

Mohammed R. M. Elshobake, 2019

Volume 5 Issue 1, pp. 827-845

Date of Publication: 28th May 2019

DOI-<https://dx.doi.org/10.20319/pijss.2019.51.827845>

This paper can be cited as: Elshobake, M. R. M., (2019). *International Responsibility of the Israeli Aggression on Gaza Strip in 2014*. PEOPLE: International Journal of Social Sciences, 5(1), 827-845.

This work is licensed under the Creative Commons Attribution-Non Commercial 4.0 International License. To view a copy of this license, visit <http://creativecommons.org/licenses/by-nc/4.0/> or send a letter to Creative Commons, PO Box 1866, Mountain View, CA 94042, USA.

INTERNATIONAL RESPONSIBILITY OF THE ISRAELI AGGRESSION ON GAZA STRIP IN 2014

Mohammed R. M. Elshobake

PhD in Law, International Islamic University, Selangor, Malaysia

mshobake@hotmail.com

Abstract

On 8th July 2014, the Israeli occupation commenced a military operation against the Gaza Strip. This offensive lasted 50 days, between 8th July to 28th August 2014. During this period, the Israeli military committed many international crimes, which killed thousands of Palestinian civilians, destroyed thousands of civilian objects, and caused a humanitarian crisis in the Gaza Strip. This paper will discuss the effects of the Israeli operation on the Gaza Strip. This paper also seeks to detail the crimes committed by Israeli military during its aggression upon the Gaza Strip in 2014. We examine the international responsibility of the Israeli Aggression in the context of international law, and mainly used analytical and library research to realize this. The rules of international law in general, and international humanitarian law in particular, were utilized in this study to elucidate the legal descriptions. It was confirmed that the Israeli occupation committed war crimes, crimes against humanity, and genocide during the course of their aggression. There are problems in the International Criminal Court (ICC) proceedings, which may prevent the Israeli military from facing a trial. We intend to provide alternative to trials, due to the perceived ineffectiveness of the ICC.

Keywords

Gaza Strip, Aggression, International Law and Responsibility, Trial Procedures

1. Introduction

1.1 Background of the Study

For 70 years, Palestine has been under Israeli occupation, with their freedom and rights being continuously violated. These violations are inconsistent with both the rules of international law and international humanitarian law.

One of the most obvious violations committed by the Israeli occupation is the military aggression of its military upon the Gaza Strip in 2014, which took place between 8th July 2014 to 28th August 2014. The operation killed and injured thousands of innocent Palestinians, displaced thousands of Palestinian people, destroyed many civilian structure, bombed places of worship and graveyards, and Intentionally directing attacks against medical units and educational buildings (Euro-Mediterranean Human Rights Monitor, 2014).

These damages included all aspects of life, services, and facilities (UN OCHA-OPT, 2014). They also incidentally confirmed that this aggression is not merely a military operation, but a collective punishment for the people of Gaza.

The Gaza strip has been suffering from a continuous siege and dire economic situation for a decade. Moreover, the Israeli occupation violated most of provisions of international humanitarian law during their aggression upon the Gaza Strip in 2014 via inhuman practices in Palestinian territories, which are regarded by the international community as criminal offenses according to the Rome Statute of the International Criminal Court (UN independent commission of inquiry, 2015 ; FIDH, 2014).

After Palestine became an Observer State in the UN, it ratified several international conventions including the Rome Statute of the International Criminal Court which was ratified on 1st April 2015 and the State of Palestine accepted the jurisdiction by the Court with respect to the aggression on Gaza via a declaration lodged with the court registrar from 13th June 2014 (International Criminal Court, 2014).

Discussing this issue is important, as it helps explain the crimes of the Israeli occupation and the international responsibility of the commission of these international criminal offences in the light of international law especially the Rome Statute of the International Criminal Court.

1.2 Statement of the Problem

The Israeli occupation committed several violations during their aggression against the Gaza Strip in 2014. The problem of the study is clarifying the nature of these violations accordance with the rules of international law especially the Geneva Conventions and the Rome Statute of the International Criminal Court, the international responsibility based on them, and the effectiveness of the International Criminal Court in trial the perpetrators of these violations.

1.3 Objectives of the Study

The study aims to accomplish the following objectives:

- (1.3.1) To seek details of the crimes committed by Israeli military during its aggression upon the Gaza Strip in 2014.
- (1.3.2) To examine the international responsibility of the Israeli Aggression in the context of international law.
- (1.3.3) To identify mechanisms for operation of organs of the International Criminal Court.
- (1.3.4) To clarify problems of the International Criminal Court which affected its effectiveness.

1.4 Hypothesis

The researcher has formulated two hypotheses:

- (1.4.1) The Israeli violations committed during the aggression on the Gaza Strip in 2014 constitute international criminal offenses in accordance with the rules of international law.
- (1.4.2) There are many problems in the mechanisms of the International Criminal Court (ICC) that have a negative effect on its effectiveness.

