



The Principle of Responsibility to Protect: Its Significance and Implementation In Israel-Palestine Conflict

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Abstract

This article explores the importance of the role of the principle of responsibility to protect of the UN in resolving the Israel-Palestine conflict by evaluating the international legal norms, the intervention of the international community, and the UN resolutions, as well as diplomatic initiatives as an effort to protect civilians in the midst of conflict. Relying on normative legal research methods, this research focuses on doctrinal analysis of relevant international legal principles that combine positivism and constructivism. This article utilizes primary and secondary data, such as UN reports, books, journal articles, and literature from the internet as a source to enrich this research. The study found that the principle of responsibility to protect has the potential to foster more effective protection for civilians in the midst of the Israel-Palestine conflict and is the basis for international intervention when a state fails to fulfil its responsibilities. However, the implementation of R2P faces a variety of challenges, including political bottlenecks in the UN Security Council, concerns over violations of state sovereignty, as well as a lack of global agreement on collective action. This article concludes that the application of the R2P principle by the United Nations to the Israel-Palestine conflict is urgent to prevent further escalation of violence. This article suggests reforms in UN mechanisms and strong

international political support to ensure the successful application of these principles to address the issue.

Keywords: r2p; israel-palestine conflict; international security.



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Abstrak

Artikel ini mengeksplorasi pentingnya peran prinsip tanggung jawab untuk melindungi PBB dalam penyelesaian konflik Israel-Palestina melalui pengkajian terhadap norma-norma hukum internasional, intervensi komunitas internasional, dan resolusi-resolusi PBB, serta inisiatif diplomatik sebagai upaya untuk melindungi warga sipil di tengah konflik. Mengandalkan metode penelitian hukum normatif, penelitian ini berfokus pada analisis doktrinal terhadap prinsip-prinsip hukum internasional yang relevan yang menggabungkan positivisme dan konstruktivisme. Artikel ini memanfaatkan data primer dan sekunder, seperti laporan PBB, buku, artikel jurnal, dan literatur dari internet sebagai sumber untuk memperkaya penelitian ini. Penelitian ini menemukan bahwa prinsip tanggung jawab untuk melindungi berpotensi untuk mendorong perlindungan yang lebih efektif bagi warga sipil di tengah-tengah konflik Israel-Palestina dan menjadi dasar bagi intervensi internasional ketika suatu negara gagal memenuhi tanggung jawabnya. Namun, implementasi R2P dihadapkan pada berbagai tantangan, termasuk hambatan politik di Dewan Keamanan PBB, kekhawatiran terhadap pelanggaran kedaulatan negara, serta kurangnya kesepakatan global mengenai tindakan kolektif. Artikel ini menyimpulkan bahwa penerapan prinsip R2P oleh PBB terhadap konflik Israel-Palestina sangat mendesak untuk mencegah eskalasi kekerasan lebih lanjut. Artikel ini menyarankan reformasi dalam mekanisme PBB dan dukungan politik internasional yang kuat untuk memastikan keberhasilan penerapan prinsip ini untuk mengatasi masalah tersebut.

Kata Kunci: r2p; konflik israel-palestina; keamanan internasional.

A. Introduction

The Israel-Palestine conflict has been one of the most complex and prolonged conflicts in the world. Human rights violations, military violence and civilian suffering have taken a heavy toll. Despite ongoing efforts to reach a peaceful solution, including through negotiations and mediation by third parties, deep political, social, economic and religious challenges continue to stand in the way of a long-term resolution. The crimes against humanity committed by Israel against Palestine can be categorized as genocide. Not only were Palestinian buildings destroyed, but also the near annihilation of innocent civilians. This triggered the sympathy of most of the international community who still have a sense of humanity. Thus causing the situation to escalate, accompanied by the boycott of all forms of things that are verified to support the Israeli movement.

The international response can be seen from the existence of several countries and organizations that provide assistance to Palestine in various forms, including humanitarian assistance, development, health, education, and even military assistance. Aid to Palestine comes from various sources, including international organizations, donor countries, and non-governmental

organizations. Various forms of condemnation have come to Israel from the international community for its attacks on Palestine.

However, Israel did not immediately stop its attacks but instead made propaganda news as if it were a victim and sought sympathy from the international community. Israel is also seeking to expand its relations with Gulf states through normalization agreements, such as the Abraham Accords signed in 2020 with the United Arab Emirates and Bahrain.¹ Along with the Israel-Palestine conflict gravely deepening and risking wider war across the Middle East.² The United Nations (UN) has the primary goal of fostering international peace and security, promoting cooperation among nations, and enhancing global social and economic well-being. The Responsibility to Protect (R2P) principle is an international norm adopted by the UN in 2005, which states that states have a responsibility to protect their

¹ Hengky Ho, "Penerapan Hukum Humaniter Internasional Dalam Konflik Bersenjata Antara Palestina Dan Israel," *Lex Et Societatis* Vol. VII/N, no. Vol. 7 No. 2 (2019): *Lex Et Societatis* (February 2019), <https://doi.org/https://doi.org/10.35796/les.v7i2.24668>.

