

**A Communication submitted by Law for Palestine,
supported by the Independent Commission for Human
Rights - Palestine and endorsed by a broader
international coalition, to the Office of the Prosecutor
of the International Criminal Court establishing the
perpetration of the Crime of Genocide by members of
the Israeli War Cabinet**

20 March 2024



Executive Summary

1. Introduction

1. Law for Palestine (L4P)¹, supported by the Independent Commission for Human Rights (ICHR) – Palestine and The Arab Network for National Human Rights Institutions (ANNHRIs), has submitted a Communication to the Office of the Prosecutor (OTP) of the International Criminal Court ((hereinafter ICC or the Court)). This initiative is backed by a diverse international coalition, including 15 National Human Rights Institutions across the Arab world: Algeria, Bahrain, Comoros, Egypt, Iraq, Jordan, Lebanon, Mauritania, Morocco, Oman, Qatar, Tunisia, Djibouti, Libya, and Kuwait. Additionally, support comes from five Bar Associations, namely the Bar Associations of Palestine, Jordan, Algeria, Tunisia, and the Arab Lawyers Union.
2. This submission addresses the crime of genocide undertaken by the members of the war cabinet in the Government of Israel and Israeli Forces against the Palestinian population in Gaza, in violation of the Rome Statute of the International Criminal Court, as well as the 1948 Convention on the Prevention and Punishment of the Crime of Genocide (hereinafter “Genocide Convention”).
3. Since the 7th October 2023, the state of Israel has been conducting an indiscriminate and disproportionate military campaign against the Palestinian people in Gaza, which Israel has occupied since 1967. Since the start of the assault,

¹ Law for Palestine is a youth-led non-profit organization committed to upholding and safeguarding the fundamental rights of Palestinian individuals and groups. The organization is dedicated to addressing complex legal challenges and fostering justice to end impunity for systematic and extensive violations of international law in Palestine/Israel, including apartheid, the violation of the right to self-determination, and now, genocide.

Israel has launched one of the most intense and destructive bombing campaigns in modern history.²

4. The military campaign and actions of collective punishment committed by Israel has already been recognised as plausibly amounting to genocide by the International Court of Justice (hereinafter “ICJ”).³ The violence has been inflamed with racist and dehumanising rhetoric by Israeli politicians, inciting violence against Palestinians across Israel’s recognised borders and within the territory it continues to illegally occupy, including by calling for the reinstatement of illegal Israeli settlements in Gaza.⁴

The Purpose of This Submission

5. This communication by Law for Palestine has been produced by a team of experts. It is submitted to set out a thorough and independent legal analysis as to how the actions and conduct of the Israeli politicians and members of the Israeli forces amount to a campaign of genocide against the Palestinian people in Gaza.
6. This communication is made exclusively regarding the crime of genocide, due to the clear intention of the potential perpetrators to destroy the Palestinian people in Gaza and the current lack of any actions by the ICC, despite the pressing need for urgent accountability under every and all forms of international law for Israel’s criminal actions in Gaza. However, these allegations are not made in exclusivity,

² BBC, ‘Weeks into the war, how much closer is Israel to its goal?’ (10 November 2023) <<https://www.bbc.co.uk/news/world-middle-east-67373293>> accessed 9 February 2024; according to BBC: "Neither has Israel committed all its forces. Some estimate that it may have as few as 30,000 troops inside Gaza so far. That's a relatively small proportion of Israel's total - 160,000 active military personnel plus 360,000 reservists." It should be noted that Israel has not disclosed how many members of its military have been deployed into Gaza, see Aaron Boxerman, Isabel Kershner and Eric Schmitt, ‘Israel Says It Will Pull Several Brigades From Gaza Strip’ (New York Times, Jan. 1, 2024) <<https://www.nytimes.com/2024/01/01/world/middleeast/israel-gaza-troop-withdrawal.html>> accessed 9 February 2024

