

## **SOUTH AFRICA'S ROAD GAME TO INTERNATIONAL COURT OF JUSTICE: AN AGENDA FOR INTERNATIONAL PEACE AND SECURITY?**

*Awaisu Imurana Braimah,  
Associate Professor of Political Science Education,  
University of Education, Winneba  
ORCID iD: 0000-0001-9107-9903  
(email: baimurana@uew.edu.gh)*

*Lawrence Quarshie,  
Lecturer, Department of Political Science Education,  
University of Education, Winneba  
(email: lquarshie@uew.edu.gh)*

*Manuscript has been submitted on 13.10.2024, sent for review on 08.11.2024,  
accepted for publication on 11.11.2024.*

### **Abstract**

*This paper interrogates and reflects on South Africa's journey to the International Court of Justice (ICJ). The objective was to seek justice for the besieged Gazans by Israel in the occupied territory. While the war in Gaza is an exothermic reaction by Israel to Hamas's brutal attack on October 7, 2023, the conduct of the war on Gaza has been the indiscriminate bombings, disproportionate, and collective punishment of civilians in the overcrowded enclave. Despite all attempts by the international community (e.g., UNSC, EU) to halt the Gaza onslaught, Israel has thus paid no heed to calls for a humanitarian ceasefire to ameliorate the suffering masses in the Gaza Strip.*

*It is in the light of the inability of the UN to resolve the humanitarian catastrophe in Gaza that prompted South Africa to turn to the International Court of Justice to deliver to world leaders its responsibility to prevent possible acts of genocide or crime against humanity. This study surveyed various documentary evidence and observations to justify the need for this study.*

*This paper argues that South Africa's journey to the ICJ was primarily to halt the humanitarian crisis and also to bleach the conscience of world leaders on Israel's war in Gaza. The paper concludes that South Africa's court action was primarily to prevent a possible genocide and never intended to hurt the feelings of the Jewish state and her staunch allies.*

**Keywords:** International Court of Justice, Israel-Hamas war, Middle East crisis, pogrom.

### **Introduction**

South Africa's Road game to the International Court of Justice represents a rare ray of light for an African country to venture into a thorny geographic-internationalised arena (e.g., Israel-Hamas war) where states in the global system 'fear' to tread to avoid spiting allies of Israel – e.g., the US, the UK, France, Germany, the Netherlands among others. The objective of South Africa was to prevent possible acts of genocide from being perpetuated by Israel in light of the exothermal reaction to Hamas's horrific attack on October 7, 2023. South Africa's foreign policy nous in global affairs has been consistent since the dismantling of the apartheid regime in 1994. Modern lethal conflicts with international security reverberations include the Russia-Ukraine and the ongoing Israel-Hamas wars (Braithwaite, 2024b; Bulut Aymat, 2010). In these conflicts, South Africa has proactively employed diplomatic optics to de-escalate tensions and promote global peace, security, and respect for human dignity. For instance, South Africa led some African leaders to Moscow to discuss the need to de-escalate the former's war on Ukraine even though South Africa is a key ally of Moscow (e.g., BRICS). This policy consistency on global affairs (that is, the use of multilateral diplomacy to resolve international conflicts) is needed by nation-states worldwide to uphold the universality and equal application of international law and values.

Hamas's magnitude attack on Israel was a strategic surprise, not only to the Jewish state but to the world at large. The event courted global sympathy and support for the Jewish state. However, the exothermic reaction of Israel to Hamas's pogrom alarmed the world on several fronts – indiscriminate aerial bombardment, disproportionate, collective punishment, starvation of internally displaced persons, and the extermination of all categories of people including women, children, and babies in incubators (Braithwaite, 2024a; Hobson, 2019; Braithwaite & Mbowura, 2018). The international community, including some of Israel's closest allies, is increasingly horrified at the scale of the violence inflicted on civilians in Gaza to atone for the 'sin' of Hamas (Kottasova & Koplewitz, 2024; Braithwaite, 2024a). The United Nations Security Council (UNSC) appalled by possible acts of genocide in Gaza, convened three emergency meetings to 'force' a humanitarian ceasefire. All efforts by the UNSC to restrain Israel's brutal war on civilians in Gaza were predictably vetoed by the US. The United Nations General Assembly (UNGA) also convened an emergency meeting on the same Israel-Hamas war to signal the detestation of member-states to the dehumanizing war on Gaza. Yet the war in Gaza continues unabated. This is where South Africa's case against Israel at

the International Court of Justice draws its relevance and justifies the need to conduct further studies on the actions and inactions of powerful states in the global system. Hence, the main objective of this study was to examine the alleged Israel's genocidal acts in Gaza and their repercussions on humanity. Based on Israel's alleged genocidal acts on Gaza and subsequent referral to ICJ by South Africa, this study was prepped by the following denudated research questions: (1) Why did South Africa haul Israel before the International Court of Justice? (2) What acts constitute genocide in the realm of international law? (3) What are the global ramifications of the Israel-Hamas war?

