-defence, especially since Israel was able, in just six days, to defeat three Arab countries. If the Israelis have the right to preventive self-defence, assuming that, according to their claim, because these countries threatened them, then this right may be proven to them for the duration of the war (6 days) and not for approximately 67 years (Wilde, 2023).

Based on the above, we can say that Israel's claim of the right to self-defence after the October 7 attack by Hamas and other resistance groups in Gaza is illegal according to the rules of international law, despite the support of a large number of Western countries, led by the United States, for this argument or claim (Albanese, 2023).

When we review the American and Western statements in this regard, we see the unlimited amount of support that Israel has received. We will try to point out here some statements that confirm this matter: The Prime Minister of Israel repeated statements since the start of the war that Israel has the right to defend itself, as well as statements by the Israeli Defence Minister and military and political leaders (CNN, 2023).

Some countries, led by the USA, strongly and explicitly support this trend and opinion. The American President announced his support for Israel's right to defend itself in the aftermath of October 7. White House spokesperson John Kirby went even further, saying that there were "no red lines" that Israel could cross in its assault on Gaza (Middle East Minoter (MEM), 2023). The European Union announced its support to Israel for its

right to defend itself in statements on October 7 and 15, and other occasions (Donald Earl Collins, 2024). The President of the European Commission, Von der Leyen, said, "Europe stands with Israel, and we fully support Israel's right to defend itself. My message is clear. Europe stands with Israel. Europe stands with our friend and partner (European Commission (EC), 2023). The EU's foreign policy chief, Josep Borrell, said Israel had a right to defend itself but urged it to do so in a manner consistent with 'humanitarian law,' warning that some decisions by Israel may be contrary to international law (The Guardian, 2023).

A joint US, British, German, Canadian, Italian, and French statement on October 23 further confirmed this attitude (Reddit, 2023). British Prime Minister Rishi Sunak has repeatedly stated that Israel has an absolute "right to defend itself" (Middle East Minoter (MEM), 2023). Even the President of Ukraine, whose country was attacked by Russia, supported Israel's right to defend itself in a move that seemed strange from this country, whose parts of its territory were occupied by Russia and its people are fighting to get rid of Russian occupation (Aljazeera Net, 2023).

When we evaluate these trends adopted by Western countries in general, we find that these trends and positions are dominated by political factors, not legal ones, as the real goal behind them is to support Israel and stand alongside it, regardless of its actions and violations of international law.

The majority of these countries have always supported the positions of the Israeli governments politically, militarily, and financially for a long time. In this war, these countries, especially the USA, have always stood with Israel, supplying it with weapons, ammunition, and military equipment without any oversight and allocating to it an economic aid package worth billions of dollars. For example, U.S. legislation opens a new tab that envisages an additional $17.6 billion in military assistance to Israel as its war against Hamas continues in response to the Oct. 7 attack (Reuters, 2024).

Hence, these arguments and announcements related to self-defence, once again, are political trends and not legal ones for the following reasons:

1- The opposition of some major countries to this argument, such as Russia, whose representative, Vasily Nebenzya, explicitly declared during his speech before the emergency special session of the UN General Assembly that "Israel does not have the right to defend itself as it is the occupying power, and therefore international law does not entitle it to such a right, and this is what was confirmed by the advisory ruling of the International Court of Justice in 2004" (MEM, 2023). He stressed his country's call to stop the bloodshed in the Middle East, to avoid expanding the scope of the crisis to the entire region, and to work on a diplomatic solution (MEM, 2023). The Russian position in this context does not reflect Russia's keenness to apply and respect international law as much as it harnesses international law to serve major countries' policies, interests, and political differences.

2- Media and political support for Israel’s right to defend itself was not limited to statements and declarations but was accompanied by real support for this right through its practical translation politically, militarily, and financially, as we indicated previously. The statements of Western countries and their support for Israel’s right to defend itself were accompanied by beautiful, flowery words about the necessity of Israel allowing the arrival and providing of aid, protecting civilians, and respecting the obligation to respect the rules of IHL. However, these words and media statements remained merely bright and false slogans that were not implemented or applied. The Israeli government never listened to or responded to international calls in this regard, but on the contrary, it continued its aggression and violation of IHL.

The Israeli arguments, which have been based on the idea of self-defence, in which it tried to demonstrate that it is the victim and that Hamas is the aggressor and executioner, also did not deceive many countries, institutions, official organizations, and media bodies.

Le Monde newspaper, for example, stated in its editorial on 12/10/2023 that "Israel's right to defend itself means the right to destroy everything" since Israeli Defence Minister Yoav Galant announced that Israel is facing "human animals" and that it will "act on this basis**," (**GOLDENBERG**, 2024).**

It said, in its editorial entitled: "Israel Lost in the Gaza Massacre," that "the Palestinians have been driven like cattle by Israeli orders from part of the Gaza Strip to another, the cries of the heads of United Nations agencies who, despite Israeli disdain, are making impressive efforts, even if they echo in a vacuum" (Aljazeera Net, 2023)**.** Le Monde believed that this unprecedented massacre was not justified because the results obtained so far are still far from the declared goal of eliminating Hamas, noting that Israel's loss in this war is not a surprise because it is a reflection of its deviation before October 7 (Aljazeera Net, 2023).

After this discussion, we return to the earlier question: Does Israel have the right to self-defence under international law following October 7? In this context, it is necessary to review the text of Article 51 of the United Nations Charter, which Israel is relying on to justify its war against Gaza. Article 51 states that *"Nothing in the present Charter shall impair the inherent right of individual or collective self-defence if an armed attack occurs against a Member of the United Nations, until the Security Council has taken measures necessary to maintain international peace and security. Measures taken by Members in the exercise of this right of self-defence shall be immediately reported to the Security Council and shall not in any way affect the authority and responsibility of the Security Council under the present Charter to take at any time such action as it deems necessary in order to maintain or restore international peace and security."* **(UN Charter, 1945)**.