³ *Application of the Convention on the Prevention and Punishment of the Crime of Genocide in Gaza (South Africa v Israel)* (Request for the Indication of Provisional Measures: Order) General List No 192 [2024] <<https://www.icj-cij.org/sites/default/files/case-related/192/192-20240126-ord-01-00-en.pdf>> accessed 4 February 2024

⁴ MEE Staff, ‘Israeli Ministers attend ‘Return to Gaza Conference’, speak in support of resettlement’ (*Middle East Eye*, 28 January 2024) <<https://www.middleeasteye.net/news/israeli-ministers-attend-return-gaza-conference-speak-support-resettling-gaza>> accessed 4 February 2024

and many actions perpetrated as part of the ongoing genocide against the Palestinian people can and should be investigated under the Rome Statute of the ICC.⁵

2. Historical Background: Context for the Genocidal Build-Up

7. The crimes in Gaza today cannot be understood except in the context of Israel's foundational eliminationist ideology and longstanding, unlawful policies and practices.

Zionism as an eliminationist ideology

8. Zionist ideology, in all its iterations, has been predicated on the elimination of the Indigenous population of Palestine. Zionist ideology became increasingly violent and extreme in its stance towards the Indigenous Palestinian population in the early 20th century, directly leading to specific plans to ethnically cleanse Palestine and eventually implementing the Nakba. This communication establishes that Modern Israeli leaders have been inspired by this foundational Zionist ideology, and by the more extreme versions which have emerged.
9. With this in mind, this communication brings to attention the existing jurisprudence of several tribunals, including ICC, in which judgments underscore the role of extremist and nationalist ideologies in establishing criminal genocidal intent.

A Brief Historical Contextualisation of Gaza

10. The Israeli occupation of the Occupied Palestinian Territory and the Occupied Syrian Golan is the longest, internationally recognised belligerent occupation in modern history. To understand the nature of Israel's genocide against the Palestinian people in Gaza, it is essential to conduct a contextual analysis of its history, recognising the historic violations by Israel against the Palestinian people that now reside in the territory.

⁵UN General Assembly, *Rome Statute of the International Criminal Court (last amended 2010)*, 17 July 1998, ISBN No. 92-9227-227-6

11. This submission provides a brief historical background of the Israeli occupation of Gaza, beginning with the start of the Nakba in 1948 and examining its effects on Gaza and the people who reside there. This submission continues through to the beginning of the Israeli occupation of Gaza in 1967, Israel's so called "disengagement" plan, enacted by the Israeli Occupying Forces in 2005, the 2007 blockade and other major events such as the various military offensives launched on Gaza.

3. The Situation in Gaza since 7th October 2023

12. On 7th October 2023, Israel launched airstrikes on Gaza in response to Palestinian armed groups operations within Israel's internationally recognised borders. The airstrikes resulted in extensive damage to civilian infrastructure, including homes, schools, hospitals, and cultural sites. Israeli airstrikes on residential buildings on 7 October and 10 October claimed the lives of over 85 Palestinian civilians.⁶

13. In the following days, the Nuseirat and Jabalia refugee camps - filled with thousands of people who had fled their homes - were targeted by Israeli airstrikes, killing more than 70 people.⁷ Between 31 October and 2 November, further Israeli airstrikes in the Jabalia refugee camp reportedly led to the deaths and injuries of hundreds of Palestinians.⁸

⁶ Amnesty International, 'Israeli Attacks Wipe out Entire Families in Gaza' (*Amnesty International*, 8 November 2023) <www.amnesty.org/en/latest/news/2023/10/damning-evidence-of-war-crimes-as-israeli-attacks-wipe-out-entire-families-in-gaza/> accessed 17 February 2024. ; Amnesty International, 'Israel/OPT: US-Made Munitions Killed 43 Civilians in Two Documented Israeli Air Strikes in Gaza – New Investigation' (*Amnesty International*, 5 December 2023) <www.amnesty.org/en/latest/news/2023/12/israel-opt-us-made-munitions-killed-43-civilians-in-two-documented-israeli-air-strikes-in-gaza-new-investigation/> accessed 17 February 2024.

