
ISRAEL-PALESTINE WAR - DEROGATORY TO INTERNATIONAL HUMANITARIAN LAWS AND PEACE ENFORCING MECHANISMS

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ABSTRACT

“It is forbidden to kill; therefore all murderers are punished unless they kill in large numbers and to the sound of trumpets.” Voltaire. Though philosophies and philosophers ended up explicating the shortcomings of war, human expansionist and realistic international behavior resulted in war. Nevertheless the ultimate bearers are the civilians exemplified by the nuclear destruction in World War II, the terrorist attack on the world trade centre, the war in order to circumscribe Ukraine are some evidentiary accrediting human life suffers and humanity halts. The Israel-Palestine war is an outcome of failed political tactics and international agency resulting in grave violation of the international human and humanitarian laws. The Lives of the residents belonging to the warring zone as well the distant civilians have been strategically deprived of their self-ascertainment rights of movement and property and right of livelihood. The deprivation has been highlighted yet been unaddressed; this paper positions the redressing national agencies in the occupied Palestinian land by Israel and by the international courts. The recognition of a state internationally deprived from thorough protection and on the other hand extremist ideology of infringing one’s right to sustain and protect. Both the states have tangled geographically and communally leaving no space for peace resolutions to exhibit and resort. This is an analytical study to the currently lime-lighted decades old war in contravention to the international laws and peace regulating mechanisms.

Keywords: Genocide, Geneva Convention (fourth), Humanitarian laws, Occupying territory, Oslo accords, Self-Determination.

INTRODUCTION

At any given point of time and at any place, the life of a human has been of an incalculable value, and so do the international organizations strive in many ways to protect it. In the situations of war or peace in any state the proclamations of the international conventions run in order to secure the indispensable rights of a human being aren't abandoned. A real time analysis of the infringement to human rights guaranteed to an individual is never fulfilled, thus in the situations of war the grave violations of such rights firmly exists. World wars, the carnatic wars, the Korean wars, the Spanish-American war and the list goes on, leaving behind destruction to mankind. The contemporary conflict between Israel and Palestine, has led to loss of 8400 lives in totality, with no signs of slowing down. The elementary categorization of the society into religious groups resulting from the developed faith and followers of multiple religions across the globe, is one the reasons for disparities and conflicts between many countries. The conflict between Israel and Palestine revolves around the holy of Jerusalem in the west bank region, and begins with bombing from a terrorist organization HAMAS upon the Israeli land. Not just the religious bifurcation, the ideologies of aiding or supportive nations i.e., capitalistic and communistic adds fuel to the clash. Moreover does the activities of terrorist organizations constitute crime against humanity is a question of concern and drives the applicability of international conventions. The protection of the nationals and primarily the hostages is a matter of immediate concern.

The conventions on the prevention and punishment of crime of genocide of 1948, determinative of stop the genocide and introduces the involvement of International Crime Court to the events of genocide to contracting parties. The other convention, namely the Fourth Geneva Convention, affords the protection of civilians, including in occupied territory. 'Persons protected by the Convention are those who, at a given moment and in any manner whatsoever, find themselves, in case of a conflict or occupation, in the hands of a Party to the conflict or Occupying Power of which they are not nationals. Nationals of a State which is not bound by the Convention are not protected by it. Nationals of a neutral State who find themselves in the territory of a belligerent State, and nationals of a co-belligerent State, shall not be regarded as protected persons while the State of which they are nationals has normal diplomatic representation in the State in whose hands they are.' Despite the presence of many protective measures the people in Palestine cry in the name of *Nakba*, which refers to a disaster on mankind by continuous attacks on them by the state of Israel. But cry should be for the atrocities

faced by humankind of both these nations irrespective of the differences and reasons of the conflict; the necessity is of safeguarding the lives of all by any mechanism as favorable.

RESEARCH OBJECTIVES

- I. To analyze the historical conflict between Israel and Palestine.
- II. To synthesize the international human and humanitarian laws violations impacted due to the war.
- III. To analyze the role of UN and international bodies in the war.

THEORETICAL ANALYSIS

The geographical sanctity of 'Jerusalem' has raised the conflict in the Israeli and Palestinian land. The urge of obtaining unabridged dominance over the territory of Jerusalem in the west bank region, has led to the emergence of conflict between the two states since their emergence in 1947 by the resolution of the United Nations (Resolution 181 of the UN), and led to the origin of two folded governance of the region of west bank. One of them is by the Israeli Military Administration and the other is by the Palestinian Authority. The East Palestine or Gaza Strip is predominantly administered by HAMAS, a terrorist organization. From the year of 1938 numerous wars are fought between the Israel and Palestinian forces till date, what makes a concerning situation is aid and alliances to war adds fuel to it. The most apparent question is role of conventions these states are part to plays no role in regulating the genocide caused to the innocent people during the war?

