BOĞAZİÇİ UNIVERSITY

INTERNATIONAL LAW CONFERENCE 2024

"RETHINKING INTERNATIONAL LAW AFTER GAZA"

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Jinan Bastaki

Dr., Associate Professor, NYU Abu Dhabi

"Turning International Law on its Heels: South Africa and Nicaragua at the ICJ"

That modern international law was born and developed in a colonial and racialized context is an understatement. While criticisms of public international law (rightly) abound, law is nevertheless regarded as an objective metric, and thus still acts as a legitimizing and de-legitimizing factor for state action. States, even when flouting international law, do not want to appear to be doing so, and seek to justify their actions as within the bounds of the law. This is clear in the way that Israel justifies the occupation of Palestine, and the way that the UK and the US justified the invasion of Iraq. With the failure of the Security Council, the UN organ responsible for maintaining international peace and security, in its duties due to the use of the veto, States from the Global South have turned to the highest court in the world: the International Court of Justice. The ICJ's decisions are not subject to appeal, and hence act as the final say on the interpretation of international law in a given case. South Africa's surprise application against Israel due to the carnage in Gaza, Nicaragua's application against Germany for its supply of weapons, and the General Assembly's request (prepared by Palestine and presented by Nicaragua) for an Advisory Opinion on the prolonged occupation and violation of Palestinians' right to self-determination, is a final appeal to the promise of international law. This paper will briefly trace the evolution of international law from its colonial beginnings to its present-day manifestations, and examine how states in the Global South, particularly after Gaza, are taking ownership of international law and institutions, and use the law in solidarity with the marginalized, possibly paving the way for a more just and inclusive global legal order.

Ihsan Adel

Dr., Law for Palestine

“Unlawful Occupation as Ongoing Aggression: Legal Implications of the ICJ's Advisory Opinion on Palestine”

This article examines the advisory opinion of the International Court of Justice (ICJ) regarding the Israeli occupation of Palestinian territory, concluding its unlawfulness. It argues that such unlawful occupation constitutes aggression as defined by the UN General Assembly and the Rome Statute. The study highlights a significant gap in the literature, specifically regarding the classification of prolonged occupation as ongoing aggression. It posits that while initial military occupations might begin legally, changes over time can render them illegal, thus transforming them into ongoing acts of aggression. The article aims to establish a foundation for recognizing "ongoing aggression" and applies this framework to the Israeli occupation. It further explores state responsibilities and the broader definitions of aggression in customary and case law, as well as practices of the UN bodies. The study concludes that the Israeli occupation, regardless of its initial legality or illegality, constitutes ongoing aggression, discussing its legal implications while noting that individual responsibility for this crime is beyond its scope.

Berdal Aral
Professor, Istanbul Medeniyet University

"How Dominant International Legal Discourse and Prevalent International Institutions Downgrade Victimhood: Palestinian and Yemeni Cases"

Our conceptions and perceptions of international law are markedly influenced by international institutions, such as the United Nations (UN), which contribute to the most authoritative ways in which a particular legal problem and/or crisis is viewed and a solution based on that view is put forward. The 'acceptable' interpretations of international of law which circulate in dominant international settings rarely conflict with the interests of the hegemonic actors within the international order.

This paper takes up two cases, namely, the "Palestinian problem" and "the military intervention by a group of Arab statest in Yemen in 2015". They are selected to indicate how, in the case of the victims of occupation in the global South, dominant international legal discourse, as circulated in the UN, could, if hegemonic interests so require, rest on a manipulative legal language whose goal is to conceal the depth of the tragedy surrounding particular problems/crisis.

With regard to the first problem, this presentation argues that the dominant institutional settings in the international arena have successfully reduced the scope of the 'Palestinian problem', first, to a 'refugee problem' and then to conflict-resolution and international humanitarian law in a minor fraction of the historic land of Palestine.

The second issue is the military intervention/occupation of Yemen in 2015 by a group of Arab states led by Saudi Arabia. It is noted that, instead of condemning this instance of the illegal use of force, the UN Security Council repeatedly condemned the Houthis that had taken over the government by force, while largely ignoring the occupation.

This presentation thus concludes that the current global order, two of whose pillars include international law and prominent institutions, prioritizes stability and the balance of power over fairness, legitimacy and justice.

Mutaz M. Qafisheh
Professor, Hebron University

"The War on Gaza, System Deficits and Prospects for International Legal Reform"

October 7, 2023, constitutes a turning point for international law. The Israeli war on Gaza coupled with livestream genocide, and States (in)action thereto, uncovered inherent deficits not only in the global political system but also the international legal order. Before the aforesaid date, reform efforts centered on the imbalance in the United Nations system, particularly the Security Council and its veto power. This paper however deals with gaps in standards fields of international law, and the reform prospects thereof, beyond the security system erected after World War II. The discussion tackles ten areas of law: International human rights law, international humanitarian law, international criminal court, law of genocide, law of arm transfer and the notion of criminal aiding and abetting, law of sanctions, erga omnes principle and third State obligations, universal jurisdiction in prosecuting international crimes, the responsibility to protect, environmental law and law of the sea. The paper takes the Gaza onslaught as a case in point to demonstrate the need for universal restructuring. It offers a set of terminology emerging out of the Gaza genocide that may be elaborated within policy and academic discourses.

Muhammed Beheşti Aydoğan
Dr., University of Warwick

"Violent Violations and International Law's Non-Oppositional Relationship with Violence"

It is a well-known phenomenon that power politics can undermine international law. indeed, two contested fields of international studies, ie international law and international relations, do compete to provide a workable understanding of the international system. Clearly, the relationship between power and law on the international plane does exist on a spectrum. However, it seems that the relationship is unbalanced and rather restrained. International law does have a capacity to resist a degree of violations and is not necessarily an extremely fragile phenomenon. However, violent violations of international law seem to constrain and pressurise the relationship between law and power to the extent that it might completely break off at some point. The decades long violence in Gaza is an example here. Its intensified form since October 7 indicates a genocidal intent. This violent relationship in the Gazan context presents an existential question to international law, which very hesitantly had to embrace it. International law had in the recent past survived violent violations before though with a substantial damage such as the US invasion of Iraq. The trade-off was between the widespread acceptance of the violation in the global public discourse and the absence of an action against individual and institutional perpetrators. A particular difference was related to visible memorisation of violent violations. In the present Gazan context, the suppression of the documentation of violence only resulted in discrediting once-dominating Western media institutions. Moreover, the liberal order also lost its ability to hold any form of ethical status second time after the invasion of Iraq in the post-end-of-history period. International law's relationship with violence has never been oppositional as it rather institutionalised violence in its modern period. However, violence always undermined international law's putatively ethical considerations and underpinnings, mainly justice. I argue that international law's non-oppositional relationship with violence poses an existential question with the digital visualisation of the human memory.

Rana Kharouf

Professor, Paris School of International Affairs, Sciences Po

"Discourses of International Humanitarian Law and Humanitarian Access"

The Geneva Conventions are among the few international treaties that have achieved universal ratification. However, they are not universally respected, as demonstrated by the tragic war in Gaza, with disastrous consequences for civilians. The impression that IHL is more often violated than respected is reinforced by an ever-higher level of mediatization of IHL violations, which has unfortunately led to a discourse about the effectiveness of IHL and a tendency to question its impact.

Such a discourse is dangerous, as it renders violations banal and risks creating an environment where they may become more acceptable. What is needed is nuanced discourse on the subject, because the perception that IHL is continuously violated and therefore ineffective does not reflect the reality of contemporary armed conflicts. Instances of respect for IHL, though underreported, are a daily occurrence.

IHL has continued to develop over the past few decades and has been implemented in many ways: for instance, States have adopted new treaties, legislators have translated international agreements into domestic laws, courts have created a wealth of domestic and international jurisprudence, and many armed forces train their troops in IHL. This demonstrates that States – and other parties to armed conflicts – believe that IHL matters.
However, the conflict in the occupied territories demonstrated high level of violations the International Humanitarian Law, particularly concerning the humanitarian access.

The intervention will focus on the prevention measures aiming for respecting the IHL at universal level, and the operational mechanisms of humanitarian diplomacy according to the IHL provisions.The speaker will highlight her field experience, as legal advisor for international organisations (ICRC and UNHCR), as well as her experience as law professor at Paris Universities (Sorbonne Paris I and Sciences Po. Paris)

Fabio Cristiano,
Dr., Assistant Professor, Utrecht University

Mais Qandeel,
Dr., Senior Lecturer, Örebro University

"Rethinking Internet Access and Digital Rights After Gaza: From Infrastructural Harm to Data Violence"

The ongoing war on Gaza highlights the dual role of novel technologies in both enabling accountability for international crimes and facilitating their perpetration. With the destruction of civilian telecommunication infrastructure and the shutting down of Gaza's Internet Service Providers (ISPs), Israel imposed total and intermittent communication blackouts of the Strip. These have harmed information circulation, humanitarian aid work, and the overall safety of civilians. When looking at internet access (and the denial thereof) in legal terms, two distinct perspectives emerge: one focusing on infrastructural harm and one on digital rights. According to IHL, bombing and destroying civilian telecommunication infrastructure constitute an attack (see Art. 49 of Additional Protocol I) and a violation of the principle of distinction (distinguishing between a military object and a civilian object and military operations shall only be directed at military objects). Moreover, under IHRL, the human right to access the internet is protected at all times, including during war, and can only be repealed in exceptional circumstances (when the life of the nation is at risk). The Human Rights Council affirms that the very same rights people enjoy offline must also be protected online (HRC A/HRC/32/L.20). Through an exploration of the different types of harm caused by internet shutdowns in Gaza, this article aims 1) to problematize existing infrastructural and right-based logics on internet access; and 2) to introduce data violence as a novel epistemological and ontological element of judicial thinking on the harm of internet shutdowns. In doing so, the article also contends that the convergence of data and justice extends beyond recognizing harms from infrastructural denial. It thus argues for a broader understanding of fairness and accountability in data practices, particularly emphasizing the impact on marginalized groups and questioning the neutrality and universality of digital rights.

