


# An Evaluation of the Most Important Actions and Decisions of International Organizations and Authorities Regarding the Performance of the Israeli Regime in the Gaza Crisis (2023-2024)

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## Abstract

Following the violent escalation on October 7, 2023, attributed to the actions of the Israeli regime in Gaza, a series of substantial measures have been implemented by international legal, judicial, and political organizations in support of the Palestinian cause and the resistance movement. These actions have involved key international bodies, such as the Security Council, the General Assembly, and judicial institutions including the International Court of Justice (ICJ) and the International Criminal Court (ICC), as well as various countries and influential global experts. In this context, the international community has witnessed a historical and unprecedented series of judicial opinions, resolutions, and legal positions condemning the actions of the Israeli occupying forces in Gaza. Moreover, the recent focus on obligations to prevent genocide and end the occupation and violence in Palestine is unparalleled in its intensity and global consensus. These measures provide substantial and authoritative evidence supporting the legitimacy of the Palestinian cause, while simultaneously imposing binding legal responsibilities on states, international organizations, and in particular, the General Assembly and Security Council, to ensure the protection of Palestinian rights and the cessation of occupation and violence in the region. The present study adopts a descriptive-analytical methodology, utilizing documentary and library research approaches to critically analyze the nature and substance of these legal instruments and resolutions. In doing so, it aims to inform national, regional, and international executive bodies, while fostering academic dialogue and public awareness on the critical need for implementation of these judicial decisions. This research underscores the transformative legal, judicial, and diplomatic developments following October 7, 2023, developments that are crucial to the future trajectory of Gaza and Palestine, and which must be taken into account when formulating policies and strategies for the region's future.

**Keywords:** Gaza crisis, international law, Palestinian resistance, International Court of Justice, genocide prevention.

## **Introduction**

Since the onset of the brutal aggression by the Israeli regime against the people of Gaza on October 7, 2023, the international community has increasingly rallied in support of the Palestinian people and the legitimacy of their resistance movement. The actions of international organizations, judicial bodies, countries, and global public opinion have gained momentum, with significant legal and political measures aimed at addressing the crimes committed in Gaza. One of the most notable recent developments is the issuance of arrest warrants for Israeli Prime Minister Benjamin Netanyahu and former Minister of War Yoav Galant by the ICC, despite opposition from the United States. This unprecedented move, along with the growing calls for the enforcement of such warrants in various European jurisdictions, highlights the increasing international resolve to hold Israeli officials accountable for alleged violations of international law. The present article investigates the legal, judicial, and political actions taken in response to the Israeli regime's actions in Gaza, with a particular focus on three primary areas: 1) the actions of international judicial authorities, 2) the responses of international organizations and institutions, including the United Nations (UN) and the Security Council. This study seeks to answer the central research question: How have international legal and political mechanisms responded to the violence in Gaza since October 7, 2023, and what role do these actions play in shaping the future of Palestine's struggle for justice? The hypothesis guiding this research posits that the international legal and political measures implemented since October 7, 2023, represent a significant shift in global accountability for crimes committed by the Israeli regime, highlighting the emerging legal and diplomatic pressure on Israel to end the occupation and prevent further violations of international law. Through a case study methodology, the article explores specific legal instruments, judicial rulings, and institutional responses to these developments. The goal is to provide a detailed analysis of how these actions collectively contribute to the legitimacy of the Palestinian cause, while offering insights into the legal pathways available for holding Israel accountable. This article also emphasizes the importance of raising awareness among international and national institutions, as well as within the public sphere, to foster greater engagement in holding accountable those responsible for crimes in Gaza. The findings of this study are intended to inform policymakers, legal practitioners, and the broader academic community, highlighting the significant

opportunities for legal and judicial recourse, while encouraging further efforts to ensure the implementation of judicial rulings and international legal obligations.

### **1. Actions of International Judicial Authorities**

The International Court of Justice, as one of the most important international judicial and legal authorities, has taken prominent and impactful actions against the crimes of the Zionist Israeli regime since October 7, 2023, including the following:

#### **1-1. Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip: South Africa v. Israel**

On December 29, 2023, South Africa, citing the 1948 Genocide Convention, filed a lawsuit and sought a ruling against the regime to be issued by the ICJ for violation of the Genocide Convention.<sup>1</sup> In its complaint, South Africa has requested that the ICJ issue a temporary order based on nine clauses until the final verdict. Among these clauses are the immediate cessation of the Israeli regime's attacks on Gaza, taking reasonable measures to prevent the genocide of Palestinians, ensuring the return of Palestinian refugees to their homes and access to humanitarian aid, such as food, water, fuel, medical equipment, shelter, and clothing, and finally taking necessary actions to punish those involved in the genocide and preserve evidence related to the genocide in Gaza, (ICJ; Order, South Africa v. Israel, 2024).

The ICJ also began hearings on this case on January 11 and 12, 2024. However, since addressing the main accusation by South Africa, namely "committing genocide by the Zionist regime," will take time, the International Court of Justice, starting from Friday, January 26, 2024, issued "three interim orders" against this regime, which are unprecedented in history, as follows:

##### **1-1-1. First Provisional Measure on Obligations Under the Genocide Convention, Issued on January 26, 2024**

The interim order issued on January 26, 2024, was adopted by a decisive majority of 15 to 2 judges and consists of six principal

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1. Indeed, it is clear that South Africa was neither directly harmed nor a victim of violations of the Genocide Convention during the Gaza conflict, nor were the crimes committed on its territory. However, South Africa demonstrated its standing and competence to file a case before the International Court of Justice. Consequently, the requested provisional measures were issued by the Court, with the overwhelming majority of judges in favor, albeit with some modifications.

clauses. Based on the provisions of the Convention on the Prevention and Punishment of the Crime of Genocide, the ICJ instructed Israel to fulfill its obligations under this critical international treaty. The court's directives include the following:

- Israel is required to take all necessary measures to prevent acts of genocide, ensuring that its military forces do not engage in such acts and prosecuting those who incite genocide.
- Israel must ensure that evidence related to the commission of genocide is preserved intact, allowing the court to utilize this information in its ongoing investigation of the case.
- Furthermore, due to the critical humanitarian situation in Gaza, the court directed Israel to facilitate humanitarian access for the people of Gaza, including provisions for their essential needs.
- The Court in order to be sure of the implementation of these measures by Israel, ordered that Israel report back on the requested actions within one month of the ruling, by February 25, 2024. (ICJ; South Africa v. Israel, 24 May 2024).

