



المؤسسة الفلسطينية للتمكين والتنمية المحلية
The Palestinian Association for Empowerment and Local Development

“The Applicability of International Agreements to the Palestinian Case in Times of War”

Written by: Hiba Thuqan

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Introduction:

Since 1948, Palestine has faced unique circumstances under Israeli occupation, impacting efforts to establish a sovereign state on its occupied lands. Nevertheless, Palestinians have worked to build a national identity within a comprehensive political framework. In 1974, the Arab League and the United Nations General Assembly recognized the Palestine Liberation Organization (PLO) as the sole legitimate representative of the Palestinian people. The PLO aimed to build a society founded on justice and equality, where rights and duties are upheld without discrimination, laying the groundwork for a state based on the rule of law, human rights, and dignity.

To support these principles, Palestine has joined numerous international agreements, charters, and treaties, defining essential rights and freedoms and setting standards for wartime conduct, including the treatment of prisoners, civilians, and children. This commitment reinforces the obligations and responsibilities of states under international law.

Problem:

The Palestinian people have endured 75 years of Israeli aggression, marked by ongoing wars, systematic destruction of infrastructure and homes, and the killing of thousands of civilians. These actions represent clear violations of international agreements by the Israeli occupation. Throughout these years, international humanitarian law has failed to intervene to halt this aggression, and there has been a lack of accountability for the Israeli occupation, raising critical questions: What role does international law play in the Palestinian-Israeli conflict? To what extent are international agreements applied in the Palestinian context? What effective mechanisms are needed to hold the Israeli occupation accountable for its violations under law?

Objective:

This paper highlights the most important international agreements to which Palestine has acceded and assesses their practical application in the context of the ongoing aggression in the West Bank and Gaza Strip. Through legal analysis, it will examine the consequences for breaching these agreements and explore methods for holding the Israeli occupation accountable for crimes committed against the Palestinian people.

First: International Agreements, Treaties, and Charters Joined by Palestine

It is essential to outline the key international agreements, treaties, and charters that Palestine has joined over the years:

1. **The Hague Convention IV on the Laws and Customs of War on Land** and its annex, the *Regulations Relating to the Laws and Customs of War on Land*.¹ This convention mandates respect for the laws and customs of war, including prohibitions against attacking or bombing cities, villages, homes, and buildings.
2. **The Universal Declaration of Human Rights**² establishes fundamental rights and freedoms that every individual should enjoy, without discrimination based on religion, language, gender, race, or political opinion. It asserts that all individuals are born free and equal in dignity and rights.
3. **Convention on the Prevention and Punishment of the Crime of Genocide**³ defines genocide as acts committed with the intent to destroy, in whole or in part, a national, ethnic, racial, or religious group.
4. **First Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field**⁴ applies in cases of declared war or other armed conflicts, even if war is not formally recognized. It also applies in cases of partial or total occupation, regardless of whether the occupation faces armed resistance.
5. **Third Geneva Convention relative to the Treatment of Prisoners of War**⁵ provides protection to specific individuals from the time they are captured by the enemy until their final release and repatriation, guaranteeing their rights as prisoners of war.

6. Fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War⁶ protects civilians who find themselves, in times of conflict or occupation, under the authority of a conflicting party or occupying power of which they are not nationals.

7. International Covenant on Civil and Political Rights⁷ and the International Covenant on Economic, Social, and Cultural Rights⁸ affirm the right of peoples to self-determination, allowing them to determine their political status and pursue economic, social, and cultural development. These covenants emphasize fundamental human rights that are internationally recognized and stress the importance of respecting these rights without restriction.

8. Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes Against Humanity⁹ states that war crimes cannot be subject to a statute of limitations, regardless of when they were committed.

9. Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment¹⁰ along with its **Optional Protocol¹¹** stipulates that no exceptional circumstances—whether a state of war, threat of war, political instability, internal unrest, or any other public emergency—can be invoked to justify torture.

10. Convention on the Rights of the Child¹² is an international charter that outlines the civil, political, economic, and cultural rights of children. Its implementation is monitored by the United Nations Committee on the Rights of the Child. It mandates that State Parties uphold the rules of international humanitarian law applicable in armed conflicts and ensure the protection of children's rights in such situations.

11. Convention on the Safety of United Nations and Associated Personnel¹³ protects UN and affiliated personnel by criminalizing murder, kidnapping, and violent attacks against UN personnel, their equipment, buildings, residences, or transportation, as well as any attempts or threats to commit such acts.

12. Rome Statute of the International Criminal Court,¹⁴ also known as the Rome Charter, establishes an independent, permanent court to prosecute individuals accused of committing the most serious crimes, including war crimes, genocide, crimes against humanity, and aggression. These crimes are considered the gravest offenses of concern to the international community.

