Original Paper

The Gaza Conflict, from an International Law Perspective Failure of Humanitarian Law and Restructuring of Global

Governance

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Abstract

The 2023-2025 Gaza conflict, which killed more than 35,000 people, has exposed the systemic failure of the contemporary international humanitarian law system. This article uses the Geneva Conventions and their additional protocols as an analytical framework, combined with the implementation dilemma of UN Security Council resolution 2728 (2024), Revealing the persistent violations of the principles of proportionality and distinction by the belligerents, especially the Israel Defense Forces-including indiscriminate attacks on medical facilities, journalists and civilian settlements. The study was conducted through three dimensions: first, deconstructing the legal roots of the international community's "failure of collective action", with a focus on the legal disputes over U.S. arms supplies and EU economic sanctions; Secondly, assess the effectiveness of China's "Two-state Solution" reconstruction initiative, Russia's "Humanitarian Corridor" program and the Arab League's mediation action; Finally, a new mechanism of "preventive judicial intervention" was proposed, suggesting the strengthening of the pre-forensic rights of the International Criminal Court (ICC) and the establishment of a United Nations standing conflict verification force. This paper particularly demonstrates the extended application of the definition of war crimes in Article 8 of the Rome Statute, providing an operational legal toolkit for future conflict prevention.

Keywords

public international law, Gaza War, invasion, international sanctions, law of war, humanitarian crisis

1. Introduction

An important condition for the implementation of international law is "commitment", yet in real legal practice, international law commitment has always been difficult to implement against the illegal acts of sovereign states-especially against major powers. It is this apparent gap-the chasm between verbal support for preventive measures and actual commitment-that has prompted the International Commission on Preventive Services (ICISS) to try to address it through its concept of "preventive responsibility". At the core of the commission's recommendations is Annan's view that the world needs to shift from a "reactive culture" to a "preventive culture". This challenge has been partially addressed. In July 2001, the Group of Eight (G8) launched the Rome Conflict Prevention Initiative. Focus on measures such as combating the small arms trade, combating conflict diamonds, stopping child soldier behavior, promoting women's participation in development, and promoting private sector development (See John J. Kirton and Radoslava N. Stefanova, 2004). At the same time, the UK established two special funds for conflict prevention: the Global Conflict Prevention Fund and the Africa Special Fund (See Paul D. Williams, British Foreign Policy Under New Labour, 2005).

Despite these measures, how to do better in the field of prevention has always been a recurring theme in the global consultations of the International Crime Prevention and Criminal Justice System (ICISS). Based on long-term understanding of different types of prevention efforts, the commission has divided its recommendations into three major areas: "early warning mechanisms", addressing root causes, and "direct prevention". Ironically, given that the conference only explicitly listed early warning mechanisms as part of preventive responsibility, ICISS pointed out at the beginning of the discussion that mistakes related to early warning are often exaggerated, and the core of the problem is often not the prediction of violent conflicts, but the lack of political will to translate the prediction into action. It is now well known that the mass massacres among Serbs, Georgians and Bosnian Muslims during the Bosnian War, the genocide in Rwanda and Israel's indiscriminate bombing of Arab civilians in the Gaza Strip were all predicted before they occurred. However, the International Crisis Information and Early Warning System (ICISS) has found that a more precise analysis of the early warning signals might enable an earlier opportunity for constructive third-party participation. It is precisely because of this possibility that several intergovernmental organizations (IGOs), including the World Bank, and non-governmental organizations (NGOs) such as ReliefWeb have established their own early warning mechanisms.

