



Geopolitical Corporate Conundrum

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

As the Israel-Gaza conflict escalated, western multinational corporations (MNCs) like Starbucks and McDonald's found themselves the subject of worldwide boycotts by Palestine supporters due to their alleged Israeli alignment. McDonald's has also reportedly shut down most of its outlets in Middle-Eastern countries aligned with Palestine. Both these MNCs have ongoing lawsuits over losing significant revenue and market share due to supposed misinformation and are attempting to distance themselves from the conflict. Others have preferred silence over stating support for any particular side. This article will explore the extensive influence of geopolitics on such private MNCs and TNCs and the significance foreign investment holds for economies.

MNCs and TNCs have to consider a variety of factors such as the geopolitical environment of the State they are planning to invest in as well as its international relations when it comes to foreign investment. Palestine, in particular,

was promised such foreign investment as early as 1969 in Annex IV of the Cairo Agreement. Israel, on the other hand, has had historically friendly relations with the West which makes it an attractive investment option for Western companies. This was furthered by the US-Israel Free Trade Agreement (ILFTA) and other reasons such as Israel's legal mechanisms, infrastructure, and political stability, which assures companies of profit.

Palestine's Investment Law as compared to GATS, TRIMS, the Model US Bilateral Treaty and the UN Guidelines have been said to be too arbitrary. It grants companies broad discretion in the process of investment approval while not guaranteeing the free transferability of profits and capital abroad. These investments could also be withdrawn with no compensation and no penalties due to the lack of legal recourse. The dispute settlement mechanism was settled to be the ICSID but there is inadequate access to the same.

At the same time, Israel is an original member of the WTO and is a party to the GATT agreement with preferential trading

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The Colombian government and the National Liberation Army (ELN) announced that they would extend the current ceasefire by a week. They agreed to continue the evaluation of the national and temporary ceasefire (CFBNT), after which an extension will be signed that will strengthen, develop and include related aspects. Such aspects are the cessation of economic extortive kidnappings by the ELN, along with the revival of societal participation processes and the establishment of a national network for participation. For more information, see here.

The Hutukara Yanomami Association, an indigenous group in Brazil, released a report for the year 2023 that assessed initiatives undertaken by the Brazilian federal government to improve living conditions and control the practice of illegal mining in Yanomami Indigenous Land. The report underscored the bleak situation of the region and called the initiatives "insufficient." For more information, see here.



agreements with the EU, USA, Canada, EFTA, Mexico, Jordan, Egypt, etc. Israel also has a protocol with the Palestinian Liberation Organization (PLO) for standard methods and customs used to enable the free movement of goods between the Palestinian Authority (PA) and Israel.

Political tensions, naturally, put a damper on the investment potential of a State in the eyes of corporations. The aforementioned Israel-Palestine economic relations protocol was not enforced. The dangerous environments forced MNCs to shut their outlets down in Israel while investment in Palestine is now negligible with previously existing poor infrastructure now gone. Corporate Social Responsibility (CSR) is one of the essentials to a business's reputation, and corporations can adhere to the UN Global Compact Principles for further guidelines on operations. There were worldwide boycotts of MNCs to call more attention to the legal loopholes previously discussed and bring about the accountability of these corporations. The USA has consequentially passed bills in the Senate to ban anti-Israel boycotts but it has been challenged on the

grounds of violating the right to freedom of speech and expression under the ICCPR.

Such MNCs and TNCs have lost significant footing in their respective shares in the market and scramble to rectify them to cater to the wants of their customer base. At the same time, they must also comply with international legislation, and uphold and respect international human rights law as well as the domestic legislation of the State where they wish to operate their business. These factors combined present a complex conundrum for corporations, as picking one of two sides of the conflict has led to criticism from the other, and could have unprecedented snowballing outcomes that could ultimately impact their business's success.

