



Analysis of Israel's Conduct in the War against Hamas in Gaza under International Humanitarian Law: Legal Principles and Civilian Protection

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Article info

Received: 21.06.2026

Accepted: 22.10.2026

Available Online: 22.10.2026

Checked for Plagiarism: Yes

Keywords:

Gaza; Israel-Hamas war;
international humanitarian law;
principle of distinction;
proportionality; protection of
civilians

ABSTRACT

The recent war in Gaza, which has now passed its first anniversary, has been the longest war Israel has waged against the Palestinians and, in terms of the number of deaths and the destruction of Gaza's entire service and healthcare infrastructure, one of the most devastating. Under the pretext of Hamas's attack on 7 October 2023 in the south of the occupied territories, Israel launched an all-out war against a territory that has been under siege by Israeli forces for more than 20 years. This study aims to examine and analyse Israel's conduct in the war against Hamas in light of international humanitarian law. The central question is: on the basis of which principles of international humanitarian law can Israel be held responsible in this war and characterised as a war criminal? The violations attributed to Israel are sufficiently apparent that, at first sight, reference to the principles of international law may seem unnecessary. However, given the legal and argumentative nature of each legal principle, it is preferable to identify Israel's grave violations in Gaza through the principles established under international humanitarian law. The findings indicate that the Israeli occupying regime is liable under the principles of international humanitarian law set out in the four Geneva Conventions (1949), namely the principle of proportionality in attack, the principle of distinction between military and civilian objectives, and the principle of prohibiting unnecessary pain and suffering. During the war in Gaza, Israel has carried out attacks for which there is no military justification and which were conducted solely with the intention of harming civilians, thereby violating the principle of proportionality. Israel has deliberately disregarded the distinction between military and civilian facilities and has attacked sites such as schools and hospitals, in violation of the second principle. Finally, the siege, forced displacement, and starvation of the people of Gaza have caused extensive pain and suffering, indicating Israel's disregard for principles such as the prohibition of unnecessary pain and suffering in warfare.

Introduction

International humanitarian law is a branch of international law that establishes the rules governing relations among states. These rules are set out in intergovernmental agreements, treaties, conventions, customary law, and the general principles of international law. They become particularly significant during armed conflicts and in legal proceedings arising from wars and conflicts. International humanitarian law seeks to reduce human suffering and protect individuals in situations of crisis, including civilians, the wounded, and

prisoners of war (International Committee of the Red Cross [ICRC], 2021).

The Geneva Conventions are the most important instruments in this field and establish rules for the protection of victims of war. They require states to adhere to humanitarian principles during wartime and prohibit practices such as torture and the abuse of persons.

In addition to the Geneva Conventions, the Additional Protocols further clarify and develop these legal protections. They are particularly relevant to the protection of civilians during armed conflict and to addressing threats posed by non-state

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armed groups (Geneva Convention IV, 1949; Additional Protocol I, 1977).

Furthermore, certain general principles of international humanitarian law, including the principle of distinction and the principle of proportionality, require states to distinguish between military and civilian objectives when conducting military operations and to avoid unnecessary harm to civilians. More broadly, international humanitarian law seeks to uphold and protect human dignity in situations of war and crisis and requires respect for humanitarian and ethical principles by states engaged in armed conflict. The fact that many states today violate international law, particularly the rules and principles of international humanitarian law, is clear. One example is Israel's conduct in the Gaza war (2024). For a year, Israel has subjected Gaza to intense military attacks and has deliberately bombed civilians and facilities such as schools and hospitals. The killing of nearly 50,000 civilians in Gaza indicates Israel's brutal and inhumane conduct and its apparent unwillingness to accept anything short of the destruction or expulsion of the entire population of Gaza.

Accordingly, the present study aims to analyze Israel's conduct in the ongoing Gaza war (2024) from the perspective of international humanitarian law. It examines different dimensions of Israel's conduct during the war, including its military approaches and their humanitarian consequences. In light of international humanitarian law, particularly the Geneva Conventions, the study seeks to determine whether the military operations conducted are consistent with the principles and provisions of these legal instruments. It is also necessary to examine the humanitarian consequences of the war, including the number of those killed, those affected, and the condition of displaced persons. International humanitarian law emphasizes the protection of civilians, and this study seeks to clarify Israel's role in the war against Hamas in light of international humanitarian law.

In addition, the media and international institutions have an important role in monitoring and reporting on the situation. Establishing a basis for collecting and analyzing documented evidence in this regard is therefore particularly important. The study is consequently expected to contribute to a better understanding of human rights challenges in military conflicts and of the extent to which these rights are observed or violated during wartime, as well as to provide recommendations for improving the humanitarian situation in the future.

Research Background and Methodology

Extensive research has been conducted on the wars waged by Israel and the violations of the humanitarian rights of the Palestinian people and other Muslim countries. Nevertheless, Israel's year-long war against Hamas (2024), involving the killing

and displacement of civilians, the torture of prisoners, the destruction of civilian facilities, and many other actions, calls for independent legal research. The following section reviews some of the studies that have addressed Israel's recent war against Hamas and the people of Gaza.

The United Nations Human Rights Council, Independent International Commission of Inquiry (2024) examined possible violations of international humanitarian law and international human rights law by all parties to the conflict during the period from 7 October to 31 December 2023. Its findings provide an official evidentiary basis for analyzing the conduct of hostilities and their consequences for civilians. Affazul Muna (2025) also assessed the November 2023 attack on the Indonesian Hospital in Gaza under the principles of distinction and proportionality, questioning whether the available evidence justified treating the hospital as a military objective. The methodology of a study classified according to various criteria, including its purpose, timing, type of data, and characteristics of the subject. The present study adopts a descriptive-analytical research method. Data collected through the study of articles and books and through library research, a method commonly used in academic research. Library-based research is widely used in theoretical studies and constitutes part of scientific research. Accordingly, the data in this study are collected through library research. The data collection instrument consists of note-taking from sources related to humanitarian law within international law. The collected data are ultimately analysed qualitatively.

Theoretical Framework of the Study

A. Human Rights:

The term "right" is used in two lexical senses: (1) something established or true, as opposed to falsehood (Modarres, 2002, p. 25), and (2) the legal capacity and authority of individuals (Vahedi, 2017, p. 13). In its technical sense, "rights" is the plural of "right" and refers to "the body of rules that governs a society at a particular time. As far back as history can recall, human beings have always been subject to such obligations" (Katouzian, 1998, Vol. 1, p. 32). Some have also stated that "the science of law is called rights, which refers to the science of law" (Jafari Langroudi, 1997, p. 14). Accordingly, rights constitute a body of rules, systems, and regulations established to regulate relations among individuals and to maintain order, supported by adequate and effective mechanisms of enforcement (Mehrpour, 2010, p. 36).

From a lexical perspective, "human" refers to a person or human being. In its technical sense, particularly from an Islamic perspective, however, the human being is a valuable creature who should be regarded with respect as a conscious being endowed with will and free choice. "The reality of

the human being is the innate nature that is protected from alteration and change, although it takes different forms through its interaction with geographical and climatic characteristics" (Javadi Amoli, 2008, p.23). Consequently, human rights constitute "the minimum rights that God has granted to a human being simply by virtue of being human, irrespective of colour, race, language, nationality, geography, changing social circumstances, or the degree of his or her individual capacity and competence" (Bagherzadeh, 2004, p.26). Human Rights at the national and international levels are concerned with protecting human beings against suffering and hardships caused by human actions and against avoidable obstacles arising from deprivation, exploitation, repression, persecution, and all forms of mistreatment by organised and powerful groups of human beings (Aghaei, 2011, p.3).

