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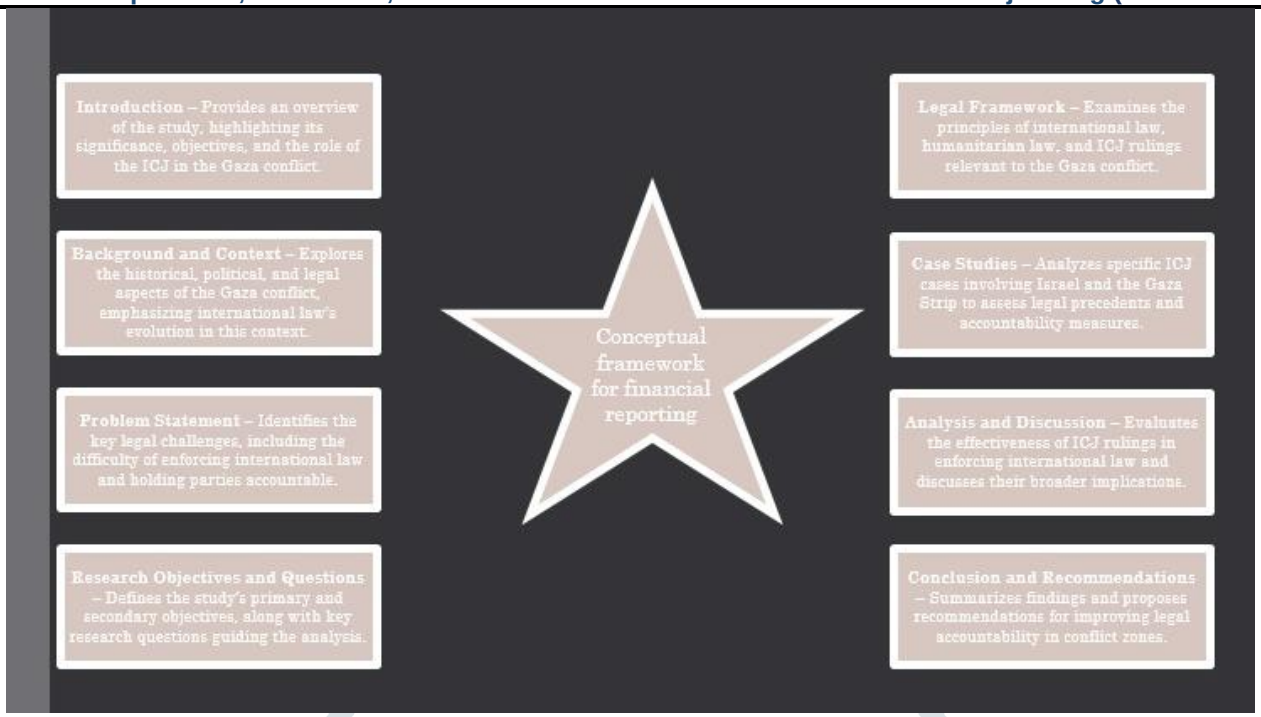
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Legal and Ethical Dimensions of International Law in the Context of the Gaza Strip: An Analysis of the International Court of Justice's Role and Challenges

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Abstract:
The research aims to shed light on the legal and ethical dimensions of the application of international law in the Gaza Strip during the war period from October 1 to the present. This is in the context of analyzing the role of the International Court of Justice and the challenges it faces in applying humanitarian law in the Strip. The purpose of the methodology in this research is to develop a systematic and thorough approach for investigating the legal and ethical dimensions of international law as applied to the Gaza Strip. A qualitative approach has been chosen for this research due to the intricate and context-dependent nature of the subject matter. This is in the context of analyzing the role of the International Court of Justice and the challenges it faces in applying humanitarian law in the Strip. The research included a qualitative sample of seven political analysis experts. The research reached several important conclusions: 100% of Arab researchers interviewed by the researcher fear the politicization of the decisions of the International Court of Justice, which means suspending decisions for political reasons. This is particularly concerning since its opinion is advisory and does not require adherence to its own decisions, given that Israel refuses to submit to its decision, and the West must provide all political and military support for Israel since its establishment in 1945. The International Court has played a diverse role in international disputes through a series of decisions and advisory opinions issued by it.

Introduction:
The Gaza Strip is a small territory of about 139 square miles (360 square kilometers), roughly the size of the city of Detroit. It has been experiencing a severe humanitarian crisis since before October 7, when the war started after Hamas attacked Israel, due to the 16-year blockade by Israel. More than half of all Gazans depend on international assistance for basic services. Additionally, some 80 percent of Gaza's residents are considered refugees under international law (Bouri & Roy, 2024).

The Occupied Palestinian Territory faces a protracted protection and political crisis characterized by more than 56 years of Israeli military occupation, 16 years of the Gaza blockade, internal Palestinian divisions, lack of adherence to international humanitarian and human rights law, and recurrent escalations of hostilities between Israeli security forces and Palestinian armed groups. The latest round of hostilities, which commenced in October 2023, is ongoing and has resulted in unprecedented levels of destruction and suffering, including tens of thousands of Palestinian casualties, hundreds of Israeli casualties, and over 240 hostages from Israel. Ninety percent of Gaza's current population of 2.1 million people has been displaced, lacking access to sufficient shelter, food, life-saving medical services, clean water, education, and livelihoods (Occupied Palestinian Territory, 2024).