- I. The United Nations is an international organization set forth for the maintenance of international peace and cooperation, self-determination of peoples and their equal rights, and harmonizing the actions of different nations. The functioning of the organization is by means of conventions, treaties and protocols formulated and amended timely as per need of the hour. It's a binding mechanism for the functioning and sovereignty of nations worldwide. The presence and implementation of international laws and treaty laws are divergent aspects of law. The fundamental principle of international law and law of treaties also referred as *pacta sunt servanda*, meaning the state parties cannot invoke the domestic law to avoid its obligations. The interpretation shall be in good faith in consonance with ordinary objective and purpose of the terms of the treaty. The state parties adhere to these treaties by the way of reservations, to

the extent permitted in the treaty. The prime international organization the UN addresses the terrorism and its combating mechanisms by way of multilateral treaties and conventions. Reaffirming to its establishing objectives UNGA condemns all forms of criminal and terror activities as unjustifiable. It further constitutes a range of committees dealing in counter-terrorism, social, humanitarian affairs and human rights issues, crime prevention and criminal justice perspectives. The functionality for the counter-terrorism strategy of UN is based on the four pillars:

- Identify the reasons of the spread of terrorism
- Prevention and its combat
- Build the state's capacity in its combat and strengthen the role of the UN
- Adhering of human rights and rule of law

The issue of terrorism gave institutionalization to the International Criminal Court, which looks at the matters of terrorism of respective signatories of the Rome Statute. The issue upon governance of terrorism is sui generis of it as a crime against humanity, as a war crime or as genocide, to which no clarity is sought till date for individual terrorist activities. Thereupon the terrorist activities can be adjudicated by the ICC if it is subsumed under crimes of genocide, war or against humanity. Prior to the ICC administration of the criminal activities was done by the ad-hoc or hybrid tribunals for a particular conflict per-se. Later on the effective involvement of ICC and ICJ took the cognizance of the criminal matters as well the breach of conventions and treaties.

The Convention on Prevention and Punishment of Crime of the Genocide, adopted in 09 December 1948, objectifies the prohibition and prevention of the crime of genocide at the times of peace or at times of war, and offer stringent punishment to the offenders of such grievous act. The convention covers all the aspect of genocide i.e., commission of the act, its attempt, conspiracy, abetment and complicity. It obligates the contracting parties to the convention to adhere to the regulations as guaranteed by it, but irrespective of their imperativeness the genocide on the people of Israel and Palestine has been and being caused. Israel has ratified the convention in the year of 1950 and Palestine has signed the accession in the year 2014, but nonetheless hinders the bombing activities from these nations. Article IX of this convention

enables the International Court of Justice to take application from the state in respect of disputes referred to in article III and for its interpretation. The international court of justice (here referred as ICJ) has made deliberate attempts in resolving the conflicts between the two states by way of United Nations Security Council Resolutions and the Oslo Accords. “The report of the Commission of Inquiry of the UN concludes that the Israeli occupation of Palestinian territory is now unlawful under international law. The COI argued that the Israeli presence in the West Bank has become illegal as a result of Israel’s construction of settlements and a separation barrier. The COI concluded these developments amount to *de facto* annexation of occupied territory. The UNGA request to the ICJ appears designed to elicit an advisory opinion echoing that COI conclusion. ICJ declared that these violations render Israel’s presence in the disputed territories illegal, that Israel must withdraw unconditionally and immediately, and that the UN and its member States must pressure Israel to do so”¹. The ICJ called for many resolutions for withdrawing its occupation on the territories of Palestine by the Israeli military, the renderance of the decision on the concept of sovereignty of a state and use of force for its justifiable security of the territory as a self defense mechanism. The Oslo Accord “land for peace” endorsing the peaceful residing of the neighbouring states of Israel i.e., Jordan and Egypt, also of non-interference in the Israel-Palestine conflict. Implications of the resolutions by the UN and the ICJ have never completely aided in resolving the dispute rather leaving the redressal mechanism impeded.

The Fourth Geneva Convention for the protection of civilian persons at the time of war, 1948, the convention was “concerned with combatants only, not with civilians. Some provisions concerning the protection of populations against the consequences of war and their protection in occupied territories are contained in the Regulations concerning the laws and customs of war on land, annexed to the Hague Conventions of 1899 and 1907. During World War I The Hague provisions proved to be insufficient in view of the dangers originating from air warfare and of the problems relating to the treatment of civilians in enemy territory and in occupied territories. The International Conferences of the Red Cross of the 1920's took the first steps towards laying down supplementary rules for the protection of civilians in time of war.” “In the case of armed conflict not of an international character occurring in the territory of one of the States parties to the present Convention, each Party to the conflict shall apply all the provisions of the present Convention guaranteeing:

¹ Convention on prevention and punishment of the crime of genocide, United Nations, resolution 96(I), 1951.