Human rights comprise the rights and freedoms to which every human being is entitled and deserving. They encompass the fundamental and inalienable rights that are essential to the life of every individual as a human being. In this sense, human rights constitute the human right to equality, without distinction based on gender, race, religion, ethnicity, or other such characteristics. In other words, human rights embody humanity's growing hopes and aspirations for a dignified life, enabling individuals to enjoy respect and protection.

Human rights are not alien to any culture and belong to all nations. They are universal and comprehensive rights, and no person, regardless of position, may selectively accept, reject, or choose among them. Whether they concern civil, cultural, economic, political, or social matters, these rights are indivisible and interdependent. As the bloody history of the twentieth century has taught us, the absence of human rights goes beyond the denial of human dignity. Human rights constitute a particular category of rights. In their most fundamental sense, human rights are important and fundamental moral rights. From another perspective, "human rights are the principal outcome and most significant manifestation of the relationship between the individual and power, that is, the first political relationship" (Morjeon, 2001, p.12).

The need for freedom, autonomy, and related conditions is as vital to human beings as the need for power, and both are fundamental elements of politics that remain in permanent tension with one another. The true nature of politics and human rights lies entirely in the division of human beings, and through that division, the division of society between obedience and liberation. The history of politics is essentially the history of the balance between these two forces. Political thought, in essence, is repeatedly concerned with attempts to reconcile them, at least in appearance. This means that no political doctrine or regime exists, or can

exist, that claims to possess a means of bringing this political tragedy to an end and fully realizing individual entitlements. Reality compels human beings to accept this proposition. The politics of human rights likewise follows a clear and unified foundation and continually seeks to reconcile the simultaneous and conflicting demands of freedom and power. At its core, the language of human rights is also the language of the oppressed and deprived. The fundamental purpose of human rights claims is to challenge or seek to change political practices or domestic legal practices. In fact, "human rights and fundamental freedoms enable us to fully develop and use our human qualities, our reason, our talents, and our conscience and to meet our spiritual and other needs. They are based on the growing aspiration of human beings for a life in which the inherent dignity and worth of every person are respected and protected" (United Nations Human Rights, 2008, p.4). Accordingly, human rights may be defined as "the freedoms, immunities, and benefits that, according to contemporary accepted values, all human beings should be able to claim as rights from the society in which they live" (Alborzi Varki, 2007, p.19).

In any case, human rights and their protection are inherent in every individual, and all major cultures and religions have recognized and valued them. Nevertheless, different perspectives may exist concerning how these rights are understood. From a general perspective, the term "human rights" refers to the rights of individuals within society that are protected by law. From a more specific and broader perspective, human rights may be understood as a body of international instruments and legal rules intended to protect individuals and prevent the violation of their rights during armed conflicts. From the first perspective, human rights may be defined as follows: "All individuals, by virtue of their humanity, possess a minimum set of rights that are unrelated to their dignity, nationality, religion, race, colour, or sex" (Jafari Langroudi, 2013, p.131). In other words, human rights are among those rights that every person possesses simply by virtue of being human. All human beings share these rights, regardless of the rights and obligations they may have as citizens, family members, workers, or members of private or public organizations or associations. In this sense, even the most bloodthirsty torturers and the most humiliated victims are human beings and possess these rights. Although, in practice, not all individuals enjoy all of their human rights, "all human beings possess the same human rights and enjoy these rights equally" (Sharifi Tarazkuhi, 2009, p.7).

Alongside this theory, the idealist school maintains that certain rights are fundamental and necessary because of human dignity and honour and because they enable human beings to fulfil their purpose. These rights, referred to as human rights, lie beyond

the authority of the human legislator, and the legislator cannot deprive anyone of them. This theory has also been rejected by materialist schools on the grounds that human rights are continually subject to transformation and development and therefore cannot be defined. On the other hand, adherents of the universality school regard human rights as general and comprehensive rules rooted in human dignity. As René-Jean and Dupuy state, “human rights are part of the common heritage of humanity, and this heritage necessarily contains within itself the concept of universality” (Hector, 2010, p.26).

The foregoing discussion indicates that human rights possess several characteristics, the most important of which may be summarized as follows:

- ✓ Human rights are universal. This means that all individuals possess and should possess these rights because human rights are the natural and inherent rights of every member of the human family. Every human being, regardless of where they live or their race, language, gender, or religion, possesses these rights and is not required to acquire them.
- ✓ Human rights are inalienable and inseparable from the human person, because without them an individual cannot be regarded as a human being.
- ✓ Human rights are indivisible. The indivisibility of human rights prevents the establishment of a hierarchy among rights or the attribution of greater importance to certain rights at the expense of others.
- ✓ Human rights are interdependent and mutually complementary. All human rights form an integrated and complementary framework. The unity among the various dimensions of human rights, such as the right to life, is so close, reciprocal, and comprehensive that a violation in one area amounts to a violation of these rights as a whole, including political, social, economic, and cultural rights.
- ✓ Human rights are inherent and natural rights that are regarded as attributes of human personality. As defined by civilized nations, they are considered fundamental or natural rights and “are not like rights arising from a constitution that are granted to individuals as a result of their citizenship or residence in a particular country” (Bledsoe & Boczek, 1987, p.69).
- ✓ Human rights are independent rights and a divine gift. This means that they exist independently of whether they are recognized or enforced by a human authority, such as a king, government, or religious or secular authority, and remain available as standards for justification and

criticism. Taking these characteristics and the foregoing arguments together, human rights may be understood as fundamental and inalienable rights considered necessary for the survival of humankind. They comprise a set of values, concepts, instruments, and mechanisms concerned with protecting human status, standing, and dignity, with the ultimate aim of guaranteeing fundamental human rights, including the rule of just law, freedom in its various forms, and protection against ethnic, gender, and religious discrimination, together with their logical subdivisions, frameworks, and mechanisms of enforcement.

The second perspective is more specialized and specific and considers human rights to extend beyond the rights addressed within domestic law. When the term “human rights” is used in international law, it should refer to something beyond the rights recognized by domestic legal systems, because, as expressly stated in Article 2(7) of the Charter of the United Nations, matters falling within domestic jurisdiction are, in principle, unrelated to international law. Accordingly, human rights must be understood as rights that transcend domestic boundaries and extend beyond the framework of domestic political ideologies.

The body of human rights rules, however, constitutes a branch of public international law established to protect the life, health, and dignity of individuals under different circumstances. It consists of principles and rules under which individuals or groups, simply by virtue of being human, are entitled to particular standards of treatment or to exercise certain rights. There is a universal belief that human beings possess rights, although this universality becomes more difficult to maintain when it comes to defining and explaining the scope of these rights and their wide-ranging distribution. “Historical distinctions, cultural differences, economic conflicts, heterogeneous political tensions, and asymmetrical philosophical foundations have made it impossible to use a single vocabulary in the field of human rights” (Zakerian, 2014, p.87).

