

**LEGAL ANALYSIS OF HOW THE ISRAEL–HAMAS CEASEFIRE ALIGNS WITH
INTERNATIONAL HUMANITARIAN LAW (IHL)**

By

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Abstract

This paper analyzes the legal significance of the Israel–Hamis ceasefire (October–January 2025 phases) under International Humanitarian Law (IHL). It examines how ceasefire measures relate to IHL obligations—protection of civilians, distinction and proportionality, facilitation of humanitarian relief, treatment of detainees and hostages—and explores mechanisms for monitoring and accountability, including the International Criminal Court (ICC). The paper argues that while the ceasefire advances several core IHL objectives (reduction of hostilities, improved humanitarian access, potential for safer evacuations), its long-term legal compliance will depend on implementation details: unfettered humanitarian access, impartial monitoring, protection of civilian objects, and mechanisms to investigate and prosecute grave breaches.

KEY WORDS: Ceasefire Israel Hamas International Humanitarian Law
International Armed Conflict (IAC) Non-International Armed Conflict (NIAC).

1.0 Introduction

Ceasefires are legal and political instruments that pause hostilities and open space for humanitarian assistance, negotiation, and stabilization. The recent ceasefire between Israel and Hamas, announced in October 2025 and implemented in phased steps (including hostage–prisoner exchanges, partial withdrawals, and commitments to facilitate aid), has immediate humanitarian importance and wider legal implications under IHL. This paper examines those implications by mapping ceasefire elements against IHL obligations and by assessing the institutional mechanisms that can secure compliance and accountability. The analysis draws on the Geneva Conventions, Additional Protocol I (where applicable), the practice and guidance of the International Committee

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of the Red Cross (ICRC), UN humanitarian agencies' reporting, and contemporary reporting on the ceasefire's operational terms.¹

2.0 Background of the Israel- Hamas Armed Conflict

The Israeli-Palestinian conflict dates back to the end of the nineteenth century. In 1947, the United Nations adopted Resolution 181, known as the Partition Plan, which sought to divide the British Mandate of Palestine into Arab and Jewish states. On May 14, 1948, the State of Israel was created, sparking the first Arab-Israeli War. The war ended in 1949 with Israel's victory, but 750,000 Palestinians were displaced, and the territory was divided into 3 parts; the State of Israel, the West Bank (of the Jordan River), and the Gaza Strip.²

Over the following years, tensions rose in the region, particularly between Israel and Egypt, Jordan, and Syria. Following the 1956 Suez Crisis and Israel's invasion of the Sinai Peninsula, Egypt, Jordan, and Syria signed mutual defense pacts in anticipation of a possible mobilization of Israeli troops. In June 1967, following a series of maneuvers by Egyptian President Abdel Gamal Nasser, Israel preemptively attacked Egyptian and Syrian air forces, starting the Six-Day War. After the war, Israel gained territorial control over the Sinai Peninsula and Gaza Strip from Egypt; the West Bank and East Jerusalem from Jordan; and the Golan Heights from Syria.³

Six years later, in what is referred to as the Yom Kippur War or the October War, Egypt, and Syria launched a surprise two-front attack on Israel to regain their lost territory; the conflict did not result in significant gains for Egypt, Israel, or Syria, but Egyptian President Anwar al-Sadat declared the war a victory for Egypt as it allowed Egypt and Syria to negotiate over previously ceded territory. Finally, in 1979, following a series of cease-fires and peace negotiations, representatives from Egypt and Israel signed the Camp David Accords, a peace treaty that ended the thirty-year conflict between Egypt and Israel.⁴

¹ - Geneva Convention (I) for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field, August 12, 1949, Common Article 3, ICRC IHL Database, <https://ihl-databases.icrc.org/en/ihl-treaties/gci-1949/article-3>. ICRC IHL Databases.

² Center for Preventive Action, "Israeli-Palestinian Conflict" (Council on Foreign Relation, November 06, 2023)<https://www.cfr.org/global-conflict-tracker/conflict/israeli-palestinian-conflict#:~:text=As%20Israel's%20ground%20invasion%20against,400%2C000%20people%20remain%20trapped%20there> accessed on 9th November 2023.