- Humane treatment of the civilian population;
- Prohibition, on the territory occupied by the armed forces of either of the parties, of reprisals against the civilian population, the taking of hostages, the destruction and damaging of property which are not justified by the necessities of war;
- Prohibition of any discriminatory treatment of the civilian population practiced on the basis of differences of race, color, religion, sex, birth or fortune.”²

Financial Action Task Force is the global money laundering and terrorist financing watchdog set up in 1989 out of a G-7 meeting of developed nations in Paris. It aims at combating and adopting preventive measures against the money laundering and financing for the terrorist activities. The Israeli government while countering the financing of terrorism announced in 2019 to withhold the monthly tax transfers to Palestinian authorities for connection and allocation of the funds to the terrorist activities.

- II. The necessity of the survival of humankind in the society isn't reticent to basic amenities now; the requirement of achieving a developed, peaceful and secured society requires stringent observance of human rights across the globe. For the preservation of international peace and security violation and aggression can never be its apparatus, it requires prohibition on all forms of violations and setting forth optimal guidelines to be followed. In all cases the state is mandatoried to guarantee human rights to all individuals. On the other hand the international humanitarian laws come into play during the times of war. Humanitarian law, the law of occupation, and the customs of war do allow for war, but at the same time they design regulations to reduce the suffering caused by wars. For implementation of these rights the definite territory and the identified sovereign authority is a necessity, unlike the situation of the west bank and the Gaza strip where on the Palestinian territory that is occupied by the Israel two administrative powers hold the control, one is the Palestinian authority and the other is Israeli government. The root cause of the conflict has scattered the powers which makes

² Anthony Deutseh and Stephanie Van den berg, What were crimes laws apply to Israel Palestine conflict, Reuters, October 12, 2023 3:01 PM GMT+5:30, <https://www.reuters.com/world/middle-east/what-war-crimes-laws-apply-israel-palestinian-conflict-2023-10-11/>.

it difficult to ascertain the fixing of liability on which administrative authority over the breach of the international human rights and humanitarian laws. Israel's occupation escalated the violations of the human rights and humanitarian laws on the occupied territory, it continuously disregards the applicability of The Hague and Geneva Conventions to which Israel and Palestine both are the parties. "Israel has used the British Defense Emergency Regulations of 1945 very extensively, which allow for land confiscation, deportation, restrictions on movement, curfews on towns and villages, detention, etc."³ On the other hand the Palestinian authority has constituted activities which constitute the violation of the human rights law, amongst them is using civilians in the Gaza strip as the human shield during the attacks from Israel. The use of human shields is considered a war crime and is banned as per Rule 97 of the IHL. It is also a highly looked-down-upon practice. At the same time, it is also prohibited to target/attack human shields.

- After Israel occupied the territory it severely restricted the right to movement after 1967, it enacted different laws, military regulations and orders which restricted the free movement of the people residing in the occupied territory. Which was followed by prohibition of Palestinian vehicles in certain territories, resulting in restriction of trade and movement of the civilians, the right to free movement symbolizes one's capabilities to attain the desired lifestyle, accommodate the basic human needs of equality and non-discrimination. Free movement offers a number of opportunities for an individual from business to education, personal to societal growth, and restrictions have hindered the absolute enjoyment of this right. The right of refugees to gather shelter in war situations is hampered due to the strategic location of the Gaza strip, it shares the borders with Israel and Egypt, both of them have closed the door for the refugees safeguarding in their territories. A clear violation of the right to movement guaranteed by UDHR in article 13. In the humanitarian law the rights of the civilians in the occupied territory are also protected under the Hague and additional Geneva Conventions, which provides during an armed conflict the civilians have the right to freely move in the territory. In fact, "the principles of freedom of movement and freedom of residence had to

³ VOL.4, Mais A.M. Qandeel, Enforcing human rights of Palestinians in occupied territory, Carl Grossmann Verlag, 2018.

be stressed at that moment when the war and the resulting upheavals demonstrated to what point that principle could be trodden underfoot”.⁴

- Right to property is an intrinsic value; it assures peaceful enjoyment and possession of individual's property and its attached legal rights. It confirms the right to live of an individual with dignity, affirming his inheritance and ownership rights to property be it tangible or intangible. The displacement, confiscation, and laws of expropriate of Israel led to 60% of the west bank and 40% of Gaza strip land under the control of Israel. The right to property has been precisely guaranteed by UDHR in article 17 and Article 46 of the Convention (IV) respecting the Laws and Customs of War on Land of 1907, the customary rules prepared by the International Committee of Red Cross, further explain the details behind property protection in Rules 50, 51 and 56.
- Right to Equality and Non-Discrimination are different yet interlinked approaches against biased and preferential treatment towards the group or an individual at domestic and international levels. All forms discrimination on the basis of race, caste, sex, color, religion, nationality, language, birth, political or social origin and opinion or others. For non-departure and adherence to the need of enforcement of human rights, equality and non-discrimination principles have to be obligated by the state to its people. Israel has secured the rights of the Jewish people by eradicating those from Palestinians. Palestinians were restricted from use of roads, infrastructure and other basic services. UDHR in the articles 1, 2, 3 and 5 has tried to reinforce the principle of equal treatment and no distinction on any grounds, which further elaborated in the covenants of UDHR namely ICCPR and ICESCR. The customary rules, prepared by the International Committee of the Red Cross, have dealt with non-discrimination and prohibited any distinction based on any grounds through rules 87, 88. The prohibition of discrimination in the treatment of civilians is guaranteed in Common Article 3 to the Four Geneva Conventions.
- Right to social security, entitlement to rights conferred under this declaration, right to a avail means for a standard life, including freedom to profess economic, social,