Plight & Prejudice: Analysis of the Genocide Case Brought by South Africa Against Israel

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

The South Africa v. Israel case before the International Court of Justice (ICJ), highlights two distinct narratives: first, the plight of the Palestinians, forcefully displaced and denied their right of self-

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The International Criminal Court's (ICC) chief prosecutor told the UN Security Council that "there are grounds to believe" that Sudan's military is committing war crimes in Darfur. The Darfur war began in 2003. The ICC opened investigations on the situation in 2005 after it was referred to them by the UN Security Council in Resolution 1593. The ICC states that the war crimes being investigated include murder, rape and destruction of property. Both the SAF and RSF are reportedly committing these crimes, and the ICC has called for all parties to cease their actions. For more information, see here.

EU lawmakers adopted a resolution urging a permanent ceasefire in the ongoing conflict between Israel and Hamas. The resolution, although non-binding and symbolic, reflects the European Parliament's stance on the matter. This marks the first time the European Parliament has explicitly called for a permanent ceasefire in the conflict. For more information, see here.



determination since the founding of the State of Israel in 1948, and subjected to occupation ever since; and second, the demand of Israelis, to establish an independent State in their historical Jewish homeland after generations of persecution culminating in the systematic murder of 17 million Jews during the Holocaust. Israel has emphasized its legal and moral obligation to protect its population. The issue with adversarial proceedings is framing these narratives as mutually exclusive when both are true.

While the procedural posture favours South Africa as it is not yet required to prove anything definitely due to the provisional nature of the ruling at this stage because of the “matter of urgency” that gives rise to expedited proceedings, South Africa will have to provide evidence during the merits stage of the hearing wherein the Court imposes the highest, almost insurmountable, standard of proof. South Africa contends that its legal obligation to prevent genocide under the Genocide Convention by appealing to the ICJ’s jurisdiction under that treaty. Whether or not States have ratified the Convention on Genocide, they are all bound as a

matter of law by the principle that genocide is a crime prohibited under international law. No detraction from the prohibition of genocide can be permitted as it is a peremptory norm of international law (jus cogens).

Article II of the convention defines genocide as (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 births within the group and (e) Forcibly transferring children of the group to another group. The horrifying humanitarian crisis in Gaza led to an overall death toll in Gaza exceeding 20,000 civilians and combatants, with over 52,000 people injured so far. A majority of Gazans are now facing disease and starvation, and have been internally displaced. There remains the ongoing threat of military strikes. To differentiate genocide from war crimes or other crimes against humanity, the focus should not be on the degree of severity or scope of impact. Genocide is not just defined by the number of deaths but, rather, by the specific

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The junta leaders of Niger, Mali and Burkina Faso released a joint statement on national television saying they were quitting the Economic Community of West African States (ECOWAS). The joint statement accused ECOWAS of betraying its founding principles, posing a threat to its member states, and being influenced by foreign powers. Referring to the sanctions imposed by the ECOWAS on the three West African countries since their military takeovers as “illegal, illegitimate, inhumane and irresponsible,” the junta leaders announced the immediate withdrawal of Burkina Faso, Mali and Niger from ECOWAS. For more information, see [here](#).

Human Rights Watch (HRW) released a report bringing attention to three military drone strikes conducted by Burkina Faso’s government, reportedly targeting Islamist fighters. The strikes took place between August and November 2023 and resulted in significant civilian casualties in crowded markets and a funeral. For more information, see [here](#).



intent (*dolus specialis*) of the perpetrator. It is important to understand the origin of the term “genocide,” and its specific intent before analyzing South Africa’s claims and Israel’s response. While South Africa focuses on the right of Palestinians to not be targeted, Israel views the claims as implausible because that is not the intent of Israel’s military campaign. Israel has stated that its focus is the elimination of Hamas, which has committed itself to destroying [Israel](#).

Global Economic Disruption and Supply Chain Crisis Fueled by Israel-Gaza Conflict

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

The recent attack of Hamas on 7th October 2023, by breaking into the perimeter fence surrounding the Gaza Strip with thousands of rockets caused the single bloodiest day in the entire history of Israel (then Mandatory Palestine) since the holocaust, has yet again fueled the decade-long crisis in the peninsula. Consequently, it is affecting the global supply chain and global fuel prices of nations that depend upon Gulf oil.