After reading this article and analyzing it from a legal perspective, we see that Israel cannot avail of this argument for the following reasons:

1- The right to self-defence, referred to in Article 51, can apply when facing aggression from another country, not an armed movement or group. The right to self-defence is natural for individuals, peoples, and countries. However, Article 51 of the United Nations Charter sets controls and limitations for exercising this right, and Israel has not met the conditions for enjoying this right. When we trace the position of the ICJ from this concept, we find that the ICJ has established a close link between the concept of self-defence and aggression. It declared that in conformity with the UN Charter and customary law, only an armed attack or (aggression) authorizes the recourse to armed forces in case of individual or collective self-defence (Nicaragua v. United States of America, paras. 49, 50, 1986).

The Court said, "The normal purpose of an invocation of self-defence is to justify conduct, which would otherwise be wrongful" (Nicaragua v. United States of America, para. 74, 1986). The Court added that "the lawfulness of the use of force by a State in response to a wrongful act of which it has not been the victim is not admitted when this wrongful act is not an armed attack. The Court decided that under international law in force today—whether customary international law or that of the United Nations system—States do not have a right of 'collective' armed response to acts which do not constitute an 'armed attack" (Nicaragua v. United States of America, para. 211, 1986).

Based on the above, we can say that Israel does not have the right to self-defence based on the attack carried out by the resistance armed groups, given that the attack did not come from a state but instead came from an armed resistance movement to which international law guarantees the right to resist occupation and obtain the right to self-determination, especially since this Strip is occupied for decades. Israel has been considered an occupying force despite its claim that it has withdrawn from the Gaza Strip and does not have any actual control over it. International law guarantees the people under occupation the right to resist by all available means to liberate their land and force the occupier to leave the occupied territory.

2- Israel, which usurps the land and seeks to exterminate the Palestinian people, has no right to self-defence. It is an occupying state, and therefore, it cannot declare war on Gaza under the pretext of defending itself. Long-term occupation does not reserve any advantage for the occupier in international law; rather, the inhabitants of the occupied territory have the right to get rid of it by all necessary means.

The Gaza Strip is an occupied territory that is effectively subject to the sovereignty of Israel, given that it controls its land, sea, and air borders, as mentioned earlier. Gaza is not a state against which Israel can exercise the right of self-defence. Instead, it is a territory under occupation for more than 57 years. In principle, the occupying authority provides everything necessary for the people under occupation. Reviewing some of the articles of the Fourth Geneva Convention of 1949 regulating the behaviour of the occupation, we find many texts obliging the occupying state to provide the population with the humanitarian aid they need (The Fourth Geneva Convention, 1949). The occupying country must work to the utmost to provide the population with food and medical supplies. It is also the occupier's duty, in particular, to import the necessary food, medical supplies, and other supplies if the resources of the occupied territories are insufficient. Furthermore, the occupying state must facilitate the free passage of all shipments of medicines, medical supplies, and essential food and clothing (The Fourth Geneva Convention, 1949).

Furthermore, whoever says or declares that there is a war between Gaza and Israel or Hamas and Israel is wrong and misleading the world and manipulating words contrary to reality. This attitude moves the discussion from the framework of occupation to the framework of self-defence because Gaza is not a state or an independent entity but rather a part of the occupied territories, as the Special Rapporteur for the situation of human rights in the occupied Palestinian territories, Francesca Albanese, stated.

The UN rapporteur explained, "There is a legislation of the International Court of Justice that says that self-defence cannot apply in the context of military occupation, and in this case, Israel occupies another country and another people." She noted, "Within 24 or 30 hours, Israel regained control of its territory". (Albanese, 2023). Therefore, the right to self-defence on its territory was exhausted." "What I see is a political and humanitarian catastrophe of epic proportions" (Albanese, 2023). She said Israel's allies should ask Prime Minister Benjamin Netanyahu what he meant when he said in a televised speech after the October 7 attack: "What we will do to our enemies will resonate for generations." (Albanese, 2023).

Moreover, many international organizations have confirmed that Israel cannot claim the right to self-defence against threats or operations that emanate or take place from the territories it occupies.

Israel also did not declare that it was threatened by another country to give it the right to use the right of self-defence to justify its military operations against the Gaza Strip. The death of thousands of children, attacks on healthcare facilities, the withholding of water and electricity – these cannot be merely justified as a 'right to self-defence,'" said Iain Overton, executive director of the London-based Action on Armed Violence. He added that for Israel to claim this right without being challenged "would be a mockery of the international humanitarian law" (Purohit, 2023).

3- It is also not permissible to invoke self-defence against persons, groups, or states that use armed force within the framework of the right to self-determination (Palestinian National Liberation Movements), considering that this right is guaranteed and protected under the rules of international law, which are peremptory norms (Summers, 2020). Nothing in international law also allows any state to declare a specific legal status for the territory that does not belong to it.

The Israeli government declared the Gaza Strip as a hostile territory after Hamas had taken over Gaza in 2007. It declared at that time that: "Additional sanctions will be placed on the Hamas regime, in order to restrict the passage of various goods to the Gaza Strip and reduce the supply of fuel and electricity" (The Guardian, 2007). The decision was described by Palestinians and international agencies, including the UN, as collective punishment, which is illegal under international law (The Guardian, 2007).

No matter how hostile Israel is to Gaza, the hostility must focus on its hostile actions in the region, and it shall not use the idea of hostility as an excuse to carry out an organized extermination operation that destroys the life chances of the population.

4- The response to aggression must be within the controls and limits of self-defence, which includes proportionality and must not exceed the reasonable limits of response to aggression, such as violating the rules of war and killing civilians, as we all see (The Practical Guide to Humanitarian Law, 2024). Self-defence must also respect the rules of IHL, and not as Israel is currently doing in its aggression against the Gaza Strip. Israel should try to repel the attack with the least amount of force. At the same time, as we see, Israel prepared and took advantage of this attack in order to kill innocent people and force the Palestinian people in Gaza to flee outside the Strip.