Following the Second World War, the idea of international protection of human rights reached its peak. The adoption of the Charter of the United Nations in 1945 provided an appropriate foundation for addressing the issue of human rights. However, because the Charter was not a comprehensive human rights instrument, gaps remained in the protection of fundamental and basic human rights. This led the United Nations to consider the adoption of an international human rights instrument. Ultimately, following the sustained efforts of the United Nations and the strong support of its member states, the Universal Declaration of Human Rights was adopted in 1948. Following its adoption, the concept of

human rights expanded, and international law developed and was codified on the basis of individualism. Accordingly, the issue of human rights constitutes the most important development in international law during the twentieth century. Human rights establish and regulate the relationship between individuals, and today even groups, and the state and state-affiliated institutions. They protect individuals and groups against the state and require states and state-affiliated institutions to respect their rights. Under human rights rules and regulations, individuals generally possess rights rather than obligations. The obligation rests with the state, which is required to respect human rights. These rights protect all human beings, regardless of colour, race, gender, religion, and other characteristics, at all times and in all places and circumstances (Mehrpour,2004, p.29).

No single definition of human rights has been established, and there is no consensus on its precise meaning. In general terms, human rights are fundamental and inalienable rights considered essential to the survival of humankind; that is, “a set of values, concepts, instruments, and mechanisms whose subject is the protection of human status, standing, and dignity” (Mehrpour,2004, p.45). However, “the purpose and ultimate aim of human rights is to guarantee the fundamental rights of individuals, and human rights seek to grant specific rights to individuals” (Siah Rostami,2006, p.232). Fundamental rights refer to individual rights and freedoms, including the rule of just law, freedom of expression and assembly, protection of life and property, and specific freedoms such as economic rights, protection against discrimination, and the rights of foreigners, together with their various subdivisions, logical frameworks, and mechanisms for ensuring their enforcement. Thus, human rights are essentially “the concept that transcends borders, and their universality is discussed in terms of the fundamental rules of human rights, such as peremptory norms.” Violations of these rights give rise to state responsibility, ranging from recommendations and the payment of compensation to military action. Following the Universal Declaration of Human Rights, various systems were developed to safeguard and more effectively implement human rights. The European Convention on Human Rights, adopted on “4 November 1950,” the Charter of the Organization of American States, adopted in “1948,” which addresses the issue of human rights in brief, and the African Charter on Human and Peoples’ Rights, adopted in “June 1981,” are prominent examples (Zakerian,2014, p.22).

B. Humanitarian law

Human rights law and international humanitarian law are two complementary branches of international law. Because they share humanitarian,

philosophical, and historical foundations as well as the common objective of protecting human rights, the two bodies of law have increasingly converged in practice. Nevertheless, their differences have been maintained because of the distinct techniques used in the interpretation and application of each set of legal rules. Their interaction and mutual influence have strengthened the protection of individuals and their rights. Human rights, therefore, refer to rights enjoyed by everyone at all times and in all places, whereas humanitarian law concerns the protection of persons in armed conflicts. Both bodies of law seek to improve the standards of treatment afforded to individuals and are concerned with the protection of persons. Despite their close relationship, however, human rights law and humanitarian law differ in several respects, particularly in the following areas: (ICRC,2021)

- ✓ **Sources and constituent instruments:**

The principal sources of human rights law include the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, both adopted in 1966. The principal instruments of humanitarian law include the Geneva Conventions of 1949, the Hague Conventions, and other similar instruments.

- ✓ **International responsibility:** In cases involving violations of human rights, states bear responsibility, whereas responsibility for violations of humanitarian law extends beyond states to include individuals who commit such violations.

- ✓ **Institutional development:** Human rights law developed within the framework of the United Nations, whereas humanitarian law emerged outside the United Nations system. In this latter development, the role of the International Committee of the Red Cross has been particularly significant.

At times, human rights law has advanced the development of humanitarian law, while on other occasions the reverse has occurred. Another characteristic shared by the two legal regimes is their capacity to apply simultaneously. In the past, it was generally understood that human rights law applied in times of peace, whereas humanitarian law applied during wartime. Today, however, this traditional distinction has largely disappeared, and the protection of human beings is regarded as the central concern of both legal regimes, whether in wartime or peacetime. Another characteristic of these two legal regimes is the existence of non-derogable rights, meaning rights that remain applicable even under emergency conditions such as war.

One of the principal distinctions between the two regimes concerns criminal law and responsibility. Unlike humanitarian law, individual criminal responsibility cannot be regarded as one of the

governing principles of the international human rights system, and its incorporation into the human rights system is exceptional and unusual. The rules of humanitarian law have historical roots because warfare has existed among human societies from the earliest stages of human life and has consistently been subject to certain rules. Concern for humanitarian considerations can be found in the wars of the Indians, particularly in the ancient epic Mahabharata, which expressly sets out rules concerning the conduct of warfare, the timing of attacks, the prohibition of attacks against civilians, and the killing of besieged persons (Sachar, 2001, p.5).

The Code of Hammurabi also contains laws concerning the conduct of hostilities and conflicts. The first systematic and codified body of humanitarian law developed by a state for its armed forces was the Lieber Code. It was adopted by the United States government in 1863 and was intended to regulate the conduct of soldiers involved in the American Civil War. This code was exclusively domestic in scope. The principal instruments of international humanitarian law are the four Geneva Conventions of 1949 and the Additional Protocols of 1977. Humanitarian law has developed considerably since the Second World War and the adoption of the Geneva Conventions and their Additional Protocols. For example, although the nature of targeting civilians has not changed, the methods by which such acts are carried out have become entirely different from those used 50 years ago as a result of technological advances. Most armed conflicts have also shifted from international to internal conflicts, and individual international responsibility has been recognized. International humanitarian law, human rights law, and international criminal law are branches of international law.

Historical experience, particularly regional and international wars, as well as domestic uprisings and political unrest in the twenty-first century, indicates that the political, social, and legal demands of large groups of people are, in many cases, expressed and pursued through such wars and internal uprisings, especially in countries that lack legal and democratic mechanisms. Governments, faced with threats to public order and security and seeking to preserve their sovereignty in such circumstances, therefore undertake measures that, in many cases, involve violence and are regarded as violations of fundamental legal standards concerning human beings. The international community cannot, therefore, remain indifferent to the legal regime governing such events. Some armed conflicts, of course, involve countries with substantial military power that, through international support, commit crimes against other nations.

It can be argued that internal and regional uprisings and violence are among the principal challenges facing human societies today. Throughout history,

many states have experienced domestic unrest and uprisings. In some cases, such disturbances have become so serious that they have threatened the national and security interests of the states concerned. To address situations that fall below the threshold of a non-international armed conflict, states generally make extensive use of force and other repressive measures, particularly through police and armed forces, to maintain or restore public order and security. Such measures are justified within the framework of the exercise of sovereign authority, public order, and the limitations arising from it, as well as in response to social and political necessities (Sharifi Tarazkuhi, 2009, p.2).

