

**Legitimacy of Israel-Hamas war: an analytical overview**

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**Abstract**

It has been more than two months since the Israel-Hamas war broke out. From the very beginning, the war victims were facing a terrible situation. Ultimately with the mediation of US and Egypt, both parties agreed for a ceasefire of four-day effective from November 25, 2023 to release the people taken captive during the war. According to this ceasefire, Hamas will release 50 Israeli hostages and in return Israel will respond with a release of 150 Palestinians. Israel will respond only if the initiative is taken by Hamas. After seven days, the heavy strikes have again resumed by Israel. But here the question arises, who has been actually benefited by this unwanted war which suddenly exploded? The most sufferers from both sides are the civilians only who have to face hatred from their opponents. The conflict between them is not new; both sides have been utmost disliking for each other since ancient times, resulting in such types of attacks. Even in recent years also, chronological attacks were recorded on Jerusalem from both sides. In these attacks, the world witnessed total contravention of the human being rights of the civilians and even war related international norms were also intentionally ignored. But now, it seems that the present conflict has divided the entire world into two parts. The situation seems to be going out of control day by day as per the commitment of both sides. If this situation continues and couldn't be handled timely then there might be a possibility of large-scale war and even one couldn't rule out the feasibility of third world war. Now, it shall remain the matter of time being to see how long this conflict lasts. The present paper is an effort to analytically overview the root cause of the conflict and a mere attempt to evaluate the contemporary situation of the region with a possible positive comment on the resolution side of the dispute in the larger interest of mankind.

*Keywords:* Israel, Palestine, Hamas, terrorism, Gaza Strip, Principles of War

**Preface**

**"The antidote of poison is poison, not nectar." - Chanakya, 320 BCE.**

**The antidote of terrorism is disproportionate counter terrorism.**

If we conceptually evaluate the modern warfare scenario and their modus operandi, the intensity of Israel-Hamas war has been taking much more attention in respect of serious threats to world peace. And above all there seems no hope to take any constructive initiation from either side as far as to resume peace talks is concerned. Surprisingly neither any proposal for mediation even from any third party is felt anywhere to resolve the dispute between these two countries. On the other hand, the situation is very pathetic when the affected civilians and the rest of the world continuously witness the horrors of war through the roar of fighter planes, the falling Bombs from the sky, flying bullets on the ground and the devastation caused by missiles. There is only an atmosphere of uncertainty, helplessness and highest unrest between the common men of both sides. The whole world has already been divided into two separate blocks supporting either side. Now it seems that the present war between these two is the biggest one in the last 50 years of Israel's history. According to the IDF (Israel Defense Force), this time war initiated by Hamas, comes under the category of war crime and it could be ended by eliminating Hamas completely. It is evident that after the Second World War; historical Geneva Convention was organized in 1949 to secure world peace and to save the human race from the monster of war. In this convention it was decided to reframe the rules related to the war and formally articulated and defined the principles of war, laterally which were known as 'International Humanitarian Law' under which a total of 161 rules were framed. At that time, it was assumed that these efforts could only be successful when all the associate member countries of the ICC recognize these rules and as expected accordingly the same was achieved also. Here it was clear that these rules could not be applied when there is fighting within a country i.e. in a civil war like situation. It means that this principled law could only be applied when there is a war between two countries and they were using heavy lethal weapons. So, it is clear that said law was articulated only to protect the civilians of the affected provinces. Here it has also been clearly defined among the members of the said treaty that any charge leveled against the parties has to be decided by the International Criminal Court (ICC). Here it is mentionable that to take up such international disputes, recently in the year 2002 the ICC was established at the Hague (HQ) along with a total of 123 member countries including China,

India, Russia, US and Egypt etc. The said Court has been authorized to investigate wars and inhumane factors taking place in all these member countries. On the other hand, it is also a matter of concern that till date Israel is not a member of this court. Presently ICC is investigating about 17 different cases related to Ukraine, Russia, Afghanistan and Myanmar etc. Even the ICC is also investigating the attacks on Palestinian areas by Israel since 2021.