⁴ VOL.4,Mais A.M.Qandeel, supra note 4 at 7.

and cultural practices, and etc provided under the UDHR have been curtailed by both the administrative powers on the occupied territory of Palestine. Retrenchment of these rights preferably puts the authoritative governments or bodies in the position of constant violation of the international norms that draws a clear vulnerability faced by the people residing in the territory.

- III. Every state is obliged to abide by the international norms set forth by the international organizations, they are obligated to respect, protect and fulfill the human rights of the people in their territory. States shall ensure the rights of individuals are not impaired by the non-state entities and strive and take measures to secure such rights. The state is consecutively bound to provide individuals with the right to effective remedy in situations of any infringement of their rights guaranteed to them by the way of civil rights and liberties from the international organizations. Both the domestic and international laws prevent transgression of such rights by providing effective mechanisms for their redressal. “The remedies intend to protect the rights of the victims, where everyone has equal protection under the law, and thus, can practice the right to seek judicial remedy.”⁵ The rights to effective remedy to victims of violations of human rights have been safeguarded by enormous international instruments. Article 8 of UDHR ensures to protect the right to effective remedy at national tribunals for the curtailment of rights guaranteed in constitution or by law. “In effect, the Vienna Declaration and the Programme of Action of 1993 provide details on the efficacy of the remedies. Article 27 reads:

Every State should provide an effective framework of remedies to redress human rights grievances or violations. The administration of justice, including law enforcement and prosecutorial agencies and, especially, an independent judiciary and legal profession in full conformity with applicable standards contained in international human rights instruments, are essential to the full and non-discriminatory realization of human rights and indispensable to the processes of democracy and sustainable development. In this context, institutions concerned with the administration of justice

⁵ Yildiz Kule, Yukri Dikmen Mahallesi, Turan Gunes Bulvari, Explainer: UN on the ground amid Israel Palestine conflict, No.:106, 06550, United Nations Turkiye, October 11, 2023, <https://turkiye.un.org/en/249084-explainer-un-ground-amid-israel-palestine-crisis> .

should be properly funded, and an increased level of both technical and financial assistance should be provided by the international community. It is incumbent upon the United Nations to make use of special programmes of advisory services on a priority basis for the achievement of a strong and independent administration of justice.”⁶

Later the UN commission on Human Rights drafted and officially adopted the ‘basic principles and guidelines on the right to remedy and reparation for the victims of gross violations of international human rights law and serious violations of international humanitarian law’. To which the commission took the accountability of the violations plastered on the people in east Jerusalem and occupied territory of Palestine, by securing their right of effective remedy falling under ambit of the determined guidelines. Domestically the Palestinian high court, constitutional court, human rights organization; the Israeli supreme court and human rights organizations have been time and again set up to deliberately provide the effective remedy against the violations of the international human rights and humanitarian laws. The international court of justice, international criminal court, UN individual and state-to-state complaints, resolutions, special reports, international human rights tribunal for Palestine have been the constant monitoring and advisory apparatus over the Israel- Palestine conflict, they function by the way of individual complaints as well the suo-moto cognizance held upon the gravity of violations.

Nationally the judicial arrangements have dispersed functioning mechanisms. The Palestinian judiciary isn’t an independent functioning body rather is presided by the religiously dominating organizations like HAMAS. On the other hand Israeli judiciary is also driven by the political personnel’s and work in order to attain the solution concerning the political agenda. Both the judicial systems are reliant on the organizations for their functioning which makes them internally tangled, disabling them to fulfill the actual context of the establishment. The rationale behind the judicial arrangement has failed miserably, as it’s deprived of independency leading the lack of effective remedy attainment to the victims of violations of international human rights and humanitarian laws.

⁶ VOL.4,Mais A.M.Qandeel, supra note 4 at 7.

International mechanisms work in a two-folded manner. The derivation of any legislation determines the functionality it, which are categorized into two types, states the following:

- DE LEGE LATA, it refers to the presently in force, deals with the law as it is.
- DE LEGE FERENDA, it refers to law which is to be made, proposes to the future law which ought to be framed.

