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Analysis of the Efficacy of ICJ and ICC Performance in Resolving Israel-Palestine Conflict



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Chapter One: Introduction

Zionists often justify their occupation of the Palestinian territories by claiming it was a “land without a people”, suitable for “a people without a land”, an adequate description of the state of the Jewish population in Europe in the early-to-mid 20th Century (Nassar, 1982). However, when the Jewish people began to settle in Palestine, they were met with a Palestinian Arab population that had not only been inhabiting that territory for centuries but who did not take well to the usurping of the land and power by foreigners backed by a colonial state.

When discussing the genocide that began in October of 2023, many refer back to the “true beginning” of the conflict; the 1948 Nakba, when hundreds of thousands of Palestinians died and fled their homes during what has been coined as the “War of Independence” by the Zionist state of Israel. However, one can refer the violence that erupted in October of 2023 even further back than 1948. This paper will often discuss the oppression of the Palestinian people at the hands of the Israeli state, hence, it is crucial to note that these tactics of repression were learned from the original coloniser, the United Kingdom (UK), during the Great Palestinian Revolt of 1936 - 1939. This critical period saw the Palestinian people rising up against the colonial power, demanding an end to British occupation and support for the establishment of a Zionist state on Palestinian land (Kelly, 2015). This revolt was met with hard repression from the British, who used tactics such as the razing of Palestinian villages, imprisonment without trial, and the demolition of homes (Anderson, 2019). These were instrumentalised by the IDF and are still used today against Palestinians in Gaza and the West Bank (Kelly, 2015).

In the aftermath of the Second World War, the UK relinquished the management of the “Palestine problem” to the United Nations (UN), which passed Resolution 181 (Haron, 1981). The result was the 1947 Partition Plan, which proposed an almost equal division of the territory between Palestinians and Zionists, however, this was not acceptable to the Jewish population, and hence began the “War of Independence” (UN, 2024). The strategies learned by the Jewish in the Great Revolt were put into action again during the 1948 Nakba, from which they emerged with control over a larger share of territory than in the original partition plan (Nassar, 1982). Thus began the plight of the Palestinians, “a people without a land” in their own home. In a series of documents presented to the UN from 1980 to 1986, it is described how “the “Jewish problem” was solved by the creation of the “Palestinian problem” (Nassar, 1982). Despite the plans of the UN, only the Zionist state of Israel was established, and as these documents stated 40 years ago and still ring true today, the Palestinian state is “yet to be created” (Nassar, 1982).

International judicial bodies are often requested to settle disputes such as these, however, in the case of Israel-Palestine, the contentious issues extend farther than simple disagreements over land ownership. Constant aggression and an alleged genocide have driven varied global actors to bring repeated cases against Israel in international courts. One of which is the International Court of Justice (ICJ), which was established in 1945 to settle disputes between UN member states (UN, 2024). It is one of the six primary organs of the UN and its principal judicial organ. In addition to this role, it provides advisory opinions on requests from other authorized UN bodies. The ICJ states that the court “makes an important contribution to global peace and security, providing a way for countries to resolve issues without resorting to conflict”. Also known as the “Supreme Court of the World”, the ICJ has ruled in cases pertaining to a range of issues, which have included allegations of genocide. One of the most notable and recent cases was the 2020 ruling against Myanmar, where the provisional measures requested that the state of Myanmar cease all genocidal acts

towards the ethnic minority Rohingya Muslims and preserve all evidence related to the case (HRW, 2022). This is reminiscent of the current case against Israel, and the main subject of analysis within this research paper.

In October of 2023, the Zionist State of Israel began an assault on the Gaza Strip in response to a surprise attack by Hamas (Krauss, 2024). Israeli retaliation was incredibly lethal, making it the deadliest conflict in the history of Israel-Palestine relations. Israel, claiming to be acting in self-defense, justifies their aggressive tactics as necessary to destroy Hamas (UN News, 2024). They claim the militant group is using Palestinians in the Gaza Strip as human shields, hence their inability to avoid the mass civilian death toll (Willick, 2023). However, many of the tactics that Israel is using are not only reminiscent of those learned from the UK during the Great Revolt but have escalated into outright genocidal acts. Less than three months after the beginning of this attack, South Africa brought a contentious case against Israel to the ICJ, claiming that Israel was violating its obligations under the Genocide Convention (UN, 2024). The ICJ has carried out limited action, the most notable being the conclusion of the January 2024 preliminary hearing; provisional measures ordering Israel to cease the alleged genocidal activities in Gaza (UN, 2025). However, as Israel denies the accusations from South Africa, it continues to carry out its assault on Gaza and has expanded its attack into Southern Lebanon.

In addition to litigation within the ICJ, the International Criminal Court (ICC) has also taken action against Israel. The ICC's stated goal is to participate in "the global fight to end impunity", in doing this, the court issued arrest warrants for the Israeli Prime Minister (PM) Benjamin Netanyahu and Yoav Gallant, the Israeli Minister of Defence during the majority of the assault on Gaza (ICC, n.d.; ICC, 2024). They wish to hold Netanyahu and Gallant accountable for crimes against humanity and war crimes, and in line with their generalised aims, prevent these crimes from happening again. However, this court has extensive

limitations, such as its inability to enforce warrants and reliance on member states to independently arrest suspects (Jones, 2024). Several states have already declared their intention not to follow through with this arrest warrant, actively challenging the legitimacy of the ICC.

This brings into question the efficacy of the ICJ and ICC in resolving international disputes. The Palestinian death toll continues to rise, yet no concrete actions can be made to stop Israel, and with lengthy legal procedures, it appears this case will only bring a post-facto genocide ruling. This paper will attempt to show how the limited authority of the ICJ and ICC proves inefficient for the resolution of conflict in the case of Israel-Palestine, suggesting a need for a critical reformulation of the procedural statutes surrounding ongoing criminal acts brought before the ICJ and enhancement of the enforcement mandate of the ICC. Hence, the analysis of this paper will be guided by the following research question;

“To what extent have the ICJ and ICC been efficient in bringing resolution to the Israel-Palestine conflict?”

This research paper will proceed as follows: firstly, there will be a literature review assessing the role of the ICJ and ICC in international disputes, particularly within the Israel-Palestine conflict. Subsequently, the case will be introduced in more depth, discussing the events since October 7th, 2023, and attempts at conflict resolution. In addition, the case brought forth by South Africa and the ICC arrest warrants will be discussed in a detailed manner. The following will be an explanation of the methodology and research design chosen for this paper, namely, a mix between political and legal qualitative methods. The analysis will address a range of topics from the ICJ and ICC’s mandates, to historical and comparative cases, and the influence of international actors. The subsequent discussion will contextualise the findings and insights revealed in the analysis and offer an answer to the research question. Finally, the conclusion will address limitations to the research and posit recommendations for the case.

Chapter Two: Literature Review

There is extensive literature on the role of international courts in conflict resolution.. Their function as global dispute settlers is acknowledged widely; however, scholarly consensus on their efficacy remains varied (Spain, 2011).

Some scholars argue that the contribution of international judicial bodies to peace should not be underestimated. Even in their most inactive periods, these courts play a significant role in clarifying the legal obligations of states, organisations, and individuals (Zyberi, 2019). Kanade (2019) contends that the adjudicative capacity of international courts can be strategically employed to resolve complex conflicts. The ICJ has been instrumental in maintaining and restoring international peace and security, particularly through its increasing engagement with armed conflict in recent years (Duffy & Pinzauti, 2025; Spain, 2011; Zyberi, 2019). This role is bolstered by the ICC's emphasis on individual accountability for mass atrocities, which enables it to act as both a deterrent and a retributive mechanism (Zyberi, 2019).

However, their role should also not be overestimated. Their decisions and actions are entirely contingent on the willingness of member states to comply (Rodman, 2012; Zyberi, 2019). Rodman (2012) argues that the capacity of international judicial bodies to deliver resolutions independent of political influence has been overstated. Zyberi (2019) highlights the jurisdictional limitations and the reluctance of the courts, which often result in significant issues and individuals being left uninvestigated or unprosecuted. This typically stems from oppressive states seeking to preserve their authoritarian privileges and from states that prioritize maintaining political and economic ties with such regimes (Rodman, 2012). Consequently, Zyberi (2019) concludes that the contribution of these courts falls under the category of "negative peace"—they attempt to halt and condemn unlawful uses of force and assign accountability, yet they fall short of promoting "positive peace," where justice is delivered in a way that secures lasting harmony. Spain (2011) asserts that to enhance their

impact on effective dispute resolution, international judicial bodies should recognize the value of alternative dispute resolution mechanisms and provide institutional support when referring parties to engage with these methods. This is mirrored by Kanade and Rodman (2019; 2012), who advocate for a hybrid approach that integrates various conflict resolution strategies beyond the current practices of the ICJ and ICC.

Further critiques suggest that the involvement of international courts may not only be inefficient but also counterproductive in certain scenarios (Duursma, 2020; Prorok, 2017). Duursma (2020) finds that while the ICC's presence can make mediation more likely, it can simultaneously reduce the likelihood of achieving a durable peace. The issuance of arrest warrants during active conflict can hinder negotiation processes and discourage the warring parties from committing to peace agreements (Duursma, 2020; Prorok, 2017).

The ICJ and ICC have intervened in several conflicts bearing similarities to the Israel-Palestine situation, but their outcomes have often been mixed. The case of the Rohingya Muslims in Myanmar has often been compared to that of the Palestinians. Yet, international judicial bodies have not been able to ‘eradicate the root problems of the crisis’ (Abainza, 2023, p.17). In *Gambia v. Myanmar*, much like *South Africa v. Israel*, the ICJ mandated provisional measures intended to protect vulnerable minority populations. However, in Myanmar's case, the court's efforts were undermined by Russia's veto, demonstrating how international courts can be constrained by the interests of powerful states. This limitation is compounded by confusion within international criminal law, particularly in distinguishing between individual and state responsibility (Takemura, 2023). Moreover, as Myanmar is not a party to the ICC (similarly to Israel) or related legal instruments, it has actively resisted the Court's efforts to hold the military junta accountable.

