

The assault on Gaza: Between the principles of international law and the challenges of enforcement

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Abstract---This article addresses the Israeli aggression against the Gaza Strip as one of the most prominent examples of the crime of aggression in the modern era. Despite the formal definition and criminalization of aggression in the United Nations Charter and the Rome Statute of the International Criminal Court, major powers continue to commit such crimes against weaker states and impose their control without any accountability. Since October 2023, the ongoing assault on the Gaza Strip has stood as a stark illustration of the international system's failure to preserve global peace and security, particularly amid the divergent positions of UN bodies and the inability of their resolutions to enforce accountability and uphold justice.

Keywords---Israeli assault/aggression on Gaza, international Law, maintenance of international peace and security, UN Security Council, International Criminal.

Introduction

Aggression is considered one of the gravest international crimes threatening global peace and security, as it involves the use of armed force in violation of the principles of international law. The act of aggression has been formally defined and criminalized through several international instruments, most notably the 1974 United Nations General Assembly Resolution, which provided a definition of aggression and established the basis for determining the resulting responsibility. Furthermore, aggression is criminalized under Article 8 bis of the Rome Statute of the ICC, which defines acts constituting aggression and establishes international criminal responsibility for states and individuals committing such acts. The United Nations Charter also emphasizes, in several of its provisions,

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particularly Articles 2, 39, and 40, the prohibition of the use or threat of force in international relations, and the necessity of taking appropriate measures to maintain international peace and security.

Although the crime of aggression has been clearly defined and criminalized under international law, the world continues to be scarred by such acts, carried out with impunity and without any real accountability or punishment for the perpetrators. This ongoing reality exposes the weakness of international institutions in enforcing international law and halting blatant violations of its principles. A stark example of this failure is the continuing Israeli assault on Gaza since October 2023, an offensive that has resulted in a humanitarian catastrophe and one of the deadliest massacres in modern history, claiming thousands of civilian lives and devastating entire residential areas across the Strip.

In light of this situation, and amid the ongoing acts of aggression and the aggressor states' persistent disregard for international laws and resolutions, the following question arises: **How capable is the international system, through its different institutions, of confronting the crime of aggression and ensuring that justice is truly served?**

To explore this question, this article adopts an analytical approach that examines key legal texts and international resolutions, linking them to the realities of the Israeli aggression against Gaza. It also presents a critical perspective on the effectiveness of the international legal system in safeguarding peace and security and in ensuring justice for crimes of aggression, according to the following outline:

The first Subject: The Israeli assault on Gaza 2023

The first Section: The Events and Facts of the Aggression against Gaza

The second Section: The Implications of the Aggression under International Law

The Second Subject: The International Position on the Israeli Aggression on Gaza:2023

The first Section: The Security Council and The General Assembly

The Second Section: The International Judicial Position

The First Subject: The Israeli Assault on Gaza 2023

The Israeli aggression against the Gaza Strip stands among the most pressing issues capturing international attention today. Israel continues to pursue systematic and aggressive policies toward the enclave, relying primarily on military force as its main tool to impose a de facto reality. In the absence of any genuine commitment to a peaceful settlement process, Israel's escalating approach has led to repeated and grave violations that amount to international crimes (Amin Hamed Al-Huwaidi, 1983, p07).

The 2023 aggression stands as a stark example of this trajectory, as Israel imposed a suffocating blockade and launched an unprecedented military campaign that resulted in the large-scale destruction of infrastructure and the killing and displacement of civilians, culminating in a full-fledged humanitarian catastrophe by every measure. From this standpoint, we will highlight the key events and developments of the 2023 Israeli assault on Gaza, and examine how the international community has responded.