During such uprisings, many states commit violations of human rights and humanitarian law. In these circumstances, extensive violations of fundamental human rights and humanitarian standards can cause serious harm to the population, because the emotionally charged objective of maintaining order and security may be understood as granting unlimited and extra-legal power and may become equated with the absolute authority of the state (Momtaz et al., 2010, p.23). Although states are generally permitted, in situations involving domestic uprisings and unrest whose unavoidable consequence is the weakening of the rule of law, to take measures to preserve public order and security and protect the country's public interests, such measures are subject to the requirements of the circumstances. Only where the situation so requires may certain human rights obligations be suspended, notwithstanding the applicable international human rights rules, and measures may then be adopted and implemented to restore order (Vernor, 2013, p.177). International humanitarian law, for its part, does not itself establish special penalties for violators or provide for the establishment of a specific court. Instead, it requires states to incorporate domestic criminal provisions into their legal systems for the punishment of those responsible for the most serious offences and to make every effort to apprehend and prosecute suspects. In addition to national courts, international organizations and tribunals, as well as institutions affiliated with the United Nations, can play an important role in the effective implementation of humanitarian law. Humanitarian law therefore consists of specific rules applicable during armed conflict and designed to protect victims of war. In this sense, during wartime, humanitarian law may also be understood as providing a form of coverage for human rights rules, since the obligations of states to refrain from conduct that violates human rights and to protect the lives of persons under their jurisdiction are among the inherent and fundamental principles that also encompass the duty to protect individuals during armed conflict (Ziaei Bigdeli, 2022, p.82). The classical objective of humanitarian law is to reduce human suffering and limit the adverse effects of war.

Today, however, humanitarian law also seeks to ensure respect for human dignity, safeguard the right to life and fundamental human rights, and provide for the prosecution, trial, and punishment of war criminals.

Humanitarian law applies to all parties to an armed conflict, regardless of which party initiated the conflict. It encompasses all rules concerning the protection of human beings in armed conflicts. Although humanitarian law was initially applied to reduce the harm caused by war and prevent atrocities, changes in the nature of armed conflicts over the past fifty years have made the need for an independent court to enforce these rules more apparent. This branch of international law seeks to reconcile the demands of military necessity with humanitarian considerations during war. Among the principal principles of international humanitarian law are the following: (ICRC,2005a,2005b,2005e)

- ✓ The principle of proportionality in attack.
- ✓ The principle of distinction between military and civilian objectives.
- ✓ The principle of the prohibition of unnecessary pain and suffering (Saed,2014, p.130).

International humanitarian law comprises the rules and principles of international law developed to regulate the treatment of persons, whether military or civilian, wounded or uninjured, during international armed conflicts. Its purpose is to reduce human suffering during armed conflicts. Accordingly, these principles generally constitute the foundation of humanitarian law, as well as the rules governing arms limitations, the protection of military personnel during armed conflicts, and related matters (Tigerstrom,2014, p.92).

Although this term is commonly used in connection with the Geneva Conventions and the 1977 Additional Protocols, it also applies to the rules governing the methods and means of warfare and the administration of occupied territories set out in earlier instruments, such as the 1907 Hague Conventions, as well as treaties such as the 1980 Convention on Conventional Weapons. The principal foundations of international humanitarian law are the four Geneva Conventions of 1949, Additional Protocols I and II, and the 1907 Hague Conventions. The Geneva Conventions are binding on all States, while the Hague Conventions are binding not only on their states parties but are also generally regarded as reflecting customary international law. The two Additional Protocols to the Geneva Conventions were adopted to clarify and develop the rules contained in the 1949 Geneva Conventions and certain provisions of the 1907 Hague Conventions. In addition to these conventions, protocols, and other agreements addressing particular aspects of warfare and the protection of specific property, the Martens Clause should also be noted. It provides that the absence of

a prohibition of a particular act of warfare in international agreements or customary law does not necessarily mean that the act is justified. In such circumstances, civilians and military personnel remain subject to the protection and authority of the principles of international law derived from established custom, humanitarian principles, and the dictates of public conscience (Additional Protocol I,1977; Geneva Convention IV,1949).

Research findings

In international law, fundamental rules are known as “peremptory norms”, which constitute the basis of other rules, and any rule that conflicts with them is entirely invalid. A State that violates these rules incurs international responsibility. Respect for international humanitarian law is one such principle. Humanitarian law, also known as the law of war, establishes principles and rules intended to reduce human suffering during armed conflicts and to define standards governing conduct and the use of means in such circumstances (Kasseh,2006, p.175). As noted earlier, the four Geneva Conventions of 1949 and Additional Protocols I and II of 1977 are the fundamental instruments of international humanitarian law. A violation of peremptory norms, including international humanitarian law, is regarded as a serious breach of international law and may give rise to international responsibility or individual criminal responsibility. The Geneva Conventions constitute the most important international rules governing armed conflicts and were adopted on 12 August 1949 at a diplomatic conference in Geneva. These rules comprise treaties concerning the treatment of civilians, soldiers, and prisoners of war and are known as the “laws of armed conflict” or “international humanitarian law.” They were established to preserve human dignity and protect persons who do not participate in hostilities. The Geneva Conventions consist of four principal instruments, each addressing specific matters, including the protection of the wounded and sick, the treatment of medical personnel, and the rights of prisoners of war. The Additional Protocols to these conventions, particularly Protocol I (1977), also seek to strengthen oversight of compliance with these rules, particularly in relation to non-state armed conflicts, and address issues concerning civilians and human rights in conflict zones (Geneva Convention IV,1949).

The Fourth Geneva Convention of 1949 and Additional Protocol I of 1977 provide a range of guarantees concerning the rights of populations, including respect for honour, family rights, religious practices, private property, and customs. Hostage-taking, collective punishment, racial, religious, or political discrimination, the transfer or deportation of populations, and the inhumane control of food and medical supplies are prohibited. In addition, the transfer of civilians by an occupying power into

occupied territories is unlawful (Geneva Convention IV,1949; Additional Protocol I,1977).

Compliance with these rules is required of all parties to an armed conflict, and violations may lead to international investigations and prosecutions. International tribunals, including the International Criminal Court, are responsible for investigating and prosecuting individuals accused of serious violations of human rights and the laws of war. Under present conditions, compliance with the Geneva Conventions and international humanitarian law is significant not only from an ethical perspective but also from legal and political perspectives. Armed conflicts have severe effects on civilian life and produce serious humanitarian consequences. For this reason, the international community should promote and enforce these rules, and all parties, particularly those involved in armed conflicts, should understand their responsibility to comply with them.

A. The principle of proportionality in attack

As a fundamental principle of international humanitarian law, proportionality in attack is directly related to limitations on the choice of methods and means of warfare in armed conflicts. Under this principle, neither party may employ methods or means of warfare that cause harm to civilians. Accordingly, civilians must, to the extent possible, be kept away from the effects of hostilities during every attack (ICRC,2005b).

Although casualties in armed conflicts would ordinarily be expected to fall more heavily on military personnel because armed forces are directly involved in hostilities, in practice the opposite is often observed, with civilians becoming the principal victims of war. Recent conflicts, including those in Afghanistan, Iraq, Lebanon, and the recent war between Israel and Hamas, illustrate this reality. Protecting civilian populations is therefore among the principal objectives of international humanitarian law. Civilian objects, however, do not enjoy absolute immunity, and belligerent States may seek to justify resulting damage on the grounds of military necessity. In this context, the principle of proportionality is applied to assess the legality of military attacks, particularly those conducted in the vicinity of civilian populations. The principle of proportionality requires any military action to be balanced against the potential harm it may cause to civilians. This principle is intended to limit harm to civilians while also preserving the legality of military operations. In many cases, however, what is presented as proportionality can readily be used to justify abuses and disregard for human rights (Rafiei,2008, p.46).

The legality of a particular attack must be assessed with reference to the anticipated concrete and direct military advantage and the civilian harm expected from that attack. A military operation involving

several targets may require consideration of the attack in its operational context, but a claimed strategic advantage for the military campaign as a whole cannot automatically justify excessive civilian harm in an individual attack (Olásolo,2008, p.170; van Steenberghe,2024).

