

# RETHINKING OF INTERNATIONAL LAW IN PURSUIT OF JUSTICE AFTER GAZA\*

*Gazze'den Sonra Adalet Peşinde Uluslararası Hukuku Yeniden Düşünmek*

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**Öz:** Bu çalışma, Gazze'de devam eden insanlık krizini uluslararası hukuk perspektifinden ele almakta ve özellikle soykırım, insanlığa karşı suçlar ve savaş suçları bağlamında hukuki sorumluluğu tartışmaktadır. Çalışmada Uluslararası Ceza Mahkemesi (UCM) ve Uluslararası Adalet Divanı (UAD) nezdindeki yargı süreçleri, Güney Afrika tarafından İsrail aleyhinde açılan soykırım davası ve Türkiye'nin müdahillik beyanı ayrıntılı biçimde incelenmektedir. Ayrıca İsrail'in işgal, yerleşim politikaları ve ablukasının uluslararası insanî hukuk ve insan hakları hukuku açısından yarattığı ihlaller değerlendirilmiş; Birleşmiş Milletler'in mevcut yapısal sorunları ve Güvenlik Konseyi'nin işlevsizliği vurgulanmıştır. Makale, uluslararası hukukun seçici uygulanmasının meşruiyet krizini derinleştirdiğini, Gazze'de yaşananların soykırım niteliği taşıdığını ve bu süreçlerin yalnızca bölgesel değil küresel bir adalet meselesi olduğunu ileri sürmektedir. Son bölümde, uluslararası hukukun etkinliğini artırmaya yönelik kurumsal reform önerilerine yer verilmiştir.

**Anahtar Kelimeler:** Gazze, Soykırım, Uluslararası Ceza Mahkemesi, Uluslararası Adalet Divanı, Uluslararası Hukuk, Birleşmiş Milletler, Türkiye

**Abstract:** This study examines the ongoing humanitarian crisis in Gaza through the lens of international law, with a particular focus on genocide, crimes against humanity, and war crimes. It analyzes the judicial processes before the International Criminal Court (ICC) and the International Court of Justice (ICJ), including the genocide case initiated by South Africa against Israel and Türkiye's declaration of intervention. The paper critically assesses Israel's occupation, settlement policies, and blockade in light of international humanitarian and human rights law. It further highlights the structural deficiencies of the United Nations and the paralysis of the Security Council. The study argues that the selective application of international law undermines its legitimacy, that Israel's actions in Gaza constitute genocide, and that the Palestinian question represents not only a regional but also a global issue of justice. The concluding section offers proposals for institutional reforms aimed at strengthening the enforcement of international law and the protection of human rights.

**Keywords:** Gaza, Genocide, International Criminal Court, International Court of Justice, International Law, United Nations, Türkiye

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## INTRODUCTION

The persistent crisis in Gaza and the broader Palestinian struggle present significant challenges to international law and the global system. Amid widespread violence, displacement, and deprivation, the question of justice for Palestinians has reached a critical juncture. Developed after World War II to prevent atrocities and uphold human rights, international law and institutions remain unevenly applied, rendering many vulnerable to systemic injustice. The plight of Palestinians is not only a regional issue but a global one, challenging the very essence of the international system and its commitment to justice, equality, and human dignity. At a time when international institutions are weakening, the current global system, driven by self-interest, has plunged regions into conflict and instability. Although international law is foundational to global governance, it is deeply flawed in its application and enforcement. International legal norms often reflect the interests of powerful states, which undermines the legitimacy of international law by selectively holding weaker states accountable while allowing powerful actors to evade responsibility.

The situation in Gaza exemplifies the double standards inherent in international law. Israel's continued acts of war crimes, crimes against humanity and genocide in Gaza, despite calls from the United Nation General Assembly and the International Court of Justice, demonstrate the failure of the international legal system to act impartially. Since October 7, 2023, Israel's military operations have resulted in over 54,000 civilian deaths, more than 110,000 injuries most of whom are women and children, and widespread infrastructure destruction. Nearly 90% of Gaza's population has been forcibly displaced, exacerbating the humanitarian crisis.

Airstrikes have directly targeted refugee camps with high population densities, such as Jabaliya, Bureij, and Maghazi, as well as schools where people had sought shelter. Israel is violating international law and humanitarian law by committing acts of genocide, crimes against humanity, and war crimes. Israel makes no distinction in its attacks on Gaza. However, under international humanitarian law, the parties to an armed conflict must distinguish between combatants and civilians. Attacks directed at civilians, including through reprisals, are prohibited under the Article 51(6) of 1977 Additional Protocol I to the 1949 Geneva Conventions (1977). These rules also reflect customary international law, and every state is bound to adhere to them. Israel is clearly violating these rules.

The bombing of the Al-Ahli Baptist Hospital, which resulted in the deaths of nearly 500 civilians, sparked immense outrage from the international community. Israel subsequently bombed the Turkish-Palestinian Friendship Hospital and, claiming the presence of a military base beneath the Shifa Hospital, conducted further attacks on it. The hospital was besieged, and its staff were taken hostage. However, deliberate attacks on hospitals, unless designated as military targets, are classified as war crimes under Article 8(2)(b)(ix) of the Rome Statute of the International Criminal Court. Israel's attacks over the past 17 months must be viewed within this framework. In particular, the bombing of the Al-Ahli Baptist Hospital, the Jabaliya refugee camp, and the repeated attacks on Shifa Hospital demonstrate that Israel's aim is not just to continue military conflict with Hamas but to eliminate the entire Palestinian population in Gaza. Israel's actions demonstrate a clear intent to commit genocide, and this has been partially carried out. The attacks on hospitals and camps, both prior to and following the bombings, further highlight this intent.

For months, civilians have been slain, and many hospitals and schools have been targeted during these attacks. Israel is targeting densely populated areas without any warnings. This represents a violation of international humanitarian law. The Rome Statute also categorizes the deliberate killing of civilians as a war crime. Moreover, Israel's actions appear to be systematic and widespread, which qualifies them as crimes against humanity.

Israel is attempting to kill innocent civilians not only through bombardments but also by depriving them of food and water. Israel is imposing a blockade on Gaza, contravening international humanitarian law. In this context, Israel's president declared that everyone living in Gaza is guilty, and the defense minister stated that Gaza would be fully blockaded, cutting off electricity, food, water, and fuel to the region (itv.com, 2024; timesofisrael.com, 2023). These statements and actions are being closely monitored by the international community with great concern.

Furthermore, Israel has denied to allow humanitarian aid to pass through Egypt since the early days of the conflict and has bombed the Rafah border crossing. All of these actions demonstrate that more than two million people in Gaza are being subjected to collective punishment. There are reports that clean water supplies have been depleted to the point where people are resorting to drinking seawater, which is causing widespread alarm (Human Rights Watch,

2024).<sup>1</sup> However, Article 54(1) of the 1977 Additional Protocol I to the Geneva Conventions explicitly prohibits starving civilians as a method of warfare. The Rome Statute also categorizes obstructing humanitarian assistance as a war crime. The Prosecutor of the International Criminal Court has addressed this issue, highlighting that surgeries are being performed without anesthesia, under medieval conditions, and that the obstruction of humanitarian aid will be subject to investigations for war crimes.

