

## LEGAL AND PRACTICAL IMPLICATIONS OF THE ICJ ON SOUTH AFRICA’S LAWSUIT AGAINST ISRAEL REGARDING PALESTINE

**Khairunnisa Irianto**

Universitas Sebelas Maret

Jl. Ir. Sutami, 36A, Kentingan, Surakarta

Author’s e-mail: [nisairianto@gmail.com](mailto:nisairianto@gmail.com)

### ABSTRACT

The International Court of Justice’s temporary ruling on South Africa’s lawsuit against Israel has long been considered to be in conflict with Palestine. They asks Israel to take all steps to prevent genocide in the vast territory of the Gaza Strip. Israel must also prevent and punish those who publicly incite genocide in Gaza and increase the inflow of humanitarian aid to residents. The aim of this research is to examine the legal implications and impacts of the temporary decision of the International Court of Justice (ICJ). As well as its practical implications in efforts to achieve peace and justice in the region. The conclusions of this research provide in-depth insight into the relevance of international law in resolving the long-standing political and humanitarian tensions between Palestine and Israel.

**Keywords** : genocide, humanitarian, international court of justice

### A. Introduction

The International Court of Justice (ICJ), also known as the International Court of Justice, is the principal judicial organ of the United Nations (UN). The ICJ has an important role in maintaining international peace and security and enforcing international law. International Court Decisions must comply with the decisions of international courts, such as the ICJ, or face legal and diplomatic consequences. The ICJ also provides non-binding legal opinions at the request of the UN General Assembly, UN Security Council, or other specialized UN agencies. These legal opinions provide guidance on complex international legal issues and assist in decision-making by UN bodies.<sup>1</sup>

The Gaza Strip is an area inhabited by around 2 million Palestinians and controlled by Hamas since 2007. The conflict between Israel and Hamas often leads to escalation of violence which causes huge losses on both sides.<sup>2</sup> The conflict between Israel and Palestine has been going on since November 2, 1917. The official statement issued by the

---

1 Linda Hasibuan, “Ini Putusan Mahkamah Internasional Atas Israel & Respons Dunia,” *Cnbcindonesia.Com*, last modified 2024, accessed May 31, 2024, <https://www.cnbcindonesia.com/news/20240224083114-4-517256/ini-putusan-mahkamah-internasional-atas-israel-respons-dunia>.

2 Dimitrios Machairas, “The Strategic and Political Consequences of the June 1967 War,” *Cogent Social Sciences* 3, no. 1 (2017): 1–10, <http://dx.doi.org/10.1080/23311886.2017.1299555>.

British Foreign Minister, Arthur Balfour, to Lord Rothschild, a leader of the British Jewish community, is called the Balfour Declaration.<sup>3</sup>

In the Six Day War in 1967, the Israeli Occupation captured the Gaza Strip, West Bank, and East Jerusalem from Egypt, Jordan, and Syria. Israel then established military control over Gaza, built Jewish settlements, and faced resistance from the Palestinian population.<sup>4</sup> South Africa, a country that experienced racial violence during the apartheid era, accused Israel of violations under the 1948 Convention on the Prevention and Punishment of the Crime of Genocide, or the "*Genocide Convention*".<sup>5</sup> The ICJ hears South Africa's accusations and Israel's defense in The Hague, Netherlands. The ICJ's legal examination has a "*provisional measure*" (provisional measures) stage, where the ICJ, among other things, can immediately order a cessation of hostilities and acts of violence and the "*careful examination of the evidence*" stage (merit stage), where in this stage the evidence is actually considered whether Israel has violated the Genocide Convention.

At the interim measures stage of the current ICJ hearing, South Africa is trying to argue Israel's "*genocidal acts*" in Gaza before evaluating its "*genocidal intent*", and that it is sufficient to demand control measures against Israel and stop the violence. The Israeli side tried to argue that any genocidal intent must be proven at this stage of interim measures for the resulting decision to be legal and enforceable.<sup>6</sup>

ICJ ruling on January 26, 2024. The Court considers that Israel must submit a report to the Court on all actions taken to enforce this Order within one month, from the date of this Order. The report provided will then be communicated to South Africa, which will be given the opportunity to submit its comments to the Court. Israel's attack on Rafah on May 6 2024 added a new chapter to the long-running conflict between Israel and Palestine, with far-reaching impacts both from a humanitarian and legal perspective. This event shows how complex and difficult it is to achieve peace in a region that is constantly plagued by violence and tension. This dangerous situation demands the immediate and effective implementation of the temporary measures indicated by the Court in its Order of 26 January 2024, which apply throughout the Gaza Strip, including in Rafah, and do not require the indication of additional temporary measures.<sup>7</sup>

---

3 Yossi Goldstein, "The Six Day War: The War That No One Wanted," *Israel Affairs* 24, no. 5 (2018): 767–784, <https://doi.org/10.1080/13537121.2018.1505475>.

4 Nayef R F Al-Rodhan, Graeme P Herd, and Lisa Watanabe, "The Six-Day War and Its Consequences," in *Critical Turning Points in the Middle East*, ed. Nayef R F Al-Rodhan, Graeme P Herd, and Lisa Watanabe (London: Palgrave Macmillan UK, 2011), 99–115, [https://doi.org/10.1057/9780230306769\\_5](https://doi.org/10.1057/9780230306769_5).

5 kompas.id, "Indonesia Cannot Participate in Suing Israel Regarding Genocide," *Kompas.Id*, last modified 2024, accessed May 31, 2024, <https://www.kompas.id/baca/english/2024/01/09/en-indonesia-tidak-bisa-ikut-gugat-israel-soal-genosida>.

6 Indiatoday.in, "Muslim Nurse in US Fired for Calling Israel's War in Gaza 'Genocide,'" *Indiatoday.In*, last modified 2024, accessed May 31, 2024, <https://www.indiatoday.in/world/story/israel-gaza-war-new-york-muslim-nurse-fired-genocide-2546066-2024-05-31>.

7 Mersiha Gadzo and Brian Osgood, "Israel's War on Gaza Updates: Full Rafah Attack a 'Humanitarian Nightmare,'" *Www.Aljazeera.Com*, last modified 2024, accessed May 31, 2024, <https://www.aljazeera.com/news/liveblog/2024/5/7/israels-war-on-gaza-live-israel-blasts-rafah-fate-of-ceasefire-uncertain>.

Meanwhile, according to various views, the Palestinian territory is currently not in a period of peace, and will ultimately give rise to a prolonged conflict.<sup>8</sup> So there is a need for a mediator in the case of Israel and Palestine who accommodates various views both from a legal perspective and a more democratic international relations perspective.<sup>9</sup> Based on the things described above, the author is interested to conduct research question how to Legal and Practical Implications of the International Court of Justice between South Africa's lawsuit against Israel regarding Palestine. Aims this study is found a more comprehensive problem solving analysis in this research so that it would provide narratives of defense of Israel's actions against the Palestinians.

## B. Research Method

The research method uses Legal research. Legal research is a discipline that focuses on the systematic study of laws, regulations, and legal principles. This research uses the type of Normative Legal Research. Normative legal research focuses on the study and analysis of legal texts, including laws, regulations, and court decisions.<sup>10</sup> This research is theoretical and often aims to interpret or clarify existing legal rules. The approaches include analysis of legal texts (statutes, regulations, case law), interpretation of law and doctrine and compilation and systematization of law.<sup>11</sup>

The literature sources used are previous research and several relevant legal sources answering the Israeli and Palestinian conflict, which will be used as secondary sources in this research. Legal research methodology refers to the approach and techniques used to conduct legal research, including primary data sources, namely International Court Justice Decisions.<sup>12</sup> Mass media articles can be a valuable resource in legal journal writing, especially for providing context, case examples, and empirical data that support legal analysis. However, the use of mass media articles as a source must be done carefully, considering the characteristics and limitations of the source. In discussing current legal cases in this research, such as controversial court decisions, mass media articles will be used to outline the chronology of events, the views of legal experts interviewed, and responses from the general public.