The First Section: The events and developments of the Aggression against Gaza

On October 7, 2023, the Israeli entity launched a large-scale air, land, and sea assault on the Gaza Strip, marked by unprecedented intensity and primarily targeting civilians and civilian facilities protected under international humanitarian law. This offensive resulted in the killing and injury of tens of thousands of residents and involved horrific acts of mass killing that struck hospitals, churches, and shelter centers. It also led to the destruction of thousands of housing units and the displacement of nearly 70% of the Strip's population, amid a suffocating blockade that cut off electricity, water, fuel, and gas supplies (Al-Haq, 2023).

The Israeli escalation was prompted by the operation carried out by Palestinian resistance factions at dawn on October 7, which targeted the Israeli settlements surrounding Gaza through the launch of thousands of rockets, the seizure of several military positions, and the capture of hundreds of Israelis, among them a large number of soldiers and officers (After 200 Days, Al Jazeera Net, 2024).

In order to examine the specifics of this aggression, it is important to consider both the direct and indirect causes of the conflict that preceded October 7, which prompted the Palestinian Islamic Resistance Movement (Hamas) to launch its military operation. The movement stated that the reasons for the operation stemmed from a series of Israeli policies, most notably:

1. The ongoing Israeli control of the airspace and territorial waters of the Gaza Strip, combined with the imposition of strict restrictions on the movement of goods and people, has effectively kept Gaza under a perpetual blockade, in violation of international humanitarian law.
2. Repeated attacks on Jerusalem's Al-Aqsa Mosque, particularly the April 2023 raids in which Israeli forces fired stun grenades and rubber bullets at worshippers, have been condemned by Hamas as a direct violation of Palestinians' religious rights.
3. The expansion of illegal Israeli settlements in the West Bank and East Jerusalem, which the United Nations has repeatedly deemed unlawful, has coincided with a surge in unpunished attacks by settlers on Palestinian civilians, further inflaming tensions in the region.
4. Shifts in regional dynamics and Arab-Israeli relations have drawn sharp criticism from Hamas, which views normalization efforts and bilateral agreements with Israel as having failed to positively impact the Palestinian cause, instead deepening the marginalization of Palestinian suffering. The movement's leaders have expressed these concerns through pointed criticisms of several Arab states (BBC News Arabic, 2025).

Thus, Hamas framed its military operation as a legitimate exercise of the Palestinian people's right to self-determination and resistance against occupation, justifying the assault that directly triggered Israel's military campaign in the Gaza Strip.

In retaliation for the attack launched by Palestinian resistance forces, Israel announced a large-scale military operation dubbed "Iron Swords", which on its first day alone, resulted in the deaths of nearly 300 Palestinians and injuries to more than 2,000. The initial phase was marked by an unprecedented aerial bombardment lasting over 20 days, causing widespread destruction, severe human and material losses, and plunging the Gaza Strip into a catastrophic humanitarian crisis.

On October 28, Israeli Prime Minister Benjamin Netanyahu announced the launch of the "second phase" of the assault, a ground operation that began in Gaza's open agricultural areas. Tanks and armored vehicles spearheaded the offensive, covered by intensive air support including drones, helicopters, and fighter jets. Just two days later, Netanyahu declared the first and second phases complete, setting the stage for the "third phase," which would see the ground invasion within Gaza expand significantly (The Israeli War on Gaza City: Its Objectives and Expected Outcomes, Doha Institute, 2024)

The phased structure of the military campaign points to prior strategic planning, suggesting that the assault was not simply a reaction to the October 7 operation. Instead, it appears to be part of a systematic plan aimed at prolonging the offensive and causing the highest possible human toll in Gaza, clearly violating the principles of proportionality and distinction under international humanitarian law.

On November 24, Hamas agreed to a temporary ceasefire with Israel, brokered by Qatar and Egypt, initially set for four days and later extended by two more. During the truce, several prisoners were released, and humanitarian aid convoys were allowed into Gaza. However, the assault resumed immediately after the ceasefire ended.