The Israeli-Palestinian conflict has been a focal point of international law and global diplomacy for decades, with the Gaza Strip frequently at the heart of this ongoing dispute. The legal and ethical complexities of this conflict, particularly in relation to the Gaza Strip, have prompted significant debate within international law.

Historically, the Gaza Strip has been a contested territory, with control shifting between various powers over centuries, most notably between Israel and Palestinian authorities in recent decades. The ongoing conflict has led to numerous military engagements, with significant civilian impact, raising critical questions about the application and enforcement of international law.

An international judicial body, established under the Charter of the United Nations and also known as the World Court, has the role of settling international disputes submitted to it by states within the framework of "contentious issues" in accordance with international law, while also giving advisory opinions on legal issues referred to it by United Nations bodies and authorized international agencies.

The Court also decides disputes between countries on the basis of the voluntary participation of the states concerned. If a state agrees to be a party before the court, it is obligated to comply with its decisions. Initially, this court was not a permanent institution with fixed judges but rather a mechanism for forming arbitration bodies. The court did not gain full status as a judicial body until the formation of the League of Nations in 1919, which was later replaced by the United Nations, following the destruction and great losses caused by World War I.

The Permanent Court of Arbitration held its first formal sessions in 1922, but the outbreak of the Second World War had dire consequences for its work, leading to its near complete cessation. After the war, the statute of the Permanent Court of Arbitration was revised, and the International Court of Justice was established as its successor, inheriting the powers of that body.

The International Court of Justice was established on June 26, 1945, under the Charter of the United Nations, and its first inaugural session was in April 1946 (Mekelberg, 2024). In recent years, the International Court of Justice (ICJ) has become increasingly involved in adjudicating disputes related to the Gaza Strip, particularly concerning allegations of human rights violations and breaches of the laws of armed conflict. The court's involvement reflects broader trends in international law, where legal mechanisms are increasingly employed to address state conduct during conflicts. However, the ICJ's role in these cases has also exposed the inherent challenges in applying international law to complex, asymmetrical conflicts like those in Gaza. The significance of this topic extends beyond academic interest; it has profound implications for international relations, human rights, and conflict resolution. Understanding the legal precedents set by the ICJ and their application to the Gaza conflict is crucial for scholars, policymakers, and legal practitioners engaged in these fields.

It should be noted that there is considerable confusion between the International Criminal Court and the International Court of Justice. Therefore, a simple way to explain the difference between these two courts is that the International Court of Justice handles cases involving states, while the International Criminal Court deals with international criminality cases against individuals for war crimes or crimes against humanity. The International Court of Justice is one of the organs of the United Nations, while the International Criminal Court is legally independent of the United Nations, despite its endorsement by the General Assembly. It is worth noting that although not all 193 UN member states are parties to the International Criminal Court, the court can conduct investigations and open cases related to alleged crimes committed on the territory of a state party, by a citizen of a state party to the International Criminal Court, or by a state that has accepted its jurisdiction.

The International Criminal Court has recently been in the spotlight after Prosecutor Karim Khan submitted requests to the court’s first pre-trial chamber to issue arrest warrants for Israeli Prime Minister Benjamin Netanyahu and Defence Minister Yoav Galant, on charges of committing war crimes and crimes against humanity in the context of the events of October 7 and the war in Gaza, along with senior leaders of Hamas and its military wing, the Al-Qassam Brigades.

Hospitals, patients, and healthcare workers are legally protected by international humanitarian law and the Geneva Convention. However, since October 7, 2023, the healthcare system in the Gaza Strip, an occupied Palestinian territory, has been under unprecedented direct military attacks by Israel. In addition to the destruction of schools and the killing of civilians, this raises the urgent question of the mandates of the United Nations, the International Court of Justice, and international law (Alser et al., 2024). Taken together, these ICJ cases and the host of other proceedings before the ICC and various national courts represent a major increase in international legal involvement in the Israeli-Palestinian arena. These cases also seem more heavily politicized than in the past—hardly surprising, given the lack of meaningful Israeli-Palestinian political negotiations for a decade, worsening conditions on the ground for Palestinians, and Israel’s expanding

settlement policy (facilitated in previous years by the Trump administration's proposals regarding the future disposition of the West Bank). The parties bringing these cases tend to frame them with abstract legal concepts, expecting that universal opposition to practices like genocide will help garner international support. Clearly, this approach does not account for the many complexities on the ground (Loengarov, 2024).

Previous Studies:

1. **Study (Ayoub, 2024):**

   This paper analyzes the consequences of the International Court of Justice's rejection of South Africa's request to order additional provisional measures in light of Israel's failure to implement those already indicated in its 26 January ruling to prevent the crime of genocide. It also examines the grave repercussions of Israel's continued war of revenge on the Gaza Strip and its determination to invade the Rafah area, which threatens to further exacerbate the suffering of the Palestinians.