- 
- 8 Fadhila Inas Pratiwi, M. Aryo Rasil Syarafi, and Demas Nauvarian, "Israeli-Palestinian Conflict beyond Resolution: A Critical Assessment," *Jurnal Ilmu Sosial dan Ilmu Politik* 26, no. 2 (2022): 168–182.
  - 9 Camilla Boisen, "Israel's Punitive War on Palestinians in Gaza Israel's Punitive War on Palestinians in Gaza," *Journal of Genocide Research* (2024): 1–22, <https://doi.org/10.1080/14623528.2024.2406098>.
  - 10 William H. Putman and Jennifer Albright, *Legal Research*, 3rd ed. (Cengage Learning, 2014).
  - 11 David Tan, "Metode Penelitian Hukum: Mengupas Dan Mengulas Metodologi Dalam Menyelenggarakan Penelitian Hukum," *Nusantara: Jurnal Ilmu Pengetahuan Sosial* 8, no. 8 (2021): 2463–2478.
  - 12 Sharon Hanson, *Legal Method* (Taylor & Francis Group, 2000).

## C. Discussions

### 1. International Court of Justice ruling on South Africa's lawsuit against Israel regarding Palestine

The International Court of Justice is the main judicial body of the United Nations. It was founded on the basis of the UN Charter, signed in 1945 in San Francisco (United States), and began work in 1946 at the Peace Palace, The Hague (Netherlands).<sup>13</sup> The Court, consisting of 15 judges, has a dual role: first, to resolve, in accordance with international law, legal disputes between States submitted to it and, second, to provide advisory opinions on legal issues referred to it. UN agencies and special agencies that are given full authority.<sup>14</sup> Because the existence of international arbitration courts is the result of the wishes of the parties, then these parties have the greatest voting rights draw up procedural rules. Instead, the PCIJ was formed as a permanent court, and therefore its founders felt it appropriate to establish a predetermined set of rules, known in advance by all parties, to govern it process. They have been available to purpose in limited quantities precedents drawn from the practice of arbitration courts, but also on a large scale So far we have to make new breakthroughs. They must design procedures that are capable satisfying a sense of justice with the greatest potential litigants and placing them on a strict basis of equality. Therefore, the first Member of PCIJ voted for regulations that combine simplicity and the absence of formalism and which flexible in application. With successive adjustments, the Court managed to strike a rough balance between these requirements. This balance has been defended by the ICJ, which has been very careful about making changes rules set by his predecessor.

The ICJ acts as a forum for resolving legal disputes between countries. Countries involved in the dispute can take their cases to the ICJ for a binding decision. Examples of disputes handled by the ICJ include border issues, maritime rights, and violations of international treaties. The ICJ also provides non-binding legal opinions at the request of the UN General Assembly, UN Security Council, or other specialized UN agencies. These legal opinions provide guidance on complex international legal issues and assist in decision-making by UN bodies. Through its decisions, the ICJ contributes to the development and codification of international law. The ICJ's legal decisions and opinions often serve as important references in international legal practice and help clarify and develop international legal norms.<sup>15</sup>

By providing a peaceful dispute resolution mechanism, the ICJ helps prevent the

---

13 Brian Doyle, "Howling Like Dogs: Metaphorical Language in Psalm 59" (makalah disampaikan pada the Annual International Meeting for the Society of Biblical Literature, Berlin, Germany, 19-22 Juni 2002)

14 The Court. (n.d.). INTERNATIONAL COURT OF JUSTICE. Retrieved May 31, 2024, from <https://www.icj-cij.org/court>

15 Mary Ellen O'Connell, "The Just War Tradition and International Law against War: The Myth of Discordant Doctrines," *Journal of the Society of Christian Ethics* 35, no. 2 (2015): 33-51.

escalation of conflicts and promotes justice between states. This contributes to international stability and security. The ICJ plays a role in educating the international community about international law through the publication of its decisions and opinions. This increases global understanding of the principles of international law and the importance of complying with those laws. Examples of Cases Handled by the ICJ. Territorial Sea Case between Nigeria and Cameroon: ICJ decides the dispute regarding land and maritime borders between the two countries. Genocide Case in Bosnia: The ICJ examines allegations of genocide committed during the conflict in the former Yugoslavia.

The Genocide Convention is a Convention on the prevention and punishment of the crime of genocide, an international treaty adopted by the United Nations (UN) General Assembly. The Genocide Convention was officially adopted by the UN General Assembly on 9 December 1948 and came into force on 12 January 1951. The history of the Genocide Convention begins with resolution 96 (1) dated 11 December 1946 which was declared by the UN General Assembly. In that resolution, the UN General Assembly firmly stated that genocide is a crime under international law, contrary to the spirit and goals of the UN, and condemned by the civilized world.<sup>16</sup> The drafter of the Genocide Convention resolution was Raphael Lemkin, a lawyer of Polish-Jewish descent who had been a victim of genocide during World War II. Raphael Lemkin was also the first person to coin the term genocide. While living in Poland, Raphael Lemkin lost more than 40 members of his family to the Nazi genocide. Therefore, after moving to the United States and becoming a jurist, he sought to develop international legal instruments that could prevent further genocide. Lemkin then campaigned for the resolution of the Genocide Convention for many years. The Genocide Convention Resolution was voiced at the Paris Peace Conference in 1945, but was not successfully adopted into valid international legal force.<sup>17</sup>

This convention establishes genocide as a crime under international law, regardless of whether the act was committed in times of peace or war.<sup>18</sup> The main contents of the Convention are as follows:

Article I: The group that concluded this agreement strengthens that genocide committed in times of war or in times of peace is a crime according to the punishment between countries that they will prevent and punish. Article II: According to this convention, what constitutes genocide is acts committed with the intention of people of the same nation, race, race or religion, whether all of them or only some of them, will be destroyed, namely acts such as those involved:

a) Members of the group were killed.

---

16 Coase, H. Ronald, "The Problem of Social Cost", *The Journal of Law and Economics* (1960).

17 Library Board of Trustees, "Evanston Public Library Strategic Plan, 2000-2010: A Decade of Outreach," Evanston Public Library, <http://www.epl.org/library/strategic-plan-00.html> (diakses 1 Juni 2005).

18 Nations, U. (n.d.). United Nations Office on Genocide Prevention and the Responsibility to Protect. Retrieved May 31, 2024, from <https://www.un.org/en/genocideprevention/genocide-convention.shtml#:~:text=The%20Convention%20on%20the%20Prevention,time%20the%20crime%20of%20genocide.>

- b) Members of the group are subject to serious bodily or mental harm.
- c) The group is subjected to life with the intention of destroying all of them or only their part.
- d) An action is taken with the intention that the birth of a child in that group will be prevented.
- e) The group's children are kidnapped to be raised by another group.

Article III: Acts to be punished:

- a) Genocide.
- b) Abetting genocide.
- c) Incited genocide clearly in front of the public.
- d) Attempted genocide.
- e) Followed by another person with the intention of committing genocide. main elements of the Genocide Convention: Main Contents of the Convention.

