

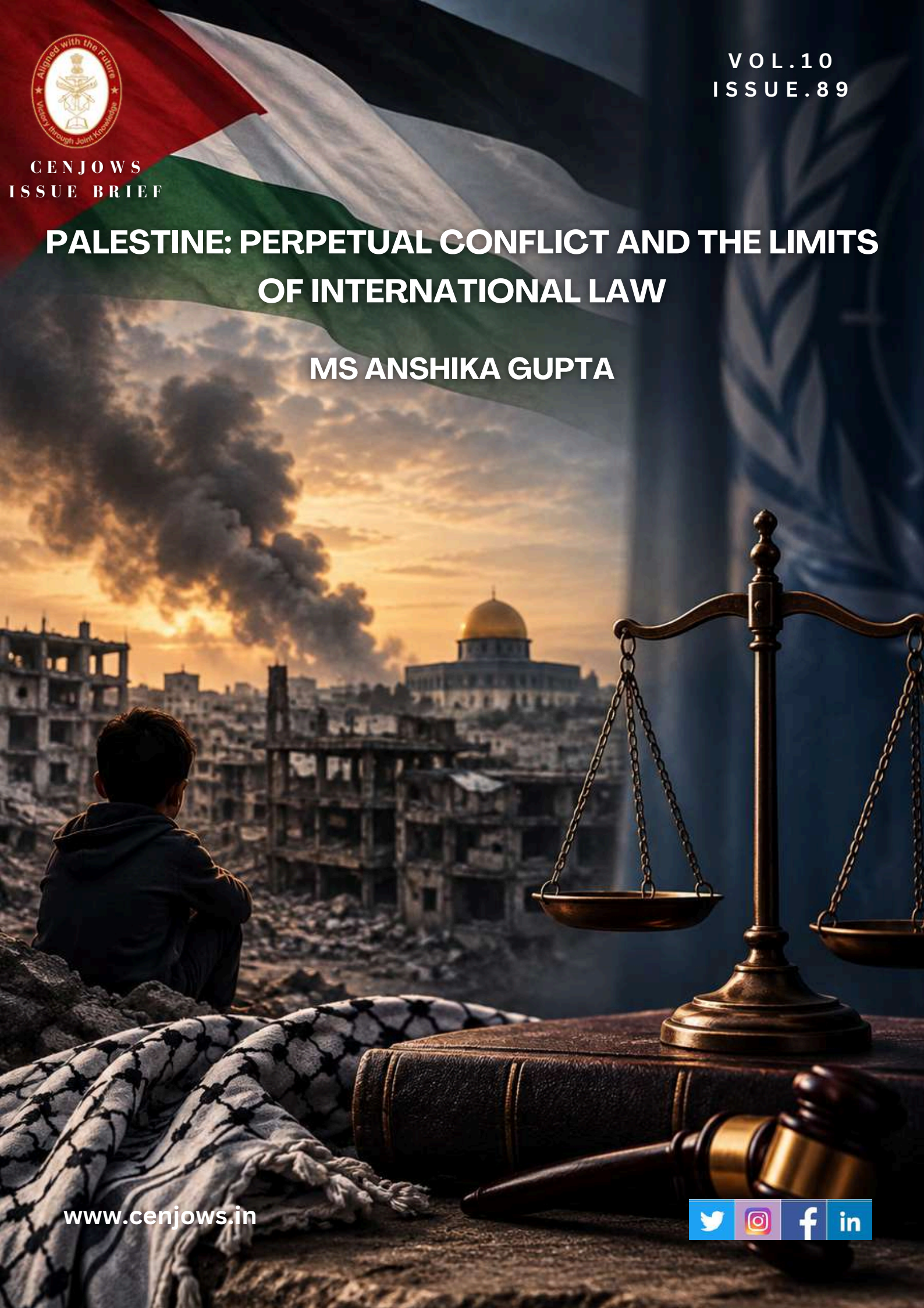


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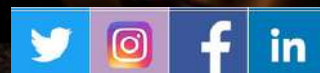
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PALESTINE: PERPETUAL CONFLICT AND THE LIMITS OF INTERNATIONAL LAW