So, as per the provisions of laws framed by ICC is concerned, an activity of utmost violence, highly volatile mass level genocide or any unethical behavior like rape of civilians etc. incidents shall be considered anti humanity and such acts would be considered against the defined frame of war laws and ICC members could resolve to investigate assuming these acts as war crimes. On these grounds, above said laws were appropriately applicable to the ongoing Israel- Hamas war. In this regard Human Rights Watch director Omar Shakir said that killing, taking hostages or mass punishment of innocent civilians is completely prohibited under the Geneva Convention. In the contemporary Israel-Hamas war, such videos are often going viral in which Hamas fighters are seen capturing or killing civilians and sometimes torturing them. On the other hand, similar videos related to the Israeli Army are also released by Hamas, where the value of humanity is being put on hold. It is clearly visible that this war is being fought against the prevailing international rule and regulations. So far, 15000 Palestinians and 1200 Israelis have already been killed in the present escalation of war and on the basis of this number, one can easily calculate the severe count of casualties of just last 15-year conflict between Israel and Palestine.

### **Historical perspective of Israel-Palestine conflict**

The war relationship between Israel and Palestine began with the First World War when Britain occupied Palestine after the defeat of the Ottoman Empire. Historically at that time in the area of Palestine, Jews were in minority as compared to the population of Arabs. In those demographic conditions, the international community had assigned the task to Britain of creating a Jewish empire in Palestine. After WWII, the area of Palestine was declared part of the British Empire and as a result of new ground realities; Britain supported the conception of a separate situation for the Jews in Palestine with an assurance to secure the rights of the non-Jewish community. Jews faced atrocities during World War II because the Arabs were against the Jews from the very beginning. Many Jews were killed in the Hebron massacre in 1929. These riots took place in Palestine. As the Jewish population was increasing in Palestine, the Palestinian people were being displaced from

there. This is considered to be the beginning of violence. At the same time the Arab countries attacked Israel but the Jews had the upper hand over the Palestinians. The war ended after 1 year. Palestinians lost most of the territory distributed by the United Nations during the war. For the Israeli Jews, it was a war of independence, but the Palestinians called it an eparate Nakba (catastrophe).

In 1937, Peel Commission tried to settle the dispute by recommending the creation of separate states of Jewish and Arab but it was instantly rejected by the Arabs. Yet another effort was initiated in 1947 immediately after WWII by the newly constituted world form namely United Nations Organization (UNO) offering a fresh separation graph to create a Jewish and Arab shape. Jews were in favor of it while Arabs were against it. British rule failed to establish peace between the two and retreated. On May 14, 1948, a new state was created and declared under Jewish leadership and Israel came into existence. But instead of accepting this plan, Arabs wage war against the newly created nation of Israel. As a result of this war, Arabs lost extra land than the divider settlement give them. In 1967, Israel won yet one more war against its Arab neighbors and conquered Gaza, the West Bank and Sinai in a suspicious war. Here, the Arab League declared total non-collaboration through "three No's" that was No harmony with Israel, No gratitude of Israel and No discussions with Israel. However, Israel willingly handed over the power of the Temple Mount, the holiest site in Judaism back to the Islamic Waqf, and made it unlawful for Jews to pray there. In another effort towards normalcy, in 1979 Israel again willingly handed the Sinai back to Egypt occupied in a suspicious war. And ultimately in 1993 as per the provisions of the Oslo Accords, Israel recognized the independence of the Palestinian power over the West Bank and Gaza Strip. But it is unfortunate here that Yasser Arafat used it to carry violence. In the year 2000, Israel offered Yasser Arafat recognition of a Palestinian state comprising the whole area of Gaza and 94% of the West Bank with East Jerusalem as its assets. But Arafat again rejected it as well as launched the next Intifada. Israeli efforts continued even in the year 2005 when unilaterally they pulled away of the Gaza Strip by dismantling every its settlement also Jews army ordered to depart for homes. On the contrary, Palestinians responded by elect Hamas who turned it into a fear shape. Once again in 2008, Israel offered to Mahmoud Abbas to recognize Palestinian state comprising the whole of Gaza and 94% of the West Bank with East Jerusalem like its assets and even on hand to take apart all their settlements. as well as expected, once over the Palestinians

rejected it. In this backdrop perspective of the conflict, since the last one decade (2010-2021), Hamas is continuously strengthening itself and even launching episodic rocket attacks beside the state of Israel and builds fear tunnels in arrange to capture and kill Jews while via the people of Gaza as person shields beside the IDF. And it was the result of all above developments that on October 07, 2023, Hamas committed the most terrible take action of collection slay against Jews since the Holocaust.

