



Warning Unheeded: Crisis in Gaza Should Prompt Systemic Reforms

- Anuradha Lawankar (II B.A.LL.B.)

On 8th December 2023, the US vetoed a UNSC draft resolution that demanded an immediate humanitarian ceasefire in Gaza. The vote came after the UN Secretary-General, Antonio Guterres, invoked Article 99 of the UN Charter. It was undertaken to formally warn the UNSC of the humanitarian catastrophe unfolding in Gaza. Herein lies two questions: first, whether invoking Article 99 escalated the conflict; second, whether UNSC reforms are vital to avoid future conflicts.

Article 99 of the Charter confers the Secretary-General with the authority to bring the attention of the UNSC to any matter that may threaten the maintenance of international peace and security and consequently, to engage in preventive diplomacy. They can initiate a discussion on an issue without requiring an invitation from a member State. The phrase “bring to the attention of the UNSC” means to have a new item inscribed on the council's agenda. According to a 1945 report of the

UN Preparatory Commission, the powers conferred upon the Secretary-General are political and require the exercise of political judgment, tact, and integrity. The former Secretary-Generals have interpreted Article 99 broadly, providing them with the authority to carry out independent fact-finding activities and to gather information for crisis management and prevention.

Early warning is a primary tool for conflict prevention, with the UN Charter assigning the Secretary-General a key role in providing independent political warnings, notably through Article 99. However, the Secretary-General's limited access to information compared to powerful UN members and the preference of States to initiate warnings present challenges to effective implementation.

The dearth of warnings given by the Secretary-General is a product of two major issues, i.e. lack of accessibility to unique and authentic information, and the political will to initiate a discourse. Instances such as the 1950 Korean War demonstrate the difficulty of obtaining unique information, as the Secretary-General received

News at a Glance

The European Court of Human Rights heard oral arguments in a case concerning potential human rights violations committed by Russia via its occupation of Crimea. Though Russia is a party to the case of Ukraine v. Russia (re Crimea), no Russian representative was present at the arguments since Russia left the convention in September 2022. For more information, see here.

The UN General Assembly voted in favour of a humanitarian ceasefire in Gaza. The resolution was passed by 153 votes in favour, 10 against and 23 abstaining from the vote. For more information, see here.

A Human Rights Watch report expressed concern for the residents of Taizz, Yemen, who have been unable to access clean water for the past eight years during the conflict between Houthi forces and the Yemeni government, calling upon both parties to “allow Taizz’s local water agency to access, repair, and operate water infrastructure on the front lines and in Houthi-controlled territory.” For more information, see here.



details of the invasion from the US, making him reliant on State governmental agencies. This practice makes the office vulnerable to bias and political ideology endorsement. In 1971, the conflict in East Pakistan and the creation of Bangladesh highlighted the limitations on the application of Article 99 of the UN Charter, revealing a complete lack of political will among the council members. The then Secretary-General, U. Thant, described this in detail in his [book](#), "The View from the UN," particularly in Chapter XX entitled "Birth of Bangladesh." Faced with critical information about the repressive conditions in East Pakistan, Thant considered invoking Article 99, which empowers the Secretary-General to bring matters threatening world peace to the attention of the Security Council. However, he refrained from doing so because he assumed that the council members were likely to avoid convening, and even if they did, consensus could not be reached because Pakistan insisted that the conflict was an internal matter unrelated to international peace.

Despite its importance, Article 99 has rarely been invoked; only three

times in [Congo](#) (1960), [Iran](#) (1979), and [Lebanon](#) (1989) respectively. Unfortunately, its invocation primarily [initiated](#) discussions without preventing the escalation of conflicts and revealed limitations in achieving peace and stability.

An examination of the role of the permanent members of the UNSC, particularly the United States and Russia, reveals a legally-based claim to consultation. Although the right of veto is limited, these members retain a privileged position that is justified not only by the charter but also by the political dynamics underlying their position.

The current conflict, which has displaced nearly [1.9 million](#) people (85% of Gaza's population) people, is leading to a reassessment of the Security Council's administrative framework. Despite the Secretary-General's call for an immediate humanitarian [ceasefire](#) from 18 October 2023, the US obstructed the resolutions by vetoing actions against Israel.