1.5 Literature Review

International criminal law has been the subjects of a number of studies. However, the legal studies and researches concerning International Responsibility of the Israeli Aggression on Gaza Strip in 2014 are limited. The researcher will focus on the most important of these studies as follows:

Geneva Academy in “The Armed Conflict in Israel-Palestine” focuses on the violations in Jerusalem and the West Bank, the siege imposed on the Gaza Strip nearly ten years ago, political reconciliation between the political parties in Palestine, the Palestinian situation in the International Criminal Court. However, the study did not focus on the effects of the Israeli aggression on the Gaza Strip in 2014, the nature of these crimes, and the mechanisms of the trial to be followed (Ferrer M., 2018).

“Abu Jafar A.” in his research focuses on the Israeli International Legal Liability Resulted from Gaza Strip Blockade in the Light of International Law Rules. This research deals with the Israeli siege on the Gaza Strip and its international responsibility. However, it did not cover the rest of Israeli practices committed by the Israeli occupation on the Gaza Strip (Abu Jafar A., 2017).

“Basal M.” wrote his thesis about the criminal responsibility for the Israeli occupation of his crimes in the Gaza Strip. This study discussed the nature of the Israeli crimes committed in the Gaza Strip during the aggression in 2014 and the options to prosecute the Israeli occupation. However, this study did not clarify the circumstances of the trial of the Israeli occupation in the International Criminal Court (Basal, 2016).

“Wadi A.” and “Sawafta Y.” wrote their papers regarding the adaptation of the Israeli crimes on Gaza Strip in 2014. These papers explained the nature of the Israeli crimes committed in the Gaza Strip during the aggression in 2014. However, they did not cover the International responsibility of the Israeli aggression on Gaza Strip in 2014 (Wadi A.,2014 ; Sawafta Y.,2015).

A work entitled “The impact of recognition of the Palestinian state on Israel's responsibility for its crimes against the Palestinian people” by “Al-Kilani F.”, discussed the International legal status of Palestine, international recognition, categories of Israeli crimes, theoretical analysis of international responsibility. However, this study did not address the nature of Israeli crimes committed by the Israeli occupation against the Palestinian people, and it is a precedent for the Israeli aggression on the Gaza Strip in 2014 (Al-Kilani, 2013).

“Maurer P.” talked in his article about the Challenges to international humanitarian law: Israel's occupation policy. This article deals with the history of the Israeli occupation of Palestine, some violations of the Israeli occupation, the humanitarian situation of the Palestinian people, the role of the International Committee of the Red Cross. However, this article did not address the international criminal responsibility for violations of the Israeli occupation against the Palestinian people (Maurer P., 2012).

“International criminal responsibility for crimes resulting from the aggression on Gaza” written by “Ali A.”, discusses the Israeli violations against the Gaza Strip in 2008, the weapons used in this aggression, and the international theoretical responsibility for this aggression. However, this paper did not discuss the practical reality of Israel's prosecution in the International Criminal Court (Ali, 2010).

1.6 Research Methodology

This study will use mainly analytical and library research. The materials for this research are collected from the primary sources including statutes and regulations, besides secondary sources such as books, academic journals, articles, reports, theses. The research analyses data and information that relates to the Israeli aggression on Gaza 2014 and the International Criminal Court to study International responsibility of the Israeli Aggression in the context of international law and an effectiveness of International Criminal Court in trial of international criminals.

1.7 Scope and Limitation of Study

The scope of discussion is focused primarily on the Israeli aggression on Gaza 2014 in light of the International Criminal Law. In addition, the spatial limitations of the subject are the Gaza Strip, and the time limitations are from 2014 until today.

1.8 Contents of the Study

This study will be explained according to the following points: The Status of Gaza Strip under International Law, crimes committed by Israeli military during its aggression upon the Gaza Strip in 2014, International responsibility of the Israeli Aggression in the context of international law, and trial procedures of Israeli occupation which contained mechanisms for operation of organs of the International Criminal Court and problems of operation of International Criminal Court affecting its effectiveness.

2. The Status of Gaza Strip under International Law

The Gaza Strip is a small part of Palestinian land. It is located on the eastern coast of the Mediterranean Sea. The length of Gaza is 41 km, and it measures 5 - 15 km wide, covering an area of 60 km² (Salem, 2011). Egypt borders the Gaza strip on the southwest, while Israel "Palestine occupied" share northern and eastern borders (Guo, 2007). The population in Gaza numbers ~2 million, and it is regarded as one of the most densely populated locations in the world (Alsaedi, 2016).

The British Mandate was in charge of Palestine from the end of World War 1 until May 1948. In 1948, Israel occupied ~77% of Palestinian land, but the Gaza Strip was controlled by Egypt, while the West Bank came under the sovereignty of Jordan (The Jerusalem Media and Communications Centre, 2010). Israel eventually come to occupy all Palestinian territories,

including the West Bank and Gaza Strip in 1967, and this occupation continues up till the present day (Smuha, 2014).