Aligned with Abainza (2023), Duffy & Pinzauti (2025), and Bracka (2021), assert that international courts alone cannot resolve deeply entrenched conflicts such as the one between Israel and Palestine. Core principles of international law, such as the laws of occupation and

the right to self-determination, are routinely challenged by issues of enforcement, legal ambiguity, and political manipulation within these judicial forums (Bracka, 2021; Imran et al., 2023). This conflict involves a diverse set of actors and events that often fall outside the jurisdiction of the ICC (Bracka, 2021). Furthermore, the ICJ's normative aspirations may actually impede the achievement of positive peace in this context (Bracka, 2021). While Duffy & Pinzauti (2025) concede that international courts cannot unilaterally settle such disputes, they emphasize the importance of these bodies in complementing political processes and offering avenues for justice. International judicial bodies can act as a scaffold for pursuing resolution (Imran et al., 2023). In the case at hand, the ICC and the ICJ have granted visibility and recognition to Palestinian suffering and underscored the urgent need for more engagement and accountability (Duffy & Pinzauti, 2025). It is now essential that they remain undeterred by the growing pressure from external powers (Clancy & Falk, 2021). This will not stop Israel from committing criminal acts on the territory of Palestine, as Clancy & Falk (2021) also believe that the court is unable to fulfil this function, however, it can strengthen Palestinian morale and provide them with added legitimacy in the struggle against their oppressor.

Nevertheless, a gap persists in the literature regarding the efficacy of the ICJ and ICC in responding to the current conflict between Israel and Palestine. While existing studies evaluate their historical and theoretical contributions, there is a lack of focused, empirical research that examines their impact in real-time crises, particularly in contexts marked by active hostilities, geopolitical entanglements, and humanitarian catastrophes. The South Africa v. Israel genocide case and the ICC's arrest warrants against Israeli leaders present a unique opportunity to assess how international judicial mechanisms operate under immense political pressure. This research is necessary to understand whether these courts can meaningfully influence state behavior, provide justice for victims, or foster conditions conducive to lasting peace. Without such inquiry, discussions about their value risk

remaining speculative, detached from the evolving legal and political realities of one of the world's most protracted conflicts.

Chapter Three: The Case

The Palestinian territories have been subjected to assaults and occupation from the IDF and Israeli civilians since the onset of the Zionist state in 1948. However, this paper will focus on the current attack on the Gaza Strip that began in October of 2023, as it is within this assault that South Africa claims Israel is committing genocide against the Palestinian people.

What is otherwise known as the ‘‘Israel-Hamas War’’ began when the Gazan militant group launched a surprise attack on Southern Israel (CPA, 2025). In addition to targeting several Israeli cities with rockets, Hamas managed to take several hundred hostages back to Gaza successfully. The number of Israeli deaths was disputed by both sides. Still, it was estimated to range in the thousands, which prompted the Israeli defense minister at the time, Yoav Gallant, to issue a directive to carry out the ‘‘complete siege’’ of Gaza, thus declaring war on Hamas. The IDF immediately began to bomb the Gaza Strip, and shortly after began its ground invasion, which culminated in a full-scale invasion later that month (Alam, 2024). Israel stated two goals at the beginning of their assault: (1) the destruction of Hamas and (2) the return of all hostages (Federman, 2023). To achieve this goal, they employed several strategies, from the utilization of heavy military equipment such as bulldozers, artillery, and tanks to covert tactics such as special forces and aerial surveillance. In addition to this, throughout the year-long invasion, they have ordered the continuous evacuation of Palestinians from several cities around Gaza, forcing more than 85% of the 2.2 million people living in this area to flee their homes (CPA, 2025). Israel has also blocked the entry of international humanitarian aid to the exclave, causing many to die from starvation and disease-related complications (HRW, 2024).

Several attempts at conflict resolution have been initiated since October 7th, 2023, the first of which occurred in November of the same year when Qatar, Egypt, and the US

brokered a temporary ceasefire deal between Hamas and Israel (BBC News, 2025). In exchange for 105 hostages, Israel released 240 Palestinian prisoners and allowed some humanitarian aid to enter Gaza, however, the ceasefire lasted for only a week before it was broken (BBC News, 2025; Slow, 2023). The UN also attempted numerous times to pass a ceasefire resolution within their general assembly, and whilst the ceasefire was often ‘‘approved’’ by an overwhelming majority, the US continuously vetoed any UNSC resolutions that would bring it into effect (BBC News, 2025). The ceasefire talks between Hamas and Israel resumed in December of 2023, with the US outlining a three-phase ceasefire and hostage return plan in May of 2024. Despite this, talks broke down several times due to events such as the Israeli assassination of Ismail Haniyeh, Hamas’ political leader and chief negotiator. In November of 2024, Israel agreed to a ceasefire with the Lebanese militant group (and Hamas ally), Hezbollah, after having started the invasion of Lebanon months earlier. This deal, although not well-respected by Israel, gave hope to the Palestinian people that there would soon be a ceasefire in Gaza. On January 15th, 2025, 466 days after the assault on Gaza began, the President of Qatar announced that a ceasefire and hostage release deal between Hamas and Israel would come into effect on January 19th of that same month (BBC News, 2025). However, assaults by Israel on Gaza and other areas in the West Bank continue.

The ICJ Case

Many scholars and political analysts have argued that Israel’s rate of retaliation for the Hamas attack was disproportionate both in length and intensity (Rogers, 2023). The civilian morbidity and mortality toll in Gaza, unprecedented for the 21st century, combined with statements made by Israeli officials to ‘‘cause maximum damage’’ have led many to believe that the actions of the Zionist state were genocidal in intent (Wispelwey et al., 2024). These concerns were formalized on December 29th of 2023 when South Africa filed a complaint against Israel, in the ICJ, for allegedly violating its obligations under the Genocide

Convention (ICJ, 2023). South Africa claims that “acts and omissions by Israel . . . are genocidal in character, as they are committed with the requisite specific intent . . . to destroy Palestinians in Gaza as a part of the broader Palestinian national, racial and ethnical group” and additionally that “Israel, since 7 October 2023 in particular, has failed to prevent genocide and has failed to prosecute the direct and public incitement to genocide” and that “Israel has engaged in, is engaging in and risks further engaging in genocidal acts against the Palestinian people in Gaza” (p. 1). South Africa also requested that the court issue provisional measures to protect the Palestinians from further genocidal acts while the case is being investigated (ICJ, 2023).

Since December 2023, the case has received large volumes of global attention, with fourteen other countries having joined or declared their intention to join the case since then (United Nations, 2024b). Israel’s reaction to this mass push for condemnation has been to reject all allegations, claiming that they target only Hamas operatives and take all necessary precautions to minimize harm to civilians and civilian targets, such as schools and hospitals (Corder, 2023). They fundamentally refute the accusations of genocide and insist that they allow humanitarian aid to enter Gaza, as thus they decided to participate in the ICJ proceedings to contest the charges leveled against them (Al Jazeera, 2024a; Ebrahim, 2024). On January 26th, 2024, the ICJ accepted the plausibility that Palestinians had a right to protection from genocide in a preliminary ruling and simultaneously declared that it had jurisdiction to rule in the case brought forth by South Africa (ICJ, 2024a). In the provisional hearing, the court did not grant South Africa the exact measures that were initially requested, rather, it issued a separate set of provisional measures that ordered Israel to prevent genocide (ICJ, 2024a). A side-by-side comparison of the two sets of provisional measures can be seen in Table 1.

Table 1

Comparison of Provisional Measures Requested by South Africa and Issued by the ICJ

Provisional Measures Requested by South Africa	Provisional Measures issued by the ICJ on January 26th 2024
(1) The State of Israel shall immediately suspend its military operations in and against Gaza.	<p>(1) The State of Israel shall, in accordance with its obligations under the Convention on the Prevention and Punishment of the Crime of Genocide, in relation to Palestinians in Gaza, take all measures within its power to prevent the commission of all acts within the scope of Article II of this convention, in particular:</p> <ul style="list-style-type: none"> a. killing members of the group; b. causing serious bodily or mental harm to members of the group; c. deliberately inflicting on the group conditions of life calculated to bring
	<ul style="list-style-type: none"> about its physical destruction in whole or in part; and d. imposing measures intended to prevent births within the group;

<p>(2) The State of Israel shall ensure that any military or irregular armed units which may be directed, supported or influenced by it, as well as any organisations and persons which may be subject to its control, direction or influence, take no steps in furtherance of the military operations referred to point (1) above.</p>	<p>(2) The State of Israel shall ensure with immediate effect that its military does not commit any acts described in point 1 above;</p>
<p>(3) The Republic of South Africa and the State of Israel shall each, in accordance with their obligations under the Convention on the Prevention and Punishment of the Crime of Genocide, in relation to the Palestinian people, take all reasonable measures within their power to prevent genocide.</p>	<p>(3) The State of Israel shall take all measures within its power to prevent and punish the direct and public incitement to commit genocide in relation to members of the Palestinian group in the Gaza Strip;</p>
<p>(4) The State of Israel shall, in accordance with its obligations under the Convention on the Prevention and Punishment of the Crime</p>	<p>(4) The State of Israel shall take immediate and effective measures to enable the provision of urgently needed basic services</p>

<p>of Genocide, in relation to the Palestinian people as a group protected by the Convention on the Prevention and Punishment of the Crime of Genocide, desist from the commission of any and all acts within the scope of Article II of the convention, in particular:</p> <ul style="list-style-type: none"> a. killing members of the group; b. causing serious bodily or mental harm to the members of the group; c. deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part; and <p>imposing measures intended to prevent births within the group.</p>	<p>and humanitarian assistance to address the adverse conditions of life faced by Palestinians in the Gaza Strip;</p>
<p>(5) The State of Israel shall, pursuant to point (4) (c) above, in relation to Palestinians, desist from, and take all measures within its power including the rescinding of relevant orders, of restrictions and/or of prohibitions to prevent:</p> <ul style="list-style-type: none"> a. the expulsion and forced displacement from their homes; 	<p>(5) The State of Israel shall take effective measures to prevent the destruction and ensure the preservation of evidence related to allegations of acts within the scope of Article II and Article III of the Convention on the Prevention and Punishment of the Crime of Genocide against members of the Palestinian group in the Gaza Strip;</p>