Israel attempts to justify its actions by asserting that it is targeting Hamas members, but the majority of Gaza's population consists of civilians, including one million children. According to Article 50(3) of 1977 Additional Protocol I, the presence of individuals who do not meet the definition of civilians within a population does not strip the entire population of its civilian status. Even if Israel is attempting to compel civilians to move to southern Gaza, the rejection of this policy by civilians does not strip them of their civilian status. The persistent blockade, which has been progressively tightened since the onset of the conflict, also meets the criteria for genocide under Article 2 of the 1948 Genocide Convention, which states that deliberately altering living conditions to destroy a group's physical existence is a genocidal act.

Israel is committing acts of genocide, war crimes, and crimes against humanity during its armed attacks on Gaza. These attacks are unlawful and constitute a breach of the Article 2(4) of UN Charter, which prohibits the use of force.

In the face of this oppression, discrimination, and systematic annihilation, the international community must act. Israel's settlement policies, land appropriation, and displacement strategies aim to eliminate a nation, constituting genocide under international law.

The failure of the global system in addressing these humanitarian crises is evident. As UN Secretary-General Antonio Guterres remarked, "Gaza is not just a humanitarian crisis; it is a crisis of humanity." (press.un.org, 2023). The international community must urgently address these issues, or risk further eroding the credibility and integrity of international law.

This paper aims to critically examine the international legal frameworks surrounding the Palestinian issue, with particular emphasis on legal proceedings

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<sup>1</sup> See also Palestinian Central Bureau of Statistics, The World Water Day; on March 22nd, 2024 (Mar. 22, 2024), <https://www.pcbs.gov.ps/post.aspx?lang=en&ItemID=4716>.

concerning genocide, human rights violations, and the role of the United Nations. It argues for a shift in the international community's approach to the Palestinian question, emphasizing the need to prioritize human rights over political interests in order to prevent further suffering and uphold the integrity of international law. The first section of the study turns its attention to the International Criminal Court and its efforts to hold perpetrators accountable for crimes committed in the context of the Palestinian conflict. Next, the paper delves into the continuing genocide proceedings at the International Court of Justice (ICJ) and explores the current status of provisional measures. It provides a comprehensive overview of Türkiye's intervention request process in the genocide case, highlighting the distinctive features of Türkiye's declaration of intervention and its significance in the broader context of international legal accountability. The third section of the paper explores the Advisory Opinion on the legal consequences arising from the policies and practices of Israel in the occupied Palestinian territory, including East Jerusalem, issued by the ICJ on 19 July 2024, which addresses the legal ramifications of Israel's policies and practices in the occupied Palestinian territories. Further, the paper critiques the structure of the United Nations, particularly the Security Council's failure to effectively address the situation in Gaza and Palestine. It discusses how the political and structural constraints of the UN have hindered meaningful intervention and accountability. Finally, the paper concludes with a plea for comprehensive reforms within the UN system, advocating for stronger enforcement of international law and protection of human rights protections.

## **I. ICC PROCESS TO HOLD PERPETRATORS ACCOUNTABLE**

The violations committed by Israel against Gaza must be stopped, and those responsible must be held accountable. The mechanism that the international community should resort to in this regard is the International Criminal Court (ICC). The ICC has jurisdiction over crimes of genocide, crimes against humanity, war crimes, and the crime of aggression. Furthermore, unlike the ICJ, the ICC has the authority to prosecute individuals rather than states. According to Article 25(3) of the Rome Statute the ICC has the authority to prosecute individuals who have committed, ordered, requested, or incited the commission of crimes within its jurisdiction, as well as those who have assisted, aided, or participated in the commission or attempt of a crime. In the case of genocide, this includes those who directly incite or encourage such crimes in public.

According to Article 17(1) of the Rome Statute, the ICC has complementary jurisdiction. Therefore, if a crime has been investigated or prosecuted by a competent state, the ICC is obligated to issue a decision of non-jurisdiction unless the state lacks the willingness or ability to conduct the investigation or prosecution. In fact, Israel should have conducted an independent and fair criminal trial process within its domestic legal system. However, Israel's Defense Minister's statement lifting all restrictions on soldiers during armed attacks and implying that criminal prosecution would not be pursued, indicates that expectations for such a process are unrealistic. Therefore, without this procedure taking place, the ICC should directly exercise its jurisdiction.

Israel does not recognize the jurisdiction of the ICC. However, on January 1, 2015, the Palestinian Government, under Article 12(3) of the Rome Statute, issued a declaration accepting the ICC's jurisdiction over crimes allegedly committed in "occupied Palestinian territories." On January 2, 2015, Palestine deposited its instrument of accession to the Rome Statute with the UN Secretary-General. The Rome Statute entered into force for Palestine on April 1, 2015. Later, in its 2018 application as a state party, Palestine requested an inquiry into past, ongoing, and future crimes within its territory. The Court's Pre-Trial Chamber, on February 5, 2021, ruled that the ICC has jurisdiction over the territories of East Jerusalem, the West Bank, and Gaza. On March 3, 2021, the ICC Prosecutor announced the opening of an investigation into the situation in the State of Palestine. Since then, the ICC has continued its investigations in these areas. On November 21, 2024, the Pre-Trial Chamber II of the International Criminal Court issued arrest warrants by unanimous decision against Israeli Prime Minister Netanyahu and former Defense Minister Gallant. The Prosecutor of the ICC had requested the issuance of arrest warrants for the perpetrators from the Pre-Trial Chamber as a legal measure pursuant to Article 58 of the Rome Statute. Upon the Prosecutor's request, the Pre-Trial Chamber assessed the application and the evidence provided by the Prosecutor, and issued an arrest warrant for the perpetrators. In this context, Israel's claims that the ICC does not have "jurisdiction over the events in Palestine, and specifically over Israeli citizens" under Article 19(2) of the Rome Statute, along with its assertion that a "new notification must be issued to Israeli authorities regarding the investigation" under Article 18(1) of the Rome Statute, were dismissed by the Pre-Trial Chamber. In its landmark decision the Court ruled that there were reasonable grounds to believe that Netanyahu and Gallant were responsible for war crimes and crimes against humanity committed between October 8, 2023, and May 20, 2024, the date on which the arrest warrants

were sought. The decision also stated that, as high-ranking civilian officials, Netanyahu and Gallant had failed to take the necessary measures to prevent deliberate attacks on the civilian population in Gaza. The implementation of the arrest warrants issued by the ICC falls under the responsibility of state parties, as stipulated in Articles 86 and 87 of the Rome Statute, which regulate International Cooperation and Judicial Assistance. Under Article 89 of the Statute, in the event that Netanyahu and Gallant travel to any of the 124 countries that are signatories to the ICC and the Rome Statute, the competent authorities of that country are required to arrest them and surrender them to the Court in The Hague.