Proposing procedural changes, the expansion of the Council requires changes to [Article 108](#) of the UN Charter, which require approval by

[News at a Glance](#)

INTERPOL released a report stating that its "Operation Storm Makers II," an operation targeting human trafficking-based cyber fraud, has revealed evidence showing that the crime has expanded to Latin America, far away from its centre in Southeast Asia. For more information, see [here](#).

The US vetoed a UN Security Council resolution calling for a humanitarian ceasefire in Gaza, prompting a furious backlash from the international community. The vote followed UN Secretary-General's invocation of Article 99 of the UN Charter, which forced a discussion on the humanitarian disaster currently unfolding in the region. For more information, see [here](#).

The Council of the European Union and the European Parliament reached a provisional agreement on the groundbreaking proposal for the Artificial Intelligence Act, marking the world's first comprehensive set of rules governing artificial intelligence. For more information, see [here](#).



two-thirds of the General Assembly and ratification by two-thirds of the legislatures of UN members, including the legislatures of all five permanent members of the UNSC. Any change in the membership of the Security Council would require a revision of [Articles 23 and 27](#). The structure of the Security Council has changed only once in its 77-year history: General Assembly [Resolution 1991-XVIII \(1963\)](#) [amended](#) the Charter to expand the number of non-permanent members of the Council from six to ten.

In the face of ongoing challenges, the international community must unite to push for meaningful [reforms](#) within the UN Security Council. The pursuit of a more inclusive and sensitive Security Council, capable of resolving crises quickly and effectively, is not just a diplomatic nicety, but an urgent necessity for a world dealing with recurring conflicts. The crisis in Gaza and the systemic failures it reveals should serve as a catalyst for a renewed push for a fairer, more just, and more functional international order.

The Separation of the Chagos Archipelago: The Chagos Advisory Opinion and the Decolonization of Mauritius

- Sana Kulkarni (III B.A.LL.B.)

An advisory opinion on the legal consequences of the separation of the Chagos Archipelago from Mauritius was given by the International Court of Justice (ICJ) in [1965](#). The UN General Assembly [requested](#) it. The Court stated that the separation of the Chagos Archipelago immediately before the last stage of decolonization was a violation of international law, especially the right to self-determination. The Court opined that the agreement between the UK and Mauritius, leaving the Chagos Archipelago under the administration of the UK after the completion of decolonization, was flawed as it did not take into consideration the will of the people.

[Self-determination](#), in international law, is the right of all colonial territories to become independent or to adopt any other status they freely choose. The UK, as an Administering Power, did not respect the territorial integrity of Mauritius including the right to

News at a Glance

A Canadian Centre for Cyber Security report found that cyberattacks targeting elections are increasing worldwide. According to the report, the proportion of elections targeted by cyberattacks has increased from 10% in 2015 to 26% in 2022. Approximately 25% and 35% of countries being targeted by these attacks from 2015 to 2022 are NATO and OECD countries, respectively. For more information, see [here](#).

Former President of Peru, Alberto Fujimori, was released from prison due to the Peru Constitutional Court order despite the concerns of the IACHR. The Inter-American Court required Peru to refrain from executing the order to release the former president. For more information, see [here](#).

Chief Prosecutor of the International Criminal Court, Karim A.A. Khan, concluded his trip to Israel and Palestine, issuing a statement stressing the importance of international law. This was the first visit to Israel and Palestine by an ICC prosecutor. For more information, see [here](#).



self-determination of the Chagossian people, and ultimately rejected the ruling. The Court, after establishing that the process of decolonization of Mauritius was unlawfully completed in 1968, because the Chagos Island was still occupied by UK while only Mauritius was declared independent, inspected the consequences, under international law, arising from the UK's continued administration of the Chagos Archipelago. Bearing in mind that the right to self-determination is a peremptory norm, i.e. an obligation towards everyone, all States must protect that right. Even though it is the UNGA's responsibility to work on the procedures required to ensure the complete decolonization of Mauritius, all UN member States, especially the UK, must cooperate to put those procedures into effect.

This case, landing in the purview of the ICJ, despite the UK's resistance, is a major development in international law as most verdicts the ICJ has issued on this topic over the years supported the 'colonial right to self-determination.' It can be concluded that the ICJ was clearly of the opinion that the principle of self-determination had crystallized

into a rule of law governing the policy of decolonization. Consequently, in the Frontier Dispute Case which concerned the demarcation of the boundary between two African States, Mali and Burkina Faso, the ICJ assumed that self-determination was a legal right.