<p>b. the deprivation of:</p> <ul style="list-style-type: none"> i. access to adequate food and water; ii. access to humanitarian assistance, including access to adequate fuel, shelter, clothes, hygiene and sanitation; iii. medical supplies and assistance; and <p>the destruction of Palestinian life in Gaza</p>	
<p>(6) The State of Israel shall, in relation to Palestinians, ensure that its military, as well as any irregular armed units or individuals which may be directed, supported or otherwise influenced by it and any organizations and persons which may be subject to its control, direction or influence, do not commit any acts described in (4) and (5) above, or engage in direct and public incitement to commit genocide, conspiracy to commit genocide, attempt to commit</p>	<p>(6) The State of Israel shall submit a report to the Court on all measures taken to give effect to this Order within one month as from the date of this Order.</p>

<p>genocide, or complicity in genocide, and insofar as they do engage therein, that steps are taken towards their punishment pursuant to Articles I, II, III and IV of the Convention on the Prevention and Punishment of the Crime of Genocide.</p>	
<p>(7) The State of Israel shall take effective measures to prevent the destruction and ensure the preservation of evidence related to allegations of acts within the scope of Article II of the Convention on the Prevention and Punishment of the Crime of Genocide; to that end, the State of Israel shall not act to deny or otherwise restrict access by fact-finding missions, international mandates and other bodies to Gaza to assist in ensuring the preservation and retention of said evidence.</p>	<p><i>Not included within measures of the ICJ</i></p>

(8) The State of Israel shall submit a report to the Court on all measures taken to give effect to this Order within one week, as from the date of this Order, and thereafter at such regular intervals as the Court shall order, until a final decision on the case is	<i>Not included within measures of the ICJ</i>
rendered by the Court.	
(9) The State of Israel shall refrain from any action and shall ensure that no action is taken which might aggravate or extend the dispute before the Court or make it more difficult to resolve.	<i>Not included within measures of the ICJ</i>

Proceeding the ruling on provisional measures, three urgent requests were made by South Africa for additional measures to be issued by the Court regarding ongoing Israeli assaults (ICJ, 2024c). Only two were granted; on March 28th the ICJ ordered Israel to allow Palestinians in Gaza access to food supplies without delay due to the pertinent risk of famine and on May 24th the court ordered Israel to halt the offensive on Rafah (Haque, 2024; Van Den Berg, 2024).

As mandated by the ICJ, one month after the initial interim ruling, Israel filed a report that detailed the actions taken to comply with the provisional measures, however, this report was not made public (Reuters, 2024b). Despite this, several international NGOs such as Human Rights Watch, Oxfam, and Doctors Without Borders claimed that Israel was not only

not complying with the provisional measures but was not even actively attempting to limit the loss of civilian life (MSF, 2024; Oxfam, 2024). The UN Special Rapporteur on the Right to

Food described the situation in Gaza in late February 2024 as one of genocide (Lakhani, 2024).

The ICC Arrest Warrant

Since 2015, the ICC has been investigating possible war crimes committed on Palestinian territory, both by the IDF and Hamas (International Criminal Court, n.d.). In October of 2023, the chief prosecutor of the ICC, Karim Khan, stated that all crimes committed during the Gaza war would be within the ICC's jurisdiction due to their ongoing investigative case in Palestine (Van Den Berg & Deutsch, 2023). In May of the following year, Khan announced his intentions to file arrest warrants for several leaders of Hamas, as well as Netanyahu and Gallant, however, the applications for both Ismail Haniyeh and Yahya Sinwar were withdrawn after their assassination by Israeli forces (International Criminal Court, 2024a; Reuters, 2024c). These applications culminated in the issuing of arrest warrants on November 21st, 2024, for Netanyahu, Gallant, and Mohammed Deif, who could not be determined as dead despite claims to that effect from Israeli forces (The New Arab, 2024). The Pre-Trial Chamber I stated that Netanyahu and Gallant both bear criminal responsibility for committing the act of “war crime of starvation as a method of warfare; and the crimes against humanity of murder, persecution, and other inhuman acts” in addition to “the war crime of intentionally directing an attack against the civilian population [of Palestine]” (ICC, 2024, para. 8). The arrest warrant for the Israeli leaders was substantiated by the physical and documented evidence of war crimes in Palestine, but was reinforced by statements made to the public such as Gallant's reaction to the October 2023 attack where he stated that “there will be no more electricity, no more food, no more fuel” (Alouf & Slow, 2023).

Israel rejected the arrest warrants, deeming them to be “false accusations” and likening them to a “modern-day Dreyfus trial” (Harkov, 2024). They claim that they have allowed humanitarian aid to pass into Gaza, and all inefficiency in its distribution is due to the ongoing conflict, the incompetence of local organizations, and Hamas looting supplies (Sharon, 2024). As for the accusations of targeting civilians, they claim these casualties to have been unavoidable due to Hamas using civilian infrastructure to hide its fighters and installations. Israel thus made two appeals to the ICC alleging that there were procedural deficiencies with the arrest warrants, firstly, Khan had not provided a renewed notification of the investigation into the actions that were committed after October 7th, and secondly, the ICC had no jurisdiction over Israeli citizens as Israel is not party to the Rome Statute. It was this second appeal that divided the international community’s reception of the arrest warrants, as the terms of the Oslo Accords deny jurisdiction over Israeli citizens to Palestinian legal entities. Whilst it is not a Palestinian court that issued the arrest warrants, the ICC’s party-member structure allows states to delegate their jurisdiction to the supranational level, however, as Israel does not accept the existence of Palestine as an independent state they argue that the Palestinian territories cannot procedurally transfer their jurisdiction to the ICC. Palestine became a party to the Rome Statute in 2015, and in 2021 the ICC admitted that it was a “state” for the purposes of Article 12(2)(a) and could thus extend its territorial jurisdiction to the occupied territories of Palestine (International Criminal Court, n.d.). They subsequently ruled that matters of jurisdiction would be addressed if they were to ever file for arrest warrant requests against Israeli individuals (Sharon, 2024). Thus, Israel claimed that in their 2024 warrant, the ICC did not deal with these issues which resulted in their being “wrongfully deprived of standing for its jurisdiction challenge and also led to the wrongful issuance of arrest warrants against Israel’s prime minister and former defense minister” (International Criminal Court, 2024b, para. 33). However, the appeal was rejected by the

Court as Israel's acceptance of jurisdiction is not necessary - the Pre-Trial Chamber I of the ICC determined that the Court may exercise its jurisdiction based on Palestinian territorial jurisdiction (ICC, 2024).

Chapter Four: Methodology and Research Design

Given the complexity of the Israel-Palestine conflict, this paper will take a qualitative approach that utilises methods from both legal and political fields to examine the intersection of international law, conflict resolution, and geopolitics. The research will be based upon a doctrinal legal analysis, case-study methodology, and expert interviews to offer an interdisciplinary and comprehensive analysis of the case at hand.

Doctrinal analysis, widely recognized within jurisprudential and international law scholarship, systematically deconstructs and interprets primary legal texts, including international legal statutes, treaties, judicial decisions, and authoritative legal statements, to interpret their application within complex geopolitical scenarios (Hutchinson & Duncan, 2012). Case-study methodology involves an in-depth, context-specific examination of particular cases or events, facilitating the practical application and critical assessment of theoretical constructs (Flyvbjerg, 2006). Expert interviews provide nuanced insights and empirical depth, which are particularly valuable for exploring judicial efficacy, institutional limitations, and broader geopolitical implications (Meuser & Nagel, 2009). Using multiple methods can produce findings that are higher in validity as it allows for triangulation and cross-validation of data, thus mitigating the risks of single-method research (Carter et al., 2014).

Doctrinal Analysis

Doctrinal legal analysis, often referred to as the black-letter law approach, is a method particularly suitable for studying the decisions of international judicial bodies as it allows for a rigorous examination of legal texts, judicial reasoning, and the interpretation of international treaties (Hutchinson & Duncan, 2012). The main subject of analysis within this

method will be the application of the Geneva Conventions (1949) and their Additional Protocols, which serve as the cornerstone of international humanitarian law within the ICJ case. These treaties establish the rights and protections afforded to civilians and combatants in times of war, as well as the legal obligations of occupying powers, and have thus been the main issue of contention between Israel and Palestine since October 7th, 2023. The legal material under scrutiny is systematically sourced from authoritative legal databases such as the United Nations Treaty Collection and the official repositories of ICC and ICJ jurisprudence. In addition to the current application of laws and treaties, this paper also undertakes an extensive examination of key legal texts such as the 2004 Advisory Opinion from the ICJ on the legality of the West Bank Barrier and the arrest warrants issued by the ICC for Netanyahu and Gallant.

By conducting a doctrinal analysis of these legal frameworks, the study aims to assess the extent to which Israel's actions comply with or violate international law and the challenges associated with enforcing these legal principles. These judicial rulings, texts, and interpretations are contextualised within historical and contemporary geopolitical landscapes, aiming to transcend textual review and thus providing a more nuanced examination of the broader implications and efficacy of international judicial bodies in mitigating conflict.

Case-Study Analysis

This research employs case-study methodology to examine key legal rulings and their political consequences. Case studies are essential for understanding how international legal decisions translate into political action, or lack thereof. This research employs a comprehensive case-study methodology grounded in Flyvbjerg's (2006) theoretical framework, emphasizing case studies as fundamentally valuable in the development of context-dependent knowledge essential for understanding complex social phenomena. This paper will use what Flyvbjerg defines as 'critical case studies', which are characterized by their strategic importance in illuminating broader theoretical and practical implications

through detailed exploration of singular or exceptional cases. Aside from the main case study of this paper, the Israel-Palestine conflict (with a specific focus on the proceedings since October 7th, 2023), this paper will analyse two other cases: the 2004 ICJ Advisory Opinion on the West Bank Barrier and the ICC's Putin Arrest Warrant. Each case study is examined through legal reasoning, i.e., how courts justify their rulings based on existing international law, the political responses of states and international institutions to these rulings, and their impact on conflict resolution. Concurrently, it examines the political contexts, diplomatic repercussions, and global reactions surrounding the ICC's issuance of arrest warrants against Netanyahu and Gallant, critically assessing their impacts on perceptions of international judicial legitimacy and accountability mechanisms.

