

VIOLATIONS OF HUMANITARIAN LAW: CONSISTENCE OF THE GENEVA CONVENTIONS IN THE PALESTINE – ISRAEL WAR

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Date Received: 18 March 2023 | Date Accepted: 21 August 2023 | Date Published: 1 December 2023

DOI: <https://doi.org/10.51200/manu.v34i2.4768>

Abstract This paper discusses the Humanitarian Law Violations in the Palestine – Israel war which caused a humanitarian crisis due to the Israeli attack. Muslim countries that recognize the status of independent Palestine are furious to see the wars that never stop being prolonged. We need to know that violations of humanitarian law in the wars between Palestine and Israel were committed by these two countries. Implementation of the Geneva Conventions is a solution to strengthen the principles of humanitarian law from violations committed by the two disputing countries. This paper will define how to enforce humanitarian law violations that occurred in the Israeli and Palestinian wars and define humanitarian law violations in the Israeli and Palestinian wars. This paper uses a qualitative descriptive method using the concept of the principles of humanitarian law and the Geneva conventions.

Keywords: Humanitarian Law, Geneva Conventions, Israel – Palestine war, human rights.

INTRODUCTION

Shifting regional dynamics and humanitarian crisis in the Middle East when regional tensions escalate. More than 80% of Palestinian refugees in Lebanon, Syria and Gaza live below the poverty line. In Syria, after 11 years of conflict, the poorest families are returning to their status and United Nations Relief and Works Agency (UNRWA) is facing a funding crisis and calling for political and financial support, UNRWA faces an existential threat. Staking the quality and principled education of more than 500,000 girls and boys. Access to health care for some 2 million Palestinian refugees and a social safety net for some 400,000 of the poorest of the poor. Psycho-social support for hundreds of thousands of children (Betul Yuruk, 2022).

Armed conflicts occur because of the desire to defend the interests of the country, the interests in question are economic, political, social, and cultural interests, this is attempted to obtain by peaceful means, but to no avail, so one must use violence to win the interests of the country by means of conflict armed conflict or war, armed conflicts often only prioritize victory so that they do various ways to win the war. One of the violations that often occurs by the parties involved in the conflict is the sacrifice of civil society to feel the impact of the armed conflict. Affected civil society became victims so that they fled from their countries that were in conflict and even they became targets or objects of the parties so that they experienced mass killings, hostage-taking, sexual violence, sexual harassment, expulsion, forced displacement, and closure of access to water, food, and maintenance. The phenomenon of children being used as prisoners of war occurred in the war between Israel and Palestine. The United Nations agency that focuses on children's issues, UNICEF, in its 2015 report reported 440 children languishing in Israeli prisons and among these there were 116 children aged 12-15 years, and 12 of them were girls (Aryuni, 2017).

In every war that occurs, it is certain that there are parties affected by the war and civil society living in war-affected areas have the right to receive humanitarian protection. During the conflict between Israel and Palestine, life in Palestine was destroyed, civil society in Palestine felt insecure because of the fear that conflict would continue around them. Based on the Geneva Convention IV/1949 and Additional Protocol I/1977, civil society is a party that must receive protection and must not be attacked. The protection of civil society covers the entire population of conflicting countries, without any adverse differences based on ethnicity, nationality, religion or political circumstances to alleviate the suffering caused by war by the conflicting countries. However, in fact most of the victims in the war are Palestinian civilians. With this it is very inconsistent with the contents of the Geneva Convention IV/1949 and Additional Protocol I/1977. The fact that the principles of the 1949 Geneva Convention relating to humanitarian law were not obeyed by armed war parties from a disputing country (Mahardika, Mangku, dan ... 2021).

The existence of the war made the Geneva Convention regulate the rights of the civilian population to pay attention to protection in times

of war. The Geneva Convention applies to all events of war as well as armed conflict. War is a way or solution that is highly avoided to resolve disputes, but war has been recognized and practiced for a long time when other solutions have been at a stalemate other than war. In war, victims from the military are considered as a logical consequence of armed combat attacks, but victims from civil society are considered very irrelevant because civil society is unarmed and not involved in armed conflict and becomes and its safety is protected from the impact of armed war. Armed conflict is a human activity that is in the category of part of a legal entity, with conflict management which was originally called conflict law with gradual development into humanitarian law. So, conflict law is part of international humanitarian law and most of it is written law. The bulk of written conflict law is contained in the four Geneva conventions of 1949, which together comprise 427 markets. The Geneva Convention is also known as the Red Cross Conventions because it was initiated by the (ICRC) International Committee of the Red Cross (Turler, 2017).

Humanitarian law violations and the Palestinian and Israeli wars also had an impact on human rights, namely universal rights that every human being has, these rights are related to special human values that are considered so fundamental. With that these values must be upheld. There are detailed legal arrangements for the consequences of war crimes and crimes against humanity, it is possible to impose sentences for the perpetrators involved in violations of war law, whether personal, group or organization or maybe a country involved in international law subjects, the sentence can be carried out by the International Criminal Court and the Interim International Criminal Court (ad-hoc) set up by the UN Security Council. Responsibility for international crimes is actually the responsibility of the state, acts against international law or violations of agreements. The emergence of state responsibility is due to 2 factors, the first is international obligations that apply between the parties involved and the second is the existence of an action or silence that violates obligations (Sakti & Rahayu, 2019).