The method used in this study is largely hinged on qualitative approaches (secondary research sources). The secondary research method is adopted for this study because it allows the researcher to gain greater insights into the subject matter under study and to draw logical inferences or conclusions. Again, the secondary research method is based on tried and tested data which is previously analysed and filtered to make sense in the present study involving Israel and Hamas (Bhat, 2019). In this perspective, this study utilised multifaceted materials related to the ongoing Israel-Hamas conflict. Data and information gleaned from observation, credible media reportage on the Israel-Hamas imbroglio, journal articles, newspaper publications, magazines, and speeches by Israeli and Hamas officials. The study analysed the immediate past events which triggered the Israel-Hamas war, the conduct and escalation of the war in the bird's eye of international public law, United Nations Security Council attempts to broker a peace that is mainly vetoed or undermined by global politics of allies versus adversaries (i.e., the ideological hack of the UNSC), and the key analysis of South Africa's Road game to the Hague. This study comprehensively made good use of legal debates of renowned scholars on acts that qualify to be considered genocidal in the realm of international law. Data and information gathered were scrutinised and thematically analysed based on the denudated research questions.

### **Theoretical Framework**

What are the obstacles that hinder the international community from reaching a ceasefire deal between Israel and Hamas? This paper adopts the *Security Cooperation or Alliances* explanatory model to anchor the complexity, sensitivity, controversy, entanglement, divisiveness, and the "poisoned boil" of global political leadership and institutions in enforcing a humanitarian ceasefire in the Israel-Hamas war.

Global states formed security cooperation or alliances as *strategic hedging* to safeguard their sovereignty or general security guarantees from other states (e.g., North Atlantic Treaty Organization). 'Weak' or 'fragile' states

customarily joined forces with powerful states ostensibly to secure their support or protection in the event of attacks from real or perceived adversaries. Such security alliances are transnational and are normally regional-based, geographic, or maybe bilateral security pacts (e.g., US-Israel) formed against perceived threats from regional adversaries or an emerging global power. By so doing, states that have security cooperation with other states tend to promote economic interests beyond national security calculus. The alliance is supposed to be a positive-sum game (a win-win phenomenon) for members of the security pact. In the words of Sherwood-Randall (2006):

“Alliances are binding double security commitments between two or more nations. The critical ingredients of a meaningful alliance are the shared recognition of common threats and a pledge to take action to counter them” (p. v).

In the context of Middle East relations, the US is a staunch ally of the Jewish state, and *ipso facto*, Israel has become an ally to US allies (e.g., the United Kingdom, France, Canada, Germany, the Netherlands, and other petit states across Eastern Europe, Asia, and Africa). Undoubtedly, the US and its partners in Europe represent the voices of the world in terms of ‘policing’ the application of international law, and universal values just for the promotion of human dignity or security. Yet these countries have largely failed to stop the ongoing Israel-Hamas war in Gaza. This was what prompted South Africa to step in to fill the vacuum by invoking the jurisdiction of the ICJ legal processes to stop the carnage in the Middle East. Altruistically, some members of the European Union (EU) have loudly decried the dehumanizing acts of violence in the Gaza war (Bulut Aymat, 2010). The continuous shipments of military hardware and financial resources to aid Israel’s war in Gaza by the US is not because Israel’s war on Gaza is in tandem with international law, it is because the US and its allies feel obligated or bound to aid an ally despite the glaring violation of the international law of war in Gaza. For instance, the Biden administration decried and condemned the atrocities committed by the governments of countries such as China, Russia, Syria, Myanmar, and Iran but has turned a blind eye to those committed by the government of Israel (Yager, 2024). The UK, for example, presented a detailed report to the ICJ with animus intent to indict Myanmar for genocide against the ethnic Rohingya population in the case of *Gambia v Myanmar* in November 2019, while it supports Israel war in Gaza in the *South Africa v Israel* case before the World Court. This creates the impression that acts that violate international humanitarian law are always right on the condition that the state concerned is an ally or a member of a security pact. Still, the same acts are wrong with states perceived as adversaries in the global system.

Security cooperation among countries per se is not a bad strategic move for reasons of the principle of *collective security*, as is the case of the North Atlantic Treaty Organization (NATO). However, the tendency of states to unrepentantly support an allied state that is violating international humanitarian law (e.g., using starvation as a weapon of war, collective punishment of civilian population, forced evictions, attacks on ambulances, medical staff, hospitals, the elderly, women and children, the sick, places of worship, dehumanizing acts) blindly as in the case of Israel's war in Gaza is a recipe for world disorder. Security and economic alliances of states worldwide are formed as deterrence to would-be adversaries while aggressively pursuing the national interests of member states. Hence, states have become inextricably entangled either militarily or bankrolling preventable wars abroad with the pretext of pursuing national interests that have never been appropriately defined for decades. On October 19, 2023, President Biden requested Congress to provide \$14 billion in security assistance and another \$10 billion in funding for some logistics of humanitarian character to Israel. According to President Biden:

“In Israel, we must make sure that they have what they need to protect their people today and always. The security package I'm sending to Congress and asking Congress to do is an unprecedented commitment to Israel's security that will sharpen Israel's qualitative military edge, which we've committed to – the qualitative military edge. We will make sure the Iron Dome continues to guard the skies over Israel. We're going to make sure other hostile actors in the region know that Israel's stronger than ever and prevent this conflict from spreading” (Congressional Research Service Report, 2023, p. 6).