Upon the failure of the domestic judiciary in the occupied territory of Palestine the grave violations have opened the doors for the international authorities to subsume the redressing power and also allow the enforcement in accordance with their mechanisms. But the conditions of the territory led to improper implementation of the resolutions and mechanisms taken by the international organizations. “International mechanisms, de lege lata, to protect Palestinians in the Occupied Territory, simply do not fit Palestinians. The international enforcement mechanisms, de lege ferenda, for Palestinians are derived from the competence of the United Nations system. They are achievable and internationally conceivable.”⁷

ANALYSIS AND FINDINGS

War can never be a solution to any sort of distress; it ends the life of human rights in the warring states as well as kills the moral sanction of international peace and harmony. Nevertheless life of the nation would suffer like the life of nationals. The current breakout of the war has led to seek the traceability of peace settlements that prevented the wars until now. The emergence of the idea of a Jewish national home was seeded by British Foreign Secretary Arthur James Balfour via the Balfour Declaration, leading to the spread of violence and distrust amongst Jewish and Arabs in Palestine. To which Britishers withdrew their forces in 1948, resulting in the Arab-Israeli War where Israel was in annexing more than 50% of additional territory than it actually had. The war was concord by negotiations made by the United Nations as mediator for resolving the conflict, and giving the resolution 181 dividing the territory on the basis of religious majority and apart from the formation of two distinct territories, nations like Jordan and Egypt were given control over some parts of conflicting territory as well. Israel later violated the resolutions and declared war against Palestine and neighboring Arabs leading to

⁷ *Id.* at 10.

the never ending tussle of territorial expropriation. The depiction of chronological events resulting in peace resolutions and their failures, are below:

- In a six-day war between Israel and three Arab nations viz Egypt losing the Gaza strip and Sinai peninsula, Jordan losing West and East Jerusalem, Syria losing the Golan heights led to the win of Israel. The war was short yet impactful strategically fought by Israel on land and water leading to the annexing of some of important territories. The UN mediated to bring back peace and establish the negotiations as a mechanism to restore any disagreement. The UN came up with resolution 242, where Israel's right to live peacefully and secured within its territory that is free from neighboring attacks and Israel's obligation to return back the occupied territory as pre-1967 war. The negotiations between Israel-Palestine were reinforced in 1973 by resolution 338 (the Yom Kippur war).
- After the declaration of ceasefire in the 1973 war the US president Jimmy Carter negotiated to seed the peace resolution between Syria, Egypt and Israel respectively, which involved withdrawal as well handing over some parts of territory by both the parties to agreement. The accord gave rise to the issue to Israel - Palestine conflict should be addressed simultaneously, Egypt herein demanded full autonomy to Palestine, this for resorted to autonomous control of Palestinian authority aided by Israeli security forces. The Camp David Accord is segregated in two parts on the part of Israel, one with Egypt which is rendered successful, and the second with Palestine which it never adhered to as the accord itself was condemned to be ill-defined about whether Palestine be given autonomy or sovereignty.
- In 1987 the breakout of Palestinians against the abolition of Palestine Liberation Organization (PLO) in the West Bank and Gaza led to the emergence of two-folded survival tools; one was the first Intifada invoking mass protests and another being the HAMAS. This later on attracted peace talks between the two nations majorly negotiated by the USA. This was followed by the Madrid Conference in 1991 that paved the way for peaceful negotiations accompanied by USA, USSR and the neighboring countries to Israel and Palestine.
- The breakthrough which is embarked as the epitome adapted to systematic and peaceful resolution to the decades old conflicting disputes between Israel and Palestine was the

Oslo Accord-I of 1993. It was adopted for 5 years which allowed the self governance to Palestinians over West Bank and Gaza followed by Israel's withdrawal and in return recognizes Israel's right to live with peace in their territory without any external threat. The accord divided the West Bank into categories of governance one by the Palestinian Authority and another by Israel's security forces on its occupied territory. In a while Oslo Accord-II in 1995 was designed specifically for the disputed territory of the West Bank, which divided it into three parts controlled by Palestinian Authority, Israel and by both. The security and tax collection were stratified through the accord itself. But the peace settlement did not last for long as the changed Israel's government and the HAMAS dispute arose again following the cross-border attacks.

- In these years the USA has been upfront to mediate the issue between the countries and engage in a diplomatic way to settle the conflicting interests, the Camp David and Clinton Parameters of 2002 and Peace Plans were some of the initiatives led then. The inclination towards Israel was seen clearly where a major patch of land was taken over from Gaza and handed to Israel in return of less productive and quantitative parts. The major outcome was the Palestinians' right to return was recognized.
- These many years Israel has stood braver against all the attacks as well in the negotiations to take the most profitable out of every circumstance. But the changed government had changed its approach towards the decades old conflict between the countries; it led to the unilateral withdrawal of Israel from Gaza and important settlements in the West Bank. It brought the "Israel's Disengagement Plan" for Gaza. The year has shown the changes in the Palestine government as well, the HAMAS's new government in 2005 was rendered unrecognized and criticized by the USA and many other countries, which later ended up in changing the government structure but sparked the civil war in Gaza.
- In 2008 (Olmert's Peace Offer) Israel reopened the peace talk doors with Palestine this time with the issue over Jerusalem. Jerusalem geographically territoried in the West Bank yet is a claimed unified or eternal capital of Israel. Though the negotiations did not succeed, it opened the door for further bilateral negotiations led by the USA in 2014. These years the planning structure of the USA towards the dispute has shifted from

mediator to the supporter and aid provider to Israel and a critique to Palestine specifically the HAMAS which it categorizes as a terrorist led organization.