Enforcement of Humanitarian Law to prevent Humanitarian Law Violations was also written by Gilang Bima Sakti and Sri Lestari Rahayu entitled "Review of International Humanitarian Law Against the Syrian

Government's Attack on Eastern Ghouta in February 2018" Humanitarian Crisis due to armed conflict between the government of President Bashar Al-Assad in Syria The conflict with residents in the city of East Ghouta has become a serious international discussion, the attacks from Syria have caused many victims of the civilian population so that Syria is considered to have disobeyed international humanitarian law and can be categorized as war crimes and crimes against humanity. In his research confirms that international humanitarian law arrangements against violations of the laws of war by Syria in eastern Ghouta. Using statutory regulations as the focus includes the 1907 Hague Convention, the 1949 Geneva Convention and the 1977 Additional Protocol. Observations show that Syria is a country that has only ratified several regulations related to international humanitarian law, namely the 1949 Geneva Convention, Additional Protocol year 1977, and the Chemical Weapons Convention 1993, Humanitarian Law Regulations against Syrian attacks based on convention I and Convention IV Geneva 1949 have several articles governing violations of humanitarian law committed by Syria, totaling 11 articles while according to additional protocol I, namely there are several articles related to violations that occurred in Syria totaling 7 articles. The UN Security Council is obliged to establish an ad-hoc international tribunal consisting of several judges, public prosecutors, and clerks from various countries. A judiciary must be established with the authority to try violations of humanitarian law in Syria because national law and courts in Syria do not want to try the accused. In addition to establishing a criminal court for Syria cases, the United Nations (UN) and the international community have the authority to control the decisions of the Security Council to anticipate political elements and the veto used by some permanent members of the Security Council to withdraw resolutions to end the war in Syria. UN organizations can use low-scale military force based on the Responsibility to Protect principle (Sakti & Rahayu, 2019).

There is also an relevant article written by Anastasya Y. Turler entitled "Protection of Civilians in Situations of War According to the 1949 Geneva Convention." and What are the forms of acts of violation against civilians according to the 1949 Geneva Convention?" the research using normative legal research methods concluded that protection in the IV Geneva Convention on the protection of civilians during war is intended so that

countries can pay attention to people who must be protected in the form of general protection and special protection. Then, several groups of civilians are protected, namely foreigners in the occupied territories, people living in occupied territories and internment protection. The implementation of the 1949 Geneva Convention as a source of law for warring countries must understand the provisions contained in it, including the forms of violations contained in this convention, such as intentional killings, torture or inhumane treatment, deportation or transfer of population, forcing protected people to serve in the armed forces, armed, taking hostages and confiscating property without justification which was carried out arbitrarily (Turler, 2017).

In order to clarify the issues to be discussed and to be more focused according to the target objectives of the discussion, it is determined to formulate the problem as follows:

1. What is the International Humanitarian Law Perspective on Humanitarian Law Violations in the wars between Palestine and Israel?
2. What are the sanctions that must be accepted as violating the provisions of International Humanitarian Law?

The previous argument discussed the humanitarian crisis and war atrocities as well as the impact of the Palestinian and Israeli war attacks. So that this discussion does not widen into various aspects, this article discusses the Violations of Humanitarian Law in the Palestine – Israel war which caused a humanitarian crisis that occurred as a result of the conflict over Israel's attacks on Palestine which caused enormous destruction. The international world, especially Muslim countries that recognize the status that Palestine is independent, is furious to see the war that never stops being prolonged. We need to know that violations of humanitarian law in the war between Palestine and Israel were actually committed by these two countries. Violations committed by the two disputing countries, namely Palestine and Israel, will be discussed in this paper, violations of the war that occurred. This paper uses a qualitative descriptive method which will define the research object using the theoretical concepts of the Principles of Humanitarian Law and the Geneva Conventions.

THEORETICAL FRAMEWORK

International Humanitarian Law

Humanitarian Law was formed with the aim of regulating tools and procedures for war, protecting victims of war and ensuring that a person's dignity is protected when an armed conflict is in progress. However, humanitarian law is often not respected in armed conflicts. The International Committee of the Red Cross (ICRC) is a subject of international law whose function is to provide legal protection. The safety of civilians who are victims of armed conflict is the most important thing, especially those in vulnerable areas of armed conflict. Violations of Humanitarian Law (Setiyono, 2017).