Expert Interviews

To further enhance the study's depth, a semi-structured interview was conducted with a legal scholar, who chose to remain anonymous. This legal scholar worked as part of the Palestine team during the 2004 Advisory Opinion on the West Bank Barrier in the ICJ. Interviews provide insight into both legal interpretations and political enforcement challenges. The interview was transcribed and analyzed thematically, identifying patterns in legal arguments, political resistance, and enforcement challenges. This interview provides nuanced perspectives on judicial efficacy, impartiality challenges, operational constraints, and the broader implications of judicial involvement in politically sensitive conflicts.

Limitations of the Research Design

While this methodology provides a comprehensive legal and political analysis, it faces several limitations. Firstly, interpretive subjectivity may introduce biases (Galdas, 2017). International law is often interpreted differently depending on political affiliations, which can influence legal and political arguments presented by interview subjects and derived by researchers. This was addressed through a comprehensive peer-review process and methodological triangulation across diverse sources (Carter et al., 2014). Furthermore, the

sensitive and politically contentious nature of the Israel-Palestine conflict may restrict access to fully impartial primary data, reinforcing the necessity for a rigorous cross-validation of findings through diverse secondary literature and expert consultations.

Secondly, while the interviews conducted in this paper provided valuable perspectives, obtaining access to ICC/ICJ prosecutors, judges, etc was a challenge and, for the most part, inaccessible. This would have majorly enhanced the research, as it relied mainly on academic literature and primary sources such as newspaper coverage to interpret certain events.

Despite these limitations, the combination of legal analysis, case studies, and expert interviews ensures a rigorous and multidimensional approach. This methodology allows for a critical examination of the role of international law in the Israel-Palestine conflict, addressing both its legal foundations and its geopolitical realities.

Chapter Five: Analysis

The ICJ's Role and Challenges in the Israel-Palestine Conflict

The International Court of Justice, established under Chapter XIV of the UN Charter and governed by its constitutive document, the Statute of the ICJ, serves as the principal judicial organ of the United Nations (United Nations, 1945b). Its mandate is firmly rooted in public international law, and the court's jurisdiction is structured around two core functions: (1) contentious jurisdiction under Article 36 (legally binding rulings between sovereign states) and (2) advisory jurisdiction under Article 65 (non-binding opinions requested by UN organs and agencies) (United Nations, 1945c). The Israel-Palestine conflict poses acute doctrinal challenges in both domains, raising persistent legal dilemmas about sovereignty, recognition, the enforcement of international law, and the structural limitations of adjudicating asymmetric conflicts involving non-state actors.

Article 36(1) of the ICJ Statute limits the Court's contentious jurisdiction to legal disputes between sovereign states that have consented to its authority (United Nations,

1945c). This consensual foundation, known as the principle of compromissory jurisdiction, reinforces the ICJ's reliance on state consent either ad hoc, through forum prorogatum, or by way of treaty-based compromissory clauses (Llamzon, 2007). This underscores the ICJ's inability to adjudicate claims brought by non-state actors, regardless of the severity of the legal breaches alleged. Additionally, enforcement of ICJ judgments remains tethered to Article 94 of the UN Charter, which refers execution to the UNSC, where the veto powers of permanent members often inhibit enforcement, particularly in a case as politically contentious as is Israel-Palestine (United Nations, 1945b).

A fundamental legal barrier to contentious jurisdiction in the Israel-Palestine conflict is the question of Palestinian statehood. Since the ICJ only adjudicates disputes between sovereign states, Palestine's ability to initiate proceedings directly against Israel is limited by its international legal status. In 2012, the UNGA granted Palestine non-member observer state status, which bolstered its claims to statehood (United Nations, 2024a). However, Israel and several Western states do not recognise Palestine as a sovereign state, which raises jurisdictional challenges before the ICJ. The Montevideo Convention on the Rights and Duties of States (1933) outlines the declarative theory of statehood, requiring (1) a permanent population, (2) a defined territory, (3) a government, and (4) capacity to enter into relations with other states (Article 1). Although Palestine arguably satisfies these conditions in part, the absence of effective territorial control and widespread diplomatic recognition, particularly from Israel, the United States, and key EU states, complicates its standing before the ICJ. Thus, Palestine has sought to join international treaties that grant jurisdiction to the ICJ, such as the Convention on the Prevention and Punishment of the Crime of Genocide (1948), which contains an ICJ compromissory clause under Article IX. After the current assault on Gaza began, South Africa initiated genocide proceedings against Israel on behalf of Palestinians, thereby circumventing Palestine's lack of direct access to the ICJ. However, the ability of the

court to enforce its rulings remains constrained by Israel's rejection of its jurisdiction and the political deadlock amongst great powers such as the US in the UNSC.

Unlike contentious cases, advisory opinions do not require state consent and can be issued at the request of UN organs or specialised agencies under Article 65(1) of the ICJ Statute (United Nations, 1945c). While advisory opinions are not legally binding, they carry significant persuasive authority and often shape international legal norms (Lanzoni, 2022). However, in South Africa's case against Israel, the ICJ is facing issues of effectiveness and compliance, which are severely underscored by doctrinal limitations. The January 2024 advisory opinion demonstrated the Court's structural limitations. While clarifying Israel's obligations under the UN Charter and customary international law, including *jus ad bellum* and *jus in bellum* principles, the opinion's lack of coercive authority and reliance on voluntary compliance once again highlights the ICJ's constrained capacity in enforcing international norms. Furthermore, Israel's persistent non-recognition of the Court's competence in matters it considers to be of national security weakens the ICJ's effectiveness, revealing a structural tension between legal doctrine and geopolitical realities. As a result, while the ICJ clarifies the legal framework of the conflict, it remains incapable of directly resolving disputes or compelling compliance, leaving the enforcement of international law in the hands of state actors and political institutions.

Overview of the ICC's Mandate and Jurisdiction

The ICC, established by the Rome Statute in 1998, operates independently of the UN but cooperates with it in enforcing international criminal law (United Nations, 1998). Unlike the ICJ, which adjudicates state disputes, the ICC operates under a prosecutorial mandate to prosecute individuals responsible for international crimes under Articles 5 to 8 of the Rome Statute. These include: (1) genocide (Article 6); acts committed with the intent to destroy, in whole or in part, a national, ethnical, racial, or religious group, (2) crimes against humanity (Article 7); widespread or systematic attacks against civilians, (3) war crimes (Article 8);

serious violations of the Geneva Conventions, including targeting civilians, disproportionate attacks, and using prohibited weapons, and (4) crime of aggression (Article 8); illegal use of force by a state against another state. Under Article 12 of the Rome Statute, the ICC can only exercise jurisdiction if the alleged crimes occurred in a state party to the Rome Statute, or the accused is a national of a state party, or the UNSC refers the case under Chapter VII of the UN Charter, bypassing jurisdictional restrictions (United Nations, 1945a).

The main doctrinal challenge in prosecuting Israeli officials stems from Israel's non-ratification of the Rome Statute (Kuttab, 2023). As a non-party state, Israel does not recognize the ICC's authority, invoking the principle of state sovereignty and complementarity under Article 17 (United Nations, 1998). However, Palestine's accession to the Rome Statute in 2015, following its recognition as a non-member observer state by the UN General Assembly in 2012, allowed the ICC to assert territorial jurisdiction over crimes committed in Gaza, the West Bank, and East Jerusalem (United Nations, 2024a). In 2021, Pre-Trial Chamber I confirmed that the Court's jurisdiction extends to these territories, enabling the Prosecutor to investigate crimes allegedly committed by Israeli nationals on Palestinian soil (ICC, 2024). This means that even though Netanyahu and Gallant are Israeli citizens, the ICC has jurisdiction over them for actions committed in Gaza and the West Bank.

Under Article 58 of the Rome Statute, the ICC may issue an international arrest warrant if there are reasonable grounds to believe that a person has committed a crime under the Court's jurisdiction (United Nations, 1998). The procedural requirements for a warrant include: (1) sufficient evidence; the ICC Prosecutor must establish that the suspect is responsible for crimes within the Court's jurisdiction, (2) necessary to ensure appearance; the arrest warrant must be necessary to prevent the suspect from escaping justice and (3) prevention of further crimes; the warrant must help stop the continuation of criminal acts.

Once issued, ICC arrest warrants are binding on all 124 state parties to the Rome Statute, who are obligated, under Article 89, to arrest and surrender the suspect to The Hague. However, states not party to the Rome Statute (such as Israel and the United States) are not legally bound to comply, which often leads to non-enforcement of arrest warrants. Despite the legal basis for prosecution, the enforcement of the current warrants issued for Netanyahu and Gallant remains uncertain due to Israel's refusal to cooperate and the political influence of its Western allies, particularly the United States and certain members of the European Union.

Many have questioned the timing of the ICC's decision to issue arrest warrants over one year after the genocide had begun. However, from a doctrinal perspective, ICC investigations are lengthy and require extensive evidence collection. Unlike domestic courts, the ICC operates under high evidentiary standards, requiring satellite imagery, victim testimonies, intercepted communications, and proof of command responsibility under Article 28 of the Rome Statute. However, the latest assault on Gaza has been thoroughly documented, with access to evidence being widespread at all levels of society, in addition to blatant calls for the annihilation of Palestinians and Gaza by Israeli government officials before and during the genocide. For these reasons, it can be argued that the delay in issuing arrest warrants is not just legal, but also political.

The ICC's prosecutorial discretion under Article 53 allows the Prosecutor to consider "the interests of justice," which can include geopolitical realities (United Nations, 1998). Historically, both the United States and European allies have exerted pressure to shield Israeli officials from international prosecution. The U.S. imposed sanctions on ICC personnel in 2020 for investigating American and Israeli conduct, while states like Germany and the UK advocated for procedural delays to protect bilateral ties with Israel (HRW, 2020). These actions have set a precedent of impunity for Israeli individuals, making international legal action against them very difficult to carry out. These interventions distort the doctrine of impartial justice and erode the principle of universality in international criminal law.