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**PALESTINE: PERPETUAL CONFLICT AND THE LIMITS
OF INTERNATIONAL LAW**

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Palestine: Perpetual Conflict and the Limits of International Law



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Introduction

The Israeli-Palestinian conflict has resisted the ordinary machinery of international dispute resolution for more than seven decades. Wars have been fought, ceasefires signed and peace processes launched and abandoned, and the International Court of Justice (ICJ) has twice pronounced on the illegality of Israeli practices in the occupied Palestinian territory (oPt), yet the underlying dispute remains as unresolved in 2026 as it was in 1948. The paper examines a structural explanation for that persistence, that is, the United States' sustained diplomatic shielding of Israel, principally through its veto power at the United Nations Security Council (UNSC) and its unparalleled scale of military assistance, has repeatedly insulated Israeli policy from the accountability mechanisms that international law is designed to supply. This shielding, the paper argues, has not merely been a bilateral matter between Washington and Tel Aviv. It has functioned as a systemic distortion of the international legal order, contributing to recurring cycles of

violence by removing the incentive for a negotiated settlement grounded in enforceable rights rather than in the prevailing balance of power.

The Architecture of Diplomatic Shielding

- **The Veto as Instrument of Policy**

The United Nations Security Council was designed in the language of the UN Charter to bear primary responsibility for the maintenance of international peace and security.¹ Its five permanent members, the United States, the United Kingdom, France, Russia, and China, were granted veto power in 1945 as a concession to great-power politics, a recognition that a body claiming universal authority could not function if it could bind its most powerful members against their will.² This design has functioned since 1972 to shield a single state, Israel, from the collective judgement of the international community with a frequency and consistency unmatched in the Council's practice toward any other party to a conflict.³

Since the Nixon administration cast the first such veto in 1972, over a resolution condemning Israeli attacks on Lebanon and Syria, the United States has used its veto to block Security Council action on Israel-Palestine on dozens of occasions.⁴ Scholarly and archival tallies vary somewhat depending on the cut-off date and whether Lebanon-related vetoes are counted alongside those on the oPt but by comprehensive independent accounting, more than forty of the roughly eighty vetoes cast by the United States since 1973 have been used specifically to block resolutions critical of Israel or Israeli conduct in Lebanon.⁵ No other permanent member of the Security Council has ever cast a veto to protect Israel from Security Council censure.⁶ This is a structurally unique feature of the conflict, unlike most protracted disputes on the Council's agenda, where competing patronage among the P5 produces a rough equilibrium of blocked action. The Israel-Palestine file has seen one permanent member act as sole guarantor against enforcement.

The practical effect has been to convert what ought to be a legally binding organ, Security Council resolutions, unlike those of the General Assembly that can carry

the force of international law under the Charter, into a forum whose outputs on this particular conflict are pre-filtered by a single capital's political calculus. The record includes vetoes of resolutions condemning specific Israeli military operations, resolutions affirming Palestinian self-determination, resolutions declaring settlement activity illegal, and, in the recent period, vetoes of ceasefire resolutions during the 2023-2025 Gaza war.⁷ In December 2024, when the Security Council again failed to act, the issue moved to the General Assembly, where a resolution demanding an immediate, unconditional, and permanent ceasefire passed with 158 votes in favour and only nine against the United States and Israel among the dissenters.⁸ The scale of that majority illustrates the gap between international consensus and the mechanism through which that consensus can be translated into binding action.