President Biden's speech above showed the ally and non-ally in the US Mideast policy. The support extended to Israel, including arms sales to its ally to prosecute its agenda ostensibly against the Palestinian people, is mind-boggling. However, it is important to note that arms sales to allies should be used responsibly. The US and its allies that are supplying weapons to Israel have a responsibility to ensure they are not used indiscriminately to destroy other states with no just cause. It is significant to note that, the designation of Hamas and Hezbollah as Foreign Terrorist Organizations (FTOs) does not make every citizen in Gaza and Lebanon a terrorist. However, the Israel Defense Forces' (IDF) indiscriminate bombardment with the intent to exterminate the whole population in Gaza with the US, France, the UK, Germany, the Netherlands and other European states' ammunition only fuel or exacerbate the war situation from 'bad' to 'worse' since October 7, 2023. Also, there is a need for global actors to work collectively to cut the supply

routes of ammunition to Hamas, Hezbollah, and the Houthis against Israel as a first step toward securing a ceasefire deal.

### **The Case of South Africa v Israel?**

South Africa assumed the role of a global peace broker in the geographic-internationalised conflict where the major players in international affairs (e.g., the US, the UK, France, Germany, the UNSC, the UNGA, and the EU) have tried fruitlessly to secure an endgame to Israel's onslaught in Gaza. Besides, the efforts of the Russian Federation, the People's Republic of China, Saudi Arabia, Qatar, Egypt, the United Arab Emirates, and other dovish or pacifist states to halt the Israel-Hamas war via multilateral diplomacy, have also failed to glitter. The global controversy, divisiveness, and diplomatic wedge on the Israeli-Hamas war is a stain on the 'conscience' of the global community. In other words, the repercussions and the global reverberations of the war continue unabated, while global political actors are ingrained in public *faux pas* about the seismic conflict (Braitham, 2014).

To bleach out the stain of the failures of global actors to stop the killings and destruction in the Israel-Hamas war, the Republic of South Africa sought the ICJ's intervention in the contentious matter of Public International Law (i.e., alleged acts of genocide being committed by Israel in Gaza). As a corollary, the ICJ is one of the 'principal organs' of the UN that is mandated to adjudicate contentious cases of public international law (e.g., international treaties and conventions, customary international law). In this perspective, the court has the jurisdiction to hear contentious cases within the remit of the global environment and conditioned upon parties' consent (Braitham, 2023; Bullock et al., 1999). The consent may be expressed in a special agreement; by accepting the court's jurisdiction in a treaty; or by undertaking under Article 36 (2) of the Statute to accept as compulsory, about any other state accepting the same obligation, the jurisdiction of the court concerning (i) *the interpretation of a treaty*; (ii) *any question of international law*; (iii) *the existence of any fact which, if established, would constitute a breach of international obligation*; and, (iv) *the nature or extent of the preparation to be made for the breach of an international obligation* (Bullock et al., 1999, p. 440).

Fortuitously, the Republic of South Africa and the State of Israel are both signatories to the ICJ's Convention and therefore duty bound to undertake all necessary measures, including referral of states whose actions or inactions tinges the "Genocide Convention" to the ICJ. The object is to uphold the 'universality' of public international law of preventing alleged acts of genocide from being committed or preferred punishment to acts of genocide. The Republic of South Africa draws its inspiration from the provisions of the

World Court by dragging the State of Israel to ICJ for allegedly committing violent crimes against humanity in the Gaza Strip. Excerpts from the Republic of South Africa's application of *the convention on the prevention and punishment of the crime of genocide* in the Gaza Strip against the State of Israel at the World Court in the Hague states among others. South Africa "respectfully requests the Court to adjudge and declare:

1. *that the Republic of South Africa and the State of Israel each have to act under their obligations under the Convention on the Prevention and Punishment of the Crime of Genocide, to the members of the Palestinian group, to take all reasonable measures within their power to prevent genocide, and*
2. *that the State of Israel:*
  - (a) *has breached and continues to breach its obligations under the Genocide Convention, in particular, the obligations provided under Article I, read in conjunction with Article II, and Articles III (a), III (b), III (c), III (d), III (e), IV, V and VI;*
  - (b) *must cease forthwith any acts and measures to breach those obligations, including such acts or measures which would be capable of killing or continuing to kill Palestinians, or causing or continuing to cause serious bodily or mental harm to Palestinians or deliberately inflicting on their group, or continuing to inflict on their group, conditions of life calculated to bring about its physical destruction in whole or in part, and fully respect its obligations under the Genocide Convention, in particular the obligations provided under Articles I, III (a), III (b), III(c), III(d), III(e), IV, V and VI;*
  - (c) *must ensure that persons committing genocide, conspiring to commit genocide, directly and publicly inciting genocide, attempting to commit genocide, and complicit in genocide contrary to Articles I, III(a), III(b), III(c), III(d), III(c), III(d), and III(e) are punished by a competent national or international tribunal, as required by Articles I, IV, V and VI;*
  - (d) *to that end and in furtherance of those obligations arising under Articles I, IV, V, and VI, must collect and conserve evidence and ensure, allow, and not inhibit directly or indirectly the collection and conservation of evidence of genocidal acts committed against Palestinians in Gaza, including such members of the group displaced from Gaza;*
  - (e) *must perform the obligations of reparation in the interest of Palestinian victims, including but not limited to allowing the safe and dignified return of forcibly displaced or abducted Palestinians to their homes, respect for their full human rights, and protection against*