It is important to note that the significant majority and near-consensus among the judges underscore the court's commitment to addressing the humanitarian crisis in Gaza. The court's judges are from various nationalities—including American, French, German, Russian, Chinese, Australian, and Indian—and all of them supported the court's decision. The gravity of the humanitarian situation is illustrated by the fact that even the judge appointed by Israel endorsed two of the six clauses in the interim order, which obligates Israel to ensure humanitarian access and services related to basic human needs, as well as to prosecute and punish those who incite genocide.

### **1-1-2. Second Provisional Measure on Obligations Under the Genocide Convention, Issued on March 28, 2024**

In paragraph 51 of the second interim order, the Court reaffirmed the temporary measures issued in the order of January 26, 2024, with fourteen votes in favor and two against. The following temporary measures were declared: In light of its obligations under the Convention on the Prevention and Punishment of the Crime of Genocide, and considering the worsening living conditions of Palestinians in Gaza, particularly the alarming spread of famine and hunger, the Israeli government must:

- Take all necessary and effective actions to ensure the immediate provision of essential services and humanitarian aid, including food, water, electricity, fuel, and shelter, in full cooperation with

the UN. All stakeholders should facilitate this process without obstruction. Additionally, the capacity and number of ground crossings must be increased and maintained for the transport of clothing, medical supplies, and sanitary essentials, as well as for medical care for Palestinians throughout Gaza for as long as necessary. (Unanimously)

- Ensure that its military forces refrain from engaging in actions that violate the rights of Palestinians in Gaza, recognized as a protected group under the Convention on the Prevention and Punishment of the Crime of Genocide. This includes preventing the obstruction of urgently needed humanitarian aid. (Fifteen votes in favor, one opposed). (ICJ; *South Africa v. Israel*, 28 March 2024).

Additionally, Israel is obligated to report to the Court on all actions taken to implement this order within one month from the date of issuance, with fifteen votes in favor and one against.

### **1-1-3. Third Provisional Measure on Obligations Under the Genocide Convention, Issued on April 15, 2024**

In paragraph 57 of the third interim order, the Court stipulated the following:

- The temporary measures outlined in the orders dated January 26, 2024, and March 28, 2024, are reaffirmed and must be implemented immediately and effectively, with thirteen votes in favor and two against.
- In accordance with its obligations under the Convention on the Prevention and Punishment of the Crime of Genocide, the Israeli government must consider the deteriorating living conditions of civilians in the Rafah area and:
  - Immediately halt its military aggression and any actions in the Rafah area that may exacerbate the living conditions of the Palestinian population in Gaza, potentially leading to their physical destruction, either in whole or in part. (Thirteen votes in favor, two against).
  - Keep the Rafah crossing open to facilitate the unhindered provision of essential services and humanitarian aid. (Thirteen votes in favor, two against).
  - Implement effective measures to ensure unrestricted access to the Gaza Strip for any fact-finding commission, fact-finding body, or other investigative entities from competent UN agencies to investigate allegations of genocide. (Thirteen votes in favor, two against).

○Israel is required to report to the Court on all actions taken to implement this order within one month of its issuance. (Thirteen votes in favor, two against).

In summary, the ICJ has expressed deep concern regarding the ongoing loss of life in Gaza, stating: "Israel must cease killing and harming the people of Gaza and take immediate steps to address the humanitarian needs of the population. Israel must also take necessary measures to prevent direct incitement to mass killing, stop military operations in Rafah (Gaza), and commit to refraining from attacks on the people of Gaza." (ICJ; *South Africa v. Israel*, 24 May 2024).

### **1-2. Advisory Opinion on Legal Consequences by the International Court of Justice, 19 July 2024**

On July 9, 2004, the ICJ issued an advisory opinion declaring that the actions of the Israeli regime in constructing the separation wall constituted a clear violation of international law principles. The court affirmed "the right to self-determination of the Palestinian people until its full realization." Two decades later, on July 19, 2024, the court released another advisory opinion, emphasizing "the nature of a regime that does not adhere to any principles or rules of international law." It explicitly stated that "the continuation of the occupation of Palestinian territory, including the ongoing occupation of Gaza, along with the application of violence and the apartheid system by the Zionist regime, is a clear violation of international law principles." It also reaffirmed "the right to self-determination of the Palestinian people until its full realization" and obligated the international community to end this occupation and other unlawful actions.<sup>1</sup>

This advisory opinion, summarized below, holds significant importance from an international law perspective for two main reasons. Firstly, it can be regarded as "a comprehensive plan for the future of the occupied Palestinian territories." Secondly, it holds significant impact and provides crucial advantages for future international developments and the fate of the Palestinian people, as it establishes binding commitments and obligations for the

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1. During the advisory proceedings on July 19, 2024, the Court received 57 written statements and 51 oral presentations from states and international organizations on a range of topics. The advisory opinion, which spans 82 pages and includes 285 paragraphs, addresses the question raised in the request for an advisory opinion while also considering several other significant issues. For further details, see: <https://www.icj-cij.org/sites/default/files/casereLATED/186/186-20230807-pre-01-00-en.pdf>

international community. This includes states, international organizations—particularly the UN—and other political actors, including the occupying regime in Jerusalem.