- **Doctrinal Justification and Its Limits**

U.S. officials across administrations have offered a consistent doctrinal justification for this pattern: that Security Council action risks prejudging final-status issues that should properly be resolved through direct bilateral negotiation between Israelis and Palestinians and that externally imposed resolutions are more likely to entrench positions than to produce compromise. This was the explicit reasoning offered by Ambassador Susan Rice in vetoing a 2011 resolution reaffirming the illegality of settlement activity, a position from which Washington did not fundamentally dissent but which it judged unwise for the Council to adjudicate.⁹

This justification, however, sits uneasily with the empirical record of the bilateral "peace process" it purports to protect. The Oslo Accords of 1993 and 1995, negotiated bilaterally, in precisely the manner U.S. policy has consistently favoured, did not in fact commit either party to a two-state outcome. The phrase itself is absent from the Declaration of Principles, and final-status issues, including borders, settlements, Jerusalem, and refugees, were deliberately deferred to later negotiation.¹⁰ Legal scholarship examining the Oslo framework in the decades since has characterised the interim arrangements not as a bridge to Palestinian statehood but as a structure that entrenched Israeli control while displacing formal

questions of sovereignty indefinitely. An analysis in the journal “Transnational Legal Theory” terms it as induced “ungovernance”, where Palestinian institutions were left responsible for administration without the accompanying attributes of self-determination.¹¹ The bilateral negotiating framework that U.S. veto policy has consistently sought to protect from external judicial or Council intervention has, on this reading, itself become a mechanism of indefinite deferral rather than resolution.

The Material Dimension: Aid, Arms, and Impunity

- **Scale and Structure of U.S. Assistance**

Diplomatic protection at the UN has been reinforced by a security-assistance relationship of exceptional scale and durability. According to the U.S. Congressional Research Service (CRS), Israel is the largest cumulative recipient of U.S. foreign assistance since the Second World War. As of 2025, the United States had provided approximately \$174 billion in bilateral assistance and missile-defence funding to Israel in nominal dollars, or an estimated \$298 billion in 2024 constant dollars.¹² Since 1999, this assistance has been governed by successive ten-year Memoranda of Understanding (MOUs). The current agreement, signed in 2016, pledges \$38 billion over the period FY2019-FY2028, \$33 billion in Foreign Military Financing grants and \$5 billion in missile-defence appropriations.¹³

This baseline was substantially exceeded following the Hamas-led attacks of 7 October 2023 and Israel's subsequent military campaigns in Gaza, Lebanon and against Iran. Congress passed emergency supplemental appropriations in 2024 providing an additional \$3.5 billion in Foreign Military Financing and \$5.2 billion in missile-defence funding, including the first dedicated U.S. appropriation for Israel's Iron Beam laser-defence system.¹⁴ The U.S. Defence Security Cooperation Agency reported in April 2025 that the United States maintained 751 active Foreign Military Sales cases with Israel valued at \$39.2 billion, alongside more than \$12.2 billion in Direct Commercial Sales authorised between FY2018 and FY2022 alone.¹⁵ By May 2025, the Israeli Ministry of Defence reported that the United

States had dispatched some 800 transport-aircraft loads and 140 ships carrying more than 90,000 tonnes of armaments since October 2023.¹⁶

A structural feature of this relationship, codified in U.S. law since 2008, is the doctrine of Israel's "Qualitative Military Edge" (QME), which requires the executive branch to certify for any proposed U.S. arms sale to another Middle Eastern state that the sale will not erode Israel's superiority in military capability over any credible coalition of regional adversaries.¹⁷ No comparable statutory guarantee exists for any other U.S. security partner in the region. The cumulative effect of MOU-guaranteed financing, QME-protected technological superiority and accelerated congressional review procedures reserved for a small group of close allies is a security relationship structurally insulated from much of the ordinary friction that governs U.S. arms transfers elsewhere.¹⁸