Eric Loefflad

Dr., Lecturer, University of Kent

"'Traumatocracy': Personified Statehood, Military Necessity, and the Future of Customary International Law"

In this paper I will examine the matter of 'international law after Gaza' by exploring the international legal impact of a mode of governmental authority deemed the 'traumatocracy' that is exemplified by, but by no means limited to, Israel. Drawing on the Palestinian anthropologist Nadia Abu El-Haj, I detail how the originally feminist discourse of Post-Traumatic Stress Disorder was appropriated to centre the experience of the executions of imperial violence in a manner that erased their victims. I argue that this appropriation can be easily synthesised with ethno-nationalist concepts of identity whereby the trauma of the individual catalyses the trauma of the collective in a manner blinded to actually-existing power asymmetries. A political order premised on the manipulation of this dynamic can be called a 'traumatocracy.' While parochial in its constitution, a 'traumatocracy' can gain universalised influence through the international law of armed conflict. This can be readily observed in Israel's extensive engagement with this body of law as a means of simultaneously abstracting questions of power asymmetry while empahsising the concrete suffering of its citizens in relation to their historical trauma as supreme justification – and expressed through the language of 'military necessity.' This dynamic is especially important given how, in the post-Cold War era, the law of armed conflict has shifted from treaty-based to custom-based modes of lawmaking. While Customary International Law is burdened by its personification of the state (a highly imperfect analogy to the individual human), this actually proves an advantage to 'traumatocracies' that, in their emotive connection of individual experience with state purpose, possess disproportionate power as agents of custom formation. As liberalism wanes and ethnonationalism returns, the pattern of custom-formation in the law of armed conflict pioneered by Israel might prove a give for aggressive and repressive regimes all throughout the world.

Asif H. Qureshi
Professor, Peking University

"International Economic Law & the Israel/Palestine 23/24 War?"

For days, weeks, months ---- nay an immense black hole time of infinity, but certainly a life time of a memory --- indelibly imprinted in the international community that has a conscience, the unceasing blood bath of our times in Palestine. What level of blood for a nation to exist, what level of blood for a people to have statehood? Is there a level of blood spilling when it no longer is feasible to persist in the defence of a continued Statehood, when it is no longer worth fulfilling a dream of Statehood? This is of course at some level a profound existentialist question that appeals to our sense of humanity, our sense of propriety, our moral conscience, our reason. We must surely ask this threshold question if only to remind ourselves that there are limits at a moral level to any existential stance. At a superficial level, this is also a cost benefit approach that economists deploy in their economic analysis of law.

Be that as it may, International Economic Law (IEL) is not devoid of humanity. It serves its very advancement. In addition to its core transactional focus on international investment and trade it has an important underbelly of a focus on international development law (the welfare branch of IEL) --- in particular the right to development including sustainable development. There are therefore legitimate concerns that IEL scholars can engage with in their reflection of the Israeli/Palestine War. In sum this war is not just about the international law on the use of force, humanitarian law, the UN system of peaceful settlement of disputes, and the UNSC role in the prevention of breaches of international peace and security.

First, there is the obvious question of the international economic impact of the war. Second, there are substantive legal questions under IEL, for example, questions that involve the legitimate economic rights of the Palestinian people, of economic self-determination, rights over their natural resources, the right to development.Third, there are the questions concerning the maintenance of sustainable development goals, during the course of the war and its long term impact on the achievement of these goals. Fourth, there could be third party disputes involving either of the parties in the enforcement of international claims and obligations arising from the application of economic sanctions. Fifth, with the recognition of

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The stance of the International Court of Justice in the Legality of the Threat or Use of Nuclear Weapons ICJ:Advisory Opinion of 8th July 1996 on this question was unfortunate.

See UN Declaration of the Right to Development 1986 UNGA Resolution 41/128 in particular preamble and Article 1.

For example, energy prices, international transportation, food security. See for example Martin Wolf, October 31,2023 Financial Times: 'The Economic Consequences of Israel-Hamas War.'
https://www.ft.com/content/effaa755-3379-42f5-8d54-91ca66c1a0a7
Martin Wolf does not explain why he refers to the Israeli-Palestinian War as the Israel-Hamas War whereas in the same article he refers to the Russia-Ukraine War.

See 'Israel's Practices against Palestinian Economy Exacerbating Dire Living Conditions in Occupied Territory, Syrian Golan, Senior Official Tells Second Committee,' at Seventy-Seventh Session, 19th Meeting (AM) GA/EF/3574, 17 October 2022
https://press.un.org/en/2022/gaef3574.doc.htm

Palestine as a State by some States and not others, there could be legal complications both within jurisdictions and international organisations of an economic nature. Sixth, and what of the underlying policies that drive or should drive the international economic order? Does IEL serve only States or are its ultimate beneficiaries individuals? What is set for the Palestinian people under Rawls' theory of distributive justice --- a theory often invoked in IEL in its analysis? Finally, what of the impact on the integrity of the international economic order. IEL does not exist in isolation from the rest of international law. A breakdown in international law has implications for the integrity of the rule of international economic law. Conversely are there lessons here from the system of international economic relations? For example, the widespread practice in international economic relations of adhering to the most-favoured-standard eschews relations based on emotive bonds at any cost as between nations.

In sum, international economic scholars have a locus standi to interject in this conflict not only with respect to the immediate parties, but also those who are complicit in it. There are here substantive international economic issues, as there are systemic issues, that need to be discussed. Indeed, there is complicity in the silence.

Ömer Erkut Bulut

Dr., Assistant Professor, Boğaziçi University

"Israel's BIT Responsibilities in Occupied Palestinian Territories"

Israel's comprehensive assault on Gaza, followed by a two-decade-long total blockade of the Gaza Strip, has not only breached fundamental human rights but also severely impacted social and economic rights in the region. The disproportionate attacks and the blockade have resulted in widespread destruction of private property. In addition to the mechanisms of international human rights law and international humanitarian law, could international investment law provide at least a small measure of remedy for the extensive destruction of private and foreign property? The Crimea cases, brought against the Russian Federation since 2015, and the phenomenon of (extra)territorial application of investment treaties in general, might offer an important precedent for addressing some of the violations of economic rights in the West Bank and Gaza. Can Israel's BIT obligation towards third states also be binding in the Occupied Palestinian Territories? In this regard, can the relative efficiency of investor-state arbitration mechanisms, in an era of human rights regression, provide compensation for specific material damages? Accordingly, this presentation will explore the potential role of the (extra)territorial application of investment treaties in Gaza and the West Bank, examining both the advantages and pitfalls of such an approach.

Yi Lu

Dr., Lecturer, Peking University School of Transnational Law

"Food Security, Right to Food, Humanitarian Aid, State and Non-State Obligations"

The ongoing conflict between Israel and the Occupied Palestinian Territory (OPT) has resulted in considerable difficulties in Gaza, particularly with regard to the accessibility of food and food security. This paper examines the legal issues pertaining to food security during this crisis. In this regard, it examines the legal frameworks that regulate humanitarian aid, the right to food, and the obligations of state and non-state actors in the context of this conflict. The paper examines the challenges inherent in ensuring food security in conflict zones and proposes strategies for improving compliance with internationally recognized standards.

This paper commences with a review of the current international law framework, including an analysis of International Humanitarian Law (IHL) provisions pertinent to food security. This analysis will include a discussion of the relevant provisions set forth in the Geneva Conventions and Additional Protocols. It then proceeds to discuss the right to food as set forth in the International Covenant on Economic, Social and Cultural Rights (ICESCR). In addition, the obligations of states and non-state actors to ensure food security must be analyzed. Moreover, the paper will examine the mechanisms for holding parties accountable for violations of the right to food. Finally, it is necessary to review relevant United Nations resolutions, reports, and guidelines on food security and humanitarian assistance in Gaza.

Secondly, this paper identifies challenges and gaps in the current legal frameworks and their implementation. For example, it examines the impact of blockades and restricted access on food supply and distribution; it analyses the challenges in coordination among state actors, non-state actors, and international organizations; it discusses how security concerns affect the delivery of humanitarian aid; and it identifies legal and political obstacles to implementing effective food security measures.

Finally, the paper proposes measures to strengthen the implementation of IHL in order to ensure food security. It also suggests ways to enhance the protection of the right to food under international human rights law. Furthermore, it advocates for increased international cooperation and support for humanitarian efforts in Gaza.

Lena Salaymeh

Professor, École Pratique des Hautes Études – PSL

"International Law as Neo-colonialism"

This talk explains how contemporary international law facilitates neo-colonialism in, around, and through Palestine. The international legal system silences resistance to neo-colonialism through its doctrines on sovereignty, state violence, and genocide. (Due to the time constraints of this presentation, I will only discuss one of these doctrines; the article version of my talk explains how all three doctrines reinforce neo-colonialism.) More importantly, contemporary international law contributes to epistemic neo-colonialism and hinders epistemic decolonization.

