

Upholding Human Rights Within the Scope of International Law Against the Palestinian

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ABSTRACT

The purpose of this study is to analyze the early history of the background of the Israeli and Palestinian conflict that caused human rights violations that occurred during the conflict, especially in the Palestinian territories where many violations of this research were carried out by providing information and analysis of international cooperation to resolve the Israeli and Palestinian conflict through the realm of international law in upholding human rights against the Israeli community Method The approach in this study is to use a normative juridical approach, namely a legal research method that examines library materials or secondary data, thus this research method is also often referred to as doctrinal legal research sourced from secondary data, legal principles, positive legal rules from library materials, laws, and court decisions. "Upholding human rights within the scope of international law against the Palestinian people in the face of aggression by the State of Israel and its allies". This method allows researchers to gain an in-depth understanding of the issues under study and provides a strong legal foundation for their analysis The results showed that many human rights violations committed by Israel against Palestinians include deliberate killings, torture, inhuman resistance, arrests without cause, confiscation, and confiscation of Palestinian property and so on. The implementation and enforcement of these rights in the Palestinian territories are often hampered by political complexity and ongoing conflict with Israel. Therefore, the promotion of human rights is imperative to ensure the completion of these rights through international cooperation and international law.

Keywords: conflict, human rights, history, law



INTRODUCTION

Human Rights commonly abbreviated as human rights are a nature that scientifically exists in humans, these human rights are rights that have been owned by a person because he is human from the womb until the human being is born and lives entitled to human rights. Every human being has human rights not because they are given to him by society or based on positive law, but because they are based on his dignity as a human being, therefore it is necessary to uphold human rights in every human being without hindrance.

Human rights serve to ensure human survival and freedom, which cannot be violated and ignored by anyone. Therefore, human rights are upheld in order to create safe and peaceful conditions. However, there are still many human rights violations that occur, one of which is war crimes. War crimes are grave violations under the Geneva Conventions. According to the Rome Statute of the International Criminal Court, war crimes are extraordinary crimes as gross human rights violations. There are many wars in this world recorded in history, but there is one war that is very complex and controversial among others. The war started a long time ago and even today the war continues. Social issues, political issues, cultural issues, and even religious issues are contained in such a long conflict. Not only the military but the people were also affected very worryingly, this war did not escape genocide from one camp. The war is in Palestine and Israel the war between Palestine and Israel has been going on for the last 7 decades.

History shows that according to Islam the Jews or Children of Israel are a small group of people in the universe of Allah Almighty, from the century BC to the present, with its myths have disturbed the world. Allah (swt) with His word describes their ugly behavior in Q.S. al-Mâ'idah/5:64, "they do mischief on the face of the earth and Allah does not like those who make mischief". Many wars in this world are recorded in history, the international world was shocked by attacks through air and ground bombings carried out by Israel against Palestinians in the Gaza Strip. This attack is aimed at paralyzing fighters called the Islamic Resistance Movement to stop its rocket attacks on Israel and stop the supply of Hamas weapons sent through underground tunnels, Israel labels Hamas as a terrorist organization in the United States and the European Union. However, by its supporters, the organization is considered a legitimate fighting force to defend Palestine from the ruthless occupation of the Jewish military.

The war between the aggression of the Israeli state and Palestine did not escape genocide from one camp. The war between Palestine and Israel has been going on for the last 7 decades, the beginning of the 20th century, precisely in 1948 after the State of Israel was disappointed because they were rejected by

Muslim states to occupy territory in Palestine according to a decision decided by the United Nations a year earlier. April 9, 1948, became a very tense day for Palestinians, precisely in the Deir Yassin area, on the other hand, Israel rolled out and submitted a Jewish Bill, the Declaration of Independence with a bill referred to by Prime Minister Benjamin Netanyahu and has received his cabinet approval on November 23, 2014, said in order to uphold the individual rights of all Israeli citizens, especially the Jews. It must be acknowledged that about two million of Israel's 8.2 million citizens are made up of Arab-Muslims.