Although the UK's obligations are perfectly stated, the decision was made under the Court's advisory jurisdiction and is not legally binding on the State and thus, creates no legal obligations for the State to comply with their findings. Earlier negotiations were in place between the UK and Mauritius over the sovereignty of the British Indian Ocean territory due to the legal proceedings at ICJ, but in December 2023, it was reported that the UK government was planning to halt the talks. This case represents decades of tireless fight for justice against colonization and imperialism, perpetuated to this day against the global South.

News at a Glance

Venezuelans voted to support a claim of sovereignty over the Essequibo region, endorsing the move to assert control over the disputed, oil-rich area, which comprises two-thirds of Guyana, rejecting the International Court of Justice's jurisdiction and supporting the creation of the Guyana Esquiba state, which would be incorporated into Venezuelan territory. For more information, see [here](#).

The International Court of Justice ordered Venezuela to refrain from interfering with the disputed Essequibo region, which is administered by Guyana. However, the court stopped short of explicitly directing Venezuela to halt its planned consultative referendum on whether the region should become a Venezuelan state. For more information, see [here](#).

The UNSC voted to cease the ongoing political mission in Sudan. This follows claims by Sudan's military government that the mission failed to meet expectations. For more information, see [here](#).



The European Union Finalizes a Groundbreaking AI Legislation

- Saurabh Patil (V B.A.LL.B.)

For decades, the EU has emphasised setting up benchmarks regarding technology such as, the General Data Protection Regulation (GDPR) and commercial governance laws. GDPR has set up the golden standard in digital data governance. As data has been deemed the most valuable resource for mankind in the 21st century, it is necessary to govern the evil that is generative AI, like ChatGPT, Bard, Gemini, and Grok AI.

The proponents of AI are trying to ensure that it will heavily transform the world into a more humanitarian perspective. However, the organization behind the world's most popular generative AI, ChatGPT, i.e. Open AI has seen a dramatic subversion of Sam Altman by board members. Throughout the interval, his willingness to join Microsoft has raised some serious concerns, especially as Microsoft owns a 49% stake in Open AI. Microsoft's access to Open AI's assets raises serious ethical concerns.

Large-scale datasets that represent human civilization are not yet readily available to the public online and are used to train language models. However, GDPR has already established strict guidelines surrounding the sensitive data that must be collected. Modality encompasses data in multiple formats like text, pictures, audio, and video, conveys human intention and is obtained through several data sources of Trustee Companies. In a recent breakthrough, Multimodal Models (Multimodal AI Models combine multiple types, or modes, of data to create more accurate determinations, draw insightful conclusions, or make more precise predictions about real-world problems) set up a new standard in machine learning. Examples of these are VOAV2 (natural image understanding), and MathVista (mathematical reasoning with visual context).

The EU proposed an AI law in 2021, followed by Biden's Executive Order in October 2023 in the United States. To regulate AI, three major EU economies, published a paper titled 'AI as an Innovative Friendly Approach'. It contains stringent rules for riskier systems. Talks began in June but stalled

News at a Glance

International human rights organizations called upon the Kenyan government to halt illegal and forceful evictions in the Mau Forest, located in the Rift Valley of Kenya. Amnesty International, the Minority Rights Group International and Survival International stated that more than 700 people have been displaced from the Mau Forest. For more information, see here.

Amnesty International released a report alleging that the Canadian government consistently violated the human rights of indigenous Wet'suwet'en protestors demonstrating against the Coastal GasLink pipeline project. According to the report, the Royal Canadian Mounted Police and private security group Forsythe Security intimidated, harassed and surveilled the Wet'suwet'en, who primarily reside in British Columbia along the pipeline's planned route. For more information, see here.



over how to regulate general-purpose AI, like ChatGPT. Worries about stifling innovation led some member States to push for less regulation. Negotiations continued up to 8th Dec 2023, resulting in a deal struck between the European Parliament and EU member States, which stated that it would also govern social media and search engines, as well as giants such as X, TikTok, and Google. This regulation has placed the EU ahead of China, the US, and the UK regarding AI regulation. The compromise agreement aligns the definition with the approach proposed by the Organisation for Economic Co-operation and Development (OECD).