2. **Study (AbuKmeil, 2024):**

   This study, published by Alsharq Strategic Research, concludes that Israel is guilty of the charges brought against it by South Africa, which include accusations of genocide in Gaza. Several potential outcomes and implications could emerge. It is necessary to note that the decisions of the International Court of Justice lack direct enforcement authority. Thus, they do not directly result in punitive measures, unlike a domestic court ruling. However, it is crucial to remember that the ICJ's decisions are more symbolic and reflect international legal opinion rather than enforceable judgments. The practical impact of a guilty verdict would largely depend on the responses of individual nations and international bodies.

3. **Study (Brotóns, 2024):**

   The title of the study is *Prospects and Implications of the International Court of Justice (ICJ) Ruling in the Case of South Africa Against Israel*, published in Real Instituto Elcano. In general terms, both parties can feel satisfied. The Court preliminarily accepted that South Africa's application has substance. Israel's request – that no measures be taken, as they are unnecessary, and that the case be definitively canceled – was rejected. However, the measures requested by South Africa were drastically reduced, allowing Israel's military operations to continue. Along with the assessment of 'genocidal intent,' this has probably been the most debated point, with a compromise being sought that could enjoy the support of a broad majority of the judges. The skillful criticism of the call for the suspension of operations by Israel's lawyers was effective. During the hearings, Israel argued that its armed forces comply scrupulously with the rules of international humanitarian law. Israel has also stressed its measures to mitigate suffering and its involvement in humanitarian aid. At the same time, the Israeli public prosecutor's office has initiated action to suppress behavior inciting genocide, thereby restricting freedom of expression.

   In summary, Israel has not been asked to do anything that it does not already claim to be doing. The requirement to present a report within one month means that Israel has to submit to the inconvenience of justifying itself and applying effort to drawing up the report. It may mean, at most, greater moderation in the use of armed force and more intense prosecution of those Zionists who transgress the limits of freedom of expression.

4. **Study (Alshurafa & Kamla, 2024):**

   This study, *Accountability and the Postcolonial Identity of Palestinian Human Rights NGO Activists*, published in ScienceDirect, states that the Palestinian identity is deeply marked by a pervasive concern about the obliteration of its cultural heritage and history by the Israeli state and authorities, a concept articulated as "memoricide" by Pappe (2007). It argues that there has been a systematic effort by Israeli authorities to downplay, deny, or distort the historical realities of Al-Nakbah, including the silencing

of Palestinian narratives. Unlike other indigenous groups, Palestinians grapple with a dominant narrative that not only misrepresents them but also constantly questions their stories and experiences (Seidel, 2019). The myth proposed by early Zionists around "a land without a people for a people without a land" (Norris, 2013) continues to linger in the Palestinian psyche, constituting a pivotal aspect of their ongoing identity construction (Seidel, 2019). Butler (2016), in her examination of dynamics of power and the unequal distribution of grievability, maintained that certain populations, like Palestinians, face challenges in having their grief and loss recognized and acknowledged on a global scale. This means that the suffering and loss experienced by Palestinians may not receive the same empathy, recognition, or acknowledgment as that of other groups. The unequal distribution of grievability reflects power imbalances and geopolitical dynamics that shape how certain lives are valued or devalued (Butler, 2016). Thus, Palestinians' sense that they are dehumanized and "treated as an inferior racial group and systematically deprived of their rights" (Shakir, 2020) and denied acknowledgment of their suffering and victimhood (Said, 1992).

5. **Study (Qafisheh, 2024):**

   This study, *From Constantinople to Oslo to Gaza: Developments of Palestine's Maritime Legislation under Colonization*, published in ScienceDirect, states that the colonial history of Palestine over more than a century precluded the development of national legislation relating to the law of the sea. Palestine has inherited an outdated body of maritime law from the Ottoman and British empires. The Israeli occupation and blockade of Gaza have made, and continue to make, it impossible for Palestine to modernize its harbor, port, fishing, navigation, and maritime trade. Palestine remains unable to explore and exploit its natural resources in its maritime.

6. **Study (Mekelberg, 2024):**

   The title of this study is *The International Court of Justice and the International Criminal Court Issued an Ultimatum to Israel, but They Were Unable to Stop the War*, published in Chatham House. It concludes that Israel helped create the opening for both the ICJ and the ICC to apply their voices to matters concerning Israel. The Netanyahu government has assaulted the independence of the judiciary since it was formed early last year; Israel's High Court justices and senior law enforcement officials (in particular, the Attorney General and the State Prosecutor) have not effectively investigated alleged war crimes by the IDF.

7. **Study (Weller, 2020):**

   The title of this study is *A Dilemma for the ICJ*, published at the University of Cambridge. It states that the failure to impose a cease-fire and Israel's immediate rejection of the ruling of the Court might suggest that South Africa's action was entirely irrelevant. However, that is not the case.

Study Purpose

The purpose of the methodology in this research is to develop a systematic and thorough approach for investigating the legal and ethical dimensions of international law as applied to the Gaza Strip, particularly focusing on the International Court of Justice (ICJ). This research seeks to dissect the complexities surrounding the ICJ's legal proceedings involving Israel during the Gaza War, analyze the multifaceted ethical considerations associated with these proceedings, and evaluate the broader implications of the ICJ's decisions on international law and conflict resolution. The methodology aims to ensure that the research is conducted with rigorous academic standards, providing a clear and in-depth understanding of how international legal principles are applied in conflict situations and how ethical concerns are addressed.