International humanitarian law is very closely related to human rights, security and armed conflict which are its main issues. The concept of security has undergone a redefinition since the end of the Cold War, from the beginning it prioritized the security of the country as a whole, now it is more emphasized on the security of individual citizens, which is called Human Security. The aim of the concept of Human Security is to maintain and protect the basic values of human rights from threats that are wide-scale, repeated and threaten the existence of individuals. There is no direct connection between Humanitarian Law and the 1948 Universal Declaration of Human Rights and Human Security, but all three are closely related (Alim, 2021). On the other hand, there is a certain intention to view the provisions of the 1948 Geneva Convention not only regulate the obligations of the countries involved but also regulate the rights of individuals as protected parties. Meanwhile, on the other hand, in the conventions on human rights, there are various provisions that apply in times of war. The Geneva Convention is a convention that regulates the protection of victims of war, wounded soldiers, prisoners of war and civilians. The Israeli attack in May 2021 violated the fourth Geneva Convention on the protection of civilians. The attack carried out by Israel on the occupied settlements is clearly a violation, Israel destroyed people's homes and killed civilians who were not involved in the war (Hukum & Humaniter, 2021).

International Humanitarian Law provides limitations on methods and means of war to humanize when armed conflict occurs. Methods or tools that are not permitted to be used also have certain conditions, namely weapons that can cause superfluous injuries and unnecessary suffering where these weapons are commonly known as weapons of mass destruction. Some weapons of mass destruction that may not be used in armed conflict include nuclear weapons, biological weapons, chemical weapons, land mines, booby-traps, undetectable weapons, incendiary weapons, blinding weapons, or cluster bombs (Ayu, 2021). The practice of using weapons of mass destruction in an armed conflict is basically considered a serious violation of the laws and customs of war which can be classified as a war crime. Arrangements regarding various forms of violations can be seen in the provisions of the 1948 Geneva Conventions, the 1977 Additional Protocol, the ICTY Statute and the 1998 Rome Statute. In fact Humanitarian Law does not only contain provisions that are material law regarding categories of war crimes but also contains arrangements that are formal in nature regarding law enforcement mechanisms against violations of laws and customs of war (Grasyela Rosalita Terok, 2017).

There is also a link between Human Rights Law and Humanitarian Law, which can be categorized by three theories or approaches including: Integrationist theory. According to this theory explains the existence of a legal system derived from other laws, so there are two possibilities, namely, the existence of International Humanitarian Law is based on human rights and International Humanitarian Law is the basis of human rights. Separatist theory, this theory is of the view that International Humanitarian Law and Human Rights are two different legal systems, the difference lies in the object, its nature, International Humanitarian Law is mandatory while Human Rights is Declaratory, when it takes effect is also different (Alim, 2021). Humanitarian Law deals with the consequences of armed conflict disputes, while Human Rights deals with conflicts between the government and individuals within the country concerned. Humanitarian law comes into effect when human rights no longer apply. International humanitarian law protects those who are incapacitated or unable to fight, and the civilian population. Whereas human rights do not exist in armed conflict, because their function is already there by International Humanitarian Law.

Complementary Theory, this theory argues that Humanitarian Law and Human Rights go through a gradual process and develop in parallel and complement each other. In many ways the complementary theory is more in line with the need for guaranteed protection and respect for individual rights. Because the complementary theory does not prioritize existing differences (Yustitiantingtyas, 2014).

Human Rights

Human rights (HAM) are fundamental and universal, human rights in the context of international law are included in two aspects including the implementation and protection of human rights in times of peace and armed conflict. The concept of human rights in Pancasila is outlined in the 1945 Constitution. The announcement of human rights is scattered in several articles concerning human rights during armed conflicts. So that there are human rights that have not been listed in the Universal Declaration of Human Rights, namely the right to self-determination, the right to use natural resources, and the right to mission. Human rights gain legal force in their implementation within the framework of international or national law. The formulation of human rights contained in positive law is expected to reduce human rights violations because legal provisions can bind the state. The human rights law is a preventive effort to prevent human rights violations (Moshinsky, 2013).

The main focus in international human rights law regarding the definition of victims is the Declaration of Basic Principles of Justice for Victims and Abuse of Power, adopted by General Assembly Resolution 40/34 of 29 November 1985/ Declaration of Basic Principles of Justice for victims of crime and abuse of power (Hereinafter referred to as the victim declaration). Another main focus is the existence of procedural law and evidence at the International Criminal Court (ICC) whose formulation strengthens the concept of victims in the context of gross human rights violations. Regarding gross human rights violations in national law, the definition related to victims refers to Government Regulation Number 2002 concerning Procedures for the Protection of victims and Witnesses in Serious Human Rights Violations and Law Number 13 of 2006 concerning

the protection of witnesses and victims. The four reference definitions in international and national law (Samendawai, 2009) .

The UN has made a significant contribution to the establishment of international human rights protection. The international Universal Declaration of Human Rights (UDHR) was made which accepted the conclusion of the General Assembly of the UN on December 10, 1948. The UDHR is protected by civil and political, economic, social and cultural rights. In other words, from article 3 to article 21. The UDHR is not legally binding on UN member states. However, the rules cover many of the UDHR clauses that are incorporated into the respective national laws. As a member of the UN, the principles of the Universal Declaration of Human Rights can be considered as customary international law. International law recognizes that individuals are personally responsible for crimes of war, genocide, persecution and hatred. International law regulates the relationship between states and other legal entities. The promotion and protection of human rights has increased rapidly with the accelerated development of relations between countries and the expansion of regional and multilateral organizations around the world (Marta, Yuliantin, & Dewa Gede Sudika Mangku, 2022).