2. Methodology

2.1 Preventive Diplomacy

The Arab-Israeli conflict was once the most fundamental and basic dividing line in international relations in the Middle East. Since the 1990s, the Palestinian issue has been at the core of the Arab-Israeli conflict. The 2002 Arab League summit adopted the Beirut Declaration, which made a fair settlement of the Palestinian issue a prerequisite for the establishment of diplomatic relations between Arab states and Israel. In September 2020, under the push of the Donald Trump administration, Israel signed the

Abraham Accords with the United Arab Emirates and Bahrain to normalize relations as the situation in the Middle East evolved and the US Middle East strategy was adjusted. In October and December of the same year, Sudan and Morocco also joined the process to establish diplomatic relations with Israel. Since Joseph Biden took office, the United States has continued to vigorously promote reconciliation between Saudi Arabia and Israel and encourage Israel to establish diplomatic relations with more Arab countries to help Israel achieve a "diplomatic breakout" in the Arab world to form the US-Israel-Arab "iron triangle", Together to contain the Iran-led "Resistance alliance" (Iran's Shiite forces + Hamas). The Abraham Agreement, which advocated for promoting Arab-Israeli reconciliation by setting aside the Palestinian issue, has led to the marginalization of the Palestinian issue. The ongoing normalization of relations between Saudi Arabia and Israel has further raised deep concerns among various Palestinian factions, represented by Hamas, about their own marginalization. Coupled with the 17-year blockade imposed by Israel on Gaza since Hamas seized control of the region from Fatah in 2007, which has led to a shortage of food, medicine and other necessities of life in Gaza, an intensification of the humanitarian crisis, and a continuous rise of anti-Israel sentiment in Gaza, military struggle has become the main means of Hamas' fight against Israel.

The core of UN Security Council Resolution 1325 (2000) is to protect the rights of women and girls in armed conflict, ensure their participation in the peace process, and prevent gender-based violence against them. Israel has repeatedly violated the spirit of the resolution and international humanitarian law in its military operation in Gaza, as manifested in the following aspects:

2.1.1 Violation of the Provisions on Gender-Sensitive Protection in Resolution 1325

Resolution 1325 recognizes that the impact of armed conflict on women and girls is different and disproportionate, and calls on all parties to ensure their protection, humanitarian assistance, health and their full participation in conflict resolution and peace-building processes.

a) Disproportionate civilian harm and neglect of women's needs

The UN Bulletin (December 2023) reported that since October 2023, Israel's bombings have killed nearly 12,000 women and children, and 1.1 million women and girls are in urgent need of basic services - food, shelter, water and sanitation - and have severely hindered access to health care, especially for pregnant women and girls with disabilities. This amounts to Israel's failure to fulfill its obligations under international humanitarian law and Resolution 1325, and its failure to take responsibility for gender harm. (UN)

UN experts (May 2025) stress that in the famine crisis, more than 28,000 women and girls have lost their lives, thousands have been injured, nearly one million have been displaced, and 13,000 women have become heads of single-parent families. They stressed that the suffering "is not accidental—but rather the consequence of Israel's deliberate policies and actions" and is likely to constitute a condition aimed at destroying Palestinians' living conditions "in whole or in part". This once again highlights the violation of the gender-sensitive protection provisions in Resolution 1325. (United Nations)

b) Systemic sexual and gender-based violence

A report released by the United Nations Commission of Inquiry in March 2025 documented sexual and gender-based violence, including forced nudity, stripping searches, posing in underwear in front of the Israeli flag, insults and threats, and attacks on Palestinian women and girls, all of which are rooted in the operational procedures of the Israeli security forces. This is a serious violation of the protection of women and girls as required by resolution 1325. (Wikipedia)

The report of the Office of the High Commissioner for Human Rights (and the Special Rapporteur) noted that female detainees have been raped, stripped naked and photographed in degrading circumstances - acts that seriously violate international humanitarian law and international human rights law and directly undermine any obligation under resolution 1325 to avoid gender-based harm and persecution. (Wikipedia)

2.1.2 Broader Violations of International Law Have Undermined the Objectives of Resolution 1325 Even leaving gender aside, Israel's actions violate key principles of international humanitarian law (such as distinction, proportionality, collective punishment) and international legal protection related to civilians, directly undermining the humanitarian assistance and protection required by resolution 1325.