Generally, the Israeli entity considers the Palestinian territories as opposed to occupied (Gold, 2005). Therefore, the Israeli occupation argues that Geneva Conventions is inapplicable on Palestinian land due to: (1) Israel occupied the Palestinian territories in 1967 as a consequence of a defensive war against Egypt and Jordan, who illegally captured them in 1948 (Gold, 2005). (2) “Missing Reversioner theory” means that the Geneva Conventions are only applicable on sovereign land, despite Palestinian disagreement (Blum, 1968 ; Takahashi, 2009). (3) The Geneva Conventions is not binding upon Israel due to the Knesset (Israel's Legislative Council) not issuing any legislation to prove so (Kretzmer, 2012). However, the international community, especially International Court of Justice (ICJ), UN General Assembly, and the UN Security Council disagree with Israel, instead, they support the application of the Geneva Conventions on Occupied Palestinian Territories (Benvenisti, 2004).

The Oslo agreement between the Palestinian Authority (PA) and Israeli entity in September 1993 affirmed the right of the Palestinian people for self-government, which prompted the Israeli occupation to retreat from the Gaza Strip in 1994 (Rastogi, 2008). However, the Israeli occupation did not end with the Oslo agreement, because the end of actual occupation require that Israel relinquish control over the entirety of Palestinian territories (Pecdar, 2009).

Although the Israeli entity vacated its military from the Gaza strip in 2005, it still controls everything around the Gaza Strip, including its airspace, ocean access, and borders and crossings. The Israeli occupation has the ability to enter Gaza Strip at any time, and it keeps a buffer zone inside the Gaza Strip (Salem, 2011). Furthermore, the Gaza Strip is dependent on Israel for many necessities, such as electricity, communications, goods, and fuel. Therefore, the withdrawal of Israeli forces from the Gaza Strip is regarded as a redeployment or partial withdrawal instead of an end to the occupation (Hajjar, 2014).

Based on these information, the Gaza Strip is regarded as an occupied territory and is governed by the rules of international humanitarian law (Samson, 2010). This means that any aggression by the Israeli occupation is regarded as a violation of the rules of International humanitarian law (IHL).

3. Results of Israeli aggression on the Gaza Strip in 2014

The Israeli aggression on the Gaza Strip caused a humanitarian crisis due to the international crimes committed by the Israeli occupation, such as:

3.1 Killing and Wounding Civilians

The protection of civilians is one of the foundations of international humanitarian law, and because of that the Geneva Convention established the rules for the protection of civilians in time of war (Fourth Geneva Convention, article 3). Attacks against civilians and causing their death or injury are considered international criminal offenses (Basal, 2016). However, the Israeli occupation killed more than (2147) Palestinians, (81%) of them civilians, including (530) children, (302) women, and (11) of UNRWA staff (Euro-Mediterranean Human Rights Monitor, 2014). The number of families killed by Israeli forces during the onslaught on the Gaza Strip were 144 (Abed Alati, 2014).

In addition, more than 11,000 Palestinians were injured, with (3,303) being children and 2,101 women (Euro-Mediterranean Human Rights Monitor, 2014; UN OCHA-OPT, 2014). Moreover, ~1,000 children suffer from permanent disabilities due to their injuries, as reported by the Defence for Children International (Defence for Children International Palestine, 2015).

3.2 The Forced Displacement of the Palestinian People

The crime of forced displacement is a crime against humanity. It means forced displacement of the persons concerned by expulsion or other coercive acts from the area in which they are lawfully present, without grounds permitted under international law (Rome Statute, article 7). However, the Israeli occupation attacked (18,000) Palestinian houses in the Gaza Strip during the offensive using all manner of bombs and rockets. As a result of this, (110,000) people from Gaza were displaced from their homes (UN OCHA-OPT, 2014). Moreover, the percentage of Palestinians who were displaced from Gaza during the aggression was 59% of the population of Gaza according to the Palestinian Central Bureau of Statistics (PCBS, 2015).

3.3 The Destruction of Houses and Civilian Objects

International humanitarian law prohibits the destruction of civilian property and objects unless there is justification and military necessity (Fourth Geneva Convention, article 53). However, the Israeli occupation launched thousands of attacks against houses and civilian

objects randomly without justification, which caused the destruction of these civilian objects totally or partially. The number of houses and civilian infrastructure damaged in the Gaza Strip during the aggression was (96,000) civilian facilities (UNRWA, 2014) and (18,000) houses were completely destroyed according to a report by the United Nations (UN OCHA-OPT, 2014).

Furthermore, Israeli occupation bombed (1000) factories and industrial objects, (400) of which were completely destroyed (Alhayek, 2014). The agricultural sector was also mostly damaged. The loss was reported to be \$251 million, as per the report of the Ministry of Agriculture of Gaza (Ministry of Agriculture, 2014).