For example, in wars in which military operations are conducted extensively in or near residential areas, civilian casualties increase significantly. This situation is a matter of ethical concern and indicates the inadequacy of international rules in protecting civilians during armed conflict. Violations of these rules and principles may have serious and long-term consequences, including humanitarian crises and instability in affected areas. Giving priority to the lives of civilians and adopting practical measures to reduce civilian casualties should form an integral part of military strategies. International cooperation in establishing mechanisms of oversight and accountability for States and armed groups is also necessary to protect human rights and prevent violence against civilians. The international community must therefore adopt effective measures in confronting these challenges and reinforce the requirement to respect humanitarian principles so that human life is not disregarded on the battlefield. Under this fundamental principle of humanitarian law, civilians may not be made the object of attack. Accordingly, in the war between Israel and Hamas, civilians residing in Gaza are not lawful targets and, under the principle of proportionality in international humanitarian law, must be protected. An attack against a military objective that can reasonably be expected to result in civilian casualties that would be disproportionate to the military advantage anticipated from the destruction of that objective is prohibited. This rule requires the Israeli military to assess the likely effects of each attack on civilians before conducting it. If such an assessment indicates that the attack would result in disproportionate civilian casualties, the attack should be suspended or cancelled. Given the population density of Gaza, preventing civilian casualties, even through the use of precision weapons, is highly difficult and perhaps impossible for Israeli forces. The alleged use of human shields does not remove the attacking party's independent obligations of distinction, proportionality, and precautions (ICRC,2005a,2005b).

Daily Israeli attacks on various sites, including mosques, schools, and hospitals, challenge the Zionist argument that Hamas uses these facilities as military centres. Following such reasoning, there would be virtually no location in Gaza that could be regarded as civilian. Consequently, the entire Gaza Strip could be treated as a military target. By disregarding the principle of proportionality, Israel has violated not only international humanitarian law but also fundamental principles of human rights. This situation increases civilian casualties and

places the security and everyday lives of thousands of innocent people at risk. According to independent reports, many of those killed and injured are women and children who have played no role in the hostilities. This constitutes one of the most serious humanitarian crises in the region and requires urgent action by the international community and international institutions.

Moreover, the use of advanced weapons and continuous bombardment has had devastating effects on Gaza's essential infrastructure. Hospitals and medical facilities are in poor condition, while shortages of medicines and medical equipment have become major problems (Khanji et al.,2025). Under such circumstances, any attempt to justify attacks only aggravates the humanitarian crisis and increases calls from human rights organisations around the world. Allegations of genocide require a separate assessment of the applicable legal elements and evidence; related issues have been considered in provisional-measures proceedings before the International Court of Justice (International Court of Justice,2024a).

Disruptions to access to medical products also raise information and distribution questions that are distinct from the legal assessment of attacks. Research in non-conflict supply chains has examined data quality and visibility in risk management (Haghshenas Nasrabadi & Ghasemy Yaghin,2025) and traceability in pharmaceutical distribution (Jahani & Raji,2025). Neither study provides evidence about events in Gaza or establishes responsibility under international humanitarian law.

One documented incident raising questions about compliance with international humanitarian law was the attack on a tent camp for displaced persons in southern Gaza, in the Rafah area. The attack on 26 May 2024 reportedly killed 45 Palestinians, including women and children, according to the United Nations Office for the Coordination of Humanitarian Affairs (OCHA,2024). The attack raises serious questions about compliance with the rules of distinction, proportionality, and precaution, which require a fact-specific legal assessment (OCHA,2024; ICRC,2005b). It is known that Israel has not acceded to the Additional Protocols to the Geneva Conventions. However, many provisions of Protocol I have now become customary law and are therefore binding on Israel. The Israeli Supreme Court has also accepted the principle of proportionality. Accordingly, recognition of the principle of proportionality is required of Israel under both international and domestic law. In accordance with the longstanding practice of the Israeli military, following this tragedy, Israel announced that an independent investigation would be conducted. Such investigations, however, never reach a definite conclusion. In its war against Hamas, the Israeli regime has continued to exercise

effective control over the Gaza Strip. Even during the past year, it has succeeded in taking full control of the Philadelphi Corridor, the southern border area connecting Gaza to Egypt (the Sinai Peninsula). This is because the border is the only one over which Israel does not have control, and, coincidentally, the largest amounts of weapons and money are transferred to Hamas through this border and the long and deep tunnels dug beneath it. In the summer of 1403, Netanyahu stated in an interview with Reuters that if Israel did not control this southern border, Hamas would eventually revive. It can therefore be argued that, since the entire Gaza Strip is currently under Israeli control, Israel is responsible at all times for complying with the provisions of the four Geneva Conventions in accordance with its obligations towards the Gaza Strip. This is what is referred to in international law as power without responsibility.

Article 51(8) of Additional Protocol I of 1977 to the Geneva Conventions provides: "None of the provisions of this Article may be interpreted as diminishing the legal obligations of the Parties to the conflict with respect to the civilian population and civilians, including the obligation to take the precautionary measures provided for in this Article" (Additional Protocol I,1977, art. 51(8)).

Even assuming that Israel's allegation that Hamas has violated international humanitarian law is correct, Israel is not permitted to disregard the Geneva Conventions in their entirety. International humanitarian law is not based on reciprocity. Therefore, even if Israel's allegation that Hamas has violated international humanitarian law in the Gaza war were correct, such violations would not entitle Israel to disregard its own obligations under the Geneva Conventions. Israel claims that Hamas has violated the provisions of the Geneva Conventions prohibiting the military use of civilian areas and has used civilians as human shields. Even if this allegation were accepted as true, despite the existence of numerous reasons for rejecting Israel's claim, Israel would still have no right to depart from the principle of proportionality in attack under international humanitarian law (ICRC,2005c).

B: The principle of distinction between military and civilian objectives

One way of establishing a violation of the principle of distinction in an armed conflict is to examine the accuracy of the weapons used. Today, accuracy in targeting and attack is an important aspect of weapons technology. New technologies have emerged in this field that increase the transparency of aerial warfare and improve an attacker's ability to identify, detect, and assess targets. For example, the Joint Surveillance Target Attack Radar System (JSTARS) enables an attacker to engage targets by improving battle management and providing supporting information. This system is capable of

assessing an area of up to 50,000 square kilometres and identifying potential targets from a distance of 250 kilometres.

Separate research on trustworthy AI in organizational settings considers ethical and legal accountability alongside technical performance (Mohammadi Haroniyeh & Jami Pour, 2026). Although this research does not address military targeting, it provides a useful distinction between the performance of technical systems and questions of legal responsibility, which must be examined under the applicable law of armed conflict.

Israel claims that, in its war against Hamas, it has used weapons with exceptional precision, enabling it to distinguish military facilities from civilian ones. The realities on the ground and statistics reported by international organisations, however, indicate otherwise. Contrary to its claim, Israel has used the high precision and destructive capacity of its weapons to destroy military and civilian facilities throughout Gaza.