Approach

A qualitative approach has been chosen for this research due to the intricate and context-dependent nature of the subject matter. The study involves interpreting complex legal documents, understanding detailed court proceedings, and examining nuanced ethical considerations. Qualitative methods are particularly suited for exploring these dimensions because they allow for an in-depth analysis of legal arguments, judicial reasoning,

and the ethical implications of the ICJ's decisions. This approach will enable the research to provide a comprehensive and nuanced understanding of the legal and ethical issues involved, which quantitative methods might not fully capture. By employing qualitative techniques, the research aims to unravel the complexities of international legal standards as applied to real-world conflicts, providing a richer and more detailed analysis.

Research Design

1. **Type of Research:**

This study is characterized as both descriptive and analytical. The descriptive aspect involves providing a detailed account of the ICJ cases related to the Gaza War, including the factual background, legal arguments, procedural history, and outcomes of these cases. The analytical aspect involves interpreting and evaluating the legal arguments and ethical dimensions presented in these cases. The analysis will focus on understanding the application of legal principles, assessing the ethical challenges faced by the ICJ, and examining the broader implications for international law and conflict resolution. By combining these approaches, the research aims to offer a comprehensive overview and critical assessment of the ICJ's role and decisions.

2. **Framework:**

The research is guided by a theoretical framework rooted in several core areas of international law and ethical theory:

- **Sovereignty and State Responsibility:** This principle explores the extent of a state's rights and obligations under international law, particularly how sovereignty interacts with international legal norms in the context of armed conflict. The framework examines how state responsibility is attributed and enforced in cases involving Israel and the Gaza Strip.
- **Human Rights Law:** This component focuses on the protection of individuals, especially civilians, during armed conflicts. It examines how human rights norms are upheld or violated in the context of ICJ rulings and the impact of these rulings on human rights protections.
- **The Big Question:** Are the decisions issued by the United Nations and its affiliated institutions binding or non-binding? This study will explore non-binding instruments like recommendations from international organizations, such as the resolutions of the UN General Assembly, in contrast to the binding resolutions of the Security Council under Chapter VII of the Charter. Another method for achieving similar results is to include "soft obligations" within a "hard" text, such as a treaty, which serves as the binding source par excellence (Series, 2018).
- **Laws of Armed Conflict (International Humanitarian Law):** This area covers the rules governing the conduct of warfare, including the protection of non-combatants and the regulation of hostilities. The framework assesses how these laws are applied by the ICJ and their implications for the conduct of both state and non-state actors in conflict situations.

The conceptual model involves critically examining how these principles are applied and interpreted in the ICJ's rulings. It also involves analyzing the broader implications of these decisions for the development and enforcement of international law, especially in the context of imposing a truce after the significant loss of life in the Gaza Strip since October 7, 2023 (Series, 2018).

3. **Data Collection Methods**

Primary Data:

Primary data collection focuses on obtaining and analyzing original legal documents from the ICJ. This includes:

- **Court Filings:** Detailed submissions by the parties involved in the cases, which include written arguments, evidence, legal briefs, and any supplementary materials. These filings provide insights into the legal arguments presented and the issues at stake.

According to ICJ documents, on December 13, 1974, the United Nations General Assembly requested an opinion on two questions: First, was Western Sahara a land that did not belong to anyone at the time of Spanish colonization? If the answer to the first question was no, "what are the legal ties between this territory and Morocco and Mauritania?"

In its advisory opinion, issued on October 16, 1975, the Court responded to the first question in the negative, confirming that the Sahara was not considered a land "without an owner."

In response to the second question, it considered that the materials and information presented to it showed the existence of legal ties of loyalty, at the time of Spanish colonization, between the Sultan of Morocco and some tribes living in the Western Sahara region.

It also demonstrated the existence of rights, including some rights relating to land, which constituted legal ties between Mauritania and the Territory of Western Sahara.

On the other hand, the Court concluded that the materials and information submitted to it did not establish any link of territorial sovereignty between the Territory of Western Sahara and the Kingdom of Morocco or Mauritania (Mekelberg, 2024).

The Court, therefore, concluded that it did not find any legal ties that would affect the application of General Assembly resolution 1514, which proclaims the necessity of bringing colonialism to an immediate and unconditional end in all its forms and manifestations and declares that all peoples have the right to self-determination.

On August 10, 1976, Greece instituted proceedings against Turkey in a dispute over the Aegean Sea, amidst disagreements over islands and delimitation. Greece requested from the Court "provisional measures," indicating that, pending the Court’s ruling, neither State may, without the consent of the other, engage in exploration or research operations in the disputed area.

On September 11, 1976, the Court found that reference to such measures was not required and, since Turkey had denied the Court's jurisdiction, ordered that the proceedings first concern the question of jurisdiction. In a judgment on December 19, 1978, the Court found that jurisdiction did not give it the possibility to deal with the case (Paulenoff, 2009).

On April 29, 1999, Yugoslavia (a former European state, now divided into several states) filed with the Court applications instituting proceedings against Spain, Germany, Italy, Portugal, Belgium, France, Canada, the Netherlands, the United Kingdom, and the United States of America for alleged violations of their obligations not to use force against another state.