³ *ibid*

⁴ *ibid*

Even though the Camp David Accords improved relations between Israel and its neighbors, the question of Palestinian self-determination and self-governance remained unresolved. In 1987, hundreds of thousands of Palestinians living in the West Bank and Gaza Strip rose up against the Israeli government in what is known as the first intifada. The 1993 Oslo I Accords mediated the conflict, setting up a framework for the Palestinians to govern themselves in the West Bank and Gaza, and enabled mutual recognition between the newly established Palestinian Authority and Israel's government. In 1995, the Oslo II Accords expanded on the first agreement, adding provisions that mandated the complete withdrawal of Israel from 6 cities and 450 towns in the West Bank.⁵

In 2000, sparked in part by Palestinian grievances over Israel's control over the West Bank, a stagnating peace process, and former Israeli Prime Minister Ariel Sharon's visit to the al-Aqsa mosque—the third holiest site in Islam in September 2000, Palestinians launched the second intifada, which would last until 2005. In response, the Israeli government approved the construction of a barrier wall around the West Bank in 2002, despite opposition from the International Court of Justice and the International Criminal Court.⁶

Factionalism among the Palestinians flared up when Hamas won the Palestinian Authority's parliamentary elections in 2006, deposing longtime majority party Fatah. This gave Hamas, a political and militant movement inspired by the Palestinian Muslim Brotherhood, control of the Gaza Strip. Gaza is a small piece of land on the Mediterranean Sea that borders Egypt to the south and has been under the rule of the semi-autonomous Palestinian Authority since 1993. The United States and European Union, among others, did not acknowledge Hamas' electoral victory, as the group has been considered a terrorist organization by Western governments since the late 1990s. Following Hamas' seizure of control, violence broke out between Hamas and Fatah. Between 2006 and 2011, a series of failed peace talks and deadly confrontations culminated in an agreement to reconcile. Fatah entered into a unity government with Hamas in 2014.⁷

The most far-right and religious government in Israel's history, led by Benjamin 'Bibi' Netanyahu and his Likud party and comprising two ultra-Orthodox parties and three far-right parties, was

⁵ *ibid*

⁶ *ibid*

⁷ *ibid*

inaugurated in late December 2022. The coalition government prioritized the expansion and development of Israeli settlements in the occupied West Bank, endorsed discrimination against lesbian, gay, bisexual, transgender, queer, or questioning (LGBTQ+) people on religious grounds, and voted to limit judicial oversight of the government in May 2023 after a delay due to nationwide protests in March.⁸

3.0 The legal frame work of the Israel-Hamas armed conflict:

First, the applicable legal framework for assessing the hostilities between Hamas and Israel is the “Law of Armed Conflict,” also known as “International Humanitarian Law.” According to the decision of the International Criminal Tribunal for the former Yugoslavia (“ICTY”) in the Tadić case, “an armed conflict exists whenever there is a resort to armed force between States or protracted armed violence between governmental authorities and organized armed groups or between such groups within a State.” Hence, the conflict between Israel and Hamas in Gaza meets this definition.⁹

Even though the situation between Palestine (Hamas) and Israel is best described as a cross-border military confrontation between a sovereign State and a non-state armed group operating from a separate territory, particularly, when Hamas is a highly organized and well-armed group that uses armed force against Israel, and, indeed, considers such armed struggle to be its primary mission. By any measure, the conflict between Israel and Hamas has been protracted, spanning many years and intensifying in recent years as Hamas tightened its grip on Gaza, which then could make one be tempted to conclude that the said war is best termed a Non-International Armed Conflict, this paper, therefore, affirmed that this type of armed strife cannot go under non-International armed conflict, rather it is to be counted under International armed conflicts. International Armed Conflict encompasses a broad range of international hostilities, including, but not limited to:

- a. “All cases of partial or total occupation of the territory of a High Contracting Party, even if the said occupation meets with no armed resistance”¹⁰

⁸ *ibid*

⁹ International Committee of the Red Cross (ICRC), “Israel/Gaza, Operation Cast Lead” (Geneva 2009) <https://casebook.icrc.org/case-study/israelgaza-operation-cast-lead> accessed on 8th November 2023.

¹⁰ (ICRC, Geneva Convention 1949, Article 2[2]).

