

ACTION TO PROTECT HUMAN RIGHTS AND FREEDOM ON THE BASIS OF THE ISRAEL- PALESTINIAN CONFLICT

Gabriela Pańczak¹, Kacper Nalepa²

ABSTRACT

The imposition of martial law on the territory of a specific state entails certain obligations. In the international arena, laws that permit the violation of fundamental individual rights should never be introduced. During an armed conflict, countries are obliged to comply with international humanitarian law, which has the protection of civilians as its goal. Compliance with the aforementioned law is achieved by regulating the conduct of all parties during hostilities. Under the provisions of international humanitarian law, all parties to an armed conflict are obliged to distinguish between military targets and the population, as well as civilian objects, and to direct attacks only against military objects (Amnesty International 2021). Deliberately caused attacks on facilities where civilians are present or reside are prohibited by international law and constitute war crimes.

Allegations have been made against Palestine that the military wing of Hamas and other Palestinian armed groups fired rockets at Israel in significant numbers. The incident resulted in the deaths of 12 Israelis. The aforementioned attack was directed at civilian facilities, such as homes, and its victims, as already mentioned, were civilians; which is in violation of international humanitarian law. An additional allegation raised after this attack is that the attackers used weapons that are inherently indiscriminate in nature.

In our presentation, we would like to discuss the human rights situation on Israeli territory taking into account the situation that is taking place in this part of the world and, in addition, the purpose of our paper will be to cite Amnesty International's position on compliance with international humanitarian law using the example of the armed conflict taking place between Palestine and Israel.

Key words: Israel-Palestinian conflict; casualties; human rights.

JEL: H56

¹ Uniwersytet w Rzeszowie, Polska. E-mail: gp119924@stud.ur.edu.pl.

² Uniwersytet w Rzeszowie, Polska. E-mail: kn.119916@stud.ur.edu.pl.

1. Introduction

1.1. Action taken

The Israeli-Palestinian conflict, which has been ongoing for over a century, escalated with renewed intensity on Saturday, October 7, 2023. The root of this conflict can be traced back to the idea of establishing a Jewish state in the territory of Palestine. This underlying issue has led to many contradictions, resulting in conflicts such as the Suez Crisis, the Six-Day War, and the Yom Kippur War, which nearly brought Israel to collapse, thus causing severe and long-lasting consequences. Since the mid-1990s, Israeli authorities have increasingly imposed stringent restrictions on the movement of Palestinians in the Occupied Palestinian Territories (OPT) (Bojarczyk 2023). These restrictions include the establishment of military checkpoints, roadblocks, fences, and other structures aimed at controlling the movement of Palestinians within the OPT and limiting their travel to Israel or abroad (Amnesty International 2021).

Developing over the years, the conflict primarily revolves around disputes regarding territory and statehood. The goal of the Palestinians has been to establish their own state and reclaim territory that, according to international law, still belonged to them. Additionally, a significant issue is the large number of refugees, primarily displaced in 1948 from the territory of Palestine. The number of displaced Palestinians is estimated at around 750,000, with today's population reaching 8 million refugees, residing in Palestinian refugee camps located both in Palestine itself and in neighbouring countries. It is estimated that in the Gaza Strip, three-quarters of the population consists of refugees. Therefore, a significant issue is the right of refugees to return to the lands from which they were expelled (Bojarczyk 2023).

The Gaza Strip is often referred to as the largest ghetto in the world. This area is mainly sustained by international aid and grants from Palestine's allies. A concerning aspect of Palestinian life is the societal acceptance of aggression from Israel. It has become commonplace for human rights to be violated and for Palestinians to be deprived of the ability to fight for their rights to existence (Amnesty International 2021).

1.2. Conflict and human rights

According to the principles of international law, parties to an armed conflict, both state and non-state armed forces, are obligated to abide by the provisions of international humanitarian law, which aims to protect civilian populations. Adhering to such norms helps safeguard civilians who are unable to defend themselves in the event of armed attacks. Parties to an armed conflict are not

allowed to violate human rights inherent to them by the very fact that these rights are intrinsic (Amnesty International 2021).

The provisions of international humanitarian law stipulate that all parties to a conflict must bear in mind that their duty is to distinguish between military objectives and civilian populations and objects. The aforementioned norms require that armed attacks be directed solely at military objectives. Attacks deliberately and directly targeting civilian objects constitute war crimes according to international humanitarian law. It is worth emphasizing that disproportionate and selective attacks are also prohibited acts (Amnesty International 2021).

During the continuation of armed attacks, it is necessary to apply basic precautionary measures aimed at minimizing harm to civilian populations. These precautionary measures include effectively warning the population before an attack and addressing situations where the attack may result in disproportionality. It is worth noting that the Israeli military can conduct military operations in populated areas inhabited by civilian populations; however, attention should be paid to the aim of these operations, which should be directed at military objectives. These principles allow for the minimization of civilian casualties.