The International Committee of the Red Cross (ICRC) is an international organization of the Red Cross operating in an international humanitarian agency headquartered in Geneva, Switzerland. The participating countries which are signatories to the four Geneva conventions of 1949 and the two Additional Protocols of 1977 have agreed to give the mandate to the ICRC to provide protection for victims of armed conflict, international or national in nature, such as victims injured in war, prisoners of war, refugees, civilians threatened by armed conflict. ICRC is also an impartial and neutral organization whose mission is purely humanitarian, namely to protect the life and dignity of victims of armed conflicts and other situations of violence and provide them with assistance. The ICRC directs and coordinates humanitarian assistance activities and works to promote and strengthen international humanitarian law and universal humanitarian principles. The main tasks of the ICRC, which originate from the Geneva conventions from the Statutes of the Movement, include: monitoring the compliance of parties involved in armed conflict with the

Geneva conventions: organizing the care of wounded on the battlefield; overseeing the treatment of prisoners of war (prisoners of war) and conducting interventions that are confidentiality with the authorities who carried out the detention: assisting in the search for missing persons in armed conflict and organizing the protection and care of civilians acting as a neutral intermediary between the warring parties (Marta, Yuliatin, & Dewa Gede Sudika Mangku, 2022).

METHODOLOGY

The method used in this study is a qualitative method and uses one of the characters in qualitative research, namely descriptive. The meaning of descriptive qualitative research is research that is centered on ontological activities, in which the data collected is specifically in the form of words or sentences that contain meaning in them and are able to spur the emergence of an understanding that is more real than just numbers. In a descriptive qualitative approach, notes with sentence descriptions that describe the actual situation are emphasized to support the presentation of data. In this study, researchers tried to analyze data in various nuances according to their original form as they were recorded or collected (Nugrahani Farida, 2014). In addition, this research also uses library research. There are several definitions of library research, according to Sarwono (2006) library research is a study that studies various reference books as well as the results of similar previous studies which are useful for obtaining a theoretical basis regarding the problem to be studied. Meanwhile, according to Nazir (1988) which states that library research is a data collection technique by conducting a review of books, literature, notes, and various reports related to the problem to be solved (Sari & Asmendri, 2018).

This research uses a normative juridical legal research approach. The normative juridical approach is a study that seeks to harmonize applicable legal provisions with applicable principles in the legal protection of norms or other legal regulations with their relation to the implementation of legal regulations in field practice (Benuf, Mahmudah, & Priyono, 2019).

The data collection technique in this study was carried out by means of study research supported by several with the intention of focusing more on Human Rights in war must be observed because armed conflicts always impact victims who must be protected by seeking Human Rights or Human Rights by involving Humanitarian Law and the consistency of Jenawa in armed conflicts in war between Palestine and Israel. Then the data is obtained and collected and arranged systematically to get conclusions from data analysis.

This research is descriptive qualitative in nature which plays a role in producing definitions and connecting combinations of data sets and theories. Then, qualitative research is used to examine problems or phenomena that do not involve numbers, this research is related to data types (Triyanto et al., 2017). The use of theory in this study is Human Rights. Establishing Human Rights as a theory in this study with the intention of focusing more on Human Rights in war must be observed because armed conflicts always impact victims who must be protected by seeking Human Rights or Human Rights by involving Humanitarian Law and the consistency of Jenawa in armed conflicts in war between Palestine and Israel. Then the data is obtained and collected and arranged systematically to get conclusions from data analysis.

RESULTS AND DISCUSSION

Armed conflict between Palestine and Israel, on May 21, 2021 Palestinians were suddenly attacked by Israel against Palestinians in the Al-Aqsa Mosque complex. The action took place for several hours after a ceasefire agreement was reached between Israel and the Hamas group. Palestinians living in occupied East Jerusalem flock to Al-Aqsa Mosque (21 May 2021) morning to celebrate the truce reached by Israel and Hamas, a Palestinian resistance group. They then wanted to march from the Al-Aqsa mosque to the old city area, but Israeli police used stun grenades and gas bombs to disperse them. This includes threats of expulsion of Palestinians from their territories that are considered by Jewish settlements, leading to the Sheikh Jarrah clashes. At least 205 Palestinians and 17 Israeli security forces were injured in the clashes, Reuters news agency said, citing reports from both sides. Most of

Sheikh Jarrah's residents are Palestinian. However, for Israel, the area is a holy place because there is the tomb of a Jewish high priest (Alim, 2021) .

There is one thing that is impossible not to happen in this world, the thing that is meant is conflict. Even though many countries have signed some kind of agreement as well as international agreements, there are still gaps that have the potential to cause conflict. One of the things that can trigger conflict is rebellion, in which rebellion is a feud that occurs within the state. Conflicts can also be triggered by two or more countries that have their own interests and different motives. One of the factors that causes conflict is the religious factor. However, apart from religion, there are many other factors that can cause conflict, such as political, economic, and geographical interests that can also trigger conflict. When talking about conflict, then one of the cases that can be taken is the conflict that occurs between Palestine and Israel which is caused by political interests. America as a superpower country always supports Israel, in other words there is America behind Israel. In addition there are also other countries that are in their group (Maulana, 2023).