Moreover, the state reserves the right to self-defence until the Security Council takes appropriate measures and addresses the situation. Consequently, Israel had to stop its attack and military operations after its response to the Hamas attack and suspend the military operations as long as it notified the Security Council about that attack. Nevertheless, Israel continued its aggression and military operations without justification, killed thousands of civilians, and eradicated the Strip, which became unviable. Therefore, the Israeli military operations cannot be justified as self-defence since Israel did not respect the principle of proportionality, and the act of defence should be temporary until the Security Council takes appropriate measures to confront the aggression.

5- The ICJ, as the highest international body, had previously clarified, in its advisory opinion on Israel's construction of the separation wall in the West Bank in 2004, that Article 51 is not relevant for Israel because the attacks that Israel claims occurred against it cannot be attributed to a foreign country (Murphy, 2005). The ICJ concluded that "it is not right for Israel to argue that it has the right to legitimate self-defence under Article 51 of the United Nations Charter (Legal experts denounce Israel's claim to 'self-defence' in Gaza, 2023).

5. Options Available for Prosecuting the Israeli War Criminals:

There is no doubt that Israel committed during this war on Gaza and in its previous wars, many violations and crimes that amount to war crimes, genocide, and crimes against humanity. However, the question always remains as to how we can prosecute the Israeli war criminals for these serious crimes that shook the human conscience. (KUTTAB, 2023).

The scale of crimes committed against innocents and civilians is unprecedented, and the number of civilian deaths, especially women and children, has never happened in contemporary history. The scale of destruction of buildings, civilian and medical facilities, and infrastructure is something that has not happened in any previous war, including World War II, where the Gaza Strip lost more than 70% of its infrastructure and civilian, medical, and residential facilities (Amnesty, 2023). If this indicates anything, it indicates the brutality of the occupation forces and their deliberate intention to make the Gaza Strip uninhabitable and thus force its residents to migrate in order to protect its citizens, as it claims.

Moreover, the policy of systematic killing, targeting children, preventing the arrival of humanitarian aid, including food and medical aid, depriving people of water and food, deliberately bombing aid if it arrives, bombing water wells, crops, bakeries, and water tanks, attacking premature babies in hospitals, destroying hospitals, health care centres, and other things amount to being considered crimes of genocide, in accordance with the Convention on the Prevention and Punishment of the Crime of Genocide of 1948 (Genocide Convention, 1948).

Furthermore, most Israeli actions also amount to war crimes and crimes against humanity in violation of the Geneva Conventions of 1949 and Protocol I, as well as the Rome Statute of the International Criminal Court (The First Additional Protocol 1977, The ICC Statute 1998).

Hence, these ongoing violations require a sincere and severe position from the international community to hold the leaders of the Israeli occupation accountable for these brutal crimes against innocent civilians in the Gaza Strip. Agnès Callamard said in this context that “Our research points to damning evidence of war crimes in Israel’s bombing campaign that must be urgently investigated. Decades of impunity and injustice and the

unprecedented level of death and destruction of the current offensive will only result in further violence and instability in Israel and the Occupied Palestinian Territories" (Amnesty, 2023).

So, what options or scenarios can be used to prosecute Israeli officials? How can we activate it on the ground? Is it possible to hold Israel accountable as a state for these crimes, or is the scope of responsibility limited to individuals only? Are the current circumstances appropriate to prosecute Israeli leaders and officials for these international crimes or not?

Therefore, it is necessary to mention the most important options available to prosecute and try Israeli war criminals for these crimes and violations that occurred in this war and Israel's previous wars on Gaza, which killed thousands of innocent people.

5.1. Resorting to the ICJ:

One option that can be used to establish legal responsibility against Israel is to resort to the ICJ. This Court is the highest international Court in the world, and it is an excellent legal tool to determine Israel's responsibility as a state for committing the crime of genocide.

Therefore, this is what South Africa did in 2023 when it filed a lawsuit against Israel based on the text of Article 9 of the 1948 Convention on the Prevention and Punishment of the Crime of Genocide (Ayop, 2023) **.**

This article explicitly states that the *"ICJ has the right to consider disputes that arise between states parties regarding the interpretation, application or implementation of the provisions of the Convention, including determining the responsibility of a state for genocide or for any of the other acts mentioned in article three of the convention"* **(The Genocide Convention, 1948)**.

South Africa requested the ICJ to indicate nine interim measures about the Palestinian people as a protected group under the Genocide Convention **(ICJ, (South Africa v. Israel), 2023).**

First, the State of Israel must immediately suspend its military operations in and against Gaza.

Secondly, Israel must ensure that no steps are taken in furtherance of those military operations.

Third, both the Republic of South Africa and the State of Israel, in accordance with their obligations under the Convention on the Prevention and Punishment of the Crime of Genocide - with respect to the Palestinian people - must take all reasonable measures within their powers to prevent genocide **(ICJ, (South Africa v. Israel), 2023).**

Fourth, the State of Israel must, in accordance with its obligations under the Convention, refrain from committing any of the acts that fall within the scope of Article 2 of the Convention, in particular **(ICJ, (South Africa v. Israel), 2023):**

(a) Killing members of the group.

(b) Causing serious physical or mental harm to members of the group.

(c) Intentionally subjecting the group to living conditions intended to cause its physical destruction, in whole or in part.

(d) Imposing measures aimed to prevent children's birth within the group.

Fifth, the State of Israel must, with regard to the Palestinians, cease taking all measures, including the repeal of relevant orders, restrictions, and/or prohibitions to prevent **(ICJ, (South Africa v. Israel), 2023):**

(a) Their expulsion and forced displacement from their homes;

(b) Deprivation from:

1- Obtaining adequate food and water;

2- Access to humanitarian assistance – including adequate fuel, shelter, clothing, hygiene and sanitation;

3- Medical supplies and assistance;

(c) Destruction of Palestinian life in Gaza.