- b. “An unconsented-to invasion or deployment of a State’s armed forces on the territory of another State even if it does not meet with armed resistance”¹¹
- c. “Armed conflicts in which peoples are fighting against colonial domination, alien occupation or racist regimes”¹²
- d. “Minor skirmishes between the armed forces, be they land, air or naval forces”¹³

Concerning paragraph c above (Armed conflicts in which peoples are fighting against colonial domination, alien occupation or racist regimes) identified above under the situations that may be classified as International Armed Conflict, it is concluded that the struggle of Hamas against Israel being one that bothers on National liberation movements and self-determination struggles touches more on International Armed Conflict rather than Non-International Armed Conflict. Little wonder the Israeli High Court has ruled that these customary international law rules bind Israel under both international law and Israeli law. In particular, Israel’s High Court of Justice has confirmed that in the ongoing armed conflict with Palestinian organizations, including Hamas, Israel must adhere to the rules and principles of;¹⁴

- a. The Four Geneva Conventions,
- b. The Regulations annexed to the Fourth Hague Convention (which reflect customary international law), and
- c. The customary international law principles reflected in certain provisions of Additional Protocol I to the Geneva Conventions in 1949. Though Israel is not a party to the Additional Protocol I but accepts that some of its provisions accurately reflect customary international law.

Armed Conflicts with an international dimension, which are legally in between internal and International Armed Conflicts. The term describes internal hostilities that are rendered

¹¹ (ICRC Report 2016, para. 223).

¹² (ICRC, 1977, Additional Protocol I, Article 1[4], para.1

¹³ (ICRC Report 2016, para. 237)

¹⁴ International Committee of the Red Cross (ICRC), “Israel/Gaza, Operation Cast Lead” (Geneva 2009) <https://casebook.icrc.org/case-study/israelgaza-operation-cast-lead> accessed on 8th November 2023.

international. The factual circumstances that can achieve that internationalization are numerous and often complex. Hence, it includes;¹⁵

- a. war involving a foreign intervention in support of an insurgent group fighting against an established government. However, the Manual on the Law of Non-International Armed Conflict disregards this definition and stresses that an armed conflict has to be either internal or international;¹⁶
- b. When a foreign State extends its military support to the government of a State within which a Non-International Armed Conflict is taking place, the conflict remains non-international in character. Conversely, should a foreign State extend military support to an armed group acting against the government, the conflict will become international in character.¹⁷

Armed conflicts are fought at arm's length through proxy armed groups, then it is regarded as Internationalized Armed Conflict. According to the ICTY, where a second state is in 'overall control' of an organized armed group fighting an internal armed conflict against its own government's armed forces, the conflict must nonetheless be considered international, the Geneva Conventions will, therefore, apply in their entirety.¹⁸

Although the ICJ has emphasized separate 'complete dependence' and 'effective control' tests for the purposes of attribution of the acts of the armed group to the controlling second state in order to apply the international rules of state responsibility,¹⁹ that Court has neither adopted nor rejected the 'overall control' test as relevant for the determination of an IAC rather than a NIAC. If the overall control test is satisfied, the implication is that there is an IAC, and so not only will that specific war crimes regime apply, but the Geneva Conventions should also create rights and obligations for the two states concerned. But complex questions can arise when we consider

¹⁵ *ibid*

¹⁶ *ibid*

¹⁷ *ibid*

¹⁸ ICTY, *The Prosecutor v Duško Tadić*, Appeals Chamber Judgment (Interlocutory Appeal on Jurisdiction), IT-94-1-A, 15 July 1999, para 137

¹⁹ ICJ, *Case concerning the Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v Serbia and Montenegro)*, Judgment of 26 February 2007, paras 392–402.

whether the armed group as such is henceforth bound to apply all the obligations and acquire all the rights, of a belligerent in an IAC.²⁰

In practice, the issue may turn on whether the armed group is able to comply with all the obligations stemming from the law of IAC, and on whether the states involved are ready to consider that the members of the armed group are fighting an IAC. It is suggested that the best way to understand this situation is to separate the classification of the conflict from the status of the individuals concerned.

