



The Israel-Palestine Conflict: A Legal and Geopolitical Overview

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ABSTRACT

The Israel-Palestine conflict is one of the most intractable and controversial geopolitical disputes in modern history. Rooted in colonial legacies, competing nationalist movements, and overlapping religious claims, it continues to generate widespread humanitarian, legal, and political implications across the globe. This paper seeks to provide a brief but comprehensive overview of the conflict by addressing its historical evolution, major flashpoints, key legal controversies, and contemporary developments—including the 2023–24 Israel-Gaza war, the South Africa v. Israel genocide case before the ICJ, and the regional reverberations involving Iran, Hezbollah, and major global powers.

Keywords: *Israel, Palestine, Conflict, War, Crisis, Politics, Law*

INTRODUCTION

The Israel-Palestine conflict remains at the epicenter of Middle Eastern politics and international legal debate. It is more than a regional issue—it is a global flashpoint that engages international law, human rights, and the doctrines of self-determination, occupation, and sovereignty. With roots extending deep into the colonial era, the conflict has evolved through waves of violent confrontations, peace negotiations, legal proceedings, and international interventions.

Palestinians and Israelis lay claim to the same land based on vastly different historical narratives, religious significance, and political aspirations. While Israel emerged as a sovereign nation in 1948, the Palestinian quest for statehood has remained largely unfulfilled. The failure to reach a lasting resolution has resulted in a prolonged humanitarian crisis, marked by periodic escalations such as the 1967 Six-Day War, the Intifadas, and more recently, the 2023–24 Gaza War. Each new phase of violence leaves thousands dead or displaced, with civilians bearing the brunt of political decisions¹.

International law has played a prominent yet contested role in this saga. UN resolutions, International Court of Justice (ICJ) opinions, and International Criminal Court (ICC) inquiries have all attempted to address aspects of the conflict. However, geopolitical power imbalances and realpolitik continue to dilute their enforcement. As accusations of genocide, apartheid, and crimes against humanity become part of the legal discourse, the international community is once again confronted with questions of accountability and complicity. This paper explores the conflict's multifaceted dimensions—historical, legal, political, and humanitarian—and aims to provide a structured overview of its evolution and current status. It is not just a historical analysis, but a contemporary legal and political inquiry. By doing so, it contributes to ongoing debates about justice, peace, and the ethical responsibilities of the global order.

HISTORICAL FOUNDATIONS AND THE BIRTH OF THE CONFLICT

The roots of the Israel-Palestine conflict can be traced back to ancient times, but its modern foundations were laid during the 20th century with the fall of the Ottoman Empire and the emergence of nationalist movements among both Jews and Arabs. The region of Palestine, historically inhabited by a predominantly Arab population, became the focal point of Zionist ambitions to establish a Jewish homeland, catalyzed by centuries of antisemitism and persecution in Europe.

The **Balfour Declaration** of 1917, in which the British government expressed support for a "national home for the Jewish people" in Palestine, was a turning point. Britain's contradictory promises to both Jews and Arabs during World War I created the seeds of future conflict. Following the war, the League of Nations granted Britain a mandate over Palestine. Jewish immigration surged, particularly during the rise of Nazism, intensifying tensions between Jews and Arabs over land, political control, and cultural identity.

The **UN Partition Plan of 1947** proposed the division of Palestine into separate Jewish and Arab states, with Jerusalem under international control. While the Jewish leadership accepted the plan, Palestinian Arabs and neighboring Arab states rejected it as unjust and unrepresentative of the demographic makeup and historical claims of the Arab population. The declaration of the State of Israel in 1948 triggered the **First Arab-Israeli War**, during which over 700,000 Palestinians were displaced in what they call the **Nakba** ("catastrophe").

This early phase of conflict established many of the enduring issues: the status of refugees, contested sovereignty over Jerusalem, and mutual recognition of statehood. It also inaugurated cycles of violence and mistrust that continue to define the region. The legacy of colonialism, the failure of international mediation, and the militarization of nationalism on both sides have ensured that historical wounds remain open. Legal questions regarding land ownership, forced displacement, and the legitimacy of state actions began to take shape here—questions that would later form the basis for multiple cases before international courts and tribunals.