Trump’s [peace plan](#) resulted in

Saudi Arabia’s willingness to establish formal relations with Israel, becoming the first country from the Arab League to do so, later followed by Egypt, Jordan, Sudan, and Bahrain. In return, Israel agreed to pursue their ongoing annexation of the West Bank. Saudi Arabia’s Action dishonours the [Arab League](#), which has given multiple reasons and opportunities to Iran to gain geopolitical leverage against Saudi Arabia. The [World Bank](#) has provided an additional \$20 million in funding to help improve the humanitarian crisis in Gaza.

By backing and extending their support to the [Houthi-led](#) movement in Yemen and providing aid to Hamas forming a religious alignment, Iran has made their intentions clear. According to a [US report](#), in 2021, Iran continued providing aid to Hamas and other U.S.-designated Palestinian terrorist groups, in the form of weapons systems and monetary support.

The Red Sea is the primary maritime passage between Asia and Europe. At present, around [80%](#) of all global trade is transported along maritime routes and more than 12% of global

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President of the European Court of Human Rights (ECHR) urged the UK government to abide by the interim measures it has issued against the Rwanda agreement under Rule 39 of the Rules of Court. The ECHR previously issued urgent interim measures in 2022 against the UK government’s plan to remove a group of asylum seekers to Rwanda until a final decision had been made by UK courts. For more information, see [here](#).

The Lausanne-based Court of Arbitration for Sports (CAS) heard Russia’s appeal against the sanctions imposed by the International Olympic Committee (IOC) on the Russian Olympic Committee (ROC). The IOC in October 2023 banned the ROC with immediate effect for “breach of the charter.” The step came on the heels of the ROC recognizing the Olympic Council of the Donetsk People’s Republic (DPR) and Lugansk People’s Republic (LPR), which are annexed territories of Ukraine, as its members. For more information, see [here](#).



seaborne cargo and 40% of Asia's trade with Europe transits through the Red Sea. Additionally, more than 20,000 ships pass through the Bab el-Mandeb Strait annually. In 2018, an estimated 6.2 million barrels a day of crude oil, condensate, and refined petroleum products flowed through the Bab el-Mandeb Strait toward Europe, the United States, and Asia. The countries surrounding the Red Sea will experience greater instability due to this maritime chaos.

If chaos further spreads and the US imposes sanctions on Iranian oil production (3 million barrels per day), then Iran holds the capacity to disrupt the flow of oil via the Strait of Hormuz, which separates the Persian Gulf from the Arabian Sea and is responsible for almost 20% of the global oil shipments.

Saudi Arabia, earlier in 2023, had already stifled production by 1 million barrels per day (equivalent to 1% of global oil supply). If sanctions on Iran stifle oil prices, it could result in a rise in inflation rates, add to pressure on the central bank to keep raising interest rates and add to the risk of global recession. Higher fuel prices will result in inflation as fuel is a major driving force for business

and transportation of global trade.

The recent attacks on an Israeli Carrier by Iranian-backed Houthis in the Red Sea over a crucial trade route have resulted in disruption in shipping and a rise in the cost of bulk carriers being transported through Red Sea routes from \$1551/40ft to \$3774/40ft as of January 18, 2024. The costs of the trade disruptions are an attempt by Western governments to pressure Israel into accepting a ceasefire in Gaza.

Due to Red Sea piracy, higher-value shipments that were rerouted around the Cape of Good Hope route have resultantly seen soaring price increases. Bulk carriers, on the other hand, maintain their low prices by navigating the Red Sea with no fear and high risk with the ongoing Israel-Hamas conflict. The Houthis are using the attention for their internal gains, a resolution to the attack is unlikely to happen anytime soon.