*further discrimination, persecution, and other related acts, and provide for the reconstruction of what it has destroyed in Gaza, consistent with the obligation to prevent genocide under Article I; and*

- (f) *must offer assurances and guarantees of non-repetition of violations of the Genocide Convention, in particular the obligations provided under Articles I, III(a), III(b), III(c), III(d), III(e), IV, V and VI.*” (South Africa v Israel, 2024, pp. 2-3).

Even though the Republic of South Africa did not succeed in all of its requests against the State of Israel as “the state of Israel shall immediately suspend its military operations in and against Gaza” (South Africa v Israel, 2024, p. 3), which was expected by many people around the globe, the application theoretically, achieved some modicum of success in the form of interim measures the ICJ directed (by sixteen votes to one) at the State of Israel, as stated hereunder:

*The State of Israel shall take all measures within its power to prevent and punish the direct and public incitement to commit genocide against members of the Palestinian group in the Gaza Strip.*

*And*

*The State of Israel shall take immediate and effective measures to enable the provision of urgently needed basic services and humanitarian assistance to address the adverse conditions of life faced by Palestinians in the Gaza Strip* (South Africa v Israel, 2024, p. 25).

In practical terms, the State of Israel seems evasive with the directives of the ICJ. On the contrary, the Israeli bombardment in the Gaza Strip has since intensified and expanded to other parts of the Gaza enclave, with no sign of humanitarian ease. The death toll of the Palestinian group is almost doubled while starvation is effectively used as a weapon of war by the State of Israel in the aftermath of the ICJ’s directives. The indiscriminate bombardment of the Gaza enclave by the IDF has resulted in the extermination of foreign aid workers (e.g. seven aid workers from the World Central Kitchen, who were killed in one of the several Israeli airstrikes in Gaza) whose mission in Gaza was to prevent starvation and/or famine of Gazans who are neither members of Hamas nor civilian combatants in the Gaza Strip (Khalil & Abualouf, 2024; Najjar et al., 2024). The IDF also besieged and raided two hospitals – Nasser and Al Shifa – contrary to the special protection under international humanitarian law of war. In these medical complexes, civilians and *hors de combat* in those hospitals were allegedly killed and buried in mass graves that were discovered in the besieged enclave after the withdrawal of the IDF (Nasser & Mendonca, 2024). In the same vein, Hamas, Hezbollah and the Houthis continue to attack the state of Israel with rockets. The actions and inactions of Israeli forces and the “axis of resistance” are setting a ‘bad’

precedent for other states to pursue similar gross disrespect for international law if not properly and effectively investigated. In all this disregard for international humanitarian law by the IDF, powerful states such as the US, the UK, Germany, France, and other petit actors still provide ammunition to Israel to continue the war in Gaza, while the Islamic Republic of Iran is accused of arms shipment to Hamas, the Houthis, and Hezbollah to attack Israel in multiple fronts. The ongoing Israel-Hamas war hugely exposes the double standards in foreign policy decision-making of states around the world. It also reduces the coded array of humanitarian laws of war as ‘legal fiction’ that is skewed and partially applies differently to allies, and real or imaginary adversaries. This is an ugly spectacle for global peace and security, human rights, and sustainable development.

### **The UN and International Peace and Security**

One of the core functions of the United Nations is to ‘maintain international peace and security’. This responsibility is vested in the UNSC, a key organ of the United Nations Organization (UNO). In recent times, the UNSC has struggled to live above water in the performance of its core mandate – i.e., maintaining international peace and security – as a result of the ideological hack of the five permanent members (China, France, Russia, the US, and the UK) on the Security Council. The veto system has been repeatedly abused and impeded efforts to maintain and resolve conflicts around the world. The recent cases in which the veto system has been invoked severally to thwart the efforts of the Security Council to immediately halt hostilities is the ongoing Israel-Hamas war and the Russia-Ukraine war. These wars have sharply divided political leadership around the world. While the Security Council is embroiled in post-Cold War political gymnastics, the death toll in Gaza – the majority of whom are women and children – continues to rise steadily. The veto system in the activities of the UNSC is effectively being used by allies and adversaries to further their political agenda. The setup of the UN system needs a total overhaul or reform to meet the growing challenges in the increasingly complex and “poisoned boil” world system. Hence, until the UNSC is democratised or powerful actors within the UN system approach global issues with open minds and policy consistency within the remit of international law, the contemporary circus of chaos in the global system will continue to recur with devastating consequences for populations worldwide.