Everisto Benyera
Professor, University of South Africa

"Is the Gaza War the Death of International Law? Exposing and Addressing the Limitations of International Law for Marginalised Communities"

The Gaza War epitomises a pivotal moment in international law, where powerful interests overshadow legal duties, raising doubts about the effectiveness of established norms for marginalised communities. This trend suggests not just a breach but a potential collapse of international responsibility, prompting a review of its efficacy and relevance. By situating the Gaza War within settler colonialism and the struggles for the marginalised, this presentation exposes the multifaceted/multilayered limitations corroding international law. Four key areas highlight these deficiencies: (1) Historical legacy that shaped international legal norms in Euro-North American-centric ways, thus perpetuating inequality. (2) Jurisprudential inconsistencies that foster a culture of selectivity and exceptionalism, thus undermining the universality of international law. (3) Systemic failures in enforcement mechanisms breed impunity for atrocities, undermining accountability, and justice. (4) Entrenched geopolitical realities impede progress in conflict resolution and human rights enforcement, perpetuating cycles of violence. Modern warfare's evolution, including Artificial Intelligence involvement and asymmetrical conflicts, challenges traditional legal frameworks. The Gaza War represents a tipping point, where adherence to international law is no longer sacrosanct due to prevalent impunity, double standards, and exceptionalism. To rescue international law from a crisis, a fundamental paradigm shift is necessary. This involves decolonising international law by integrating various jurisprudences, including Islamic, Confucian, Buddhist, Hindu, and African legal traditions. Embracing pluralism and inclusivity can foster a more just, equitable, and resilient global legal order capable of addressing 21st century challenges.

Liliana Obregón
Professor, Universidad de los Andes.

"Shifting Alliances: Latin American States on Israel/Palestine at the Bicentennial of the Monroe Doctrine"

This presentation explores an early 20th-century Latin American anti-imperialist legal tradition in response to the Monroe Doctrine, tracing its evolution to current legal policies on Israel and Palestine. In the 1947 UN vote on the Partition Plan for Palestine, 20 of the 56 voting states were from Latin America. Thirteen voted in favor, citing trust in the UN's conflict resolution role, sympathy for Jewish refugees and their need for self-determination, faith in a future two-state solution, and strategic alignment with the US. Six states abstained (Argentina, Chile, Colombia, El Salvador, Honduras, and Mexico), citing preferences for neutrality, non-intervention, relations with the US, Western powers, and the Arab world, internal consensus issues, and concerns over future implications and conflicts. Cuba was the sole state from the region to vote against the Plan, arguing it was morally unjust, violated self-determination principles, and would likely escalate regional conflict and violence. By the 1960s and 1970s, influenced by the Cuban Revolution, the Non-Aligned Movement, and solidarity with decolonization efforts, Latin American positions further diversified. While Argentina, Brazil, and Uruguay maintained support for Israel, Cuba continued advocating for Palestinians as an anti-imperialist stance. In the 1980s and 1990s, events such as the Drug Wars continued to diversify Latin American stances, with some states backing Israel while others increasingly supported Palestinian statehood and rights. The aftermath of the September 11, 2001 attacks and subsequent War on Terrorism further polarized Latin American states, distinguishing those closely aligned with US Middle East policy from those seeking greater distance.

As of 2024, sixteen Latin American states have recognized Palestine as a state. Venezuela, Bolivia, and Colombia are vocal in their current support for Palestine and criticism of Israel, while Brazil, Chile, and Mexico maintain a neutral stance, condemning violence from all sides. Argentina and El Salvador maintain ties with Israel but advocate peaceful resolutions. These perspectives underscore the region's diverse approaches to international legal policies according to different historical ideological tendencies and their relations with the US. The question arises whether these shifts signify a departure from a global US Monroe Doctrine or continue to reflect carefully managed alliances in relation to the US and its sphere of influence.

Yücel Acer

Professor, Ankara Yıldırım Beyazıt University

"Israel's Acts against Gazza and Right to Self -Defence"

Israel has mostly based its attacks on the country of Palestine in general, especially since 1967, and ultimately on the Gaza Strip since October 7, 2003, on the right of self-defence. The scope and results of its attacks on Gaza clearly show that Israel's justification should be questioned once again. Thousands of civilians have lost their lives or been injured, and hundreds of thousands of people have been forcibly displaced from their homes, cities and towns that have been bombed from the air and land almost since the first day. Israel again states that it has the "intent to destroy Hamas", in other words, that it exercises its right of self-defence. It is necessary to consider whether these serious attacks have a legal basis, especially whether they can be based on the right of self-defence. When we look at the nature and scope of the attacks, it is possible to identify many evidence that the limits of the right to self-defence have been exceeded.

Yunus Emre Gül
University of Bonn

"Self-Defence in Gaza: Revisiting Article 51 of the UN Charter"

The concept of self-defence, as articulated in Article 51 of the United Nations Charter, is defined as an 'inherent' right. This designation not only facilitates the application of self-defence rights under the Charter but also extends these rights to all entities experiencing an 'armed attack'. Consequently, this provision allows for the broad interpretation of self-defence to apply from individual persons to States. From this perspective, not only sovereign States but also any legitimate authority that establishes its jurisdiction over a territory can invoke the right to self-defence. Therefore, despite Israel's refusal to recognize Palestine as a State and its characterization of Gaza as merely a 'hostile territory', such a designation does not preclude the legitimate authorities governing such territories from exercising their right to self-defence in response to imminent, current, or ongoing armed attacks. By establishing this argument framework, the reciprocal assertion of a right to self-defence becomes untenable; from this perspective, either the Palestinian authority or Israel can unilaterally claim the right to self-defence, thereby rendering the other's claim invalid. Considering the view that an ongoing occupation is deemed an ongoing armed attack, the argument for Israel's self-defence is invalidated, and the issue then centers on whether the Palestinian authority can exercise its right to self-defence.

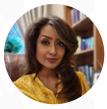
Hasan Basri Bülbül

Dr., Assistant Professor, Boğaziçi University

"Frozen in Time: The 'Israeli Exception' in Applying Colonial International Law on the Use of Force"

Critical legal studies have challenged the mainstream narrative of international law as neutral and progressive, exposing its role in justifying brutal colonial practices in the 19th century. They further document how colonial behaviors persist today, albeit in arguably less violent forms, mainly through consent from other states when possible. However, when vital interests are at stake, violence is reintroduced under a "state of emergency," invoking "exceptional laws," as exemplified in the Iraq War and the concomitant bending of fundamental legal principles.

I contend that Israel represents an "exception" in the international legal order, having been permitted to apply 19th-century international law marked by blatant colonial practices. The terra nullius concept of the colonial era was employed by Israelis to describe Palestine as "the land without people for the people without land". Akin to European expansion, what followed was settler colonialism. Additionally, Israel dehumanises Palestinians, echoing the civilized/barbarous discourse of the 19th-century to justify denying their ability to self-govern, reminiscent of Europeans denying sovereignty to "intellectually primitive" indigenous peoples. The present Western framing of Israel as "the only democracy" in the Middle East resonates with this civilizational discourse. This creates an "us/other" distinction, with others deemed deserving of atrocities. Finally, by parroting "Israel's right to defend itself"-though inapplicable to occupied territories per the ICJ's Wall decision- while Israel perpetrates the most atrocious crimes, Western powers enable Israel's excessive violence in response to the violence of "subaltern Palestinians". This, I argue, exposes a racialised hierarchy in the legal order in relation to the use of force.



Jasmin Johurun Nessa
Dr., The University of Liverpool

"(Re)thinking Evidentiary Standards in Self-Defence Claims: Implications for International Law Post-Gaza"

This paper critically examines the legitimacy of international law in the context of self-defence claims, revealing significant inconsistencies in the application of evidentiary standards — the level of evidence required to support claims of self-defence.

By systematically analysing over 75 years of UN Security Council records, state practice and International Court of Justice judgments, this paper highlights the lack of a clear and consistent evidentiary standard, global expectations of substantiation for self-defence claims, and the adaptability of evidentiary standards in international law. It also demonstrates how inconsistencies in application challenge a justice-oriented international legal order, undermining fairness and universality.

This paper argues that greater transparency in self-defence claims, through high evidentiary thresholds, are essential for enhancing the legitimacy and effectiveness of international law. The paper advocates for establishing standards that embrace global perspectives and amplify marginalised voices, transcending the influence of powerful states in determining evidentiary standards. A consistent and equitable approach to evidentiary standards is essential for maintaining international peace and security, preventing the misuse of self-defence claims, and ensuring that international law serves the fundamental purpose of safeguarding humanity.

Reflecting on Israel's military actions in Gaza, this paper underscores the urgency for international legal reform in the level of evidence required for self-defence claims. The Preamble of the United Nations Charter, crafted to 'stand the test of time' (UN Doc S/PV.8699, 22 [United States]), offers an essential starting point for future normative inquiry into the evidentiary standard of self-defence. Today, as the world witnesses the harrowing realities of war vividly displayed in real-time through modern technology, a new generation is increasingly aware of war's true impact on humanity, highlighting the need for clear evidentiary standards and an unfulfilled aspiration: 'We have failed to save succeeding generations from the scourge of war' (UN Doc S/PV.8699 (Resumption 2) 16 [Eritrea]).

Richard Falk

Emeritus Professor, Princeton University. Former UN Special Rapporteur on Human Rights in Occupied Palestine

"The Gaza Challenge: Does International Law Matter if it cannot be Enforced?"

Israel sustained onslaught on the Palestinian population of Gaza illustrates as never before the tension between the primacy of geopolitics and the authority of international law. Despite the International Court of Justice exhibiting an impressively professional approach to the juridical application of norms, in a sense an historic climax of judicial independence by ICJ, manifest in the outcome of its near unanimous grant of Provisional Measures in response to South Africa's requests. The ICJ acted on the central finding of a humanitarian emergency generated by the 'plausibility' of Israel's responsibility for 'genocide.' The behavioral impact of this widely welcomed ICJ's Interim Order issued on January 26, 2024 was defied by Israel and treated dismissively by liberal democracies, most explicitly by the United States, and not enforced by the UN Security Council. This outcome of legal clarity and political frustration exemplifies the problematic status of international law when it clashes with the strategic interests of sovereign states. This pattern is likely to be repeated in the ICJ case brought by Nicaragua against Germany on charges of complicity with genocide.

