

## THE EROSION OF INTERNATIONAL JUSTICE: ANALYZING THE GENOCIDE CONVENTION IN THE CONTEXT OF MIDDLE EAST CONFLICTS

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### Abstract

This article explores the relevance of the Genocide Convention of 1948 in the ongoing conflicts in the Middle East, particularly between Palestinians and their allies in Lebanon, Yemen, and Iraq, versus Israel and its Western allies. Established to prevent genocide following the atrocities of World War II, the Convention obligates signatories to act against genocide and hold perpetrators accountable. However, the current geopolitical climate suggests that national interests are increasingly overshadowing the principles of international law and justice. This paper critiques the role of the International Court of Justice (ICJ) in promoting peace amid rising tensions and examines the conflicting priorities evident in the United Nations General Assembly. Drawing on postcolonialism and communitarianism theories, this article assesses the commitment of key Security Council members to uphold global justice, particularly in response to the humanitarian crisis in Gaza. The findings indicate that without a shared moral framework and a genuine commitment to justice, the international community risks descending into chaos.

**Keywords:** Post-colonialism, Communitarianism, Justice, Conflict, United Nations (UN)

### Introduction

The Genocide Convention was established in 1948, three years after the conclusion of the Second World War. The international community, through the recently created United Nations, sought to prevent the crime of genocide from occurring in the future. Israel, a new Jewish state arising out of the horrors of the holocaust, was one of the founding members of the Convention. According to Adama Dieng (2016 N.P), the international consensus after the Second World War was that “the United Nations Charter did not go far enough in defining the rights to which it referred,” hence there was a need to “ensure that those rights should be defined and enshrined in a new body of international law”. Thus, the Convention on the Prevention and Punishment of the Crime of Genocide came into being on December 9, 1948, obliging the signatory parties to act both to prevent the crime and to punish offenders (IHL DATABASES 1948). Stanton (1998, 1) defines genocide as any act that is committed “with intent to destroy, in whole or in part, a national, ethnic, racial or religious group”. Genocidal actions include killing members of a group, causing them serious mental or bodily harm, deliberately creating for the group “conditions of life calculated to bring about its physical destruction in whole or in part”, attempting to “prevent births within the group”, and “forcibly transferring” the group’s children to “another group” (STANTON 1998:1)

In 2024, South Africa took Israel to the International Court of Justice (ICJ) on allegations of committing the crime of genocide against the Palestinians of Gaza (ICJ 2024a). As of December 8, 2024, an estimated 46,416 Gazans (ALJAZEERA 2024) had perished since October 2023, when Israel invaded the enclave in retaliation for the massacre of about 1200 Israelis by HAMAS (BBC 2024). UNRWA (2025), citing OCHA, puts the number of Gazans

who have died since September 7, 2023, at 70,369 as of December 2025. Furthermore, hundreds of Palestinians of the occupied West Bank, which Israel controls in violation of international law, have died from Israeli attacks (GLOBAL CENTRE FOR THE RESPONSIBILITY TO PROTECT 2024). These precipitous events have occurred within the context of the broader Middle East tensions that have centred on Israel's expansionist stance. Notwithstanding the United States of America's conflicted status as a regional power broker, the combustible Middle East appears to be the likely zone for further international conflict, and in the context of this paper, a potential genocide flashpoint. Given the West and Israel's systematic undermining of the Genocide Convention, and by extension, the moral and legal responsibility it enjoins on all states to act against genocide, promote and uphold international law on war and the human rights of non-combatants, are justice and world peace imperilled by a new morality predicated on national self-interest and revived imperialist logic?

The paper argues that the absence of a plausible *jus ad bellum* (just war theory) framework governing justifying and directing Israel's and the West's genocidal war in Gaza reflects a significant ethical and moral failure in international relations, underscoring the need for a reassessment of the current legal frameworks guiding the justification of war in today's world. While *jus ad bellum* has traditionally been applied to analyze military conflicts, this paper introduces a groundbreaking critique of Israel's war on Gaza by examining the specific implications of *jus ad bellum* in the context of asymmetric warfare and the geopolitical dynamics currently at play in the conflict, highlighting how the failure to adhere to these principles not only exacerbates humanitarian crises but also undermines the legitimacy of Western democracies' claim to be the custodians of democracy, global peace, human rights and the rule of war as prerequisites for security and justice.