⁷ Amnesty International, 'Damning evidence of war crimes as Israeli attacks wipe out entire families in Gaza' (*Amnesty International*, 20 October 2023) <www.amnesty.org/en/latest/news/2023/10/damning-evidence-of-war-crimes-as-israeli-attacks-wipe-out-entire-families-in-gaza/> accessed 17 February 2024.

⁸ OHCHR 'Gaza Is "Running out of Time" Un Experts Warn, Demanding a Ceasefire to Prevent Genocide' (*OHCHR*, 2 November 2023) <www.ohchr.org/en/press-releases/2023/11/gaza-running-out-time-un-experts-warn-demanding-ceasefire-prevent-genocide> accessed 17 February 2024.

14. Since the 7 October attacks, Israeli airstrikes have targeted hospitals and healthcare facilities, resulting in the deaths of at least 553 people and injuries to 729 others.⁹ Schools and universities have also been targeted, with 352 schools in Gaza having been damaged by Israeli strikes as of 30 December.¹⁰
15. Israel's airstrikes on Gaza have further destroyed more than 100 cultural landmarks and historic sites, such as historic religious sites, museums, and archaeological sites.¹¹
16. Amid the bombing campaign, Gaza's only power plant was shut down, and on 26 October, one of the few remaining network providers in Gaza ceased operations.¹² This led to near-complete outages for 15 Internet Service Providers, disrupting landline, cellular, and internet services.¹³ As a result, the Palestine Red Crescent Society lost contact with its operations room in Gaza.¹⁴ This hindered its ability to provide emergency services, including assistance to victims of attacks.
17. Against the backdrop of ongoing airstrikes, Israeli forces ordered Palestinians in northern Gaza to relocate to the south within 24 hours on 12 October.¹⁵ Despite the IOF's establishment of a 'safe' window on 13 October for refugees to evacuate, an

⁹ *ibid.*

¹⁰ Merisha Gadzo and Usaid Siddiqui, 'Israel-Hamas war updates: Death toll climbs as Israel ramps up Gaza attacks' (*Al Jazeera*, 30 December 2023) <www.aljazeera.com/news/liveblog/2023/12/30/israel-hamas-war-live-un-aid-chief-decries-israeli-attack-on-relief-convoy> accessed 17 February 2024.

¹¹ Ahmed Al-Barsh, 'Report on the Impact of the Recent War in 2023 on the Cultural Heritage in Gaza Strip - Palestine' (*ANSCH and Heritage for Peace*, 7 November 2023), 36 <<https://www.heritageforpeace.org/wp-content/uploads/2023/11/Report-of-the-effects-of-the-last-war-of-2023-on-the-cultural-heritage-in-Gaza-Strip-Palestine-english.pdf>> accessed 17 February 2024.

¹² Amnesty International, 'Israel/OPT: Israel must lift illegal and inhumane blockade on Gaza as power plant runs out of fuel' (*Amnesty International*, 12 October 2023) <www.amnesty.org/en/latest/news/2023/10/israel-opt-israel-must-lift-illegal-and-inhumane-blockade-on-gaza-as-power-plant-runs-out-of-fuel/> accessed 17 February 2024.; Amnesty International, 'Israel/OPT: Civilians in Gaza at unprecedented risk as Israel imposes communication black-out during bombardment and expanding ground attacks' (*Amnesty International*, 27 October 2023) <www.amnesty.org/en/latest/news/2023/10/israel-opt-civilians-in-gaza-at-unprecedented-risk-as-israel-imposes-communication-black-out-during-bombardment-and-expanding-ground-attacks/> accessed 17 February 2024.

¹³ *ibid.*

¹⁴ *ibid.*

¹⁵ OHCHR, 'UN expert warns of new instance of mass ethnic cleansing of Palestinians, calls for immediate ceasefire' (*OHCHR*, 14 October 2023) <www.ohchr.org/en/press-releases/2023/10/un-expert-warns-new-instance-mass-ethnic-cleansing-palestinians-calls> accessed 17 February 2024.

explosion along one of the specified evacuation routes resulted in the loss of 70 lives.¹⁶ Later, on 21 October, the Israeli army distributed leaflets in northern Gaza compelling residents to evacuate immediately or risk being labelled as accomplices to terrorism.