- The outbreak of the war has currently shut the doors of negotiations which were initiated by the United Nations, seen nowhere resultant. The USA's President Biden reinstated the proposal of a two state solution for the dispute and the countries to disentangle from territories occupied and extended during the war. The states like China, Russia alongside Israel are negotiating to build and sign a normalization agreement with the Arab nations. But the fate of the war has not been sorted by any of these modes; rather it intensified the tussle between the two.

The current resolution of the United Nations comprises ample activities which it engages to return back to the situation prior to war. It includes providing protection from heavy airstrikes to the people in Gaza securing them in shelter homes; ensure the key stakeholders and conflicting parties engage in negotiation to de-escalate the conflict; access to the emergency utilities irrespective of the blockades and building of humanitarian corridors for escalation of humanitarian aid and staff's safety. The council seeks to "allow, facilitate and enable the immediate, safe and unhindered delivery of humanitarian assistance at scale directly to Palestinian civilian population and appointment of a Senior Humanitarian and Reconstruction Coordinator with responsibility for facilitating, coordinating, monitoring, and verifying in Gaza, as appropriate, the humanitarian nature of all relief consignments to the enclave provided through States that are not party to the conflict."⁸ The UNSC meeting pooled two sides to the resolution, assenting and dissenting. The diplomats and representatives view categorically expresses the geographical dismay of the conflict:

- THE CONFLICTING PARTIES: Israel chooses to opt out of the resolution and preferably criticized the UNSC delay in addressing the current issue alongside its inability to condemn HAMAS 7 October attacks. It further draws attention to the constant denial of the Palestinian forces to allow the hostages to visit the Red Cross during liberal hours. It stresses the whole resolution is centered on the providing humanitarian aid which is already provided by the state. On the other hand Palestine affirmed the resolution, urging the mandatory call of ceasefire from the Israeli forces

⁸ Security Council adopts key resolution on Gaza crisis; Russia, US abstain , United Nations. Dec 22 2023, <https://news.un.org/en/story/2023/12/1145022>.

and concerning death rates shall be igniting redressal from the UNSC on immediate basis.

- **THE KEY STAKEHOLDERS:** The plays an important role in policy formulation of a state, here the peace treaties obliges restriction on any active participation in war but simultaneously provides a platform open expressing under hindered views. The UNSC resolution came up with the same opportunities for the neighboring countries of Israel and Palestine. Egypt earlier a peace and land negotiator with Israel tries to build neutral relations with both the conflicting parties by on one hand appreciates humanitarian aid concern brought up and on the other hand the international community to actively look on the crisis of human life amid war and urge for a ceasefire from Israel. UAE criticized the international community for their inability to resolve the conflict by this long period and failed in establishing international peace, it further came up with the ‘two-state solution’ as a resort to the issue and is assertive to the current resolution. Jordan on the other horizon highlighted key issues, without their redressal no resolution in successful or is just a temporary relief, it says- the validation of Israel’s occupation; Gaza’s illegal strike is condemnable; the stake on increase in refugees to Syria, Lebanon, Yemen and Egypt (the data varies from 1.4 to 1.6 million); and no political representation since past almost two decades in Palestine even more complex to negotiate. Jordan strikes a congruous opinion to that of the UAE.
- **THE PERMANENT MEMBERS OF UNSC:** The USA since the emergence of the conflict has been a key component of it, from being a peace mediator to building strong ties with Israel after its inviolable condemnation of the HAMAS. It supports the current UN resolution and denounced the UN could not invalidate the HAMAS’s attack and underground tunnel network and further stresses on precise protection of rights of hostages and protection to the humanitarian and medical personnel’s going to Gaza. Its policy is concerned instead of calling for a ceasefire, creating conditions leading to ceasefire. “The continued control of Gaza by HAMAS — ‘a group that has dedicated its entire existence to the elimination of Israel’ — precludes a pathway to a viable two-State solution, he continued”⁹. Russia and China called for amendment to the resolution and criticized the role of the USA throughout the war; their collective emphasis is on

⁹ *Id.* at 14.

permanent restoration to the issue a ceasefire from Israel and ensuring the effective implementation of humanitarian aid. UK and France have corresponding opinions, assertive to the resolution, necessity to uphold international humanitarian law in any circumstance, and condemnation of the 7 October attack of HAMAS.

- The Norwegian Refugee Council draws the attention to mass deportation of population Gaza residents internally and externally has been exponentially and alarming especially to Egypt. It further condemns HAMAS's attacks but Israel's use of violence and its continuance is non-settler of war.