In the next session, I present a historical Context of the Genocide Convention, followed by a brief explanation of the current geopolitical climate in which the Gaza conflict escalated into genocidal proportions. After this, I discuss the International Court of Justice (ICJ) in the context of the Gaza situation, followed by a brief explanation of the United Nations General Assembly in resolving international conflicts. This section is followed by the theoretical frameworks underpinning this paper and the challenges of upholding global justice. In the last section, I propose possible solutions to the Gaza/Palestinian Conflict.

### **Historical Context of the Genocide Convention**

The murder of over six million European Jews by the Nazis during the Second World War necessitated the need to find the survivors a state of their own. It also brought into sharp focus the unpredictability of global politics, which could spawn similar genocidal tyrannies if a just global order were not established. In the post-war period, to avert such possibilities while also ensuring future accountability for the perpetrators and justice for their victims, a new international protocol with a mandate from state signatories to prevent genocide and punish wrongdoers was required. The Genocide Convention of 1948 was therefore adopted as a response to war atrocities like the infamous Jewish holocaust (IHL-DATABASES 2024). According to the UN (2018), the adoption of the Convention was a watershed moment in the development of international criminal law and global human rights. Donna-Lee Frieze (2014) states that post-war leaders sought to "establish new international standards, laws, and treaties in the hope of preventing future crimes like those perpetrated by Nazi Germany." Winston Churchill (2003, 300) famously described the Nazi's genocide against the European Jews as a "crime without a name."

The key provisions and obligations of the Genocide Convention provide for intervention by the signing parties to prevent genocide at its onset. The members of the Convention are obliged to prevent and punish genocide. Other obligations are the enacting of legislation to give effect to the provisions of the Convention, ensuring that effective penalties

are imposed on those found guilty of the crime of genocide, trying those charged with genocide in competent tribunals, granting extraditions where genocide charges have been brought up against perpetrators, and protecting populations from genocide, ethnic cleansing, war crimes and crimes against humanity. The United Nations Responsibility to Protect Outcome Document of 2007 recognizes the need to operationalize as a principle the legal obligation to act against “the worst forms of violence and persecution” (UN 2007, N.P). This crucial document was prompted by the Rwanda genocide and the Kosovo atrocities of the same period. In the latter case, Bosnian Serbs committed war crimes against Kosovar Albanians.

The “Responsibility to Protect” document stated that state sovereignty imposes an obligation on a state to protect its own people and if it is unable or unwilling to do so, that obligation should be transferred to the international community. These legal provisions were articulated in paragraphs 138 and 139 of the 2005 World Summit Outcome Document (A/RES/60/1) (UNITED NATIONS GENERAL ASSEMBLY 2005). The said paragraphs commit each state to protect its populations from genocide, war crimes, crimes against humanity, and ethnic cleansing. They place upon the international community the obligation to take decisive collective action where member states failed or were unable to protect their populations from the crimes alluded to above, through the United Nations Security Council (UNSC) and in accordance with the Charter, on a case-by-case basis. Genocide is therefore a very serious crime, one which Jones (2006) regards as both a historical phenomenon and a modern feature.

Some recent case studies of genocide prevention and accountability include the Rwanda Genocide of 1994, the Bosnian genocide from 1992 to 1995, and the Kosovo genocide of 1998-1999. Following the death of the Rwandan president, Habyarimana, a Hutu, in a plane crash in 1994, Hutu extremist militias killed close to a million Tutsi and moderate Hutu compatriots. Regarding the Rwandan genocide, the International Criminal Tribunal for Rwanda (ICTR) was established through the United Nations Security Council, through Resolution 955 of November 8, 1994. Its mandate was to prosecute the perpetrators of serious human rights violations in Rwanda and its neighbouring states. According to Kithure Kindiki (2001), the ICTR was established through the efforts of the Rwandan government and the UNSC, culminating in Resolution 955 of 1994. George Yacoubian (2005, 21) noted that, by 2005, the ICTR had “prosecuted and convicted twenty offenders, while the Rwandan authorities have prosecuted approximately 200 offenders, and another 80, 000” persons were awaiting trial.