² Christopher Hobson, "A World Without Alternatives: R2P Meets TINA," *Journal of Intervention and Statebuilding* 18, no. 2 (March 14, 2024): 216–24, <https://doi.org/10.1080/17502977.2024.2333461>.

populations from genocide, war crimes, ethnic cleansing, and crimes against humanity. If a state fails to do so, the responsibility shifts to the international community to take collective action, including by military intervention if necessary. An important document that legitimizes the R2P principle is the 2005 World Summit Outcome Document, specifically in Paragraphs 138 and 139.³

Considering the dark times of R2P, which is seen as a failure and merely a tool used by powerful countries to intervene in the politics of weaker nations for their own benefit. Indeed, if R2P is 'a flaw that cannot be repaired', as Hehir stated,⁴ or that 'R2P no longer represents a normative agenda worthy of humanity', as Moses suggested.⁵ However, there is a gap and hope if R2P is implemented as it should be, although there are many challenges. With the Israel-Palestine case, the existence of this principle is questionable in its implementation as a form of effort to realize international peace and

³ Outcome Document (A/RES/60/1).

⁴ Aidan Hehir, "The Responsibility to Protect Debate: An Enduring Black Hole," *Journal of Intervention and Statebuilding* 18, no. 2 (March 14, 2024): 205–10, <https://doi.org/10.1080/17502977.2024.2307258>.

⁵ Jeremy Moses, "Gaza and the Political and Moral Failure of the Responsibility to Protect," *Journal of Intervention and Statebuilding* 18, no. 2 (March 14, 2024): 211–15, <https://doi.org/10.1080/17502977.2024.2304987>.

security. The implementation of R2P is often hampered by political considerations, including conflicts of interest between UN Security Council member states. For example, the veto power of the permanent members of the Security Council. Article 27 states that all procedural activities of the Security Council shall be decided collectively by five permanent members.⁶

This topic is examined using a normative legal approach to analyse the application of the principle of responsibility to protect (R2P) in the Israel-Palestine conflict. This research focuses on doctrinal analysis of relevant principles of international law, particularly in relation to R2P rules in armed conflict. In terms of epistemology, this research combines positivism and constructivism. Positivism is used to examine R2P based on international legal instruments such as the UN Charter and Geneva Conventions, viewing them as binding norms. Constructivism, on the other hand, highlights how R2P developed as a global discourse influenced by the political interests of powerful states.

⁶ Dewi Afrilianti, Budi Ardianto, and Dony Yusra Pebrianto, "Penghapusan Hak Veto Dalam Rangka Reformasi Dewan Keamanan Perserikatan Bangsa-Bangsa," *Uti Possidetis: Journal of International Law* 2, no. 2 (June 8, 2021): 210–34, <https://doi.org/10.22437/up.v2i2.12114>.

Through this approach, the research seeks to explore the extent to which R2P principles can be effectively implemented in resolving the Israeli- Palestinian conflict.

B. Discussion

The UN trial on the unification of nations began on April 25, 1945. The Lions Club, which was specially invited to amend the UN charter, was one of the many public organizations that attended the trial.⁷ Compared to the previous LBB, this UN organization is considered the first and most important collective security system. This is evidenced by the acceptance and institutionalization of the International Security system in the UN Charter.⁸ The UN has many bodies and organizations that work on specific issues, include the bodies responsible for most humanitarian work.

The conventional treaty law principle, "Pacta tertiis nec nocent nec prosunt, suggests that treaties cannot bind outsiders. However, paragraph 6 of article 2 states that "the organization shall ensure that States which are

⁷ Q.C.L.L.D. D.W.Bowett, "Hukum Organisasi Internasional, Sinar Grafika" (Jakarta, n.d.). p. 31.