3.4 The Destruction of Charities

Charities are civil objects that are prohibited from being destroyed or shelled during wartime unless there is military necessity (Fourth Geneva Convention, article 53). Nevertheless, the Israeli occupation destroyed (22) charities providing humanitarian assistance without legal justification. The destruction of these associations in the Gaza affected a total of (180, 000) people (Wafa, 2014).

3.5 Intentionally Directing attacks against Buildings, Material and Medical Units

Intentionally directing attacks against buildings, materials and medical units is a serious violation of the laws and customs applicable to international armed conflicts in international law (Rome Statute, article 8). However, the Israeli occupation directly attacked (10) hospitals, (13) health centres, and (36) ambulances, which killed (23) medical staff (Euro-Mediterranean Human Rights Monitor, 2014 ; Wafa, 2014).

3.6 Intentionally Directing attacks against Educational and Cultural Buildings

One of the war crimes is directing attacks against educational and cultural buildings according to Rome Statute of the International Criminal Court (Rome Statute, article 8). Nevertheless, the Israeli occupation directly attacked (278) schools, (12) universities, and (199) kindergartens, all of which were severely damaged. The combined values of these buildings are \$(33,130,687,2), as per the report of the Ministry of Education and Higher Education in Gaza (Ministry of Education, 2014).

The Israeli occupation forces shelled more than (70) archaeological sites. The loss of the cultural sector was estimated at \$850,000 according to the Ministry of Tourism and Antiquities in Gaza (Ministry of Antiquities, 2014).

3.7 The Bombing of Places of Worship and Graveyards

International humanitarian law prohibits attacks on places of worship and cemeteries because these places are sanctified and cannot be violated (Najadi, 2013). However, the Israeli occupation bombed (180) mosques, with (62) of them completely destroyed, along with one church that was partially destroyed. Moreover, (10) Muslim graveyards and one Christian graveyard were severely damaged (Aljazeera, 2014 ; Wafa, 2014).

3.8 Tightening the Blockade on the Gaza Strip

The Israeli blockade of the Gaza Strip is a method of warfare imposed by the Israeli occupation. It prevents Palestinian people in the Gaza Strip from the movement. Israeli occupation according to this blockade controls the air, sea and land completely (Abu Jafar A., 2017). It can be said that the Israeli occupation tightened the siege on the Gaza Strip before, during, and after its 2014 aggression, making life almost unbearable (Issa, 2014).

4. International Law and Responsibility of the Israeli Occupation

International Law is divided into several branches, the most important is the international humanitarian law (IHL) or Law of Armed Conflict (LOAC). This law is related to the protection of civilians from the effects of wars or armed conflicts (Bouvier, 2012).

One of the most important sources of international humanitarian law are the Geneva Conventions, Additional Protocols, Hague Conventions, and Rome Statute of the International Criminal Court (Bouvier, 2012).

During the Israeli aggression on Gaza Strip 2014, the Israeli occupation violated most of provisions of international humanitarian law via inhuman practices in Palestinian territories, which are regarded by the international community as criminal offenses according to the Rome Statute of the International Criminal Court, namely:

4.1 War Crimes

Rome Statute of the International Criminal Court states that: " "war crimes" are defined as:

(a) Grave breaches of the Geneva Conventions of 12th August 1949, namely, any of the following acts against persons or property protected under the provisions of the relevant Geneva Convention:

- (i) Wilful killing ...

(b) Other serious violations of the laws and customs applicable in international armed conflict, within the established framework of international law, namely, any of the following acts:

- (i) Intentionally directing attacks against the civilian population as such or against individual civilians not taking direct part in the hostilities;
- (ii) Intentionally directing attacks against civilian objects, that is, objects that are not military objectives;
- (iii) Intentionally directing attacks against personnel, installations, material, units or vehicles involved in a humanitarian assistance or peacekeeping mission in accordance with the Charter of the United Nations, as long as they are entitled to the protection given to civilians or civilian objects under the international law of armed conflict;
- (iv) Intentionally launching an attack in the knowledge that such attack will cause incidental loss of life or injury to civilians or damage to civilian objects or widespread, long-term, and severe damage to the natural environment that would be clearly excessive in relation to the concrete and direct overall military advantage anticipated;
- (v) Attacking or bombarding, by whatever means, towns, villages, dwellings, or buildings that are undefended and are not military objectives; ...
- (viii) The transfer, directly or indirectly, by the Occupying Power of parts of its own civilian population into the occupied territory, or the deportation or transfer of all or parts of the population of the occupied territory within or outside this territory;
- (ix) Intentionally directing attacks against buildings dedicated to religion, education, art, science or charitable purposes, historic monuments, hospitals and places where the sick and wounded gather, provided they are not military objectives ...
- (xvii) Employing poison or poisoned weapons;
- (xviii) Employing asphyxiating, poisonous or other gases, and all analogous liquids, materials, or devices;
- (xix) Employing bullets that expand or flatten in the human body, such as bullets with a hard envelope that does not entirely cover the core or those that are pierced with incisions;
- (xx) Employing weapons, projectiles, and material and methods of warfare that causes superfluous injuries or unnecessary suffering, or those that are inherently indiscriminate in violation of the international law of armed conflict, provided that such weapons,

projectiles, and material and methods of warfare are subject of a comprehensive prohibition and are included in an annex to this statute, by an amendment in accordance with the relevant provisions set forth in Articles 121 and 123;

(xxi) Committing outrages upon personal dignity, in particular humiliating and degrading treatments ...