The United Nations being an international organization responsible for protection of international peace and security with its resolutions since 1947 has been assertive to bilaterally bridge the gaps between the two nations. But the political agendas, religious clashes, violation of sovereign rights of a state, terrorist funding of war from neighboring countries Iran, Qatar, constant changes in government or no democratic government, are the fueling envoy to the conflict and making it a never ending war or conflict. The predominant factor of the conflict came out is HAMAS. The building of HAMAS in 1988 was aimed to reverse the encroachment by Jews in the name of 'jihad'; its major supporter was Iran. The Iranian support categorically provided training in Lebanon and direct funding from their territory. The organization predominantly fueled the riots in Israel by implanting suicide bombs and terrorist campaigns, which was seen successful during the second intifada killing thousands of Israeli population. "To enable its genocidal atrocities, HAMAS created a conventional army able to overrun Israel Defense Forces (IDF) posts on its way to the border communities. Joint exercises since 2020 conducted with other Gazan armed factions like Palestinian Islamic Jihad have habituated units to operating in a coordinated fashion, supported HAMAS command and control, and facilitated cooperation between HAMAS and smaller fractions"¹⁰. Evidently HAMAS is a blacklisted terrorist organization by the USA and European Union. This makes it difficult for any aiding agency to deal with a government which is manipulated by the majorly abolished terrorist organization, leading to a fall in any resolution thus set up. In the recent war Hezbollah has been a prime supporter in recruiting the militants, procuring weapons from Syria and Libya, some through sea route alongside the tunnel networks existing since 1967. The HAMAS has

¹⁰ Ido Levy, How Hamas built an army, The Washington Institute for near east policy, Jan 2, 2024, <https://www.washingtoninstitute.org/policy-analysis/how-hamas-built-army>.

probed the Gaza border since 2018, prepped strategically targeted the border post and simultaneously hostaging civilians, entering the territory from Gazan border as well from the West Bank; is evident enough to establish the planned attack of 7 October violative to the rights Israel's self sovereignty and to international peace norms as well.

The controlling authority over Palestinian land is Palestinian Authority whose existence is concurrent to that of the Palestine Liberation Organization (PLO). PLO was founded to address the rights of the Palestine population at international platforms whose recognition was asserted by 13 Arab nations in 1964. Later the same year it framed the Palestine National Charter or Covenant which was amended consecutively, it was aimed at razing of Israel and mentioning the same. "The PLO was responsible for scores of acts of terrorism from its creation, resulting in the deaths of thousands of civilians. Among the infamous attacks conducted by the PLO are: the murder of 11 Israeli athletes at the 1972 Munich Olympic Games; the killing of 21 schoolchildren at Ma'alot in 1974; the death of 35 people and wounding of 85 in an attack on Israeli tourist buses along the Haifa-Tel Aviv coastal highway in 1978; the hijacking of the Achille Lauro cruise ship in 1985 and the murder of disabled American Jewish passenger Leon Klinghoffer. The PLO also launched terrorist and guerrilla attacks against Israel from Jordan — until they were ousted by King Hussein in September 1972 — and from Lebanon — until they were ousted by Israel in 1982"¹¹. With the outset of peace settlements and Accords (Oslo's) in 1993 the redefining of PLO and Israel rights was a major tool for the abolition of terrorist activities. The renunciation of terrorism which earlier promised by PLO enforced rigidly this time along with amendment in Palestine National Charter in the presence of the then US President Bill Clinton in 1998, and retrospective recognition to Israel rights and PLO as the representative. Since then PLO, through its Fatah officials govern as Palestinian Authority in Gaza and the West Bank. No denial can be sought on the fact that any group or organization that led the ideologies of Palestinians was once or is set for the destruction of Israel, which makes it condemnable in the eyes of many international bodies and states leading to the deterioration of the rights of civilians there. Also geographical allies which make Israel closure terrorist politics of congregation.

¹¹ Yildiz Kule, Yukri Dikmen Mahallesi, Turan Gunes Bulvari, Israel Palestine crisis: First evacuations from Gaza, outrage grows over refugee camps strikes, No.:106, 06550, United Nations Turkiye, Nov 02, 2023, <https://turkiye.un.org/en/251502-israel-palestine-crisis-first-evacuations-gaza-outrage-grows-over-refugee-camp-strikes>.

The rate of atrocities has been seen nowhere to diminish, as per the statistics in the Gaza territory daily death rate varies between 70 to 140 according to their health ministry approx 20,000 and more till now. The Israel's ministry confirmed 1140 deaths from the 7 October attack. The Israeli government in occupied territory in the West Bank raided many places on the suspicion of HAMAS terrorists hiding there; the total number of fatalities is 520 Palestinians there. The Israel government on 4 January issued the statement stating the war will not end until the existence of HAMAS has been brought to extinction, and the actions rather emphasizes the obstinate behavior from Israel. But the international peace and security norms are completely opposite to the current crisis, since none is lacking behind in the efforts of destruction, the enforcement of any treaty or peace settlement seemingly stands postponed for no specific duration.