Sixth, the State of Israel must ensure that it does not commit any acts described in points (4) and (5) or participate in direct and public incitement or attempt to commit genocide or conspire or be complicit in it. **Seventh**, the State of Israel must take effective measures to prevent the destruction of evidence relating to the allegations and to ensure its preservation **(ICJ, (South Africa v. Israel), 2023).** To this end, Israel must not prevent or restrict the access of fact-finding missions, international mandates, and other bodies to Gaza. **Eighth**, Israel must report to the Court on all measures taken to implement this order (under interim measures) within one week from the date of its issuance and thereafter at regular intervals as the Court orders until it issues its final decision in the case.

Ninth, the State of Israel must refrain from any action and ensure that no action is taken that may aggravate or prolong the dispute before the Court or make its resolution more difficult **(ICJ, (South Africa v. Israel), 2023).**

The Court issued its interim measures on January 26, 2024. The Court confirmed that the Palestinian people are protected under Article 2 of the Convention. It refused to accept Israel's request to dismiss the lawsuit in accordance with the text of Article 9 and affirmed that South Africa, as a party to the Convention, has the right to file the lawsuit. The Court confirmed that it has the right to issue precautionary or interim measures and take all measures to prevent any acts considered genocide.

The Court also wanted to ensure that the Israeli army does not carry out any acts of genocide, prevent and punish any public statements or comments that could incite the commission of genocide in Gaza, take all measures to ensure the arrival of humanitarian aid, not getting rid of any evidence that could be used in the case against it, submit a report to the Court within a month on the extent of its implementation of these measures and provisions (ICJ, (South Africa v. Israel), 2024).

Israel did not accept the implementation of the Court's interim measures. It continued to bomb Gaza, killing civilians, women, and children, preventing the arrival of humanitarian aid, and practising a policy of siege and starvation on more than 2 million and 300 thousand people. The number of deaths has also increased since the issuance of the interim measures.

This attitude indicates Israel's lack of interest in this decision and other resolutions issued by the Security Council and the General Assembly, in which both organs demand a ceasefire, the necessity of providing aid, opening the crossings, and providing food and medical supplies and drinking water to the population who has been suffering for more than six months (Human Right Watch, 2024).

Israel's submission of a confidential report to the Court, undisclosed to anyone except South Africa, has raised concerns. South Africa, in response, has once again urged the Court to enforce interim measures compelling Israel to adhere to the Court's decision. In its decision on February 16/2024, the Court reiterated that Israel is bound to fully comply with its obligations under the Genocide Convention and the Court's order. This includes ensuring the safety and security of Palestinians in the Gaza Strip. The potential consequences of Israel's non-compliance are significant, underscoring the importance of this decision (ICJ, (South Africa v. Israel), 2024).

This decision came at the request of South Africa to the Court to take additional interim measures. In a press statement, the Court noted that "the recent developments in the Gaza Strip, and Rafah in particular, would significantly increase what is already considered a humanitarian nightmare with incalculable regional

consequences, as the Secretary-General of the United Nations stated during a speech he delivered to the General Assembly on February 7, on its priorities for the year 2024" (Decision of the Court on South Africa's request for additional provisional measures, 2024).

The Court explained in its decision that this dangerous situation requires the immediate and effective implementation of the temporary measures referred to in its order issued on January 26, 2024. These measures apply to all parts of the Gaza Strip, including Rafah. Thus, there is no need to issue additional temporary measures (UN News, 2024).

However, we would like to point out here that on May 16, South Africa asked the Court again to issue clear orders obligating Israel to cease fire, especially after the military operation of the Israeli forces in Rafah.

The South African delegation said that Israel is an apartheid regime committing genocide in Gaza and that impunity allowed it to commit this genocide against the Palestinians. It explained that Israel is escalating its war in Gaza in violation of the decisions of the UN Court of Justice and the Security Council. The legal team also called on the Court to issue a clear, explicit, and urgent order preventing Israel from continuing the genocide in Gaza and to issue new measures against it as a result of the deteriorating humanitarian conditions in Gaza (Aljazeera.net/news, 2024). The legal team added that what is happening now in Rafah indicates Israel's latest step towards destroying the Gaza Strip. There is evidence that Israel continues to bomb areas it described as safe, and Rafah is the last place the Palestinians took refuge, and without it, life will not return to the Strip (Aljazeera.net/news, 2024).

On May 24, the ICJ again ordered Israel to stop military operations or any other actions in the southern Rafah governorate "because they worsen the living conditions of the Palestinians." In its decision regarding South Africa's request to order Israel to ceasefire in Gaza, the Court stressed the necessity of maintaining the openness of the Rafah crossing to enable the entry of humanitarian aid into the Gaza Strip (ICJ, 2024). The Court also asked Israel to "take concrete measures to ensure the access of any United Nations investigative or fact-finding committee to investigate the genocide directed at Israel." (ICJ, 2024). The resolution also included a request for Israel to submit a report to the International Court of Justice on the executive procedures of the resolution within a month from the date of its issuance.

It should be noted that, in accordance with its powers under the Genocide Convention, the ICJ could order Israel - when it issues its final decision recognizing Israel's direct responsibility for committing the crime of genocide, to pay compensation on the grounds of international legal responsibility as a state for this international crime. According to the rules of international law, the Court cannot decide Israel's criminal responsibility due to the impossibility of its actions, given that the state is a legal entity and cannot be prosecuted and held criminally accountable with custodial penalties. The state's responsibility is limited to the framework of compensation for the damages that occurred, as confirmed by the Fourth Hague Convention of 1907.

Therefore, Israel's civil responsibility as a state is fulfilled in accordance with international law, especially the Geneva Conventions of 1949, the First Protocol of 1977, the Hague Convention for the Prevention and Suppression of the Crime of Genocide, the Draft Articles on Responsibility of States for Internationally Wrongful Acts, and the International Criminal Court Statute of 1998 (Altarawneh, 2005). Hence, Israel is obligated under international law rules to pay fair compensation for the damages it caused throughout its occupation of Palestine. It is currently responsible for the damages that resulted from the recent war on Gaza. It is Israel's legal and moral duty to bear the consequences of the material damage that it caused in its recent aggressive war on Gaza.