Deviations that occur in the conflict between Palestine and Israel. Although the irregularities committed were dominated by the Israeli side, there were also deviations committed by Hamas. The forms of deviation from the principles of humanitarian law are as follows: the first is the Principle of Humanity. The Israeli side often blocks aid provided by international organizations to victims in the Gaza strip. This certainly violates the principles of humanity, especially those who are victims of war. The second is the Principle of Military Needs. Attacks on public facilities carried out by the Israeli army targeting Palestinian civilians, causing infrastructure such as school buildings, hospitals, and personal assets to also become targets. This certainly contradicts Article 57 of the additional protocol to the Geneva Convention I which limits objects that can be attacked only to military objects and combatants. The third is the principle of proportionality, in which between the Palestinians and Israelis there is no balance in terms of ammunition. The Hamas army with makeshift and limited ammunition fought the Israeli army which had sophisticated ammunition. Of course the impact of the attacks carried out will be different,

as a result there will be more Palestinian casualties. On the other hand there are also violations committed by Hamas, namely they often use public buildings and infrastructure to provoke Israel to carry out attacks on UN schools where Hamas will launch rockets. Fourth, there is the issue of human rights, in which attacks by Israel against Palestine constitute gross human rights violations. When the attack occurred which lasted for 22 days, it caused the loss of life from the Palestinian side, reaching 1438 civilians who died and 5000 others were injured. This is very contrary to Human Rights and also Humanitarian Law. As for other violations committed by Israel against Palestine, namely attacks on public facilities such as schools, hospitals, places of worship and also blocking aid from international organizations (Maulana, 2023).

Of the attacks carried out by Israel against civilians in Gaza, Palestine which lasted for 22 days, resulted in heavy losses and riots in public squares. According to a Palestinian perspective based on reports from health authorities, from the incident there were 181 victims of Gaza, of which 29 were women, 52 were children, and there were also 1, 200 other victims. There is no doubt that the attack violated the concept of proportionality under humanitarian law. Which, based on the principle of proportionality, if an attack is carried out on a civilian object, the attack must be pursued in such a way as not to be carried out excessively and in balance with the military advantages obtained. If the attack is carried out excessively, it can violate the provisions of Article 51 of Protocol I of the Geneva Convention (Fakhirah, 2023) .

Upholding children's human rights and the human rights of women who are victims of the impact of an armed conflict in a region is a fundamental right and must be protected not only by the state but also the international community as a whole. Their rights, for example the right to a decent life, the right to freedom of opinion, the right to feel safe, and the right to get a good education and health, these are rights that must be upheld and protected even in situations that are prone to conflict. armed. Countries that are experiencing conflict almost often commit human rights violations that occur against children and women or adolescents who are victims of exploitation. As a result of frequent human rights violations that

occur in areas where there are armed conflict disputes, it is necessary to have legal protection that includes international legal instruments that are given especially to victims affected by armed conflict (Sudarsa, 2017) .

Humanitarian Law as the law of armed conflict which contains a collection of rules during wartime, protecting parties who are not or are not involved in armed conflict, Humanitarian Law provides limitations on tools and methods of war with the aim of reducing and preventing the impact of a humanitarian crisis when an armed conflict occurs. These rules must be obeyed by governments, armed forces and armed resistance groups and all parties to the conflict. The use of weapons in war includes weapons that are permitted and weapons that are not permitted by law to be used during an attack. One of the prohibited bullets is an expanding bullet type bullet, for humanitarian reasons because the effects of the expanding bullet make the human limb that is hit by the bullet shot have to be amputated because the wound is difficult to treat (Wirottama, Setiyono, & Susetyorini, 2020).

International Humanitarian Law Perspective on Humanitarian Law Violations in the Palestinian and Israeli wars

Violations of Humanitarian Law in the armed conflict committed by Palestine and Israel Palestine-Israel conflict was not spared from various kinds of Israeli attacks on Palestine which resulted in Palestinian civilians becoming victims of armed conflict. Cruelty and violence are often carried out by Israel. One of the conventions that were violated in the conflict between Palestine and Israel was the Geneva convention. The Geneva Convention is a convention that regulates the protection of victims of war, wounded soldiers, prisoners of war, and civil society (Turler, 2017) . Two Israeli Defense Forces Soldiers have been charged over an incident in Jenin, when they allegedly threw an improvised explosive device at a Palestinian house and set it on fire. Military prosecutors announced charges, they included making an explosive device, intentional assault, and intentional destruction of property. The two soldiers have been detained since November 28, 2022 (Berlianto, 2022). Israel committed a war crime, namely deadly airstrikes from Israel on Gaza. Although Israel took a number of precautionary measures such as early warning of attacks in some cases,

airstrikes in densely populated areas resulted in high levels of death and injury to civilians and extensive damage to civilian infrastructure (Thea Fathanah Arbar, 2021). In addition, Israel in its attacks on Palestine has also admitted to using chemical weapons, namely white phosphorus bombs, which in fact have been banned from using these weapons because they will harm civilians (Yuliantiningsih, 2009) .