Deir Yassin itself was the beginning of a series of events after which 200 villages in Palestinian land were uninhabited due to Israeli attacks, Deir Yassin itself had about 708 inhabitants, but unfortunately, people from the Irgun and Lechi organizations stormed and shot indiscriminately in the area, causing casualties estimated at 254 people. About 100,000 people moved to Palestine between 1920 and 1929, when there were 750,000 Palestinians. The Zionists were in full control of this migration. Jews who set foot in Palestine were met by Zionists who determined where they would live and what jobs they would get. Conflicts that have shocked the world recently After many massacres by Israel, the Palestinian people still defend their land. Starting from the intifada movement carried out in remote areas, which is synonymous with using stones to carry out resistance. Then this movement developed into a more organized what is now Hamas

The strong historical background and the existence of a religious dimension as God's promised land made Palestine chosen as a destination for European Jews for protection. The exodus of Jews intensified after the Holocaust in Europe. Armed conflict is certainly not about what every party dreams of, but it cannot be denied if the existence of armed conflict in the international world still exists today even though many countries have signed various international agreements and agreements to protect world peace and security from the emergence of armed conflicts. Israel's attacks on Palestinians have cost so many lives. Not only from the Islamic community but other world communities also sympathized with the conflict. Solidarity actions and humanitarian assistance in various forms were provided, such as medical personnel, medicine, and food sent to help the Palestinian people there.

Previous research related to the Palestinian conflict and the aggression of the State of Israel stated "Israeli-Palestinian Conflict from the Aspects of Modern History and Steps of Liberation from the Grip of Zionists" by Mohd Nor, Mohd Roslan which can be concluded that research related to the conflict between Israel and Palestine. The purpose of his study is to review from the aspects of modern

history the conflict between Israel and Palestine that occurred and propose several steps that can be presented. The study entitled "Responsibility for the Criminal Murder of Palestinian Journalists in the Israeli and Palestinian Conflict" by Devy Rachma Putri, Budi Parmono, and Pinastika Prajna Paramita concluded that this study discusses the protection of a journalist also has an important role in fulfilling the rights and obligations around the community to know and also provide and develop public opinion. This study aims to find out and explain how responsible for the killing of journalists in conflict areas, especially the Palestinian and Israeli conflicts and lawsuits that will be filed. and finally, a study entitled "Factors Inhibiting Peace" by Aos Yuli Firdaus and Yanyan Mochamad Yani explained that the Palestinian-Israeli Peace Prospect still faces various obstacles and obstacles both internally and externally.

In these three comparisons, it can be concluded that the purpose of this writing has similarities and is relevant to Palestinian society and Israel. However, this study aims to know and understand human rights within the scope of international law against the Palestinian people in the face of Israeli aggression. Therefore, the author of this paper entitled "Enforcement of Human Rights within the Scope of International Law Against the Palestinian People in the Face of Aggression by the State of Israel and Its Allies" will review more deeply the shortcomings that have not been conveyed as well as possible between the three titles.

From the introduction described above, the problem will be discussed in this study. The purpose of this article is to investigate and evaluate the efforts of international courts of law in dealing with the issue of the aggression of the state of Israel against Palestine, focusing on analyzing successes, constraints, and potential solutions that can promote peace and justice in the region.

RESULT AND DISCUSSION

History of the Birth of the Aggression of the State of Israel Against Palestine

In the 19th century agreed on steps to establish a Jewish state in Palestine then controlled by the Ottoman Turks. Palestine lies at the crossroads of three continents: Europe, Asia, and Africa. This land is occupied by three major religions namely Judaism, Christianity, and Islam. The indigenous population of Palestine, the majority of whom were Muslims, was able to live in harmony and peace with Christianity and Judaism, which at that time were very minorities. The Palestinian territories were areas that were under Ottoman rule for 400 years and lost to Britain in World War I in 1916. At that time, the Palestinian territory had

a population of 700,000 people with a composition of Arab Muslims as much as 80 percent, Arab Christians as much as 10 percent, and Jews as much as 10 percent and Israel was a small country on the eastern periphery of the Mediterranean. Israelis have a Western cultural background but live in a society with an Eastern cultural influence, while their neighborhood are indigenous residents who have lived in villages for generations. In December 1917, the British occupied Jerusalem under General Edmund Allenby. During his time as British Foreign Secretary, Arthur Balfour conveyed to the influential Zionist Lord Rothschild that Britain supported the establishment of a Jewish homeland in the Palestinian territories. This communication is known as the Balfour Declaration and is seen as the starting point of the Israeli-Palestinian conflict. The Balfour Treaty guaranteed the rights of minorities and did nothing that undermined the civil and religious rights of the territory. In 1922, the League of Arab Nations approved the British mandate over Transjordan and Palestine. The British then allowed Jewish immigrants to enter the Palestinian territories in support of the establishment of the state of Israel.

It began on November 2, 1917, during World War 1 when Arthur Balfour, who at that time was British foreign minister issued a declaration, this declaration containing 67 words marked the beginning of the formation of the state of Israel. How can a country become a homeland for another country if it does not have sovereign rights over the territory concerned, moreover, Palestine is not a wasteland that can be filled with a declaration. The Balfour Declaration also further encouraged massive immigration of ethnic Jews to Palestine. The Jewish population has increased dramatically since then, from 5 percent to 30 percent in 1935.

