War during the COVID-19 Pandemic: Case between Israel and Palestine

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ABSTRACT

The purpose of this article is to find out how international law plays a role in the Israeli-Palestinian war during the Covid-19 pandemic. The method in writing this article was a literature study by collecting literature from journals and books relevant to the topic, then analyzing it, and then making conclusions. The emergence of the Covid-19 pandemic that spreads rapidly raises concerns about the socio-economic conditions of Palestinian citizens. The challenge is getting bigger in tackling these two problems simultaneously. The condition of Palestinian citizens is increasing concerning with the destruction of WASH facilities (water, sanitation, and hygiene), the inhibition of the supply of necessities that will enter the Palestinian state, as well as the destruction of the natural environment since these aspects can be used to prevent the spread of the Covid-19 virus. International humanitarian law actually exists to limit the occurrence of such incidents, but these regulations are violated by the military and the Israeli government. This article is helpful to find out how the actions of the state of Israel against Palestine during the Covid-19 pandemic are based on the perspective of international law. This article was compiled with references to various literary sources from national and international journals and books. In addition, it also uses the latest news from the topics discussed. The result of this literature study is that the conflict that is being experienced by Israel and Palestine is not getting better with the increasing number of attacks on Palestinian civilians.

Keywords: International Law, COVID-19, Israel, Palestine, War

INTRODUCTION

Israel and Palestine are two of the many countries in the Middle East. The identical thing when hearing these two countries is certainly a prolonged conflict. The two countries have been embroiled in more than seven decades of conflict that has been marked by violence against civilians. In 1993 the two sides had reached an agreement through the Oslo Agreement, whereby Palestine would recognize the state of Israel and Israel would recognize the Palestine Liberation Organization (PLO) as the legitimate representative of the Palestinian people. The deal creates the Palestinian Authority which has some limited self-governing powers in the West Bank and Gaza Strip.(Wirajaya 2020)

The deal is provisional before what is supposed to be a comprehensive peace agreement in five years. Over the past five years, there have been about 3,000 Palestinian victims and 1,000 Israeli victims, with many Israeli civilians killed by suicide bombings. The consequences of the agreement were enormous. Israel at that time withdrew from Gaza and in mid-2000. Hamas is a fundamentalist Sunni Palestinian faction that is considered a terrorist organization by many countries to take over the coastal area and including the administrative territory of the Palestinian state. The issue of conflict between the two countries is often discussed by the international community when faced with issues concerning human rights, international security, and peace.

The Israeli-Palestinian conflict can be described as an existential conflict between two nations and groups that claim the same territory for a national homeland and a political state. This conflict is not only a matter of territorial power but is also related to national identity and existence. Such conflicts that consider the identity and existence of other groups as a threat can make the conflict sustainable and even tend to get bigger. The Israeli-Palestinian conflict has become a conflict discussed by all countries in the world. Even in the General Assembly of the United Nations (UN), this

conflict became the first agenda discussed. Since the founding of the United Nations, the conflict has not been resolved. Because it has been discussed in the agenda of the UN assembly, it will always be in contact with international law.

Broadly speaking, dispute resolution in international law can be described as follows:(Sefriani 2016a) a. Political channels: 1) Negotiation 2) Mediation 3) Good offices 4) Inquiry (fact-finding). b. Legal Path 1) Arbitration 2) International Courts. The state is always able to refrain from all actions that can enlarge problems, threaten peace and security, and complicate efforts to resolve the peace. This obligation is not only to use peaceful dispute resolution methods but also to safeguard and refrain from actions that further aggravate the situation. In other words, it can be concluded that if the dispute cannot be resolved, the state can at least manage and control itself so as not to further aggravate the situation that may pose a threat to international peace and security.(Sefriani 2016b)

International law since 1920 also no longer justifies the control and acquisition of territory through a process of violence and coercion, in another sense obtaining it by means of war. (Watts 1992) War is one thing that everyone is very afraid of, not only the consequences, material losses, but also mental losses. The victims of war are not only soldiers and soldiers but also civil society, which includes women and children who are often out of conflict. Violence against women during the war and armed conflict is often seen as an excess of war. Under the guise of masculinity jargon such as courage, valor, and strength, the atmosphere of war tends to treat women as creatures that cannot survive.