Second: The Extent of the Israeli Occupation's Compliance with International Agreements in the Palestinian Context:

The aggression carried out by the Israeli occupation in the occupied territories since 1948 is evident in numerous practices, including forced displacement of residents, confiscation of lands and properties, along with other violations. These actions constitute a clear violation of the Fourth Geneva Convention on the Protection of Civilian Persons in Time of War, which prohibits forced deportation of protected persons and mandates that the occupying power must not impede the implementation of preferential measures related to food, medical care, and protection from the effects of war, particularly for children under fifteen years of age, pregnant women, and mothers of children under seven years old. It is also prohibited for the occupying power to destroy real or personal property belonging to individuals or communities. However, in practice, the occupying power has repeatedly engaged in actions that defy these protections, committing acts against Palestinians that the Convention explicitly forbids

Israeli practices against Palestinian civilians meet the definitions of genocide and crimes against humanity under the Convention on the Prevention and Punishment of the Crime of Genocide. This Convention describes actions that constitute genocide, such as causing physical or mental harm on members of a group or deliberately creating living conditions intended to cause total or partial physical destruction. In the Palestinian context, these violations manifest in the killing of thousands of civilians, inflicting physical and psychological harm, and subjecting them to harsh living conditions by restricting access to water, electricity, and fuel, particularly during the ongoing aggression.

The clear violations of international agreements and treaties discussed previously continue against Palestinian prisoners, including the detention of adults, children, women, and girls, who endure various forms of violations against them in Israeli prisons. Such practices directly violate the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and its Optional Protocol, which stipulates that no exceptional circumstances—whether a state of war, threat of war, internal political instability, or any other public emergency—may be used as a justification for torture. The Protocol aims to establish a system of regular visits by independent international and national bodies to places where persons are deprived of their liberty in order to prevent torture and other cruel, inhuman, or degrading treatment or punishment.

Given the current aggression, which started in October 2023, the death toll of civilians has exceeded 40,000, the majority of whom are women and children, and over 100,000 wounded. These actions, including forced displacement from northern to southern Gaza, the daily use of internationally banned weapons, and the complete destruction of residential neighborhoods, hospitals, such as the Baptist and Al-Shifa, and infrastructure, with fuel, electricity, and water supplies cut off constitute severe violations of all relevant international covenants and treaties, including the Fourth Hague Convention on Respect for the Laws and Customs of War on Land. This Convention explicitly prohibits attacks on cities, villages, homes, and buildings, as well as the use of toxic weapons. It further mandates that violators be held accountable for all acts committed, with an obligation to compensate for damages. Additionally, attacks on UN personnel and facilities demonstrate, such as those of the Red Cross and UNRWA, demonstrate Israel's failure to adhere to the International Convention on the Safety of United Nations and Associated Personnel.

During a UN Security Council meeting on the war on Gaza, UN Secretary-General António Guterres remarked that "even war has rules," emphasizing that these rules, especially those protecting civilians, must not be violated. However, Israel has failed to follow these international agreements and treaties and continues to commit war crimes.

These actions committed against Palestinians are considered as war crimes and crimes against humanity, which, under the Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes against Humanity, have no statute of limitations, regardless of when they were committed. This principle means that the occupying power can be held internationally accountable for these crimes due to its failure to comply with these international agreements and treaties.

The United Nations and the Security Council have repeatedly condemned Israel's violations against the Palestinian people. Regarding the practical application of international agreements, including the Fourth Geneva Convention, Security Council Resolution 237, adopted unanimously on June 14th, 1967, called on Israel to ensure the safety, rights, and interests of residents in the occupied territories. However, Israel's persistent disregard for Security Council resolutions demonstrates the limited capacity of international institutions to enforce legal measures to halt these practices. The international system, including international humanitarian law, often aligns with the interests of global superpowers, thereby limiting effective action. Additionally, efforts

from the Arab League, emergency summits, and human rights organizations have proven insufficient in activating international criminal jurisdiction.

Third: Effective Tools and Mechanisms for Prosecuting the Occupation for its Crimes under International Agreements:

The occupation must be held accountable for its crimes against Palestinians using all available and effective tools and mechanisms, as outlined below:

1. The signatory states of the Fourth Geneva Convention must intervene to compel Israel to fully implement its provisions and cease the daily human rights violations in the occupied Palestinian territories. These violations severely undermine basic human rights of the residents. Should Israel fail to comply, a request should be submitted to the Security Council to establish a protection force under the Convention's provisions to safeguard the residents of the occupied territories. This measure should be pursued if not vetoed by the United States.

In case of a US veto, the General Assembly may act under Resolution 377 (V), "Uniting for Peace," issued on November 3rd, 1950. This resolution allows the General Assembly to recommend collective measures when the Security Council is blocked by a permanent member's negative vote. This action aligns with Article 1 of the United Nations Charter, which mandates collective action to maintain or restore international peace and security, prevent aggression, and resolve disputes peacefully.