### **Jerusalem**

Jerusalem is an ancient town into West Asia considered to be the most religious and historical epicenter of the world, situated on an upland in the Judaeen Mountains among the Mediterranean and the lifeless ocean. It is the oldest city in the earth, and is consider holy to the three major Abrahamic religions i.e. Judaism, Christianity and Islam count over one-third of the total population on the earth. Today this ancient place is unique and special beyond its religious and historic significance. The Old City of Jerusalem has always been of immense emblematic significance. There are about 220 significant monuments out of which some monuments have great importance for different reasons. The 7th century ground of the Rock' stands away here and is ornamented with gorgeous arithmetic and flower motifs. It is familiar by all three religions as the place of Abraham's forgo. On the other hand, there is one-square-kilometer 'The bawling Wall' area which delimits the housing of the above said spiritual communities. Presently the Western Wall in the Jewish Quarter is the last outstanding wall of the Jewish Temple complex. This site is suspicious to be the holiest one in Judaism as Jesus die, hidden and resurrected here while the renaissance rotunda in the minster of the Holy Sepulchre houses Christ's grave. In Islam, Jerusalem is said to be as of where Muhammad rose into the universe. The Dome of the astound make this city the third holiest for Muslims after Makkah and Madinah. This site has been considered as the holiest site in Judaism but Muslims also consider it to be the same because of its association with the Prophet Mohammed. One another, the world famous 'Al Aqsa Mosque', which has been declared a World Heritage by UNESCO, is located here. The Jews call it shrine rise while Muslims call it 'Al Haram Al Sharif'. That's why this area has been disputed since the inception of modern Israel. In 2021, a bloody conflict took place between the two countries in Al Aqsa. With this brief about the very existence and importance of Jerusalem on the backdrop of historical, cultural and religious parameters, in the start of 20th century above all after the WWI, the root cause of the

dispute between Israel and Palestine is the area of Jerusalem, a place of vital importance being its religious recognition for both the Jewish and Islamic world. Now it is part of history that after the war of the late 1940's, a large part of Palestine came under the control of Israel. In 1949, an Army Stys Line was drawn in which Palestine was divided into two parts- West Bank and Gaza bit. About 2 million Palestinians survive in the Gaza Strip, while more than 3 million Palestinians survive in the West Bank, located to the east of Israel. As stated above, Jerusalem is situated in the West Bank and due to its location in the central area, created a dispute over which the two countries clashed numerously in the last eight decades. Above-described points are sufficient to understand the root cause that the culture and history of both the Jews of Israel and the Arabs of Palestine are linked to Jerusalem and accordingly both lay claim to it.

### **Hamas**

Hamas emerged in late 1987 during the first Palestinian intifada as an offshoot of the Muslim Brotherhood's Palestinian branch and religious factions within the PLO. Supported by a robust sociopolitical structure in the Palestinian territories, Hamas is a militant Palestinian nationalist and Islamist movement. The organization, officially known as Harakat al-Muqawama al-Islamiya (Islamic Resistance Movement), traces its roots back to the 1970s when Islamist Muslim Brotherhood activists established a network in the occupied territories. While the Muslim Brotherhood's activities were generally nonviolent, some small groups in the occupied territories called for jihad against Israel.

In 1987, Hamas gained attention when its leader Sheikh Ahmed Yassin, who had been in a wheelchair since the age of 12, articulated its main agenda—destroying Israel and establishing Islam in the region. The 1988 Hamas charter emphasized that Palestine is an Islamic homeland, never to be surrendered to non-Muslims. The group sees waging holy war against Israel as a religious duty for Palestinian Muslims. As the largest militant group in the Palestinian territories and one of the two major political parties, Hamas is committed to establishing an Islamic Palestinian state through armed resistance. The organization rejects any agreement that falls short of eliminating Israel and establishing an independent Islamic state in historical Palestine, based on Muslim Brotherhood ideology. Consequently, Hamas opposes the secular approach and rejects agreements between the PLO and Israel.