⁸ Sigit Riyanto, "Keamanan Internasional Kolektif Dan Peran Organisasi Regional," *Tanjungpura Law Journal* 5, no. 1 (April 9, 2021): 67, <https://doi.org/10.26418/tlj.v5i1.46225>.

not members of the United Nations act in accordance with these principles wherever possible when deemed necessary for the maintenance of international peace and security.”⁹

In 2005, the UN adopted the Responsibility to Protect (R2P) principle. This principle is a proposed norm, not a law. R2P is based on international law, particularly with regard to sovereignty, security, peace, human rights and armed conflict. Responsibility to Protect (R2P) is an international norm that affirms the state's obligation to protect its population from four types of serious crimes, including genocide, war crimes, ethnic cleansing and crimes against humanity.¹⁰ This principle was reaffirmed in UN Security Council Resolution No. S/RES/1674 dated April 16, 2006.¹¹ R2P consists of three pillars:

⁹ Sumaryo Suryokusumo, *Hukum Organisasi Internasional* (Jakarta, 1990), UI-Press. p. 2.

¹⁰ Ferdinand Pusriansyah et al., “Kajian Implementasi Prinsip ‘Responsibility to Protect’ (R To P) Dalam Praktik Internasional Kasus Genosida Di Rwanda,” *Jurnal Indonesia Sosial Teknologi* 3, no. 02 (2022): 315–19, <https://doi.org/10.36418/jist.v3i2.372>.

¹¹ Setyo Widagdo and Rika Kurniaty, “Prinsip Responsibility To Protect (R2P) Dalam Konflik Israel- Palestina: Bagaimana Sikap Indonesia?,” *Arena Hukum* 14, no. 2 (August 31, 2021): 314–27, <https://doi.org/10.21776/ub.arenahukum.2021.01402.6>.

1. A state is responsible for protecting its citizens from genocide, crimes against humanity, war crimes, and ethnic cleansing.
2. The international community is responsible for helping states fulfil their primary responsibilities.
3. Where states fail to protect their citizens from the above places of violence and fail to uphold peace, the international community has a responsibility to intervene through coercive measures such as the military is considered a last resort.

In the traditional concept, sovereignty is understood as the right of the state to regulate its internal affairs without outside interference (Westphalian sovereignty). However, R2P shifts this paradigm by emphasizing that state sovereignty is not only a right, but also an obligation of the state to protect its population from genocide, war crimes, ethnic cleansing, and crimes against humanity. If a country fails to carry out this obligation, either due to incompetence or unwillingness, the responsibility shifts to the international community to take steps to protect the threatened population. This transformation is referred to as the concept of

sovereignty as responsibility, which is the core of R2P.¹² R2P does not remove the concept of state sovereignty or the doctrine of non-intervention, but recontextualizes it.¹³

In this interview Gareth Evans, former Australian Foreign Minister, talks with the coordinator of the Master of Anthropology program at ANU about the development and main ideas behind this principle. Professor Evans explains that the principle was born out of the failure of international organizations to intervene in situations such as Rwanda and Bosnia in the 1990s, where mass atrocities occurred without an effective response.¹⁴ According to him, the principle shifts the focus from the controversial "right to intervene" to the "responsibility to protect" citizens at risk of mass

¹² Dana Pieriza and Sri Rahayu Lestari, "Legitimasi Penerapan Prinsip Responsibility To Protect Dalam Penggunaan Senjata Kimia Di Republik Arab Suriah," *Jurnal Hukum Internasional Universitas Sebelas Maret* 1, no. 2 (2022): 81, <https://jurnal.uns.ac.id/belli/article/view/27410/18970>.

¹³ Renshaw, Catherine, 2024, (*R2P: An idea whose time never comes*), Lowy Institute, <https://www.lowyinstitute.org/the-interpret/r2p-idea-whose-time-never-comes> diakses 9 Desember 2024.

¹⁴ ANU TV, Humanitarianism and the R2P doctrine: A conversation with Professor Gareth Evans, Australian National University, <https://youtu.be/wEUNzAKZuxQ?si=B2w3djvVpTlqtyKG> diakses 1 November 2024.

atrocities crimes.¹⁵ The change in language and conceptual approach aims to create a new environment for international organizations (UN) in dealing with these situations.

Professor Evans addresses the criticism that R2P does not address the realities of international relations and national interests. He argues that R2P is distinctive and provides a high bar for military intervention, while recognizing that there are constraints and opportunities. It is not intended to encourage powerful states to intervene unilaterally but rather builds a framework for collective action and can provide opportunities to regain consensus and implement R2P effectively. Initially, the principle of non-intervention in international law was strictly to protect state sovereignty. However, as time progressed and the global situation changed, the concepts of humanitarian intervention and responsibility to protect (R2P) became more recognized as exceptions to the principle. This means that another state can step in for humanitarian reasons if it is not protecting its population from extraordinary crimes. According to Article 2 Section 4 of the UN Charter, the use

¹⁵ *Ibid.*

of military force is intended to protect people from human atrocities, regardless of atrocities committed by governments themselves. Therefore, the use of military force contrary to the first two types of prohibited force will not be justified.¹⁶