a) Hunger as a means of war/collective punishment

The UN-backed Gaza Peace Council declared famine in Gaza City, with more than 514,000 people facing it, and the situation worsened further in September, partly due to Israel's restrictions and controls on aid - which increased the likelihood of war crimes. (The Guardian) A UN Security Council spokesman (2024) condemned "hunger as a means of war" and collective punishment, calling on Israel to stop obstructing UNRWA and uphold humanitarian law. (UN News)

The International Commission of Inquiry (June 2024 report) concluded that Israel is responsible for crimes such as famine, attacks on civilians and forced migrations. Additional independent analysis pointed to the killing of civilians at aid sites (for example, 118 at the Nablusi roundabout), the death of hundreds of aid workers (more than 196), and the use of white phosphorus - indicating serious violations of international humanitarian law. (Geneva Center for International Justice)

b) Attacks on humanitarian, medical and civilian infrastructure

Another major violation is targeting hospitals: attacks on more than 20 hospitals in northern Gaza, severe shortages of medicines and worrying maternal health conditions. These acts - as reported by reports such as the German Watch - directly violate the principles of international humanitarian law regarding the protection of civilians. (Deutschwatch)

The recent attack on Nasser Hospital, which killed journalists and medical staff, has raised legal alert for the "double-click" tactic, which could constitute a war crime. (The Washington Post)

c) Forced migration/population engineering

The General Assembly of the European Commission condemned Israel's "Operation Gideon Tank" and forced migration, describing it as a serious violation of the Fourth Geneva Convention and potentially an international crime - especially serious under the provisions of resolution 1325 regarding human security. (Parliamentary Assembly of the European Commission)

The Red Cross (August 2025) declared the withdrawal from Gaza City unsafe and unfeasible, highlighting Israel's inability to guarantee the safety of civilians during displacement - a violation of its international humanitarian law obligation to protect civilians. (Reuters)

In addition, Israel has declared Gaza City a "war zone", halted humanitarian ceasefires and airdrops, and plans to cut aid - all of which have exacerbated the humanitarian crisis.

2.2 Coercive Threshold

2.2.1 The Justification of Armed Intervention under Chapter VII

Legal standards of the Charter of the United Nations

To authorize the use of force, the United Nations Security Council must determine that a certain situation constitutes a "threat to peace", a "violation of peace" or an "act of aggression" (Article 39), and must authorize action in accordance with Chapter VII - including the scale, duration and nature of the force.

Applicable to Gaza

Genocide and Famine: Gaza courts have described the situation Israel is creating as "the deadliest stage of genocide," and urged the United Nations to engage in armed intervention in a deadlocked Security Council through a "United for peace" mechanism (Anadolu Agency).

Disrupted delivery of aid: UN Special Rapporteur on the right to Food warns that humanitarian aid deliveries in Gaza are under severe attack and can only be protected by UN armed peacekeeping forces. He believes that if no action is taken, there is a risk of "dystopia" when aid operations will come to a complete halt. (The Guardian).

Political divisions: Efforts to authorize peacekeeping forces through the Security Council, such as a French resolution, were rejected - reportedly by the United States - paralyzing UN operations. The UN budget is underfunded (up to 82% of the funding gap in the region) and lacks authorization.

Fragmentation of global diplomacy:

EU member states are severely divided; Some countries advocate sanctions and freezes, while others oppose (Reuters).

Ministers from Germany, Italy, the United Kingdom, Australia and New Zealand issued a joint statement condemning the annexation and calling for a ceasefire, but did not support armed intervention (Euronews).

Pope Leo XIV, the UN Secretary-General and other actors strongly called for an end to collective punishment and evacuations - but still supported diplomatic and humanitarian aid (AP News).

Assessment: There are significant humanitarian obligations under the principles of the Charter - characterized by famine, civilian casualties and potential crimes against humanity. Most of the non-coercive tools have failed or been blocked. However, the lack of consensus in the Security Council (particularly the veto power) and the lack of binding resolutions have severely limited the legal basis stipulated in Chapter VII of the Charter. The "Solidarity for peace" mechanism offers an alternative, but it is not binding and will face significant political resistance.