(xxiv) Intentionally directing attacks against buildings, material, medical units and transport, and personnel utilizing the distinctive emblems of the Geneva Conventions in conformity with international law;

(xxv) Intentionally using starvation of civilians as a method of warfare by depriving them of objects indispensable to their survival, including wilfully impeding relief supplies provided for under the Geneva Conventions ... " (Rome Statute, article 8).

This article shows several forms of war crimes, which were committed by the Israeli occupation during the aggression on Gaza, such as (killing more than (2147) Palestinians, (81%) of them civilians, killing (11) of UNRWA staff, killing (23) of the medical staff, displacement of (110,000) Palestinians, the destruction of (96,000) civilian objects, directing attacks against more than (59) of buildings, materials, and medical units, and directing attacks against more than (700) buildings dedicated to religion, education, or charitable purposes). Generally, these crimes were committed as a part of wide-scale commission. It is therefore clear that the Israeli occupation committed war crimes in its 2014 onslaught according to article 8 of the Rome Statute of the ICC.

Moreover, a report of the independent commission of inquiry - established pursuant to Human Rights Council Resolution S-21/1 – emphasized that the Israeli occupation violated international humanitarian law and international human rights law. These violations could be considered war crimes based on that report (UN independent commission of inquiry, 2015).

Furthermore, International Federation for Human Rights issued a report entitled (Trapped and Punished: The Gaza Civilian Population under Operation Protective Edge), which accused the Zionist occupation of committing war crimes and crimes against humanity during the offensive on the Gaza Strip in the summer of 2014 (FIDH, 2014).

Also, Amnesty International proved that the Israeli occupation has committed war crimes and other crimes that may amount to crimes against humanity in Rafah city during the period between 1st and 4th July/August 2014 (Amnesty International, 2015).

4.1 Crimes against Humanity

The Rome Statute of the International Criminal Court states that: " 1. For the purpose of this Statute, "crime against humanity" means any of the following acts when committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack: (a) Murder; (b) Extermination; (c) Enslavement; (d) Deportation or forcible transfer of population ... " (Rome Statute, article 7).

This article illustrates some acts that constitute crimes against humanity, which was committed by the Israeli occupation. These acts include:

- **Murder and Extermination:** The numbers of Palestinians who were killed is more than (2147), with most of them being civilians in large-scale or systematic attacks. In addition, the Israeli occupation used the land, sea, and air to enforce more than (60.664) raids on Gaza, which prove that Murder and Extermination were indeed widespread or systematic (Euro-Mediterranean Human Rights Monitor, 2014).
- **The forced displacement of (110,000) Palestinian civilians in large-scale or systematic attack by bombing and destroying tens of thousands of Palestinian homes.**

It can be argued that Amnesty International and International Federation for Human Rights support the fact that Israel has committed crimes that may amount to crimes against humanity (Amnesty International, 2015 ; FIDH, 2014).

4.2 The Crime of Genocide

Rome Statute of the International Criminal Court states that: " For the purpose of this Statute, "genocide" means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such:

- (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 about its physical destruction in whole or in part ... " (Rome Statute, article 6).

According to this article, Israel committed genocide:

- **Killing with intent to destroy:** Israeli occupation killed more than (2147) Palestinians via large-scale or systematic attacks. The intent to destroy is showed through the number of families killed by Israeli forces, at 144 (Abed Alati, 2014).

- The siege: Israeli occupation tightened the siege on the Gaza Strip before, during, and after Israel's 2014 aggression, which constitutes deliberately inflicting collective punishment to bring about the physical destruction in whole or in part of a community (Issa, 2014).

5. Trial Procedures of Israeli Occupation

After Palestine became an Observer State in the UN, it ratified several international conventions. On 2nd April 2014, it ratified the Geneva Conventions and its Additional Protocols, and the Convention on the non-applicability of statutory limitations to war crimes and crimes against humanity (UN independent commission of inquiry, 2015). It also ratified the Rome Statute of the International Criminal Court on 1st April 2015, but the State of Palestine accepted the jurisdiction by the Court with respect to the aggression on Gaza via a declaration lodged with the court registrar from 13th June 2014 (International Criminal Court, 2014).

The International Criminal Court is a permanent court. It was established to try those accused of committing International crimes, and it shall complement national criminal jurisdictions, where applicable (Rome Statute, article 6).