The ICISS hopes that this R2P will allow the international community to own the responsibility for certain states to prevent humanitarian disasters, through a number of strategies, including development assistance, mediation, and negotiation. Prevention can also include more initiative-taking measures, such as creating policies to address the key factors that lead to civil conflict. Responsibility to Prevent is a model for international intervention in mediating between two warring parties or assisting by deploying peacekeeping forces. In other words, the goal of these efforts is to reduce tensions in a state of conflict that could continue to worsen.¹⁷ Background and progress: Palestine is the only country that participated in the 1955 Asia-Africa Conference that still does not have independence. The

¹⁶ Jordan J., "R2P and Protective Intervention," *Temple International & Comparative Law Journal*. Westlaw, 2017. p. 3.

¹⁷ Muhammad Zahrul Anam, "Humanitarian Intervention: The Principle of Responsibility to Protect (R2P)," *Jurnal Hubungan Internasional* 4, no. 1 (2015). p. 1-11.

Israeli occupation of Palestine continues, and a large number of violations against Palestinians are committed. Palestine continues to seek bilateral recognition from many countries. As of 14 September 2015, only 136 countries out of 193 UN members recognize Palestine as a state. Palestine has not given up in campaigning for full UN membership in the State of Palestine. This long wait had given good news, because the UN through its cultural body, UNESCO, chose to accept Palestine as a full member. However, Israel and the United States responded as well as threatening to suspend their funding for the agency and leave UNESCO in 2018, although the United States rejoined last year.

The decades-long Israel-Palestine conflict has been characterized by various human rights violations. In the context of war or armed conflict, humanitarian law contains three main principles, namely the principle of limitation, which requires the parties participating in the war or conflict to control. The principle of proportionality, which means the amount of force used must be proportional to the enemy faced. The principle of distinction, also known as the distinction principles, is a principle that directs all parties participating in an armed conflict or war to comprehensively distinguish

between targets and individuals.¹⁸ Some actions in this conflict can be categorized as serious crimes relevant to the Responsibility to Protect (R2P) Principles, namely genocide, war crimes, ethnic cleansing, and crimes against humanity. The following is an identification of the human rights violations that occurred and their relevance to the indicators of crimes within the scope of R2P:

The UN Genocide Convention (1948) defines genocide as certain acts committed with intent to destroy, in whole or in part, a particular national, ethnic, racial or religious group. To prove genocide, the act must fulfil the element of intent (*dolus specialis*) and one of the five criteria of acts listed in Article II of the Genocide Convention.¹⁹ Thousands of Palestinians, including many children, have been killed by Israeli military operations in Gaza and the West Bank. Examples of major offensives

¹⁸ Lenny Husna Liska Muslimmaa, Maya Widyastutib, "Pelanggaran Dalam Hukum Humaniter Internasional Pada Perang Israel Terhadap Palestina," *Jurnal Hukum Internasional* 6, no. 1 (2024): 200–206. p. 203.

¹⁹ United Nations, "Convention on the Prevention and Punishment of the Crime of Genocide" (n.d.). https://www.un.org/en/genocideprevention/documents/atrocity-crimes/Doc.1_Convention%20on%20the%20Prevention%20and%20Punishment%20of%20the%20Crime%20of%20Genocide.pdf diakses 9 Desember 2024.

such as Operation Cast Lead (2008-2009), Protective Edge (2014), and other conflicts often target densely populated areas.²⁰ Restricting access to food, water, electricity, and basic health services, creates conditions unfit for life.²¹ Palestinians are losing their homes and land due to Israel's illegal settlement expansion policy. This policy can be considered an attempt to create conditions that accelerate the destruction of Palestine.

According to an Amnesty International report, Israeli attacks during the 2023 conflict caused more than 42,000 Palestinian deaths, including 13,300 children, and injured more than 97,000 others as of October 7, 2024. Israel also detained hundreds of Palestinians from Gaza incommunicado and used other brutal tactics such as torture.²² These attacks are considered disproportionate, violating the principles of distinction

²⁰ Dyah Lupita Sari, "Operation Protective Edge 2014: Justifikasi Israel Terhadap Pelanggaran Hukum Internasional Dalam Prinsip Just War," *Global: Jurnal Politik Internasional* 20, no. 1 (July 24, 2018): 70, <https://doi.org/10.7454/global.v20i1.314>.

²¹ Vitry, H. S., Syamsir, Khaira Ummatin, Azzahra, M. H., Amanda, A. P., & Suci, D. P., "Konflik Israel Dan Palestina: Analisis Manajemen Konflik Yang Mempengaruhi Mental Health Anak-Anak Palestina," *Triwikrama: Jurnal Multidisiplin Ilmu Sosial* 2, no. 2 (2023).