Definition of Genocide: According to Article II of the Convention, genocide is defined as acts committed with the intent to destroy, in whole or in part, a national, ethnic, racial or religious group, such as:

1. Killing group members.
2. Causing serious physical or mental injury to group members.
3. Introducing living conditions designed to physically destroy the group, either in whole or in part.
4. Imposing measures aimed at preventing births within the group.
5. Forcibly moving children from one group to another.
6. Punishable Actions:

Article III identifies punishable acts related to genocide:

1. Genocide.
2. Conspiracy to commit genocide.
3. Direct and public incitement to genocide.
4. Attempted genocide.
5. Involvement in genocide.
6. State Responsibility:

Article IV emphasizes that people who commit genocide or related acts must be punished, including government officials and private individuals. Article V requires participating states to enact the necessary domestic legislation to give effect to the provisions of this Convention, in particular to provide effective punishment against persons guilty of genocide or other acts listed in Article III. Article VI states that persons accused of genocide shall be tried by the competent courts of the country in which the act was committed, or by an international criminal tribunal having jurisdiction over the parties to which it was committed.

Article VII calls for international cooperation for the prosecution of persons accused of genocide. This argue International Criminal Court (ICC) under the Rome Statute, the ICC has jurisdiction to prosecute genocide, crimes against humanity, and war crimes. International

Court of Justice, several genocide cases have been referred to the International Court of Justice (ICJ) and ad hoc tribunals, such as the International Criminal Tribunal for Rwanda (ICTR) and the International Criminal Tribunal for the former Yugoslavia (ICTY).

Domestic Laws many countries have adopted domestic laws criminalizing genocide in accordance with their obligations under the Genocide Convention. One of the biggest challenges is enforcing the law against genocide, especially when the perpetrators are state actors or have significant political power. Justice and Accountability despite international agreements, the process of bringing perpetrators to justice can be lengthy and complicated, often facing political and bureaucratic obstacles. The term “*Zionist forces*” is often used in the context of the Israeli-Palestinian conflict to refer to Israeli military forces, also known as the Israel Defense Forces (IDF). The term “*Zionist*” comes from the political movement of Zionism which fights for independence and the existence of the state of Israel as a home for the Jewish people in their land which is considered the Land of Israel in Jewish religious tradition.

Israel Defense Forces (IDF) where is IDF is Israel’s armed forces responsible for the defense of the state of Israel and protecting the security of its citizens. The IDF was founded after the founding of the state of Israel in 1948 and has been involved in various military conflicts since then. Role in the Israeli-Palestinian Conflict. The IDF is involved in various military operations in the Palestinian territories, including the West Bank, Gaza Strip, and East Jerusalem, in response to terrorist attacks, unrest, and other security threats.<sup>19</sup>

Criticism and Controversy, the IDF has often been the target of criticism from various parties, including international human rights organizations, for alleged human rights violations, excessive use of force, and restrictions on Palestinian freedoms. Controversy also emerged regarding IDF military actions which were considered detrimental to Palestinian civilians. Policy and Strategy, the IDF operates based on Israel’s defense policies and strategies designed to protect the security of the country and its citizens. The IDF has a military doctrine that focuses on defensive power, early warning, threat detection, and rapid response to security threats. International Contributions: Apart from protecting domestic security, the IDF is also involved in peace missions and humanitarian assistance in various parts of the world as part of Israel’s efforts to support the international community.

Use of the term “*Zionist forces*” often reflects a particular political or ideological viewpoint towards the Israeli-Palestinian conflict, with use of the term may reflect criticism of Israeli military policies and actions.<sup>20</sup> Hamas became the sole ruler of Gaza after expelling its political opponents by force in 2007. Hamas has an armed wing and was estimated to have around 30,000 fighters before the start of the war. This group, called the Islamic Resistance Movement, wants to establish an Islamic state to replace Israel. Hamas rejects Israel’s right

---

19 Nimer Sultany, “A Threshold Crossed: On Genocidal Intent and the Duty to Prevent Genocide in Palestine,” *Journal of Genocide Research* (2024): 1–26, <https://doi.org/10.1080/14623528.2024.2351261>.

20 *Question of Palestine: Legal Aspects (Doc. 3)*. (2019, March 12). Question of Palestine. <https://www.un.org/unispal/document/auto-insert-204960/>

to exist and is committed to its destruction.<sup>21</sup>

Hamas justified its attacks as a response to what it called Israeli crimes against the Palestinian people. Hamas also wants thousands of Palestinian prisoners in Israel to be released and an end to the blockade of the Gaza Strip by Israel and Egypt something both countries say is in the interest of security.

Palestinian Islamic Jihad is an Islamist militant group in Palestine that has its own military wing and is involved in conflict with Israel. Although smaller than Hamas, PIJ is considered one of the militant groups active in the Gaza Strip.<sup>22</sup> The Israeli-Palestinian conflict continues, and the role of the Palestinian army is one of the key aspects in the dynamics of the conflict.

Israeli Army (Israel Defense Forces/IDF). The Israeli Army, officially known as the Israel Defense Forces (IDF), is the armed forces of the state of Israel. The IDF has a major role in maintaining the security of the state of Israel, protecting Israeli citizens, and maintaining the country's territorial integrity. The IDF spirit outlines our values and together with the practical rules derived from them constitutes our code of ethics, which guides our soldiers and commanders in daily operational activities.

Israel's attack on Gaza is one of the most complex and prolonged issues in the Israeli-Palestinian conflict. These attacks usually occur in the context of armed conflict between Israel and Palestinian armed groups based in the Gaza Strip, such as Hamas and Palestinian Islamic Jihad.

The Gaza Strip is an area inhabited by around 2 million Palestinians and controlled by Hamas since 2007. The conflict between Israel and Hamas often leads to escalation of violence which causes huge losses on both sides. This conflict has been going on for more than 100 years, to be precise since November 2 1917. At that time, the British Foreign Minister, Arthur Balfour, wrote a letter addressed to Lionel Walter Rothschild, a figure in the British Jewish community. The letter was only 67 words long, but its contents had an impact on Palestine that is still felt today.<sup>23</sup>

The letter committed the British government to "establish a national home for the Jewish people in Palestine" and facilitate "the achievement of this objective". This letter is known as the Balfour Declaration. In essence, the European powers promised the Zionist movement a state in a region where 90 percent of the population was native Palestinian Arabs. The British Mandate was established in 1923 and lasted until 1948. During this period, the British facilitated the mass migration of Jews. Where there was a fairly large wave of arrivals after the Nazi movement in Europe. In this wave of migration, they encountered resistance

---

21 (N.d.). Retrieved May 31, 2024, from <https://www.bbc.com/news/world-middle-east-67039975>

22 Quillen, S. (2024, May 31). Israel's war on Gaza live: Most of Jabalia refugee camp 'in ruins.' *Al Jazeera*. <https://www.aljazeera.com/news/liveblog/2024/5/31/israels-war-on-gaza-live-unrelenting-nightmare-for-weary-palestinians>

23 Rasha Khatib, Martin McKee, and Salim Yusuf, "Counting the Dead in Gaza: Difficult but Essential," *The Lancet* 404, no. 10449 (2024): 237-238, [http://dx.doi.org/10.1016/S0140-6736\(24\)01169-3](http://dx.doi.org/10.1016/S0140-6736(24)01169-3).



from Palestinians. Palestinians are concerned about the changing demographics of their country and the confiscation of their land by Britain to hand it over to Jewish settlers. Rising tensions eventually led to the Arab Revolt. This lasted from 1936 to 1939.

