

Recent Events in International Law Relating to the Israel-Hamas War

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At its core, international law is formulated to promote peace, prosperity, rights, and protection. Its power is truly the foundation of the world, which sits in a delicate place amidst both tensions and power struggles. We hear voices of criticism, yet international law holds power and truly exists for the benefit and promotion of humanity and general interests. Further, we can examine recent disputes between countries relating to the Israel and Gaza conflict that began in October of 2023, as well as pushes by moral advocates for justice and the upholding of principles. We can also discuss violations and contradictions to international law through current events.

In order to analyze the conflict between Israel and Hamas, we should understand the basis of international law as it pertains to the conflict. There are two parts of relevant international law: the law governing the resort to force, *jus ad bellum*, and secondly the law governing military operations during the conflict, *jus in bello*. Under *jus in bello*, military necessity is present—there should be no civilian targeting. Relating to history, this protocol has been set forth by the 1949 Geneva Conventions, stating that “those who plan or decide upon an attack shall ... refrain from deciding to launch any attack which may be expected to cause incidental loss of civilian life, injury to civilians, damage to civilian objects, or a combination thereof, which would be excessive in relation to the concrete and direct military advantage anticipated.” Israel is a state which has accepted this protocol as an accurate reflection of international law. This is where critics come in. Many are now pointing to Israel and its apparent violations of *jus in bello*.

Let us begin on the topic of Israel and Hamas, in connection with the West. The United States has been recently criticized for both its lack of action regarding the war as well as its contradictory behavior in relation to the war between Russia and Ukraine. Back in 2022, when Russia invaded Ukraine (after previous tensions/war that we will not focus on in this article), the United States condemned Russian actions, imposing sanctions on financial institutions, technology suppliers, elites, the industrial base, and further sectors, in order to weaken the country and provide leverage for Ukraine. The United States government has also supplied a multitude of financial packages to Ukraine, also including military weapons and resources. However, with regards to the Israel-Hamas war, the United States’s lack of condemnation and full support of Israel has been pointed by many as a contradiction. Those in doubt of the United States’s intent and priorities have pointed to the facts of the conflict, including both the lives lost on the Gaza side of the conflict, the intentful targeting of civilians (in violation of international

humanitarian law), and the collapse of homes, healthcare systems, and other basic structures that make civilian treatment accessible and possible. Looking back at the history of Israeli violence, blatant violations of international law have been made. Critics point to this and reflect upon the United States and other western countries supporting a country in these circumstances (which also include illegal blockades leaving citizens malnourished and similar cruel events). Although this issue is more complex than what has been discussed here, Israel is in clear violation of international law, and the West's failure to support Palestine under international law has become a major point of argument.

Another focal point surrounding international law is the genocide case made by South Africa against Israel (still referring to the Israel-Hamas war) on December 29th of 2023. To begin, let us define the word genocide, as "acts committed with intent to destroy, either in part or in whole, a national, ethnical, racial or religious group". In simple terms, South Africa has stated that Israel is violating the UN convention on genocide by targeting Palestinians in Gaza. To bring up specific arguments made by South Africa to support their case, the government has stated that Israeli forces have so far killed 23,210 Palestinians, about 70% of them being women and children. To develop their case, South Africa made the argument that Israeli forces were aware that their bombings would cause civilian deaths, and added to their case that many civilians were located in "safe zones", further creating the argument that Israel is in violation of international law. Further arguments to the case were made, including mentions that Israel was intentionally cutting off water supplies and undermining food and resource accessibility. At this time, Israel has rejected the allegations, citing that all of their attacks have been targeting soldiers, not civilians. All of the civilian deaths Israel has cited are "unfortunate consequences". Further evidence in favor of Israel's argument has been made, but at this time, the court has stated that it will not decide a status on whether a genocide has been committed by Israel, as that is a lengthy process that could take many years. Regardless, this is a major court case and has the ability to influence smaller powers.

Both of these arguments and cases pertaining to the Israel-Hamas war have been focal points in recent days. The war is more complex and cannot be summed down to a small piece of writing, but these two developments highlight international law as a binding point: something that truly decides if Israel's actions can be viewed as a true violation.

Resources:

Narine, Shaune. “Western Moral Credibility Is Dying along with Thousands of Gaza Citizens.” *The Conversation*, 30 Jan. 2024, theconversation.com/western-moral-credibility-is-dying-along-with-thousands-of-gaza-citizens-20449.

Taucher, Paul. “South Africa Has Made Its Genocide Case against Israel in Court. Here’s What Both Sides Said and What Happens Next.” *The Conversation*, 15 Jan. 2024, theconversation.com/south-africa-has-made-its-genocide-case-against-israel-in-court-heres-what-both-sides-said-and-what-happens-next-221017.

Rostow, Nicholas. “Revisiting International Law in the Gaza Context.” *Just Security*, 18 Jan. 2024, www.justsecurity.org/91258/revisiting-international-law-in-the-gaza-context/.