This jurisprudential assessment of international law is far from the whole story. It avoids the issue of whether Israel's claim of self-defense is compatible with the status of Gaza as an Occupied Palestinian Territory subject the 4th Geneva Convention on Belligerent Occupation.

Also relevant is the impact of ICJ findings on the legitimacy of Palestinian resistance and global civil society initiatives such as the BDS Campaign. The indirect legitimizing and delegitimizing role of international law is integral to grasping the contributions and limitations of international law after Gaza.

Hilal Elver

Professor, University of California, Santa Barbara. Former UN Special Rapporteur on the Right to Food

"When Starvation is a Crime: A Case of Gaza and Beyond"

This presentation delves into the question of whether starvation can be classified as a crime, with a particular focus on the situation in Gaza and its broader implications. While starvation itself is not explicitly recognized as a distinct crime under international law, the deliberate deprivation of food and essential resources to civilian population can constitute serious violation of right to food, and in times of war is considered a grave violation of international humanitarian law. Therefore, perpetrators are subject to prosecution by the International Criminal Court. Although using food as a weapon of war is one of the oldest war crimes, there is an ongoing impunity. The most recent case of Gaza that half of the population is exposed to Famine condition might change this ongoing impunity. Recognizing crime of starvation/famine as an independent war crime of crime against humanity and would be a positive development in international humanitarian law, international human rights law and criminal law. This paper explores the legal, ethical, and geopolitical dimensions of surrounding the question of starvation as a crime, offering into the challenges and potential pathways for accountability and justice in situations of mass deprivation.

Mohamed Badar

Professor, Northumbria University

"Adjudicating International Crimes Committed in Gaza through the Exercise of Universal Jurisdiction"

From the very early stages of its establishment, the concept of universal jurisdiction (UJ) persisted on reaching outside the ambit of widely accepted grounds for jurisdiction. UJ is a type of extra-territorial jurisdiction. It essentially permits any state to prosecute any person accused of an international crime regardless of the place of commission of the crime, nationality of the perpetrator or the victim. During my presentation I will first explore the complicated relationship between the principle of aute dedere aut judicare and UJ. I will then discuss the three different approaches to UJ i.e. "the global enforcer approach", "the no safe haven approach" and the new third approach "complementary preparedness". Finally, I will examine why Global South countries are inactive when it comes to the exercise of UJ and how this could be enhanced in light of the ongoing atrocities committed against Palestinians.'

Elif Gökşen
Dr., Assistant Professor, Bilkent University

"A Twisty Tale: Israel-Palestine Conflict and the International Criminal Court"

Israel-Palestine Conflict and the International Criminal Court Israel-Palestine conflict has always been a challenge for international law. However, the severity of the conflict has reached a very concerning level after 7 October 2023. Back in March 2021, the Prosecutor of the International Criminal Court (ICC) already declared an official investigation on crimes committed in Palestine.
The investigation of the ICC has reached another phase with the Hamas attack on 7 October and the unproportionate series of responses given by Israel. Finally, in May 2024 the Prosecutor of the ICC applied for an arrest warrant against the Hamas Leaders together with Israel's Prime Minister and the Minister of Defense for crimes against humanity and war crimes in the region. This paper examines the long-standing relationship and challenges between Israel, Palestine and the ICC. In the first part, the paper sheds a light on the historical discussion about the Court's jurisdiction on Palestine and Palestinian nationals. Then it examines the admissibility problem of a potential case based on the criteria set in the Rome Statute with important examples from the past situations.
In the second part, the paper categorizes the crimes committed in Gaza since 7 October. It criticizes the tender approach that the ICC has been pursuing on the crime of genocide and argues that in addition to the war crimes and crimes against humanity the arrest warrant and the case should also discuss the crimes of genocide. The paper relies on the UN expert reports, ICC press releases and established human rights organizations' reports to determine the essential features of the crimes in Gaza. Finally, it points out severe applicability problems regarding the possible arrest warrant and highlights the future implications of this process on the Court itself and as well as the field of international criminal law.

Zeynep Erhan Bulut
Dr., Assistant Professor, Çankırı Karatekin University

"The ICC Investigation(s) into the Situation in Palestine: Does the ICC Really Function?"

The relationship between the ICC and Palestine has a long history. The first application was made in 2009 after Israel's military operation in Gaza in 2008-2009, and now, fifteen years later, the judicial process is still on-going.

Recently, the prosecutor of the ICC, Karim A.A. Khan KC, submitted an application for arrest warrants concerning the situation in the State of Palestine. Khan asserted that, based on evidence collected and examined by the Office of the Prosecutor, there are reasonable grounds to believe that Benjamin Netanyahu, Yoav Gallant, Yahya Sinwar, Mohammed Diab Ibrahim Al-Masri, and Ismail Haniyeh bear criminal responsibility for war crimes and crimes against humanity committed in the Gaza Strip from at least 8 October 2023.

However, many dynamic factors create obstacles for the Court to complete the investigation and subsequent judgment. The first is cooperation. Israel is not a party to the Rome Statute, and thus there is no obligation for Israel to cooperate with the ICC under the Rome Statute. For this reason, the actual prosecution and conviction of perpetrators remain uncertain and complicated because the ICC does not try individuals in absentia. Another obstacle is sanctions. What would happen if an arrest warrant decision is not fulfilled by member states? The Court does not have its own police force, so without state cooperation, the ICC is unable to function effectively.

On these grounds, the aim of this paper is to review the ICC's limitations to determine whether it may have a role in advocating for Palestinian rights. For this purpose, the paper will cover three main sections: (1) the history of the relationship between Palestine and the ICC – no justice yet, why?; (2) arrest warrant decisions – do they really matter?; and (3) is the ICC going to function to bring justice – is it a real power without the cooperation of the states?

Victor Kattan

Dr., Assistant Professor, University of Nottingham.

"Apartheid or Systemic Discrimination? Reading the ICJ's Advisory Opinion between the Lines"

Under international law, apartheid is defined as regime of systematic oppression, discrimination, and domination, in which multiple crimes against humanity occur. Yet, despite the categorization of apartheid as a crime against humanity in two widely ratified treaties, the ICJ avoided a finding that addressed its definition. In an ambiguous passage (para 229), the Court observed that Israel's legislation and measures that segregate the settler and Palestinian communities in East Jerusalem and the West Bank constitute a breach of Article 3 of the International Convention on the Elimination of All Forms of Racial Discrimination, which refers to 'racial segregation and apartheid'.

In focusing only on discrimination and segregation, the Court missed an opportunity 'to provide a standard definition of apartheid under customary international law' (Declaration of Judge Tladi, para 38). This would have been useful, as 'there is no universally accepted definition of apartheid' (Separate Opinion of Judge Iwasawa, para. 12). By considering Israel's discriminatory legislation and measures (addressed at paras. 180-229) separately from self-determination (paras. 230-243), the Court failed to realise that a hallmark of apartheid systems is domination; namely, the denial of self-determination. As Judge Brant noted, 'un régime de ségrégation raciale ou d'apartheid rend impossible la réalisation du droit du peuple palestinien à l'autodétermination'. (Déclaration de M. le Juge Brant), para 12). In this regard, regimes of domination are striking in their similarity to those associated with alien rule and colonization. As Judge Xue observed, after quoting the late Archbishop Desmond Tutu (1931-2021), the effects of Israel's occupation 'have little difference from those under colonial rule, which has been firmly condemned under international law' (para 4).

A lack of consensus on the Court could explain the failure to provide a definition of apartheid under customary international law. Judge Nolte appeared to speak for the dissenters, when he expressed his concern that in providing a definition, the Court would be expected to apply it (Separate Opinion of Judge Nolte, para 8). Reading between the lines, however, it could be argued that the expression 'systemic discrimination' was used as a synonym for 'apartheid'. For as President Salam noted, the magnitude and consistency of Israel's multiple violations of Palestinian human rights, 'are part of an institutionalized regime of systematic oppression' (Declaration of President Salam, para 24). This article will explore the significance of the ICJ's finding that Israel practices 'systemic discrimination' for future action by the political organs of the UN.

Ali Kerem Kayhan

Dr., Associate Professor, Yalova University

Strategies For Engaging Against Israel in Light of Ongoing Apartheid Practices: Lessons from South Africa

The South African government policy (1948-1994) was built on the belief in the superiority of the white race and involved systematic discrimination, which was known as Apartheid. Over time, the international community became increasingly critical of this policy, and it was eventually dismantled thanks to the efforts of various actors, including states, international organisations, and individuals. The United Nations General Assembly played a particularly important role in this fight against racism and the apartheid system, with its decisions and sanctions contributing significantly to its ultimate demise.

Although apartheid is typically associated with South Africa, Israel has also been accused of implementing a similar system. Many independent organisations, UN Special Rapporteurs, and NGOs argue that Israel discriminates against Palestinian people in a way that is comparable to the apartheid regime in South Africa. This discrimination is based on religion and nationality rather than race. Israel's actions against Palestinians include settler colonialism, social segregation, the use of violence, and controlling their movement.

This study sheds light on the similarities between Israel's actions and the apartheid regime in South Africa. It discusses the actions taken by the international community in response to South Africa and how similar measures can be taken against the Israeli regime for its blatant discrimination. In this context, the effectiveness of imposing sanctions against Israel as a measure to combat its discriminatory policies is examined. Additionally, the study delves into South Africa's experience and how it could guide the General Assembly in safeguarding the rights of the Palestinian people, mainly since the Security Council is not functioning as it should. By examining these issues, the study aims to comprehensively analyse the situation and explore potential solutions.