Even if there is an IAC involving armed groups under the overall control of a second state, the fighters from the armed group can enjoy POW status only if they fulfill the criteria set out in Article 4(A)(1) GC III as part of the armed forces of the state, or under Article 4(A)(2) as ‘belonging’ to the state party to the conflict.²¹In practice, states may balk at the idea of granting POW status to their own nationals captured in what they may consider an illegal insurrection. At this point, everything may turn on whether the second state recognizes that these fighters belong to it. The Pictet Commentary to GC III suggests that no official recognition is necessary and that tacit agreement would be enough. In such cases, it will be for the ICRC or other actors in the international community to argue that the captured fighters are entitled to POW status under the Geneva Conventions due to the internationalization of the conflict.²²

An international tribunal concerned with issues either of international criminal responsibility or state responsibility will have to determine first whether or not the relevant conflict was international or non-international, and then under which regime the relevant individual is protected. So, assuming that the tribunal finds convincing evidence of overall control by a state over the armed group, it would then have to determine whether the individual was part of a group that ‘belonged’ to the controlling state for the purposes of GC III. If the fighters do not belong, they would seem to be civilians entitled to protection under the customary rules reflected in Article

²⁰ M.N. Schmitt, ‘Classification in Future Conflict’, in Wilmschurst (ed), above n 21, 455, at 459–60; R. Kolb and R. Hyde, *An Introduction to the International Law of Armed Conflicts* (Oxford: Hart Publishing, 2008) at 76; Rogers, above n 33, at 3.

²¹ K. Del Mar, ‘The Requirement of “Belonging” under International Humanitarian Law’, 21 JICJ (2010) 105.

²² R. Kolb and R. Hyde, *An Introduction to the International Law of Armed Conflicts* (Oxford: Hart Publishing, 2008) at 76; Rogers, above n 33, at 3’

75 of Additional Protocol (AP) I (but strictly speaking not enjoying protected person status under GC IV where they have the nationality of the detaining state).

Furthermore, despite being captured as a fighter in an IAC, those fighters that are not part of the armed forces of the other state would not enjoy combatant immunity, and therefore could be prosecuted for having taken up arms against the state. With such a separation between the classification of the conflict and the classification of the individual, the idea of members of an armed group fighting in an IAC can begin to make sense. The two states will be responsible for ensuring that all the laws of IAC are respected.

They will also have positive obligations to ensure that these fighters respect the full range of obligations triggered by an inter-state armed conflict. Even when the acts of the fighters are not attributable to the state in question, due to there being no dependency or effective control, the state remains responsible for any failure to prevent violations of the Geneva Conventions that could reasonably have been prevented, as well as to ensure respect for the Geneva Conventions through the exercise of its overall control over the organized armed group. It should be borne in mind that the fact that a state supports a rebel group fighting another state is not necessarily enough to show that the supporting state has subjected the other state to an 'armed attack', entitling the victim state to act in self-defense under the UN Charter.

This support may be considered an illegal use of force or a violation of the sovereignty of another state, but so far, the ICJ has held that where such support merely constitutes 'assistance to rebels in the form of the provision of weapons or logistical or other support', this falls short of constituting an armed attack, and so there is no right to self-defense. While these questions are strictly speaking separate from the determination of the existence of an armed conflict, they remain connected because, while an overriding concern has always been to keep war at bay by fixing a high threshold for the right to self-defense, we are equally concerned to keep a low threshold for the application of the laws of war. This seeming contradiction is resolved once we admit that the threshold for triggering an IAC through proxy groups may not be the same as the test for triggering the right to defense in response to an attack by a proxy armed group.

Here we may have four separate tests:

- a. one for the application of the Geneva Conventions between states (resort to armed force between states requiring only low-intensity engagement);
- b. a second test for the application of the laws of IAC when an armed group fighting a state (overall control of the group by a second state);
- c. a third test for attributing the acts of an armed group fighting against its state to a second state (complete dependence or effective control); and
- d. a separate test requiring that one state sends the armed groups abroad to engage in an attack, or be substantially involved in such an attack, for the attacked state to claim self-defense as if the state had been attacked by a state acting alone.²³

3.1 Core Norms of International Humanitarian Law

The main sources of IHL (the four Geneva Conventions of 1949 and the two Additional Protocols of 1977) impose fundamental legal obligations during armed conflict to protect persons who are not or are no longer participating in hostilities. Among the most salient norms are:

- **Distinction** (differentiating between combatants and civilians).
- **Proportionality** (prohibiting attacks causing excessive civilian harm relative to the military advantage).
- **Precautions** (taking feasible measures to minimize civilian harm).
- **Protection of objects indispensable to civilian survival** (e.g., water, hospitals).
- Facilitation of humanitarian relief to civilian populations in need.