### **1-2-1. Key Findings of the Advisory Opinion on the Legal Status of the Occupied Palestinian Territories**

The Court, within the framework of international law and its foundations, including "international humanitarian law," "international human rights law," and two peremptory norms of international law, "the right of peoples to self-determination" and the principle of "prohibition of acquisition of territory by threat or use of force," (ICJ; Legal Consequences Advisory Opinion, 19 July 2024, paras. 261), explicitly states in its advisory opinion that:

- The Court considers the occupied Palestinian territory as "a single territorial unit including the West Bank, East Jerusalem, and the Gaza Strip, whose unity, contiguity, and integrity must be preserved and respected." (Ibid, para. 78.).
- The Court clearly and definitively declares in its advisory opinion that Israel's continued presence in the occupied Palestinian territory is illegal under international law. (Ibid, para. 285(3)).
- Concerning the legal status of the Gaza Strip following the withdrawal of Israeli military forces in 2005, the Court asserts that "the Gaza Strip, despite the withdrawal of Israeli military, still remains under occupation." It emphasizes that "the determining factor for establishing the legal status of occupation and its conclusion" is not solely reliant on "the physical presence of military forces," but rather on whether the occupying power has relinquished the authority it established and could exercise over that territory. (Ibid, paras. 92-93). In its examination of this matter, the Court concluded that Israel retains the capacity to exercise authority over the Gaza Strip and continues to exert such authority. (Ibid, para. 93)
- In light of Israel's policies and actions in the occupied Palestinian territories—such as the enduring occupation of these lands, its settlement policies, the annexation of Palestinian land, and the implementation of discriminatory laws—the Court underscores that the laws of occupation serve as temporary measures responding to military necessity and cannot be interpreted as a transfer of sovereignty to the occupying power. The Court observed that the ongoing expansion of Israeli settlements since 1967 has led to the confiscation of property,

the exploitation of natural resources, and the relocation of Israelis into the occupied territories, resulting in the forced displacement of Palestinians. Furthermore, the application of Israeli civil laws to settlers and military law to Palestinians has exacerbated violence against the Palestinian population. As reaffirmed in its 2004 advisory opinion concerning the legal ramifications of the construction of the wall in the occupied Palestinian territory, the Court concluded that the settlements and their associated regimes have been established and administered in violation of international law. (ICJ; Legal Consequences Advisory Opinion, (2004), para. 120).

- The Court also concluded that these policies and practices, designed to remain indefinitely, directly violate "the principle of prohibition of the use of force in international relations and its corollary, the prohibition of acquisition of territory by force," (ICJ; Legal Consequences Advisory Opinion, 19 July 2024, paras. 179), and cannot justify the annexation of large parts of the occupied Palestinian territories by Israel. (Ibid, para. 173).
- Through a thorough examination and analysis of Israel's discriminatory laws and actions, such as restrictions on movement, residency permit policies, and the destruction of Palestinian property, the Court determined that Israel has breached its obligations under the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights (ICESCR), and Article 2 of the Convention on the Elimination of All Forms of Racial Discrimination (CERD). (Ibid, para. 223). The Court also found that Israel's laws and actions violate Article 3 of the Convention on the Elimination of All Forms of Racial Discrimination, which prohibits any type of segregation and apartheid.
- The Court has concluded that Israel's policies and actions-such as fragmenting the West Bank, separating East Jerusalem, annexing significant portions of the occupied Palestinian territories, and displacing the Palestinian people-constitute violations of the Palestinian people's right to self-determination. Furthermore, the Court asserts that depriving Palestinians of control over their natural resources, obstructing their ability to determine their political status, and hindering their economic, social, and cultural development are also violations of human rights.
- The Court concluded that "the long-term nature of Israel's illegal policies and actions exacerbates the violation of the Palestinian people's right to self-determination." (Ibid, para. 243). The Court



explicitly declares that "Israel's ongoing illegal presence in the occupied Palestinian territories, along with its policies and actions, contravenes the fundamental principles of international law. These violations include 'the right of peoples to self-determination,' the 'prohibition of acquisition of territory by force,' the 'prohibition of racial segregation and discrimination,' and the 'basic rules of international humanitarian law.' The occupation of the Gaza Strip has persisted, particularly following October 7, 2023." (Ibid, para. 93).

### **1-2-2. The Court's Advisory Opinion on Israel's Presence in the Occupied Palestinian Territories: Judgments and Directives**

After analyzing the events and reviewing the opinions, references, and necessary arguments in a 285-paragraph, 83-page process, the Court, in the last paragraph, i.e., paragraph 285, declared the following in nine clauses:

- The Court has jurisdiction to provide an advisory opinion on the requested issue. (Unanimous vote of 15 judges).
- The Court agrees to provide the advisory opinion. (14 judges in favor).<sup>1</sup>
- Israel's continued presence in the occupied Palestinian territories is illegal. (11 votes in favor out of 15).
- Israel must end its illegal presence in the occupied Palestinian territories as soon as possible. (11 votes in favor out of 15).
- Israel must immediately cease all new settlement activities and evacuate all settlers from the occupied Palestinian territories. (14 votes in favor out of 15).
- Israel must compensate for damages caused to all relevant individuals and entities in the occupied Palestinian territories. (14 votes in favor out of 15).
- All countries are obligated not to recognize the situation resulting from Israel's illegal presence in the occupied Palestinian territories and not to assist in maintaining the situation created by Israel's continued presence in the Palestinian territories. (12 votes in favor out of 15).

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1. One of the judges of the Court, named Sebutinde, who holds Ugandan citizenship, has voted in favor of Israel in all cases related to Palestine and Gaza, including the three provisional measures of the Court and the advisory opinion under discussion. The Ugandan government has stated that her opinion does not represent the position of the Ugandan government and is her personal view. The positions of the Ugandan government are those expressed in the General Assembly and other international bodies.

- International organizations, including the UN, are obligated not to recognize the situation resulting from Israel's illegal presence in the occupied Palestinian territories. (12 votes in favor out of 15).
- The UN, especially the General Assembly that requested this opinion, and the Security Council must consider specific methods and necessary measures to end Israel's illegal presence in the Palestinian territories as soon as possible. (12 votes in favor out of 15). (Ibid, para. 283).