The issuance of arrest warrants against Netanyahu and Gallant by the ICC is an important step in ensuring that perpetrators are held accountable before justice, and it is a move that preserves the credibility of international law and international courts. As Türkiye, we welcome the ICC's request for arrest warrants for Israeli leaders responsible for these crimes and call for swift enforcement of international resolutions to eliminate the perception of impunity. However, accountability remains elusive, as political obstacles often hinder the pursuit of justice. We emphasize that the arrest warrant should also cover other culpable members of the war cabinet and include the crime of genocide, in accordance with Article 6 of the Rome Statute.

The primary reason for Israel's intentional commission of war crimes, crimes against humanity, and acts of genocide is the perception of impunity in Israel and the international community. If the international community is serious about protecting human rights and upholding international law, there must be a renewed commitment to ending impunity. This means supporting international investigations, holding all parties accountable for violations, and ensuring that justice is not selective but universal. We are witnessing that this perception is beginning to end with the decisions of the ICC and ICJ.

## **II. PENDING GENOCIDE PROCEEDINGS AT ICJ**

The genocide in Gaza is not only the result of the developments after October 7, 2023, but also the product of Israel's 76 years of "apartheid," 56 years of occupation, and 16 years of blockade against Palestine (Human Rights Watch, 2023). The violence of Israel after October 7 should be evaluated within the framework of its attitude since 1948, and the lack of accountability for its years of aggression has further emboldened Israel, resulting in more violence.

First and foremost, as articulated in the previous chapter, Israel is committing crimes against humanity and war crimes under the relevant provisions of the Rome Statute and Additional Protocol I to the Geneva Conventions through actions such as deliberate killing of civilians, bombing of non-military zones, targeting refugee camps and hospitals, carrying out systematic and widespread attacks, imposing blockade and starvation, and collective punishment (International Criminal Court, 1998; Office of the High Commissioner for Human Rights, 1949).

All these actions by Israel should also be examined within the scope of the genocide crimes specified in Article 6 of Rome Statute and Article 2 of the 1948 Convention on the Prevention and Punishment of the Crime of Genocide. According to this, the killing of members of a national, ethnical, racial, or religious group (protected group) and actions aimed at the total or partial destruction of that group constitute genocide.

Israel's attacks, which have been persistent since October 7, 2023, indicate that Israel's goal is not just to continue military conflict with Hamas. Israel is targeting the existence of the entire Palestinian population in Gaza. It is at this point that the Report (2024) by UN Special Rapporteur Francesca Albanese on the "Human Rights Situation in the Occupied Palestinian Territories Since 1967," dated October 1, 2024, offers meaningful insights. It reveals that Israel's actions target all Palestinians in the occupied Palestinian territories, and the cumulative nature of these actions points to the intention of genocide.

Indeed, we must recognize that Israel's goal extends to the entirety of Palestinian territory. Israel, having rejected the UN's two-state solution proposals and perpetually expanding its occupation, has not adhered to the framework set out in the Oslo Accords. One of Israel's actions that constitutes a violation of international law and one of the biggest obstacles to peace is the issue of illegal settlements. As a matter of fact, since the Oslo Accords,<sup>2</sup> the number of illegal settlements has rapidly increased. From 2012 to 2022, the number of Israeli settlers in the occupied West Bank, including East Jerusalem, rose from approximately 520,000 to more than 700,000. These settlers are spread across

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<sup>2</sup> The Oslo Accords are a series of important agreements signed between Israel and the Palestine Liberation Organization (PLO) in 1993 and 1995. These agreements aimed to initiate a peace process between Israel and the Palestinians, outlining significant steps toward this goal. However, Israel's continued establishment of new settlements in the West Bank has been one of the greatest obstacles to the Oslo process. This situation has led to a loss of trust among the Palestinian people and negatively affected the peace process.

279 settlements, including 14 in East Jerusalem, which alone host over 229,000 individuals. Notably, the report identified at least 147 of these as unauthorized outposts, deemed illegal even under Israeli law. The findings point to the settlement expansion as a significant barrier to peace efforts and a continuing breach of international legal standards (United Nations Human Rights Council, 2023). In 2018, Israel passed a law supporting illegal Jewish settlements. In 2022, it announced plans to expand illegal settlements in the West Bank and confiscated large areas of land for this objective.

This situation also contradicts the rule that occupied territories must not be annexed. In Resolution 242 of the United Nations Security Council, which is a well-known decision that identifies Israel's status as an occupying power, it is clearly stated that acquiring land through annexation is illegal (United Nations Security Council, 1967). Moreover, the Security Council has condemned Israel's acquisition of territory through annexation within the framework of this resolution.

The obstruction of humanitarian assistance, the destruction of essential infrastructure, the bombardment of hospitals and schools cannot be justified under the pretext of legitimate self-defense. It is evident that Israel is acting with the intent to destroy. The attacks preceding the bombing of hospitals and camps and the subsequent developments clearly reveal this intent. For example, the "Human Rights Violations in Palestine and Gaza Genocide Report" by TIHEK (2024), illustrates with visuals that, since October 7, 2023, 360,000 buildings have been damaged or completely destroyed. 334 schools and universities were partially damaged, 122 were entirely destroyed, 34 hospitals were rendered non-operational, and 3 churches along with 610 mosques were demolished.

In addition to the TIHEK report, Anadolu Agency's publications "Tanık-Witness" and "Kanıt-Evidence» also shed light on the genocidal dimensions of the attacks in Gaza (aa.com.tr, 2025). These publications document that Israel's actions carry elements of crimes against humanity and genocide, clearly constituting a crime under international law, and reveal that the continuation of such actions represents a strategy targeting the existence of the Palestinian people. These sources, by examining the situation in Gaza as a whole, provide comprehensive documentation of Israel's policies and their genocidal intent.

According to Article 2 of the Genocide Convention (1948), there are five specific acts that constitute the core elements of the crime of genocide. These acts

include killing members of the group, causing serious bodily or mental harm to the members of the group, and deliberately imposing living conditions that lead to the physical destruction of the group, either in whole or in part. Additionally, genocide involves taking measures to prevent births within the group and forcibly transferring the children of the group to another group. Each of these actions contains the *actus reus*, or material element, of the crime of genocide, while some also involve the *mens rea*, or mental element. These acts must be carried out with the specific intent to destroy, in whole or in part, a national, ethnic, racial, or religious group, referred to as the protected group. This specific intent is what distinguishes genocide from other crimes in international law. Under the material element of genocide (*actus reus*), Israel has committed genocide under Article 2 of the Convention on the Prevention and Punishment of the Crime of Genocide by killing members of the protected group<sup>3</sup> and inflicting serious physical and mental harm on the people of Gaza.

While committing these actions, Israel acted with special intent (*dolus specialis*), with the intention to destroy partially or completely which is the moral element of the crime of genocide, referred to as *mens rea*. This special intent, as revealed in the Akayesu decision of the Rwanda Criminal Court, is regarded as an indispensable element of the crime of genocide and is considered essential for the occurrence of the crime (International Criminal Tribunal for Rwanda [ICTR], 1998). These attacks not only aim to cause injury and death but also bear an intent to destroy Palestinians as an ethnic and national group. The nature and form of the actions, in accordance with the definition of genocide, have been carried out with the goal of partially or entirely exterminating the group.