18. Starting from 27 October, the IOF initiated its ground invasion into Gaza. On the ground, the IOF has persistently adhered to its established policies, involving attacks on residential areas and hospitals.¹⁷

4. The Palestinian People of Gaza as a Protected Group

19. Palestinians form a distinct national and ethnic group, sharing a common language, culture, history, and a connection to Historic Palestine. Palestinians identify themselves as belonging to a Palestinian nation that is distinct from the other Arab nations. They also have a distinct Arabic dialect that differentiates them from other Arab populations. Palestinians have a shared history and heritage that traces back centuries and ties all Palestinians, from both historic Palestine and the Diaspora, together.

20. Palestinians in Historic Palestine and within the Diaspora all share a history of ethnic cleansing and an imminent threat of genocide since the Nakba beginning in 1948. While Palestinians in each state have different legal documentation, they all are politically recognised as Palestinians. Within Israel, Palestinian citizens have been viewed as a group linked to the Palestinians in the oPt, separate from other Israeli citizens and have been consistently targeted because of their origin.

¹⁶ Jessie Yeung and others, 'Israel warns of new phase in war on Hamas, as Gaza civilians flee and Israeli troops gather near border' (*CNN*, 14 October 2023) <<https://edition.cnn.com/2023/10/14/middleeast/gaza-israel-evacuation-saturday-intl-hnk/index.html>> accessed 17 February 2024.; Bethan McKernan and Sufian Taha, 'Gaza Civilians Afraid to Leave Home after Bombing of "Safe Routes"' (*The Guardian*, 15 October 2023) <www.theguardian.com/world/2023/oct/14/gaza-civilians-afraid-to-leave-home-after-bombing-of-safe-routes> accessed 4=17 February 2024.

¹⁷ Nidal Al-Mughrabi and John Davison, 'Palestinian Red Crescent Says Israel Asks It to Immediately Evacuate al-Quds hospital' (*Reuters*, 29 October 2023) <www.reuters.com/world/middle-east/palestinian-red-crescent-says-israel-asks-it-immediately-evacuate-al-quds-2023-10-29/> accessed 17 February 2024.

21. Palestinians as a whole constitute a protected group under the Rome Statute as they share distinct national and ethnic characteristics regardless of where they are located geographically or the legal status they hold. The ICJ has also declared that Palestinians constitute a distinct group, and are thus a protected group within the meaning of Article II of the Genocide Convention, observing also that the Palestinian population in Gaza form a substantial part of the protected group.¹⁸

5. Mens Rea

22. Genocidal statements made by Israeli officials, including high-ranking military personnel and members of the Knesset, along with other influential figures and groups in Israel collectively contribute to a clear and systematic intent by Israeli decision makers to destroy Palestinians within Gaza.

23. To substantiate the existence of individual *mens rea* within Israel's 'war cabinet',¹⁹ this submission highlights not just some of their many statements, but also Israeli collective discourse surrounding its military offensive against the Palestinian people. Evidence gathered by Law for Palestine includes the verbal statements of intent expressed by Israeli officials in command positions, the "de-civilianization"²⁰ of Gazan civilians through the systematically employed human shields claim by Israel, and the 'patterns of conduct' of genocidal practices of execution of genocide that we translate as genocidal intent. It also draws attention to the Israeli laws enacted to protect its leaders from prosecution.

24. This submission demonstrates in -non exhaustive- detail that the requisite specific intent for destroying the protected group is present in the case of Israeli genocide.

¹⁸ Application Of The Convention On The Prevention And Punishment Of The Crime Of Genocide In The Gaza Strip (South Africa V. Israel), Provisional Measures Order, [2024], ICJ Reports, para 44-46.