It is important to note that, in accordance with the obligation outlined by the Court in Clause 9 of its advisory opinion, the General Assembly and the Security Council of the UN were mandated to take action. In response, the General Assembly adopted a comprehensive resolution that outlined the process for implementing the advisory opinion. Notably, the resolution specified that "Israel must promptly terminate its illegal presence in the occupied Palestinian territories, with implementation to occur within a maximum of 12 months following the adoption of this resolution." (A/ES-10/L.31/Rev.1(13 September 2024).

### **1-3. The ICC's Issuance of Arrest Warrants for Netanyahu and Galant in Connection with Alleged War Crimes**

On November 21, 2024, the ICC released a statement on its website, announcing that the "First Pre-Trial Chamber of the ICC," composed of judges Nicolas Guillou (France), Reine Adélaïde Sophie Alapini-Gansou (Benin), and Beti Hohler (Slovenia), had reached unanimous decisions regarding the situation in the State of Palestine. Firstly, invoking Articles 18 and 19 of the Rome Statute, the Court dismissed Israel's objections. Secondly, it issued arrest warrants for "Benjamin Netanyahu," the Prime Minister, and "Yoav Galant," the former Minister of War of Israel, for alleged "crimes against humanity" and "war crimes" committed between October 8, 2023, and at least May 20, 2024.<sup>1</sup>

#### **1-3-1. Israel's Objections to ICC Jurisdiction and Their Rejection by the Court**

On May 20, 2024, the ICC prosecutor presented the investigations conducted, along with the necessary evidence, documentation, and proof regarding the war crimes and crimes against humanity committed by Netanyahu and Galant between October 8, 2023, and at least May 20, 2024, to the Pre-Trial Chamber for the issuance of

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1. <https://www.icc-cpi.int/news/situation-state-palestine-icc-pre-trial-chamber-i-rejects-state-israels-challenges>

arrest warrants. (Ibid).

- **Regime's Objections:** On September 26, 2024, Israel requested the Court to, first, declare that, pursuant to Article 19(2) of the Rome Statute, the ICC does not generally have jurisdiction over the situation in the State of Palestine or over crimes committed by Israeli nationals. (Ibid). Second, Israel sought an order to suspend any proceedings related to the situation, including the examination of arrest warrant requests for "Benjamin Netanyahu" and "Yoav Galant," and to instruct the prosecutor to issue a new notification to Israeli authorities to initiate investigations (Ibid), under Article 18(1) of the Rome Statute. (ICC Statute, Article 18, Para. 1).
- **Court's Decision on Israel's Objections:** He Court rejected all the requests for the following reasons. The First Pre-Trial Chamber of the ICC addressed the Israeli regime's jurisdictional objection, stating that "for the ICC to exercise jurisdiction, as previously affirmed by the First Pre-Trial Chamber, Israel's acceptance of the Court's jurisdiction is not required, as the ICC can exercise jurisdiction based on the territorial jurisdiction of the State of Palestine." (Ibid).

Regarding the second objection, the Chamber concluded that, under Article 19(1)<sup>1</sup> of the Rome Statute, states are prohibited from contesting the Court's jurisdiction under Article 19(2) before an arrest warrant is issued. Therefore, Israel's objection was considered premature<sup>2</sup> and legally without merit.<sup>3</sup> Furthermore, the Court rejected Israel's request to suspend the examination of arrest warrants for Benjamin Netanyahu and Yoav Galant and to issue a new notification to Israeli authorities to initiate investigations, noting that Israel had already been informed of the commencement of investigations in 2021.<sup>4</sup>

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1. Article 19, Paragraph 1 of the ICC Statute: "The Court must be satisfied that it has jurisdiction over a case brought before it. The Court may, on its own initiative, determine the admissibility of a case in accordance with Article 17 of the Statute."

2. Article 19, Paragraph 2 of the ICC Statute: "A challenge to the admissibility of a case on the grounds referred to in Article 17 or a challenge to the jurisdiction of the Court may be made by: (a) An accused or a person for whom a warrant of arrest or a summons to appear has been issued under Article 58; (b) A State which has jurisdiction over the case, on the ground that it is investigating or prosecuting the case or has investigated or prosecuted."

3. In rejecting this objection, the Court notes that this decision does not prejudice any future challenges to the Court's jurisdiction or the admissibility of the case.

4. <https://www.icc-cpi.int/news/situation-state-palestine-icc-pre-trial-chamber-i-rejects-state-israels-challenges>

### 1-3-2. Alleged War Crimes and Crimes Against Humanity in Gaza

Despite the threats issued by the majority leader of the U.S. Senate and the extraordinary warnings from Yossi Cohen, the former head of Mossad, the ICC remained firm in its position. After six months of challenges and developments, the ICC judges issued arrest warrants for Benjamin Netanyahu and Yoav Galant in connection with crimes committed during the Israel-Hamas war. In order to safeguard witnesses and maintain the confidentiality of the ongoing investigations, the arrest warrants were classified as "secret," and their full details were not made publicly available. However, the Court determined that certain aspects of the actions described in the warrants were ongoing, and disclosing some details would further the interests of the victims and their families. As a result, several instances of the alleged crimes were highlighted in a press release.

The revelations of these crimes underscore the brutal and inhumane nature of the actions attributed to the leaders of the Israeli regime, with some specific instances detailed by the Court. The press release outlines key war crimes and crimes against humanity attributed to Netanyahu and Galant in Gaza, including:

- **Deliberate Attacks on the Civilian Population in Gaza:** The Court found that Netanyahu and Galant, as senior officials, are criminally responsible for deliberate, widespread, and systematic attacks targeting Gaza's civilian population.
- **Killing, Persecution, and Inhumane Acts Leading to Severe Suffering and Destruction of Part of the Civilian Population in Gaza:** Both individuals bear criminal responsibility for committing war crimes and crimes against humanity, including killings, persecution, and other inhumane acts.
- **Deliberate Deprivation of Basic Necessities to Gaza's Civilian Population:** The restrictions imposed by Netanyahu and Galant, including power cuts and reduced fuel supply, severely disrupted access to essential resources like water and hindered medical services in Gaza.
- **Obstruction of Humanitarian Aid:** The Court's findings indicate that Netanyahu and Galant violated international humanitarian law by obstructing humanitarian aid and relief efforts aimed at Gaza.
- **Starvation as a Tactic of Warfare:** Based on reasonable evidence, the Court declared that Netanyahu and Galant knowingly and deliberately deprived Gaza's civilian population of essential survival items such as food, water, medicine, and fuel from October 8, 2023, to at least May 20, 2024.