²² Investigasi Amnesty International Temukan Bukti Kuat Israel Lakukan Genosida di Jalur Gaza, 2024, Amnesty Internasional, <https://www.amnesty.id/kabar-terbaru/investigasi-amnesty-international-temukan-bukti-kuat-israel-lakukan-genosida-di-jalur-gaza/12/2024/> diakses 9 Desember 2024.

and proportionality in international humanitarian law. In cases of human rights violations, the responsibility of the state actually consists of bringing to justice the perpetrators and providing compensation or compensation for victims of human rights violations.²³ Military attacks by Israel, such as the airstrikes in Gaza, often target densely populated areas with no distinction between military targets and civilians.²⁴ The use of excessive force, including weapons such as white phosphorus that are banned in armed conflict, has resulted in thousands of civilian casualties. Attacks on civilians without distinction violate the 1949 Geneva Conventions and meet the criteria for war crimes, which fall within the scope of R2P.

The systematic expulsion of Palestinians from certain areas, along with the expansion of illegal settlements, can be considered a form of ethnic cleansing if it is widespread and systematic. Forced evictions of

²³ René Cortázar, "Austerity Under Authoritarianism: The Neoconservative Revolution in Chile," in *Paying the Costs of Austerity in Latin America* (Routledge, 2019), 43–63, <https://doi.org/10.4324/9780429301223-3>.

²⁴ Yulius Brahmantya Priambada, 2024, "Jalan Panjang Menyingkap Kejahatan Genosida Israel terhadap Palestina", Kompas.id, <https://www.kompas.id/baca/riset/2024/01/13/jalan-panjang-menyingkap-kejahatan-genosida-israel-terhadap-palestina> diakses 27 Oktober 2024.

Palestinians from their homes in East Jerusalem and the West Bank, such as the case in Sheikh Jarrah, by Israeli authorities. Forced displacement and systematic expulsion of an ethnic group from a particular territory can be categorized as ethnic cleansing, which is one of the grave crimes under R2P.

Israel has imposed a strict blockade on the Gaza Strip since 2007, limiting Palestinians' access to basic necessities such as goods, fuel, food, medicine, and clean water. This blockade has caused a humanitarian crisis that has worsened the lives of 2 million Gazans. Denial of access to basic necessities resulting in systematic suffering of a civilian population can be categorized as a crime against humanity, which falls within the scope of R2P. The blockade has also impacted Gaza's economy, with the unemployment rate reaching 45% by 2023, one of the highest in the world. A UN report states that 80% of Gazans are dependent on international aid,²⁵ while access to clean water is only available to 10% of the population.

²⁵ PBB: 80 persen warga Gaza bergantung pada bantuan internasional, 2023, Antara News, <https://www.antaranews.com/berita/3793779/pbb-80-persen-warga-gaza-bergantung-pada-bantuan-internasional> diakses 9 Desember 2024.

The situation in Gaza and the West Bank meets the indicators of grave violations relevant to R2P. Documentation from international organizations suggests genocide, war crimes, crimes against humanity, and potential ethnic cleansing. However, the application of R2P in these cases faces major challenges, including geopolitical complexities and political obstacles at the UN Security Council. Greater collective efforts are needed to protect civilians and prevent further escalation.

South Africa filed a lawsuit on December 29, 2023, accusing Israel of violating the 1948 Convention on the Prevention and Punishment of the Crime of Genocide, and considering Israel's actions to meet the characteristics of the crime of genocide. Quoting from the South African lawsuit document on the ICJ's official website, there are at least three Israeli actions that are being sued. The three acts of genocide are killing Palestinians in Gaza, causing serious physical and mental suffering, and providing living conditions that are expected to cause physical destruction for them. These actions are clearly a violation of the Genocide Convention article 2 points (a), (b), and (c).²⁶

²⁶ Yulius Brahmantya Priambada. "Jalan Panjang Menyingkap Kejahatan Genosida Israel terhadap Palestina". Kompas.id.

The fact that Israel was admitted to the UN as a full member state on May 11, 1949. Its members are committed to maintaining international peace and security, developing friendly relations between countries, and cooperating in solving economic, social, cultural and humanitarian problems. They are also responsible for enhancing the enforcement of human rights. This shows that what Israel is doing to Palestine is contrary to these commitments. In essence, the main purpose of the UN is to protect humanity from the threat of war, and the UN Charter contains detailed provisions on the maintenance of international peace and security.²⁷ State sovereignty is the basis of international relations, especially when it comes to membership of international organizations. The state's decision indicates that it gives consent or approval to join an international organization as a free and independent state. (Kal Rautiala. 2003:841).