As for violations of humanitarian law in armed conflicts between Palestine and Israel, it can be concluded that both parties to the dispute, both Israel and Palestine, in this case Hamas (branded a terrorist organization by Israel and the United States) both committed violations of international humanitarian law, especially violations Human rights. This form of violation of Humanitarian Law is rather a Self-Defence action in the form of a Reprisal against Hamas rocket attacks that disturb the stability and safety of Israeli citizens. This reason is also supported in International Humanitarian Law through the 1948 Geneva Convention. Violations of Humanitarian Law by Israel here are on the principle of military necessity, the principle of distinction, proportionality and the principle of humanity in relation to violations of human rights. On the Palestinian side, in terms of Hamas itself, it has violated Additional Protocol I to the Geneva Convention which uses residential areas of civilians and civilian buildings in the Gaza Strip for military operations, battlefields and hiding places (Aswir F Badjodah, Mahmud Husen, & Saiful Ahmad, 2021) .

This is contrary to what has been secured by the 1949 Geneva Convention and the 1977 Additional Protocol to members of the health service in providing assistance to people who are sick. This is explained in Article 24 and Article 25 of the 1949 Geneva Convention I, namely: Article 24 of the Geneva Convention Members. According to the provisions of the 1977 Additional Protocol to Article 57, it has been explained that objects that can be used as shooting targets and may not be attacked in armed conflicts are military and combat objects. Article 57 Additional Protocol I 1977 because Israel continuously attacks infrastructure and other vital objects, be it schools, hospitals, places of worship, settlements. Israel even participated in ratifying the agreement.

The existence of violations of International Humanitarian Law is caused by a lack of knowledge about International Humanitarian Law which often occurs on the part of those who violate it. Following are some of the factors for non-compliance with International Humanitarian Law according to Arlina Permanasari: Application of International Humanitarian Law applied at the wrong time when the stability and security of a country is being threatened; Understanding of the terms and structure of International Humanitarian Law which is very complex and is still difficult for the public to understand because International Humanitarian Law is formed by Legal Experts and Diplomats; There are several provisions in International Humanitarian Law that cannot work in accordance with the applicable provisions, such as the provisions on violations of International Humanitarian Law which are directly applied to punish parties who commit violations of International Humanitarian Law. Apart from the fact that there are factors that complicate the application of International Humanitarian Law, there is also a priori cynicism or distrust of the usefulness of International Humanitarian Law. It can be said that in general among members of the armed forces there is a feeling of contempt for humanitarian law. The main cause of this attitude. In general, they are of the opinion that Humanitarian Law can complicate the performance of their (combat) duties. According to them, Humanitarian Law was compiled by legal experts who do not understand the atmosphere of war or war. There is also no point in complying with humanitarian law because the opposing party also does not comply with humanitarian law (Pratama, Novianti, & Pebrianto, 2021) .

Sanctions for Violation of the Provisions of International Humanitarian Law in the Palestine – Israel Conflict

The beginning of human rights violations against Palestinians committed by Israel was on June 23, 2008, which was the first shooting by an Israeli military officer on Palestinian civilians who were collecting firewood near the Beith Lahia border. On the same day when the shooting occurred, there were two mortars landed by Israel in Gaza, although there were no victims in this incident, what Israel had done had violated humanitarian principles. In September Israel again sent two mortar rounds and three rockets which were fired at Gaza, but still causing no casualties. Two months later, from

October to November, the conflict between Gaza and Israel has escalated and continues to this day. The two sides attacked each other, the rockets and mortars sent to each other damaged tall buildings in each country and killed many civilians. The two sides began showing a ceasefire on 19 July 2008 (Guevarrato et al., 2013).

Acts of taking hostage and abusing Palestinian children were also carried out by the Israeli side, this was included in the category of gross violations of the provisions of International Humanitarian Law, this was stated in violations of the 1949 Geneva Convention IV, Additional Protocol I to the 1977 Geneva Convention I, the Convention on the Rights of the Child, and Additional Protocol to the Convention on the Rights of the Child Concerning the Involvement of Children in Armed Conflict (Laode Muhammad Fathun, 2011). The provisions of International Humanitarian Law do not explicitly regulate the sanctions that can be applied if a party violates International Humanitarian Law. However, in 1974 the UN stated in The Declaration on the Protection of Women and Children in Emergency, stated in point 5 that:

“5 All forms of repression and cruel and inhuman treatment of women and children, including imprisonment, destruction of dwellings and forced evictions, committed by belligerents in the course of military operations or in occupied territories shall be considered criminal”.