MAJOR WARS AND TURNING POINTS

The inexorable slide from latent rivalry to open warfare has produced a succession of conflicts that continue to shape Israeli-Palestinian relations and the region's strategic calculus. The **Arab Revolt (1936-39)** was the first large-scale, Arab-led effort to resist both British rule and Zionist immigration; British counter-insurgency tactics—including collective punishment and home demolitions—set a precedent later mirrored in Israeli policy.

The **1947-48 Civil War** inside Mandate Palestine, followed by the **First Arab-Israeli War**, redrew demography through mass displacement. Refugee property cases litigated after 1948 still cite principles later crystallised in **Loizidou v Turkey (ECtHR 1996)**ⁱⁱ on continuing violations.

The lightning-fast **Six-Day War (1967)** saw Israel occupy the West Bank, Gaza, East Jerusalem, Sinai and the Golan Heights. The resulting UN-brokered text, **Security Council Resolution 242**ⁱⁱⁱ, remains the fulcrum of every diplomatic blueprint—even as its "land for peace" formula is frustrated by expanding settlements. Israel's surprise on the **Yom Kippur front (1973)** proved that battlefield victory does not translate into strategic invulnerability, catalysing the first land-for-recognition bargain with Egypt at Camp David (1978).

The **1982 Lebanon War** internationalised the struggle, sowing Hezbollah's genesis and embroiling Israel in questions of proportionality addressed decades later by the ICJ's **Congo v Uganda (2005)** judgment on occupation of a neighbour's territory. Popular uprisings—the **First (1987-93)** and **Second Intifadas (2000-05)**—shifted the arena from interstate to asymmetric urban combat, bringing IDF rules of engagement under the scrutiny of Israel's own Supreme Court in **Public Committee Against Torture v Government of Israel (2006)**^{iv}.

Twenty-first-century Gaza offensives—**Operation Cast Lead (2008-09)**, **Pillar of Defense (2012)**, **Protective Edge (2014)**—prompted UN fact-finding missions and the ICC's 2021 decision to open a full investigation into crimes "on the territory of Palestine." Each round entrenched humanitarian catastrophe while hardening Israel's doctrine of "mowing the grass."

The cumulative legal residue of these wars—questions of annexation, collective punishment, indiscriminate fire and blockade—feeds directly into today's litigation before the ICJ and ICC, underscoring why historical battles remain living matters of law.

DIPLOMACY, PEACE, AND FAILED INITIATIVES

Over the decades, diplomacy has tried—and repeatedly failed—to resolve the Israel-Palestine conflict. The 1978 **Camp David Accords** brought Egypt and Israel to peace, but left Palestinians out of the negotiations. The **Madrid Conference (1991)** marked a shift in the international community's engagement with Palestinian representatives and opened the door for the **Oslo Accords** in the 1990s.

The Oslo framework was pivotal in creating the Palestinian Authority and enshrining mutual recognition between the PLO and Israel. However, its ultimate failure lies in the absence of a final status agreement, continued settlement expansion, and the second Intifada that followed.

The **2000 Camp David Summit** again tried and failed to reach a deal on Jerusalem, borders, and refugees. The **Trump Peace Plan (2020)**, or the "Deal of the Century," was widely rejected by Palestinians as heavily biased toward Israeli interests, particularly in allowing annexation of large portions of the West Bank.

The **Abraham Accords (2020)** normalized Israel's ties with the UAE, Bahrain, Morocco, and Sudan, bypassing Palestinian interests altogether. Talks of normalization with Saudi Arabia were derailed after the 2023 Gaza war. Each attempt reflects both international will and its limitations—often neglecting the underlying asymmetry between the parties.

Geopolitics and Global Responses

The conflict is not only regional but global. **U.S. foreign policy** remains central, with military and diplomatic backing for Israel remaining consistent under successive administrations, including Biden's. Despite increased calls for accountability, Congress continues to approve large arms packages.

The **EU**, while rhetorically supportive of a two-state solution, has struggled with internal divisions. Some member states advocate sanctions and embargoes, while others support Israel's right to self-defense.

The Arab League, long considered a united front, has become fragmented. Egypt and Jordan maintain peace treaties with Israel; Gulf countries are pursuing realpolitik in trade and security partnerships. **Qatar, Turkey, and Egypt** have served as intermediaries during ceasefire negotiations.

India maintains a balancing act—deepening strategic ties with Israel while supporting the Palestinian cause at international forums. Meanwhile, **China** and **Russia** have used the conflict to challenge Western dominance in diplomacy, offering alternative peace platforms and UN resolutions—though with limited traction.