In April 1936, the newly formed Arab National Committee called on Palestinians to launch a general strike. It withheld tax payments and boycotted Jewish products to protest British colonialism and increasing Jewish immigration. The six-month strike was brutally suppressed by the British, who launched a campaign of mass arrests and carried out the destruction of homes. This is a practice that Israel continues to apply to Palestinians to this day.<sup>24</sup>

The second phase of the rebellion began in late 1937. It was led by the Palestinian peasant resistance movement, which targeted British power and colonialism. In the second half of 1939, Britain had deployed 30,000 troops in Palestine. Villages were bombed by air, curfews were imposed, homes were destroyed, and administrative detentions and mass killings were widespread. Simultaneously, the British collaborated with the Jewish settler community and formed an armed group and "counter-insurgency force" consisting of Jewish fighters called the British-led Special Night Squad. Within the Yishuv, the pre-state settler community, weapons were secretly imported and weapons factories were established to expand the Haganah, the Jewish paramilitary that later became the core of the Israeli army.

In the three years of the uprising, 5,000 Palestinians were killed. As many as 15,000 to 20,000 people were injured and 5,600 were imprisoned. The history of the United Nations (UN) relationship with the conflict between Israel and Palestine reflects a long and complex effort to find a just and peaceful resolution. The following is an outline of the history of the UN in the context of the Israeli-Palestinian conflict, including Israeli attacks on Palestinian territories: The Establishment of Israel and UN Resolutions Resolution 181 (1947):

On 29 November 1947, the UN General Assembly adopted Resolution 181, which recommended the division of Palestine, then under the British Mandate, into a Jewish state and an Arab state with Jerusalem as an international city. This resolution was accepted by the Jewish community but rejected by the Arab community.

Arab-Israeli War of 1948. After Israel's declaration of independence on May 14, 1948, a war broke out between the new state of Israel and neighboring Arab countries. This war caused many Palestinians to flee, which until now has become one of the core problems in the conflict.

UN Conflict and Resolution. The Armistice and Resolution of 1948. On 11 December 1948, the UN General Assembly adopted Resolution 194, which, among other things, outlined the right of Palestinian refugees to return to their homes and receive compensation. This resolution also established the UN Reconciliation Commission for Palestine (UNCCP).

---

24 Alsaafin, L. (2023, October 9). What's the Israel-Palestine conflict about? A simple guide. *Al Jazeera*. <https://www.aljazeera.com/news/2023/10/9/whats-the-israel-palestine-conflict-about-a-simple-guide>

The Six Day War (1967) and Resolution 242. After the Six Day War in June 1967, in which Israel occupied the West Bank, Gaza Strip, and East Jerusalem, the UN Security Council adopted Resolution 242 on 22 November 1967, calling for the withdrawal of Israeli troops from the territories occupied and respect for the right of every country in the region to live in peace.

The Intifada and the Peace Process. First Intifada in 1987-1993. The First Intifada was a Palestinian uprising against the Israeli occupation of the West Bank and Gaza Strip. The UN passed various resolutions condemning the violence and calling for a peaceful solution through negotiations. The Oslo Process and Resolution 338 of 1973. Resolution 338, adopted during the Yom Kippur War on October 22, 1973, reaffirmed Resolution 242 and called for a ceasefire and negotiations to achieve a just and durable peace. The Oslo Process, which began in the early 1990s, aimed to reach a settlement through direct negotiations between Israelis and Palestinians.

Second Intifada and UN Intervention. Second Intifada in 2000-2005. Violence escalated again with the Second Intifada, resulting in significant loss of life on both sides. The UN continues to call for restraint and dialogue. ICJ Advisory Opinion. On July 9, 2004, the International Court of Justice (ICJ) issued an opinion stating that Israel's construction of the wall in the occupied Palestinian territories was illegal under international law and must be stopped and destroyed.

Gaza War 2008 to date. The conflict in Gaza has frequently resulted in UN intervention, including calls for a ceasefire, fact-finding missions, and humanitarian assistance. Security Council resolutions frequently call for an end to violence and the protection of civilians.

Resolution 2334 On December 23, 2016, the UN Security Council adopted Resolution 2334 which confirmed that the establishment of Israeli settlements in the Palestinian territories occupied since 1967, including East Jerusalem, has no legal validity and is a flagrant violation of international law. The resolution also calls for an immediate and complete cessation of all settlement activities by Israel.

The UN's Role in Relief and Reconstruction, namely the UN Agency for Palestine Refugees (UNRWA) was founded in 1949 to provide assistance and protection for Palestinian refugees in Jordan, Lebanon, Syria, the West Bank and the Gaza Strip. UNRWA continues to be a key actor in providing humanitarian assistance.

Israel has launched four prolonged military attacks on Gaza, namely in 2008, 2012, 2014 and 2021. Thousands of Palestinians have been killed, including many children, and tens of thousands of homes, schools and office buildings have been destroyed. Rebuilding is nearly impossible because the siege prevents construction materials, such as steel and cement, from reaching Gaza. The 2008 attack involved the use of internationally banned weapons, such as phosphorus gas.

In 2014, over a period of 50 days, Israel killed more than 2,100 Palestinians, including 1,462 civilians and nearly 500 children. During the attacks, around 11,000 Palestinians

were injured, 20,000 homes were destroyed and half a million people were displaced.<sup>25</sup> On December 29, 2022, South Africa filed a legal complaint with the International Court of Justice (ICJ) accusing Israel of committing genocide against Palestinians in the Gaza Strip. This lawsuit is based on alleged actions aimed at destroying part or all of the Palestinian ethnic group.

Contents of the Accusation, accusations of genocide include claims that Israel systematically targets Palestinian civilians through military operations, restrictions on access to basic necessities such as food and medical supplies, and other actions intended to destroy the existence and identity of Palestinians.

The ICJ's legal examination has a "*provisional measure*" stage, where the ICJ, among other things, can immediately order a cessation of hostilities and acts of violence; and the 'careful examination of the evidence' stage (merit stage), where in this stage the evidence is actually considered whether Israel has violated the Genocide Convention.

The ICJ's decision is not legally binding and is only advisory in nature. Therefore, its implementation will purely depend on the Israeli government itself. Hamas' surprise attack last October (on October 7, 2023) seemed to hurt Israel's pride. The wounds caused by the Hamas attack are already deep. So Israel is really blind or has an extraordinary grudge against Hamas. This is very difficult to stop, even if there is an order from the International Court to carry out a ceasefire.<sup>26</sup>

The implementation of the ICJ's decision - especially regarding calls to Israel not to commit genocide - really depends on Israel's good faith. "Dr. Yon Machmudi, Middle East expert from the University of Indonesia". Countries that have provided assistance to Israel to date actually have a responsibility to ensure Israel's compliance with the decision International Court of Justice.<sup>27</sup> Furthermore, this also indicates that nation states need to do increased scrutiny in the approval of exports and military aid to Israel. The responses to the International Court's Decision from the countries involved are as follows.<sup>28</sup> The Palestinian Ministry of Foreign Affairs and Expatriates welcomed the ICJ's decision, and said in a statement that it was an "*important reminder*" that no country is above the law.

Riyadh's Foreign Minister Maliki noted that Israel failed to convince the court that it had not violated the 1948 Genocide Convention.<sup>29</sup>

---

25 Shannon M Culverwell, *Israel and Palestine-An Analysis of the 2014 Israel-Gaza War from a Genocidal Perspective*, James Madison University (Unpublished manuscript, 2017).

26 bbc.com, "What Is Hamas and Why Is It Fighting with Israel in Gaza?," *Bbc.Com*, last modified 2023, accessed November 15, 2024, <https://www.bbc.com/news/world-middle-east-67039975>.

27 Teddy Tri Setio Berty, "Pengamat: Zona Demiliterisasi Jadi Upaya Israel Kontrol Gaza, Tapi Hamas Masih Kuat," *Liputan6.Com*, last modified 2024, accessed November 15, 2024, <https://www.liputan6.com/global/read/5492601/pengamat-zona-demiliterisasi-jadi-upaya-israel-kontrol-gaza-tapi-hamas-masih-kuat>.