Israel's use of its superior military power and powerful weapons supplied by the United States and its European allies has inflicted severe blows on Hamas while also causing the displacement and death of countless civilians. The use of cluster munitions and the deployment of tanks in a densely populated area such as Gaza cannot be regarded merely as evidence of the Israeli military's lack of caution; rather, it indicates a predetermined plan to clear the area of all forms of habitation. In its recent war against Hamas, Israel has attacked and completely destroyed hospitals, schools, bridges, parks, nursing homes, shopping centres, bakeries, and other places that in some way supported the continued presence of the population in the area. This is because it seeks to deport the people of Gaza to the Sinai Desert. These actions by Israel undoubtedly violate the principle of distinction under the four Geneva Conventions of 1949. They constitute not only violations of human rights but also systematic planning for the physical elimination of the people of Gaza, who have lived for years under difficult conditions and a complete land, sea, and air blockade. Israel is clearly seeking to create fear and terror among the residents of Gaza in order to suppress any form of protest and prevent the continuation of any resistance. Its air and ground attacks are part of a harsh strategy that clearly demonstrates that humanitarian considerations have no place in this equation.

Another Israeli military action that violates the principle of distinction under the four Geneva Conventions of 1949 is the use of white phosphorus bombs and cluster munitions in the war against the people of Gaza. The international community first drew attention to the adverse humanitarian effects of these weapons and their indiscriminate effects during the 33-day Lebanon War. According to reports issued by the United Nations Mine Action

Coordination Centre in South Lebanon (MACC SL), approximately 943 cluster-bomb strikes were recorded, contaminating approximately 38 kilometres of southern Lebanon. For the 2023 hostilities, Human Rights Watch (2023) documented the use of white phosphorus in operations in Gaza and Lebanon. The separate allegations concerning cluster munitions require incident-specific verification. The Israeli armed forces have repeatedly used prohibited weapons, including white phosphorus bombs, cluster munitions, and explosive weapons containing metal fragments, against the people of Gaza, which constitutes a clear instance of war crimes. An examination of the crimes allegedly committed by the aggressors in the Gaza war, together with a comparison of these acts with international humanitarian law, indicates that the fundamental principles of the four Geneva Conventions of 1949 and the two Additional Protocols of 1977 have been violated on numerous occasions, and that recognized crimes such as war crimes, crimes against humanity, and genocide have occurred. Accordingly, those who ordered, carried out, or directed this war may be identified as war criminals. In this regard, the international community and human rights institutions must undertake serious and effective investigations into these alleged crimes. Silence and indifference would only permit the continued violation of human rights and further unrestrained conduct by the aggressors. States and international organizations must also fulfil their obligations to protect the people of Gaza and exert pressure on those responsible for these alleged crimes through sanctions and diplomatic measures. Failure to hold perpetrators accountable for war crimes will undoubtedly harm not only Palestinian victims living in Gaza but also have serious consequences for peace and security in the region and beyond. The repetition of such violations will increase the suffering of innocent civilians and seriously undermine confidence in international legal systems and monitoring institutions. Immediate and decisive measures are therefore necessary to bring this situation to an end, and the international community should act collectively to protect human rights and support the victims of such violence. To prevent the recurrence of these crimes, effective mechanisms for investigating and prosecuting war criminals must be established and strengthened. Ultimately, fairness and justice must be given priority. Transparency and accountability are necessary to confront war crimes and prevent their recurrence. One of the principles upon which international humanitarian law is founded, and whose purpose is to protect civilians and minimize harm to them during armed conflict, is the principle of distinction. Accordingly, military forces are required to distinguish between military forces and civilians. The consequence of this principle is that attacks against civilians as legitimate military targets

are absolutely prohibited. Attacks may be directed only against persons or objects that qualify as military objectives and are directly involved in armed hostilities. Civilian hospitals enjoy specific protection under Articles 18 and 19 of the Fourth Geneva Convention, subject to the conditions governing loss of that protection (Lederman,2026). Article (2) 52 of Additional Protocol I provides: "Attacks shall be strictly limited to military objectives. In so far as objects are concerned, military objectives are limited to those objects which by their nature, location, purpose or use make an effective contribution to military action and whose total or partial destruction, capture or neutralization, in the circumstances ruling at the time, offers a definite military advantage." (Additional Protocol I,1977, art.52(2)).

Even when an attack is directed against a target that satisfies all the requirements of the above provision, all feasible precautions must be taken to ensure, to the extent possible, that civilians are not harmed (Wolf,2025). Thus, as Article 57 of Additional Protocol I (1977) provides: "All feasible precautions in the choice of means and methods of attack shall be taken with a view to avoiding, and in any event to minimizing, incidental loss of civilian life, injury to civilians and damage to civilian objects." (Additional Protocol I,1977, art.57(2)(a)(ii)).

Furthermore, during the war against Hamas, Israel killed many of the group's leaders using military drones, missiles, and even bunker-busting bombs. For example, in the killing of Mohammed Deif and other senior Hamas leaders, bunker-busting bombs were used that reportedly levelled an entire area and neighborhood. This constitutes a clear instance of disproportionate attack. Even if Israel regards some leaders of Hamas's military wing as military targets in relation to 7 October 2023, there is no justification for the complete destruction of a neighborhood together with its families and neighbors. In attacks targeting some Hamas leaders, multi-ton bombs were used, which is directly contrary to the principle of proportionality in attack as one of the fundamental principles of international humanitarian law.

C: The Principle of Prohibition of Unnecessary Suffering

Under this principle, the use of means or methods of warfare that cause suffering beyond what is necessary to render the enemy hors de combat is prohibited. The importance of this principle is such that the Rome Statute of the International Criminal Court prohibits the use of weapons and methods of warfare that violate it. Article 8(2)(b)(xx) of the Rome Statute addresses certain weapons, projectiles, materials, and methods of warfare that cause superfluous injury or unnecessary suffering, subject to the conditions stated in that provision (International Criminal Court,1998; ICRC, 2005e).

The principle of unnecessary suffering is clearly reflected in Article 35 of the Additional Protocol to the four Geneva Conventions. During the negotiations of the Diplomatic Conference concerning the adoption of these Protocols, there was no particular disagreement among states regarding Article 35, and the approaches adopted were broadly consistent. Some states even called for further restrictions, including prohibitions on the use of weapons with indiscriminate effects or weapons designed to cause widespread destruction. This agreement reflects international efforts to protect human beings in situations of crisis and armed conflict. States emphasized the need to adopt measures to prevent unnecessary harm to civilians and the environment. Article 35 expressly provides that the use of any weapon or method of warfare that causes unjustified suffering cannot be accepted. In light of historical experience and the devastating consequences of warfare, states concluded that a valid legal framework was necessary, one that specifically emphasized preventing harm to civilians. Article 35 was therefore developed as a basis for strengthening ethical constraints on warfare and respect for human rights (Ziaei Bigdeli,2001, p.112) (Additional Protocol I,1977, art.35).

It should also be recalled that, under the fundamental principles of international humanitarian law, the use of weapons that cause widespread territorial destruction and result in the destruction and killing of populations, thereby causing greater suffering, is prohibited. This prohibition is intended to protect human life and preserve human dignity, while also supporting peace and security in communities affected by conflict. The use of weapons of mass destruction and means that have destructive effects on the environment and social structures not only worsens humanitarian conditions but also produces irreversible consequences for future generations (Momtaz,2024, p.349).