- **Conditionality Attempted and Abandoned**

It is worth noting in fairness to the historical record that the U.S. security-assistance relationship with Israel has not been entirely without internal friction or attempted conditionality. In February 2024, the Biden administration issued National Security Memorandum 20 (NSM-20), requiring recipient countries, including Israel, to provide written assurances that U.S.-origin defence articles would be used consistently with international humanitarian law and mandating that the Secretaries of State and Defence report to Congress on compliance.¹⁹ The Administration's own May 2024 report under that Memorandum concluded that it was "reasonable to assess" that U.S.-origin defence articles had been used by Israeli forces in instances inconsistent with international humanitarian-law obligations, while nonetheless finding Israel's assurances credible and reliable enough to permit continued transfers.²⁰ The Biden administration also sent a shipment of 2,000-pound bombs in May 2024 amid concern over their potential paused use in the Rafah offensive.²¹ Both measures proved short-lived: the incoming Trump administration rescinded NSM-20 in February 2025 and released the withheld bomb shipment, with Secretary of State Marco Rubio characterising the prior restrictions as a "baseless and politicised" embargo.²² Senate efforts to

formally disapprove individual arms sales under joint resolutions of disapproval were repeatedly defeated by large bipartisan margins. The closest such vote, on a package of mortar cartridges in November 2024, failed nineteen votes to seventy-eight.²³ The episode illustrates that even modest, administratively reversible conditionality efforts have found little durable purchase within the U.S. domestic political system, reinforcing the broader pattern of diplomatic and material insulation from external constraint.

- **From Impunity to Cycle: The Causal Link**

The relevance of this material dimension to the paper's central argument lies in its interaction with the diplomatic shielding described above. Security Council accountability and bilateral security assistance are not parallel, independent tracks. They are mutually reinforcing. The veto prevents the Council from reviewing Israel's military conduct. Israel's principal arms supplier has also shown that documented concerns about international humanitarian law compliance will not durably stop arms transfers. As a result, Israel faces a much lower cost for actions that would carry serious diplomatic and material consequences for most states. This is not to suggest that U.S. policy is the sole or even primary determinant of Israeli military conduct, which is shaped by Israel's own threat perceptions, domestic politics and strategic doctrine. It is to argue that the removal of two of the principal external constraints available under the current international order, Security Council censure and conditional security assistance, has measurably widened the range of action available to Israeli policymakers without commensurate external cost, a dynamic that legal and political scholarship on the post-Oslo order has increasingly identified as a driver of conflict recurrence rather than conflict resolution.²⁴

The Limits of International Law: The ICJ Advisory Opinion as Case Study

- **The 2024 Opinion**

On 19 July 2024, the ICJ delivered its Advisory Opinion on the Legal Consequences Arising from the Policies and Practices of Israel in the oPt, including East Jerusalem, a request the UN General Assembly had made in December 2022. The Court's findings were unambiguous. It held that Israel's continued presence in the oPt is unlawful and that Israel is under an obligation to bring that presence to an end "as rapidly as possible". Israel must cease all new settlement activity and evacuate existing settlers, and Israel is obliged to make reparation for damage caused to persons in the oPt.²⁵ The Court further found that Israel's settlement policy, land confiscation, and extension of domestic law over the West Bank and East Jerusalem measures it characterised as designed to be irreversible and permanent, amounting to de facto annexation, in violation of the prohibition on the acquisition of territory by force.²⁶ Significantly, the Court also addressed the obligations of third states, finding that all UN member states are under a duty not to recognise the occupation as lawful and not to render aid or assistance in maintaining it.²⁷

- **The Enforcement Gap**

The significance of the opinion, however, is inseparable from its principal institutional limitation that, as an advisory rather than a contentious opinion, it is, in the formal language of the Court and the UN Secretariat, non-binding.²⁸ Unlike a judgement in a contentious case between states where the Court's ruling is binding on the parties under the UN Charter, an advisory opinion carries persuasive and declaratory authority but no independent mechanism of enforcement. Implementation depends entirely on subsequent political action that is by the state found to be in violation, by third states in the conduct of their own bilateral relations or by the Security Council, which retains formal authority to act on the Court's findings but which has been structurally unable to do so with respect to Israel.