This issue is quite essential for the Palestinians at this stage, and they should raise it every time to remind Israel and the international community of its responsibility towards the Palestinian cause. This request is not new or strange on the international level since Israel itself is still demanding that some countries pay compensation for

the crimes that occurred to the Jews during World War II, even though decades have passed since the commission of these crimes (Altarawneh, 2005).

So, the State of Palestine currently has to intervene in the case brought by South Africa against Israel and officially demands, in its memorandum and requests, a determination of Israel's responsibility as a state for committing the crime of genocide, and then also requests the Court to issue an order obligating Israel to pay compensation for the damages it caused in its war on Gaza, especially since South Africa may not have the legal right to demand this, given that these conditions did not directly harm it. Therefore, the step taken by the State of Palestine on June 3, 2024, represented by submitting an official request to the Court to join South Africa in its lawsuit, is essential in this regard. It will support the efforts of the State of South Africa to establish the criminal responsibility of Israel for the commission of the crime of genocide. It will also contribute to determining the civil responsibility of Israel and demand civil compensation for the grave damages it caused in the Gaza Strip because of this aggressive war (Africa News, 2024). Additionally, there are around 11 countries applied for permission to intervene and a declaration of intervention in South Africa's case against Israel concerning the Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip, namely Turkey, Belgium, Libya, Nicaragua, Chili, Spain and Colombia (Aljazeera.net/news, 2024).

5.2. Resorting to the ICC:

The second legally available option to prosecute Israeli war criminals is to resort to the ICC. This court, which was established in 1998 and entered into force in 2002, includes 123 members and has the right to prosecute crimes related to genocide, crimes against humanity, war crimes, and crimes of Aggression **(ICC Statute, 1998).**

This court is different from the ICJ in several respects. The following table shows the differences between the two courts.

Table 2. Differences between ICJ and ICC.

Subject	International Court of Justice (ICJ)	The International Criminal Court (ICC)
Establishment of the court.	ICJ was established in 1945. It came into force in October 1945.	1CC was established in 1998, and it came into force in July 2002.
In terms of dependency on the United Nations.	ICJ is a judicial body affiliated with the United Nations. It is the highest judicial body of the UN.	ICC is considered an independent body from the United Nations.
In terms of its judicial competence) Personal jurisdiction).	ICJ deals with cases or conflicts between states	ICC deals with crimes committed by individuals who are more than 18 years old
Subjective jurisdiction.	ICJ deals mainly with legal matters, not political issues.	ICC deals with four crimes (genocide, crimes against humanity, war crimes, and the crime of Aggression).
Number of the Judges.	ICJ has 15 judges.	ICC has 18 Judge.
Duration of the judge's work	Judges are elected for nine-year terms.	Judges are elected for seven-year terms.
Members of the Court	ICJ contains 193 members (All countries of the UN)	ICC contains 123 members from different continents
Its relation with the Security Council (SC)	ICJ decisions are implemented by the Security Council if they are not respected by the concerned parties.	SC can refer cases to the court in accordance with Chapter VII of the UN Charter.

From the table, we can notice that the ICJ is a judicial body affiliated with the United Nations. It decides on disputes between countries and has no relationship with individuals. On the other hand, the ICC is considered an independent body from the United Nations and prosecutes individuals accused of serious crimes, namely genocide, crimes against humanity, war crimes, and crimes of aggression.

According to the ICC statute, the Court has the authority to prosecute and try Israeli officials for the crimes that are occurring now in Gaza, given that they fall within its jurisdiction. Israel, as this research has shown, has committed various forms of crimes in violation of international conventions, such as the Convention on the Prevention and Punishment of the Crime of Genocide, the Geneva Conventions, the First Protocol, and the court statute.

The destruction and targeting of medical and civilian facilities, the destruction of Gaza's infrastructure, starvation, siege, collective punishment, targeting of places of worship such as mosques and churches, forced displacement, and the killing of infants, children, and women are all crimes punishable according to the court Statute (ICC Statute, 1998).

Therefore, the Court has the power, in theory, to hold the Israeli war criminals accountable for these crimes. The fact that Israel is not a member of the Court does not mean that it is not responsible or cannot be sued before the Court. The crimes committed by the Israeli Army occurred on the territory of a state party (Palestine), which joined the Court's statute on 2 January 2015 according to Article 12(3). The Rome Statute entered into force for Palestine on 1 April 2015 (ICC website, 2024). Therefore, all crimes that the Israeli soldiers and leaders have committed after the date of joining the Court fall under the Court's jurisdiction.

The State of Palestine has previously filed more than one case in this regard before the Court. On 22 January 2020, the ICC Prosecutor requested Pre-Trial Chamber I for a ruling to clarify the territorial scope of the Court's jurisdiction in this Situation, considering the complex legal and factual issues attached to this Situation ("Prosecutor's Request"). On 5 February 2021, the Pre-Trial Chamber I decided by a majority of its judges that the Court's territorial jurisdiction in the Situation in Palestine extends to the territories occupied by Israel since 1967, namely Gaza and the West Bank, including East Jerusalem. On 3 March 2021, the ICC Prosecutor, Ms Fatou Bensouda, declared the initiation of an investigation by her Office into the Situation in Palestine (ICC website, 2024).

After the recent war on Gaza, the Prosecutor General of the Court visited the region and announced that the Court is monitoring the situation and is collecting information despite several cases being filed by countries and organizations to open serious investigations regarding Israeli crimes in the Gaza Strip. On 29 October 2023, Karim Khan stated the situation in Palestine and Israel.