Since then, pro-Jewish policies have been pursued by the British. Jewish workers were paid more, the Zionist flag could fly while the Arab flag was banned. In 1948 a wave of violence raged in Palestine. Arabs who consider the UN resolution unfair often protest, while Jewish terrorist forces commit atrocities in various Palestinian villages. One striking one occurred in Deir Yassin near Jerusalem in April 1948. The Irgun and another Jewish terrorist group, Lehu massacred hundreds of villagers. On March 10, 1948, Zionist leaders, at the suggestion of David Ben Gurion agreed to the Daleth Plan. The plan was a planned act of ethnic cleansing against Palestinians. A month later Israel proclaimed its independence when Britain formally renounced its mandate in Palestine.

Israel's proclamation prompted a response from Arab states and volunteer fighters in Palestine. However, the Israeli army, which had reached a total of

50,000 personnel, had the most advanced weapons purchased from the Soviet Union and easily defeated the Arab forces that were smaller in number and minimally armed. Israel managed to control most of Palestine, while Jordan annexed the West Bank and Egypt controlled the Gaza Strip. Despite several wars with Arab states and allied groups, Israel continued to expand. Palestinians have also struggled to establish a functional government and economic stability. Palestinians have lost nearly four-fifths of UN rations. No less than 700,000 people from their side have been evicted from their homes, with no right of return to date.

Palestine declared independence on September 22, 1948, and with the help of Egypt and Jordan carried out attacks on the border with Israel in the 1950s. In 1964, Yasser Arafat founded the Palestine Liberation Organization (PLO) in exile. The movement gained legitimacy from Arab countries that saw it as the main Palestinian resistance organization. Believing that they could not defeat Israel through open war, Palestinian fighters used guerrilla tactics to fight for independence. Throughout the 1970s, plane hijackings, suicide bombings, and hostage-taking began by fighters from the PLO and the Popular Front for the Liberation of Palestine (PFLP) led by Palestinian Christian George Habash. As for the Six-Day War (Naksa) on June 5, 1967, during the six-day war against a coalition of Arab armies, Israel managed to occupy the rest of the historic Palestinian territories, which include the Gaza Strip, the West Bank, East Jerusalem, Syria's Golan Heights, and Egypt's Sinai Peninsula.

Some 50,000 Palestinians remain in the newly formed state of Israel. Yet they lived under military occupation and were even tightly controlled for almost 20 years (before they were finally granted Israeli citizenship). In late 1987, Palestinians in the Israeli-occupied territories boiled over by discrimination, arrests, bans on worship, and killings. In December 1987, an Israeli army truck rammed dead some Palestinians and sparked massive protests. The protest later became the universal Palestinian resistance known as the Intifada. During this period a group was formed that would later play a major role in the resistance, namely Hamas. A total of 1,962 Palestinians were killed, and 200 Israelis were killed.

In 2006, Palestinian elections were held to establish a Palestinian state. Hamas won a majority of 44 percent. Israel and the US refused to recognize the election results because of Hamas' stance at that time which still denied the existence of Israel. In late 2008 Israeli forces attacked several police posts and tunnels in Gaza. Hamas, which sees the attack as a violation of the ceasefire, retaliated with rocket fire. It escalated into open conflict when Israel launched

Operation Cast Lead in Gaza, inflicting thousands of civilian casualties. In February 2009, a ceasefire was signed with international mediation between the two sides.

Israel has delivered four prolonged military offensives on Gaza: in 2008, 2012, 2014, and 2021. The attacks have killed thousands of Palestinians and damaged tens of thousands of homes, schools, and office buildings and Israel has killed 1,462 civilians and nearly 500 children.

On May 10, 2021, Israel again launched an attack on Al-Aqsa Mosque, triggered by the seizure of the East Jerusalem territory of Sheikh Jarrah. After about 11 days of war, the two countries agreed on a ceasefire and the truce began on Friday, May 21, 2021. On October 7, Hamas attacked Israel by firing thousands of rockets at Israel. There were about 1,400 Israelis killed and 4,562 wounded.

The Issue of Israel Aggression Against the State of Palestine is Studied According to International Human Rights Law

Human Rights abbreviated as human rights are rights owned by every individual, these human rights are rights that have been owned by someone because he is human. In KBBI explained that human rights or human rights are rights that have been protected in international law that is in accordance with the United Nations which has been declared or commonly referred to as the Universal Declaration of Human Rights. The human rights that have been explained are in the form of the right of a human being who has the right to life, the right for someone to be able to express an opinion, the right of someone to have, and also the right of someone to freedom.