This is precisely the pattern that followed the 2004 Advisory Opinion on the Construction of a Wall, in which the Court reached substantially similar conclusions regarding the illegality of the separation barrier and associated settlement infrastructure.²⁹ Two decades separate the 2004 and 2024 opinions. In the interval, by the Court's own observation in 2024, Israeli settlement activity had expanded rather than contracted.³⁰ The 2004 and 2024 opinions reached near-identical findings, two decades apart, yet the situation on the ground did not change. This is the enforcement gap. International law can authoritatively describe a violation, but a description alone does not compel a remedy. That requires an enforcement mechanism willing to act. At the Security Council, that mechanism remains subject to the veto.³¹

- **A Broader Pattern of Displacement**

Legal and political scholarship examining this dynamic over a longer arc has traced a pattern of negotiated, state-to-state normalisation substituting for the application of pre-existing legal norms concerning occupation and self-determination, from the Oslo process through to the 2020 Abraham Accords between Israel, the United Arab Emirates and Bahrain, later joined by Morocco and Sudan.³² The Accords in particular have drawn sustained scholarly scrutiny on this point. According to a peer-reviewed analysis of Elham Fakhro's study of the Accords, which was published in the *American Journal of Islam and Society*, the book is credited as the first significant academic treatment to rigorously show how normalisation was pursued apart from, rather than as a conclusion of, a settlement of the underlying conflict, entrenching rather than resolving the conditions that have repeatedly produced crisis.³³ This departed from the 2002 Arab Peace Initiative, which had conditioned regional normalisation on a full Israeli withdrawal from occupied territory and a just settlement of the refugee question. The Accords' removal of that land-for-peace conditionality arguably reduced the collective leverage Arab states had previously held over Israeli policy on the Palestinian file.³⁴ The pattern that emerges across seven decades is consistent: instruments of international law, like Security Council resolutions, ICJ opinions, and the Fourth Geneva Convention's

prohibition on forcible population transfer, establish authoritative legal findings, while the diplomatic and security architecture maintained principally by the United States determines whether those findings translate into changed conduct. Where the latter does not follow the former, the legal order registers a violation without correcting it and the cycle of occupation, resistance, military response and renewed occupation repeats on largely unaltered terms.

The Indian Focus: Balancing Moral Diplomacy with Strategic Defence Ties

- **The Foundations of India's Palestine Policy**

India's engagement with the Palestinian question is one of the more consistent threads in its post-independence foreign policy. India recognised the Palestine Liberation Organisation in 1975 as the representative of the Palestinian people and became, in 1988, one of the first non-Arab states to recognise the State of Palestine, reflecting a Nehruvian commitment to anti-colonial solidarity that has proven durable across seven decades of subsequent policy.³⁵ As recently as August 2026, during an official visit to Ramallah, the Ministry of External Affairs reaffirmed India's consistent support for the Palestinian people and a negotiated two-state solution, while conveying concern over the humanitarian situation in Gaza and stressing dialogue and diplomacy as the path to a lasting political resolution.³⁶

India's voting record at the UN General Assembly in the period since October 2023 illustrates a considered, case-by-case approach rather than either uncritical alignment with Israel or reflexive solidarity with Palestinian positions. India voted in favour of a humanitarian ceasefire resolution in December 2023 and again in favour of the December 2024 resolution demanding an immediate, unconditional and permanent ceasefire, which passed 158 votes to nine.³⁷ At the same time, India abstained on a September 2024 resolution demanding an Israeli withdrawal from the oPt within twelve months and again abstained on a June 2025 resolution on the protection of civilians, explaining in both cases that its position was consistent with a longstanding preference for resolving final-status questions

through direct negotiation rather than through instruments that risk prejudging outcomes reserved for the parties themselves.³⁸ This pattern of support for humanitarian and procedural measures, combined with caution on resolutions perceived as substituting external judgement for bilateral negotiation, situates India's diplomatic posture closer to the traditional doctrinal position than is often appreciated, even as India's underlying support for Palestinian self-determination remains explicit and unambiguous in its official statements.