In the Bosnia and Herzegovina matter, Bosnian Serb militias, aided by units of the Yugoslavian Army, committed ethnic cleansing against the Bosniaks (Muslim Bosnians and Croats) who had together orchestrated the recognition of Bosnia and Herzegovina as an independent republic in 1992 after their ethnic-based parties had gained more seats in the 1990 multiparty elections (LAMPE 2026). The Bosnian War, which marked the breakup of Yugoslavia, resulted from ethnic tensions between the Serbs, who were supported by the Yugoslav Federation to which they bore allegiance, and the Muslim populations of Bosnia and Herzegovina, which, like the newly created Croat Republic, sought independence. When a referendum, boycotted by the Serbs, decided for independence, Bosnian Serb paramilitary units, aided by the Yugoslavian military units, attacked Sarajevo and other towns. Sustained NATO military intervention compelled the Bosnian Serbs to agree to negotiations that led to the Dayton Accords under which Bosnia and Herzegovina became a federation (CLINTON 2024). An international force tasked with enforcing the Accords was stationed in Bosnia and Herzegovina. Later in 1993, a UN-led International Criminal Tribunal tried the perpetrators of the genocide, which cost over 200,000 lives. It arrested Slobodan Milosevic, who was the leader of the Bosnian Serbs in 2001. Karadzic, the general in charge of Serbian forces, was arrested in 2008. Mladic was only arrested by the Serbian government in 2011 and handed over for trial by the International Criminal Tribunal for Yugoslavia (ICTY). In addition to trying the

Bosnian Serb offenders, the ICTY also tried six other Croatian perpetrators, including President Tudjman, whose government was accused of committing ethnic cleansing.

Regarding the ethnic cleansing and massacres in Kosovo, including the Precaz Massacre of February 26, 1998, and the Racak massacre on January 15, 1999, Nebojsa Pavkovic, who was the overall commander of Yugoslavia's 3<sup>rd</sup> Army, has not faced prosecution (HUMAN RIGHTS WATCH.ORG, 2001). Some of the crimes committed by the Serbian forces include destroying homes, forcibly displacing people, and summary executions (PBS.ORG, N.P). According to the US Department of State (1999, N.P), Serbian forces commenced their atrocities against Kosovar Albanians "between March and late June 1999." The US Department of State (1999, N.P) reported that "at least 6,000 Kosovar Albanians were victims of mass murder" and more than "11,000 killed in 529 known mass graves and killing sites in Kosovo." Other crimes committed by the Bosnian Serb forces in Kosovo, which the ICTY investigated, include the summary executions, exhumation of mass graves for the purpose of destroying evidence, rape, identity cleansing, and violations of medical neutrality (US DEPARTMENT OF STATE, 1999).

### **The Current Geopolitical Climate**

The current geopolitical climate is one of unprecedented international tensions, mainly fuelled by military conflicts in Eastern Europe, the Middle East, and East Asia. Furthermore, there is a moral and ethical declension regarding the application of international law, especially in the prevention of war and genocide. As the philosophers St Augustine and St Thomas Aquinas hypothesized in what is now known as the *Jus ad bellum*, there are moral requirements that must be considered before resorting to war. Some of the tenets of *Jus ad bellum* that must morally justify and guide any war are: (1) just cause, (2) right intention, (3) attainment of peace as a goal, (4) compassionate war, and (5) proportionality. This article argues that Israel's war on Gaza does not meet the above moral requirements, as well as modern derivations now commonly understood as International Humanitarian Law (IHL). For instance, Israel's allies in the West defend Israel's military action in Gaza by citing the right of self-defence and argue that HAMAS attacked first (HEINZE 2024). But as an occupying country, Israel's obligation to protect civilians, to provide humanitarian assistance, and to observe proportionality, among many other requirements, is never mentioned by that country's defenders. The moral requirement of compassion for non-combatants is also ignored, thus undermining the *Jus ad bellum* (tenet of justice), which Aquinas and modern international law emphasize.

Regarding the Middle East, the actions of Israel's allies, specifically the United States, the United Kingdom, and the European Union, which have been providing diplomatic cover for Israel in international bodies like the United Nations Security Council (UNSC) while undermining several UN Resolutions regarding the rights of Palestinians in the occupied West Bank and Gaza, are problematic. These powers have undermined international law and perverted the common understanding and application of international humanitarian law through their unconditional support of Israel in Gaza. Furthermore, Israel has received billions of dollars in military support from its allies. In the case of the United States, the funding has violated its national laws regarding supplying war weapons to parties engaged in potential genocidal actions. Petersen-Smith Khury and Hanna Homestead (2024) postulate that the Biden administration has fuelled the war in Gaza, making it complicit in war crimes. She adds that while Israel receives \$3.8 billion in annual United States of America (USA) military assistance, Congress further authorized another \$14.1 billion in April 2024. All this support has happened in violation of the Arms Export Control Act (AECA; p.l.90-629; 22 U.S.C 2751 et seq.) and Foreign Assistance Act of 1961 (FAA 87-195; 22 U.S.C 2151 et seq.), which clearly authorizes the termination of future sales and deliveries of weapons if "a recipient is found to be in substantial violation of a sale-related agreement with the United States or to be