The United Nations is the largest international organization that has ever enabled countries around the world to cooperate in various fields of international life.

<https://www.kompas.id/baca/riset/2024/01/13/jalan-panjang-menyungkap-kejahatan-genosida-israel-terhadap-palestina> diakses pada 27 Mei 2024.

²⁷ Sumaryo Suryokusumo, *Organisasi Internasional* (Jakarta: Universitas Indonesia, 1987). p. 8.

The UN consists of almost all countries in the world, most of which are developed and developing countries. Even the UN Security Council are superpowers that have great influence in the international world. The authority of international organizations is granted by the clear and open consent of member states; however, this consent is not permanent and can be revoked at any time.²⁸

The UN's response to the Israel-Palestine conflict began with UN Resolution 181 in 1947, which recommended the division of the Palestinian territories into Jewish and Arab states. Although this plan was rejected by Arab states and most of the Palestinian population, the resolution marked the beginning of UN involvement in the conflict. Since then, the UN has passed many resolutions related to the conflict, including Resolutions 242 and 338 that call for the withdrawal of Israeli forces from the occupied territories and respect for the right to self-determination for the Palestinian people. In addition, the UN has the authority to resolve cases through the International Court of Justice. Thus, the UN is considered the most strategic international organization and has the ability to resolve the Israel-

²⁸ Sigit Riyanto, "Kedaulatan Negara Dalam Kerangka Hukum Internasional Kontemporer," *Yustitia* 1, no. 3 (2012).

Palestine conflict. involvement of the International Court of Justice is based on agreements between countries. Only the parties involved in the case are bound by the decision of the International Court of Justice in deciding international disputes.

In accordance with Article 38 paragraph (1) of the International Court of Justice (ICJ) which states that international custom is one of the sources of international law. It is this international custom referred to in the UDHR that serves as the basis that R2P can be accepted by all countries because it has to do with human rights. In the historical aspect, the protection of human rights has been implemented since long ago, such as the reasons behind the Magna Charta or the French Revolution. Thus, it can be said that this concept was born thanks to international custom, especially in the protection of human rights.²⁹ The R2P concept consists of two basic principles, which are: (1) state sovereignty implies responsibility, and the primary responsibility for protecting the people lies with the state, and (2) when a population suffers serious hardship as a result of internal

²⁹ Norilla Norilla and Eddy Mulyono, "Responsibility to Protect Sebagai Bentuk Perlindungan Hak Asasi Manusia Di ASEAN," *Lentera Hukum* 5, no. 1 (May 7, 2018): 16, <https://doi.org/10.19184/ejlh.v5i1.6258>.

war, insurgency, oppression, or state failure, and the state refuses or is unable to stop or prevent it, the principle of non-intervention should be transferred to the principle of international R2P.³⁰

The UN Security Council, as the body that has the authority to take decisive steps under Chapter VII of the UN Charter, is often the main forum for the implementation of R2P. However, the Israel-Palestine conflict shows serious limitations due to the use of veto power by major countries. The United States, one of the permanent members of the Security Council, has consistently used its veto power to shield Israel from resolutions condemning its actions or demanding concrete action. These veto powers often prevent the adoption of resolutions that are contrary to their interests,³¹ such as resolutions requiring Israel to stop the blockade of Gaza, the demolition of Palestinian homes, or disproportionate military strikes. As a result,

³⁰ ICISS. *The Responsibility to Protect, Report of The International Commission on Intervention and State Sovereignty*. Canada. 2001.

³¹ Yosua Saut Marulitua Gultom et al., "Mengapa Reformasi Dewan Keamanan PBB Sulit Dilakukan? Telaah Realisme Pada Kasus Perang Rusia-Ukraina," *Jurnal Al Azhar Indonesia Seri Ilmu Sosial* 5, no. 2 (July 2, 2024): 80, <https://doi.org/10.36722/jaiss.v5i2.2601>.

many resolutions in favour of the protection of the Palestinian people could not be implemented.

An example of a resolution that cannot be implemented because of the United States' veto power, namely, a resolution demanding an end to the construction of illegal settlements in the West Bank is often vetoed despite the support of the majority of member states. And a resolution calling for an international investigation into alleged war crimes in Gaza was also hampered by a veto. The UN General Assembly, although more inclusive because it involves all member states, has limited powers to take binding action. In the Israel-Palestine conflict, the General Assembly has adopted resolutions several times by majority vote, but its implementation still depends on the support of the Security Council. General Assembly resolutions such as the "United Nations Partition Plan for Palestine" (1947) or resolutions supporting the right of Palestine to independence have no binding legal force and are only declarative. This can hinder collective action and slow down responses to pressing issues.³²

³² Setyo Widagdo, "Dasar Pengaturan Prinsip Persamaan Kedaulatan Dan Hak Veto Dalam Pengambilan Keputusan Di Dewan Keamanan Perserikatan Bangsa-Bangsa," *Jurnal Fakultas Hukum Universitas Brawijaya* 1 (2007).