Munir Nuseibah

Dr., Assistant Professor, Al-Quds University

"Continuing the Work on Apartheid at the Time of Genocide"

While Israel has intensified its offence against the Palestinian people with a genocidal operation in Gaza, and while the risk of expanding this genocide to other parts of Palestine is increasing, it is still important to continue building on the apartheid framework that has become central in the Palestine advocacy effort. Indeed, one cannot but notice the efforts of pushing Palestine to the setback of the Oslo Process through the calls for an international peace conference that, in all likelihood, will focus on pushing us back into endless negotiations that are not rights based. Alternatively, the anti-apartheid anti-colonial approach offers a more comprehensive frame for addressing the question of Palestine with a rights based methodology. Of course, the responses stemming from the genocide in Gaza, including the South Africa vs. Israel case, Nicaragua vs. Germany case and the ICC accusations can only support this approach.

This presentation will examine the use of a holistic anti-apartheid anti-colonial approach in addressing the injustices in Palestine. It will argue that international law can be approached politically in different ways and that only a political will can bring about holistic justice.

Dilahan Bice Kurtoğlu
PhD Candidate, University of Warwick

"Relocating the Crisis and Reconsidering the Refugee Subject in light of Palestinian Displacement: A Critical Approach to the Construction of Refugeehood in International Law"

In the past decade, states have increasingly used a 'crisis' rhetoric concerning refugees and people on the move while deliberately keeping their eyes closed to many real crises and catastrophes happening in the world. It has been witnessed that the acknowledgement of catastrophe and suffering depended on someone's colour, religion, and how much they looked like 'us'. This has been the case particularly in Europe, where the original major crisis occurred in the post-WWII period due to the mass displacement that many suffered from. That period inspired the creation of a new legal framework for asylum and refugee protection, resulting in the 1951 Refugee Convention.

It has been argued that the 1951 Convention, shaped by European events and historical context, has a clear Eurocentric bias. Scholars from the TWAIL movement, especially Chimni, have highlighted this aspect of the Convention and started an ongoing scholarly discussion. In this regard, the refugee definition within the 1951 Convention is a key part of the international legal framework that needs critical examination. This definition, unique and enduring, forms the basis of the current system of international protection and shapes the modern conceptualisation of refugeehood. It determines who qualifies as a refugee and who deserves protection. Likewise, it envisages a refugee subject that reflects itself with various problematic implications in asylum practice.

In light of the ongoing Nakba, the daily persecution in Gaza, and the inhumane and unlawful treatment of displaced Palestinians by the state of Israel—which undermines international law and even targets refugee camps on a constant basis—it is crucial to revisit the history of international law-making on refugee protection. Understanding how historically and politically constructed legal frameworks relate to contemporary socio-legal issues in refugee and asylum law is essential yet not considered enough in scholarship and this paper aims to draw attention to it. It makes a close analysis of the drafting period of this definition to reveal some unpacked Western understandings embedded in the construction of the refugee definition. It also looks into where the Palestinian displacement historically falls into -or kept excluded- within the refugee protection framework.

Susan M. Akram

Professor, Boston University

"An Examination of Forced Displacement, Siege and Denial of Right of Return of Palestinians as War Crimes and Crimes Against Humanity"

Shortly after October 7, 2023, Israeli Minister of Defence Yoav Gallant stated that Israel was "imposing a complete siege on Gaza. No electricity, no food, no water, no fuel. Everything is closed." The siege Israel imposed on Gaza in October followed an already punitive blockade on Gaza that severely limited entry and egress of people and goods that Israel instituted in 2007, after Hamas' electoral victory the year before. In carrying out the siege, Israel has prevented access of humanitarian aid, food, water, fuel and other necessities for survival; killed and injured Palestinians trying to access aid when it has been allowed to enter; and killed and injured UN and other aid workers attempting to deliver assistance. In addition, over the last seven months, Israel has issued numerous 'evacuation orders,' corralling over 2 million Palestinians from one side of the Gaza strip to another, into smaller and smaller spaces where access to food and water and means of survival are in shorter and shorter supply. Israel has made survival for most Gazans so impossible that they are forced to try to move elsewhere, and Israel has tried to pressure Egypt to accept them on Egyptian territory. It is important to remember that approximately 80% of Gazans are 1948 Nakba refugees and their descendants, so the memory of forced displacement, dispossession and denial of return is ever-present. The massive displacement, related siege and forced starvation in Gaza must be understood as part of the historical crimes against Palestinians involving the forced displacement of 750-800,000 Palestinians in 1947-48. Without this context, the current emphasis on seeking criminal prosecution of Israeli principals in the Gaza war will not bring justice for Palestinians, nor address the root causes of conflict necessary to bring an end to it.

The International Court of Justice (ICJ) has before it two cases, one charging Israel with genocide and one charging Germany with complicity to genocide. It is also considering an Advisory Opinion request from the UN General Assembly on the legal consequences of Israeli violations of international law in denying Palestinians the right of self-determination and its ongoing occupation of the OPT. In addition, the ICC Prosecutor has just requested warrants for the arrests of two Israeli and three Hamas principals for war crimes and crimes against humanity committed on and since October 7, 2023. However, none of these cases fully take into account the wrongs of the crimes of siege and related imposed famine, forced displacement and denial of right of return as crimes against humanity. This presentation will examine the strengths and weaknesses of the current ICJ and prospective ICC cases with regard to the omission of forced displacement and return crimes as separate historical (and ongoing) crimes before the international tribunals. It will examine weaknesses in current international humanitarian and criminal law, tentatively concluding that including these crimes in prosecutions and ICJ judgments is essential for achieving justice for the Palestinian people as a whole.

Lamis Deek

Advocate, New York Bar

"Nakba: As Superstructure of Zionist Colonization and Legal Framework for Palestinian Liberation"

The Nakba, meaning "Catastrophe" in Arabic, provides a crucial legal framework to address the systematic oppression of Palestinians since 1948. Recognizing the Nakba as a meticulously calculated and systematically executed Zionist-led project that has driven incremental genocide, oppression, displacement, and war crimes against Palestinians since 1948, rather than merely a historical event or condition, allows for a more effective legal and political response.

By understanding the Nakba as both a systemic crime and historical event, it becomes clear that the Palestinian right to resist must be expressly protected and expanded. The Nakba framework reveals that the global criminalization of this right is, in fact, a technology of the Nakba itself. This perspective situates the Palestinian right to resist as a foundational right, emphasizing that any attempt to undermine or criminalize it serves to perpetuate the Nakba.

Furthermore, the Nakba framework requires recognizing the global scale and intentionality behind anti-Palestinian crimes and dehumanization. This framework highlights the industrialized nature of these mechanisms and their far-reaching impact. It integrates the structures and mechanisms of Palestinian subjugation into a coherent and comprehensive legal structure, surpassing the limitations of concepts like occupation, apartheid, and genocide.

Articulating and adopting the Nakba framework in law is essential for ensuring Palestinian liberation and the implementation of their right to return, reparation, and remedy for all injustices. In conclusion, the Nakba framework offers a robust foundation for addressing the continuous injustices faced by Palestinians. It calls for international solidarity and a reimagining of legal paradigms to support their struggle for liberation and self-determination, ensuring their voices and experiences are central to any legal discourse.

Rama Sahtout
Dr., Lecturer, University of Exeter

"Palestinian Refugees in Gaza and the Limitations of Refugee Law"

When discussing the ongoing Israeli hostilities in Gaza we should not forget that 70% of the Gazan population are already refugees. The Zionist strategy dating back to its inception in Palestine has been consistent in depopulating the land of its native Palestinians. The rational that normalised the killing and displacing the Palestinians from their homeland in 1948 remains unchanged. Experts have warned that Israel's atrocities in Gaza have been driven by a genocidal logic integral to its settler-colonial project in Palestine. In this context, displacement (expulsion and transfer) is an elimination tool aiming at the replacement of Palestinians. This ongoing Nakba constitutes a dilemma for refugee law (RL) and its pertinence to the question of Palestinian refugees. The question of 'root causes' has been overlocked in the current legal framework thus the 'logic of elimination' as manifested in the Zionist settler colonial project' tools of 'transfer' and 'expulsion'. Since October 2023, these tensions have manifested itself in different ways. For example, many scholars and international institutions have avoided the question altogether; some scholars have called for opening the borders for people to seek asylum 'without ignoring the root causes' but was not clear what that means in practice.

Importantly, Palestinians themselves have rejected another Nakba: as one Palestinian put it 'dignity is more important than life and I am not leaving my land'. This paper examines the relevance of refugee law to the protection of Palestinians in Gaza exposing its limitations. It raises the questions: is RL oblivious to the suffering of Palestinians in Gaza? How should we understand the term refugee 'protection' in this context? In answering these questions, the paper draws on lessons learnt from other contexts and regional cases while insisting that any paradigm shift should not approach the ongoing Nakba as simply a 'refugee problem'.

Michael Lynk

Emeritus Professor, Western University. Former UN Special Rapporteur on Human Rights in Occupied Palestine.

"Israeli settlements under the Rome Statute of the ICC"

Arising out of the embers of the Second World War, the Geneva Conventions of 1949 updated and codified international humanitarian law. Among its achievements was the strict prohibition against the transfer of parts of the civilian population of the occupying power into the occupied territory (Article 49, para. 6 of the Fourth Geneva Convention). Almost 30 years later, this strict prohibition was elevated to a war crime with the adoption of the 1977 Protocols Additional to the Geneva Convention. In 1980, the United Nations Security Council adopted several binding resolutions designating the settlements as flagrant violations of international law and demanding that Israel immediately halt and dismantle all of its settlements in occupied Arab territories. It also deplored Israel's continuing refusal to implement all of the relevant resolutions of the UN Security Council and the General Assembly.