¹⁹ The names of the accused members are to be stated in the final section.

²⁰ N Gordon and N Perugini, *Human Shields: A History of People in the Line of Fire* (University of California Press 2020) 167-217, speaking about the erosion of the category of civilian, defines De-Civilianization as: "the systematic attempts, through the mobilisation of different legal and political discourses, to deprive an entire population of civilian protections in order to justify the systematic use of lethal violence against them."

This intent is directly linked to members of the war cabinet and is reflected in their statements.

25. We submit that it is beyond doubt that "a reasonable ground", which is the threshold established by previous ICC jurisprudence, to believe that Israeli leaders have a genocidal intent exists in this case, based on the nine-part mens rea analysis outlined in this communication.

Intent for Ethnic Cleansing as a tool of Genocide

26. Previous case-law indicates clearly that the totality of culpable acts would provide an indication to genocidal intent. This is mentioned with regards to intended ethnic cleansing and displacement. The presence of the settler-colonial element to the ethnic cleansing ongoing in Gaza frames ethnic cleansing as a tool of genocide in a clear genocidal framework.

27. Tribunals have recognized that genocidal intent can be inferred from cumulative actions and words.²¹ In Palestine, Israeli leaders have paired genocidal language with references to forcible transfer. The nature of Israeli violence since October 7 further illuminates the context in which calls for destruction are paired with calls to cleanse Gaza of its population.

28. A forcible transfer operation and its accompanying circumstances, such that it creates conditions that contribute to genocide, may provide further support genocidal intent.²² Utterances might constitute evidence of genocidal intent even if they fall short of express calls for a group's physical destruction, as a perpetrator's statements must be understood in their proper context. In the context of Israel's relentless military assault on Gaza, and the absence of any material program to transfer simultaneous with the killings, intent to destroy may more directly be

²¹ *Prosecutor v. Vujadin Popović and others* (Appeal Judgement) IT-05-88-T (30 January 2015) [823].

²² *Prosecutor v. Vujadin Popović* (Judgement) IT-05-88-A (10 June 2010).

inferred from both the actions of Israel’s leadership and the broader context of any explicit call to cleanse Gaza of its population. Furthermore, even the calls for forcible transfer may constitute evidence of genocidal intent, even if they fall short of calls for the physical destruction of Palestinians in Gaza.

29. We submit that ethnic cleansing and forced displacement, taken in the totality of culpable acts, constitute both an act of genocide as well as an evidence for the existence of the requisite specific genocidal intent.

Employment of the 'Human Shields' argument as tool for justifying genocide

30. Since the beginning of Israel’s 2023 attacks on Gaza, Israeli state, military, and government officials have publicly claimed that all Palestinians in Gaza act as ‘human shields’ for Hamas, and consequently that the war on Gaza includes and is against the entire civilian population..²³ They have also inclusively claimed that civilian infrastructure such as hospitals, schools, mosques, churches, and residential neighbourhoods, including refugee camps, are legitimate targets for military attacks by virtue of the same logic.²⁴ The scale of this accusation and the inclusive nature of its wording signals a clear intent to erode the protected civilian status.

31. The deployment of human shield accusations by Israeli officials against the Palestinian people generates legitimacy for lethal offensives on the civilian population and life sustaining infrastructure of Gaza. Not only does this violate IHL principles of proportionality and distinction, but it “de-civilianises” the population, rhetorically and discursively working to deprive them of civilian protections, transform them into legitimate military targets and thereby justifying mass-scale civilian destruction and death.

²³ Ministry of Foreign Affairs, ‘ Hamas-Israel Conflict 2023: Key Legal Aspects’ (*State of Israel*, 2 November 2023) <[www.gov.il/BlobFolder/news/hamas-israel-conflict2023-key-legal-aspects/en/English_Documents_Hamas-Israel%20Conflict%202023%20-%20Some%20Factual%20and%20Legal%20Aspects%20-%20Israel%20Ministry%20of%20Foreign%20Affairs%20\(2%20NOV%202023\).pdf](http://www.gov.il/BlobFolder/news/hamas-israel-conflict2023-key-legal-aspects/en/English_Documents_Hamas-Israel%20Conflict%202023%20-%20Some%20Factual%20and%20Legal%20Aspects%20-%20Israel%20Ministry%20of%20Foreign%20Affairs%20(2%20NOV%202023).pdf)> accessed 12 February 2024.