The arrests came at a strategic point in response to international outrage. The Gaza conflict escalated to a breaking point, with global protests, UN resolutions, and increasing calls for legal accountability. In April 2024, when ICC Prosecutor Khan announced the official pursuit of the warrants, South Africa's genocide case at the ICJ intensified pressure on the ICC to act. By waiting a year, the ICC gained more international support, reducing the risk of immediate diplomatic retaliation from the West. While this decision aligns with legal procedural requirements, it also reflects geopolitical calculations, balancing Western interests, diplomatic consequences, and the credibility of international law.

Historical Case and Advisory Opinion: the 2004 Advisory Opinion on the West Bank Barrier

One of the most important ICJ interventions in the Israel-Palestine conflict was its 2004 Advisory Opinion on the legal consequences of the construction of a wall in the Occupied Palestinian Territory (United Nations, 2004). The ruling was requested by the UNGA and provided a comprehensive legal analysis of Israel's construction of a separation barrier in the West Bank. (UNGA, 2003). This opinion marked a landmark articulation of international legal principles relating to occupation, self-determination, and state responsibility. The ICJ grounded its analysis in the Fourth Geneva Convention (1949), the Hague Regulations of 1907, and customary international law. Politically, however, its reception and implementation were shaped by entrenched power asymmetries, especially the U.S.'s use of its Security Council veto, rendering the ruling normatively robust but materially inert (Gray, 2004)

The Court found Israel's construction of the wall to violate core tenets of international humanitarian law. It held that the barrier's route, encompassing Israeli settlements in the West Bank, constituted de facto annexation, prohibited under Article 49(6) of the Fourth Geneva

Convention, which forbids the transfer of the occupying power's civilian population into occupied territory. The ICJ emphasised that the wall's construction altered the demographic and territorial character of the occupied land, violating both *jus in bellum* protections and the principle of territorial integrity (United Nations, 2004). Furthermore, the Court declared that the barrier infringed upon the Palestinian people's right to self-determination, a *jus cogens* norm codified in UNGA Resolution 1514 (1960) and reaffirmed in the International Covenant on Civil and Political Rights, Article 1 (1966). By restricting freedom of movement, destroying livelihoods, and segregating communities, the wall imposed structural violence incompatible with lawful occupation.

One of the most controversial findings of the ruling was the ICJ's rejection of Israel's claim to self-defence under Article 51 of the UN Charter. The Court clarified that Article 51 applies only to armed attacks between sovereign states, and since the Palestinian territories are not a recognised sovereign entity, Israel, as an occupying power, cannot invoke self-defence against the population it controls (United Nations, 2004). This finding reframed the legal debate, shifting the lens from counterterrorism to occupation law. The ICJ emphasised that the appropriate legal framework is not *jus ad bellum*, but rather the law of occupation, which imposes duties on the occupying power to protect the welfare of the civilian population (Hague Regulations, 1907, Art. 43). Politically, this conclusion challenged Israel's dominant narrative of self-defence and reframed its military actions as violations of occupation law rather than legitimate responses to non-state violence.

The ruling further clarified the responsibilities of third-party states. Citing the principle of non-recognition of illegal situations, the ICJ declared that all states have a duty not to recognise the illegal situation created by the wall, nor to render aid or assistance in maintaining it (United Nations, 2004). While the Court urged the UN Security Council to take action to ensure compliance, the political reality, specifically the United States' veto power, meant no enforcement measures were adopted (Gray, 2004). This lack of enforcement

reflects the structural limitations of the ICJ's advisory jurisdiction, which is persuasive but non-binding under Article 65 of the ICJ Statute.

Israel categorically rejected the ICJ's advisory opinion, arguing that the ICJ lacked jurisdiction to rule on a political and security matter (CBC, 2004). In addition, they argued that the barrier was a temporary security measure to prevent terrorist attacks, not an attempt to annex Palestinian land, and that the ruling was biased and ignored Israeli security concerns (VOA, 2009). Israeli officials also argued that the ruling undermined their ability to protect civilians from attacks by Palestinian militant groups, despite the ICJ's assertion that security concerns do not justify violations of international law. From a political standpoint, Israel's rejection illustrates the broader problem of selective adherence to international law: legal findings are accepted when politically convenient and dismissed when not. Despite the ICJ's doctrinal clarity, Israel's security framing gained traction in Western capitals, diluting the advisory opinion's normative force and contributing to a narrative of legal relativism (Folk, 2005).

Despite Israeli protest, the ICJ's ruling set a critical legal precedent by asserting that an occupying power cannot claim self-defence against the occupied population. This finding had major implications; under international law, the duty of an occupying power is to ensure the well-being of the occupied population (Fourth Geneva Convention, Article 43), thus Israel's military actions in occupied territory are governed by occupation law, not the right to self-defence. Hence, the ruling challenged Israel's long-standing justification for military operations in Palestinian territories, including the West Bank and Gaza. While the 2004 Advisory Opinion specifically addressed the West Bank barrier, its core legal principles also apply to the current Israeli military campaign in Gaza. The ICJ's ruling reaffirmed that Israel, as an occupying power, cannot invoke self-defence against occupied populations, which contradicts Israel's justification for its military assault on Gaza in response to Hamas attacks.

The barrier was deemed illegal because it restricted Palestinian movement and annexed land. Similarly, the ongoing blockade of Gaza has been classified as illegal collective punishment under Article 33 of the Fourth Geneva Convention. The 2004 ruling established that third-party states must not aid or recognise Israeli violations, which applies to countries supporting Israel's military campaign in Gaza today.

However, the 2004 Advisory Opinion had limited impact on Israeli-Palestinian conflict resolution due to the lack of enforcement mechanisms. The UNSC, which could have imposed sanctions or enforcement measures, failed to act due to US vetoes and political divisions, meaning that the opinion was never implemented (Gray, 2004). This allowed Israeli settlement activity to expand significantly, demonstrating the ICJ's inability to influence state behaviour without enforcement power. The ruling failed to lead to concrete political resolutions, underscoring the ICJ's enforcement weaknesses and indirectly providing Israel with the confidence in its impunity to carry out a large-scale assault in Gaza.

The 2004 ICJ Advisory Opinion on the West Bank Barrier established critical legal principles that continue to shape the Israel-Palestine conflict today. While Israel rejected the ruling, it remains a cornerstone of international legal discourse, influencing subsequent ICJ and ICC proceedings. The ruling's assertion that Israel has no right to self-defence as an occupying power remains highly relevant to the current military campaign in Gaza, reinforcing arguments against Israel's use of force in Palestinian territories. However, without enforcement mechanisms, the ICJ's rulings remain symbolic rather than transformative, highlighting the enduring gap between legal principles and geopolitical realities.

ICC Arrest Warrant and International Reactions

The issuance of ICC arrest warrants against Israeli Prime Minister Benjamin Netanyahu and Defence Minister Yoav Gallant has generated a significant and highly politicised spectrum of international responses, particularly among Western democracies.

These reactions serve not only as political signals but as crucial indicators of the ICC's legitimacy and operative authority. The extent to which member states and international actors comply, or refuse to comply, with the court's rulings directly reflects the ICC's actual capacity to enforce international law and exert normative influence. The disparity in responses displays the degree to which the ICC's authority is contingent upon political will and underscores the fragility of international justice mechanisms in the face of realpolitik and national interest.

Table 2 delineates the reactions to the ICC warrants, which diverge starkly even among states party to the Rome Statute.

Table 2

Reactions to the ICC Arrest Warrants Against Netanyahu, Gallant and Putin. Votes in UNGA Palestin-Related Resolutions.

Country	Party to ICC?	Stance on Netanyahu and Gallant ICC arrest warrant	Stance on Putin's ICC arrest warrant	Vote on UNGA resolution for a ceasefire in Palestine (AJ, 2024) (latest - December 11th 2024 and approved	Vote on UNGA resolution demanding that Israel “brings to an end without delay its unlawful presence” in the Occupied Palestinian Territory, and do so within 12 months (September 18th	Notes
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				by 158 votes)	2024 and approved by 124 votes). (Al Jazeera, 2024b)	
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Western and European Nations

USA	No	Fundamentally rejects the decision of the ICC. Claims the arrest warrant is anti-Semitic and threatening Western allies and ICC (Biden considering reverting back to ICC sanctions that existed under Trump, and Tom Cotton (republican senator) threatens military assault on the Hague) (Norton, 2024). 24/11/2024	Biden considered Putin's arrest warrant as justified and said Russia had very clearly committed war crimes (The Guardian, 2023). 23/04/2023	Against	Against	
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UK	Yes	Would comply because they are party to the Rome Statute, but do not want to engage in ‘‘hypotheticals’’ (Starcevic et al., 2024). 22/11/2024	Welcomes arrest warrant for Putin and said it is essential for those at the top of Putin’s regime to be held accountable for crimes committed (Cordon, 2023).	In favour	Abstained	
Netherlands	Yes	Will comply with the arrest warrant (Starcevic et al., 2024). 22/11/2024		In favour	Abstained	

France	Yes	Will not comply because Israel is not a party to the ICC, hence Netanyahu should be immune (Starcevic et al.,	Declined to say whether they would be willing to arrest Putin, due to pressure faced from the	In favour	In favour	Despite Israel not being a party to the ICC, crimes committed on the
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		2024). 22/11/2024	reaction to their stance on the Israeli arrest warrant. But, that position on Putin is essentially the same as the position on Netanyahu (Reuters, 2024a). 28/11/2024			territory of an ICC member state are subject to ICC jurisdiction. Hence, Netanyahu can be arrested by the ICC for committing crimes in Palestine.
Italy	Yes	Mixed response: Mixed response: The Foreign Minister said Italy supports the ICC but that it should play a legal and not political role. Rome is still		In favour (first time voting in favour)	Abstained	FM questioned the feasibility and clarity of the warrant, claiming Netanyahu