Since 2007, the Gaza Strip and parts of the West Bank have been the de facto governed and most dominating regions of Hamas. With a membership of approximately 25,000, its operational areas include Gaza, the West Bank, Palestinian refugee camps in Lebanon, and key regional capitals such as Doha, Qatar, and Cairo, Egypt.

Since the year 2000, Hamas has increasingly adopted more aggressive and brutal tactics. Following Israel's initiatives in 2005, Hamas strategically took control of the Gaza Strip, presenting a facade of pseudo-democracy. In late 2005, it challenged Fatah's leadership in the Palestinian nationalist movement and triumphed in the 2006 legislative elections, effectively ending the secular Fatah party's grip on the Palestinian Authority. This success provided Hamas with a significant platform to promote its ideology and garner support from the Arab world and other nations. Many countries, in the name of the Muslim Brotherhood, recognized Hamas and offered financial assistance.

Despite diplomatic efforts, Hamas remains steadfast in its refusal to acknowledge or renounce violent resistance against Israel. Over the years, Iran has emerged as Hamas's primary and substantial supporter, providing an estimated \$100 million annually. The evident and wholehearted support from Iran underscores its involvement in aiding and abetting Hamas.

The core objectives remain divergent: Hamas seeks the destruction of Israel and the establishment of a new Palestine, while Israel has determined to dismantle Hamas for its own survival. This ongoing conflict has intensified, resulting in a precarious and hostile situation between the two entities.

### **Israel - Hamas conflict: Backdrop**

In 2007, when Hamas took control of the Gaza Strip, Israel declared the region a hostile entity under Hamas and imposed sanctions, including power cuts, restricted imports, and border closures. Despite attempts at a truce in June 2008, the ceasefire proved unstable, with accusations of violations from both sides. Israel responded to sustained rocket fire with air strikes, leading to a ground campaign into Gaza. After three weeks of hostilities in early 2009, resulting in over 1,000 casualties and many left homeless, both Israel and Hamas declared a unilateral cease-fire.

In November 2012, Israel launched air strikes in response to increased rocket attacks from Gaza, resulting in the death of the head of the Hamas Forces, Ahmed Said Khalil al-Jabari. Hamas retaliated with more lethal rocket attacks, and hostilities persisted until a cease-fire agreement was

reached on November 21, 2012. In 2014, tensions between Israel and Hamas escalated after the disappearance of three Israeli teenagers. Israel accused Hamas of abducting the youths, launching a massive search operation and crackdown on Hamas members in the West Bank. The missing boys were found dead on June 30, leading to increased rocket attacks from the Gaza Strip. In response, Israel intensified its offensive, using aerial bombing and a ground assault to destroy targets associated with militant activity. Despite an open-ended cease-fire in late August, the conflict resulted in over 2,100 Palestinian deaths, widespread destruction in Gaza, and Hamas leaders declaring victory for withstanding Israeli attacks.

In 2018, a series of border protests in Gaza escalated tensions between Israel and Hamas. Demonstrators attempted to cross the border into Israel and launched incendiary kites and balloons, prompting a violent response from Israel. On May 14, about forty thousand people participated in the protests, resulting in Israeli soldiers opening fire, leading to approximately 60 deaths and 2700 injuries. The violence escalated, leading to Israeli air strikes and Hamas rocket fires, culminating in a truce in November. Discussions for peace continued intermittently, with occasional easing of restrictions on the Gaza Strip. In May 2021, tensions in Jerusalem triggered the most significant escalation since 2014. Clashes between Israeli police and Palestinian protesters led to hundreds of injuries. In response, Hamas launched rockets into Jerusalem and southern and central Israel, prompting Israeli airstrikes. After 11 days of fighting, a cease-fire was reached between Hamas and Israel.