²⁴ Ministry of Foreign Affairs, ‘ Hamas-Israel Conflict 2023: Key Legal Aspects’ (*State of Israel*, 2 November 2023) 2 <[www.gov.il/BlobFolder/news/hamas-israel-conflict2023-key-legal-aspects/en/English_Documents_Hamas-Israel%20Conflict%202023%20-%20Some%20Factual%20and%20Legal%20Aspects%20-%20Israel%20Ministry%20of%20Foreign%20Affairs%20\(2%20NOV%202023\).pdf](http://www.gov.il/BlobFolder/news/hamas-israel-conflict2023-key-legal-aspects/en/English_Documents_Hamas-Israel%20Conflict%202023%20-%20Some%20Factual%20and%20Legal%20Aspects%20-%20Israel%20Ministry%20of%20Foreign%20Affairs%20(2%20NOV%202023).pdf)> accessed 12 February 2024.

32. This argument, as deployed by Israel, erodes civilian protections for the population of Gaza, makes legitimate large-scale, widespread lethal offensives, and violates two cardinal principles of International Humanitarian Law: distinction and proportionality. By claiming that all of Gaza operates as shields for enemy combatants, Israel's leading officials justify mass civilian casualties and life-sustaining infrastructural destruction that would otherwise fall within Article 6 of the Rome Statute and Article II of the Genocide Convention

Destruction of Culture, Ecocide, and Domicide as Genocidal Intent

33. The intent to destroy an ethnic or a national group will often include a medley of political, cultural, and other acts that come together to constitute genocide. The Court's Policy on Cultural Heritage published in 2021 clearly identifies that crimes committed against cultural heritage constitute, first and foremost, an attack on a particular group's identity and practices.

34. While the intentional destruction of cultural property does not fall within the category of acts of genocide set out in the Genocide Convention, this communication evidences how court rulings have repeatedly nodded to the proposed codification of 'acts of cultural destructure' in the Convention, and have used it as evidence of intent, a key element in the prosecution of the crime of genocide.

Environmental Destruction (Ecocide) as Genocidal Intent

35. This commission submits that ecocide, while not being directly codified in the text of the Rome Statute or the Genocide Convention, taken together with the totality of other culpable acts enumerated and established throughout the mens rea section, indicate that there is a clear genocidal intent to destroy a substantial part of the protected group by rendering Gaza uninhabitable. Furthermore, in practice, ecocide could be considered to fall directly under Article 6(c) of the Rome Statute

"Deliberately inflicting on the group conditions of life calculated to bring about" the physical destruction in part, of a substantial part of the group.

36. After five months of war, the environmental devastation inflicted upon Gaza has reached a catastrophic level, altering the landscape visibly from space, changing the colour and texture of Gaza.²⁵ The severe, widespread and long-term environmental damage resulting from Israeli acts are clear, obvious and predictable in nature, particularly given their precedence in previous assaults on Gaza and in Israeli policies in the West Bank.

Domicide as Genocidal Intent

37. The term “*domicide*” is used to refer to the ‘deliberate destruction of home’.²⁶ Domicide may involve, but is not limited to, widespread physical destruction of houses and necessary civilian infrastructure. Given that the word ‘home’ denotes not just a physical place but one’s connection to a physical place, however, domicile also more broadly involves ‘the separation of people en masse from their homes and the places that formed the basis of their identities’.²⁷
38. The destruction of infrastructure during Israeli assaults, now and in the past, has been overwhelming and has significantly contributed to making human habitation less viable in Gaza. The pursuit of domicidal warfare by the Israeli army in Gaza, therefore, is part of a wider, systematic policy of eradicating the Palestinian home.
39. The non-exhaustive enumerated acts of domicile set out in this submission give a reasonable ground to conclude that there is a clear intent of causing permanent or

²⁵ Emma Graham-Harrison and Julian Borger, ‘Israel widens ground offensive in Gaza as UN aid resolution talks continue’ *The Guardian* (London, 22 December 2023) <www.theguardian.com/world/2023/dec/22/israel-widens-ground-offensive-gaza-un-aid-resolution-talks-continue> accessed 19 February 2024.