- **Creating Conditions Leading to Civilian Deaths Due to Malnutrition and Dehydration:** The actions of Netanyahu and Galant contributed directly to the deaths of civilians, including children, through the imposition of conditions that led to malnutrition and dehydration
- **Creating Conditions Leading to Surgery Without Anesthesia and Inadequate Medical Equipment, Causing Severe Suffering:** Netanyahu and Galant are responsible for creating conditions that inflicted significant suffering on individuals in need of medical care. Their actions, including restricting the entry of essential medical supplies such as anesthesia and other critical medications, led doctors to perform surgeries, including amputations, without proper anesthesia. In some cases, medical staff were forced to use inadequate and unsafe methods to alleviate pain, resulting in extreme suffering, particularly among children.

These findings, which paint a disturbing picture of the humanitarian crisis in Gaza, underline the grave responsibilities held by Netanyahu and Galant for their actions.

### **1-3-3. The ICC's Position on Genocide, War Crimes, and Crimes Against Humanity in Gaza**

On December 29, 2023, South Africa, citing the 1948 Genocide Convention, filed a lawsuit and sought a ruling against the Israeli regime in the ICJ for violating the Genocide Convention. The case is currently under review at the Court, and three interim orders have been issued so far, which are unprecedented. (ICJ; South Africa v. Israel, Orders (24 May 2024), (28 March 2024), and (26 January 2024).

The interim order issued by the Court has the potential to significantly influence the future of the case. Given the issuance of this order and the Court's jurisdiction, it appears likely that jurisdiction will be fully established and that the recognition of genocide in Gaza is attainable, with the opposing party unable to present viable obstacles.

In conjunction with the International Court of Justice, the ICC has underscored the commission of two additional types of crimes-war crimes and crimes against humanity-by the aforementioned individuals in Gaza through the issuance of arrest warrants. Moreover, the ICC has implicitly acknowledged the occurrence of genocide against the population of Gaza by these individuals. The Pre-Trial Chamber has indicated that "reasonable evidence may

exist suggesting that the shortages of food, water, electricity, fuel, and specific medical supplies have created conditions that lead to the destruction of parts of the civilian population in Gaza." Furthermore, the Court believes, based on credible grounds, that some of this conduct was motivated by political or national considerations.

## **2. Obligations of States and International Organizations in Enforcing the ICC's Arrest Warrant for Netanyahu and Galant**

The review of the ICC's arrest warrant for Benjamin Netanyahu and Yoav Galant reveals several obligations for the international community. Notably, these obligations pertain to the duties of both member states of the ICC and other international organizations in enforcing the arrest warrant and cooperating with the Court's directives.

As of now, 124 countries are signatories to the Rome Statute of the ICC. Due to the Court's lack of executive and police powers, it relies heavily on its member states to execute its arrest warrants. These countries are legally bound by their treaty obligations under the ICC Statute, which mandates them to cooperate with the Court and implement its decisions. Therefore, all ICC orders, including the arrest warrant for Netanyahu and Galant, are considered treaty obligations for member states. Consequently, these states bear the responsibility of arresting the two individuals named in the warrant.<sup>1</sup>

This principle is echoed in the advisory opinion of the ICJ from July 9, 2004, which clarified that all member states of the Fourth Geneva Convention are obligated to ensure Israel's compliance with international humanitarian law. ( ICJ; Legal Consequences Advisory Opinion, 19 July 2004, paras. 159), By analogy, it follows that member states of the ICC Statute are similarly bound to adhere to and execute the orders of the Court, including arrest warrants. States, therefore, have both negative and positive obligations. The negative obligation requires states not to impede the arrest of individuals within their jurisdiction by entities tasked with cooperating with the ICC. The positive obligation compels them to take proactive measures to arrest the individuals named in the warrant, in this case, Netanyahu and Galant. This framework of obligations is pivotal in ensuring that the ICC's authority and

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1. Josep Borrell, the EU's High Representative for Foreign Affairs, responded to the arrest warrants for Netanyahu and Gallant on X, stating: "These decisions are binding for all EU member states that have signed the Rome Statute (the international treaty that established the ICC)."

judicial processes are upheld by all member states, ensuring the enforcement of justice as outlined by the Court's mandates.

The issue of whether non-member states of the ICC are obligated to comply with the arrest warrants issued for Netanyahu and Galant raises significant questions about the nature of their responsibilities. At first glance, it may appear that non-member states lack treaty obligations in relation to the ICC's warrant. However, this perspective fails to capture the full scope of the issue. A more comprehensive approach requires considering not only the treaty obligations of states party to the Rome Statute but also the broader, universal obligations (*Erga omnes*) that all states have toward the international community.

Many of the violations identified in the Gaza conflict, as outlined in the arrest warrants for Netanyahu and Galant, are classified as peremptory norms (*jus cogens*) under international law. These norms are universally binding, irrespective of a state's membership in the Rome Statute. Thus, all countries, regardless of their status as ICC member states, are obligated to cooperate with the ICC regarding the situation in Palestine, including the enforcement of arrest warrants.

This principle is affirmed by the UN Independent Commission of Inquiry on the Occupied Palestinian Territory. In a report published to implement the ICJ's advisory opinion, the Commission stated that the violations identified in the Gaza case are peremptory norms, which create universal obligations for the international community. (Commission: "Legal analysis and recommendations, 18 October 2024. para. 33).