Resolutions condemning Israel's actions are rarely followed by concrete actions due to reliance on Security Council mechanisms for execution. The General Assembly has no mechanism to impose sanctions or military intervention, so its efforts are limited to diplomatic pressure. Even the great international support for Palestine is often unable to affect the situation on the ground due to the lack of practical measures.³³

This gives the fact that R2P is applied selectively, depending on the political interests of the major countries. In the Israel-Palestine conflict, the implementation of R2P to protect Palestinians is ignored due to the complexity of geopolitical relations, especially the strong US support for Israel. Developing countries that support Palestine sometimes have only limited influence in international forums, leading to reliance on major powers for intervention in the R2P framework making implementation unbalanced. As for crimes against humanity, while it is a well-recognized and lengthy international crime defined in the 1998 Rome

³³ *Majelis Umum PBB harus bertindak untuk Gaza, 2023, Human Rights Watch, <https://www.hrw.org/id/news/2023/11/06/un-general-assembly-should-act-gaza> diakses 9 Desember 2024.*

Statute, the provision does not have a separate convention or treaty defining state responsibility for such crimes. For ethnic cleansing, it is listed as a separate crime under R2P's and does not have a separate legal position in international law or exist in a grey area since its emergence.³⁴

The main contact between International Humanitarian Law (IHL) and R2P lies in war crimes. Crimes such as genocide and crimes against humanity can occur during war without having to consider the armed conflict benchmark required in IHL. However, war crimes relate directly to R2P as it requires the armed conflict benchmark. A situation that falls under IHL, but not R2P is the protection of civilians threatened by unplanned mass atrocities when armed conflict escalates.

While situations that fall under R2P, but not under IHL, are threats of mass atrocities planned outside of armed conflict. Strictly speaking, the concept of R2P only provides a framework for the use of various existing and available means to prevent mass atrocities. This means that R2P does not actually create new obligations for

³⁴ Umar Suyardi Bakry, *Hukum Humaniter Internasional Sebuah Pengantar*. 1st Ed (Jakarta: Prenanda Media Group, 2019).

states as it only refers to the obligations of states as set out in existing international legal instruments, such as international humanitarian law (IHL) and International Human Rights Law.³⁵

This echoes wider shifts in international law, as described by Anne Orford, over the past decade, and with surprising rapidity, the complex architecture of international treaties, tribunals and institutions consolidated since the end of the Cold War has begun to unravel.³⁶ As states struggle with growing debt, domestic pressures, and various security threats, it is increasingly difficult to even recognise atrocities taking place,³⁷ let alone considering which ones should be prioritised.³⁸ In his contribution, Illingworth presents a comprehensive research bibliography on R2P of 120 pages and over

³⁵ Lily Putri Husni, "Responsibility to Protect Sebagai Doktrin Atau Norma Yang Berkembang Dalam Hukum Internasional," *Kanun: Jurnal Ilmu Hukum* 17, no. 1 (2022): 151–71.

³⁶ Anne Orford, "The Sir Elihu Lauterpacht International Law Lecture 2019," *The Australian Yearbook of International Law Online* 38, no. 1 (December 12, 2020): 1–25, https://doi.org/10.1163/26660229_03801002.

³⁷ de Waal, Alex, and Abdul. Mohammed. "The War the World Forgot", *New York Times*, (4 December 2023) <https://www.nytimes.com/2023/12/04/opinion/the-war-the-world-forgot.html>.

³⁸ James Pattison, "The International Responsibility to Protect in a Post-Liberal Order," *International Studies Quarterly* 65, no. 4 (December 17, 2021): 891–904, <https://doi.org/10.1093/isq/sqab081>.

40,000 words as a sign of good health.³⁹ Gallagher, I would argue quite the opposite: it is indicative of ill health, of over-production.⁴⁰ The history of international accusations against Israel's genocidal actions has actually occurred since 1982. Before Palestine sought statehood. On November 15, 1988, during the first Palestinian intifada or uprising, Palestinian leader Yasser Arafat unilaterally proclaimed an independent Palestinian state with Jerusalem as its capital.