Israel and Palestine are currently both fightings for the recognition of citizenship status. They both want to get an equal and recognized citizenship status both at the state level and at the international level. So that in the future humanitarian crises can be avoided and ensure that violence can be dealt with by a definite positive law. One of the effects that can be achieved in this process is, the economy will be lifted. Palestinian society will be better off financially than ever before. Likewise, psychologically, they will no longer feel colonized and have their country.

On March 11, 2020, the World Health Organization (WHO) declared Corona Virus Disease 2019 (Covid-19) a global pandemic (WHO 2020). Since then, cases of the coronavirus have spread massively and infected hundreds of millions of people around the world. WHO advises everyone to practice social distancing to suppress the transmission of the virus. However, the emergence of this pandemic is not accompanied by the concerns or vigilance of the perpetrators of terrorism with the transmission of this virus. Still, on the contrary, the acts of terror that they carry out are increasingly taking advantage of the conditions of this pandemic.

Palestine, which is still in conflict with Israel, is one of the countries affected by the rapid transmission of the virus and terrorism that continues to attack the country in this pandemic condition. War is basically a human instinct to defend oneself, whether carried out by individuals or groups wrapped in a nation/state. But then, people realized that in the implementation of war, boundaries must be determined so that unnecessary losses are not created, so international humanitarian law emerged as a regulation for this (Kusumaatmadja 1963). International Humanitarian Law basically has three main functions:

- 1. Provide protection to combatants and civilians from unnecessary suffering;
- 2. Guarantee the fundamental human rights of those who fall into the hands of the enemy;
- 3. Preventing cruel wars that know no bounds;

A war crime is an act that violates international humanitarian law. A war crime is any violation of the laws of war or international humanitarian law that results in individual criminal responsibility. The International Military Tribunal located in Nuremberg explained that violations of this law include the killing, ill-treatment or deportation of civilians in occupied territory, the killing or ill-treatment of prisoners of war, the killing of hostages, the confiscation of public goods or property, unwarranted destruction of cities; and destruction without military interest.

In balancing the conflict between Israel and Palestine, international humanitarian law arrangements related to war crimes also apply. This law provides important protection for victims of hostilities.(Ahmad 2020) However, in its implementation, many regulations, especially related to war crimes, were violated in the Israeli occupation of Palestine. International Humanitarian Law (IHL) is a legal entity that

specializes in armed conflict and a special regulatory body that applies in war and continues to apply even when countries adopt special measures to combat Covid-19. Indeed, some provisions of IHL are particularly relevant during this pandemic and have the potential to be of great help in ensuring a better protective response for affected populations worldwide.

The United Nations (UN) was founded with the main objective of protecting humanity from the threat of war.(Schachter 1991) The United Nations Charter is also detailed about maintaining peace and international security. With the purpose of its establishment, the United Nations is expected to be able to take collective steps effectively in its efforts to prevent and avoid threats to peace between countries in the world, besides that the United Nations is expected to suppress acts of aggression or other violations of peace and seek peaceful means to anyone. Conflicting parties is one of the conflicts that need to be mediated by the United Nations (UN) is the ongoing conflict between Israel and Palestine.

RESEARCH METHODOLOGIES

This research used the method of literature study sourced from library materials relevant to the focus of the research topic. The literature analyzed in this article was obtained from several national journals as well as several books related to the Israeli-Palestinian conflict during the Covid-19 pandemic from the perspective of international law. The data collection method was by collecting various books, articles, journals covering the Israeli and Palestinian conflicts during the Covid-19 pandemic from the perspective of international law. After the necessary data was obtained, the data analysis was carried out to gain an overview of the conflicts that occur during a pandemic based on the perspective of international law. Data analysis is the method used to process the data obtained during the research so that a conclusion can be drawn at the end of the article.

RESULTS & DISCUSSION

Covid-19 Situation in the Palestine Territories

Palestine can be said to be one of the countries that face challenges, fragility, instability, poor living conditions, poverty because of the ongoing and unresolved territorial disputes. In addition, the pandemic has shown three tragedies in the region, namely: the spread of the COVID-19 virus, the ongoing Israeli occupation, and the Intra-Palestinian division (Ahmad 2020). The spike in Covid-19 cases in the state of Palestine has increased since the first time this virus entered. The Palestinian government enforces a policy of restricting the movement of the Palestinian people.

The policy is really implemented in the absence of public meetings regardless of the context. Penalties will be given to anyone who violates these policies. In fact, it was emphasized to the Israeli military authorities to temporarily stop their security mobility. However, despite the implementation of this policy, more and more confirmed cases with mild or mild symptoms are being referred to isolation homes due to Palestinian workers who returned from Israel.