The Israeli settlements have become the locomotive of both annexation and apartheid in the OPT, as confirmed by the International Court of Justice in its Israeli Policies and Practices in the Occupied Palestinian Territory Advisory Opinion on 19 July 2024. My presentation will review the developments in international law regarding the settlements, explain their centrality in the denial of Palestinian self-determination, assess why the settlement enterprise has been so successful and conclude with a review of the obligations for the international community regarding the settlements arising from the ICJ ruling.

Muthucumaraswamy Sornarajah
Emeritus Professor, National University of Singapore

"Resistance of Power: Self-Determination and the Struggle for Palestine"

Recent events in Gaza represent a major tipping point in international law. They signal the triumph of the vision of the Third World that inequities in the existing international law based on formulation of principles by hegemonic powers should be dismantled in favour of principles based on justice claimed by the majority of the people of the world.

A three-tier argument in terms of a global (not hegemonic) international law can be made for the achievement and preservation of the rights of the Palestinian people. The first is that the illegality of the founding of Israel in violation of the obligations under the mandate entrusted to the British imperialists vested a continual right of self-defence in the Palestinian people. They have the right to recover the land stolen from them. The second is that the process of decolonisation has not been completed in Palestine where a surrogate of imperial powers still holds sway. Any assertion of the right of self-determination by any means consistent with humanitarian law is the right of the Palestinian people. It exists until self-determination is achieved. Thirdly, the persistent atrocities amounting to genocide committed against the Palestinian people gives rise in them to the continuing right to remedial secession which can only be completed through the establishment of a Palestinian state. All three types of rights enable third states to assist in their realization.

Mohsen al-Attar

Associate Dean and Professor, Xi'an Jiaotong-Liverpool University

"Anti-Palestinian Racism in International Law: Unveiling Structural Injustices"

What part does racism play in the development and practice of international law? Since the advent of the Third World Approaches to International Law (TWAIL), a rich body of critical scholarship has emerged that spotlights the influence of Eurocentrism over the regime. This analysis revealed how international law has been shaped by a European ideological lens, which systematically sidelines non-European perspectives. On one hand, this exclusion manifests as a form of epistemic violence, where entrenched biases within international law limit the scope of debate and understanding by privileging Western viewpoints. On the other, it also produces structural injustices intertwined with racialised violence, as was witnessed in Gaza.

Through an examination of the Israeli occupation of Palestine, I propose to explore the disproportionate exclusion of Palestinian voices and the undue emphasis on Israeli narratives within international legal discourse. This imbalance is further perpetuated by portrayals in Western media, diplomatic rhetoric, and judicial assessments that affirm Israeli legitimacy while undermining Palestinian claims, thereby cementing a specific form of anti-Palestinian racism. Rather than an isolated incident, I suggest that anti- Palestinian racism is consistent with the broader anti-native prejudice that runs through international law.

In the aftermath of the Israeli genocide, the presentation – and associated article – argues for a critical reassessment of the methodologies and epistemological underpinnings within international law. Through a strategy of 'decentring', I call for the adoption of an anti-racist disposition in international legal discourse. This approach not only challenges epistemic violence but also aims to cultivate a more equitable framework for global governance, enhancing our understanding of structural injustices and paving the way for more just international law.

Satvinder Juss

Professor, King's College London

"Defining Genocide as an Inclusive State Crime"

Why has it been so difficult for the World to recognise that Israel is committing genocide in Gaza. It was in 1948 that the Genocide Convention first created a ranking list of atrocities and criminal transgressions. But how well has that paradigm served the cause of reducing genocides? I argue that contrary to all expectations the genocide paradigm has ironically narrowed the scope of transgressive acts, limiting the ability of international law to address them. Indeed, Prof. Dirk Moses has already explained how the post-Second World War emphasis on Genocides being equated with what happened in Nazi Germany only obscured the existence of 'the founding violence,' of our own settler western colonial states, and 'the incipient criminality of the founding of your own state' and Martin Shaw has acknowledged how, 'varying kinds of responsibility for genocide attach to British institutions, leaders and population groups at different points...,' giving us the 1948 Genocide Convention. Israel's is a 'settler violence.' I argue that this is why we need to move away from its intellectual straightjacket and adopt a broader criminological 'state crime' definition. For as Dirk Moses has explained 'when Biafrans and then the East Pakistani Liberation movement, ...the Bengalis... argued that what was occurring to them was genocide,' chillingly, 'they were met with the response of 'no, no, what you're going through is a civil war — horrible as it might be — but it's not genocide, because for it to be genocide needs to resemble the Holocaust'. This has also been the world response earlier with what is happening in Gaza. This is why, "many victims of mass casualties, civilian casualties, above all, are not getting the recognition in international law and in the international public sphere because their cases don't resemble the Holocaust." I argue it is time to seen genocide as an inclusive state crime and not as something which was unique to the Holocaust.

José Manuel Barreto

Professor, Universidad de los Andes

"Genocide, Colonial Genocide and the Genocide in Gaza: Consequences for International Law"

The common idea of a genocide has a European bias. The term was originally coined by Raphael Lemkin in the context of the Nazi atrocities and was enshrined in the 1948 Genocide Convention quoting as antecedent the Holocaust. Popular cinema and culture remind us again and again of the genocide committed by the Nazi. In turn, the Frankfurt School, Postmodern Thinking and Critical Legal Theory have defined our times as Post-Holocaust and the Holocaust as unique, becoming the paradigm of genocide.

Nevertheless, if we recontextualize genocide in the history of colonialism we can see that genocide is not only a XX Century and quintessentially European phenomenon, and that there is also a modern history of colonial genocide from the times of the XV and XVI centuries. This history was inaugurated by the Conquest of America and the extermination of many American indigenous peoples. Colonial genocides occur in the global geography of the colonized world. They are not committed by states against minorities, but by empires, colonial companies and occupying states against indigenous peoples. We can count among them the colonial genocide in Gaza.

The Palestinian Genocide shows that European settler colonialism continues to perform one of its inextricable tasks: genocide; that empires like the US continue to be authors and accomplices of genocide by enabling the genocidal aggression of an indigenous people. And that the coloniality of military, political and economic power that characterizes the contemporary world system is the material condition for genocide to be perpetrated again today.

What has been the role of international law regarding colonial genocide? What can be the consequences of colonial genocide for the very definition of international law? What international law has to offer to fight today against colonial genocide?

Harun Halilović

Dr., Assistant Professor, International University of Sarajevo

"Srebrenica and Gaza: Reflections and Lessons for Genocide Prevention"

Events unfolding in Gaza had a special impact on people in Bosnia and Herzegovina. Images and news from Gaza brought back harrowing memories of the Srebrenica genocide that happened in July 1995. The shocking events in Gaza reminded us that, even after the Srebrenica, when the world said, "no more", we are witnessing blatant disregard for the rules of international humanitarian law. In addition, the UN General Assembly recently adopted a Resolution establishing, among other provisions, 11th July as an International Day of Remembrance of the Srebrenica genocide. There are many parallels to identify. Srebrenica was a UN-designated "safe area" and even while the war in Bosnia and Herzegovina was raging, the international court made interim decisions, ordering the cessation of aggressive activities. The international courts have yet to adopt a decision on Gaza, but the court decisions and resolutions do not have little value after the staggering number of civilian deaths. Gaza needs a peaceful solution now and a way forward to a resolution of conflict, and that can only be achieved with proactive inclusion and reaction of the international community, one that is missing now, and one that was missing in the case of Srebrenica.

Luigi Daniele

Dr., Senior Lecturer, Nottingham Law School

"Will There be any IHL after Gaza? From the Law of Armed Conflict to Israel's 'Law' of Armed Genocide: A Global Threat to Civilians Worldwide"

The paper to be presented will develop an interpretative effort to clarify how, around Israel's conduct of hostilities, Western military and academic discourses on the laws of war, within a background of unequal relativizations of international law, have shown a clear tendency to construe two different 'IHLs', antithetically valorising civilian protection and military necessity on the basis of whose powers' conduct of hostilities was under scrutiny.

The paper will demonstrate how IHL concepts such as proportionality in attacks, the status determination of civilian objects and military objectives, or the prohibition against the use of human shields have not only fallen victims of blatant double, and indeed opposed standards but have ultimately, in the last year, been distorted by Israel into a grammar of legalization of genocidal means and methods of warfare.
For 75 years the jus cogens and customary prohibition rooted in the Genocide Convention and in the Geneva Conventions (and their Additional Protocols) served the intertwined purposes of complementary protection of individual civilians caught up in armed conflict, as well as protection of their collective survival as protected groups, included in war times.

Gaza marks the first genocide in history trying to legitimize itself with code words and categories mimicking IHL notions, ultimately construing IHL as a legal framework enabling civilian extermination, and thus derogatory of the Genocide Convention, ultimately compromising the latter's applicability.

The distortions of the law of war was long in the making, included through the support of various segments of Western international legal scholarship validating the erosion of the notion of civilian during the decades of the war on terror. In Gaza, however, these distortions have fully displayed their full potential, that of legitimizing a war of annihilation were an entire protected group's survival has been and is construed as a variable dependent on the occupying power's achievement of its war aims. The presentation will argue that this framing constitute the greatest threat to both civilians in armed conflict and groups protected under the Genocide Convention the world has faced in decades.

Khouloud Al-Khatib

Dr., Assistant Professor, Lebanese University

"Colonialism, Intersectionality, Marginalized Communities, Legal Order, Diverse Narratives, Transformative Re-examination"

The recent invasion of Gaza underscores the urgent need to reassess international law. This paper explores the limitations of existing norms and the necessity for transformation. It argues that hegemonic structures perpetuate exclusion and injustice, particularly in conflict zones. Examining historical and contemporary intersections of power, politics, and law, the paper demonstrates how these dynamics have shaped responses to Gaza. The inability to prevent perceived genocidal actions against Palestinians underscores the need for alternative frameworks prioritizing human rights and justice over political expediency. A key focus is on epistemic colonialism's role in silencing voices from the Global South. Analyzing how dominant paradigms marginalize alternative perspectives, the paper calls for an intersectional approach incorporating diverse viewpoints, examining grassroots movements and non-state actors' potential in shaping a more inclusive international legal framework.