Palestinians share a common language and have similar traditions and cultural practices. Therefore, as stated in the preliminary assessment for the issuance of provisional measures by the International Court of Justice (ICJ) in its decision on January 26, 2024, Palestinians are recognized a distinct “national,” “ethnic,” and “racial” group protected under the Genocide Convention.

The intent to “partially” destroy a group is sufficient to establish the specific intent required for the crime of genocide. When determining what constitutes a “part” of the group, international case law has adopted the requirement that

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<sup>3</sup> In the Genocide Case, the Court’s provisional measures decision of January 26, 2024, clearly indicates that the Palestinians in Gaza constitute a national, ethnic, and religious group protected under Article II of the Genocide Convention.

a significant portion of the group must be destroyed, rather than adhering to a specific numerical threshold. This standard indicates that the perpetrator must aim to destroy a “significant part” of the group, and this part must be “sufficiently important to affect the whole group.” (International Court of Justice, 2015). Applying this approach to Israel’s attack, it must be assessed that, in line with the aforementioned preliminary assessment by the ICJ, Palestinians in Gaza constitute a “significant part” of the entire Palestinian group. As of 2023, Palestinians in Gaza represent approximately 40% of the 5.5 million Palestinians living in the Occupied Palestinian Territories.

An important point to note is that the perpetrator of genocide does not have to succeed in completely or partially destroying the targeted group. Even in the absence of physical destruction, the crime of genocide is still considered to have been committed. International case law emphasizes that the phrase “completely or partially” refers to intent rather than the actual destruction.

In this context, Israel’s employment of disproportionate force against civilians in Gaza, intense bombings, the systematic targeting of infrastructure, and deliberate efforts to render living conditions in Gaza uninhabitable, along with the systematic use of sexual, reproductive, and gender-based violence are clear indicators of genocidal intent (United Nations Human Rights Council, 2021). Additionally, actions such as forcibly evacuating civilians from their areas and blocking humanitarian aid are concrete measures aimed at eliminating the basic needs essential for the group’s survival.

### III. GENOCIDE PROCEEDING AT ICJ AND PROVISIONAL MEASURES

On December 29, 2023, the Republic of South Africa filed a lawsuit before the International Court of Justice seeking provisional measures against Israel for violating its obligations under the 1948 Convention on the Prevention and Punishment of the Crime of Genocide, specifically concerning the situation of Palestinians in the Gaza Strip (International Court of Justice, 2023).

South Africa’s application claims that Israel has engaged in acts that meet the material elements of genocide, as outlined in Article 2 of the Genocide Convention. These include killing of Palestinians, causing serious bodily and mental harm, and intentionally altering Gaza’s living conditions to destroy the group, either in whole or in part. It is argued that these actions were carried out with genocidal intent, or *dolus specialis*, to wipe out the Palestinian people.

The application focuses on three key points. First, it asserts that Israel's military operations in Gaza involve genocidal acts, such as the killing of thousands of civilians, inflicting harm on the population, and intentionally destroying Gaza's living conditions in a way that threatens the group's survival. Second, South Africa states that Israel has failed to take the necessary measures to prevent genocide, as required by the Genocide Convention, and has not halted the ongoing acts of genocide. Finally, South Africa emphasizes that Israel, through its military, political leaders, state officials, and settlers, has incited, encouraged, attempted, and participated in the commission of genocide, while failing to punish those responsible.

South Africa stressed that Israel's actions have targeted Palestinians in Gaza as a group protected under the Genocide Convention and that genocide has been carried out against them. A significant issue before the ICJ is the interpretation of Article II of the Genocide Convention.

In response, the ICJ acknowledged the urgent humanitarian crisis and the possibility of irreparable harm. The Court ruled that it has the legal authority to consider South Africa's application and issued provisional measures by near unanimous majority (International Court of Justice; 2024, January 26). These measures require Israel to take all necessary actions to prevent genocide, including refraining from the killing of group members, inflicting harm, and altering living conditions to destroy the group. The Court also ordered Israel to ensure that its military refrains from committing any acts of genocide and prevent and punish any incitement to genocide.

Additionally, the ICJ instructed Israel to implement immediate and effective measures to ensure that humanitarian aid reaches to Gaza and that the basic needs of the civilian population are met. Israel was also ordered to preserve evidence related to the allegations and to report back to the Court within one month on the actions undertaken to comply with the provisional measures.

Ultimately, the ICJ's decision emphasizes Israel's obligation to prevent genocide in Gaza. The ruling also suggests that a *de facto* ceasefire could be necessary to fully implement the provisional measures, as a cessation of hostilities would be essential for enforcing the Court's orders.

The provisional measures issued by the International Court of Justice (ICJ) in this case encompass several critical legal points. The Court identified an imminent

risk of Israel's violation of its obligations under the Genocide Convention and concluded that provisional measures were necessary based on established legal precedents. It explicitly ordered Israel to refrain from further violations and cease military operations in Gaza that could lead to such violations. The language used by the Court was notably stronger than in previous rulings, as it emphasized the immediate necessity of taking "all necessary measures" to prevent genocide. This indicates that Israel must cease its attacks in Gaza without any alternative courses of option. The Court also mandated Israel to report back within one month detailing the measures it had implemented. This decision signals that the Court will actively monitor the situation and ensure that necessary steps are taken to improve the humanitarian conditions in Gaza.

The overwhelming majority of the Court's vote (15 to 2 or 16 to 1) on the provisional measures is significant. Notably, Israel's ad hoc judge, Aharon Barak, voted against Israel on two crucial matters: incitement to genocide and ensuring the delivery of humanitarian aid to Palestinians. This reflected a strong consensus among the Court's judges and conveyed a clear legal message to Israel. Despite political divisions on the issue, the decision was nearly unanimous, demonstrating that political bias or double standards did not influence the judicial process. This outcome highlights the Court's commitment to impartiality, as even Western judges, who might have political allegiances, expressed clear disapproval of Israel's actions in Gaza.

In addition, the individual opinions of the judges further reinforced the gravity of Israel's actions. For example, Judge Dalveer Bhandari emphasized that the scale and nature of the attacks provided sufficient grounds for the provisional measures and called for an immediate end to hostilities. Judge Xue Hanqin noted that most of the victims were women and children, stressing that Gaza's existence was under threat and that Israel's actions violated fundamental moral and human principles. Judge Georg Nolte pointed out Israel's failure to act against incitement to genocide by its leaders and military.

