



COMMITTEE OF ELIMINATION RACIAL DISCRIMINATION (CERD) ACTIONS AGAINST ISRAEL'S ETHNIC CLEANSING CRIMES AGAINST PALESTINE

Fahrurrozi

Faculty of Law Gajah Mada University, Indonesia.

fahrurrozi2001@mail.ugm.ac.id

Andi Shufiyah Qulub

Faculty of Law Gajah Mada University, Indonesia.

shufiahqulub@gmail.com

Inas Affazul Muna

Faculty of Law Gajah Mada University, Indonesia.

inasaffazulmuna@gmail.com

Abstract: Palestine's importance in debates about race, and racism in international law stems largely from the Zionist movement's attempt to establish a new settler colonial state in an era when decolonization and liberal rejection of racism were rife around the world. The Nakba of 1948 will be repeated on October 7, 2023. this article wants to see the actions and responses of the Committee of Elimination of Racial Discrimination (CERD) to ethnic cleansing carried out by Israel against Palestinians and the response of third countries to Israel's action against Palestinians. The method used is the normative research method. The result of this research are CERD which has carried out several working mechanisms, such as warnings, inter-State communication, the establishment of an Ad Hoc Conciliation Commission, and calls by experts in the form of insistence in the Session. Countries that responded to this conflict such as Indonesia, Jordan, and Iran, took action to boycott products affiliated with Israel and encouraged Islamic countries to sanction Israel.

Keywords: CERD, Ethnic Cleansing, Israel-Palestine

INTRODUCTION

The importance of Palestine in debates over race and racism in international law stems in large part from the Zionist movement's efforts to establish a new settler colonial state in an era when decolonization and the liberal rejection of racism were on the rise throughout the world. Zionism, in this context, means support for the creation and maintenance of a state for all Jews in historic Palestine, in which Jews would retain a demographic and citizenship majority. The Zionist movement founded Israel through war and the displacement of three-quarters of the original Palestinian population in 1948. This state is a manifestation of Zionism as well as continuing the process of colonization, settlement and displacement.

Zionism proposes that all the world's Jews are one group by descent alone, regardless of personal or family ties to the particular region in question. They invest in Jewish citizenship a certain property, including rights to land, citizenship, employment, and life based on the continuous and systematic dispossession of Palestinians, characterized as "nomadic Arabs".

The question of Palestine also highlights the importance of understanding race and colonialism as concepts that have different but related functions. Long-term conversations between legal scholars working in the Critical Race Theory (CRT) and Third World Approaches to International Law (TWAAIL) traditions also remind us of this dynamic.²

One of the most important and controversial debates about racism and international law concerns the concept of "apartheid." Originally a

euphemism used by white supremacist Afrikaner groups to justify and regulate their colonial regimes, "apartheid" was transformed into an objectionable term in international law by national liberation movements in southern Africa.

In recent years, the nature of the apartheid system in Palestine has also increasingly become a major focus of international legal analysis in the work of legal scholars, UN mechanisms, and western advocacy organizations. Yet most of this commentary does not refer to settler colonialism or Zionism, or the constitution of the state of Israel, as an apartheid entity since its creation in 1948. Prominent mainstream interventions instead framed in a narrative that contradicts the situation. the threshold to apartheid was only in the past.

The reality is that these developments are not so much anomalous and aberrant as they are continuations and codifications. However, if it is framed as a new change, independent of the underlying structure or colonial ideology, it allows for the narrative that Israeli apartheid has emerged overwhelmingly "without being based on the ideology of racism".³

This idea of apartheid "without racist ideology" builds on long-standing tensions in the understanding of apartheid itself in international law. Since the 1960s, international law has essentially conceptualized apartheid along two parallel lines: an anti-colonial understanding that emphasizes the denial of collective rights to self-determination by oppressive regimes of racial domination; and a more liberal interpretation, as systemic discrimination in a country's legal

system against individuals of certain racial groups.

The eviction of 750,000 Palestinians in 1948, the so-called Nakba, was a crime for which Israel and the world have yet to atone. The disaster, called the Nakba, occurred 75 years ago, when the Zionist militia expelled it

750,000 Palestinians from their homes, an action that is now widely described as ethnic cleansing. In late 1947, the UN General Assembly adopted Resolution 181 dividing Palestine into Arab and Jewish states, with only 33 votes in favor.