		<p>deciding how to interpret the ruling.</p> <p>The Defense Minister said, for now, if Netanyahu and Gallant came to Italy, they would have to arrest them (but believed the arrest warrant was wrong).</p> <p>The Deputy Prime Minister expressed his full support for Netanyahu, saying that if he were to come to Italy, “He would be welcomed.” (Starcevic et al., 2024)</p>				<p>will never go to a country where he would be arrested while he is PM (Armellini & Amante, 2024).</p>
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		26/11/2024				
Germany	Yes	<p>Unclear, with a suggestion that it will not comply due to Nazi history (Rothwell & Confino, 2024). PM says they are examining what the ICC ruling means for Germany, but the government spokesperson said it's hard to imagine any arrests would be made (Starcevic et al., 2024).</p> <p>22/11/2024</p>	<p>Would arrest Putin.</p> <p>Chancellor Scholz said that the ICC warrant shows that nobody is above the law (Reuters, 2023a).</p>	In favour (first time voting in favour)	Abstained	

Austria	Yes	Will arrest Netanyahu out of obligation, as international law is non-negotiable and	Will arrest (The Kyiv Independent, 2023).	In favour	Abstained	
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		<p>applies everywhere.</p> <p>However, FM called the warrant “absurd” and “incomprehensible” (Starcevic et al., 2024).</p>				
Spain	Yes	<p>Will arrest (Starcevic et al., 2024)</p>		In favour	In favour	
Ireland	Yes	<p>Will arrest (Starcevic et al., 2024)</p>	<p>Will arrest (Oireachtas, 2024)</p>	In favour	In favour	
Hungary	Yes	<p>Will defy court orders and make clear that Netanyahu is welcome in Hungary (Starcevic et al., 2024).</p>	<p>Would not arrest Putin because it is not a member of ICC (Gurmendi, 2023).</p>	Against	Against	

Nations in Question

Palestine	Yes	<p>Palestinian Authority says the arrest warrant represents hope and justice in international law and institutions.</p> <p>Hamas says it is an important step towards justice, but if not widely supported will remain only symbolic.(Ahram, 2024)</p> <p>21/11/2024</p>				
Israel	No	<p>Reject arrest warrant, say it undermines the court's legitimacy and an assault on Israel's right to defend itself (MacDonald,</p>		Against	Against	ICC still has jurisdiction over Israeli citizens because Palestine is party to the Rome

		2024). Called the warrant anti-Semitic and akin to the Dreyfus trial (Ahram, 2024). 21/11/2024				Statute, and so any crimes committed on the territory of Palestine are subject to the ICC
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Arab and Middle Eastern States

Egypt	No			In favour	In favour	
Morocco	No	Moroccan political parties welcome arrest warrants but the government is yet to issue a stance (Babas, 2021).		In favour	In favour	Signed Abraham Accords.

UAE	No		Allowed Putin to visit with no arrest (Crisp, 2023).	In favour	In favour	Signed Abraham Accords.
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Bahrain	No			In favour	In favour	Signed Abraham Accords.
Jordan	Yes	FM says ICC decisions should be implemented and respected (Al Jazeera, 2024c). 21/11/2024		In favour	In favour	
Lebanon	No	Approves of warrant and FM says that it marks an era where impunity for these kinds of crimes comes to an end (Sio, 2024).		In favour	In favour	

Iran	No	The head of the IRGC called the warrant the end and political death of Israel (Al Jazeera, 2024c).		In favour	In favour	
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		21/11/2024				
Turkey	No	Sees ICC ruling as a belated but positive decision (Ahram, 2024). 21/11/2024		In favour	In favour	
Saudi Arabia	No		Allowed Putin to visit with no arrest (Welle, 2023).	In favour	In favour	
Qatar	No			In favour	In favour	Mediated return of Ukrainian children taken by Russia to their families (Al Jazeera, 2023).

Iraq	No	Commended ICC decision to issue arrest warrant and called it		In favour	In favour	
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		<p>“courageous”</p> <p>(Rudaw, 2024).</p> <p>21/11/2024</p>				
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Other Contentious Nations

Russia	No		<p>Kremlin</p> <p>spokesperson</p> <p>said the warrant</p> <p>was outrageous</p> <p>and</p> <p>unacceptable,</p> <p>but noted that</p> <p>Russia does not</p> <p>recognise ICC</p> <p>jurisdiction</p> <p>(Reuters, 2023b).</p>	In favour	In favour	
Ukraine	No		<p>Zelensky said it</p> <p>was a historic</p> <p>decision that</p> <p>will lead to</p> <p>historic justice.</p>	Abstained	Abstained	

South Africa	Yes	Welcomes the ICC decision and	Avoided taking a specific	In favour	In favour	
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		considers it a significant step towards the ICJ case. Urged other nations to act in line with the Rome Statute (Al Jazeera, 2024c). 21/11/2024	stance, would study warrants and wait for a legal opinion (Gurmendi, 2023). Lobbied Putin to stay away from the 2023 BRICS summit in SA(Imray, 2023).			
China	No	Undeclared - FM says they hope ICC will uphold an objective and just position, and exercise its powers by the law (Ingber, 2025).	Warned ICC of double standards and urged it to remain legal rather than political (Gurmendi, 2023).	In favour	In favour	

Sudan	No			In favour	In favour	Signed the Abraham Accords.
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The United States outright rejected the arrest warrant, labelling it anti-Semitic and a threat to its allies, with some officials even threatening sanctions against the ICC or military action, for example, Republican Senator Tom Cotton threatened a military strike on The Hague if the arrest was carried through (Norton, 2024). While the Biden administration had previously lauded the ICC warrant against Vladimir Putin as a necessary step towards international justice, calling it justified and based on "very clearly committed war crimes'', its total dismissal of the same court's actions concerning Israel betrays a deeply entrenched policy of strategic inconsistency (The Guardian, 2023). The ICC's arrest warrant against Putin, issued in March 2023 for the unlawful deportation of Ukrainian children, was a highly symbolic and politically charged move (International Criminal Court, 2023). It came at a moment when European solidarity with Ukraine was at its peak, and the warrant was widely embraced by Western leaders as a demonstration that international law applies to all. Germany, France, and the United Kingdom publicly endorsed the move, with German Chancellor Olaf Scholz emphasising that "nobody is above the law" (Reuters, 2023a). However, the political motivations behind the timing and scope of the Putin warrant cannot be ignored. The ICC acted in a context where it knew it had strong Western support for taking legal action against Russia, a geopolitical adversary of NATO. This raises the critical question: had Putin not been first issued an arrest warrant, would the Court have pursued cases against Netanyahu and Gallant?

The Putin case set a precedent for prosecuting sitting world leaders, emboldening the ICC to assert its jurisdiction in politically contentious cases. But it also arguably made the issuance of warrants against Israeli leaders politically viable. The Court could now frame its actions not as uniquely targeting Israel, but as a consistent application of legal norms to any state committing grave violations, irrespective of alignment. Nonetheless, the differential

treatment of the accused is notable. Putin has faced widespread travel restrictions; he was notably absent from the 2023 BRICS Summit in South Africa following legal advice from Pretoria (Maseko & Armstrong, 2023). Netanyahu and Gallant, by contrast, have received international invitations and have not experienced the same degree of diplomatic isolation (Middle East Monitor, 2025; Starcevic et al., 2024). This disparity sends a conflicting signal about the seriousness with which the ICC's decisions are treated.

By continuing to host and engage Israeli officials under an active ICC warrant, countries subtly undermine the Court's authority. The contrast between rhetorical commitment to international justice and actual diplomatic behaviour reflects an emerging pattern of selective compliance. This not only calls into question the consistency of international legal norms but also suggests a growing willingness among states to challenge or disregard the legitimacy of the ICC when it clashes with national interest. As such, while the Putin warrant may have paved the way for broader ICC activism, the uneven implementation of its mandates reveals an imbalance between legal principle and geopolitical power dynamics.

The UK adopted a hedged posture in reaction to the Israeli arrest warrants, formally obligated to comply as a party to the ICC, yet diplomatically evasive, refusing to engage in "hypotheticals" about Netanyahu's arrest (Starcevic et al., 2024). The Netherlands, housing both the ICC and ICJ, declared it would comply effectively, upholding the court's legitimacy, however, this was expected given the reputational and institutional consequences of non-compliance for the host state of international law itself (Starcevic et al., 2024). France's refusal to comply with the ICC warrants, citing Israel's non-membership in the court, is an act of legalistic deflection (Starcevic et al., 2024). The Rome Statute stipulates that crimes committed on the territory of a member state fall under ICC jurisdiction (United Nations, 1998). Palestine, having acceded to the Rome Statute, satisfies this condition, yet France claimed Netanyahu should be immune and declined to clarify whether it would arrest Putin,

revealing political motivations behind legal positions (Reuters, 2024a). Italy's stance is similarly emblematic of this ambivalence. Its foreign and defence ministers oscillate between affirming international legal obligations and expressing political support for Netanyahu, with the Deputy Prime Minister stating he would personally welcome Netanyahu (Starcevic et al., 2024). Italy's vote in favour of the Gaza ceasefire while abstaining from the resolution to end the occupation further illustrates this hedging strategy.

Perhaps the most consequential response comes from Germany, which suggested that it may not comply with the ICC warrant against Netanyahu; this represents a rupture in both its postwar foreign policy doctrine and the European Union's legal and normative framework (Starcevic et al., 2024). While German Chancellor Olaf Scholz supported the ICC warrant against Putin, his administration indicated that arresting Netanyahu would be politically and historically unfeasible. This selective application of legal norms has consequences for EU cohesion. As a prominent member of the EU, Germany's refusal to comply with ICC rulings challenges the Common Foreign and Security Policy. It sets a dangerous precedent, calling into question the principle that EU members must uniformly uphold international law and human rights standards (EU, 1992, Art. 2). It is also a hypocritical action as candidate states seeking EU membership must modify their legal systems to align with EU law, a core member now opts to selectively adhere to those same standards (Csaky, 2024). Such hypocrisy not only weakens the EU's normative authority abroad but threatens internal solidarity, particularly among member states, like Ireland or Spain, that have vocally supported the ICC's legitimacy.