On 17 November 2023, the ICC Prosecutor declared the receipt of a referral of the situation in the State of Palestine from the following five state parties: South Africa, Bangladesh, Bolivia, Comoros, and Djibouti (ICC website, 2024). The Public Prosecutor initially did not issue any arrest or detention warrants against Israeli officials, which casts more uncertainty and doubt on the role of the Court, its credibility, and its seriousness in exercising its jurisdiction over Israeli war criminals.

However, the ICC Prosecutor Karim A.A. Khan declared on May 20, 2024, that he has reasonable grounds to believe that Benjamin NETANYAHU, the Prime Minister of Israel, and Yoav GALLANT, the Minister of Defence of Israel, bear criminal responsibility for committing of war crimes and crimes against humanity on the territory of the State of Palestine (in the Gaza strip) from at least October 8, 2023.

Among these crimes that Mr Khan mentioned are starvation of civilians, willfully causing great suffering or serious injury to body or health, willful killing or Murder as a war crime, intentionally directing attacks against a civilian population, extermination as a crime of humanity, persecution as a crime against humanity and other inhumane acts as crimes against humanity (ICC, 2024).

We hope, after the Public Prosecutor's request to issue arrest warrants against both the Israeli Prime Minister and the Minister of Defense, that the Pre-Trial Chamber will agree to issue these requests and that the

member states of the Court will cooperate in arresting the Prime Minster and his Defence Minister and bring them to trial for the crimes they committed in the Gaza strip.

Hence, we say that the failure to exercise the Court's jurisdiction and its role after the serious crimes in Gaza, which all fall under the jurisdiction of the Court, including the crime of genocide, will undermine and affect the credibility of the Court in the future. It will also undermine international justice, allow perpetrators of international crimes to escape punishment, and encourage other countries, in this case, not to comply with the court statute and eventually withdraw from it. If it happens, this scenario will negatively affect the Court's power on the international level and make it lose its value and influence as an important criminal judicial platform for achieving justice that has been absent for a long time for people.

Therefore, hope is placed on the ICC to achieve justice for the Palestinian people who have been suffering for 75 years from persecution, killing, displacement, torture, and racial discrimination at the hands of the Israeli occupation forces, which do not respect the rules and principles of IHL or International Law of Human Rights, and continues to ignore all United Nations resolutions in blatant and flagrant defiance of international law and its various tools. The Court must not be subject to any pressure or blackmail from any state to influence its authority. It will apply the law and activate criminal justice for the Palestinian people, especially since the scale of the crimes committed is dangerous and unprecedented in the history of contemporary wars. There is no doubt that we are still waiting for the issuance of these memoranda by the Pre-Trial Chamber of the Court and the application of justice that has been absent for the Palestinian people for several decades. The United States and Israel must also refrain from taking any measures or procedures that would obstruct the Court's work.

5.3. Resorting to A Special Court:

Another option that can be used to prosecute Israeli officials is the establishment of a special criminal court similar to the tribunals of Yugoslavia and Rwanda, which were established in the 1990s after the crimes and violations that occurred in these two countries due to the civil war (The Practical Guide to Humanitarian Law, 2024).

The Security Council established these two courts based on its powers in accordance with the Charter of the United Nations, which grants the Council the authority to establish any subsidiary body that assists the Council in its work. The Security Council may establish subsidiary organs necessary to perform its functions (Article 29 UN Charter, 1945).

The Security Council (SC) is the body authorized and responsible for maintaining international peace and security. It has the right to establish such courts if it finds that there is an international interest that requires prosecuting and holding war criminals accountable.

This authority invested in the SC was justified because such crimes and other human rights violations, in general, are considered a threat to international peace and security.

Therefore, from a theoretical legal point of view, the SC can establish such a court if the ICC fails or is unable to exercise its jurisdiction over the crimes that occurred in Gaza.

However, establishing such courts requires consensus among the Security Council's permanent members, which may be difficult to achieve due to the absolute American support for Israel, which will refuse to establish such courts. Therefore, this option is not possible from a practical point of view because the USA could use the right to veto any draft resolution in this regard (O'Dell, 2023).

Hence, the responsibility falls on the Arab and Islamic countries to put pressure on the United States and members of the SC to change their policy in the region and use economic, diplomatic, and legal means to pressure Israel to stop its ongoing aggression and crimes against the Palestinian people, especially in Gaza (Altarawneh, 2005).

5.4. Resorting to the Universal Jurisdiction Principle:

If the other options fail, the principle of universal jurisdiction can also be used to prosecute Israeli officials (Philippe, 2006). This principle is stipulated in many international conventions, such as the Geneva Conventions, the Nuremberg Principles, and the First Protocol.

The texts of the Geneva Conventions, the First Protocol, and other international conventions created an appropriate legal basis for the trial of persons accused of committing international crimes such as genocide, war crimes, and crimes against humanity.

In accordance with the principle of universal jurisdiction, any state party has the full right to prosecute these persons before the competent courts of this country, regardless of their nationality or the place where this crime was committed.

If the concerned State does not prosecute war criminals, this State must, in accordance with its obligations under the Geneva Conventions, hand them over to other states that request that they should be tried for these crimes. Article 146 of the Fourth Geneva Convention states, "The High Contracting Parties undertake to enact any legislation necessary to provide effective penal sanctions for persons committing, or ordering to be committed, any of the grave breaches of the present Convention defined in the following Article. Each High Contracting Party shall be under the obligation to search for persons alleged to have committed or to have ordered to be committed such grave breaches and shall bring such persons, regardless of their nationality, before its courts. It may also, if it prefers, and in accordance with the provisions of its legislation, hand such persons over for trial to another High Contracting Party concerned, provided such High Contracting Party has made out a 'prima facie' case" (146 of the Fourth Geneva Convention, 1949).

Many countries, such as Belgium, Spain, and Britain, have codified this global principle in their legislation. Famous cases that can be cited in this regard are those of Pinochet, the former president of Chile, Sharon, the Foreign Minister of Congo, and others.

We note that after the recent war on Gaza, some lawsuits have been filed by the families of some victims before the courts of some countries, such as Belgium, Germany, Britain, and the United States, demanding that the leaders of the Israeli occupation be tried for these crimes and violations.