After Palestine joined the International Criminal Court, it can exercise its jurisdiction by one of three ways:

- (a) Referral of a situation to the Prosecutor by a State Party; or
- (b) Referral of a situation to the Prosecutor by the Security Council acting under Chapter VII of the Charter of the United Nations; or
- (c) Prosecutor initiate an investigation *proprio motu* (Rome Statute, article 8).

Palestinian President Mahmoud Abbas issued a presidential Decree No. (3) on 2nd February 2015 regarding the establishment of the Supreme National Committee to follow up with the International Criminal Court (Palestinian Official Gazette, 2015). The Supreme National Committee made a submission to the Prosecutor of the International Criminal Court "Fatou Bensouda" to initiate investigation into three cases; (a) Settlements, (b) Aggression against Gaza Strip in 2014, (c) Palestinian prisoners (Al-rojoub, 2015).

In addition, Al Haq institution, Al Mezan Center for Human Rights, Addameer for Human Rights, and Palestinian Center for Human Rights provided legal statement secret to the Prosecutor of the International Criminal Court "Fatou Bensouda", on their own behalf and on behalf of the victims of Israeli aggression, in accordance with Article 15 of the Rome Statute. It

contains information and data that was documented jointly by the four aforementioned organizations about the crimes committed during the Israeli aggression on the Gaza Strip in 2014 (Palestinian Centre for Human Rights, 2015).

It should also be pointed out that the Prosecutor of the International Criminal Court, "Fato Bensouda", opened a preliminary examination of the situation in Palestine after it had ratified this Statute. It is not an investigation, instead, it is a process for examining the available information in order to ensure the availability of reasonable basis to open an investigation in accordance with article 53(1) of the Rome Statute. The prosecutor needs to take into account the jurisdiction, admissibility, and interests of justice when deciding to initiate an investigation (International Criminal Court, 2014).

All Palestinian cases submitted to the Prosecutor of the International Criminal Court remains under preliminary examination, including the Israeli aggression on the Gaza Strip in 2014 (Office of the Prosecutor, 2016).

According to the Rome Statute, the Office of the Prosecutor of the International Criminal Court works without a specific time frame. For example, in the case of Afghanistan, the Initial examination lasted eight years, whereas in the case of Colombia, it took a decade (Azarov, 2015). Therefore, the question is: When will the prosecutor complete the preliminary examination of the situation in Palestine?

Moreover, South Africa, Burundi, and Gambia withdrew from the ICC due to its ineffectiveness in trying war criminals (France24, 2016). We also ask: Does the ICC have the desire and the ability to prosecute the Israeli occupation.

6. Conclusion, Recommendations, Limitations and Future Research

The Gaza Strip remains under Israeli occupation to this day. The relation between the Gaza Strip and the Israeli occupation is subject to the rules of both international law and international humanitarian law. Moreover, the Israeli occupation committed war crimes, crimes against humanity, and genocide during its aggression on the Gaza Strip in 2014. These crimes resulted in serious and difficult humanitarian conditions in Gaza.

Table 1: *The Crimes Committed during the Israeli Aggression on the Gaza Strip in 2014*

No.	Nature of Violation	Numbers of Violations
1.	Killing of civilians	(2147) Palestinians

2.	Injury to civilians	(11,000) Palestinians
3.	The forced displacement of the Palestinian people	(18,000) Palestinians
4.	The destruction of houses and civilian objects (totally or partially)	(96,000) Civilian facilities
5.	The destruction of Charities:	(22) Charities
6.	Intentionally directing attacks against buildings, material and medical units:	(10) Hospitals, (13) Health centres, and (36) Ambulances
7.	Intentionally directing attacks against educational and cultural buildings	(278) Schools, (12) Universities, and (199) Kindergartens
8.	The bombing of places of worship and graveyards	(180) Mosques, (1) Church, (10) Muslim graveyards and (1) Christian graveyard
9.	Tightening the siege on the Gaza Strip	-

Therefore, Palestine joined ICC and submitted a request that the Israeli occupation be tried for war crimes, but the court proceedings are problematic, which could result in the Israeli occupation avoiding any semblance of a trial. The main practical problem is that the Office of the Prosecutor of the International Criminal Court works without a specific time frame so some African countries withdrew from the ICC due to its ineffectiveness in trying International criminals.

This paper recommends that the situation "Israel's 2014 aggression" be referred to the prosecutor by the State of Palestine directly, in accordance with article 13(a) of the Rome Statute. We also recommend searching for alternatives to try the Israeli occupation due to the ineffectiveness of the ICC, such as: (courts of States signatory to the Geneva Conventions, Palestinian National Judiciary, National courts that take the principle of universal criminal jurisdiction, submit a request to the Security Council or the General Assembly to establishing special criminal courts for trying the Israeli occupation on aggression in Gaza Strip 2014, submit a request to the Organization of Islamic Cooperation in order to activate the International Islamic Court of Justice, and submit a request to the Arab League for the creation of a supreme Arab court that has jurisdiction over crimes related to Arab countries, especially crimes committed by the Israeli occupation in Palestine). In addition, the international community must contribute

towards a solution to the Israeli occupation of Palestine, which constitutes a collective punishment for Palestinians.