The Court explicitly rejected Israel's justification based on "self-defense." Previous ICJ rulings have also determined that self-defense cannot justify actions in Gaza, particularly given the persistent occupation. Finally, the Court referenced reports from various UN Special Rapporteurs and officials, underscoring the importance of these international assessments in exposing the ongoing genocide in Gaza. These findings helped reinforce the legal actions taken by the Court, highlighting the role of global institutions in addressing such

violations. In determining these issues, we believe the Court did not face any difficulty, as reports and statements from various United Nations bodies and specialized agencies regarding Israel's military operations in Gaza are clear, and these were taken into account by the Court. In this context, reference was made to the data from the World Health Organization, which indicates that 93% of Gaza's population is facing hunger at crisis levels (World Health Organization; 2023, December 21). In particular, reference was made to statements made in January 2024 by Martin Griffiths, the UN Under-Secretary-General for Humanitarian Affairs and Emergency Relief Coordinator, and Philippe Lazzarini, the UNRWA Commissioner-General, which clearly highlighted the dire situation in Gaza and the crimes against humanity being committed (reliefweb.int, 2024). The President of the Court publicly stated that, as of January 24, the Office for the Coordination of Humanitarian Affairs (OCHA) reported that 25,700 Palestinians had been killed, more than 63,000 had been injured, over 360,000 homes had been destroyed or partially damaged, and approximately 1.7 million people had been displaced within the country. This statement served as an indication that Israel's atrocities could no longer be concealed (International Court of Justice.; 2024, January 26).

This ruling signifies that Israeli officials, including Prime Minister Benjamin Netanyahu, cannot escape accountability for their role in the genocide under international law. The International Court of Justice has declared that Israel is not above the law or justice. The decision exposes Israel's decades-long occupation, displacement, oppression, and apartheid policies in Palestine. The ICJ's characterization of Israel's actions as genocide renders this decision historically significant. The UN General Assembly's Resolution, cited by the Court, states, "Genocide is a denial of the right of existence of entire human groups, as homicide is the denial of the right to live of individual human beings" (United Nations General Assembly; 1946). After Israel continued to disregard the initial provisional measures, South Africa requested additional measures from the ICJ on March 6, 2024, highlighting that Palestinians in Gaza were facing more than just the risk of starvation. It was reported that children were dying due to hunger, and further casualties were expected. South Africa also pointed to efforts to block the United Nations Relief and Works Agency (UNRWA) from performing its functions. The UN Special Rapporteur on the Right to Food called for a ceasefire in response to the food crisis. On March 28, 2024, the Court acknowledged the deteriorating living conditions in Gaza and the fatalities due to malnutrition (International Court of Justice; 2024, May 10). The ICJ instructed Israel to cooperate with the

UN to ensure urgent humanitarian aid reached Gaza and that its actions did not violate the rights of the Palestinians there. The Court also confirmed that the previously issued provisional measures must be implemented immediately.

In May 2024, Israel ordered the evacuation of the city of Rafah in southern Gaza, and in July, it demanded that all Palestinians leave the urban areas of Gaza City. A report dated June 19, 2024 by the UN Office for Human Rights noted that the Israeli Defense Forces had systematically failed to comply with international humanitarian law in their operations since October 7. On May 24, 2024, the Court recognized that its prior measures were insufficient in addressing the humanitarian disaster faced by Palestinians trapped in Rafah (International Court of Justice; 2024, May 24). It ordered Israel to halt military operations in Rafah immediately and to keep the Rafah border crossing open for the delivery of urgently needed services and humanitarian aid. Additionally, it required Israel to take effective measures to allow UN-appointed investigators to access Gaza and to submit a report to the Court within one month.

Despite these decisions, Israel has once more demonstrated its disregard for international law by persisting in the mass killings of innocent civilians. Israel's repeated actions confirm its willingness to commit crimes against humanity, war crimes, and genocide without hesitation. Furthermore, Israel's claims that it was relocating Gaza's population to safe areas have been completely disproven by its own actions, further exposing its blatant disregard for international norms.

The blockade on Gaza, which prevents basic necessities from reaching the civilian population, coupled with the arbitrary restrictions on the transfer of food, medicine, and other essential supplies, constitutes a crime in itself. Israel is continuing one of the greatest and longest-lasting atrocities in modern history through its systematic killings of civilians.

#### **IV. TÜRKIYE'S INTERVENTION REQUEST PROCESS IN THE GENOCIDE CASE**

Türkiye decided to actively engage its political and diplomatic mechanisms and, on May 31, 2024, notified the ICJ of its intention to intervene in the genocide case filed by South Africa against Israel. This intervention request was officially registered with the ICJ. Subsequently, on August 7, 2024, Türkiye formally submitted its statement of intervention under Article 63 of the ICJ Statute (Republic of Türkiye; 2024, August 7). This step marked Türkiye's active role in ensuring

international justice and the rule of law. Article 63 of the ICJ Statute grants third-party states the right to intervene in cases involving the interpretation of a treaty to which they are a signatory (Statute of the International Court of Justice, art. 63; Akande; 2024). Under this provision, Türkiye asserted its right to intervene, emphasizing its commitment to fulfilling international legal obligations.

By exercising this right, Türkiye signaled its determination to continue supporting justice through various legal avenues, including potential future interventions. Türkiye's submission in the case, in line with Article 63, highlights its deep interest in the proceedings and its efforts to uphold justice in the dispute. The ICJ then requested written observations from both South Africa and Israel on Türkiye's request for intervention. This procedure represents a significant step in evaluating the international legal rights and obligations of the parties involved.

According to changes made to the ICJ Rules of Procedure under Articles 81 and 82, any intervention under Articles 62 or 63 must be made before the final written submission, which is set for July 28, 2025. However, some states have already submitted their intervention statements gradually, without waiting for the final deadline. ICJ judges have addressed the role of intervention under Article 63 in previous cases. Judge Christopher Weeramantry noted that the intervention in both national and international legal proceedings has two main functions: avoiding redundant litigation and ensuring the unity of principles (Weeramantry; 2001, October 23). Judge Cañado Trindade considered that intervention under Article 63 contributes to the development of international law, especially when issues like common interests or collective security are at stake (Cañado Trindade; 2013, February, 2013). Academics like Alina Miron and Christine Chinkin argue that Article 63 ensures broader state participation by acknowledging the '*res interpretata*' effect of the Court's rulings (Miron, & Chinkin; 2019). Other scholars, such as Juliette McIntyre, have explained how intervention might expand the Court's normative legitimacy (McIntyre, J.; 2022, May 12). For intervening parties, Article 63 ensures their right to be heard. Given that all parties to a convention have an interest in its interpretation, they should be allowed to express their views to the Court before it renders its decision; though these views will not be binding on states that are not parties to the case or do not intervene under Article 63. In practice, the ICJ's interpretation of multilateral treaties affects the legal interests of all state parties. Articles 62 and 63 of the ICJ Statute provide two distinct mechanisms for states wishing to intervene. Both are largely regulated by similar procedures under Articles 81-86 of the Court's Rules

of Procedure. Neither necessitates the approval of the parties to the case, but the intervening state must demonstrate that it has a legal interest in the case.

Looking at Türkiye's intervention process in the case dated August 7, 2024, in addition to Türkiye, Nicaragua,<sup>4</sup> Colombia, Libya, Mexico, Palestine, Spain, Chile, Maldives, Bolivia, the Republic of Ireland, Cuba, and most recently Belize,<sup>5</sup> on January 31, 2025, have requested to intervene in the case under the relevant provisions of the ICJ Statute. No decision has yet been made by the International Court of Justice regarding these intervention requests.

Türkiye's intervention in the case at the International Court of Justice regarding the genocide in Gaza is a legal, moral, and historical obligation on the global stage. As a signatory of the 1948 Convention on the Prevention and Punishment of the Crime of Genocide, Türkiye is bound by international law to prevent and punish genocide. Türkiye's intervention highlights its commitment to these obligations and sets an example for other nations to follow when addressing serious humanitarian crises.