The paper also delves into colonial-era power structures influencing contemporary frameworks, arguing that these perpetuate injustices witnessed in Gaza. It traces historical struggles against domination, revealing insights for decolonizing these fields. The concept of universalism in international law, traditionally shaped by white supremacy biases, is critically examined for its role in marginalizing non-Western perspectives. The paper investigates epistemic colonialism's role in shaping discourse on Gaza, silencing critical voices and marginalizing non-Western perspectives. By foregrounding inclusive intersectionality, it proposes alternative frameworks challenging hegemonic structures, advocating for a more equitable global legal order that values diverse narratives and experiences. The paper underscores profound challenges faced by Palestinians, living in constant crisis due to systematic psychological and social engineering by Zionist entities. This engineering manipulates cultural, linguistic, and legal dimensions to perpetuate impunity and dehumanize Palestinians, asserting that Zionism is genocidal and uniquely brutal. It concludes with a call to prioritize Palestinian voices and demands, advocating for full liberation, return, reparations, and dismantlement of Zionist institutions. By challenging the status quo and embracing diverse perspectives, this paper aims to contribute to the transformative re-examination of international law that BILC seeks to aspire.

Polona Florijančič
Dr., Independent Researcher

"Colonial Framing of Resistance"

There is little less heard than a complete condemnation of the military raid carried out on October 7th by Hamas and other militant groups. Apart from certain independent journalists and commentators, there is no distinction being made in the discourse between unjustifiably criminal acts committed against civilians and acts that fall under the right to resist Israeli occupation, including through armed struggle, as recognized in international law. The entire raid is simply branded as terrorism, thus stripping it of any legitimacy. The narrative further considers all the deceased, including individuals killed in the attacks on military bases and militarized settlements simply as "innocent civilians". Such narratives extend well beyond Western media. This is unsurprising since the expression of any alternative analysis of events, or those involved in them, is being criminalised under domestic laws as glorification of terrorism. The stifling of freedom of expression impinges on the ability to combat dehumanizing hate propaganda against the Palestinians which is a crucial enabler of the genocide committed against them.

This paper will explore the colonial narrative of framing resistance movements and acts of resistance as terrorism with a particular focus on South Africa and Palestine. It will further explore how the lack of an internationally recognized definition of terrorism leaves the term open to domestic proscription based on foreign policy interests and alliances.

Osayd Awawda

Dr., Assistant Professor of Public Law, Qatar University

"Post-October 7th International Criminal Law and Accountability: Emerging Legal Concepts and Terminology"

The war on Gaza has transformed international law. Before October 2023, all eyes were focused on the Russian-Ukraine war and its impact on declining international unipolar order. However, the Israeli bombardment that targeted all facets of life in a livestream genocide, and States (in)action thereto, uncovered inherent deficits in the international legal order. Until recently, reform efforts centered on the imbalance in the United Nations system, particularly the Security Council and its veto power and the emerging multipolar world. The unprecedented war, with fears of a wider regional conflict and global repercussions, has accelerated debates on the urgency for multipolarism. This, in turn, would shape the character of international law. This paper explores a set of novel concept arising out of the Gaza onslaught that may be elaborated within policy and academic circles. Criminal law, historically, knew certain terms to characterize process of mass killing and massive destruction, such as genocide, democide, educide, ecocide, identitycide, femicide and pedicide. However, the unimaginable scale of devastation in Gaza has brought to the fore unconceivable terminology that criminologists and jurists are yet to digest. These include: unicide (demolition of entire universities, elimination of professors), medicide (deliberately targeting hospitals, medical personal, ambulances), mediacide (assassination of journalists, targeting media institutions), agricide (systematic bulldozing of agriculture land), animocide (liquidation of animal and livestock), unurwacide, electricide, watercide, juricide (leveling courts, bar association, murdering of judges and lawyers), cemeterycide and, indeed, Palestinicide. Such terms, and several more, need to be analyzed, researched and crystalized with a view to comprehend what has happened in Gaza and the how international may correspond to sanction such atrocities.

Ashish Prashar

Political Strategist, Human Rights Activist and Writer

Judge S. Desai

The Head of the Office of the Ombud, South Africa

Ahmed F. Khalifa
Dr., Assistant Professor, Ain Shams University

"The War in Gaza and the Responsibility of Third-party States in International Law between Moral and Legal Limits"

The ongoing war in Gazza since the 7th of October 2023 has put international law in front of various challenges that are unprecedented since the establishment of the modern legal order after the Second World War. One of these challenges, that is relatively underdeveloped in the doctrine of international law, is the moral and legal limits of the responsibility of third-party states in times of mass atrocities. In trying to tackle this crucial issue to the debate around the war in Gazza, this proposal will examine three aspects.

First, the legal implications on third-party states providing political, financial, or military support to Israel by the order issued on the 26th of January 2024 by the International Court of Justice (ICJ) on the provisional measures on the Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip (South Africa v. Israel).

Second, the legal grounds and significance of the initiation of proceedings on the 1st of March 2024 by Nicaragua against Germany before the ICJ in relation to the same war.

Third, the extent to which there is an obligation on the five permanent members of the Security Council not to use their right to veto in cases of mass atrocities; a notion that is scarcely discussed despite its appearance in the 2001 International Commission on Intervention and State Sovereignty report (p.XIII). The position that will be adopted towards each one of the three aspects of this issue will be a determinant factor towards either the reinforcement of the legitimacy of current international law or towards more loss of its credibility to the extent that may lead to the collapse of the whole system.

Andrea Maria Pelliconi

Dr., Teaching Associate, University of Nottingham

"Displacement, Settlements, and Denial of Return as a Violation of Self-Determination in Gaza and the West Bank"

Israel's establishment and continued expansion of illegal settlements in the West Bank and other occupied territories is one of the most pressing issues threatening Palestinian existence and self-determination besides the ongoing genocide taking place in Gaza. Indeed, these illegal settlements should be understood within the context of the broader eliminationist 'demographic engineering' project of the Palestinians existence in the occupied territories and operate in tandem with their forcible displacement, the denial of a right to return, and the genocidal violence unleashed in Gaza. Israeli authorities are now openly discussing settlement plans in occupied Gaza in a post-conflict scenario, in clear contravention of the law of occupation and the prohibition of annexation, international humanitarian law, and international criminal law. Despite the clarity of international law on the matter, the 2022 request for an Advisory Opinion asked the ICJ to clarify the illegality and legal consequences of the measures aimed at altering the demographic composition, character and status of Jerusalem – and, arguably, any other occupied territory. Fourty-two statements submitted to the ICJ by States and International Organizations have mentioned the illegality of demographic engineering policies and practices such as forcible displacement and settlements. This contribution contends that these measures not only constitute grave breaches of international humanitarian law and potentially war crimes, but should be viewed also as an overarching project aimed at undermining and suppressing the Palestinians' collective right to self-determination. This process of sovereignty appropriation through demographic substitution ultimately seeks to prevent the recognition of Palestinian statehood and implement de facto annexation of the territories to Israel.

Ramy Abdu

Dr., Assistant Professor, Euro-Med Human Rights Monitor Chairman

"Obstacles in Documenting Crimes of the Israeli Occupation: Lessons from South Africa's Lawsuit Before the International Court of Justice"

In the ongoing struggle for Palestinian rights, documenting the crimes of the Israeli occupation presents significant challenges for human rights organizations. My talk will delve into these obstacles, highlighting the multifaceted barriers that impede thorough documentation and advocacy efforts. From restricted access to conflict zones to the intimidation and targeting of human rights defenders, the impediments are numerous and complex.

A pivotal case study in encountering such barriers is the recent lawsuit filed by South Africa before the International Court of Justice (ICJ), which is proceeding without a fact-finding mission into Gaza. This landmark case underscores the critical role of international legal mechanisms in addressing international law and human rights violations, while also setting a precedent for how local and international litigation efforts can be shaped by such actions. In this talk, I will explore the significance of South Africa's lawsuit against Israel, examining it from the perspective of the difficulties in evidence collection and documentation caused by the Israeli occupation. By analyzing the implications of the case at ICJ against Israel, I will discuss how this case has inspired other nations and human rights organizations to pursue similar litigation strategies, fostering a collective push towards accountability and justice.

Omar Kamel
Sciences Po, Paris

"Worthy & Unworthy Victims: Mass Media as the Adjudicators of Legality in Gaza"

In Gaza, where military disparity renders physical confrontation a foregone conclusion, the true battleground emerges in the narratives woven by the media. As rockets continue to rain down and rubble mounts, the narrative battle waged by mass media shapes more than public sentiment—it crafts the very fabric of international legality.

This presentation offers a deep dive into this contentious arena, where journalists emerge as both narrators and adjudications of legality. Predicated in part on Lorimer's affirmation that "the binding force of International Law depends on public sentiment and public opinion, as articulated by the press", this analysis gauges the extent to which the media's portrayal of legal categories normalizes certain interpretations of international law.

Utilizing Herman and Chomsky's framework, this analysis examines how the media's categorization of victims and aggressors dictates international legal discourse, effectively crafting a landscape where some victims are sanctified while others are vilified or ignored. This framing adjudicates the conflict by elevating certain truths while silencing others, thereby shaping international law and public opinion far more decisively than the actual events on the ground.