Palestinians reject the UN's territorial division plan as a clear violation of Palestinian rights, and warn of impending destruction. A month later, in the village of Deir Yassin, Zionist militia killed more than 100 men, women and children, one of several massacres aimed at terrorizing Palestinians.

On May 14, 1948, David Ben-Gurion declared the creation of the state of Israel, leading to the first Palestinian-Israeli war and a massive refugee crisis. Zionist forces will continue to control 78 percent of Palestinian territory, and the remainder is divided into the currently occupied West Bank and Gaza Strip. Currently, the Nakba continues with almost daily forced evictions and murders of Palestinians, carried out by what is considered an apartheid state, while the rest of the world stands by and watches.

On 27 October 2023, the UN Committee on the Elimination of Racial Discrimination (CERD/Committee) acted based on the Early

Warning and Urgent Action (EWUA)⁴ and issued Statement 5 (2023) regarding Israel and the State of Palestine, which expressed concern at

'the scale of violence and humanitarian catastrophe occurring in the occupied Gaza Strip and well-founded fears that the territory is being embroiled in more conflict. wide'. The text of the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) does not explicitly regulate the EWUA procedure, even though the legal basis is contained in Article 9(1)(b).

MAIN PROBLEM

The conflict between Palestine and Israel has been going on for a long time to the point that the two countries ratified or joined the International Convention on the Elimination of All forms of Racial Discrimination. With the two countries being bound, this article wants to see CERD's actions and responses to ethnic cleansing carried out by Israel against Palestinians as well as third countries' responses to Israel's actions against Palestinians.

METHOD OF RESEARCH

The description of the problem in the article begins with determining the research method used. The method used is a normative research method with a case approach⁶ to see the actions and responses of CERD and third countries regarding the ethnic cleansing carried out by Israel against Palestinians based on the International Convention on the Elimination of All forms of Racial Discrimination. To explain the arguments, several data, both primary and secondary, are used, such as conventions and several documents issued by CERD, and for secondary data, several related journals, articles and books are used. In collecting primary legal materials, it is done by looking at various related conventions.

while for secondary materials a method called snowballing is used, namely looking at the bibliography of articles, journals and books to make it easier to search for data. This article focuses on analysis related to ethnic cleansing carried out by Israel against Palestinians based on the International Convention on the Elimination of All forms of Racial Discrimination (International Convention on the Elimination of All Forms of Racial Discrimination) which is both countries have improved themselves.

RESEARCH RESULT AND DISCUSSION

A. Actions Taken by CERD Against Israel's Ethnic Cleansing Crimes Against Palestine

A brief history of the Ethnic Cleansing of Palestine by Israel

The conflict between Palestine and Israel departs from the history of Palestinian citizenship law during the Ottoman Empire (Ottoman citizenship). Following the implementation of civil administration by Britain through the "Palestinian Government", Britain began taking steps to recognize Palestinian citizenship. Then the Palestine Mandate was adopted (and legalized internationally) by the League of Nations Council on 24 July 1922 based on the Covenant of the League of Nations. In this Mandate, there is a unique provision, which requires the Palestinian Government (Britain) to enact a citizenship law which includes the provision "to facilitate the acquisition of Palestinian citizenship by Jews who take up their permanent residence in Palestine." This was a consequence of Zionist pressure,

which also resulted in the entry of the British state into Palestine. After the Treaty of Lausanne which ended World War I in 1923 determined that Ottoman citizens residing in the Palestinian territories were Palestinian citizens, a year later,

Palestinian citizenship was codified by British law in the Palestine Citizenship Order of 1925, which significantly narrowed the requirements for Palestinians living abroad to obtain or retain their Palestinian citizenship, by limiting the time period within which a passport could be obtained and could return and claim citizenship. It also deprives descendants of Ottoman citizens of the right to claim citizenship based on *jus sanguinis* if they are abroad, and temporarily limits the rights of Palestinian citizens traveling abroad.⁹

Through a proclamation in September 1922, the British government had determined that anyone who was not an Ottoman citizen, who was habitually residing in Palestine at that date, could apply to become a Palestinian citizen. Then around 38,000 people were granted Palestinian citizenship based on the proclamation. Under the Lausanne Agreement, the recognition and codification of Palestinian citizenship is consistent and in accordance with the law international, that citizenship is attached to the majority population which is truly and intrinsically linked to a certain territory, with certain boundaries, and is transmitted through blood, residence, or birth in that territory (*jus soli*, *ius domicili*, or *ius sanguinis*).