28 *How the Court Works*. (n.d.). INTERNATIONAL COURT OF JUSTICE. Retrieved May 31, 2024, from <https://www.icj-cij.org/how-the-court-works>

29 Palestine News & Info Agencies, "Foreign Ministry Warns of Occupation's Efforts to Widen Conflict to Distract Attention Away from Its Crimes against Palestinians," *English.Wafa.Ps*, last modified 2024, accessed November 15, 2024, <https://english.wafa.ps/Pages/Details/149571>.

*“ICJ judges saw Israeli politicization, deflection and lies. They assessed the facts and the law and ordered interim measures that recognized the gravity of the situation on the ground and the correctness of South Africa’s implementation. Palestine calls on all countries to ensure respect for the orders of the International Court of Justice, including Israel”.*

Israeli Prime Minister Benjamin Netanyahu condemned the decision as “outrageous”. In a video message shortly after the court order, he said Israel was fighting a “just and unparalleled war.” He added that Israel will continue to defend itself and its citizens while complying with international law.<sup>30</sup> Meanwhile, right-wing National Security Minister Itamar Ben-Gvir mocked the ICJ after the court issued an interim ruling. “Den Hague shmague,” wrote the minister on social media platform X.

South Africa. The South African government called the ICJ ruling a “decisive victory” for international law. In a statement, the government said it welcomed the temporary measures and said it sincerely hoped Israel would not act to thwart implementation of the court order. It was further said that the decision marked an important milestone in the search for justice for the Palestinian people and added that South Africa would continue to act within global institutions to protect the rights of Palestinians in Gaza.

Outside ICJ headquarters in The Hague, Naledi Pandor, South Africa’s international relations minister, told reporters that Israel must stop fighting in Gaza if it wants to comply with the UN high court’s order. “How do you provide aid and water without a ceasefire?” Pandor asked. “If you read the order, the implication is that a ceasefire must be called.”

Hamas praised the court’s “momentous” decision and said it “contributes to Israel’s isolation.” “The (International) Court’s decision is an important development that contributes to Israel’s isolation and exposes its crimes in Gaza,” he said in a statement. Indonesia has been a member of the UN since 28 September 1950. Indonesia believes that the Court is in a position to determine that Israel has committed series of systematic violations of international law in the OPT, including East Jerusalem.<sup>31</sup>

Saudi Arabia Pushes for a Two-State Solution to Resolve the Conflict in Gaza, which was conveyed by the Minister of Foreign Affairs of Saudi Arabia, Prince Faisal bin Farhan, encouraging the creation of a two-state solution to the conflict in Gaza. He assessed that this solution would guarantee the security of both Palestine and Israel.<sup>32</sup>

The Two-State Solution is one of the approaches that has long been proposed to resolve the conflict between Israel and Palestine, particularly regarding the Gaza region and the West Bank. This solution aims to create two peacefully coexisting states: the State

---

30 CORDER, M. (2024, May 24). ICJ orders Israel to halt Gaza offensive; Israel unlikely to comply. *AP News*. <https://apnews.com/article/israel-gaza-palestinians-court-ceasefire-01d093d21a1eadaa31af5708cf1cbf38>

31 Yuli Andriansyah, “Indonesia on Palestinian Destiny: Perspectives from the Government and Scholars,” *Millah: Journal of Religious Studies* 23, no. 1 (2024): xii–xviii.

32 Khojji, Z. (2024, April 28). Saudi FM: Commitment to two-state solution only way to prevent Gaza war reoccurring. *Arabnews*. <https://www.arabnews.com/node/2500801/saudi-arabia>

of Israel and the independent State of Palestine. a Palestinian state would include Gaza, the West Bank, and possibly part of East Jerusalem as its capital. Israel will be recognized as an independent and sovereign state, with security guarantees from the Palestinian state and other countries in the region. The border between Israel and Palestine will be negotiated, possibly based on pre-1967 lines with adjustments and land swaps agreed. The Palestinian refugee issue will be resolved through negotiations, including the right of return or compensation. Jerusalem's status will be determined through negotiations, with possible solutions such as Jerusalem as the capital of both countries or special arrangements for holy sites. Precise border determination and the issue of Israeli settlements in the West Bank are major challenges. Many Israeli settlements are located in territory Palestinians want for their state. Jerusalem is a very sensitive city for both parties. Israel claims Jerusalem as its undivided capital, while the Palestinians want East Jerusalem as their capital. Ensuring security for both countries is a major challenge. Israel wants guarantees that a Palestinian state will not become a base for attacks against Israel. There are millions of Palestinian refugees who have the right of return to the land that is now part of Israel. Political leadership on both sides must support and be able to implement the agreement. Internal divisions in Palestine between Fatah and Hamas, as well as political dynamics within Israel, often hinder progress.

The ICJ stated that Israel must immediately ensure that its military forces do not kill Palestinians or cause serious physical and mental injuries, destroy lives and prevent the birth of Palestinians.

Judge Joan E. Donoghue, who read the verdict, said that Palestinians in Gaza remained "extremely vulnerable" and the suffering they were experiencing was "heartbreaking."

On January 11, South Africa took Israel to the International Court of Justice (ICJ), a United Nations (UN) judicial body.

South Africa issued an 84-page legal document declaring that Israel's actions in Gaza constitute genocide. It is said in the document that according to Article II of the Genocide Convention, Israel has committed acts of genocide including murder, which cause serious physical or mental harm to members of a national, ethnic, racial or religious group; intentionally causing living conditions calculated to result in the physical destruction of the group; and implementing measures intended to prevent births within the group in order to destroy it in whole or in part.

South Africa supports its allegations with evidence, among other things, of more than 20 thousand deaths and more than 7 thousand of them were children; bombing of 'safe areas' that Israel ordered Palestinians to evacuate to; and the forced relocation of Palestinians to camps that lack food, water, electricity, medicine or sanitation.

South Africa asked the Court to show steps while the following 9 By letter dated 29 December 2023, the Deputy Registrar informed the Parties that, based on Article 74

paragraph 3 of the Regulations, the Court has set January 11 and 12 2024 as the trial date verbally on request for indication of temporary action.<sup>33</sup>

Mr. Vaughan Lowe. (1) The State of Israel must immediately cease its military operations inside and outside the region. At the public hearing, oral observations on requests for indications of temporary measures are submitted by: Mr. Tal Becker, Gaza. On behalf of South Africa: His Excellency Mr Vusimuzi Madonsela, Mr Malcolm Shaw, (2) The State of Israel must guarantee that every military unit or armed unit is irregular who may be directed, supported or influenced by it, as well as any organizations and persons who may be under its control, direction or influence, do not take any action. continuation of military operations as intended in paragraph (1) above. Your Excellency Mr Ronald Lamola, Mrs. Galit Doubt, (3) The Republic of South Africa and the State of Israel, respectively, in accordance with their obligations under the Convention on the Prevention and Punishment of the Crime of Genocide, in connection with Palestinian people, take all reasonable measures within their authority to prevent genocide.

- i. Mrs. Adila Hassim,
- ii. Mr. Omri Sender,
- iii. Mr Tembeka Ngcukaitobi,
- iv. Mr Christopher Staker,
- v. Mr. John Dugard,
- vi. Mr. Gilad Noam.