We hope that the governments of Arab countries will amend their penal legislation to incorporate this principle clearly and explicitly in their legislation. So, this amendment will allow the prosecution of war criminals, regardless of their nationalities and official status, in order to achieve justice for the victims.

6. Conclusion:

In this research, we discussed the Israeli war on the Gaza Strip from the perspective of international law, and we found that Israel started this war after the attack it was subjected to by Hamas and other resistance factions on October 7, 2023. For the first time, Israel has been subjected to a sudden and widespread attack. This attack had significant effects and repercussions on Israel, the region, and the entire world. Through this research, we have tried to answer the questions and legal points we identified in this research. We also analyzed this unjust war's legal texts, rules, and principles. We concluded that this war is not considered a legitimate war from the perspective of international law, and the arguments and pretexts presented by Israel in this regard cannot be accepted. The international community must stop this war and punish Israel for the crimes of genocide and war crimes that it continues to commit. The USA and other countries which support Israel must immediately put an end to the military and political support and oblige Israel to end this war and respect international law rules as well as the UN resolutions regarding the Palestinian issue.

6.1. Research Results:

1. The October 7 attack against Israel constituted a solid blow to Israel and its allies. It confirmed that the policy of killing, destruction and siege would not be effective in breaking the will of the Palestinian people and their right to self-determination and establishing their independent state on their national soil with Holy Jerusalem as its capital**.**

2. This attack caused Israel to lose its prestige, strength, and military deterrence. It achieved important goals for the resistance, which took the initiative to attack Israel for the first time in this way.

3. Israel responded violently, ferociously and also in an unprecedented way to this attack and committed many crimes punishable by international law. It began its military operations, declaring through its political and military officials that it would destroy Hamas and kill the terrorists. The Israeli officials repeatedly declared that what happened before October 7 would not be the same as after it and that what happened in Gaza would be remembered by future generations for years.

4. Israel announced the imposition of a complete siege on the Gaza Strip, cutting off water, electricity, and fuel and preventing the arrival of humanitarian aid. Then, it began killing, destroying, and displacing the population. The ongoing Israeli aggression on the Gaza Strip, as of the writing of this research, led to the killing of more than 40,000 people, the wounding of more than 90,000, and the destruction of about 70% of Gaza's infrastructure, destroying thousands of habitation units and civilian facilities, and destroying hospitals and government headquarters.

5. This study showed Israel's criminal behaviour in this war, as it used internationally banned weapons. Israel dropped more than 70,000 tons of explosives and bombs on Gaza, equivalent to the nuclear bombs that were dropped on Hiroshima and Nagasaki. Some of these bombs weighed more than 1,000 kilograms.

6. Although more than 11 months have passed since the beginning of the war, Israel is still practising the same behaviour and committing the same crimes and violations, which amount to war crimes, genocide, and crimes against humanity, that require the perpetrators to be tried and brought to justice.

7. This research has attempted to discuss many critical legal points, including the issue of the Gaza Strip's legal status from the international law point of view. Through legal analysis, it has been proven that Gaza is an occupied territory and, therefore, is subject to the rules of the law of belligerent occupation and IHL.

8. The research shows that the Israeli argument for justifying the war on Gaza in terms of self-defence is also inaccurate because Israel is an occupying power, and the occupier does not have the right to self-defence, as stipulated in international law and as confirmed by ICJ in its advisory opinion about the separation wall case. People under occupation have the right to resist the occupying authority to obtain their right to self-determination and establish their state.

9. The research has also shown some examples of Israeli crimes and violations in this brutal and unprecedented war in contemporary history, and we have proven that these actions and crimes require investigation and prosecution of their perpetrators, both political and military leaders, before the international criminal judiciary, especially the ICC.

10. This research also showed the importance of prosecuting Israeli war criminals before international courts, such as the International Criminal Court.

11. The research also discussed other options available to achieve international criminal justice for the victims of this war, such as resorting to the International Court of Justice. South Africa did this by filing a case against Israel before this court, which issued temporary measures against Israel.

12. The paper also discussed some other options available to prosecute Israeli officials, such as establishing a special court or resorting to the principle of universal jurisdiction approved by international agreements and the criminal legislation of some countries. It also explained the practical difficulties that may hinder resorting to these two options in the current situation.

6.2. Recommendations:

1. It is currently essential to work to stop the Israeli war on the Gaza Strip, oblige Israel to provide humanitarian aid to the people of Gaza, respect the rules of IHL as an occupying force, immediately and unconditionally withdraw from Gaza, lift the collective siege that has been imposed on the Gaza Strip for more than 17 years.
2. The international community, especially the Western countries, must work to activate the available international mechanisms, most notably the Security Council, to put an end to Israel's illegal behaviour represented by its continued violations of the rules of international law, especially the rules of IHL. SC must urgently act according to Chapter 7 of the UN charter in order to oblige Israel to respect its commitments and duties in this regard.
3. The United States should, at present, not obstruct the work of the Council in this regard by using the veto power, which obstructed the work of the Council and gave Israel the green light to continue the war and commit massacres and brutal crimes against civilians, including women, children, and the elderly.
4. The international community, particularly the USA and the UK, should impose a ban on sending arms to Israel because of its deliberate crimes against the Palestinian people, and they should not put pressure on the SC or other institutions, such as the ICC to prevent the prosecution of the Israeli war criminals.
5. The ICC should not be affected by any pressure exerted on it by some countries to prevent investigations and the issuance of arrest and detention warrants against Israeli war criminals. All member states must provide support and assistance to the Public Prosecutor's office and the Court to achieve justice for the victims of the Gaza Strip. They must also cooperate in pursuing these criminal Israeli warlords and not provide them with a safe haven.
6. Countries, particularly the Arab and Islamic countries, should also support the efforts undertaken by South Africa, which filed a lawsuit against Israel, accusing it of committing the crime of genocide before the ICJ.
7. The international community, with its various institutions and agencies, must put pressure on Israel to respect the decision of the International Court of Justice regarding temporary measures that it previously issued in order to stop the war, prevent acts of genocide, and facilitate the arrival of aid to civilians in Gaza.
8. Israel must also be obligated to rebuild the Gaza Strip and pay compensation for the damage caused by this unprecedented war.
9. The right of the Palestinian people to self-determination must also be respected, and their right to resist the occupation must be recognized by all available means since it is a legitimate right guaranteed by international law, rules and principles.
10. Arab and Islamic countries, in general, and the countries of the free world, must work collectively to impose economic sanctions on Israel, and the countries that establish diplomatic and commercial relations with it must rush to sever them immediately. These countries must also unite their efforts within the framework of the United Nations to increase pressure on the countries that support Israel to prevent it from exploiting the Security Council to obstruct the issuance of binding resolutions against Israel in order to maintain international peace and security and to prevent the expansion of the current conflict into a comprehensive regional war affecting the stability of the region.