War Crimes are one of the grave violations of human rights that are included in the crime of genocide or crimes against humanity, the crime of genocide itself is a crime that denies the existence of a group of people for reasons of race, ethnicity, religion, or nation, as stipulated in the 1948 Genocide Convention and the 1998 Rome Statute.

In international law, war crimes are contained in humanitarian law which is often referred to as the law of war or the law of armed conflict, In humanitarian law, the term war crimes states that certain acts committed by war actors or parties involved in war violate the methods of humanitarian law. Certain acts may be categorized as grave breaches of humanitarian law and other (non-grave) violations. However, it is still often the case that the provisions of the 1949 Geneva Conventions and other international treaties relating to humanitarian law are not adhered to by parties to armed conflict.

International law states that civilians (all people other than combatants) must not be used as objects of violence and must be protected from all links to war, while combatants (members of the armed forces) are people who are directly involved and can be used as objects of violence when fighting but must still be protected when they become prisoners of war.

In humanitarian law, the principle of distinction states that groups that can participate directly in combat (combatants) on the one hand, and groups that do not participate and must be protected in combat are civilians, children, civilian women, medical personnel, and clergy.

This human right exists at an international level that has been monitored by the UN Human Rights Council by a treaty body namely by a human rights committee, and the rights committee from cultural, economic, and also social. Human rights courts exist in the United States, as well as human rights courts and also residents of African countries at the regional level. What has been included in this Article which regulates human rights, namely the Article of the Universal Declaration, has been accepted or promulgated by the UN General Assembly to coincide through resolution 217 A of 1948.

Under international human rights law in a state of war, it is prohibited to carry out attacks on civilians, houses of worship, and civilian homes and the Additional Protocol of 1977 specifically protects persons not taking part in hostilities (citizens or civilians, health workers, and humanitarian aid workers) and those no longer engaged in hostilities, such as wounded, sick, and shipwrecked soldiers and prisoners of war (Geneva Conventions of 1949).

Israel's human rights violations against Palestinians began on June 23, 2008, when Israelis shot Palestinian civilians collecting firewood near the Beith Lahia border crossing by an Israeli military. On the same day as the shooting incident there were two mortars landed in Gaza, in this incident there were no casualties, but what was done by Israel violated humanitarian principles. The ceasefire by Israel and the Palestinians, which Israel says is a Cast Lead operation, clearly violates the principles of humanitarian law. The basis of International Law governing the conflict between Palestine and Israel involves several instruments, including UN Resolutions and Bilateral Agreements, and the Principles of International Humanitarian Law. The instrument has maximized issuing laws or warnings to 2 countries in conflict in order to immediately resolve conflicts that occur between them. However, it seems that the Palestinian state and Israel do not want the conflict to end quickly.

On Friday, the International Court of Justice (ICJ) issued its Order in a case brought by South Africa against Israel under the Genocide Convention. The court

reiterated a statement from *Gambia v. Myanmar*: "The Court was not asked to determine definitively whether the rights that South Africa seeks to protect exist; they just need to decide whether the rights that South Africa claims and which South Africa wants to protect, are reasonable." The court held that "at least part of the rights claimed by South Africa" met the reasonable test. After both parties have submitted additional reports and other States have submitted written applications stating their positions based on facts and law.

This event further shows that the Israeli counteroffensive was so horrific that it resulted in many casualties. Every soul in the region, including children, is extremely vulnerable to Israeli attacks using advanced and highly destructive weapons that constitute a gross violation of human rights that are war crimes. So it can be said that this war crime is a gross violation of human rights that can take away human rights such as the right to life, the right to freedom, and other rights because their rights are restrained or not recognized so that it becomes a struggle in the war to take their rights back.

The International Law Court's Efforts in Resolving the Problem of Israel State Aggression.

International disputes between Israel and Palestine not only affect both countries but also that they affect international peace and order. This can be seen from the international response that condemns the conflict between the two countries. And will repeat the same event in the future by other countries. Therefore, when it comes to the loss of collective lives of large numbers of civilians and disturbing international peace and order, this is where international law is needed to resolve an international conflict.

The idea of resolving international disputes peacefully rather than the use of force has been raised for a long time. However, formally, efforts to establish institutions, legal instruments as well as technical development of solutions have only gained widespread recognition since the establishment of the United Nations (UN) in 1945. The main purpose of the United Nations is essentially to protect humanity from the danger of war, and the Charter contains detailed provisions on the maintenance of international peace and security.