- **The Strategic Partnership with Israel**

Alongside this diplomatic continuity, India has built, particularly since the establishment of full diplomatic relations in 1992, one of its most substantive and technologically significant defence partnerships. According to Stockholm International Peace Research Institute (SIPRI) data, India accounted for approximately 34 per cent of Israel's total arms exports between 2020 and 2024, making it comfortably Israel's largest single defence-export market. Israel, for its part, supplied roughly 15 per cent of India's total arms imports over 2021-2025, ranking behind only Russia and France.³⁹ The relationship spans decades and predates formal diplomatic ties, as Israel provided ammunition and materiel to India during the 1962 conflict with China, the 1971 Bangladesh Liberation War and, most consequentially, for the modern relationship, like the 1999 Kargil conflict, when Israeli supplies of precision-guided munitions and related equipment arrived at a moment of acute operational need.⁴⁰

The contemporary partnership has moved well beyond transactional arms purchases toward joint development and co-production. The Barak-8 surface-to-air missile system, jointly developed by Israel Aerospace Industries and India's Defence Research and Development Organisation, equips both navies and is integrated into India's layered air-defence architecture.⁴¹ The Adani-Elbit joint venture in Hyderabad manufactures the Hermes-900 medium-altitude, long-endurance drone, marketed under the indigenous designation Drishti-10 Starliner, for induction into Indian naval and army service.⁴² This deepening is consistent with India's broader strategic logic of diversifying defence partnerships to reduce

dependence on any single supplier while accelerating the "Make in India" objective of building indigenous manufacturing capacity through technology transfer, a logic equally visible in India's parallel and substantial defence relationships with Russia, France, and the United States.⁴³

- **Reconciling the Two Tracks: A Critical Assessment**

The sections above describe India's posture. This section tests it on four points: strategic autonomy, defence cooperation with Israel, support for Palestinian self-determination and commitment to legal accountability.

- **Strategic Autonomy**

India's policy is often described as strategic autonomy: keeping options open with every party. On Israel-Palestine, scholars call this a "de-hyphenation" of the two relationships.⁴⁴ The concept explains how India holds both ties. It does not show that holding both is costless. Israel supplied 15 per cent of India's arms imports over 2021-2025, behind Russia at 40 per cent and France at 29 per cent.⁴⁵ Systems such as Barak-8 and Hermes-900 are now part of India's operational planning.⁴⁶ The real test is whether this dependence narrows what India is willing to say and vote for at the UN. The record below suggests that, at the margins, it does.

- **Defence Cooperation with Israel**

The 2024 Advisory Opinion found that all states must not recognise the occupation as lawful and must not render aid or assistance in maintaining it.⁴⁷ The paper has applied this duty to the United States. In principle, it applies to India too. The Court did not say that arms trade with Israel breaches the duty, and India is mainly a buyer. A narrower question remains: do co-production and joint ventures, such as the Adani-Elbit plant in Hyderabad, support Israel's defence industry in ways the Opinion's reasoning would scrutinise? Defenders will say the duty covers assistance to the occupation itself, not to Israel's defence sector in general. That is a fair reading. But India has not publicly said how it interprets the duty. In April

2024, it also abstained at the UN Human Rights Council on a resolution calling for a halt to arms sales to Israel.⁴⁸

➤ **Support for Palestinian Self-Determination**

India's support is real. It has given about US\$160 million in development assistance, US\$39.53 million to UNRWA since 2002, and Gaza relief shipments in 2023 and 2024.⁴⁹ This aid is humanitarian and developmental. It sustains Palestinian institutions, but it does not change the legal and political conditions the ICJ described. Self-determination is a legal right, and India's votes show where it stands on that right. On that measure the record is mixed. India abstained in October 2023 on the truce resolution, citing its failure to condemn the 7 October attacks.⁵⁰ It voted for a ceasefire in December 2023.⁵¹ It abstained in September 2024 on the resolution demanding an end to the occupation within twelve months.⁵² India therefore backs Palestinian welfare and a two-state outcome more firmly than it backs the legal demands through which the ICJ's findings would take effect.