### **Results and Discussion**

Despite international concerns about the unfolding violence on civilians and other vulnerable groups in the Gaza Strip, and northern parts of Israel, there is an uptick in the escalation and expansion of lethal violence across the Gazan

enclave and Israel's northern borders with Lebanon despite the ICJ ruling for the State of Israel to take all necessary steps to minimize humanitarian catastrophe. The focus of this section discusses the findings of the study which are thematically analysed based on the three research questions posed to anchor the study.

### **Why did South Africa haul Israel before the ICJ?**

Hauling of the State of Israel to ICJ by South Africa is rooted in its international obligation to work in concert with other governments to prevent possible acts of genocide anywhere in the world. In the unique case of the Israel-Hamas war, countries such as South Africa, Bolivia, Spain, Turkey, Saudi Arabia, and Qatar construed Israel's disproportionate bombings and collective punishment of non-combat civilians, destruction of civilian homes, starvation as a weapon of war, hospitals, places of worship, the rising death toll of women, children, the weak, the sick and the wounded as acts that infringe international humanitarian law of war. It is in the backdrop of this 'dehumanizing' ambiance that 'compelled' the Republic of South Africa to seek the intervention of ICJ in the matter (i.e., a charge of committing genocidal acts).

However, critics of South Africa's Road game to ICJ – mainly Israel, the US, the UK, France, and Germany – opine that the move was borne out of hatred for the Jewish State. These critics wondered why the Republic of South Africa failed to report similar incidences like Russia's war on Ukraine, the Azerbaijani assault on Armenia, and Saudi Arabia's involvement in Yemen among others to the ICJ. Despite the level of the criticism led against South Africa's move to ICJ to avert a possible 21<sup>st</sup> century 'acts of genocide' in the Middle East, the cusp of allies' supply of weapons to Israel, and the usual coterie of "ironclad" support for the Jewish state must not override the substance of South Africa's international obligation in working with other states to prevent a possible 'genocide' in Gaza. As Martin Luther King Jr. (1963) succinctly indicates, "Injustice anywhere is a threat to justice everywhere". World leaders must prevent a possible 'genocide' irrespective of geographical location, culture, ethnicity, religious inclination, or race. Regrettably, the rulings of the Court on the Israel-Hamas imbroglio have been treated with contempt by the Jewish state while nation-states around the world look on helplessly. The implication is that the ICJ decisions are undermined if they involve allied states but will push for the indictment of perceived adversaries and that is the dangerous cornerstone for international peace and security regime.

### **What Acts Constitute Genocide in International Law?**

The international security architecture has set up certain benchmarks – international humanitarian laws of war – to guide nation-states at war. These principles are intended to protect human dignity and rights before and during the conduct of war. These humanitarian laws of war should guide warring factions or belligerents on the “dos” and “don’ts” of armed conflict regardless of the circumstance in the uptick in violence. A state or a warring faction that goes contrary to these “don’ts” is deemed to have engaged in acts of genocide. Article II of the Genocide Convention defines genocide as *any of the following acts committed with the 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 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;
- d. Imposing measures intended to prevent births within the group (De Lupis, 1987).

A combination of two or more of the above-stated acts may be termed ‘genocidal’ per international law guiding armed conflict. In the case of the ongoing Israeli-Hamas war, both Hamas and the State of Israel are guilty of perpetuating ‘acts of genocide’ root and branch. Hamas’s pogrom in Israel on October 7, 2023, was premeditated, sleazy, and calculated to destroy life and property. Despite Hamas’s ‘miscalculation’, the emotional bromance of President Biden and Prime Minister Netanyahu and their allies have fueled Israel’s war on Gaza to catastrophic levels. The US and its allies are aiding Israel’s (i.e., supply of modern military ammunition) indiscriminate bombardment, disproportionate, collective punishment, killings, and starvation of the Gazans, including women and children angst several states who denounce Israel’s brutal war on Gaza and publicly support South Africa’s application to the ICJ to restrain the Jewish state from unleashing further mayhem on the people of Gaza. The ICJ orders have since been ignored by the Jewish State with the tacit support of the US, and its allies. Israel’s transgression of the prohibition of the law of war by Israel has the propensity to ignite a broader war in the Middle East with its consequences on humanity, politics, economics, and disruptions in global supply chain management.

Closely connected to the above is a lack of respect for humanitarian rules or “general ethics of war” by the Jewish state and Hamas. In this paper, the humanitarian rule is narrowly construed as the protection or exemption of non-combat civilians, the vulnerable in society, including women and children, the elderly, the sick and weak, places of worship, medical staff, hospitals, ambulances, civil defence personnel, religious personnel, prisoners

of war and journalists from being military targets – they are to be taken care of as specially protected groups and civilian installations. Protocols I and II of the Geneva Convention (1977) catalogued other forbidden practices that belligerence must adhere to escape liability for serious violations of the laws of war (De Lupis, 1987, pp. 271-290). These prohibitions include the following:

- a. Murder
- b. Torture of all kinds, whether physical or mental
- c. The taking of hostages
- d. Acts of terrorism
- e. Collective punishment
- f. Outrages upon personal dignity, in particular, humiliating and degrading treatment, rape, enforced prostitution, and any form of indecent assault
- g. Pillage
- h. Threats to commit any of the preceding acts.