CONTEMPORARY ESCALATIONS (2021-2024)

The last four years have shown how swiftly localized grievances spark regional—and even global—repercussions. Protests over forced evictions in **Sheikh Jarrah (May 2021)** escalated into an 11-day Gaza war. Israel's use of precision munitions in dense civilian areas resurrected debates over proportionality first articulated in **ICRC Commentaries on Additional Protocol I** and later parsed by the ICC in **Katanga (2014)**.

Tensions around the **Al-Aqsa Mosque compound (2022-23)** highlighted Jerusalem's status; Jordan cited Israel's actions as a breach of the 1994 peace treaty, while Palestinian petitions invoked the **Geneva Convention IV art. 53** on protection of religious sites.

The most consequential rupture came on **7 October 2023**, when Hamas's cross-border assault killed 1 200 Israelis and triggered Israel's largest mobilization since 1973. Israel's "**Operation Swords of Iron**" encompassed unprecedented aerial bombardment, a ground incursion into northern and central Gaza, and a siege cutting electricity, fuel and water. By March 2024 the Gaza Ministry of Health reported more than 30 000 Palestinian deaths, a figure contested yet impossible to ignore. Allegations of war crimes—targeting residential towers, hospitals, and UN shelters—echo those in the **Goldstone Report (2009)**^v.

Iranian-backed militias in Lebanon, Syria, Iraq and Yemen launched solidarity strikes, prompting U.S. deployments and European naval patrols—all underscoring the conflict's metastasizing potential. South Africa's **December 2023**^{vi} application to the **ICJ** under the Genocide Convention reframed global discourse: within weeks the Court ordered provisional measures demanding Israel prevent genocidal acts, allow humanitarian aid, and preserve evidence. Israel's written reply—citing **Bosnia v Serbia (2007)** to argue absence of specific intent—illustrates how past jurisprudence guides present defence.

Simultaneously, donor fatigue and politicization caused a **2024 funding freeze of UNRWA**, imperiling two million Gazans' lifeline. Social-media "information warfare" saw AI-generated images, deep-fakes and algorithmic throttling of Palestinian content, reinforcing concerns flagged in **Al-Skeini v UK (ECtHR 2011)** about extraterritorial human-rights obligations in the digital age.

These events re-energized campus protests, BDS campaigns, and legislative backlash across the West—making 2023-24 not merely another Gaza round but a watershed intertwining law, technology and transnational activism.

LEGAL ISSUES AT THE CORE OF THE CONFLICT

At heart, the dispute is a legal contest over people, territory and governance. **Self-determination**—enshrined in art. 1 of both 1966 Human Rights Covenants—was affirmed for "the Palestinian people" by the UNGA and supported indirectly by **East Timor (Portugal v Australia, ICJ 1995)**, which held that no state may act against a people's right while the issue is unresolved.

Jerusalem's sovereignty remains sui generis. Israel's 1980 Basic Law annexing East Jerusalem was deemed "null and void" by **UNSC Resolution 478**; few embassies recognise Israeli sovereignty there. Palestinians cite **Loizidou** and **Cyprus v Turkey (ECtHR 2001)** to assert continuing occupation; Israel relies on historic and religious ties, invoking **Montevideo Convention criteria** to argue unified capital status.

The **Gaza blockade**—a land-sea-air closure since 2007—is challenged under **UN Convention on the Law of the Sea** and **San Remo Manual** rules on naval blockades requiring proportionality and humanitarian exemptions.

Israel defends it as lawful belligerent siege, citing **US Civil War prize cases**; critics note ICJ dicta in the Wall opinion that measures amounting to collective punishment breach international law.

Water resource disputes over the Mountain Aquifer and Jordan River illustrate hydro-political asymmetry: Palestinians receive far below WHO minimums, while settlements flourish. Principles from the **UN Convention on the Non-Navigational Uses of International Watercourses (1997)**—equitable and reasonable utilisation—remain aspirational.

Finally, the **Right of Return** for 5.9 million registered refugees under **UNGA 194 Resolution 194(III)** clashes with Israeli demographic concerns. Comparative jurisprudence—from Bosnia to Rwanda—shows repatriation is integral to durable peace; yet no enforcement body compels implementation, underscoring a gap between declaratory law and political reality.