### **Present conflict between Israel and Hamas**

In 2022, as Israel conducted incursions in the West Bank and the Gaza Strip to target militants, Hamas refrained from growing confrontations in and about the Gaza Strip. Many experts and observers of international politics, include members of the Israeli defense staff, believed Hamas was focused on governing the Gaza Strip and was unprepared for a major disagreement. But all of a sudden on October 07, 2023, Hamas launched a synchronized land, sea, and air assault that took Israel by shocker. Of course, this attack was deliberately planned and calculated one, executed against Israel by Hamas extremists' outfit in which more than 1400 Israeli civilians were reported to have been killed and about 240 others were taken hostage. It was a surprising and shocking incident for Israel and the rest of the world and considered to be the deadliest day for Israel since



its sovereignty. For this particular mission, more than thousand terrorists of Hamas were ready and waiting for final orders from their top commanders.

The Hamas leadership managed these terrorists to go through rigorous training for a special mission for one and a half years. On the other hand, Israel was immersed in celebration, unaware of the conspiracy of Hamas and the ongoing turmoil in the Gaza Strip. Meanwhile, Hamas fighters were reaching the Israeli border through the tunnel and as soon as they got the signal, they started firing rockets at Israel. Israel claims that about 5000 rockets were fired at Israel by Hamas. Before the Israeli administration could understand anything, Hamas's Operation 'Al Aqsa Flood' against Israel had started. Hamas had launched an all-out attack to target Israel. Before Israel could react, Hamas fighters killed thousands of innocents and took hundreds of Israeli civilians' hostage. It is often seen that such attacks on Israel were always initiated by Hamas which were counted as anti-humanity and also against the international rules of war. The world once again looked apprehensive and frightened by the hideous face of the demon of terrorism. Israeli PM Netanyahu conveyed message to the opponents especially Hamas regarding their commitment towards strong nationalism after the barbaric attacks of Hamas and declared as – "This is a moment to determine the final struggle for us by the ultimate goal of victory over Hamas, overthrowing its rule, removing its threat once and for all to the state of Israel. There are

many questions about the disaster that happened to us ten days ago. We will investigate everything to the end, and we have already started to apply immediate lessons. But now we are focused on one goal: to unite forces, and charge forward to victory. For this purpose, determination is needed, because victory will take time. There will be difficult moments. There will be bumps. Sacrifice is required. But we will win, because it is our very existence in this space that has many dark forces. Hamas is part of the evil axis of Iran, Hezbollah and their followers. Their desire is to destroy the State of Israel and murder us all. They want to return the Middle East to the abyss of barbaric fanaticism of the Middle Ages, while we want to catapult the Middle East to the heights of progress of the 21st century. This is a struggle between the people of light and the people of darkness, between humanity and animalists. We saw this in the horrifying atrocities that the despicable murders committed in Kibbutz Bari, in Kfar Gaza and in the surrounding settlements, and in the killing spree of the young men and women at the party in 'Reim'. Now many in the world understand who Israel is up against. They understand that Hamas is ISIS. They understand that

Hamas is a new version of Nazism. And just as the world united to defeat the Nazis and ISIS, so the world must unite to defeat Hamas. I say to our friends in the enlightened world: our war is also your war. If we don't stand together on one front, it will come to you too. And I also have a message for Iran and Hezbollah: don't test us in the north. Do not repeat the mistake you have already made, because today the price you will pay will be much heavier. President Biden told you in English: "Don't do it". And I tell you the same in Hebrew: "Be careful". We went to war, we will win the war, and we will not stop until victory." Since then, in retaliation for the terrorist act of Hamas, Israeli forces have been continuously and massively attacking Gaza. Israeli forces also engaged in a massive search operation in Northern Gaza. At the moment when Israel is going to launch a full-scale offensive on the Gaza Strip, the country's Defense Minister Yoav Gallant said - "Hamas wanted change in Gaza. The situation will change 180 degrees. They will regret this moment. Gaza will never be the same".