المراجع

Human Rights Watch (HRW). (2024). *Israeli Forces' Conduct in Gaza,and Oxfam Submission to Biden Administration's NSM-20 Process OURNAL ARTICLE.* Retrieved from https://www.hrw.org/news/2024/03/19/israeli-forces-conduct-gaza

International Humanitarian Law Series. (2008). *Legal Status of Gaza Strip under IHL, 2008.* Retrieved from https://mezan.org/ar/post/8871

O'Dell, H. (2023). *Posted December 18, 2023 | Updated on Feb 22, 2024, How the US has used its power in the UN to support Israel for decades.* Retrieved from https://jordantimes.com/opinion/ramzy-baroud/%E2%80%98let-it-be-tale%E2%80%99-refaat-alareer-and-martyrdom-gaza-intell

Abusalim, J. (2023). *The failures of Israel's blockade of Gaza, the longest siege of the 21st century Analysis: Sixteen years after Israel's blockade, the policy of collective punishment has failed to quell Palestinian resistance despite the isolation and impo.*

Affairs Foreign. (2023). *https://www.foreignaffairs.com/middle-east/martin-indyk-why-hamas-attacked-and-why-israel-was-taken-surprise.*

Aljazeera Net. (2023).

Aljazeera.net/news. (2024).

AlKheloot, G., & Hedya, M. (2023). *Israel and international humanitarian law: searching for answers in a brutal war and marginalized law.* Retrieved from https://www.dohainstitute.org/ar/PoliticalStudies/Pages/israel-and-international-humanitarian-law-searching-for-answers-

Altarawneh, M. (2022). *International Humanitarian Law.* Amman, Jordan: Dar Al Badil for Publishing and Distribution.

.(2023) .Amnesty International

Arab Center for Research and Policy Studies. (2023).

Ayop, N. (2023). *South Africa v. Israel regarding the application of the Genocide Convention in Gaza.* Retrieved from https://www.dohainstitute.org/ar/PoliticalStudies/Pages/south-african-genocide-case-against-israel.aspx

Baboolal, S. (2023). *ICC receives Palestine referral from Bangladesh, Bolivia, Comoros, Djibouti and South Africa.*

Baldwin, C. (2023). *How Does International Humanitarian Law Apply in Israel and Gaza?* Retrieved from https://www.middleeastmonitor.com/20231121-israel-palestine-war-israels-claim-of-self-defence-has-zero-legal-legitimacy/

CNN. (2023). *19. https://edition.cnn.com/2023/10/09/middleeast/israel-gaza-hamas-fighting-monday-intl-hnk/index.html.*

Congressional Research Service. (2023).

ERAKAT NOURA. (2017). *Taking the Land without the People*. تم الاسترداد من https://www.jstor.org/stable/26378725

FABIAN, E. (2023). *Defense minister announces 'complete siege' of Gaza: No power, food or fuel, 9 October 2023.* Retrieved from https://www.timesofisrael.com/liveblog_entry/defense-minister-announces-complete-siege-of-gaza-no-power-food-or-fuel/

MARGOLIN, D., & LEVITT, M. (2023). *The Road to October 7: Hamas' Long Game, OCTOBER/NOVEMBER 2023, VOLUME 16, ISSUE 10.* Retrieved from https://ctc-westpoint-edu.translate.goog/the-road-to-october-7-hamas-long-game-clarified/?_x_tr_sl=en&_x_tr_tl=ar&_x_tr_hl=ar&_x_tr_p

Murad, M. (2021). *Cardinal Principles of International Humanitarian Law, August 12, 2021.* Retrieved from https://www.dlpforum.org/2021/08/12/cardinal-principles-of-ihl/

Palestinian Central Bureau of Statistics. (2024). *(accessed on May, 1, 2024).* Retrieved from https://www.pcbs.gov.ps/default.aspx

Philippe, X. (2006). *The principles of universal jurisdiction and complementarity: how do the two principles intermesh?* Retrieved from https://www.icrc.org/en/doc/assets/files/other/irrc_862_philippe.pdf

Shadid, F. (2023). *The legal implications of considering the Gaza Strip a hostile entity in the eyes of international humanitarian law.* Retrieved from https://staff.najah.edu/en/publications/2295/

The Case of Attiya Fathi al-Nabaheen. (2023). *Analysis of Israeli Supreme Court Decision Israel's Self-Granted Immunity from Civil Liability for the Killing and Injuring of Palestinians in Gaza: The Case of Attiya Fathi al-Nabaheen July 2023.* Retrieved from https://www.adalah.org/uploads/uploads/Gaza_Civil_Remedies

The Guardian Newspaper. (2006).

What is International Humanitarian Law? (2004). *ADVISORY SERVICE ON INTERNATIONAL HUMANITARIAN LAW (ICRC).* Retrieved from https://www.icrc.org/en/doc/assets/files/other/what_is_ihl.pdf

Wilsoncenter six-day-war. (2024).