After hearings on provisional measures from May 10 to 12, 1999, the Court rendered its decision in each case on June 2, 1999. In two of the cases (Yugoslavia v. Spain and Yugoslavia v. United States of America), the Court, having rejected the request to indicate provisional measures, found that it manifestly lacked jurisdiction and therefore ordered the cases to be removed from the list.

In the other eight cases, the Court declared that it lacked prima facie jurisdiction (a precondition for indicating provisional measures) and therefore could not indicate such measures.

In 2007, the International Court of Justice acquitted Serbia of genocide in Bosnia and Herzegovina during the 1992–95 Balkan War, but the Court found that Belgrade was guilty of failing to prevent the Srebrenica genocide, in which more than 7,000 Bosnian Muslims were killed (Schabas, 2007).

The legal landscape surrounding the International Court of Justice (ICJ) and its rulings on international conflicts, including cases involving Israel, Bosnia, and Syria, highlights the significant role the court plays in interpreting and enforcing international law.

In some notable cases, such as the **Bosnia v. Serbia** case, the ICJ ruled that Serbia failed to prevent the genocide in Srebrenica during the Bosnian War, though it did not find Serbia directly responsible for the massacre. Despite this, the ruling underscored the importance of preventing atrocities and holding states accountable for their role in armed conflicts. Additionally, the court's judgment in the case involving the **construction of Israel's separation wall** in 2004 is another critical example of the ICJ asserting the applicability of international law. It found Israel's actions illegal and ordered the dismantling of sections of the wall in Palestinian territories, reinforcing the principles of self-determination and human rights.

Similarly, the **Syria** case, which involved allegations of torture and inhumane treatment during the ongoing Syrian civil war, marked a significant ruling for international human rights law. The ICJ ordered Syria to prevent torture and inhuman treatment, showcasing the court's capacity to address grave human rights violations and uphold international conventions on the protection of individuals.

In the case of **Ukraine v. Russia**, the ICJ had to intervene amidst claims of genocide and other violations of international law. The court's involvement highlights its role in addressing disputes arising from the misuse of force, accusations of genocide, and ensuring that states comply with their international obligations. Notably, the court's ruling against Russia underscored its stance on non-recognition of aggressive actions based on unsubstantiated claims of genocide.

The **Azerbaijan and Armenia** dispute over the Nagorno-Karabakh region also led to significant rulings from the ICJ. The court ordered Azerbaijan to facilitate the safe passage of displaced persons, once again reinforcing the ICJ's focus on the protection of civilians and their rights during conflict.

The ICJ also ruled on issues surrounding **Iran** and its responsibility for the downing of the Ukrainian passenger plane in 2020, ordering compensation for the victims' families. This case, along with the ongoing disputes in areas like the **Gulf States** and **Qatar**, further illustrates how the ICJ shapes the application of international law to specific state actions, human rights violations, and conflicts, offering guidance on conflict resolution, humanitarian principles, and the enforcement of international standards

The International Court of Justice (ICJ) has been involved in numerous high-profile cases that touch on international law, human rights, and the conduct of states in conflict. Several recent rulings exemplify the court’s approach to addressing violations of international law and its role in shaping the interpretation of key legal principles.

1. **Iran's Asset Freeze**: The ICJ ruled that it did not have jurisdiction over the request from Iran to unfreeze its assets, although it noted that the U.S. had violated the rights of Iranian companies and citizens by freezing their assets. The case highlighted the complexities of international sanctions, the principle of state sovereignty, and the limits of the court’s authority in economic disputes.
2. **Uganda and the Democratic Republic of the Congo (DRC)**: In February 2022, the ICJ ordered Uganda to pay $325 million in reparations for its role in the brutal conflict between the two nations from 1998 to 2003. This ruling followed a long legal battle that began in 1999, where the DRC accused Uganda of armed aggression and violation of international law. The ICJ's decision to award compensation for human rights violations, including child soldier recruitment and looting, underscores the court’s role in addressing the humanitarian consequences of conflicts.
3. **Myanmar and the Rohingya**: In 2020, the ICJ issued a ruling in which it ordered Myanmar to take urgent steps to protect the Rohingya Muslim population from genocide. The case brought by Gambia accused Myanmar of violating the 1948 Genocide Convention, and the ICJ’s preliminary ruling highlighted the ongoing threat to the Rohingya, urging Myanmar to prevent further violence and ensure their protection. The case continues to evolve, with the final ruling yet to be reached.
4. **Gaza and Israel-Palestine Conflict**: The ICJ's involvement in cases related to the Gaza conflict is also crucial. The court has been tasked with assessing the legality of actions taken by Israel and Palestine in the context of international law. This includes examining issues related to the use of force, humanitarian law, and the rights of civilians in conflict zones. A significant aspect of the ICJ's role in Gaza is its ability to issue rulings that may influence the broader discourse on international humanitarian law and state accountability in conflict situations.

Methodology for Research:

To understand the ICJ's impact, this research employs a **descriptive survey method** that combines primary data (court cases, interviews with experts) and secondary data (academic articles, legal commentaries, reports from international organizations). The primary data will be analyzed to extract legal arguments and case outcomes, and secondary data will provide context and critique.