One of the distinctive features of Türkiye's intervention is its alignment with the most recent advisory opinion of the International Court of Justice concerning the legal consequences of Israel's policies and practices in the Occupied Palestinian Territories, including East Jerusalem. This alignment ensures that the latest international legal standards and perspectives are integrated into the court's deliberations, strengthening Türkiye's legal arguments and enhancing the significance of its intervention. Türkiye's intervention provides a solid legal framework for the International Court of Justice to accurately interpret the Genocide Convention. The arguments put forward by Türkiye emphasize the need for clear definitions of the obligations under Articles I, II, and III of the Convention, and highlight the necessity of taking legal and procedural measures for investigating and prosecuting genocide acts. These detailed interpretations are crucial for the International Court of Justice to issue a well-grounded decision.

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<sup>4</sup> 1 April 2025, Nicaragua informed the Court that it had decided to withdraw the Application for permission to intervene that it had submitted under Article 62 of the Statute of the Court on 23 January 2024 in the case concerning the Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip (South Africa v. Israel).

<sup>5</sup> After the speech at the TİHEK, the Republic of Ireland, Cuba, and, most recently, Belize on January 31, 2025, have filed requests to intervene in the case under the relevant provisions of the ICJ Statute.

Türkiye's intervention is a strong condemnation of the actions in Gaza , which are being recognized as "genocide." Türkiye's comprehensive and forcefully expressed intervention serves as a call for other nations and international organizations to take decisive steps to prevent further atrocities. Türkiye's intervention is particularly significant as it represents the first comprehensive submission from the region and sets a new standard for regional participation in international legal proceedings. Türkiye's well-argued and thoroughly supported submission demonstrates a high level of legal expertise and dedication to justice. This pioneering initiative could inspire other regional countries to engage more actively in defending international law and encourage greater regional representation and influence in global judicial affairs. Türkiye's intervention has the potential to contribute to the development of international legal precedents concerning the prevention and punishment of genocide. The detailed legal arguments and comprehensive analysis provided by Türkiye can serve as valuable references for future cases and contribute to the development of international humanitarian law. This intervention not only addresses the immediate crisis in Gaza but also strengthens the global legal framework for dealing with similar situations in the future. Türkiye, referring to the case law of the International Criminal Tribunal for the former Yugoslavia ("ICTY") and the International Criminal Tribunal for Rwanda ("ICTR"), emphasizes that three essential elements must be established to ascertain whether genocide has been committed under Article II: (i) the presence of an act constituting genocide (Articles II (a)-(e)), (ii) the act being directed against a group protected by international law, and (iii) the intent to destroy, in whole or in part, that group.

In the current case, Türkiye presents a series of facts, particularly elements such as siege, bombardment, and starvation, to illustrate the existence of the special intent (*dolus specialis*) required for the commission of genocide. In evaluating genocidal intent, Türkiye believes it would be useful for the Court to consider the dehumanizing religious rhetoric and expressions used to describe Palestinians. For example, the terms "Amalek" and "Monsters" used by Prime Minister Benjamin Netanyahu are significant. The term "Amalek" refers to a passage in the Old Testament where God commands Saul to "go to Amalek, destroy everything, leave no one alive, kill man, woman, baby, nursing child, ox, sheep, camel, and donkey." Such remarks provide important context for comprehending the intent behind actions taken against the Palestinian people.

Türkiye's position on genocide in Gaza is as follows: Türkiye emphasizes the seriousness of genocide and believes in the importance of a fair interpretation that does not make the prosecution of these crimes nearly impossible. First, Türkiye argues that the requirement of special intent (*dolus specialis*) need to be interpreted in a waymanner that reflects the gravity of genocide. However, this interpretation should not render the assessment of genocidal intent excessively difficult. This balance ensures that the seriousness of the crime is recognized while also ensuring that justice is served when such horrific acts occur. Türkiye believes that the International Court of Justice should consider information, evidence, and reports obtained from the United Nations, UN agencies, and other reliable sources capable of assessing the situation in Gaza (International Court of Justice [ICJ]; 2024, August 7). Before identifying genocide, the results of impartial investigations conducted by the UN should be taken into account. This meticulous approach will ensure a fair and comprehensive assessment in the current case.

Additionally, Türkiye stresses the need for the Court to examine in detail the restrictions on humanitarian aid access to the Gaza Strip. Despite being addressed by interim measures in the case, this issue remains of critical importance. Attacks on journalists, humanitarian workers, UN personnel, and international officials should be carefully considered, as they play a vital role in gathering and disseminating information about the crimes and evidence. The restriction of humanitarian aid results in the deterioration of living conditions in Gaza that meet the criteria of Article II (c) of the Genocide Convention. Türkiye has argued that attacks on the healthcare system are significant in determining special intent. When evaluating certain actions that may amount to genocide, the impact on hospitals and healthcare facilities should be taken into account. Targeting these essential services can have devastating effects on the population and may indicate genocidal intent. Türkiye has also argued that the Court should consider attacks on the civilian population in Rafah as an indication of genocidal intent, as these interim measures contain clear instructions regarding the obligation to prevent genocide crimes. Furthermore, when determining the existence of special intent, it is important for a court or judicial body to examine the relevant evidence in a holistic, detailed, and comprehensive manner. Case law from international criminal tribunals demonstrates that this approach is not only preferred but also a necessary element for effectively administering justice. Türkiye has emphasized that, when assessing genocidal intent, the relevant court should review genocidal intent by evaluating collective evidence and avoid

adopting a fragmented approach in its analysis. This holistic approach is crucial for ensuring a comprehensive and fair investigation (Bidzakin, 2024).

Türkiye emphasizes the correlation between Israel's apartheid practices in the occupied Palestinian territories and genocide. Apartheid, which involves systematic oppression of one group over others, and genocide, which aims to physically or biologically destroy a group, are not mutually exclusive phenomena. Genocide may take place within the context of an apartheid regime. Therefore, the Court must examine the connection between genocide perpetrated in Gaza post-October 2023 and Israel's long-standing apartheid practices (Republic of Türkiye).

#### **V. ADVISORY OPINION OF 19 JULY 2024 ON LEGAL CONSEQUENCES ARISING FROM THE POLICIES AND PRACTICES OF ISRAEL IN THE OCCUPIED PALESTINIAN TERRITORY**

In addition to the ongoing Genocide Case at the International Court of Justice and the process of issuing arrest warrants at the International Criminal Court, another key decision that exposes Israel's unlawfulness is the Advisory Opinion of the International Court of Justice (International Court of Justice [ICJ]).

In this process, Türkiye was the first state to submit a statement among the 54 states and 3 international organizations providing written information content. On February 26, 2024, Türkiye delivered its oral presentation to the ICJ. The Legal Committee of the Grand National Assembly of Türkiye, together with the Ministry of Foreign Affairs, was present during these oral submissions, and we have closely monitored all the legal proceedings pertaining to this matter at the ICJ.