This is also consistent with customary law that residents living in a territory when there is a change in sovereignty must automatically acquire the

citizenship of the successor country. However, the Palestinian citizenship order changed key provisions of the agreement, and attempted to incorporate provisions of the Balfour Declaration that discriminated against native Palestinians in favor of Jewish immigrants. The total population that meets the criteria for Palestinian Citizenship is 847,000 people, including foreign residents (most of whom are Jewish immigrants) who immigrated to Palestine between 1920-1922 and obtained citizenship based on the British proclamation in 1922. Until now, Israel carry out occupation actions against Palestine. The Israeli government declared war on October 7, 2023. The Palestinian population felt one after another suffering. Starting from children who have difficulty getting nutritious food and milk, the lives of women are disrupted, their homes destroyed, and the sadistic murder of the Palestinian people. Israel is making every effort to seize all Palestinian territory. They captured and established territory for the Jews. More than 12,000 Palestinian deaths were recorded in the war with Israel, while Israeli deaths reached 1,200 people. War violations or war crimes were carried out openly by Israel, these crimes were spread widely through social media, resulting in support and pressure from the international community for Israel to carry out ceasefire. War crimes include the killing of civilians, cutting off access to water, food and electricity, the use of weapons prohibited by international humanitarian law, and the Palestinian population having to be expelled and take refuge in other countries. Likewise, the supporting superpowers, namely the United

States, Britain and France, sent weapons aid to Israel.

CERD Action Against Ethnic Cleansing in the Israeli and Palestinian War Conflict

Know the history, actions and violations that have occurred during Israel's occupation of Palestine to date included in the criteria in the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), that the term "racial discrimination" means, "...any distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life."

The Committee on the Elimination of Racial Discrimination (CERD) is a body consisting of independent experts who monitor the implementation of ICERD by its member countries. That all Contracting States are required to submit regular reports to the Committee on how these rights are being implemented. In addition to reporting procedures, the Convention also establishes three other mechanisms by which the Committee can carry out its functions, namely the early warning procedure, the examination of inter-state complaints, and the examination of individual complaints (the examination of inter-state complaints). individual complaints). Actions required of States Parties also include amendments to national constitutions to include provisions prohibiting racial

discrimination and a systematic review of legislation who fulfill the requirements of the convention.

On January 3, 1979, Israel ratified the International Convention on the Elimination of All forms of Racial Discrimination (ICERD). The State of Palestine also acceded to ICERD on April 2 2014.¹⁴ This is because Palestine is not a permanent member of the UN but is a Non-Member State which also participates as an Observer in the sessions and tasks or work of the UN General Assembly. Through Resolution A/RES/67/19 dated 29 November 2012, the General Assembly granted non-Member Observer State status to Palestine. So that both countries have an obligation to comply with and enforce the rules contained in the convention.

In an effort to resolve the conflict between Israel and Palestine, previously Israel had formally given a notification or statement to the UN that it refused to enter into treaty relations with Palestine on May 16 2014.

Then on 23 April 2018, Palestine filed an inter-State communication under Article 11 of ICERD against Israel claiming that its practices carried out by Israel in the Occupied Palestinian Territory (OPT) is a "system of discriminatory measures" which violates Articles 2, 3 and 5 of ICERD. The communication made by Palestine resulted in a decision that the committee supports Palestine, regarding matters relating to jurisdiction on 12 December 2019, and its acceptance on 20 May 2021.

Basically, Israel opposes the jurisdiction of the Committee of Elimination of Racial Discrimination (CERD) because its statement regarding Palestinian accession to ICERD contains objections to

establishing treaty relations with Palestine as a whole and includes the ICERD enforcement mechanism, namely communication between countries. On the other hand, Palestine believes that bilateral treaty relations are not necessary because ICERD's obligations are *ius cogens* and *erga omnes*. Therefore, its obligations, including its legal enforcement mechanisms, are the responsibility of all parties. Israel also opposed the acceptance of this communication because Palestine failed to find "Exhaustion of Local Remedies". Exhaustion of Local Remedies is a dispute resolution step that available or provided by national law which must be taken first before submitting it to an international tribunal.