otherwise using such defense articles for unauthorized purposes” (CONGRESSIONAL RESEARCH SERVICE 2024, 1). Furthermore, the policy directs the USA’s executive branch to restrict “certain sales of defense articles to foreign recipients found to have committed rights violations” (2024, 1).

The USA’s so-called iron-clad support for Israel has decapitated the United Nations’ function as peacemaker in current geopolitical conflicts like Gaza and soiled the West’s reputation as defenders of human rights, rule of law, and justice. The United Nations General Assembly (UNGA) report corroborates this observation when it notes its own inability to stop the spread of conflict and to bring peace in Gaza and Ukraine, while also linking this untenable global climate to the “rising level of impunity in the world” (UNITED NATIONS 2024, N.P). It further describes the present global environment as “politically indefensible and morally intolerable”. It is in this unstable international political climate that Israel has bombed both Hezbollah and Lebanese civilians, culminating in thousands of civilian deaths, destruction of homes, infrastructure, and livelihoods. It has also bombed Syria and exchanged tit-for-tat missile attacks with both Iran and its Houthi proxies in Yemen, and now, in the wake of Assad’s fall in Syria, illegally occupied the internationally agreed buffer zone in the Golan Heights and annexed Mount Hermon in the same region (ALJAZEERA 2024). Like Antonio Guterres, the UN Secretary General, said at the 2024 General Assembly, governments and actors feel “entitled to a ‘get out of jail free’ card” and the world is “in a purgatory of polarity” (UNITED NATIONS 2024, N.P). Further, according to St. Augustine’s view, there is no evidence that these actions have peace as their end.

Meanwhile, the death of more than 45,000 (UN NEWS 2024a) Palestinians in Gaza, mostly women and children, testifies to the high human cost of a collapsing global order. Rasaha Khatib, Martin Mckee and Salim Usuf (2024) highlight that counting the dead, which is a necessary exercise, has been made difficult by the destruction of infrastructure in Gaza. Israel disputes the figures of the Gaza war dead, claiming that they emanate from the Hamas-run Ministry of Health, but as Khatib, Mckee and Usuf note, the statistics are supported by independent agencies and organizations like the UN Relief and Works Agency (UNRWA). As of April 2024, the World Bank and the United Nations estimated the cost of damaged infrastructure in Gaza at \$18.5 billion (WORLD BANK GROUP 2024). Unitar.org (UNITED NATIONS INSTITUTE FOR TRAINING AND RESEARCH, 2024) reported that Israel had destroyed 66% of the infrastructure of the Gaza Strip as of September 2024. Ott, Ingram & Ferris of CBS News (2024) estimated the extent of the destruction at 72%, by September 2024. The same authors reported that 90% of the population of Gaza, which is estimated to be 2.3million, had been displaced multiple times.

Baldwin (2023) states that International Humanitarian Law (IHL) governing armed conflict and military occupation was strengthened in the Geneva Conventions of 1949, as well as by Customary International Law. It is binding even to non-signatories, including Hamas. International humanitarian law forbids the deliberate targeting of civilians or the imposition of collective punishment. Baldwin further hypothesizes that under the basic laws of war, parties cannot target civilian infrastructure. Taking civilians for use as hostages, as Hamas did in October 2023, is also prohibited, as is using them as human shields.

One of the reasons for the continuing violence in the Middle East is the renegeing of the Israeli government of Benjamin Netanyahu on the Oslo Accords, which his predecessors signed. The Oslo Accords set out the basis for a two-state solution to the Palestinian question, by which Israel and a future Palestinian state would exist peacefully, as neighbours (UNITED STATES DEPARTMENT OF STATE, n.d.). Instead, Israel under Prime Minister Netanyahu continues to occupy and annex territories recognized by the international community as the basis of a future Palestinian state. Thus, Israel’s expansionist policy has worsened an already deplorable situation in the Middle East, turning the region into a threat to international justice,

peace, and security. This cannot be regarded as predicated on the attainment of regional peace as an end goal.