At the start of 2024, Israel escalated its military campaign, launching a full-scale assault on Khan Younis with intense artillery shelling and continuous airstrikes that left behind mounting casualties and widespread devastation. By late February, Israeli forces perpetrated what became known as the “Flour Massacre,” in which 112 Palestinians were martyred and about 800 others wounded while waiting for food aid. The assault on Gaza has shown no sign of relenting (After 200 Days... Key Phases..., Al Jazeera Net, 2024).

This phase underscores the recurring pattern of Israel’s aggression, with temporary truces serving more as opportunities for military repositioning than genuine steps toward peace, such actions, critics argue, undermine the principle of “good faith” enshrined in international law. Meanwhile, the targeting of civilians as they queued for humanitarian aid marks a blatant violation of article 54 of the first additional protocol to the Geneva conventions, a provision that explicitly bans the use of starvation as a weapon of war.

The Second Section: The Implications of the Aggression under International Law

Under international law, all UN member states are bound to refrain from using or threatening force in ways that contradict the UN’s founding principles, which include preserving peace, preventing aggression, and protecting global security, and suppressing aggression and other acts that threaten peace (United Nations Charter, 1945).

An act of aggression is defined as the use of armed force by one state against another in a manner that threatens its sovereignty, territorial integrity, or political independence, or in any other way that contravenes the purposes of the U.N Charter. This definition applies to any act of aggression, whether declared as a war or not, and includes all forms of aggression: invasion, military occupation, annexation of territory by force, bombardment, and the military blockade of ports (After 200 Days... Key Phases..., Al Jazeera Net, 2024). Applying this legal framework to the current realities on the ground in the Gaza Strip reveals that the Israeli occupation has manifested most of these forms, constituting a blatant violation of Articles 2(4) and 51 of the U.N charter, as well as a clear breach of international humanitarian law provisions concerning the protection of civilians during wartime.

The Israeli assault on the Gaza Strip is, without a doubt, a full-fledged act of aggression in all its essential elements. The military offensive, marked by relentless shelling, surprise airstrikes, systematic killings, and the deliberate destruction of civilian infrastructure, including hospitals, schools, and homes, coupled with the mass displacement of Gaza’s population, provides irrefutable evidence of Israel’s criminal conduct, resulting in an unprecedented humanitarian catastrophe. It appears that Israeli Prime Minister Benjamin Netanyahu’s announcement of the ongoing, repeated military operations, coupled with clear evidence of premeditation and planning to carry out aggressive acts against the State of Palestine, constitutes aggression by any legal standard.

Because these actions constitute serious violations of international law and undermine the UN’s mission to safeguard global peace and security, UN intervention is imperative to confront Israeli aggression. This primarily calls for action by the Security Council, using its authority to take the necessary measures to prevent and suppress the assault in Gaza, and to hold Israel internationally accountable for committing the most heinous crimes, as mandated by Article 39 of the UN Charter.

Yet, international practice exposes a glaring contradiction: although the UN Security Council holds full powers under Chapter 07 of the UN Charter, the veto wielded by member states, especially those backing Israel, repeatedly blocks resolutions aimed at safeguarding international peace and security, undermining the practical enforcement of international law.

A close look at the Israeli aggression on Gaza shows that Israel deliberately flouted the UN Charter, establishing the basis for its international responsibility. Its most glaring violations include breaching the fundamental principles of the international system, notably the prohibition on the use of force or threats in international relations, the disregard for peacefully resolving disputes, and violations of both treaty-based and customary international humanitarian law.

Since the events in Gaza fall under the four international crimes defined in Article 5 of the Rome Statute, the ICC must activate accountability mechanisms against Israeli officials, from planners to military commanders, under Article 28, which establishes the individual criminal responsibility of leaders and commanders.

However, the ongoing Israeli attacks and the escalating crisis in Gaza constitute compelling evidence of the international community's failure to fulfill its obligations under international law. The lack of effective intervention by competent international organizations has, in effect, enabled Israel to continue its aggression under the shield of unrestrained military force.