CERD states that it has jurisdiction. Activating complaints between States to the CERD does not require a bilateral treaty relationship, because CERD obligations contain core obligations that apply *erga omnes*, are non-syntagmatic and are subject to collective guarantees and enforcement. This happens because ICERD is included in the category of special agreements which contain general values shared by the international community. ICERD also has a special character in the category of human rights treaties, considering that this treaty is the first universal human rights treaty drafted after the international crime of genocide, and recognizes that racial discrimination is a form of action that must be combated by any means.

According to voluntarist theory, it explains that international law applies because of the will of a country to comply with international law.

That Israel and Palestine have expressed their will by becoming States Parties to ICERD because they have ratified it, so the moral burden and responsibility for the rules and regulations in ICERD and CERD must be obeyed. Palestinians also believe that Israeli laws or policies violate the norms contained in ICERD, that there are ways or loopholes available to challenge certain legislative or administrative practices that occur within the country. On the other hand, the Palestinians argue that local solutions under Article 11 (3) ICERD are not necessary if the violations constitute an administrative practice. CERD responds that a State Party cannot (through unilateral action) prevent another State Party from triggering the law enforcement mechanisms established by ICERD as long as the law enforcement mechanisms established by ICERD are essential to guarantee the equal enjoyment of the rights of individuals or groups set out in the Agreement. According to Weber (1968), in the case of legal authority, obedience must be made to a legally established impersonal order. This extends to people who exercise the authority of positions under them based on the formal legality of the orders stipulated and only within the scope of the authority of that position. It has been stated that previously that Israel is also a member of ICERD, so compliance with the rules and authority of CERD applies to it. Those who are subject to the authority of an international organization must be willing to become subjects and even be obliged to implement decisions they do not like. That obedience in the international realm requires legitimacy.

CERD in both its decisions emphasizes the terminology "State of Palestine" and stipulates that bilateral treaty relations or agreements are not necessary for the activation of inter-State communications under Article 11 of ICERD. So there are two important things in the decision issued by CERD, namely, first, stating that the communication made by Palestine is acceptable. Although Article 11(3) ICERD requires that all available domestic remedies must be carried out and in accordance with generally recognized principles of international law, the jurisprudence of the Commission and regional human rights courts indicates that domestic remedies are not mandatory if "Generalized policy and practice" has been ratified. This decision received strong criticism from dissenting CERD members, especially because it contradicted the principle of state consent.

Although this principle originates directly from the principle of sovereign equality contained in Article 2 (1) of the UN Charter, it is of course also one of the most fundamental principles in international law, but there are a small number of core regulations that function outside the realm of general international law, as CERD has rightly pointed out. This is due to their basis in higher common values and their consequent non-synergistic nature. The fact that some core rules replace general principles of general international law is also reflected for example in Article 53 of the Vienna Convention on the Law of Treaties, which recognizes that if a treaty violates *ius cogens*, the treaty will be considered null and void, giving rise to another fundamental principle, namely

pacta sunt servanda, becomes unenforceable.

To prevent blurring Regarding when general principles of international law can be applied and when not, the list of *ius cogens* norms is limited to "prohibitions of aggression, genocide, slavery, racial discrimination, crimes against humanity and torture, and the right to self-determination."

As the Committee rightly reiterates, compliance with *ius cogens* is not only an obligation on all States Parties, but also on all persons or *erga omnes*. Therefore, if compliance is the obligation of all States Parties and all people, so too must its enforcement mechanisms provide for the highest category of norms that are *de facto* relevant.

Second, the Committee's reference to its own Conclusion of Observations having met the *prima facie* evidentiary threshold and thereby freeing Palestine to present further evidence. While this may seem surprising at first glance, it seems logical for CERD to rely on its own document (published only one year earlier). and recognize the practical relevance of different enforcement mechanisms under ICERD.

The Acceptance Decision by CERD was issued two months after a pre-trial hearing of the International Criminal Court (ICC) which confirmed that "territorial jurisdiction in the Situation in Palestine, a State party to the ICC Rome Statute, extends to the territories occupied by Israel since 1967, namely Gaza and the West Bank, including East Jerusalem." This was a significant 'procedural victory' for Palestine, because it opened the door to an investigation by the Prosecutor's Office into alleged war crimes committed by the Israeli army

or Hamas members in OPT. This decision represents one of the rare occasions when Israel was unable to prevent decisions related to its apartheid regime in the OPT from carrying out procedural maneuvers, even considering that these procedures were only conciliatory and non-binding, and not adversarial and binding.

