

LEGAL CORRECTOR

United States Statements in Response to United Nations Security Council Ceasefire Resolution

Following four vetoed resolutions and amid warnings of imminent famine in Gaza, on 25th March 2024, the United Nations Security Council (UNSC) convened and voted in favour of a resolution calling for an immediate ceasefire during the month of Ramadan, ultimately leading to a lasting one.¹ The resolution passed with 14 votes in favour and one abstention- by the US.

The adoption of this resolution came after many vetoed ones and six months of Israel's ruthless military campaign against Palestinians in Gaza, which has resulted in more than 30,000 Palestinians killed, many other thousands injured, the deliberate destruction of Gaza's medical infrastructure, alongside the ongoing weaponisation of starvation. However, the adoption of this resolution raises critical concerns regarding the flawed and politicised application of legal principles evident in state officials' statements.

The remarks made by the United States ambassador to the UNSC, Linda Thomas-Greenfield, initially underscored the critical need for life-saving humanitarian assistance in Gaza;² however, these very remarks also revealed the US's problematic legal stance on the current Israeli military campaign on Gaza, **particularly concerning two key aspects:**

A. The role of a ceasefire and the release of hostages in facilitating the flow of humanitarian aid.

Ambassador Greenfield's assertion that 'a ceasefire and the release of hostages will allow much more aid to get into Gaza' reveals the US's flawed understanding and application of international law. In conditioning the flow and facilitation of humanitarian aid into Gaza on Hamas's release of Israeli hostages held since 7th October 2023, the US is indirectly using one war crime to justify another.

Israel's obligation to ensure the unimpeded passage of humanitarian aid into Gaza is enshrined in the Fourth Geneva Convention (GC). 'Wilfully causing great suffering' does not only contravene Israel's obligations as an

¹ UN News. (25th March 2024) [UN Security Council demands 'immediate ceasefire' in Gaza, ending months-long deadlock.](#)

² Linda Thomas-Greenfield. (25th March 2024) [Explanation of Vote Delivered by Ambassador Linda Thomas-Greenfield Following the Adoption of a UNSC Resolution on the Situation in the Middle East.](#) United States Mission to the United Nations.

occupying power but is also a grave breach of the GC and is considered a war crime.³ Similarly, the taking of hostages is prohibited in the same manner and is also a war crime.

Since 7th October 2023, the US has repeatedly argued the notion that facilitating more humanitarian aid into Gaza is contingent on Hamas's release of the hostages. This was yet again repeated in the statement made by the US ambassador.

To maintain this position is not only problematic, but also dangerous. Israel's obligation to facilitate adequate and necessary aid is one owed to Palestinian civilians in Gaza. This obligation stems from the prohibition to wilfully cause great suffering to the civilian population. This prohibition cannot be utilised as leverage to bring back hostages. In the same manner, Hamas is not permitted to utilise the safety and liberty of the hostages to demand Israel's compliance with its obligations.

Secondly, the US stance fails to recognise the legal implications stemming from Israel's withholding of humanitarian aid. It also fails to recognise that by inflicting great suffering on the Palestinian civilian population, Israel is collectively punishing Palestinians in Gaza, in addition to violating their very fundamental human rights in a manner that may amount to a war crime.

Furthermore, the US statement draws a correlation between the amount of aid and conditions under which the aid shall be distributed. Issuing such a statement while famine threatens Gaza is deeply problematic and can entail legal responsibility and accountability for the US as a state aiding and abetting, through the statements of its officials, in the war crimes committed by the Israeli military.

Recent warnings by EU foreign policy chief Josep Borrell underscored the use of starvation as a 'weapon of war' by Israel,⁴ framing famine as a 'deliberate provocation' by Israel. Israel can be held accountable for its violation of using starvation as a method of warfare under Article 8(2)(b) of the Rome Statute. The United States also bears legal responsibilities and can face similar prosecutions as a complicit state under Article 25(3)(c) of the Rome Statute."

³ ICC. (2002) [Elements of Crimes](#). Art. 8(2)(a)(iii).

⁴ Oliver Holmes et al. (22nd March 2024) ['Man-made starvation': the obstacles to Gaza aid deliveries – visual guide](#). The Guardian.

B. The characterisation of a UNSC resolution as non-binding under international law.

It has long been established through legal consensus and within the UN Charter, that resolutions adopted by the United Nations Security Council (UNSC) are legally binding on member states to the UN.

Throughout the years, Israel has refused to comply with UNSC resolutions. A prominent example of this is Israel's policy in relation to its illegal settlements regime. Even though the UNSC has reiterated throughout the years that Israeli settlements in the occupied Palestinian territories (oPt) have no legal validity and constitute a flagrant violation of international law, Israel has persisted. As recently as March 2024, Israel announced the construction of 3,500 new illegal settlement housing units in the occupied West Bank amidst its indiscriminate attacks on Gaza.⁵

The contention by the US ambassador that the UNSC resolution on the Gaza ceasefire is 'non-binding' raises critical concerns within both political and legal circles.⁶

Just minutes after abstaining from the vote, despite not even voting in favour, the US ambassador described the resolution as non-binding. This was a mischaracterisation of the UNSC resolution which poses as a clear example of the double standards and the shield of impunity granted by the US to Israel.

This weaponisation of law for political imperatives, which extends far beyond Israel's violations of UNSC resolutions, is evident in the United States' approach to international law, particularly concerning Palestine. This has been well demonstrated in the case of this ceasefire resolution.

Notably, the US is not a member state of the International Criminal Court (ICC) and has previously threatened sanctions against investigations into its actions and the actions of its allies like Israel. Evidently, in 2020, the Trump administration authorised asset freezes and family entry-bans against ICC officials, including the Prosecutor of the Court.

In 2022, American ambassador for global criminal justice, Beth Van Schaack, indicated the Biden administration's commitment to ensuring the ICC fulfils its mandate. In a supposed effort to fulfil this commitment, the sanctions were revoked. However, the US persisted in its criticism of the ICC for fulfilling its

⁵ Al Jazeera Staff. (7th March 2024) [Israel's illegal West Bank settlement plans face global condemnation](#). Al Jazeera.

⁶ Linda Thomas-Greenfield. (25th March 2024) [Explanation of Vote Delivered by Ambassador Linda Thomas-Greenfield Following the Adoption of a UNSC Resolution on the Situation in the Middle East](#). United States Mission to the United Nations.

mandate in investigating alleged crimes involving Israeli individuals. This overall pattern of behaviour underscores a deeper dissonance between the state's rhetoric and actions regarding international law and its mechanisms, as evidenced by its political actions and statements, most recently exemplified by the UNSC statement on the ceasefire resolution.

Background on Ceasefire Resolution S/2024/254

Beyond the American remark, the reality remains that the UNSC resolution has passed, obliging State Parties to abide by an immediate ceasefire for the remainder of Ramadan and the immediate and unconditional release of all hostages. Additionally, it calls for ensuring humanitarian access and all parties to respect international law. Despite the binding nature of this resolution, Israel has continued to ignore the calls for an immediate ceasefire, instead continuing to commit violations of international law, including war crimes and crimes against humanity.