According to the Health Ministry of Hamas, till now more than 15000 people have been killed. Now the million-dollar question is why Hamas has selected this particular timing for these barbaric and lethal attacks on Israel? For all those whosoever deals with the affairs of warfare especially terrorist activities, it would be easy to understand the equations on the calculative parameters when there has already been going on a war continuously between Ukraine- Russia for the last 20 months and America along with European big powers were directly or indirectly involved while providing tactical and logistics support to Ukraine in this war. Of course, Russia had also been supposed to be supported by communist giant China and similar ideologies to counter the west i.e. the USA led NATO. Now it is also clear that Ukraine is going to lose this war at any moment due to sedative pulling hands by the big supporters from the west. One more calculation puzzle while we try to understand the long-awaited huge amount of \$ 6 billion financial assistance to Iran was instantly sanctioned by the USA which was earlier frozen due to a non commendable track record. This instance paves the way of weapons procurement for Hamas which were ultimately used against the civilians of Israel. As a result, Israel has to go for a war against Hamas and immediately needs weaponry to wage the same. Of course, this support shall be provided by allied country i.e. USA. It means the whole game seems to be related to the arms trade market. And big players of arms trade are playing behind the scenes. Despite all above assumptions, there are so many reasons to

raise doubts and queries related to this conflict which may be answered or understood with the passage of time.

### **Outcome of war**

Undoubtedly, like the previous wars, this time the conflict between these two appears too short to yield any meaningful human outcome. None of them are ready to accept the very existence of others. However, after a certain passage of time, there would be possibilities of a ceasefire to prepare for the next round of conflicts. It is the hard reality of the region and the fate of the civilians. It would also be counted as the results of this war that after the attack of Hamas, the world clearly appears to be divided into two parts where on one side UAE, Bahrain and even Taliban were openly criticizing the barbaric violence of the Hamas on the other hand Turkey and Iran were openly supporting Hamas attacks and trying to portrait it as an act of freedom movement of the Palestinians against the occupation of Israel. Big powers are playing their own game keeping in view the arms trade balance and their vested interest in the region. Even a country like India has also changed its stance officially with respect to the conflict in the region and unconditionally supported the cause of Israel and categorically condemned the barbaric act of terrorism committed by Hamas. However, the defense experts believe that the outcome of the war will be neither in favor of Israel or Palestine. If we look at the history of the last 50 years, we find that the wars fought between these two are for the very survival of the people only. And if any region is divided into two parts establishing priority for the minority, then naturally a feeling of dissatisfaction and insecurity will arise in the majority community, which will force them to fight for their rights. This is happening for eight decades between Israel and Palestine also. It is also historical fact that except a very short span of time, there never have been seen traces of Muslim ruling in the region and on the other hand, the traces of Israeli existence would be seen since ancient times. One more possible outcome of this time conflict would be, if the assumptions of the writer of this paper get a shape of reality, larger than the canvass. With a cool and calm head, we have to see the scenario round the globe, there are ongoing wars between Ukraine- Russia, Israel-Palestine which were supported by big players. On the other hand, Arabs feeling unrest over Israeli strikes, China searching appropriate time to annex Taiwan, uprising of right-wing extremists, universal arms trade figures and above all non state actors executing terrorist activities globally then who will give the guarantee that there are no chances of another big war somewhat like WWII.

**Conclusion**

From the above study, we come to know that the conflict between Hamas and Israel comes under the category of international war crime. War is an armed conflict between any two countries, but when both the countries cause harm to the common people of each other then certainly this act will be considered under the category of war crime. In this war, Israel captured Palestinians and Hamas killed Israeli citizens. Not only this, Hamas also misbehaved with Israeli people and videos of gang rape also surfaced. This time during the eventualities of the Hamas attacks, the world was forced to see a series of horrific scenes that gave goose bumps when an expecting woman in Southern Israel was found by Hamas terrorists. They dissect her body. Her stomach was cut open and they took the fetus out with the umbilical cord. And let the unborn child die slowly out of his mother's womb. This is what inhuman savages Hamas do to people. Even Israelis were also not far behind for such types of acts and could also not be spared from the charges of barbaric acts when they execute their task in retaliation. It is an established fact that no civilized society or country could legitimize such immoral and uncivilized conduct in the name of nationhood. In view of such brutal incidents, the entire incident of conflict must be thoroughly investigated by the ICC and the culprits of humanity should be executed ensuring the confirmed punishment under the provisions of international law so that such an incident does not happen again in future.

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