### *The Role of the International Court of Justice (ICJ)*

The International Court of Justice (ICJ), also known as the World Court, was established after the Second World War. Its purpose was to advance the goal of resolving international disputes through legal means rather than war. It succeeded the League of Nations' Permanent Court of International Justice. The ICJ was established in 1945 through Article 33 of the UN Charter and the ICJ Statute, which, among other mandates, provided for the peaceful settlement of disputes among states based on international law (INTERNATIONAL COURT OF JUSTICE 2013) after the Second World War.

According to UN News (2024b), the ICJ is one of the six principal organs of the United Nations. Apart from the goal of peacefully resolving disputes between countries, it also gives legal opinions, like the most recent one on the legality of Israel's occupation of Palestinian lands. Regarding the advisory opinion on the 'Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem' the court, on July 19, 2024, found that the continued presence of Israel in the occupied Palestinian territory was unlawful, "thus entailing international legal obligations of Israel, all States, and international organizations including the United Nations" (INTERNATIONAL COURT OF JUSTICE 2024b, N.P). Further, the Court stated that Israel was under an obligation to end, as soon as possible, the illegal occupation (of the Palestinian territories), immediately cease all new settlement activities, and remove settlers from the occupied Palestinian territories, and finally, make reparations for damages to all legal or natural persons concerned in the Occupied Territories. Prime Minister Netanyahu dismissed the findings as 'absurd' (SIO 2024). He has dismissed previous findings like the ICJ's emergency interim judgment that there was a plausible risk of genocide in Israel's military operation in Gaza as "antisemitic bias" (MCKERNAN 2024, N.P). Netanyahu opined that Jewish people could not be occupiers in their own land, effectively undercutting the standing of the ICJ and the legal effect of its rulings.

### *The United Nations General Assembly and Conflicting Priorities*

The United Nations General Assembly's (UNGA) role in conflict resolution and international governance is pivotal. The UNGA was established to ensure the maintenance of global justice, peace, development, and international cooperation (UNITED NATIONS, n.d.). It provides pacifist platforms for international disputes. Apart from approving the UN budget, electing non-permanent members of the Security Council, and appointing the Secretary-General, the UNGA has championed programmes such as the Sustainable Development Goals (SDGs) and making key policies on climate change. The realization of some of UNGA's development goals has increasingly been undermined by the emergence of an unjust global order dominated by powerful members disinclined to follow international law, norms, and principles of state-to-state relations. The permanent members of the Security Council are the USA, the United Kingdom (UK), the Russian Federation, France, and the People's Republic of China; they play a key role in enforcing international law and maintaining global peace and justice. The Security Council is currently hamstrung by the often-polarized positions of the veto-holding permanent members on global geopolitics.

The now contentious right of veto has often been used counterproductively to block resolutions that may not align with the national interests and global priorities of veto-holding members, such as the United States and/or Russia. Thus, many progressive resolutions adopted by the UNGA and the UNSC have been vetoed on self-serving and often irrational grounds. Recent examples are the UNGA resolution to condemn Russia's invasion of Ukraine in February 2022 and again in 2023. Russia simply used its veto powers in the United Nations

Security Council (UNSC) to block any resolution condemning its invasion of Ukraine (TARQUINIO 2024). The United States and the United Kingdom have also used their veto powers to block resolutions calling for a ceasefire in Gaza. UNGA's increasing irrelevance and the current deadlock in the UNSC have resulted in continuing conflict in Gaza and the avoidable deaths of thousands of civilians.

Regarding the longstanding Israeli-Palestinian conflict, it is worth noting that the UNGA has been seized with this problem since the 1948 war between Arab states and the newly formed Jewish state (UN.ORG 2024). In the wake of the seizure of lands by Israel after the 1948, 1956, and 1967 wars with Arab states, the UNGA and the UNSC passed several resolutions demanding the withdrawal of Israel from those territories. For instance, UNGA's resolution 194 of 1948 called for the return of Palestinian refugees displaced during the Nakba<sup>1</sup> to their areas, which Israel had annexed. The UNSC, for its part, has passed several resolutions on the Palestinian question. Examples include Resolution 267, which condemned Israel for attempting to change the administrative status of Jerusalem, which it had claimed for itself. Resolution 267 condemned Israel for ignoring previous resolutions on the status of Jerusalem. Resolution 298 condemned Israel for changing the administrative status of Jerusalem, but was largely ignored and never enforced. Resolution 452 of 1979 condemned Israel's continued annexation of Palestinian lands in the West Bank. It was followed by Resolution 465, which deplored Israel's continuing settlements in the West Bank and called upon members to refrain from providing any assistance for Israel's resettlement programme. Resolution 471 expressed deep concern that Israel was not complying with the Fourth Geneva Convention (CRESCENT INTERNATIONAL 1998). The Fourth Geneva Convention of 1950 was a treaty that established the rules of protecting civilians during wartime and occupation (see MACAK & ORKIN 2022). Thereafter, Resolution 476 reiterated that Israel's claimed ownership of Jerusalem was null and void.