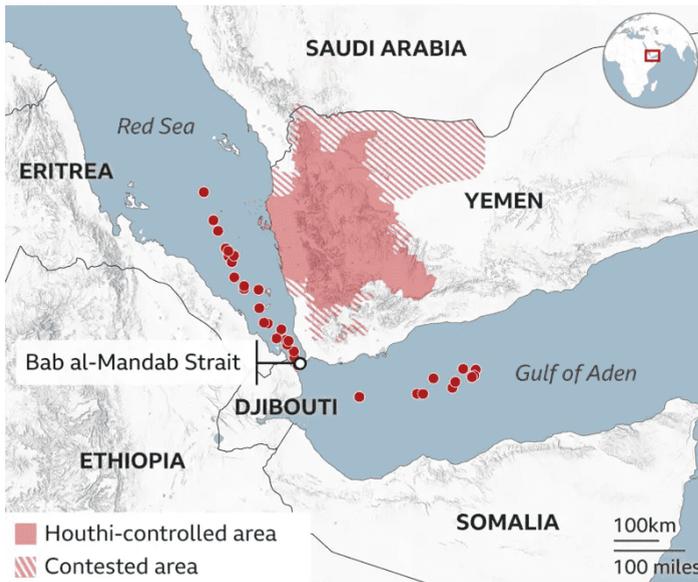
In armed conflict, warring parties normally pivot away from the humanitarian rules or general ethics of war, even though they cannot run away from accountability in the long run. In the Israel-Hamas war, the Jewish state with its sophisticated weaponry, seems to repeatedly offend the rules of engagement on the humanitarian laws of war. The collective punishment being meted out to the whole group of civilians from the Gaza enclave, the wanton extermination of entire group or family, destruction of places of habitation, starvation or food as a weapon of war, dehumanizing behaviours by the IDF, arbitrary arrest, detention, and mistreatment of people of Gaza and the West Bank, murder of civilians at the West Bank, expropriation of Palestinian lands and construction of housing units for Israelis amid war, rape, mass graves discovered in areas in Gaza formally occupied by the IDF, are some of the ugly spectacles in the aftermath of the October 7, 2023, attack on Israel. Without any prejudice, this article lacks the capacity to judge whether Israel has crossed the red lines of humanitarian law of war, and possible ‘acts of genocide’. The onus to pronounce a state of engaging in acts of genocide, as it stands, lies in the bosom of the ICJ to determine – this determination may take the ICJ a couple of years to arrive at a conclusion on South Africa’s application.

### **What are the Global Ramifications of the Israel-Hamas War?**

The Israel-Hamas-Hezbollah-Houthis war and conflict has a wider global ramification irrespective of a state’s geographical location. For example, since Israel’s war on Gaza, the Houthis have carried out over 100 attacks on commercial ships belonging to or linked to the US, the UK, France, and Israel

in the Red Sea. These attacks have thwarted global trade, and the reverberations of the activities negatively impact the global economy. Prices of goods and services across states, including food stuffs, have soured, while inflation continues to fluctuate with its repercussions on the living standards of the world population.

### Shipping damaged in attacks off coast of Yemen



Source: Ambrey Intelligence, 13 March, and Aclcd, Dec 2023



Figure 1: Shows Houthis' Attacks on Commercial Ships in the Red Sea

While the 'powerful' global political leaders appear to do little about ending the war and viewing Israel's war on Gaza in the eye of an ally doing the damage, its political, social, and economic ramifications are untidy and have no boundaries in the international system. Israel's war on Gaza is aimed at getting the US and its allies embroiled in the Middle East crisis. Israel does this through a labyrinth of mechanisms – escalation of the war on Gaza to rope in Iran, Lebanon, Syria, and Yemen. This is a war snare for the US, the UK, France, Germany, the Netherlands, and other allies that must be avoided to save humanity from another scourge of global war. An expanded war in the Middle East that entangles the US and its allies in favour of Israel may have far-reaching consequences for the world – Russia, China, North Korea, and other allies of Iran may directly or indirectly intervene in any combined aggression against the Islamic Republic of Iran. The Russian Federation for example will be interested in the US military entanglement in the Middle East

as a fitting retribution to pay the US by backing Iran with arms as the latter continuously provides arms to Ukraine.