The next procedural step was the appointment of an *ad hoc* Conciliation Commission consisting of five people by the CERD Chair to find a peaceful solution under Article 12(1) ICERD. However, as Jan Eiken pointed out, considering the Israeli Press Release on the CERD decision which described it as "shameless and biased decision, (which indicates) that Israel cannot expect to receive fair and non-discriminatory treatment from this body, and will conduct its relationship with it accordingly."The conciliatory nature of the next procedural step does not provide much hope. However, this will be the first time that an *ad hoc* Conciliation Commission has been appointed in the communication process between States before a UN Human Rights Treaty Body.

The mandate of the *ad hoc* Conciliation Commission is to prepare and submit a report to the Chair of the CERD containing its findings on all statements of fact and containing recommendations for the peaceful resolution of disputes in accordance with Article 13 (1) ICERD. In 2022, the Commission held two online meetings to discuss preliminary issues related to the mandate, including the adoption of the Rules of Procedure. Apart from that, in 2022 the Commission will also hold two face-to-face meetings in Geneva to hold discussions regarding

work methods, calendar of activities, administration, conciliation strategies and information gathering. Although the possibility of finding a peaceful solution between Palestine and Israel over the accusation of Apartheid is approaching zero, all that remains is for the ad hoc Conciliation Commission to issue report on this issue, which will be distributed among all ICERD participating countries. This could be another part of Palestinian judicial efforts to seek justice for Israel's apartheid regime in the OPT. In November 2023, CERD opened its One Hundred and Eleventh Session in Geneva and several Experts discussed the conflict in the Gaza Strip. Among them is Nouredin Amir who linked the issue of this conflict to the tragedy of the Holocaust and criticized that the UN was unable to stop and condemn these attacks firmly and prevent violations of international law. Apart from that, Nouredin also mentioned all the violations that Israel has committed against Palestine since the attack on October 7 2023 and urged all parties to pay attention and enforce the law on this issue. Gay Mcdougall also criticized that the UN does not have power over the world, and the efforts made by the UN have not produced results. Yury Boychenko and Verene Shepherd as chairs of the Committee also urged the international community regarding this conflict.

The response of Third Countries and CERD to Israel's crimes of ethnic cleansing against Palestine

Before moving on to how third countries and the CERD (Committee on the Elimination of Racial Discrimination) responded, we need to take a closer look at the nature of international law itself, which is the law

that binds the world community from the agreements they make, whether multilateral or bilateral. This seems to be understandable because to make a norm binding on countries, there is no institution that has the authority, such as a legislative institution in national law, to form binding norms, so one way of forming international law is through making international agreements. 37 International law for Austin is not internal law. the real meaning, because for Austin, the view that law must fulfill at least two elements, namely the existence of an authorized institution in forming law and its enforcement can be enforced, thus international law is still just positive morality. In contrast to what was stated by Oppenheim, considering that international law is real law, Oppenheim provides three conditions to be able to do so

Law is said to be the existence of rules, society and the guarantee of coercion from outside the subject of law, which for Oppenheim has all been fulfilled with many international agreements as rules, and countries party to the agreement as legal subjects, as well as guarantees of coercion so that the agreement is obeyed in good faith if otherwise there are sanctions from the countries participating in the agreement, and international organizations in the form of demands for apologies, compensation and restoration to previous conditions, on the other hand there are also termination of diplomatic relations, embargoes, retaliation and even war. It has been mentioned that CERD (Committee on the Elimination of Racial Discrimination) is a committee consisting of independent experts that monitors the implementation of the Convention on the Elimination of All

Forms of Racial Discrimination by participating countries. Racial discrimination remains an obstacle to the full realization of human rights. Despite progress in some areas, exclusions and restrictions based on race, color, ancestry, national or ethnic origin continue to lead to conflict, suffering and loss of life. CERD works to take action against the injustice of racial discrimination and the harm it causes.