(4) The State of Israel, in accordance with its obligations under the Convention on Prevention and Punishment Crime of Genocide, in connection with (a) eviction and forced removal from their homes; The Palestinian people as a group are protected by the Preventive Convention and (b) deprivation: Punishment of the Crime of Genocide, desist from committing any and all acts within its scope. Article II of the Convention, in particular:

1. Access to sufficient food and water.
2. Killing group members.
3. Access to humanitarian assistance, including access to adequate fuel.
4. Causes serious physical or mental harm to members of the group; housing, clothing, cleanliness and sanitation.
5. Deliberately creating conditions for the group's life that are expected to be realized medical supplies and assistance; And physical destruction in whole or in part and the destruction of the lives of Palestinians in Gaza.
6. implement measures intended to prevent births within the group.

On January 12, at the International Court of Justice (ICJ), Israel rejected a request for indication of provisional measures submitted by South Africa and removed the case

---

33 Shany, Y. (2024, January 16). *South Africa vs. Israel at the International Court of Justice: A Battle Over Issue-Framing and the Request to Suspend the War*. Just Security. <https://www.justsecurity.org/91262/south-africa-vs-israel-at-the-international-court-of-justice-a-battle-over-issue-framing-and-the-request-to-suspend-the-war/>

from the General Register. Israel's defense in legal cases related to the Israeli-Palestinian conflict usually includes legal arguments concerning Israel's right to defend itself from the threat of terrorism and armed attacks launched by militant groups in the Palestinian territories. Israel may also use legal arguments about the jurisdiction and interpretation of the 1948 Genocide Convention to refute the genocide charges brought against it.

The Court concluded based on the considerations above that the conditions required by the Statute to determine whether provisional measures have been complied with. Therefore, while waiting for a decision. Finally, the Court needs to demonstrate specific steps to protect the rights claimed by South Africa which the Court found reasonable. In the Court's view, the above-mentioned facts and circumstances are sufficient to conclude that at least some of the rights claimed by South Africa and for which it seeks protection are incoming sense. This applies with respect to the rights of Palestinian citizens in Gaza to be protected from acts of genocide and the related prohibited acts mentioned in Article III, and South Africa's right to request Israeli compliance of Israel's obligations under the Convention.

The Court held that, in light of the situation described above, Israel should, accordingly with its obligations under the Genocide Convention, with respect to Palestinians in Gaza, taking all actions in accordance with its authority to prevent the carrying out of all actions within the Gaza area. Room the scope of Article II of this Convention, in particular:

1. The killing of members of a group
2. Causes physical or mental harm who is serious about group members.
3. Deliberately causing the expected conditions of life of the group will result in physical destruction in whole or in part; and
4. Implement the measures intended to prevent births within the group. The Court reminded that these actions were included within the scope of Article II of the Convention if the acts are committed with the intent to destroy all or part of the group (see paragraph 44 above). The court further considered that Israel must immediately ensure that its military forces do not commit acts that violate Article II of the Genocide Convention.

The Court also took the view that Israel should take all appropriate measures its authority to prevent and punish direct and public incitement to genocide against members of Palestinian groups in the Gaza Strip.

The Court further considered that Israel should take immediate and effective steps to enable the provision of basic services and urgently needed humanitarian assistance to address the poor living conditions facing Palestinians in the Gaza Strip.<sup>34</sup>

Israel must also take effective steps to prevent destruction and ensure preservation of evidence relating to alleged acts within the scope of Article II and III of the Genocide Convention against members of Palestinian groups in the Gaza Strip.<sup>35</sup> Regarding the

---

34 Goodrich and Simons, "The Security Council and Measures Not Involving the Use of Force" (1969).

35 M.I. (2024, May 24). *ICJ Order: Application of the Convention on the Prevention and Punishment of the Crime*

interim measures requested by South Africa that Israel must submit a report to the Court regarding all actions taken to enforce the Order, the Court reminds that Israel has the authority, reflected in Article 78 of the Rules of Court, to request the parties to provide information regarding all matters relating to the implementation of temporary measures which has been indicated. In view of the special temporary measures that have been decided to indicate, The Court considers that Israel must submit a report to the Court regarding all its actions taken to give effect to this Order within one month, from the date of this Order. Report provided it will then be communicated to South Africa, which will be given the opportunity to submit its comments to the Court.

The Court recalled that its Order concerns provisional measures under Article 41 of the Statute has a binding effect and thereby creates international legal obligations for any party who received the temporary measure.

## **2. Legal and practical implications of the international court's decision based on the current circumstances of Israel's attacks on Palestine.**

On May 6, 2024, Israel launched a significant airstrike against the city of Rafah in the Gaza Strip, an action that increased tensions in the long-conflicted region. The attacks reportedly targeted several locations suspected to be militant group strongholds, but also caused casualties among civilians and damage to infrastructure.

Rafah, a city in the southern part of the Gaza Strip, has often been a point of conflict between Palestinian militants and the Israel Defense Forces (IDF). This attack occurred in the context of increasing violence in the region, sparked by a series of rocket attacks from Gaza into Israeli territory several weeks earlier. The Israeli government claims that this airstrike was a defensive measure aimed at stopping rocket attacks and destroying Hamas' military infrastructure.

**Impact of Attack Casualties and Damage** The attack on May 6, 2024 resulted in dozens of casualties, including civilians. Initial reports said at least 20 people were killed and many others injured. Critical infrastructure, including hospitals and schools, also suffered extensive damage, disrupting basic services for local residents. The aim of Israel's attack on Rafah was to destroy the military capabilities of the Hamas group. Meanwhile, Rafa is believed to be the last stronghold of the Hamas group in the Gaza Strip. Israel also estimates that four Hamas battalions are in Rafa so that the city will need to be destroyed by Israeli Western forces. Apart from that, lowering the expectations of a number of parties by controlling Rafa means that Israel can control routes in and out of Palestine.

The international community, including the UN and several European countries, immediately condemned the attack and called for an end to the violence and the protection of civilians. Human rights organizations such as Amnesty International and Human Rights

---

*of Genocide in the Gaza Strip (South Africa v. Israel)*. Question of Palestine. <https://www.un.org/unispal/document/icj-order-24may24/>



Watch condemned Israel's actions as an excessive use of force and demanded an independent investigation.

The Palestinian government and militant groups in Gaza, including Hamas, condemned the attack as a war crime and vowed retaliation. Demonstrations and protests took place in various cities in the West Bank and Gaza in reaction to this attack. The Israeli airstrike on Rafah on 6 May 2024 gave rise to various legal implications, both at the domestic and international levels.

Attacks on civilian areas and critical infrastructure raise questions about violations of the Geneva Conventions, which regulate the protection of civilians during armed conflict. International investigators can evaluate whether these attacks meet the criteria for war crimes under the Rome Statute of the International Criminal Court (ICC).

The International Criminal Court (ICC), is an international court institution established by the Rome Statute in 1998 and officially began operating in 2002.<sup>36</sup> The ICC is located in The Hague, Netherlands. Following are some important points about the International Criminal Court (ICC). The ICC's primary goal is to prosecute individuals responsible for crimes of genocide, crimes against humanity, war crimes, and crimes of aggression. This institution was established in response to the need for international justice and to end impunity for perpetrators of the most serious international crimes.

The ICC has jurisdiction to prosecute individuals who commit crimes that fall within the scope of the Rome Statute.<sup>37</sup> This includes crimes committed on the territory of countries that are members of the ICC, crimes committed by nationals of those countries anywhere in the world, as well as crimes referred to the ICC by the UN Security Council or member states.

The ICC consists of several organs, including the People's Assembly, the Panel of Judges, and the Prosecutor's Office. The People's Assembly is composed of representatives from ICC member states and is responsible for the administrative and managerial tasks of the ICC. The Panel of Judges is responsible for trials and decision-making, while the Prosecutor's Office investigates and prosecutes cases before the ICC.