Austria's response, while affirming legal obligation to execute the warrants, is similarly ambivalent. The foreign minister called the warrant "absurd" and "incomprehensible" even while affirming its legal enforceability (Starcevic et al., 2024). Austria and Germany's simultaneous willingness to arrest Putin but reluctance regarding Netanyahu exposes a broader structural inconsistency: the West demands accountability from

its adversaries while shielding its allies. This dichotomy threatens the integrity of the rules-based international order that the West so vocally defends. Other European responses reinforce these trends. Spain and Ireland pledged compliance with the ICC, voted in favour of the ceasefire and occupation-ending resolutions, and aligned their foreign policy discourse with human rights principles (Starcevic et al., 2024). Hungary, conversely, welcomed Netanyahu and defied both ICC and EU consensus, deepening its estrangement from the bloc's legal and normative commitments. This east-west cleavage within the EU, while long-standing, now takes on a new dimension: it is no longer merely about liberal democratic values, but about the coherence of the EU's international legal posture.

Beyond Europe, the Abraham Accords emerge as a key variable in understanding Middle Eastern reactions. States such as the UAE, Bahrain, and Morocco, having normalised relations with Israel, nonetheless voted in favour of both the Gaza ceasefire and the end to occupation (AJ, 2024). This dissonance suggests a strategic balancing act: these governments maintain ties with Israel while responding to overwhelming public support for the Palestinian cause. The optics of neutrality or legal correctness are crucial for regime legitimacy in authoritarian contexts, where anti-Israel sentiment remains a potent political force. These states' silence or ambiguity on the ICC warrants, despite condemning Russia's crimes, underscores the transactional nature of international justice in the region.

Domestic political factors also shape these responses. In countries like the United States, Germany, and France, the pro-Israel lobby remains influential, and public opinion is deeply divided (Haglund & McNeil-Hay, 2011; Sharbaf, 2021). Compliance with the ICC could provoke domestic backlash or threaten coalition stability. Conversely, in Ireland or South Africa, solidarity with Palestine is a part of national identity and postcolonial foreign policy traditions (Pontarelli, 2024; Walsh, 2024). Thus, ICC compliance serves both legal and symbolic functions in these contexts, bolstering domestic legitimacy while advancing a moral foreign policy agenda.

The broader implication of these divergent responses is the erosion of the ICC's authority. The court has no enforcement mechanism, relying entirely on state cooperation for implementation. When major powers, particularly those that host or fund the court, refuse to execute its rulings, the institution risks redundancy. If compliance becomes optional or politically negotiable, then the ICC is reduced to a tool of geopolitical signalling rather than a pillar of international justice. The absence of enforcement not only weakens the court's deterrent capacity but also delegitimises its normative claims.

Legal and Political Limitations of the ICJ

The *South Africa v. Israel* case has exposed deep structural and political limitations in the ICJ's authority and enforcement capacity. Central to these limitations is the non-binding nature of the Court's advisory opinions and the challenge of securing compliance with provisional measures, particularly when geopolitical interests override international legal obligations. This case reaffirms the ICJ's doctrinal constraint: it lacks coercive enforcement mechanisms, relying on voluntary compliance or UNSC action, which is frequently hamstrung by veto politics and geopolitical alignments.

The January 2024 provisional measures, while legally binding under Article 41 of the ICJ Statute, did not dictate specific policy reversals such as ceasefires or troop withdrawals (ICJ, 2024b). Consequently, Israel's legal obligation to "prevent" genocide remains subject to interpretation, allowing it to assert that its military operations are aimed at self-defence or counter-terrorism, a common justification used by the Zionist state to navigate around ICJ constraints (VOA, 2009). This capacity to legally circumvent the Court's orders reflects a broader limitation: the ICJ cannot compel a reinterpretation of a state's assessment of its own actions, especially when states argue their conduct complies with international law through selective legal framing. Without a dedicated enforcement body, the ICJ depends on the international community, mainly the UNSC, for action. Yet, key veto-wielding members such as the United States continue to shield Israel from punitive measures, further eroding the

ICJ's authority and demonstrating the asymmetry of international law's application (BBC News, 2025). This failure to ensure compliance signals not just institutional weakness, but also reveals the geopolitical selectivity with which international law is applied. Even in the face of compelling legal arguments and documented humanitarian concerns, the ability of powerful states to influence enforcement mechanisms perpetuates a dual standard, undermining both the perceived neutrality and universality of international legal norms. The ICJ, in this context, becomes a forum for legal pronouncements without the corresponding mechanisms for implementation, where the symbolic weight of its rulings may galvanise civil society or international opinion but rarely compels change among entrenched actors.

The composition and perceived impartiality of the ICJ bench have also been subject to intense scrutiny in the *South Africa v. Israel* case. Although the election of judges by the UNGA and Security Council is intended to ensure geographic and legal diversity, this process is not immune to political influence (Larsson et al., 2022). States often lobby for the appointment of candidates whose legal philosophies align with their national interests, and once appointed, judges may bring with them entrenched interpretive frameworks shaped by the legal cultures and diplomatic stances of their home countries. This issue became particularly salient in the 2024 proceedings, where Israel and South Africa each exercised their right under Article 31 of the ICJ Statute to appoint ad hoc judges, Aharon Barak for Israel and Dikgang Moseneke for South Africa (Fabricius, 2024; Masri, 2024). These appointments were not merely symbolic; both individuals held significant domestic legal and political gravitas, and their inclusion on the bench reinforced national narratives within the international legal arena. The use of ad hoc judges, particularly when they have well-known affiliations with the appointing state's policies, can compromise the perception of neutrality and can influence deliberative dynamics within the Court. For example, Barak, a former president of the Israeli Supreme Court, has been a vocal advocate of Israel's security doctrine, which he has historically used to justify measures seen by others as violations of

international law (Masri, 2024). Conversely, Moseneke has long championed human rights and transitional justice frameworks that underpin South Africa's case (Fabricius, 2024). The divergent judicial philosophies at play underscore the challenge of achieving consensus in politically sensitive cases where legal interpretation is inseparable from ideological positioning.

This dynamic reflects a broader critique of the ICJ's structure, where the impartiality of the bench, though institutionally mandated, is constantly tested in cases involving allegations against major geopolitical actors. The Court's aspiration to legal neutrality is thus constrained by the very mechanisms through which judges are selected. In highly politicised disputes such as *South Africa v. Israel*, the appearance of judicial bias, whether real or perceived, risks undermining the ICJ's legitimacy and its ability to present itself as an unbiased arbiter of international law.

ICJ and ICC Interactions with Other UN Bodies

The relationship between the ICJ, the ICC, and other UN bodies, particularly the UNSC, underscores intricate dynamics framed by cooperation and inherent jurisdictional constraints within international law. The ICJ's mandate, articulated through the United Nations Charter (Article 92) and its Statute, underscores judicial independence. However, the court's jurisdiction remains contingent upon state consent or explicit requests for advisory opinions from UN organs like the UNSC or the General Assembly. The *South Africa v. Israel* case highlighted this doctrinal tension; despite issuing provisional measures requiring Israel to prevent potential acts of genocide and facilitate humanitarian access, the ICJ stopped short of ordering broader measures such as a ceasefire (ICJ, 2024b). This judicial restraint aligns with the Court's cautious doctrinal interpretation of jurisdictional limits and underscores the lack of self-contained enforcement mechanisms inherent in its mandate, relying instead upon political enforcement by the UNSC as stipulated under Article 94 of the UN Charter.

Similarly, the ICC's interaction with UN bodies reflects both doctrinal limitations and

political complexities embedded in its foundational Rome Statute. Particularly, Article 13(b) of the Rome Statute allows the UNSC to refer situations involving non-state parties to the ICC, thereby expanding the Court's jurisdictional reach (United Nations, 1998). Conversely, Article 16 provides the UNSC the authority to defer ICC prosecutions for renewable periods, introducing a significant political dimension to the ICC's ostensibly judicial mandate. Within the Israel-Palestine context, Palestine's accession to the Rome Statute enables ICC jurisdiction over alleged international crimes committed within its territory, but actual prosecutions remain doctrinally and politically contentious, heavily influenced by UNSC political dynamics.

The ICJ and ICC's doctrinal interactions with the UNSC before, during, and after judicial decision-making reveal deep-seated institutional tensions between judicial impartiality and the practical realities of international politics, significantly shaping their operational capacities and perceived legitimacy. Prior to judicial decisions, both courts rely substantially on political consensus within the UNSC or explicit initiatives from this body to activate jurisdiction or legitimate proceedings (Kotecha, 2020). This initial dependency reflects inherent doctrinal limitations, exposing judicial institutions to political manipulation and strategic calculations rather than purely legal considerations. During judicial processes, the UNSC's involvement becomes more pronounced, particularly under Chapter VII of the United Nations Charter, which grants the Council authority to determine and respond to threats to international peace and security. UNSC resolutions enacted under this chapter possess a legally binding force, directly influencing or potentially disrupting judicial autonomy and impartiality. A prominent doctrinal example is found within Article 16 of the ICC's Rome Statute, which explicitly empowers the UNSC to defer ICC investigations and prosecutions for renewable periods of one year, based on political decisions rather than judicial assessments. Such mechanisms inherently politicise judicial actions, conditioning court proceedings on international diplomatic considerations rather than strictly legal criteria.

Following judicial decisions, the crucial enforcement stage starkly demonstrates the courts' doctrinal vulnerabilities to political obstruction. Since neither the ICJ nor the ICC possesses autonomous enforcement mechanisms, they rely fundamentally on the UNSC for compliance and implementation of their judgments or orders (United Nations, 1945b, Art. 94; United Nations, 1998, Art. 87). This dependency creates pronounced vulnerabilities, especially in politically sensitive or contentious situations where divisions among UNSC permanent members emerge. The South Africa v. Israel case distinctly highlights these vulnerabilities. The ICJ's provisional measures calling on Israel to mitigate actions potentially amounting to genocide and facilitate humanitarian access were significantly undermined by the UNSC's failure to enact supportive enforcement measures (Amnesty International, 2024). This failure, driven by geopolitical divisions and particularly influenced by the United States' consistent strategic backing of Israel, underscores a critical doctrinal limitation in international judicial enforcement mechanisms. Such political fragmentation within the UNSC reveals significant weaknesses in upholding judicial decisions, eroding both the authoritative stature and practical effectiveness of international courts.