Regulations regarding CERD (Committee on the Elimination of Racial Discrimination) have been explained in the convention on the elimination of all forms of racial discrimination (International Convention on the Elimination of All forms of Racial Discrimination), that the convention requires the formation of a committee consisting of experts to carry out supervision regarding the implementation of the convention by party states, the appointment of committee members will be selected by party states at a meeting convened by the UN Secretary General for this purpose, and each party state can nominate candidates from their respective parties.

Apart from forming a committee, the committee also receives complaints from party states regarding allegations of non-implementation of provisions in the convention, with the provisions that the committee will submit a report to the party state concerned to provide a written statement regarding these allegations. In this way, the committee becomes a means of complaints if there is a violation of the convention. Not only is it a complaints body, as mentioned previously, the committee can also collect and obtain information on alleged violations by state parties from communications from individuals

or groups of individuals within its jurisdiction and then form an ad hoc conciliation committee to resolve the allegations.

violation. Based on reports from individuals or groups of individuals who claim to be victims of violations by state parties of their rights guaranteed in the convention, the committee conveys this communication to the state party suspected of violating the provisions of the convention. This requires the state party suspected of violating the convention to provide clarification and efforts recovery if any. This provision gives the task and authority to the committee to receive reports and complaints from any party state, communications from individuals or groups of individuals within the jurisdiction of the committee, with reports, complaints and communications, information is obtained which will then be submitted to the party state to provide a written statement. on these accusations. However, based on the provisions of the convention, before a resolution is carried out through a committee, available local measures must first be taken based on a petition from an individual who claims to be a victim.

By looking at how the condition of international law is weak in terms of law enforcement, not in its normal validity as explained by Oppenheim, it is evident from the convention on the elimination of all forms of racial discrimination (International Convention on the Elimination of All forms of Racial Discrimination).

where enforcement of violations is left first to local advice and to peace between countries experiencing conflict. For this reason, let's see how far the response from CERD and countries party to the convention

regarding allegations of violations of the provisions of the convention in the cases of Palestine and Israel.

To make it easier, this study will be divided into two parts, namely the CERD response and the state party's response to alleged violations of the convention. The analysis begins with CERD's response: CERD's (Committee on the Elimination of Racial Discrimination) response to the Ethnic Cleansing carried out by Israel against Palestine.

Looking at the events that occurred in Palestine which caused thousands of people to be killed, including children, women and the elderly due to the Ethnic Cleansing carried out by Israel, as of November 16 2023 the number of victims who died reached 11,697 people, including 4,710 children and 3,160 women since the conflict in October 7 2023. So if overall from the last few years starting from 2008-2022 the number of victims reached 6,18046 if you add the 2023 victims then around 17,877 victims died from the 2008-2023 period.

With so many victims from both Palestine and Israel, if seen from CERD's response, it only provides several recommendations for state parties to incorporate the provisions of the convention into their respective national laws and ensure that national laws are relevant to the convention on the elimination of all forms of racial discrimination (International Convention on the Elimination of All forms of Racial Discrimination) as well as various human rights conventions. Not only providing recommendations for the CERD report period, it also provides various statements regarding the condition of Palestinians due to Israeli attacks, that Israel's actions in preventing the provision of drinking

water cause Palestinians in Gaza to be at risk of death and disease due to lack of drinking water, which is a violation of humanitarian law and human rights. man. So more deaths are due to lack of water than due to bombing by Israel. Israel's actions have violated human rights, especially obtaining drinking water, by blocking clean water from entering Gaza-Palestine, as

A country that has bound itself to the convention on the elimination of all racial discrimination, Israel should implement the convention without carrying out acts of ethnic cleansing of Palestine because it is against the convention.

By looking at the response given by CERD as well as the provisions in the convention on the elimination of all forms of racial discrimination (International Convention on the Elimination of All forms of Racial Discrimination), what Oppenheim said is quite reasonable that international law is a law that is weak in its application.

Moreover, developing countries are critical of international law which is seen as not in accordance with their cultural values and interests. Not only this, if we present an analysis of international law as a political instrument from developed countries towards developing countries⁵⁰, then this could be a reason why the mechanism for implementing international agreements is left to the good faith and sovereignty of each country as a principle in international agreements.

Third Country's Response to Ethnic Cleansing carried out by Israel against Palestine.