This action is justified under Article 1 of the United Nations Charter, which states that the UN's purpose is to maintain international peace and security, including taking effective collective measures to prevent and remove threats to peace, suppress aggression, and resolve disputes peacefully and in accordance with justice and international law. It is further supported by Article 24 of the Charter, which assigns the Security Council primary responsibility for maintaining international peace and security, acting under authority delegated by the General Assembly. According to general legal principles, if the designated delegate is unable to fulfill its mandate, UN members retain the right to take collective measures.

2. Appealing to the Security Council to demand the establishment of a special international criminal court to prosecute Israel for crimes classified as war crimes, genocide, and violations of international agreements. Palestine holds

this authority, having obtained non-member observer state status at the UN under General Assembly Resolution 19/67 on November 29th, 2012. This status enables Palestine to join international organizations, including the International Criminal Court.

3. Appealing to international bodies, such as the African Union,¹⁵ to exercise their criminal jurisdiction by establishing a tribunal to prosecute war criminals in fulfillment of their obligations under Article 146 of the Fourth Geneva Convention. This article mandates that "The High Contracting Parties undertake to take any legislative measures necessary to provide effective penal sanctions for persons committing, or ordering to be committed, any of the grave breaches of the present Convention. Each High Contracting Party undertakes to search for persons accused of committing or ordering to be committed such grave breaches, and to bring them to trial, regardless of their nationality."
4. Calling for a meeting of the High Contracting Parties to the Geneva Convention to urge them to fulfill their moral and legal responsibilities, ensure accountability for perpetrators of international crimes, and condemn states that have failed in their obligations. This meeting would also address providing international protection for Palestinians and ensuring that the Israeli occupation respects international humanitarian law.
5. Engaging with the League of Arab States to issue a decision establishing an Arab criminal court with jurisdiction over legal issues between Arab countries, both civil and criminal. This court would also have the authority to address international crimes affecting Arab citizens, particularly those committed by Israeli occupying forces.¹⁶

6. Coordinating with international organizations such as the Red Cross and UNRWA and arranging meetings to initiate complaints to the International Criminal Court regarding war crimes committed against their employees, the targeting of their headquarters, and Israel's violations of international agreements.

If implemented, these mechanisms will have a significant positive impact on the Palestinian people by providing international protection, safeguarding their basic rights, and preventing the escalation of crimes against them, particularly forced displacement and the resulting deprivation of essential life necessities.

Recommendations:

These recommendations are directed to the Palestine Liberation Organization (PLO), recognized internationally as the sole legitimate representative of the Palestinian people, to implement all available mechanisms to prosecute the occupation for war crimes committed over the past 75 years through the following actions:

1. The Palestine Liberation Organization should compile a comprehensive file of all crimes committed over the past 75 years, gathering evidence, documents, photos, and witness testimonies. This file should be submitted by specialized teams, in collaboration with the Palestinian Bar Association, to pursue cases before the International Criminal Court, leveraging all relevant international agreements, particularly the Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes against Humanity.
2. The PLO should cease security coordination with Israel, especially considering the current aggression on Palestine.
3. The PLO representatives should actively engage in media and public awareness campaigns to highlight Israeli aggression, as exemplified by the efforts of Hussam Zomlot, the Palestinian representative in London.

4. In response to the international community's continued failure to hold the Israeli occupation accountable for its crimes against the Palestinian people, the Palestine Liberation Organization should demand that the General Assembly act under Article 22 of the United Nations Charter to establish a subsidiary body for investigating crimes and prosecuting perpetrators.
5. The PLO must join internal efforts at all levels to hold Israel accountable for war crimes, in accordance with international conventions and agreements which Palestine joined, and develop a unified Palestinian strategy to pursue accountability, as outlined in the item on effective mechanisms to prosecute Israeli crimes.
6. The PLO should mobilize Palestinian embassies and representative offices in Europe and Arab countries to restore trust and a sense of belonging within and among Palestinian communities. This includes holding meetings and listening sessions, empowering young people, and involving them in efforts to expose and pursue accountability for the occupation's crimes through international and national events.
7. The PLO should enhance Palestinian diplomacy and international relations with influential countries, such as China, to pressure international powers that support Israel.
8. The PLO should activate and recruit Palestinian media to collect, monitor, and document all crimes committed by the occupation since 1948, and submit this documentation to the relevant authorities to support accountability.

9. It is essential to activate and empower Palestinian youth within the framework of Palestinian national policy through the following measures:
 1. Strengthen the legal skills of Palestinian youth by supporting their specialization in international criminal law through educational missions abroad. This will create an informed and capable generation prepared to represent Palestine in cases before the International Criminal Court and defend Palestinian rights against war crimes.
 2. Enable young people to organize training workshops, conferences, and events under the framework of the Palestine Liberation Organization, both within Palestine and in the diaspora. These efforts will raise awareness about war crimes and support victims' families in demanding accountability for crimes committed by the occupation.