In 2024, the attacks launched by Israel against Palestine were relentless. As of the end of May 2021, there is less and less Palestinian territory left. The Arafat region was also targeted by Israeli military attacks, even in refugee camps. There are grounds to suggest that the crime of genocide has been committed. Genocide is defined in international law as a specific set of acts aimed at the destruction in whole or in part of a national, ethnic, racial or religious group. However, Israel has committed three of the five steps listed in the Genocide Convention.

³⁹ Richard Illingworth, "Not the 'Fairest Norm of Them All' but Still Needed: On Hobson and Criticism of the Responsibility to Protect," *Journal of Intervention and Statebuilding* 18, no. 2 (March 14, 2024): 181–90, <https://doi.org/10.1080/17502977.2024.2304457>.

⁴⁰ Adrian Gallagher et al., "The Responsibility to Protect: A Bibliography," *Global Responsibility to Protect* 16, no. 1 (December 12, 2023): 3–123, <https://doi.org/10.1163/1875984X-20230012>.

For years, the indigenous Palestinian population has been removed from their homeland, and the genocide in Gaza is the most extreme step in the colonial process of occupation.

UN Special Rapporteur on the occupied Palestinian territory Francesca P. Albanese, said for more than 76 years, this process has oppressed the Palestinian people in various ways. Destroying their right to demographic, economic, territorial, cultural and political self-determination. The world is now seeing the bitter fruit of the impunity granted to Israel. This is a tragedy that has been predicted.⁴¹ Judging from the historical facts that will be engraved, the denial by Israel of its so-called peace-bringing actions is not perpendicular to reality.

Thus, the criteria have been met that the actions taken by Israel can be categorized as genocide. It has also fulfilled the requirements to implement the R2P Principle against Palestinians who are victims of attacks by Israel. Now is the time for the UN to take holistic and strategic action to apply the R2P principle as it should.

⁴¹ Ferinda K Fachri. Susun Laporan Genosida untuk Israel, UN Special Rapporteur Ini Alami Ancaman. Hukumonline.com. <https://www.hukumonline.com/berita/a/susun-laporan-genosida-untuk-israel--un-special-rapporteur-ini-alami-ancaman-lt660c3a542e981/?page=1> diakses 31 Mei 2024.

International support is needed to intervene in Israel's immoral activities. In this case, the intervention is aimed at saving human lives from violence perpetrated by either governments or insurgency movements or as a result of domestic anarchy.⁴²

Children are covered under general protection as civilians not taking part in hostilities. They receive personal respect, family rights, property, and religious practices are protected. This is linked to the principle of *ius ad bellum* or *ius in bello* which governs how war is conducted.⁴³

C. Conclusion

The Responsibility to Protect (R2P) principle has become particularly relevant in the decades-long Israel-Palestine conflict that involves gross violations of human rights, such as the targeting of civilians, economic blockades, and the destruction of vital infrastructure. In this case, R2P provides a framework to ensure the protection of civilian populations from serious crimes

⁴² Jerry Indrawan, "Intervensi Kemanusiaan Ke Libya: Refleksi Politik," *Konfrontasi Journal* 5 (1) (2018): 10-17, <http://www.konfrontasi.net/index.php/konfrontasi2>.

⁴³ Dewa Gede Sudika Mangku, "Bahan Ajar Pengantar Hukum Internasional," 2018.

such as war crimes, ethnic cleansing, and crimes against humanity.

The Responsibility to Protect (R2P) principle has the potential to be implemented in the Israel-Palestine conflict, given the indications of serious crimes such as war crimes, crimes against humanity, and other serious violations that fall within the scope of R2P. The situation in Gaza and the West Bank demonstrates the need for international intervention based on the protection of the civilian population, especially in light of the failure of the Palestinian people to defend their territory and be expelled from their own homeland. Although R2P has been internationally recognized, its implementation in this conflict faces many challenges, including vetoes by permanent members of the UN Security Council, political and military support by major powers to certain parties, and a lack of effective accountability mechanisms. However, the implementation of R2P through non-military measures such as humanitarian missions, arms embargoes, and diplomatic pressure remains an important tool for de-escalation of conflicts and protection of civilians. To increase the effectiveness of the Responsibility to Protect (R2P) principle in handling the Israel-Palestine conflict, strategic measures are

needed that include reforming the international system and strengthening legal accountability. R2P encourages all states to comply with international law and UN resolutions. In the Israeli- Palestinian conflict, the application of R2P can promote respect for international humanitarian law and human rights and encourage conflict resolution through legitimate means. The application of R2P principles by the UN can assist in more effective mediation and diplomacy, as well as encourage constructive dialogue between Israelis and Palestinians. This can pave the way for a long-term solution that is sustainable and just for both sides.

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