Data Collection Tools:

- **Legal Databases** (e.g., Westlaw, LexisNexis) for access to court documents.
- **Literature Review** through academic articles, books, and commentaries on ICJ rulings.
- **Interviews** with experts in international law, public affairs, and human rights to gather qualitative insights.

Sample Selection:

- **Population**: The study focuses on ICJ cases that are directly related to the Gaza conflict or other international legal disputes involving Israel, as well as cases that impact broader legal principles.
- **Sampling Technique**: Purposive sampling is used to select cases with significant legal precedents or ethical implications. This ensures a comprehensive analysis of the ICJ's decisions, particularly those that have contributed to the development of international law in conflict scenarios.

Research Questions for Interviews:

- What is the role of the ICJ in the Gaza conflict, and how does it affect international legal practices?
- What are the legal and ethical challenges facing the implementation of ICJ decisions, especially regarding the Gaza conflict?
- How do ICJ decisions on Gaza compare to rulings in other conflicts, such as Syria or Ukraine?
- What are the expectations regarding the enforcement of ICJ rulings in these cases?

The findings of this research will provide valuable insights into the effectiveness of the ICJ in enforcing international law and the ethical dilemmas associated with its decisions, particularly in conflicts where the international community's response is often fragmented or politically sensitive.

The data analysis procedure outlined here involves several crucial steps:

1. **Review of Case Documents**: A thorough examination of court filings, oral arguments, and judgments will help identify key legal and ethical themes in cases related to Gaza, including the ongoing conflict since October 2023. This step also requires context, considering that the Gaza conflict has spanned multiple wars, not just the most recent one.
2. **Coding for Themes**: Using qualitative analysis software to categorize and code the data into themes such as legal arguments, ethical considerations, and judicial reasoning. This will help identify patterns and connections between cases.
3. **Cross-Case Analysis**: Comparing different cases brought before the International Court of Justice (ICJ), particularly those involving Israel and Gaza, to identify common legal trends, the application of international law, and ethical issues in judgments.
4. **Nicaragua v. Germany and the Gaza Conflict**: The case filed by South Africa against Israel in December 2023 is pivotal. South Africa accused Israel of violating the 1948 Genocide Convention, and provisional measures were imposed to address humanitarian concerns, including the delivery of aid and preventing incitement to genocide. Nicaragua later filed a similar case against Germany, citing its support for Israel. The court ruled that provisional measures were unnecessary due to those already in place. However, a final ruling on the merits is still awaited.
5. **Expert Analysis and Opinions**: Experts suggest that while the court's decisions, such as in South Africa's case, may seem to be significant, political considerations, particularly those influenced by Western support for Israel, could complicate the enforcement of these rulings. This issue has been noted by Arab researchers, who argue that the court's decisions may be politicized, especially if a country like Israel refuses to comply. The same concerns are reflected in the broader international

response, as illustrated by experts like Muasher, who stress that the mere acceptance of a case by the ICJ marks an international accusation, even if a final judgment is delayed.

6. **International Court of Justice's Role in Gaza**: The ICJ is increasingly seen as addressing violations of international law, including issues of genocide and violations of humanitarian law, despite challenges in enforcing its decisions. As experts like O'Brien and Muasher point out, Israel's ongoing military actions in Gaza continue to be a focal point for international legal scrutiny, with the ICJ playing a role in ensuring accountability. However, Israel's refusal to comply with the court's advisory opinions has led to concerns about the efficacy of international legal mechanisms.

The analysis of the case involving Israel and Gaza, particularly in relation to the actions taken by the International Court of Justice (ICJ), draws attention to several significant points.

Analysis of ICJ's Role and Future Verdicts

- **Delays and Precedents**: It is expected that the ICJ will take several years to issue a final verdict regarding whether Israel's actions in Gaza amount to genocide. The case brought by The Gambia against Myanmar, which started in 2019 over the Rohingya refugee crisis, illustrates the length of time it can take for such cases to be prosecuted, highlighting the complexities of international legal proceedings.
- **Israel's Actions and Political Context**: Israel's refusal to engage fully with ICJ decisions, as evidenced in Prime Minister Netanyahu's rhetoric and actions, complicates matters. Netanyahu's refusal to recognize Palestinian sovereignty and his recent statements about the West Bank, specifically regarding it as the second front in Israel's military strategy, present a significant challenge for international legal bodies. The fact that Israel continues to expand its military operations in the West Bank and its rejection of the establishment of a Palestinian state, which was formalized in a Knesset resolution in July 2024, further entrenches the geopolitical situation.
- **International Law and Accountability**: The ICJ's current stance on Israel's actions in Gaza implies that there may be sufficient grounds to consider Israel's conduct as potentially genocidal. The ICJ has already directed Israel to report on its actions within a month and mandated the preservation of any evidence of genocidal intent. This shows that, despite delays, the ICJ is actively monitoring and influencing the situation.