Given below are the key events in the negotiations that took place:

- To guarantee that these new technologies are created and applied per European values and principles, policymakers in the EU promised to adopt a "human-centric" approach to AI. They also committed to encouraging the adoption of AI and addressing its potential hazards. This sheds light on how AI is categorised as a mere service and product only, and not as a sentient or legal

person. This eradicates the possibility of giving AI distinguished rights in the case of ASI (Artificial Super Intelligence).

- A unified legal framework for the creation, distribution, and use of AI products and services within the EU is established by the proposed AI Act. A technology-neutral definition of AI systems as well as a classification system for AI systems based on a "risk-based approach," with varying standards and obligations are proposed to be incorporated into EU law. This could lead to stifling innovation and restricting experimentation, which could ultimately lead to creating a monopoly or duopoly in the AI sector, sabotaging the race for relatively smaller companies. It could also lead to a situation like the Human Genome Project getting delayed due to stringent government regulations causing social and ethical concerns.
- The draft agreement on AI laws seeks to strike a balance between innovation and safeguarding the principles of democracy, fundamental rights,

Upcoming Activities

Call for Papers: Netherlands Yearbook of International Law – Volume 54

The Netherlands Yearbook of International Law is inviting submissions for Volume 54 – 'General Principles of International Law: More Than A Gap-Filler?' In this volume, the volume editors invite papers that critically reflect on the variety of manifestations of and controversies surrounding 'general principles of law.' Authors are invited to submit an abstract of no more than 400 words by 14 January 2024. For more information, see [here](#).

Understanding Modes of Individual Criminal Responsibility Online Course

The online course on will be organized on 15 – 17 December by the Siracusa International Institute for Criminal Justice and Human Rights. The course is dedicated to understanding modes of individual criminal responsibility in the context of international criminal litigation. For further information, see [here](#).



the rule of law, and environmental sustainability. With a focus on high-risk system protection, the rule sets risk-based requirements for AI development. Through this, the EU aims to further establish itself as a pioneer in the ethical research and application of AI, with the enforcement period dated 2025 providing a reasonable time for compliance. The EU bans real-time biometric surveillance, including emotional recognition, with limited exceptions for police, such as for the inspection of serious crimes. This safeguards the liberty and privacy of individuals and emphasizes solving crime using AI instead of preventing it through algorithm-based tracking.

- The preliminary agreement also covers General-Purpose AI (GPAI) systems in particular circumstances. Additionally, specific guidelines have been included for foundation models, which are sizable systems that can effectively carry out a variety of unique tasks, including the generation of text, images, video, and computer code, as well as lateral language conversation and computation. According to the temporary agreement, foundation models must

adhere to certain transparency requirements to be offered. This has assured the creators about their creative liberty and protection of their IP within the global framework.

- The EU established the AI Governance Structure, including the AI Office, Scientific Panel, AI Board, and Advisory Panel. It is forming the world's first AI governance body to address and redress issues, which will inspire other countries in their AI regulation as it did earlier with GDPR.
- The EU has decided to fine violators of the AI Act based on a percentage of their global annual turnover, with minimum amounts to ensure meaningful penalties for large companies. These fines would range from €7.5 million to €35 million, depending on the severity of the violation. Startups and small and medium-sized enterprises, however, would be subject to proportionally smaller fines. Additionally, individuals can now file complaints with market surveillance authorities if they believe a company is violating the AI Act, ensuring accountability and

Upcoming Activities

Call for Papers: The Journal of International Law of Peace and Armed Conflict

The Journal of International Law of Peace and Armed Conflict is inviting articles for its first issue of 2024. This issue focuses on "Transitional Justice." Articles focusing on other topics are equally welcome. Contributions can be in English or German and should be approx. 6,000 words (including footnotes). Submissions, including a brief abstract and statement of affiliation, should be sent by 15 January 2024. For more information, see [here](#).



transparency in the enforcement process.

This agreement on AI regulation prioritises a risk-based tiered system. This means that machines posing the highest potential harm to health, safety, and human rights will be subject to the most stringent regulations. Initially, the proposal targeted all systems with more than 10,000 business users. However, the final definition focuses on the computational power needed for training, measured in floating-point operations per second (Flops). This shift highlights the dynamic nature of AI development and the need for a flexible regulatory framework. Currently, few AI models fall into the high-risk category, including GPT4 and GEMINI by Google.