The Convention on the Elimination of All Forms of Racial Discrimination (International Convention on the Elimination of All Forms of Racial Discrimination) does not regulate the provision of sanctions, nor in the 1969 Vienna Convention, the Vienna Convention only provides provisions in the event that between two countries there is no understanding in the amendment or the amendment is not accepted. then both parties are not bound by the provisions of the amendment but the original provisions before the amendment still apply (if an agreement stipulates otherwise, then those provisions are followed).

Apart from the absence of sanctions provisions for non-implementation of international agreements, as stated at the beginning, sanctions given to violating countries can take the form of terminating diplomatic relations, embargoes and even getting involved in conflict (war). Compliance with international treaty law as stated by Muhammad Rafi Darajati lies in the benefits and profits that will be received by looking at this compliance with agreements with economic nuances such as international trade.

Refers to sanctions in the form of disconnection diplomatic, embargo which in practice is often used by third parties to criticize the actions of the violating country. In the context of Ethnic Cleansing carried out by Israel against Palestine as a crime against humanity, many countries responding to this have responded to the convention, such as:

Indonesia's response to the Ethnic Cleansing carried out by Israel against Palestine, Indonesia, through the Ministry of Foreign Affairs, is concerned about the conflict occurring in Palestine and requests that acts of

violence be stopped so that it does not cause continuous victims. Not only that, protests and boycotts of products affiliated with Israel are often carried out by Indonesian citizens. This seems to be an economic sanction due to violations committed by Indonesian citizens. Jordan's response to Israel's Ethnic Cleansing actions against Palestine led to an energy cooperation agreement between the two countries void which was recently ratified.

Iran asks countries Islam sanctioned Israel for its actions, through the Minister of Foreign Affairs at an emergency meeting of the Organization of Islamic Cooperation (OIC) in Jeddah called for an embargo. From several responses given by third countries regarding the Ethnic Cleansing carried out by Israel against Palestine, it shows the complexity of the conflict between the two countries so that in providing responses the state must be careful, this seems to be like the analysis put forward by Muhammad Rafi Darajati that the tendency is to bind oneself or obey An international agreement depends on the benefits that will be obtained by the country, 58 moreover if analyzed from political interests, international agreements are used as instruments by developed countries towards developing countries so that this is less likely to be the reason why developing countries tend to be critical of international agreement law.

CONCLUSION

Israel has carried out ethnic cleansing against Palestine and this is something that must be held accountable. Therefore, Israel must receive commensurate sanctions for its actions which have not yet stopped. Therefore, CERD has emphasized that communication carried out by

Palestine is possible accepted. Then, the Committee's reference to its own Conclusion of Observations had met the prima facie evidentiary threshold and thus freed Palestine from presenting further evidence. Furthermore, by appointing an ad hoc Conciliation Commission consisting of five people by the CERD Chair to find a peaceful solution based on Article 12 (1) ICERD.

The responses of other countries as third parties have resulted in many differences due to their caution in providing opinions on the Israeli-Palestinian conflict. The unwillingness of some countries to interfere in this conflict is based on political interests.

REFERENCES

- Akram S.M., (2021), Palestinian Nationality and "Jewish" Nationality: From the Lausanne Treaty to Today, California: University of California Press.
- Hooghe, Liesbet., dkk. (2021). A Theory of International Organization. United Kingdom: Oxford University Press.
- I Made Pasek Diantha, (2017), Metode Penelitian Hukum Normatif Dalam Justifikasi Teori Hukum, Jakarta: Prenada Media Group.
- MD., Brauch. (2017). Exhaustion of Local Remedies in International Investment Law.
- Canada: International Institute for Sustainable Development (IISD).
- Peter Mahmud Marzuki, (2017), Penelitian Hukum, Jakarta: Kencana.
- Sri Setianingsih Suwardi dan Ida Kurnia, (2019), Hukum Perjanjian Internasional, Jakarta: Sinar Grafika.
- Erakat, Noura. (2015). "Whiteness as Property in Israel: Revival, Rehabilitation, and Removal",
- 31 HARV. J. RACIAL & ETHNIC JUST. hlm. 69.
- Gathii, James. (2021). "Studying Race in International Law Scholarship Using a Social Science Approach". 22
- CHICAGO J. INT'L L. hlm. 71- 75.
- Janedjri M. Gaffar, (2013) "Sikap Kritis Negara Berkembang terhadap Hukum Internasional", Jurnal Konstitusi, Vol. 10, No. 2, hlm. 208-209.
- KA., Melda. (2008). "Kedudukan Hukum Internasional dalam Sistem Hukum Nasional". Indonesian Journal of International Law. Vol. 5, No. 3.
- Muhammad Rafi Darajati, (2020) "Ketaatan Negara Terhadap Hukum Perdagangan Internasional", Jurnal Ilmu Hukum Vol. 5 No. 1, hlm,21-42.
- Sfard, Michael. (2020). "The Israeli Occupation Of The West Bank And The Crime Of Apartheid: Legal Opinion", Yesh Din, hlm.5.
- Syafriani, (2016) "Ketaatan Masyarakat Internasional terhadap Hukum Internasional dalam Perspektif Filsafat Hukum", Jurnal Hukum No. 3 Vol. 18 Juli, hlm,408-409
- CERD. (2020). Concluding Observations on the Combined