On the other hand, facing Covid-19, Palestine is also facing ongoing Palestinian attacks. Israel's 2014 military offensive destroyed many critical infrastructures such as power plants, 148 schools, 15 hospitals, and more than 20,000 Gazans' homes. The attack then worsened the Palestinian situation, especially amid the increasing transmission of the Covid-19 pandemic. The Gaza Strip is one of the areas in Palestine which is now the most densely populated area in the world, where an average of 6028 people lives per 1 km². The place became a gathering place for refugees who were driven from their lands and homes as a result of Israel's actions. This density condition does not allow for social distancing as recommended by WHO regarding the handling of the corona outbreak.

Humanitarian Problems amid Covid-19 in the Palestinian Territories

Israel, since 72 years ago, carried out the occupation, expulsion, and arrests which are still continuing today, in the midst of the Covid-19 outbreak. In 1947, the UN Security Council decided to issue Resolution 181 entitled "UN Partition Plan". Based on this resolution, 56.5% for the area where the state of Israel was founded, 43% for Palestinian Arabs, and Jerusalem became an international territory. (Mursayinah 2015) Following this resolution, the Zionist leaders, before Israel was officially established,

planned a massive expulsion operation which was named Operation Plan Dalet. Through this operation, the Zionist militia began in December 1947 to raid village after village, burning and detonating bombs, with the aim that the villagers fled and the abandoned territory was taken over by the Zionists.

The dire humanitarian situation in Palestine has hampered Palestinians from preparing and responding to Covid-19. In addition, Palestine's socio-economic conditions, WASH services are deteriorating, and a paralyzed and declining health system makes life unstable (AlKhaldi et al. 2020). The ongoing political instability in the Palestinian territories as well as the geographical separation between the Gaza Strip and the West Bank, are the main causes of this challenge resulting in worse humanitarian conditions during the COVID-19 pandemic. Palestinian refugees living in refugee camps are increasingly overcrowded and of concern. They are mostly refugees who have poor socio-economic backgrounds. This condition makes efforts to prevent the spread of Covid-19 unable to run properly. The Israeli occupation of Palestine is a cruel humanitarian status quo coupled with the many impacts of Covid-19 on Palestinians, it affects living conditions and health systems. They are asked to be more responsive and resilient in dealing with this situation.

The Israeli-Palestinian Conflict amid the Covid-19 Pandemic

Israel has besieged Palestine in the Gaza Strip for more than 13 years. During that time there were also restrictions on movement to and from Gaza by the Zionist military. As a result of these restrictions on movement, there was overcrowding of people there. In fact, about 2 million Palestinians live in the Gaza Strip, with an area of only about 365 km2 or every 1 m2 is occupied by 19 people. In addition, many cases have occurred there over the years. The Israeli army carried out various demolitions of makeshift buildings, confiscated poles, and tarpaulins intended for making medical tents. Since the beginning of March 2021, Covid-19 entered Palestine, but the actions of the Israeli army have not abated.

Even further increasing the violence regardless of physical distancing protocols to prevent the spread of the virus. Violence is mostly carried out by Israeli soldiers by attacking Palestinians with sticks, axes, electroshock weapons, stones, and attack dogs. Damage to facilities and settlements also has an impact on the condition of WASH

services in the form of clean water, hygiene, and sanitation, even though these services are very useful for personal hygiene and hand washing as steps which are important aspects to prevent infection and infectious diseases such as Covid-19. However, the damage caused by this attack made all WASH services in Palestine almost non-existent.

According to UNICEF, in March 2021 in the Gaza Strip, 96% of the scarce water is unsuitable for human consumption, and deliveries of essential materials for maintaining and repairing water systems and water treatment plants continue to be delayed due to the Israeli blockade (Niu and Li 2020). Israel controls all water resources and limits Palestinian water supply by 20% so that Palestinians do not have efficient access to adequate water resources. This lack of WASH services increases public health problems and further increases the risk of the Covid-19 virus spreading among Palestinians, plus Israel refuses to repair its damaged water and sewage systems. In addition, health problems are also approaching Palestine due to this conflict. There are inadequate medicines and supplies in hospitals in the state of Palestine.