For this reason, all states and non-state actors should comply with these principles and pursue diplomacy and peaceful negotiations aimed at ending wars and armed conflicts. Some methods of warfare, including siege, can severely affect civilian access to food, water, and medical supplies. Sieges are not prohibited per se under international humanitarian law, but starvation of civilians as a method of warfare is prohibited, and parties must respect the applicable rules on humanitarian relief. The legality of restrictions affecting civilians in Gaza must therefore be assessed against the prohibition of starvation and the protections afforded to the civilian population (ICRC,2005d; Field,2024). Recent legal scholarship has also examined the distinct mental elements relevant to classifying alleged starvation conduct as a war crime or genocide (Barakat & Amouri,2026).

Research on crisis logistics has examined the emergency distribution of blood products (Esmaeili

& Marjani,2026), the allocation of food, water, medicines, and other relief goods (Khoshnami & Mashayekhi,2026), and the routing of relief items under uncertainty (Gooran Orimi et al.,2026). These operational studies do not establish whether restrictions on civilian supplies are lawful. That assessment depends on the rules of international humanitarian law discussed above. In the war between Israel and Hamas, one of the most evident principles alleged to have been violated is the prohibition of unnecessary suffering. By destroying Gaza's service and healthcare infrastructure, Israel is effectively forcing the population to leave and become displaced from its own territory. Another method that has caused suffering among the people of Gaza is starvation. Starvation, initially understood as a means of weakening the morale and resistance of the enemy, directly affects the daily lives of civilians in Gaza. Measures such as economic blockades, severe restrictions on access to basic resources, and electricity cuts have become a harsh reality in which civilians are placed under sustained pressure. Rather than achieving a specific military objective, this strategy results in the creation and expansion of severe and persistent humanitarian crises. Nevertheless, despite possible international sensitivity to such methods of warfare, Israeli officials have continued to support their use and justify them as a security necessity. Following its initial order of 26 January 2024, the International Court of Justice issued additional provisional measures in March and May 2024 concerning humanitarian conditions and access to essential assistance in Gaza (International Court of Justice,2024a,2024b).

This situation has been strongly criticized by human rights organizations and international institutions, which regard these actions as a form of warfare against a population that has no actual role in the military hostilities and is instead the victim of such policies. Amid this insecurity, many people in Gaza are seeking humanitarian assistance and basic resources necessary for survival, while the media are also attempting to bring their suffering to the attention of the international community. Whether their voices will be heard loudly enough to produce fundamental changes in current policies, however, remains an unanswered question. Ultimately, this situation does more than intensify the daily hardships faced by the people of Gaza; it also carries broader consequences for the region and for peace in the Middle East. Rather than responding with effective and decisive measures, the international community has often remained silent in the face of such violence and refrained from adopting firm positions. Such silence effectively encourages the continuation of Israeli violations and will ultimately contribute to the further erosion of the human rights of Gaza's residents. Israel's broader policies toward the Palestinians do not merely result in the

destruction of Gaza's social and economic structures; they also severely restrict the possibility of dialogue and reconciliation. This course of action undermines the prospect of a better future for subsequent generations and is likely to deepen the hostility and resentment between the two sides. These measures are clearly inconsistent with any genuine commitment to peace and security and instead pave the way for deeper and more prolonged crises. One question that has consistently arisen is the extent of Hamas's obligations under international humanitarian law. This issue is particularly relevant because, under international law, Hamas is not regarded as the army of Palestine or as the military force of a recognized state; rather, it is an armed military organization that controls part of Palestinian territory. First, the principles and rules of international humanitarian law apply equally to all parties to an armed conflict, regardless of the nature of the conflict. This means that Israeli soldiers and Hamas military forces are subject to the same rights and obligations. If the conflict between Israel and Hamas is regarded as a non-international armed conflict, Hamas would be considered an armed non-state actor, and its fighters, if captured, would not be regarded as prisoners of war and would not benefit from the rights provided under the Third Geneva Convention of 1949.

Accordingly, Israel may prosecute them under its domestic law, regardless of whether Hamas has complied with the laws of war. However, under the four Geneva Conventions and Additional Protocol I, the relationship between Israel and Hamas should be defined within a legal framework referred to as the law of occupation. Under this framework, Hamas forces would still be denied prisoner-of-war status unless they form part of the Palestinian armed forces, which are recognized by 138 countries and are represented by the Palestinian Authority and its leader, Mahmoud Abbas. Otherwise, Hamas fighters are regarded as an irregular armed group and, in order to qualify for prisoner-of-war status, must comply with strict standards, both collectively and individually. On the other hand, although the legal status of Palestinian freedom fighters and Hamas combatants as an irregular armed group is addressed within the framework of international humanitarian law, their status as a non-state actor has consequences for the manner in which the laws of war apply to them. In particular, the absence of legal recognition as lawful combatants means that they do not receive the specific protections that the Geneva Conventions afford to combatants. This not only allows Israel to facilitate legal action against them, but may also contribute to heightened tensions and violence in the region. This is precisely the approach that Israel has adopted on the basis of these principles over the years. The fact that Hamas is not the true representative of the Palestinians and has no right to exercise control over Gaza has not led the

group to abandon its aspiration for the liberation of Palestine. In any event, this situation creates significant difficulties for both sides. On the one hand, Israeli combatants are required to comply with international humanitarian law; on the other, Hamas, which presents itself as a defender of the Palestinian people, faces considerable challenges in maintaining security and adhering to humanitarian principles. Failure to comply with international humanitarian law can lead to further instability, serious violations of human rights, and devastating social and economic consequences. Without doubt, Israel is the most significant factor contributing to insecurity in the region. Because the Israeli regime has no commitment to the rules of international law, the result has been the emergence of liberation-oriented groups such as Hamas, which, within the framework of the international system, not only lack a clearly defined status but are also regarded by many predominantly Western states as terrorist organizations. It is in this context that the concept of self-defence may be raised in relation to Hamas's action on 7 October 2023. Years of Israeli oppression against the Palestinian people, including killing, displacement, imprisonment, starvation, and, above all, the humiliation of Palestinians, have

led Palestinians themselves to take action in response. They regard international law as ineffective and, in its most pessimistic interpretation, as failing to defend Palestine and Hamas. Therefore, a thorough understanding of international humanitarian law appears indispensable as a fundamental basis for establishing peace and security in conflict-affected areas such as the occupied territories. Continued dialogue and investment in humanitarian projects can contribute to improving the situation only if Israel, as the occupying power, is willing to acknowledge new realities and undertake constructive measures. Figure 1 brings together the legal principles discussed in this study and presents a conceptual sequence for assessing reported conduct during the Gaza hostilities. The assessment considers distinction, proportionality, and restrictions on means and methods of warfare, together with the separate obligations to take feasible precautions and to protect civilians from starvation (Additional Protocol I,1977; International Committee of the Red Cross,2005a,2005b,2005d,2005e). The framework is analytical and does not, by itself, establish the legality of a particular attack.