As a result, the Commission concluded that all states, whether members of the Rome Statute or not, must cooperate fully with the ICC's investigations into the situation in Palestine. (*Ibid*) Consequently, non-member states are also required to assist in executing the arrest warrant for Netanyahu and Galant. This understanding underscores the universal scope of the international community's responsibility to uphold justice, regardless of membership in specific legal frameworks

The arrest warrants issued for Benjamin Netanyahu and Yoav Galant by the ICC impose significant obligations on both governmental and non-governmental international organizations. These organizations are bound to cooperate with the ICC either through established cooperation agreements or as part of their broader international missions. Legally, this represents a minimum expectation for international organizations to engage with one

another in the pursuit of justice.

Additionally, both the ICC and the Independent Commission of Inquiry on the Occupied Palestinian Territory have highlighted that several violations identified in the Gaza conflict are classified as peremptory norms (*jus cogens*). Such norms are universally binding on all states and international entities, irrespective of specific agreements or membership in particular legal frameworks. (Ibid). Consequently, the obligation for international organizations to cooperate and implement the ICC's orders is clear and unambiguous. This universal responsibility underscores the importance of collective action in enforcing international justice and upholding international law.

### **3. Actions of International Organizations and Institutions Regarding Israeli Aggression**

During its tenth emergency special session on September 13, 2024, the UN General Assembly adopted Resolution No. 24/10 with 124 votes in favor and 14 votes against, grounded in Clause "G" of the "Advisory Opinion of the ICJ on the Legal Consequences of Occupation." This clause asserts that the UN, particularly the General Assembly and the Security Council, should consider precise methods and additional measures necessary to promptly end Israel's illegal presence in the occupied Palestinian territories. The resolution specifies the concrete steps and actions required from Israel, as the occupying power, as well as from other countries and international organizations.<sup>1</sup> A summary of the resolution indicates that recent resolutions have adopted a more severe tone, employing clearer language and more specific mechanisms to address the actions of the Zionist regime. The ongoing violations committed by Israel, coupled with its disregard for numerous resolutions, have prompted the international community, particularly the UN General Assembly, to adopt more stringent measures in response. This initiative calls for the establishment of a committee composed of various countries tasked with monitoring these resolutions and enforcing judicial decisions at both national and international levels. (S/RES/2712 (2023)).

The UN Security Council has also taken significant steps in responding to the situation. Several resolutions have been passed, beginning with **Resolution 2712**, adopted on November 15, 2023

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1. To get more information about the content of the mentioned resolution, you can refer to the General Assembly Resolutions, Emergency Sessions section of the UN.



(S/RES/2712 (2023), which expresses concern over the humanitarian situation in Gaza and calls for an immediate humanitarian pause, the creation of a humanitarian aid corridor, and the release of hostages by Hamas. On December 22, 2023, **Resolution 2720** emphasized the importance of Resolution 2712 and stressed that the Gaza Strip is part of the occupied territories since 1967, advocating for a two-state solution and appreciating the diplomatic efforts of Egypt and Qatar. (S/RES/2720 (2023). This was followed by **Resolution 2728** on March 25, 2024, (S/RES/2728 (2024), which expressed concern over the humanitarian situation and called for a ceasefire during Ramadan, condemning terrorist acts and hostage-taking. **Resolution 2735** adopted on June 10, 2024, (S/RES/2735 (2024), approved a comprehensive ceasefire plan in three phases: an immediate ceasefire and release of hostages, the withdrawal of Israeli forces from Gaza, and the reconstruction of Gaza.

Furthermore, the UN General Assembly has passed several significant resolutions. Among them is **Resolution 78.121**, (A/RES/78/121 (2023), passed on December 13, 2023, titled "Assistance to the Palestinian People," which emphasizes the unstable situation in Gaza and calls for a lasting ceasefire. **Resolution 78.192**, (A/RES/78/192 (2023), passed on December 22, 2023, underscores the Palestinian people's entitlement to self-determination and advocates for a two-state solution. Additionally, **Resolution 78.251**, (A/RES/78/251 (2023), passed on December 28, 2023, condemns the killing of UN staff and calls for respect for international humanitarian law in Gaza.<sup>1</sup> Other resolutions, such as **Resolution 78.73**, (A/RES/78/73 (2023), and **Resolution 78.74**, call for immediate action to ensure the protection of civilians and to assist Palestinian refugees, (A/RES/78/7, (2023).

On one hand, the emergency session resolutions have been pivotal in urging compliance with international law. For example, the **Resolution of the Emergency Session on October 26, 2023**, condemns the escalation of violence since October 7, 2023, and calls for the protection of civilians, adherence to international humanitarian law, and the respect of the two-state solution, (A/ES-10/L.25, 26 October 2023). Similar resolutions followed in December 2023 and May 2024, urging Israel to uphold its international obligations, condemn acts of terrorism, and ensure humanitarian assistance. Also, the **Resolution of the Tenth Emergency Session on September 13, 2024**, (A/ES-

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1. Proposed budget program for 2024: section 26, Palestine refugees.

10/L.31/Rev.1,13 September 2024), urges Israel to end its illegal presence in the occupied Palestinian territories, with a detailed call for specific actions, including halting settlement activities and dismantling parts of the separation wall. It also emphasizes the necessity of compensation for those affected by Israel's actions and calls for the establishment of mechanisms to monitor violations of international law, (A/RES/ES-10/24). These resolutions collectively highlight the international community's growing urgency in addressing Israel's actions in Palestine and the need for accountability through judicial mechanisms and consistent enforcement of UN decisions. Finally, the **December 11, 2024, Emergency Session Resolution**, passed with 158 votes in favor, calls for an immediate ceasefire and the swift release of hostages. It also emphasizes compliance with international law, particularly regarding the treatment of detainees and the safe delivery of humanitarian aid. Similarly, the resolution stresses the importance of ensuring the continued operations of the UN Relief and Works Agency for Palestine Refugees (UNRWA) and urges the Israeli government to allow unrestricted humanitarian aid in Gaza, (A/ES-10/L.33, 11 December 2024).