Theoretical obstacles

Consent and Sovereignty: Peacekeeping operations traditionally require the consent of the host country and pre-existing peace. Gaza lacks a clearly recognized sovereign authority, and neither Israel, Hamas nor the Palestinian Authority will readily consent to the actions of external forces. Veto politics: Any peacekeeping mandate under Chapter VII of the UN Charter could be vetoed by any permanent member of the Security Council. The United States has previously vetoed a peacekeeping proposal.

Combat risks: The lack of a clear frontline or effective local governance in the high-density urban war zone of Gaza poses a serious combat challenge to protecting civilians.

Cognition and legitimacy: Peacekeeping forces in the Global South are sometimes seen as imperial proxies, undermining local legitimacy. Any UN force must overcome this historical burden. (Al Jazeera).

Authorization ambiguity: The mission must clearly define the rules of engagement - for example, whether to eliminate armed groups such as Hamas, protect civilians at risk, or ensure the entry of aid supplies - each choice has huge political and moral implications.

Regional power competition: Arab countries (such as Egypt and the United Arab Emirates) have their own vested interests - some countries support the rule of the Palestinian Authority; Israel opposes the rule of the Palestinian Authority; Hamas resists any external control. It's not easy to grope your way through this maze.

Although the humanitarian crisis in Gaza - famine, mass displacement and potential genocide - provides a strong moral and legal basis for armed intervention under Chapter VII of the Charter, the politics of major powers, especially the veto power of the United States, has hindered the path to authorization. Unconsented intervention remains legally controversial, while consented UN peacekeeping operations are hindered by a lack of consensus among parties, logistical challenges and political mutual trust.

2.3 An Analysis of International Law Practice in the Gaza War

The operations of the Israel Defense Forces in Gaza have raised serious concerns in international humanitarian law (IHL), particularly with regard to: (a) the principle of proportionality - attacks on hospitals and schools; (b) the imposition of collective punishment through blockade; And (c) the

principle of distinction - indiscriminate drone strikes. These principles, set out in the Geneva Conventions (1949) and their Additional Protocols (1977), as well as customary international law, are binding on Israel as both a belligerent and an occupying power.

2.3.1 Violation of the Principle of Proportionality: Attacks on Hospitals and Schools

Legal framework

The principle of proportionality prohibits attacks that cause collateral harm to civilians exceeding expected military gains. Hospitals and medical facilities receive special protection under the Fourth Geneva Convention only if they are used for hostile acts and given prior warning. Civilian objects such as schools receive similar protection unless they become military targets

Evidence from Gaza

Nasser Hospital "Double-click" attack (25 August 2025): The second attack killed at least 20 people, including five journalists and several medical staff, who arrived after the first attack Schools used as shelters have been attacked repeatedly: Human Rights Watch has documented attacks on hundreds of school buildings, many of which house displaced civilians, resulting in a large number of civilian casualties

Legal assessment

Even assuming the presence of some militants, civilian casualties and losses are clearly disproportionate, violating Rule 14 of International Humanitarian Law. Deliberately undermining civilian health care in a humanitarian crisis exacerbates the suffering of the people and violates international humanitarian law.

2.3.2 Prohibition of Collective Punishment: A Total Blockade of Gaza

Legal framework

Article 33 of the Fourth Geneva Convention prohibits collective punishment. Article 54 of the First Additional Protocol and customary International humanitarian law explicitly prohibit the use of hunger as a means of warfare and define hunger as a war crime under Article 8 (2) (25) of the Rome Statute of the International Criminal Court

Evidence from Gaza

Famine situation confirmed: IPC declared famine in Gaza City on 22 August 2025, affecting more than 500,000 people; Projections suggest the situation is deteriorating.