The sensitive geopolitical situation of the Persian Gulf and the Israeli Peninsula has been divided into two groups: the US and some Arab countries-backed Israelis and extremist native Arab Palestine

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Mali military leaders ended a 2015 peace agreement with separatist rebels in the north of the country citing hostilities and broken commitments among the pact's signatories during a televised press conference. They placed blame for the peace agreement's failure on international mediation and interference from Mali's northern neighbour, Algeria. For more information, see [here](#).

Russia accused Ukraine of deliberately shooting down a Russian Military Transport plane carrying 65 Ukrainian Military personnel for an alleged "pre-agreed exchange" of prisoners of war. The incident reportedly killed 74, including six crew members and 3 Russian officers. For more information, see [here](#).

Philippines President reaffirmed that the country would not cooperate with the investigation undertaken by the International Criminal Court (ICC) into the previous administration's "war on drugs," led by its former president, which allegedly took the lives of over 12,000 Filipinos. For more information, see [here](#).



groups. Native Arab Palestinians are demanding a Separate Palestinian State which was promised to them by the British. Still, later due to the European Zionist movement and the WWII crisis, Israelis continued to maintain their stronghold over the territory. Several annexations later and after establishing colonies over the Green Line and in the West Bank, the British officially handed over the issue to the United Nations.

The native Arab Palestinians now want the total destruction of Israel. They are further divided into Fatah and Hamas. Fatah resides in the West Bank, and they are a comparatively neutral counterpart to Hamas. The Hamas have been virtually encaptured within walls for decades due to the destruction of their only airport by Israel, and are raising funds from Iran and globally and from other support groups in the form of essential aid and weapons. The reciprocations of the Israel and Gaza conflict are going to leave a lasting trace on the global maritime industry as well as on the countries whose economies are dependent upon Gulf oil and foreign exports.

Dollars, Pounds, and Diplomacy: Unraveling the Legality of Arms Transfers in the Israel-Gaza Conflict

- Soumik Ghosh (III B.A.LL.B.)

The Israel-Gaza conflict, since its very inception on the 7th of October 2023, has seen widespread international coverage and reporting. Ever since the conflict began, both sides have expended a considerable amount of ammunition. Hamas is reportedly using weaponry originating from Iran, China, Russia, and North Korea; while Israel has a well-developed arsenal owing to its position in the global arms manufacturing business. This is further supported by countries like the United States, which is sending weapons such as M.K. 84 munitions, essentially heavy bombs. The United Kingdom, on the other hand, is supplying various components used in the manufacture of Fighter Aircraft and various other munitions. These supplies are facilitated through the License system in the UK, consisting of two types: single-use and open licenses. The former grants a one-off approval for a determined amount, while the latter allows for an unlimited

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The head of the UN Drug and Crime Office (UNODC) Ghada Waly, briefed the UNSC raising concerns about increasing gang violence in Haiti leading to increasing violence across the Caribbean. Waly stated that this has the nation trapped in a "vicious cycle" where gangs continue to increase in power and start conflict within to increase their power. For more information, see [here](#).

The International Court of Justice (ICJ) ordered Israel to "take all measures within its power" to prevent breaches of the Genocide Convention in the Gaza Strip, but declined to order a ceasefire in the Israel-Hamas War. The order followed proceedings initiated by South Africa and issued a number of provisional measures. This is not the court's final ruling on the case. For more information, see [here](#).

The European Court of Human Rights (ECHR) ruled that Greece violated the right to respect for private life of HIV-positive sex workers. For more information, see [here](#).



quantity within a specific time frame without the need to specify the type of arms or the destination. Via Single Issue Export Licenses, the UK sold £146 million worth of weapons. Still, open general export licenses account for a significant amount of the military equipment exported, but due to the very nature of these licenses, the actual value of equipment exported is very difficult to ascertain.