Despite its noble aims, the ICC has also faced criticism. Some criticism has come from countries that are not members of the ICC, who refuse to recognize the agency's jurisdiction over concerns for their national sovereignty. Apart from that, there is also criticism regarding the effectiveness and efficiency of the ICC's legal processes, as well as political decisions that can influence the steps taken by this institution.

Contribution to International Justice. In the face of challenges, the ICC remains one of the leading institutions in efforts to ensure accountability for the most serious international

---

36 *About the Court.* (n.d.). International Criminal Court. Retrieved May 31, 2024, from <https://www.icc-cpi.int/about/the-court>

37 *Rome Statute of the International Criminal Court.* (n.d.). OHCHR. Retrieved May 31, 2024, from <https://www.ohchr.org/en/instruments-mechanisms/instruments/rome-statute-international-criminal-court>

crimes. Its contribution to international justice cannot be understated, and continues to be the subject of debate and attention at the global level.

Thus, the International Criminal Court (ICC) is an important institution in global efforts to ensure accountability for the most serious international crimes and to promote the principles of international justice. Violations of the right to life, right to security, and right to health resulting from this attack highlight the importance of human rights protection mechanisms in conflict situations.

The use of military force that disproportionately affects civilians may be the subject of international legal investigation and prosecution. Israeli Prime Minister Benjamin Netanyahu once stated that Israel would not achieve total victory against Hamas without attacking Rafah. This statement was made by Netanyahu on the week of April 21 2024 before the Israeli military operation in Rafah finally took place on Monday May 6 2024. Netanyahu said that Israel's attacks on Palestine were to destroy the military capabilities of the Hamas group. Meanwhile, Rafah is believed to be the last stronghold of the Hamas group in the Gaza Strip. Israel also estimates that four Hamas battalions are in Rafa so that the city will need to be destroyed by Israeli Western forces. Israel can control routes in and out of Palestine. Meanwhile, if it succeeds in controlling Rafah, Israel is considered to be able to take control of providing traffic assistance and evacuation routes for residents. But not only that, the attack on Rafa was allegedly carried out to put more pressure on Hamas in the ceasefire negotiations.

The international court's order or permission to stop attacks on Palestine was ignored by Israel on Saturday, May 25 2024. Israel again attacked Rafah, including the mainland, indicating that it would change the direction of its operations and the city center area. This will occur between the Israeli Army and groups of Palestinian residents, hoping that the ICJ's decision will provide The pressure on Israel to end the war, even though they are not completely sure, on Friday 24 May 2024, was an order to open the gates of the city of Rafah to distribute aid, as well as ordering the immediate and unconditional release of hostages or mandates in the attack on October 7 2023.

If we analysis abaout The international court (ICJ) on Friday 24 May 2024 evening Dutch time ordered Israel to stop attacks on Rafah and keep the Rafah gate open to maintain humanitarian routes. This order is not binding, but the pressure on Israel is getting stronger. Israeli Prime Minister Benjamin Netanyahu also held a meeting to determine the next steps in response to the ICJ's decision. However, in reality there is no obligation for Israel to carry out the ICJ's order because the decision is not binding. Israel was submitted to ASCII by South Africa from late 2023 on genocide charges. This was due to Israel's military operations in the Gaza Strip to respond to the Absa storm attack by Hamas on October 7 2002.

Saturday, May 25 2024, stated that the Israeli government was collaborating with the IC instead of delegitimizing it on orders from the world court. This will increase its reputation

as a responsible and trustworthy country so that conflicts can be resolved quickly. The leader of Israel's National Education Council opposition or parliament criticized Netanyahu's decision to invade Gaza because it killed more and more civilians but failed to win over the hostages, preferring Israel to fight with Hamas at the negotiating table. The ceasefire plan mediated by Egypt and Qatar has not been accepted by Israel because Hamas is asking for the release of all Palestinians imprisoned by Israel, including political parties which according to Israel are very dangerous. Meanwhile, on Saturday 25 May 2024, the Israeli war entered its 231st day, Egyptian President Abdel Fattah el-Sisi together agreed to send social aid to Gaza. According to the plan, the aid will be distributed through the gates on the border of Israel and Gaza. Meanwhile, Rafah, which is on the border of Egypt and Gaza, is still closed by the Israeli military. This operation must be stopped. There are no safe areas in Rafah for Palestinian civilians. I call for full respect for international law and an immediate ceasefire. "Emmanuela Macron, President of France".

The Israel Defense Forces (IDF) said it had launched an investigation into the military strike in Rafah, which it said was launched based on "precise intelligence information" and killed two senior Hamas officials.<sup>38</sup> The attack did not occur in the humanitarian area of al-Mawasi, where the IDF has been encouraging civilians to flee" since the Israeli ground operation began in Rafah. Images of charred and mutilated children angered global leaders and endangered ceasefire talks. The bombing on Monday (27/5/2024) which the Israel Defense Forces (IDF) said targeted Hamas seniors in a precise attack appears to have sparked a fire that spread quickly through tents and emergency accommodation. Nearby field hospitals operated by the International Committee of the Red Cross and hospitals were also affected. The Health Ministry in the Hamas-controlled region said about half of the dead were women, children and the elderly. Israeli Prime Minister Benjamin Netanyahu called the deadly Israeli military airstrike on the Rafah refugee camp, southern Gaza, Palestine, a tragic mistake. "Despite our best efforts to do no harm to those not involved, unfortunately a tragic error occurred. We are currently investigating this case."

## D. Closing

Based on the description and analysis in the above. The author draws conclusions as an answer to the problems in this research, namely: 1. Interim ruling of the International Court of Justice on South Africa's lawsuit regarding the Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip on January 26 which contains in relation to the situation described above, Israel must, in accordance with its obligations under the Genocide Convention, with respect to Palestinian residents of Gaza, take all appropriate measures within their authority to prevent the commission of all

---

38 Reuters & Jerusalem/Cairo. (2024, May 27). *The Daily Star*. The Daily Star. <https://www.thedailystar.net/news/world/israels-attack-on-palestine/news/netanyahu-says-rafah-strike-tragic-accident-vows-defeat-hamas-3620476>

acts within the territory of Gaza within the scope of article II of the Genocide Convention. The court is of the view that Israel must prevent genocidal attacks from occurring. The Court recalled that its Order concerns provisional measures under Article 41 of the Statute has a binding effect and thereby creates international legal obligations for any party to whom the provisional measure applies. 2. Israel carried out an attack on the city of Rafah on May 6 2024 after the temporary decision of the International Court of Justice (ICJ). The court pressured Israel again to comply with the ruling. As a result, Israel is investigating the Israeli Army's mistake in the attack on Rafah City because there were casualties among civilians in Rafah City. The limitation of this research is that it only looks at a legal perspective, while future research can carry out in-depth analysis using an international relations perspective.

## Bibliography

### A. Books

- Al-Rodhan, Nayef R F, Graeme P Herd, and Lisa Watanabe. "The Six-Day War and Its Consequences." In *Critical Turning Points in the Middle East*, edited by Nayef R F Al-Rodhan, Graeme P Herd, and Lisa Watanabe, 99–115. London: Palgrave Macmillan UK, 2011. [https://doi.org/10.1057/9780230306769\\_5](https://doi.org/10.1057/9780230306769_5).
- Culverwell, Shannon M. *Israel and Palestine-An Analysis of the 2014 Israel-Gaza War from a Genocidal Perspective*. James Madison University. Unpublished manuscript, 2017.
- Hanson, Sharon. *Legal Method*. Taylor & Francis Group, 2000.
- Putman, William H., and Jennifer Albright. *Legal Research*. 3rd ed. Cengage Learning, 2014.