Deliberate hunger policy: Amnesty International has reported new testimony revealing that Israel's hunger of Palestinians is a deliberate policy of destruction.

UN and aid groups condemn the blockade as collective punishment: Humanitarian agencies and legal experts have characterized the blockade as a punitive act, saying it violates international law and is illegal.

Legal Assessment

The blockade leads to massive deprivation of essential supplies for civilians, constituting collective punishment. Such actions are clearly intended to cause hunger and violate the provisions of the Geneva Conventions and the Rome Statute.

2.3.3 Violation of the Principle of Distinction: Indiscriminate Drone Attacks

Legal framework

International humanitarian law requires a constant distinction between civilians and combatants (customary International humanitarian law 1). Article 51 (4) of the First Additional Protocol prohibits indiscriminate attacks; Article 8 (2) (1) of the Rome Statute defines attacks on civilians as war crimes.

Evidence from Gaza

Human Rights Watch's historical findings: A 2009 Human Rights Watch report documented several drone missile strikes that killed civilians, including children, but there was no evidence that combatants were present; Operators failed to take all feasible precautions.

High civilian casualty rates: Data from the UN Office for the Coordination of Humanitarian Affairs shows that more than 70 percent of the casualties by mid-2025 will be women and children - raising serious concerns about indiscriminate attack targets.

Legal Assessment

Given the precision strike capabilities of drones, which have repeatedly caused civilian casualties, it indicates that they either recklessly ignore or deliberately violate the principle of distinction. According to the Rome Statute, these drone strikes are likely to constitute war crimes. These actions could also constitute war crimes under the Rome Statute. Accountability mechanisms include interim measures by the International Court of Justice, arrest warrants by the International Criminal Court, investigations by the United Nations, and prosecutions under universal jurisdiction. However, political factors - particularly the veto power of the US Security Council - have limited enforcement.

2.3.4 The Normative Role of Major Power Mediation

Fu Cong, China's permanent representative to the United Nations, spoke at the Security Council's emergency open meeting on the humanitarian situation in Gaza on Tuesday, urging the international community to take forceful action with the strongest sense of urgency to alleviate the humanitarian disaster.

The conflict in Gaza has lasted for 21 months and the humanitarian situation has deteriorated to an unprecedented extent, Fu said. Guaranteeing humanitarian aid is an international humanitarian law obligation of Israel as the occupying party and a clear requirement of several Security Council resolutions and the Order of interim measures of the International Court of Justice. China firmly opposes the weaponization of humanitarian aid and urges Israel to immediately lift the blockade and siege on Gaza and fully restore access to humanitarian supplies.

Fu said the United Nations has repeatedly pointed out that the militarized material distribution mechanism promoted by the United States and Israel violates the principles of justice, independence and neutrality and is not sufficient to ease the humanitarian situation. Instead, it has repeatedly caused heavy civilian casualties. The United Nations and other agencies have a complete system and rich experience and are capable of delivering humanitarian supplies on a large scale to various parts of Gaza. All parties should support the United Nations in providing assistance in a humanitarian manner, and Israel is

obligated to provide security and all facilities for it.

Fu Cong also said that it is reported that the Israeli side has recently discussed the establishment of a so-called "humanitarian city" in southern Gaza. China expresses serious concern over this. Any attempt to force the relocation of the Palestinian people is a serious violation of international law and Security Council resolutions, and the international community must firmly reject it.

Fu said an immediate and lasting ceasefire in Gaza is a key prerequisite for saving lives and alleviating the humanitarian disaster. China urges Israel to immediately cease all military operations in Gaza. Countries that have significant influence over the parties should act in a fair and responsible manner and take concrete and forceful actions to push for a ceasefire.

Fu Cong stressed that the implementation of the "two-state solution" is the only feasible way to solve the Palestinian issue. China welcomes the high-level meeting on the implementation of the "two-state solution" to be held at the end of this month and hopes that the meeting will inject strong impetus into the political process of the "Two-state solution". China will continue to work with the international community to push for the end of the Gaza war, the mitigation of the humanitarian disaster, the implementation of the two-state solution, and ultimately achieve a comprehensive, just and lasting settlement of the Palestine issue.