Even for hospitals, there are only 375 ICU beds and 295 ventilators in the Gaza Strip and West Bank combined. The Israeli army did. This will interfere with mobilizing needed medical equipment, supplies, Personal Protective Equipment (PPE), medicines, and medical teams throughout the province and to and from Palestine. Israeli attacks on Palestinians have largely resulted in the destruction of health facilities and the targeting of health staff, both of whom must be protected to maintain routine and emergency services. Since 2018, direct Israeli attacks have caused 48,246 injuries in Palestine and 452 deaths, the majority of which have been in the Gaza Strip.

The burden on hospitals, which are dealing with more Covid-19 cases, continues to increase with the daily power outages in the Gaza Strip. This puts pressure on the hospital's capacity due to blackouts and becomes a never-ending challenge. Israel has restricted electricity in the Gaza Strip for 13 hours per day for the past 5 months. Such conditions during the Covid-19 pandemic are predicted to worsen the Palestinian health system, which is already overwhelmed. This will hamper the capacity to deal with the pandemic and other pre-existing urgent health needs of the Palestinian people.

International Law against the Israeli-Palestinian Conflict

Normatively, international law has obligated the state to guarantee the protection and respect for the human rights of every individual. International law plays a role in

maintaining and maintaining relations between countries in exercising sovereignty for the sake of creating world peace and security, as well as countries in conflict.(Rasjid 2005) International law is a set of international provisions that protect victims of armed conflict and prevent armed conflict itself from using indiscriminate means and methods of war.

These provisions are intended so that attacks are only carried out against military objects and not against civilian objects. The juridical aspect in this rule is that the civilian population (everyone other than combatants) may not be used as objects of violence and must be protected from all things related to war, while combatants (members of the armed forces) are people who are directly involved in war and can be used as objects of violence when fighting but still must be protected when a prisoner of war, such as Israeli soldiers' treatment of Palestinians. Public places designated for civilians, such as drinking water sources, electricity sources, schools, markets, hospitals, and places of worship, are places that must be protected.(Isyrin 2020)

Therefore, if this place is attacked, it is certain that the women and children will suffer the most. The civilian population in any hostilities or wars is always in a weak position and always receives the direct consequences of war or hostilities. This weakest position will endanger the civilian population when in enemy power. The principle of distinction in the above provisions requires further elaboration in a number of principles of application in the realization of the protection of the civilian population, namely (Gerungan 2013):

- a. The parties to the dispute must distinguish between combatants and civilians in order to save the civilian population and civilian objects;
- b. Civilians, as well as individual civilians, may not be objects;
- c. Acts or threats of violence whose main purpose is to spread terror against the civilian population are prohibited;
- d. The parties to the dispute must take all possible precautions to save the civilian population or at least to minimize accidental loss and damage;
- e. Only members of the armed forces have the right to attack and detain the enemy.

The protection of the civilian population is then regulated in detail in the Geneva Convention IV (Geneva Convention), which is known as general protection because it regulates the protection of the civilian population as a whole (general principle), and in the 1977 Additional Protocol, especially in part IV.(Misri A. Muchsin 2015) The treatment of Israeli soldiers in this conflict against Palestinian civilians is a clear violation of international law. The conflict that has been going on for years has claimed many victims from Palestinian civilians. Acts of violence were carried out in the form of attacks on Palestinians sticks, axes, electroshock weapons, stones, and attack dogs. This attack clearly violates Geneva Convention IV on the protection of civilians in conditions of war.

Even when Israel entered the Covid-19 pandemic situation, it did not reduce the intensity of attacks on Palestine. The destruction of WASH service facilities (water, sanitation, and hygiene) is becoming more common. In fact, in preventing the spread of the virus, these aspects are needed. In addition, Israel exercises strict controls on borders and restrictions on the movement of individuals and goods of more than 700 through checkpoints and crossing points that control movement in the Palestinian West Bank and blockade of the Gaza Strip.(Prasetiani 2019) This causes supplies that want to enter Palestine, such as medical equipment, food, clothing, and others, are not channeled properly even though Palestinians really need it in the midst of this coronavirus outbreak.

Israel's Obligation as the Power to Take Precautions against the Spread of Covid-19

The condition of the Covid-19 pandemic is a new threat to life in countries that are at war. International humanitarian law (IHL) is a pragmatic and flexible *lex specialis* in providing essential protections to people affected by armed conflict or in situations of occupation by occupying powers such as in Palestine. Its provisions are designed for exceptional circumstances, and the obligations it imposes really consider what is appropriate and reasonable. Therefore, it should not be seen as a barrier or obstacle in the fight against Covid-19 in conflict-ridden countries. Instead, it has the potential to complement the action and bring better outcomes to populations affected by the dual threat of Covid-19 and conflict. Several provisions of international humanitarian law are particularly relevant during this pandemic and have the potential to be of great help in ensuring better protection measures for the affected population.