However, a problem with the application of the aforementioned principles has become evident in the Gaza Strip (GS), where, as reported by the media, provisions of international humanitarian law are being ignored, and attacks are primarily directed at objects inhabited by civilian populations. Reports indicate targeted attacks on educational facilities, temples, and office buildings. Article of 49 of Geneva Convention states: *Individual or mass forcible transfers, as well as deportations of protected persons from occupied territory to the territory of the Occupying Power or to that of any other country, occupied or not, are prohibited, regardless of their motive.*

1.3. Supposed Effective of Gaza siege

Response to Hamas's attack, Israel declared a siege on the Gaza Strip on October 10, cutting off supplies of water, electricity, fuel, medicine, and food to that area. In exchange for discontinuing these actions, they demand the release of hostages held by Hamas. This situation undoubtedly exposes the civilian population, deprived of basic healthcare and access to clean water, to being unable to meet their basic needs. The Gaza Strip, through these actions, is exposed to the rapid spread of infectious diseases, which can lead to serious complications and irreversible consequences. The use of such a blockade is unacceptable and constitutes a violation of international humanitarian law and may undoubtedly be considered a war crime in the future, as it is a manifestation of action directed against the civilian population as collective punishment.

Despite calls from the Israeli people to leave the Gaza Strip, it was not possible for the population residing in this area due to continuous shelling of areas near the borders, and additionally, through the imposition of a maritime blockade.

According to Bartosz Bojarczyk's commentary in "Expert's Eye", "The scenarios of this conflict, especially for Palestinians, are not very optimistic. I believe that after the bombardment of the Gaza Strip, Israel will deploy ground forces there to pacify the area. They will also try to free prisoners and reach all Hamas fighters in order to eliminate them" (Bojarczyk 2023).

Determining what really happened in the Gaza Strip is quite a challenge. The flow of reliable information is significantly hindered due to restrictions on access to the area for outsiders. Any information that is obtained regarding this matter is often shaped by social media. However, those who gather information on this subject do not always adhere to rigorous standards of accuracy, leading to the spread of misinformation in the media.

According to Roman Kuźniar, "the main problem is, of course, the way operations are conducted in Gaza. The massacre of civilians and the sea of ruins over vast areas of the Gaza Strip are the foundation of the martyrdom myth that will inspire future generations of Palestinian fighters and terrorists" (Kuźniar, 2023). At the moment, there are no real prospects for Israel and Palestine to coexist peacefully. What both nations, as well as international organizations and all states operating on the international stage, should strive for now is to avoid bloodshed, terror, and pacification. Unfortunately, emerging scenarios are not favorable to Palestine, which is likely conditioned by the disproportionality of forces and the location of the conflict.

1.4. Responsibility of crimes perpetrators

- A) Serious violations of international humanitarian law and the commission of other crimes under international law are subject to criminal liability before national courts or the International Criminal Court (ICC). Israel signed the Rome Statute of the ICC but did not ratify it in 2002. It announced that it does not intend to submit to its jurisdiction. With Palestine's accession to the Rome Statute of the ICC, representatives of both sides may be held accountable for at least some of their actions.
- B) If the above form of sanctioning is not applied, another possibility would be the utilization of the universal jurisdiction of third-party states.

Under humanitarian law, Amnesty International has no position on the occupation. However, it calls on Israel, as an occupying power, to have the exclusive use of international humanitarian law and international human rights law (Amnesty International 2021).

It should be pointed out that the conflict unfolding in the region is an asymmetric conflict. International law proves insufficient in assessing the phenomena occurring there. In the case of Palestinian-Israeli clashes, we observe the collapse of the concept of a just war. Military forces do not adhere to international humanitarian law there, and they are reluctant to submit to jurisdiction. According to the concept of a just war referred to earlier, to which Michael Walzer appealed, a war can be considered just if it meets two basic criteria: a just cause and proper conduct (Kuzniar 2023).

1.5. Symbolic date of Hamas' attack on Israel

In the media, we can find information pointing to the symbolism of the date of Hamas' attack on Israel. According to sources, 50 years ago, there was an attack by Arab states, led by Egypt and Syria, against Israel. That attack is described as one that caught the authorities of the attacked state by surprise. Today's situation is analogous; attacks on the Palestinian population have surprised the entire world. Speculations also arise in the media regarding potential beneficiaries of the whole situation, which are referred to as the authors or actors of the conflict (Kumelska-Koniecko 2023).

1.6. Position, Amnesty International

The recently announced report "*Israel's apartheid against Palestinians: Cruel system of domination and crime against humanity*" describes how mass seizures of Palestinian land and property, unlawful killings, forced displacements, drastic restrictions on movement, and other human rights violations constitute a system that, under international law, is equivalent to apartheid. This system operates through violations that Amnesty International recognizes as apartheid, meeting the criteria for crimes against humanity as outlined in the UN International Convention on the Suppression and Punishment of the Crime of Apartheid and the Rome Statute of the International Criminal Court (Amnesty International 2021).