Leveraging both qualitative and quantitative content analysis of legal language in media coverage reveals patterns in the representation of Palestinian and Israeli casualties and aggressions. The selective invocation of legal categories and sequencing of violence by the media, for example, crafts a skewed legal understanding of the conflict, thereby shaping public opinion and international responses.

Ultimately, this presentation volunteers a re-examination of international law by highlighting the intersectionality of media influence, power politics, and legal frameworks in armed conflict. It challenges the audience to reconsider how media narratives extend beyond superficial commentary and instead shape global understandings of international law, particularly in relation to marginalised communities. This underscores the imperative for decolonizing media narratives to ensure nuanced understandings of justice and law.

Na'eem Jeenah

Senior Researcher, Mapungubwe Institute for Strategic Reflection

"Reframing International Law: Global South Perspectives and Challenges"

Contemporary notions of international law, laws of war, a 'rules-based order', as understood in multilateral fora, were crafted by European elites so that their states could apply these to each other and use them as mechanisms to regulate conflicts among themselves. These notions were never meant to apply to or be used by formerly-colonised nations to protect their rights or their sovereignty – especially not against their former colonisers. That is why the same European nations that used 'rules of war' to regulate conflicts between themselves were, simultaneously, committing genocide against colonised peoples in Africa and elsewhere.

Recent attempts by countries of the Global South, however, have been attempting to challenge that idea. In particular, recent cases against Israel at the International Court of Justice seek to assert ownership over international law by former (and current) colonised peoples. The significance of these assertions go beyond individual cases; they are an attempt at decolonising the very notion of international law and demanding equality for Global South nations. This assertion, while in the current context is related to the genocide, occupation and colonisation of the Palestinian people, follows recent experiences by Global South nations the yoke of colonialism on their necks has not been removed. Perhaps the most recent stark experience was that of Covid-19 vaccine apartheid, when northern states happily accepted that their hoarding of vital and life-saving medications will result in the deaths of possibly millions of people in the Global South.

This paper will examine these challenges to international law, argue for a broadening of its understanding and propose that decolonisation of law is intrinsically linked to asserting the equal value of all human life.

Shahab Saqib
Dr., Lecturer, University of Leicester

"Decolonising the Narrative of Equality in International Human Rights Law after Gaza"

Since its inception, International Human Rights Law (IHRL) has idealised, in fact fetishized, a certain version of equality. This version of equality has mostly been influenced by the liberal theories of law that centralise certain protected grounds to regulate the conceptualisation of equality. However, these theories of liberalism have historically been contaminated by white racial capitalism. The notion of equality promulgated by IHRL has been, therefore, a reflection of mostly white, classist and dominating jurisprudence only.

The resistance shown by Palestinians against Israeli occupation in Gaza, nevertheless, provides an alternative lens to view Equality. This paper uses this lens to see how the narrative of Equality could be conceptualised differently. It challenges the current formalisation of equality in IHRL, in which categories such as sex, race and religion, only reflect the interest of the dominant powers. The meaning connoted to the terms through this formalisation excludes Palestinian lives, including men, women and children, who are deemed unequal. The paper argues how equality, coming from this background of the struggle of Palestinians might be different to what IHRL has idealised since its advent.

The paper therefore challenges the epistemological foundations of equality in IHRL through a decolonial lens that shifts the focus from the West to the rest. It puts the Palestinian struggle at the forefront and argues for the alternative. In doing so, it deconstructs the current narrative of equality in IHRL while constructing a framework that is based on resistance, subordination and struggle. Hence, this approach not only challenges the epistemic foundations of equality in IHRL but shows the reflection of the alternative through the resistance shown by Palestinians in Gaza as well.

Brendan Ciarán Browne

Dr., Assistant Professor, Trinity College Dublin

"Enforcing a Colonial 'Peace' through Transitional Justice: Containing Liberation in Palestine"

As an ever expanding field of academic enquiry, transitional justice (TJ) continues to beguile socio-legal scholars, those whose purported aim is to better understand the challenges associated with dealing with the past during times of post-war transition. Yet relatively little scholarly attention has been given to the intersection of TJ and colonialism, particularly in the case of Zionism's ongoing attempted settler colonial erasure of historic Palestine. This is particularly surprising when you consider the fact that TJ interventions have been promoted by various 'peacebuilding' actors in the region. Here I discuss some of these top-down and grassroots interventions and note that, in neglecting the broader structural issues that stem from Zionist settler colonial erasure, while focusing solely on select justice matters in isolation, such TJ approaches - often internationally sponsored or donor-led - are neither radical or revolutionary. In fact, they echo the myriad flawed peacebuilding strategies that have been imposed upon the Palestinian population, and sharpen the asymmetrical power dynamics of the status quo. Such TJ interventions further highlight the entrenched division between the colonised and the coloniser and allow for pacification rather than a meaningful engagement with justice oriented decolonisation.

Saul J. Takahashi
Professor, Osaka Jogakuin University

"The Right of Resistance: Self-determination and the Palestinian "Exception"

Since the attacks of 7 October 2023, the backers of Israel in Western governments, media outlets, universities and other institutions have been near-universal in providing unconditional support for Israel's indiscriminate military actions. This is not new; Israel and its Western supporters have generally branded any armed resistance against Israeli occupation as illegitimate. The double standards are undeniable, as Western actors who exclude the possibility of legitimate Palestinian struggle also fawn over Ukrainians combatting Russian occupation.

Those double standards point to the uncomfortable historical connection between international law and European imperialism. For centuries, international law was held to apply only between the "civilized" nations of Europe, with indigenous populations in other regions looked upon as savages who did not have true legal title to their land or resources; indeed, the very lives of "savages" were outside the protection of law. Such notions justified European colonial expansion and exploitation.

A stark example of this imperialist legacy is the treatment in international law of the right of self-determination, and, as can be seen in the Gaza example, the right of peoples to resort to armed force to realize that right (right of resistance). Though often viewed as highly controversial, an examination of the international legal standards shows that the right of resistance has been recognized explicitly, in particular in the case of the Palestinian people. This paper will examine how the international community has acted as if there is a Palestinian "exception" to the right of self-determination, and will argue for a broad, universal recognition of the right of resistance, in the context of struggles against colonialism and apartheid.

Hüseyin Dişli
PhD Candidate, University of Kent

"Resistance as a Form of 'Redemptive' Violence"

The discourse of violence in international law is heavily skewed against non-state actors, often criminalising their resistance while legitimising state violence. This bias perpetuates a cycle of violence where the structural and direct violence inflicted by the occupying power is rendered invisible or acceptable, while the reactive violence of the oppressed is condemned.

This paper critically examines the inherent violence of international law and explores the legitimacy of Palestinian armed struggle through the lens of 'redemptive' violence. The discussion begins with a theoretical analysis of violence, underscoring how violence is not merely an anomaly within the law but a fundamental aspect of its existence. Drawing from Walter Benjamin's critique, the paper elucidates how law sustains itself through violence, both in its creation and enforcement, perpetuating a cycle of control and subjugation.

The second part of the paper delves into the Palestinian right to armed resistance. This analysis is grounded in the principle of self-determination, recognised as an inalienable right under international law. The Palestinian struggle for self-determination is framed within the context of 'redemptive' violence, a concept that views certain acts of violence as necessary, transformative and emancipatory, aimed at overturning oppressive structures and restoring justice. By situating Palestinian resistance within a broader critique of legal violence, I argue that such acts can be seen as attempts to reclaim agency and justice in the face of systemic oppression.

The paper argues that Palestinian armed resistance can be seen as an embodiment of 'redemptive' violence, a necessary response to ongoing Nakba, i.e. decades of colonial, and apartheid policies and incremental genocide imposed by Israel. This resistance is positioned not as a mere reaction but as a proactive articulation of sovereignty and human dignity.

Ultimately, the paper aims to provoke a re-evaluation of international legal frameworks, challenging their complicity in perpetuating oppression. Through a critical examination of the interplay between law, violence, and resistance, it calls for a recognition of the Palestinian resistance as a justified and emancipatory act of 'redemptive' violence aimed at dismantling colonial domination and alien subjugation, essential for achieving genuine self-determination and liberation.

Ahmad Bishtawi

Dr., Assistant Professor, An-Najah National University

"Legitimacy of Resistance: Legal and Ethical Perspectives from the Al-Aqsa Flood Operation"

The events of October 7, 2023, in Gaza have reignited the complex debate surrounding the right to resistance within the framework of international law. This paper seeks to examine the legal, ethical, and humanitarian implications of the right to resistance in the context of the latest Gaza conflict. The right to resistance, often invoked under the principles of self-determination and liberation from oppression, intersects with various branches of international law, including international humanitarian law (IHL), human rights law, and the law of armed conflict.

In analyzing the events of October 7, this study will explore the historical context of the Gaza conflict, including the protracted nature of the Israeli-Palestinian dispute and the living conditions in Gaza, which have been described by many as a humanitarian crisis. The legal discourse will focus on the legitimacy of armed resistance under international law, particularly under Article 1(4) of the Additional Protocol I to the Geneva Conventions, which extends protection to peoples fighting against colonial domination and alien occupation.

Furthermore, this paper will address the ethical dimensions of resistance, scrutinizing the moral justifications and the proportionality of force used. It will also consider the responsibilities of non-state actors under IHL, including the obligation to distinguish between combatants and civilians and the prohibition of indiscriminate attacks. The impact of the conflict on civilian populations, especially in densely populated areas like Gaza, will be a critical aspect of this examination.

Through a multidisciplinary approach, this paper aims to provide a nuanced understanding of the right to resistance, balancing the legal rights of oppressed populations against the imperatives of humanitarian protection and international peace and security. By doing so, it hopes to contribute to the ongoing dialogue on how international law can address asymmetrical conflicts and the rights of peoples under occupation, particularly in one of the world's most contentious and enduring conflicts.