The content of point 5 states that all forms of oppression and cruel and inhumane treatment of women and children, including civil society who are not involved in the conflict, such as imprisonment, murder, torture, shootings, mass arrests. Rape, destruction of homes, and forced evictions committed in war as part of military operations or the occupation of territory are considered war crimes. If there is a violation of the declaration, it must be fully accounted for in accordance with the provisions of international law (Aruni, 2017).

Israel can be declared incapable of trying the perpetrators of war crimes because the war crimes committed by its soldiers have been going on since 2014. Israel has also proven that its country has the will to try its war troops on January 5, 2017 who shot dead a Palestinian civilian, but Israel does not try soldiers who carry out detention and abuse of Palestinian

children and other Palestinian civilians. Therefore, this case can fall under the jurisdiction of the International Criminal Court. Based on the statement of violations of humanitarian law that have been committed, punishment can be applied to Israel, namely by bringing cases of detention and ill-treatment to the International Criminal Court so that they can continue to be investigated by the Court's Prosecutor's Team. If after the investigation of the case has fulfilled the jurisdiction of the International Criminal Court to try, then the court process can be carried out. Sanctions applied by the International Criminal Court to perpetrators of war crimes can be seen in Article 77 of the Rome Statute, namely life imprisonment if justified by the emergency of the crime and the personal circumstances of the person convicted, the Court can also decide the perpetrator to pay a fine based on the criteria set by the Procedure Code. and Proof, as well as redemption of proceeds, assets and assets originating directly or indirectly from the crime without prejudice to the rights of third parties (Aryuni, 2017) .

As a result of the attacks carried out by Israel, many buildings were damaged and destroyed such as residences, places of worship, and the UN office which is used for aid agencies. The impact of the attacks carried out by Israel against Palestine is that most countries in other parts of the world, especially countries with Muslim residents, strongly condemn the actions taken by Israel. For them Israel has taken away the rights of Palestinian civilians. Not only that, Israel has also violated Human Rights (HAM). International human rights defenders around the world say that Israel's treatment of Palestinians constitutes a war crime. In this case, the UN also said that Israel's blockade of Palestine is a war crime and has violated human rights. There was a very heartbreaking incident during the riots that occurred in Gaza, namely when a Palestinian female nurse named Rezana al-Najjar was shot by Israeli soldiers while trying to save victims of riots in the Gaza Strip.

According to several eyewitnesses who were at the scene, a nurse named Rezana was wearing a white shirt and indicated that she was a nurse. Rezana had also raised his hand to signal that he was asking for time to help the victim who was shot. However, the Israeli Zionist soldiers did not care and continued to shoot Rezana, who at that time was still 21 years old. Even though he was given help, Rezana's life could no longer

be helped by the bullets that lodged in his body. This incident shows how cruel the Israeli army is to take away the rights of Palestinian civilians (Cahya, 2022). The ceasefire carried out by the Palestinians and Israel, which according to Israel is the Cast Lead operation, clearly violates the principles of humanitarian law.

This attack lasted quite a long time, as previously mentioned, namely for 22 days and resulted in many victims, mostly civilians in the Gaza strip. This is certainly very contrary to the principles of humanity and leads to human rights violations. Human rights violations committed by Israel against Palestinian civilians seem to have been ignored by international courts. The UN has issued many resolutions on the Israeli-Palestinian conflict. The UN has also launched a mission to investigate crimes committed by Israel against Palestine, and many other countries have criticized Israel for violating human rights. Even so, Israel still commits crimes and violates the rights of Palestinian civilians. A UN human rights expert assigned to the Palestinian territories named Prof. Richard Falk, said that government leaders in Israel actually deserved to be dragged to the International criminal court because they had caused a humanitarian crisis in the Gaza strip which resulted in Israel's blockade (Ho, 2019).

On May 8, 2021, on Saturday at that time to be precise, an attack was carried out by the Zionist army during the month of Ramadan while performing the Tarawih prayers. As a result of the attack, clashes broke out between the Palestinian people and the Israeli troops. The Israeli troops carried out the attack for two nights, as a result of the attack, around 200 Palestinians were injured. When carrying out the attack, Israeli troops carried out several acts of violence such as beating, shooting Palestinians using rubber bullets and also throwing grenades (Amira, 2021).

Birruh biddam nafdika yaa Aqsha (With life, blood, we will defend you, Aqsa). The screams echoed in the land of Palestine, which is the land of the prophets and also the land of the blessed. This sentence makes every soul who hears and shouts it vibrate. Palestine has never been silent from the sound of rocket fire by Israeli troops. Even the life of Palestinian Muslims who are under Israeli pressure and dominated by the Jewish people is really

apprehensive. Whereas the land of Palestine belongs to the Muslims. Not satisfied with attacking Al-Aqsa, Israel also launched an attack on the Gaza strip. As a result of this attack, on Sunday 16 May 2021 it was noted that the victims of Palestinians who died were 192 victims and 58 of them were children and 34 women, and 1,235 people were injured.