Again, the ongoing war in the Middle East will have far-reaching consequences in other inter-state conflicts in parts of the world. It establishes an undesirable “might is right” precedence in international relations. States with military wherewithal besides the US, the United Kingdom, France, and Germany, among others, may fund, fan, or arm their allied states to unleash mayhem on their perceived adversaries. For example, Azerbaijan is allegedly being aided militarily by Turkey to destroy and usurp a territory from Armenia (i.e., Nagorno-Karabakh war, September 2023). Russia sells volumes of some of its sophisticated weapons to Azerbaijan even though superficially, the Kremlin appears to be *de jure* ally of Armenia. Another simmering conflict is in the offing as China is fretting about Taiwan’s annexation to be a yolk of mainland China with the US and its allies bracing up with a possible military showdown with the former (Brammah, 2024). North Korea’s incessant test of ‘dangerous’ ballistic missiles of various forms in East Asia is evoking simmering tensions with its neighbours – specifically South Korea and Japan.

In furtherance, the world will probably witness an upsurge of acts of terrorism with no boundaries in the aftermath of the Israeli-Hamas-Hezbollah-Houthis imbroglio. The Israeli escalation of the war in the Middle East and the diplomatic cover being offered to the Jewish state has already battered the image of the US and its allies as credible peace brokers in the Middle East and around the world. The US and its allies’ interests abroad will be the target for destruction or attacks, and Jews living everywhere across the globe are now exposed to attacks more than ever. Antisemitism is on the rise within the US, Europe, the Persian Gulf countries, and around the world. This controversial, contentious, and divisive war in the Middle East has divided the world order and defeated the purpose of establishing the United Nations Organization – to promote international peace and security. The UN is now a platform for world leaders to talk shop on global affairs based on phantasm or idealistic, provocative, and hate speeches. The present and past global interlocutors (e.g., the UNSC, the US, the UK, France, Germany, the Netherlands, and the EU) seem to tap and dance around the root cause of the Israeli-Palestinian conflict that has become an albatross on the conscience of global politics. The occupation and suppression of a people have never endured without fatalities to both the superior or domineering force and the weakest side. In such asymmetric relations, the weakest party may exact an unimaginable and surprising pain on the occupation force and the reverse will continue unabated. The only viable solution to the Israeli-Palestinian conflict is the “two-state” option on the table that must thrive on liberal democratic values or perpetual

war for generations yet unborn (Brimah & Forson, 2023; Arian et al., 2010; Allegra & Napolitano, 2009). As succinctly indicated by Neslen (2006), *occupation is not just a state of forced control. It is also a state of mind, a way of keeping busy and passing the time.*

### **Conclusion**

The world of (dis)order in contemporary times is a result of ‘double standards’ in foreign policy decisions of powerful states, international security alliances, and ideological hack of the supranational and regional organisations (e.g., The UN, UNSC) in the global system. Hence, locking down the efficacy, respect, and universal application of international law for the sake of humanity (Brimah, 2020a, 2020b). The road game of the Republic of South Africa to the ICJ was primarily to remind world leaders of the collective responsibility of preventing the war in the Middle East from degenerating into another genocide after Rwanda. World leaders must never allow a rebirth of modern holocaust in Palestine reminiscent of what happened to Jews before the founding of the State of Israel in 1948. The State of Israel suffered from the historical injustice where millions of Jews were exterminated with the intent of wiping out the entirety of the group.

Altruistically, the asymmetrical war between Israel and Hamas has sharply divided the world into undesirable standpoints of “ironclad” signalling the *Déjà vu* of the *Cold War*, with its resulting carnage and policy shifts among states around the world. The continuous vetoes by the US for a humanitarian ceasefire between Israel and Hamas at the UNSC are borne out of its unstinting commitment to back a key ally (i.e., “ironclad” support for Israel) in the Middle East against a commitment to promote global peace and security. The veto system by the five permanent members of the UNSC is with all intent and purposes, paralysis of the application of international law, and promotion of world peace, and security. The global political leadership has a responsibility to save humanity and not allies alone, uphold the sanctity or the universality of international law, and engage in acts that uproot disease, poverty, hunger, and promote sustainable international peace and security for global development. These can be achieved by employing multilateral diplomacy to resolve inter-state and international disputes that are flinging out divisiveness, food insecurity, disruptions in the global supply chain, and hatred toward a group of people or nation-states around the world.

### **References**

Allegra, M. & Napolitano, P. (2009, June). *Two States or not Two States: That is not the Question (yet)*. Paper presented at “Israel/Palestine: Mapping Models of Statehood and Paths to Peace”. Toronto: York University.

Arian, A., Hermann, T., Lebel, Y., Philippov, M., Zaban, H. & Knafelman, A. (Eds.). (2010). *Auditing Israeli Democracy: Democratic Values in Practice*. Jerusalem: The Guttman Center of the Israel Democracy Institute.

Bhat, A. (2019). *Secondary Research: Definition, Methods and Examples*. Retrieved September 20, 2024, from: <https://www.questionpro.com/blog/secondary-research/>.

Braimah, A. I. (2014). *The Battle of Soldiers and Noncombatant Civilians: A Reflection on the Israeli-Palestinian Imbroglia*. International Journal of Humanities and Social Studies (IJHSS), Vol. 2, Iss. 10. 118-125.