The limitations of the study are that some ICC procedures are unclear in accordance with the Rome Statute of the International Criminal Court, such as: preliminary examination, and the time of writing and correction this research, where the researcher was busy writing the thesis of doctorate and some social matters.

There is a need for research into the issues related to this subjects, especially an effectiveness of the International Criminal Court in trial of international criminals, alternatives to try the Israeli occupation for its crimes committed during Israel's 2014 aggression, and protection mechanisms of the Palestinians in the light of the rules of international law.

References

- Abed Alati, Salah. (2014, September 25). Genocide in Gaza. *MA'AN NEWS AGENCY*. Retrieved from <http://maannews.net/Content.aspx?id=730033>
- Abu Jafar A. (2017). Israeli International Legal Liability Resulted from Gaza Strip Blockade in the Light of International Law Rules. *Journal of Human Sciences*, 7(1), 5-14.
- Alhayek, Ali. (2014, August 13). The impact of the Israeli aggression on the industrial sector. *Amad media*. Retrieved from <http://www.amad.pss>
- Ali A. (2010). International criminal responsibility for crimes resulting from the aggression on Gaza. *Journal of Al-mufaker*, 5 (1), 253-283.
- Aljazeera. (2014, December 4) .Israeli aggression on Gaza in 2014. *Aljazeera Media Network*. Retrieved from <http://www.aljazeera.net/news/reportsandinterviews>
- Alkilani F. (2013). *The impact of recognition of the Palestinian state on Israel's responsibility for its crimes against the Palestinian people*. Masters level. Alazhar University of Gaza.
- Alrojoub, Awad. (2015, June 25). Today Palestine begins the trial of Israeli occupation in ICC. *Aljazeera Media Network*. Retrieved from <http://www.aljazeera.net/news>
- Alsaedi, Hedaya. (2016, October 12). Population of blockaded Gaza Strip hits 2-million mark. *Anadolu Agency*. Retrieved from <http://aa.com.tr/en/middle-east/population-of-blockaded-gaza-strip-hits-2-million-mark/663444?amp=1>
- Amnesty International. (2015). *'Black Friday' Carnage in Rafah during 2014 Israel/Gaza conflict*. UK: Amnesty International Publications.

- Azarov, Valentine. (2014, April 1). Palestine in the International Criminal Court. *The Palestinian policy network Website*. Retrieved from <https://al-shabaka.org/briefs>
- Basal M. (2016). *International criminal responsibility for the Israeli occupation of the Gaza Strip during the aggression in 2014*. Masters level. Academy of Management and Politics for Postgraduate Studies of Gaza.
- Benvenisti, Eyal. (2004). *The international law of occupation*. United States of America: Princeton University Press.
- Blum, Z. (1968). The Missing Reversioner: Reflections on the Status of Judea and Samaria. *Israel Law Review*, 3(2), 279-301. Retrieved 12 January, 2019, from <https://doi.org/10.1017/S0021223700001436>
- Bouvier, Antoine. (2012). *International Humanitarian Law and the Law of Armed Conflict*. USA: Peace Operations Training Institute.
- Defence for Children International Palestine. (2015). *Operation Protective Edge: A war waged on Gaza's Children*. Ramallah: DCI-P.
- Diplomatic Conference in Geneva (1949). Convention (IV) relative to the Protection of Civilian Persons in Time of War. Geneva, 12 August 1949. *ICRC Website*. Retrieved from <https://www.icrc.org/ar/doc/resources/documents/misc/5nsla8.htm>
- Euro-Mediterranean Human Rights Monitor. (2014). *Indiscriminate attacks and murder*. Gaza.
- Ferrer M. (2018). *The Armed Conflict in Israel-Palestine*. Switzerland: Geneva Academy.
- FIDH, (2014). *Trapped and Punished: The Gaza Civilian Population under Operation Protective Edge*. Norway: Norwegian Ministry of Foreign Affairs.
- France24. (2016, October 26). Gambia decide to withdraw from the International Criminal Court. *France24 Website*. Retrieved from <http://www.france24.com>
- Gold, Dore. (2002, January 16). Occupied Territories to Disputed Territories. Jerusalem Center for Public Affairs. (JCPA) *Website*. Retrieved from <http://www.jcpa.org/jl/vp470.htm>
- Guo, Rongxing. (2007). *Territorial Disputes and Resource Management: A Global Handbook*. New York: Nova Science Publishers.
- Hajjar, L. (2014, July 14). Is Gaza Still Occupied and Why Does It Matter?. *Jadaliyya Website*. Retrieved from <http://www.jadaliyya.com/pages/index/8807/is-gaza-still-occupied-and-why-does-it-matter>