On the other hand, In response to the ongoing situation in the occupied Palestinian territories, the UN, in conjunction with international legal bodies, has outlined specific obligations for both the occupying regime of Israel and third-party countries. The UN' Independent Commission of Inquiry, in its report published on October 18, 2024,<sup>1</sup> provided an in-depth analysis of the obligations states and international organizations must uphold under international law, particularly the provisions outlined by the International Court's Advisory Opinion and Resolution No. 24/10 from the UN's Emergency Session on September 13, 2024. The Commission's report emphasized the illegality of Israel's continued occupation of Palestinian territories and outlined the duties of international institutions, organizations, and states to address the situation. According to the Commission, international actors are legally required to reject the legitimacy of Israel's occupation and take all necessary actions to end it. This includes ceasing any recognition of Israel's unlawful presence and demanding that the General Assembly and Security Council enforce measures to end the occupation, evacuate settlers, and halt settlement activities, (ICJ;

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1. [https://www.ohchr.org/sites/default/files/documents/hrbodies/hrcouncil/coiopt/2024-10-18-COI-position-paper\\_co-israel.pdf](https://www.ohchr.org/sites/default/files/documents/hrbodies/hrcouncil/coiopt/2024-10-18-COI-position-paper_co-israel.pdf)

Legal Consequences Advisory Opinion, 19 July 2024, paras. 285(8)). The report laid out the obligations of both Israel and third-party countries in the following areas:

- 1) **Ending the Occupation:** Israel is mandated to cease all illegal activities related to the territorial occupation as soon as possible, in accordance with the International Court's Advisory Opinion.
- 2) **Ceasing Settlement Activities:** Israel must immediately halt new settlement activities, evacuate settlers from the occupied territories, and provide compensation for damages caused to Palestinians and their properties. This includes restitution for confiscated lands, properties, and cultural assets since 1967, with compensation to be provided if restitution is not possible.
- 3) **Removing the Wall and Settlements:** Israel is required to remove sections of the wall in the occupied territories and dismantle all existing settlements, allowing displaced Palestinians to return to their homes.
- 4) **Legal and Policy Reforms:** Israel must abolish discriminatory laws and policies that restrict the realization of Palestinians' right to self-determination, including those that perpetuate the occupation.
- 5) **Comprehensive Action Plan:** Israel must prepare a detailed plan for the evacuation of settlers and the return of Palestinian lands, properties, and natural resources displaced since 1967.
- 6) **Reporting to International Bodies:** Israel is required to periodically report to the UN General Assembly and Security Council on its progress in fulfilling its obligations under international law, (Ibid).

Besides, third-party countries hold significant responsibilities toward the end of Israel's illegal occupation and the protection of international law. The key obligations of third countries are as follows:

- 1) **Refraining from Recognition and Assistance:** Nations must not recognize the unlawful situation arising from Israel's occupation, nor should they provide any support that sustains the occupation. This includes withholding financial, military, or political assistance that contributes to the illegal occupation.
- 2) **Non-Recognition of Territorial Claims:** Countries are obligated not to recognize any Israeli territorial or sovereignty claims regarding the occupied Palestinian territories.<sup>1</sup>

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1- For more on the principle of non-recognition, see *Legal Consequences for States of the Continued Presence of South Africa in Namibia (South West Africa) notwithstanding Security Council Resolution 276 (1970)*, Advisory Opinion

- 3) **Political and Diplomatic Relations:** Countries must not engage in any actions that acknowledge or support the illegal occupation, (UN Doc. A/RES/56/83 (2001), article 41(2)). This includes refraining from recognizing Jerusalem as Israel's capital, refraining from placing diplomatic representatives in Jerusalem, and avoiding actions that involve the de facto or de jure annexation of occupied territories.
- 4) **Review of Existing Agreements:** Governments are urged to review all treaties, agreements, and partnerships with Israel to ensure they do not contribute to the perpetuation of the illegal occupation. This may involve canceling or amending agreements that support Israel's actions in the occupied territories.
- 5) **Military Assistance and Arms Trade:** Countries must review all military agreements and arms transfers to ensure that no military support is given to Israel that could facilitate the maintenance of the illegal occupation. This includes halting any arms trade or technology transfer that could be used to uphold the occupation, as well as any research or joint military activities with Israel.  
**Complicity and Accountability:** If countries continue to assist Israel in its occupation and military actions in Gaza and the West Bank, they will be considered complicit in international wrongful acts. (Commission: "Legal analysis and recommendations, 18 October 2024, para. 33).
- 6) In particular, countries that aid in Israel's actions related to the Gaza war or other violations of international law may be held accountable for their involvement, (UN Doc. A/RES/56/83 (2001), article 16).

#### 4. Analyzing Data

The Commission's recommendations underscore the urgent need for global accountability in addressing Israel's actions and emphasize the necessity for immediate, coordinated measures by states and international organizations to end the occupation and restore Palestinian rights. Central to this call is the obligation of states to avoid complicity in international law violations, reinforcing their

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(1971), paras. 122-124; see also Talmon, S., "The Duty not to 'Recognize as Lawful' a Situation Created by the Illegal Use of Force or Other Serious Breach of a *Jus Cogens* Norm" in Tomuschat, C. and Thouvenin, J.M. (Eds), *The Fundamental Rules of the International Legal Order: Jus Cogens and Obligations Erga Omnes* (2006).

legal and moral duty to uphold justice and peace. International bodies must assert their roles through legal and diplomatic frameworks to bring an end to the illegal occupation and safeguard international peace.

Under international law, all states are obligated not to recognize the occupation or engage in actions that imply its legitimacy. This includes refraining from measures that alter the 1967 territorial status, avoid any form of annexation, and ensure clear differentiation in diplomatic, consular, and economic relations with Israel and the occupied Palestinian territories. Governments must also ensure their military, foreign aid, and business dealings with Israel do not support or perpetuate the occupation. States are tasked with preventing businesses from profiting from or operating within the occupied territories and ensuring that their actions are in compliance with their treaty obligations, which prevent recognition of Israel's sovereignty over these areas, (Commission: "Legal analysis and recommendations, 18 October 2024).