The law of occupation as a branch of IHL generally applies across these situations. The law of occupation governs the occupation of part or all of the territory by enemy troops. Provisions governing occupation can be found in The Hague Regulations

of 1907, the Fourth Geneva Convention Concerning the Protection of Civilian Persons in Wartime 1949, and Additional Protocol I 1977. Article 42 of the Hague Regulations 1907 states that "Territory is considered occupied when it is actually placed under the authority of enemy soldiers (Amal 2015). The occupation extends only to areas where such authority has been established and can be exercised." Therefore, Israel, as the power that controls most of the Palestinian territories, precisely in the Gaza Strip, must carry out its duties to handle and manage the Covid-19 situation in the region.

Under the regulation, Israel has an obligation to take steps to control the spread of Covid-19 on Palestinian land on the basis that it is the occupying power of the territory. Failure to fulfill this obligation is a violation of the rules of international human rights law and IHL. Regardless of the law, Israel remains responsible for providing Palestinians with adequate health and hygiene care on moral or humanitarian grounds. It is better for Israel to put aside the feud first and prioritize measures to prevent the spread of Covid-19 in the region. It is better to take quick response measures to prevent a worse impact of this virus in the region due to the vulnerable situation in terms of health facilities as well as their health staff.

Israel Obligations under International Humanitarian Law Relating to the Covid-19 Pandemic

Palestinians living in conflict areas have the right to be protected and treated humanely. (Ahmad 2020) Palestinians living in conflict areas have the right to be protected and treated humanely. The well-being of the inhabitants of the occupied territories in which it has an obligation to ensure and maintain as far as possible, the facilities available to them, medical facilities and services, hospitals, public facilities, health and hygiene are the responsibility of Israel as an occupying power primarily and in cooperation with the Palestinian Authority.

Above all, it is an obligation to adopt and implement the necessary precautions and precautions to prevent the spread of infectious diseases and epidemics. These obligations are considered important in dealing with the COVID-19 outbreak and may include the obligation to share information about preventive measures. Israel must also ensure, to what extent the means are available to it, medical supplies for the population, and, if the resources available to the population are inadequate, are obliged to carry the

necessary goods (Muchsin 2015). Israel's obligation to provide health systems and public health supplies in conflict areas under international humanitarian law is complemented and strengthened by international human rights law.

Under international human rights law, Israel is required to address life-threatening factors such as life-threatening diseases, to provide a national public health strategy based on epidemiological evidence as well as urgent medical care in the event of an epidemic and actions to contain it prevent, treat and control epidemics and endemic diseases. Israel must ensure the protection of aid consignments that cannot be diverted from their intended destination, except in cases of urgent need, for the benefit of the population in the occupied territories and with the consent of the protecting power. (Muhamad 2021) Then the medical and transport units belonging to the armed forces and civilian hospitals must be protected in all circumstances. Such protection may be lost if used, beyond their humanitarian function, to carry out acts detrimental to the occupying power beyond their humanitarian function.

CONCLUSION

Conflict The war that occurred between Israel and Palestine has lasted more than seven decades. There have been many acts of violence committed by the Israeli army against Palestinian civilians. The conflict continues to this day, where the Covid-19 pandemic outbreak has attacked all over the world, as well as Palestine. COVID-19 is a serious public health problem worldwide. The COVID-19 crisis has revealed huge gaps in social and public health systems in countries around the world, including Palestine. The political situation in Palestine threatens the health security of Palestinians during the Pandemic. Israel's 72-year occupation of Palestine led to a dire humanitarian situation. The deteriorating living conditions in the West Bank, Gaza Strip, and East Jerusalem include overcrowding, building restrictions, raids and arrests, the destruction of homes by Israel, the absence of freedom of movement throughout Palestine apart from more than 13 years of the siege on the Gaza Strip. Under the international law of occupation, which regulates the occupation of part or all of the territories by enemy troops. The Israeli army, which controls part of the Palestinian territories, is obliged to implement the law by taking steps to prevent the ongoing spread of Covid-19 by providing adequate health and hygiene care, providing humanitarian aid supplies, respecting and protecting medical activities, and protecting people at risk affected.

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