Braimah, A. I. (2020a). *On the Politics of Lockdown and Lockdown Politics in Africa: COVID-19 and Partisan Expedition in Ghana*. Journal of Political Science and International Relations, Vol. 3, No. 3. 44-55.

Braimah, A. I. (2020b). *COVID-19 and the Linear Perspective of Global Security*. International and Public Affairs, Vol. 4, No. 2. 63-70.

Braimah, A. I. (2023). *Violence without Victory in Sub-Saharan Africa: A Muse of Ghana's Election 2020*. Baltic Journal of Law & Politics, Vol. 16, No. 3. 949-959. DOI: 10.248/bjlp-2023-0000074.

Braimah, A. I. (2024a). *Killing to Cling to Power? The Dilemmas of Israeli Prime Minister*. International Journal of Social Science Research and Review, Vol. 7, No. 3. 205-218.

Braimah, A. I. (2024b). *Russia-Ukraine War and Sustainable Development Goals: Is Arming Ukraine the Answer?* In D. Mhlanga & E. Ndhlovu (Eds.), *The Russian-Ukraine Conflict and Development in Africa: Implications for Sustainable Development* (71-85). Springer. DOI: 10.1007/978-3-031-63333-1\_5.

Braimah, A. I. & Forson, J. A. (2023). *Reflections on Democracy and Development in Africa: A Hew Trail of Political Reforms*. Insight on Africa, Vol. 15, No. 2. 218-232. DOI: 10.1177/09750878221140555.

Braimah, A. I. & Mbowura, C. (2018). *The Political Economy of Conflict and Peace: Interrogating Chieftaincy and Ethnic Conflicts in Northern Ghana*. In M. H. A. Bolaji & A. A. Apusigah (Eds.), *Critical Notes on Northern Ghana's*

Development: History, Geography, Institutions, Politics and Development in Contention (93-110). Nova Science Publishers.

Bullock, A., Trombley, S. & Lawrie, A. (Eds.). (1999). *The Norton Dictionary of Modern Thought*. New York, London: W. W. Norton & Company.

Bulut Aymat, E. (2010). *European Involvement in the Arab-Israeli Conflict*. European Union Institute for Security Studies. Chaillot Paper No. 124. Retrieved September 15, 2024, from: <https://data.europa.eu/doi/10.2815/21669>.

Congressional Research Service Report (2023). *Israel and Hamas October 2023 Conflict: Frequently Asked Questions (FAQs)*. Retrieved September 24, 2024, from: <https://sgp.fas.org/crs/mideast/R47754.pdf>

De Lupis, I. D. (1987). *The Law of War. LSE Monographs in International Studies*. Cambridge University Press.

Hobson, J. (2019). *Three Theoretical Approaches to Lemkin's Definition of Genocide*. *Genocide Studies and Prevention: An International Journal*, Vol. 13, Iss. 1. 11-18. DOI: 10.5038/1911-9933.13.1.1592.

International Court of Justice (2024). *Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip (South Africa v Israel)*. General list No. 192. Retrieved September 30, 2024, from: <https://www.icj-cij.org/sites/default/files/case-related/192/192-20240126-ord-01-00-en.pdf>.

Khalil, H. & Abualouf, R. (2024). *Who were the World Central Kitchen Workers Killed in Gaza?* BBC News. Retrieved September 30, 2024, from: <https://www.bbc.com/news/world-middle-east-68711282>.

Kottasova, I. & Koplewitz, A. (2024). *Israeli Soldiers Struggle to Square Political Views with the Realities of the War*. CNN. Retrieved September 22, 2024, from: <https://edition.cnn.com/2024/02/04/middleeast/israeli-soldiers-political-war/index.html>.

Luther King Jr., M. (1963). *Letter from the Birmingham City Jail*. The Atlantic Monthly.

Najjar, F., Jamal, U. & Quillen, S. (2024). *Israel's War on Gaza Updates: Aid Workers Killed amid man-made famine*. Al Jazeera. Retrieved September 13, 2024, from: <https://www.aljazeera.com/news/liveblog/2024/4/2/israels-war-on-gaza-live-five-aid-workers-killed-after-delivering-food>.

Nasser, I. & Mendonca, D. (2024). UN Demands Investigation after Mass Graves Found at Gaza Hospitals Raided by Israel. CNN's Meanwhile in the Middle East Newsletter. Retrieved September 29, 2024, from: <https://edition.cnn.com/2024/04/24/middleeast/un-calls-for-investigation-gaza-mass-graves-mime-intl/index.html>.

Neslen, A. (2006). *Occupied Minds: A Journey through the Israeli Psyche*. London: Pluto Press.

Sherwood-Randall, E. (2006). *Alliances and American National Security*. US Army War College Press.

Yager, S. (2024). *How to End America's Hypocrisy on Gaza: The Biden Administration Must Assess Israel's Conduct – and Hold It to Account*. Foreign Affairs. Retrieved September 19, 2024, from: <https://www.foreignaffairs.com/how-end-americas-hypocrisy-gaza>.