Recently, on September 18, 2024, the UNGA adopted a resolution that Israel's colonization of the West Bank and East Jerusalem was "in flagrant violation of the international prohibition of the acquisition of territory by the use of violence" (TAKAHASHI 2024, N.P). UNGA also noted the racist practices of Israel directed at Palestinians in the occupied territories. The non-binding resolution followed the Advisory Opinion (alluded to earlier) on the legal consequences of Israel's occupation of Palestinian lands, including East Jerusalem, which the ICJ found to be illegal and necessitating obligatory intervention by all states (MAUNGANIDZE 2024).

### **Theoretical Frameworks and the Humanitarian Crisis in Gaza**

The paper relies on post-colonial theory to explain the effects of the USA, the EU, and Israeli policies in the Middle East, and specifically, in the occupied territories of Palestine. Post-colonialism better explains the use of violence and racism in Gaza and the West Bank to assert colonial dominance over the colonized. Communitarianism, as it relates to global justice and responsibility, defines responsible global citizenship, especially in the context of what has become a global village. The philosophical insights on communitarianism are provided in John McMurray's conceptual framing of social humanism, in which human behaviour in relation to others must be just, responsible, and leading to a freedom that is defined in relation to others (as discussed in BEVIR & O'BRIEN 2003). Furthermore, the paper relies on Augustine's and Aquinas' *jus ad bellum* (Justice of War) theory.

In the context of the power dynamics of the Middle East, the state of Israel, a colonial state created by the West in 1948, enjoys a special position in global affairs in which it is not

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<sup>1</sup>. The Nakba is the Arab term for the disastrous expulsion of millions of Palestinians from their homes in what is today part of Israel (UN PRESS 2024).

beholden to international law. President Biden once famously pronounced this special status of Israel in the USA's Middle East policy when he said that Israel would have been created if it did not exist (AYYASH 2023). Given that the establishment of a settler colonial state on territory already occupied by the Palestinians would necessitate their displacement, thereby creating the conditions of perpetual conflict in Palestine, the attainment of peace was secondary to the colonial project of creating the state of Israel. Peace cannot be established through injustice and is not guaranteed through endless violence. Consequently, in Gaza, basic norms of international justice as embodied in the Genocide Convention have been disrupted. Gaza finds itself in a dire situation that threatens the continued existence of its people. Israel justifies its excesses in Gaza, which are now well-documented, on the right of self-defence. But this rationalization of the Gaza operation is not sustainable under international law since, as an occupying power, Israel cannot use it in the territory it occupies, and against people under its administrative authority (MILANOVIC 2023).

Euro-American support of Israel's self-defence argument strengthened Israel's defiance of international law on war and human rights. Over 63,000 Gazans have perished, infrastructure has been largely destroyed, and almost the entirety of the 2.3million residents have been displaced (SALEM 2026). Further compounding the humanitarian catastrophe, hospitals have been largely destroyed, medical personnel targeted, ambulances bombed, water and electricity cut off, and the Gaza Strip cut off from international humanitarian relief through the Israeli blockade or, in most cases, obstruction of aid delivery trucks (HUMAN RIGHTS WATCH 2024). Indeed, food trucks have been attacked, and where they have managed to reach the starving civilians, Israeli snipers have targeted the starving and those delivering the aid (HUMAN RIGHTS WATCH 2024). The moral requirement to be compassionate toward civilians during war is consistently violated.