The Second Subject: The International Position on the Israeli Aggression on Gaza 2023

The preservation of international peace and security stands among the foremost objectives for which the U.N was established. The organization seeks to take collective and effective measures to prevent and eliminate the causes and situations that threaten global peace, as well as to suppress acts of aggression and other forms of breaches of international security (Nawaf Mousa Al-Zaidin, 2018, p71). This mission is entrusted to the various bodies of the U.N, however, the most prominent among them in this regard are the Security Council, the General Assembly, and the International Court of Justice. On the other hand, the role of the independent judicial body the ICC, cannot be overlooked, given its growing contribution to ensuring accountability for serious crimes that threaten international peace and security.

In light of the Israeli aggression against Gaza, questions arise regarding the stance of these international bodies and the extent of their effectiveness in responding to this situation. Accordingly, the discussion will successively address the positions of the Security Council, the General Assembly, the International Court of Justice, and the International Criminal Court.

The First Section: The Security Council and the General Assembly

We present the respective stances of the Security Council and the General Assembly regarding the Israeli aggression on Gaza.

The first Part: The position of the Security Council

The security council serves as the principal body within the U.N system responsible for maintaining international peace and security, it holds distinguished status compared to other U.N organs. The council carries out the core mission for which the U.N was established, exercising its mandate by issuing recommendations and binding resolutions, in line with the principles set out in chapter 6 and chapter 7 of the U.N charter (Jamal Fourar Al-Eidi, p157).

Security council resolution 2728, adopted on March 25, 2024 stands out for its brevity, as it comprises only three concise provisions. In the first provision, the council calls for an immediate ceasefire during Ramadan, paving the way for a permanent and sustainable cessation of hostilities, it also demands the immediate and unconditional release of all hostages and urges full compliance with international law concerning detainees. The second provision stresses the importance of expanding and facilitating humanitarian aid to civilians in the Gaza strip, ensuring their protection from all forms of harm. Meanwhile, the third provision keeps the situation in Gaza under the council's ongoing consideration (Akasha, 2024).

Resolution 2728 sparked widespread debate over its binding nature and whether it carries legal consequences for the warring parties. It was criticized for using the term “demands” instead of “decides,” leading many legal scholars to view it as a non-binding recommendation. The U.S.A abstained from the vote, asserting that the resolution was not legally binding, a position that explains its decision not to exercise the veto (Al-Amarati, 2024).

A reading of Article 25 of the United Nations charter makes it clear that member states are obliged to accept and implement the decisions of the security council in accordance with the charter. At first glance, UN resolution 2728, calling for an immediate ceasefire in Gaza, may seem to be a binding measure with legal implications. However, a closer look at Article 40 of the U.N charter shows that, in cases where international peace and security are threatened, the security council may adopt provisional measures aimed at preventing the escalation of conflict, provided such measures do not affect the rights or claims of the disputing parties (United Nations Charter, 1945, art 40). Accordingly, Resolution 2728 can be understood as part of these provisional, cautionary measures, directed at the aggressor state in the form of a recommendation that does not amount to a fully binding obligation. Nevertheless, it holds practical importance, as ignoring it could open the door for the council to adopt harsher measures under chapter 7 of the Charter.

However, the key issue lies in the extent to which Israel has complied with the provisions of this resolution. On 3 April 2024, the League of Arab States called on the security council to invoke chapter 7 of the charter and adopt a binding resolution to halt the Israeli aggression, stressing that the continuation of military operations despite existing resolutions constitutes a serious threat to international peace and security (Shorouk News, 2024).

Notably, during subsequent sessions of the security council, the U.S.A consistently exercised its veto power against draft resolutions calling for a ceasefire in Gaza or for international protection for civilians. This persistent use of the veto has repeatedly prevented the council from exercising its powers under chapter 7 of the U.N Charter (Al-Quds Al-Arabi, 2025).