Pursuant to the request of the UN General Assembly, the ICJ publicly released its Advisory Opinion on July 19, 2024. In the Advisory Opinion, the overwhelming majority of judges arrived at the conclusions that even though Palestinian territories are under occupation, they maintain a unitary structure and are not fragmented. Israel's presence in Palestinian territories is unlawful and should be terminated as soon as possible. Israel must halt all settlement activities in the occupied territories and evacuate the settlers. Additionally, Israel must compensate for the damages inflicted upon the Palestinian people as a result of the occupation. International states and organizations should not

recognize Israel's unlawful presence nor support it. The United Nations must take the necessary steps to end Israel's occupation.

The Advisory Opinion is of great importance as it reaffirms, by the highest judicial authority, that Israel is an occupying power in Palestinian territories. The ICJ has highlighted the violations of international law in Israel's continued occupation, settlement activities, and annexation within the Palestinian territories, including East Jerusalem, as well as its activities aimed at altering the demographic composition, character, and status of Jerusalem. This opinion holds significant legal value as it represents the most comprehensive determination and examination of Israel's unlawful actions in Palestinian territories to date, including the ICJ's 2004 Advisory Opinion on the Wall (International Court of Justice [ICJ]; 2004, July 9). The definitive language used by the Court's judges in the Advisory Opinion, the thorough examination, and the identification of Israel's violations bear crucial implications for the outcome of the ongoing genocide case regarding Israel-Palestine at the ICJ.

The Advisory Opinions issued by the ICJ are taken into account by states and organizations, and it is evident that actions are being taken in accordance with the opinions given. This Advisory Opinion, particularly in relation to the ongoing genocide case against Israel under the Genocide Convention at the ICJ, provides an indication of the Court's probable approach in similar future cases. It may also serve as an instrument of political pressure on states that act contrary to the opinion. The Advisory Opinion of the Court demonstrates that the "legal struggle" aimed at halting Israel's violations and ensuring the punishment of perpetrators is beginning to yield results, encouraging Palestine and other countries supporting Palestine, such as Türkiye, to mobilize international courts and organizations.

## **VI. ADVISORY OPINION REQUEST ON THE ISRAEL'S RESPONSIBILITIES AGAINST UN AND OTHER INTERNATIONAL ORGANIZATIONS**

The United Nations General Assembly has requested an Advisory Opinion<sup>6</sup> from the International Court of Justice on December 19, 2024, regarding Israel's obligations towards the United Nations, other international organizations, and

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<sup>6</sup> After the speech at TİHEK; Türkiye submitted a Written Opinion to the International Court of Justice outlining Israel's obligations regarding the activities of the United Nations, UN agencies, other international organizations, and third states in the occupied Palestinian territories.

third states in the occupied Palestinian territories. On February 27, 2025, Türkiye submitted a Written Statement to the International Court of Justice (“ICJ”) in accordance with Article 66, Paragraph 2 of the ICJ Statute, for the Advisory Opinion requested by the UN General Assembly. This Statement outlines Israel’s obligations regarding the activities of the United Nations, UN agencies, other international organizations, and third states in the Palestinian territories occupied by Israel. By the submission deadline of February 28, 2025, 45 member states and international organizations submitted their written views to the ICJ.

Between April 28 and May 2, 2025, 39 states, along with the United Nations, the Organization of Islamic Cooperation, the Arab League, and the African Union, delivered oral statements. Israel submitted a written statement but did not present an oral statement.

The Advisory Opinion requested by the UN from the ICJ focuses primarily on the immunities and privileges of UN institutions, especially the United Nations Relief and Works Agency for Palestine Refugees in the Near East (“UNRWA”), and the Advisory Opinion issued by the International Court of Justice will be binding. In addition to the African Union, the Arab League, and the Organization of Islamic Cooperation, many UN member states have submitted their Written Observations to the ICJ during this process.

Türkiye’s written and oral statements, which will underpin the Advisory Opinion to be formulated by the International Court of Justice, addresses the following points: Israel’s stance on UNRWA is not limited to the recent attacks. Since the establishment of UNRWA, Israel has adopted an approach that has obstructed the efficient provision and delivery of humanitarian aid and services in the region. Assaults on UNRWA buildings, schools, and aid facilities are violations of international law and United Nations treaties.

Israel’s efforts to dissolve UNRWA contradict the UN Charter and the 1946 Convention on the Privileges and Immunities of the United Nations. These treaties protect international humanitarian law and fundamental humanitarian principles. Israel’s actions impede the functioning of the United Nations and the right for the provision of humanitarian assistance.

It is emphasized that Israel’s actions against UNRWA contravene the UN Charter, international humanitarian law, and human rights law. Türkiye requests the ICJ to confirm Israel’s legal obligations and to protect the UN operations in the occupied Palestinian territories.

Türkiye asserts that Israel's obstruction of UNRWA's operations, which provide essential aid to 2.4 million Palestinian refugees, prevents the well-being of the Palestinian population and constitutes a violation of the Fourth Geneva Convention. Türkiye also highlights that Israel's attempts to restrict UNRWA's operations violate the provisional measures set forth in the ongoing Genocide Case and stresses that Israel has failed to fulfill its commitments, especially in ensuring that humanitarian aid reaches the Palestinians. Finally, Türkiye points out that Israel's policy of impunity is exacerbating the suffering of the Palestinian people and weakening the international law and humanitarian legal system. Türkiye urges the ICJ to delineate Israel's obligations and to take effective measures to ensure their implementation.

The overwhelming majority of states and international organizations participating in the advisory opinion proceedings have emphasized in their oral statements that Israel has systematically violated its international obligations arising from its UN membership and status as an occupying power, undermined essential humanitarian mechanisms such as UNRWA, and thereby contributed to the deepening of the humanitarian catastrophe in the region, with consequences that may also call into question the legitimacy of the international order.

## **VII. PROBLEMS ARISING FROM THE STRUCTURE OF THE UN SYSTEM**

On December 10, 1948, the adoption of the Universal Declaration of Human Rights by the UN General Assembly marked a significant milestone in humanity's aspiration to live together in peace (Universal Declaration of Human Rights, 1948). Renowned international law scholar Louis Henkin referred to the international law transformed by the UN system as the "age of rights.» (Henkin, 1990). However, this definition is increasingly losing its relevance.

Today, in regions such as Palestine, Syria, Gaza, and East Turkistan, millions of people do not experience equal rights, and a serious global justice issue has emerged. This situation raises doubts about the effectiveness of the UN system and international law in protecting human rights.

The ongoing genocide in Gaza highlights these issues starkly. While many nations are calling for the war to end and for no more blood to be shed, peace remains elusive. The United Nations Security Council is paralyzed due to vetoes from its permanent members, effectively giving Israel a blank check for its

actions. This crisis in Gaza cannot be separated from the dysfunction within the Security Council. Until a ceasefire was finally achieved, tens of thousands of children, women, and civilians were mercilessly killed, while the Security Council remained inert, unable to intervene due to the political interests of its powerful members.