- ICC. (1998). Rome Statute of the International Criminal Court. *UN Office of Legal Affairs Website*. Retrieved from http://legal.un.org/icc/statute/99_corr/cstatute.htm
- International Criminal Court. (2014). Alleged crimes committed in the occupied Palestinian territory, including East Jerusalem, since 13 June 2014. *ICC Website*. Retrieved from <https://www.icc-cpi.int/palestine>
- Issa, Hanna. (2014, August 5). According to international law: the blockade of Gaza is genocide. *Alwatanvoice website*. Retrieved from <https://www.alwatanvoice.com/arabic/news/2014/08/05/574621.html>
- Kretzmer, David. (2012). The law of belligerent occupation in the Supreme Court of Israel. *International Review of the Red Cross*, 94 (885), 207-236.
- Maurer P. (2012). Challenges to international humanitarian law: Israel's occupation policy. *International Review of the Red Cross*, 94 (888), 1503-1510.
- Ministry of Tourism and Antiquities. (2014, September 9). The bombing of the Israeli occupation of archaeological and cultural buildings. *Ministry of Tourism and Antiquities website*. Retrieved from <http://www.mota.ps/arabic/?p=1612>
- Ministry of Agriculture. (2014, August 8). The losses of agricultural sector during the recent Israeli aggression on Gaza Strip. *Ministry of Agriculture website*. Retrieved from http://www.moa.gov.ps/index.php?option=com_content&view=article&id=2101:-251-&catid=46:minnews
- Ministry of Education and Higher Education. (2014). *Education sector damaged as a result of the aggression on Gaza Strip*. Gaza: Directorate General for buildings and projects.
- Najadi F. (2013). *The right to protect places of worship in international law and Islamic law*. Masters level. Wahran University.
- Office of the Prosecutor. (2016). *Report on Preliminary Examination Activities*. Hague: International Criminal Court.
- Palestinian Central Bureau of Statistics. (2015). *Results of a survey the impact of the Israeli aggression on the Gaza Strip in 2014*. Gaza: PCBS.
- Palestinian Center for Human Rights. (2015, November 22). Palestinian human rights organizations provides a legal statement to ICC. *PCHR Website*. Retrieved from <http://pchrgaza.org/ar/?p=8307>

- Palestinian Government. (2015). *Establishment of the Supreme National Committee to follow up with the International Criminal Court*. Ramallah: Fatwa and Legislation Office.
- Palestine News & Information Agency- WAFA. (2014, August 6). Aggression on Gaza. *WAFA Website*. Retrieved from <http://www.wafa.ps>
- Pecdar. (2009). *Legal implications to consideration the Gaza Strip a hostile entity in international humanitarian law*. Naples: An- Najah National University.
- Rastogi, Nina. (2008, January 25). Gaza: The Basics. *The Slate Group*. Retrieved from http://www.slate.com/articles/news_and_politics/explainer/2008/01/gaza_the_basics.html
- Salem, .H.S. (2011). Social Environmental and Security Impacts of Climate Change on the Eastern Mediterranean . In: Brauch, H.G. Spring, U.O. Mesjasz, C. Grin J. Mbote, P. Chourou, B. Dunay, P. Birkmann, J. (Ed), *Coping with Global Environmental Change, Disasters and Security– Threats, Challenges, Vulnerabilities and Risks* (pp. 421–445). New York: Springer-Verlag Berlin Heidelberg .
- Samson, E. (2010). Is Gaza Occupied?: Redefining the Status of Gaza Under International Law. *American University International Law*, 25(5), 915-967.
- Sawafta Y. (2015). *Legal adaptation of Israeli crimes committed in the Gaza Strip*. Palestine: Al-Quds University.
- Smuha, N. (2014). The International law of Occupation in the Israeli-Palestinian Conflict. *Jura Falconis*, 50(4), 927-947.
- Takahashi, Yutaka. (2009). *The law of occupation*. Boston: Martinus Nijhoff Publishers.
- The Jerusalem Media and Communications Centre. (2010, February 9). Occupied Palestinian territory (OPT). *JMCC Website*. Retrieved from <http://www.jmcc.org>
- UN Independent commission of inquiry. (2015). *Report of Gaza Conflict 2014*. USA: Human Rights Council.
- UN Office for the Coordination of Humanitarian Affairs Occupied Palestinian Territory- UN OCHA-OPT. (2015). *Occupied Palestinian Territory: Gaza Emergency Situation Report*. Gaza: UN.
- UNRWA. (2014, December 18). Gaza Situation Report 74. *UNRWA Website*. Retrieved from <https://www.unrwa.org/newsroom/emergency-reports/gaza-situation-report-74>
- Wadi A. (2014, August 6). Adaptation of the Israeli crimes on Gaza Strip in 2014. *Amad Website*. Retrieved from <https://www.amad.ps/ar/Details/36842>