### **Challenges to Upholding Global Justice**

The post-Second World War global order envisaged by the founders of the United Nations was designed to prevent catastrophic wars by observing norms and standards codified in international law. One such rule concerns the respect for international borders and the sovereignty of nations. Thus, the acquisition of territory by military force was prohibited. The United Nations and its organs were established to uphold global peace through international law and to establish mechanisms for dispute resolution. The ancient Greek philosopher Socrates regarded justice as a form of knowledge and virtue, which consists of understanding what is right, fair, and lawful. The contemporary notions of justice tend to define justice and right-doing in terms of narrow geopolitical objectives that undermine fairness in the global political arena. For instance, Israel, with tacit Western support, continues to invade and, in some cases, annex Arab states' lands, including Palestinian territories; the United States, on its part, invaded and occupied Afghanistan (2002-2022) and Iraq (post 9/11) —the United States still has military bases in Iraq, albeit on a limited scale (see ABDUL-ZAHRA 2024); and the Russian Federation annexed Georgia's lands in 2008 (it has been annexing Ukrainian territory since 2014, when it took Crimea). Two of the states mentioned above (the Russian Federation and the United States) have been permanent members of the UNSC since its inception. As UNSC members who are tasked with overseeing world peace, they have instead participated in the systematic erosion of international norms and principles and undermined global peace and justice, to which the United Nations owes its existence.

The current case before the ICJ, which South Africa brought against Israel, is a test case on the future of global governance norms. South Africa first brought the case against Israel in January 2024, after shocking scenes of destruction were witnessed by the world. The UNSC appeared to be paralysed by geopolitical polarities to do anything to stop the carnage. The United States, through Mr. Blinken, its Secretary of State, dismissed South Africa's charges of

genocide as ‘meritless’ (LEE, JOBAIN & MAGDY 2024). The European Union’s President Ursula von der Leyen (YOUTUBE 2023) did the same, claiming that Israel had a right to defend itself.

South Africa argued that Israel was committing the crime of genocide against the Palestinians of the Gaza Strip. It backed its claims by presenting evidence of Israel’s indiscriminate bombardment of homes, mosques, churches, hospitals, roads, and other infrastructure. It linked some of Israel’s military excesses on the Gaza battlefield to dehumanizing utterances by Israeli leaders, some of which described Gazans as human animals (ASMAR 2024) or, as in Prime Minister Netanyahu’s rhetoric, compared them to the Biblical Amalek nation, which God ordered ancient Israel to exterminate (1 Samuel 15,3-23, NKJV). Further, it rejected Israel’s self-defence argument because it did not apply to occupying powers, whose obligation it was to protect civilians in the occupied territories (KEITNER 2024). It sought provisional measures requiring Israel to stop its military actions in Gaza while the case was being decided (O’DELL 2024).

In its second application at the ICJ on May 10, 2024, South Africa sought to vary the initial provisional measures granted by the court in its earlier prayers (INTERNATIONAL COURT OF JUSTICE 2024a). It argued that Israel had not complied with earlier measures granted by the court and was possibly in contempt of court and in violation of international law. If unchecked, Israel would plunge Gaza into an unprecedented humanitarian disaster. Furthermore, by imposing a food blockade in Gaza, Israel was bent on starving the population. South Africa, therefore, requested that the court issue an order mandating an immediate ceasefire to allow aid trucks to enter Gaza and distribute much-needed food. The ceasefire order would help avert genocide. South Africa requested the Court to issue the provisional measures it sought through the exercise of its powers “under Article 41 of the Statute of the Court and Articles 73, 74, 75 and/or 76 in light of the change in the situation and/or new facts” (INTERNATIONAL COURT OF JUSTICE 2024a, N.P).

As the South African case unfolded at the ICJ, Mr. Netanyahu received a standing ovation after a defiant address to a joint sitting of the US Congress (MIS 2024). The Congress’s endorsement of Israel demonstrated the United States’ disdain for international law and defiance of the ICJ. The Congress’s celebration of a genocide accused public figure negates Augustine’s concept of morality of war, which regards war as a necessary evil if it is morally justifiable. It demonstrated the deepening divide between the Global North and the Global South, which became apparent in the arguments at the United Nations General Assembly (UNGA) in September 2024. Most countries in the Global South, with which the Russian Federation and China align themselves, sided with the South African position regarding Israel’s alleged genocidal war in Gaza. Be that as it may, the United Nations has consistently articulated the correct legal position regarding the Palestinian question through the ICJ. In turn, the ICJ has “served to affirm and clarify the application of international law, contributing to the discourse on rights, sovereignty, and legal responsibilities in conflict situations” (UN.ORG 2024, N.P). One possible reason for the U.S. Congress condoning the blatant violations of norms and principles of international humanitarian law is the United States’ geopolitical interests in a region that has rich deposits of oil. Israel violates international norms because it is conscious of its special position as the United States’ strategic ally in the Middle East. In this role, it promotes the United States’ foreign policy interests in that region, while also advancing its colonial expansionist objectives. Today, the whole world appears to have been accustomed to unconscionable brutality, accentuated by Israel’s military brutality and contempt for international law. The inertia from the global powers regarding ending this conflict has serious ramifications for peace, the rule of law, and security.