Key Milestones and International Reactions

The three milestones provided, highlighting statements and actions by Netanyahu regarding Israel's military strategy and stance on Palestinian statehood, offer insight into the ongoing tensions that complicate the application of international law:

1. **July 2024**: The Knesset's rejection of the idea of a Palestinian state marks a significant political development that challenges international resolutions and is likely to exacerbate tensions with international legal bodies advocating for Palestinian self-determination.
2. **September 2024**: Netanyahu's speech to the UN General Assembly, where he presented a map excluding any mention of Palestinian territories, further alienates Israel from the international consensus on Palestinian rights.

Synthesis of Findings

The analysis of these developments through the lens of international law and the ICJ reveals several conclusions:

- **ICJ's Impact**: The ICJ's rulings, while important, may be limited in their effectiveness without the backing of major international powers, especially when a state like Israel refuses to adhere to them. As Sir Franklin points out, while the Court's judgments are important, the individual opinions of judges can sometimes shape the direction of future legal development more effectively, as they offer nuanced reasoning that may influence future cases.

- **The Role of Proportionality in International Law**: Proportionality remains a core principle in assessing the legality of military actions under international law. The ICJ's scrutiny of Israel's actions in Gaza, particularly with regards to proportionality and humanitarian concerns, pressures Israel to reconsider its approach, especially under the growing influence of international observers and its own allies, including the U.S.
- **Challenges of Legal Enforcement**: Despite the court's decisions, there are significant obstacles in enforcing compliance with ICJ rulings, especially when powerful states like the U.S. continue to offer political and military support to Israel. This political reality often undermines the implementation of legal rulings, contributing to the perception of a lack of accountability in high-profile international cases.

The Role and Reform of the International Court of Justice (ICJ) and the United Nations (UN)

The International Court of Justice (ICJ) holds a vital role in the international legal framework, tasked with resolving disputes between states and ensuring adherence to international law. However, for the ICJ to truly fulfill its mandate and have a meaningful impact on global peace and conflict resolution, its authority must be more robust and respected.

1. Strengthening the ICJ's Authority

As the primary judicial body of the United Nations, the ICJ's decisions should be more than advisory opinions; they must carry binding force. The legal standing of ICJ decisions, as outlined in **Article 59** of the Court's Statute, already establishes that judgments are binding upon the parties involved. However, the lack of consistent enforcement mechanisms and political will often renders the Court's rulings ineffective in cases involving powerful states like Israel, the U.S., or Russia.

It is critical that the UN and its member states recognize the full weight of ICJ rulings and work towards ensuring compliance with these decisions. This requires **systemic changes within the UN**, especially concerning how the Security Council handles international legal rulings. The ongoing conflict in Gaza highlights the disparity between legal judgments and their enforcement, underscoring the need for more consistent and accountable mechanisms to uphold international law.

2. Reforming the United Nations

The calls for reform within the United Nations have gained traction in recent years, especially in the context of the Security Council's outdated structure and its disproportionate influence by the five permanent members (P5)—the U.S., Russia, China, France, and the UK. These countries hold veto power, which allows them to block resolutions, even when there is international consensus. The **inequity of the current system** has led to calls for a more **representative and democratic Security Council**. The absence of African and South American representation, as well as the disproportional representation of Asia, complicates efforts for global peace and security, particularly when addressing conflicts in the Middle East, Africa, and Latin America.

In this context, the **reform of the UN's decision-making process**—including the expansion of the Security Council's membership and limitations on veto power—remains essential. This would allow for a more balanced representation of the international community, fostering **fairer decision-making** on issues of global peace and conflict resolution.

3. Impunity and Accountability in Conflicts

The lack of accountability for violations of international law, especially in the context of Israel's actions in Gaza and other regions such as Syria and Ukraine, is a grave concern. When states or their leaders act with impunity, there is no deterrent to prevent future atrocities. The failure to hold leaders accountable for crimes against humanity fosters a **culture of impunity** that emboldens aggressors and escalates violence.

For instance, **Israel's actions in Gaza**—including indiscriminate attacks on civilians, blocking humanitarian aid, and preventing international observers from entering the region—are clear violations of international humanitarian law. Yet, due to the political support Israel receives from powerful states, these actions often go

unchecked. The **lack of a global accountability mechanism** means that international law is routinely ignored, leading to **repeated cycles of violence**.

4. Recommendations for Strengthening the ICJ and UN

- **Empowering the ICJ**: The ICJ must be given more authority to enforce its decisions. This could be achieved through stronger support from the UN and member states, including measures to ensure compliance with rulings. If the UN can support the implementation of ICJ judgments, it would reinforce the legitimacy of the Court as a key instrument in resolving international disputes.
- **Reforming the Security Council**: The **veto power** of the five permanent members should be **limited** or **reformed** to ensure that it does not obstruct global peace efforts. Expanding the membership of the Security Council to include underrepresented regions—such as Africa, South America, and Asia—would bring more balance and fairness to decision-making.
- **Ensuring Accountability**: International bodies such as the **International Criminal Court (ICC)** should be empowered to prosecute those responsible for grave crimes, regardless of their political or military power. This includes holding accountable leaders and military officials involved in conflicts such as Gaza, Syria, and Ukraine. The **political will** of the international community, particularly from the UN's major powers, is crucial in this respect. **Impunity** must be challenged in order to prevent further violations of international law.
- **Strengthening Humanitarian Access and Protection**: Ensuring that humanitarian organizations and international observers can access conflict zones is critical for **accountability** and for providing assistance to civilians caught in conflict. The UN must push for **unrestricted access** to regions like Gaza and demand that states comply with international humanitarian law regarding the treatment of civilians and prisoners of war.
- **Promoting Global Justice**: The international community must recognize that **global justice** is essential not just for maintaining peace but for preventing the further spread of violent extremism and instability. Efforts to weaken the capacity of international law to hold violators accountable contribute to a **more dangerous and unpredictable world**. The situation in Gaza, if left unchecked, may serve as a **precursor** to further conflict and instability in the region.