²⁶ J. Douglas Porteous and Sandra E. Smith, ‘Domicide: The Global Destruction of Home’ (McGill-Queen’s University Press 2001) 3.

²⁷ Colin Samson and Carlos Gigoux, *Indigenous Peoples and Colonialism* (Polity Press 2016) 75.

long term harms to civilian infrastructure that would further cause conditions of life that would make life impossible (Article 6(c) of the Rome Statute).

Israeli Laws aimed at Protecting its Leaders and Soldiers from Prosecution

40. To further establish the requisite intent for proving the crime of genocide, Israel's pre-emptive parliamentary actions concerning the accountability of leaders, security force members, and soldiers for the consequences of their actions, are examined.

41. Notably, Israel has introduced draft laws with the objective of shielding and safeguarding security forces, leaders, and soldiers from potential prosecution. These laws not only seek to grant immunity to Israeli security forces during operational activities but also undermine the role of the international and Israeli domestic judicial mechanisms in reviewing the legality of these actions. The mere existence of these laws, bills and even debates indicate the existence of an intention to break international law, otherwise these laws would not be necessary.

Apartheid as evidence on Genocidal Intent

42. Apartheid and genocide, while overlapping in practices, are different in intent. However, the overlap in practices together with the historical pattern witnessed in Nazi Germany and Rwanda before their respective genocides clearly indicates that institutionalised racial discrimination (apartheid) and racial domination may pave the way for genocide.

43. The recognition for Israel implementing a system of apartheid over Palestinians is widely accepted.

44. Israel's actions can be classified under the definition of the crime of apartheid, as the destruction of infrastructure and killings may potentially be interpreted as a deliberate imposition on Palestinian Gazans' living conditions, calculated to cause their physical destruction in whole or in part, within the scope of Article II(b) of

the Apartheid Convention. Additionally, Article II(c) of the 1973 Apartheid Convention would encompass cross-border deportations, whether forcible or not, as it identifies preventing a protected group from 'the right to leave and return to their country' as one of the inhuman acts constituting the crime of apartheid.

45. In turn, such actions could potentially be viewed as a genocidal form of ethnic cleansing if they meet the criteria of "deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part."

6. Liability and Claims

45. There are several precedents that inform the investigation of the crime of genocide under international criminal law, including the Darfur case, the case of the Yazidis and the Ukraine case. When examined in the framework of the ICC and other international tribunals, the evidence of actions and intent already available in the case of Gaza meets the threshold required to investigate the crime of genocide. Furthermore, warnings issued by the various UN Special Rapporteurs along with the referrals by states parties to the Rome Statute calling for investigating Israeli officials for the commission of the crime of genocide only reiterate the urgency of the situation in Gaza and the obligation of the ICC to investigate the Israeli war cabinet for the commission of the crime of genocide.

7. Prosecutorial Discretion

46. The OTP enjoys significant discretionary power over the selection and prioritization of situations and cases that potentially fall under the ICC's jurisdiction. The OTP's 2016 Policy Paper on Case Selection and Prioritization lays out three criteria based on which the prosecutor must prioritize investigations within any situation: (a) Gravity of Crimes (b) Degree of Responsibility of Alleged Perpetrators and (c) Charges. In the case of Gaza, the thresholds described in each of these criteria have been surpassed by several orders of magnitude, particularly

the criteria on gravity. Per the OTP's past practice and espoused policy, it must use its discretionary powers to prioritize investigations into acts that have transpired in Gaza since October 2023 that amount to crimes under Article 6 of the Rome Statute and prosecute Israeli officials for such acts.