The EU's Artificial Intelligence Act and their European approach to this global problem have brought out a new dynamic where human creativity can thrive alongside AI, while taking account of the severe threats by Generative AI. It has created a new branch within technology law for the regulation of AI, where humanity and AI can co-exist in harmony.

The Israel-Palestine Conflict: A Genocide in the Making?

- Devansh Bhatt (IV B.A.LL.B.)

The Convention on the Prevention and Punishment of the Crime of Genocide, established by the United Nations on the 9th of December 1948, acts as an essential international instrument to recognize, address, and combat one of the gravest offences against humanity. Drafted after the horrors witnessed during the Second World War, particularly the Holocaust, the convention reflects a global commitment to preventing and punishing acts of genocide. It is essential as it not only recognizes the heinous nature of genocide but also attempts to hold perpetrators accountable. The term 'genocide' has been defined in the convention as "acts committed with the intent to destroy, in whole or in part, a national, ethnical, racial or religious group." The acts include, (a) Killing members of the group; (b) Causing serious bodily or mental harm to members of the group; (c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part; (d) Imposing measures intended to prevent

Upcoming Activities

Call for Papers: The Biological Weapons Convention at 50 – Perspectives on the Past, Present and Future

The Department of Public Law and Public International Law of the Justus-Liebig University Gießen in the context of CBWNet are accepting paper proposals for an edited volume to celebrate the 50th anniversary of the Biological Weapons Convention. The edited volume, provisionally titled, The Biological Weapons Convention at 50: Perspectives on the Past, Present and Future will examine selected issues pertaining to the past, present, and future of the Biological Weapons Convention. Submissions should be sent by 29 February 2024. For more information, see [here](#).



births within the group; and (e) Forcibly transferring children of the group to another group.

As the Convention marks its 75th year in 2023, the ongoing violence in Gaza by the Israeli forces has raised a pertinent question on the definition and implementation of the Convention. The reported figures indicate that the ongoing bombardment and siege in Gaza, starting from October 7, 2023, have resulted in a tragic toll, with over 11,000 fatalities, more than 27,000 injuries, and the displacement of 1.6 million individuals. Israel has admitted and accepted the use of more than 6000 bombs on Gaza. In an official statement Israel's Defence Minister claimed that to impose complete control and siege over Gaza, Israel shall stop the passage of food, water, fuel, and electricity into the territory.

After careful scrutiny of Israel's actions, it can be claimed that Israel is guilty of three of the five acts namely, "Killing members of the group," "Causing serious bodily or mental harm to members of the group," and "Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part."

The word "intent" has been made essential to the definition for it to apply to the acts of a nation. To determine Israel's intentions, it is pertinent to go through the statements of some of Israel's most important decision-makers. They have been recorded to communicate that they intend to turn Gaza into a deserted land. They have compared the fight with Palestine to a conflict with "human animals."

The President of Israel, Isaac Herzog, in his statement, stated that the entire nation of Palestine and the civilians must be held accountable for what has resulted from the acts of Hamas, the armed unit in Gaza which has been recognized as a terrorist organisation by several nations. He openly refuses to accept the fact that the civilians of Gaza were unaware of the attacks by Hamas on Israeli territory. He directly blames the citizens of Palestine for not standing up against the coup causing Hamas to take over Gaza. This use of language by the Israeli administration could be an indication of intent towards describing an entire population of civilians as a direct 'enemy,' thus, substantiating the UN's allegations of a genocide in the making.

Upcoming Activities

Call for Papers: European Yearbook on Human Rights

The European Yearbook on Human Rights is shedding light on current human rights topics of concern and the most pressing issues that impair human rights protection, the rule of law and democracy in Europe and beyond. They now welcome submissions concerning human rights developments within the major European institutions, namely the EU, the CoE and the OSCE. Authors will be invited to submit full contributions based on an abstract (max 500 words) that should be sent by 20 December 2023. For more information, see here.

Editor:

Shweta Shukla (V B.A.LL.B.)

Assistant Editor:

Shreya Basu (III B.A.LL.B.)