Repercussions of the Gaza War and the Need for International Action

The ongoing war in Gaza has had profound and far-reaching consequences, not only for the people of Gaza and the broader Palestinian territories but for the entire Middle East and the international community as a whole. The war has spilled over into surrounding regions, including Lebanon, Yemen, Iraq, Syria, Iran, and Israel, with civilian populations bearing the brunt of the violence. The international community, however, has failed to take substantial and timely action to halt the escalation of the conflict. This has underscored the limitations of the international system in addressing crises effectively and has led to calls for **stronger and more decisive international intervention** to prevent further devastation.

The Role of the International System and Justice

The **international justice system** has struggled to fulfill its role in the Gaza conflict, and the lack of a tangible response from global institutions has only deepened the crisis. The International Court of Justice (ICJ) and the International Criminal Court (ICC) have significant potential to hold violators accountable, but their influence has been undermined by **protracted legal processes** and political biases. As Gilles Duvier, a French expert in international law, noted, the courts face **long delays**, the **prolongation of discussions**, and a **lack of action on arrest warrants**, all of which hinder the ability of these bodies to stop ongoing conflicts like Gaza. The **biases** that persist in international law, particularly in relation to powerful states, further complicate the efforts to achieve justice.

While there is hope for the **ICJ and ICC** to bring accountability to the conflict, it is evident that their current functioning is insufficient to prevent the **tragic loss of life** and the ongoing suffering of civilians. **Ethical considerations**, such as the protection of vulnerable groups, must be central to any international response, and urgent action is needed to address the legal and political weaknesses that are preventing these institutions from fulfilling their potential.

Global Impact of the Gaza Conflict

The repercussions of the Gaza war extend beyond the immediate region. The **nature of the weapons used**, their **devastating power**, and their long-term effects on the environment and humanity are not fully understood. Weapons of mass destruction, **chemical weapons**, and **unconventional warfare** pose significant threats to the global community. These weapons not only contribute to the loss of life but also endanger the health of **future generations**. The war also affects **global stability**, with ripple effects felt in the political, economic, and social spheres. The international community must take a **serious and coordinated stance** to address these concerns, which have implications for the environment, international security, and humanitarian well-being.

Delayed Response from International Powers

The failure of countries to **take decisive action** on the Gaza conflict has been compounded by the **lack of urgency** in their responses. For example, the French President's call to halt the export of arms used in Gaza and Lebanon came **more than a year** after the escalation of violence. The delay in addressing these issues, coupled with the continued supply of arms to conflict zones, has allowed the war to escalate further. The death toll in Gaza continues to rise, with more than **42,000 dead** and **98,000 wounded** by October 12, 2024. The international community's failure to act swiftly has resulted in catastrophic consequences for **civilians**, who remain the primary victims of the conflict.

For international justice to be effective in conflicts such as Gaza, **reform** is needed within the institutions that are responsible for maintaining peace and accountability. The **ICJ and ICC** must be given more power to act swiftly and decisively, without the delays that have marked past proceedings. There is also a need for greater political will to ensure that **powerful states**, including those involved in the Gaza conflict, are held accountable for violations of **international humanitarian law**. The **Security Council**, as the most powerful arm of the UN, must play a more active role in enforcing peace and ensuring compliance with international legal standards.

Ethical Considerations in Research

In conducting research on the role of international justice in the Gaza conflict, several ethical considerations must be adhered to:

- **Ethical Approval**: It is essential to obtain approval from relevant academic or research institutions to ensure that the research meets ethical standards. This includes ensuring that the research methodology adheres to ethical guidelines in legal research.
- **Use of Data**: The research will rely on publicly available legal documents and academic literature. It is important to secure **approval for the use of data** and to ensure that any secondary data used complies with ethical guidelines in data handling and analysis.
- **Confidentiality**: While the research primarily uses publicly available data, any sensitive information encountered will be handled responsibly. Proper **citation and transparency** will be maintained, ensuring that all sources are appropriately acknowledged.

Conclusion:

The war in Gaza and its surrounding consequences underscore the urgent need for **reform** within the international legal system and more **decisive action** from the international community. While the **ICJ and ICC** provide essential mechanisms for justice, their effectiveness is currently hindered by **political bias**, **protracted delays**, and a lack of enforcement power. The international community must unite in **restoring** the role of international institutions, ensuring that justice prevails, and taking immediate steps to address the **humanitarian crisis** unfolding in Gaza. Additionally, ethical standards must be maintained throughout the research and action processes to ensure that **vulnerable populations** are protected, and that **global justice** is realized.

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