47. The OTP's 2016 Policy Paper and past practice, especially the Prosecutor's decision to not unearth crimes in Iraq in 2006, sets out the criteria used to determine how the OTP comparatively prioritizes investigations into different situations that comprise different crimes within the Court's jurisdiction. Accordingly, the comparative order of magnitude of casualties as a result of a given situation, whether the alleged perpetrator has had other cases against them, the impact of an investigation on the global community and the victims of the situation, and the availability of relevant evidence that can be used to prosecute crime must all be met for a case to be prioritized. The case for an investigation into the crime of genocide in Gaza has more than satisfied these conditions. Therefore, the court must prioritize this investigation over its other ongoing cases.

8. Conclusion

48. The current assault on Gaza represents the latest failing of international law to address the displacement of the Palestinian people and the violation of their rights by a state that has continuously ignored and violated international law, with no accountability from the international community or mechanisms put in place by states and international bodies to address injustice. This lack of accountability has led Israeli leaders and soldiers to believe they can operate with impunity, conduct military campaigns without respect for basic humanitarian regulations and ultimately, commit the most serious crime under international criminal law, genocide.
49. Given its responsibility under the Rome Statute and its previously established jurisprudence on genocide, the ICC cannot continue to ignore the growing evidence of Israel's actions and intentions of genocide towards the Palesinian people in Gaza.

The Court must most to open investigations into Israeli leaders and military commanders that, through action and intention, have orchestrated and participated in the genocide of Palestinians within Gaza.

50. For international criminal law and the ICC to be an effective tool of accountability and justice, investigations must be conducted in a timely manner into all violations under the court's jurisdiction where evidence exists. Failure to do so will further prove that the supposed rules-based system of international law only works for the select few states, to maintain control and impose their will on the rest of the international community, regardless of legal obligation. To ensure justice and accountability for the crimes against the Palestinian people, we must see the ICC act in the face of Israel's blatant crimes.

9. Recommendations

51. The organizations and institutions submitting this Communication hereby submit that, on the basis of the information and analysis provided herein, there exists a reasonable basis to believe that a genocide, falling within the jurisdiction of the Court, was and continues to be committed in Gaza by high-level Israeli officials during Israel's military operation in the Gaza Strip, which continues to this day.
52. The organizations contend that the information and allegations submitted in this communication are admissible in accordance with the provisions outlined in Article 17 of the Statute. Currently, there are no ongoing investigations or prosecutions addressing the conduct that forms the basis of genocide committed against the Palestinian population, as covered by Article 6 of the ICC Statute.
53. Therefore, the organizations request the Prosecutor to include the genocide and other violations of international humanitarian law mentioned above, among other things, in the investigation, as they constitute crimes within the jurisdiction of the International Criminal Court, and to make an application to the Pre-Trial Chamber immediately for issuing an international warrant of arrest for the suspects

responsible for directly committing, jointly with others and/or through others, or ordering, soliciting, inducing, aiding, abetting, or otherwise assisting in the commission of, or in any other way contributing to, the crimes committed within the jurisdiction of the Court.

54. The organizations urge the Prosecutor and his staff to visit the Gaza Strip at the earliest convenience to meet with victims and observe firsthand the devastating effects of the continued crime of genocide.

55. The organizations also call upon the Prosecutor of the International Criminal Court to:

- Prioritize investigations into acts ongoing since October 7, 2023, in Gaza that may amount to the crime of genocide by expanding its current investigation into the Situation in Palestine and prioritize prosecutions related to the crime of genocide in Gaza over its other ongoing cases.
- Exercise its prosecutorial discretion in line with its past practice and policy to prioritize investigations into the situation in Gaza and prosecution of Israeli officials for acts committed since October 7, 2023, that amount to crimes under Article 6 of the Rome Statute of the International Criminal Court on the grounds of gravity of the crimes perpetrated.