### B. Paper/Article/Proceeding/Research Result

- Andriansyah, Yuli. "Indonesia on Palestinian Destiny: Perspectives from the Government and Scholars." *Millah: Journal of Religious Studies* 23, no. 1 (2024): xii–xviii.
- Boisen, Camilla. "Israel's Punitive War on Palestinians in Gaza Israel's Punitive War on Palestinians in Gaza." *Journal of Genocide Research* (2024): 1–22. <https://doi.org/10.1080/14623528.2024.2406098>.
- Goldstein, Yossi. "The Six Day War: The War That No One Wanted." *Israel Affairs* 24, no. 5 (2018): 767–784. <https://doi.org/10.1080/13537121.2018.1505475>.
- Khatib, Rasha, Martin McKee, and Salim Yusuf. "Counting the Dead in Gaza: Difficult but Essential." *The Lancet* 404, no. 10449 (2024): 237–238. [http://dx.doi.org/10.1016/S0140-6736\(24\)01169-3](http://dx.doi.org/10.1016/S0140-6736(24)01169-3).
- Machairas, Dimitrios. "The Strategic and Political Consequences of the June 1967 War." *Cogent Social Sciences* 3, no. 1 (2017): 1–10. <http://dx.doi.org/10.1080/23311886.2017.1299555>.
- O'Connell, Mary Ellen. "The Just War Tradition and International Law against War: The Myth of Discordant Doctrines." *Journal of the Society of Christian Ethics* 35, no. 2 (2015): 33–51.
- Pratiwi, Fadhila Inas, M. Aryo Rasil Syarafi, and Demas Nauvarian. "Israeli-Palestinian Conflict beyond Resolution: A Critical Assessment." *Jurnal Ilmu Sosial dan Ilmu Politik* 26, no. 2 (2022): 168–182.
- Sultany, Nimer. "A Threshold Crossed: On Genocidal Intent and the Duty to Prevent Genocide in Palestine." *Journal of Genocide Research* (2024): 1–26. <https://doi.org/10.1080/14623528.2024.2351261>.
- Tan, David. "Metode Penelitian Hukum: Mengupas Dan Mengulas Metodologi Dalam Menyelenggarakan Penelitian Hukum." *Nusantara: Jurnal Ilmu Pengetahuan Sosial* 8, no. 8 (2021): 2463–2478.

### C. Internet

- About the Court. (n.d.). International Criminal Court. Retrieved May 31, 2024, from <https://www.icc-cpi.int/about/the-court>
- Alsaafin, L. (2023, October 9). What's the Israel-Palestine conflict about? A simple guide. Al Jazeera. <https://www.aljazeera.com/news/2023/10/9/whats-the-israel-palestine-conflict-about-a-simple-guide>

- bbc.com. "What Is Hamas and Why Is It Fighting with Israel in Gaza?" *Bbc.Com*. Last modified 2023. Accessed November 15, 2024. <https://www.bbc.com/news/world-middle-east-67039975>.
- Betty, Teddy Tri Setio. "Pengamat: Zona Demiliterisasi Jadi Upaya Israel Kontrol Gaza, Tapi Hamas Masih Kuat." *Liputan6.Com*. Last modified 2024. Accessed November 15, 2024. <https://www.liputan6.com/global/read/5492601/pengamat-zona-demiliterisasi-jadi-upaya-israel-kontrol-gaza-tapi-hamas-masih-kuat>.
- CORDER, M. (2024, May 24). ICJ orders Israel to halt Gaza offensive; Israel unlikely to comply. AP News. <https://apnews.com/article/israel-gaza-palestinians-court-ceasefire-01d093d21a1eadaa31af5708cf1cbf38>
- Gadzo, Mersiha, and Brian Osgood. "Israel's War on Gaza Updates: Full Rafah Attack a 'Humanitarian Nightmare.'" *Www.Aljazeera.Com*. Last modified 2024. Accessed May 31, 2024. <https://www.aljazeera.com/news/liveblog/2024/5/7/israels-war-on-gaza-live-israel-blasts-rafah-fate-of-ceasefire-uncertain>.
- Hasibuan, Linda. "Ini Putusan Mahkamah Internasional Atas Israel & Respons Dunia." *Cnbcindonesia.Com*. Last modified 2024. Accessed May 31, 2024. <https://www.cnbcindonesia.com/news/20240224083114-4-517256/ini-putusan-mahkamah-internasional-atas-israel-respons-dunia>.
- Indiatoday.in. "Muslim Nurse in US Fired for Calling Israel's War in Gaza 'Genocide.'" *Indiatoday.In*. Last modified 2024. Accessed May 31, 2024. <https://www.indiatoday.in/world/story/israel-gaza-war-new-york-muslim-nurse-fired-genocide-2546066-2024-05-31>.
- I. (2024, May 24). ICJ Order: Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip (South Africa v. Israel). Question of Palestine. <https://www.un.org/unispal/document/icj-order-24may24/>
- Khojji, Z. (2024, April 28). Saudi FM: Commitment to two-state solution only way to prevent Gaza war reoccurring. Arabnews. <https://www.arabnews.com/node/2500801/saudi-arabia>
- kompas.id. "Indonesia Cannot Participate in Suing Israel Regarding Genocide." *Kompas.Id*. Last modified 2024. Accessed May 31, 2024. <https://www.kompas.id/baca/english/2024/01/09/en-indonesia-tidak-bisa-ikut-gugat-israel-soal-genosida>.
- Palestine News & Info Agencies. "Foreign Ministry Warns of Occupation's Efforts to Widen Conflict to Distract Attention Away from Its Crimes against Palestinians." *English.Wafa.Ps*. Last modified 2024. Accessed November 15, 2024. <https://english.wafa.ps/Pages/Details/149571>.
- Nations, U. (n.d.). United Nations Office on Genocide Prevention and the Responsibility to Protect. Retrieved May 31, 2024, from <https://www.un.org/en/genocideprevention/genocide-convention.shtml#:~:text=The%20Convention%20on%20the%20Prevention,time%20the%20crime%20of%20genocide>
- Reuters & Jerusalem/Cairo. (2024, May 27). The Daily Star. The Daily Star. <https://www.thedailystar.net/news/world/israels-attack-on-palestine/news/netanyahu-says-rafah-strike-tragic-accident-vows-defeat-hamas-3620476>
- Rome Statute of the International Criminal Court. (n.d.). OHCHR. Retrieved May 31, 2024, from <https://www.ohchr.org/en/instruments-mechanisms/instruments/rome-statute-international-criminal-court>

Shany, Y. (2024, January 16). South Africa vs. Israel at the International Court of Justice: A Battle Over Issue-Framing and the Request to Suspend the War. Just Security. <https://www.justsecurity.org/91262/south-africa-vs-israel-at-the-international-court-of-justice-a-battle-over-issue-framing-and-the-request-to-suspend-the-war/>

The Court. (n.d.). INTERNATIONAL COURT OF JUSTICE. Retrieved May 31, 2024, from <https://www.icj-cij.org/court>

Quillen, S. (2024, May 31). Israel's war on Gaza live: Most of Jabalia refugee camp 'in ruins.' Al Jazeera. <https://www.aljazeera.com/news/liveblog/2024/5/31/israels-war-on-gaza-live-unrelenting-nightmare-for-weary-palestinians>

## **Curriculum Vitae of Author**

Khairunnisa Irianto is a student at one of the best universities in Indonesia, working in the academic world making her an outstanding student on campus. Actively writing in various media, making him rich in knowledge. His broad insight and current strategic issues have made him active several times in voicing movements and changes, especially in terms of gender.