Chapter Six: Discussion

At first glance, the ICJ's issuance of provisional measures in response to South Africa's genocide complaint against Israel appears to meet the expectations of international justice. The measures order Israel to prevent genocidal acts and enable humanitarian aid, thus seemingly vindicating South Africa's claims. However, in practice, these measures have done little to halt the ongoing military campaign in Gaza. The court's ruling, although legally significant, inadvertently allowed Israel to continue its operations under the guise of compliance, offering rhetorical denials of genocidal intent while escalating the humanitarian catastrophe. Israel's insistence that its actions are directed solely against Hamas, coupled with the ICJ's cautious language, provides the aggressor with a legal and political buffer that fosters impunity. This disjuncture between the normative force of the ICJ's judgment and its

lack of coercive power highlights a central dilemma: the Court may affirm international legal standards, but it cannot compel compliance in the absence of political will.

A key issue in this context is the temporal disparity between the courts' procedural timelines and the urgency of ongoing violence. The ICJ's reliance on lengthy proceedings, necessary for procedural integrity and evidentiary rigor, stands in sharp contrast to the speed and intensity of modern military operations. Even if the ICJ were ultimately to rule in favor of South Africa's genocide claim, the verdict would likely come post-facto, long after the mass atrocities had taken place. As such, the ICJ risks merely providing legal condemnation after the fact, failing to fulfill its purported function as a tool for preventing grave breaches of international law. This exposes a profound structural limitation: international judicial bodies operate according to the logic of adjudication, not the logic of emergency. In cases like Gaza, where the scale and immediacy of violence demand rapid action, the ICJ's temporal framework can serve to reinforce, rather than deter, state-led aggression.

This disconnect can be understood through the lens of conflicting temporalities: the victim's time, marked by urgency and survival; the aggressor's time, governed by strategy and maneuver; and the judge's time, dictated by deliberation and due process. These timeframes rarely align. The aggressor often exploits the procedural lag inherent to legal institutions to consolidate gains or obfuscate responsibility. Israel's continued offensive, even after the ICJ's preliminary ruling, exemplifies this phenomenon. Thus, while the ICJ cannot be faulted for failing to act as a political enforcement mechanism, it is a court, not an interventionist body; it remains crucial to interrogate the broader implications of this judicial lag. If the Court cannot act swiftly enough to influence ongoing crimes, then its relevance in active conflict zones is dramatically undermined.

In principle, the ICC offers a potential corrective to this limitation. Unlike the ICJ, whose jurisdiction is limited to inter-state disputes and non-binding advisory opinions, the ICC possesses a prosecutorial mandate aimed at individual accountability. In theory, its

capacity to issue arrest warrants against sitting political and military leaders could serve as a tool for deterrence and disruption of ongoing atrocities. However, the ICC's arrest warrants against Netanyahu and Gallant illustrate both the promise and peril of this approach. The warrants, though legally well-founded and supported by substantial evidence, have not resulted in any tangible shift in Israeli policy or restraint. Instead, they have been met with outright rejection by Israel and a tepid, often hostile, response from major international actors. The refusal of key Western states, some of which are ICC members, to execute the warrants not only reflects the breakdown of the rules-based order but also exposes the structural vulnerability of the ICC itself. Without consistent enforcement by member states, the Court's decisions remain symbolic gestures, rather than instruments of accountability. The ICC's inaction during the initial months of the Gaza conflict, followed by a delayed issuance of arrest warrants, further demonstrates the challenges of addressing ongoing criminal acts through conventional legal mechanisms. While the ICC's evidentiary threshold is rightly high, necessitating rigorous documentation and substantiation, the abundance of real-time evidence in this case, ranging from satellite imagery to public statements by Israeli officials, raises legitimate questions about the pace and priorities of international prosecution. The delay undermines the Court's deterrent capacity and lends credence to the perception that political considerations shape prosecutorial decisions as much as legal ones. If justice is to have meaning in active conflict zones, then international courts must find ways to distinguish between the adjudication of past crimes and the prevention of ongoing atrocities. The conflation of these two temporalities leads to legal processes that are misaligned with the needs of victims and ill-equipped to disrupt patterns of impunity.

The effect of the ICJ ruling on the broader prospects for conflict resolution in Israel-Palestine must therefore be seen as mixed at best. On one hand, it reaffirms the normative framework of international humanitarian law and articulates the illegality of certain Israeli actions. On the other hand, it offers no immediate protection to Palestinian civilians, and its

provisional measures, however well-intentioned, lack both enforceability and clarity. Rather than restraining Israel, the ruling has arguably emboldened its claims of legal compliance, contributing to a façade of accountability that masks continued violence. The court's reliance on legal formalism, divorced from practical enforcement mechanisms, allows Israel to maintain its narrative of self-defence and humanitarian concern while intensifying its military campaign.

Similarly, the ICC arrest warrants, though more pointed in their attribution of criminal responsibility, have so far had minimal practical impact on conflict dynamics. They have not curtailed Israeli operations in Gaza, nor have they prompted significant diplomatic consequences for the accused. Instead, the global reaction to the warrants has illuminated the fragility of the international justice system. That key ICC member states can openly defy their obligations, or offer selective interpretations of legal immunity based on political affinity, suggests that adherence to international law remains subordinated to strategic interests. The case of Israel, like that of the United States or Russia, reveals a dual track of legal accountability: one for weaker states and non-state actors, and another, more flexible standard for powerful allies of the West. This double standard does irreparable harm to the perceived impartiality and legitimacy of the ICC.

Nonetheless, it would be reductive to dismiss the ICJ and ICC entirely as ineffective. Their rulings, even when unenforced, serve symbolic and discursive functions that shape international norms. The ICJ's 2004 Advisory Opinion on the West Bank Barrier, for example, continues to be cited in human rights litigation and UN resolutions, despite Israel's rejection. Similarly, the current genocide case and ICC arrest warrants may not immediately halt the conflict, but they have already altered the global conversation around Israeli accountability. The ICC's actions, in particular, have challenged the long-standing narrative of Israeli exceptionalism and introduced legal pressure points that could gain traction if political conditions shift. The symbolic value of these rulings, while insufficient in

themselves, may nonetheless contribute to longer-term shifts in international legal discourse and policy.

That said, symbolic action must not become a substitute for meaningful enforcement. If international courts are to retain their legitimacy, they must confront their limitations with honesty and seek institutional reforms that enable more responsive and impactful action. This may include the development of expedited procedures for cases involving ongoing crimes, greater coordination with UN enforcement bodies, and stronger mechanisms for holding member states accountable to their treaty obligations. Above all, it requires a political reckoning within the international community: a collective decision to prioritize justice over strategic convenience.

In preliminary response to the research question, this discussion suggests that while both courts have provided essential legal frameworks and moments of symbolic accountability, they have not materially altered the course of the current conflict. The ICJ's rulings, while normatively powerful, have been procedurally cautious and politically constrained, enabling continued violence under the veil of legality. The ICC's prosecutorial efforts, though ambitious, have so far failed to produce tangible deterrence or compliance. Both courts have exposed the deep structural limitations of legalism in the face of entrenched impunity and geopolitical inertia. In this light, their actions should be understood not as failures per se, but as illustrative of the limits of law in the absence of political enforcement. Their efficacy, therefore, is not absolute, but conditional, dependent on the willingness of states to act in concert with the principles they claim to uphold.

Chapter Seven: Conclusion

This paper has evaluated the efficacy of the ICJ and the ICC in addressing the Israel-Palestine conflict, with particular attention to their legal interventions following the events of October 2023. Through doctrinal and political analysis, it has been shown that while both courts play crucial symbolic roles in the articulation of international legal norms, their

structural and procedural limitations severely undermine their capacity to prevent or halt ongoing crimes. The ICJ's provisional measures, although aligned with South Africa's allegations of genocide, have not yielded tangible protective outcomes for Palestinian civilians. Similarly, the ICC's arrest warrants against Israeli officials, while unprecedented in their attribution of criminal responsibility, remain unenforced due to geopolitical resistance and selective adherence by member states. Together, these institutions exemplify a legal order that is formally coherent but practically impotent in moments of acute humanitarian crisis.

A core finding of this study is the temporal misalignment between legal procedures and the urgency of mass atrocity contexts. The ICJ's deliberate pace, necessary for judicial integrity, renders it functionally inadequate in responding to rapidly evolving genocidal acts. The ICC's evidentiary standards and prosecutorial discretion, while essential for legitimacy, have similarly hindered timely action. This delay enables the aggressor to manipulate legal ambiguity and claim compliance while continuing hostilities. In this regard, the legal system not only fails to prevent harm but may inadvertently legitimize it through procedural inertia.

The limitations of this paper must be acknowledged. The Israel-Palestine conflict, particularly in its current iteration, remains ongoing, and both legal cases, *South Africa v. Israel* at the ICJ and the ICC's prosecution of Netanyahu and Gallant, are in active development. As such, any assessment of the courts' ultimate efficacy remains provisional. In addition, access to high-level stakeholders such as judges, prosecutors, or government officials was limited, and the analysis thus relied on secondary reporting, official documents, and one expert interview. These constraints, while inevitable in research of this nature, underscore the importance of continued study as legal outcomes unfold.

Nonetheless, this paper makes several critical recommendations. First, in cases involving ongoing criminal acts, the ICJ should adopt an expedited procedural framework that enables it to issue provisional measures within days rather than weeks. This would allow

for quicker international signaling and possibly disrupt genocidal momentum. Second, where the ICJ finds a plausible case of genocide, the ICC should be obligated to respond immediately, initiating investigations or provisional prosecutorial action. Coordination between these courts must move from parallelism to synergy. Third, the ICJ and ICC should draw lessons from past interventions, such as the Rohingya genocide or the 2004 Advisory Opinion on the West Bank Barrier, to build jurisprudential continuity that empowers future rulings. This may include stronger statements on third-party state obligations and enforcement mandates, which could shape the diplomatic and legal terrain surrounding any final judgments.

Ultimately, the Israel-Palestine case reveals a disconcerting truth: the global rule-based order is not merely failing; it is absent in Palestine. Legal norms, however well-articulated, have not translated into protection, accountability, or peace. This crisis must prompt a profound rethinking of how the international community conceptualizes and enforces law in geopolitical contexts. It is high time to envision a new global legal order, one that is not merely aspirational but enforceable, one that centers victims rather than procedures, and one that reflects the moral urgency of justice in real time.

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