International Law and Israel’s Contested Actions

Israel’s occupation policies are judged primarily by **UNSC 242** and the **Geneva Conventions**. The **ICJ Wall Advisory Opinion (2004)**^{vii} held the separation barrier illegal where built beyond the Green Line, affirming duties of third states not to recognize the situation. Israel’s High Court accepted jurisdiction but approved many segments, carving a doctrine of “proportional security need.”

Settlement construction—in violation of **Geneva IV art. 49(6)**—continues; cases like **Yesh Din v IDF Commander (2009)** illustrate internal checks yet seldom yield restitution. Internationally, the **ICC Palestine investigation** treats settlements as war crimes; Israel, a non-party, contests jurisdiction via the **Oslo framework’s** unresolved final-status clauses.

The 2024 **South Africa v Israel** genocide proceedings have revived the Genocide Convention’s erga omnes nature. South Africa cites statements by Israeli officials, mass civilian casualties, and siege tactics as evidence of genocidal intent. Israel counters with self-defence arguments rooted in **Article 51 UN Charter** and the **Bosnia standard**^{viii} requiring “intent to destroy in whole or in part.” Pending merits, the ICJ’s provisional measures already influence humanitarian corridors and ceasefire talks.

Human-rights bodies document repeated violations: arbitrary detention, house demolitions, and excessive force. **Public Committee Against Torture** limited “enhanced interrogation,” yet NGOs cite continued coercive methods. The ECtHR’s **Hassan v UK (2014)**^{ix} blending IHL and IHRL adds comparative weight to arguments on Gaza detainees.

Allegations of **apartheid**—crystallised in **CERD Art. 3**—gained traction after Amnesty and HRW 2022 reports. Precedents from **Namibia (ICJ 1971)** and **South Africa’s apartheid litigation** supply legal standards for systematic domination. While politically explosive, these claims are entering courtrooms: a 2023 filing in Chile seeks universal jurisdiction for apartheid crimes against Israeli officials.

In aggregate, Israel’s contested actions reveal an expanding collision zone between power politics and peremptory norms. The law is invoked both as shield and sword, but enforcement remains hostage to geopolitical vetoes, confirming **Belgium v Senegal (ICJ 2012)**: obligations exist, yet machinery to compel compliance lags behind.

CONCLUSION & RECOMMENDATIONS

Seventy-seven years after 1948, the Israel-Palestine conflict endures as a test case for the credibility of international law. History shows that military superiority, demographic engineering, or external pressure alone cannot settle mutually exclusive national narratives. The 2023-24 Gaza war and the pending genocide case have forced a reckoning: either international norms are upheld irrespective of power, or they become discretionary tools.

KEY FINDINGS

1. Legal architecture exists—from UNSC 242 to the Genocide Convention—but selective enforcement erodes legitimacy.
2. Diplomatic initiatives fail when they ignore asymmetry and grassroots realities, as Oslo’s collapse and the sidelining of Palestinians in the Abraham Accords illustrate.
3. Humanitarian indicators—blockade-driven poverty, psychological trauma, infrastructural ruin—have reached critical levels, threatening generational stability.
4. Digital media now shapes battlefield narratives, but also magnifies disinformation, demanding new regulatory norms.
5. Geopolitical realignment (U.S.–China rivalry, Gulf-Israel normalization, Russia’s Middle-East forays) complicates consensus yet offers novel mediation channels.

PATHWAYS FORWARD

Immediate Humanitarian Measures: Enforce ICJ provisional orders, lift or ease the Gaza siege, and guarantee unhindered aid—conditions precedent to any political process.

Accountability Mechanisms: Support the ICC investigation regardless of party status; states should exercise universal jurisdiction where domestic courts are willing and able.

Revitalized Multilateralism: Reconvene a truly representative conference—bringing in regional powers, civil society, and diaspora—under a binding timetable, learning from Madrid 1991 yet avoiding Oslo’s open-ended trap.

Rights-Based Framework: Shift from territorially driven bargaining to equality of rights, drawing on South-Africa’s Truth and Reconciliation precedent; incorporate property restitution models analogized from **Bosnia’s DPA Annex 7**.

India’s Role: Leverage strategic partnerships with both sides to champion humanitarian access, share ceasefire monitoring expertise from UNIFIL, and offer neutral venues for back-channel talks.

The choice ahead is stark: perpetuate status quo violence—or cultivate a rules-based, rights-centered order where coexistence becomes pragmatically, not merely morally, imperative. Only the latter honours the universal promise of international law.

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