Accordingly, it becomes evident that the security council has failed to fulfill its primary responsibility of maintaining international peace and security, this is reflected in its inability to enforce compliance with Resolution 2728, as well as in its failure to invoke the powers granted to it under chapter 7 of the UN charter to adopt effective measures ensuring an end to the aggression against the Gaza Strip.

The second Part: The position of the U.N General Assembly

In accordance with the General Assembly resolution titled “Uniting for Peace”, if it appears that there is a threat to international peace and security or an act of aggression has occurred, and the Security Council fails to act due to the use of the veto by one of its permanent members, the General Assembly may immediately take up the matter. It may then issue recommendations to member states regarding the adoption of collective and effective measures to maintain or restore international peace and security (Abdel-Majid, 2023, p59).

The General Assembly resolution of October 27, 2023, marked the first official U.N response to the escalating Israeli aggression against Gaza since October 7, 2023. After the Security Council’s repeated failure to adopt effective measures to halt the assault, the General Assembly approved the Arab sponsored draft resolution calling for an “immediate and sustained humanitarian truce” leading to an end to hostilities and the facilitation of humanitarian aid delivery to civilians throughout the Strip. The resolution was adopted by 120 votes in favor, 14 against, and 45 abstentions (Asharq News, Supporters and Opponents: This Is How the World Voted on the 'Gaza Resolution' at the UN, 2024). The Hamas movement hailed the decision as a step toward ending the aggression and urged the General Assembly

and relevant U.N bodies to take the necessary measures to ensure its effective implementation. Israel, by contrast, rejected the resolution outright, with a spokesperson for the Israeli Ministry of Foreign Affairs stating that Tel-Aviv opposes any temporary humanitarian pause or truce (Sky News Arabia, A UN Resolution Calls for an 'Immediate Humanitarian Truce' in Gaza, 2024).

In December 2023, the General Assembly adopted another resolution calling for an “immediate humanitarian ceasefire” in the Gaza Strip. The resolution, introduced by 21 Arab states, was overwhelmingly approved with 153 votes in favor, 10 against, and 23 abstentions. This resolution came just days after the Security Council once again failed to adopt a ceasefire resolution, due to the United States’ use of its veto power, marking the second such instance following the earlier resolution of October 28, 2023 (TRT Arabic, 2024).

These two resolutions stand out as the most significant actions taken by the General Assembly since the start of Israel’s assault on Gaza. While General Assembly resolutions are non-binding and carry no legal force, they hold considerable political and moral weight, each vote serves as a reflection of the international community’s collective will to confront Israel’s ongoing aggression and to back global efforts aimed at ensuring the delivery of humanitarian aid to civilians across Gaza.

The second section: The position of the international judicial:

This section will examine the positions of both the ICJ and the ICC regarding the Israeli aggression against Gaza, through the following two subsections:

The first part: The International Court of Justice:

Under the statute of the ICJ, the Court is empowered to consider any legal disputes that may arise between its member states and other states that accept the same obligation. The Court’s jurisdiction extends to various types of legal disputes, including the investigation of acts that may constitute a breach of international obligations (Statute of the International Court of Justice, 1945). Against this backdrop, an important question is: **How has the International Court of Justice responded to the**

Israeli aggression in Gaza?

The ICJ condemned Israel and supported Palestine’s position, marking a victory for international law over the logic of force that Israel has employed in its aggression against Palestine. On 26 January 2024, the Court issued a ruling in the dispute brought by South Africa concerning Israel’s acts of aggression in Gaza, in the context of Israel’s violations of the U.N Convention on the prevention and punishment of the Crime of Genocide, adopted by the General Assembly on 9 December 1948 (Hespress, 2024). Although the ICJ did not issue an explicit order for a ceasefire, it established an important legal precedent by affirming its jurisdiction to hear such cases and by imposing provisional measures aimed at preserving international peace and security in the face of Israel’s repeated violations.

In contrast, the Israeli occupation continued to escalate its aggression in the Gaza Strip, disregarding the Court’s decisions and committing further crimes against civilians. This reflects Israel’s ongoing violations of international law, treaties, and conventions pertaining to the rights of the Palestinian people.