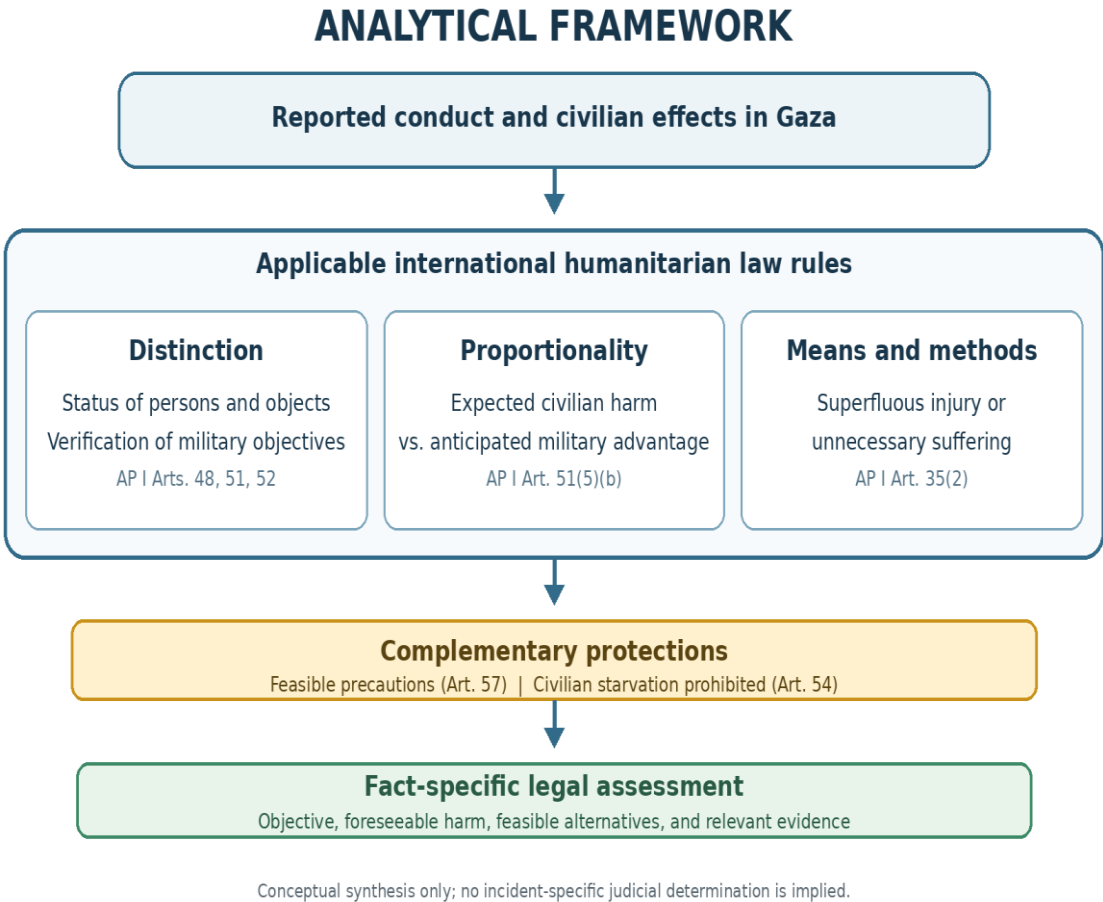


Figure 1. Conceptual framework for examining conduct in Gaza under international humanitarian law

Table 1 translates these principles into analytical questions and identifies the types of information needed to assess the conduct addressed in the preceding sections. The table draws on the legal instruments and customary rules discussed in this

article; the listed norms must be considered in light of their applicability to the parties and the facts of each incident (Additional Protocol I,1977; International Committee of the Red Cross,2005a,2005b,2005d,2005e).

Table 1. Mapping of applicable humanitarian law standards to the issues examined in Gaza

Legal standard	Legal reference point	Gaza-related issue discussed	Question for legal assessment
Distinction	AP I Arts. 48, 51(2), 52(2); customary IHL Rule 1	Attacks affecting schools, hospitals, residential areas, and other civilian objects	Did the target qualify as a military objective, and were civilians and civilian objects distinguished?
Proportionality in attack	AP I Art. 51(5)(b); customary IHL Rule 14	Anticipated incidental civilian harm during attacks near populated areas	Would expected incidental civilian harm have been excessive in relation to the concrete and direct military advantage anticipated?
Precautions in attack	AP I Art. 57	Target verification and the choice of means, timing, and warnings	all feasible precautions taken to verify the target and to avoid or minimize incidental civilian harm?
Unnecessary suffering	AP I Art. 35(2); customary IHL Rule 70	Allegations concerning weapons and methods used in hostilities	Did a particular means or method of warfare cause superfluous injury or unnecessary suffering under the applicable rule?
Starvation of civilians	AP I Art. 54; customary IHL Rule 53	Siege conditions and restrictions affecting food, water, and objects indispensable to civilian survival	starvation of civilians used as a method of warfare, in view of the purpose and effects of the restrictions?

Note: AP I=Additional Protocol I (1977); IHL=international humanitarian law. Treaty provisions are legal reference points and do not automatically establish treaty obligations for every party. Each alleged violation requires an incident-specific assessment of the applicable law and evidence.

Conclusion

Years of Israeli occupation and violations of the rights and demands of the Palestinian people created the conditions for the crisis of October 7, 2023. Rather than responding appropriately to this crisis, Israel once again resorted to the use of unrestrained force. This indiscriminate and violent use of power has resulted in the destruction and killing of the people of Gaza, as well as the destruction of service, healthcare, and educational institutions and facilities. The recent Israeli war against Hamas, which has continued for more than a year, is of considerable significance from the perspective of international law. Israel has not only violated many rules of international law but has also disregarded customary and legal principles, including international humanitarian law. This study sought to examine Israel’s conduct during its year-long war against Hamas and the people of Gaza on the basis of the principles of international humanitarian law, namely the principle of proportionality in attack, the principle of distinction between military and civilian targets, and the principle of the prohibition of unnecessary suffering. In accordance with the

principles of humanitarian law, Israel’s conduct in the war against Hamas has violated not only the provisions of the Fourth Geneva Convention (1949), but also disregarded the customary rules of humanitarian law and Additional Protocol I of 1977. This indicates the inaction of international institutions in preventing war crimes and genocide in Gaza. The silence of the international community and the absence of effective action in response to these apparent violations of human rights have created another critical situation in Gaza. While thousands of innocent civilians are losing their lives, the contemporary world remains a witness to this ongoing tragedy. The International Criminal Court issued arrest warrants for Benjamin Netanyahu and Yoav Gallant on 21 November 2024 (International Criminal Court,2024), but international institutions have still failed to take appropriate measures against Israel’s hostile and inhumane actions, despite the existence of extensive and documented evidence. This situation reflects a serious failure to ensure justice and security at the international level. Under the principles of humanitarian law, the protection of civilians should be given priority, yet humanity once again appears to have become a victim of political and economic interests. Under the fundamental principles of international humanitarian law, civilians must be protected during war and armed conflicts. These principles, however, are being violated by Israel and disregarded by its authorities. Accordingly, pressure must be brought to bear on governments and responsible institutions to fulfil

their duties as guardians of humanitarian law, so that the lives of the people of Gaza, as well as their human dignity and status, can be protected. The international community therefore has a legal and moral obligation not to remain silent in the face of the atrocities committed by Israel and to take effective measures to halt the violence and uphold the fundamental principles of international humanitarian law. The failure to take serious action, together with the support provided by powerful states to an unlawful occupying and aggressive state such as Israel, will only prolong the crisis and intensify the suffering of the people of Gaza and Palestine. If this disregard continues, its consequences will extend beyond future generations in Gaza and will ultimately affect the international community as a whole.

Disclosure Statement

No potential conflict of interest reported by the authors.

Funding

This research did not receive any specific grant from funding agencies in the public, commercial, or not-for-profit sectors.

Authors' Contributions

All authors contributed to data analysis, drafting, and revising of the paper and agreed to be responsible for all the aspects of this work.

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