Regional organizations like the European Union must reassess treaties and agreements with Israel, eliminating any provisions that sustain the illegal occupation. This includes ensuring military relations do not contribute to the occupation, closely monitoring arms transfers, and suspending them if Israel violates international law. The Geneva Conventions and the Genocide Convention impose further obligations on states to prevent Israel from committing violations of international humanitarian law. Governments must act swiftly to cease any trade or transfers facilitating the occupation, hold accountable those engaging in such activities, and work to prevent genocide while ensuring justice is served.

In parallel, states should avoid supporting educational, academic, or cultural activities that uphold the occupation and instead support initiatives fostering justice and accountability. Full cooperation with the ICC's investigations into Palestine is required, alongside domestic legal action against individuals responsible for criminal acts in the occupied territories. Nations must also ensure compliance with international humanitarian law and take steps to prevent and punish genocide, supporting mechanisms for legal accountability at all levels. The resignation of Craig Gerard Mokhiber<sup>1</sup>, a senior UN official, serves as a powerful example of international officials taking a stand against Israel's actions, calling for reforms that promote

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1. See; <https://iaffairscanada.com/resignation-letter-craig-mokhiber-director-of-the-new-york-office-of-the-un-high-commissioner-for-human-rights-28-10-2023>

Palestinian rights and justice. This shift in global opinion reflects a growing demand for accountability and may significantly influence future international discussions on Palestine. Ultimately, the international community must act decisively, in accordance with international law, to end the occupation and ensure that all violations of human rights and international law are prosecuted and prevented.

### **Conclusion**

The events of October 7, 2023, marked a profound turning point in the history of international law and diplomacy, not only due to the scale of the Israeli regime's actions in Gaza but also because of the unprecedented global response. Since the onset of the aggression, a significant array of legal, judicial, and political actions has unfolded, underscoring the international community's growing commitment to supporting the Palestinian people, preventing genocide, and holding Israel accountable for its violations of international law. These developments, which span decisions by international courts, resolutions by the UN, and the engagement of countries and experts in global discourse, constitute a remarkable moment in the fight for justice and peace in Gaza and Palestine.

One of the most compelling aspects of the international reaction has been the issuance of judicial opinions and decisions that directly address the Israeli regime's crimes in Gaza. Notably, the arrest warrant for Israeli Prime Minister Benjamin Netanyahu and former Minister of War Yoav Galant issued by the ICC has set a significant precedent. Despite the opposition of major powers like the United States, this arrest warrant emphasizes the commitment of international judicial bodies to uphold accountability and human rights. The warrant is not only a symbolic gesture but also a binding legal document that has contributed to a broader narrative of legal action against the occupying power. This action is part of a wider range of judicial measures undertaken by international courts to address the atrocities in Gaza, setting the stage for further legal proceedings and consequences.

In parallel with the actions of the ICC, various international organizations, notably the UN and the Security Council, have played pivotal roles in shaping the legal and political landscape surrounding the Gaza crisis. Through resolutions, public statements, and diplomatic pressure, these bodies have sought to mobilize the international community to take concrete steps toward ending the occupation and restoring the rights of Palestinians. The UN General Assembly, in particular, has emphasized the need for a coordinated

global response to address the Israeli regime's violations of international law and its systematic denial of Palestinian self-determination. These international bodies have placed an increased responsibility on countries, urging them to act in accordance with their obligations under international law, including the Geneva Conventions and the Genocide Convention.

Furthermore, the recognition of Palestine's legitimate struggle has been a key element of the international community's response. Through legal rulings, judicial opinions, and political resolutions, international institutions have reaffirmed the legitimacy of Palestinian resistance and the inalienable rights of the Palestinian people. These efforts reflect a profound shift in global opinion regarding Palestine, with growing support for the Palestinian cause not only within the Arab and Muslim worlds but across a diverse range of international actors. This shift is crucial for advancing the legal and diplomatic efforts aimed at ending the occupation and achieving lasting peace.

However, the legal and judicial measures taken since October 7, 2023, are not just symbolic gestures—they create a binding responsibility for states and international organizations to take action. Governments are under a legal obligation to refrain from recognizing Israel's sovereignty over the occupied territories and to prevent any actions that could imply the legitimacy of the occupation. This includes refraining from measures that alter the territorial status established in 1967, such as the annexation of East Jerusalem, and ensuring that diplomatic, economic, and military relations with Israel do not contribute to the perpetuation of the occupation. States must ensure that their foreign policies align with international law and that their actions are consistent with their legal obligations under treaties and conventions.

For regional organizations such as the European Union, the need to reevaluate agreements and treaties with Israel is particularly pressing. The European Union must ensure that its relations with Israel do not inadvertently support the occupation or contribute to violations of international law. This includes reexamining existing military agreements, arms transfers, and economic arrangements, ensuring that no actions taken by EU member states can be construed as endorsing the illegal occupation. If violations of international law are detected, swift measures must be taken to suspend or terminate such arrangements, in line with the obligations under international law. The legal obligation to prevent genocide, as enshrined in the Genocide Convention, further compounds the

necessity of this reassessment. Governments must ensure that they are not complicit in actions that contribute to the continuation of the occupation, and they must take active steps to prevent any form of genocide in Gaza.

Moreover, the international community must also address the broader spectrum of issues related to the occupation. This includes ensuring that educational, academic, and cultural activities do not support or uphold the illegal occupation. States and international organizations must actively promote initiatives that seek to end the occupation and uphold Palestinian rights. This is an area where the influence of international public opinion can play a critical role in shaping the discourse around Palestine and Gaza. The public pressure exerted by civil society organizations, advocacy groups, and international experts is crucial for ensuring that governments and institutions fulfill their legal obligations and support the Palestinian cause.

While these actions are promising, they must be followed by concrete measures that ensure the protection of Palestinian rights, the cessation of the occupation, and the prevention of further violations of international law. The legal responsibility of states and international organizations to support the people of Gaza and Palestine is clear, and it is imperative that these obligations are fulfilled through immediate, coordinated action. The international community must continue to stand in solidarity with the Palestinian people and work tirelessly to end the occupation, ensure justice for the victims of Israeli aggression, and prevent future atrocities. Only through such concerted efforts can peace, justice, and the fundamental rights of the Palestinian people be realized.



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