Common Article 3 of the 1949 Geneva Conventions provides minimum protections in non-international armed conflicts, while Additional Protocol I contain more detailed provisions on

²³ *ibid*

humanitarian relief (e.g., Article 70 on relief actions). The ICRC's interpretive practice and commentary provide authoritative guidance on how these rules apply in complex contexts.²⁴

3.2 Ceasefires in International Humanitarian Law(IHL) provisions

Although IHL does not create a single uniform legal regime for ceasefires, it recognizes the legitimacy and humanitarian value of suspending hostilities. Ceasefires are instruments for reducing harm and facilitating relief; they must be implemented in good faith and not be used as ruses to gain a military advantage (perfidy). The ICRC's glossary and practice note that various forms of suspension of hostilities (truce, armistice, ceasefire) have long been used to limit suffering and create conditions for law-compliant action.²⁵

3.2.1 How the Ceasefire Advances IHL Objectives

1. Facilitating Humanitarian Relief

A central legal obligation during armed conflict is the duty to allow and facilitate rapid and unimpeded passage of humanitarian relief when the civilian population is inadequately supplied. Article 70 of Additional Protocol I requires that relief actions be undertaken subject to certain conditions and coordination; customary IHL (including Rule 55 of the ICRC-ICRC/Customary IHL Study) similarly obliges parties to permit and facilitate impartial relief. The October 2025 ceasefire explicitly prioritized expanded humanitarian access and a 60-day plan for scaled-up deliveries, enabling UN agencies and NGOs to plan logistics for food, medical supplies, and shelter. Such measures, if implemented without undue restriction or politicization, align directly with IHL obligations to alleviate civilian suffering.²⁶ ICRC IHL Databases+1

²⁴-Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of International Armed Conflicts (Protocol I), 1977, Article 70, UN Depository, <https://ihl-databases.icrc.org/en/ihl-treaties/api-1977/article-70>. ICRC IHL Databases.

²⁵-International Committee of the Red Cross (ICRC), "Ceasefire agreement offers chance to save lives, reunite families," news release (October 2025), <https://www.icrc.org/en/news-release/icrc-president-ceasefire-agreement-offers-chance-save-lives>.

²⁶- United Nations Office for the Coordination of Humanitarian Affairs (OCHA), "UN Relief Chief outlines 60-day plan to deliver vital aid after Gaza ceasefire," (9 October 2025), <https://www.unocha.org/news/un-relief-chief-outlines-60-day-plan-deliver-vital-aid-after-gaza-ceasefire>.

Practical caveat: Article 70(1) remains subject to conditions where agreement of the receiving party may be required in certain circumstances; moreover, humanitarian actors and states must guard against excessive military control of relief that would amount to de facto denial or diversion. The ICRC and relief agencies have emphasized the need for predictable, secure corridors and independent delivery mechanisms to meet IHL standards.²⁷

2. Protection of Civilians and Civilian Objects

By suspending offensive operations in many zones, a ceasefire reduces immediate risks of indiscriminate or disproportionate attacks and protects hospitals, water systems, and shelters—objects explicitly covered by IHL protections. The ICRC welcomed the ceasefire as a necessary chance to save lives and reunite families, stressing that humanitarian pauses must be used to restore essential services and permit safe movement of civilians. Reducing active hostilities directly advances the principle of minimizing civilian harm, a cornerstone of IHL.²⁸

3. Release and Treatment of Detainees / Hostages

IHL regulates the treatment of persons deprived of liberty and prohibits hostage-taking as a method of warfare. While parties to a ceasefire may negotiate prisoner and hostage exchanges (which the ceasefire's phased terms included), such exchanges must comply with protections for humane treatment and due process where internment continues. The ICRC has historically played a facilitative role in releases and returns—an activity consistent with humanitarian protections under the Geneva Conventions. The documented facilitation of releases in 2023–2025 underlines how ceasefires can provide humanitarian redress while also invoking legal obligations regarding detention and humane treatment.²⁹

²⁷- ICRC, *The Geneva Conventions of 12 August 1949 (Consolidated Commentary and Text)*, ICRC Publications, <https://www.icrc.org/sites/default/files/external/doc/en/assets/files/publications/icrc-002-0173.pdf>.