Now, the question that arises is whether these weapon transfers are consistent with international law? The Arms Trade Treaty (ATT) guides these transfers and notably, Israel and the United Kingdom are signatories to this treaty. The United States, however, withdrew its assent in 2019. Among other nations, Iran, Russia, and North Korea have not signed the treaty, while China has signed and ratified it.

Article 6 of the ATT explicitly mentions the grounds wherein the transfer is prohibited. Clause 3 mentions that if, at the time of authorization, a State Party knows or suspects that conventional arms or other items will be used in acts of genocide, crimes against humanity, serious violations of the Geneva Conventions, assaults on

civilians or civilian property, or other war crimes as specified by applicable international agreements, it is not permitted to approve the transfer of such arms or items.

The question that naturally arises is: what constitutes knowledge of these events? The UK government was recently hit with a lawsuit calling for all arms exports to Israel to be halted. This lawsuit was instituted in the High Court by primarily 2 organizations - Al-Haq and the Global Legal Action Network - claiming that the exports to Israel are a violation of its export criteria, which state that export licenses shall not be granted if there is a clear risk of violation of International Humanitarian Law (IHL). Over time the UK has been accused of making its arms export rules more arbitrary and opaque. Further on the UK has a history of violating its export policies. For instance, in the Saudi-Yemen Conflict of 2015, the UK's exports were held contrary to law and the court ordered the government to review all the open licenses and also said that there were no attempts made to find out if there were violations of IHL taking place. Between 2016 and 2020, the UK issued Single

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The governments of Mexico and Chile released a joint statement calling on the International Criminal Court (ICC) to look into possible crimes occurring in Gaza amidst the Israel-Hamas war. They further explained that ICC intervention is necessary because Palestine's national justice infrastructure experienced "total collapse" as a result of the ongoing war. For more information, see [here](#).

North Korea announced that it will no longer pursue reconciliation with South Korea and called for a constitutional change to identify South Korea as the "number one hostile state." For more information, see [here](#).

The Swiss Federal Prosecutor's office confirmed that a criminal complaint against the Israeli President has been filed. Swiss authorities are not providing any further information. However, the Legal Action Against Crimes Against Humanity group has claimed responsibility for the filing. For more information, see [here](#).



Individual Export Licenses (SIEls) for arms sales to Israel to a value of £387 million this data is synonymous with the [statement](#) of the House of Commons, however the same is not reflected in the annual reports filed by the UK to the ATT owing to the technicality that these are licenses to export arms and not actual arms.

Article 8 of the treaty also imposes an obligation on the part of the importing State to provide relevant information to the exporting state on request thus, if asked, Israel is required to provide all data on the purpose and use of the weapons to be imported. The website of the ATT has a section for the [published reports](#) and to this date, there is no registration of a query by the U.K. or any other country for the matter under Article 8 leading to the grim conclusion that the signatories to this treaty are not making use of the instruments provided.

In conclusion, the Arms Trade Treaty (ATT) may have been violated in the Israel-Gaza conflict, given the extensive use of weaponry and the sources of these arms. The recent [ruling](#), by the International Court of Justice (ICJ), instituted by South Africa, further underscores the potential breach

of international law. The UK's history of violating its export policies, as evidenced in the Saudi-Yemen conflict, raises questions about the legality of its arms exports to Israel. The lawsuit filed by Al-Haq and the Global Legal Action Network against the UK government, alleging a violation of export criteria, adds to these concerns. Therefore, it is crucial for all parties involved to adhere to the ATT and other international agreements to ensure the lawful and ethical conduct of warfare. This includes the obligation of importing states like Israel to provide relevant information on the purpose and use of imported weapons. The situation calls for increased transparency, accountability, and adherence to international law in arms trade.

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Upcoming Activities

Call for Papers: A Multi-disciplinary Take on the Role of the Judiciary in the Law of the Sea

Contributions are welcomed on a range of themes that are devoted, but not limited, to themes with explicit reference to UNCLOS tribunals and their case law. Abstracts should be submitted by 29 February 2024. For more information, see [here](#).

Call for Submissions: Jean Monnet Saar

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