➤ **Commitment to Legal Accountability**

The paper has argued that U.S. doctrine treats bilateral negotiation as a reason to block external legal pressure. It has also argued that Oslo shows how bilateralism can become indefinite deferral. India's explanation of the vote in September 2024 rested on dialogue, diplomacy and direct negotiation.⁵³ That is close to the doctrine this paper criticises. India's Kashmir policy gives it a principled basis for the position, since the Simla Agreement commits India and Pakistan to settle differences through bilateral negotiations or other peaceful means mutually agreed.⁵⁴ The analogy has two limits. First, Simla is a consensual agreement between two sovereign states of broadly comparable standing, whereas Israel and Palestine are an occupier and an occupied people. Second, the Simla text allows "other peaceful means mutually agreed", so the exclusion of third parties is India's own interpretation.⁵⁵ The paper's central claim is that

negotiation without an enforceable legal baseline favours the stronger party. India's commitment to the UN Charter and to decolonisation points towards treating the ICJ's findings as that baseline.⁵⁶ Abstaining on the resolution that endorsed those findings sits uneasily with this.

➤ **Assessment**

India's balance is defensible as strategy. It protects defence supply, relations with the Gulf and the connectivity agenda. It is less convincing as legal policy. India states its support for self-determination clearly but declines the votes that would give the ICJ's findings operative weight.

At the same time, India's expanding connectivity ambitions in West Asia, most visibly the India-Middle East-Europe Economic Corridor (IMEC), announced at the 2023 G20 summit, with India, the United States, Saudi Arabia, the UAE, Israel and European partners among its founding signatories, illustrate that India's stakes in West Asian stability now extend well beyond the bilateral Israel relationship.⁵⁷ IMEC's long-term viability and the broader vision of Gulf-Mediterranean connectivity it represents are themselves contingent on a durable resolution to the Palestinian question. Renewed conflict in Gaza has been identified in a subsequent assessment of the corridor as a principal source of its stalled implementation.⁵⁸ India's interest in a genuine, internationally legitimate settlement is therefore not merely moral but concretely tied to its own connectivity and energy-security objectives, a convergence of principle and interest that gives New Delhi a stronger, not weaker, basis for constructive engagement on the Palestinian question than a purely transactional reading of its Israel partnership would suggest.

Conclusion

The persistence of the Israeli-Palestinian conflict across more than seven decades cannot be attributed to any single cause, and the paper does not claim that U.S. diplomatic

protection of Israel is the sole driver of that persistence. Israeli security doctrine, Palestinian political fragmentation between Fatah and Hamas, the unresolved status of Jerusalem and the refugee question and the broader regional contest between Iran and the Gulf states all shape the conflict's trajectory independently of Washington's choices. What this paper has sought to establish is narrower and more precise that the specific combination of Security Council veto protection and durable, largely unconditional security assistance has functioned as a structural distortion of the accountability mechanisms that international law is designed to provide, reducing the marginal cost to Israeli policymakers of actions the international community's own judicial and political organs have repeatedly and consistently found unlawful. The 2024 ICJ Advisory Opinion, arriving two decades after a substantially similar 2004 finding with the underlying facts on the ground having moved in the opposite direction from the one the law prescribes, stands as clear evidence that the limitation lies not in the clarity of international law's findings but in the political architecture governing their implementation.

For India, the appropriate response to this analysis is neither disengagement from its defence partnership with Israel nor abandonment of its historical solidarity with Palestinian self-determination, but continued insistence, consistent with India's own commitment to the peaceful, negotiated resolution of disputes, that international legal findings be accorded operative weight in any durable settlement. As a state that has itself borne the costs of protracted, externally entangled disputes, India's interest in strengthening rather than further eroding the credibility of multilateral legal mechanisms is not merely a matter of principle; it is, increasingly, a matter of its own strategic and economic interest in a stable, rules-respecting West Asian order.

Declaration

I declare that this manuscript is being submitted exclusively to CENJOWS for publication consideration, is original, and has not been published or submitted elsewhere. I further certify that it contains no classified, restricted, or sensitive information and is based entirely on open-source material suitable for publication in the public domain.

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