²⁸- ICRC, *Protocol Additional (I) — Commentary and text*, United Nations Depository, https://un.org/en/genocideprevention/documents/atrocity-crimes/Doc.34_AP-I-EN.pdf.

²⁹-ICRC, “Gaza ceasefire critical to saving lives and reuniting families,” news release (October 2025), <https://www.icrc.org/en/news-release/icrc-president-gaza-ceasefire-critical-saving-lives>.

3.3 Legal Challenges and Potential IHL Violations During and After the Ceasefire

1. Conditions on Humanitarian Access and the Risk of De Facto Denial

Despite ceasefire commitments, there are concrete risks that access will be constrained by requirements that effectively delay or limit assistance (security clearances, extensive inspections, or limits on materials such as construction aggregates). Under IHL, any restrictions must be necessary, proportionate, and aimed at legitimate security concerns—not arbitrary or punitive. The UN’s 60-day plan emphasized the need for predictable truck crossings and unobstructed distribution; continued reports of logistical obstacles or politicization would put parties at odds with their duty to facilitate relief.³⁰

2. Use of Humanitarian Pauses as Military Ruses

IHL prohibits perfidy—acts purporting to negotiate or observe rights under IHL while using the pause to secure military advantages. If either party uses the ceasefire to reconstitute forces, reposition for tactical gain, or surveil civilian shelters for targeting, this would constitute misuse of a humanitarian instrument and could amount to an unlawful act under IHL. The opaque nature of some military redeployments and the presence of armed groups embedded in civilian areas make strict, independent monitoring critical.³¹

3. Indiscriminate Effects and Destruction of Civilian Infrastructure

Even during a ceasefire, violations that occurred before the pause may give rise to obligations to investigate and prosecute grave breaches (e.g., deliberate attacks on civilians, hospitals, or starvation used as a method of warfare). Extensive infrastructure damage documented by UN and independent monitoring raises concerns about prior and continuing unlawful conduct; documentation and impartial investigation are prerequisites for legal accountability.³²

³⁰- Reuters, Nidal al-Mughrabi and Ari Rabinovitch, “Ceasefire deal pledges aid for hunger-stricken Gaza,” October 10, 2025, <https://www.reuters.com/world/middle-east/ceasefire-deal-pledges-aid-hunger-stricken-gaza-2025-10-10/>.

³¹- The Guardian, Bethan McKernan, “Palestinians displaced to southern Gaza begin journey home as ceasefire comes into effect,” October 10, 2025, <https://www.theguardian.com/world/2025/oct/10/palestinians-displaced-gaza-home-ceasefire-israel-hamas>.

³²- UNRWA, “Situation Report #191 — Gaza Strip and West Bank,” October 2025, <https://www.unrwa.org/resources/reports/unrwa-situation-report-191-situation-gaza-strip-and-west-bank-including-east-jerusalem>.

4. Non-State Armed Groups and IHL Obligations

Hammas, as a non-state armed group operating in and controlling territory, is bound by common Article 3 and customary IHL; these rules prohibit hostage-taking, indiscriminate attacks, and require humane treatment of persons who are hors de combat. The ceasefire's negotiated elements must therefore be evaluated not only as political gains but as potential mechanisms to ensure compliance by non-state actors with core humanitarian norms. IHL recognizes that parties other than States may assume obligations under international law and are responsible for violations.

4.0 Monitoring, Verification, and Accountability Mechanisms

4.1 Monitoring and Verification

Effective compliance requires credible monitoring. IHL does not mandate a single mechanism for verification of ceasefires, but the involvement of neutral international actors—UN bodies, the ICRC, or mixed observer missions—strengthens transparency and reduces the risk of contested allegations.³³ The ICRC's active engagement in facilitating releases and supporting humanitarian operations during the recent pause demonstrates the organization's central operational role and normative authority. The UN OCHA's operational plans and reporting likewise provide a basis for coordinated monitoring of aid flows and humanitarian access.³⁴ ICRC+1

4.2 Legal Accountability: Domestic, International, and the ICC

The Geneva Conventions create obligations that may be enforced through domestic criminal law (states prosecuting grave breaches) or international mechanisms. Two points deserve emphasis:

1. National courts and universal jurisdiction. States may investigate and prosecute grave breaches under universal jurisdiction principles, subject to evidentiary and political constraints.