The aforementioned apartheid includes, among other things, the confiscation and displacement of Palestinians. The Israeli state continually carries out mass, unlawful land seizures from Palestinians. Furthermore, Israel implements policies and establishes legal norms aimed at forcing Palestinians to relocate to small enclaves. Going back to 1948, Israeli forces destroyed hundreds of thousands of Palestinian homes.

As stated by the Secretary General of Amnesty International, Agnès Callamard, "The international response to apartheid can no longer be limited to fruitless condemnations and deliberations. If we do not address the root causes of the problem, Palestinians and Israelis will not break free from the cycle of violence that has destroyed so many human lives".

1.7. European Union's position on the Israeli-Palestinian conflict

The European Union clearly expresses its position on the Israeli-Palestinian conflict. An expression of this position is, among others, the first document issued on this issue – the Shuman Declaration. The official position of the Community was developed in 1980. The Venice Declaration was adopted by the European Council at that time. Its subject was an appeal to both sides, advocating for the start of negotiations. An important aspect included in the Declaration was the demand for the recognition of the Palestinians' right to self-determination (Szydzisz 2014).

1.8. Effects of the conflict

It is worth considering the potential consequences of the current conflict. Undoubtedly, one of the consequences could be a true humanitarian catastrophe. It is estimated that a significant number of innocent lives have been lost at this point. The use of practices by Israeli authorities has led to almost mass destruction of civilian populations. Further deepening of hatred between two perennially competing cultures will certainly lead to further oppression of Palestinians. The events taking place today, including those in the Gaza Strip, demonstrate helplessness in the face of pain, suffering, and oppression caused by hatred. Despite the efforts of many international organizations and despite the existence of international humanitarian law, compliance with which should be the foundation for conducting armed actions, we still passively observe unlawful actions that should be eliminated from the international community. Fighting terrorism and lawlessness would seem futile in today's world. The United States, for example, experienced the difficulties accompanying such actions when it launched a global war on terrorism after September 11 (Kumelska-Koniecko 2023).

According to PhD Magdalena Kumelsko-Koniecka (2023), "The worst-case scenario would be the involvement of other regional actors in the theater of armed conflict - Hezbollah, Israeli militias, or Syrian forces". She argues that such a development could lead to the involvement of global powers, with the USA at the forefront. She mentions that the transfer of American forces to the eastern Mediterranean waters to deter aggressors would harm Ukraine, resulting in a negative impact on the security of Central and Eastern Europe. Marek Leonard, Director of the European Council on Foreign Relations, also emphasizes that the Palestinian-Israeli conflicts have overshadowed the war in Ukraine. The tragedy unfolding in the Middle East is comparably tragic to that which has affected Ukraine (Leonard 2023).

An important topic underlying the discussed war is the issue of oil, the price of which is undoubtedly dependent on political aspects. In the context of potential Iranian involvement, there is a threat of closing the 33-kilometer-wide Strait of Hormuz, a key oil transportation route. This poses a danger because it is estimated that Iranian oil supplies are the largest in five years.

2. Conclusions

The Israeli-Palestinian conflict intensified significantly on October 7, 2023, continuing a century-long dispute rooted in territorial and statehood ambitions. The historical context includes pivotal conflicts like the Suez Crisis, the Six-Day War, and the Yom Kippur War, highlighting Israel's struggle for independence and the subsequent shift towards normalization of relations with some Arab states. At the heart of the conflict are Palestinian aspirations for an independent state and the return of refugees expelled in 1948, now numbering around 8 million.

Recent escalations saw an unprecedented attack by Hamas and Palestinian Islamic Jihad on October 8, 2023, catching Israel off guard with a combined rocket and ground assault. This attack resulted in over 1,300 Israeli casualties, sparking a severe response and drawing global attention to the conflict's brutality. International humanitarian law requires all parties to differentiate between military.

References

- Amnesty International, (2021). Izrael i Palestyna: Pytania i odpowiedzi o stanowisko Amnesty International ws. łamania praw człowieka, online: [amnesty.org.pl](https://www.amnesty.org.pl).
- Amnesty International, (2022). Izraelski Apartheid wobec palestyńczyków: okrutny system dominacji i brodnia przeciwko ludzkości, online: [amnesty.org.pl](https://www.amnesty.org.pl).
- Bojarczyk, B., (2023). Konflikt między Izraelem a Paletyną – komentarz ekspercki. Centrum Prasowe UMCS 2023, online: [umcs.pl](https://www.umcs.pl).
- Kumelska-Koniecko, M., (2023). Historia konfliktu izraelsko-palestyńskiego jest pokoleniową traumą obu narodów, online: [uwm.edu.pl](https://www.uwm.edu.pl);
- Kuźniar, R., (2023). Izrael – Palestyna – bez dobrego wyjścia, perspektywą dalszej przemocy, online: [rp.pl](https://www.rp.pl).

Leonard, M., (2023). Globalne konsekwencje wojny Izraela z Hamasem, online: krytykapolityczna.pl.

Szydzisz, M., (2014). Polska polityka wobec stron konfliktu izraelsko-palestyńskiego po przystąpieniu polski do Unii Europejskiej, Wrocław, No. 1(2)/2014.