### **Proposed Solution to the Gaza/Palestine conflict**

In light of the preceding discussion, which drew on Said's post-colonialism, McMurray's social humanism, and St. Augustine's and St. Aquinas's theories of *jus ad bellum*, this paper argues that transnational ethical responsibility is the solution to the problem of Israel's and the West's undermining of global justice mechanisms represented by international law of war and humanitarian law, especially in their treatment of Palestinian civilians. Transnational ethical responsibility obligates all states, institutions, and citizens worldwide to uphold and enforce the fundamental principles of justice embedded in international legal and human rights frameworks. I argue that all nations share a collective moral duty to intervene when the weak and defenceless are threatened with annihilation by the powerful. This concept entails equitable, just, and proactive engagement grounded in existing international legal standards that promote compliance with international norms, practices, and laws. It also empowers marginalized voices to advocate for their participation in dialogues that seek just resolutions to issues like those discussed here. The exclusion of Asian voices reflects Edward Said's critique of post-colonialism, questioning the West's historical tendency to centre the human experience in the Occident. Colonial logic has marginalized and erased the cultures, knowledge systems, and contributions of the Orient, further reinforcing the dominance and marginalization of these groups. Consequently, the paper contends that resolving the Palestinian issue, deeply rooted in imperialism and colonialism, requires acknowledging the legacies of conquest, violence, and oppression as root causes of current conflicts in the Middle East. Therefore, restorative justice mechanisms aimed at alleviating the suffering and losses of Palestinians, especially Gazans, must start with the West and Israel acknowledging their collective moral failure and responsibility for the Gaza tragedy, and working toward addressing the historical grievances of victims of their moral shortcomings. St. Augustine's and St. Aquinas's ethical frameworks concerning *jus ad bellum* principles directly address the moral dilemma faced by Israel and the West in conducting an unjust imperialist war, which fails to restore peace and instead perpetuates cycles of violence. This ongoing violence can escalate into regional or even global conflict if justice does not underpin peace-making efforts in Palestine and throughout the Middle East.

### **Conclusion**

In conclusion, the Genocide Convention and the values enshrined in the post-1945 institutions of global governance, like the United Nations and its organs, have all but been rendered void, if not completely irrelevant. The Middle East and other flashpoints have created a dangerous vortex in inter-state and intra-state political relations, leading to the possibility of another deadly global military conflagration. In a global environment shorn of established international norms and principles, there is no way of preventing future genocidal wars and catastrophes. The UNGA is divided, toothless, and largely ignored by state actors like Israel, the United Kingdom, the USA, the Russian Federation, and others. Hence, many other would-be militarist powers seeking to expand their territorial borders or to exploit the vacuous state of international relations emanating from a collapsed global order may feel emboldened to pursue narrow nationalist goals through armed aggression. The present chaotic global order of injustice, lawlessness, and what the United Nations Secretary-General terms the 'purgatory of polarity' must be addressed by returning to a pacifist and just global agenda, based on the values of equality, justice, and the mutual coexistence of nations. To restore justice and global peace, a return to shared values and moral norms in global affairs is warranted. Socrates and Aristotle both regarded justice as a virtue, particularly in the areas of fairness and lawfulness

Furthermore, Socrates opined that those who regarded justice as a virtue would naturally act justly. International humanitarian law and the Genocide Convention must not merely be lofty ideals cherished by United Nations member states, but rather be upheld and

protected for global peace to prevail. In this regard, this paper reiterates the current call by progressive thinkers worldwide for an urgent reform of the United Nations Security Council, specifically regarding the much-abused, unjust, and unfair veto powers exclusively held by a few nations since the founding of the United Nations. Rather, Security Council membership should be decided by the United Nations General Assembly on an equitable, fair, and just rotational basis, and subject to regular review by member states.

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