³³- ReliefWeb / Medical Aid for Palestinians, "Gaza ceasefire deal reached — MAP calls for aid access and accountability," October 2025, <https://reliefweb.int/report/occupied-palestinian-territory/gaza-ceasefire-deal-reached-map-calls-aid-access-and-accountability>.

³⁴- International Criminal Court (ICC), "State of Palestine," ICC official site, noting Palestine's accession to the Rome Statute and jurisdictional implications, <https://www.icc-cpi.int/palestine>. International Criminal Court.

2. International Criminal Court. The ICC's jurisdiction is territorial and personal: the State of Palestine acceded to the Rome Statute (entered into force for Palestine on 1 April 2015), giving the Court potential jurisdiction over crimes committed on Palestinian territory by any person, including nationals of non-State Parties, subject to admissibility and complementarity rules. The ICC Office of the Prosecutor has previously stated its investigations related to the situation in Palestine, indicating that grave crimes arising during both prior and renewed hostilities could be subject to ICC scrutiny—so long as jurisdictional and admissibility tests are satisfied. This creates an international accountability avenue for allegations of war crimes and crimes against humanity.

Important legal caveat: Israel is not a party to the Rome Statute; however, ICC jurisdiction over Palestinian territory has been recognized by the Court for certain conduct that occurred on that territory. Pragmatic and political factors, evidentiary burdens, and complementarity will shape any eventual ICC proceedings.³⁵

5.0 Normative and Practical Recommendations for Ensuring IHL Compliance

To ensure the ceasefire meaningfully advances IHL objectives and reduces impunity, the following measures are legally and practically advisable:

1. Establish an impartial monitoring mechanism combining UN, ICRC, and international observers to document compliance, monitor crossings, and verify alleged violations. Such a mechanism should be transparent and publish regular reports to reduce contested narratives.
2. Guarantee unfettered humanitarian access with clearly defined corridors, predictable scheduling of convoys, and independent distribution agents to prevent diversion. Article 70 AP I and customary law require facilitation of relief actions where civilian needs are acute.
3. Insulate humanitarian operations from military control that would amount to de facto denial or conditionality. Humanitarian agencies must retain operational independence in line with ICRC principles.
4. Document and investigate alleged crimes rapidly and impartially, preserving evidence for domestic and international accountability mechanisms, including potential ICC proceedings where

³⁵ Rome Statute of the International Criminal Court, last consolidated edition (2024), <https://www.icc-cpi.int/sites/default/files/2024-05/Rome-Statute-eng.pdf>. International Criminal Court.

jurisdictional criteria are met. States and international bodies should support forensic, witness-protection, and investigative capacities.

5. Protect civilians and civilian infrastructure by maintaining no-strike assurances for medical, water, and shelter facilities; mandating demarcation and protection protocols; and undertaking urgent de-mining and remediation of hazards.

6.0 Conclusion

The October–January 2025 ceasefire between Israel and Hamas represents a legally significant pause that, if implemented in accordance with IHL, can deliver substantial humanitarian relief and reduce civilian suffering. Key IHL instruments—Common Article 3, AP I Article 70, customary law on humanitarian assistance, and the body of ICRC practice—provide a clear legal architecture supporting the ceasefire’s humanitarian aims. However, the legal value of the ceasefire depends on implementation: unrestricted humanitarian access, impartial monitoring, prohibition of using the pause as a ruse for military advantage, protection of civilian objects, and mechanisms for prompt investigation and accountability. The presence of an ICC jurisdictional avenue (via Palestine’s accession to the Rome Statute) reinforces the prospect of international legal scrutiny for grave breaches, though political, evidentiary, and jurisdictional constraints will shape any future prosecutions. In short: the ceasefire aligns with IHL principles in theory; in practice, realizing its legal promise requires rigorous and sustained measures by states, international organizations, and humanitarian actors.