CONCLUSION

The religious dispute which later took the form of territory dispute to now sovereignty failure has been a major crisis to the world for the past six decades. Sovereignty comes up with rights to protection of one's identity, its people and prosper; unlike in this set of circumstances none volunteers to be a settler to the violence for the sake of individuals and posterior's sovereignty. The quantum of fatality seeks no halt till date; simultaneously benignant are the promising aggravators to the crisis. The nations with good ties with both the conflicting parties have been resorting agents but could not succeed. Like India since the existence, it maintained the peaceful, impartial and objective relationships bilaterally with both the nations; amid the current conflict it stayed neutral, underpinned to humanitarian aid and diplomatic support to both nations. India is a supporter of the UNSC resolution, preferably appealing for humanitarian ceasefire, and release of the hostages and draws concern to the civilian life endangered due revolting ideologies of some authoritative. India has been in a pro-Arab historical position after its independence which is condemnable by its neighbours (i.e., Pakistan and Bangladesh, Muslim nations) as they are advocating supporting Palestine and refuting the neutrality approach.

Despite the UN resolutions for so long no stringent peace settler is attained yet. Not only peace negotiations, the agency has failed to address the de-facto and de-jure rights of the civilians in Israel occupied territory as regards the international human and humanitarian rights, alongside poses question to where shall the aggrieved place their redressal. The inseparable rights of

every person alive are ensured by state and international bodies collectively; UN, Norwegian Refugee Council, Middle East peace relations secretary and other agencies primarily adopted the non-interference then later resolved with resolutions whose effective implementation can lead to any success unless end up worsening the situation. The atrocities cited by UN stands humanitarian violations, mortality rates, hostages tortured and lack of survival conditions, but neglects facts of terrorist attack at most priority, then accompanied by confiscation, expropriation and destruction of property in Gaza majorly, millions left homeless escalating refugees in neighboring nations predominantly Egypt, and flagrant violations of the international humanitarian laws. “Violations include house demolitions, the denial of residency and family unification, deportations, restrictions on the liberty of the persons, restrictions on the right to expression, administrative detention, torture, denial of health care, restriction on the right to education, etc. The Palestinian government, the political parties of Fatah and Hamas, has also committed acts of discrimination against the Palestinians who are politically affiliated with the opposing party”¹². The UN and its party states preferably chose to be silent on these issues and brought amendments to their own favorable policy decisions. Indecisiveness and improper implementations are some of major setbacks that agency got for itself compromising the major power players manipulating resolutions in their advantageous way and no place for enforcement of such resolutions makes more strenuous for the agency to keep it preamble intact.

SUGGESTIONS

The territory dispute that arose in the six day war in 1967 is existent in present times as well. The Camp David and Oslo Accords somewhat brought certain peace with Egypt, Syria and Jordan but failed when it came to the West Bank due religious crisis and at Gaza the terrorist mentality of destruction; on the other side the expansionist behavior of Israel with mounting of UN and ally to NATO has setback all negotiations. In the current resolution many states came with few permanent resorts to the conflict:

- The TWO-STATE solution, where Gaza and West Bank should be given control to Palestine and Israel shall remain the independent state as it is. This could not be implemented without addressing the issue over Jerusalem whose contradictory existence was highlighted in the UN resolution of 181 and has the capability to ignite

¹² VOL.4,Mais A.M.Qandeel, supra note 4 at 7.

communal violence worldwide. The Jerusalem disintegration might never be adjoined peacefully as three religious sacred places coincide there with chaotic population distribution. The states shall also take into consideration the deliberate invasions made by Israel has certainly made it impossible to detangle each other to that of prior 1967's war. It has addressed that Israel and Palestine across the borders of Gaza and common occupation in the West Bank rendered a de-facto one state. In presence of such intactness territorial disintegration would ultimately end up in harming the rights of civilians everywhere.

- The ONE-STATE solution, the integration of the Israel, Gaza and West Bank; and common governance over them collectively. The issue that comes up with this solution is firstly leadership, as HAMAS and PLO are either terrorist organizations or unrecognized non-governmental representatives; simultaneous non acceptance to an Israeli leader as belonging to another community. Secondly, the religiously tangled state with unproportionate distribution is a kindle to communal violence. Thirdly, internationally in non-observant sovereign state Palestine with a democratically working state Israel is a setback to many allied nations to both the countries; as these nations have become a programme of some nations to implement their ideology diplomatically and strategically the opponent.

Rather the effective solution can be the THREE-STATE policy, granting Gaza and West Bank to Palestine, alike present Israel being autonomous state and the Jerusalem; a new state identification with strategic and optional residency rights to the current inhabitants, restrictive refugee inhabitant and international regime to govern and establish a democratic sovereign rights in the third state. Ensuring no organizations runned in order to deteriorate other nation's well-being, in spite cohabit peacefully, acknowledging others right of sovereignty, protection from any foreign aggression and righteous existence without any expansionist ideologies.

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