As contained in Article 1 of the UN Charter, the main objectives of the UN are to establish international peace and security, keep future generations out of war, promote respect for human rights and fundamental freedoms, and encourage States to resolve conflicts through means of settlement with friendly relations. For this reason, all countries in the world without exception are obliged to maintain international peace and order.

In an effort to make peace in the chaos of the conflict between Israel and Palestine, the United Nations (UN) in this case being a mediator who seeks to cool the situation between Palestine and Israel, the UN Security Council can take action or other steps in an effort to stop the Israeli dispute with Palestine. These actions include the provision of trade embargo sanctions or economic sanctions, sabotage of communication and transportation equipment, and the termination of diplomatic relations. Apart from that, there are many resolutions put forward by the United Nations that affect the conflict between these two Middle Eastern countries. Mediation implemented by the UN is a diplomatic effort aimed at resolving conflicts. Under UN Security Council Resolutions 242 and 338, the UN has been indirectly involved in any negotiation efforts. UN involvement has been initiated since 1947, namely the separation of Palestine from the Jewish State and the Arab State through UN Security Council Resolution 181. After the outbreak of the initial war between Israel and Arabia, this direct negotiation was made by Israel to protect its interests and rights as a party that won the Six-Day War, Israel assumed that if bargaining was carried out in the United Nations then its interests and rights would definitely be limited. In this direct negotiation process, Israel submitted its request for "Land for Peace" to the Palestinian Liberation Organization (PLO).

Settlement of international disputes other than peacefully by arbitration can also be through international courts such as the International Criminal Court (ICC) and the International Court of Justice (ICJ)

South Africa has filed a lawsuit at the International Court of Justice (ICJ), a United Nations (UN) judicial body, against Israel alleging serious genocide in Gaza on January 11, 2024. The charges laid by South Africa against Israel are the crime of genocide. Genocide itself is an act aimed at destroying a nation, ethnic group, race, or religious community in whole or in part, with South Africa submitting an 84-page legal document that assesses Israel's actions as a violation of the 1948 Genocide Convention.

Israel's actions constitute a violation of the 1948 Genocide Convention, which mandates countries to prevent similar crimes. The South African legal team asserts that Israeli air, land, and sea strikes have caused the deaths of thousands of civilians as well as damaged homes and infrastructure, the killing of Palestinians in Gaza made them suffer physically and mentally and created calculated conditions for them to be physically destroyed. A lawsuit filed by South Africa calls for the ICJ to order Israel to halt military operations in Gaza, Israel launched an all-out assault on Gaza after Hamas militants attacked southern Israel on October 7, 2023, reportedly killing 1,200 people – mostly civilians – while 240

others were taken hostage. Since Israeli forces carried out the armed action, almost 2.3 million people have been forced to flee their homes at least once.

Israel has also dismissed South Africa's claim against the Palestinians, which is an accusation by arguing that its actions are legitimate in the context of defending oneself against attacks from Hamas. But in fact, there are so many acts of genocide and human rights violations committed by Israel against Palestinians that make South Africa file a lawsuit in the realm of international courts

Thus, it can be concluded that the efforts of international justice in responding to the issue of Israel's aggression against Palestine became the first agenda in the United Nations (UN) General Assembly, when the UN was only formed until now it has not been resolved despite many UN Security Council resolutions that have been issued. The Israeli and Palestinian dispute received special attention from the international community given the influence of the dispute on human rights in the country's territory, as well as international security and peace but in its development in the end the Israeli and Palestinian dispute was submitted to the international court by South Africa with the Israeli genocide crime lawsuit against Palestine.

CONCLUSION

In looking at the conflict between Palestinians and Israelis, it is important to consider the human rights framework in international law. The conflict has spanned seven decades, with complex and controversial historical roots, including land claims based on religious, political, and cultural aspects. Through historical analysis, we see that the aggression of the state of Israel against Palestine has a long background, including pro-Jewish declarations by the British in the 19th century and tragic events such as the massacre in Deir Yassin in 1948. The conflict has caused great suffering to the Palestinian population, including expulsion from their homes, as well as heavy loss of life.

In the context of international law, war crimes committed by Israel in Palestine constitute serious violations of human rights, including the prohibition against attacks on civilians and the use of excessive force. Despite international judicial efforts, such as the case filed by South Africa with the International Court of Justice, the resolution of the conflict is far from achieving adequate justice. In closing, efforts to uphold human rights in the context of the conflict between Palestinians and Israelis require a strong commitment from the international community, including international legal institutions, governments of UN member states, and civil society. A sustainable solution must be based on

humanitarian principles and justice, with real efforts to achieve sustainable peace and end the suffering of the Palestinian population.

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