At the UN Security Council meeting on August 27, 2025, Dorothy Shea, the acting US ambassador, did not categorize the Gaza famine as a "man-made crisis" like the other 14 member states. Instead, the United States expressed concerns about the credibility of the famine report, pointing out problems with its approach, but at the same time stressed: Hunger and humanitarian needs in Gaza are real. Meeting those needs remains a U.S. priority

Statement by Ambassador Shay:

"We all recognize that hunger is a reality in Gaza, where there is a great deal of humanitarian need to be met. Meeting those needs is America's top priority." (Reuters)

The United States imposed sanctions on Palestinian human rights groups (Al Haq, Al Mezan and the Palestinian Human Rights Centre), accusing them of conducting provocative acts (politicians) related to the International Criminal Court. It also suspended visitor visas for Gaza residents, including medical humanitarian cases, pending procedural review of politicians. A group of U.S. Democratic senators criticized the State Department's oversight of the Gaza Humanitarian Foundation (GHF) and raised concerns about financial transparency, coordination with Israeli military operations, and consistency with controversial post-war plans (The Guardian).

2.4 Institutional Optimizations for Conflict Prevention

The establishment of the United Nations Standing Mediator mechanism should be based on the legal basis of Chapter VI (Articles 33-38) of the United Nations Charter to achieve the function of "preventive diplomacy" through the standing mediation team. The mechanism could draw on the rules for determining the validity of the Singapore Convention on Mediation to give enforceability to mediation agreements. In response to the Gaza crisis, mediators should give priority to: (1) technical negotiations

on the opening of humanitarian corridors; (2) the formulation of a provisional agreement on the code of conduct for warring parties; (3) The establishment of a third-party oversight mechanism. The ruling on "preventing acts of genocide" in the 2024 ICJ Interim Measures order provides mediators with a legally binding benchmark for negotiation.

The current collection of evidence by the International Criminal Court under Article 54 of the Rome Statute faces three obstacles: restrictions on access to war zones, the vulnerability of electronic evidence to be lost, and insufficient protection of witnesses. A "three-stage acceleration procedure" is proposed: Emergency forensics authority: Drawing on the model of the International Investigative Mechanism (IIIM), authorize prosecutors to conduct rapid forensics within 72 hours within the framework of Security Council resolutions;

Digital evidence chain: Use blockchain technology to solidify electronic evidence such as drone images and satellite images (refer to the "time-geographical location" hash value evidence method in the Syrian chemical weapons investigation);

Virtual witness protection: Remote testimony through encrypted communication technology to avoid the risk of physical transfer of witnesses.

The "four-dimensional surveillance system" (satellite + drone + ground sensor + open source intelligence) of the Syrian Chemical Weapons Surveillance Mechanism (OPCW-UN JIM) could be improved for application in Gaza:

Legal basis: Referencing Article 36 of the First Additional Protocol to the Geneva Conventions on the review of new means of combat, surveillance technology is included in the category of "necessary means" for ceasefire verification;

Implementation criteria: Establish a "dual-track verification" system - technical data must simultaneously meet the forensic norms of the Hague Rules of Evidence and the electronic evidence standards of Tallinn's Manual 2.0;

Accountability connection: The monitoring results are directly connected to the ICC prosecutor's office to form a closed loop of "technical discovery - legal characterization - judicial accountability".

3. Conclusion

Three mechanisms are linked through Chapter VII (Articles 39-51) of the United Nations Charter: the mediation mechanism to prevent escalation of conflicts → technical verification to solidify evidence of violations →ICC procedures to provide judicial relief. In the process of Gaza's reconstruction in 2025, the system could break through the limitation of "post-event intervention" in traditional peacekeeping operations and build a full-cycle legal barrier of "prevention - supervision – accountability".

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