From the beginning, Israel has wanted to control the West Bank of Gaza. Meanwhile in Al-Aqsa, Israel claims that land belonging to Palestinians is its own. Even Israel made laws regarding the freedom to recognize ownership of land, while Palestinians do not have this right. A founder and leader of Hamas named Sheikh Ahmad Yasin stated “Palestinian land is waqf land, belonging to all Muslims. No one is allowed to let this land loose even if it’s only an inch. As for what he conveyed was an extension of the mandate from Sultan Abdul Hamid II who was the last Caliph of the Ottoman Empire.

In 1901 AD, a Jewish leader named Hertzl persuaded Sultan Abdul Hamid II to give permission for the placement of Jews in Palestine. However, Sultan Abdul Hamid II firmly refused. He said: “Truly I will not let go of the land of Palestine even if it’s only an inch. The land of Palestine is not mine, but belongs to the Muslims. My people have fought jihad to save this earth and shed blood for this land.” Reflecting on history, it is only natural that the shouts of “Birruh biddam nafdika yaa Aqsa” continue to resound in the land of Palestine. The screams accompany the sacrifice of their souls, bodies and property in fighting the Israeli invaders. Palestinian Muslims will continue to guard the Palestinian territories which are waqf lands, for the sake of all Muslims in the world (Hapsari, 2021).

There are several reasons that have caused the situation in Jerusalem to worsen, such as the decision taken by the Israeli police, which at the beginning of the month of Ramadan barricaded the Gabang Damascus seating area, so that tensions between the Palestinian people and Israeli troops could not be avoided. Then the problems that occurred in the East Jerusalem area, namely Sheikh Jarrah which is a settlement for the Palestinian people who the Jewish settlers want to take over. The Palestinian people are also fighting for justice for their place of residence.

The tension that occurred at the Al-Aqsa Mosque also received responses from various countries, such as that of Recep Tayyip Erdogan as the President of Turkey who responded in the form of criticism to Israel as a terrorist state that committed cruel and barbaric acts without ethics by attacking the Muslim people in Jerusalem (Indonesia, 2021). Apart from the Turkish Government, the Indonesian Government, Joko Widodo, also made a statement that the forced expulsion of the Palestinian people from Sheikh Jarraj, Jerusalem by means of violence should not be ignored.

Not only did state officials show disapproval of what Israeli troops had done to the Palestinian people, British citizens from the Palestine Forum and other groups also took part in demonstrations in the outer area of Downing Street, London and in downtown Manchester as form of expression of their anger against the acts of violence experienced by the Palestinian people. The demonstrations carried out by British citizens were carried out to ask the British government to take action against actions taken by the Israeli government, such as imposing a ban on the export of weapons to the Israeli defense forces in order to prevent the number of victims from falling even more. Not only in England, several countries in the European region such as the Netherlands, Jordan and Lebanon also took part in the demonstration (Amira, 2021).

On Thursday 23 February 2023 at least six rockets from Gaza attacked Israeli territory. This was done as a response after the Zionist forces carried out an attack on Nablus which killed 11 Palestinians and left about 100 others injured. Of the six rockets, five were shot down by the Iron Dome missile defense system. Meanwhile, the sixth rocket fell in an open area. Earlier the Israeli military stated that its operation in Nablus, West Bank, on Wednesday only killed three people it described as “terrorists”, who were part of a militant group that recently carried out shooting attacks on Israeli citizens. However, Israeli troops’ attacks continued so that the death toll increased to 11 people (Muhaimin, 2023).

In fact, war crimes committed by Israel are included in the authority of the International Criminal Court (ICC) as a permanent court which has been effective since 2002. However, this authority only applies to countries that have ratified the 1998 Rome Statute, while Israel has not ratified the 1998 Rome Statute so that the international community still finds it difficult to

try Israel for crimes committed by Israel (Yuliantiningsih, 2009). Therefore, there are several alternative actions that can be taken by the international community to punish countries that have committed war crimes, namely:

1. Severing diplomatic and other relations with Israel.
2. Carrying out blockade actions collectively by other countries or international actors that have so far established relations either directly or indirectly with the state of Israel.

Applying the principle of universal jurisdiction in which every country has the authority to prosecute every non-criminal offender including serious crimes regardless of who did it when and where the crime was committed.

CONCLUSION

The conflict between Palestine and Israel is a non-international and international armed conflict. On the one hand, because the Hamas forces fighting the Israeli army are involved but are not part of the official armed forces belonging to Palestine, it is said to be a non-international conflict. On the other hand, because there are indications of other countries participating in this conflict, it is referred to as an international conflict.

There are several irregularities that occur in the conflict between Palestine and Israel. Although the deviations committed are dominated by the Israeli side, it is a form of deviation from humanitarian law on the principle of proportionality, in which there is no balance between the Palestinian and Israeli parties in terms of ammunition. The Hamas army with makeshift and limited ammunition fought the Israeli army which had sophisticated ammunition. Of course the impact of the attacks carried out will be different, as a result there will be more Palestinian casualties.

The war crimes committed by Israel are one of the powers of the ICC as a permanent court which has been effective since 2002. However, this authority only applies to countries that have ratified the 1998 Rome Statute, while Israel has not ratified the 1998 Rome Statute so that the international community still has difficulty trying Israel for crimes committed by Israel.

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