Despite the strength of the legal case against Israel, particularly in relation to genocide, it faces significant challenges due to the strong political backing Israel receives from Western powers. These countries have persistently blocked efforts to hold Israel accountable for its actions in Gaza, often citing Israel's right to self-defense and dismissing genocide claims. The United States, with its veto power, has been especially influential in preventing meaningful action, including sanctions or resolutions calling for accountability.

As President of Türkiye, Mr. Recep Tayyip Erdoğan has consistently stated, "The world is bigger than five, and a fairer world is possible." His critique highlights a pressing issue: the existing UN structure is incapable of fostering peace, preventing conflicts, or offering hope to humanity. This failure underscores the urgent need for comprehensive reforms inside the UN and its system of global governance.

International law provides a framework for addressing issues of occupation, sovereignty, and human rights. The principles are clear: for example, the right to self-determination is a fundamental human right found in the United Nations Charter, international treaties, and numerous UN resolutions. International humanitarian law, particularly the Geneva Conventions, prohibits the acquisition of territory by force and the establishment of settlements in occupied lands. However, the problem lies not in the absence of legal principles, but in their implementation. The international community's ability to enforce international law has been undermined by political interests, regional power dynamics, and the erosion of multilateralism. Until this systemic dysfunction is addressed, the enforcement of international law remains deeply flawed.

Obviously there is a skepticism surrounding the effectiveness of the UN stems from a combination of inherent flaws and selective enforcement. While UN itself faces structural challenges, its inability to prevent conflicts and hold violators accountable is exacerbated by the political agendas of powerful states, which often apply the law selectively to serve their own interests.

Reform is urgently needed. A successful genocide case could spark broader changes within international institutions, addressing power imbalances that hinder the enforcement of international law. Expanding the UN Security Council's membership, modifying or removing the veto power, and making decision-making processes more transparent and accountable could significantly improve the system's responsiveness to global crises. The veto power held by the five permanent members of the Security Council (the US, Russia, China, France, and the UK) often leads to inaction in the face of global crises. Reforms might entail a system allowing for the overruling of a veto by a larger majority, or its complete removal in cases of genocide or mass atrocities. Moreover, the UN's human rights system must be strengthened with more robust mechanisms for monitoring and enforcing human rights, particularly in conflict zones. This includes providing stronger mandates for UN human rights bodies and regional bodies, guaranteeing the protection of human rights even in the most challenging circumstances.

As President of Türkiye, Mr. Recep Tayyip Erdoğan emphasized in his recent speech at the UN General Assembly, the UN Security Council's paralysis, caused by the veto power of its permanent members, leaves the General Assembly with a historic responsibility. He advocated for the General Assembly to recommend the use of force, if necessary, under the 1950 "Uniting for Peace" resolution (Anadolu Agency, 2024). Türkiye, one of the countries that drafted this resolution, regards it as a vital instrument to prevent further atrocities in Gaza and other conflict zones.

The most pressing issue, as highlighted by President Mr. Recep Tayyip Erdoğan, is the structural constraints of the UNSC, where the permanent members' veto power often prevents meaningful action. This flaw hinders the UN's ability to address crises like Gaza, where the geopolitical interests of powerful nations overshadow the necessity for humanitarian intervention.

## **CONCLUSION**

The ongoing crisis in Gaza and Palestine demands urgent action from the international community and calls for significant reform within the United Nations. Israel's military operations in the occupied Palestinian territories and its apartheid policies are clear violations of international law. In response, under Türkiye's leadership, 52 countries, the Arab League, and the Organization of

Islamic Cooperation have urged the UN to impose an arms embargo on Israel. Additionally, Türkiye has advocated for activating the “Uniting for Peace” resolution, which enables the General Assembly to take action when the Security Council is paralyzed by political deadlock.

The situation in Gaza and the broader Palestinian territories represents a critical moment for both international law and morality. The scale of the violence, marked by high civilian casualties and reports of war crimes, has brought to the forefront the urgent need for international legal reforms. The persistent attacks on hospitals, schools, and refugee camps represent blatant violations of the international humanitarian law and have prompted demands for accountability. These violations of international human rights and humanitarian law underscore the necessity for stronger international action, which could include ICC investigations or the establishment of ad-hoc tribunals to address such grave breaches of international law.

In light of the UN Security Council’s failure to act due to the veto power of its permanent members, there is a growing demand for reform. The international community’s inability to address this crisis has highlighted the dysfunction of the UN system, especially the Security Council, which often prioritizes political interests over humanitarian needs. Calls for a more democratic and equitable process within the UN will likely intensify, advocating for a system that focuses on humanitarian concerns rather than political considerations. Strengthening UN human rights bodies and creating real-time inquiries could ensure better protection for civilians in conflict zones.

The Gaza crisis, as an emblem of broader injustices, has triggered a re-evaluation of legal standards, especially regarding accountability and humanitarian protection. The failure to address these violations effectively has led to growing demands for the reform of international mechanisms and the enforcement of legal norms. The dominance of powerful states and selective enforcement of legal norms remain significant obstacles. The call for reform is crucial to ensuring that justice is applied fairly and consistently, addressing the disproportionate influence of powerful states and ensuring that legal standards are not compromised.

The situation in Gaza further emphasizes the importance of universal jurisdiction, allowing for the prosecution of war crimes regardless of the perpetrators’ nationality or location. This legal principle could bypass the political

gridlock of the UN Security Council, enabling more effective accountability. However, the true challenge lies in the international community's willingness to prioritize justice over political interests. The Palestinian cause, a global humanitarian issue, tests the world's commitment to justice, equality, and human dignity. It is vital to advocate for Palestinians' right to self-determination, peace, security, and recognition as human beings.

In this context, Israel's persistent violations of international law require firm responses. One proposed action is for the UN to declare Israel an apartheid regime and revive the Apartheid Special Committee, which was previously used to address South Africa's apartheid policies. Another crucial step is to consider Israel's expulsion from the UN, as outlined under Article 6 of the UN Charter, which permits the expulsion of member states that consistently violate its core principles. Furthermore, the ongoing attacks on UN missions such as UNRWA and UNIFIL illustrate the urgent need for a stronger UN presence in Palestinian territories to protect civilians and ensure the continued delivery of humanitarian assistance.

The foundation of the global system established after World War II to prevent conflict and injustice is at stake. Failing to address the Palestinian issue risks undermining this system and weakening the international commitment to peace and security. The future of the international order hinges on a legal framework that transcends political interests and upholds human rights. The international community must act decisively to enforce legal rulings, hold war criminals accountable, and ensure that justice is done.

Ultimately, peace can only be achieved through the establishment of an independent, sovereign Palestinian state, with Jerusalem as its capital, within the 1967 borders. This vision of peace must guide the global response to the crisis in Gaza. In a multipolar world, multilateralism is essential. The United Nations, regional organizations, civil society, and states must all play their part in advancing justice for Palestine. Diplomatic efforts and international pressure must create an environment where peace becomes a tangible reality.

Only a path based on equality and justice can end the centuries-long war on Palestine and bring the freedom that the Palestinian people deserve. This principle must be the cornerstone of international action. Justice for Palestine is not only about securing a future for the Palestinian people but also about ensuring the credibility of international law and the global system in maintaining peace, security, and human rights for all.

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