The second part: The International Criminal Court

On 1 January 2015 Palestine acceded to the Rome Statute, and the treaty entered into force for the country on 1 April 2016. By joining the statute and recognizing the jurisdiction of the ICC, Palestine took a crucial step toward ensuring accountability for Israel regarding crimes that fall within the court’s mandate, as defined in Article 5 of the Rome Statute (Alayan & Reesh, 2022, p13).

Under the Rome statute, any state party may refer a situation in which one or more crimes appear to fall within the subject-matter jurisdiction of the International Criminal Court (Rome Statute of the International Criminal Court, 1998). Accordingly, five ICC member states (South Africa, Bangladesh,

Bolivia, Comoros, and Djibouti) requested an investigation into the Israeli aggression in Gaza, prompting the Court to begin examining crimes committed in the Gaza Strip since 7 October 2023 (Al Mayadeen Net, 2024).

January and February 2024, the ICC began examining the possibility of issuing arrest warrants targeting the leadership of “ Hamas” and senior Israeli officials, based on the conduct of both parties in the aggressive conflict in Gaza. This reflects the court’s effort to broaden the scope of international criminal responsibility and ensure that no party escapes justice. On May 20, 2024, this process culminated in the issuance of arrest warrants against Israeli prime minister Benjamin Netanyahu, defense minister Yoav Gallant, and three Hamas leaders, on charges related to committing international crimes in the context of the aggression against Gaza (UN News, 2025).

The prosecutor Karim Khan has confirmed that his team is investigating the incidents of the war, but his office refuses to comment on any details. So far, the ICC has yet to issue a concrete judicial decision regarding Gaza and its future. Nevertheless, hopes remain pinned on the Court to bring an end to this humanitarian catastrophe.

Conclusion

In conclusion, this article, which addressed a significant issue in international law, namely the Israeli aggression against the Gaza Strip, emphasizes that the crime of aggression constitutes a direct threat to international peace and security and represents a flagrant violation of the UN Charter and international law as a whole. The study highlights that the aggression carries serious humanitarian, legal, and political implications, resulting in thousands of civilian casualties, mass displacement, and the destruction of Gaza’s infrastructure. This occurs despite the existence of clear international legal provisions criminalizing aggression and the use of force in all its forms, such as General Assembly resolution 3314 of 1974, Article 8 bis of the Rome Statute, and the principles enshrined in the UN Charter.

The study also highlighted the limitations of the international legal system in addressing acts of aggression. The security council has been unable to take the necessary measures to uphold peace, due in large part to the use of veto power by states supporting Israel. Meanwhile, the General Assembly has sought to issue non-binding recommendations, which carry no enforceable authority. At the same time, international criminal justice has affirmed its jurisdiction to hear such crimes, yet it has so far been unable to halt the aggression in practice.

Results

- Failure to adhere to international laws and provisions criminalizing acts of aggression reflects the limitations of the international system in enforcing international law, especially when it involves major powers or allies of the aggressor.
- Resolutions issued by the Security Council and the General Assembly carry symbolic and political significance, yet they are generally non-binding in practice, which diminishes their effectiveness in curbing aggression.
- International justice, including the ICC and the ICJ, plays a valuable role in establishing international criminal responsibility. However, it requires strong enforcement mechanisms to ensure international protection for civilians and accountability for the aggressor.

Recommendations

- Strengthen international mechanisms capable of enforcing international legal provisions by empowering the security council to take appropriate measures to curb the crime of aggression, rather than relying solely on non-binding recommendations.

- Support the independence of the ICC in exercising its jurisdiction over international crimes and facilitate its ability to issue arrest warrants and hold perpetrators accountable, in accordance with its statute, without political interference.
- Expand international cooperation to enable the provision of humanitarian assistance to victims, while ensuring their international protection in line with the requirements of international humanitarian law.

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