- Seventeenth to Nineteenth Reports of Israel No. CERD/C/ISR/CO/17-19. UN ICERD.
- CERD. (2021). Inter-State Communication Number CERD/C.103/4 on Inter-State Communication Submitted by the State of Palestine against Israel: Decision on Admissibility. UN ICERD.
- International Criminal Court (ICC), (2021) "Pre-Trial Chamber I No. ICC-01/18: Situation on the State of Palestine (Decision on the 'Persecution request pursuant to article 19(3) for a ruling on the Court's territorial jurisdiction in Palestine')", Den Haag: ICC, 5 February, hlm. 50.
- Komentar ARISWA. (2001). Pada pasal 26, paragraf 5, "Draft Articles on Responsibility of States for Internationally Wrongful Acts, with Commentaries", International Law Commission Yearbook: Report of the International Law Commission on the work of its fifty-third session.
- A Procedural Win in Palestine's Quest to Seek Justice for Israel's Apartheid Regime before the CERD - *Opinio Juris*, diakses pada 19 November 2023.
- Breaking new ground – Again? The CERD Committee's decision on admissibility in Palestine v. Israel – *EJIL: Talk!* (ejiltalk.org), diakses pada 21 November 2023.
- Committee on the Elimination of Racial Discrimination Opens One Hundred and Eleventh Session in Geneva, Committee Experts Address the Conflict in the Gaza Strip | OHCHR, diakses pada 21 November 2023.
- <https://www.cnbcindonesia.com/research/231024141340128483228/korbantewaspalestina-ratusanribu-500-kali-lipat-vs-israel>, diakses pada tanggal 22 November 2023.
- <https://www.cnnindonesia.com/internasional/20231117075153-120-1025375/yordania-jatuhkan-sanksi-untuk-israel-gegara-agresi-ke-jalur-gaza>, diakses pada tanggal 22 November 2023,
- <https://www.detik.com/hikmah/khazanah/d-6991202/iran-desak-negara-islam-embargo-minyak-israel-sebagai-sanksi>, diakses pada tanggal 22 November 2023,
- <https://www.kompas.id/baca/riset/2023/11/19/dalam-satu-jam-15-orang-meninggaldi-gaza>, diakses pada tanggal 22 November 2023.
- <https://www.ohchr.org/en/pressreleases/2023/11/israel-must-stop-using-water-weapon-war-un-expert>, diakses pada tanggal 22 November 2023,
- <https://www.antaranews.com/berita/3762543/indonesia-prihatin-atas-peningkatan-eskalasi-konflik-palestina-israel>, diakses pada tanggal 22 November 2023
- <https://www.ohchr.org/en/treatybodies/cerd>, diakses pada tanggal 22 November 2023.
- <https://www.ohchr.org/en/treatybodies/cerd/>, diakses

pada tanggal 22 November 2023, Pukul 10.46 WIB.

Inter-state communications | OHCHR, diakses pada 21 November 2023.

Inter-state communications | OHCHR, diakses pada 19 November 2023.

Introduction | OHCHR, diakses pada 18 November 2023.

Palestina: Bagaimana cara menghitung jumlah korban tewas di Gaza? - BBC News Indonesia, diakses pada 18 November 2023.

United Nation. Non-member States, Non-Member-States | United Nations, diakses pada 18 November 2023.

UNTC, diakses pada 18 November 2023.

UNTC, diakses pada 20 November 2023..